

**VERO BEACH UTILITIES COMMISSION MINUTES**  
**TUESDAY, MARCH 8, 2022 - 9:30 A.M.**  
**CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** Chairman, Jane Burton; Members: Judy Orcutt, Bill Eggers, John Sanders Mark Mucher (arrived at 9:37 a.m.) and Member at Large, JT Mooney **Also Present:** Water and Sewer Director, Rob Bolton; Director of Public Works, Matt Mitts; Assistant City Attorney, Jenny Flanigan and Deputy City Clerk, Sherri Philo

**Excused Absence:** Bob Auwaerter

**1. CALL TO ORDER**

The Chairman called today's meeting to order at 9:30 a.m. and the Deputy City Clerk performed the roll call.

**2. APPROVAL OF MINUTES**

**A) January 11, 2022**

Mrs. Orcutt referred to page three (3) of the January 11, 2022 Utilities Commission minutes. She asked that "grant funding" be included in the statement, which should read in part, "Also, the Water Management District has a new requirement for there to be a mandatory connection policy if you expect to get *"grant funding"* for septic to sewer conversion..."

**Mrs. Orcutt made a motion to approve the minutes of the January 11, 2022 Utilities Commission meeting as amended. Mr. Sanders seconded the motion and it passed unanimously.**

**3. PUBLIC COMMENT**

None

**4. NEW BUSINESS**

**A) Objections to Florida Department of Environmental Protection Indian River Lagoon Basin Management Action Plan – Mr. Matt Mitts, Director of Public Works**

Mr. Matt Mitts, Director of Public Works, gave a Power Point presentation on the Florida Department of Environmental Basin Management Action Plan (attached to the original minutes). He noted that the numbers shown under the Central Indian River Lagoon (CIRL) Reported Reductions Part II were from February, 2021 so it doesn't show what the stakeholders have done since then or what they plan to do. He said with the mandates, the Florida Department of Environmental Protection (FDEP) should be going to the stakeholders with a consequence. He reported that staff's objection was that individual stakeholders were not behind accountability to meet their reductions. The other objection

staff has is that they want to make sure that all the City's projects are clearly assigned back to the City in terms of the reduction mandates. He felt that mandates in the future would likely be required if seagrass and water quality doesn't improve.

Mrs. Orcutt asked what year was the Deep Injection Well implemented.

Mr. Mitts answered in 2010.

Mrs. Orcutt asked if she was correct that what he is suggesting is, for example, if the FDEP makes a cutoff of only counting the credits forward from the year 2020, then the City wouldn't receive the credits for the Deep Injection Well.

Mr. Mitts said that is correct.

Mrs. Orcutt asked what other credits would fall into that category.

Mr. Mitts answered the baffle boxes.

Mr. Eggers said baffle boxes are very expensive on a per pound basis and they also require a lot of maintenance. He said installing more baffle boxes was probably not something they need to be doing. The other projects that are coming up in the future are much more important because they have a more regional affect. He felt that as long as the future projects came online they should be fine.

Mrs. Orcutt referred to the future STEP System installation where it shows 4,000 pounds of total nitrogen. She asked is that calculation based on 100% connection throughout the City.

Mr. Mitts answered yes.

Mrs. Orcutt said then he is anticipating that by the year 2035, which is the target date to meet the reductions, the City would have 100% connection throughout the City.

Mr. Mitts said the assumption is that they would be at 100% or close to it.

Mrs. Orcutt then referred to the reuse reduction due to the Main Canal Pump Station. She said the reuse water that currently goes to John's Island would be replaced by the canal water, but the reuse water was not going to go away. It would just be going to a different area. She said it was not going to disappear.

Mr. Mitts explained that the reuse water would be treated to a higher quality than it is now so there would not be as many nutrients in it.

Mrs. Orcutt said but it still would be going out into the community to be used as irrigation water.

Mr. Mitts said that is correct.

Mr. Rob Bolton, Water and Sewer Director, explained that the reuse reduction was due to the main canal pump station, because one (1) million gallons of reuse water would not be going to the Barrier Island anymore, but it would be going to the Deep Injection Well.

Mr. Bolton reported that he and Mr. Mitts have been involved in the Basin Management Action Plan (BMAP) for a long time and there are some things that are occurring from a political standpoint, which is the reason this item was brought before the Commission. He reported that when this started the target date for receiving credits for any improvements made was the year 2000. Now they are trying to move that time frame up to a different year and the City is going to lose credit for a lot of the projects that they invested in. He said it is not fair that the City is meeting their goals and other cities were not doing anything. He said these other cities need to start contributing. Another problem is that there is no “stick.” He said the City needs to somehow formally object to what is going on. He felt now was the time to start objecting that there is no “stick” and that maybe there needs to be one, such as possibly being fined financially. He said maybe that money could be placed in a pool so that other cities who are going to do a project could apply for a grant out of that pool to do projects that could clean up the Lagoon. He said it is up to the Commission as to if they want to make a recommendation to the City Council to move forward with some type of a resolution to the State.

Mrs. Burton felt that was a good point because being in the regulatory compliance arena that she is in, she is seeing where a lot of the regulatory people are putting out mandates and the people who are complying with the mandates don't get any credit and the people who are not complying with the mandates nothing happens to them so they quit doing it. She felt something needed to be done to make it equitable and the grant idea that Mr. Bolton brought up was a good way to get these people's attention and make them have to comply. She said the City can do all they want to clean up their part of the Lagoon, but if the other areas were not doing anything then all the City is doing is cleaning up what comes in from those areas.

Mr. Mucher said that he would think that an area near an inlet would be good and an area near Lake Okeechobee would be bad. He asked is there any adjustment for that.

Mr. Mitts said it is accounted for in their models.

Mrs. Orcutt explained that measurements on the nutrient loading comes from the land. It is not from the canal. She said it is the same in Martin County. Their allocation is based on their land mass, not what is passing through their land mass from Lake Okeechobee.

Mr. Eggers said that he has been involved in a number of BMAP developments around the State and they use the loads as a proxy to meet a concentration. Therefore, if the Indian River Lagoon doesn't show improvement in terms of the nitrogen and phosphorous concentration then they will increase the load requirements on everyone.

Mr. Mitts said that is what staff is concerned about.

Mr. Eggers said in order to add any type of enforcement the BMAP document is going to have to be updated. He said enforcement has always been a problem because they have

the plans, but if the requirement is not met there is no action taken. In order to get people to install projects that actually have a benefit to the concentration of the water there needs to be some sort of a “stick.” He said there are plenty of programs that people don’t take advantage of because they are not required to. He said they need to install consequences into these regulatory documents.

Mrs. Orcutt asked what is staff requesting of the Commission.

Mr. Mitts said staff is looking for a recommendation to the City Council to raise these objections.

Mrs. Orcutt asked does the City have a lobbyist.

Ms. Jenny Flanigan, Assistant City Attorney, suggested that if the Commission makes a recommendation to the City Council a letter could be sent to the Legislative Delegation as part of next year’s priorities.

**Mrs. Orcutt made a motion to recommend to the City Council that a letter or a policy be sent to the Legislative Delegation.**

Ms. Flanigan said they could do it in the form of a resolution and a letter.

Mr. Mucher asked is there anything they could do before the next Legislative session.

Mr. Bolton said they are at the tail end of this Legislative session. He felt if the City started now in the form of a resolution then it was possible that it would become public knowledge where other cities might also act in that fashion.

**Mrs. Orcutt continued with her motion that the Commission recommends to the City Council to address the issue by sending a letter to the Legislative Delegation for the next session.**

Mr. Mitts suggested that they send a copy of the letter to the FDEP Secretary.

**Mrs. Orcutt stated that her motion is that the Commission recommends to the City Council that a letter be drafted to support enforcement for the BMAP. Mr. Mooney seconded the motion.**

Mr. Sanders thought the objection was that the City was going to lose credits. He thought that was the point of this discussion.

Mr. Mitts said the objection is that the BMAP is not being enforced, as well as one (1) way they could bring other stakeholders into compliance is to reset where the starting line is.

Mr. Sanders felt the important part was that the City can keep their credits.

Mr. Mucher asked does the motion need to be modified.

Mr. Mitts felt the enforcement of the BMAP was the easiest way to phrase the motion. He said staff would write a letter that addresses both issues, which is ultimately that the FDEP is not enforcing the BMAP.

Mr. Bolton suggested that they allow staff to draft a letter to bring back before the Commission and then they could make their recommendation to the City Council at that point.

**The motion passed unanimously.**

The Chairman opened and closed public comment at 10:25 a.m., with no one wishing to be heard.

**B) Septic Policy for City of Vero Beach Discussion**

Mr. Mooney questioned how the Commission would best be able to help staff achieve their goals. He said that he wrote a note to be given to the Chairman and Commission members (attached to the original minutes) about this issue by questioning what the Commission could do to be more effective in giving staff support as a voice from the public. He said the Commission has discussed trying to encourage people to hook up to the STEP System so he felt that it would be a helpful effort then he would like to be able to support that effort given his knowledge of wastewater treatment. He said if there are certain subjects that staff feels the Commission could help support them with, such as the STEP System as an example, then he would talk to the people in his neighborhood who have the STEP System because it would be easier to have the people who made the conversion to the STEP System try to push the program into other neighborhoods rather than trying to go across the entire City. He asked staff to think about this and if there was something that the Commission members could assist them with that they let the Commission know at their next meeting.

Mr. Bolton explained that the City Council has Commissions and Boards to assist them by gathering information and making recommendations to them. They are a voice to the City Council. He said that staff brings items before the Commission and Boards in order to get their feedback and public input so that the City Council can see where the community rests with what they feel is important. As far as going into communities, there are other organizations, such as the Clean Water Coalition, who go out into the neighborhoods. He said it really was not the Utilities Commission's responsibility to go into the neighborhoods.

Mr. Bolton reported this item was placed on today's agenda because it is one (1) of those items that fits discussion of the Utilities Commission. He asked Mrs. Orcutt to discuss the letter that was sent to the City Council from the Clean Water Coalition (CWC) regarding the Septic policy for the City of Vero Beach (attached to the original minutes).

Mrs. Orcutt, who is a member of the CWC, reported that they now have a fifth reason to urge the City Council to do septic to sewer connection and to mandate connection on the barrier island and that is because in the BMAP Plan, the City is planning to have 100% connection by the year 2035. She questioned how they were going to achieve that if they don't mandate it. She said some cities take their responsibility seriously and work hard to

clean up the Lagoon and other cities, if they are not forced to do it, won't. She said there are many reasons why the barrier island should be septic system free. She said page two (2) of the letter talks about the incentive program. She explained that in 2017 the City started a "carrot" and "stick" program. Letters were sent to homeowners stating that they had pipes in their neighborhood that they could connect their septic system to the STEP System and they would have a one (1) year eligibility to make that connection with incentives, which the incentive was the "carrot." The second part of the program was the "stick" part, which was the inspection. Starting at the end of 2020, everyone who still had a septic system had to have it inspected. The septic systems that failed inspection had to connect to the STEP System. In five (5) years another inspection would be done and those who fail would have to connect to the STEP System. She said at that rate of inspection and failure, they are going to exceed the 2035 date. They are not going to get the 100% connection by then, not even on the barrier island. What the CWC is recommending does not address the mainland because they feel like the financial burden for mainland residents was probably excessive and the majority of the people living on the Barrier Island do not have that financial burden. The CWC's recommended dates for mandatory connection is set when the Water Reclamation Facility is finished so that as the Plant comes on line, the Bethel Creek residents would have to connect, then the Live Oak residents would have to connect and then Riomar/South Beach residents would have to connect. She said by doing it this way it would not overwhelm City staff, the plumbers, etc. That was their concept on how to get the septic systems off the barrier island.

Mr. Mucher questioned how the mainland inspections were going. He felt it would help the Commission members if they received a copy of the letter that the residents received regarding hooking up to the STEP System. He said it would also help the Commission members to be educated on if there was any investigation that shows causes and remedies.

Mr. Bolton reported that the City has documented the failures on the barrier island and are currently looking at what types of failures they were. They have had a decent connection rate on the 14<sup>th</sup> Street basin. They did not go into the rest of the basins because they are having a supply chain issue so he doesn't want to tell people they have to connect within a year and not have the parts available for them to connect. He said while they want to be proactive with septic to sewer, there are hurdles they are experiencing, such as the supply chain issue.

Mrs. Orcutt said it would be good to get a feel of the Commission members if they would support the idea that the City needs to have a mandatory connection policy that is phased in over time. The CWC is suggesting 10-years in order to give people time to plan. She felt giving people sufficient notification that this would be coming down the line would be helpful.

Mrs. Burton suggested that they table this item in order to give the Commission members the opportunity to do their own research and then place this item back on their next agenda.

**Mrs. Burton moved that the Commission tables this item and to bring it back before the Commission at their next meeting. Mr. Eggers seconded the motion and it passed unanimously.**

## **5. OLD BUSINESS**

### **A) Update on Florida HB 621 / SB1162**

Mr. Eggers said that he read that municipalities that take revenue from utilities and direct it to their general fund would be ineligible for grants that would promote projects, such as what they discussed today.

Ms. Flanigan reported that House Bill 621 and Senate Bill 1162, entitled infrastructure project funding, were filed in late 2021, which would have prohibited State agencies and the five Water Management Districts from dispersing State funds in grants to local governments if the local government transferred utility revenues to their general fund, which the City does. There was a backlash because there are city owned electric utilities who would not have been eligible for grant funding for their water projects because of their electric utility transfer to their general fund. She reported that these Bills were referred to Committee, but had no Committee stops. She noted that even though there were no Committee stops, nothing is dead until the end of the Legislative Session, which is this Friday, March 11, 2022. She said that these Bills do seem to be done, but they could come up again next year.

### **B) Update on the Florida City Gas Pipeline**

Mr. Bolton reported that Florida City Gas is looking at servicing the barrier island from Windsor all the way down to the Moorings.

## **6. CHAIRMAN'S MATTERS**

Mrs. Burton reported that she asked Ms. Flanigan to give the Commission members a brief reminder about the Sunshine Law.

At this time, Ms. Flanigan gave a brief overview of the Sunshine Law.

## **7. MEMBER'S MATTERS**

None

## **8. ADJOURNMENT**

**Mrs. Orcutt made a motion to adjourn today's meeting at 11:01 a.m. Mr. Sanderson seconded the motion and it passed unanimously.**

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