

**CITY OF VERO BEACH, FLORIDA
JUNE 1, 2021 8:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Pastor Peter Vitale of Calvary Chapel.

1. CALL TO ORDER

A. Pledge of Allegiance

Mr. Winger 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 18, 2021

Mr. Neville made a motion to approve the May 18, 2021 City Council minutes. Mr. McCabe seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – May 18, 2021

Mr. McCabe made a motion to approve the May 18, 2021 Special Call minutes. Mrs. Minuse seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

The City Clerk removed item 4B-2 (Resolution for Children’s Trust District) from the agenda.

Mr. Winger referred to item 7-B) (Ordinance amending the Land Development Regulations by adding Sustainable Development Incentives) on today’s agenda. He did not feel this item was ready to come before the City Council. He felt that this item needed to go back before the Planning and Zoning Board, who voted 3-2 against it. He stated that Mr. Jeb Bittner, Planning and Zoning Board member, felt that this item needed a thorough discussion on how they would implement this process. Mr. Winger said that his appointee on the Board, Mr. Steven Lauer, voted against it and he has to sustain his opinion. He said

that this item deals with density, which is one (1) of the few principle things in the Charter. He would like to have the Planning and Zoning Board work on this further before the City Council considers it.

Mr. Neville said that he supports that.

Mrs. Minuse said that she would like to hear from Mr. Jeffries.

Mr. Jason Jeffries, Planning and Development Director, reported that this is an application and per Chapter 64 of the City's Code the City Council has to have a hearing.

Mr. Winger asked is there any reason why this can't go back before the Planning and Zoning Board and have them work on it further. He said this Ordinance has extensive changes in density as a reward for potential environmental issues. He said the Board voted 3-2 against the Ordinance and he would like them to take another look at it.

Mr. Jeffries said the Board can after the City Council considers it. He said the applicant is present to make their presentation and the City Council can make a decision to approve it, approve it as amended, deny it, or deny it and send it back to the Planning and Zoning Board for further consideration. He explained that is the process set up under the Code.

Mr. Winger asked why more time wasn't scheduled for the Planning and Zoning Board to consider this.

Mr. Jeffries reported that the information was emailed to the Planning and Zoning Board members one (1) week prior to their meeting.

Mayor Brackett said if he understands it correctly, the City Council would go ahead and read the Ordinance, set it up for a public hearing at the June 15, 2021, City Council meeting and the City Council would make the decision at that time as to whether or not they want to send it back to the Planning and Zoning Board.

Mr. Jeffries said that is correct.

Mr. Winger felt that this was a matter that involved the Charter. He said the things that are protected in the Charter is height, density, etc. This is talking about density, which is protected under the Charter. To him, the Charter Review Committee should review this.

Mr. Jeffries explained that there are no density issues with this Ordinance. They are talking about sustainable incentives, which the incentives they are providing is related to the Floor Area Ratio (FAR), open space, and dimensional criteria for the lot. There is no density bonuses.

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

B. Proclamations and recognitions by Council.

1. Proclamation recognizing Jim Gabbard being inducted into the Florida Law Enforcement Officers' Hall of Fame

Mrs. Minuse read and presented the Proclamation.

2. Alzheimer's & Brain Awareness Month – June 2021

Mr. Neville read and presented the Proclamation.

3. CONSENT AGENDA (include amount of expense)

- A) License Agreement between the City of Vero Beach and Vero Beach Airshow, Inc., for Temporary Use of Airport property for the 2022 Airshow (April 29-May 1, 2022)**
- B) Memorandum of Lease Agreement (Patterson-Vero, LLC)**
- C) Memorandum of Lease Agreement (Langfitt)**
- D) Memorandum of Lease Agreement (Dragonfly Boatworks)**
- E) Memorandum of Lease Agreement – Fixed Base Operator
Memorandum of Lease Agreement – Commercial
(Vero Beach Flight Training Academy, Inc.)**
- F) Approve Statement of Work for Upgrade of Cayenta (\$119,240)**
- G) Approve Final Payment to Garland/DBS Inc. for \$89,889.70 City Hall Roof Replacement Contract #71-2020**
- H) Reiss Engineering, Inc. CHA Consulting, Inc. Assignment and Assumption**
- I) Bid 130-21 Water and Sewer Laboratory Services provider Recommendation of Award – Pace Analytical Services, LLC Estimated Expenditure \$255,000 (\$85,000 annually)**
- J) Approval of Amendment #1 to Contract #73-2020 A.C. Schultes of Florida, Inc. – Continuation of Production Well Rehabilitation – Wells C-2, 10, 26, 5 Estimated Expenditure not to exceed (\$330, 974.00)**

Mr. Monte Falls, City Manager, asked that items 3-B, 3-C), 3-D) and 3-E) be pulled from the consent agenda and be heard at the end of this item in order for him to explain the process of a Memorandum of Lease Agreement.

Vice Mayor Neville moved to approve consent agenda items 3-A), 3-F), 3-G), 3-H), 3-I, and 3-J). Mrs. Minuse seconded the motion.

Mr. Ken Daige referred to item 3-I). He asked can the testing facility also be used to test the Lagoon water.

Mr. Rob Bolton, Water and Sewer Director, reported that the company can test, but it depends on what the test is.

Vice Mayor Neville thought the question would be could they test for Enteric bacteria.

Mr. Bolton answered yes.

The motion passed unanimously.

Mr. Falls explained that items 3-B), 3-C), 3-D) and 3-E), which are Memorandums of Lease Agreements, are for leases that the City Council has already approved. This documentation is merely a summary of the lease descriptions that will be recorded in the public records, which is a way to save time and money. It does not reflect all of the terms of the lease including the amount. It does have the important dates and milestones. He asked the City Council if they want to see these going forward since they are purely administrative matters and the City Council has already approved them.

Mayor Brackett said if they have already approved the leases they don't need to come back before the Council again.

Mr. John Turner, City Attorney, said normally there is a provision in the lease that states a memorandum can be filed in lieu of the formal lease. He said staff will be proceeding in that direction unless there is something they feel needs the City Council's attention and action. He explained that it is sufficient to put the public on notice on what the transaction involves and it protects the City's interest.

Mr. McCabe asked would it be possible to have an annual summary of all the leases that the City has entered into.

Mr. Turner answered yes. He suggested that staff give Council a memorandum listing the names of the lessees, the terms of the leases, and the rates.

Mr. McCabe made a motion to approve items 4-B), 4-C), 4-D) and 4-E) on the consent agenda. Vice Mayor Neville seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) 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 Department**

The City Clerk read the Ordinance by title only.

Ms. Cindy Lawson, Finance Director, reported that this is a very specific budget amendment in that it is only for Fund 304 through Capital Construction. She said normally

they don't do individual budget amendments, but this one (1) came about by two (2) projects that were never in the original budget. The first is the Police Department generator and the second is a charge they recently received from the Florida East Coast Railroad for changes to the crossings.

Mr. Winger questioned the Park restroom roof replacement.

Ms. Lawson said if they look at the total of all the Recreation projects, there is actually a decrease of about \$76,000. She said that over the past few years they have tried to have the Recreation Department work more closely with the Public Works Department on what projects will cost. She reported that their estimates on the roof replacements have been way off the mark for years and they discovered in putting these out to bid that they would be more than they thought so they went back and reduced the budget in other areas to cover the roof replacement that they deemed to be more important.

Mr. Winger questioned the amounts for the lease purchase of vehicles.

Ms. Lawson said the \$310,000 is for the Police vehicles that were pushed forward into the current year so that they could have SUV's instead of the vehicles they used to purchase. The \$151,000 in the General Fund for vehicles are for the vehicles that were ordered last year and the money to pay for them is in the Fund Balance forward. She said that is just accounting. They cannot record them until they receive them.

Vice Mayor Neville made a motion to approve the amendment. Mr. McCabe seconded the motion.

Mayor Brackett opened and closed the public hearing at 9:01 a.m., with no one wishing to be heard.

The motion passed 5-0 on a roll call vote with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes and Mayor Brackett yes.

- 2) **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 stated that this is the first of two (2) required public hearings. The second public hearing will be held on June 15, 2021, at 5:00 p.m.

Mr. Jeffries reported that this is an application by Mr. Tom Core, III, to add microbreweries in the Industrial District. Staff recommended to the Planning and Zoning Board for Code consistency to revise the definition of microbreweries to what is the accepted definition of microbreweries in the Planning resources and to ensure microbreweries have the commercial appearance that they add the use specific standards that are within the definition of microbreweries to the Commercial and Downtown Zoning Districts. At the applicant's request it also adds the use in the Industrial District. The Planning and Zoning Board had questions on carryout restaurants and based on the Board's recommendation, staff added the Planning definition for carryout restaurants. The Planning and Zoning Board passed the proposed Ordinance 5-0 with that one (1) change. Staff reviewed this and found that it is consistent with the Comprehensive Plan, with the Zoning District and with the Code. It also would ensure efficient development in the City and will result in logical and orderly development pattern. Staff recommends approval.

Mr. Falls noted that this change would also help facilitate some redevelopment of existing structures located in these Industrial Districts, which is why he believes there is so much support from the community, staff, and the Planning and Zoning Board.

Mrs. Minuse made a motion to approve the Ordinance. Vice Mayor Neville seconded the motion.

Mayor Brackett opened and closed the public hearing at 9:05 a.m., with no one wishing to be heard.

The motion passed 5-0 on a roll call vote with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes and Mayor Brackett yes.

B) RESOLUTIONS

- 1) A Resolution of the City of Vero Beach, Authorizing the City to join with the State of Florida and other local Governmental Units as a participant in the Florida Memorandum of Understanding and Formal Agreements Implementing a Unified Plan to combat the Opioid Epidemic; Providing for an Effective Date. – Requested by the City Attorney**

The City Clerk read the Resolution by title only.

Mr. Turner reported that the City has been requested by the Florida Attorney General's office to join in a plan for a settlement on the ongoing opioid litigation. The plan has outlined what funds might be available. The Attorney General is requesting that all counties and cities in the State join in and this will lend as a unifying voice in trying to get this matter resolved and settled. The amounts for the cities depends on the size of the cities,

their exposure, and the extent of damages they have incurred. The amount for the City has not been specific yet, but it is in the range of \$10,000 and that amount has to be applied to treatment facilities and actions for opioid victims. He said they have agreed to do that if there is a payment made. He reported that a certified copy of the Resolution will be sent to the Attorney General's office and that will be one (1) more voice to get the matter resolved. He said if they don't do this, it doesn't mean that they could not participate in a settlement if there is a settlement reached, but it would be a longer process and there would not be any guarantee that any monies would be available. This is one (1) way that hopefully they can receive the maximum amount of money from this settlement. Staff recommends approval of the Resolution. They do not see a downside to this. If it is approved he would be working with the Police Chief and the Human Resources Department in determining the appropriate application of the funds.

Vice Mayor Neville made a motion to approve the Resolution. Mr. McCabe seconded the motion.

Mayor Brackett opened and closed the public hearing at 9:09 a.m., with no one wishing to be heard.

The motion passed 5-0 on a roll call vote 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 of Vero Beach, Pursuant to Section 125.01(5)(a), Florida Statutes, Granting Approval to the Inclusion of the Incorporated Areas of the City of Vero Beach within the Proposed Children's Trust District, a Dependent Special Taxing District of the Board of County Commissioners of Indian River County, Florida; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the City Attorney**

This item was pulled from today's agenda.

- 3) **A Resolution of the City Council of the City of Vero Beach, Florida, initiating Intergovernmental Conflict Resolution procedures, pursuant to Chapter 164, Florida Statutes, with Indian River County, Florida; Providing for an Effective Date. – Requested by the City Attorney**

The City Clerk read the Resolution by title only.

Mr. Falls reported that this item was on a previous City Council agenda, which was tabled in order to give staff additional time to work with County staff to see if they could come to an administrative resolution to the dispute over their 1989 Territorial Agreement. He reported that they have not been able to do that on a staff level and as the City Council had directed, staff has brought this back before them for action.

Mrs. Minuse said then there is no alternative. She questioned this is the way to proceed at this point.

Mr. Turner said it is staff's recommendation that they proceed.

Mayor Brackett thought that this came about out of a situation where the Town of Indian River Shores (IRS) asked the County to help them evaluate whether it was feasible or not for the County to provide service to them. Then the territorial map came up. He said that he spoke with a number of County Commissioners, County staff, and City staff and it really boils down to them needing to come to an agreement on whether or not the territory map exists or not. He said the City believes it does and that it is enforced, but the County has a different opinion and he respects their opinion. He thinks it is time that they find out if it is legitimate or not. He said it is not just the one (1) issue; it is really the map.

Mr. Turner said it is a Territorial Agreement with a map attached.

Mayor Brackett said they need to get it resolved as to whether it exists or not and whether it is enforceable or not. He said that he has had a number of conversations on this. He recommends that they move forward with this.

Mr. Winger said that he has had conversations with some of the County Commissioners and he agrees with everything that Mayor Brackett said. He said that he was on the City Council when they adopted County rates outside the City and they have paid the franchise fee and they don't have a franchise agreement in place, which he thinks they should. He hoped that the County would act on that as well.

Mayor Brackett said it was his understanding that one of the reasons they don't have a franchise agreement in place is because of the Territorial Agreement. He felt that when they get that resolved then they could look at having a franchise agreement.

Vice Mayor Neville said it seems logical that without a Territorial Agreement how could an organization like the City of Vero Beach invest millions of dollars in infrastructure. He said the City has invested a lot of money and a lot of effort in providing these resources to our community outside the City limits and in good faith they expect to continue to do that with very fair rates. He said they need to move forward and get this settled.

Mr. McCabe commended everyone who has tried to get this resolved. He felt that it was time to move forward.

Mr. McCabe made a motion to approve this action. Mr. Winger seconded the motion.

Mr. Dylan Reingold, Indian River County Attorney, said the County sees this as a dispute between the Town of Indian River Shores and the City. His preference would be that the City continues to serve the south barrier island and the unincorporated areas that they currently serve under a reasonable franchise agreement and also that the City continues to serve the Town of IRS consistent with the franchise agreement that already exists with the

Town. He felt that would be the best solution for everyone. He reported that the Town did come to the County and asked that they discuss their options and the County felt it would be appropriate, much like when the City came to them to discuss moving the Waste Water Treatment Plant. His concern is that if the City votes to begin this Chapter 164 process what is going to happen is the City, County, and the Town will further entrench in their established positions. He felt that it inhibits a good dialogue between the City, the County and the Town. He said the County is now in a position of being sued by the Town or the City. He explained that if the County tells the City that they are going to honor the Territorial Agreement forever, the Town would probably sue the City and the County. If the County tells the City that they are not going to abide by the Territorial Agreement, that they don't believe it is valid then the City is going to sue them. That really represents how this is really a City versus the Town dispute more than a County dispute. He said no one knows what will happen if the City goes with the Chapter 164 process and they don't settle and the matter goes before a Judge. He said the people who would be the ones to benefit from this are the outside counsel that they would be hiring. He said the County hasn't hired outside counsel and they haven't been doing a bunch of public record requests. Their real goal is to serve as a facilitator and mediator between the City and the Town to get to either where the Town is happy with the service of the City or if there is a way they can solve whatever problem it is that they have. The County really wants to serve as the facilitator and mediator between the Town and the City. He asked that the City Council allow them the opportunity to explore their options and see if there is any sort of solution that they can find. Their preference is to get a reasonable franchise agreement. He said the County is motivated to get a franchise agreement finished and finalized.

Mayor Brackett said that he respects what Mr. Reingold is saying. His only comment is that everyone keeps saying that the issue is between the Town and the City. He said no where in the Agreement is the Town mentioned. This Agreement is between the City and the County. They are talking about the Territorial Agreement and they can't get to a franchise agreement because the Territorial Agreement is in dispute and every time the City tries to do a franchise agreement the language that the County sends to the City is that this supersedes any other agreements regarding utilities. He said this really is an issue between the City and the County.

Mrs. Minuse thanked Mr. Reingold for his comments. She asked were the items he discussed brought up when the County met with City staff.

Mr. Reingold said they have mentioned to City staff that they would be happy to facilitate a discussion with the Town. He said if the City wants to present the County with some sort of offer they would present it to the Town. He said they would be happy if the City and the Town talked directly.

Mr. Turner reported that they discussed in a meeting with the respective attorneys for the County and the City, the County taking any offer that the City would like to make to the Town for consideration and act as a mediator or facilitator. He said that staff analyzed it and thought there might be a better strategy involved. He noted that the Town has filed a lawsuit against the City. Before the case was filed the City was required under their

franchise agreement to enter into mediation, which they did and it is still pending. He said that the process was just recessed. He said the City's issue now is with the County on the 1989 Territorial Franchise Agreement that states that it is permanent. The City thinks it is and they have a difference of opinion from the County. That is the key issue.

Mr. Falls clarified that the suit that the Town has filed against the City is not related to the Territorial Agreement, but related to a reuse rate for a certain classification of customer. The mediation that Mr. Turner referred to is still open for that to happen for that rate classification case. He said that Mr. Reingold is correct in that they did meet and they did discuss some options. He said it was his understanding from City Council that they did not want staff to proceed with getting a value placed on the City's utility.

Mayor Brackett said that he knows of at least three (3) meetings that have taken place in the last month between staff. There have also been numerous meetings held between different members of the City Council and members of the County Commission. So, it is not like there hasn't been an attempt to try to resolve this. This will just keep coming up unless they find out if this agreement exists or not. This is going to keep coming up until they have someone tell them if this agreement is real and enforceable. He said that he doesn't like the idea of having to do this any more than anyone else does, but somehow they have to come to the conclusion of whether this agreement exists or not because it is going to keep coming up. This is something that has to be resolved and apparently staff cannot resolve it.

Mr. Falls said this is the second time in his tenure with the City that this has come up. He said staff could craft a franchise agreement that danced around the Territorial Agreement and it could be set aside for another 15 or 20-years, but ultimately it has to be resolved. The more time they wait the less time they have people who have knowledge of it. Of the six (6) people who crafted this agreement in the 1980's, four (4) of them are no longer around.

Mr. Winger said five (5) years ago the City signed a new 10-year agreement with IRS and went around this issue. That five (5) years has not been useful and now it is back before them again and it will come back to them again time and time again. What Mr. Falls said is correct. The other thing is that the County asked for a value on some portion of the utility. He said that he was on the City Council when IRS wanted a partial sale of the electric utilities and he resisted it because it would have raised the rates of all the remaining City and County customers.

Mr. McCabe questioned why the County is asking the City to hold back on this. He asked what hope the City has that it might get resolved. His view is that the City Council passes this Resolution, which could be withdrawn anytime if progress is being made for some kind of a resolution to this issue.

Mr. Reingold said what he hasn't heard yet is an offer from the City to take to the Town. He thinks that at the end of the day if this is simply going to be a dispute as to whether the Territorial Agreement is in effect or not in effect, that is just going to be expensive litigation

that he would hope they could all avoid if they could come to some sort of an agreement. He felt that if there is a way to avoid the ultimate decision in Court, which is one (1) side is going to win and one (1) side is going to lose, two (2) parties tend to come together and come to a resolution of the issue. The County was hoping that they could focus on that type of a resolution first.

Mr. McCabe said at the moment he could not envision a reconciliation at that level.

Vice Mayor Neville asked the City Attorney if the County were to acknowledge the Territorial Agreement, wouldn't that be the conclusion of this matter.

Mr. Turner said that would be a step in the right direction.

Vice Mayor Neville said then it is pretty simple. He asked Mr. Reingold why not just acknowledge something they have already agreed to.

Mr. Reingold said the Town has written their letter and have decided that they are ready and prepared to sue the City and the County to the extent that they both take the position that the Territorial Agreement is in place.

Mr. Jason Brown, County Administrator, said the County is in a position of either the City or the Town potentially suing them over this. The County believes that this is a dispute between the Town and the City. He said the citizens and taxpayers of the City of Vero Beach and citizens and taxpayers of the Town by definition are taxpayers of Indian River County so when the Town came to the County and asked that they explore this, the County told them that they would be happy to help. To him, the idea that the County and the City got together and decided that no one could ever serve the Town with utilities without the Town's input sounds like a bad idea. The County's question to the City was raised from an earlier meeting where the County was told by City staff that the City wasn't saying that the County could never serve that area, it would just have to be with the consent of the City, which is something they differ on. The County's first knowledge that the City had no interest in providing an offer for the Town was today. He believes that this is premature. The County is only entertaining this with the Town in that they have agreed to go through with a study. The County has not made any determination that they can or will serve the Town. This process is to go through the study to see if there are conditions where it would make sense for the County to provide service to the Town. He felt that the Town thought that they might be involved in discussions at some point before they reach the Chapter 164 process. He thought that the County would meet with the City and the Town and have a three (3) way discussion, which has been short circuited. He felt that the Town might be feeling that this is premature as well in that they haven't had that three (3) way discussion before getting into the Chapter 164 process.

Vice Mayor Neville asked has the City received any service complaints about the quality of the utilities they have been providing to that area.

Mr. Falls said they have not had any complaints that have gone unresolved.

Vice Mayor Neville questioned that the City's rates were comparable with rates around the State.

Mr. Falls said that is correct.

Vice Mayor Neville said that he doesn't understand what this conflict is about. They are providing a quality product and are offering it at a fair price. He doesn't see a conflict. If they fail in serving that territory then they should face up to it. But, they are doing an excellent job providing service to both the north and the south of their County and he doesn't see the need for IRS to change that.

Mayor Brackett said putting the Territorial Agreement aside, this is just bad business to start looking at taking other people's customers. The City has an obligation to the citizens of Vero Beach to provide service to them. He said if the County's feasibility study shows it is feasible for them to take on IRS, what stops the City from taking Grand Harbor. He said this is a situation they don't want to get into. He said it is just not good business going down those roads. He said they are not here to compete against another municipality or government. They are here to provide a service to their citizens. The Territorial Agreement obligates them to provide service to IRS.

Mr. Turner said the Town received a significant substantial benefit from this agreement to service them over the years. It has allowed the Town to expand and develop. The Courts have recognized territory and service agreements for years. Otherwise, how are you going to plan and put millions of dollars into a utility service without having the knowledge that it is going to be in effect for a long period of time so that you can recoup your costs. He said the Town has received a benefit and have been provided a quality of service and reasonable rates for many years.

Mr. Falls said with regards to the County having to ask the City to serve, that is in the Agreement and it gave the same courtesy back to the County in that if the City wished to serve an area that was in the County's service territory. He said it all falls back to the Agreement. He felt that former County Commissioner, Mr. Garry Wheeler, said it well when he stated that it made sense for territorial agreements to be permanent. That way governments could economically and efficiently plan for the investment of capital dollars to serve inside that service territory. Mr. Falls said that he wished they could find a resolution. City staff thinks the agreement says permanent and unfortunately the County does not agree with that. He said the discrepancy is between the City and the County, not between the City and IRS.

Mr. Jason Brown said the County is not out there prospecting for the City's customers. He said the County would be happy to have the City to continue serving the Town and the unincorporated areas that the City serves. The County is being responsive to their citizens who are requesting their help.

Mr. Winger said that same comment was made on the electric utility and that is how the partial sale started. He said it is a bad road to go down.

Mr. McCabe felt that both the City and the County are being played by IRS.

Mr. Ken Daige said that he is a water and sewer customer and is very happy with his service. He said they have been at their residence for some time and have had some issues over the years and the City has always come out in a timely manner to take care of the problem. He said this situation has come up in conversations throughout the years and it is a lot of the same dialogue. He said IRS wants something and when IRS wants something most of the time they get it. He felt it was time for the City Council to stand their ground as a Council and move forward on this. Staff did their job and they did their very best. He felt it was time for them to move forward and if it needs to go to Court it will be resolved in Court.

Mr. Keith Drewett said that he is a happy customer. He said that he knows a little bit about asset purchases and sales and what they have here is an unsolicited offer by a willing buyer to purchase an asset from an unwilling seller. In those circumstances any seasoned negotiator would tell the seller not to bid first. He thinks that the City Council is correct in refusing to provide a range of prices or potential prices to the buyer. He said the City Council is absolutely right. Don't make the first bid and they will do their due diligence and tell the City what it is worth to them and the City would have to respond, which is the way it should be.

Mr. Michael Johansen said it seems to him the whole thing hinges around someone at Mr. Brown's level saying to IRS that they understand, however the County is not a player in this. They have an agreement that the City provides their service.

Mayor Brackett closed the public hearing at 9:47 a.m., with no one else wishing to be heard.

Mayor Brackett said this is not something that they all like to do, but he thinks this is an issue that needs to be resolved. He said this is an issue between the City and the County. The Town is not involved in this agreement. IRS has a separate Franchise Agreement with the City, which is totally different. This is clearly an issue between the City and the County and since they can't decide whether the Agreement is enforceable or not to let a third party decide for them.

Mrs. Minuse said in order to go ahead with the new Water Treatment Plant located near the Airport they have to know what their customer base is. She said this isn't something that they can just push down the road. Water issues in Florida are pretty critical. She is very proud of their staff with this plan going forward. She said they need to move on this.

Mr. Neville agreed. He said this is vital that they get this resolved so that they will properly size a new state of the art water treatment facility, which will deposit hardly any phosphorus or nitrogen into the Lagoon. He said they are very proud of the fact that they are moving

ahead with this at full pace. He said they need nothing to inhibit them from getting it done and if this is necessary for that to happen, let's do it.

The motion passed 5-0 on a roll call vote with Mr. Winger voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes and Mayor Brackett yes.

- 4) **A Resolution of the City of Vero Beach, Florida, relating to the Provision of Stormwater Management Services; estimating the cost of Stormwater Management Service Provided by the City's Stormwater Management Utility; determining that certain real property will be benefited thereby; establishing the method of assessing the cost of Stormwater Management Services against the real property that will be benefited thereby; establishing the method of charging the Cost of Stormwater Management Services to Government property; directing the Stormwater Management Utility Director to prepare or direct the preparation of the initial stormwater rolls based upon the methodology set forth herein; establishing a Public Hearing for the Proposed Stormwater Service Assessments and Stormwater Service Fees and Directing the Provision of Notice in connection therewith; Providing for Severability; and Providing an Effective Date. – Requested by City Council**

The City Clerk read the Resolution by title only.

Mr. Turner requested that this item be tabled and heard at the June 15, 2021 meeting. He said that staff needed to make some adjustments to the Resolution and this will still give them time to proceed.

Mr. Winger brought up that the document refers to a rate as a rate going forward. Then when you get to addendum (c) and (d) the rate is adjusted for coming years. The contract refers to next year's rate going forward as the same rate in the study.

Mr. McCabe explained that the intent is to look at the rate every year.

Mr. Winger agreed, but said when you look at the agreement itself without the amendments it does not say that.

Mr. Turner said that they would look at that part of the agreement when making changes to the Resolution.

5. PUBLIC COMMENT (3-minute time limit)

Mr. Ken Daige referred to the Equivalent Residential Unit (ERU's) in the stormwater Resolution and asked if the cost would be \$28.56 per month or per year. He was told it would be per year.

Mr. Don Peterson stated that he dropped off a poll last week from the Vero Isles residents regarding the docks and this morning he presented Council with an updated poll (on file in the City Clerk's office).

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

B) OLD BUSINESS

1) City to move forward to Receive its Rightful Share of the Bed Tax – Requested by Councilmember Richard Winger

Mr. Winger commented that it was time that the City received their share of the bed tax revenue. He hoped by going through the proper route they would be able to do that. He wanted to make a presentation at the last Tourist Development Council (TDC) meeting and was told that he needed to be on the agenda in order to make a presentation. He has provided the City Attorney with a presentation that he would like him to expand on and he would be happy to make the presentation on behalf of the City Council. He believes that the City should be getting their equitable share. He asked that the City Clerk notify the secretary of the TDC and request that he be on their next agenda to make a presentation. Also, the City Clerk should ask that when the application forms become available for anyone requesting funding from the TDC that the City receive a copy of the application. He also would like to get Mr. Turner's advice on a further step that can be taken now. He said if the County Regulation needs to be changed, that a formal request be made to the County and that the City present such a request formally at a County Commission meeting.

Mr. Turner attended the last TDC meeting and was able to witness and understand how the process works. He gained knowledge from attending this meeting and the authorization under the Florida State Statutes in going forward to obtaining TDC funds for the City for their needs as authorized in the Florida law. He requested that the City Council hold a workshop so that they could discuss this in a little more detail.

Mr. Winger agreed with holding a workshop. He did not feel that they were getting their fair share for beach renourishment. He said that they need to move forward and have an organized approach and start speaking to the County Commission about this and getting the correct forms filled out. He reiterated that once he is no longer on Council that Mayor Brackett will continue moving this matter forward.

Mayor Brackett asked the City Clerk to set up a workshop to discuss this matter.

Mr. Turner requested that the City Clerk get copies of the applications that were reviewed at the last TDC meeting so that they can further understand how the process works.

Mr. Winger briefly went over what agencies were receiving as part of this funding. He felt that the City has a good claim to also receive some of this funding and that there are voices from some of the County Commission that would agree with this.

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing will be held on June 15, 2021 at 5:00 p.m.

- A) **An Ordinance of the City of Vero Beach, Florida, amending Chapter 38 of the Code of the City of Vero Beach; Creating Article VI, Providing for Local Implementation of the Water Conservation Rule for Landscape Irrigation of the St. Johns River Water Management District; Providing Definitions; Providing Landscape Irrigation Schedules; Providing for Variances from the Specific Day of the Week Limitations; Providing for Applicability of the Ordinance; Providing for Enforcement of the Ordinance; Providing for Penalties for Violation of the Ordinance; Providing for Codification; Providing for Conflict and Severability; Providing for Scrivener's Errors; and Providing for an Effective Date. – Requested by the Water and Sewer Director**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on June 15, 2021 at 5:00 p.m.

Public Hearing will be held on June 15, 2021 at 5:00 p.m.

- B) **An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by adding Sustainable Development Incentives by creating Chapter 79, Development Incentives, Article II, Sustainable Development Incentives; 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 the public hearing would be held on June 15, 2021 at 5:00 p.m.

Mayor Brackett asked Mr. Turner since they passed the Intergovernmental Resolution this morning should the Council refrain from speaking with the County Commission.

Mr. Turner said that they are not restricted from speaking with the County Commission. He explained how the phases of the procedures pursuant to Chapter 164 work. He said that first there needs to be a formal notice sent to the County Commission letting them know what the City is seeking. Then a meeting will take place between staff to try and resolve the issues. He said public notice must be given of that meeting even though it is not a public meeting. If they do not resolve the issues at that meeting then a joint City Council/County Commission meeting will need to be set to discuss the matters and what is being proposed. If they are not successful with that meeting then the next phase would be to have mediation and one (1) member from the City Council is chosen to attend the

mediation hearings. The last result if they don't come to any resolution would be to initiate a lawsuit.

8. CITY CLERK MATTERS

A) Waterway Signage for the City of Vero Beach – Mr. Ben Trautman, Chairman of the Marine Commission

Mr. Ben Trautman, Chairman of the Marine Commission, commented that at several Marine Commission meetings they discussed the missing signs along the waterways in Vero Beach for no wake zones, idle speed zones, signs that need to be repaired, etc. He said that some of the members have reached out to other governmental agencies about these signs, but have been told that the request to replace these missing signs has to come from the City. There seems to be some confusion as to who owns these signs. He hoped that they could find that out and work with these agencies to help fix those signs. They want to avoid anyone getting hurt who does not know where the slow zones are because the signs are not there. He requested from Council that the correct agencies be contacted for the safety of the public.

Mr. Falls said that he would make sure that is done.

Mr. McCabe recalled some time ago when Mr. Graves served on the Council they talked about starting their City Council meetings at 9:30 a.m., but that was not a good time for him. He brought this item up again for discussion.

Council agreed to implement a new time for the starting of their Council meetings and would further discuss this at their workshop.

Mr. Winger brought up the influx of emails that they have recently received and asked Mr. Turner if they were allowed to ask these people if they were City or County residents. He said that he is prone to do what the City residents want first.

Mr. Turner said that they need to be careful. He said that with the public records law when someone is requesting a document legally they can't ask who that person is. He said that they can request from people to tell them whether or not they are a City resident. He expressed that because of safety reasons they no longer ask people for their addresses.

Mayor Brackett brought up that some people don't know if they are a City or County resident. He said because they have a Vero Beach address they sometimes think that they live in the City.

Mr. Turner recalled that came up at the recent Charter Review Commission meeting and the members requested having a map showing where the City limits are located.

B) City Council Meeting Dates for the Summer

The City Council canceled their first meeting in July (July 6, 2021) and their first meeting in August (August 3, 2021), which allows them and staff to schedule summer vacations.

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

A) Approval of Agreement for Reimbursement of Costs for Stormwater Utility non-ad valorem assessments between the City of Vero Beach and the Indian River County Tax Collector (\$8,144)

Mr. Falls asked that this item be tabled and heard at their June 15th City Council meeting.

B) Update on STEP System

Mr. Bolton gave an update on the STEP System.

Mr. Winger commented that homeowners were given until January 1st to have their properties inspected.

Mr. Bolton went over how the whole process has worked. He said that letters were sent out in October to those homeowners who have not connected to the STEP System or have not had their septic system inspected. He said that some of these cases have been turned over to Code Enforcement to handle. He said that there has been only one (1) Code Enforcement Officer who has been handling all of these cases, until recently the City has hired a new Code Enforcement officer. There are still about 75 cases pending. He spoke to the Police Chief who told him that with the first 25 violation letters that were sent out there were roughly 22 homeowners who complied and the others were scheduled to go before the Code Enforcement Board, but they complied before going to a hearing.

Mr. Winger said that he watched the recent Utilities Commission meeting where this matter was discussed and they said that 76 homeowners have still not responded. He recalled in 2016 they turned the Code Enforcement Officers over to the Police Department so he doesn't see why this has not been done and there are still 76 homeowners who have not complied.

Mayor Brackett commented that a second Code Enforcement Officer has just been hired so they will be able to step up the pace now.

Mr. Winger hoped by their July 15th City Council meeting or early August they will be told that these homeowners have complied because it is the law.

Mr. Neville wondered if they should have uniformed officers go out and handle this.

Mr. Turner did not recommend that at this point. He said right now staff is being directed from the City Council to enhance the level for code enforcement to look at this issues and that will be done.

Mr. McCabe wanted to see that as a priority.

Mr. Winger asked that staff come back in 45-days and report the status to them.

Mr. Falls said that he would provide Council with a report at their next Council meeting.

Mr. Winger referred to Cache Cay and the problem that they have in that area. He noted the problem with soap suds.

Mr. Bolton agreed that some of those older systems never worked right. He said back in those days phosphorus would clog the septic system.

Mayor Brackett said that they need to get this completed as fast as they can. These people have been notified and they know they are not following the law.

Mr. Bolton commented that now that the pandemic is over he will be meeting with the homeowners on the mainland to start this same process. He said that he will hold two (2) different meetings at City Hall and express to these people that they need to have their septic tanks inspected to comply with the law.

Mr. Neville asked if the State has authorized funding for connecting from septic to sewer.

Mr. Bolton said that hopefully they will be getting some money from the Florida Department of Environmental Protection other than St. John's Water Management District because of their new stipulations. He said when applying for funds from St. Johns Water Management District there has to be a guarantee given that these people are going to connect to sewer. He said what they have in place now is a voluntary program that people can switch over to the STEP System, which would now have to be mandatory if they applied for grant money from St. John's Water Management District. They would also require letters from property owners saying that they are willing to connect.

Council thanked Mr. Bolton for his impressive presentation and kudos to him for implementing the STEP System.

Mr. Neville referred to the website and where the affluent collection from their baffle boxes was being displayed. He said it is an incredible site. He saw the numbers and they are pretty precise. He asked how they determine these numbers down to the nearest pound.

Mr. Falls explained that the Solid Waste Department actually quantifies what they take out and either measures it by five (5) gallon buckets or by weight when they determine the tonnage that has to go to the landfill.

Mr. Matt Mitts, Public Work's Director, explained for different operations there are different ways in which they count the material. He said with street sweeping they collect the material and dump them temporarily in their storage yard and then at some point they

put all the material into a dump truck and take it to the landfill. He said that there is a conversion factor from a Florida Department of Protection that they use for phosphorus and nitrogen. He said for the baffle boxes they collect through a visual selection where the operator opens up the box and looks inside and estimates the volume of material.

Mr. Neville commented that this was a fabulous and incredible site and kudos to the GIS Department for putting it together.

10. CITY ATTORNEY MATTERS

Mr. Turner mentioned that from time to time he is reading different agreements (licenses or agreements) that the City has from organizations and there are provisions in the agreements that say if there is a lawsuit the City will pay its own fees. He said if the City is entering into these agreements and they get into litigation with them they should be required to pay the City's attorney's fees. He said with Council's direction that is going to be a policy that they are going to incorporate into all of their documents.

Mayor Brackett told Mr. Turner that anything that he sees that needs to be changed and brought before Council that he should do that. If there are documents that the City Attorney sees that need to be updated then he should be working towards that.

Mr. Turner said that he has been doing that. He said if there are things that the City has to enforce then whoever is presenting them should be liable for their fees and costs.

Mrs. Minuse asked if these would be preempted in Tallahassee by home rule.

Mr. Turner said that they better not be. He said that he has seen this provision in some of their older leases and licenses. He said part of negotiations would be if they are going to be enforcing these agreements and someone has to be taken to court in order to do it then the City should be reimbursed for their fees whether it is in-house or not. He said that would be his policy until further notice.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

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

Mayor Brackett expressed what a wonderful Memorial Day service that was recently held. He commended the Veterans Council and City staff who worked hard on it getting this done. He received a call from someone letting him know that the flag at Memorial Island was torn and that a new flag needed to be hung, which was done. He said that the whole event went well.

Mayor Brackett commented that he had the opportunity to honor someone who recently turned 100-years old. He attended her birthday dinner with her and her family.

B. Vice Mayor Neville's Matters

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

Mr. Neville agreed with Mayor Brackett that the Memorial Day service was an exceptional program and that Mrs. Michelle Dale did a fabulous job. He also had the wonderful opportunity to meet and give a presentation at the Elks Club on Memorial Day. He commented about a good friend who died in the Vietnam War.

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 commented on how moving the Memorial Day service was. She heard so many positive comments about the Sanctuary site and the peace and serenity that is there. She said that Mrs. Michelle Dale's comments were fabulous.

Mrs. Minuse reported on her Committee position with the Florida League of Cities. She thanked the City Attorney's office for tracking legislative matters, especially the ones that attacked their home rule. She said that home rule makes every City unique because they know what their needs are.

Mrs. Minuse wanted to reinforce some facts about what has been going on with State Road 60. She said there seems to be a lot of "fireworks" out in the community. She wanted to make it clear that State Road 60 and the Twin Pairs is a State Road under the Florida Department of Transportation. She said that Vero Beach cannot independently do anything with that road. If they want something done it has to go through the Metropolitan Planning Organization (MPO) who works with the Florida Department of Transportation. She said that policies and procedures are well established on a State level to address their roads. She said that the Florida Department of Transportation sets their schedule for their roads years and years in advance. The Twin Paris is on their five (5) year plan right now to restore, resurface, and rehab, which is scheduled for 2025-2026. She said currently there are safety issues relating to the Twin Pairs that keep coming up, which are things related to vehicles, pedestrians and bicycles. She said there is also a concern to people and businesses downtown for their economic wellbeing. She said that there is another challenge concerning their roads facing them right now. She said there was a feasibility study done that says within 15-years they are going to have an additional 1,100 cars a day traveling on the Twin Pairs. The City is asking that these safety issues be addressed on their five (5) year plan as they are planning for this resurfacing. She said that this is going to be a huge challenge. If they cannot get these safety issues addressed on this five (5) year plan then they will not have another opportunity to do so for another 20 years. She said

that the Florida Department of Transportation has been very good about community input before making any final decisions and this Council will advocate for that.

Mr. Falls recalled that this issue came up 20-years ago and it came up too late. There was some outcry in the community as to they didn't do this or that and the reason that nothing was done was because no one brought it forward and it did not get on Florida Department of Transportation's project list. He made a vow that the next time it came up that the City would address it and have community input with Council's direction as to what they want to do and communicate that to the Florida Department of Transportation. He said that the Florida Department of Transportation does plan on doing something in 2026, but the design starts three (3) years ahead of that, which would be in 2023. He said anything that they want to do will need to be made before 2023 and relayed to the Florida Department of Transportation. He said that a previous City Council had requested that staff move forward with filling out and submitting a lane reduction permit. He said that process was done and moved forward and then the project was delayed. He said if that was to be resubmitted that traffic count would have to be updated, which is not inexpensive to do. He said they are going to have to make some decisions sooner rather than later and decide what they want to do. Do they want to make safety improvements or do they want to do something like a lane reduction in each direction and add parking on either side of the road. He said since that study was done there has been a major influx of population so the traffic counts would have to be updated. The City will need to make the decision if the traffic counts need to be updated or do they want to ask for other safety issues. He will put this on their next City Council agenda and provide more information to Council so they can talk about a position moving forward. They have asked the Florida Department of Transportation when they need this information and they said that they want it now. He feels if they get something to the Florida Department of Transportation by late summer that they won't impact the process.

E. Councilmember McCabe's Matters

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

Mr. McCabe attended the Memorial Day service and agreed that it was incredibly well done and very moving.

12. ADJOURNMENT

Today's meeting adjourned at 10:58 a.m.

/tb