

**CITY OF VERO BEACH, FLORIDA
OCTOBER 15, 2019 3:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Terry Thompson of Gates of Praise Church of God.

1. CALL TO ORDER

A. Pledge of Allegiance

Mayor Zudans led the Council and the audience in the Pledge of Allegiance.

Mayor Zudans wanted to correct something that he said a couple of meetings ago and he kept forgetting to do it. He said this goes back to their budget hearings and there were some comments about the use of the pool and how many patrons a day use the pool. It was stated at their budget hearing that there were 400 people a day using the pool. After that they thought that it was said 400 people use the pool a week and he made the comment that you can't believe everything that you read in the newspaper. He said as it turns out, he went back and reviewed this and the reporter did accurately report what was said at the meeting, which was 400 people use the pool every day. He apologized to Mrs. Colleen Wixon, TCPalm Reporter that was what was said at the meeting. He is not sure if it is true, but he wanted to clarify that Mrs. Wixon did accurately report what was said at the meeting.

B. Roll Call

Mayor Val Zudans, present; Vice Mayor Tony Young, present; Councilwoman Laura Moss, present; Councilman 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 – October 1, 2019

Mayor Zudans commented that at the last meeting he said if something is an informational item it should not be in the New Business section. It was reported in the minutes that he said the opposite and asked that this be corrected.

Mr. Howle made a motion to approve the minutes with this correction. Mr. Brackett seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. Howle requested that under City Council Matters 5A-1) there is a request for the City Council candidates to speak. He would like to have that item removed. He said this is not the forum for that. He said that they should be able to speak if they would like under public comment.

Vice Mayor Young also recommended that be reflected as public comment meaning that should be the place for the candidates to speak.

Mayor Zudans commented that this matter is being sponsored by Councilwoman Moss under New Business, but he did suggest that the candidates be heard under public comment (immediately prior to other public comment) and be given five (5) minutes. He personally felt that there was value to people who want to run for City Council to be given some time to give a description of why they are running and what they plan to offer. He said there is nothing stopping a candidate from speaking under public comment for three (3) minutes. The question is do they want to give them a little extra time. He felt that five (5) minutes was reasonable, but would defer to the rest of the City Council on that.

Mr. Brackett did not have a problem with the time limit either way. However, he felt that this needs to be moved to the end of the meeting. There are people in the audience for other business and that is what they are here for to conduct City business. The candidates can be put at the end of the agenda, before regular public comment is heard.

Mayor Zudans said that is what he requested, but the City Clerk put it on the agenda this way.

Councilwoman Moss stated for the community she did check with the City Attorney on this and agreed that it is unusual and there is an electioneering statute that someone cannot get on their "soapbox" at City Hall. She said in an off year election the turnout is historically very low just over a 20% turnout. She said this is especially an unusual year because six (6) of the eight (8) candidates filed to run within the last two (2) days of the filing period, which was in early September. They have a very compressed period of time to campaign, which is only two (2) months. It is also unusual in another way in that the majority of them (candidates) are new comers to the political arena in that they have not served on an Advisory Commission or Board. She said four (4) out of the five (5) sitting Councilmembers had served on a City Board before coming on to Council. She was not aware if Mr. Brackett had served on a City Board or not. She said not that you need to. God bless Mr. Brackett, he ran for office twice before he took his seat, so we will waive that in his case. She said the community gets to know that person through Commissions and Boards and that did not happen this year. She views it as a perfect storm of adverse circumstances. She has been struggling with how to give the candidates additional time because so many people have come up to her and said that they don't know who to vote for and she thought what could be more logical than having them at a City Council meeting to speak for three (3) or five (5) minutes to introduce themselves to

the community and state whatever they want to state. The City Attorney did look into this and the City of Vero Beach would be making history.

Mayor Zudans asked the City Attorney what was this electioneering statute that Councilwoman Moss was referring to.

Mr. John Turner, City Attorney, stated that there is a reference in Section 106.15 of the Florida Statutes, Subsection (3). He said that there has not been any interpretation of these provisions and no direct Attorney General opinions on this issue. After doing some research the section is in the financial part of the Statute.

Mayor Zudans read subsection (3) *a candidate may not, in the furtherance of his or her candidacy for nomination or election to public office in any election, use the services of any state, county, municipal, or district officer or employee during working hours.*” He said that is not what they are speaking of in a public meeting. He said if that was the only thing they were worried about there are no problems.

Mr. Turner said that was the issue that was raised.

Mr. Howle stated that he was not concerned with any of that. He ran for office because he wanted to deal with the administration of government for the City and not all of the other things that they seem to enter into.

Councilwoman Moss requested permission to finish what she was saying. She said this is the most important piece of business that they have tonight and that is who will be elected and sitting in the two (2) open seats next month. There is nothing that they are looking at tonight that is more important than that.

Mayor Zudans said that is not the business of this City Council.

Councilwoman Moss said it should be. She said that she is not running for City Council this year or next year so this is not self-surviving in any way. She said if this goes well she would recommend that the City Council do this every year. She said they should do it at the last meeting before the election and allow the candidates to come in and as part of the meeting speak for three (3) minutes or five (5) minutes, just so people can get to know them. This is their most important business.

Mayor Zudans told Councilwoman Moss that they understand her position.

Councilwoman Moss noted that when she was the Mayor that public comment was at the beginning of the meeting and not at the end. She said that someone can wait for six (6) hours to speak and by then they are speaking to an empty room. They have seen that a number of times. In her opinion public comment should be moved to the beginning of the meeting and she did vote against moving public comment to the end of the agenda.

Mayor Zudans told Councilwoman Moss that she is no longer recognized. The motion is to remove this item from the agenda.

Mr. Howle stated that his motion is under City Council Matter's item 5A-1) be removed from the agenda.

Councilwoman Moss commented that these candidates have already been invited to the meeting. How rude do you want to be.

Mayor Zudans reiterated that the candidates will be called first when it comes time for public comments. This will give them the three (3) minutes that is on the agenda for them to speak. He told Councilwoman Moss that she does not get to choose when in the meeting that happens. That is a decision for the City Council.

Mayor Zudans seconded the motion.

Vice Mayor Young recommended that they amend the motion so that public comment be moved to follow Resolutions, which is item 4-B). The amended motion died for lack of a second.

Mayor Zudans opened the floor for public comments, which there were none.

The motion passed 4-1 to remove item 5A-1) from the agenda with Councilwoman Moss voting no.

Mayor Zudans made a motion to remove item 5A-2) from the agenda, because it should not be under New Business. Mr. Howle seconded the motion.

Councilwoman Moss said that is fine because she does not think that they should be hearing the Ordinances under public hearing tonight because they are incorrect.

Mayor Zudans asked Councilwoman Moss if she had an objection to moving this item to her personal comments. Councilwoman Moss started talking and was told by the Mayor to stop talking because she was not recognized. Mayor Zudans asked if there was any public comment on the motion. No one wished to speak on the motion. Councilwoman Moss stated that Mayor Zudans could not control what she wanted to say about this matter. She will speak about it at the time they discuss the matter.

The motion passed unanimously.

Mrs. Tammy Bursick, City Clerk, requested that item 9-C) be added under City Attorney's Matters – "Discussion of Political Signs."

Mayor Zudans made a motion to approve the request to add "Discussion of Political Signs" under the City Attorney's matters. Mr. Howle seconded the motion and it passed unanimously.

Mr. Monte Falls, City Manager, added under City Manager Matters item 8-C) “Discussion of Traffic Issues in and around Royal Palm Boulevard and Royal Palm Place”.

Mr. Howle made a motion to approve the request. Vice Mayor Young seconded the motion and it passed unanimously.

Councilwoman Moss wanted to pull items 3-A) and 3-B) from the consent agenda. She said that items 4A-2) and 4A-3) should be moved and heard at the next meeting because they are incorrect. She said they cannot be voted on because they are materially incorrect. It is not a political discussion or a political argument.

Mayor Zudans said there is no reason why they cannot discuss the Ordinances when they get to that part of the meeting.

Councilwoman Moss made a motion to postpone item 4A-2) and 4A-3) until the next meeting to allow time for the correction. Mr. Brackett seconded the motion to find out what is wrong with the Ordinances.

Mayor Zudans said when they get to that item on the agenda if there is a reason why they can't vote on the Ordinances then they will address it at that time. He asked Councilwoman Moss if they could discuss the Ordinances at the time they get to them on the agenda.

Councilwoman Moss said whatever you want to do.

Mr. Howle made a motion to approve the agenda as amended. Mr. Brackett seconded the motion and it passed 4-1 with Councilwoman Moss voting no.

B. Proclamations and recognitions by Council.

1. World Polio Day – October 24, 2019

Mayor Zudans read and presented the Proclamation.

2. Presentation of Service Awards to City Employees

Mayor Zudans presented a Service Award to Ical Reddie for his 30 years of service to the City of Vero Beach.

Mayor Zudans presented a Service Award to Arthur Holman for his 40 years of service to the City of Vero Beach.

3. CONSENT AGENDA (include amount of expense)

- A) **License Agreement between Pickleball University, Inc., and the City of Vero Beach**
- B) **License and Construction Agreement between Pickleball University, Inc., and the City of Vero Beach – No. 2019-LA-355**
- C) **Xylem Pumps Contract 1155-B – Contract Price Not to Exceed \$175,000.00**
- D) **Street Resurfacing Program Contract – COVB Project #2019-13 – Bid No. 140-19/JO – (Establishes Unit Prices – Budgeted Amount is \$500,000)**
- E) **Renewal of Contract SRVC-34-2017 – Annual Supply for Pebble Quicklime – Estimated Annual Expenditure: \$490,000**
- F) **Ratification of the Wage Reopener Agreements between City of Vero Beach and the International Union of Police Associations, Vero Beach Police Officers’ Association, Local 6019 – FY 2019-2020**
- G) **Interlocal Communication Agreement**

Vice Mayor Young pulled items 3-A), 3-F), and 3-G) off of the consent agenda.

Councilwoman Moss pulled items 3-A) and 3-B) off of the consent agenda.

Vice Mayor Young made a motion to adopt items 3-C), 3-D), and 3-E). Mr. Brackett seconded the motion and it passed unanimously.

- A) **License Agreement between Pickleball University, Inc., and the City of Vero Beach**
- B) **License and Construction Agreement between Pickleball University, Inc., and the City of Vero Beach – No. 2019-LA-355**

Vice Mayor Young asked Mr. Falls to give the highlights of how this came about.

Mr. Monte Falls, City Manager, explained that at the request of Pickleball University about 18 months ago they requested a lease agreement for a Pickleball program at Pocahontas Park. They went through that process and in working through these issues they found that there were some grants issued for some improvements there so having a lease would not be appropriate to meet the terms of the grants they received, so they needed to do a license agreement. The license agreement needed to include that the facilities would be open to the public and the public would not be denied access. He said that Pickleball University has made some promises to make improvements to the Pickleball facility, which is the need for two (2) licenses. The first license is for the term to allow them to provide their program and the second license is for the construction of the improvements. They worked out a term that would allow them to recover the amount of money that they were going to invest and the construction cost is around \$150,000.

Mayor Zudans commented that this non-profit Pickleball University is going to assume the responsibility for the upkeep and maintenance of these facilities at no cost to the City. The improvements are being done by privately fundraised dollars. Pickleball University

will be responsible for the electric bill and will continue to allow anyone from the public that is not a member of Pickleball University to use the facilities.

Mr. Falls explained that there will be user fees to use the facility just like they have user fees at the Riverside Raquetball courts where someone goes to play tennis. Pickleball University will be the operating agency of the Pickleball program. He said once this license expires all of the improvements made by Pickleball University will come to the City unless they work out a term for future renewals as they move forward.

Mayor Zudans stated that the license agreement is for 15 years.

Mr. Falls explained that in negotiating they started with 10 years like they did with the Dog Park. He said with Pickleball University they have been known as an entity to the community for some time, unlike the Dog Park, and have been operating their programs in Vero Beach and have made promises to make improvements in the \$150,000 range and they have a license agreement for that. He said should Pickleball University not perform and make those improvements that would be a breach of the license and the license could be revoked. The construction license will give Pickleball University up to a year to make all the improvements.

Mayor Zudans expressed that he loves this and thinks that it is great.

Mr. Brackett asked who would be applying for the grants. Mr. Falls explained that the City has already applied for the grant money and received it.

Councilwoman Moss said in terms of the price, who sets the price and keeps the revenue.

Mr. Falls explained that Pickleball University would set the price and the revenue would go to them.

Councilwoman Moss asked if they would be charging only their own members or everyone.

Mr. Falls said he would let Pickleball University speak to that, but he understands there is a membership fee or someone could come and play and have a daily fee.

Councilwoman Moss commented that with a 15-year term it would mean that Pickleball University is putting in "X" amount of dollars and for 15 years they are allowed to keep the revenue.

Mr. Falls explained the agreement is that Pickleball University operates the facility and takes care of all the maintenance and improvements and whatever revenue that they generate is theirs.

Councilwoman Moss asked if they know what that dollar amount would be so City Council has some idea.

Ms. Mari Colacino, President of Pickleball University, said that she would try to answer Councilwoman Moss's question. She said that they will have membership fees as they have had since 2015, and drop in fees. She said after 2:00 p.m. the facilities will be open to the public with no fees. She said that the membership fees are necessary because down the road (six (6) to seven (7) years) they will need to resurface the courts. Since the City will no longer be involved they need to take some of the funds and put them into a safeguard. The question came up on whether or not they have enough funds right now to take care of the facility. She said currently in their fundraising account they have \$144,000. She has received an estimate of \$109,000 to redo the north courts and \$27,000 for the south courts, so they have enough money in their fundraising account to cover that. She said that they will start doing these renovations starting in April, 2020 and they will be giving their members lots of heads up about the renovations. They anticipate that the whole project will take between two (2) and three (3) months.

Councilwoman Moss wanted to make sure that the public did not have to wait until 2:00 p.m. to use the courts.

Ms. Colacino said that the public can pay a drop in fee and play on the courts, which is the way they have done since 2015. They have never wanted to be a private institution, it has always been about the public and having the courts be safe for the general public and their membership.

Councilwoman Moss said that it sounds like they are not limiting public access to public property, which was a concern of hers.

Vice Mayor Young asked if in the license there was a clause that addressed if another private entity wanted to come and make some input to the courts and could they (City Council) be alerted to that before another agreement is made.

Mr. Turner stated that Pickleball University is not authorized to assign or sublet any of the properties.

There was no one wishing to be heard.

Vice Mayor Young made a motion to approve the Pickleball license agreements. Mr. Howle seconded the motion and it passed unanimously.

F) Ratification of the Wage Reopener Agreements between City of Vero Beach and the International Union of Police Associations, Vero Beach Police Officers' Association, Local 6019 – FY 2019-2020

Mr. Falls reported that the City and the Union 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 the FY 2019/2020. The parties have come to an agreement that all members will be given a 3% wage increase.

Mr. Howle made a motion to approve the wage reopener agreement. Mr. Brackett seconded the motion and it passed unanimously.

G) Interlocal Communication Agreement

Mr. David Currey, Chief of Police, reported that the Marjory Stoneman Douglas High School Public Safety Commission recommended that counties be required to develop and implement communication systems that allow direct radio communication between 911 public safety answering points and first responders outside the normal area to provide more efficient dispatch of first responders. This requires each County Sheriff to facilitate an Interlocal Agreement between all first responder agencies within the County.

Vice Mayor Young asked if the new radios will allow this. Chief Currey said they would.

Mr. Brian Heady commented that he would have a problem if there was something on the books that did not allow the agencies to have communication with each other.

Mayor Zudans said that does not exist and this is required by law.

Vice Mayor Young made a motion to approve the Interlocal Communication Agreement. Mr. Brackett seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) An Ordinance of the City of Vero Beach, Florida; requested by Florida Institute of Technology, Inc. to annex property located at 805 46th Place East, Containing 4.56 Acres more or less, pursuant to the Voluntary Annexation Provisions of Section 171.044 Florida Statutes; Providing for an Effective Date. – Requested by Applicant (Florida Institute of Technology)**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, reported that the City received a voluntary annexation application petitioning the City Council to annex a parcel located at 805 46th Place East (east of north SR A1A). The parcel is contiguous to the City limits to the south. The reasons the applicant is seeking the annexation as stated in the application is because of the proximity of the property to the City limits, the property is now an enclave surrounded by two (2) municipalities (Indian River Shores to the north and west, south the City), benefits of the service of the City police, a voice in the City's development and governing, and redevelopment of the parcel under City regulations is preferred. The applicant seeks a City Comprehensive Plan Future Land Use Map designation of C, Commercial and C-1A, Tourist Oriented Commercial Services Zoning

District. As stated in the application, development of the property in a manner consistent with the adjacent properties in the City limits and Indian River Shores will be more favorable to the productive use of the property. The benefits include having the entire portion of the property zoned C-1A. Mr. Jeffries went through his Power Point presentation (attached to the original minutes). Staff finds that this is consistent with the annexation policies. The Planning and Zoning Board recommended approval of the annexation 5-0 and staff recommends approval.

Councilwoman Moss understood that Mr. Jeffries was aware that this would create a traffic problem. Mr. Jeffries said that an *analysis indicated that there is a potential for intersection improvements along the SR A1A corridor to maintain level of service standards*. Councilwoman Moss reported that she is the City's Representative on the Metropolitan Planning Organization (MPO) and things happen very slowly with them. For example, the turning lanes coming east on both bridges to make a turn north on A1A she started that in 2017 when she was the Mayor and that will finally occur five (5) years later in 2022. She said that Kimley Horn also did a study having to do with this particular parcel of property and they indicated that the *intersection analysis results indicate that the intersection of SR A1A and 17th Street operates with a failing level of service during existing traffic conditions*.

Mayor Zudans indicated that 17th Street and A1A was two (2) miles away and wondered what that had to do with this property.

Councilwoman explained that Kimley Horn did this analysis and they consider that part of the study area. She said that Kimley Horn determined that, she did not. In addition to that there were other concerns. She said this property is very close to the ocean. If they were any closer they would be developing the ocean. It is so close to the coastal conservation control line that she feels that raises serious concerns and in her mind very serious alarms with regard to this. She believes that this is a violation of their Comprehensive Plan. Because their Comprehensive Plan for coastal management calls for being very protective of these areas and not for developing them. As they are looking at this right now that is the proposal to develop the land and to develop it pretty intensely. She referred to additional information indicating an increase in Solid Waste production if it is developed to its full capacity. The study indicates that the solid waste use will increase substantially depending how the property will be used. If it is low density residential it will be 17 tons a year and if it is commercial it is 1,024 tons. She said under drainage it says: *“any redevelopment of the site would require performance to all current City applicable codes for site development including water quality and quantity requirements. Significant drainage improvements will be required with any redevelopment of the potential site.”* She asked the community if they were here when the red tide occurred. She said that she was. It was not in the Lagoon, but in the ocean in the vicinity of the area shown in the photographs as part of this matter. She said the other consideration according to the report was sanitary sewer and potable water. The sanitary sewer generation rates will increase slightly. She said there are multifaceted concerns here with this property. She is not opposed to annexation but felt that this should be a conservation area and should not be developed. She said this property is owned right

now by a non-profit organization and she does not know what they paid for the property and maybe the City Attorney can address that and right now it is conservation. If the property cannot be used for educational purposes then conservation would be a worthy use of that land.

Mayor Zudans just heard Councilwoman Moss say that she was not opposed to annexation. He said this first Ordinance is only about whether or not they should annex the property. He asked Council if there were any other questions from staff on annexation of this property.

Mr. Howle felt that if the City did not annex this property into the City they could lose control over the property and would have no control over what a developer does. He asked Mr. Falls if he was aware of any height restrictions in Indian River Shores where he believed the property was located.

Mr. Falls explained that the property is located in Indian River County.

Mayor Zudans opened up public comments at 3:57 p.m., just for the part of discussing annexation.

Mr. Patrick Healy, General Counsel for the Melbourne based Florida Institute of Technology (FIT), requested to speak. He explained that this request for annexation is part of an effort to sell this property. It is no longer being used for marine research purposes for the College. All the research activity ceased about three (3) years ago. The property was ravaged by storm events and it is not being maintained well and is an eyesore. When the property is sold it will be cleared and be a productive use for the community. He said that FIT is in the stages of developing a health research building campus and the cost is estimated at \$18 million. The proceeds from the sale of this property will go a long way in providing equipment for that facility. He said by annexing this property into the City it will enhance the marketability for the property and also provide some significant benefits to the City. He said all of the potential purchasers of this property have been multi-family developers. The property is currently under contract with a local Vero Beach developer who intends to construct condominiums on the property. The request satisfies all legal requirements for annexation into the City and will give the City control on how and what is developed in the future. This would result in a significant contribution to the City's tax base. He asked Council to approve the annexation.

Mr. Brian Heady commented that one (1) of the things that Councilmembers have been concerned about is that when they sold the electric they got rid of income. This provides income to the City and will be on the tax rolls. The condominiums will be a large contribution to the ad valorem taxes in the City. He understands Councilwoman Moss's concerns, but Mr. Howle is right if they annex the property into the City it means that the City has some control and say as to what the development will look like. He said they should be saying thank you to anyone that wants to annex into the City.

Mr. Joseph Guffanti commented that if this piece of property has become so much more valuable to the people who own it now then maybe they should pay to have it incorporated into the City of Vero Beach. He said if the City is improving the value of this property then they should benefit from it and get a kickback from them.

Vice Mayor Young made a motion to adopt the Ordinance. Mr. Howle 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.

- 2) An Ordinance of the City of Vero Beach, Florida, amending the Comprehensive Plan Future Land Use Map by Changing the Future Land Use Designation of Annexed property from Indian River County designation L-1, Low-Density Residential-1 to City of Vero Beach Designation C, Commercial for the property located at 805 46th Place East, containing 4.56 acres more or less; Providing for an Effective Date – Requested by the Applicant (Florida Institute of Technology)**

The City Clerk read the Ordinance by title only.

Mr. Jeffries reported that this is a request to amend the City's Future Land Use Map (FLUM) for annexed property from L-1 Low Density Residential to C, Commercial. The request is a small scale (4.0 acres or less) map amendment. The parcel is contiguous to the current City of Vero Beach City limit boundary line to the south. The property is partially developed with university research and development facilities. Existing commercial development is adjacent to the west of the parcel. The property to the south is in the City and is currently vacant or undeveloped. To the north is the Indian River County Tracking Station Park and to the east is the Atlantic Ocean. Pursuant to Section 65.22(i)(1), Florida Statutes, staff finds that the requested amendment is justified in order to comply with the Florida Statutes, which requires the City to adopt a Comprehensive Plan Amendment that designates a future land use designation and corresponding zoning for the annexed area. Staff finds the amendment is justified in order to comply with rules governing annexed property. Staff finds the map amendment is consistent with Policy 1.17. This application has been reviewed by staff and a Planning and Zoning public hearing was held. Staff finds the provision of public facilities and services and the level of service and concurrency requirements should be met with the potential development of the property. Staff finds environmental impacts will be subject to environmental regulations as part of any future development of the parcel. Staff agrees the C, Commercial land use designation is compatible with the surrounding areas in terms of existing land use map designations and uses. Based on the analysis and findings staff recommends approval and the Planning and Zoning Board also recommended approval with a vote of 5-0. A rezoning traffic impact analysis has been provided by Kimley Horn (on file in the City Clerk's office), which indicates the worse scenarios.

Mayor Zudans asked if there was a commercial development done and there were some traffic concerns that would need to be addressed, would that be the responsibility of the developer to meet all those requirements.

Mr. Jeffries answered yes. He said that those concurrency requirements must be met and are addressed during the site planning process.

Mr. Brackett asked if there would be any additional impact on the level of service for the police department, as well as for water and sewer.

Mr. Falls explained that the comments that came back from the different departments indicated that there would be no impact and no additional need for more manpower.

Councilwoman Moss stated that the Ordinance itself is incorrect on page 1, paragraph 2, in that the date stated is *September 17, 2019* and not *October 15, 2019*. Councilwoman Moss was told by staff that the correction will be made. Originally this hearing was to be heard on September 17th but it had to be postponed. Councilwoman Moss stated that in addition to that she truly believes that this Ordinance violates the Comprehensive Plan. She was looking at Chapter 2, The Land Use Element Goal and read that it states “*Vero Beaches quality of life, individual identity and small town character simplified by low density scale of development will be maintained and continued in a manner that preserves, and enhances coastal, environmental, natural and historic and cultural resources.*” She said that they were not preserving and enhancing the coastal by doing this.

Mr. Jeffries cautioned Council that they cannot make their decision based specifically on the goals. He said any land use decision has to be based on meeting the objectives and the policies in the plan and not the general goals of the plan.

Councilwoman Moss did not believe they were doing that.

Mr. Jeffries explained that there are case laws where land use has been overturned because of what the city based it on. He briefly went over what permits would be needed even before construction could start.

Councilwoman Moss expressed that commercial is a very different zoning requirement versus residential low density. She said it is completely different. The property just south of this location is undeveloped and there is nothing there. She asked Mr. Jeffries to address commercial and residential. She said this property is zoned low density right now in the County.

Mr. Jeffries explained that low density has a number of units that are allowed to be developed. With this development they are requesting an increase in density, which is why they are requesting it commercial. Staff has found the commercial designation is compatible with the surrounding properties. It is a very consistent land use. He said if you look at this there is Jaycee Park to the County Park that have commercial designation, which would be consistent with that development pattern. He said any type of development impacts will be dealt with concurrency.

Councilwoman Moss stated that if they wanted to get rid of goals then in Section 1.10 under policies it states *“the commercial land use designation shall be applied to those areas that are suitable for small to medium scale urban development and intensities. Those areas shall be limited to lands located near existing urban uses or near the center of several neighborhoods or areas in transition from residential uses to non-residential uses.”* She said the area south to that is not developed at all. She said just like the date was wrong it does not meet this requirement.

Mr. Brackett said that it does meet the requirement based on the zoning. He said everything in this area is zoned C-1.

Mr. Jeffries agreed and said that staff’s finding is that it is adjacent to an existing urbanized area.

Councilwoman Moss asked what is qualified as environmentally significant land.

Mr. Jeffries said there is environmentally significant land in the City that is designated for conservation and most of those lands are along the Lagoon.

Mr. Falls added that environmentally significant land is typically for undeveloped land that has already been identified as environmentally sensitive land. He said this land was developed over 25 years ago when it was the Tracking Station. He said declaring it environmentally sensitive went away when the development occurred.

Councilwoman Moss asked how many square feet are developed right now.

Mr. Jeffries said from the aerial it looks like the entire property has been developed except for the dunes to the east.

Mayor Zudans pointed out that this is someone’s private property. He said just because certain values are put on it that does not mean that they can give away someone else’s property. He said FIT does not have to come in and justify to the City what good cause they will be using the property for. It is their property. The question is does it fit with the development of everything around it and everything around it is commercial. He said no one can take someone else’s property because they think that it should be something else.

Councilwoman Moss said she was not looking to take anyone’s property. It is interesting to her that non-profit organizations you would think operate for the greater good. She understands that they (FIT) are a non for profit business and does not know what FIT paid for this property and perhaps their attorney can answer that question.

Mayor Zudans said it is not any of their business what FIT paid for the property.

Councilwoman Moss commented that FIT did not always have this piece of property. She said that this property belonged to the people at some point and the government

allowed them to use it for educational purposes. She did not know if it is stated anywhere that the government said that the property could be sold for commercial purposes.

Mayor Zudans asked Councilwoman Moss if she was saying that this was not FIT's property.

Councilwoman Moss answered no. She is saying that she does not know where it is stated that the government said that FIT can sell the property for commercial purposes.

Mr. Brackett commented if that was the case it would have nothing to do with the zoning. He said Council is just trying to zone something.

Mr. Turner said that was correct.

Mr. Patrick Healy, General Counsel for the Melbourne based Florida Institute of Technology, stated that this property immediately to the west is fully developed with a CVS pharmacy and a 7-11 convenience store. He said assigning a land use designation other than commercial for this property would be unreasonable in his opinion. The supporting documentation filed with this application notes every property abutting A1A and each property between A1A and the ocean just north of Jaycee Park is either commercially zoned or residential being used for a commercial purpose. All the property to the south and west is commercial. He said the most appropriate designation for this property is commercial.

Mayor Zudans opened up this part of the meeting for public comments at 4:20 p.m.

Mrs. Lamar Notargiacomo said that there would be significant environmental impacts if this property was to be allowed to be commercial. The Tracking Station was open to the public. The point is yes you can decide to stay at low density or high density. She was not in favor of the rezoning.

Mr. Joseph Guffanti said this was all about money and someone is going to make a lot of money with this deal.

Mr. Don Loucks stated that he lives about 250 yards from this property. It was his understanding that Nassau donated the property to FIT and there was not any expense involved in that. He is sympathetic with Councilwoman Moss to a degree. He does not want to see high-rise structures built on the beach and felt that single dwelling would be much more appropriate. Also, if there is any expense to the City in approving the annexation or anything else, that expense should be borne by FIT. They received the property for nothing and they are going to profit heavenly. He is sympathetic with FIT wanting to develop their campus, but lets keep the expenses to the City and the taxpayers out of the equation.

Mayor Zudans did not think that there would be any direct cost because it was just their current staff doing their job. He said that ad valorem taxes will be paid in perpetuity on a piece of commercial property.

Councilwoman Moss commented that it was said at the Planning and Zoning Board meeting that the estimate for the ad valorem taxes was just over \$6,000.

Mayor Zudans said that was probably for undeveloped property.

Mr. Jeffries explained that was based on existing development and not future development.

Councilwoman Moss stated that was the reason often given and somehow it never materializes.

Mr. Miguel Duran commented that he is a contractor and a resident of the City. He said that life goes on and changes are made. This is a beautiful town and they cannot stop progress. Anyone has the right to build on this property and make a profit from it.

Mayor Zudans commented that the community may have seen in the news just last week that at the County there was someone who had a piece of commercial property and it was zoned in a way that they could have a commercial concrete plant. The County decided that they did not want it in the area because the neighbors started complaining. The County changed the zoning and would not allow the concrete plant to be built. It went up to the Fourth District of Court of Appeals and the Judge ruled in favor of the property owner saying that government can't take away citizens private property called the "Harris Act." He said they do have to be careful when it is someone's private property you cannot take that value away from them.

Councilwoman Moss said that no one is doing that. She said that FIT received the property from the public and it is public land.

Mr. Healy referred to the comment that the beach is closed off. He does not know what the source of that information is, but said that FIT has actually dedicated a public easement over the beach, which was results of negotiations that they had with Indian River County regarding access to the property. They deeded a 15' wide strip along 46th Place to the County and it is now public right of way on to the property. They also deeded a 15' wide strip that runs north and south along the entrance to the Park to the County. In addition to that they agreed to a 25' wide buffer on the north side of the property in the Park. With regard to the tax return on this property once it is annexed into the City after being rezoned and developed the figure that was in the material that Councilwoman Moss referenced was based upon the Tax Appraisers valuation of the property, which is currently vacant property. The appraised value of the property is more than three (3) times of what the assessed value is, which is insignificant to what the value of the property will be once it is fully developed.

Mr. Howle made a motion to approve the Ordinance with the amendment being made to the first place of the Ordinance to change the date. Mr. Brackett 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.

Quasi-Judicial

- 3) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the Zoning District Designation of annexed property from Indian River County Designation RS-3, Single-Family Residential District to City of Vero Beach Designation C-1A, Tourist Oriented Services Commercial District, for the property located at 805 46th Place East, containing 4.56 acres more or less; Providing for an Effective Date. – Requested by the Applicant (Florida Institute of Technology)**

The Mayor read the Ordinance by title only and followed the procedures for conducting a quasi-judicial hearing. He asked the City Council if there were any ex parte communications and there was not any.

Mayor Zudans disclosed that someone came up to him and said that the property should not be developed and the justification that was given was because the developer could drive down the cost that the County would pay to expand some other beach. He thought that this was an inappropriate request for someone to ask of him and had no influence on his vote.

The City Clerk swore in all witnesses testifying at today's meeting enmasse. Exhibits marked for identification will be kept by the City Clerk.

Mr. Jeffries reported that there is a request to amend the City's zoning map for annexed property from RS-3, Single Family Residential to C-1A, Tourist Oriented Services. The parcel is contiguous to the current City of Vero Beach City limit boundary line to the south. The parcel is currently designed L-1, Low Density Residential on the County's Future Land Use Map. The proposed City future land use is C, Commercial. Pursuant to Section 65.22(i)(1) of the Florida Statutes, staff finds that the requested amendment is justified in order to comply with the Statutes, which requires the City to adopt a zoning district designation for the annexed area. It is consistent with the rezoning with the Comprehensive Plan and Zoning District standards and criteria. The amendment is compatible with the Zoning Map designation within the immediate vicinity of the property change. Staff finds the C-1A zoning district designation is compatible with the surrounding zoning map designations. The amendment is consistent with the concurrency requirements of the Comprehensive Plan and Land Development Regulations. The amendment is consistent with the maintenance of an orderly and logical development pattern. The requested amendment is consistent with the public interest and is in harmony with the purpose and intent of the land development regulations. The Planning and Zoning Board recommended approval 5-0 to adopt this Ordinance. Staff recommends approval of a zoning map amendment to the C-1A zoning.

Mr. Patrick Healy, General Counsel for Florida Institute of Technology, said that he was available to answer any questions.

Mayor Zudans asked if there was any public testimony, which there was not.

Councilwoman Moss asked the City Attorney with regard to the vote for this it is her understanding this does not have to do with opinion or independent thought of any kind. They are just saying what is the existing regulation. It is not a point of argumentation. She does not agree that this piece of property should be zoned commercial, however the zoning allows for it. So it is not a legislative decision and it is allowable so therefore they are just enforcing what is allowable.

Mr. Turner commented that what must be determined is if it is competent substantial evidence applicable to the code provisions to proceed in this nature. So Council must find that evidence does exist. If this was legislative it would only be debatable and this is a higher standard that Council must find before they can approve it.

Mayor Zudans read what their motion must state in order to approve the Ordinance.

Councilwoman Moss expressed that she has some serious concerns regarding traffic impact and she has knowledge of that for a number of years now. If she votes against the Ordinance that is the reason for it. However, she cannot prove that today.

Mr. Turner asked if there has been any testimony presented on traffic impact.

Mr. Jeffries commented that the decision to do a zoning map amendment must be based on the criteria in their development code. He said in staff's report they go through the different criteria. He said one (1) of those criteria is the impact on services, which is where the traffic analysis will come in. He said staff recognizes that there will be traffic impacts, but those impacts will be addressed at the site planning process and they will need to meet the concurrency so that capacity is there.

Councilwoman Moss asked how will that be addressed. She said it doesn't go through the MPO.

Mr. Jeffries explained that since this is a State road it will go through the County for concurrency, which is required by the code. It will be reviewed by the County's Engineering Department and at that time if signalization is required that can be part of the development.

Mayor Zudans recalled having served on the Planning and Zoning Board these matters came up all the time and sometimes people would be told by the Planning and Development Director that if a signal is needed that would have to be addressed.

Mr. Turner said that is the sworn testimony on traffic.

Vice Mayor Young made a motion that based on the competent substantial evidence presented and the applicable code provisions have been met and that Council grants the Ordinance as proposed. Mr. Howle 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.

It was noted that the correction to the first page of the Ordinance where the date is incorrect will be made.

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 Department**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the application was received by the City for consideration to release the east 5 feet of the 15 foot drainage easement on Lot 2, Kiss Subdivision to accommodate a proposed garage on the property. Public Works has verified that this release will not impact the existing drainage and has approved the release of the east 5 feet of the drainage easement. The Planning and Development Department has also reviewed and approved this request.

Mayor Zudans opened and closed the public hearing at 4:49 p.m., with no one wishing to be heard.

Mr. Brackett made a motion to adopt the Resolution. Vice Mayor Young 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.

- 2) A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to enter into a Supplemental Joint Participation Agreement with the Florida Department of Transportation for the Rehabilitate North Apron and Construct Apron (Taxiway E Ramp) Project (FDOT #437981-1-94-01) at the Vero Beach Regional Airport; Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that this project was originally approved by the City Council on February 7, 2017. The original fee submitted to the Florida Department of Transportation (FDOT) for this project only included 180 hours of RPR time as opposed to the required 1,080 hours for this project, a typographical error by the engineer that was

not noticed until after the grant was already issued. In order to correct this error, the engineer requested that staff pursue additional grant funding to cover the actual cost for RPR services. Staff and FDOT reviewed the additional costs and were in agreement, accordingly, and FDOT has issued a Supplemental Joint Participation Agreement to fund the correction.

Mayor Zudans opened and closed the public hearing at 4:50 p.m., with no one wishing to be heard.

Mr. Howle made a motion to adopt the Resolution. 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.

3) A Resolution of the City of Vero Beach, Adopting an amended Economic Development Plan for the “Historic Downtown Vero Beach Economic Development Zone”; and Providing for an Effective Date. – Requested by the Historic Economic Development Committee

The City Clerk read the Resolution by title only.

Mr. Jeffries explained that the Historic Downtown Vero Beach Economic Development Zone Committee (EDZC) is presenting the amended Economic Development Plan, pursuant to the Economic Development Zone Ordinance, revising the identified capital and noncapital projects for implementation over a ten year period to enhance areas within the Historic Downtown Vero Beach Economic Development Zone. The current plan was adopted in 2015. The projects in the proposed Capital Improvement Program met the definition of infrastructure or capital projects under the City Ordinance establishing the economic development zone and applicable Florida Statutes. The Committee voted to recommend only the appropriation of \$83,500 for Downtown lighting and a security project in FY2019. The appropriation of the EDZC funds will require a separate action on a budget amendment by City Council to appropriate the EDZC funds.

Mayor Zudans opened and closed the public hearing at 4:51 p.m., with no one wishing to be heard.

Vice Mayor Young made a motion to adopt the Resolution. Mayor Zudans 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.

At this time Council took a five-minute break and the meeting reconvened at 5:00 p.m.

5. CITY COUNCIL MATTERS

A) NEW BUSINESS

- 1) **City Council candidates running for election on November 5, 2019 have been invited to speak. Three minutes per candidate to be timed by City Clerk. This matter is not a debate nor O&A forum. The eight candidates (alphabetical order) are: John E. Cotugno, Joe Graves, Brian Heady, Bob McCabe, Jeff Nall, Rey Neville, Estelle Panagakos, Nick Thomas. Their contact information is attached herein. Election information available at covb.org. – Requested by Councilwoman Laura Moss**

Candidates spoke for three (3) minutes under public comment.

- 2) **Traffic/Environmental Impact of Future Development**
 - a) **Rezoning Traffic Impact Analysis for 4.70 – Acre Parcel 46th Place Rezoning prepared by Kimley Horn**
 - b) **Letter dated 09/28/2017 from Mayor Laura Moss to Metropolitan Planning Organization (MPO)**
 - c) **Response from MPO dated 10/10/2017**
 - d) **Response from MPO dated 09/12/2019**
 - e) **2035 Comprehensive Plan Map Series: Figure 5 (Wetlands and Seagrass); Figure 1 (Existing Land Use 2015); Figure 8 (Future Land Use 2015) -****Requested by Councilwoman Laura Moss**

This item was heard earlier in the meeting.

B) OLD BUSINESS

6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

- Public Hearing to be held on November 4, 2019 at 5:00 p.m.**
- A) **An Ordinance of the City of Vero Beach, Florida, relating to the Implementation of Affordable Housing Incentives, creating Chapter 79, Development Incentives, Article I, Affordable Housing Incentives; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Applicant (Sandra McLaughlin)**

The City Clerk read the Ordinance by title only and reported that the public hearing on this Ordinance will be heard on November 4, 2019.

- Public Hearing to be held on November 4, 2019 at 5:00 p.m.**
- B) **An Ordinance of the City of Vero Beach, Florida, related to the Budget for the City of Vero Beach, Florida, for the period beginning October 1, 2019 and ending September 30, 2020; Providing and Establishing Revisions to said Budget based on revised Revenue and Expenditure Estimates; Providing for an Effective Date. – Requested by the Finance Director**

The City Clerk read the Ordinance by title only and reported that the public hearing on this Ordinance will be heard on November 4, 2019.

Public Hearing to be held on November 4, 2019 at 5:00 p.m.

- C) **An Ordinance of the City Council of the City of Vero Beach, Florida, Deleting subpart (B)(1) “Alarm Systems” from Chapter 2, Section 2-262 City Code; Amending City Code, Chapter 34 Emergency Services; Deleting and Replacing Article II Alarm Systems of Chapter 34 Emergency Services, Providing for Definitions, Creating Position of Alarm Administrator, Registration of Alarm Systems, a Regulatory scheme for administering and managing the City’s response to Alarms, Duties of Alarm Users and Alarm Installation and Monitoring Companies, Establishing Methods for setting Fees, Fines and an Appeal Process, and Providing for other matters properly relating thereto; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by Police Chief**

The City Clerk read the Ordinance by title only and reported that the public hearing would be heard on November 4, 2019.

Public Hearing to be held on November 4, 2019 at 5:00 p.m.

- D) **A Resolution of the City Council of the City of Vero Beach, Florida, Adopting a Revised Leisure Square Rate and Fee Schedule; superseding all previous Leisure Square Rate and Fee Schedules; and Providing for an Effective Date. – Requested by the Finance Director**

The City Clerk read the Resolution by title only and reported that the public hearing would be heard on November 4, 2019.

7. CITY CLERK MATTERS

The City Clerk went over the openings that the City currently has on some of their Boards/Commissions.

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

- A) **Beachside Parking Proposed Solutions Presentation – PW Project #2018-13-\$70,950**

Mr. Matt Mitts, Public Works Director, stated that the consultant from Kimley Horn was here today to present their findings on the Beachside Parking study.

Mr. David Paxton, of Kimley Horn, stated that he was at their May 21, 2019 City Council meeting where Council directed them to move forward with Phase II of the Beachside Parking study. Phase II explored possible solutions along with obtaining community

input at public meetings. Workshops were held on September 24, 2019 at the Holiday Inn on Ocean Drive. He has prepared solutions based on their professional judgment, experience with other municipalities dealing with parking problems, and local community input. Solutions are identified in short (0-2 years), mid-term (3-5 years), and long term (5-10 years) time frames. Once he receives direction from Council today they will prepare a draft report that can be used as a planning tool for the City to begin improvements and that will be incorporated into the final report. He asked for Council's feedback today. He gave a Power Point Presentation (attached to the original minutes). Questions and answers took place during his presentation.

A brief discussion about having a shared parking garage took place.

Mr. Paxton discussed on street parking where they would pick up an additional 79 on-street parking spaces in front of commercial and multi-family residential buildings and they were looking at about \$400,000 to be able to do this, which he said is about the same amount of parking spaces they would get if they were to construct a parking garage.

Mr. Howle liked the on-street parking solution including the LPR system, which would probably be the quickest way to add incentive for quality enforcement and also create the parking spaces that they need. He felt that would be an immediate solution.

Councilwoman Moss said that sounds good and asked if there was a budget for it.

Mr. Falls said that is the elephant in the room. The cost to do the project is \$400,000 and it has not been budgeted.

Mayor Zudans asked why does it cost \$400,000 do that. Mr. Paxman said because it is curb and gutter. Mayor Zudans suggested parking on the grass.

Mr. Falls said if they did that they are talking about all this parking that will be high use and high intensity uses. He said if you have a parking lot that is not used too much you could have unpaved parking, but if it is going to be frequently used their Code requires that it be paved.

Councilwoman Moss asked if they used it where a single car was parking there all day long how would that usage work out.

Mr. Paxton said that the next step would be to issue a draft report and then they will have another opportunity to review the draft report before the final report is presented.

Mr. Brackett wanted to hear more about on-street parking. He thought it was a great idea to have parking on the side streets. They also talked about different times allowing for parking (3 hour, 4 hour, etc.), and he wanted to hear more about that. He said the big problem area is to the north where they have a couple of hotels and there is not any all day parking in that location. It is all on-street parking. He wanted to see which streets

would be used for all day parking and which streets would only allow so many hours for someone to park there.

Mr. Howle commented that the current income from parking infractions is currently about \$100,000. He was wondering if having the LPR could at least double that efficiency then that portion would more than pay for itself. Then the only costs that they would have to worry about is the new off site parking.

Mr. Jeffries reported that the Code requires everything except single family homes off street parking must be surfaced. They can use an alternate material if they can confirm there is no soil erosion or dust. He said that kind of parking is usually used for overflow parking for churches.

Mr. Howle asked when they are talking about shared parking agreements, specifically for parking, does that have any influence on construction shared parking agreements.

Mr. Jeffries said those are two (2) separate items.

Mr. Falls commented that they need to find some new terminology. He said the shared parking agreements that they refer to in their Code is a tool to use for zoning and development. They are talking about parking agreements between the City and a private group to be able to be made available for everyone.

Mr. Paxton felt they were talking about both ways. The City's role might be to help facilitate those agreements between private properties for parking spaces. The other part is making parking available to the public as well. Either way it is addressed it will solve the problem because it will get the employees off the street and make parking available for the public.

Vice Mayor Young asked Mr. Paxman if he included in his counting of parking spaces the lot south of Laughing Dog. He knows there are potential spaces there that can be used.

Mr. Paxman said those spaces were included.

Vice Mayor Young asked Mr. Paxton if he factored in the demand for those that are only interested in going to the beach.

Mr. Paxman commented that the incentive for someone going to the beach would be that they probably would be staying a little longer and would want to park in an off street lot.

Vice Mayor Young thought if they had a City agreement for the Laughing Dog lot people going to the beach could use that parking lot.

Vice Mayor Young asked Mr. Paxman if he was satisfied with the feedback that he received when holding the workshops.

Mr. Paxman answered yes. He said that there were fruitful and good discussions that took place.

Vice Mayor Young commented that golf carts is a strategy that may be beneficial.

Mr. Paxman asked if the golf carts have license plates on them.

Mayor Zudans explained that there are some areas in the City where people are allowed to drive a golf cart on City streets. He agreed with allowing people to drive golf carts on City owned streets where the speed limit is below 25 mph. He asked Mr. Paxman if they could establish more parking if more people were using golf carts.

Mr. Paxman said he hasn't dealt with golf carts too much, but if it was something they could implement with the Code then it can be looked at.

Vice Mayor Young brought up the idea of people selling parking spaces like it is done at football games. He wondered if they could integrate that idea for the deep demand times.

Mr. Paxman said the most premium parking lot would be the one right in front of the beach so they could start by implementing paid parking there and see how well it is utilized.

Mayor Zudans felt that most City Councils' would be against any type of paid parking, which is what the community wants. He thanked Mr. Paxman for putting this all together. He was happy that they have found so many parking spaces on the side streets. He did not think that they should be spending money on garages or dealing with paid parking or shuttles, etc. Like what Mr. Paxman has suggested they get those 79 parking spaces as inexpensively and quickly as they can. Then get the LPR systems in place. Then let the private companies try to find parking spaces for their employees knowing that they can't "game" the system anymore and it will take care of itself. He does not think that they should do anything more than that.

Mr. Brackett brought up millings for alternative ways to use a parking lot.

Mr. Falls explained that the City has never forced any of these off street parking places to provide parking because they looked at the businesses to maintain the right of way between their property and the street. If they are going to do something different and build these parking spaces then the City would be responsible to take care of them. He said millings are a great product, but they are not a finished looking product. If they want it to be the finished look then it needs to be curb and gutter. He said there is no budget to do this project. They are looking at about half a million dollars in these short term improvements that have to be funded from somewhere. These improvements benefit a geographical area and they need to talk about if they want that geographical area to bare the costs or do they want the general taxpayer to bare the costs. He said that is a tough policy decision where he will be looking for some direction.

Mayor Zudans commented that this is basically an infrastructure capital project so it will not be coming out of the operation budget and can come out of capital funds, which they do not have a shortage with.

Mr. Falls explained that they do have about \$3 million of unfunded capital projects in the five (5) year capital plan. He is not opposed to putting this project in that capital funding, however this serves a geographical area.

Mayor Zudans thought that was ridiculous. He said that these people are paying taxes just like everyone else. He felt this was a capital expenditure and high on the list of important projects and that is where the money to fund it should be coming from.

Mr. Brackett agreed that this was a very important issue and has been talked about for years. They need to address the issue and find a way to fund it.

Mr. Howle commented that he has said from the beginning that they needed to have a professional parking engineer look at their situation and do whatever they indicate needs to be done. He said this needs to be done now and not 20 years from now.

Councilwoman Moss asked Mr. Paxman if he could come back to them with different cost proposals for the on-street parking.

Mr. Paxman said the numbers they are seeing, such as the \$400,000 are planning numbers on what they feel it would cost to do these types of improvements.

Mr. Falls commented that they have done these types of programs where the City pays a portion of the costs and the property owners pay a portion of the cost based on the benefit derived. He said that is an alternative. He said if Council wants to take the money out of the 304 Funds they can slide some projects around and find a way for this to be done. He just wants to have this discussion because this is not the only place in town that they are going to have parking issues where they are going to be looking for solutions and this will be the model.

Mayor Zudans said that he was not a fan of special tax assessments. This is a higher priority to him than some of the other capital improvements so they must decide what project they want to fund and he would move this project up on the list.

Vice Mayor Young agreed that was a discussion that they will need to have. He said there is a lot of infrastructure that has been declining over the years and do they want to address those needs.

Mayor Zudans stated that you have to pick your priorities if you have limited resources.

Mr. Paxman commented that the next step would be for him to send a draft report for Council to review and provide any additional comments.

Councilwoman Moss asked with the shared parking will he be making specific suggestions in regard to sites that may be amendable to that concept.

Mr. Paxman explained the two (2) sights as shown in the presentation are the most advantageous. He said these are recommendations that have to be championed by the City.

Mr. Miguel Duran told the Council how they handled parking problems in Miami where he lived for many years.

Mrs. Nancy Cook commented that the whole issue they are discussing is that they do not have enough parking spaces. She despises license plate readers. She has five (5) employees and asked where are they going to park. Mayor Zudans commented that they have suggested adding 79 more parking spaces. Mr. Howle asked where do her employees park now. Mrs. Cook said that they park and move their cars because parking spaces are being taken up by hotel employees. She noted that at one time she hired Gladding Jackson to help find parking spaces and they come up with Cardinal Street middle (center street) parking and the reason it was not considered was because of the turning radius.

Mayor Zudans felt that Mrs. Cook might be onto something. He said that they need to look into center-street parking.

Mrs. Cook commented that when peak season arrives there is no place for people to park. She brought up getting tourist tax dollars. Mayor Zudans told her that the County controls those dollars.

Mrs. Linda Moore, owner of Kilted Mermaid, commented that in downtown they are having their own parking problems. She agreed with having the City enter into partnership agreements with people that have these lots and indemnify them and then you could turn around and sell parking tickets and then the businesses pay for those parking stickers for their employees. She was looking to see what Council does with this situation because the downtown area is struggling as well.

Mr. Jay Miller suggested when doing the survey to consider where people were parking. He questioned if they figured four (4) different people working and where they park.

Mr. Joseph Guffanti felt that the City Manager brought up a good question and that is who is going to pay for this. He doesn't like idea of the City asking him to help pay for what is going on in that area. He feels it is over built. If there is a parking shortage he doesn't know about it because he doesn't go over there. He doesn't feel you should ask the general taxpayers to pay for the problem that other people created. He didn't create the problem. He didn't put the buildings over there. He said the best thing they could have done was to not allow commercial development on the barrier island.

Mr. Brain Heady commented that he has been in Vero Beach for almost 30 years and when he first moved here there was a parking problem. But, at that time the parking problems was too many empty parking spaces. Now, it is a good thing that they have a lot of people going there. He recalled the parking fund and the money was given back to those who contributed to it. How about they do this again and have the businesses return the money and that might end the budget problem. With today having ubers they probably don't have the problems that people think they have. He has always been able to find a parking space within a block of where ever he goes. He said if they are going to spend tax dollars then the overlay district is the best idea.

Ms. Cindy Swartz stated that she attended the workshop to discuss the parking and was impressed that the consultant came up with 79 parking spaces. She used to work on the beach when there wasn't any parking problems. She liked the idea of parking stickers and thought that it was viable. She will never vote for paid parking. It has to be free. In the workshop they talked about the garage and a sales tax so that way everyone would have to pay for it. She hasn't heard the discussion of how far do people want to walk.

B) Selection of Steering Committee for Three Corners Planning & Design Process

Mr. Jeffries commented that the Planning and Development Department is requesting direction from the City Council regarding the appointment of a Steering Committee for the "Three Corners Site Planning and Design Process." As proposed in the contract with DPZ CoDesign, the City Council is to appoint a 10 to 12 member Committee. The Committee will guide DPZ through the planning and design process for the "Three Corners Site" and should be representative of the different viewpoints in the community regarding the development of the site. The Committee will inform and guide DPZ with the development of the five (5) scenarios for the site and guide the finalization of the plan, prior to final approval by City Council. DPZ CoDesign is to provide a facilitated planning and design charrette process that involves the engagement and participation of the community in the creation and evaluation of alternative development scenarios for the three (3) City-owned properties. The development of the five (5) scenarios will occur at a weeklong charrette in January 2020 at the Community Center in Pocahontas Park, where the community will be invited to participate in the design process. To ensure the Committee is established by the time of the kick-off presentation by DPZ CoDesign at the November 19th City Council meeting, the City needs to start accepting applications for the Steering Committee and have the Council appoint the Committee in November.

Councilwoman Moss commented that she feels that the City Council is the Steering Committee and she has said that before. She said they don't want a lot of other people interfering. She recalls that there have been people that come to the podium and say that they are speaking for others, then another person follows and says the previous person does not speak for others. It should be made clear that he or she is speaking for themselves and not for someone else. Councilwoman Moss said the most objective measure is that you run for office and you get elected or you don't and that is very

objective. The elected person does speak for others. Then you don't have to worry that an unelected person is speaking for you and you never voted for the person.

Mayor Zudans felt that the name Steering Committee was not appropriate. He suggested calling it the Ambassador Committee. The job of this Committee is not to make any decisions. He said what their job is to engage people in the community to get involved with the different things going on.

Councilwoman Moss told Mayor Zudans that she wished that he was right. The memo presented to them by Mr. Jeffries (on file in the City Clerk's office) says in the second paragraph that the Committee will guide DPZ. Mayor Zudans said then the City Council should definitely be on the Committee.

Vice Mayor Young agreed that the City Council should be the first five (5) members and then have the opportunity for each one (1) of them to make a selection based upon the applicants that want to support it. They should reach out to the community asking if they are interested in this and then each Councilmember will have an opportunity to select one (1) member. He felt that the new Councilmembers coming in should be able to make their appointments to the Committee.

Mayor Zudans agreed that whoever is elected should be on that Committee. He would like to participate in moving this forward since he has participated in selecting DPZ and getting them this far. He would like to serve on this Committee even though he will not be on City Council. He said there is no reason why they can't pick who they want to be on the Committee and even leave some spaces open for the new people coming on City Council to get involved as well.

Councilwoman Moss was not clear what Mr. Jeffries was looking for. She knows that it will be the five (5) City Councilmembers sitting on the Committee, but wasn't sure who would be on the Committee in addition to that. She was concerned about this "will guide" issue and felt that was a bad idea. She wished that the Mayor was right and it was just Ambassadors. She asked Mr. Jeffries if he was looking for one (1) person to represent each scenario.

Mr. Jeffries explained that as they appoint a Committee to be mindful that the Committee is reflective of the five (5) scenarios.

Councilwoman Moss stated that the whole purpose of hiring DPZ was for them to reach the people, the community and this was a grassroots attempt.

Mr. Jeffries said they will be doing that also. The Steering Committee will be more involved after the charrettes are done. He said once the charrettes are done and they are working on finalizing the plan that is where the Steering Committee is involved in terms of that direction in the development of the plan.

Mr. Brackett expressed that what Mr. Jeffries was saying is that the Steering Committee is going to insure that what the people want is given to DPZ and a proper plan can be developed on what the wants are. He agrees with the process that the five (5) Councilmembers should be on the Committee. They can either pick at large or pick one person a piece like they do with some of their other Boards like the Planning and Zoning Board and have their own representative on the Committee. Then staff could bring them the names of other applicants that have applied for the other positions on the Committee.

Mr. Falls explained that the City hired DPZ because they are not experts in this process. He said that DPZ's recommendation was to have up to 12 people on the Steering Committee. He said that staff is comfortable with Council making the selection. It is important for them to know that the Steering Committee is to guide the process and not direct it and then bring back something to City Council for action. He felt it would be move more quickly if they (City Council) all appointed someone and then pick another member at large and an alternate member.

Mr. Brian Heady stated that when he is elected he will nominate Mayor Zudans to be on the Steering Committee, but he also wants Mrs. Nancy Cook on the Steering Committee. He said if you want an eye opener then they should go back and watch Mrs. Cook in April 2017 when stood at this podium and talked for a little over 10 minutes. She gives a very good presentation about a company that came to do what this consultant firm is going to do. She (Mrs. Cook) talked about how they worked the crowd.

Mr. Brackett made a motion that the Steering Committee be composed of the five (5) sitting City Councilmembers at the time and each Councilmember gets a selection of who they want on there and then staff will bring back to Council other names so they can pick the 11th person and an alternate member. Mr. Howle seconded the motion and it passed unanimously.

This item will be discussed at the November 19th City Council meeting.

9. CITY ATTORNEY MATTERS

A) Discussion on Memo of U.S. Customs at Airport

Mr. Turner stated that on October 1, 2019, he received direction from Council to review the proposals sent in by Corporate Air for construction of a Customs facility at their Corporate Air location at the Airport. He has reviewed the documents and has prepared a memorandum, which Council has received a copy of. He said that Council had two (2) concerns. If they proceeded with a fixed base operator (FBO) at the Airport the FBO will have to execute and deliver to the City a memorandum of understanding (mou) and/or an indemnity agreement, which holds the City harmless on any and all claims by third parties (including Customs) for demands, costs, and expenses incurred or arising out of construction and maintenance of the user fee facility (UFF) for as long as such facility is at the Airport or which results from the FBO's operation of the UFF. It would also require that the FBO indemnify the City for any and all costs and expenses, including

attorney's fees it incurs from defending any claim or demands resulting from the operation of the UFF by the FBO. The City would also have to be named as an additional insured on required insurance policies. The second item had to do with Request for Proposals (RFP). The City is not legally required, nor prohibited, under City Ordinances or State law to seek additional proposals for the project. There was an additional FBO that expressed an interest in submitting a proposal at the last City Council meeting. The entire process of obtaining additional RFP's would take approximately 90-days. In researching the issue of establishing a UFF, he uncovered information of a municipal airport that opened a UFF using grants and contributions from a commercial airline. It is estimated it would cost approximately \$1.1 million to remodel and equip a UFF pursuant to Customs requirements and standards. Mr. Turner said that the options that Council has is to 1) Designate the City Attorney to enter into negotiations with Customs for a UFF and obtain necessary MOU's and contractual language to protect its interests; 2) Request proposals from all interested and qualified persons to build and operate a UFF under contract with Customs; 3) City owned and operated UFF or 4) maintain status quo.

Mr. Michael Calvit, Attorney for Corporate Air, stated that they stand willing and able to assist the Customs facility. Because the City is an applicant whatever costs flows through the City and Corporate Air they (Corporate Air) will pay the City. He referred to a letter of October 11, 2019, which includes the documents that were requested by Mr. Turner. They did do some research on this issue and the City of Leesburg filed an application for the construction of a user fee facility at the Leesburg City Airport. The initial request came from "The Villages," a residential management operation that has thousands of resident retiree homes at Leesburg. The residents there wanted to be able to clear Customs at their home Airport instead of making an interim stop at the Airport of entry far from Leesburg. "The Villages" offered to finance the design, construction and annual operation of the user fee facility exactly like what Corporate Air is proposing to do at the Vero Beach Airport. The user fee facility was constructed in 2005 and has operated continuously with "The Villages" supplying any shortfall in finances for monthly operations. The Villages never considered writing or adopting an indemnity agreement as The Villages was responsible for building the user fee facility and would not have invested the finances if it was not in their best interest to continue the operation. Regarding going out for other proposals for an FBO he said in 2018 Corporate Air sent a letter to the Airport Director about wanting to do this and the Mayor at the time sent a letter to the Governor about doing this and that was a process in motion and now they are here considering who else might want to do this is unfair and puts them at a disadvantage. They would reject that proposal because they have been working on this project for the last two (2) years. It is not legally required so they do not need to go out to bid.

Councilwoman Moss stated that the City Attorney did his job and she is not critical of anything that has occurred.

Mr. Calvit requested a resolution to move forward with the U.S. Customs facility at Corporate Air.

Mr. Brackett recalled at the last meeting they voted to move forward with this.

Mayor Zudans agreed as long the indemnity agreement was worked out. He knows that there is a new issue concerning an easement, which can be worked out and they can work around that.

Councilwoman Moss added that the matter was deferred until tonight giving the City Attorney time to conduct additional research, which he has done.

Mr. Turner reiterated that his findings were laid out in his memorandum of October 10, 2019 (on file in the City Clerk's office).

Councilwoman Moss asked Mr. Turner if legally they were good to go...prepared for take-off.

Mr. Turner answered yes.

Mayor Zudans stated that there will be a motion to proceed with the contract and dealing with the easement issue and supporting Corporate Air's application for the Customs facility.

Mr. Calvit asked what target date are they shooting for.

Mayor Zudans asked Mr. Turner how long would it be to negotiate the indemnify agreement.

Mr. Turner answered soon.

Mayor Zudans commented that they will be having another meeting in three (3) weeks and hopefully all documents will have been worked out by then. They will put the matter on the next agenda for the City Attorney to give a report on what has happened with the indemnity agreement.

Vice Mayor Young appreciated that they were not "leaping" before they knew where they were going. The opportunity to include the Airport Director in the conversations has been beneficial. He would also like to hear the Airport Director's comments.

Mr. Miguel Duran commented that it takes time to get a Customs license. There are many standards that have to be met. He recommends that the lawyers look into that because international laws are different.

Mr. Tim Zorc, County Commissioner, commented that when they first started this process and sending the letter to the Governor there were a few things that they first wanted to hammer out. The first was that the City would not contribute even one dollar to the construction or operation. There probably have been a couple of years that have gone on with this and getting to where they are today. He thought that this was exciting

and wished that the County owned the Airport. He thought that this would be a great asset for the Airport and would enhance revenues. He thanked Councilmember Howle for all of his support and attending a lot of the earlier meetings that occurred. He will not forget to keep looking for funding to widen Aviation Boulevard.

Mr. Turner expressed that the worst thing that could happen would be that Corporate Air builds the facility and then goes out of business. The City would be liable for payment of salaries and the operation of the facility. He said that the U.S. Customs can terminate these agreements with a 120-day notice.

Mayor Zudans said then the City ends up with multi-million dollar building that they didn't pay for.

Mr. Brackett asked if during that time the City was allowed to collect the user fees. Mr. Turner answered yes, but noted that it was not a profitable business. He said it is a service.

Mr. Howle said on the upside Corporate Air has been a partner with the City for many years and they continue to grow.

Mr. Howle made a motion for approval to move forward with Corporate Air to proceed with the Customs facility and for the City to do what is necessary to facilitate that. Councilwoman Moss 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) Consent to Sublease – Dog Park/City Options to Response of Florida Power & Light

Mr. Turner reported that on September 26th, Ms. Eleanor Taft, Corporate Counsel for Florida Power and Light (FPL), called to advise him that they would not sign the Consent to Sublease drafted at the direction of Council and that the terms of the City's Consent to Sublease draft was unacceptable to FPL. The City's options going forward are to: A) Reject the request of FPL that the City consent to its July 2019 Sublease and refuse to revise City Consent documents; B) Capitulate to the demands of FPL and accept most of the demands in the FPL Sublease ad drafted with the exception of changing the date and the legal description or C) Declare the Dog Park to be in default under its lease with the City and terminate the lease. The Dog Park people agree that they no longer want to enter into a Sublease with FPL and just go back to the original two (2) party agreement, which is with the Dog Park and the City. When the Dog Park entered into the lease with FPL it was recorded, which leaves a cloud on the City's property so they must ask FPL to release that.

Council all agreed with moving forward on this.

Mr. Howle commented that there have been situations where the Dog Park have went beyond their lease agreement requirements and they need to watch that.

Councilwoman Moss agreed that this needed to be cleaned up.

Mr. Barry Segal, Counsel for the Dog Park, wanted to convey that the Dog Park does want to keep the peace with the City and not do anything derogatory with the Dog Park. They have no problems severing all ties with FPL and will take whatever steps are necessary. He said that the Dog Park was just following advice by former City employees.

Mayor Zudans said that the City may need the help of Mr. Segal in getting the records all cleaned up.

Councilwoman Moss commented with regard to subleases when this was discussed they said that they would amend or revise the Dog Park lease so that there wouldn't be subleases, so this doesn't happen again.

Mr. Turner stated that these type of arrangements where they have City owned property used by either a non-profit organization or a third party should have provisions saying that they are not allowed to sublease.

Councilwoman Moss asked if the Dog Park Sublease has been changed now.

Mr. Turner explained that it has not changed, but they always can say that the City will not give them consent.

Mr. Segal agreed that the Dog Park does not have the right to sublease. He said one (1) of the first things that they did was get the proposed consent form from the City to sublease with FPL. He said part of the problem is that FPL is not used to dealing with sublet property and the whole lease had to be rewritten in order to do a sublet. He said further was that FPL jumped the gun and they were not supposed to sublease or have this memorandum recorded until the Dog Park completed the whole process in obtaining the consent with the City.

Mayor Zudans made a motion that the City is not going to consent to the sublease between the Dog Park Association and FPL. Councilwoman Moss seconded the motion and it passed unanimously.

C) Discussion of Political Signs

Mr. Turner wanted to discuss signs in the City right of way. He said whether they are campaign signs, business signs, real estate signs, or any kind of signs if they are in the City right of way and they do not have a permit they will be removed. They will be placed in the custody of the Vero Beach Police Department and the people who own the signs can contact the Vero Beach Police Department to pick them up within

approximately 30 days. He said that is the policy of the City and it will be enforced. If anyone has any questions in determining where the City right of way is they can call the Public Works Department or the City Manager.

Mayor Zudans commented that the City of Vero Beach is the only area that is having an election right now so if there are eye sores it reflects badly for every candidate running for City Council. He said don't be the one who is not following the rules or everyone will know it.

Mr. Howle also expressed that only one (1) sign per candidate is allowed on the property of a residential dwelling.

Mr. Turner expressed that the City Clerk has provided to all of the candidates what is permitted and not permitted in the City as far as signs are concerned.

Mr. Turner reported that the tentative date for mediation between Indian River Shores and the City of Vero Beach has been rescheduled to December 2nd.

8-C Traffic Issues in Royal Palm area

Mr. Falls commented that there was an accident over the weekend and there have been numerous accidents at the intersection of Royal Palm Place, Country Club Drive and Leon Avenue. He said that Councilmember Howle is concerned about the safety in the neighborhood and wants to know the best way to address it.

Mr. Howle stated that he lives in the Broadway/Leon area. He said a lot of those streets are utilized as a cut through street. He has witnessed a lot of accidents happen at that intersection and the severity of accidents worries him. He said there is a lot of traffic for a neighborhood that has walkers, etc. Somehow they need to create more safety at Leon and Royal Palm Place. In recent months, there has been a rollover, one fence taken out, and one lady that was sweeping her driveway was hit by a car and in the hospital for three (3) months. On his street (Broadway and Royal Palm Boulevard) there was one (1) rollover and two (2) people trapped in their cars after being hit. The concern for him is the speed they are going. The speed limit is not too high, but people are going too fast. Something needs to be done at Leon and Royal Palm Place. There are fixed radar signs that have been ordered and are in next year's budget that he thinks is fantastic. What he would like to see is a four-way stop sign put up, but he realizes that could create quite a lot of backup traffic.

Mr. Matt Mitts, Public Works Director, presented the Council with a "Traffic Crash Summary" that outlines the accidents that have occurred. He said they are looking at why these accidents keep happening. A traffic study was performed to determine the traffic volumes and crash history for the intersection. The Manual of Uniform Traffic Control Devices (MUTCD) suggests several guidelines and related criteria to be used as the basis for making the decision to install multiway stop signs. He said based on the analysis of the study, a multi-way stop sign is not warranted at this intersection.

However, the speed of east/west traffic on Royal Palm Boulevard is of concern. While speeds are not exceeding 40 mph, the 85th percentile is very close, and the MUTCD guidelines provide guidance for reducing the volume requirements based on high speeds. Based on this study, Public Works recommends that permanent radar signs should be installed for east and west bound traffic on Royal Palm Boulevard to reduce vehicle speed. The total cost is approximately \$7,000 and should be included in the Public Work's budget for fiscal year 2019/20. Reduced vehicle speed should aid in decision making time for all drivers approaching the intersection.

Mayor Zudans asked what about putting in a roundabout.

Mr. Mitts said that he was told by the City Manager not to mention that word.

Mayor Zudans said a roundabout might avoid some accidents.

Mr. Mitts said they would have to rebuild the entire intersection and it would not be cheap.

Mr. Brackett agreed with sticking with the process and start collecting data and putting the radar signs out there.

Vice Mayor Young asked in looking at the incidents that are happening at each intersection is there a take away.

Mr. Mitts commented that over a six (6) year period there have been 10 angle collisions at this intersection. He said that he has read the accident reports from the Police Department and they are not always complete (referring to the person reporting the accident). He also noted that these accidents have not happened at the same time every day.

Mr. Falls added that he talked to the Police Chief about adding more enforcement in this area and they will get the signs put out as soon as they can to help resolve this matter.

Mr. Howle commented that the cars driving in this area are not watching out for pedestrians. He showed on the map where a lot of the accidents have taken place. He reiterated that this is not a question of just speeding. He just wants to make it more safe for the neighborhood.

Mr. Howle stated that he would prefer to have 4-way stop signs put out, but the delays could be a serious issue. He said anything that they can do to put up those radar speed signs would be helpful. He said that if this doesn't work then they will need to talk about other options.

10. PUBLIC COMMENT (3-minute time limit)

Mayor Zudans mentioned that he would be introducing the comedians at the Comedy Zone on Friday night at the Riverside Theater.

Councilwoman Moss thanked the candidates for being at tonight's meeting. She said they are now five (5) hours into the meeting, which is why she does not like having public comment held at the end of the meeting.

Mr. Rey Neville commented that he grew up in Vero Beach and attended High School in Vero Beach. He had concerns about the Lagoon and said that it is the lifeblood of their community and would like to see it restored. One of the things that they need to do is relocate the Water and Sewer Plant off of the Lagoon and work on having a state of the art facility. Then they need to talk about the old Power Plant property and build something on these two (2) properties that this community can enjoy for years to come. The process of bringing their citizens together to form a consensus is vital to this process. The public should be able to speak on this matter and he was happy to hear about the process they spoke of this evening. He brought up the Marina and said that it needs to be managed carefully so that boaters will be doing the right thing. He has a lot of experience and would like to serve as a Councilmember.

Mr. Bob McCabe encouraged everyone to get out and vote. He said usually in an off year election they only get a 25% turnout. The issues that the next City Council will be addressing are very important to their City. He would like the citizens to vote for him because he has an extensive business background and will bring those skills to the Council. He has independence and no long standing ties to anything in this area. The organizations he belongs to are voluntary so he has the time to listen to his constituents. He has done negotiations before and may be looking at holding more public hearings giving more time for people to speak on them. There are many issues that are too important to rush to judgments on. He and his wife plan to be in this area for a long time. He serves on the Centennial Committee and also on the City's Utility Commission. He wants them to do everything that they can to protect the Lagoon.

Mr. Brian Heady stated that it is not a legal election if his name is not on the ballot. He said that five (5) of the eight (8) candidates showed up tonight to speak and he thanked Mayor Zudans and Councilwoman Moss for doing this. He thinks that it is important for the residents of this community to know where they stand on different issues. He has been coming up to this podium for the last 20 years and anyone that doesn't know who he is, is not qualified to vote in the City election.

Mr. Joe Graves commented that going through this process he has learned what an incredible job this City Council has done. As citizens they want to know that their tax dollars are being spent correctly. Being an effective City Councilmember is about listening and it is not about what he wants. These citizens have great ideas and if they listen to them some of their suggestions can be utilized. He likes the idea of having Ambassadors a part of the Steering Committee for the three corners area. He said most citizens want to be heard on the outcome of those three corners. He agrees with moving the Water and Sewer Plant off of the Lagoon and building a state of the art facility at the

Airport property. He feels that they are on the right track regarding the parking situation. He agrees they need a first class Marina. He threw his name into the hat as a candidate for City Council and has learned how incredible this job is. He wants to make sure that the citizens of this community are being heard.

Mr. Joe Cotugno said that moving to Vero Beach is the best decision that he and his wife have made. He said what makes Vero Beach so special has nothing to do with government it is the beautiful coastline, the Lagoon, etc. He is ready to serve Vero Beach from day one (1) primarily because he recently retired here. He knows how to motivate people and reach consensus. He has managed a \$900 million budget as Vice President of Sales and Marketing Operations for North America. He currently works for a 501c-3 organization as an Ambassador for Legislative issues for the Alzheimer's Association. He was recently appointed by the Governor to serve on an Alzheimer/dementia related disorders outreach program as a sub-committee member. His goal to make municipal government as responsible and efficient as possible. He is confident that they can improve municipal services without spending any more money then what they already do. He knows some of the big issues that the new Council will be facing and they are the three corners property, the Marina project and the relocation of the Water and Sewer Plant. Some people say that they may have a water quality issue that might have to be looked at as well as continuing to address the parking traffic issues. As a City Councilmember he will make sure that the voters have everything they need to make informed decisions. He is eager to serve the City he loves.

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

Vice Mayor Young reminded the community that the City will be holding their Centennial event on Saturday, October 26th and they expect a large turnout. Then on the following weekend the Beachside Bonfire will take place on November 2nd starting at 5:00 p.m. on Ocean Drive. Tomorrow night is "National Night Out," which takes place at Humiston Park. He appreciated everyone who runs for a public office.

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

1) Mr. Brian Heady to speak on an article on islands near Orlando where Vero Beach was not listed.

Mr. Brian Heady stated that there was an article published recently about the closest and nicest spots to Orlando and Vero Beach was not listed. So he wrote an article that was published. He read what the article said: *Vero Beach's Orchid Island is incredible. A semi tropical climate with gentle ocean breezes in the summer and warming ocean*

currents in the mild winter months. Has everything. History. Guarded beaches. Secluded beaches. Free parking. Restaurants including casual breakfast, or lunch with an ocean view. And of course five star fine dinner dining to complete your day. Entertainment. 5 star hotels. Reasonably priced rooms. Time shares. Ocean front rental homes. Boating. Kayaking. Fishing. Art shows. Farmers market. Local citrus and members. Boat launches. Incredible sunsets on the west side and beautiful sunrises on the eastern side. Theater. Art museum. All of this in a welcoming small town environment. Hard to match anywhere.

Mr. Heady commented that he forgot some things that are good assets to Vero Beach like the Airport. It is not a complete list of all the wonderful things that they have in the community. He said when others will not point out what a beautiful place this is, it should get out that Vero Beach can use more businesses here.

C. Councilmember Laura Moss's Matters

Councilwoman Moss showed a picture of her and Jaybird at his birthday party. She went over the days and times that he (Jaybird) plays his band at the Community Center. She wanted to say hello to her new friends at Citrus Elementary where she participated in National Lunch Week. She then shared a cupcake with the Council. Mrs. Heather Stapleton was the winner of the cupcake contest, which is a fundraiser for the Michael Fox Parkinson's Association event that was organized by Janie Graves and was held at the Heritage Center. The ingredients used in the cupcake is a citrus that is grown on the lawns of the Heritage Center.

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 6, 2018

24.83% for COVB election held November 7, 2017

76.63% for General 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

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

D. Councilmember Robert Brackett's Matters

Mr. Brackett recently attended the Institute for Elected Municipal Officials (IEMO) and commented that the City of Vero Beach is in good shape. He noted that the Centennial event will be a big day for the City and everyone will have a great time. He said that on Tuesday he also took part in National Lunch Week at Citrus Elementary.

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

E. Councilmember Harry Howle's Matters

Mr. Howle mentioned that he has one (1) meeting left to serve on the City Council and it has been bitter sweet.

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

1) Mr. Brian Heady to address the requirements of the open public records law and the requirements of government in the sunshine.

Mr. Brian Heady commented that Mr. Howle wrote a note to him about some of the questions that he had. He was on Council 10 years ago and the current City Manager and him made a backroom deal in an office upstairs and he said that he hasn't discussed that deal with any other Councilmembers at all and he didn't know if Mr. Falls has discussed it or not and he certainly is free to tell them what the deal they made is. He did not think that there has been any violations on either part. He said Mr. Falls has kept up his part and Mr. Heady has kept up his. He asked the City Manager if he would agree to that. Mr. Falls answered yes. Mr. Heady asked Mr. Falls if he could tell them what the deal is. Mr. Falls said yes. Mr. Heady said they made a deal to tell the truth, which Mr. Falls has done for the last 10 years since that deal was made. He doesn't think that any Councilmember can point to him (Mr. Heady) and say that he has not told the truth when he has appeared before them at the podium. He expressed that citizens have a right to speak and the right of redress of grievance and a right to answers. He referred to Mr. Howle's email where he said that he believes the decisions that he is referring to have to do with the electric sale. Of course there were many email correspondences with their legal council, FMPA, FPL, the PSC, and probably others. These emails are all in the City database. If you would like to see them I'm sure the Clerk can provide those to you. Mr. Heady said that when he comes to the public podium and has asked for public records, he has asked for those and has been told the same thing over and over again. He said before Mr. Falls was in the City Manager's seat, when he asked for some documents from the former City Manager who was at the meetings and asked to see his notes the former City Manager said he doesn't take notes. Mr. Heady stated that this is a \$185 million transaction and no one will give him any documentation. The former City Manager said that he doesn't take any notes and in fact he goes into those meetings and doesn't even take a pen. Mr. Heady said that was troubling to him that a representative that is on the front line of selling a \$185 million asset that he is part of owner of doesn't even bother to take notes. Mr. Heady told Mr. Howle that these documents have never been turned over to him. He has repeated his request and there has been a couple responses to just go to the public records custodian. But, he has asked them to show him the public records that he is relying on. What he wants to see is what the elected representative used to base his decision on the sale of \$185 million City assets and that was never turned over to him. He asked the Mayor for the same documents and he has given him nothing. He said if he has received something then the City Clerk would have a record of it. Mr. Howle has said that he is not the custodian of the public record. Mr. Heady said actually he is. Each and every City Councilmember, along with the City Manager and City Attorney, are all custodians of the public records until they turn them over to the City Clerk. He has had

correspondence recently with the Mayor and since they transmit public business from one party to the other they are public records. He bets that the Mayor did not turn over the public records to the City Clerk. When he asked someone like Mr. Howle if he has a document they have the responsibility to turn over that document and not tell the citizen to go and search the public records. He said that is not the way the Sunshine Law works and not the way it was envisioned. They have the responsibility as an elected official to provide the public record to any citizens that asks for it. It has been denied during the course of all the electric sale “nonsense.” When he was on City Council, he asked electric providers to tell Council what the system was worth and he was told that he needs to just shut up and be quiet and the backroom deals will be done. Mr. Heady was not in agreement with that and wanted it done at the public podium. He was told over and over again that these deals cannot be done in the public. He said there were deals out there with other electric providers that would have come in and put a bid in to provide their services, but in 2010 the City signed an agreement where they would not entertain in a public way anyone else’s bid. Those other bidders were prohibited from providing a bid under the threat of the contract that they were under. He said the whole thing stayed secret. It was a secret deal from the beginning and it shouldn’t of happened. He said the information should have been made public. He said these documents should have been provided to him. It is a violation of the Sunshine Law, but he understands how the halls of justice work in this County and he understands that his chances of getting that by filing legal complaints are zero to none and it is really a shame that they had such a wonderful asset that they sold and got practically nothing for.

Councilwoman Moss stated that she spent many hours working with Mr. O’Connor (former City Manager) and she doesn’t like to hear him maligned especially since he is not present. She said he did not take notes, so everything was in the public records. She wanted to say that for the public record.

Mr. Heady said he did not take notes and everything is in the public records then why wouldn’t the public records be produced during the last four (4) or five (5) years that he has asked for them.

Mayor Zudans appreciated Mr. Heady’s comments. He has seen other public records requests. Before he was on City Council, he sat on the Indian River Hospital District and dealt with public records there. He said they need a better system to give people the information that they are entitled to. They need to make it clearer to people on how to make a records request then they can respond to it. He recalled some recent records request coming in saying that someone wants to see every email from a private email account of his. People are asking for things that have nothing to do with the City. He said that people can be charged for public records and they really do need a more explicit policy if they are using the City Clerk’s time and whatever reasonable costs there are in satisfying a records request they should be charged. The person making the request should know how to make the request, how to narrow it down to the things that they are looking for. He said sometimes these requests need to be more specific. He does not think that it is fair for Mr. Heady to come in and say that he wants to see all the information that he relied on to make a decision. Mayor Zudans said that is not what Mr.

Heady is entitled to. He is not entitled to his (Mayor Zudans's brain waves or thinking). He has shared for the most part on how he makes decisions. Mr. Heady is entitled to public documents from the City and the people who is responsible for responding to his public records request is the City Clerk. He is not the keeper of the City records. He said if he has a record that he generates then he does have an obligation to turn that record over to the City Clerk. He felt people could get the documents easier if they had a more streamlined system. He said the City wants everything to be transparent and has no desire to hide anything.

Mr. Heady stated that he has been doing this for 20 years and he has no problem with the system and no problem with the City Clerk and no problem getting the records that he requests from the City Clerk. The problem that he has had is getting records from him (Mayor Zudans), getting records from the former City Manager and Councilmember Howle. He said if these documents are not turned over to the City Clerk there is nothing that she can be the custodian of. There is one or more example of things that happened and the documents were never turned over to the City Clerk. He watched FPL take public documents out of this building that disappeared. The City Clerk is not the police officer to stop people from walking out of the building with documents. He said there is nothing wrong with the system.

Mayor Zudans said there must be something wrong with the system if Mr. Heady feels that he has not received the records. It is his responsibility if he generates a public record to turn it over or send a link to the City Clerk if it is on the website, which he periodically does. He said there may be documents handed out to each Councilmember and the Clerk has a copy of the same document. So that document can be retrieved from the City Clerk.

Mr. Heady commented that he has seen in this City where someone gets a copy of one document and someone else gets a copy of a different record. He said that happened with the 2007 contract with OUC. He said there were different documents.

Mayor Zudans requested that their City Attorney update their public records policy.

12. ADJOURNMENT

Tonight's meeting adjourned at 8:37 p.m.

/tb