

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

The invocation was given by Dave Christensen of Church of Jesus Christ of Latter Day Saints.

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

Robbie Brackett, Mayor: Rey Neville, Vice Mayor; Joe Graves, Councilmember; Honey Minuse, Councilmember and Bob McCabe, Councilmember **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – February 16, 2021

Mrs. Minuse made a motion to approve the February 16, 2021 minutes. Mr. McCabe seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mrs. Minuse pulled item 3-B) off of the consent agenda.

Vice Mayor Neville made a motion to adopt the agenda as amended. Mrs. Minuse seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

1) March for Meals Month – March 2021

Vice Mayor Neville read and presented the Proclamation.

3. CONSENT AGENDA (include amount of expense)

A) Award of Bid 010-21/CSS – Resurfacing of Tennis Courts at Riverside Park and Charles Park to Sports Surface Pros, LLC, for a total price of (\$54,750.00)

B) Entering into a License Agreement with the “Quiet Birds of Vero Beach, Inc.” to allow use of specified area in Riverside Park, on specific dates and times, for their club activities

Mr. Monte Falls, City Manager, explained that The Quiet Birds of Vero Beach is a club consisting of about a dozen members who fly radio-controlled model airplanes in the “unimproved area” in Riverside Park. This agreement will give them exclusive access to the facility, and to ensure that they are in compliance with the City, the Vero Beach Air Traffic Control Tower and their own governing body policies and guidelines. It will also ensure that the club obtains and maintains sufficient insurance with the City named as “additionally insured.” The Quiet Birds club has been operating for the last 10 years with no complaints made.

Mrs. Minuse asked why this is called the unimproved area.

Mr. Falls said because there is no formal paving, water fountains, etc., in that area.

Mrs. Minuse asked how the area is being currently used.

Mr. Falls said people go out there and throw frisbees, kick soccer balls around, etc. He said that this is a non-exclusive license so the property can be used by other people at the same time.

Mrs. Minuse asked if they (Quiet Birds) would be flying drones.

Mr. Falls said that the club has never talked to the City about flying drones. He said that special permits and Florida Aviation Administration (FAA) approval would be needed in order for them to do that. He said the equipment that they fly is always within sight of the operator. He reiterated that they have never received any complaints about this club. He said that they start early in the morning and finish by mid-morning.

Vice Mayor Neville was familiar with this club and said the people in the club are well skilled with their aircraft and do not fly out of sight of their equipment. They are very cautious about their departure times and the public. He said at that time of the day people are walking on the sidewalks and not on the grass.

Mayor Brackett added that this is a non-exclusive agreement and the club is using it for recreational activities and the agreement can be terminated at any time. He was happy to hear that they now have insurance, which would cover the City if anything was to happen.

Mr. McCabe expressed that this would not deter anyone from using Riverside Park the same time as the Quiet Birds are using it.

Vice Mayor Neville made a motion to approve the license agreement with The Quite Birds of Vero Beach, Inc. Mrs. Minuse seconded the motion and it passed unanimously.

C) Award Contract for Veterans Memorial Island Bridge Repairs (\$129,600)

Vice Mayor Neville made a motion to approve items 3-A) and 3-C) on the consent agenda. Mrs. Minuse seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

Quasi-Judicial Hearing

A) Approval of Final Plat for Preston Estates platted-over subdivision (#SD21-000001) – Requested by NRH Homes Vero, LLC

The City Clerk read the title of the public hearing to be heard today.

Mayor Brackett announced that this was a quasi-judicial hearing and he would be following the procedures for conducting one. He asked Council if they had any ex parte communications to disclose, which there were none. He asked the Clerk to swear in anyone testifying at today's meeting enmasse. He said that all exhibits referred to today would be marked for identification and kept by the City Clerk.

Mr. Jason Jeffries, Planning and Development Director, was sworn in to testify at today's meeting. He reported that NRH Homes Vero, LLC has submitted an application for a final subdivision plat for Preston Estates, which is a platted-over subdivision of 7.87 acres into 55 lots located at 1205 & 1245 11th Avenue. The preliminary plat was approved by the City Council on December 11, 2018, and is tied to Site Plan #SP18-000002 for a 55-unit residential project. Under Section 70.13 of the City Code, the applicant chose to provide the City with a surety bond to guarantee completion of required subdivision improvements rather than complete the improvements prior to obtaining final plat approval. The surety bond is in the amount of \$450,762.33 based on 125 percent of the estimated costs of the required subdivision improvements. The applicant will have until December 31, 2021, to complete all required subdivision improvements to the satisfaction of the City Engineer, unless further time is extended by the City Engineer. The original memorandum, dated February 18, 2021, stated incorrectly that the surety bond would be in the amount of \$96,587.37. He said that the surety bond is required to be in the amount of \$450,762.33. The agreement has been updated to reflect this. He then gave a Power Point presentation (on file in the Clerk's office).

Mr. Lesley Mills, Engineer of record for this project, had been sworn in. He was at today's meeting to answer any questions that Council might have. He thanked City staff for their efforts in making everything come together for this project.

Vice Mayor Neville asked Mr. Mills to explain what the final plan will look like.

Mr. Mills stated that the plan has not changed much from the preliminary plat. He said that each owner will own their own duplex.

Vice Mayor Neville asked if the Home Owner's Association (HOA) would take care of the landscaping.

Mr. Mills explained that the HOA will maintain the landscaping in the common areas. He said as far as individual yards go and who will maintain them that still has not been determined.

Mrs. Minuse asked the City Attorney if there were any problems with her voting on this matter since she was a member on the Planning and Zoning Board when it first came up.

Mr. John Turner, City Attorney, told Mrs. Minuse that there is no reason for her not to take part of the discussion and vote on this matter.

Mayor Brackett closed the public hearing at 9:00 a.m., with no one else wishing to be heard.

Mrs. Minuse made a motion that based on competent substantial evidence as presented in the applicable code provisions that they grant the application for the approval of the final plat for Preston Estates platted-over subdivision (#SD21-000001). This will be subject to executing the construction contract, acceptance of utilities, and obtaining the required surety bonds. 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.

A) ORDINANCES

B) RESOLUTIONS

- 1) A Resolution of the City of Vero Beach, Florida, Creating a Charter Review Committee; Establishing Procedures; Providing Direction to the City Clerk; and Providing for an Effective Date. – Requested by City Council**

The City Clerk read the Resolution by title only.

Mrs. Minuse asked if there were properties that are City owned, but not in the Charter.

Mr. Falls said that there are and he can provide a list of the properties to her.

Mrs. Minuse said that could be something that the Charter Review Committee could look at.

Mr. McCabe agreed that the one (1) piece of property near the Three Corners site is not protected.

Mr. Brackett brought up the residency requirements and stated that the application that they use for someone wanting to serve on one (1) of their Commission/Boards reads “*All applicants must have lived in Indian River County for at least one “1” year.*”

Mrs. Minuse asked that the Resolution include that the applicants must have lived in the City for a least one (1) year prior to applying and appointment.

Mr. Turner asked Council if they had any problems with the sunset date for the Committee being July 1, 2021. He said if they need to change it they always could. Council had no problem leaving it in there.

The City Clerk read into the record a letter from Mrs. Rosemary White (attached to the original minutes).

Vice Mayor Neville made a motion to adopt the Resolution as amended. 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

1) Changing the required Septic Tank inspections from every five (5) years to every three (3) years – Requested by Mayor Robbie Brackett

Mayor Brackett commented that there has been discussion to offer incentives again for people to connect to the STEP System making the incentives retroactive, which he doesn't think is a good idea. He would recommend that everyone is required to have their septic tank inspected every three (3) years instead of every five (5) years, which is what they are requiring now. He said that these tanks are getting older and there have been a lot of the tanks that have failed inspections. He asked Council to consider moving to having the septic tank inspections occur every three (3) years.

Mrs. Minuse asked if this could be an item for discussion at their future workshop meeting scheduled for March 29th. Mr. Falls said that it could.

Mayor Brackett made it clear that at this time he was not asking for any formal document or Ordinance be drawn up by the City Attorney. This is just for discussion purposes.

Vice Mayor Neville suggested they also include drainfields. He said there are a lot of issues with older drainfields, especially the ones sitting on the water tables. He felt that

they also should include inspection of drainfields as part of the process and include it in their Ordinance. He felt that this was just as important as having the septic tanks inspected.

Mrs. Minuse agreed that made sense.

This item will be discussed at the March 29th City Council workshop.

Vice Mayor Neville requested that the City Manager to do some research and determine the cost associated with the expense of this kind of inspection.

Mayor Brackett said that having a pump out and inspection usually runs about \$500.00.

Mr. Falls stated that he will make sure that the Water and Sewer Director is available to speak on this at the March 29th workshop meeting. He knows that there have been some changes with the elevation required for drainfields and Mr. Bolton will be available to brief them on that.

2) Update on the Airport – Requested by Mayor Robbie Brackett

Mayor Brackett brought up the issue at the Airport. He said that under the current State law, when a general aviation airport begins to receive scheduled commercial airline service and exceeds 10,000 annual commercial passenger enplanements, the airport is classified as a primary Commercial Service Airport by the Federal Aviation Administration and the Florida Department of Transportation (FDOT), which allows funding eligibility airports such as ours to be reduced from 80% to 50%. He said that House Bill 1143 and Senate Bill 1466 would amend Section 332.007 in the Florida Statutes to allow Vero Beach Regional Airport to remain a general aviation airport and not be subject to the reduced grant contributions caused by the threshold of 10,000 enplanements per year. He asked the City Council to consider and support the draft Resolution presented to them this morning by the City Attorney. He asked the City Attorney to put the Resolution on their March 16th City Council agenda. He also asked Council to support him in going to all the local municipalities and Indian River County in passing a similar Resolution or doing a support letter to send to their local legislation saying that they are in support of these Bills passing.

Mr. Falls said any support that they can get from their local agencies is important. Mr. Turner agreed and added that the Florida League of Cities cannot emphasize enough how it helps their State Representatives in passing Bills to have support letters/resolutions from the local jurisdiction. It makes the Representatives jobs a little easier if they are able to show these support documents.

This Resolution will be heard at the March 16th City Council meeting.

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing will be held on March 16, 2021 at 8:30 a.m.

- A) A Resolution of the City Council of the City of Vero Beach, Florida, Adopting a Revised Recreation Programs and Community Events Rate and Fee Schedule; Superseding all previous Recreation Program and Community Events Rate and Fee Schedules; and Fee Schedules; and Providing for an Effective Date. – Requested by the Recreation Director**

The City Clerk read the Resolution by title only and announced that the public hearing would be held on March 16, 2021 at 8:30 a.m.

8. CITY CLERK MATTERS

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

Mr. Falls gave a COVID-19 update and said that this week the positivity rate was around 5.51%, which means it has come down 2% since the last time that Council met two (2) weeks ago.

Mr. Falls announced that the City Manager of Indian River Shores has turned in his resignation. Everyone wished him well.

10. CITY ATTORNEY MATTERS

Mr. Turner gave an update on the proposed panhandling Ordinance. He said that the City of Port Orange and the City of Delray Beach both have recently adopted a panhandling Ordinance. He is working with their outside counsel in setting up meetings and preparing for the adoption of their proposed panhandling Ordinance. He said that this will take some time, but they plan on moving forward even though they have received some objections to the Ordinance from other cities.

Vice Mayor Neville asked Mr. Turner if he had any responses to make concerning the information that they received from the City of Melbourne.

Mr. Turner did not feel that it was a good idea to discuss that here, but agreed that there were some issues raised and they (City of Vero Beach) were taking a different approach than what some other cities have.

Mayor Brackett added that he spoke with the Mayor of Melbourne and their Ordinance is different from what is being proposed in Vero Beach and their Ordinance did create some “hiccups.” He said that the Mayor of Melbourne told him that they are working on some of these issues and they both agreed to stay in contact if something should arise.

Mrs. Minuse brought up the proposed derelict vessels legislation. The legislation proposed in House Bill 639 and Senate Bill 1086 aims to empower State and local law enforcement

to remove vessels before they become problematic. Since February 18, 2021, the Bill has been in the House Environment, Agriculture & Flooding Subcommittee.

Mr. Turner said that he would find out what the status is with these Bills and get that information to Council.

Mrs. Minuse asked where they were with the Florida Power and Light (FPL) double pole issue.

Mr. Turner said that he thought Vice Mayor Neville was going to bring this matter up and discuss how to deal with them and recommend passing an Ordinance.

Vice Mayor Neville commented that when FPL relocates lines from one (1) pole to another they are doing it for safety reasons and hardening it on a better pole. Then when the power is transferred the other two (2) users of those poles do not always relocate. He said that those cables are big and thick and if there is a strong enough wind blowing there is a lot of pressure applied to those poles and they could possibly fall down with or without the power. He said if these poles fall in the wrong direction there could be problems. Mr. Neville felt if FPL declares a pole to be unsafe then it is unsafe for everyone. He feels they need an Ordinance that would reflect what would be beneficial in helping them. They would be providing safety to their community and improve the ambiance of their community as well. He asked that the City Attorney look at doing something either through their franchise agreement or through an Ordinance.

Mrs. Minuse asked for some clarification. She said that these poles are also being used by AT&T and Comcast. She asked if they had an agreement with FPL.

Mr. Turner answered yes. He said that the agreements are with FPL and not with the City. He said when FPL transfers their power lines to a new pole the other equipment owned by AT&T and Comcast remains on the old pole until such time as those companies transfer to the new pole. He said that is where the problem is. Getting these two (2) companies to move their lines to the new pole.

Mayor Brackett added that AT&T and Comcast may not be on the same budgetary schedule as FPL when their doing their work. He doesn't think that they communicate among each other to well.

Mr. Falls said that typically the owner of the pole and in most instances it is FPL will have a pole attachment agreement with the other utilities and collect a fee to be on that pole. He said that he will get back to Council on this and agreed that this is a safety issue.

Mayor Brackett said that they also need to look at the right-of-way and what jurisdictions they have.

Mr. Turner mentioned that at this point they are drafting a new right-of-way Ordinance and should have the Ordinance for Council's review in a few months.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

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

Mayor Brackett commented that he is working with the City Manager in coming up with a better way to keep the public informed on what is going on with the City. He knows that they have a massive email list from StandUpVeroBeach, which could be used in communicating with their citizens. He is working on setting something up like constant contact or maybe a monthly newsletter in getting this information distributed. He will keep Council updated on this matter. By being able to provide this information might free up some time for Council regarding all of the letters, telephone calls and emails that they receive.

Mrs. Minuse asked if the email list that Mayor Brackett was referring to was public record. She was told that it is.

Mayor Brackett was aware of that and said that anyone wanting to be on the email list would have to make that request and they could be removed from the list at any time.

Vice Mayor Neville added that City staff does an incredible job and maybe they should be showcased from time to time and let the public know what they are doing. He said when there is good news that the public should hear it and it should be made available to the public.

Mayor Brackett agreed that the intent is to highlight what is happening in the City. He knows that there is a City newsletter that goes out to the employees of the City. But, they need to focus on something that goes out to the public.

Mr. Graves suggested maybe having someone to disseminate this information to the public. He said right now the vast information that people are receiving is from social media. He said there is certain information that comes out about things that occur in the City and how the Council feels about an issue that should be properly disseminated and understood by the public.

Mayor Brackett agreed that information should be funneled through one (1) person. They will need to look at funding in order for that to occur.

Mayor Brackett referred to the letter that they received regarding the Live Like Cole Pier and concerns that it is not being protected with any railings of any kind. The letter goes on to say that there are no safety rings, throw ropes, or a means to summon their well-trained public safety workers. He said that the challenges of having a safety ring is that it will be stolen. This letter was originally sent back in October and staff is relooking at the issue. He said that there are three (3) potential locations in the City where this problem could

occur. They are at the Live Like Cole Pier, the Royal Palm Pointe dock, and at Young's Park.

Mr. Neville agreed that a safety ring would not survive a week. He said that having a fixed ladder at the pier would work. He explained getting out of the water is the biggest factor.

Mayor Brackett asked that staff look at this and bring back some solutions to handle this situation.

B. Vice Mayor Neville's Matters

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

Vice Mayor Neville commented that he participated in the drive-by Birthday Party organized by the Vero Beach Police Department and the Sherriff's Department for the 95 year old veteran. He said that it was a great event and thanked everyone who organized it.

C. Councilmember Graves's Matters

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

Mr. Graves was happy to see the letter that they received concerning 36th Avenue and more police enforcement. He said if people would watch their speed limit then they will not get a speeding ticket or get pulled over by a Police Officer. He applauded their Police Officers for enforcing the speed limit.

Mr. Graves commented that some of the tree trimming that FPL is doing is to the extreme. He said that in some areas they are changing the look of the trees that have been around for a long time. He said it is a shame what he sees in some of these instances.

Vice Mayor Neville agreed that Club Drive was a perfect example. He said that the license agreement that the City has with FPL should include more control over this. He said that FPL states that they have an arborist, but he said they really do not.

Mayor Brackett commented that the issue goes back to the trees being located in the right-of-way and what control does the City have.

Mr. Falls said that in the past staff has had discussions with FPL about this and have even gone out and met with the contractors. He said that once a tree has been trimmed they cannot undo that. He said that he would reach out to FPL again and invite them to come before Council and make a presentation.

Mr. Turner added that he is reviewing the right-of-way Ordinance.

D. Councilmember Minuse's Matters

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

Mrs. Minuse reported that there is a Bill in Tallahassee, Senate Bill 62, which is to eliminate the 10 Regional Planning Councils in Florida. She said they (City of Vero Beach) are members of The Treasure Coast Regional Planning Council (TCRPC) and they (TCRPC) recently passed a Resolution supporting the Regional Planning Council and opposing that particular Bill. She said at this point she was not sure that there is a companion Bill in the House. She asked the Council if they would agree to a letter of support for their Regional Planning Council opposing any effort to eliminate the Council up in Tallahassee. She expressed how important the Planning Councils are to her. She said that the Regional Planning Councils provide federal funding and grants to municipalities and are a huge assistance to local governments. She asked if Council would agree to oppose eliminating the Treasure Coast Regional Planning Council. She said that this was tried a couple of years ago and it did not pass. She was not sure who was initiating this now.

Vice Mayor Neville asked what the motive for doing this was.

Mrs. Minuse said she could only guess. Maybe less regulations and less communication.

Mayor Brackett asked the City Attorney to provide the Council with additional information on this so that they can write a letter of support.

Mrs. Minuse added that 1,000 Friends of Florida are in favor of saving the Regional Planning Councils in Florida.

Mrs. Minuse gave an update on the appointment to the Comprehensive Economic Development Strategy Committee, which is a part of the Treasure Coast Regional Planning Council. She said that Commissioner Moss was able to make that appointment for them and it will be Ms. Lee-Anna Otis, who works for the City Airport.

Mrs. Minuse reported that Indian River County's unemployment rate has been dropping. She said that Vero Beach along with Sebastian is called a statistical area and in December they had the highest annual job growth compared to all of the other areas in this State.

Mrs. Minuse gave a brief update regarding the distribution of COVID-19 Therapeutics. She said that the therapeutic products will be available for direct ordering from Amerisource Bergen (information on file in the City Clerk's office).

E. Councilmember McCabe's Matters

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

Mr. McCabe applauded the Police Department for taking the initiative to go after people who are speeding. He said that this is very important for their community.

13. ADJOURNMENT

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

/tb