

**CITY OF VERO BEACH, FLORIDA
FEBRUARY 16, 2021 8:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Cannon B. Keith Allen of Christ Church of Vero Beach.

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

Mayor Robbie Brackett, present; Vice Mayor Rey Neville, present; Councilmember Joe Graves, present; Councilmember Honey Minuse, present and Councilmember Bob McCabe, 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 – February 2, 2021

Mr. McCabe made a motion to approve the February 2, 2021 minutes. Mr. Neville seconded the motion and it passed unanimously.

2. Special Call Minutes – January 28, 2021

Mr. Neville made a motion to approve the January 28, 2021 minutes. Mr. McCabe seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. Monte Falls, City Manager, stated that under City Manager's Matters he will be giving an update on the Florida Power and Light (FPL) storm hardening work, an update on Vero Isles and an update on the trimming of trees in the City of Vero Beach.

Mr. John Turner, City Attorney, stated that he would be giving an update on pending Legislative Bills and an update on concessions at South Beach.

Mr. McCabe made a motion to adopt the agenda as amended. Mr. Neville seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

Mayor Brackett thanked Ms. Judy Burgarella, local artist, for the beautiful portrait of Alma Lee Loy that she donated to the City of Vero Beach.

3. CONSENT AGENDA (include amount of expense)

- A) New Lease between United States of America Department of Transportation Federal Aviation Administration (FAA) and City of Vero Beach for Air Traffic Control Tower (ATCT) Site**
- B) Professional Services Agreement for City of Vero Beach UCR to FIBRS Conversion, Contract #83-2021**

Mr. Neville made a motion to adopt the consent agenda. Mrs. Minuse seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by amending Chapter 61, Article VI, Master Plan Zone, Chapter 62, Article XIV, Planned Developments, and Chapter 65, Article III, Amendments to Comprehensive Plan and Land Development Regulations, to revise the Procedures for Comprehensive Plan and Land Development Regulation Amendments; Providing for Codification; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, reported that this Ordinance amends Chapter 65 to the Comprehensive Plan and Land Development Regulations, to revise the application procedures for Comprehensive Plan and Land Development Regulation amendments. The purpose of the text amendment is to add clarity, provide more detail related to each specific amendment application process, and update the amendment process to best practices for these types of Comprehensive Planning and Land Development Regulation amendments. The Planning and Zoning Board held a public hearing on January 21, 2021 and voted 5-0 in favor of the Ordinance. Mr. Jeffries then gave a Power Point presentation (attached to the original minutes).

The City Council commended Mr. Jeffries on doing a great job in bringing forth these housekeeping items.

Mayor Brackett opened and closed the public hearing at 8:44 a.m., with no one wishing to be heard.

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

B) RESOLUTIONS

5. PUBLIC COMMENT (3-minute time limit)

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

1) Discussion of Charter Review – Requested by Councilmember Joe Graves

Mr. Graves brought up that it might be time to do a Charter Review. He said the last Charter Review that was done in the City of Vero Beach was in 2005 and it is typical for cities to periodically do a review.

Mr. Falls explained that the City of Vero Beach is governed by their Code of Ordinances and their Charter as adopted. The things in their Charter can only be amended by the voters of the City. He said that some cities have a prescribed schedule to review their Charter. He said that the City of Vero Beach does not have a prescribed Charter Review in any of their guidelines. It has been since 2005 since the Charter has been reviewed. He said that there is nothing in the Charter where anyone is making any recommendations to change. There are things in their Charter, such as height restrictions, term limits, density of zoning, and the makeup of who they are that would not need to be changed. He opened it up to Council to see if they wanted to ask staff to bring the information back for a Charter Review Committee.

Mayor Brackett said that the process would be for them to form a Committee who would make recommendations back to the City Council.

The City Clerk went over the procedures of putting a Charter Review Committee into place.

Mr. McCabe recalled that when he lived in Ohio they had a Charter Review Committee who reviewed their Charter every five (5) years and he took part in that process. He felt that it was a worthwhile exercise and strongly supported the process.

Mr. Neville felt that they needed to clearly define what they wanted the Committee to look at.

Mr. Graves wanted it understood that no one was looking at changing the height restrictions or doing away with them. This is just to see if there is anything in the Charter that needs to be looked at.

Mayor Brackett commented that the general rule is that there is usually very little change made to the Charter, but it is good to periodically to go through the process of having it reviewed. Their Charter has historically served them well. This would be just for a review and they were not pushing to make any changes along the way. If there were changes made to the Charter they would need to go to the voters in a referendum for them to decide if they were in favor of the change or not. It may not be possible to get any items on the ballot this year and it was important that they take their time with this and do it right.

It was the consensus of the City Council to have the City Attorney bring back a Resolution to them to form a Charter Review Committee.

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

8. CITY CLERK MATTERS

- A) Mr. Ben Trautman, Chairman of the Marine Commission, will be recommending to the City Council that they continue their enforcement efforts concerning derelict vessels.**

Mr. Ben Trautman, Chairman of the Marine Commission, thanked the Council for their efforts in addressing the abandoned, at risk, and derelict vessels that are present in the City's waterways. He read a prepared letter addressed to Council (attached to the original minutes).

Mayor Brackett reported that he met with the Marina Director and Mr. Keith Drewett at the Marina a couple of weeks ago and they discussed the derelict vessels. He also has talked to the City Manager and the Police Chief concerning this matter. He said that the Police Department is getting a lot of training and stepping up their efforts in conjunction with the Sherriff's Department and the Florida Wildlife in patrolling the waters. They are seeing a lot of increased activity at the Marina and on the waters and they will continue to see that. He said removing a derelict vessel is a challenging issue, but it is being dealt with.

Mr. Neville asked if the no trespassing signs, which can be enforced, have been put up in Vero Isles (fingers) area.

Mr. Falls explained that the Vero Beach Police Officers are aware of the regulations and concerns. The same situations occur at Veterans Memorial Island and Riverside Park and they continue to monitor it. He is looking at amending the current Marina rates being charged and adding a daily dockage fee. This would give boaters a place to launch their boats and not do it illegally.

Mr. Neville asked if that was something that they should consider in the plans of the Marina going forward, which would be offering more dingy parking space than what they have anticipated.

Mr. Falls commented that he will be talking to Council about that. They have some strategies and there is a dingy dock that they can use right now because there is an immediate need. The proposed Resolution will have a fee associated with it and require proof that the vessel has been pumped out within the last seven (7) days of them docking.

Mr. Neville commented that during the busy season and after COVID they are going to see people using their mooring balls and basically stack their dinghies on top of each other just to get them on shore. He was not sure how they could accommodate anchor boats as well.

Mr. Falls said if they are going to enforce not landing on City property they are going to have to make some kind of accommodations for those vessels. In the strategy measures that he will be talking to Council about he is going to try to encourage these people to be Marina customers.

B) Restructuring of Commission/Boards

Mayor Brackett reported that he met with the City Clerk and the City Attorney to discuss the restructuring of their Commission and Boards. He said that they have come up with a few suggestions that they are working on and plan to bring this forward to the City Council at their workshop on March 29, 2021.

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

Mr. Falls brought up that FPL was going through a major effort in this community for storm hardening. They are replacing infrastructure that needs to be upgraded and are doing it all through the community. They applied for a permit last April to do some work on Ocean Drive starting at Riomar and going all the way up to Grey Twig. They anticipated that the work would be completed by last summer, but it wasn't. He said that FPL came to them and wanted to start the work in the season, but staff convinced them that working in the commercial area in the season was not a good idea and they agreed to hold off in doing the commercial areas until after Easter. However, very soon they will start working on the residential areas and the City can't deny them access to work in those areas. He said that FPL has talked to the neighborhood and given the City a phone number for them to call if they need an FPL contact. They plan to start at Riomar and work north up to where Humiston Park begins and then move to Banyan Road and work up to the Racket Club and then they will go back to the commercial area and they should be more protected against hurricanes in their central beach area. He said that FPL will be rebuilding the existing infrastructure as it exists. All the work in the residential area will be done during the day.

Mr. Graves asked Mr. Falls if he discussed with them about burying the lines.

Mr. Falls said that he was told that they do not have the budget to do that.

Mr. McCabe commented on a number of poles where the switches seem to be corroded and often short out.

Mr. Neville brought up the installation of new poles and leaving the existing polls in place. He said these old polls rot and no one seems to want to pay any attention to them. He asked if they have made any progress in enforcing standards on removing these poles and also causing shared users to move over to the new poles and to have the old poles removed.

Ms. Jenny Flanigan, Assistant City Attorney, reported that in many cases FPL are leaving the old poles behind and it is creating a double pole issue. She said in the County there are 2,600 double poles as of March 2020. She said that the City of Weston, Florida, has had the most success in this issue. What they had to do was get public involvement, made a list of the double polls and the third thing was to sit down and have a meeting with FPL, AT&T and Comcast. She said one of the problems is that AT&T and Comcast have to coordinate with FPL to move their equipment to the new poles and AT&T and FPL are in litigation before the Federal Communications Commission (FCC) that was filed in 2020. She said it is regarding a rate dispute. She has a memorandum on this matter that she will circulate to the City Council.

Mr. McCabe understood that there was no incentives for FPL to move everything to one (1) pole because they are collecting fees whether they run the old pole or the new pole. He asked if that was correct.

Ms. Flanigan said that was correct. She said that FPL is not disputing they have the legal responsibility to remove the old poles, it is just a low priority for them to do it.

Mr. Neville asked if any of the cities that she has contacted were considering revising their franchise agreements and incentivize these companies to step forward and do what they are supposed to do.

Ms. Flanigan said that the City of Vero Beach has been looking at the franchise agreements to see if there are any enforcement issues and revising the franchise agreements so in the future they do not have the same problems.

Mr. Falls added they are looking at those franchise agreements to see if they can be modified to add that when a pole is replaced there is a certain amount of time that the facilities have to be removed. Then maybe encouraging these different agencies to coordinate their projects so they all know when the work is coming up so they can plan for it.

Mr. Neville commented that almost all these poles are placed on private property through easements and he was wondering if the public (persons who own the property) can do something as well.

Ms. Flanigan added that some cities have found that residents calling and complaining about the poles have been successful in putting public pressure on FPL.

Mr. Neville stated that FPL is doing a major hurricane upgrade process. They are desiring mostly to bury where they can, but where they cannot and you see these abandoned poles it is destroying the ambiance of this beautiful community and something needs to be done about it. He told the community if they want to write Council a letter about this that they would be glad to receive it.

Mr. Falls gave an update on Vero Isles. He said that there have been some conversations with some residents that live there that they are not happy with the City's license requirements to build docks in Vero Isles. They feel that the license is cumbersome. They require the license because the docks are constructed over City land and right-of-ways, and there are liability issues. So they require a license agreement from people who are going to build a dock that they agree to indemnify the City from any action. However, there are some other alternatives that they can look at. He is scheduled to meet with the Board of Directors of Vero Isles Property Owner's Association on March 4th and will get some ideas from the overall community as to which way they want to go and he will advise Council. As he understands it there are only a couple of people opposed to the licensing requirement.

Mr. Falls brought up tree trimming and tree removal in the City of Vero Beach. He said when they have some of these larger homes constructed on land where a home once was the new home foot print is usually larger than the home that was previously there and there is some impact to the existing tree canopy. There are rules in the Code that allow for trees to be removed if they are in a building footprint, but mitigation has to be paid to do that. This is a cost of building a new home. If this is something that Council would like staff to explore with the Tree and Beautification Commission and the Planning and Zoning Board they could do that. He said that they could look at changing the mitigation tree structure or some other methodology. He said they will continue to see this occurring in the City and it will continue until they look at this and make some other arrangements.

Mr. Neville commented that they are a Tree City USA and the thing that makes them different from other communities is their trees and now they are disappearing. He feels that this needs to be dealt with, but in a fair way. He would appreciate doing what they can without impacting the rights of home ownership. He asked if the mitigation is paid in cash.

Mr. Jeffries explained that the mitigation of trees can be done in two (2) ways. Someone can either replace a tree or they can pay into the mitigation fund based on the amount to replace the tree. He said that the trees are measured by inches and if replacement is the issue that they must replace a tree that has the same measurements. The issue they are having and it comes up every spring is when someone starts construction of their new house and are just willing to take down a tree, which when compared to the price that they are paying for the house is not much cost. They are having some issues with the removal of the tree canopy and it is the Live Oaks that contribute to the tree canopy. Right now there

are different levels of trees. Their protected tree is anything over three (3) inches and then there is a specimen tree and that depends on the type of tree.

Mr. Falls added that what they are running up against is these homes are being demolished and new homes are being built. In the past with new lot sizes in the central beach area most of the homes could be built that were there and existing prior to 1990 in and among the trees that were there. However, now property owners are taking advantage of the allowable Floor Area Ratio (FAR) and pretty much filling up the entire building ground level. When this is done more trees will have to be removed. He said that Vero Beach was one (1) of the last remaining coastal hammocks and anything built over there since the first structure did some damage to that hammock. It hasn't been as noticeable until they have seen this rebuilding of homes taking advantage of the full FAR on the lots. The Tree and Beautification Commission has been looking at this and it would be to their benefit to focus purely on the trees and get a recommendation back to Council. The Chairman of the Tree and Beautification was at today's meeting and has shown great concern for this.

Mrs. Minuse agreed that there was a lot of passion in the community about those trees.

Mayor Brackett felt that this was an issue that will continue to keep coming up because as the trees mature the canopies of the trees continue to grow. He said replacement of the trees are important if trees have to be removed. As these homes on the beachside continue to get bigger the canopies on top of the homes create hurricane issues and issues with existing slabs and there needs to be a balancing act.

Mrs. Minuse asked if this was deterrent with the septic to sewer conversion with the roots on these trees.

Mr. Falls explained that connecting to sewer is the best thing that can happen. He said that they will bring something back to Council on this matter.

10. CITY ATTORNEY MATTERS

A) Retainer Agreement with Mr. Kahn/Panhandling Ordinance

Mr. Turner presented an attorney retention agreement between Attorney Michael Kahn and the City of Vero Beach for his services in preparing a panhandling Ordinance.

Mr. Neville asked what the estimate for the total cost will be to have this done.

Mr. Turner did not anticipate any additional fees then what is laid out in the agreement. He said that they will try to keep the cost as near to that figure as they can. He said that an amendment to the budget will need to be done in order to pay for the services.

Mr. Neville made a motion to approve the Attorney Retention Agreement. Mr. McCabe seconded the motion and it passed 5-0 with Mr. McCabe voting yes, Mrs. Minuse yes, Mr. Graves yes, Vice Mayor Neville yes, and Mayor Brackett yes.

Mr. Turner brought up the two (2) new proposed Bills in the Legislature regulating short term rentals. He said there is one (1) Bill in the House and one (1) Bill in the Senate. The Bill in the Senate is the same Bill that has been introduced for the last three (3) years and has either been defeated or withdrawn every year. There has been a new Bill introduced to the House that has already been voted out of Committee and is on its way to the House Ways and Means Committee. The Florida League of Cities (FLOC) is opposing both of these Bills and they have outlined their reasons why. The proposed Bills would undo any local registration, inspection or licensing requirements specific to short term rentals adopted before 2014. The Bills would require that any Ordinances such as noise, parking, or trash regulations must be applied uniformly to all residential properties regardless of how the properties are used. He said that FLOC is requesting their support in voicing their opposition through their Florida Delegation, as well as through the FLOC. There will be a teleconference with some legislative representatives and staff on how to best continue proceeding with opposing these Bills. He said this is a very important issue to the City. He said that each municipality is different in how short term rentals impact the local community. The regulations that are on the books adopted prior to 2011 can be enforced, but if this passes those regulations would be voided. He said if Council would like to send a letter voicing or objecting their opinion, he would be happy in assisting in drafting this type of letter to their Legislature.

Mayor Brackett said that he was not going to sit here and discuss or argue short term rentals. However, he will discuss the matter of home rule. He said that their delegates in Tallahassee don't like it when those in Washington supersede them so in the same token he doesn't like when those in Tallahassee supersede them and try to take their policy making rights away from them from a home rule standpoint. He would like a letter sent to their representatives stating this and making home rule more of the issue than short term rentals.

Mr. Falls stated that as a City they have already addressed that issue. The City of Vero Beach does not allow short term rentals in any district except in the C1-A district and the Downtown Zoning District.

Mr. Jeffries added that since 1978 when the City adopted its Code the City has not allowed for short term rentals (transient uses). They are only allowed in the C1-A district or the Downtown Zoning District.

Mr. Neville agreed that they should fire on all fronts. He agrees that home rule is vitally important, but also they don't want changes to the short term rental Ordinance because it will catch on like "fire" if it happens to them. He said that there are a lot of property owners who are anxious to have more than just monthly rentals if they could.

Mrs. Minuse supported what the FLOC was doing and would like to see a letter drafted to support that.

Mayor Brackett asked that a copy of the letter also be sent to their House Representative (Mrs. Erin Grall) and their State Senator (Mrs. Debbie Mayfield).

Mr. Turner said that he was thinking about drafting a letter for the Mayor's signature and addressing it to their legislative delegation and of course copying the FLOC.

Mr. Turner brought up the concession existing at South Beach Park. He said there was some discussion about not continuing with concessionaires at this point. They would be looking at having either a more formal Ordinance on how to handle these type of enterprises because the current one (1) they have doesn't fit in at this point or not having them at all. He advised Council he would be issuing a letter to that entity to wrap things up and it will be ending soon.

Mr. Graves asked if there was a contract. He said he thought they were told that the contract had expired.

Mr. Turner explained that after some research they found that the contract was extended so they will use the provision that terminates it with a 60-day notice clause.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

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

Mayor Brackett thanked the City Council and staff for being visible in the community and interacting with the public at various functions.

B. Vice Mayor Neville's Matters

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

C. Councilmember Graves's Matters

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

Mr. Graves was happy with the outcome of the Super Bowl game that was recently held. He was happy to see that the COVID numbers continued to go down. He asked the City Manager to give an update on the COVID numbers, which he did.

Mr. Graves commented that as people continue to get vaccinated the numbers will continue to go down.

Mr. Graves wanted to see some long term burying of the utility lines in the City. He said that it will improve the City and the quality of life here. He also said by looking at doing a Charter Review they want to be clear on what they are wanting to accomplish. It is to be

something healthy as they continue to operate the City. There are several non-negotiations in the Charter that they don't need to look at such as height restrictions and various City properties that reside within their Charter. He wanted to make sure that clear direction is given so there are no negative thoughts on what they are trying to do.

D. Councilmember Minuse's Matters

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

Mrs. Minuse mentioned that she received an email today concerning COVID-19 updates regarding vaccine reporting and CDC guidelines. She said she probably received it because of her profession as being a nurse. She shared some of the information that it contains (on file in the City Clerk's office).

E. Councilmember McCabe's Matters

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

Mr. McCabe agreed that they clearly want to have all of their electric and utility lines buried in the City. He said that it is a big investment so there will be some delays in getting it done.

13. ADJOURNMENT

Today's meeting adjourned at 9:50 a.m.

/tb