

**SPECIAL CALL CITY COUNCIL MINUTES  
TUESDAY, APRIL 26, 2022 9:30 A.M.  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

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

**1. CALL TO ORDER**

Mayor Brackett called the meeting to order and the Clerk called the roll.

**2. ITEM FOR DISCUSSION:**

**A) Discussion of Proposed Stormwater Utility Assessment for FY 22-23**

Ms. Cindy Lawson, Finance Director, reported that they are in the step process towards levying the stormwater assessment. She has the Team here from Collective Resources, Government Services and Attorneys from NGN. She will be asking the Council today if they want to go to the next step and adopt a Resolution and send out assessment notices to City taxpayers.

Ms. Elizabeth Brex, Collective Water Resources, was here to answer any engineering questions that Council might have. There is an attorney attending via GoToMeeting from NGN who will answer any legal questions that they might have and Ms. Sandi Neubarb from Government Services Group will be making the presentation today. She said it is important to remember that stormwater and water resources is complex everywhere, especially in Florida. There are new stormwater utility rules being discussed by the Legislation, which will probably be enacted into law and will have to be enforced. She said this is a good time for them to come together and discuss how to address these issues. She noted they were being proactive in discussing these issues.

Ms. Sandi Neubarb, Government Services Group, went over what a stormwater utility is. She then gave a Power Point presentation (attached to the original minutes).

Ms. Brex went over the mitigation credits and said not all stormwater utilities use mitigation credits. She went over what they were recommending for a migration credit as outlined in the Power Point presentation on page 19.

Ms. Neubarb went over the implementation schedule as outlined on page 21 of the Power Point presentation. The initial rate Resolution will be adopted on June 21, 2022. She asked for policy direction if this is something that they want them to pursue and do they want to do the \$75.00 rate.

Mrs. Minuse said as she was going through the Property Appraiser's codes and the Department of Revenue codes and she was having problems with identifying where the railroad comes in. She said it is a concern because they are elevated and there is runoff, which is a stormwater issue. She asked how are the railroads involved in this. She asked would they be paying a proportionate share.

Ms. Neubarb said currently the railroads are like a common element roadway function so they don't charge them. She thought they were excluded. She said they could look at it, but she did not know if they

would receive a tax bill. She explained that they were not associated with a parcel I.D. It is kind of like a common element.

Mrs. Minuse said that is why she was wondering if it fit into the non-government category.

Ms. Neubarb said they could look into it, but if they don't receive a tax bill they cannot put it in there.

Mrs. Minuse felt that would be interesting to pursue because they go right through town and they do have a lot of runoff from the elevated tracks.

Ms. Neubarb said they would look into it.

Mayor Brackett said that he was not sure what the plans were for this money. He said they currently budget around \$1 million a year in the Capital Funds and this money is going to replace that money so they really are not gaining a lot of ground. He said that he was not thrilled with how the parcels were calculated. His big concern has to do with mitigation. The last time they discussed mitigation they were not requiring any commercial sites to meet the 100-year storm. He asked if that was correct.

Mr. Matthew Mitts, Public Works Director, explained that the requirements for a new general commercial site is to meet the 25-year / 24-hour storm event. For a commercial site that is doing something less than substantial improvement and it is scaled from that.

Mayor Brackett said the City requires homeowners who either improve 500 square feet of impervious product or new homes to do onsite stormwater.

Mr. Mitts explained that they require single-family residential to retain water on their parcel.

Mayor Brackett said then for the most part no one would meet this mitigation standard.

Mr. Monte Falls, City Manager, explained that the current stormwater requirements with a 25-year storm, there would be no one in their existing capacity that had a mitigation credit.

Mr. Neville said that doesn't mean that they couldn't should they not want to provide greater storage on their site.

Mayor Brackett said it is a deterrent because to provide greater storage on their site they are going to lose a lot of their site, which is very costly and they would only be receiving a .68 credit back.

Mr. Neville said that he put in some pavers in the back of his home so he exceeded the hardscape. He said that he had a small swale developed to hold more water.

Mayor Brackett said that is small scale. He said that he is talking about commercial buildings with a lot of parking so going to a 100-year storm is a major ordeal. It was not worth the cost of the .68 credit.

Ms. Brex said there is a few other considerations with the mitigation credit that is related. One (1) is that it is likely that stormwater rules were going to tighten so everyone that does this type of work are getting ready to do more rigorous engineering. What they are doing probably needs to get more sophisticated. Also, if you move to something that is less rigorous and went all the way to 25 then that would be their criteria and they would have a lot of properties that qualify. She said they would also be changing to a significant degree the numbers that Ms. Neubarb presented because a lot of properties would be able to apply for the credit, which changes the mathematics of the utility. She said there could be something in between, such as a 50-year storm event, but it was not as common to use a 50-year storm event.

Mayor Brackett said that is part of the problem. If they make the credit easier to get they just raised their rate. The problem with the City is that 96 or 97% of the City has been built out.

Mr. Falls said the City's stormwater criteria came in the mid 1980's. Prior to that they were strictly drainage plans that routed the stormwater from the properties to a receiving system.

Mayor Brackett said with the newer buildings they have the 25-year. He felt this credit was irrelevant in the scheme of things.

Mr. Neville felt that if they had a more generous credit opportunity more people would be interested in doing it. He said if they do the 100-year storm and retain all that water they would be giving them just a portion of the credit and he felt for someone to make the effort then they should get a lot more than that. He said the goal is to retain water.

Mayor Brackett said they have general parcels at about 59% of the number and governmental parcels at 23% of the number so the homeowners are paying for it. He said \$155,000, which is 15% of the \$1 million comes from them again. That is the problem that he has with this.

Mr. Neville asked how many grants has the City received to support their stormwater activities over the last few years.

Mr. Mitts said it has been awhile because they have been focusing on maintenance and there are not a lot of grant opportunities for that. They are currently applying for a resiliency grant study and are targeting \$150,000 that the State would completely pay for. In the past five (5) years they have not had a project that would be grant eligible. The last grant that he remembers applying for was a partnership with Indian River County for the oyster project, which was turned down.

Mr. Falls said the one of significant size was probably the Humiston Park outfall project.

Mr. Neville said it was his understanding that where they have a stormwater in place, governmental agencies would be inclined to cost share and he thought that was one of the major reasons why they wanted to do this.

Mayor Brackett agreed that it does help the grant process. But, in the report six (6) of the seven (7) capital projects were repairs.

Ms. Lawson explained that part of the point of this is that the City does not have a dedicated source for stormwater. Up to this point in time until the City created the stormwater utility, stormwater projects were competing with paving, Park projects, etc., that was in Fund 304. On average they have budgeted in the neighborhood of \$300,000 to \$350,000 a year at most. Last year they did the five (5) year Capital

Improvement Projects (CIP) predicated on for the next four (4) years of no capital projects from stormwater whatsoever. She noted that it is completely a policy decision on how the Council wants to fund this, but if they don't have a dedicated source all the stormwater projects would have to move back into Fund 304 and compete with all the other projects. She explained that this would create a more dedicated revenue source so that stormwater would not compete with other projects of the City.

Mr. Cotugno asked if he was correct that they have already established the utility and now they are talking about funding.

Mayor Brackett said it would not be completely established until May.

Mr. Cotugno asked have they established a location for the funds by Ordinance.

Mayor Brackett explained that last year they made it this far and then they changed and because they changed they had to start all over again this year.

Mr. Cotugno asked is it the funding process or the process of actually establishing it.

Ms. Lawson explained that they adopted a stormwater Ordinance and all that does is provide for the regulatory framework for levying assessments so until they levy an assessment it is a utility without any money. She said last year because they decided to use the American Rescue Plan funds and not levy an assessment, they did create a Stormwater Utility Enterprise Fund and put the \$500,000 from the American Rescue Plan in that Fund. Therefore, they have a separate fund set up, which would be the fund that would receive the assessments in future years if they choose to do that.

Mr. Cotugno questioned so from the Council's standpoint this is just one method of funding that Enterprise Fund.

Ms. Lawson said that is correct.

Mr. Cotugno asked hypothetically, if they wanted to they could take the remaining American Rescue Plan funds that are currently not allocated and/or other funds and allocate them into the Enterprise Fund.

Ms. Lawson answered yes. She noted that at some point for it to remain an Enterprise Fund it has to be self-supporting. She said they could fund stormwater through other sources as they did in years past.

Mrs. Minuse questioned if they were to talk about an Enterprise Fund for stormwater, would they be talking about staff.

Ms. Lawson explained that through direction of Council they included nothing but capital projects. What they are proposing with this stormwater utility does not include any operating or staff costs.

Mr. Falls noted that when they discussed the mitigation credits, the Consultants pointed out that it is very staff time extensive to review the mitigation credits to determine if they meet the mitigation requirements.

Mr. McCabe said that he would be in favor of lowering the standards. He said one of the reasons that he was in favor of the utility was to try to encourage people that own property to do more mitigation on their

own. He said that he would like to do more to encourage people to do their own mitigation so if the City had a lower standard they would be more likely to mitigate.

Ms. Lawson said it is going to have to be cost effective for them to do that. She noted that as Ms. Brex pointed out, if they give everyone mitigation credits then they would have to increase the ERU amounts.

Mr. McCabe agreed that the rate could be discussed and modified somewhat. He said people are going to have to do it because they want to do it because it is the right thing to do for the health of the Lagoon. He said they are not going to get people to do this just for the economic benefit.

Mr. Neville asked Mr. Falls what was the technical term of what they did at Humiston Park.

Mr. Falls said it was an Exfiltration System.

Mr. Neville wondered if it was possible that the large places that have large parking areas if they could mitigate if they wanted to.

Mr. Falls said it is possible. He referred to Miracle Mile and explained that it was built in the 1960's with no stormwater runoff. To do this they would have to have enough elevation above the water table to allow them some storage of the water and then the buildings would have to be high enough to bring the parking lot up so the buildings would not flood. He said they would have to take the parking lot out, put in the exfiltration system and then rebuild the parking lot to make that work.

Mr. Neville said if they could find incentives to make it worth them to do it then the City should do it. Their goal is to keep water out of the Lagoon.

Ms. Brex felt that exfiltration systems were going to decrease in popularity. She said you can use it when the water tables are not high, but within the City they do have that in most locations. She said it is a balance of complexity with wanting to provide this credit and still have a utility that is reasonable. She noted that this was intended to be an incentive to the developers that go above and beyond. She did not recommend thinking about anything that everyone could apply for because they would be getting rid of the incentive to go above and beyond. She said the 100-year storm event is used in other locations within the State of Florida. She knows it is difficult, but it is becoming more common and it is an incentive and other cities use it. She noted that the 100-year storm event was built on storms that were historical, which is now dated and is about 30-years old. She encouraged the City Council to think forward, to think about the science, and to realize that other communities are using it. She felt that they had fantastic engineers doing developments in the area.

Mayor Brackett said the City of Vero Beach is 90% built out so everything they are discussing would not be new development. He said as a government entity they have done as much or more than any other government entity in Indian River County has done towards stormwater. He said they are the only ones that he knows of that has the TMDL credits through 2030. Between the project with John's Island and the new Water Reclamation Facility they would have credits from 2035 and beyond. He said they are ahead of the game compared to most other governmental agencies in this County. He said they don't issue septic tank permits in the City and he wished the County would do that.

Mr. McCabe said that he would hope that they would create an incentive for people when they develop the lot diagonally across the street from City Hall that they put in a parking lot that has pervious pavers or

something like that. He felt that when starting off with a new parking lot they have a better chance of encouraging people to do that.

Mayor Brackett agreed one-hundred percent. He said that he worked with a business in town to put in pervious pavers for a new parking area and was told that there are no such pervious pavers that meets the Code.

Mr. Neville said pervious pavers are more than just a paver. It is a paver plus another foot of crushed rock and maybe some other material beneath that.

Mayor Brackett explained that what he was told was that when you put cars on it the weight crushes it down and after about 15-years it becomes impervious.

Mr. Mitts said anything is possible from an engineering prospective. He said it is possible to have these systems, but they require maintenance to keep the pervious pavers working so there is a maintenance cost.

Mr. Neville asked is it time for them to reexamine their engineering standards for stormwater. He said there are a lot of homes being torn down and they are now seeing houses that go to the setback in every direction and he doesn't know where the stormwater is going.

Mr. Mitts said they did consider that when the stormwater policies were revised and that is one of the reasons they put the retention requirement in the policy for single-family dwellings. He said that is one of the elements that over time the entire State is moving towards and as policies come down staff is trying to stay informed of them so that they can adjust their policy in the future.

Mr. Neville asked then is the 25-year common.

Mr. Mitts answered yes.

Ms. Brex felt this was a good conversation. She said all the things they are mentioning about water quality, pervious pavers, etc., is a lot of the future of water quality.

Mr. McCabe said the Indian River State College created a number of parking lots where they have a concrete block that is tipped on its end and is about 50% open so it allows the water to go down, but he didn't think those types of things would soak up as fast as the others. He explained that the concrete block they are using is a specialized block that has an equal amount of gravel with a crossing of concrete for the structure.

Mr. Cotugno said that he found the conversation they were having very important. He said they have a City that has been in existence for 100-years that is geographically confined and there are not that many properties that are going to be developed in the future. He said it is a very diverse community. He said \$75 might not sound like a lot of money to some people, but there are some people that \$75 could be an issue. What he does support is the fact that they need a stormwater utility, they need to clean up the Lagoon, and they need to make that happen. What he would like to see is a series of discussion points for people who may not be able to afford this on how they would address how those credits are issued, etc. He said they are still coming out of a pandemic with inflation at the highest it has been in decades, but they still need to fund the stormwater utility so they can address the issues that they have. He felt there

was a way to do this in the short term while they address these other issues that come up to make it more fairly administered amongst the community.

Mrs. Linda Moore said that she did the math and with her small business it would not be that much and she was fine with that. She said that she is not required to have parking because she is located downtown. She said what they are doing is telling other areas that they have to have a certain amount of parking and the City is going to charge them so much money for having that amount of parking, which feels punitive. She felt that they needed to research this to figure out a way to pave areas in a more “green” way.

Mr. Neville thought there were pervious paving products.

Mr. Mitts said there are a number of the major concrete companies that make pre-manufactured modular brick systems, but the cost to maintain them is more expensive than an asphalt parking lot so it is a cost benefit analysis for the property owner to determine what is in their best interest.

Mr. Neville asked if he correct that the City’s policy does not permit that.

Mr. Mitts said the City’s policy allows it.

Mr. Neville said the City is getting ready to consider paving part of central beach for parking. He asked is he correct that they would be compelled to use asphalt.

Mr. Mitts said it comes back to the maintenance issue. It would be cheaper for the Public Works Department to maintain concrete or asphalt paving.

Mr. Neville said if they care about this there are some policy issues they are going to have to change and it includes maintenance, but they have an obligation to lead and not to follow. If they are going to ask people to contribute money to support the Lagoon then the City needs policies on their own that reflect that same perspective. He asked staff to look at the policies regarding City paving.

Mrs. Minuse said her information from some years ago was that their native coquina is pervious in that if you set pavers in them they would not be collecting water.

Mr. Mitts said that is something that they looked into in the past. For a very short while the City gave an incentive for pavers because they thought water percolated through them. He explained that the way pavers are constructed is there is a base material that is compacted, which just that it is not very pervious.

Ms. Jean Catchpole, of the Indian River Neighborhood Association (IRNA), said that she is present today appealing to the City Council that they fund a stormwater utility. She knows that the conversation has been about mitigation and big parking lots, but there are other things that could be done. She said the parking lot at Miracle Mile could be divided up with some tree islands for something more attractive. She said if they have a dedicated fund then the money for capital improvements would be paid from that dedicated fund and the City would not have to use the one-cent sales tax. She said the dedicated funds serves another purpose. They would enable the City to apply for grants, which would triple the dedicated funds for the stormwater projects that need to get done. She said it is time to move forward with this. The Lagoon is in very rough shape and the big polluters are septic tank effluent and stormwater runoff. She asked the City Council to please move forward.

Mr. Mike Johansen, Chairman of the IRNA, said this discussion is useful. He said putting this in place makes sense. He said one thought is that this may be difficult financially for some of their citizens. The thought

of stormwater mitigation commission that listens to people and can allocate them some kind of relief is not impossible and is something to look at. If there are real problems there are ways around them. The IRNA supports this. They think it is the right thing to do and it is the right time to do it.

Mr. Taylor Dingle said that he wears many hats within the community and today he is present on behalf of the Taxpayer's Association. He said the current inflation rate in the United States has seen its fastest annual increase in over 30-years. He questioned is now the most appropriate time to discuss this. Is now the best time for a new assessment.

Mrs. Jane Burton, Chairman of the Utilities Commission, said that she was not present today to speak about rates because the Commission cannot have any say so about assessments. Therefore, her remarks will be about the reasons they need to establish a stormwater utility. She said it would enable the City to apply for grants, which they cannot do at this time. She said this is necessary for the City to be able to do some of the larger projects that are going to be coming forward. She then read a prepared statement.

Mr. Neville asked is he correct that they currently have a master plan underway, but they have not received a first draft.

Mr. Falls said that is correct.

Mr. Neville asked do they have any idea of what the engineers are recommending that needs to be done. He felt if it was more clear on what projects need to be done and the scope then people would have a better appreciation of what the issues are.

Mr. Falls said the goal of the master plan is to be able to lay those out in a logical fashion. As discussed, being built out is a detriment. He felt that the innovative things they have done were all small steps that needed to be taken.

Mr. Neville said they talked about being built out, but the City is constantly changing. He felt that if they looked into the future 20 or 30 years from now he would question how many of the buildings would still be standing on 14<sup>th</sup> Avenue. Also, he felt that there would be very few of the small homes left on the beachside. He said the City is going to keep evolving and they need to have the policies in place to prepare for that.

Mrs. Judy Orcutt, of the Clean Water Coalition (CWC), said they are in support of this conversation about is the right time to move forward on this. She said that she serves on the Utilities Commission and the first go around when the Commission approved the stormwater utility and urged it to move forward was in 2017. Since that time there were some new developments that could have been done differently. She said it is time to fund the stormwater utility and it is also time to use regulations to get people to do the right thing.

Mr. Herb Whittall said that he used to fish off his dock and the fish are not what they used to be. The trouble is that the runoff is killing them. He said that the only way they were going to get this done is to have a stormwater utility with dedicated funds. He suggested that the City Council approves this.

Mrs. Minuse said retrofitting is a nice word for the aging infrastructure they have, which needs inspection, repair and replacement. This is a quality of life and that needs to be part of their consideration.

Mr. Ken Daige read a prepared statement (attached to the original minutes).

**Mrs. Minuse made a motion that they go ahead with the implementation schedule and prepare an Ordinance for first reading. Mr. Neville seconded the motion.**

Ms. Lawson explained that there were just a few adjustments in the Ordinance, which has already been adopted. The next step is the initial Assessment Resolution and that would be heard on May 17<sup>th</sup>.

Mr. Falls explained that they are looking for authorization to have the Resolution to do the initial assessment.

Mr. John Turner, City Attorney, said the first motion would be to adopt the initial assessment Resolution.

Ms. Lawson explained that what staff is requesting is direction to prepare an initial assessment Resolution for the City Council to consider for adoption on May 17<sup>th</sup>.

**Mrs. Minuse withdrew her motion.**

**Mrs. Minuse moved that they adopt a policy to proceed with the process and that they are looking at adopting an amended stormwater assessment Ordinance on May 17<sup>th</sup>.**

Mr. Falls explained that on May 17<sup>th</sup> staff would be bringing before the Council for their consideration the initial assessment Resolution.

**Mrs. Minuse said that is her motion.**

**Mayor Brackett said the motion is for the initial assessment Resolution to be brought to the City Council on May 17<sup>th</sup>. Mr. Neville seconded the motion.**

Mr. Cotugno said that he would be out of town on May 17<sup>th</sup> so he would not be present to vote on this. He said that he didn't know if he should vote on this motion seeing that he would not be present to vote on May 17<sup>th</sup>. He was not sure if he could do this via zoom.

Mr. Turner asked would he have access to zoom.

Mr. Cotugno said that he was not sure.

Mr. Turner said they have a procedure that if the City Council approves for a Councilmember to appear, based upon exigent circumstances or an issue that is either health related or business related to an extent they cannot attend the meeting and wants to appear by zoom, the City Council can authorize it. Otherwise he would be able to appear by zoom, but he could not vote. Normally it is extended to an emergency.

Mr. Cotugno said it is not an emergency.

Mr. Turner said then he could not recommend that it be authorized. He said Mr. Cotugno could appear, but he could not vote.

Mr. Neville asked Mr. Cotugno when would he be back.

Mr. Turner said that he did not want to postpone that meeting because it was his understanding that the schedule they are on is time sensitive. If that is not the case then they could look at rescheduling the meeting.

Ms. Neubarb said everything has to be done by September 15<sup>th</sup> so they do have a little bit of leeway. If the City Council wants them to push the schedule out a few weeks they can.

Ms. Lawson noted that part of the emphasis behind the schedule was to be sure that they adopted the final assessment Resolution before getting to the budget workshops. She said they could make the adjustment and move the schedule to their next City Council meeting.

Mr. Neville said pursuant to the motion on the table, in light of some things that have come forward he would ask that staff brings back an alternate plan where they have the small category, such as a 1,200 square foot house or less house, that they consider an exemption.

Ms. Lawson explained that they are going to be in the process of preparing an initial assessment Resolution. If they were going to have exemptions like that it would have to be included very specifically in the initial assessment Resolution so they would need to have another discussion about this so they could present ideas to the Council. She noted that trying to create exemptions for financial hardships is administratively difficult. She noted that they don't provide those kinds of hardship exemptions for water/sewer utility bills. They do work with the local aid agencies who can help people find ways to pay, but they don't exempt people from paying their water/sewer bills because of financial hardships. She asked Council to consider if that is the path they want to go down. She said if they do then they would need to have another conversation on how to incorporate that into the initial assessment Resolution.

Mr. Neville said there is an analog between small houses and income.

Ms. Lawson referred to the slide, Single Family Residential Tiers, of the Power Point presentation and pointed out that the small homes were only paying 40% of the ERU.

Mayor Brackett said they have a motion on the floor to have staff bring back the initial assessment Resolution on May 17<sup>th</sup>.

Ms. Neubarb explained that they would have to use General Fund money to buy it down. They cannot shift the burden from those who are not going to pay and those who are going to pay because then they would be paying more than their fair share. She said they could possibly create a hardship exemption, but they would have to have someone to administer it. She then showed on the screen the slide showing the Single Family Residential Tiers.

Ms. Neubarb reported that an alternative schedule for the City Council to consider if they can't do this on May 17<sup>th</sup>, would be to adopt the initial rate Resolution on June 7<sup>th</sup>, to send out the first class notices to all property owners on June 28<sup>th</sup> and hold the final public hearing and adopt the final rate Resolutions on July 19<sup>th</sup>. She felt that they would still want to adopt the amended Ordinance.

Mayor Brackett noted that there is a motion on the floor to bring back the initial rate Resolution on May 17<sup>th</sup>.

**Mrs. Minuse made a motion to move the date to June 7<sup>th</sup>.**

**Mr. Neville withdrew his consideration of an amendment to the motion.**

Mr. Turner noted that there is an amendment to the motion to change the date to June 7<sup>th</sup>.

**Mr. Neville seconded the amendment to the motion to change the date from May 17<sup>th</sup> to June 7<sup>th</sup> and it passed unanimously. The motion passed 4-1 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes and Mayor Brackett no.**

**3. PUBLIC COMMENT**

**4. ADJOURNMENT**

Today's meeting adjourned at 11:28 a.m.

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