

**CITY OF VERO BEACH, FLORIDA  
JULY 19, 2022 9:00 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Deacon David Hankle of St. Helen Catholic Church.

**PRESENT:** Robbie Brackett, Mayor; Rey Neville, Vice Mayor; Honey Minuse, Councilmember; Bob McCabe, Councilmember; and John Cotugno, Councilmember **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

Mr. McCabe led the City Council and the audience in the Pledge of Allegiance to the flag.

**B. Roll Call**

The City Clerk performed the roll call.

**2. PRELIMINARY MATTERS**

**A. Approval of Minutes**

**1. Regular City Council Minutes – June 21, 2022**

Mr. Cotugno mentioned that the abbreviation of ARC was used instead of ARP (American Rescue Plan) funds on page 6.

**Mr. McCabe made a motion to approve the June 21, 2022 minutes as corrected. Mrs. Minuse seconded the motion and it passed unanimously.**

**A. Agenda Additions, Deletions, and Adoption.**

**B. Proclamations and recognitions by Council.**

**1) Certificate of Completion for the Institute of Elected Municipal Officials presented to Councilmember John Cotugno**

Mayor Brackett presented Mr. Cotugno with a certificate for completing his class for the Institute of Elected Municipal Officials.

**2) Treasure Coast Waterway Cleanup Week – July 16 - 24, 2022**

Vice Mayor Neville read and presented the Proclamation.

**3) Marty Zickert to give a Presentation to the Vero Beach Police Department in Appreciation of their Support of 2022 Vero Beach Air Show**

Mr. Marty Zickert presented Chief Currey and Lieutenant Harrelson with a poster showing appreciation for their help with the 2022 Vero Beach Air Show.

Vice Mayor Neville pulled items 3-C) and 3-D) off of the consent agenda.

**3. CONSENT AGENDA**

- A) DP Development Final Payment for Contract 53-2020 (\$37,000)**
- B) Accenture LLP, Work Order 2 Estimated Expenditure (\$56,280)**

**Mayor Brackett made a motion to approve items 3-A) and 3-B) on the consent agenda. Mrs. Minuse seconded the motion and it passed unanimously.**

- C) Approve Change Order #1 to Statement of Work for Upgrade of Cayenta CIS V-9 (\$256,960)**

Ms. Cindy Lawson, Finance Director, explained that Cayenta is the City's licensed software application for utility billing and customer service. This software has not been upgraded since 2015 and is several major versions out of date. It is important to update the City's billing software version regularly in order to maintain its functionality for billing, banking interfaces, reporting and data extraction. In May 2021, the City Council approved a Statement of Work for the upgrade of the Cayenta software in the amount of \$119,240. The upgrade project was put on hold for an upgrade of the City's ITRON meter reading hardware/software. During the project planning phase there were several additional software issues discovered so staff agreed that this would be the time to include those upgrades in order to save money. The total cost for Change Order #1 to the Statement of Work is \$256,960, which would bring the total cost of the Cayenta Statement of Work for this project to \$376,200. She recommended approval of Change Order #1 to the Statement of Work for the Cayenta V-9 Upgrade Project and authorize the City Manager to sign the Statement of Work.

Mr. Cotugno asked if they were paying for their servers.

Ms. Lawson explained that their server for the billing software does not change unless it is not functioning. She said if it is not broken then you don't want to replace it. They now will be updating their existing software.

**D) Accenture LLP – Professional Services Agreement Renewal Enterprise Asset Management (EAM) Consulting Services Estimated Expenditure (\$140,000) for 2 years**

Mr. Cotugno had some questions on the process and procedures on how this works.

Mr. Rob Bolton, Water & Sewer Director, gave an example. He said this is a cloud based system and if they process work tickets for the STEP System the workers in the field are able to see these through their I-phone or I-pad and there no longer is a paper trail.

**Vice Mayor Neville made a motion to approve items 3-C) and 3-D) on the consent agenda. Mrs. Minuse seconded the motion and it passed unanimously.**

**4. PUBLIC HEARINGS**

**A) ORDINANCES**

**B) RESOLUTIONS**

- 1) A Resolution of the City Council of Vero Beach, Florida, Repealing Resolution 2013-15 and Adopting a Revised Fee Schedule for Development Review Applications and Related Services; and Providing for an Effective Date – Requested by the Planning Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that this Resolution is to revise the fee schedule for development review applications and to add application fees related to right-of-way abandonment requests and re-plats or lots splits.

Mayor Brackett opened and closed the public hearing at 9:26 a.m., with no one wishing to be heard.

**Mr. McCabe made a motion to approve the Resolution. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

- 2) A Resolution of the City Council of the City of Vero Beach, Florida, Establishing a Special Assessment Lien in the amount of \$10,675.00, for a Septic Tank Effluent Pump (STEP) System to serve the real property located at 885 16<sup>th</sup> Place, Vero Beach, Indian River County, Florida; Providing for an Effective Date. – Requested by the Applicant**

The City Clerk read the Resolution by title only.

Mayor Brackett opened and closed the public hearing at 9:27 a.m., with no one wishing to be heard.

**Mr. Cotugno made a motion to approve the Resolution. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

- 3) **A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to Enter into an amendment to the Public Transportation Grant Agreement with the Florida Department of Transportation for a Project entitled “Master Plan Update” (FDOT #447631-1-94-01); Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the Airport has completed the latest Airport Master Plan in 2016. As a requirement by the Florida Aviation Administration (FAA) this plan has to be updated every five (5) years. Accepting this grant will assist in funding an update as required. City Council previously approved a Florida Department of Transportation (FDOT) grant in the amount of \$32,500 in February of 2022. Since that time the Airport has received the FAA grant, which increased the total project cost to \$888,931. This grant amendment increases the funds that the State will be giving the City to a new total of \$44,447. This is being done to maintain the 5% match from the State. He requests that this Resolution be approved.

Mayor Brackett opened and closed the public hearing at 9:28 a.m., with no one wishing to be heard.

**Mrs. Minuse made a motion to adopt the Resolution. Mr. McCabe seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

- 4) **Approving Modifications to “Attachment B” – Resolution #2022-14 – A Resolution of the City of Vero Beach, Florida, Amending “Attachment B,” which is also known as the Standard Lease Provisions for Airport Tenants, a copy of which is attached hereto and incorporated herein; Repealing the “Attachment B” Adopted Effective February 16, 2016; Providing for Repeal of conflicting Resolutions and Airport Policies; and Providing for an Effective Date. – Requested by the City Attorney**

The City Clerk read the Resolution by title only.

Mr. John Turner, City Attorney, explained that there were some additional changes made to Attachment B and he asked that it be readopted today with those changes made.

Mayor Brackett opened and closed the public hearing at 9:29 a.m., with no one wishing to be heard.

**Mrs. Minuse made a motion to adopt Attachment B, which includes the new wording. Mr. McCabe seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

- 5) A Resolution of the City Council, of the City of Vero Beach, Florida, Recognizing the City's dedicated efforts and compliance with the Central Indian River Lagoon Basin Management Action Plan for Water Quality Restoration; Requesting the Florida Department of Environmental Protection to increase its enforcement efforts for Water Quality Restoration of the Indian River Lagoon; directing the City Clerk to forward this Resolution to the Florida Department of Environmental Protection and the Legislative Delegation for Indian River County; and Providing for an Effective Date. – Requested by Councilmember Honey Minuse**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the City has established several goals to offset their impact to the Indian River Lagoon. The City's goals have required investing in solutions that exceed the bare minimums imposed by the State. However, the City of Vero Beach accounts for only four (4) miles of shoreline, or 2.5% of the 156 miles of Florida's east coast along the Indian River Lagoon. Restoration of the Lagoon will require coordination and support from all stakeholders, such as State water management districts, water control districts, counties and municipalities. The State's lead agency to assign responsibility and accountability for restoration of the Indian River Lagoon is the Florida Department of Environmental protection (FDEP). The FDEP uses the Basin Management Action Plan (BMAP) program to assign pollutant reductions to stakeholders such as the City and our neighboring counties and municipalities. However, the State is not enforcing any of the requirements in their BMAP program to individual stakeholders. The City and a few other stakeholders are meeting the overall objectives of the BMAP program while most stakeholders are given no financial incentive or legislative demand to contribute towards their fair share of Lagoon restoration. He asked the Council to support this Resolution and transmit a letter with the Mayor's signature.

Mayor Brackett felt that it was not fair that they don't want to give the City credit for all of the things that they have already done to meet BMAP requirements.

Vice Mayor Neville did not think that they were alone in this and said that there were other cities who are equally concerned.

Mrs. Minuse asked Council if they get a chance to read the Resolution that is online to do so. It is much more detailed than their Resolution. She said they can work with the Florida League of Cities to lobby on their behalf.

Mayor Brackett opened and closed the public hearing at 9:33 a.m., with no one wishing to be heard.

**Mr. McCabe made a motion to adopt the Resolution. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

- 6) A Resolution of City of Vero Beach, Florida, relating to the Provision of Stormwater Management Services; confirming the Initial Assessment Resolution; imposing Stormwater Service Assessments against developed property within the City of Vero Beach; approving the Stormwater Assessment Roll; Providing for Collection of the Stormwater Service Assessments; and Providing an Effective Date. – Requested by the City Council**

The City Clerk read the Resolution by title only

Ms. Lawson reported that this is the final assessment Resolution based on the initial assessment Resolution that they adopted on June 7, 2022. Since that time they mailed the required notices to each individual parcel owner. They have advertised the public hearing and had a phone line available for people to call and get their questions answered. Their attorneys are here via zoom to answer any questions that might come up.

Vice Mayor Neville commented that this project has taken a long time to get to this point and a lot of work has been put into it. They are close to making the right decision. The idea is all who generate stormwater should have to cover the costs of mitigating that stormwater. If they manage stormwater through ad valorem taxes there are no organizations that under or over pay based on the scope of how much water actually meets the Lagoon as a result of their hardscape. With the existence of a utility where there can be confirmed that annual funds will be made available they will find the opportunity for grants in some of their larger projects that will be coming their way. So far grants are few and far between with regard to their previous stormwater efforts. He urged Council's support in moving this forward.

Mayor Brackett opened the public hearing for comments at 9:36 a.m.

Mr. Matthew Thomas, of Graves Thomas Law Firm, was speaking on behalf of Piper Aircraft in regards to the stormwater Resolution. He said although over 180 stormwater utility assessments have been passed over the State of Florida not many of them have a FAA regulated Airport. He said that Piper stands uniquely assessed and conflicted with this bill as it is drafted because of the specific regulations as it applies to Airports specifically. He said there is FAA involvement, there are specific wildlife management

plans that have to be implemented and all these various aspects as it applies to Airports are specifically at issue with the stormwater Resolution as it stands. The stormwater Resolution as it is drafted not only permits a problem with FAA, but also with Florida Statute 379.2293, which is applicable as it relates to Airports and stormwater management. To be a utility fee it needs to be voluntary and to be voluntary there must be a way to cure the issues that the stormwater creates. The 100-year plan is in opposition of the current code of 25 years. The 100-year mitigation is also not feasible for this area and the FAA regulations as to how land would be built out for the 100-year mitigation. He said it needs to be an assessment as to what the FAA will allow. He said without that being looked into and explored it creates a problem as it is drafted now specifically as it relates to Piper. The idea behind the ultimate Resolution is a good one and everyone wants to see the Lagoon get cleaned, but this is not something that the City should share alone. This is a multi-governmental function and they should work together with other municipalities and the County to put together a plan to fix the Lagoon and not to shoulder it all on the City of Vero Beach. He said that Piper is one (1) of the biggest employers in this City and has a lot of impervious land under its fold and most business owners will face the burden that is assessed by this stormwater assessment. It will be estimated at about a 15% raise in taxes for each homeowner, which is separate and apart from the businesses. The idea that was behind this is to be fair and equitable if businesses are negatively impacted in comparison to the homeowners and those around the City it is not fair and it is not equitable. The Interlocal Cooperation Act is a better forum for the procedure to attack this issue.

Mr. Bob Sears explained that he wanted to speak to the Code Enforcement Board at their last meeting, but was told that he could not. He expressed dismay that the adjacent property owner constructed a 160-foot long, nearly six (6) foot high wall, and substantially sloped his property so it drains to the side boundary line between the respective properties. The adjacent property owner did not obtain an Indian River County building permit or modify his City of Vero Beach site plan, and hired an unlicensed contractor to install this wall. He wanted to have a meeting with the City Manager to discuss this. Mr. Falls told Mr. Sears that he would be happy to meet with him.

Mrs. Tracey Zudans felt that this stormwater utility was unnecessary and poorly timed. If this passes it will be the largest municipal tax increase for Vero Beach. She said it is an arbitrary tax. She said that she gets no mitigation credits back. They are trying to pass this during the highest inflation they have seen in 40 years.

Ms. Carrie Bowman, owner of rental properties in the City of Vero Beach limits, said that she purchased these rental properties and has upgraded them because they were neglected properties. She rents to her tenants on an annual basis and helps support their economy. She tries to keep her tenant's rent as low as possible so she can have a decent return, however the taxes are burdensome for people like her. If this Resolution passes it will increase her taxes by \$11,000 more from her properties than what they were a few years ago. She is in support of cleaning the Lagoon and asked Council to rethink the tax itself and how it is being implicated. The expansion of the Marina has an impact on the Lagoon that they are taxing her to cleanup. She said the actual assignment of the tax has not been thought through.

Mr. Roger Pridgeon, President of Corporate Air, stated that Corporate Air has been a tenant at the Airport for over 36 years and have been in expansion mode for several years. They have been required to build retention ponds at a cost of over \$300,000. He feels that he has already mitigated the process and is being unfairly charged with the same ERU's that others are being charged that have zero retention ponds and expenses for mitigating this issue. He said if they feel further mitigation is needed by increasing the size of the retention ponds that are offered the problem is at the Airport if they increase ponds then they increase bird activity. He said they already have a problem with bird activity at the Airport. He said this will almost double his taxes adding another \$10,000 a year. He asked Council not to make a quick decision and said they should come together and come up with a better solution. He said Florida Statutes requires the municipalities to identify any overlap in the expenditures of water resources and conservation of lands. He brought up the mitigation process and felt that Corporate Air should be able to get credits for the amount they have spent on the retention ponds.

Mrs. Minuse stated that her understanding with the retention ponds is that they will be taking the water from the Airport into a different area.

Mr. Pridgeon explained that retention ponds are on the Airport and there is standing water at the Airport. He has birds crossing his property daily, which is an FAA safety concern.

Mr. Dominique Pasana (name may be misspelled), is a 25-year resident of Vero Beach who felt that Council should not be taxing the residents more than they are already being taxed. They are going through a high inflation period now, gas prices keep going up, and now another bill is being imposed on the residents. He asked if they explored other options instead of just this bill. There should be other ways to collect this money. He said they need to stop using pesticides, which goes into the Lagoon. He suggested meeting on a Friday after 4:00 p.m., so everyone is able to attend. He is against this tax and has the money to sue the City of Vero Beach.

Mr. Paul Fafitta, Water Coalition of Indian River County, was in favor of passing the Resolution. He said that as a community they need to work on fixing the Lagoon. He went over things that used to be in this community and are no longer there, which is not what we want to see with our Lagoon. He said there is a cost for doing nothing. He asked the City Council to do something and act now.

Mr. Charlie Wilson stated that he was not here to talk about the pros and cons of stormwater. He was here to tell them that a group of business people that are concerned came to him and asked him for some advice and he is going to tell Council what he told them. There are three (3) ways to get something passed in this City. The City Council can pass it, it can be put on the referendum by the majority of vote by the City Council, or the citizens of the City of Vero Beach can petition the Council to have something placed on the ballot. He said out of the five (5) Councilmembers, at least three (3) of them are members of the Indian River Neighborhood Association who desperately wants this new tax. The other people behind it are the staff who will get a huge profit windfall out of this

new tax that has no regulations or cap. It is simply a replacement for the Electric Utility with another utility. He said when he attended the budget meeting, the City Attorney informed them that it is his intention to bring legal action against anybody that might put this referendum item on the ballot. He doesn't know if Council does what the City Attorney tells them to do or they tell the City Attorney what to do. Either they have told the City Attorney to make sure they use the power of the City to be able to prevent the City from acting or the City Attorney is acting without authorization. These people who are interested in having the petition on the ballot went ahead and authorized a test and sent out 1,000 letters and have already received 103 back. If you look at the statistics with 2,400 residents they have received the amount they need to place this item on the ballot. He gives it a 50/50 chance or better if this group decides to go forward that they will be able to get the item on the ballot. He doesn't know whether it will be on the ballot this year or next year. He had to tell this group that the City Attorney was going to try and stop this organization from succeeding and probably would be able to delay it for the time they have to get this done. They probably should be shooting for next year. One thing that could solve this problem is for one (1) of the Councilmembers to make a motion for the City Council to place the stormwater fee on the November Election ballot and let the people vote on it. The fact is that the Indian River Neighborhood Association, staff, and the press are going to be pressing this stormwater fee and they don't care what this does to someone's business.

Mayor Brackett did not remember that the City Attorney threatened any legal action to stop this. He invited anyone to go back and watch the tape of the meeting held during the budget hearings.

Mr. Jordan Stewart, President of the Taxpayers Association, said he is not in favor of this tax. It is important they all know and realize that there is nothing new in the stormwater plan that is different from the way they have been paying for things out of the General Fund for years. He just sees this as shifting of money from the General Fund. The timing could not be worse. It is not fair or justified. He said they need to continue doing things like the way they partnered with John's Island on the reuse water. He said that the government will have to pay these taxes on their land, as well as churches and nonprofit organizations. There will have to be an increase in rent in order to pay these taxes. He is adamantly against this stormwater tax.

Mr. Ken Daige commented that the City will also have to pay taxes for their government buildings, which comes out of the General Fund. He said people now are having a hard time meeting their obligations without having another burden. He said inflation is at an all-time high. The timing is just terrible for this. People are having a hard time making ends meet. When he received this notice and read it, it gave the impression that this is a mandate from the State, which it is not. He suggested putting this on the referendum to see if this is what the people want. He said when you look at the Resolution it talks about the role of the Stormwater Utility Director. He wants to know who that person is and where his office is. In the Resolution it says if you don't pay your assessment then a lien can be placed on your property. There are no working agreements with other agencies, which there should be. With the amount of money that has been spent on consultants and staff time they could have built a big box of money to fund this. He said because of the economy

grants are going to be harder to get. He hated to see this burden placed on regular hardworking people. There are people getting thrown out of their homes because they can't afford the rent. He said to do this today is not cool and he hopes they will table it and put it on the back burner. He said for people to quit using pesticides on their lawns is one way to start cleaning up the Lagoon.

Mr. Joshua Gain, Corporate Council for Piper Aircraft, said that the Lagoon is very important to Vero Beach and there is no doubt about that. The local economy is based on the health of the Lagoon. He said that residential growth and tourism has a lot to do with the Lagoon. The concern is that this is placing an unfair burden on the largest businesses, taxpayers and entities in Vero Beach. So everybody that has more impervious coverage is paying more of this assessment. The problem for Piper is that most of their property is inside the Airport and much of it is already paved. They don't have the ability to create a 100-year stormwater retention. This is 100% of 100-year flood level and that is a staggering amount. So \$75.00 per residential property is about a 15% increase and for Piper it will be \$49,000. Piper is the single largest employer and will be the single largest private entity assessed. He wanted to focus on what they could do instead of blaming anyone. He said rather than Vero Beach acting alone, he urged the City Council to work with surrounding municipalities and create an interlocal agreement with the County and other counties and cities to tackle the stormwater and do things in an equitable approach that will make a difference. Things like the John's Island pumping reuse water will help the Lagoon and there are other entities that can use reuse water also including the City. He said let's look at ways to get this done that will improve the water quality without putting an assessment on the business. He said \$50,000 is a lot of money for Piper without having time to budget this money. He said there is no way they can mitigate and this is a mandatory fee and not a voluntary fee.

Mr. Dan Cross requested that Council not do this today. He said no one at the meeting would argue the health of the water. He doesn't imagine there is a reduction in funds coming from the General Fund to mitigate this expense. They know what is happening here. It is an increase to the City coffers to do something. He thinks they are paying for staff to continue monitoring and doing what they are doing now and that is to keep their jobs.

Mr. Mike Johansen was trying to figure out the three (3) Councilmembers who sat on the Indian River Neighborhood Association. He said that he will have to look into that. They all agree that the Lagoon is in bad shape. He said this is the right thing to do. It is not a large amount of money for most people. Business people will put this in their business plan. They have been working on getting this passed for the last 10 years. He urged Council to pass it.

Mrs. Linda Moore commented that no one wants the Lagoon fixed more than she does. However she was concerned about charging this tax right now when they are about to raise the millage and inflation is what it is and people are suffering financially. Last year when they discussed this the Mayor came up with the great idea of taking the ARP money and using it towards stormwater so no one had to pay that year. She is wondering if it was

possible to do that again this year. The ARP money is approved for stormwater and the first million dollars they are going to raise from the stormwater utility, (\$200,000) will go towards a consultant to come up with plans. She wondered if they could just put off the collection of this tax for another year and give people a little break.

Mr. Keith Drewett, of the Clean Water Coalition, commented that there were a lot of facts and not facts flying around today. Why people are showing up at the last minute like Piper is beyond him. They have been talking about this for the last 10 years and in great detail for the last three (3) years. He said talk about public/private partnerships and agreements. St. Lucie County has a massive stormwater utility, Brevard County has a half cent sales tax and in the last legislative session they received \$67,000,000 of State money and Vero Beach got zero matching State money for grants. The City of Vero Beach won't get any of this money unless they have a matching source of guarantee funds. He said that all the stormwater money must be used for capital projects. He said comments about staff getting fat, and happy, are totally not correct and not appropriate. He went over some of the facts. There are three (3) Lagoon issues, which the City of Vero Beach has control of. They are the Wastewater Treatment Plant, the STEP System program, and the stormwater runoff, which there has not been a stormwater runoff project done for at least the last five (5) years. He said all they are doing is repairs and maintenance because they don't have any money for capital projects and don't have money for matching funds. Piper is owned by one of the richest countries in the world. Their most expensive plane sells for \$3 million and for them to come here and claim poverty doesn't work for him. Fairlane Harbor is invested and owned by Capital Square out of Virginia. The money paid by their tenants for rent is not staying in the State of Florida. Then there is Publix who made \$4.4 billion so there are a lot of businesses out there who can afford these fees who are willing to pay. He said they can't keep kicking this can down the road.

Mr. Harry Howle recalled when he was on Council he brought up how these rates would continue to go up over time if they are approved. He said that Sebastian has a stormwater utility that has increased expeditiously over the last 10 years, which will happen here over a matter of time. It is a branch of government that will grow and that will cost more money as time goes on. He said that new construction requires impervious areas to be constructed and then they will be penalized for having those non-pervious areas that are required. He said the County has a penny tax in which 25% of that tax goes to stormwater projects. He thought it was appropriate for the County to be looking at this instead of having to shoulder this burden themselves. This creates a double tax for City residents. He wants to be shown that his money is working towards something to help the Lagoon. He said having baffle boxes is not going to help especially when they have things from all the grass clippings going into the water without any type of oversight. The City has done a great job in keeping up with the State requirements that they were required to do. What they could be doing now is using the flexibility of the General Fund to help fund some of these projects instead of taxing them to this agency that will never go away. One of the biggest contributors to nitrates in the river is golf courses and they are not going to be subject to this because they are not impervious. He said if they create this tax he thinks that the City might find themselves in a lot of litigation.

Mr. Tim Zorc said that he was speaking both as a resident of Indian River County and as the owner's representative for Corporate Air's capital improvement projects that are coming down the pipeline. He said that his comments today deal with the credit component. He said there are three (3) City Stormwater Utility reports on the City's Stormwater website and they include a very strong component for credits. The final version came out on June 7<sup>th</sup> and it mentions credit incentives until you get to Appendix A. He said page seven (7) of the Stormwater Utility Preliminary Evaluation presentation that was given by Collective Water Resources, LLC that is listed on the City's stormwater website (on file in the City Clerk's office), states in part that the burden assessed through ERU is based on rate, volume, and pollutants. He said that he spoke with a few stormwater engineers and others and no one could find a single parcel that would ever be eligible for a credit.

Mr. Joe Graves, Attorney, said that he was speaking at his own capacity as a business owner and not on behalf of his client. He said the authority to write this Ordinance is as important as a user fee because a user fee has been interpreted by the Courts to be something that is voluntary. He said the inability to mitigate doesn't make it voluntary. It makes it mandatory, which makes it a tax. In his view, that is where this Ordinance is suspect.

Mayor Brackett closed the public hearing at 10:57 a.m., with no one else wishing to be heard.

Vice Mayor Neville said that he remembered when they talked about the 100-year requirement that he resisted because he thought it was a very difficult benchmark to meet. He agreed with the observation that it was not achievable for most areas. He said they have the ARP funds that could be allotted to the projects the City has assigned that are intended to be applied to the utility fee. He suggested that they adjust the rate to a very low amount in order to get the process underway. He also recommended that during the year the rates are reduced that they go back and look at Appendix A. He said where people have done some mitigation then mitigation credits should apply and if they do something greater then greater credits could apply. He said rather than doing the minimum requirement of the City they could do more and actually do more for the Lagoon if it is achievable. He would like them to take another look at the mitigation rules.

Mr. Cotugno said that he mentioned the use of ARP funds during the budget hearings to mitigate the stormwater fee. He said that he has met with a lot of the people who spoke today and during those discussions he learned a lot of things, such as the inability to mitigate a lot of the fees. He said it is impossible to build new at the 100-year stormwater standard. He said that he tries to listen to people and come to a consensus on how to move forward. He referred to an email dated April 29, 2022, that was sent by Mr. Jason Brown, Indian River County Administrator, which essentially said that the County would take care of the County and the City needs to take care of the City (email on file in the City Clerk's office). Mr. Cotugno said the issue they have here is inflation and the total cost of citizenship in Vero Beach is a combination of whatever fees and taxes they pay. He said one of the things of the stormwater utility is that it is for capital costs only. Also by Statute

they have to move this along at a certain pace. To him a compromise would be to fully fund the utility with the ARP funds and in that year have the issues they have with mitigating the fee with credits worked out and to have discussions with staff and the citizens to determine how they could mitigate some of the fees or possibly applying it on a hardship bases for some relief and then it would come back for a vote again because they would have to set the fee again next year. That they try to reach a compromise and try to create a win/win for the citizens with the understanding that they were trying to reach a certain goal.

Mayor Brackett said most of them know where he stands on this. He said what he has not said before is that he feels that they need to go back and look at the overall plan. He said it was poorly written with a lot of discrepancies and there was no mitigation process. The fact that it refers to employees and no funds were going to be used for employees was very misleading. He said that he is also concerned about the Lagoon and he made the proposal last year to move funds over. He asked what has been spent out of the \$500,000 that they moved over.

Ms. Lawson reported that the City has obligated \$167,000.

Mayor Brackett said that he could live with the full funding as Mr. Cotugno suggested and going back and readdressing this plan to be sure that they get it right. He said this plan is going to be a form of government that is going to be around year after year. He wanted to make sure that they do it right. He believed that the way to continue to attack the problem with the Lagoon was to be innovative and creative as they have done with John's Island and with the STEP System. He agreed that people are hurting. He said eventually it all trickles down to the consumer. He said that he could live with funding this through an alternate method for the year.

Mr. McCabe agreed with all the comments about the credits. He said that his support for the utility has always been that he would like to see it become an incentive as they upgrade their property to the greatest extent as possible to put in pervious areas, that they minimize the impervious areas, which could be done by replacing a concrete driveway with pavers that are spaced out so that the water goes down. He said that he was very disappointed that has not happened. There is no provision that allows a developer to put in an impervious parking lot. He felt this needed to be looked at very hard. He hoped that the Utilities Commission would be charged by the City Council to look at this and that Mr. Zorc would put forth a proposal. He said to put it down that you would have to mitigate 100% of a 100- year runoff immediately was ludicrous and has to be looked at. On the other hand, he was not willing to be in favor of kicking the can down the road. They have to start someplace. The Lagoon is important to everyone. He said they cannot continue to push this down the road and not take action. He was in favor of moving forward with the utility and with the tax as proposed, but he also agreed that they continue studying it and fine tuning it.

Mrs. Minuse said they are basing the fees, which are not taxes so that it is fair throughout. She asked with all the suggestions about mitigation, is there a way they could ask the Consultants to respond at this time.

Ms. Heather Encinosa, Attorney with Nabors Giblin and Nickerson, who was present via zoom, said that she was not sure of the exact question, however the methodology they have used was well settled by the Courts and is also authorized by Florida Statute.

Mrs. Minuse asked when the Property Appraiser has assessed the fees, do they follow the suggestions that she just made.

Ms. Encinosa explained that the methodology is built upon the information that is found in the tax records, but it is supplemented by other onsite measurements if needed. She said there was a lot of different data sources that were put together in order to build the impervious area data base so the information they have is the best available, but it can always be updated. For example, if a property owner thinks that they have less impervious area there is a procedure that was built into the Initial Assessment Resolution that provides an opportunity for them to have their assessment units adjusted accordingly.

Mr. Matt Mitts, Director of Public Works, said the mitigation credit was something that was discussed and it is difficult to strike a balance. He said they could have a lower mitigation credit, such as the 25-year storm, but some of the factors to choose the 100-year storm was the fact that other utilities do have that standard and the State of Florida is considering increasing the regulatory requirements to all municipalities so they wanted to be forward thinking on this.

Ms. Elizabeth Perez, of Collective Water Resources, felt it would be helpful that they step back and recognize that they talked throughout this process that the stormwater community firmly believes that costs for managing stormwater is going to increase. There has been active rulemaking this year and new stormwater rules are on the way. If they choose to pass on this today it is very likely that they are going to be back here in the future and the costs are going to increase. She said they have talked today about water quality, but a lot of their projects also relate to public safety and property values. She said that she is a Civil Engineer and the 100-year storm event is a large event, but it does occur and engineers do know how to engineer for that. When they looked at the City's mitigation policy they looked at almost all of the Saint John's River Water Management District (SJRWMD) permits in the City and a lot were set at the 25-year storm event, which is the standard that SJRWMD has set. She said if they lower the bar and say they are going to give a credit to those that achieve the 25-year storm event they would probably require more staff to review applications to determine if mitigation credits should be awarded. She said the mitigation credit is intended to be a voluntary measure. She said they leaned on some of the oldest stormwater utilities in the State of Florida when they looked at the City's utility and a number of communities are looking at the 100-year storm event and to award credits.

Mayor Brackett said what he just heard was that if they reduce the mitigation threshold to the 25-year storm or a 50-year storm, they are going to have a bunch of staff working so

let's just make it a 100-year storm so they don't have to worry about staff doing anything. He said that did not seem reasonable.

Mr. McCabe said it is a disincentive.

Mr. Cotugno said there was an opportunity decision made based on the fact of how little work could they do to get this job done. He said they know that getting a 100-year storm mitigation here is almost impossible. He felt it was a burden they were asking the City Council to shoulder that was not fair to the citizens because the City wants to make less work for themselves.

Mr. McCabe asked don't they have a number of permits that people are required to bring a professional engineer's opinion and put the burden on the individual applying for the credits. He said that would relieve the City of any burden in terms of adding staff.

Mayor Brackett said they have already done that when they got their permit for site plan approval.

Mr. McCabe asked why do they need to think about adding staff if they have a professional engineer that is trained in this that states it meets the criteria.

Vice Mayor Neville said it was mentioned that there was some engineering now that were able to do 100-year mitigation. He asked Ms. Perez to give the City Council some examples.

Ms. Perez explained that this was intended to be a credit, it is not a requirement. It is intended for those that go above and beyond what is required for permitting. The 25-year storm is already required by the SJRWMD. If the City was to use the 25-year storm it would allow a significant portion of properties in the City to apply for a credit. She said they did look at that, but it would financially change the structure of the utility. The 100-year storm is mentioned across the State of Florida.

Mr. Falls said they started talking about a stormwater utility 10 years ago and the basis has always been to generate the average revenue in the Five Year Capital Program and use that one (1) year average as a basis to determine the fee. He said they could move the number by giving credits for a 25-year, 50-year storm, or a 100-year storm, but all they were going to do was reapportion that amount to the different property owners. He said they need to decide if they want to have this revenue source available. If they do, there has been a few suggestions about using the ARP funds for the next year, which would give them time to go back and look at how they look at someone who developed before the City had stormwater requirements versus after. He noted that this would make the people who have done stormwater, such as Corporate Air, pay less and the people that don't, such as Piper Aircraft, pay more.

Mr. McCabe said that he would like to start at the 30,000 foot level. He said the objective is to clean up the Lagoon and not to raise money. Their highest priority should be cleaning

up the Lagoon and if they can incentivize a number of businesses to take action and give them a credit, they would be cleaning up the Lagoon. He said that he was going to do everything that he could to incentivize people.

Mr. Cotugno agreed. He said the idea is to clean up the Lagoon and what that takes from a fees standpoint by using the ARP funds this year to fully fund the utility they would be able to iron out all the issues that they have. It was his opinion that it would give the business community a better idea of what is going on and as they start to plan for their fiscal year and whether they have to add this to their budget. Also residences would have a chance to plan for it. He said they would establish it, fund it, and then would work this year to make it fair.

Mrs. Minuse asked if they were to use ARP funds, what does that do to the availability of setting the mileage rate.

Ms. Lawson said they have \$2.1 million in the ARP funds, the cost of this is a little over \$1 million per year and the additional mileage revenue was \$870,000 so those two (2) combined are less than the available ARP funds.

Mrs. Minuse said that she was interested in reducing the stormwater assessment roll and then having ARP funding available and bringing it over to the mileage.

Vice Mayor Neville asked if she was stating that they do a partial portion of the stormwater fee and supplement it with ARP funds.

Mrs. Minuse answered yes.

Vice Mayor Neville agreed. He felt that was what they should do. He said the impact on those with a reduced fee would be much less. They can move this off the table and get it working and then next year they could reevaluate the mitigation process and adjust the fee. He said in the past year they funded a Stormwater Master Plan and the negotiation for that was difficult, but it was underway. He said they have some smart engineers who are looking at what can be done to mitigate stormwater. When they receive that information they will know what direction they need to go. He said their budget is set and if they don't fund this it would be a real problem. He felt that they needed to do the partial funding of stormwater fee.

Mrs. Minuse asked if he was suggesting 50%.

Vice Mayor Neville said that he was fine with 50%.

**Mr. McCabe said that he believed that the full funding that is in the Resolution should go forward. He made a motion that they pass the proposed assessment.**

Mr. Cotugno said they have more than enough ARP funds to cover the stormwater fee. He said the idea is to fund it so they could mitigate some of the shortcomings that they see in the plan.

**The motion died for lack of a second.**

**Mr. Cotugno made a motion that they fully fund the stormwater utility with the ARP funds that are currently available to them. Mayor Brackett seconded the motion.**

Mayor Brackett opened and closed public comments at 11:34 a.m., with no one wishing to be heard.

Mrs. Minuse said that she was having difficulty funding this entirely with ARP funds.

**The motion failed 3-2 with Mr. Cotugno voting yes, Mr. McCabe no, Mrs. Minuse no, Vice Mayor Neville no, and Mayor Brackett yes.**

**Mrs. Minuse made a motion that they reduce the ARP funds to 50%, instead of full funding that they would fund it 50% out of the ARP funding and reduce the assessment. Vice Mayor Neville seconded the motion.**

**Mayor Brackett said the motion is to reduce the stormwater utility by 50% and use ARP funds for the rest.**

**Mrs. Minuse clarified that the motion is that they reduce the fees by 50% and make up the balance of 50% with ARP funds.**

Mr. Charlie Wilson wanted the City Council to realize that they just made a motion to pass a flawed piece of legislation that they have already recognized is a flawed piece of legislation. They know that it is wrong and that it doesn't work and yet they are going to try to pass it anyway.

Mr. Danny Markford asked was the motion that they pass this and then figure it out later. He said that is what he was hearing.

Mrs. Terry Bowman said that they don't need to pass a flawed legislation in order to clean up the Lagoon. She said they were creating an infrastructure by passing this utility that is flawed and is going to burden the residents of the City. She encouraged the City Council to use funds that they have currently to help the Lagoon. They don't need to pass a flawed legislation.

Mrs. Linda Moore said that she didn't understand the downside of using 100% of ARP funds. She said it gives them the funds that they need to fund the project and maybe next year there could be in a different financial picture and they could look at it all again. She did not understand how it was better to charge the citizens 50%.

Vice Mayor Neville said it was his understanding that there were some technicalities related to getting this underway in that if they don't enact this today then next year there would be some amount of funds required.

Mr. Falls said the question is do they have to enact some portion of the fee this year and if they don't, are they back in the same position next year.

Ms. Encinosa said they don't have to enact a fee. That is a policy decision of the City Council. She explained that if they don't and they want to move forward next year they would have to start the process again in that they would have to readopt an Initial Assessment Resolution, redo the notices, have a public hearing, and consider the final assessment.

Mr. Cotugno asked if they vote to fund the stormwater utility today, but the funding used is the ARP funds so they would transfer the information to the Tax Collector's office showing the people and the funding, is that the same thing. He asked have they implemented the mechanism that would keep this a functional stormwater utility going forward.

Mayor Brackett said the other question is if they don't fund it today, what is the cost to start over.

Ms. Lawson said they would have to start at the beginning and send notices to everyone again. If they raise the ERU rate next year from what they adopt this year they would still have to send notices to everyone. In other words, the notices would have to be sent out whether they start from scratch or they increase the amount. She said this is very clearly a yes or no on the assessment. If there is no assessment then there is nothing to go on the tax bill, it doesn't exist.

Mr. Cotugno asked if they transmit the file to the Tax Collector showing everyone that is to pay a stormwater assessment and then show the funding for it, which would be the ARP funds.

Ms. Lawson explained that the ARP funds are available at the discretion of the City Council to transfer into the Stormwater Utility Fund to fund projects. The Tax Collector's bill will only reflect any levied non-ad valorem assessment.

Mr. Terry Schlitt said that he has about three (3) acres of property and would be paying about \$220 in fees and in order for him to get credit for the exemption he would have to hire an engineer and most engineers would charge at least a few hundred dollars just to certify that his system that has been inspected and permitted through Indian River County meets compliance. Another challenge is that a lot of the drainage structures in his neighborhood are currently owned and maintained by the SJRWMD.

Mr. Joe Graves said the issue is that the legislature empowers the City Council to impose a user fee. A user fee as interpreted by the Courts is that it is voluntary. He said if you

can't mitigate it then it is not voluntary. If it is not voluntary then it is a tax. If it is a tax he was not sure they had the authority to pass it. He was not sure if the City Council was empowered to impose a tax. He said if they pass this then it is subject to a tax because they have had public discussion of how mitigation could not be achieved. Therefore, the user fee is not voluntary. It is a tax, which they are not empowered to pass.

Mr. Ken Daige said they have heard from a number of stakeholders that this fee is going to affect them in an adverse way. He said they also heard today that this piece of legislation is flawed. He felt that they needed to table this and not pass any of it. If they need funding for their stormwater projects they have funding available from the Federal Government. He said this is flawed and you don't pass flawed documents. He said if they pass the Resolution today that is their business, however a Resolution can be changed by future City Councils. He felt that they were doing a disservice to the community by passing this today. He said do not pass something that is flawed.

Mr. Wilford Hart, County resident, said that he is concerned for the people that he works for, which he works for the School District. What the City Council does today is going to affect the School District. He asked that the City finance this 100% with ARP funds to pay for it this time around because they do need to move this project forward. He said they need to do something, but they need to help the community out.

Mr. Jordan Stewart agreed with Mr. Hart. He didn't see why the City Council wouldn't fund this with 100% of ARP funds. He said the only way they are going to do something for the Lagoon is if they have a mitigation credit that is achievable.

Mayor Brackett closed public comments at 11:53 a.m., with no one else wishing to be heard.

**Mayor Brackett said the motion on the floor is to fund the stormwater utility at half the proposed rate and the rest to come from the ARP funds.**

Mr. Cotugno asked if they fund 50% that means that they would have to lower the rate, does that mean that next year they would have go through the entire process of notifications, etc.

Ms. Lawson said the way the Ordinance is currently written, if they said not to exceed half this year and they raise it next year then they would have to re-notice everyone.

Ms. Encinosa explained that under State law any time you go above the amount previously noticed or if new property is added then notices are required.

Vice Mayor Neville questioned the statement of tax versus fee.

Ms. Encinosa said this was not an unauthorized tax.

Mr. Cotugno said they are going to have go through the same effort and the same process to raise this from zero back to where it is now. He asked what is the logic of not taking funds from the ARP money. It is not that they were going to save anything from a process standpoint. They were not saving any time, effort, etc. They are going to have to do the same thing next year if they took 50% or zero.

Ms. Encinosa clarified that they have already noticed everyone at the \$75.17 rate so if they adopt something less than that they would have to re-notice to go back up to the \$75.17 next year.

Mr. McCabe said then if they go to zero they would have to go through the whole process again, but if they go to the 50% they would not.

Ms. Encinosa explained that if they go to zero then they are not imposing an assessment so the program stops and they would have to start over.

Mrs. Minuse said as she understands it people were noticed, but now they are covering 50% so next year's notice would not change.

Ms. Encinosa said they could go back up to the \$75.17 next year without redoing the entire notice process.

Mr. Danny Markford said it sounds like they were making a decision based on the effort that they have to go through as opposed to paying taxes. He said this should have nothing to do with the effort or the re-noticing of the taxpayers.

Mr. Cotugno said that means there was a little over \$1 million dollars so they could put \$1 million toward it.

**Mr. Cotugno made a motion to amend the primary motion that they fund this stormwater utility by \$100,000.**

Mr. Cotugno said if they use 50% of the money they would be using about \$500,000 of the ARP funds so instead of doing it that way that they fund it as much as they can. Not at \$500,000 they could fund it at \$900,000 or \$985,000. That is the best use of the sources of funds that they have available. He thought that the next two (2) years they would be funding it at a lower amount than the \$1 million so they would have the flexibility to move that fee up a scale to equal what is needed for a stormwater utility. In this case they have addressed the business owners and the citizen's concerns, they have addressed the issues they are facing beyond their control, and they would be giving people a chance to address their concerns over a period of time. He felt this would be better for them in the long run.

**Mayor Brackett said the amendment to the motion is that they reduce the amount they collect in stormwater fees to \$100,000 and the rest would be paid out of the ARP funds.**

**Mr. Cotugno said that is correct.**

Mrs. Minuse said that she made her motion of 50% as a compromise between those who wanted to do complete funding and those who wanted to see it reduced. She said that she could not support that.

**Vice Mayor Neville seconded the amended motion.**

Mayor Brackett said that he doesn't like it, but it is better than the alternative. He still doesn't think that they should be imposing anything when they have the ARP funds, but he could see the writing on the wall that if they don't it was going to switch back to the 50% rule and he doesn't want to see that happen.

Mr. Falls asked that they hear from the consultant before they vote so they could see if that was doable.

Ms. Sandi Neubarth, with Government Services Group, said it is clearer in the legal documents that they use a dollar figure. She said if they used \$7.00 per ERU that would be approximately \$100,000. She noted that mitigation credits are not required, they are an incentive. Out of the 170 programs in the State of Florida only about 38% of them have a mitigation credit. Not everyone uses a mitigation credit.

**Mr. Cotugno withdrew his motion.**

**Mr. Cotugno made a motion that the fee be set at \$7.00 per ERU and that the rest of the funding of the utility come from the ARP funding. Vice Mayor Neville seconded the motion.**

Mr. Charlie Wilson said that he understands the logic. He said it appears that the whole discussion is how easy that is to do and how they could do this with the least amount of work so in order to prevent themselves from sending out a notice they were going to adopt a fee that could last for 100 years. He said the original document is flawed. They are still going to have to go back and change the Resolution and the Ordinance to reflect the changes that are in error. He said the real answer is instead of putting band-aides on this, that they fund it this year with the funds they have available from the Federal Government and bring it up again next year and see if they could get a little more buy in from the community.

Mayor Brackett said they have the funding to do this from Federal funds and felt that they should be doing it that way.

**The motion to amend the motion to change it from 50% to \$7.00 per ERU passed 3-2 with Mr. Cotugno voting yes, Mr. McCabe no, Mrs. Minuse no, Vice Mayor Neville yes, and Mayor Brackett yes.**

**The initial motion as amended passed 3-2 with Mr. Cotugno voting yes, Mr. McCabe no, Mrs. Minuse no, Vice Mayor Neville yes, and Mayor Brackett yes.**

The City Council took a break at 12:12 p.m., and reconvened at 12:25 p.m.

At this time, the City Council heard item 11-B) 1 on today's agenda.

**5. PUBLIC COMMENT (3-minute time limit)**

There was no one wishing to speak under public comments.

**6. CITY COUNCIL MATTERS**

**A) NEW BUSINESS**

**1) Presentation from Florida City Gas**

This item will be heard at a later date.

**B) OLD BUSINESS**

**7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING**

**Public Hearing will be held on August 2, 2022 at 9:00 a.m. and September 6, 2022 at 5:30 p.m.**

- A) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by amending Chapter 62, Article VII, Airport Master Plan Land Use Zones, to add Aviation Museum to the list of Permitted Uses in the ALI-A1 and ALI-1, Airport Light Industrial Zoning Districts; Amending Chapter 60 (Appendix.Defintions) to add a Definition of Aviation Museum; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date – Requested by the Planning Director**

The City Clerk read the Ordinance by title only and announced that the public hearings for this Ordinance would be held on August 2, 2022 at 9:00 a.m. and September 6, 2022 at 5:30 p.m.

- Public Hearing will be held on August 2, 2022 at 9:00 a.m.**  
**B) An Ordinance of the City of Vero Beach, Florida, abandoning all of the City's interest in the West 10 feet of Cardinal Drive from Flamevine Lane to Iris Lane as shown in Exhibit "A", lying adjacent to Briggs-Tierney Subdivision, as recorded in Plat Book 4, Page 2 and Town and Beach Estates, as recorded in Plat Book 5, Page 4, of the Public Records of Indian River County, Florida; Providing for Conflict and Severability; and**

**Providing for an Effective Date. – Requested by the Public Work’s Department**

The City Clerk read the Ordinance by title only and announced that the public hearing would be heard on August 2, 2022 at 9:00 a.m.

Vice Mayor Neville commented that this component of Cardinal Drive is beautiful and the consequences of abandoning this 10-foot concerns him.

Mayor Brackett explained that the owner of this land lives across the street so he can speak on this item at the public hearing scheduled for August 2, 2022.

**8. CITY CLERK MATTERS**

**A) Lien Reduction Request – 827 22<sup>nd</sup> Street**

Mr. David Currey, Police Chief, reported that the property owner Mr. Frederick Piumelli submitted an application for a lien reduction at 827 22<sup>nd</sup> Street. Mr. Piumelli’s request is to reduce the current lien of \$40,800.00 to \$0.00 for the assessed property at 827 22<sup>nd</sup> Street. Mr. Piumelli was cited for failure to obtain Code Compliance Certification and a building permit. The new paver driveways, walkways and fence required Code Compliance Certification from the Planning Department and the fence required a permit from the Indian River County Building Department. The property owner did receive a building permit and Code Compliance Certification for the fence, but it was filed at 822 22<sup>nd</sup> Street and at the time of the citation, no permit application or approval was on file for the brick paver driveways or walkways. A \$100.00 Code Enforcement citation was issued on February 23, 2021, in violation of the Code. Corrective action was required by March 9, 2021. The case came before the Code Enforcement Board on April 14, 2021, and the civil penalty had been paid, but the violation had not been corrected. An order allowing 90-days for compliance was granted and to pay costs and assessing continuing penalties was issued. The case came back before the Code Enforcement Board on May 11, 2022, and the property was found to be in compliance on April 21, 2022, with a total fine of \$40,800.00 owed. Chief Currey is recommending that the fine be reduced to \$762.40 to be paid to the City to release this lien. He talked briefly about the properties that are being improved. There is one (1) piece of property located behind Burger King and then another piece of property located behind McDonalds. He said at the end of the day that is what they are looking for, to improve properties.

**Mr. McCabe made a motion to approve the Police Chief’s recommendation to reduce the fine to \$762.40. Mrs. Minuse seconded the motion.**

Vice Mayor Neville asked Mr. Piumelli about the piece of property on Royal Palm and why has it taken so long to put a roof on the property.

Mr. Piumelli explained that they are redoing that building and they didn’t want to fix the roof because there will be an entire new campus there.

**The motion passed unanimously.**

**B) Appointment to the Recreation Commission**

The City Clerk reported that there is an opening on the Recreation Commission and they have received an application from Mr. Jackson Stewart who would like to serve on the Recreation Commission.

**Mrs. Minuse made a motion to appoint Mr. Jackson Stewart to the Recreation Commission. Mr. McCabe seconded the motion and it passed unanimously.**

**9. CITY MANAGER MATTERS (include amount of expense)**

**A) Retroactive on Airport Agreement between the City of Vero Beach and Indian River County Emergency Services District**

Mr. Falls explained that these were the final agreements between the City and Indian River County Emergency Services District.

**Vice Mayor Neville made a motion to approve the Airport Agreement between the City of Vero Beach and Indian River County Emergency Services District. Mrs. Minuse seconded the motion and it passed unanimously.**

**B) Update on Elite Airways**

Mr. Falls reported that Elite Airways is current with their fees for service. They (Elite Airways) will be receiving another invoice, which will be due by August 15<sup>th</sup> and the City will continue working with them to see if they are interested in maintaining their preferred status. He said that they have not started flying yet and cancelled their July 20<sup>th</sup> scheduled flight.

**C) Responses to Request for Information (RFI) for Development of Three Corners Property**

Mr. Jason Jeffries, Planning Director, reported that the Responses to Request for Information (RFI) for the development of the Three Corners property was issued by the City on March 10, 2002, and due back by April 26, 2022. The RFI requested interested developers to submit a package including a narrative with project understanding and project approach, description of any foreseen market challenges to achieving the City's project goals, description of financial approach, and additional suggestions regarding the project design or implementation. There was a lot of feedback and it appears that the project is feasible and there is a market demand for hotel and marina development at the Three Corners property. He said that one (1) of the RFI's was from Donald Urgo & Associates who is a hotel operator and Equity First, another firm submitting an RFI that was interested in entertainment uses and dry storage.

Mrs. Minuse asked Mr. Jeffries if he just mentioned dry storage.

Mr. Jeffries said that he did knowing that dry storage was not in the approved Master Concept Plan.

Mr. Jeffries added that there are some challenges in having to reuse Big Blue. He said that parking is another issue. One (1) of the firms responding to the RFI had some concerns with the lack of residential dwellings on the property, which they felt brings life to the area. The Request for Proposals (RFP) will go out after the referendum item has been voted on and then they will be looking at an intent to negotiate, which is similar to a Request for Qualifications (RFQ).

Mr. Cotugno asked if they would be bringing in a Project Manager to help with the discussions.

Mr. Falls said that they would and those decisions will be made after the referendum results come in.

## **10. CITY ATTORNEY MATTERS**

### **A) Expenditures by Local Governments on Campaign Issues**

Mr. Turner commented that they are approaching election season and he wanted to be clear that there are Statutes regarding expenditures by local governments on referendum matters, which will be coming up in their November election. He said a local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement or any other electioneering communication sent to electors concerning an issue, referendum or amendment, including any state question, that is subject to a vote of the electors. He said that this does not preclude an elected official from expressing their opinion at any time. He said you cannot intimidate, coerce, or bribe staff to list some things that can force people to give money. They can campaign, but not with a twisted arm. He told Council if anything like this comes up he would be happy to sit down and talk to them.

Vice Mayor Neville commented that there is a referendum item circulating in the community. He asked what the penalty is for a forged signature.

Mr. Turner said it could be a felony for each signature that has been forged. He encouraged Council to be careful when attending the same meeting where there is another Councilmember present, such as Coffee with the Mayor.

### **B) Indian River Sports Complex**

Mr. Turner said there is good news on the Indian River Sports Complex matter. They have terminated the lease and worked with the former tenant to remove all of their fixtures from the field. This has been arranged and accomplished. The City has obtained a Quit Claim Deed for a piece of property included in Michael Field that ended up in the name of the tenant in exchange they are recommending to Council that the five (5) code enforcement liens on this property that occurred while the tenant was using the property be released. They now have a party that will be pursuing the use of the facilities and it is the Little League. He showed on the computer screen the property that will be conveyed to the City.

**Mrs. Minuse made a motion to recommend releasing the Code Enforcement liens on this property. Vice Mayor Neville seconded the motion and it passed unanimously.**

Mr. Mike Young, Representative of Little League, thanked the City Council for all they do for the City. He wants to bring Little League back to the City of Vero Beach. They now have 400 kids that are a part of Little League and this is an answered prayer to be able to use these fields. They will probably have an increase of players and look forward to being model tenants. He invited Council to their grand opening day, which will be in February or March. He said there will need to be some improvements made to the field immediately, but they will make it a place that everyone will be proud of.

## **11. COUNCILMEMBER MATTERS**

### **A. Mayor Brackett's Matters**

### **B. Vice Mayor Neville's Matters**

Vice Mayor Neville commented that it was reported in the paper today that the Fish and Wildlife Commission (FWC) has developed a policy for allowing people that have boats in disrepair to turn them into FWC at no charge. He said that they are moving in the right direction and he hoped that the people in this community would take advantage of this.

#### **1) Ms. Edie Widder, PHD will give an Update on ORCA's relocation to Vero Beach.**

Ms. Edie Widder was happy to announce that ORCA has a new location in Vero Beach and it will be where the old radio station was on 16<sup>th</sup> Street (1235 16<sup>th</sup> Street). They previously had their headquarters in Ft. Pierce. She brought up the Citizens Science Center where there are nearly 2,000 people that engage in their science projects. She said there is a huge commitment from the community to be a part of these efforts. She went over some of the organizations in the community who have helped them out. Their science projects are very well known throughout the State. There is a campaign going to help pay for the costs and renovations for their new building. They have already met 75% of their goal. They are hoping to close on the building on August 17<sup>th</sup>. She said last month ORCA joined the Vero Beach Chamber of Commerce and is getting involved in the community.

### **C. Councilmember Minuse's Matters**

Mrs. Minuse mentioned the documents that she has been receiving from Florida Health concerning how the State of Florida deploys tools to address the overdose crises. There is now a suicide hotline that anyone needing it can use by dialing 988.

Mrs. Minuse reported that she received an email from Florida Health that gave an update regarding pharmacist's authorization to prescribe Paxlovid. She said that recently the U.S. Food and Drug Administration (FDA) revised the Emergency Use Authorization (EUA) for Paxlovid to authorize state-licensed pharmacists to prescribe Paxlovid to eligible patients under certain conditions.

Mrs. Minuse commented that she attended the Florida Inland Navigation District (FIND) meeting last week and it was a very good meeting where they discussed what is going on with the Lagoon. She said that the Environmental Learning Center (ELC) was also interested in what they were doing in regards to the Lagoon.

**D. Councilmember McCabe's Matters**

**E. Councilmember Cotugno's Matters**

Mr. Cotugno reported that on July 6<sup>th</sup> he attended the Gifford Youth Achievement Center where the campers conversed with International Space Station (ISS) astronauts via livestream.

**13. ADJOURNMENT**

Today's meeting adjourned at 1:24 p.m.

/tb