

**CITY OF VERO BEACH, FLORIDA
OCTOBER 1, 2019 5:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Dr. Val Zudans

1. CALL TO ORDER

A. Pledge of Allegiance

Vice Mayor Young led the Council and the audience in the Pledge of Allegiance.

B. Roll Call

Mayor Val Zudans, present; Vice Mayor Tony Young, present; Councilwoman Laura Moss, present; Councilwoman Robbie Brackett, present and Councilman Harry Howle, present **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – September 17, 2019

Mr. Howle made a motion to approve the minutes. Councilwoman Moss seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – September 17, 2019

Mr. Howle made a motion to adopt the minutes. Councilwoman Moss seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Councilwoman Moss suggested hearing all the Marina items together.

Mayor Zudans commented that New Business items are suppose to be informational and if it happens to be related to something already on the agenda it should not be put on as a separate New Business item. He requested that in the future the item goes on an existing issue or if it is an information only matter like there were several at their last meeting it should go under Councilmember's matters. He said if Council has someone that they want to speak on an issue and they want to give them extra time, which he noticed that Councilwoman Moss had someone that wanted to speak on the Marina issue it probably

should go at the beginning of public comments under that item. He was okay with giving that person extra time.

Councilwoman Moss stated that for purposes of clarification the matter does not have to be something that they are going to vote on and that it could be informational. She said the Marina discussion is New Business and not something that Council has already addressed. It belongs under New Business, because frankly people do not always look at the end of the agenda. She said even putting the item on under the City Manager's Matters, people might not know that it is there.

Council agreed to combine all the Marina issues together and be heard under item 5A-1) on the agenda.

Mr. Brian Heady pointed out a typo in item 3-A. The cost is \$1,122,067 and not \$4,122,067.

Mrs. Tammy Bursick, City Clerk, requested that item 4B-1) be pulled from today's meeting and heard at their next City Council meeting.

Mr. Brackett made a motion to approve the agenda as amended. Vice Mayor Young seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

1) Certificate of Special Recognition to City Employees for their help with Hurricane Dorian

Mayor Zudans read one (1) of the Certificates recognizing City employees for their help with Hurricane Dorian and asked each Department Head to come forward as he called their name to accept their certificate.

3. CONSENT AGENDA (include amount of expense)

A) Award of Construction Contract – Barth Construction, Inc. – Bid #040-19/JO – FEMA Project #5283-51-R – COVB Project #2017-12 – Cost \$1,122,067 (75% Grant Funding)

B) Holiday Decorations Lease Approval – COVB Bid #190-19/CSS – Cost: \$74,672.25

Mr. Bracket made a motion to adopt the consent agenda. Mr. Young seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) **An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations to amend Chapter 62, Article III, Commercial Districts, Section 62.45 to add Animal Boarding as an accessory use to a permitted Veterinary Services in the C-1 Zoning District; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The Mayor read the Ordinance by title only.

Mr. Jason Jeffries, Director of Planning and Development, reported that this Ordinance was prepared by staff, at the request of the applicant, Dr. Mike Geraghty. The applicant is proposing a Text Amendment to Chapter 62 (nonresidential districts), Article III (commercial districts), Section 62.45, Accessory Buildings and Structures, to add animal boarding as an accessory use to a permitted veterinary use in the C-1 commercial zoning district. The applicant is proposing the following conditions on the animal boarding accessory use to mitigate any impact on residential uses adjacent to the C-1, commercial zoning district. It shall only be located in the C-1 zoning district on a lot adjacent to US #1, the site shall be a minimum of one (1) acre, animal boarding use shall not be located closer than 200 feet from a residential district, those parts of shelter structures in which animals are received are adopted, boarded, treated or euthanized shall be fully enclosed and sufficiently insulated so no unreasonable noise or odor can be detected off the premises, if abutting a residential use either a 50' landscaped buffer or a six-foot high brick or finished masonry wall with a 5' landscaped buffer shall be provided, no nighttime outdoor operating from 10 p.m. to 6 a.m. and animal boarding to be limited to domestic animals. He gave the staff analysis on the request. The Planning and Zoning Board held a public hearing on August 15, 2019 and voted 4-1 in favor of the Ordinance with two (2) changes. The changes requested by the Planning and Zoning Board have been incorporated into the Ordinance.

Councilwoman Moss commented that when they were talking about the Azalea Lane issue it was an isolated case and the changes that were made would effect only that location. She was wondering how this was different. She read the Planning and Zoning Board minutes of August 15, 2019. On page 3, a member of the Planning and Zoning Board said *“that he was not comfortable in that whatever the Board does for Dr. Geraghty, they would be doing for potential future applicants with the same request.”* He said *there are other zoned areas within the City limits that permit boarding.* Councilwoman Moss asked Mr. Jeffries to address that they have a single request and they are going to change everything as opposed to Azalea Lane where they had a single request and they were changing it just for that applicant.

Mr. Jeffries explained that these are two (2) different types of applications. He said with Azalea Lane that was a Future Land Use Map Amendment and in this case they are dealing with a Text Amendment. This case deals with C-1 zoning that is applied mostly within the US #1 corridor.

Councilwoman Moss asked if the C-1 zoning allows other businesses in that category to come into that district.

Mr. Jeffries said that it does.

Mayor Zudans said you could not do boarding of animals if you were not a veterinarian. Mr. Jeffries said that is correct.

Mr. Brackett asked if there would be anyone staying overnight.

Mr. Jeffries said this is not a residential use it is a commercial use. He said this would be a question for the applicant if it was possible in this type of business that someone would be there overnight watching the dogs.

Councilwoman Moss made it clear that the animals were staying there overnight.

Mr. Brackett wanted to make it clear that he meant a person.

Vice Mayor Young said so this land is focused exclusively on US #1.

Mr. Jeffries answered yes.

Dr. Michael Geraghty explained the reason that they are asking for a Text Amendment is they are trying to put in a vet clinic with 24-hour emergency. There would be day practice during the day and emergency clinic at night and there would be a Doctor in the building at all times. He has built a similar facility in Port St. Lucie and it has been there for over six (6) years without any problems. There would be no outdoor boarding. The only times the animals would be let outside was to get some exercise. The boarding facility will close by 9:00 p.m. and there would be an emergency clinic at this new location.

Mayor Zudans opened and closed the public hearing at 5:23 p.m., with no one wishing to be heard.

Mr. Howle made a motion to adopt the Ordinance. Mr. Brackett seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss yes, Vice Mayor Young yes, and Mayor Zudans yes.

B) RESOLUTIONS

- 1) A Resolution of the City Council, of the City of Vero Beach, Florida, Abandoning all of the City's interest in the Drainage Easement encumbering the real property located at 2075 28th Avenue in the Kiss Subdivision, Vero Beach, Indian River County, Florida; Providing for an Effective Date. – Requested by the Public Work's Director**

This item was pulled from today's agenda.

5. CITY COUNCIL MATTERS

A) NEW BUSINESS

- 1) City Marina**
 - a) City of Vero Beach Organizational Chart**
 - b) Video from Marine Commission Meeting held 05/30/2019: Motion made with regard to Coastal Tech Proposal (11:31:15 to 11:31:49 AM and 11:32:46 to 11:33:46 AM)**
 - c) Minutes of Marine Commission Meeting held 05/30/2019**
 - d) 2035 Comprehensive Plan Map Series: Figure 5 (Wetlands and Seagrass); Figure 1 (Existing Land Use 2015); Figure 8 (Future Land Use 2015)
Requested by Councilmember Laura Moss**

Mr. Tim Fontaine, Coastal Tech, gave a Power Point presentation on the Municipal Marina Masterplan (please see attached). He said that the City Council is requested to identify up to three (3) conceptual alternatives to be further developed and assessed under subsequent tasks of the work order. If there is something that is not in the plan that they would like to see then please let him know.

Councilwoman Moss commented that if this is going back to the Marine Commission she would ask that the vendor (Coastal Tech) not make motions. She checked with the City Attorney who told her that the vendor should not be making motions. She realized that there was not an attorney attending the meeting that day or that probably would not have occurred. She said it happened twice with two (2) different motions.

Mayor Zudans thanked the Marine Commission for all of their work that they have done. He did not see the need for this matter to have to go back to the Marine Commission. The Council should be able to give some direction on where this is going.

Mr. Fontaine went over the City's goals and objectives in the Power Point presentation. Questions and answers were asked during the presentation.

Councilwoman Moss brought up the depth of the Lagoon and commented that it seems like what they are proposing dredging is a very large area.

Mr. Fontaine said this area is very deep, which is plenty for any type of boat that would want to moor here.

Mr. Falls commented that what staff is looking for tonight in general is if Council is supportive of these different kinds of concepts.

Mr. Fontaine went on by saying other improvements that need to be done (outlined in the Power Point presentation).

Mr. Sean Collins, Marina Director, reported that the Marina currently has 100 wet slips. At the current dry storage building they have 53 to 55 racks there for vertical storage. He said in the Lagoon there is currently 14, 24 foot slips. He said 1 1/2 of those slips has already been overgrown by the mangroves. He said that different plans that he has found over the years from different proposals had similar layouts, but the average seemed to be about 60 slips in that Lagoon area. He said the number of slips is really relative to the size of the slips.

Councilwoman Moss said with the dry storage if they rebuild that the annual revenue from slips is about \$150,000 a year.

Mr. Collins explained with the new concept they could almost double the amount of slips with a slightly larger footprint.

Councilwoman Moss said so this concept would keep the Waddell building as rental space. Mr. Collins said yes. He said if they can keep the Waddell building that is great. They just wanted to throw out the possibility of having to demolish the building if there was a deficiency in parking. He said that the Waddell building could be rented out.

Councilwoman Moss stated that the Waddell building was generating over \$50,000 a year in rental income. She said that it is not rented currently, but it could be.

Mr. Falls explained that all these details will be worked out as they decide which way they are going to go. He said once they make decisions on the number of spaces and number of slips then the parking demand can be calculated.

Mayor Zudans asked what areas were they looking at extending with the extending moorings. Mr. Collins said north of the mooring field there is space and they could probably use the existing parameters of their existing moorings field. Mayor Zudans did not like to see people who come in and anchor just outside their mooring fields in the same next to Fritz Island. Also on the south side of the bridge there have been boats that have anchored there and the boats have come lose and become a problem. He said it would be nice to extend their mooring fields near Riverside Café. Mr. Collins said that was a possibility.

Councilwoman Moss asked Mr. Collins to comment on what is marine sanitation according to the Florida Statutes 327.53 and City Code. She said this has to do with discharges of sewage into the Lagoon. She said there are four (4) different agencies that monitor this. They are Florida Fish & Wildlife Commission (FWC), Indian River County Sherriff, Vero Beach City Police and the U.S. Coast Guard. She read the Florida Statute and looked at the City Code and there really is no “teeth” in any of it. She asked if there had been any citations issued and was told that there had not been any issued.

Mayor Zudans asked what kind of things in this Master Plan are focused on improving the amount of waste that is being dumped.

Mr. Collins said for every new dock they add they will include a pump dump out, which means a vessel in its slip does not need to leave its slip nor does the Marina have to take their pump out boat to the location. He said there already is a hydration dock. They just roll the cart out, its all remote control, hook up the hose and suck out the black and gray water and it goes right into the City's sewer system.

Mr. Falls commented by having the in slip pump out improvements it will free up more time for the pump out to service the boats more in the mooring field.

Mayor Zudans stated that he read through the Marine Commission minutes and it seemed like the Commission liked concept 3. He didn't know why they were discussing 1 or 2. He felt that Council needed to make a decision tonight and see if they also agree with concept 3 and then start working towards it. He personally did not want to waste anytime on concept 1 or 2. He wanted to move forward with this concept and doesn't see the need for it to go back to the Marine Commission. They don't need to beat around the bush anymore.

Councilwoman Moss went through photos of the area and explained each one. She then referred to figure 8 (Future Land Use) and figure 1 (Existing Land Use) of the 2035 Comprehensive Plan Map Series.

Mrs. Phyllis Frey read a prepared statement. She was not in favor of Coastal Tech's proposal.

Mr. Paul Fafeita President of Clean Water Coalition (CWC), read a prepared statement. He said that this organization would be in favor of Proposal 1 if they had to choose one.

Mayor Zudans said that he was also a member of CWC and asked when did CWC come up with a position on this.

Mr. Fafeita explained that the CWC Board met with staff on the matter and came up with their decision.

Mayor Zudans commented that putting more slips in the Lagoon doesn't mean they will end up with a worst system. He said they can't assume the worse every time there is a change.

Mr. Fafeita said that there is no enforcement on the waters.

Mayor Zudans commented that he talked to Chief Currey about having Fish and Wildlife patrolling the Lagoon and was told that they will have routine patrols from Fish and Wildlife.

Captain Kris Caldwell was glad to see that the Marina is pro-Marina. He is a training Captain and explained what a larger boat is. He said with the north Lagoon slips there is

a free charge to get grid depths taken. The dinghy dock is important and he haven't seen it mentioned. He said that a yellow buoy is a special emergency buoy.

Mr. Dan Lamson, Director of Indian River Neighborhood Association, read a prepared statement.

Mr. Adam Scerni said some people come up to the podium and use the word "we" as a small group. He is not part of that "we" and doesn't want to be. He said just because someone is a good speaker doesn't mean they have the same views as the rest of the neighbors. He said look at the plans that have been proposed and move forward. He would like to have a possible riverwalk and is in favor of fixing up the City Marina. He said that Council shouldn't be scared of a little development to make something nicer.

Mrs. Lamarre Notargiacomo said that the thing that drew her to Vero Beach was the smaller, quieter atmosphere. She felt by doing more studies on this it will affect the quality of life. She thinks that Coastal Tech left a lot of unanswered questions. They couldn't say how many feet the building was going to be expanded, how many boats, etc., so these questions need to be answered and there needs to be more studies done on how the expansion will effect traffic in the area. There already is a traffic nightmare during season. She encouraged Council to get more specific answers to their questions before voting on any proposal.

Mrs. Sherri Anderson said that she has a slip at the Marina and she walks there everyday. She said it is very sad to see how dilapidated the Marina is. They need to fix the Marina, but also be cautious of the environment. She calls the Police when she sees discharge being dumped. There does need to be more enforcement. She is in favor of concept #3.

Mrs. Joy Todd commented that one thing that attracted her to Vero Beach is the old time vibe. She said that the Marina is in severe disrepair. There is a liability on many of those docks. The Marina was built in the 30's. She asked how many homes near there were here in the 30's. It is time for the Marina to be updated. Otherwise they are not doing anything to encourage people to want to use it as a community. She said in order to discharge off someone's boat they have to be three (3) miles outside and if you are inside have to have some kind of secure measure in place at all times. She said this is a beautiful City. She did not hear talk about a hotel in any of those plans. That Marina and those offices are the original offices, which is how long that something has been done at the Marina. Getting rid of muck will encourage sunlight going into that Marina, which is not happening now. She highly recommended that Council move forward with this concept and give this City the Marina that it deserves.

Mr. Brian Heady said the suggestion to go with the whole thing is a good suggestion because future Councils can change things. He heard return on investment mentioned. He said that the Marina like Leisure Square and the swimming pool are benefits for living here. He would like to see the Marina pay for itself. He asked about the Waddell building and making that area a parking lot. Mayor Zudans told him that was not in the proposal. They want to keep the Waddell building and the parking could be met. The

biggest concern is how this is to be handled environmentally. Mr. Heady asked if anyone has the total dollar figure for this project and how far back will they have to move the fence near the Dog Park. Mr. Howle explained that these are all premature things now and none of that is known at this time. Vice Mayor Young added that there are lots of options when addressing the parking. Mr. Howle said that they can't lose sight that this is a Marina and that a 40' easement was done because of the Marina. Mayor Zudans said that fence is not at the very edge of their easement and could be something less than 40'. Mayor Zudans mentioned the proposal they received from the Kennedy's when they were looking at leasing the Marina. He said that could give them a figure of what it is going to cost to do this project.

Mr. Falls explained that the costs will be shown step by step into the project. Staff will bring back the concept by project basis and Council will approve them one step at a time.

Mayor Zudans expressed that there has been money set aside for Marina projects and a proposed 2 million line of credit.

Mr. Heady asked if the line of credit is from the City to the Marina. Mr. Falls said that is correct.

At 6:52 p.m. Council took a five minute break and the meeting reconvened at 7:00 p.m.

Mayor Zudans commented that going back to the 1970's there were some great Marina plans and a lot of money was spent on developing those plans and 50 years later nothing has happened. He said that this Council has accomplished more in two (2) years than any other Councils. Former Councilmember Lange Sykes wanted to see something happen at the Marina and he also wanted to see something happen. This Council made the decision to manage the Marina themselves and now they are going to do it and it should be managed well and set up for future City Councils." They know a lot more now about the environment then they did many years ago and they can turn this into a model Marina. The talk about a hotel is a fear monger. This City wants a good Marina that is top quality and everyone can be proud of. He proposed going with concept #3.

Mr. Howle agreed with going with level 3. He said that this is indeed a Marina and they need to do the best that they can with it.

Mr. Brackett commented that they need to look at the big picture. They decided not to lease the Marina and find a Marina Director and made a commitment to go forth and have a nice Marina. This is going to be a 10 to 20 year project and they need a plan. He likes concept #3, but there are things that he doesn't like about it such as the environmental issues need to be addressed and hopefully the Marina Director will be around to address those issues.

Councilwoman Moss referred to some Council minutes pulled from the 1970's and back then they were doing the best that they could. She read excerpts from the minutes of September 24, 1973 where a big concern was pollution. As far as these concepts go she

said that concept 1-h says rent the office building, concept 2-h says rent the office building and concept 3-h says demolish the office building and replace it with parking.

Mr. Falls explained that it is whatever they want it to be. The ultimate goal is to keep the building standing. They are not going to know how many parking spaces are needed until they know how many boat slips there are going to be and how many dry storage spaces there are going to be. If they don't need the Waddell building for parking they will leave it, but will still need to find a use for it that is compatible with the community.

Councilwoman Moss said right now if they are choosing door #3 it is to demolish the building. Mr. Falls said they could say rent the building or demolish the building. Councilwoman Moss said right now "rent" is crossed out and she did not cross it out. Councilwoman Moss went over some of the other issues that she is concerned about and why she would not vote for concept #3. We don't know what it (Marina concept) is. We don't know the size of the boats, we don't know the size of the docks, we don't know how many (boat and dock slips), we don't know how much (it will cost)." She was concerned with the Lagoon docks. She thinks the space is too tight and it doesn't get flushed out. She is concerned about the seagrass and disturbing it anywhere in this area with increased boating. She is concerned about putting a road in and she doesn't see how it is going to fit and they do not need to create any new parking problems. She likes the idea of a boardwalk. It is a beautiful area and it is a Park. She said replacing the floating dock with a new layout and replacing other docks with a new layout she was not sure what it is. She said a lot of this has been left pretty vague. She cannot commit to something like this because there are just too few details and not enough information.

Vice Young addressed the three (3) concepts and broke it down. He said concept #1 is maintenance, concept #2 is a minimal expansion and concept #3 is looking at making the Marina a state of the art facility in Vero Beach, which is what they want and would love to have in Vero Beach. The way for this to happen is to make the investment. In regards to replacing the dry storage building they know that the building is unsatisfactory. If they are going to replace the dry storage they would want a building that is productive. He is not opposed to removing the Waddell building if it allows them the ability to have the dry storage building that they want and additional parking. All of this is just a plan. He was intrigued that they didn't address the facilities building and said they can do a lot more with the facilities building then what currently exists. He questioned if with the FIND grants there are some constraints with real estate transactions and do they know if the Marina originally part of McWilliam Park. He said for him two (2) things come into play. They want the increased revenue and also it has to be with the quality that they wanted to retain it under the Charter. He brought up the Power Squadron and was told that they have a lease from the City. The enforcement has to be a policy implementation along with the concept of the plan. He was in favor of not inhabiting the plan going forward understanding there are things that will have to be addressed as they execute them. The northern side of the Dog Park area and need for additional parking for the south side expansion will need to be looked at. They want the increase revenue and with quality wanted to retain it in the Charter with the City control. The Power Squadron comes to his mind because if looking at the Marina, which is City owned and the Power

Squadron leases from the City. The enforcement has to be a policy implantation. He is not in favor not inhabiting the plan going forward knowing these different things need to be addressed.

Mayor Zudans commented that one way that could make or break this project over the next couple of years is how they handle Enterprise Funds. This property was generating a few hundred thousand dollars every year. But previous City Councils' massively overpaid for the dry storage that is there. They paid about three (3) times what the higher private offer was for it. That mortgage payment belonged to the Marina, which basically ate up all the funds for doing the things that should have been done over the years. He would love to see that they take this City Marina and partition it off so some future City Council is not tempted to take some of the money that it is earning and use it for other things in the City. Every dollar should go back to the infrastructure that is in the Marina or they should lower the rates if they do not need the money at the Marina. If they want this to be a successful project they need to require that the Enterprise Funds stay within the Enterprise Fund.

Councilwoman Moss stated that several people during public comment mentioned concerns that the Marina has been in a state of disrepair for a lengthy period of time. She asked the Marina Director if he was making all necessary repairs at this time to make sure that the Marina is safe.

Mr. Collins answered yes.

Councilwoman Moss continued to say that no one needs to worry that the Marina is unsafe in any way.

Mr. Collins said that the Marina is safe. He said the age of various docks are well beyond their expected life span so in some regards some of that stuff could be a ticking time bomb. Since he came on board they have been replacing finger piers and boards as much as they can.

Mr. Falls noted that there was a safety structural inspection done and he gave that information to Mr. Collins. They are replacing the worst things first to make sure that it is safe.

Mr. Collins wanted to respond to Vice Mayor Young's concerns regarding the facilities building. He agreed that the facilities building should have some minor repairs, but largely if they don't concentrate on the docks first they will not have the extra revenue to maintain and redo the facilities building down the road.

Vice Mayor Young said the facilities building needs to be integrated and understood that it is a part of the plan.

Councilwoman Moss commented that she is a Sailor over many years. Her father taught her how to sail as a teenager and she has sailed many places. She understands boating and appreciates what Mr. Collins is doing in terms of safety.

Mr. Collins invited anyone who wants to come to the Marina and take a tour. He would be happy for them to do that. That includes the Council and the public.

Vice Mayor Young thanked Mr. Collins for his expertise that he brought forward during the Hurricane. He said a lot of things could have gone wrong, but they did not.

Mr. Howle made a motion to approve concept #3. Vice Mayor Young seconded the motion and it passed 4-1 with Mr. Howle voting yes, Mr. Brackett yes, Councilwoman Moss no, Vice Mayor Young yes, and Mayor Zudans yes.

2) Proposal from Corporate Air to construct a Customs User Fee Facility and present an Agreement to indemnify the City of all expenses – Sponsored by Councilmember Harry Howle

Mr. Falls reported that staff has been working with Corporate Air and has listened to their proposal. He said the City has submitted an application to the United States Customs for a Customs facility at the Airport with the location not yet determined. This is one (1) of the options that is available.

Mr. Michael Calvit, Attorney representing Corporate Air, reported that Corporate Air has been a Fixed Base Operator (FBO) in Vero Beach for 32 years. They are the largest contributor and lease holder at the Airport. They contribute more money than any other FBO organization at the Airport. He said that 75% of the jet traffic is run out of Corporate Air. He reported they just finished their terminal building last year and will be finishing up the ramp on the west end. For the last two (2) years they have been talking about the idea of having Customs in Vero Beach. He said a large number of their clients are calling for this to be at Corporate Air. He said Corporate Air has the money to do this and will pay for the whole thing. They will indemnify the City and the Airport for as long as it takes. They do have a draft of the indemnity agreement, which they will supply to the City Attorney. He said they feel this is a win/win for the City. He said the feasibility studies that they have done indicate that they can have this accomplished. He showed on the screen the area, the southwest end of the Airport, which is where the Customs Officials said was the perfect place for them to be located. He said this is an important location for Customs at the Airport for two (2) reasons; the clientele of Corporate Air demands it and we really need it here. He said the City could really make out from this as well. He explained that over the last 12 months Corporate Air has put into the City CAFR's over \$200,000 and their projections for the next 12 months, despite what happens today, is \$300,000 so they are on the move. He said their projections over the past 32 years have been spot on and conservative so they really think this is a win/win for the City and for the Airport. They have the financing in place and are ready to go.

Mayor Zudans said that he thinks this is great. His only question is if for some reason this does not meet their projections and is not a business they want to continue to be in, what is the downside to the City, if any.

Mr. Calvit said there is not a downside. He said this Custom's facility is limited to private flights and private aircraft so it doesn't preclude the City from having an airliner Custom facility at another location at the Airport.

Vice Mayor Young referred to the location shown on the screen stating that he was aware there was going to be a second hangar built. He asked would that be exclusively used by Customs. He said that he was not clear on the intent for the hangar.

Mr. Calvit explained that the hangar is to support the expansion of Corporate Air to the west. He said the Customs facility would be a freestanding building between the new terminal and the hangars that are going to be constructed.

Mr. Roger Pridgeon, owner of Corporate Air, explained that the hangars they are constructing are to the west of the proposed Customs facility. They are for tenants that desperately need hangar space.

Vice Mayor Young asked what is the red area shown.

Mr. Pridgeon said that will be the Customs facility that will be for Customs only.

Vice Mayor Young said then they would have a hangar like building between the two (2) hangars.

Mr. Falls explained that the building that could be located in the red shaded portion shown would be more of an office like terminal building look than a hangar.

Mayor Zudans opened public comments on this item.

Mr. Peter Holman, of Sun Aviation, asked does this plan match the Airport Master Plan. He said the proposed site is far away from the rest of the Airport. He asked will all the FBO customers be able to use this freely. He asked will they be charged ramp fees just to go to Customs. He said that does not seem to be fair. He doesn't see how they can mix private business with Federal business. He said this is going to open things up for favoritism. He said if his customers have to go over there to go through Customs the next time they might want to stay over there.

Mayor Zudans asked if he has an interest in opening a Customs facility at some point.

Mr. Holman answered yes.

Mayor Zudans asked do you have a proposal for opening a Customs facility.

Mr. Holman said no, not at this time because this was brought to his attention the day before the last Airport Commission meeting when this was discussed. He said that he didn't know this was on the City Council agenda until Thursday.

Mayor Zudans asked is there anything that prohibits more than one (1) FBO from opening an FBO Customs facility.

Mr. Michael Calvit said in the United States there are 66 Custom and Boarder Protection offices and nine (9) under consideration for FBO's, not in the main terminals of the airports. He said the beauty of what Corporate Air is doing is they are offering to pay for it and staff it with Federal employees. This is going to be a separate building that is not attached to the FBO, but it is where the majority of their customers want it. He said that he doesn't know the logistics if someone is landing at Sun Aviation and needed to go through Customs, but currently they have to go through Customs in Ft. Pierce so this would be a lot closer so essentially they would be providing a service for Sun Aviation.

Mayor Zudans asked to clarify, this would be available to any FBO that operates under the Airport.

Mr. Calvit answered yes. He said it would be a Federal office and not restricted to Corporate Air customers.

Mr. Howle questioned to clarify, Corporate Air would not be charging ramp fees to come in to use the Customs facility.

Mr. Calvit said that is correct.

Councilwoman Moss asked who usually funds this. She asked is this usually funded privately or publically.

Mr. Calvit answered publically. He explained that airports do it because that is where the planes go and bring in international passengers.

Councilwoman Moss said so because we're not doing it, the City's not doing it, then

Mr. Calvit said the City is doing it. He explained that the City initiated this through the previous Governor, Governor Scott. Currently, the City is the one who is petitioning. If the City withdrew their application, Corporate Air could do it privately.

Mr. Howle said it is his understanding that because it was the City who petitioned this. If they wanted to build a building that would facilitate larger airplanes and possibly attract another airline, they could.

Mr. Calvit said the point of the matter is they are ready for this and it can be done soon.

Councilwoman Moss said so the City owns it, but the City did not fund it. The City owns it, the City didn't fund it, but it is available to any of the corporate airlines to use.

Mr. Calvit said it is on City land and they are leasing it.

Mr. Brackett said the Federal Government is in charge of Customs.

Mr. Calvit said that is correct.

Vice Mayor Young said his understanding is the application for Customs would be submitted by Corporate Air. He asked is that not the case.

Mr. Falls explained that the application was submitted by the City and they are asking for verification from Customs and from the Federal Aviation Administration (FAA) if the City can keep the application and transfer it to whoever the private partner wants to do that or if the City has to withdraw the application and let Corporate Air resubmit. He said they have not received the answer yet.

Mrs. Sharon Gorry said one (1) of the reasons the City does not get any money from the Airport Enterprise Fund is because the FAA does not allow it. She asked is that accurate.

Mayor Zudans said that is his understanding.

Mrs. Gorry said Mr. Calvit stated that they would be putting money into the City CAFR's. She asked if this money is raised through Corporate Air on Airport property then the money from Customs would not go into the City's CAFR either.

Mayor Zudans explained that the Airport is an Enterprise Fund so every dollar that they generate in revenue stays within and improves the quality of the Airport, which improves the quality of life for their community.

Mrs. Gorry said the Custom's dollars will not go into the City's CAFR.

Mayor Zudans said it is the City. It is an Enterprise Fund that is part of the City.

Mrs. Gorry asked does it go into the City CAFR meaning the General Fund.

Mayor Zudans said if she redefined the CAFR as the General Fund then the answer is yes.

Vice Mayor Young asked Mr. Menger to speak on how the dollars flow with regards to the Airport.

Mayor Zudans asked does every dollar stay within the Airport Enterprise Fund.

Mr. Eric Menger, Airport Director, said the only way the City can gather money from the Airport is if the Airport is paying for services they receive from the City, such as salaries, Police service, etc. He asked has anyone requested any comments from the Airport Commission on this topic.

Mayor Zudans asked Mr. Menger if he wanted to relay what their opinions are.

Mr. Menger said the Airport Commission is meeting this Friday and he thinks it would be a really good idea for the City Council to push this over to the Airport Commission for review and discussion so that they can hear from the Airport Commission before they make a decision on possibly the October 15, 2019 City Council meeting. He thinks this is really being rushed and there are a lot of details that are being overlooked. He has some comments, but it doesn't seem like he is being asked to comment.

Mayor Zudans said that he is being asked right now. He asked is this something that would be better to do now or after the Airport Commission reviews it.

Mr. Menger said that he spoke with Customs today and he thinks they spoke with Corporate Air as well. He said they started this process back in October/November, 2018, when the former Mayor sent a letter to former Governor Scott requesting that the City be considered for a Customs facility and the Governor quickly responded. He said the next thing that occurred was for Customs to visit the Airport to see if it would be a good location for a Customs facility, which occurred in August. At that point they toured the Airport and stopped at Corporate Air as one (1) of the possible locations and that is when Corporate Air said they could do this on their own; that they didn't need to have this go through the City or they could partner with the City. Mr. Menger said the Customs official told him on the telephone today that they have three (3) options. One option is the City could withdraw their application, which would relieve the City of any liability of moving forward with a Customs facility. Mr. Menger said that he would not recommend this option in that they got to this point so quickly. The second option would be to continue under the City's cognizance and work out a written agreement with an FBO to build and operate a general aviation facility at the Airport. Mr. Menger said if they do that, they have to make sure that the private sector assumes all legal and financial liability for that site. According to the Customs official, if the City continues to see this through, the City would retain the liability for the Federal operation even if they turn it over to the private sector. So that agreement between the City and the private sector needs to be clearly defined that if there is any kind of liability it is not borne by the City. He said the first thing Customs would do is come to the City if there is an issue. He said with going with a private sector it would be his recommendation that they send out a Request for Proposals (RFP). This way the City protects themselves from any kind of favoritism and that it is a fair process. He thinks to go around and quickly make this happen without that process could put the City at some risk. He said their third option would be that they continue under the City's cognizance and do the whole thing, fund it, operate it, etc. He said they do not have the funds to do that and he wouldn't recommend it because it would take a long time to do it and they have private sector needs. His recommendation is that the City Council puts this in front of the Airport Commission to

review and give their recommendation at their meeting on Friday and then bring it back before the City Council at their meeting on October 15th. He thinks this is the proper way to proceed.

Mayor Zudans said if they delay this, he doesn't want it to interfere with the eventual goal. He thinks this is a great idea. He asked is the waiver of liability being done between now and two (2) weeks from now when the City Council meets again. He felt this probably would have been better if this had been worked out prior to today's meeting.

Mr. Menger said that he thinks there would be a lot of things that he would put into the agreement and he doesn't know how long that would take. He said it is going to take some review to get this right. He just wants to be sure the City is protected and he does want to have Customs. He just wants to be sure that it is done in a fair way.

Mr. Calvit said this was before the Airport Commission at their meeting on August 16, 2019. He said they are not trying to circumvent them. He said they have been working on this for almost two (2) years. All they are asking is that they move this forward and instruct Mr. Menger and Mr. Turner to come up with an acceptable indemnification agreement that protects the City. He said they have the wherewithal to do that and by the time they are done with this the facility it will be worth over \$10 million. He said this is not news to the Airport Commission. It is not something that they didn't discuss and think about. He said that Mr. Skip Wood is here today and he is on the Airport Commission. He said they have hammered out issues and gave credit to City staff in working with them. He said that he would work with Mr. Menger and live in his hip pocket for the next two (2) weeks to get this done.

Vice Mayor Young felt there were two (2) separate matters that were being combined. He thinks the discussion with regards to funding is separate from the discussion with regards to Customs. He said it was his understanding that the funding that was of great concern was an issue that has been resolved through the efforts of the City Attorney and City staff. Separate from that Corporate Air is coming forward asking for permission to establish a Customs, which he feels is a separate entity with regards to funding. What he wants to do is make sure today that they have clarity that Corporate Air will have the funding that was addressed with the easement the City was to provide them. That is one thing. He is concerned after hearing from the Airport Director that they may be moving with undue haste to provide them the answer they want with Customs. He said Customs is a separate matter. If they slow the decision down on Customs, what impact would that have on the earlier discussion they had.

Mr. Calvit said zero because they are going to improve the Airport anyway.

Vice Mayor Young asked what is the impact if they do as recommended by the Airport Director and look at the other aspects of the Customs implementation.

Mr. Roger Pridgeon said the only thing that he can see is time.

Mr. Howle said there is a limitation on the amount of time they can spend working on this.

Mr. Pridgeon said that is correct. He said they don't want to inconvenience the public anymore. They are flying in from Ft. Pierce, which is very costly. If they delay this more they are inconveniencing the customers of the Airport. He said they are going to see more traffic coming to Vero Beach that doesn't normally come here because they want to clear Customs. He said they have a two (2) year head start on this and they don't want to start all over again.

Councilwoman Moss thinks that everyone is in favor of it, but she thinks it is a question of does it happen today or in two (2) weeks if she understands it correctly.

Mr. Calvit said the reason is to have motivation to get staff to nail down an agreement. They want to do something that protects the City and the Airport.

Councilwoman Moss said well that's fine, but she thinks that they need to be assured, because remember they (City Council) bare the responsibility for the community, they need to be assured that all the liability issues have been handled.

Mayor Zudans said that is very easy to solve. He said that he heard everything that the Airport Director said and he wants everything said to be addressed, but he thinks they could easily say that they approve this project going forward under the condition that they have an indemnity agreement that is satisfactory to the City Attorney. He said that he has an unrealistic expectation of how long that takes. He thinks that they should be able to work that out in a week, but that is not how it works. He thinks it should be expedited and that is what he thinks they should do. He thinks they should approve this idea. He said that he heard everything that Sun Aviation said, but he thinks this is a good thing for them too. It is a good thing for the entire Airport and for all the businesses located there. He thinks the City Council should give some direction. He said these people are in business and they (the City Council) have to do what they can to support their business.

Councilwoman Moss said that she thinks there is a consensus tonight, but she does not think they should override their Airport Director; the advice that he has given them.

Mayor Zudans said that he didn't say to override anything the Airport Director said. He said that they should address every issue that he brought up to the satisfaction of the City Attorney.

Councilwoman Moss said that is fine, but he said don't do it tonight.

Mr. Howle asked that they hear from Mr. Skip Wood, who is on the Airport Commission and is an experienced aviator. He said that he is curious as to what Mr. Wood's thoughts were.

Mr. Skip Wood, Airport Commission member, said that the Airport Commission covered this and moved forward on it. The one thing that he doesn't want the City Council to lose sight of is that the Airport is very close to the minimum amount of money to have in their Reserve Fund. What they are doing by postponing this is they are postponing a tremendous amount of revenue that the Airport can generate that the City can benefit from. He said the only way the Airport can move forward is to generate revenue.

Vice Mayor Young said that he wants to make sure Corporate Air has the funding.

Mr. Wood said they do.

Vice Mayor Young said that he supports the fact that they should have a Customs facility on the airfield. His concern is that tonight without having additional opportunity to look at what he doesn't know and if they expedite this and go forward tonight then they abort the process for the Airport Commission and staff to come back before the City Council. He asked is there a liability for the City to be sued for not affording the ability for other entities to compete for this service.

Mr. Turner said that he did not have the answer at this point. He said if there is direction from the City Council that it would include the opportunity for his office to research the indemnity problem and the potential of FAA looking at the City if something occurs, because he is not familiar with their regulations and would like to read them first.

Councilwoman Moss said there are too many unknowns to address it tonight.

Vice Mayor Young asked if they table this tonight and bring it back before the City Council in two (2) weeks, would that be a decision that would compromise Corporate Air's strategy for expanding the airfield.

Mr. Wood said that he could not answer that. He said with regards to the concerns about liability for the City, the letter of indemnification should take care of that.

Councilwoman Moss said that is fine, but their City Attorney still has questions so it has not been finalized until the City Attorney says it's finalized.

Mr. Brackett said that he thinks what they are looking for is the idea to let them pursue this. He said Mr. Menger mentioned an RFP and he questioned how can they get an RFP less than zero. He said for some reason they have different entities that want it because it would help their customer base, but right now this wouldn't cost the City anything. He said they have Sun Aviation and Corporate Air who seem to have an interest in this and are going to bare all the costs, responsibility, and liability.

Mr. Skip Wood said Corporate Air is, but he didn't think that Sun Aviation said that.

Mr. Brackett said his point is what do they get out of it other than taking care of their customers. If that is what it is, he can respect that. He said that he is curious as to if they did put out an RFP how do they come back with one that is lower than zero.

Mr. Wood said one (1) of the concerns that he has is if there is an inevitable decision to go forward then delaying it only delays the amount of revenue that the City is going to generate by approving it tonight.

Mr. Michael Calvit said it is customer base driven. He said 75% of the jets at the Airport are with Corporate Air so it is customer driven. He said all he is asking from City Council is to help them move this along. He is not asking them to sign off on it.

Vice Mayor Young said that he is 100% in support of moving this along. What he is not in favor of is relying upon some opinions at this point on the adequacy of the research that is entailed with protecting the City of the liability. He said the cost of delaying this two (2) weeks might be less than the liability for the City if they agree to this and at some point down the road there is an incident and the FAA comes to the City in suit.

Mayor Zudans said that is not the motion that he said that he is going to make.

Mayor Zudans made a motion that they proceed with this plan for a Customs facility and it is going to be conditional on satisfaction of their City Attorney that the liability issues are met and that there is no issues related to a single bid.

Councilwoman Moss asked who is the “we” though. She said we don’t even know who is filing the application if she understood the City Manager. We’re not sure if the City is going to file the application or if the City should withdraw it and one (1) of the other parties should file the application so she doesn’t even know who “we” is. She asked who is “we.”

Mayor Zudans said the motion was that the City work with Corporate Air to get this Customs facility moving forward with the condition to the satisfaction of our City Attorney ...

Councilwoman Moss said that’s so vague. She would say they have the consensus of the Council that they all want to do this.

Vice Mayor Young asked Mr. Falls, what is it that they need to take into account other than what has been addressed with the concerns of the City Attorney.

Mr. Falls said the only thing they need to find out is if the application can move forward with the City being the applicant, which he thought was option two (2) of what Mr. Menger presented and he thinks that is what Corporate Air has asked them to do tonight. He said as to the question about the single bid, if they go with sending out an RFP, that is going to take more than two (2) weeks.

Mayor Zudans said that he just wanted to verify that they are not in violation of the rule and have the indemnity issue satisfied to the satisfaction of the City Attorney and if those two (2) conditions are met then he thinks the City Council should tell them now that they are going to do this so that they can move forward.

Councilwoman Moss said we don't even know if there are any other conditions though. She said it is fine to discuss those, but she doesn't know what other conditions there might be. It seems like there are quite a number of unknowns here.

Mayor Zudans said you have someone building a \$10 million facility that is going to benefit the economy, local businesses, and our Airport and you are asking about why they should delay that. He said that he doesn't get it.

Councilwoman Moss said by two (2) weeks. The Council supports this. As she said, there is a consensus of Council; they support it. She asked is the consensus of Council enough for you (Corporate Air). She asked is there anyone on Council who doesn't support this. We support it.

Mayor Zudans said that he would like to give them an answer they came here to get.

Mr. Howle seconded the motion.

Councilwoman Moss said they have an answer. They have consensus of Council.

Vice Mayor Young asked with the Airport Commission, is there unanimity that this should move forward tonight.

Mr. Skip Wood said yes, they did that two (2) weeks ago.

Mayor Zudans asked Mr. Wood what happened at the Airport Commission meeting and what was the vote if there was a vote.

Councilwoman Moss said then she would like to hear from the Airport Director.

Mr. Wood said the Airport Commission meeting was held on August 16th and they talked about it and moved it forward.

Mayor Zudans wanted him to say on the record that was what happened at the meeting. He asked Mr. Menger if his understanding of what occurred at the meeting is different.

Mr. Menger said the item is on this Friday's Airport Commission agenda for discussion, but there was a long list of discussion items at their last meeting that Mr. Wood brought up and they discussed all of them. He said there were no action items. There was just discussion.

Mayor Zudans said but the general consensus was that they were in favor of this.

Mr. Menger said that is correct. He said there were no action items this was discussed and discussion is on this Friday's agenda.

Mr. Don Loucks, Consultant, said there are 66 user fee facilities in the United States today and every one of them is associated with an FBO. He said the FBO paid to have the user fee facility constructed. There are seven (7) more under construction or in the application phase. He said the time element is the only thing involved here in that if the City withdraws they would have to resubmit and that is a loss of revenue.

Vice Mayor Young said the story is not complete until they have the understanding of the liability.

Mr. Turner said that he would like to have the opportunity to give them not only an indemnity that he feels comfortable will protect the City, but also to give them legal opinions as to any regulations that might be applicable that they need to be aware of before they give final approval. He said that he is not here to block or prevent what they are trying to do. He just wants to make sure they all have the information they need to make a decision.

Councilwoman Moss thanked Mr. Turner for that. She said she really appreciates that. They should have all the information; they don't, they should not be making a decision tonight.

Mayor Zudans asked the City Clerk to read the motion.

The City Clerk said the motion was basically to proceed with this plan for a Customs facility with the satisfaction of the City Attorney on the liability issues that they are met and no issues in a violation of the rule with the RFP process and the FAA. Seconded by Mr. Howle.

Vice Mayor Young asked is the motion appropriate.

Mr. Turner said that he wants something with more direction.

Mayor Zudans asked Mr. Turner to help in amending the motion.

Mr. Turner suggested that he receive direction that Council desires to proceed further in discussing with Corporate Air establishment of a Customs office at their proposed location, but that the City Attorney's office have the opportunity to research the liability issue and the indemnity that is going to be required, as well as making sure that the process that they have engaged in does not violate any rules or regulations for requesting additional proposals going out for additional considerations or any bidding.

Mayor Zudans asked if he can complete that task in the next two (2) weeks.

Mr. Turner answered yes. He said if that is the direction of Council it will be done.

Councilwoman Moss asked is there anything else that they should consider that he might come up with during the next two (2) weeks. She said maybe they should have a broader term.

Mr. Turner said that he would try to provide a memorandum as soon as possible and in the memorandum they will have points for their considerations, which is probably the best way to proceed rather than waiting until two (2) weeks from now and discussing it so that they will be briefed.

Councilwoman Moss asked are you comfortable with their proceeding tonight based upon what you just said.

Mr. Turner answered yes.

Councilwoman Moss said that she is not willing to jeopardize the City over a two (2) week delay.

Mr. Turner said that he feels at this point with the way the proposal has been made and the City's initiation being more or less the sponsor of this it has been recognized and approved by the FAA and has been the City leaders to this point, he feels comfortable they are on good solid ground with that. It is the next step that is important and that is he wants to make sure that the City's interests is protected.

Councilwoman Moss thanked Mr. Turner for being so forthright.

Mayor Zudans said basically they are conditionally there and Corporate Air should have a more definitive answer in two (2) weeks when the City Council gets their report back from the City Attorney.

Mr. Howle asked Mayor Zudans if he was withdrawing his motion.

Mayor Zudans said that he thinks Mr. Turner has his instruction and they are all on the same page (motion withdrawn).

Councilwoman Moss said they (Corporate Air) have the consensus of Council. They have always had it.

3) Informational discussion about creating a City policy to gradually phase out transfers from Enterprise Funds to the General Fund and then prohibit future transfers once the transition is complete – Requested by Mayor Val Zudans

Mayor Zudans said this is really a conversation and not anything that they have to do tonight, but he would like to discuss it. He said that he prepared a few remarks about this

and thinks it is actually more important than it sounds on the surface and it has to do with what is the proper role of government and what can go wrong with government and our City is experienced in this. He said around 1920 one of the first actions this City did was bought the previously privately owned Vero Electric. He thought it was the same year FPL made an offer for Vero Electric to the City of Vero Beach, which the City declined. Then over 100 years there had been multiple offers where to some extent there was a strongly resistant element in the community that did not want to get us out of government electric. He said they have to ask themselves why. He said in 2008 the City Council at the time with the help of the City Manager and the City Attorney at that time ended up signing a 20-year, \$2 billion electric contract with Orlando Utility Commission (OUC) that included up to a \$50 million exit penalty. He said this City Council got us out of this deal saving ratepayers \$24 million per year. It was very hard to do and the resistance was vigorous. He asked why. What were the opponents fighting for. He asked did they like 30% higher rates than they would have received from FPL. Did they not want \$60 million plus in proceeds from the sale. Did they not want something of higher and better value on the Power Plant site. He asked what was the resistance. Why were they resisting this idea. He said they fought over a decade and really some people fought for a century at a cost to their taxpayers if they really added it up was hundreds of millions of dollars. He asked why was there resistance to that. He said it all came down to a transfer from the Enterprise Fund to the General Fund. The net transfer once we completed the deal \$1.7 million at an annual rate of about \$2.4 million. So this City government for 10 year or more was making ratepayers pay an extra \$24 million every year to generate about \$2.4 million of hidden taxes inside the government. He said the entire operating budget of the City of Vero Beach is \$20 million a year and they were throwing away \$24 million a year to get \$2.4 million towards a \$20 million operating budget. He said this is insanely bad math and asked why were they doing that. He said that is the topic that he wanted to bring up in conversation today, what is the proper role of government. He said that he has a different opinion than other people. He believes that it is just the police, military, and the courts of law. That's it. He said that's what a legitimate government is. They are supposed to prosecute the laws, prosecute violence or fraud, protect private property, and enforce consensual civil contracts. Everything beyond that can be handled by private businesses, non-profits, and individuals and government should be kept very limited and small. Every major mistake that this City government, the leaders, the politicians, have made can probably be linked to a violation of this limited government principle, particularly the electric that costs hundreds and millions of dollars to our citizens. He asked what kind of politician who makes \$10,000 a year as a part-time City Councilmember thinks that they are actually capable of making a \$20 billion dollar hedged electric contract. He said that is a lot of gall and way out of line. He said at \$10,000 a year it would take 200,000 years to pay off a \$2 billion dollar amount. He said government should not be entering businesses to try and make a profit off of citizens. To the extent that government does choose to get into business that the private sector is unwilling, they should first ask why private business is not fulfilling this need to begin with. He asked why is it that governments get involved. If it truly is a need that the private sector is not willing to do, then every dollar that is paid should be used for that purpose; it should stay within that enterprise. He said it is not just finances, it is bigger than that. He said within the Water and Sewer they had a very recent poor

condition report in their Water facility and he knows there were reasons and excuses, but that is not good. He said in 2017 they had a three (3) million gallon sewage spill into Bethel Creek and he understands pipes break and things can happen, but he always wonders whether that is because of maintenance money not going back into the water and sewer system. He said the bottom line is if there was not a transfer to the General Fund of \$1.3 million or whatever it is from our Utilities every year then either that money would be going back into infrastructure maintenance for our water and sewer or the rates would be reduced to the ratepayers, but we are using, just like we did with Vero Electric, we are using that Utility as an Enterprise Fund to transfer into our General Fund. The same can be said about the neglect of the City Marina. He said a large part of today's discussion on the Marina was a dusting off of a 1970's Master Plan for the Marina. He said 50 years later nothing has happened. He said the City Council made a terrible decision with buying the dry storage where they paid three (3) times the best private offer they received and left the Marina with a crippling debt service. He said it is the same thing he discussed earlier that if we do that again, if we start taking the money out of that Marina it is going to undermine that whole Marina process. He said the Marina should either sink or swim and if they have lots of money left over then they should charge less. He said the government should not be making money off of these Enterprise Funds. He said we really need to stop thinking that politicians can run businesses better than the private sector. He said we can't and if we could we would be in the private sector making a whole lot more than \$10,000 a year. Our Airport is, along with our Finance Department, our two (2) best ran departments in the City of Vero Beach. He said yes, it did work when we got out of Vero Electric. He said we are saving \$24 million a year and have a higher level of service. He said these things can be solved. He said that he understands that we need a gradual transition, especially for the Water and Sewer where it is a large amount going forward, but we can protect our Enterprise Funds immediately for some of them, starting with the Marina and he believes we should have a policy that we are not going to raid these Enterprise Funds to fund general government, that we are going to keep all these monies, reinvest it in the particular enterprises and separate them out. He said we are in a unique situation where we do have a large pile of money sitting in our City government because of the sale of the Electric. He said in the transition, particularly if we are building a new Sewer Plant at the Airport or the Marina we are going to be doing large capital projects and there is a potential to loan some of that money to these Enterprise Funds and still get a partial revenue stream to offset some of those transfers that were in the past to make the "soft landing" a little easier. He said this is a long-term financing that needs to be considered for the future of our City. He said this all can be done and there needs to be direction from the City Council if that is where we want our City to go in the future. He said if we want to get away from this idea that we are going to have Enterprise Funds and try to make money off of our citizens in order to fund government. He believes this all can be done without raising property tax rates one single bit if future City Councils have the fiscal conservatism to actually make this happen. He said that he wanted to bring up the subject so that they can all discuss it and consider whether or not they want the future policy of their City to be that we segregate these Enterprise Funds.

Mr. Brackett said that he was all for the sale of the electric. He said our taxpayers were paying exorbitant rates much higher than market value and that wasn't fair to them. He said the rates they have now are at market value or below the charges the City charges for water and sewer so he doesn't see that is a big drain on the general public. He said they now transfer about six (6) percent from these Funds back to the General Fund. He said that he doesn't have a problem with charging the six (6) percent back, but he does not just want to transfer money left and right and use it as an income approach. He said they could possibly do this through loans. He said they are in the soft landing with the sale of the Electric and commended City Council in that they have done this well and had to transfer less money this budget than they have before. He commended staff for working hard on their budgets. He said that he didn't think now is a time to take action on something like this because of the "soft landing" they are in now.

Mayor Zudans explained that what he was proposing is that they set a policy to segregate the Enterprise Funds like the Airport does. He said if it goes as planned the Marina will be doing very well and there is going to be money sitting there and then people are going to start to think that would be a good place to start taking money and then what they have done is undermine the Marina. He felt it was the same with Water and Sewer. He said you know that every dollar that is in the Airport is going back into the Airport to make it a better Airport. He said you don't know that with Water and Sewer. He said they might be trying to get whatever their obligated transfer is and are going to make policy decisions.

Vice Mayor Young asked historically from the Water Utility, they have retained the funding as a result of their operations, less what is associated with their assistance by other Departments of the City and the six (6) percent they have as a franchise. He asked if that was correct.

Mr. Falls answered yes. He explained that the six (6) percent that is paid back to the General Fund is just like a franchise fee. He said the Water and Sewer Department incorporates that as one (1) of the costs of doing business. He said they build their budget around the costs they have. He said it is a policy decision.

Vice Mayor Young said what they are talking about and how the Mayor introduced it was what they perceive is the proper role of government. He said that he is a traditionalist of Vero Beach. In the State of Florida, there are 600 plus municipalities and every one of those municipalities came together because they had a group of citizens that were looking for specific things. Those specific things are evident in Vero Beach today and to come in with a point of view of a member of the dais to say that philosophically we don't need to be engaged in anything other than the core mission, which the Mayor described as police, etc., is 100% on the other side of where he is because he believes our core functions are the functions that brought us the prosperity that we have generated over 100 years. He said when you say we don't need to be providing a profit from the enterprises, he agrees that they don't want to rape the enterprises half-hazard, but he doesn't believe they are doing that. He believes the construct they have for their enterprises is appropriate. He said if you look at other multi-service cities, we are in like-step with them. He said right

now they are looking to do their best to provide for a soft-landing and if they say they are not going to transfer from the enterprises to the General Fund they exasperate the challenge that is there for a soft-landing. In his eyes, making a policy that prevents the Finance Director and the City Manager from coming to the City Council with something that is appropriate is a self-inflicted gunshot wound. He said that he didn't think any one of them at the dais would take those steps. If they look back over time on decisions that have been made across the City, the City made those decisions appropriate at that time. He said they made the right decision to get out of the City electric and he feels the City's engagement with the Water Utility is appropriate. He said that he thinks Mr. Rob Bolton, Water and Sewer Director, has done a fine job and he believes the trust that they have placed in the Marina Director is well placed as well. He thinks that they need to be careful not to damage their own latitude to meet the needs of the City.

Mayor Zudans said that he was misrepresented twice. The first one was that he did say what he said was the proper role, but what was left out was the second part, which was to the extent that the City decides to do things and this applies to the Marina as well, which he was not in favor of, but to the extent that a decision has been made to do something he had said in that situation they shouldn't be making a profit on top of that from their citizens. He said if the City, as a government, decides they want to be in the Marina business and Water and Sewer business, then to the extent the government has interfered in the market, at least they should not be doing that for the purpose of trying to make a profit off of the citizens of this City. That is what he was saying. The second part is regarding Vice Mayor Young's comment about being half-hazard, he said that he started with the idea that this is a transition and policy goal. Not that anything was going to happen in any specific time frame. He thinks it would be a proper goal to phase out the idea of profiting off of their customers for non-essential government services. He said they can choose to do non-essential services and no one is stopping the City from doing that. He said if you don't transfer that money into the General Fund they are either providing a higher level of service or reducing rates. One way or another, that is a hidden tax. All he is proposing is that it should be a policy to transition at whatever rate is fiscally responsible and getting away from this idea that they are using Enterprise Funds to fund the General Fund for our government.

Vice Mayor Young said the General Fund is the means by which the City accomplishes all the other aspects of government that is expected by the people of Vero Beach. He said it is not a hidden tax. It is a operating expense for a municipality.

Councilwoman Moss said that she doesn't think the City Council should be bound by any philosophical straightjacket and they recently saw a good example of that, which was Leisure Square pool and funding that and she doesn't think that would be considered, our funding it, she doesn't think they would call that fiscally conservative, but she would call it fiscally responsible. We were responsible to the community. It was needed, it was necessary and we did what was needed and necessary.

Mayor Zudans asked is it a good or bad long-term goal to get away from using these Enterprise Funds to fund general government. He asked Councilwoman Moss what is your opinion on the proper role of using Enterprise Funds.

Councilwoman Moss said that she thinks she agrees with Councilmember Brackett.

Mr. Brackett said that he didn't think six (6) percent was a bad transfer. He said if they were transferring all the money from the Marina to the General Fund and neglecting then yes, that would be wrong. That would be poor management.

Mr. Howle said that he is fiscally conservative and he and Mayor Zudans probably stand on the same grounds regarding that. He said that he agrees with the Mayor's point, but if they are going to just facilitate the fundamental functions of government and eliminate that hidden tax they are going to have to raise taxes.

Mayor Zudans said that is the easiest decision that a lot of people come to, but there are other ways.

Mr. Brackett said that he thinks it is good that they have these conversations and he will turn over as many rocks that they need to turn over and maybe there will be a time that happens, but he does not think this is the time.

Mayor Zudans said that he didn't think if they said tonight that it was their policy to try and work towards getting away from Enterprise Funds that it would change anything in the near term, but he does think that it's a good government policy to get away from the idea of using Enterprise Funds to fund their General Fund. He agrees that it is not necessarily the best time, but this is the only time this will be discussed because five (5) years from now, even after they make the soft landing, there is no future City Council that is going to bring this up and suggest that they stop transferring funds into the General Fund. He said this is the one opportunity where they can look at the big picture where they could say this is a worthy thing to try to work towards in the future and leave that as the policy; that it is their eventual goal without painting anyone into a corner where they are forced to do it.

B) OLD BUSINESS

6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

None

7. CITY CLERK MATTERS

A) Reappointment to Commission/Boards

AIRPORT COMMISSION

Mr. Arthur Hodge's term on the Airport Commission expires on November 15, 2019 and he would like to be reappointed. There is one (1) application on file from Mr. Clement Woodwall.

Mayor Zudans made a motion to reappoint Mr. Arthur Hodge to the Airport Commission. Mr. Howle seconded the motion and it passed unanimously.

CODE ENFORCEMENT BOARD

Mr. Eric Price, Mr. Christopher Bryant, Mr. Steve McDonald and Mrs. Linda Hillman's terms on the Code Enforcement Board expire on October 14, 2019. All members would like to be reappointed.

Vice Mayor Young made a motion to reappoint Mr. Eric Price, Mr. Christopher Bryant, Mr. Steve McDonald and Mrs. Linda Hillman to the Code Enforcement board. Mr. Brackett seconded the motion and it passed unanimously.

RECREATION COMMISSION

Ms. Judy Jones and Mrs. Bobbi Burdick's terms on the Recreation Commission expire on November 15, 2019. Both members would like to be reappointed to the Recreation Commission.

Mayor Zudans made a motion to reappoint Ms. Judy Jones and Mrs. Bobbie Burdick to the Recreation Commission. Mr. Howle seconded the motion and it passed unanimously.

8. CITY MANAGER MATTERS (include amount of expense) (Staff/Consultant special reports and information items)

A) Marina Master Plan Presentation

This item was heard earlier in the meeting.

9. CITY ATTORNEY MATTERS

Mr. Turner said in the Code under Section 2-76 having to do with preparation of Ordinances, it provides that the City Attorney shall be the one who initiates the Ordinance preparation, but that no Ordinance shall be prepared unless requested by a Councilmember or a Charter Officer. The way he reads this is that it allows for an Ordinance to be presented to Council for its consideration by Mrs. Bursick, Mr. Falls, or himself and that could be a sponsor by the Charter Officer or at the request of a Councilmember. Also, it doesn't address Resolutions and if the City Council wants to extend that to preparing Resolutions by Charter Officers he would request their direction. He explained the reason is that he has had in the past a question as to why he was

presenting a Resolution versus getting direction from three (3) members of the City Council to do that. He asked since they do this for Ordinances that they extend that to Resolutions where the Charter Officers could sponsor a Resolution at their own direction or at the direction of a Councilmember.

Mayor Zudans said so as of right now, the Code doesn't say anything about it.

Mr. Turner said no, it doesn't address it.

Mayor Zudans asked why are they creating a rule.

Mr. Turner explained that if he had a Councilmember come to him wanting a Resolution he would not be able to do it because he would need the direction of three (3) Councilmembers.

Mayor Zudans felt it should be as easy as possible. If someone has something important that they want to bring before City Council they should have the resources of the City Attorney to do it.

Councilwoman Moss asked is it more efficient in terms of his time if he has the consensus of Council.

Mr. Turner said that he doesn't want to offend any of the Councilmembers by presenting a Resolution unless he knows he has the authority to do so.

Mayor Zudans said that he thinks it is a barrier sometimes where they have to wait until he goes to the City Council, then have to get their approval, then it takes time for the City Attorney and then it comes back to Council. He is in favor of streamlining. He said if you are an Elected City Councilmember you should have the ability to present items that the people who elected you want to move forward on and that involves some of the City Attorney's time, he thinks that is totally appropriate. He is fine with what Mr. Turner proposed that it does not take a majority of the City Council in order to present. He noted that everything has to be voted on by a majority.

Mr. Howle said that he thinks the implication is the Ordinances carry more weight than Resolutions and Mr. Turner has the authority to do it. He would support this.

Mayor Zudans said right now a Councilmember could bring a Resolution that they wrote themselves without even showing it to the City Attorney. He asked is that correct.

Mr. Turner answered yes.

Mayor Zudans said that would not be ideal because it would probably be better if they at least run it by the City Attorney.

Mr. Turner said he would think that they would want the City Attorney involved in assisting. He said another step to this is to make it clear that City Councilmembers can go to the City Attorney and ask for their legal opinion.

Vice Mayor Young and Councilwoman Moss said that is their understanding.

Mr. Turner said a couple of weeks ago he brought up the issue with Corporate Air and their preparing documents for City officials to sign on a loan that was pending and they were trying to obtain. He said this has turned into about a week and half long focus of several people in the City. He said it is not completed yet, but there has been a lot of progress made. He said the City received documents after business hours today that staff needs to address. He said they are trying their best to make sure this matter is concluded to everyone's satisfaction. He said they are trying to get this matter as best they can.

10. PUBLIC COMMENT (3-minute time limit)

Mr. Brian Heady said Councilmembers, and some of them take longer than others, which is fine with him. He doesn't care how long they take, but when you take 30 minutes to explain something and only give the citizens three (3) minute to carry their points, he thinks is not fair, is discrimination, is not good business, etc. He said the Mayor on facebook, which he can say whatever he wants on facebook, said that the public record is always open to him (Mr. Heady). Mr. Heady said that he has been asking for documents for a very long time and just doesn't get them. In fact, if they go back a year he came before the City Council and asked for documents and the silence on the Councilmembers' part was deafening and there were no documents turned over. He said the Mayor says that he always gives him everything, but he has asked the Mayor at this podium for documents and in three (3) emails for documents. An example is that they gave over \$100 million back to the Florida Municipal Power Agency (FMPA) and he asked why, that they show him where they have the legal obligation to give them over \$100 million and not one (1) time, ever, has any Councilmember given him any public documents to show that we owed them this money. He said the Mayor just talked about Enterprise Funds and said several different things that were absolutely not correct facts at all and gave the public no opportunity to counter any of them.

Mayor Zudans asked Mr. Heady to be specific.

Mr. Heady said the Mayor discussed \$2 million worth of income and the Councilmember's salary. He questioned he divided \$2 billion by the Councilmember's \$10,000 salary to come up with what.

Mayor Zudans told Mr. Heady that his time is up.

Mr. Heady said that is typical. He said you still haven't given me the documents. He said to go back and look at the October 16th meeting. He asked for documents, he has asked for them tonight, and has asked for them over and over again. He said two (2)

Councilmembers are not going to be here after a few more meetings and are going to escape prosecution.

Mayor Zudans told Mr. Heady that his time has expired.

Mr. Heady said your time has expired is the typical answer rather than answer questions. He said you talk about what government should and shouldn't be doing and what they shouldn't be doing is ignoring the citizens.

Mayor Zudans said records requests can be made to the City Clerk. He said you don't go up to City Councilmembers.

Mr. Heady said that he has made this records request many times at this podium. He sent emails and asked for documents ...

Mayor Zudans asked that Mr. Heady be removed from the meeting.

Mr. Heady said instead what you do is have the Police Officer remove him.

Mayor Zudans said to have the record reflect that Mr. Heady was found out of order multiple times and was removed by the Police Officer, not to return today.

11. COUNCILMEMBER MATTERS

A. Mayor Val Zudans's Matters

Sponsored presentation items by the public (10-minute time limit)

B. Vice Mayor's Tony Young's Matters

Sponsored presentation items by the public (10-minute time limit)

Vice Mayor Young reported that tomorrow night at 8:00 p.m., everyone is invited to the Vero Beach 100 History Panel at Indian River State College. Coffee with a Cop will be held on Thursday at McDonalds from 8:00 a.m. to 10:00 a.m. Jazz on the Lawn, a Centennial Celebration, will be held on October 11th. Also the Centennial Finale Parade will be held on October 26th. He reported that this Sunday Waldo's will be having a Pink Passion get together at 6:00 p.m. for breast cancer. He complimented Ms. Michelle Wagner and Mrs. Anna Brady for their phenomenal efforts they put on for the Centennial Certificate Event for the community. He said they had a tremendous turnout with Pioneer Families. He reported that this Friday, Mrs. Barbara Hoffman will be retiring.

C. Councilmember Laura Moss's Matters

City Council Election on Tuesday, November 5, 2019 (Please Vote)

Go to covb.org for election information. Contact tbursick@covb.org with any questions.

Voter Turnout:

22.62% for COVB election held February 26, 2019

66.12% for General election held November 7, 2018

24.83% for COVB election held November 8, 2016

21.47% for COVB election held November 3, 2015

Source: IRC Supervisor of Elections Leslie Rossway Swan at voteindianriver.com

Councilwoman Moss said we do have an Election this year, the Vero Beach City Council. She thanked the eight (8) candidates for running and six (6) of the eight (8) were in the audience tonight and one (1) is still here. She said it shows a level of caring and concern and she wanted to thank them and say that publically that six (6) of the eight (8) were with us practically the entire evening so that speaks very well of them. She reported that the Election is on Tuesday, November 5th, and to go to the City website for more information on the candidates. The City website is covb.org and they just got a reminder today that if you are not registered you must register to vote by Monday, October 7th, so that would be next Monday, in order to be eligible to vote in the November 5th Municipal Election. She said if you are not registered to please register by next Monday. She said the absentee ballots are already out.

Mrs. Tammy Bursick, City Clerk, reported that some of the polling places have changed. She reported that the people who voted at Trinity Episcopal Church and at Our Savior Lutheran Church would now vote at Christ Church, which is located at 667 20th Street. She noted that this information is located on the City's website.

Join Councilwoman Laura Moss at Leisure Square for Cathie Callery's strength-training circuit class on Mondays from 10:30 – 11:30 a.m.

For further information, call Leisure Square at 770-6500. Leisure Square is located at 3705 16th Street, Vero Beach.

Councilwoman Moss reported that Leisure Square is doing very well and she actually did make it to her strength training class yesterday. She then wished Mr. Jay Bird Miller a Happy Birthday. She said his birthday is October 10th. She wanted to leave on an uplifting note this evening and read "The Puzzle," which was written by Mr. Miller. She said that he has a request for a birthday present and she showed on the screen a picture of the Power Plant stating that he would like the Power Plant to be called *Mr. Miller Music Mill Centennial Park*. She said she loves the fact that he is so creative and thinks big. God bless you Jay Bird and Happy Birthday.

Sponsored presentation items by the public (10-minute time limit)

1) Mrs. Phyllis Frey to discuss City Marina.

This item was heard earlier in the meeting.

D. Councilmember Robert Brackett's Matters

Mr. Brackett said that he would be attending the Florida League of Cities meeting in Tampa this weekend.

Sponsored presentation items by the public (10-minute time limit)

E. Councilmember Harry Howle's Matters

Sponsored presentation items by the public (10-minute time limit)

Mayor Zudans asked did any Councilmember have any interest in the idea of having three (3) City Councilmembers versus five (5) Councilmembers. He said that he thinks that might make some sense.

Mr. Howle said that he would rather see longer terms.

Mayor Zudans said the problem is that voters do not vote for longer terms, for increased pay raises, etc., so those things are always going to fail and they do require going in the Charter. He said the idea that at the same time they are actually saving or paying the same amount for City Council by having less people on City Council, but paying them more and not having the off-year Elections where the voter turnout is low.

Vice Mayor Young said that he values having four (4) other people.

12. ADJOURNMENT

The meeting adjourned at 9:11 p.m.

/tb