

**CITY OF VERO BEACH, FLORIDA  
FEBRUARY 2, 2021 8:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Chaplain Kent Willis of the Church of Jesus Christ of Latter Day Saints.

**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; Councilwoman 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 – January 19, 2021**

**Mr. Neville made a motion to approve the January 19, 2021 City Council minutes. Mrs. Minuse seconded the motion and it passed unanimously.**

**2. Special Call City Council Minutes – January 15, 2021**

**Mr. Neville made a motion to approve the January 15, 2021 Special Call minutes. Mr. McCabe seconded the motion and it passed unanimously.**

**A. Agenda Additions, Deletions, and Adoption.**

Mrs. Tammy Bursick, City Clerk, pulled item 10-A) “Retainer Agreement with Mr. Kahn/Panhandling Ordinance” off of the agenda.

Mr. Monte Falls, City Manager, requested that item 9-C “Discussion of Citywide priorities to be discussed at a Future Workshop” be added to the agenda.

Mr. Neville pulled item 3-D) off of the consent agenda for discussion.

Mayor Brackett pulled item 3-A) off of the consent agenda.

**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) 211 Awareness Week – February 11-18, 2021**

Mrs. Minuse read the Proclamation and presented it via GoToMeeting.

**2) VIP Love Notes and Roses – February 14, 2021**

Mr. Neville read and presented the Proclamation.

**3) Annual Vero Beach Sock Drive**

Mr. Barry Shapiro talked about the annual Vero Beach Sock Drive that is held to help the homeless and less fortunate in our area.

**3. CONSENT AGENDA (include amount of expense)**

**A) Annual Reports from the City's Commissions and Boards**

Mrs. Marilyn Dussault, Chairman of the Tree and Beautification Commission, discussed the many things that the Tree and Beautification Commission have done throughout the year. She did mention because of COVID the Tree and Beautification Commission needed to cancel their beautification weekend that usually occurs in February.

**Mr. McCabe made a motion to approve the Annual Reports for the City's Commission and Boards. Mr. Neville seconded the motion and it passed unanimously.**

**B) Agreement Consenting to Assignment of Commercial Lease Agreement (Parcels 34 & 35) from Airport Station, Inc., to Airport Drive Station, Inc.**

**C) Renewal of Contract 1449-C – Utility Bill Printing and Mailing Services – Approximate Annual Cost – (\$102,170.09)**

**Mrs. Minuse made a motion to approve items 3-B) and 3-C) of the consent agenda. Mr. Neville seconded the motion and it passed unanimously.**

**D) Youth Sailing Memorandum of Understanding (MOU)**

Mr. Neville mentioned that the MOU states the size of the building will be approximately 12,000 square feet. He thought that it was going to be around 10,000 square feet. He said also this structure will be on Park land on the south side of the Three Corners property and

they needed to make sure that they know who is going to manage the scheduling and maintain it once it becomes a part of the City's Park land.

Mr. Falls stated that in discussions with the Youth Sailing Foundation (YS) they have offered to construct improvements necessary and maintain those improvements. They have not discussed how those will be scheduled, but he felt that it probably would be in coordination with the Recreation Department. He said that those things will be in the lease document.

Mr. Neville asked what about the square footage of the building being more than the 10,000 square feet.

Mr. Jason Jeffries, Planning and Development Director, explained that the building size presented by YS has changed over time. He said that the 12,000 square footage shown in the MOU does not mean that is what the square footage will be. The building can be anywhere from 10,000 to 12,000 square feet. At this point they will plan for a 12,000 square foot building.

Mr. Falls added that the general document says that YS and the City plan to work together. The location has been changed from the north side to the south side of the bridge. This guarantees YS a location on the property in conformance with the final master plan adopted by the City Council.

Mr. Graves asked with the 12,000 square foot building, does that include tearing down the water tank.

Mr. Jeffries said yes. He said that the plan will show the water tank removed from the site where YS will be building their structure.

Mr. Falls commented that at the last Steering Committee meeting the Committee realized what YS was asking for was in conflict with the water tank. The Steering Committee will be bringing a community plan to the City Council in order for them to make the final decision.

Mr. Graves expressed that they need to be transparent and let the public come in and express how they feel about those tanks.

Mr. Falls explained that the MOU is not speaking to the water tank.

Mayor Brackett added that there will be plenty of comments on their final plan. He said that the Steering Committee is still working on bringing their final plan to the City Council for their review.

Mr. Falls said that the developer will have input about whatever is feasible in keeping Big Blue and the water tanks.

Mayor Brackett agreed with Mr. Graves that they need to be transparent.

Mr. Graves suggested having a public hearing to hear from the public as to whether or not they want the water tanks to come down.

Mr. Neville commented that if they remove the size of the building from the document itself and just say that they are willing to happily grant the opportunity to place a building to be determined at some location and some size that might be the way to handle this. It lets YS know that the Council is in full support of their project and means they still have to discuss the site and size constraints. He said lets say there is a non-profit organization that wants that big tank and the way that the building is currently laid out in YS's sketch there would be a conflict. He doesn't want to put the City at odds with YS, which is what they might do if they commit to a 12,000 square foot building.

Mr. Graves understands YS wanting to have some certainty in being able to build their building at this location. With the building that YS wants to construct it is going to require the north tank to come down. He is saying before they make that commitment they need to let the citizens be heard. He said if the Steering Committee is leaning towards tearing down that north water tank that is fine, but there needs to be public input. He would defer this today and have a public hearing and a vote in the future. He said they don't have to adopt a master plan, but at least adopt a policy that the water tanks are either staying or they are coming down. They could ask the Steering Committee to meet quickly to make a decision and then at the next City Council meeting they can hear from the public. This would give YS the certainty as to whether or not the tanks are coming down. He is not saying that his mind is made up either way on it, but if he was in YS's shoes he would want to know with some certainty what he could or could not build on the property. He said as Council they need to make a policy decision on that.

Mrs. Minuse asked the City Attorney if this memorandum definitely allows YS to build a structure.

Mr. John Turner, City Attorney, said that it does not. He said that this is only considered a conceptual understanding into proceeding further into the matter that they can use for fundraising purposes on how they can plan their future use on the property. The final concept plan will be recommended by the Steering Committee and approved by City Council. This agreement if approved (MOU) may be terminated upon 60-days notice without cause by either side upon written notice.

Mr. Graves reiterated that YS needs to be given some type of certainty about what is going to happen and something can't be changed. If they are entering into some type of agreement that they abide by it. It is their job as City Council to make a policy decision on this one (1) way or the other.

Mr. Stu Keiller, Executive Director of YS, commented that this process started in the fall of 2019. He said prior to that, in March 2017, he had been in front of the City Council talking about building a community YS center for children in Indian River County. They

currently have 200 children sailing with them each week and 49% of those children are from underserved families. They (YS) went through the vetting process with the Duany Plan. They anchored on the north side (Standing Ovation Plan) in 2020 and the public had every possible way to give their input and the verdict was that YS was going to go there. Then they were moved to the south side at a Steering Committee meeting, which comprised of the entire City Council about 60-days later. They have been working with staff on coming up with this MOU. He said it is a general document and they cannot fundraise from it. They can only do fundraising when their plan is adopted as part of the master plan. They have had discussions with their donors and no one is interested in rehabilitating a water tank. So as a developer they can't finance the project without building a multi-purpose building. The MOU says that the building will be approximately 12,000 square feet. He said he thinks the building will be about 10,000 square feet. The Rowing Club is now 12,000 square feet with the potential to go to 15,000 square feet. Their building will be smaller than the existing Rowing Club's building. He said whether the tank comes down or not that will be part of the plan that is voted on and they could possibly still have their building on that particular site, but will find it more difficult to fundraise having the building in the shadow of those two (2) tanks. He said that donors want to see a first class site to build a first class building on in order to put their name on it or have their money involved with it. He said all this MOU does is give them one (1) small step saying that the City is going to put them somewhere south of the bridge. It doesn't commit the City to take the tank down. He hoped that Council would vote to approve the MOU. The last Steering Committee meeting was the second of two (2) where there was a complete public hearing. There were several members that wanted to take a vote at that meeting, but were told by staff that they didn't need to take a vote because they were just endorsing YS's plan.

Mr. Graves said if he was in Mr. Keiller's shoes he would want to know what could be constructed or what could not be. He said a 12,000 square foot building will require the tanks to come down. He asked Mr. Keiller if that was correct.

Mr. Keiller said there is a lot of acreage so you could put the building between the two (2) tanks. At this time they have \$700,000 in their building fund, which they could choose to start spending some money on engineering and site plan work. What they are trying to do is get incorporated into the master plan and then they will feel comfortable with raising the rest of the funds.

Mr. Neville commented that time is running out if someone is interested in having a project that involves the tanks. He liked the idea of having the two (2) tanks and art work being done, which he thought would be an exciting facility to have. He thinks that YS was intending to have the tanks come down and they need to put that forward in a public way so everyone understands that is how they hope to proceed.

Mr. Graves agreed. He said that he is for YS and feels that it should be on the property, but Council needs to make a decision regarding the tanks.

**Mrs. Minuse made a motion to proceed with the MOU. Mayor Brackett 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. Graves asked the Clerk to put the water tank issue on their next agenda and ask that the Steering Committee make a recommendation regarding the tanks.

Mayor Brackett mentioned that the Steering Committee does not meet until the end of February.

Mr. Graves had no problem with discussing this item at their March meeting.

Mr. Falls recommended to the City Council when they make a decision on the tanks that they have some kind of idea of the economics of that decision. He did not know if they would have that information by the first meeting in March because it would be developer driven. He explained if they make a firm decision to keep the tanks and they have a developer that comes in and says they can't keep the tanks then it would be the City keeping the tanks and maintaining them going forward.

Mr. Graves had no problem with discussing the tanks keeping in mind the economic issue. He said now they are at the policy making decision as to whether or not the tanks should stay in the master plan.

Mayor Brackett clarified that Council did pass the MOU and the discussion of the tanks will be put on a City Council agenda in March.

#### **4. PUBLIC HEARINGS**

##### **A) ORDINANCES**

##### **B) RESOLUTIONS**

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, authorizing the City to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation for a project entitled "Rehabilitate Runway 12R/30L Construction" (FDOT #445950-1-94-01); Providing for an Effective Date. – Requested by the Airport**

The City Clerk read the Resolution by title only.

Mr. Falls reported that this Public Transportation Grant Agreement with the Florida Department of Transportation was included in the Airports adopted Five-Year Capital Improvement Plan, which is for construction work of the rehabilitation of runway 12R/30L. The project is being funded at 19.38% by FDOT, 7.88% by Airport matching funds, and an anticipated 72.74% by Federal Aviation Administration (FAA).

Mr. Neville asked if the Airport contributes \$750,000 to this project what does this do for their reserves.

Mr. Falls said that this project was included in their Five-Year Capital Improvement Plan.

Mayor Brackett opened and closed the public hearing at 9:21 a.m., with no one wishing to be heard.

There was no one wishing to be heard under public comment.

**Mr. McCabe made a motion to approve the Resolution. Mrs. Minuse 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.**

- 2) **A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to enter into a Public Transportation Grant Agreement with the Florida Department of Transportation for a project entitled “Master Plan Update” (FDOT #447637-2-94-02); Providing for an Effective Date. – Requested by the Airport**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the Airport completed the latest Airport Master Plan in 2016. As a requirement by the Federal Aviation Administration (FAA) this plan has to be updated every five (5) years. The project is being funded at 5% by FDOT, 5% by the Airport matching funds, and an anticipated 90% funding from FAA. This Airport cost is included in the Five-Year Capital Improvement Plan and no General Fund revenue will be expended on this project.

**Mr. Neville made a motion to approve the Resolution. 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.**

5. **PUBLIC COMMENT (3-minute time limit)**

6. **CITY COUNCIL MATTERS**

A) **NEW BUSINESS**

B) **OLD BUSINESS**

7. **PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING**

**Public Hearing to be held on February 16, 2021 at 8:30 a.m.**

- A) **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 and reported that the public hearing would be held on February 16, 2021 at 8:30 a.m.

**8. CITY CLERK MATTERS**

**A) Appointment to Commission/Board**

**Code Enforcement Board**

Mr. Kirk Noonan recently resigned from the Code Enforcement Board. Mr. Ken Daige is currently serving as an alternate member and would like to be moved up to a full member. At this time there are no applications on file.

**Mr. Neville made a motion to move Mr. Ken Daige up to a full member on the Code Enforcement Board. 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.**

**9. CITY MANAGER MATTERS (include amount of expense)**

**A) FFCRA Voluntary Extension**

Mr. Falls reported that the Families First Coronavirus Relief Act authorized up to 10 days of paid leave for employees who tested positive for COVID or were asked to quarantine. The Families First Coronavirus Relief Act mandatory leave benefit ended as of December 31, 2020. However, workplaces may continue to offer this benefit on a voluntary basis. It would only apply in those instances when an employee has tested positive for COVID or has been asked to quarantine after being tested as per the CDC guidelines for exposure to COVID. The provision would apply to those individuals who have not yet used their allotment for Families First Coronavirus Relief Act. He asked the City Council if they would like to continue this benefit until March 31, 2021.

Mr. Neville said that makes sense. They don't want employees coming to work if they are sick.

**Mr. McCabe made a motion to continue the FFCRA leave for employees who test positive for COVID or are being asked to quarantine because of exposure. Mr. Neville seconded the motion and it passed unanimously.**

**B) Acceptance of Marina Master Plan Implementation – Phase 1**

Mr. Falls reported that they are now in the next step in the revitalization of the City of Vero Beach's Marina. This is the Marina Master Plan Implementation, which is Phase 1. This step involves applying for the necessary permits needed, also the final design for the Marina's south complex, which is the dry storage building and associated floating docks.

Mr. Graves commented that he knows that this was decided by a prior City Council and there was some discussion in contracting this out or having a private company come in to do this work, which would mean that they probably would have had their Marina up to speed by now. He didn't know if Council wanted to discuss having a contractor come in and do the work versus spending taxpayer's money on it. He knows that they have a great Marina Director and he is not saying anything about him. He is just talking about the amount of taxpayer's money that will be used to get the Marina where it needs to be. He said that they would still get the same enterprise fee if they were to do it themselves.

Mr. Neville stated that he thinks that "ship has sailed." He said that they are too far into the planning stages as far as that goes. He said if they are going to continue to have dry storage that building has to be removed.

Mr. Graves said there is no doubt about that. It is just how they get there.

Mayor Brackett said he has been on the City Council since this discussion started taking place. When this was first brought up the citizens of this community showed up and voiced their opinion that they were against privatizing. They wanted to have a Marina Director hired and then have the City continue owning the Marina and have it run by the City. He reiterated that public input was very much for keeping a City Marina. He voted not to privatize it because of the public coming out. He recently visited the Marina and a commitment was made to have the Marina as one of the best Marinas that it can possibly be. He said the more improvements that are made at the Marina, the more they will reap the benefits.

Mrs. Minuse felt that the budget looked appropriate and she has no problem with continuing in the direction that they are moving in with the Marina Master Plan Implementation.

Mr. Graves explained the philosophy is what does government do well and the best way to get there. He said that there is no doubt that everyone wants a wonderful Marina, but they need to do it in the most responsible way with taxpayer's funds.

Mr. Neville commented that they do it by local control in making sure that the Marina is developed in the way that the community would like to see it developed as opposed to the way a developer wants to see it because their objectives are different at times. He recalled that there was a willing player who wanted to make a proposal for the Marina and it was "grand" and perhaps "grander" than what some folks would like. He said if this person was given a lease then he could pretty much do what he wanted to do. He thinks that is

why the Council at that time made the decision to try to manage it within their own resources and he thinks they are doing a good job. They have a first class consultant who is guiding them and it is going well.

Mayor Brackett did not disagree with Mr. Graves approach. He likes their private partnership with the Rowing Club, Youth Sailing, etc. The difference for him is that they already had a Marina here. He said that the public made a case at past Council meetings and Marine Commission meetings on what they wanted to see at the Marina.

Mr. Falls thanked Mr. Graves for bringing this up because they are at the jumping off point. They are going to make a commitment here to do what the Council had made a commitment to do with the master plan. They will be investing a lot of money at the Marina over the next five (5) to 10 years and it is good to have this open honest discussion. They have a dry storage building that is over 30-years old that is completely full and hopefully they will be able to get a new building and have it filled up again very soon.

Mr. Graves agreed that this is literally the point of no return once they commit these taxpayer's funds. The reason he brings this up is that everyone wants a first class Marina and it is obvious that the Marina needs upgrading. He then asked if the dockage at the Three Corners property will come under the Marina purview. He thinks that is one (1) of the things that they could do rather quickly whether they have developers or not. There could be some restaurants and dockage there. He asked who is going to run that Marina and dockage.

Mayor Brackett explained the only discussion they have had is having day docks and not overnight docking.

Mr. Graves said it is something that has to be maintained and someone needs to oversee it.

Mr. McCabe felt that was a discussion for another day. He said it is not part of the master plan that they are looking at today.

Mr. Neville agreed with Mr. Graves that they need to be thinking along those lines about who is going to manage it. They all agree that there should be docks on the north section of the Three Corners property. He asked the City Manager to give some consideration on how this would be managed and would it belong to their Harbor Master or someone local.

Mr. Falls explained that they will get to those decisions as they go through the process with their developer. He said if a developer is not going to be able to make any money on it then he will not have any interest in constructing and managing it. He said it could be that the City constructs docks there with Florida Inland Navigation District (FIND) grants and it is part of their infrastructure to manage it.

Mr. Neville explained that there are two (2) kinds of docks. He said there is a day dock that you dock yourself or there is a day dock that you pay a fee and there is someone that

helps you land your boat. He said when you are talking about really nice restaurants there then they will probably charge a fee for someone to help with docking the boats.

Mr. Graves commented that from what he is hearing from their citizens that this is something that they would like to see sooner than later. They need to study this and get an idea of what they can do. He thinks they can get restaurants there in a short order and just need to start down the road in how they can do this.

Mayor Brackett opened the meeting up for public comments at 9:40 a.m.

Mr. Keith Drewett recalled the conversation when the public came forward with their comments about what to do with the Marina. He said that he gave a Power Point presentation at that time. There was an attractive proposal from Mr. Kennedy, but the financial part of the proposal was not correct. He said with this project it will be self-sustainable right on track. He said as far as the Three Corners property goes, having a restaurant there and a day dock would be a terrific amenity to that location. He thanked the Marina Director for the improvements that he has already made at the Marina.

Mr. Bob Jones passed out a copy of his comments, which he read (attached to the original minutes). He said that last year he met with City staff to discuss the Vero Beach Yacht Club's dock expansion ideas and to enter into a collaboration with the City to identify win-win's and mitigate potential conflicts. He felt that the time to address this was now, before either preliminary or final design and permitting begins.

Mr. Falls told Mr. Jones that staff needs to get back and meet with the Yacht Club, but doing it prior to this would be premature. They have asked their consultants to look at a couple of things in the design process. He explained that all of the docks are not parallel because of the break in the shoreline. They will take a look to see if they could extend the dock to the south adjacent to the dry storage and make it parallel later on. They are exploring that now. The biggest issue that constrains them on the north side is the existence of the Marina building itself. They have been told by the permitting agencies that it has to have the same footprint or it can't be rebuilt. If they keep the building there as it is today it eliminates the flexibility of where they can construct their docks. All he knows is that everyone wants to improve the Marina and the Yacht Club and go further out to the west for more room. They have agreed in concept to let the Yacht Club submerge into their submerged land area that they have in their mooring field already. He said as soon as they get this other information back from their consultant then they will schedule a meeting to sit down with the Yacht Club. They can go ahead and get started on the dry storage design, which is what they are trying to move forward today. There is a commitment from the City to keep open communication with the Yacht Club.

Mr. Ken Daige commented that it is his understanding that the Marina is an Enterprise Fund and self supports itself and does a transfer to the General Fund. He asked if any taxpayer's money has been spent.

Mr. Falls said no that this is an Enterprise Fund.

Mr. Daige said that the community did meet on this issue and there was a lot of support to keep the City Marina.

Mrs. Bursick read into the record a letter from Mr. Paul Fafeita, President of the Clean Water Coalition of IRC (attached to the original minutes).

Mr. Graves stated that he does feel that they have an issue with boats mooring south of the bridge. He agrees with expanding the mooring field. He said if those boats are discharging into the Lagoon there could be some problems and they need more control over what is happening south of the bridge.

Mayor Brackett felt that was being looked at by a number of people. He agrees with the expansion of the mooring field and they do need more control. He said that the Vero Beach Police Department and Florida Wildlife Conservation (FWC) did a sweep of the area about three (3) weeks ago and there were three (3) boats over there that were cited. He knows that the Marina Director attempts to get over there sometimes with his pump out, but sometimes that is difficult for him to do.

Mr. Graves said it is great that they are citing, but he would rather that they not be dumping at all.

Mayor Brackett felt that the more these boat owners are targeted by the Police Department that they will eventually leave.

Mr. Graves said that they don't want this dumping to happen at all.

Mayor Brackett said that there is an argument about expanding the mooring field. He said if they expand it there then these boaters will just move down the Island so there has to be a better way to control this and it needs to be by law enforcement.

Mr. Graves commented that south of the bridge is very desirable anchorage because they are close to land and can get in. He said right now they have an issue that seems to be getting worse. He said if they are causing the City to have to go out and offer pumping services then a charge should be initiated.

Mr. Sean Collins, Marina Director, stated that they do the first pump out for free and then charge \$5.00 for the next service, which is the most that they are allowed to charge.

Mr. Falls commented that the way to attack this is to regulate how the dinghies are accessing the land. He thought that this would be the quickest way for them to do legislation on this locally.

Mayor Brackett agreed that there needs to be more control. He said some of those boats on the south side used to be customers of theirs, but because of COVID they don't want to tie up with another boat. He didn't know when they would come back to the Marina. He

said that the Marina Director recognizes those boats and if they don't come in to pump out for weeks on end they can get a Police Officer out there to look at it and verify it. He doesn't like having to do it that way, but it is one (1) way of handling it. He does not know what it takes to get a submerged land lease and asked Mr. Falls what was the process.

Mr. Falls said that they would have to take a look and see the feasibility of it or look at local legislation to set up a certain place someone would have to come to in order to land and dock.

Mr. Graves agreed with actively pursuing that, which would give them the ability to enforce that area.

Mr. Neville asked Mr. Falls if there was a timeline as to when they can expand their moorings.

Mr. Falls said he would put something together and bring it back to Council at a future meeting.

Mr. Graves agreed that a land lease was a great idea and they need to have a timeline in order to get it done.

Mayor Brackett thought that the master plan called for expansion to the north. He was told that was correct. He (Mayor Brackett) said now they need to explore the idea of expansion to the south.

Mr. Neville asked Council if they were aware that there is legislation coming before Tallahassee for people who travel a lot by boat trying to minimize the amount. He said that they need to keep a close eye on this legislation and if they need to send some input to their legislatures on how important they feel it is to control their own waters.

**Mr. Neville made a motion to approve the Marina Master Plan Implementation, Phase 1. Mrs. Minuse seconded the motion and it passed unanimously.**

**C) Discussion of Citywide priorities to be discussed at a Future Workshop**

Mr. Falls commented that usually as they are moving into spring he asks the Council to have a budget kickoff meeting so they know what they will be looking at as they approach the budget hearings scheduled for July. This year he is asking for them to set up a workshop to get together and brainstorm and look at what their priorities are.

Mr. Neville agreed that they all need to have goals and be looking at where they want to take the City. He was in favor of holding this workshop.

**10. CITY ATTORNEY MATTERS**

**A) Retainer Agreement with Mr. Kahn/Panhandling Ordinance**

This item was pulled off of the agenda.

**B) Westervelt vs COVB D&M Vero RE: Appeal of Court Decision**

Mr. Turner recalled that several months ago he advised Council of a pending Circuit Court case involving the property owner who filed an action suit against the City of Vero Beach challenging the notice published in the newspaper concerning Azalea Lane. It took a few months and they received a finalized motion summary judgement. The Ordinance was invalid because it was improperly noticed in the Press Journal. The proper notice was sent to the newspaper, but it was improperly published by the newspaper company. He said that the second page did not appear in the notice that was in the newspaper. The judge recently entered a written order determining that the Ordinance was invalid so the clock starts ticking on the appeal time. If Council is interested in appealing they have 30-days in which to do so. His recommendation would be not to appeal this case.

Mr. Neville agreed that he did not think they would have much luck if they did decide to go ahead and appeal it.

**Mrs. Minuse made a motion to not appeal this matter. Mr. Neville seconded the motion.**

Mrs. Minuse asked since this was an error with the newspaper, do they have any recourse with them at all.

Mr. Turner answered yes.

**The motion passed 5-0 with Mr. McCabe voting yes, Mrs. Minuse yes, Mr. Graves yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

Mr. Turner reported that Council recently received a letter from the Vero Isles Association concerning complaints from the neighbors with regards to the situation where they have noticed an increase of boat traffic from the boats coming up the canals, tying off, and going to the grocery store, restaurants and bars. Per their agreement with the City, the Association is responsible for the vegetation on the canal ends. At this point, the individuals are tramping on some of the vegetation and tying up their dinghies on the larger vegetation. Another concern is the pumping out of these boats that are moored there on a continuous basis. He said that Vero Isles Association would like to know the City's position on this and if it is legal for people to moor there. They asked for a response from the City Manager and the City Council. He asked Council if they do meet with Vero Isles on this that he would like to be present (referring to one on one meetings). The issue has to do with the license agreement that the City has with the property owner and what they do with their docks.

Mr. Graves suggested deeding it over to the homeowner. He said that it is no benefit to the City.

Mr. Turner did not disagree with Mr. Graves. He was just passing on the request that they received.

Mr. Graves said that they should give the rights to Vero Isles because it is no use to the City. There should be a public hearing or public comments on this.

Mr. Neville asked if there was an Ordinance in place regarding this.

Mr. Falls said that there is. It governs how far the dock can be built out and how much dock is maintained for the fairway.

Mayor Brackett suggested putting this on a future agenda for discussion. He would be happy to meet with the Association and discuss it.

Mr. Turner said that he would leave that up to Council. However, if a Councilmember does choose to meet with the Association individually he would like to attend that meeting with the Councilmember.

Mr. Graves asked if they were looking for a proposal in resolving this.

Mr. Turner said that he wants the chance to discuss the City's position with each Councilmember.

Mr. Graves said he would like to have a report from staff on this and what purview do they want to talk about.

Mrs. Minuse mentioned the land underneath converting to their ownership.

Mr. Falls explained that Vero Isles Association is not a formal HOA and legally they cannot speak for the whole neighborhood. However, the City could talk to them and get a feel as to what they are asking for.

Mrs. Minuse was very familiar with Vero Isles Association. She said that she was President of the Association for many years and is familiar with these issues. She said at the time they were trying to become an HOA, the wrong paperwork was filed so they just made it voluntary.

Mayor Brackett said that they would try to have this matter discussed at one of their City Council meetings in March.

## **11. COUNCILMEMBER MATTERS**

### **A. Mayor Brackett's Matters**

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

Mayor Brackett reported that he had the opportunity to tour the City Marina with Mr. Keith Drewett and the Marina Director. He said that the Marina Director is doing a good job and they have the right man to do the task that needs to be done.

Mayor Brackett commented that he sent a letter to Governor DeSantis and thanked him for coming to the City of Vero Beach and working with Publix in getting more places to offer the COVID vaccine. He said they are making progress in offering the vaccine to people over 65 years of age, but it is a slow process.

## **B. Vice Mayor Neville's Matters**

### **1) Discussion of Mask Ordinance similar to what Indian River County passed.**

Mr. Neville showed the most recent documentation from the Health Department showing the rate of infection for COVID-19 tests (attached to the original minutes). He drew an arrow on the data showing the slope. It is clear that the trend is in the wrong direction. They are looking at an infection rate now that was so much higher than it was when they were in lock down. However, the public does not seem so inclined to worry about this and it is a real problem. They live in a community where everyone thinks they live in the City of Vero Beach and they don't. He said that most people live in the County. He said when the County passes an Ordinance no one knows who it applies to. He said this is a case where he feels that they should be doing the same as what the County is doing unless there are serious disagreements with them. In this case they would only be adding one (1) more requirement and that is employees in shops where they interact with the public wear a mask. He said it is a simple thing to do and may actually save lives in the long run. The County just recently renewed their policy, which is all County buildings plus workplaces in the County wear masks. However, a lot of people don't know where the County starts and where it ends except in the outside boundaries. He is hoping that the Council can have a discussion on the feasibility of having their policy the same as the County's so that everyone knows what the requirements are. He said there is the issue of compliance and what happens if someone doesn't comply. He said businesses do have a license and the license includes health and safety factors and he thinks that might be sufficient motivation to comply with a simple request. He wanted to hear the Council's view on this.

Mayor Brackett stated that he may not be supportive of the masks, but he is all for having open discussion on it. His concern is the data that Mr. Neville produced this morning came from the Health Department, which was forwarded to the Council yesterday, but their website shows totally different numbers. He went over the numbers that were on their website as of 7:30 a.m. this morning. He doesn't know what numbers are right. He understands the spike after the holidays. He wanted to see what numbers were right, because the trend on the website shows it going the opposite of what Mr. Neville presented today.

Mr. Falls commented that every morning when he comes in he pulls up the website and he codes what were the positive cases yesterday and what were the tests and he computes a

daily average and it always matches what they have. Then he does a seven (7) day rolling average.

Mr. Neville asked if it conforms with the graph he presented this morning.

Mr. Falls said that it is not always the same. He said if they look at the data they peaked on January 5<sup>th</sup> at almost 15% positive. They have now since January 20<sup>th</sup> been below 10%. He said right now they are at 8%.

Mr. Neville commented that the interesting thing is that the percentage is one (1) thing and the volume is another. The percentage is still higher than what it was in the summer time.

Mrs. Minuse thought it was because there is more testing.

Mayor Brackett commented that most of the spreading goes on in the family household. He knows some entire families that all have had COVID. The numbers confuse him because they are different. He took Indian River County's rate and other counties that have a mask mandate and determined that the numbers were still high. He said it is not the mandate itself that does it, but it is people wearing masks and being good neighbors. He does not know of a store in Vero Beach that doesn't have mask signs on their doors when you walk in. He said it is really about responsibility and people doing the right thing. The Governor has said that this cannot be enforced in his latest Executive Order so he is concerned about putting something out there that cannot be enforced.

Mr. Neville wanted to see them be consistent with the County so the policy is consistent within the region. It is not an onerous task to ask an employee to wear a mask when they are working.

Mrs. Minuse commented that in going around town and shopping she has not encountered employees who were not wearing a mask or shield. She applauds their businesses for doing real justice for their society.

Mr. Neville said that he has been in some places where employees are not wearing masks.

Mrs. Minuse said that is an exception and they are going to find that. She said that some people don't believe in masks.

Mr. Neville said with this Ordinance he is only talking about employees having to consistently wear masks.

Mr. McCabe stated that he is in favor of having to wear masks and thinks that people are doing it a little bit more now and people are understanding that masks do help. He agreed if they were to be more consistent with the rest of the County it would not be a bad idea. He would be in favor of moving forward and doing something.

Mr. Graves commented that they all agree that masks should be worn. He said early on they were getting conflicting reports from their governments and it put them locally in an extremely bad position. Here they are trying to make public health decisions without a lot of leadership from higher government. As time moved on it was proven that masks work and that they should be worn. Unfortunately masks have become a political statement to some. He asked as a Council how they lead a diverse population into compliance with masks. They have to make the right decision for the diverse population for whom they represent all when seeking a level of compliance. This is a real disease and not something to be playing around with. He mentioned that his wife and two daughters were coming out of the nail salon on Sunday and someone accosted them for wearing masks. He said in making good policy they have to understand the opposing views and the different views that their citizenry has on this in trying to come up with a policy that works. He said that testing has to be a part of this. He was happy that they were starting the vaccine program, but they still have to wear masks and do testing. They are looking at about five (5) more months before they will have enough people vaccinated where some of these things can be relaxed. He said that they don't need to think about shutdowns, but how they continue keeping their businesses operating. What is a policy that they can adopt as a Council that keeps their restaurants and local businesses open? That is the health policy that needed to be in place months ago. He said that a sensible mask policy is probably appropriate. He just feels that they need to take all of these things into consideration before they pass an Ordinance in which some will feel it is a political statement.

Mr. Neville commented that they want to encourage the businesses who do not require their employees to wear masks to do so. He said this just reinforces how important that is and becomes consistent with the public law in the County. He did not think that it is an onerous task and they are not addressing the general public. This is only for employees to wear masks when they greet the general public.

Mr. Graves commented that if you look at what is happening with their citizenry there is a spreadsheet available on where you can go where employees wear masks. This is people making decisions on whether or not it is a place they want to go without government coming down and imposing something. He said that Council is setting an example every time that they meet they wear masks. He feels that there are people that wear masks voluntarily, but if there is a mandate in place they might be creating some problems.

Mayor Brackett felt that the business owners that are not wearing masks now are not requiring them in their stores and are against masks.

Mr. Graves added that by the Governor saying that they can't enforce people to wear masks it tied their hands locally. He felt home rule should always apply in something like this. He said they need to be careful in how they do this so they don't further divide their community and everyone feels like they are being represented.

Mr. McCabe asked Mr. Neville if he will be bringing this back at a future Council meeting to be voted on.

Mr. Neville said that he was trying to get a sense of the Council on how they feel about this. He said it is just a matter of airing out their views on it.

Mr. Falls reminded Council that the City requires people that come into their place of business to wear masks. The City employees wear their masks at City Hall when they meet with someone.

Mr. Graves suggested maybe making this a little more public so they know that the City is implementing these things. He said that Council setting an example is very important. He agreed with Mayor Brackett that the businesses that are not masking up probably have a very strong view on it.

The City Clerk read into the record two (2) different emails sent in by Mr. Brian Heady (attached to the original minutes).

**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 commented that he enjoyed today's meeting and appreciated working with this City Council. He wished everyone a safe Super Bowl.

**D. Councilmember Minuse's Matters**

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

Mrs. Minuse gave an update on what is going on with the Treasure Coast Regional Planning Council (TCRPC). She invited Mr. Thomas Lanahan, the new Executive Director of the TCRPC, to come to Vero Beach and meet with her. She introduced him to the City Manager and then took him over to the Airport where he met the Airport Director and his assistants. She said it was a very productive meeting. Mr. Lanahan suggested that the City of Vero Beach have someone from the Airport as an appointee on the Comprehensive Economic Development Strategy Committee (CEDS). This appointment should have been made by Commissioner Solari when he served on the County Commission, but he chose not to make an appointment. She said that now it is up to Commissioner Laura Moss to make an appointment because she now serves on the TCRPC. The Airport was excited to become an appointee on that Commission. After the meeting she got in touch with Commissioner Moss who said that she did not know anything about this appointment. The Treasure Coast region has a lot of members and the only people that had Representatives there was the City of Fellsmere and Mrs. Helene Caseltine from the Indian River Chamber of Commerce. She has been in touch with Mrs. Caseltine about this. Mrs. Caseltine said if it directly involves people at the Airport strategizing then she was okay with that. Mrs. Minuse told Council that she will keep them updated on this. She also talked about some

of the things happening in the industry, such as companies targeting sites in south Florida for jet points. She will keep the Council updated on this.

Mr. Neville brought up the Bill that is in Tallahassee to do away with the TCRPC.

Mrs. Minuse was aware of the Bill, but was not sure where it was headed.

Mr. Neville said that the Council could send a letter supporting the TCRPC.

Mrs. Minuse reported that the TCRPC was sending a Resolution to Tallahassee asking that the TCRPC not be dissolved.

Mr. McCabe asked Mr. Neville to send Council the information that he has regarding this Bill.

#### **E. Councilmember McCabe's Matters**

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

Mr. McCabe questioned the possibility of the Council doing more PSA's regarding COVID. He asked if there were any funds available to do that.

Mr. Falls thought that the last day to use the CARES Act funding was December 31<sup>st</sup>, but we would verify that.

#### **13. ADJOURNMENT**

Today's meeting adjourned at 10:53 a.m.

/tb