

CITY OF VERO BEACH, FLORIDA
APRIL 18, 2023 4:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

Dr. Brian Bennett of Pathway Church gave the invocation.

PRESENT: John Cotugno, Mayor; Linda Moore, Vice Mayor; Tracey Zudans, Councilmember; John Carroll, Councilmember and Rey Neville, Councilmember **Also Present:** Monte Falls, City Manager; John Turner, City Attorney and Tammy Bursick, City Clerk

1. CALL TO ORDER

A. Pledge of Allegiance

Mayor Cotugno led the Council and the audience in the Pledge of Allegiance to the flag.

B. Roll Call

The City Clerk performed the roll call.

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – April 5, 2023

Vice Mayor Moore made a motion to approve the minutes. Mrs. Zudans seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mrs. Tammy Bursick, City Clerk, requested that item 4B-3) be added to the agenda, which is a Resolution in opposition to Senate Bill 1380. She also asked that item 3-C) be removed from the consent agenda.

Mayor Cotugno requested that item 6A-1) “Incentives for STEP System Connections” be moved up on the agenda and heard before public hearings.

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

B. Proclamations and recognitions by Council.

1) Retirement Proclamation to Ms. Cindy Lawson, Finance Director

Mayor Cotugno read and presented the Proclamation to Cindy Lawson, Finance Director, thanking her for her services to the City of Vero Beach and wishing her well with her retirement.

2) Earth Day – April 22, 2023

Vice Mayor Moore read and presented the Proclamation.

3. CONSENT AGENDA (include amount of expense)

A) 14th Avenue/21st Street Signal Replacement (Cost \$61,260) Work Order No. 4 to Contract No. 146-2022

B) Three Corners Project – Authorization of PFM Financial Advisors Change Order #1 to Work Order #2 to Develop the RFP/ITN and Assist with Prequalification of a Master Developer for Three Corners (\$220,000)

Mr. Carroll made a motion to approve the consent agenda. Vice Mayor Moore seconded the motion and it passed unanimously.

C) Memorandum of Understanding

This item was pulled off of the consent agenda.

6A-1) Incentives for STEP System Connections

Mr. Keith Drewett, Vice President of the Clean Water Coalition (CWC) of Indian River County, said they were present today to give some background on a project that they have been working on that has to do with the STEP System, sewer, septic tanks, and the Indian River Lagoon. He said they put together a terrific team, which consists of the CWC of Indian River County, the Indian River Trust (IRLT), Economic Opportunities Council (EOC), and the Indian River Community Foundation (IRCF). He asked that a representative of each organization give the City Council a little information about their organization and about the project.

Ms. Angela Davis Green, Executive Director of the Economic Opportunities Council, said they are currently the Community Action Agency in Indian River County and Okeechobee County. They currently provide financial assistance to low income families for utilities, rental assistance, and educational assistance. They also have the largest early educational program in the County.

Ms. Chiaka Nwosu, Director of Philanthropy of the Indian River Community Foundation, said they were founded in 2008 with a mission of building a better community through donor driven philanthropy. She said that they were very excited to partner with the other organizations on this project.

Mr. Ken Grudens, Executive Director of the Indian River Land Trust, said over the last 12 years they have focused their interest on protecting the land that protects the Lagoon and in doing so they have acquired 1,200 plus acres and 12 miles of shoreline on the Indian River Lagoon. He said they have focused on acquiring, preserving, restoring, and providing access. They believe in protecting the land along the Lagoon. He said that their Board concluded that the Land Trust needed to play a more critical role in the Lagoon, which would be to help to eliminate septic systems that are polluting the Lagoon. That is why they joined together with these organizations. He said septic systems are a major culprit in polluting the Lagoon, if not the single biggest pollution problem they have. With over 30,000 septic systems in the County it seems like a daunting task, but their concept is to work on one neighborhood at a time. They look forward in engaging in this partnership and working with the City to make a difference in the Lagoon.

Mrs. Judy Orcutt, Acting President of the Clean Water Coalition, said since their inception the elimination of septic systems close to the Lagoon and tributaries has been their number one goal. Scientific evidence continues to support the elimination of septic systems. She said that septic systems were an antiquated way for treating human waste. She said they recognize the financial challenges to make this shift was tough and they applaud Mr. Bolton and the City for coming up with a less costly and reliable STEP System. The City has offered incentives and financing, which is sufficient for most residents. However, there are some who are not able to afford their share of the cost. She applauded Mr. Drewett who has been relentlessly pulling together the idea for this project and for pulling together the collaboration of these organizations. They hope with the City's support that they would have a pilot program that is successful that they can use to move on further with more public/private funding or additional monies from other sources.

Mr. Drewett said that staff has been very supportive in working on this process. He explained that what they were talking about was a pilot program to connect low income homes on the mainland to the STEP System. He then gave a Power Point presentation on the Septic to Sewer Project (please see attached). He said the pilot project would be in the Atlantic Basin, which is in close proximity to the main relief canal that goes directly into the Lagoon. He said if they look at the slide showing the summary detail, it suggests that a number of these people were going to need financial assistance to connect. He said they decided to do this program with an income cutoff and chose to use twice the Federal poverty level. He said the typical installation for a smaller three (3) bedroom home was about \$16,000 to \$17,000. He said the donors (team) would pay all the contractor and connection fees, which they estimate the cost would be about \$7,700 per household for 25 to 30 homes. Historically in the early phases of a neighborhood, the City credited or waived the connection fees or financed the equipment. They are before the City Council today to ask for this pilot program only. They feel that is appropriate for this income level and was probably necessary to get the program rolling. He said the capital commitment, which were raised funds, was \$225,000 and they think that would cover 25 to 30 installations. He noted that this was a pilot project and there was no commitment by them or by the City to go beyond that.

Vice Mayor Moore referred to the slide showing the Summary of a typical installation. She said the homeowner would be responsible to pay \$542.50 to get this going. She asked if they were concerned that this would be an obstacle.

Mr. Drewett answered yes. He said if it does become an obstacle so they will need to put their heads together to see what they could do about it. He said that Ms. Green knows these people and felt that this was doable.

Mr. Falls said the “donor” part of this program would cover 25 to 30 installations in that basin and there are 77 homes.

Mayor Cotugno asked have they highlighted the homes they are targeting or would it be on a first come first serve basis.

Mr. Drewett said it would be on a first come first serve basis and they have to meet the income criteria.

Mr. Neville asked what about the adjacent properties that don't qualify. He asked if they would be making an effort to meet with them and merge the project so they could save some money.

Mr. Drewett answered no. He said they were going to package these installations in groups of five (5) so when they get a contractor they would benefit from mobilization costs and doing the projects at once. He said they are flexible and as they learn they will chisel it out.

Mr. Neville felt that a letter to the property owners not benefiting from this should be mailed out so they would know about it and what they could save by hooking up now.

Vice Mayor Moore asked how they are going to target just the people in that income bracket.

Mr. Drewett said they were going to target all the people in that income basin and invite them all to apply.

Vice Mayor Moore felt that this was a wonderful pilot program. She really hoped that it would succeed and grow.

Mrs. Zudans said that she liked the idea of the project and knows that they put a lot of effort into it. She said that she loves when there are public/private partnerships like this that is a collaborative effort to do something meaningful for the community. She felt that the target audience that they were trying to reach was chosen wisely. She asked are the connection fees income that would normally come to the City and how is that going to be remedied or is there a different way for the City to have “skin in the game” where it is a project. She asked would they get those funds somewhere else to remedy this financially.

Mr. Rob Bolton, Water and Sewer Director, said the connection part of the equation, which is \$3,390, consists of two (2) things. One is \$2,290, which was renamed as a capital charge, but it is the original impact fee. He explained that the impact fee at the time when the Step Up and Save program was originated paid for projects for expansion or paid down debt on the existing Waste Water Treatment Plant and they felt by connecting individuals to the STEP System and getting them to start paying their monthly fees that over time it helped keep the rates at a lower rate than they would have been. He said it was an original decision by the City Council to give a credit for the septic system, which was equivalent of the impact fee so in essence the homeowner didn't pay an impact fee. The second component was \$1,100 that was broken down into two (2) components, which \$600 was for the City to install the line in front of the property and \$500 was for the City to do the tap to provide service for them to connect to. He said they would either pay for the equipment in cash and would receive a \$1,100 credit or they were able to finance all the equipment, but the City did not give them the \$1,100 credit. With this program, they are requesting both. That they receive the credit of the \$2,290 impact fee and full credit for not having to pay for the line in the street or pay for the tap to serve the property, as well as to finance the equipment purchase of \$5,425. He explained that they were taking one (1) step further from a City standpoint in helping to get this program up and running.

Mrs. Zudans said if she was calculating this properly, they were looking at \$85,000 in connection fees that is the City's investment into this pilot program.

Ms. Lawson explained that the credits already exist for everyone who has connected to the STEP System. The way the STEP program has worked throughout the City is that they could have both credits, the \$2,290 and the \$1,100 if they paid cash for everything and they could only have one (1) of the two (2) credits if they financed it. With this program they are asking for both the credits and the financing. She explained that the City would be out the \$1,100 for people who choose to finance as opposed to the \$1,100 that the City would collect from any other STEP participant who chose to finance. She said this pilot program is not asking for anything more than the City has given anyone else except the \$1,100.

Mrs. Zudans said that she wants to make sure that they were not taking money that they are expecting as part of their budget instead of using money that has been set aside for a particular project.

Ms. Lawson explained that the Five (5) Year Capital Improvement Program budget shows the impact fees at a small and steady level across the years.

Mayor Cotugno asked does the City have a lien on the property until it is paid off.

Ms. Lawson said this is handled through assessment liens and they have to be paid annually by a certain date or the property owner has to pay it in its entirety with interest.

Mr. John Turner, City Attorney, said this is an ambitious project and he felt it was important to remember that it is donor driven. The city, under Florida Law cannot contribute their

name or their credit and be part of a joint owner on a project and the City is doing that in this case.

Vice Mayor Moore felt that if this gets more septic tanks off the Lagoon it was a win for everyone.

Mr. Carroll said their customers are going to be paying more for water and sewer to the tune of \$23 per month, plus the rate increases that are going to be coming down the pike for next few years.

Ms. Green said that is how the EOC plays a role in this because they provide financial assistance to low income families. She said they were eligible for up to \$1,000 a year so that would offset any expense they would occur.

Mrs. Zudans asked if they have to test the water in that area currently and if they would be testing along the road to see the impact that the pilot program would have.

Mr. Bolton said in 2014/2015 they asked for pricing from Harbor Branch to do testing and the first year's investment just for Bethel Creek was over \$100,000 followed by \$100,000 each year after that. Staff suggested to the City Council that it would be best to back into the infrastructure.

Mrs. Zudans was wondering if there were other organizations that were willing to do this.

Mr. Bolton said the City hired Tetra Tech to do an analysis on the Live Oak basin where they have wells and they tested the ammonia levels and what the influence would be on the Lagoon. He said they are now working with Tetra Tech to do another round of testing to see how much has been cleaned up since they have had more connections. He said if the City Council decides to move forward with this program, staff would need their consent to bring back before the City Council a resolution to solidify the program.

Mayor Cotugno asked Mr. Turner if he wanted to have two (2) Resolutions done or one (1) Resolution regarding this project.

Mr. Turner said that he would prefer to have two (2) Resolutions.

Ms. Lawson clarified that currently there is an existing Resolution that spells out the Step Up and Save program. She said in order to do this program they would either need another Resolution or an amendment to the existing Resolution.

Mayor Cotugno said they want to keep these separate because he wouldn't want to modify the current Resolution. He felt it would be easier to have two (2) Resolutions.

Mr. Turner said staff will review this and will bring back before the City Council the appropriate Resolution or Resolutions to implement this program.

The City Council agreed to have staff bring a Resolution back before them.

Mr. Neville congratulated Mr. Drewett and thanked him for the years of service that he has undertaken to finally get to this point.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) **An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations by Restructuring and Amending Chapter 72 to Revise Chapter Heading to be entitled Environmental Protection Standards; amending Article I, in General, relating to New or Revised Definitions; Amending Article II, Landscaping, to update the Landscaping Ordinance with Revised Site Landscape Requirements; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning Director, reported that the first three (3) Ordinances shown on today's agenda under public hearings were developed concurrently. They are the Landscape Ordinance, Tree and Palm Preservation Ordinance and the Lagoon and Beach Protection Ordinance. He gave a Power Point presentation on the first Ordinance (attached to the original minutes). He went over the existing landscape and tree preservation regulations. He covered private property rights, which consist of the right to quiet enjoyment and use of property. He said private property cannot be taken for public use without compensation and it is protected by the U.S. Constitution, 5th Amendment. Under the City's Comprehensive Plan it says that the City should administer and maintain its Land Development Regulations in a manner consistent with the goals, objectives and policies of this and other elements of the Comprehensive Plan and should revise these regulations as needed and appropriate to improve their readability, clarity, conciseness, and ease of administration. This Ordinance is consistent with the Comprehensive Plan and meets the buffer requirements. In Policy 3.2 it states that the City should regulate the use and development of land through its Land Development Regulations in a reasonable and transparent manner that respects private property rights, serves the public interest, and provides for due process and adequate public involvement in the development permitting process. In his memo of October 7, 2020, staff recommended that they require property perimeters to be landscaped, require the building perimeter to be landscaped, require the landscape plan submitted for site plan approval to be designed by a landscape professional and provide additional protections for Oak Trees about the standard tree protections. The Tree and Beautification Commission recommended that they require a landscape plan for single-family sites, that they increase native plant requirement to 75% and restrict turf allowance to 20% of landscape area. He said as far as the increase in the native plant requirements they feel that the 50% in place was adequate. As far as the turf allowance to 20% of landscape area in Policy 3.9 the City shall include requirements for drought tolerant

species in landscape requirements and review landscape requirements. The Tree and Beautification Commission also recommended to prohibit irrigation discharge, enforce owner cleanup of pet elimination, prohibit sod grown in clay, require mulching of grass clippings, require a minimum 10-foot buffer between the turf and shoreline of any water body and require landscape architects to prepare landscape plans. He addressed all of these things and what has been implemented in the Ordinance. When the Planning and Zoning Board and City Council met on the proposed Ordinance their recommendations were submitted on how to improve the Landscape Ordinance, improvements to the Tree Preservation Ordinance, consider the Native Plant Conservation and Endangered Plant Ordinance and add regulations requiring removal of exotic plant species. Staff has addressed these concerns. The purpose of this Ordinance is to improve and clarify the City standards for landscaping requirements for multi-family residential and non-residential development during the site plan review process. The Planning and Zoning Board held a public hearing on December 1, 2022 and voted 4-0 in favor of the Ordinance.

Mr. Carroll referred to page 3 of 22, where it addresses driveway medians and states “raised concrete curb.” He asked Mr. Jeffries if he was talking about a 6 inch standard curb or was he talking about a raised or rolled curb.

Mr. Jeffries said he was defining what the term could be. He said the actual standards are in the right of way standards or in Chapter 63 of the parking code.

Mr. Carroll referred to page 6, Section 72.04, which addresses violations and enforcements. He asked how was this going to be handled. Mr. Jeffries explained that any of the enforcements within this Chapter will be enforced by the standard provisions included in Chapter 60, which references back to their code enforcement requirements in the Code.

Mr. Carroll referred to page 8 of 22, where it talks about the landscape plan that is required. In the last sentence it says “*landscape plans shall be designed by a landscape professional or signed and sealed by a landscape professional.*” He said that seems contradictory. Mr. Jeffries explained the intent here is that sometimes there are landscape designers who don’t do the seal, but they can get someone else to sign and seal it. He said this occurs a lot when someone is modifying a site. There are circumstances where a full landscape plan is not required, but the site is being modified and it might just be a matter of moving some plants where a technician does the design, but it is sealed by someone else. Mr. Carroll commented that in his profession as an engineer this cannot be done because it is in violation of the State Statute. Mr. Jeffries explained that landscape professional is defined in this Code.

Mr. Carroll referred to page 19, Section 72.157 – Modification of Requirements. He thought that there needed to be a pronoun in there. They took out the pronoun “his” and now the sentence does not read correctly. Mr. Jeffries said he would get that corrected as part of scrivener’s errors. He said the intent is to be neutral.

Mr. Carroll said with continued maintenance required he knows a lot of people drive around Vero Beach all the time. He said one of the saddest things that he sees is when

landscaping is not being maintained. They need to talk about beautifying Vero Beach as a Council and encourage code enforcement to go out and start citing these people so there are nice looking sites in Vero Beach, which they don't have now in a lot of instances.

Vice Mayor Moore commented that the Code Enforcement Officers work very hard.

Mr. Carroll understood that there is only so much that can be done with two (2) Code Enforcement Officers. He thought if they enforced some fines then they probably would get some movement. He said a lot of other cities do it.

Mr. Neville supported Mr. Carroll on this. He said when you are on the south section of 14th Avenue it is pretty trashy. All it does is reduce property values of the adjacent property owners.

Mrs. Zudans commented that they need to move forward and get these Ordinances approved and talk about code enforcement later.

Mayor Cotugno agreed that the code enforcement discussion is a logical discussion to have, but they should get these Ordinances passed first and then discuss how they want to enforce them.

Mayor Cotugno opened the public hearing at 5:15 p.m.

Mrs. Katherine Booth asked the City Council to strengthen the Tree Protection section of the Ordinance. She said that trees have DNA and their DNA shows them what shape they are according to the species and they must know how their branches are shaped in order to maintain that shape. When native trees are pruned their structural integrity is violated. She gave an example. She said Laurel Oaks should be included as a protected species. She asked that they revise the pruning section of the Ordinance to prohibit all pruning. She also asked that they protect the Sable Palm Tree, which is a historical and cultural tree. They must change their view as to what is aesthetically pleasing in Florida. She asked Mr. Jeffries if he was restricting the turf requirements to 25%.

Mr. Turner noted that normally the public comment section on the agenda was not a place for questions to be answered.

Mrs. Galina Roofener said if there would be no pruning allowed what do they do about diseased branches or branches hanging over the roof. This should be clarified in the Ordinance.

Mr. Jeffries explained that they are discussing the Landscaping Ordinance right now and not the Tree and Palm Preservation Ordinance, which will be the next Ordinance they will discuss.

Mayor Cotugno closed the public hearing with no one else wishing to be heard.

Vice Mayor Moore made a motion to approve the Ordinance. Mr. Carroll seconded the motion with modifications discussed during the presentation.

Mr. Jeffries said the only modification that he is aware of is on page 19 regarding the pronoun. He was told that was correct.

The Clerk polled the Council on the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

- 2) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 72, Article I, in General, Relating to New or Revised Definitions; Deleting Chapter 72, Article III Related to Tree Classifications; Creating a New Chapter 72, Article III Related to Tree and Palm Protections with Revised Tree Preservation Requirements; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only.

Mr. Jeffries gave a Power Point presentation (attached to the original minutes). He reported that this Ordinance proposes to create a new Article III for Tree and Palm Protection using amended language from the current Chapter 72, Article IV, and adds revised specimen tree classifications and definitions to Article 1. The purpose of the Ordinance is to improve and clarify the City standards for tree and palm protections, add additional protections for Live Oak trees larger than 36" DBH, add minimum tree canopy requirements for new development, and add pruning requirements for palms. The Ordinance has been updated to reflect changes to Florida Statutes 163.045. The Planning and Zoning Board conducted a public hearing on December 1, 2022 and the Ordinance passed 4-0.

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

Mrs. Katherine Booth stated that according to the University of Florida the only valid reason for pruning a tree is for clearance when a tree has been planted in the wrong place and is encroaching on a man-made structure. She said also pruning needs to occur if there has been damage to a tree due to natural causes. She said that Cypress Trees are a specimen tree that should be protected by the Code and she wished that they had a prohibition against cypress mulch to match the County Code.

Mr. Mike Johansen commented that he thought it was great that they are taking an extra step to stop the pruning of Palm Trees. He said this is a great Ordinance.

Mayor Cotugno closed the public hearing at 5:33 p.m., with no one else wishing to be heard.

Mr. Carroll asked who their City Forester is. Mr. Jeffries explained that they will be having an outside consultant handle this. He said one of the firms hired for outside services has a certified arborist in their firm and they will serve as the City's Forester. Mr. Carroll referred to page 10, (e), which states the location of existing and proposed improvements, including, but not limited to structures, paving, utility easements, power lines, and stormwater retention and detention areas. He said that is basically a site survey. Mr. Jeffries explained that anyone that submits a site plan will need to provide a tree survey as part of their site plan.

Vice Mayor Moore asked when Florida Power and Light (FPL) prunes the trees and no one likes it do they have to adhere to the City's Codes. Mr. Jeffries said this Ordinance will help strengthen that and there is a management plan that FPL is supposed to submit to the Public Work's Department and that coordination is taking place.

Mr. Carroll referred to page 11 (f) *Permit duration*. He said there is no language in there that sets the time frame for the department, such as if they had a hurricane and you cannot find anyone to finish the work they started because they can make more money going out and cleaning debris. Then there is another paragraph that says such time may be extended by the Planning Director for good cause shown upon written request of the permit holder. Mr. Jeffries explained that they follow the State Statute when it comes to extending permits. There is a specific Statute that they must go by when there is an emergency declared in your County. The permit is frozen until the emergency is over then it is extended for six (6) months. Mr. Carroll referred to page 12, Section 72.26 – Minimum Tree Canopy Requirements. He said it references in (a) development area, but there is no definition. He asked if development area is limited to the building itself. Mr. Jeffries explained that the development area is not only where your building is located, but it includes the parking lot and stormwater required for the development that is being done. The definitions are defined in Chapter 64.

Mr. Carroll made a motion to approve the Ordinance. Vice Mayor Moore seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

- 3) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Creating a New Chapter 72, Article IV, Lagoon and Beach Protection with Development Standards to Protect the Indian River Lagoon and Beach Dunes; Amending Chapter 72, Article I, in General to add definitions; amending Chapter 64, Article I, Development Review; Deleting Chapter 74, Bulkheads and Waterways; Providing for Codification; Providing for Correction of Scrivener's Error; Providing for Conflict and Severability; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only.

Mr. Jeffries reported that this Ordinance creates Chapter 72, Article IV, Lagoon and Beach Protection. It adds definitions and amends Chapter 64, Article I, Development Review. He

gave a Power Point presentation (attached to the original minutes). The purpose of the Ordinance is to improve and clarify the City standards for construction permits on sites adjacent to the Lagoon and Atlantic Coast and implement Comprehensive Plan policies related to Lagoon protection buffers. The Planning and Zoning Board held a public hearing on December 1, 2022 and the Ordinance passed unanimously.

Mayor Cotugno opened the public hearing at 5:47 p.m.

Mrs. Katherine Booth thanked staff for the Lagoon shoreline buffers. She said these are needed around stormwater ponds everywhere and it would strengthen Article IV. As the Chair of the Tree and Beautification Commission they had a cleanup project planned when their Commission was suspended. She wanted to let Council know that it was in the works because she heard them say they would like to have that.

Mayor Cotugno closed the public hearing at 5:48 p.m., with no one else wishing to be heard.

Mr. Carroll referred to Section 72.48 – Final Inspection required (b) and read the sentence where the “Planning Director” was left out. Mr. Jeffries said this would be a scrivener’s error and would be corrected.

Vice Mayor Moore made a motion to approve the Ordinance with the amendment in Section 72.48 on page 8. Mr. Carroll seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

- 4) An Ordinance of the City of Vero Beach, Florida, Instituting a Moratorium on the Acceptance of Applications and Processing of Applications for Code Compliance Certification or Site Plan Approval for Development or Change of Uses inconsistent with the Proposed Ordinance to revise the list of permitted uses within the C-1A, C-1B, B-1, and C-1 Commercial Zoning Districts for 180 days to allow time for Formulation and Adoption of an Ordinance with Revised List of Permitted Uses in the City’s Commercial Districts; Providing for Exemptions; Setting forth an Effective Date; and Providing for Hearing Process for Vested Rights Claims.**

The City Clerk read the Ordinance by title only.

Mr. Jeffries commented that this moratorium was discussed at their workshop and he was directed to draft this moratorium Ordinance. He gave a Power Point presentation (attached to the original minutes). This Ordinance proposes to institute a 180 day moratorium on Code Compliance permits, pursuant to Section 64.05, Code Compliance Certifications, and site plan approvals, pursuant to Section 64.06, Site Plans, for new or expanded commercial development proposing a use inconsistent with the Ordinance revising Chapter 62, Article III, Commercial Districts. He outlined the following recommendations to improve the commercial zoning districts: Revise the permitted use definitions for consistency across

the zoning districts and update the land use terminology; Add new special purpose districts for commercial districts with specific objectives and policies in the City's Comprehensive Plan and Revise the permitted uses in the existing commercial districts. The Planning and Zoning Board held a public hearing on the Ordinance on March 16, 2023 and approved it 5-0.

Mr. Turner added that they did realize this could cause a hardship in certain cases and made provisions in the Ordinance for those hardships.

Mayor Cotugno opened the public hearing at 6:01 p.m.

Mr. Mike Johansen supported the passage of this Ordinance.

Mayor Cotugno closed the public hearing at 6:02 p.m., with no one else wishing to be heard.

Mrs. Moore made a motion to approve the Ordinance. Mrs. Zudans seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

- 5) An Ordinance of the City of Vero Beach, Florida, Amending the Official Zoning Map by Changing the Zoning District Designation from ALI-1, Airport Light Industrial-1 to ALI-A1, Airport Light Industrial-A-1 District, for the Property located South of Pro Flite Drive, East of Airport Drive and West of Piper Drive, containing 7.16 acres more or less; Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that it was a quasi-judicial hearing.

Mr. Turner asked Council if there had been any ex parte communication. There was none.

Mayor Cotugno announced all exhibits would be marked for identification and kept by the City Clerk.

Mr. Jeffries was sworn in. He gave a Power Point presentation (attached to the original minutes). He said the City of Vero Beach (Vero Beach Regional Airport), who is the applicant is proposing to rezone approximately 7.16 acres of property from ALI-1, Airport Light Industrial-I to ALI-A1, Airport Light Industrial-A1. The property is located near the airport terminal, south of Pro Flite Drive, east of Airport Drive and west of Piper Drive and is undeveloped. The Future Land Use Map (FLUM) in the City's Comprehensive Plan designates the site as I, Industrial and ALI-A1 is listed as a zoning district consistent with this future land use designation. The Industrial (I) Land Use designation is for land areas that are suitable for urban development and located adjacent to major transportation facilities, such as airports. The designation allows a broad mixture of residential, light industrial, aviation oriented, education and nonresidential uses with a maximum floor area

ration (FAR) of 1.0. The Planning and Zoning Board held a public hearing on March 16, 2023 and voted 5-0 to approve the Ordinance.

Mayor Cotugno closed the public hearing with no one else wishing to be heard.

Mr. Carroll made a motion to approve the Ordinance. Vice Mayor Moore seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

At this time, Council took a five-minute break and the meeting reconvened at 6:25 p.m. Council agreed to move discussion of the Seaside Grill lease up on the agenda and heard at this time.

Seaside Grill Lease

Mr. Falls reported that since the beginning of the lease period in June 2022, the lessees of the Seaside Grille, SW Hospitality Group, LLC, have experienced numerous and costly delays due to the extensive improvements required to the building in order to operate the restaurant. This includes rework of electric and plumbing systems, the kitchen hood/ventilation system and the requirement to replace the roof. Despite these delays, they have paid their \$8,000 monthly rent on time with no income from the property. At the January 3, 2023 City Council meeting, the City Council unanimously approved to grant a 3-month rent deferral with catch-up payments for deferred rent in April – June 2023, and to bring this item back to Council for further discussion and consideration. They are still waiting for permits to complete the required work on the building. Staff is recommending that Council provide them with some relief by granting them rent forgiveness rather than rent deferral from January 2023, through opening day of the Seaside Grill.

Mr. Andy Studebaker and Mr. Wiley Wong were at today's meeting to thank Council for being so patient. Mr. Studebaker said that they not only had to update the building, but the extent of the updates has been surprising. They had to put a whole new roof on the building. They knew when they leased the building that there would be things to upgrade, but it has turned out to be more extensive than they thought it would be. He said it has been a long process.

Mayor Cotugno asked if the Fire Marshall has issued the permits yet.

Mr. Studebaker briefly went over how the permitting process has been going. He said when they initially asked six (6) months ago what they needed to do and were given a copy of the Code. They asked the Fire Marshall to come out and show them what needed to be done. He came out and explained what needed to be changed. The Fire Marshall told them once the County gets the plans then he will review them and send them back. Now they have been assured that they will work with them to get this done quickly. A lot depends on what the definition of quickly is.

Mr. Carroll asked when they started the project did they have a design professional helping them.

Mr. Studebaker said that they did not. He knows now that was a big mistake. They have been doing these renovations for years so they didn't anticipate the problems that they have had with this one. They own many other restaurants and have never experienced anything like this.

Vice Mayor Moore explained in her experience it is standard practice for landlords to forgive rent in the restaurant industry. She is in favor of doing that.

Mrs. Zudans suggested continuing to defer this because they do not know how long it is going to take them to get open and then give them the option to come back and request forgiveness once they get open.

Mr. Carroll asked how long they thought it would take to get the necessary permits so they can open their doors.

Mr. Studebaker said assuming everything goes smoothly it should be in two (2) months.

Vice Mayor Moore did not see what the benefit would be for having them to have to come back to Council.

Mrs. Zudans said she would feel more comfortable to continue deferring this until they get their C.O. and are open.

Vice Mayor Moore felt like that was saying they can't decide if they want to grant forgiveness now. She asked Mrs. Zudans if she envisioned a scenario that when they come back they are going to be told that they have to pay all the rent.

Mrs. Zudans just felt that it was a better policy to defer until you actually have an opening and they know what the actual amount of money is being forgiven. She wanted to have the actual number in front of her so she knows what she is voting on.

Mr. Neville commented on what these people have endured, which is a lot and it is not their fault. He said giving forgiveness until they have the restaurant open is the right thing to do.

Mayor Cotugno cautioned Mr. Studebaker and said based on the recent track record with other establishments that have tried to open in this City that this could take a while. He knows that they are trying to get the restaurant open as soon as possible, but it is hard with the people that they are having to deal with. He has heard complaints from numerous people who have been trying to open different businesses that they have had some cooperation issues.

Vice Mayor Moore did not want to let these two (2) men walk out of this building with six (6) more months of potential rent hanging over their heads and not knowing whether they are going to owe it or not. She said the right thing to do would be to forgive the rent until they receive their C.O. and they get open.

Vice Mayor Moore made a motion to forgive the rent until they (Seaside Grill) get their C.O. and they get open. Mr. Neville seconded the motion and it passed 4-1 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans no, Vice Mayor Moore yes, and Mayor Cotugno yes.

B) RESOLUTIONS

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, Repealing Resolution 2019-05; Authorizing the City Manager and Interim Director of Finance to issue warrants, checks, and vouchers of the City of Vero Beach for the payment of funds from any of the depositories utilized by the City; Providing for an Effective Date.**

The City Clerk read the Resolution by title only.

Mr. Falls reported this Resolution will allow Mrs. Kelley Brost, Interim Finance Director, to be an authorized signer for the City's bank accounts and depositories since the Finance Director is retiring.

Mayor Cotugno opened and closed the public hearing at 6:39 p.m., with no one wishing to be heard.

Mr. Neville made a motion to approve the Resolution. Vice Mayor Moore seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

- 2) A Resolution of the City Council of the City of Vero Beach, Florida, Abandoning the City's interest in the 2.5 foot side lot easements along the North and South Property Lines encumbering the Real Property located at 201 Live Oak Road, Lot 3, Pelican Pointe, Vero Beach, Indian River County, Florida; Providing for an Effective Date.**

The City Clerk read the Resolution by title only.

Mr. Falls reported that a release of easement application was received to release the side lot easements along the north and south property lines of 201 Live Oak Road. The release of easement was routed to the various City departments and outside utility companies and all responses were favorable to releasing the requested easement.

Mayor Cotugno opened and closed the public hearing at 6:40 p.m., with no one wishing to be heard.

Mr. Neville made a motion to adopt the Resolution. Mrs. Zudans seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

- 3) **A Resolution of the City Council of the City of Vero Beach, Florida, in opposition to Senate Bill 1380 by Senator Jonathan Martin and House Bill 1331 by Representative Demi Busatta Cabrera, proposed Legislation allowing the State of Florida to set cap on transfers of Municipal Electric, Natural Gas, Water, and Wastewater Utility Revenues to a Municipal General Fund to finance general government functions by dictating the limitation on the amount of such General Fund Contributions; Providing for an Effective Date.**

The City Clerk read the Resolution by title only.

Mr. Falls asked Council to adopt this Resolution, which officially shows they are in opposition to the passage of these Bills.

Mayor Cotugno opened and closed the public hearing at 6:42 p.m., with no one wishing to be heard.

Mr. Neville made a motion to adopt the Resolution. Vice Mayor Moore seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

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

6. **CITY COUNCIL MATTERS**

A) **NEW BUSINESS**

- 1) **Incentives for STEP System Connections**

This item was heard earlier in the meeting.

- 2) **Appeal of Code Enforcement Board decision – Mr. Brian Terry**

Mr. Turner explained that this is an appeal that was filed by Mr. Brian Terry together with his wife Galina Veresciak Roofener. He said that Mrs. Roofener is at today's meeting.

Mrs. Galina Veresciak Roofener apologized for her husband who had to be out of town and could not be at today's meeting and she will be speaking on behalf of him and herself.

Mr. Turner stated that this matter is before Council on an appeal from a Code Enforcement Board order that was entered into the record on March 20, 2023. The appeal was filed

pursuant to Section 2-204 of their Code of Ordinances, which provides for general review by way of appeal to the City Council of the final decision of a board or commission, which may be appealed to the City Council within 20 days of the final decision. He said when the appeal was filed with the City Clerk's office and he received the information he sent a letter to Mr. Terry and advised him that they are citing a provision which is for general application purposes for all boards and commissions, but there is a special provision for code enforcement orders and liens. In the order there is a statement at the bottom of the order saying if you are going to appeal a decision of the Code Enforcement Board then your remedy would be in Circuit Court and not as a general matter in front of the City Council. It would be his opinion that the City Council does not have jurisdiction to consider this appeal at this time. He said that is what he advised the City Manager and the City Clerk early on. Then today they received a filing stating that the appellants will be filing an appeal to the Circuit Court. He told Council that the appellant is present and would like to respond and she is entitled to do that. He said Council may defer or not accept the appeal and deny the appeal by a majority vote and the case would be over at this point and the appeal would be heard in Circuit Court.

Mrs. Roofener explained they were not asking for a decision at this point. She said they are trying to put their effort in doing what is right according to the misuse of the law by City employees, which is one of the reasons that they wanted to let Council know and present a package of documents to them that were prepared by her husband. She asked Council to review the documents and get back to them.

Mr. Carroll said based on comments from their City Attorney that the City Council does not have jurisdiction over this matter, he made a motion to not entertain this appeal of the Code Enforcement Board decision. Mrs. Zudans seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

8. CITY CLERK MATTERS

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

A) Seaside Grill Lease

This item was heard earlier in the meeting.

Mr. Falls referred to some discussion that took place earlier in the meeting concerning trees and landscaping and stated that the City of Vero Beach does not trim Palm Trees.

10. CITY ATTORNEY MATTERS

Mr. Turner gave an update on where some of the proposed Bills in Tallahassee are at this point and which ones that they are watching closely.

11. COUNCILMEMBER MATTERS

A. Mayor Cotugno's Matters

Mayor Cotugno reported that he attended the groundbreaking ceremony for the new Customs facility located on the Airport. He said that this was another private/public partnership. He said on this Sunday at 4:00 p.m. at the Temple Shalom there will be a dedication to the Holocaust Memorial Garden and everyone is invited to attend. On April 26th he will be involved with the "Partnering with a Principal" program at Citrus Elementary school. Then on April 27th United Against Poverty will be holding a meeting for all of the stakeholders involved with helping the homeless situation to come up with some solutions. Mayor Cotugno said that he will be speaking at the Indian River County Victims Right's vigil that will be held at Riverside Park and on April 28th he will be attending the kickoff lunch for the Learning Alliance.

B. Vice Mayor Moore's Matters

Vice Mayor Moore announced that the Downtown Mural projects has started up again and there is a mural being painted in the back of Firestone if anyone wants to see it.

C. Councilmember Zudans's Matters

Mrs. Zudans thanked the City Manager's office for providing a calendar that shows when the County Commission holds their meetings now. Their meetings are held twice a month instead of every Tuesday. The City could look at switching their meetings and holding them on the second and fourth Tuesday of the month so they would not be holding them on the same day as the County. Staff will research this and bring a recommendation back to Council at their next Council meeting.

D. Councilmember Carroll's Matters

1) Three Corners Project Update - (memo attached)

Mr. Carroll said that he wanted to keep the Three Corners project front and center. He asked for an update on the new Project Manager and how the interviews were going, are there any contract negotiations and when will they start.

Mr. Falls commented that unfortunately they had another setback. He said one of their applicants pulled out a week ago Sunday, which was the same week there was an article in 32963 saying that the City Manager was looking for a "quarterback." He said that article has done the best advertising for them so far and they received a number of applications

and they will be continuing with interviews starting tomorrow. He said they are moving forward and will give an update at the next Council meeting.

Mr. Carroll commented that as he understands it they will be seeing the group of planning consultants coming through on their agenda to be approved possibility at their first meeting in May, 2023.

Mr. Jeffries explained they are waiting on the contracts and it appears that the contracts have been sent out to the consultants. There were about a dozen different planning consultants that applied. They have narrowed it down to seven (7) different firms not only for the Three Corners project, but for some other planning projects that they are working on for the next three (3) to five (5) years. He hopes to bring these contractors for Council to approve on their May 2nd City Council meeting. He explained that a lot of the work will continue to be done in-house. He expects to get the traffic analysis back from Kimley-Horn in 90-days and then the other item will be for one of their new planning consultants to do the environmental analysis related to the changes. He said they are still on track for having these Comprehensive Plan amendments approved in the late fall or come before Council on December 5th.

Mr. Carroll asked for an update on the Water Reclamation Facility.

Mr. Rob Bolton, Water and Sewer Director, commented that the new Utility Commission member is a very nice person and has volunteered his time to help the City with his expertise. In the water/wastewater field there is a bio-wind model where you will model how a wastewater plant will work, etc. He said most engineering firms use the bio-wind model and Mr. Peter Dold (new Utility Commission member) developed the software and owns the company who sells the software. He said they were pretty much on track with the Water Reclamation Facility. They met to go over the site plan and where the different components were going to be and the traffic patterns. They are still on target to go out to bid in November and he would like to award the bid in May. He said the difference with this project is it is such a large project and they need to give 90 days instead of the normal 30 day process. He said they are working hand in hand with the scheduling of the Three Corners project.

Mr. Neville asked how the John's Island project was going.

Mr. Bolton said it is going well. They are meeting with the new County Administrator next week to discuss the use of old Gifford Park. He said right now everything is in for permitting and the design is fully completed. They need an easement from the County for the old Gifford Park and an easement from the Land Trust Board.

E. Councilmember Neville's Matters

Mr. Neville thanked Lieutenant Brian Kerensky for the great job he did in presenting along with the Fish and Wildlife Commission and Sherriff's office on the water enforcement that takes place in our area. The meeting was held at the Vero Beach Yacht Club and it was an

outstanding forum on how they manage the water and how each agency is involved. He understands now why it takes as long as it does for anything to get done with respect to these derelict vessels in the water.

Mr. Neville reported that at the last Beach and Shores meeting they talked about Sector 4, which is Indian River Shores. He said all of their beaches other than Sector 4 are engineered so they know everything about it and the nourishing of the dunes and the beach itself. A lot of people were attending the meeting because of this matter and spoke about getting things done. He continued by giving an update on the other matters discussed at the Beach and Shore meeting.

Councilmember Neville noted that he will be out of town for the next Council meeting.

13. ADJOURNMENT

Today's meeting adjourned at 7:16 p.m.

/tb