

**CITY OF VERO BEACH SPECIAL CALL MINUTES  
WEDNESDAY, AUGUST 30, 2023 9:30 A.M.  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** John Cotugno, Mayor; Linda Moore, Vice Mayor; Tracey Zudans, Councilmember, excused absence; John Carroll, Councilmember; Rey Neville, Councilmember **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

**1. CALL TO ORDER**

**A) Pledge of Allegiance**

Mayor Cotugno led the Council and audience in the Pledge of Allegiance to the flag.

**B) Roll Call**

The City Clerk performed the roll call.

Mr. John Turner, City Attorney, requested that an item be discussed under his matters.

**2. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARINGS**

**PUBLIC HEARING TO BE HELD ON SEPTEMBER 12, 2023 AND SEPTEMBER 26, 2023**

- A) An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations by amending Chapter 62, Article I, P-1 and P-2 Park Districts; Article II, POI Professional, Office, and Institutional District; and Article III, Commercial Districts, to revise the permitted principal, accessory and temporary uses, revise the accessory structures, and clarify the development standards for the Park, Conservation, Office, Institutional, and Commercial Zoning Districts; amending Section 62.503, Permitted and Prohibited Uses, to revise the Permitted Uses for the Ocean Drive/Cardinal Drive Overlay District; changing the heading of Chapter 60 (appendix) to Chapter 60, Article IV, Definitions; Amending Chapter 60, Article IV, Definitions to Amend, Delete or Add Use Definitions; Providing for Term Capitalization; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and announced that the two (2) public hearings on this Ordinance would be heard on September 12, 2023 and September 26, 2023.

**PUBLIC HEARING TO BE HELD ON SEPTEMBER 26, 2023**

- B) An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations by amending Chapter 67 to rename the Chapter Title to use Specific Standards and add Specific Standards for Permitted, Accessory, and Temporary uses and Structures; Deleting Chapter 31, Boats and Waterways; deleting Chapter 38, Article II, Satellite Dish Antennas; deleting Section 64.13, Home Occupation; Deleting Section 64.14, Community Gardens; and deleting Chapter 78, Dog-Friendly Dining, to move Accessory Use and Structure Standards to Chapter 67; Amending Section 64.10, Site Plan Review Standards and Conditions, to move Accessory Use Standards to Chapter 67; Providing for Term Capitalization; Providing for Codification; Providing for Conflict**

**and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on September 26, 2023.

**PUBLIC HEARING TO BE HELD ON SEPTEMBER 26, 2023**

- C) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by amending Chapter 60, Article I, General Provisions, to clarify general provisions related to the Land Development Regulations; creating Chapter 60, Article III, Interpretation, to add Rules for Interpreting the Land Development Regulations; deleting Section 34.08, Boardinghouses, to move the use prohibition to Chapter 60, Providing for Term Capitalization; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on September 26, 2023.

**PUBLIC HEARING TO BE HELD ON SEPTEMBER 26, 2023**

- D) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending the Land Development Regulations by amending Section 63.04, Parking Ratios, to revise the parking ratios for allowed uses; Providing for Term Capitalization; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on September 26, 2023.

**PUBLIC HEARING TO BE HELD ON SEPTEMBER 26, 2023**

- E) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by creating Section 64.13, Conditional Use Review, to Consolidate Review Procedures for Conditional Uses; Providing for Term Capitalization; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on September 26, 2023.

**3. ITEMS FOR DISCUSSION:**

**A) Approval of Letter for Health Care Services for Vero Beach Veterans**

Mr. Turner reported that Mr. Neville had submitted some changes to the letter he drafted for Council concerning the health care services for local veterans.

Mr. Neville commented that what they know about this situation is that two (2) physicians and some staff members have resigned from the local clinic, which now means the clinic is being underserved in this community. The reasons this is happening is all hearsay and they do not need to get into the politics of it. The main thing is to have the clinic properly staffed and running.

Mayor Cotugno commented that because of his involvement with the Alzheimer Association, he met with some members of the Chief of Staff from Representative Posey's office in Washington and the discussion of the clinic came up. They said that Mr. Rob Medina has been very actively involved in this situation. He noted that when you start dealing with any level of government it becomes political. He was told by the representatives that he met with that there are issues on the Federal level concerning the clinic and Congressman Posey is looking into that. He reiterated that the situation is being pursued on that level. The representatives from Senator Posey's office were pleased to hear that Council was discussing the matter at today's meeting.

Mr. Neville stated that he just wanted to deal with the facts instead of any hearsay. They know that two (2) physicians have resigned, which seems odd and should be looked at. He said that they need to offer those medical services in this area.

At this time, Council looked at the suggested changes made by Mr. Neville to the letter and agreed with them.

**Mr. Neville made a motion to approve the letter with the changes made for the Mayor's signature. Vice Mayor Moore seconded the motion and it passed unanimously.**

#### **B) Construction Management at Risk (CMAR) Discussion**

Mr. Rob Bolton, Water and Sewer Director, asked Council to look at the logo located on his Water Reclamation Facility Power Point presentation to see if they agree with it. He said the logo indicates and stands for that all water is good. He then went through his Power Point presentation (attached to the original minutes).

Mr. Neville asked if CMAR is basically the same as design built. Mr. Bolton explained how it was different.

Mayor Cotugno asked who would be choosing the major equipment for the facility.

Mr. Bolton explained that they would be going out for an RFP for any major equipment. There will be a Selection Manager chosen by the Selection Committee, which consists of himself and two (2) other people on his staff and the City will tell the manager what they want constructed.

Mayor Cotugno thought this was a good model for them to use. He said it is important to get the Water Plant off of the Lagoon so they can pursue the Three Corners project.

Vice Mayor Moore asked if they would be selecting a contractor who they think is most qualified. Mr. Bolton said yes.

Mayor Cotugno asked if they would be offering any incentives if the project was to be completed early. Mr. Bolton said that they could look into that and see how it fits in with the Three Corners project. He said both projects will be coordinated together so there may not be a need to spend additional money for incentives to get the project done early.

Mr. Neville asked what the contract model is. Mr. Bolton explained that it is basically "cost/plus."

Mr. Carroll felt that they really didn't have any choice in the matter, but to go this route. He said because this is a viable alternative they would be remiss if they did not go with this alternative at this time. He

expressed that no plans are perfect. If they have the contractor involved in the portion of the design phase they will understand the whole project better and at the end of the day they won't hear the engineer saying that this was not what he wanted and this will save them from future litigation. He agreed that this is a difficult project. He said the sooner someone says they can get it done for this amount of money they all will be able to sleep better.

Mr. Neville asked if the bond issue would change as a part of this project.

Mr. Bolton said no that it would not change anything. He said by going this route they will be able to start the project now.

**Mr. Carroll made a motion to switch to the CMAR project from the current method and move forward on it. Mr. Neville seconded the motion.**

Mr. John Chianis, Marine Commission member, commented that he comes from a background of off shore engineering. He said there is one thing that he has not heard much discussion on and that is who will be the owner, engineer, and fabricator. Another point that has not been talked about is what additional obligation this new contracting method imposes on Vero Beach. If they hire a contractor for the entire project that is where their responsibility lies. When they alter this and put a third party in then they end up with a three (3) legged triangle and that is when things don't go too well and finger pointing begins.

Mr. Bolton explained that most of work being done will be for the owner (City of Vero Beach), which is the process they are looking at now. He will stay very involved in the project.

Mr. Chianis expressed that there will be some additional obligations that the owner will need to take on.

Mr. Carroll commented that Mr. Bolton is doing a lot of these things already and is intimately involved in this project.

**The Clerk polled the Council on the motion and it passed 4-0 with Mr. Neville voting yes, Mr. Carroll yes, Vice Mayor Moore yes, and Mayor Cotugno yes.**

**C) Award of Bid No. 220-23/JO Dry Storage Dock and Dredging Project to Underwater Engineering Services, Inc. (UESI)**

Mr. Monte Falls, City Manager, thanked his staff and the team that has been working on this matter. He said this has been a collaborative effort to work on this project and one of the reasons that he took the City Manager's job. The other two (2) reasons he took the job was the Three Corners project and the new Water Reclamation Facility. He said the Marina project is the first one that they are close enough to award a contract to. He said what they will be talking about today is phase 1 of the Marina Master Plan complex that includes the dry storage facility and the dock. They have experienced some delay in this project because of litigation that they just recently prevailed in. He said this delay has cost them an increase in price because of inflation and a huge increase in cost because the dock builders have been so busy over at the west coast of Florida because of Hurricane Ian. Their timeline is important because they have to enter into a construction contract by September 30<sup>th</sup> in order to keep their Florida Inland Navigation District (FIND) grants and those FIND grants are substantial in the overall scope of this project. He is requesting that the Council award the contract today to Underwater Engineering Services, Inc. (UESI) to construct the docks. The bid was about a million and a half dollars above the original cost estimate. Staff went back and asked the design professionals to take a look at the overall costs to make sure that they

still had a valid project that they could perform their analysis on including the bid price, the dock, and the overall phase cost estimate which is now \$9,436,254. This is almost \$400,000 above the original estimate that they analyzed when they put together their 5-year CIP for the dock. He said because of the increase in costs it will require an additional loan from the City to the Marina Fund of about \$1.8 million and that with the additional grant funding from FIND of \$556,000 will make up that \$2.4 million in the difference of cost. They did their pro forma analysis with the revised project cost and in that pro forma analysis they assumed a 2.5% increase in costs annually and a 2.5% increase in rates for the 50-year horizon that they looked at. He provided this information to Council late yesterday. Then late yesterday, he talked to the Finance Director and they wanted to make sure that they included the additional 6% transfer from additional revenue in the pro forma analysis. He provided them with the revised analysis this morning. It shows that they still have a financially feasible project. In years 1-10 it shows a net operating loss of about \$170,000. Then after they turn the corner in years 11-20 that increase goes up substantially to a \$1.6 million net increase and will continue to increase as it gets further along in the life of the project.

Vice Mayor Moore asked if that means there is a loss of \$178,000 per year. Mr. Falls explained that is the total, but in that same time period there is a \$360,000 transfer to the General Fund. They are also accumulating a reserve fund and in that first year it will be \$1.9 million.

Vice Mayor Moore asked if she heard that the rates would be raised every year.

Mr. Falls explained they have programed in a 2.5% rate increase. He is not sure that the rates will need to be raised every year or every other year. They want to make sure that they don't sit here for 10 years and let the market change and not raise their rates while their costs are going up. He said they included the same percentage in their rates as their operating costs.

Mr. Falls continued by saying they looked at the loan with a 20-year amortization. So after 20 years the Marina is debt free from this loan from the City. They then did a straight line depreciation of 50 years, which everyone felt was reasonable to use and it meets all the standards for depreciation. He said so in 50 years they will accumulate over \$9 million in the appreciation account, which is for renewal and replacement. As they move through the years the Marina will become very profitable and over the 50 year life it shows a \$28 million surplus and that is taking in everything they have considered up to today. He feels very comfortable with awarding this bid.

Mr. Falls added as a summary the way this is going to be funded is the Council had made a gift of \$2 million, the new loan amount is \$6,130,504, the total grant dollars is \$1,305,750, which brings them to the total estimated cost for the project of \$9,436,254.

Vice Mayor Moore asked if this money was coming out of the sale of the electric utilities.

Mr. Falls said in general yes.

Mayor Cotugno asked how much is the gift from the City and the original total, what impact does it have on the fund, what will the remaining balance of the fund be and what is the interest rate that they are going to charge themselves.

Mr. Steve Dionne, Finance Director, stated that the loan conceptually comes out of the fund balance, which is estimated to be at \$6.1 million.

Mr. Falls added that depletion of the capital reserve account includes the \$1 million to the School Board for the new complex, \$1.7 million to the Memorial Island bridge replacement and the \$2 million gift to the Marina. This still leaves \$16.3 million in the capital reserve account for other capital projects.

Mr. Dionne said that the interest rate is at 1% for the loan. They did have to extend it from 15 years to 20 years to make the life of the project palpable. He said they are comfortable with the life of the project being 50 years.

Mr. Falls commented that they looked at a lot of things to reduce the upfront capital costs, but doing that reduced the life so it did not make sense to do it that way. He said the design work for the project has not changed at all.

Mr. Neville asked if this includes the raising of the Waddell building and removal of the trees.

Mr. Falls said that this bid was only for the docks and dredging.

Mr. Neville was surprised that the Dog Park organization was not in favor of putting the trees that will need to be taken out of the area around the Waddell building at the Dog Park. He doesn't understand why they would refuse to save some Oak Trees.

Vice Mayor Moore asked if there could be some other place in the City to plant those two (2) Oak Trees.

Mr. Falls explained that the trees are very large and would need to go on a flatbed so they don't want to have to transport them too far.

Mr. Neville wondered if the Mayor would talk to the Dog Park organization again about the trees. Mayor Cotugno said that he would speak to them

Mr. Neville expressed that it would be great if they could save the Oak Trees and they would be beneficial to the Dog Park.

Vice Mayor Moore questioned what their objections were.

Mayor Cotugno explained that the trees would get in the way for the dogs to run around.

Mr. Falls said as they move into that phase of the project they will talk to the Dog Park organization again to see if they could come up with a compromise.

Mayor Cotugno brought up the gift made by the City and asked if there was any way to construct the loan that they make that if the Marina and the storage building performs above and beyond their projected forecast that some or all of this gift can be paid or gifted back.

Mr. Dionne said that the Council could do as they wish. He said at the end of the satisfaction of the loan the Marina is projected to bring in over \$3 million in cash.

Mr. Falls told Mayor Cotugno that could be done if the Marina performs to the status that they have shown in their analysis. He said once the debt service is paid on the loan that in the next 10-year period there would be some room to start paying some of that money back. He said they would have to look and see how the accounting would be done. He said because it is a gift the money comes out of the capital reserve.

Mr. Neville commented that he has talked to the City Manager about that and at the suggestion of Mr. Keith Drewett they should have a zero percentage loan for an indefinite date until and then some of the revenue would revert back to the City. He felt that the residents of the City would think that was a wise process for them to take. He was in support of converting the gift to a low interest loan. However, they would need to create some conditions that it doesn't injure the Marina like what happened in the past with the last note that the Marina suffered under for many years. The Marina was unable to do any maintenance because all the money they made was going towards paying off that large loan.

Mayor Cotugno did not want it to impact the Marina in any way, but if they could do something without causing a delay to the project, he would like to do it.

Mr. Falls asked that Council take action on the contract today and then they can come back to Council and talk to them about some alternatives as they move forward. He felt that they could have it all worked out by the time they bring Council a contract for the building.

Mr. Dionne commented that starting in year 20 once the loan has been paid the estimated access revenue is about \$559,000 for year 21. He felt the liability of paying this gift back was there. He added over the life of the project the transfers to the General Fund are about \$2.3 million based upon anticipated additional revenues as a result of the project.

Mayor Cotugno expressed that this City Council is always looking at being a good steward concerning the City's money. He wanted to see from staff how they could accomplish this when they are presented with the contract for the Marina.

Mr. Carroll asked if this included any of the expansion of the moorings facility. Mr. Dionne said no that this is only for phase 1 of the contract.

Mr. Carroll said that once they approve the mooring expansion then the pro forma will only look better.

Mr. Dionne said that this pro forma will stand on its own because it is only for the south complex.

Mr. Falls commented that once they get through phase 1 the mooring field phase will be next and then they will start the same process for the main Marina complex.

Vice Mayor Moore stated that when the original plans came out for the Marina the Clean Water Coalition (CWC) analyzed what they thought of the plan and the problems they had were where the dredge materials were going to be stored and this has been taken care of. She wanted to know if there was any other things that CWC had concerns with.

Mr. Falls commented that he met yesterday with a lot of the effected parties and they went over the plans and the project and all of their concerns have been addressed.

**Mr. Neville made a motion to go forward with the awarding of the contract to UESI. Vice Mayor Moore seconded the motion.**

Mr. Keith Drewett felt that using the word "gift" was not the right word and maybe the word should be "investment." He has not looked at Mr. Dionne's analysis, but was optimistic that the Marina will be profitable and money will be coming back to the Marina in great numbers. He said from CWC and IRNA's standpoint phase 1 is good to go. He said the dewatering issue has been taken care of. The staging of the material will take place at the Power Plant and a barge will bring it across, which will cut down on the big

truck traffic. When they met with staff yesterday they went over their stormwater plans and staff was responsive to the plans. He said both CWC and IRNA are grateful for the work that has been done. They brought up the moorings at the meeting yesterday and said they are in favor of them from an environmental standpoint. He said payback on the moorings seems to be pretty quick. He doesn't see any reason that the Marina won't be as full this coming season as it was last season. He thinks that they will have a strong season. He requested if finances are good that they take a look at the mooring plan for 2023-2024 instead of the plan, which is for 2024-2025. He said the cost would be \$285,000. He would appreciate that.

Mr. Neville asked if they have authority to install the mooring balls at this point at that location.

Mr. Falls said they are looking at expanding the area of their mooring field.

Mr. Tim Fontaine stated that they could not place the moorings at this point because they do not have permits. He said the regulatory agencies want to see cumulative impacts of the Marina. He said what they do not want to see is the individual applications coming in because they feel that looks sketchy. He said honestly with the application fee they are better off to obtain a permit for everything they expect in the next 15 years. He recommended that the City confirm what they truly want as the ultimate buildout then submit one (1) permit application to Florida Department of Environmental Protection (FDEP) and Army Corps of Engineers, which will streamline the permitting. He said it will cost more on the application fee, but then they don't have to pay the consultants fee to produce each of these individual permit applications.

Vice Mayor Moore asked if the granted permit expires at some point.

Mr. Fontaine answered yes. He said but they (regulatory agencies) are able to access the entire project that they pulled the permit for and if the conditions don't change they should be able to check their notes and pick up where they left off.

Mr. Falls added that staff would envision coming back to Council and asking them what is the remainder of the Marina Master Plan going to look like. This would give them an idea of what Council wants. He is pretty sure no one wants to see anything to the South in front of the Dog Park, but to the North they want to do the mooring field and place the docks and have a discussion about the boat basin. He agreed with Mr. Drewett that there was a quick payback on the moorings and whenever they can start there they should.

Mr. Carroll asked if the Master Plan included the mooring field. Mr. Falls answered yes.

Mr. Neville said that Council has not voted on it yet as a viable project. Mr. Falls said that is correct.

Mr. Fontaine added that with the regulatory staff when you just piece mill and submit one application at a time they feel like you are trying to pull a fast one on them and they would like to see the whole project plan at once so they understand what the project is going to be.

Mr. Drewett thanked Council for the new assigned police officer that will be handling water patrol.

Mr. Shawn Collins, Marina Director, stated that he wanted it to be clear when they were talking about the mooring field and expansion that the \$300,000 number they tried to get into the budget this coming year was shifted over to 2024-2025 and that is just to replace the moorings in the existing field. He felt that



the expansion was probably two (2) years away from now. However, in the meantime there is the anchorage limitation zone, which the County is discussing which is also in those areas.

Mr. Neville asked for an update on where they are at with the anchorage limitation.

Mr. Falls reported that Indian River Shores approved their Resolution so now the County should be putting it on a future Board of County Commissioners agenda to be voted on and move forward.

Mr. Carroll wanted to put on the record that the construction time for this contract with UESI is 120 days, but it will be 260 days before completion of the work is done.

**The Clerk polled the Council and the motion passed 4-0 with Mr. Neville voting yes, Mr. Carroll yes, Vice Mayor Moore yes, and Mayor Cotugno yes.**

**D) Add on Item –  
Authorization to File a Lien Foreclosure Case**

Mr. Turner requested from Council authorization to initiate a Circuit Court Code Enforcement Board lien action against Mr. John Desjardins at 2675 10<sup>th</sup> Court, Vero Beach, to collect code enforcement liens, plus interest and attorney fees. The total amount for this is \$68,000.

**Mr. Neville made a motion that the City Attorney is given authorization to proceed with that action. Vice Mayor Moore seconded the motion and it passed 4-0 with Mr. Neville voting yes, Mr. Carroll yes, Vice Mayor Moore yes, and Mayor Cotugno yes.**

**4. PUBLIC COMMENT**

Public comment was heard earlier in the meeting.

Mr. Carroll announced at today's meeting that he is retiring from his regular job.

**5. ADJOURNMENT**

Today's meeting adjourned at 11:18 a.m.

/tb