

**CITY OF VERO BEACH, FLORIDA
APRIL 20, 2021 5:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Hunter VanWagenen of Christ Church of Vero Beach.

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

Mayor Robbie Brackett, present; Vice Mayor Rey Neville, present; Councilmember Honey Minuse, present; Councilmember Bob McCabe, present and Councilmember Richard Winger, 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 – April 6, 2021

Mrs. Minuse made a motion to approve the minutes of the April 6, 2021 regular City Council meeting. Mr. McCabe seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – March 29, 2021

Mr. McCabe made a motion to approve the minutes of the March 29, 2021 Special Call City Council meeting. Mrs. Minuse seconded the motion and it passed unanimously.

3. Special Call City Council Minutes – April 6, 2021

Mrs. Minuse made a motion to approve the minutes of the April 6, 2021 Special Call City Council meeting. Mr. McCabe seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. John Turner, City Attorney, pulled item 3-C) “Agreement Consenting to Assignment of Lease Agreements from Flight Safety International, Inc., to Vero Beach Flight Training Academy, Inc.” from the agenda. He said that he would brief the Council on the status of

that matter and on the request that it be reset for consideration at the City Council Special Call meeting on April 27, 2021. He reported that this matter came before the Airport staff about a month ago at the request of Flight Safety to approve their sale to a new owner and approval of the assignment of the leases that were existing in Flight Safety's name that were going to be assumed by the new owner. He said this case is a little unusual in that the request was made in the form of a letter that had documents attached and the request for approval was addressed to the City Manager. The City staff contacted the originator of these documents and advised them that the procedure the City follows is to present it to the City Council for their review and approval and that the process had to be followed in this case, which also follows the rules and regulations for tenants of the Airport. He said that led to further discussions with one (1) being as to what leases were included. He explained that the files of the Airport and the files of Flight Safety did not coincide on what leases were applicable. This issue was resolved into the leases that were to be presented to the Council tonight for their review. He reported that when it came to the City Attorney's office for them to prepare the consent to assignments, they were not informed of all the participants to the sale. It was not until yesterday during a conference call that his office learned that the interim owner of the assets was a different company than what the final owner of the leases and the owners who was going to be responsible for paying the rent was. He reported that he, in discussion with the Counsel for Flight Safety, agreed to amend the language to reflect that the assignments are going to be to both the eventual owner; a company from the United Kingdom, Skyborne Aviation Limited, and an additional interim company, Vero Beach Flight Training. He explained that he wants to make sure that the people who are taking over the leases are the final owners of the property and the ones who are going to be responsible for paying the rent. Needless to say, they couldn't get all the paperwork completed in time for today. He reported that there is a time constraint because they are scheduled to close on the sale on April 30, 2021, so Flight Safety has requested that the City move this matter for approval at the April 27, 2021, Special Call City Council meeting. He said that he explained to them that he would make the request to the Council, assuming that all the paperwork is in order and all the parties have properly signed. He said there are some issues that they have not had before in this matter, with the main one being that this is a company from the United Kingdom and they have to be domesticated in the State of Florida in doing business in Florida if they are going to be responsible for the rent. They also have not made the security deposit. He said there are a few issues that they have to resolve. He said they parties all have to be on board, and the paperwork has to be signed and in the City Clerk's office, in short order for this to occur. Based on his status report, he is requesting City Council's approval that this matter be reset for approval at the Special Call meeting on April 27, 2021.

Mayor Brackett said that he did not have a problem with putting this item on their April 27, 2021 Special Call meeting agenda. He said this is a new business in town and they need to be as helpful as they can within reason and they do need to make sure they dot the "i's" and cross the "t's".

Mrs. Minuse asked are they going to become a Florida domesticated company.

Mr. Turner answered yes.

Mrs. Tammy Bursick, City Clerk, pulled item 8-A) “Appointments to the Charter Review Commission” off of the agenda. She said that she received several more applications and would like to work on setting up an interview session and then have this item placed on the next City Council agenda.

Mrs. Minuse questioned if they should set a time certain for acceptance of applications to serve on the Commission.

Mrs. Bursick said they would accept applications through Friday, April 23, 2021.

Mrs. Bursick reported that she has a letter to be read into the record from someone who is interested in having it read before the City Council takes a vote on this.

Mayor Brackett said if they are pulling this from tonight’s agenda there would not be a vote. He asked if they could read the letter during public comment.

Mr. Turner answered no.

Mayor Brackett said they would make sure the letter is read into the record when this item comes back before the City Council.

Mr. McCabe made a motion to approve the agenda as amended. Mrs. Minuse seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

1) Parkinson’s Disease Awareness Month – April 2021

Mrs. Minuse read and presented the Proclamation.

3. CONSENT AGENDA (include amount of expense)

- A) Replacement of Light Fixtures at Pocahontas Park – (\$59,370.27)**
- B) Municipal Elections Agreement**
- C) Agreement Consenting to Assignment of Lease Agreements from Flight Safety International, Inc., to Vero Beach Flight Training Academy, Inc.**

This item was pulled off of the consent agenda.

- D) AmHerst Client Assignment Agreement of Active Contracts to Hanson Consulting**
- E) Termination of Existing Lease and New Commercial Lease Agreement between the City of Vero Beach and Dragonfly Boatworks**

Mr. Neville referred to item 3-A) of the consent agenda. He said that he asked Mr. Falls earlier this week where the lighting was intended. Tonight he asked Mr. Falls if he received a response.

Mr. Monte Falls, City Manager, reported that the lights were sight lights inside the Park. They are not sports lights for any of the facilities. They are located in and around the Park area of the shuffleboard courts and in the area around the pickleball courts. They are not athletic lighting.

Mr. McCabe made a motion to approve the consent agenda with the exception of the item that was pulled. 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 60 (Appendix, Definitions) to Add or Amend Definitions related to the Cultural Arts Village Districts; Creating Chapter 61, Article VII, Cultural Arts Village Districts to add regulations for the Cultural Arts Village; Amending Section 64.44 of Chapter 64, Article III, Temporary Uses, to add Temporary Uses for the Cultural Arts Village Districts; Amending Sections 38.02, 38.13 and 38.14(a) of Chapter 38, Article I, Signs, to add Sign Regulations for the Cultural Arts Village Districts; 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 request is to create Chapter 61, Article VII, of the Cultural Arts Village District, which is to adopt the text that will regulate the Cultural Arts Village. He then gave a Power Point presentation (attached to the original minutes). He noted that this is the second public hearing of this Ordinance.

Mayor Brackett said this is a long time coming. They have a very patient group of people who have been waiting a long time for this. He looks forward to their success.

Mrs. Minuse congratulated the people who have worked on this for so long. She said their dedication to this has been extraordinary and it speaks very well to this beautiful City.

Mr. McCabe said well done.

Mr. Neville felt that they were all excited to see a neighborhood that had seen some decline to start coming back to life with a great new future in the horizon. He congratulated them on the great work they have done.

Mr. McCabe made a motion to adopt the Ordinance. Mrs. Minuse seconded the motion.

Mayor Brackett opened the public hearing at 5:22 p.m.

Mrs. Barbara Hoffman, Chairman of the Cultural Arts Village Leadership Team, read a prepared statement (attached to the original minutes).

On a roll call vote the motion passed 5-0 with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

- 2) **An Ordinance of the City of Vero Beach, Florida, Amending the Official Zoning Map by Changing the Zoning District Designations of the Cultural Arts Village from POI, Professional, Office, Institutional District, RM-10/12, Medium and High Density Multi-Family Residential District, and RM-13, High Density Multi-Family Residential District to CAV, Cultural Arts Village Districts for the property generally located west of 14th Avenue, north of 18th Street, east of 20th Avenue and south of 19th Place; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Jeffries reported that this Ordinance is amending the Official Zoning Map for the neighborhood of the Cultural Arts Village. He then gave a Power Point presentation (attached to the original minutes). The Ordinance was reviewed by the Planning and Zoning Board and they recommended approval. He noted that this is the second public hearing for this Ordinance.

Mrs. Minuse made a motion to approve the Ordinance amending the Official Zoning Map as presented. Mr. McCabe seconded the motion.

Mayor Brackett opened the public hearing at 5:30 p.m.

Mr. Ken Daige thanked the City Council. He said that Mrs. Barbara Hoffman spearheaded this and he wanted to give her a big thank you. He thanked Mr. Tim McGarry, previous Planning and Development Director, stating that he was a big help in organizing this. He also thanked Mr. Jim O'Connor, previous City Manager, stating that he promoted this and believed in them. He then thanked Mr. Jeffries and Mr. Falls for allowing this to continue. He said this is a great night and thanked the City Council for approving this so it can move forward.

On a roll call vote the motion passed 5-0 with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mrs. Minuse yes.

B) RESOLUTIONS

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, Modifying and Reconstituting Boards and Commissions; Reconstituting Architectural Review Commission; Eliminating Alternates; Revising Residency Requirements; Providing for an Effective Date. – Requested by the City Council**

The City Clerk read the Resolution by title only.

Mayor Brackett said this is something the City Council discussed in their workshop meeting and prior to that and he, Mr. Turner, and Mrs. Bursick were asked to review to see how they could simplify this. He explained that they have had a lot of issues with vacancies on their Boards/Commissions, they have had some issues where some Boards/Commissions have more County residents than City residents serving on them, etc. He said that he would like the Councilmembers to review the Resolution and speak with Mrs. Bursick and then bring it back before the Council for a vote possibly on their next agenda. He said managing these Boards/Commissions is a task and Mrs. Bursick could enlighten them on some things. He said that he asked her some questions today and asked her to make some changes and she enlightened him on what the process might be.

Mrs. Minuse said that she has been going over the Resolution and it looked very appropriate.

Mayor Brackett asked that the Councilmembers give it another look because it is a big decision. He asked that they speak with Mrs. Bursick if they have any questions and to speak with Mr. Turner if they have any legal questions. He said that they will put the Resolution back on their agenda for their next meeting.

Mr. McCabe said that he liked the concept that they were tightening the residency requirements. He felt that was very appropriate.

Mr. Neville thanked Mayor Brackett for giving them the opportunity to spend some time studying this and reviewing it with Mrs. Bursick, understanding the rational for the reorganization. He looks forward to discussing this at their next meeting.

Mayor Brackett opened the public hearing at 5:35 p.m.

Mrs. Linda Moore said that she serves on two (2) different Boards and this seemed like it came out of no where. She said in all the time that she has been here, the City has always allowed County residents to serve on their Boards/Commissions. She said in the sense that there are so many vacancies on the Boards/Commissions, limiting it more may not be the best way to go. She said that she has been an alternate member for three (3) years and it

didn't seem to make a difference if members were full members or alternate members. She suggested that if they are going to get rid of the alternate members maybe they should look back a few years at the attendance records to determine who shows up for the meetings. If there are regular members who do not attend a lot of the meetings then they could replace those members with the alternate members. She also suggested that if they are going to revamp their Boards/Commissions that there should be term limits. She said they all talk about wanting to see younger people getting into politics, but that is never going to happen when they have members serving on Boards/Commissions for 20 to 30 years. She said if they want to allow a percentage of County residents serve, that is fine, but it is not like they are flushed with applications for people to serve at all times.

Mayor Brackett said the position has been that the majority of the members serving on their Boards/Commissions must be City residents and that has not occurred on some of their Boards/Commissions. He said the members do have term limits.

Mrs. Bursick explained that the Board/Commission members have a term limit of four (4) years and at the end of their four (4) year term it is brought back to the City Council and the City Council makes the decision on if they want to reappoint them or not.

Mrs. Moore felt that there should be more advertising on the Board/Commission openings.

Mr. McCabe noted that when they interviewed for the open seat on City Council, Mayor Brackett reminded every applicant that there were other opportunities in the City to serve and asked each applicant if they were willing to serve on an advisory board.

Mayor Brackett reported that a couple of the City Council applicants did apply to serve on a Board/Commission.

Mrs. Minuse said what is interesting is they also learn how City government works, which is a significant factor.

Mrs. Brooke Malone, County resident, said that she has served on the Recreation Commission for three (3) years. She stated that she is one (1) of the people who found out that she could apply for a position on the Commission and basically bulldogged her way over someone who had been on the Commission for a very long time and who was up for reappointment. She said in the last three (3) years, the Recreation Commission has just now started to inject some new life. They have three (3) new members besides herself who are under the age of 45. They are educated, active in the community, represent different portions of our population, etc. She said that she cannot confirm if they are City or County residents. She just wanted to convey the importance of finding people like them who are willing to volunteer their time. She said they leave their jobs at 1:30 p.m. to come to a meeting and spend one (1) to two (2) hours of their day, plus do outside research. They are just getting to a place where they have started to develop some interest. They have people attending their meetings for the first time in three (3) years. She said unless it is a hot issue, there is no one in attendance. She said that when she first started serving on the Commission every member on the Commission had served on the Commission for 15 to

20 years and she sat at meetings where nothing was brought up or discussed. There was nothing challenging going on. She encouraged Council to think about that. It is important that they find someone between 30 and 45 years old who can leave work and is willing to volunteer and support the City.

Mayor Brackett said that is why he thinks it is important for each Councilmember to take the time to review this and have two (2) weeks before they look at this again.

Mr. Brian Heady said that he has served on Boards and he knows that the City Clerk is good about keeping track about whether or not Board/Commission members have excused or unexcused absences. If they are not excused absences they are removed from the Board/Commission. He said it is important to have members on their Boards who are City residents who have a vested interest in what happens. If they create a Board where the majority or even a vocal minority of Board members who are not City residents then they wind up with people who are serving on the Board who try to give away City property. He asked Mr. Winger didn't you see that happen on more than one (1) occasion, particularly Indian River Shores. He said they wind up with people from outside the City served on City Boards who were very active and maneuvered and tried very hard to have City residents lose City property. He said that he understands that there are not enough people to serving on the Boards, but to have someone from outside the City come in and make determinations on things that are an expensive or are assets of the City is just wrong. It is unfortunate that people don't care more about what goes on in the City. It is unfortunate that City residents are not interested enough to serve on City Boards or on the City Council. As far as City Council is concerned, if they want people to serve on City Council at least make the pay more than half of minimum wage.

Mayor Brackett asked Mr. Heady to stick to the topic, which is Boards/Commissions, not the City Council.

Mr. Heady asked isn't City Council a Board/Commission.

Mayor Brackett said they are not a volunteer Board/Commission. He said that he wants to keep on topic.

Mr. Heady was sorry that they disagreed on whether or not it is relevant. He said it is important for the City to have people that have a vested interest on these Boards. The idea that nothing was brought up, people can come to the dais and can bring up issues and push for issues any time. He said as far as the comment that they would learn how government works, he thinks what they really learn is how government doesn't work.

Ms. Nellie Santamarina said that she has been a property owner in Vero Beach since 2003. She owns a boutique hotel, a couple homes, and commercial property in the Downtown Cultural Arts District. She said that she applied to serve on the Planning and Zoning Board a few years ago and would have loved to serve on the Board, but because she is from Miami and lives here half the year her question would be does she qualify to serve. She said two (2) of the Councilmembers who interviewed her at the time said that she had all the

qualifications to sit on the Board, they were excited for her to sit on the Board, but because she does not live all year round in Vero Beach she could not serve. She asked how someone like her who is so vested in the City who does not live here full time participate.

Mayor Brackett asked Mr. Turner to address the question.

Mr. Turner said if she wants to participate they would invite her to complete an application with the City Clerk's office and she will be contacted.

Ms. Santamarina said that she did that.

Mayor Brackett thought that the application the City has now asks the applicant if they are full or part-time residents.

Mr. Turner said if you are a resident and have been a resident of the County for one (1) year then you are eligible.

Mrs. Minuse noted that the Planning and Zoning Board is a Statutory Board, which has its own requirements.

5. PUBLIC COMMENT (3-minute time limit)

Mrs. Linda Hillman referred to the Cultural Arts Village. She said that she is going to speak on this because she feels it is very important that Mr. Jeffries hears what she has to say. She said they talk about protecting the historical character of the historical neighborhoods, but they are allowing people to come in and take homes down that are located right next door to a historical cottage and build a two-story 3,000 square foot home. She said it has destroyed part of McAnsh Park. Now they have people buying up all these homes and wanting to take them down to one (1) wall and call it a redesign and it is being allowed. She wants to know what is going to happen to Osceola Park. She said that neighborhood designated on the State Register. She noted that she is all for property rights. She said that Mr. Tim McGarry, previous Planning and Development Director, started looking into regulations that would help the neighborhoods. She said there is not much left to Original Town. Thank goodness the people who are purchasing homes there respect the other homes and keep it in character, but they know there is not much on the beach that they can buy and they are starting to come forward. She asked the City to look at this. She said that she also wanted to discuss the tree issue. She handed out to Council photographs (on file in the City Clerk's office). She said Florida Power and Light (FPL) has destroyed the tree canopy on 23rd Street. She said the Council can see what FPL did to the trees that are west and east of her property. She said the smaller trees that are rounded out were her trees. She said that she stood there when FPL came to cut her trees and told them that she would not allow them to cut her trees. She said that she paid \$700 to have her trees trimmed and she believes that someone on Council needs to meet with FPL. She said the FPL should have taken down the trees on 23rd Street because there is nothing left of them.

Mayor Brackett said the City of Vero Beach trimmed the trees more often, but FPL does a major cut so they don't have to cut them but every five (5) years. He noted that he does not disagree with what Mrs. Hillman is saying. He is just trying to answer her question and he thought the City Attorney's office was currently working on this.

Mrs. Hillman said that she does not believe they need an extra tax added on for the stormwater. However, she does believe that the original discussion years ago that adding \$5.00 per month to the residents is the way they should go. She said with 17,000 residents at \$60 per year that comes to over \$1 million per year. She thinks County residents should be charged as well because they are a big part of what goes into their storm drains. She showed the Council a check and stated that she is making her payment again, as she did previously, for stormwater. She said they cannot afford to lose the Lagoon. She asked that the City Council consider the \$5 per month fee. She said that she knows Mayor Brackett has said they are clear until the year 2030, but she has not heard anything about the money from the sale of the Post Office that was supposed to go towards the Lagoon. She then submitted to the City Clerk her check.

Mr. Ken Daige asked if limbs from trees located on City property get trimmed and a limb falls and someone get hurt, who is liable. He is asking this question because there was a tree in the right-of-way under the power lines in Jacoby Park that was heavily trimmed and a massive limb fell on the Park bench. Also, on Club Drive there are some beautiful Oak Trees that hang over the road, which are looking heavy and the limbs look weak. He asked if a limb falls on a car driving down the road and someone gets killed, who is liable.

Mr. Neville asked was the limb that fell diseased.

Mr. Daige said that he was not sure.

Mr. Brian Heady said who is liable would depend on a lot of things. He said back when the discussions about selling Vero Beach Electric to FPL was happening one (1) of the concerns of the City were the trees. Generally speaking, the idea was that if the City sold to FPL not to expect FPL to take care of the trees like the City did. There was a comment made about tear downs and right now the City spends more money than they have coming in. He said that he has been in his home for over 20-years, which is homesteaded and therefore the assessed value is limited under Florida Law as far as how high it can go per year so his taxes are low. He said when you tear down a \$150,000 house and replace it with a \$1 million house what happens is it increases dramatically the taxes that come into the City, which is exactly what they need, an increase in income and a decrease in expenses. He said the concern of FPL destroying the trees, he gets it. He understands. He thanked Mayor Brackett for answering Mrs. Hillman's questions. If they had more of that where Councilmembers would just answer simple questions, they would have a more efficient government. He said they could really learn how government was working properly and to the benefit of the people if they had more of what they just witnessed by the Mayor.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing will be held on May 4, 2021 at 8:30 a.m.

- A) **An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 69, Telecommunication Tower and Antenna Siting, Section 69.06, Development and Antenna Siting, Section 69.06, Development Standards, to revise the Height Standards for Antenna Array(s) attached to Antenna Support Structure (Communication Tower) and Revised the Requirements for Emergency Communication Towers to accommodate collocation of other wireless communication service providers 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 and announced that the public hearing would be held on May 4, 2021 at 8:30 a.m.

Public Hearing will be held on May 4, 2021 at 8:30 a.m.

- B) **A Resolution of the City Council of the City of Vero Beach, Florida, Relating to City of Vero Beach Municipal Marina Rates and Fees; Repealing Resolution 2021-06 and Adopting Updated Rates and Fees; Providing for an Effective Date. – Requested by the Marina Director**

The City Clerk read the Resolution by title only and announced that the public hearing would be held on May 4, 2021 at 8:30 a.m.

8. CITY CLERK MATTERS

- A) **Appointments to the Charter Review Commission**

This item was pulled off of the agenda.

- B) **Vendor Concessions on City Beaches**

Mrs. Brooke Malone, Chairman of the Recreation Commission, reported that the item for bringing land leases and commercial businesses to our beachfronts was brought before the Commission. She said the City has had a contract for a concession with Sharkbait International since around 2014. During one (1) of their Commission meetings, Sharkbait International came before them with a one (1) and a half page proposal to incorporate the business beyond the South Beach property. The Commission members were not comfortable with making any type of decision and Mr. Turner had no idea that the City had

an agreement with them. She said the Commission continued this to their next meeting. The consensus of the Commission was that there were a lot of municipalities in the State of Florida that had concessions on the beach, but what worked for them was that the contracts contained over 100 pages of what was extremely managed on what it could be, what it couldn't be, what was allowed, etc., and were profitable land leases for the municipalities. However, these were very large beaches. So they started to look at communities like Vero Beach, but in looking at size between parking and the ocean and the amount of space between residences and commercial structures and the actual ocean, they found that a lot of these concessions were in places where everything east of the road was parking and beach for hundreds of yards in some cases and all the development was on the west side of the road, which Vero Beach does not have. Therefore, it was overwhelmingly the opinion of the Recreation Commission that without forward planning and an overall plan for some of the areas that have public access, which included Jaycee Beach, Humiston Beach, South Beach and MacWilliams Park Riverside, the Commission decided not to allow it. But, to continue to allow the kayak rental companies to drop off and pick up their kayaks because it does not establish any permanent structure.

Mrs. Minuse said that she attended those meetings and was impressed with the input and discussion that went on with everyone. She found the Commission's conclusion very agreeable.

Mayor Brackett asked does the Council have to take action to not take action. He asked do they need to take an actual vote.

Mr. Turner said they need to take an actual vote.

Mayor Brackett questioned a vote to accept the recommendation of the Recreation Commission.

Mr. Turner said if there was going to be a Resolution adopted or something more permanent in nature they could accept the recommendation for typical consideration and future discussion, they could defer it back to the Recreation Commission for further study, etc. He did not think it was necessary to take formal action on a recommendation of this type. He said it is an advisory role that the Commission is playing, not suggesting a Resolution, although they could come back with a Resolution.

Mrs. Minuse said one (1) of the things that she appreciated hearing, which probably needs further discussion, is that they want to have these types of things available for those who want them and considering that these companies might want to work with the hotels that are located on the beach.

Mrs. Malone said a lot of them do. She said the contract that was brought before the Commission was an exclusive right, which would affect the businesses that operate by dropping off and picking up their kayaks, etc.

Mr. Winger said that he was on Council when this was tried with not just umbrellas, but with a concession stand selling food and beverages and the results were not good. It was not well thought out or planned and it just didn't work.

Mrs. Malone said they do have Seaburger Restaurant at Jaycee Beach, which makes sense because the structure is there and the parking is there. She said they have been there for a long time and they are a wonderful tenant.

Mrs. Minuse asked should the City Council be asking the Recreation Commission to bring back a recommendation for the City Council to consider.

Mr. Turner said if that is the will of the Council.

Mrs. Malone said if this is the will of the Council, the Commission would work on it.

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

Mr. Falls gave a brief update on Covid. He said that since the end of February, their positive results have been below 6% and they have only crossed that once since then, which was earlier this month.

Mr. Falls reported that staff contacted the Florida Department of Transportation (FDOT) regarding the Alma Lee Loy Bridge and were told that their structural analysis showed that the bridge is capable of carrying any legal load that is on the highway. They are currently doing a temporary repair, which should be completed by the middle of June. There will be a more extensive permanent repair that is scheduled for 2024. He reported that they don't design bridges the way the Alma Lee Loy Bridge was designed anymore and it is too close to the water on the approach to the island side so it is in contact with the salt environment. Now they have more of a clearance regulation so if the bridge were built today it would have to land further into the eastern side of the island.

Mr. Neville asked will this also apply to the Veterans Memorial Island Sanctuary Bridge when it is replaced.

Mr. Falls answered yes. He said when they replace the Veterans Memorial Island Sanctuary Bridge it will be consistent with all the requirements of cover.

Mr. Falls reported that the City has received several calls that no one is working on the Alma Lee Loy Bridge. He said they are working, but they are working underneath the bridge.

10. CITY ATTORNEY MATTERS

Mr. Turner reported that the City and Indian River County have been in discussions on the wording and application of various terms in the territorial agreement that the City has for

service of utilities in unincorporated areas in the County, as well as in Indian River Shores and they are currently in an impasse. He said they need to move forward on resolving the impasse because the City has planned the development of the new Waste Water Treatment Plant at the Airport and will be removing the current facility off of the river. He said that planning has already begun and they will need to know the extent of services that are going to be provided by that Plant. He is approaching the City Council with a few options. There is an option that they can proceed to the Circuit Court with a complaint alleging that an impasse has been reached by the parties on the interpreting the application of the contract, which has been in existence since 1989, and ask the Court to resolve the impasse. This would give them a definitive determination of what the language means. Prior to the lawsuit he would recommend that the City engage the County in an intergovernmental dispute resolution procedure that is provided by Chapter 164 of the Florida Statutes, which that procedure has to be adopted by the City Council by Resolution setting forth the reasons that the Chapter would be invoked and the procedure followed. If the City were to file a lawsuit first, that lawsuit would be held in abeyance pending the parties participating in the dispute resolution procedure. The basis for this procedure is that the Legislature has made a finding that governmental entities involved in a dispute should try to resolve it outside court and outside of litigation so tax dollars are not spent. He said that he would like discussion from the City Council on their feelings on this matter and perhaps bringing this back before the City Council at their next meeting with a Resolution proceeding in that direction as an option, which is probably what he would recommend.

Mr. Neville said his view would be to do whatever is the most expeditious to get a decision made. He didn't think anything should interfere with the pace of getting this completed.

Mr. McCabe asked Mr. Turner to explain the process of the Dispute Resolution.

Mr. Turner explained that once the Resolution is adopted there is a very strict timeline on what has to be completed and the first thing to be completed is that staff of the governmental bodies has to have a meeting to see if they can resolve the impasse. If staff is unsuccessful then there would be a meeting between the Board of County Commissioners and the City Council to try to reach an agreeable resolution. If they can't resolve it then they would go to mediation. If not resolved in mediation then litigation would be the result. He thought it all would be completed within 120-days.

Mr. Winger said that he would like to understand the details of what is in the dispute. He said going back in time, both with water and sewer and the electric utility, both with Indian River County and with Indian River Shores, the City went through this procedure with mixed results. The City ultimately prevailed in all these matters, but it went to the Public Service Commission (PSC), as well as to the Supreme Court. He said that he would like to know what is in the dispute in that this is an area that he has experience in. He said that his consideration is that knowing the details the City sought outside experience to supplement staff experience.

Mayor Brackett encouraged the City Councilmembers to do what Mr. Winger is doing by getting with staff to make sure they are up to speed on this topic.

Mrs. Minuse said when the new Plant was planned they took into account servicing these people. She asked if the City is not servicing these people, what happens.

Mr. Falls explained that the new Plant under design is being considered to serve the service territory that the City has in the 1989 agreement. Therefore, the City is considering the capacity to treat the wastewater flow from those areas to the Plant. The City needs to have a Resolution on this before the City develops the final design plans so they can program the size of the Plant to the size of the area the City is going to serve.

Mrs. Minuse questioned then as the worst case scenario, if the City is no longer going to be servicing these people the City would still be able to build the Plant, but it would reflect a smaller population.

Mr. Falls said that is correct.

Mr. Turner reported that in January of this year, a gentleman appeared before the City Council regarding a code enforcement citation that he received involving use of his company logo being stenciled on the City sidewalks of the Parks. The City Council agreed rather than paying the cost the City incurred by correcting this that he would work it off by using his services to the City's benefit by cleaning the sidewalks of the City. Mr. Turner reported that he (person cited) has been advised that the work was not done, although he promised to. Mr. Turner reported that he sent a Demand Letter last week and received a response that he wants to complete this. Mr. Turner stated that the job was not completed within a reasonable amount of time and he is asking the City Council for the authority to move forward with collection proceedings and close this matter.

Mrs. Minuse said that is reasonable.

Mr. Turner said if it is okay with the City Council, the Assistant City Attorney will proceed with the paperwork to collect the amount owed to the City, which is approximately \$700.

The City Council agreed.

Mr. Turner reported that the State is in settlement negotiations on the opioid litigation and he received from the Attorney General's office about 200 pages of the settlement documents. The City is entitled to a very small portion of this, which he thought was about \$6,000 to \$11,000. He said that he would review the information provided and bring back before the City Council his recommendation.

Ms. Jenny Flanigan, Assistant City Attorney, gave a Legislative update.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

Mayor Brackett reported on the Beach and Shores Preservation Committee meeting that was held yesterday. He reported that they have a funds and a permit in hand to remove derelict vessels.

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

1) Mr. Brian Heady to speak on budget considerations for the July budget hearings.

Mr. Brian Heady said that he recently read that the first step in fixing America is to prosecute any elected official that fails to live up to their Oath of Office. He said the Oath of Office that the City Councilmembers take, the exact words are, “to support, honor, protect, and defend.” He thinks those are important words and the elected officials should support, honor, defend, and protect. He said for years any objective look at these Council meetings would tell a non-biased person that they are not exactly equal when it comes to him. He said “Mr. Heady” is sometimes allowed to speak and sometimes he is not. He said when you (City Council) allow some people in the community to speak freely and then you deny others, that is a violation of your basic oath; equality. When you have his name removed from the ballot illegally, improperly, and wrongfully, that is a violation. He said there is someone sitting in the Chambers who did the exact same thing to him as they did to her and she was represented by a lawyer from Tallahassee and the City settled with her and refused to even discuss a settlement with him. He said one (1) Councilmember wanted to discuss a settlement with him and it was no, that is not what this is about. He said they can go back and read the transcript. He said there are multiple times that this has happened. The City Attorney just talked with the City Council about settling a case before it go through the Courts, which he feels is important and thinks that is what they should do and that is what they should do with him. He thinks that they were not going to settle it here, but maybe they should trust the Mayor to sit down and listen to the presentation from him. He said when Mr. Winger was Mayor he was trusted with negotiating a settlement that amounted to \$30 million and Mr. Winger presented to the City Council six (6) or (8) months ago and discussed how he was able to negotiate a contract that was originally \$50 million and he negotiated it down to \$30 million. He said that Mr. Winger is here and can tell them that is incorrect.

Mr. Winger noted that he was one (1) of three (3) people.

Mr. Heady said Mr. Winger was the only Councilmember. He said in order for him to successfully win his complaints against the City, he needs to have a cause of action. He said that Mayor Brackett got the City out of trouble on one (1) of his complaints because the cause of action was that he (the Mayor) was not giving him the opportunity to speak. He said one (1) Councilmember who is no longer on Council looked at the Mayor stating that Mr. Heady has the right to speak. That Councilmember made a motion to allow him to speak and the other four (4) Councilmembers refused to allow him to speak, which he thinks is a violation of their Oath of Office and a violation of the principles of equal justice. He thanked Mayor Brackett for removing that cause of action by changing his ways and allowing the citizens to speak. He said you can't settle with one (1) person in the

community on the same set of circumstances and refuse to even discuss a settlement with someone where they did exactly the same thing. Before they wind up in Court and spend a ton of taxpayer's money, he thinks there is an opportunity to settle on some of his issues. He said that the complaint against the Council includes personally against the four (4) Councilmembers is because the law provides immunity to the Councilmembers for making wrongful decisions because when you make a decision as a Councilmember you are protected; there is some immunity involved. But, you don't have immunity when you overstep your bounds. When you act outside of your authority of a Councilmember you become personally liable. He said that he would argue that you did not have the legal authority to stop him from speaking at a public meeting to which the public has been invited to speak publically. That was a wrongful action and outside their authority. He thinks that gives him the opportunity to not only sue them in their capacity of Councilmembers, but also personally. He said there are issues that come before the City that he has tried to speak on numerous times. He said there was a gentleman who stood at the podium recently stating if they listened to Mr. Heady in 1992 they wouldn't still have this Lagoon problem. He said if they want to clean up the water and the Lagoon to stop dumping into it. He said it is like every other Council gets to debate the Twin Pairs and the beachside parking.

Mayor Brackett noted that Mr. Heady's time was up.

Mr. Heady left the dais.

B. Vice Mayor Neville's Matters

Mr. Neville said they are seeing a rapid progression of gentrification both on the beachside and the mainland side, which he believes is going to accelerate and will have a detrimental effect on the communities that are not gentrified. He urged the City Council to move forward and develop policies that would allow the City to preserve the communities as they exist. He is not saying that people cannot develop their properties, but when you see a house that is two (2) stories with 15-foot from the property line he finds that disturbing. He said that he would like for them to put their heads together to do something to help keep their neighbors in their quite enjoyment of their properties.

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

C. Councilmember Winger's Matters

Mr. Winger agreed with Mr. Neville. He said the County is exploding, but the City is pretty much locked in and are being asked to provide to services. He felt the action today on the Cultural Arts Village gives another venue. He said as the area explodes people look to the City of Vero Beach for an outlet for recreation. He felt this was something the City Council needs to consider during their workshops. He thinks that it is important that the Three Corners is also an outlet for the greater community, but the problem is how the City could afford to finance it.

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

D. Councilmember Minuse's Matters

Mrs. Minuse said the waters are really grabbing their attention and it is not only the Lagoon. The Supreme Court recently ruled against Florida in a very longstanding water war they had against Georgia. She said this was tragic to the people who live in northern Florida who depended on that water flow before Georgia cut it off. But, it speaks to a more serious problem to them because the aquifer that supplies their water starts in South Carolina and anything that happens has the potential to impact them. On April 17, 2021, she was invited to attend the Indian River Soil and Water Conservation District meeting for a local working group and this issue was addressed with great concern. She reported that these issues were also addressed at the Treasure Coast Regional Planning Council meeting. She said they identified three (3) issues that have primary concern, which were potable water, sewer/septic tank effluent and stormwater drainage. She said that she will provide the Council with updates as they come along.

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

E. Councilmember McCabe's Matters

Mr. McCabe said that he wants to help celebrate the Cultural Arts Village. He felt that they need to celebrate now that it is finally realistic and has been formed. He said that he wants to do everything that he can to help with the implementation of it. He gave a shout out to the Vero Beach Police Department in that they received a telephone call about a possible bomb and he feels that they went through extra efforts. He also gave a shout out to the various City entities.

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

Mayor Brackett reported that the City lost two (2) very important people this past weekend and it was sad and unexpected. They were Mrs. Sue Marshbanks and Mrs. Hilde Tripson. He asked everyone to keep their families in their thoughts and prayers.

13. ADJOURNMENT

Today's meeting adjourned at 6:58 p.m.

/sp