

**CITY OF VERO BEACH, FLORIDA
MAY 18, 2021 8:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Terry Thompson of Gates of Praise Church of God.

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

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

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – May 4, 2021

Mrs. Minuse made a motion to approve the May 4, 2021 City Council minutes. Mr. Neville seconded the motion and it passed unanimously.

2. Special Call/Workshop Minutes – April 27, 2021

Vice Mayor Neville made a motion to approve the April 27, 2021 Special Call/Workshop minutes. Mrs. Minuse seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mrs. Tammy Bursick, City Clerk, requested that items 9-C) “Discuss Application for American Rescue Plan”, 9-D) “Update on Elite Airlines” and 9-E) Update on Intergovernmental Conflict Resolution” be added to today’s agenda.

Mr. McCabe made a motion to adopt the agenda as amended. Mr. Neville seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

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

- A) **City-Wide Janitorial Services – (\$337,122.39)**
- B) **Disbursement of JAGC Program Funds**

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

4. **PUBLIC HEARINGS**

- A) **ORDINANCES**
- B) **RESOLUTIONS**

- 1) **A Resolution of the City Council of the City of Vero Beach, Florida, authorizing the Submission of a Grant Application under the 2021-2022 Florida Fish and Wildlife Conservation Commission Florida Boating Improvement Program; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Marina Director**

The City Clerk read the Resolution by title only.

Mr. Monte Falls, City Manager, reported that this Resolution will be for added funding for the South Complex project for the Marina, which is a part of the Marina Master Plan project.

Mayor Brackett opened and closed the public hearing at 8:35 a.m., with no one wishing to be heard.

Mr. McCabe made a motion to adopt the Resolution. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

- 2) **A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City of Vero Beach, Florida, Authorizing the City to enter into a Federal Grant Agreement with the Federal Aviation Administration as part of the “Coronavirus Response and Relief Supplemental Appropriations Act, 2021” (CRRSA) (VRB-SOG-3-12-0083-045-2021) at Vero Beach Regional Airport; Delegating to the City Manager the Authority to execute the Agreement and Act as the City’s Authorized Agent for Performance of the Agreement; Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the President approved CRRSA into law on December 27, 2020, providing economic relief funds to be eligible for U.S. airports affected by the COVID-19 pandemic. He recommended that they pass the Resolution to authorize him to execute and bind the City to terms of this agreement of the CRRSA Grant in the amount of \$23,000.

Mayor Brackett opened and closed the public hearing at 8:36 a.m., with no one wishing to be heard.

Mr. McCabe made a motion to approve the Resolution. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

5. PUBLIC COMMENT (3-minute time limit)

Mr. Herb Whittall talked about water runoff. He said that he sold his home and received plenty of money for the home, but he would not have gotten half of the price he asked for if there was no Lagoon.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

1) Request for Tourist Tax Money to Assist in Funding Three Corners Development – Requested by Councilmember Richard Winger

Mr. Winger prepared a memorandum for Council's consideration. He wanted to gain authority from the Council and assistance from staff to ask for funding assistance in 2021/2022 from the Tourist Tax for the development of the Three Corners property as a destination for all tourists, County and City residents. He is the representative from the City on the Tourist Development Council (TDC) and he would like to make a formal request at their meeting tomorrow. He said whether it is in near term or the longer term the City needs to share in the 4% bed tax.

Mr. John Turner, City Attorney, referred to a memorandum that he prepared dated June 9, 2020. He explained that the Tourist Development Tax is authorized under Section 125.0104, Florida Statutes. He said that currently, Indian River County collects 4 cents on every dollar spent on rentals from hotels, condos, and other types of short term rentals. The Tourist Development Tax funds are applied as follows: one and one-half cents on beach re-nourishment/beach projects, one-cent for former Dodgertown facility and to retire bonds on the project and one and one-half cents for promotion/advertise for tourism in the County. Authorized uses of Tourist Development Tax funds permitted under Section 125.01047(5)(a)1-5, Florida Statutes are to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one (1) or more of publicly owned and operated convention sites, sports stadiums, auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation, aquariums or museums that are publicly owned and operated, the promotion of zoological parks that are publicly

owned and operated, to promote tourism, to fund convention bureaus and to finance beach park facilities. The money is collected by Indian River County and dispersed by them. The TDC adopted a formal rating process that was a two-part process: (1) 70% of tourist development tax was divided between the Indian River Chamber of Commerce and the Sebastian Chamber; (2) all other requests for funding will be submitted for review and funded according to a grading system, which will determine which entities receive funding. The County has the authority to amend the plan by a super majority of its members in order to expend tourist development funds for a use which is authorized under Section 125.0104 without requiring a referendum. The tax dollars most important to Council and residents has to do with Beach Park facilities. The provision for finance Beach Park facilities was amended and replaced with "finance beach improvements" by the Legislature in 1996. There are no Attorney General Opinions (AGO's) or court decisions on authority to make expenditure of tourist development tax funds for lifeguard stands, towers, or lifeguard salaries. Several counties have approved funding using tourist development tax funds for lifeguards as tourist-related public safety purposes and comprehensive lifeguard programs and lifeguard stands. It is arguable that lifeguard towers/stands and even their salaries are "beach park facilities" since this would advance and promote tourism. It has been an issue for the City to obtain funding for these special needs for their lifeguards. He spoke with Mr. Winger about this and the best way to handle it. He said that every year the TDC is approached on different projects that people would like to have funded and why or why not they would be funded. He told Mr. Winger that they needed to approach this in a proactive way. He suggested having a meeting with the County or having County staff meet to iron out their differences and consider the needs of the City, which are contained in the State Statute in which tourist tax money can be used for. He said that Mr. Winger is requesting permission from the Council to present his proposal tomorrow at the TDC meeting. He would assist Mr. Winger in doing whatever he could to see how this money could be best used in the City of Vero Beach. The City deserves their fair return.

Mr. Winger went over how many Parks that the City currently has knowing that their population is only 18,000 residents, but many County residents visit these different destinations. He brought up the Three Corners property and being able to use tourist tax dollars for that destination.

Mr. Turner explained it would depend on who owns the facility and operates it as to whether funds would be allocated. The Three Corners property is going to be a facility open to the public, but maintained privately, which may not be supported by State law.

Mr. Winger wanted to bring up at tomorrow's meeting on behalf of the City that they would like to be in conversations with the County on how to share the bed tax. The tax collected in the City is 57%, yet the City receives no funding. Much of the funding is used to bring tourists to the County and that effort centers on the City hotels, restaurants parks, museums, beaches, water facilities, etc. He asked Council if he and the City Attorney could speak to the TDC on this matter.

Mrs. Minuse was very supportive of having Mr. Winger and Mr. Turner speak to the TDC.

Mayor Brackett agreed that this has been a longstanding issue. He commended Mr. Winger for going and speaking to the TDC tomorrow, but wondered if they needed to have something on the books showing what they want the funding for. He has talked to some of the County Commissioners and this topic always comes up. He would like to see them have an actual plan on what the money would be used for.

Mr. McCabe strongly supported Mr. Winger approaching the TDC on this. He wondered if they could discuss it at their budget workshops. He was told it would probably be better to have a separate workshop held to discuss it. Mr. McCabe did not want to see them put this off.

Mr. Turner commented that it might be too late to get any money this year, but definitely next year would work and they would have a better feel on where the Three Corners project was going.

Mr. Neville commented on the normal funding that was not allocated to the Cultural Council.

Mr. Winger asked the Mayor to take leadership on this matter once he is no longer on Council, which will be in November.

Mayor Brackett said that he would be happy to.

Mr. Winger knew that this would be moving into the preceding year.

Mayor Brackett would like to have something set in place that is perpetual.

Mr. Winger asked Council if it was a consensus that he and Mr. Turner would be “flagging the issue.” He asked Mr. Turner to say again what they would be doing.

Mr. Turner said to meet with County staff to discuss this matter. He mentioned that they do have a former Councilmember who now sits on the County Commission who has led the charge on this issue, is very familiar with it and is supportive of it.

Mayor Brackett asked for public comments.

Mr. Falls reiterated that 50% of the funds collected for tourist tax are generated in the City limits and that this is a good time to be bringing this up.

Mr. Charlie Wilson commented that in another life he was the Tourist Development Director for St. Lucie County. He said they were right that conflict with the County was not going to get them anywhere. He started the Vero Beach Chamber of Commerce and that was because of tourist dollars. He (Vero Beach Chamber of Commerce) went to the TDC requesting funding and was told by Commissioner Joe Flescher that they don't recognize his Chamber of Commerce. He said Commissioner Flescher told him to come back and talk to him in five (5) years and that five (5) years has now passed. He was behind

Mr. Winger 100% on this issue. The majority of the money leftover goes to support the operation of the Indian River County Chamber of Commerce. They are not going to let go of that money and it is outlined in the Ordinance how the funds are allocated, which won't change unless the Ordinance is changed. The tourist development money does not support any events. A huge majority of the funds collected are from people living within the City of Vero Beach. He recalled that several years ago he suggested to the City that they have their own TDC and they could request money. There is a method in the Statutes for a City to establish their own tourist tax. The City of Vero Beach could establish their own one-cent tourist development tax. He said there are methods to handle this. He doesn't recommend that they take on the Chamber of Commerce because it doesn't work well.

Mr. Kurt Fennell, Tourist Development Director for the Indian River County Chamber of Commerce, told Council that he would love to come and show them what the Chamber does for the City of Vero Beach. He was not prepared to do that today, but at a later date he would be happy to.

Mr. Ken Daige thanked Mr. Winger for finally moving this forward. They have been talking about it for a long time. They have outlined a path in moving this forward. They need to make their legal argument about that bed tax collected in the City of Vero Beach. He said it may take some time, but it won't take forever. He said it is extremely political on how the money is divided. He said as the City makes some arguments on the legal lines they will be able to bring back some of that tourist tax money. He realizes that at this time it is being controlled under the County Ordinance. He thought that it was a very good idea allowing Mr. Winger to take the City Attorney along to begin this process.

2) Ms. Kathy Hill, Deputy Director of Indian River Lagoon Council, to discuss the Science and Management of Stormwater – Requested by Vice Mayor Rey Neville

Vice Mayor Neville introduced Ms. Kathy Hill and gave her background information.

Ms. Kathy Hill, Deputy Director of Indian River Lagoon Council, gave a Power Point presentation, which was an overview of the Lagoon (on file in the City Clerk's office).

Mr. Falls commented on what they have done so far and what they are planning to do. He said that this is a problem that wasn't created overnight and it won't be solved overnight.

Mr. Winger brought up that there needed to be a swale Ordinance in the County. He still has his swale, but all of his neighbors have filled their swales in. He would like to see staff take a look at the swales. He said there has to be a way to stop people from filling in their swales.

Mr. Falls talked about baffle boxes and that if you slow the flow down that you can back the flow up.

Mr. Herb Whittall commented that the canal outside his former house had a dredge that was at 8 feet and now it is at 6 feet and there is 2 feet of muck that keeps filtering all this muck up. This needs to be discussed. He knows it is expensive to correct this, but it would be nice to do it.

Mr. Ken Daige commented that there are three (3) things to look at, at this time. They are the swale ditches, put in for a new street sweeper at budget time, and a person to operate the street sweeper. He also mentioned that there are garbage trucks going through the City streets and a lot of the time those garbage trucks are leaking fluids and that is nasty. He asked that they look into and seeing what can be done with the garbage trucks to prevent this from happening. He thought maybe in the neighborhoods that have a lot of garbage to be picked up that another garbage truck could be sent out there also. He asked that they do something in moving this forward in a positive way.

Mr. Herb Whittall commented that he set his swale up to run down into a drain, but it would not stay there.

Mr. Falls commented that with older subdivisions they were not designed to have retention so those swales would have to be redesigned and made into retention swales.

Mayor Brackett suggested to staff that they bring the swale Ordinance back to them for review.

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing will be held on June 1, 2021 at 8:30 a.m.

- A) An Ordinance of the City of Vero Beach, Florida, related to the Budget for the City of Vero Beach, Florida, for the period beginning October 1, 2020 and ending September 30, 2021; Providing and Establishing Revisions to said budget based on Revised Revenue and Expenditure Estimates; Providing for an Effective Date. – Requested by the Finance Director**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on June 1, 2021 at 8:30 a.m.

Public Hearing will be held on June 15, 2021 at 5:00 p.m. and June 1, 2021 at 8:30 a.m.

- B) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by amending Chapter 62, Article IV, Industrial District, to add Microbreweries to the list of permitted uses in the M Zoning District; Amending Chapter 62, Article III, Commercial Districts, and Article X, Downtown District, to add use conditions for Microbreweries; amending Chapter 60 (Appendix. Definitions) to revise the definition of Microbrewery and add a definition for Restaurant, Carry-**

Out; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date. – Requested by the Planning and Development Director

The City Clerk read the Ordinance by title only and reported that there will be two (2) public hearings held on this Ordinance on June 1, 2021, at 8:30 a.m. and June 15, 2021, at 5:00 p.m.

8. CITY CLERK MATTERS

A) Selection of the Charter Review Committee

Mrs. Bursick asked that the City Council select six (6) candidates from the list of applicants and pass them to her and she would tally the results of who will be serving on the Charter Review Committee. Those selected to be on the Charter Review Committee were Mrs. Linda Hillman, Mrs. Nancy Cook, Mr. Pete Benedict, Mr. Ken Daige, Mr. Jeff Stassi and Mr. Mark Mucher (alternate member).

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

A) Three Corners Project – Recommended Community Master Concept Plan

Mr. Falls stated that he hoped to have been presenting this Plan to the Council a year ago, but things changed because of the pandemic. He said that the Planning and Development Director will go over the new Plan that has been approved by the Steering Committee.

Mr. Jason Jeffries, Planning and Development Director, stated that he has been working with the Steering Committee in coming up with the preferred "Community Plan." He went over what their recommendations are. He then gave a Power Point presentation (attached to the original minutes). He said what the Council has in their backup material is the recommended Community Plan that is being recommended by the Steering Committee. The next step will be to do the feasibility analysis. The goal is to be revenue neutral to the City.

Mr. Winger questioned if they would be able to get this item on the referendum ballot this year.

Mr. Jeffries said that they are getting short of time.

Mr. Falls mentioned that they would need to have the language to the Supervisor of Elections by mid-August and they have less than 90 days to do that. He said it is possible, but not probable. He didn't want to rush and put something out there when it is not ready. He recommends that they get it right the first time, because they only have one (1) chance to do it.

Mayor Brackett brought up that the referendum part is not the actual plan, but language. He asked if there was a way to incorporate the language for the referendum before accomplishing the other things.

Mr. Falls said it was possible. They first need to hear from the development community on what they can do and fit on the property that is revenue neutral and if it isn't revenue neutral what they would suggest. He doesn't want anyone to think that when they take this matter to referendum that this is the exact Plan.

Mayor Brackett said that was the reason that he asked. He recalled that last year they had the wording for the referendum item worked out and then the pandemic hit. Mr. Falls said that they could pull that wording out and bring it back to Council.

Mrs. Minuse commented that they have removed the rooftop restaurant in this Plan. Mr. Jeffries told her that it was still in the Plan. Mrs. Minuse had some concerns with it because of the noise, light, and buffering so close to the surrounding neighborhood.

Mr. Falls expressed that this was just a Concept Plan.

Mayor Brackett reminded everyone that bars and restaurants would still have to come back for permitting. They are just approving the Concept Plan.

Mrs. Minuse could vision boats docking at the Three Corners property instead of trying to find a parking place.

Mr. Neville commented that this was once an industrial site, so whatever they can do to make it efficient and keep costs from going back to the City is the point they need to concentrate on.

Mrs. Minuse asked if they would be allowing mixed use.

Mr. Jeffries reported that the Steering Committee recommended in a vote of 5-4 to include residential on this site. They have not drawn anything in the Plan that includes residential dwellings so a decision will need to be made later on.

Mr. Winger said that he does not like residential.

Mayor Brackett appreciated the Steering Committee wanting to make this Plan financially feasible, but he does not see how anyone purchasing a condominium could have a 65-year land lease.

Mr. Jeffries said that the Steering Committee was also looking at residential as a built in activity on the site.

Mr. Winger commented that it also creates a preference to some people that bothers him a bit. He mentioned the additional cost for policing and traffic and that he was not in favor of it.

Mrs. Minuse commented that this is public land and only allowing a few people to enjoy that privately defeats the purpose of developing it for the public purpose.

Mr. Falls said he would try to give more information about having residential on the property. He said that as far as financial feasibility it might not even be worth considering.

Vice Mayor Neville was looking at the Park area and commented that there was a lot of art scape. He wondered if they were thinking that this was going to concave and grade into the center when thinking about water retention and stormwater runoff.

Mr. Falls said that the property will need to meet all of the current regulations that are in place and be compliant.

Mrs. Minuse commented that the subject of these cottages concerns her also and the noise that might be produced by people staying in them. She wondered how essential it was to this Plan to allow the cottages. She said maybe they should just allow the expansion of the hotel.

Vice Mayor Neville said that will emerge from the RFQ that is sent out. He then asked what will happen with the tanks. It looks like one (1) will be gone and then there will be one (1) that remains. The tank that will remain is some type of a venue space for outdoor performances. The DPZ plan with the two (2) tanks remaining was shown. Vice Mayor Neville continued by saying that the idea was to have loud speakers in this area that stay vertically in a column so they would not disturb the public. He said there is nothing like this in the County. It is an opportunity to have a performance environment beyond measure. He asked when are they scheduled to dismantle the big tank. He was told it will happen when they dismantle the entire Plant. He would still encourage Youth Sailing to accommodate the use of that tank. He hated to see the loss of that. He brought up that things are changing and there is a spectacular series of projection art on interior and exterior spaces that are in Chicago that have outsold themselves. They are seeing a change in the way people appreciate art. He was trying to generate enthusiasm for the future in retaining these tanks. He thinks that a lot of the new artists are working diligently and not with oil or acrylics and they are stretching out and doing different things different and they could be a major focal point in this State if they could make something like that happen.

Mr. McCabe recalled that they have already approved the money for the financial consultant.

Mr. Falls explained that a work order has not been brought to the City Council for a financial consultant to do this feasibility study. They have selected a consultant, but would still need to have a scope of work and task order done.

Mr. Winger wanted to move this forward. He said that the City Manager has a \$50,000 authority so he could start the process.

Mr. Falls told Mr. Winger the issue is that there is no budget for that. He would have to have Council approval to spend unbudgeted funds.

Mayor Brackett stated that he wants to move this project forward and get it out there for a feasibility study to find out if the Plan works or if it doesn't work. He said that the people have spoken and this is what they want and they need to proceed to find out if they can do this.

Ms. Cindy Lawson, Finance Director, explained to Council at this point they do not have a proposal and they do not know what the cost is going to be. She doesn't know whether or not it is over or under \$50,000. She has asked the consultant for a scope of work proposal and as soon as the City receives it they will know. She said if the cost is under \$50,000, technically if they are going to amend the budget it needs to be done in a public meeting, but if they want to say if the cost comes in under \$50,000 they can go ahead and include it in the General Fund budget to be incorporated in a subsequent budget amendment. She said that Council could make that motion today. The motion would be if the study is under \$50,000 they are giving the City Manager the authority that this be incorporated in a subsequent budget amendment for the General Fund. **Mr. Winger made that motion. Vice Mayor Neville seconded the motion** (this motion was not voted on).

Mayor Brackett asked if the motion includes this Plan or is that a separate motion.

Mr. Falls explained that they needed to do two (2) things today. He said they need to approve or not approve the Concept Plan presented by the Steering Committee and the second motion would be for the financial analysis.

Mr. Herb Whittall said that he had a problem with the language when they say to "mothball" it. He said that they shouldn't use the word "mothball." He also mentioned that the third parcel is not included in the Plan. He was told that it is not included in the Plan because the property is not in the City Charter and there were no changes to the recommendations made in the June 16th Plan for the third parcel.

Ms. Barbara Reddy commented that she lived in Savanna, Georgia for 21 years and has watched the waterfront change to what it is today. She said the amount of taxes brought into the City coffers because of this project is unbelievable. She was very happy when she heard about the different restaurants and the arts planned for the Three Corners project. She commented on what an opportunity that they have in front of them. She said parcels like this land are very hard to find. She was certain that they would be able to find a first class developer to do something fabulous.

Vice Mayor Neville made a motion to approve the Concept Plan as presented by the Steering Committee. Mrs. Minuse seconded the motion and it passed 5-0 with Mr.

Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

Ms. Lawson explained that the scope of work that they anticipated with their financial advisor is to give them an opinion on the marketability of the Plan that they just adopted, as well as the financial feasibility of it. The wording of the motion should be assuming that the initial proposal to the City is under \$50,000 and the City Manager can approve it that this can be done even though there are not any budgeted funds and those funds will be included in a subsequent budget amendment for the General Fund.

Mr. Winger made a motion to authorize the City Manager to spend up to \$50,000 unbudgeted with the provision that subsequently it will go into a budget amendment. The motion was seconded and it passed 5-0 with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

B) Mr. John Michael Matthews, Chairman of the Veterans Memorial Island Sanctuary Committee, to discuss the new WWI Monument

Mr. John Michael Matthews, Chairman of the Veterans Memorial Island Sanctuary Committee, said the timing of this WWI monument is important. He said there are similar doughboy monuments throughout the United States. They are asking for approval of a bronze statute on the Island. The Veterans Memorial Island Sanctuary Committee has approved it as well as the Veterans Council.

Colonel Carlos Halcomb, Indian River Chapter of Military Officers Association of America, was at today's meeting to talk about the monument itself. As a community the use of the Island has many wonderful events to pay respect for those who have been killed in action. He felt that the WWI monument was very appropriate for the Island. He showed the picture of the doughboy and that is the image that they want to put on the monument. The dimension of the monument is 67 inches tall and weighs 400 pounds when cast. He said it will take three (3) months to cast. The wording on the plaque is in honor of all Indian River County Veterans. The monument will be unveiled on November 11, 2021, Veterans Day. What they are asking for today is Veterans Memorial Island land use, approval of the statute as designed, the pedestal as designed, and assistance from the Public Works Department in preparing and pouring of the concrete base. The monument will go between the flag pole and the bridge. They are looking for City Council approval so they can move on this and start the process.

Mayor Brackett commented that he was at the Veterans Council meeting when Mr. Michaels was given his marching orders to move forward with this project and everyone supported it. He thanked them for all the work that they have done.

Mr. Matthews made it clear that all of the money for the monument has already been raised.

Mr. Matt Mitts, Public Works Director, has been in contact with the organization and said that his staff will have no problem with preparing and pouring the concrete base.

Vice Mayor Neville asked if there would be any difficulty in getting the monument over the bridge.

Mr. Falls said there would not be any at all.

Mrs. Minuse made a motion to approve the project and the design of the monument. Vice Mayor Neville seconded the motion.

Mr. Ken Daige said God bless our men and woman who are in uniform now. He said one (1) thing that he loves about this Island is when you are there and there are children present is letting them know the history of the Island and the people who have served this country. He said that the children take time to read the things displayed on the Island. This Island reflects the true past. He said thank you to all of the men and women who continue to work to make things like this happen on the Island.

The Clerk polled the Council on the motion and it passed 5-0 with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.

C) Add on Item – Discuss Application for American Rescue Plan

Ms. Lawson gave an update on the American Rescue Plan. She said that there was 60-days by the time that the plan was adopted back in March to give the City some guidance. They have now what they are calling their interim final rule and the reason that it is interim is because they are required to publish that rule in the Federal Registry for public comments for 60-days before they can have a final rule. She said there are two (2) things that are important right now and that she will bring it back with more details. The first one is the City's classification. They thought originally they would be classified as a non-entitlement city. It turns out by the definition in the original act they are classified as a metropolitan city because they are the main city in one of the metropolitan areas. The allocations that they are going to receive has gone down substantially from the original estimates and the amount in total that they are scheduled to receive is approximately \$2.6 million. They will receive 50% now and 50% a year from now. The good news is that clarification was given for some of the uses of the funds. She felt that there were three (3) things that might be really useful to the City. She said that they clarified lost revenue replacement that includes not just revenue that they did not collect comparing it to the year before, but a formula to compare it to the revenue that they should have gotten based on projected growth. The other two (2) are for wastewater infrastructure and to include stormwater management. They have until 2024 to spend this money. She is asking Council for the authority to go ahead and make application for the funds and designate the City Manager as the authorized person to sign off on the agreements, with her being his designee. Then she will come back to a future meeting to find out how Council wants to spend the funds.

Mayor Brackett stated that he thinks that it is a good plan and they should go ahead and apply and go through the application process. He likes the idea that if there are some holes that need to be filled from lost income that they be filled first.

Ms. Lawson added that there are multiple ways to push this plan out to the community like what was done with the CARES Act funds. She said they have nothing to lose to move forward on this.

Mr. McCabe made a motion that the City Manager be the authorized representative or his designee to apply for this money. Mrs. Minuse seconded the motion and it passed unanimously.

D) Add on Item – Update on Elite Airlines

Mr. Falls announced that last Friday Elite Airlines confirmed that since the City has undertaken a multi-year capital improvement project at the Airport that includes the rehabilitation of the runway they will be suspending their flights in Vero Beach. Since this project is estimated to begin in September and finish in March 2022, Elite plans to continue their service to Newark and Portland from Vero Beach until September and then after September 6th they will be relocating their fall and winter scheduled services to the Melbourne Airport.

Vice Mayor Neville brought up the email that they received concerning helping the Florida Division of Emergency Management's Mobile Vaccination Bus Program find locations to establish their pop-up vaccine events.

Mayor Brackett brought up the program offered by Visiting Nurses Association (VNA) in that they will come to someone's home and give them the vaccine shot if they are homebound and cannot travel.

Mr. Falls said that he would take a look at this and get some information back to Council.

E) Add on Item – Update on Intergovernmental Conflict Resolution

Mr. Falls recalled at the last Council meeting Council tabled action on the Chapter 164, Intergovernmental Conflict Resolution act. They looked at starting the process to have a determination agreement made regarding their Territorial Agreement that they have with Indian River County. Council instructed staff to work with the County staff to see if they could come up with some resolution. On Friday he and the City Attorney met with the County Administrator, the County Utility Director and the County Attorney and did not reach a resolution, but had some healthy discussion. The issue is that the Town of Indian River Shores has asked the County to participate in a feasibility study to ultimately provide utility service from the County to the Town. He advised them that he felt that was in direct conflict with their Territorial Agreement. He said there were some discussions and the County said why don't they attempt to come up with an amicable situation and define what the cost might be incurred to do that. The feasibility study will cover two (2) of the costs

with the first being the cost associated with the physical connection of building a new potable/raw sewage water line under the Indian River Lagoon. The second cost would be the charges associated with the County system to accommodate the new demand for the new customers. The third cost to find an amicable solution would be the cost to purchase the Indian River Shores portion of the City's utility. He said that is something that the Council would have to decide if they want them to pursue. He said that the City has consultants that they have used in the past who have performed an appraisal on the system and they could do an estimate or range ballpark figure without doing a full blown appraisal. They could have that estimate arranged to use in the negotiations if the City Council chose to go down that path. He said before they make any final recommendations staff would recommend a full blown appraisal so that they would have the current value of the City's Indian River Shore's portion of their utility system. They could then sit down with the three (3) parties to see if it is feasible for the Town to go with the County based on these costs. He said if Council wants to explore further then they would bring something back at the June 1st meeting.

Mrs. Minuse asked how important was it to get this consultant study done.

Mr. Turner explained that it is not a rate study. It is an estimate or appraisal range based upon the consultant's expertise and use of appraisals in the past on the system.

Mrs. Minuse asked if this was information that was necessary now for their discussions.

Mr. Falls stated that if they were going to continue to negotiate outside of enacting Chapter 164 they feel like they would need to have this number saying that this is what they would be looking for from the City's side in addition to actual cost of the addition and capacity improvements.

Mr. McCabe understood that they needed this information to negotiate.

Mr. Winger asked if this would include the value of the pipe and tank across the river, as well as the revenue for a period of years to the City.

Mr. Falls said that was correct. This would include all the assets that they would be giving up for the service.

Mr. Winger said they are talking about a big number.

Vice Mayor Neville said as he understands it they are going to finance the issue of their permanent service territory and move ahead with accommodating a request. He does not understand this. They have a Service Territory Agreement that says "permanent" seven (7) times in the agreement. He said isn't that pretty much permanent.

Mr. Turner commented that if they want to proceed with pre-litigation discussions under Chapter 164 they are willing to proceed and eventually they could possibly reach a settlement resolving the matter in court. He feels they are on very solid legal footing

regarding the 1989 Territorial Agreement. However, there are no guarantees when it comes to litigation. He said if there is a way to resolve it that is in the City's best interest in which they can realize a financial outcome that is acceptable to the Council he would recommend they proceed in that direction.

Vice Mayor Neville said that this strikes him as a two (2) step process. He said that they need to determine whether or not it is "permanent." He said if it is permanent then that is the end of it. Then if it is not then they enter into negotiations.

Mr. Turner stated that his recommendation is because there is a dispute as to the wording in the 1989 agreement as to what "permanent" is and whether or not the agreement is still in full force effect. This needs to be resolved sooner rather than later because they are making plans to build a new Water Treatment Plant. After this was placed on their last Council agenda they received a letter from the County Administrator asking that they not proceed with Chapter 164 until they have a discussion with the County. He said that Council gave direction to staff to proceed with that discussion. As a result of the meeting that was held last Friday with County staff, the County has asked them to come up with a figure of the value that can be submitted to the Town to see if the Town is interested in proceeding. He asked Council if they want staff to proceed further and get an appraisal as to what the City's utility services in the Town is worth (a range).

Mr. Winger asked what this appraisal is going to cost them. Mr. Turner said that he did not know. Mr. Winger did not think that this utility would be sold and said there are not going to be pipes under the Lagoon. Also, the County would be faced with adding capacity and someone would have to pay for that, which presumably would be the Town and they would be talking big numbers. He reiterated that they are talking about a big number that the City would have to be paid and then you add that to what the County would have to pay. He said this is not going to happen. The Territorial Agreement is the agreement that they are going by and 95% odds are that it would be held up in Court. He said lets go ahead and play this out. It was important for them to get along with the County. He doesn't believe that the County thinks that this will happen anymore than they do.

Mayor Brackett recalled that weeks ago when this came up he and the City Manager had a meeting with Commissioner Joe Flescher and the County Administrator. They were saying then that they were going to do this feasibility study, which will show that this is not feasible and the issue will go away. His comment to them was what if it shows that it is feasible. He wants this Council to be careful that they are not going to get in a situation that they won't uphold to. He said that he doesn't know that they want to sell that part of their utilities because they have never talked about it. He is hesitant to go down that road and tell the Town that they have to pay this amount and then they say yes they will pay it. Then the City has backed themselves into a corner.

Mr. Winger commented that they have a County Commission in place that they can get along with and they need to play into that.

Mr. McCabe agreed that they need to deal in good faith with the County. There have been discussions on this and he concurs that the next step should be to get some cost estimates as to the different alternatives. He wanted to support staff to negotiate in good faith with the County. He agreed that it would probably turn out that it is not feasible and not in the best interest of both City and County residents.

Mayor Brackett was in favor of negotiating with the County. He just wants to make sure that they don't back themselves into a corner. It is not their intent to sell the utilities.

Mrs. Minuse commented that it seems like a lot is being asked of the City to provide these costs. She asked what the City is asking them to do.

Mr. Falls commented that he expressed at the meeting that was held on Friday that they should not provide a number until the feasibility study is done and that number is provided. He said that probably will take a number of months to get done. If they throw their number out there now then that number is out in the public. They could have a meeting without knowing what the numbers are going to be and ask if they are interested in going down this path to find a solution knowing what the preliminary number for the County is. He said the City will need to make a decision.

Vice Mayor Neville commented that without the City providing utilities to the Town there would not be a Town of Indian River Shores or it would be a very different situation than what is there now. There is a lot of history here and the City of Vero Beach has gone out of its way to support its neighbors and he would expect the same for their neighbors to support them. They are in the process of building a state of the art Water Treatment Plant that will benefit everyone in this County because the Lagoon will be better. He said that this matter will delay them from building this Plant because they won't be able to finalize it until they have a firm decision on whether or not they are going to have this particular customer. He was reluctant to make a decision today.

Mr. Falls recalled that part of the history of that sewer service is that when they received Environmental Protection Agency (EPA) grants back in the 1960's to build the Waste Water Plant they had to commit to serving the South Beach area and Indian River Shores. That commitment was formalized in the 1989 Territorial Agreement. He said that the City has the contractual obligation to provide sewer services to those areas. They are moving forward with the design of their Waste Water Plant based on this contractual obligations and they feel pretty comfortable in that stance. They feel comfortable that the Territorial Agreement from 1989 is a permanent agreement and that it would hold up in Court. However, you never know. He said you ask a judge to make a decision and that's what you get a decision and you live with it. He felt that he needed to advise Council on what happened at their Friday meeting. They can put this matter on the June 1st City Council agenda and talk about it more at that meeting. This would give Council time to think about it.

Mr. Winger commented having done this two (2) or three (3) times before the whole process ends up in Court anyway. He has no problem tabling this for a couple more weeks.

He said even if someone came forward and said that they want to buy it, he would vote no just like he voted no for the partial sale of the electric utilities, because it was going to hurt the people of the City of Vero Beach and Indian River County. He did not think that Chapter 164 goes anywhere except to Court.

Vice Mayor Neville asked what happens if they come up with a number and the City says no to it then where do they go. He was told probably to Court.

Mayor Brackett requested that this item be put on the next Council agenda. He said that they could say that informally they are doing Chapter 164 because there have been meetings to talk about this.

Mr. Turner suggested that they have the Intergovernmental Conflict Resolution on the June 1st agenda. The Council could still table it at that time.

Mr. Falls was happy to announce that the COVID numbers continue to drop and they are now at 4%.

10. CITY ATTORNEY MATTERS

- A) Florida League of Cities is requesting cities to join in asking for a veto of the Home Based Business legislation, which would preempt City's ability to regulate home based businesses.**

Mr. Turner reminded Council that they will be holding an Executive Session meeting today at 1:30 p.m.

Ms. Jenny Flanigan, Assistant City Attorney, presented Council with a veto request from the Florida League of Cities (FLOC) concerning the operation of home-based businesses. She said that the session is over, but there is still action happening. The City of Vero Beach has home regulations that regulates this, however the Florida Legislature passed an exception that would void the City's Code on home regulations and make it difficult to regulate this. She said that it didn't pass by a huge margin and the Governor has not signed it yet. She has drafted a letter for their review and requested that the Mayor sign the letter and it will be sent to the Governor. They are hoping that the Governor will veto this regulation. She said if Council has any questions regarding the letter and regulations to please let her know.

Vice Mayor Neville made a motion to approve having the Mayor sign the letter. Mrs. Minuse seconded the motion.

Mr. Ken Daige requested that phone calls also be made to the Governor's office letting him know that the letter is on its way. He also suggested talking to Senator Mayfield about this and she can speak to the Governor. He sits on the City's Code Enforcement Board and this is a very important Ordinance for the City. He said that the way this got passed is very "gray."

The motion passed unanimously.

B) Discussion on Settlement of City of Vero Beach's claims in pending Opioid litigation

Mr. Turner gave an update on the pending opioid litigation. He said that several manufactures of the product have filed bankruptcy and a lot of litigation is pending. They reached what they think is a settlement and they are asking all of the municipalities and counties to sign off on a Memorandum of Understanding (MOU) on what would happen to the proceeds if they received a settlement amount. The settlement amount listed to the City of Vero Beach is around \$10,000. He said that there are stipulations on what the money can be used for and he would be working with the Police Chief and Human Resource Director regarding that. He said that at their June 1st meeting he will bring to City Council a Resolution accepting this. He spoke with the County Attorney who said that they would probably also be signing the MOU.

C) Discussion of the donation of a cannon to the City of Vero Beach

Mr. Turner explained that the City has been asked to accept a donation of a cannon recovered from a ship wreck that was sunk in 1682. The cannon is now located in a yard in Palm Beach County at a home that has been recently sold. The intent is to donate it to the City and they would obtain possession of the cannon. At this time it has not been decided where the cannon will be displayed. The City would have to send a truck down to Palm Beach and pick up the cannon and it would have to have a pedestal or stand to sit on. He said it would be great to have a cannon, but they don't know exactly what to do with it.

Mr. John Matthews added that they would not come across a cannon like this one very often. The property has been sold in Palm Beach so the cannon needs to be out of there within the next couple of weeks. He said it is just a barrel.

Mr. Tony Young said that when this was brought to his attention he recalled that there used to be an artillery piece in Pocahontas Park. He said it is up to City Council as to whether or not they want to accept it. He also suggested it might be displayed at Bethel Creek.

Vice Mayor Neville felt that they should get the cannon and then put out a call to their citizens to build a carriage for it so it would be mounted.

Mr. Falls wanted to make sure that Council was in favor of the City going down to Palm Beach and picking up the cannon and bringing it back. He said that there is a timeframe in which the cannon needs to be picked up.

Mr. McCabe made a motion to accept the cannon and come up with a budget as to what alternative things would be needed for keeping the cannon. Mrs. Minuse seconded the motion and it passed unanimously.

Mr. Falls said that they will find a place to store the cannon while determining where the best permanent place will be.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

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

Mayor Brackett reported on the Beach and Shores Committee meeting. He said that the Governor has approved \$25 million to go towards derelict vessels. He said that grants would have to be applied for in order to receive that money.

B. Vice Mayor Neville's Matters

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

1) Mr. Tony Young to speak on WWI Veterans on Veterans Memorial Island Sanctuary

Mr. Tony Young, Retired Colonel, stated that he wanted to take the opportunity to talk about the veterans on Veterans Memorial Island Sanctuary, but not to repeat what was said earlier by Mr. Mathews or Mr. Halcomb. He felt that it was important for him to share this with Council. He said there are eight (8) veterans on the Island who lost their lives in WWI. He showed some visuals to convey this. He passed out a story of those veterans (attached to the original minutes).

C. Councilmember Winger's Matters

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

D. Councilmember Minuse's Matters

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

Mrs. Minuse reported that she attended the Economic Development Zone Advisory Committee and information concerning the new Cultural Arts Village and an update on the State Road 60 striping will be sent to the Committee.

Mr. Falls will confirm with the Public Works Director what the Florida Department of Transportation (FDOT) schedule is for the repaving of the Twin Pairs.

Mrs. Minuse reported that there was an article in the paper about changing the qualifying dates for someone wanting to run for City Council. She made it clear that the qualifying dates for the City of Vero Beach is not in the City Charter, but is done by Ordinance.

Mrs. Minuse reported that on last Monday she attended the wreath placing ceremony at the Courthouse. She said that Dr. Moore from Indian River College spoke and he was a very powerful speaker.

E. Councilmember McCabe's Matters

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

Mr. McCabe reported that the Seafood Festival was held last weekend at Riverside Park, Under the Oaks and it was a very successful event. They had thousands of people come out for the event and no one went away hungry.

Mr. Neville commented that at the recent Metropolitan Planning Organization (MPO) meeting he had a conversation with one (1) of the engineers regarding the speed limit on the Twin Pairs being reduced and they were in favor of looking at it.

Mr. Falls said if there is a consensus to lowering the speed limit then Vice Mayor Neville needs to approach the MPO in taking the steps to have it lowered. A short discussion on the area they were talking about took place.

13. ADJOURNMENT

Today's meeting adjourned at 12:10 p.m.

/tb