

**SPECIAL CALL CITY COUNCIL MINUTES  
SEPTEMBER 22, 2020 5:30 P.M. (or after the Budget Hearing has adjourned)  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A) Pledge of Allegiance**

Mayor Young opened the meeting up at 5:35 p.m. and Mr. Brackett led Council and the audience through the Pledge of Allegiance to the flag.

**B) Roll Call**

Mayor Tony Young, present; Vice Mayor Laura Moss, present; Councilmember Robbie Brackett, present; Councilmember Joe Graves, present and Councilmember Rey Neville, present **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

Mr. Bart Gaetjens, External Affairs Manager for Florida Power and Light (FPL), spoke on the FPL offer of direct relief to customers including those behind because of COVID-19. He said that FPL is trying to reach all the people that need help. He will provide information to be put on the City's website and a flyer to go out in the City's water bills letting the public know about these services.

**2. CONSENT AGENDA**

**A) Replace Emergency Generator at Public Works Compound – COVB Project #2019-03 – Contract #42-202- - FDOT 445444-1-94-02 PTGA – Final Payment - \$9,676.16**

Mr. Falls reported that this generator is a replacement at the Public Works Department. The existing emergency backup generator was installed when the facility was constructed 30 years ago and their generator maintenance contractor has told them that replacement parts are becoming hard to find due to the age of the unit.

**B) Cooperation Agreement between Pivotal Utility Holdings and the City of Vero Beach to Construct Natural Gas Pipeline (\$400,000) (Account #443.4000.542.617120)**

This item was pulled off the consent agenda.

**C) Wage Reopener Agreements (3% Pay Increase) for FY 2020-2021- Coastal Police Benevolent Association, International Union of Police Associations, Teamster's Union (Blue Collar Unit) and Teamster's Union (Clerical Technical Unit)**

Mr. Falls reported that the City's four (4) Unions entered into a three (3) year labor contract, which runs from October 1, 2018 through September 30, 2021. As part of the contract the parties agreed to meet and negotiate a wage increase for Fiscal Year 2020-2021. The parties agreed to a 3% wage increase. He recommended ratification of all four (4) wage reopeners.

**Mr. Brackett made a motion to approve items 2-A) and 2-C) on the consent agenda. Vice Mayor Moss seconded the motion and it passed unanimously.**

### 3. PUBLIC HEARINGS

- 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 Broadcast Studio to the list of permitted uses in the ALI-1, Airport Light Industrial Zoning District; Amending Chapter 62, Article X, Downtown District, to amend Radio/TV Stations to Broadcast Studios in the list of Permitted Uses in the DTW, Downtown Zoning District; Amending Chapter 60 (Appendix Definitions) to add a Definition of Broadcast Studio; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only. She said that this is the first of two (2) public hearings. The second public hearing will be heard on October 6, 2020 at 8:30 a.m.

Mr. Jason Jeffries, Planning and Development Director, reported that Mr. Tim Girard (applicant in this case) is proposing a text amendment to Chapter 62, Article VII, Airport Master Plan Land Use Zones, to add broadcast studio use to the ALI-1, Airport Light Industrial Zoning District and a text amendment to Chapter 60 to add a definition for broadcast studio. The purpose of the text amendment is to allow establishments that produce video or music performances for online or digital broadcasting in the ALI-1, Airport Light Industrial Zoning District. Adding this use to the ALI-1 district will allow broadcast studios, a compatible commercial use, in the ALI-1 district. To maintain internal consistency within the City's Zoning Code, staff is also recommending the radio/TV studio use in the DTW, Downtown District, be amended to broadcast studio. Mr. Jeffries went through a Power Point presentation (attached to the original minutes). The Planning and Zoning Board heard the Ordinance at their August 20, 2020 meeting and voted 5-0 in favor of it.

Mr. Falls commented that the applicant approached the City about bringing a new business into the community and they look forward to having this happen. He said that Mr. Jeffries has worked hard to make it happen and they wish the applicant success with his new business. The applicant is at tonight's meeting if the Council has any questions.

Mayor Young opened and closed the public hearing at 5:58 p.m., with no one wishing to be heard.

Mayor Young commented that as he understands this the change is for the Airport district as well as the Downtown area.

Mr. Jeffries said that is correct, although there are other broadcast facilities in town that are not in the Downtown area, but they were established many years ago. He said that the radio station that is located on 16<sup>th</sup> Street has been there since 1978. He said it was appropriate to allow these establishments in commercial areas.

Ms. Rebecca Grohall, of MBV Engineering, noted that Mr. Jason Atwell and Mr. Tim Girard were also at tonight's meeting. She thanked the City staff for their amazing work with the application and asked the Council for their support tonight in passing this Ordinance. She did suggest down the road looking at the Code, but hoped that they would move forward tonight.

Mayor Young closed the public hearing at 6:03 p.m., with no one else wishing to be heard.

**Mr. Graves made a motion to approve the Ordinance. Mr. Brackett seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Graves yes, Mr. Brackett yes, Vice Mayor Moss yes, and Mayor Young yes.**

**B) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article III, Commercial Districts, to Add Museum, Commercial to the List of Permitted Uses in the C-1 Zoning District; Amending Chapter 60 (Appendix Definitions) to Add A Definition of Museum, Commercial; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only. She said that this is the first of two (2) public hearings. The second public hearing will be heard on October 6, 2020 at 8:30 a.m.

Mr. Jeffries reported that Mr. Wayne Gould the applicant in this case is proposing a text amendment to Chapter 62, Article III, Commercial Districts, to add museum, commercial use to the C-1, Commercial Zoning District, and a text amendment to Chapter 60, to add a definition for museum, commercial. The purpose of the text amendment is to allow commercial establishments for preserving and exhibiting artistic or historical objects of interest, including retail sale of the objects in the C-1, Commercial Zoning District. Adding this use to the C-1 zoning district will allow commercial museums, a compatible commercial use in the C-1 zoning district. The definition will provide clarity in interpreting the allowed type of establishment that is included in this use category. The Planning and Zoning Board held a public hearing on August 20, 2020 and voted 5-0 to approve the Ordinance. He then gave a Power Point presentation (attached to the original minutes).

Mr. Falls commented that this is a great opportunity to use a site on US1 that has been vacant for many years. He said that Mr. Gould plans to have his auto museum there.

Mr. Bruce Barkett, Attorney representing Mr. Wayne Gould, recalled that when this was heard before the Planning and Zoning Board the joke was why they were charging this man for an application to do this work (said in jest).

Mayor Young opened and closed the public hearing at 6:11 p.m., with no one wishing to be heard.

**Mr. Brackett made a motion to approve the Ordinance. Vice Mayor Moss seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Graves yes, Mr. Brackett yes, Vice Mayor Moss yes, and Mayor Young yes.**

#### **4. CITY ATTORNEY'S MATTERS**

##### **A) Settlement Agreement for the Abbassi Case**

Mr. John Turner, City Attorney, reported that this is a continuation of the matter involving the Abbassi claims on a code enforcement matter, which resulted in the City attaining and collecting approximately \$400,040 for a code violation, fines, and penalties. The backup information that Council received contains recent communication from the Abbassi's attorney offering to settle claims that they may have for an interest amount or other asserted claims against the City. He said that this case has not been filed as far as litigation goes, but any discussions cannot take place out of a public

meeting regarding settlement at this point. The primary objection that the Abbassi's attorney has set forth is on an interest claim. The interest amount on \$400,040 is approximately \$30,000. It is his recommendation that if there is any discussion of settlement by the City that it not involve the amounts outside the claim for interest. He said in the backup information there was an insertion for damage claim of \$200,000 and it is not his recommendation that matter be approved or considered. He said if the City is interested in resolving this case and obtaining a full release from the Abbassi's that it not be for more than what the interest amount was on the principle judgement. He said if there was a settlement of the interest then they would subtract approximately \$29,000 from the \$400,040 that they actually collected and have in the bank, which would leave a net amount of approximately \$411,000 that could be used by the City in the budget upon a full release from the Mr. and Dr. Abbassi.

Mayor Young wanted to be abundantly clear that at this time they are not in the process of litigation.

Mr. Turner said that is correct. Mayor Young continued by saying that merely what they are doing is discussing the latitude that they want to afford Mr. Turner in speaking to the Abbassi's attorney. Mr. Turner said that was correct.

Vice Mayor Moss asked if the City has received the entire dollar amount owed. Mr. Turner said that they have.

Mr. Graves asked if this fine that was levied was challenged in court. Mr. Turner said that it was. Mr. Graves said and the Judge ruled in the City's favor. Mr. Turner said that the Court in an appeal process affirmed the decision of the Code Enforcement Board opposing the fine.

Mr. Graves stated that the law of the case is that the fine was properly imposed and the enforcement was correct.

Mr. Turner said that there has been no objection to this point on that.

Mr. Graves said if the law of the case states that everything has been done correctly how can the City be facing any kind of lawsuit.

Vice Mayor Moss stated that she is not in favor of changing anything.

Mr. Turner expressed that if there was any interest from the Council in resolving the matter at this point as their attorney, he needs to bring this to their attention if they want to proceed in that direction, but of course it is at their discretion.

Mr. Graves asked Mr. Turner what was his opinion about their threat of litigation.

Mr. Turner said that the City gets threatened all the time. Mr. Graves said that it has been a long time since he has done civil rights work, but he thought that you needed to show symptomatic racism within the department, which is basically what they are alleging.

Mr. Turner explained that they make some claim and he feels the basis is non-existent. He said the City was not part of that. It came from an outside source and they would defend that vigorously.

Mr. Graves did not think that was the way for them to ask for anything to come back to them. They are making a baseless allegation and something that he finds very offensive.

Mayor Young stated that in the correspondence that he reviewed there were two (2) items discussed and one (1) of those was the desertion related to discrimination and the other one was the fine itself. At this point Council had those arguments prior to today and they made a decision and it has come back to them to reconsider.

Mr. Brackett asked Mr. Turner if there was a concern with the interest amount and how their Code reads.

Mr. Turner answered part of it is, yes.

Mayor Young stated there is that ramification. He thinks that there is no justification in his mind of even entertaining a payment from the principle in regards to the interest claim. He asked Mr. Turner if a motion was necessary.

Mr. Turner said this has been presented to Council and if there is no action taken he would be happy to report that back and they will proceed from there. He said their choices were to reject the offer, make a counteroffer or take no action.

Mr. Neville felt that their offer was unacceptable.

Vice Mayor Moss commented that Council has already made this decision and had full discussion at that time and it was unanimous and understood. She said everyone was in agreement and she does not see any reason to change it. She thanked Mr. Graves for reviewing the legalities of it. She sees no basis for any kind of change whatsoever. She said they need to be very cautious about any indication of a change. She said these things have a way of taking up a life of their own and frankly all you need for a lawsuit is a lawyer. She didn't see any reason to change this.

Mr. Turner pointed out that he briefly addressed their allegations in his response. He was taken aback by those allegations and thought they were totally unfair and unfounded and don't reflect the attitude of the City. As far as he is concerned that was not the way to approach a settlement.

Mayor Young felt that was reflected earlier when they came before the Council and presented their argument. He said that the consensus of Council is that the City has handled this appropriately and they will continue as they have and agree that the principle and interest is justifiably retained.

Mr. Neville made it clear that they reject the offer.

At this time Councilmember's Matters took place.

Vice Mayor Moss reminded the public that the last day to fill out applications to be on the Steering Committee is Friday.

Mr. Brackett commented that he spoke to Mrs. Bursick about some of the applicants serving on their Commissions and also wanting to serve on the Steering Committee. He said that might present some conflicts and possible Sunshine Law violations.

Mr. Falls gave an update on the COVID-19 numbers.

Mr. Graves commented that he saw a lot of people congregating over the Labor Day weekend. He reminded everyone to continue social distancing and washing their hands to keep the numbers low, especially now with the schools and bars reopening. He said that they need to stay on top of this and

he appreciated still getting the updates. He reported that he and his family hope to be going to Columbia any day now.

Mr. Neville asked Mr. Falls if he thought the increase in testing was related to school opening and once a lot of children congregate there seems to be 10 or 15 children that have to be tested.

Mr. Falls did not know the answer, but said he would ask Mr. Tad Stone and get back to Council with the answer.

Mr. Neville was sorry that the Representative from FPL left the meeting. He said that it is National Clean Energy Week for Florida and FPL is the leader in that area. He said he read that it is predicted by 2030 that 2 million homes will be served by solar power. There will be up to 100 solar centers like the one (1) that is in the old grove area. He said that 10,000 megawatts of solar power is their objective by 2030. He thought that what FPL was doing was marvelous. He said if anyone believes in the notion that independence from fossil fuel is a benefit then they can participate with FPL in many ways. He said this information is available on FPL's website.

Mr. Neville mentioned that last week the County Commission voted to extend their COVID-19 policy that requires employees that come into contact with the public to wear masks and the motion passed 5-0. He wondered if the City of Vero Beach should make their policy more rigorous to be consistent with the County.

Mr. Brackett said that the decision that they made is working. He thinks people are complying and are more respected now than they were in the beginning when all this started. He goes very few places where people are not wearing masks.

Mr. Neville said that apparently they don't go to the same places.

Mayor Young stated that the priority for him in looking at how they manage their response to the virus was the availability of their hospitalization and capability. He said that really was what they were wanting to have and right now Cleveland Clinic is not in a position that would dictate a more stringent imperative to the public. He said without a doubt they all feel strongly that all of the safeguards are important. He felt that they seem to be taking appropriate measures.

Mr. Graves was happy to hear from the School Board Superintendent on the measures that they have taken and the policy that they have in place. He felt that the School system has a strong policy. This virus has been hard for everyone because no one has ever been in this position before and we are all trying to do the right things that need to be done. It is important to keep the capacity in their hospitals and ICU's available. He said right now what has been implemented is working. The infection rates in this area are low. However, they can't take their "eye off the ball." He thinks they are moving in the right path. They need to make sure with different things reopening that their health care facility is not overrun. He suggested coming up with a pandemic policy for the future if they ever encounter another one. He said that from the State and Federal level there seems to be a lack of preparation of being ready and being able to handle this, even though things have been handled well, but it does seem a little unsettling at times. They are doing the best that they can with the information that they have.

Mr. Brackett felt that the rapid testing and getting the results back immediately or in a day or two has been the game changer rather than having to wait five (5) to 10 days for the results. He said that has made a huge difference.

Mr. Neville wanted to argue one (1) other point. He said that many people that have had the virus have lingering or life threatening issues that continue for many months after they have had it. He said that maybe hospitals still have room for people that have to be hospitalized. However, there are still some lingering things that can happen to people that have had COVID-19. He said that when he contacted the virus, he should have probably gone to the hospital. When he got tested and was infected with it he heard from nobody. He said unfortunately he lives alone. He was trying to treat himself, but at the same time was somewhat incapacitated to make certain judgements. There are a lot of people who live in this community who live alone. He said he has concerns about that because if someone contacts this virus their thinking capacity is diminished to some degree. He said you would think that the people giving these tests would ask the person if they live alone. If they asked him he would have told them yes and hoped that they would provide a packet of information in case he had any questions and a phone number to call instead of having to call 911. He thinks this would be a good service to offer. He knows that it is not in their purview, but another agency should be doing it.

Mayor Young mentioned the good dialogue that they have with Cleveland Clinic and Emergency Services and he agrees with what Mr. Neville brought up as this being a "gap."

Vice Mayor Moss asked Mr. Falls to also talk to Mr. Stone about that matter.

Mr. Graves agreed that because of HIPPA laws there would have to be a waiver signed in order for someone to be entitled to get some help. He suggested including this in the pandemic policy.

Mayor Young reported that today is National Voter Registration Day. He announced the passing of Coach Bill Wilson, who was an honorable person that lived in this community. He said that this Sunday will be Gold Star Family Day. He also mentioned that they have planned a fun scavenger hunt for Florida Government Week.

Today's meeting adjourned at 6:44 p.m.

/tb