

CITY OF VERO BEACH, FLORIDA
AUGUST 2, 2022 9:00 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Pastor Randy Bryant of Ryanwood Fellowship.

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

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

The City Clerk performed the roll call.

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – July 19, 2022

Mrs. Minuse corrected the word “digression” on page 18, which should be “discretion.”

Mr. McCabe made a motion to adopt the minutes as corrected. Mrs. Minuse seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. Monte Falls, City Manager, requested to add on as item 9-A) under City Manager’s Matters “update on the new Street Sweeper.”

Mr. McCabe made a motion to approve the agenda as amended. Mrs. Minuse seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

- 1) Check to be presented to the City from EverGreen Media for the July 4th Event**

EverGreen Media presented the City of Vero Beach with a check that was the proceeds raised at the July 4th event.

3. **CONSENT AGENDA** (include amount of expense)
 - A) **Consent to Assignment of Lease Agreement for the Seaside Grill Concession at Jaycee Park Between the City of Vero Beach, GC Ventures FL, LLC (Assignor) and SW Hospitality Group LLC (Assignee)**
 - B) **Renewal of Contract 1517-C, Cayenta Managed Services Agreement (\$172,286.76)**
 - C) **Work Order 1 for Hanson Professional Services to Conduct Airport Master Plan Update (FDOT #447631-1-94-01) (\$888,900.00)**
 - D) **FRDAP Grant for Charles Park Playground**

Mr. McCabe made a motion to approve the consent agenda. Mr. Cotugno seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) **An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article 62, Article VII, Airport Master Plan Land Use Zones, to add Aviation Museum to the list of permitted uses in the ALI-A1 and ALI-1 Airport Light Industrial Zoning Districts; Amending Chapter 60 (Appendix.Definitions) to add a definition of Aviation Museum; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date. – Requested by the Applicant**

The City Clerk read the Ordinance by title only.

Mr. Jason Jeffries, Planning Director, reported that the Vero Beach Regional Airport has requested a text amendment to Chapter 62, Article VII, Airport Master Plan Land Use Zones, to add aviation museum use to the ALI-A1, and ALI-1, Airport Light Industrial zoning districts, and add a definition of aviation museum to Chapter 60. The purpose of the text amendment is to allow museums dedicated to aviation history and education in the Airport Light Industrial Zoning Districts. The ALI-A1, and ALI-1, Airport Light Industrial Zoning Districts, are light industrial zoning districts that permit a range of commercial, institutional, and light industrial activities, such as general retail, restaurants, professional office, hotels, aeronautical schools, education institutions, and research centers. This will be an institutional use for the purpose of displaying or exhibiting aviation objects of interest, compatible with the other aviation oriented industrial, commercial, and institutional uses in the zoning district. The text amendment will allow an additional aviation-oriented institutional use appropriate to the ALI-A1 and AL1, Airport Light

Industrial Zoning Districts. Staff finds that the Ordinance will result in a logical and orderly development pattern. The Planning and Zoning Board approved the Ordinance. The second required public hearing will be held on September 6, 2022 at 5:30 p.m.

Mr. Todd Scher, Airport Director, reported that the museum is just a concept at this point in time. He wanted to make sure that the correct zoning was in place before moving forward. He commented that Vero Beach has always been rich in aviation history.

Mayor Brackett opened and closed the public hearing at 9:16 a.m., with no one wishing to be heard.

Mr. Cotugno made a motion to approve the Ordinance. Mr. Cotugno seconded the motion and it passed 5-0 with Mr. Cotugno 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, Abandoning all of the City's interest in the West 10 Feet of Cardinal Drive from Flamevine Lane to Iris Lane as shown in Exhibit "A," lying adjacent to Briggs-Tierney Subdivision, as recorded in Plat Book 4, Page 2 and Town & Beach Estates, as recorded in Plat Book 5, Page 4, of the Public Records of Indian River County, Florida; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Applicant**

The City Clerk read the Ordinance by title only.

Mr. Falls reported that this application was received by the City from a resident seeking to abandon the west 10 feet of Cardinal Drive in order to shift their proposed house to avoid some existing Oak Trees on the lot. The right of way for Cardinal Drive is currently 80 feet wide. The other side streets in the neighborhood have 60 foot wide right of ways. This request was routed for review by the various City departments and utility providers that could be affected by the abandonment and the City received no objection responses back except from AT&T, asking that an easement be retained for utilities. As such, the City will retain an easement of the abandonment areas for utility and municipal purposes. An opinion poll was also sent out to the residents that would be affected by this abandonment request. All six (6) residents responded back and were in favor of this abandonment with a utility easement being retained over the subject abandonment. The City recommends approval of the abandonment of the westerly 10 feet of the Cardinal Drive right of way.

Vice Mayor Neville stated what concerns him about this is by increasing the size of the property you also increase the opportunity for the size of the structure. He said there is a lot of new construction going on, especially on the barrier island. He said one of the things that separates their community from many other communities is that they have so many mature Oak Trees and every time a structure is built they come down and are not being replaced at the rate that they are coming down. He asked staff to give some consideration

for a policy statement that would reflect even though the land would be added that the scale of the property should not change.

Mrs. Minuse asked if this goes through and a site plan is developed and trees are being proposed to come down, do they have a tree mitigation policy.

Mr. Jeffries explained that the City has a Tree Preservation Ordinance and staff is currently working on updating it.

Vice Mayor Neville recalled there was one (1) landowner on the barrier island who was adding a garage to his property and had a tree in the location where the garage was going to go. He hired a company to actually move the tree to another location on his property and the tree is healthy and growing.

Mr. Jeffries was aware of that situation and said that the current Code incentivizes that. He said that most people choose to pay a mitigation fee, which is a lower cost than moving the tree.

Mr. Cotugno asked Mr. Jeffries if he was creating a whole new category for trees.

Mr. Jeffries said yes and these changes are being made to be more consistent with State Statutes.

Mr. McCabe asked if this Ordinance is approved would the tree modifications be retroactive on this property.

Mr. Jeffries answered no it would be moving forward from this point.

Mayor Brackett noted that there are six (6) neighbors who are affected by this change who have said that they have no problem with this.

Mr. Falls commented that in the City limits they have protection on what size home can be built on what size lot that some places do not have (can't build setback to setback) and we have in the City what is called a Floor Area Ratio (FAR).

Mr. Jeffries said they have the FAR zoning, which is unique because it usually is only applied to commercial properties, but in the City's case they apply it also to their residential zoning district.

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

Mayor Brackett opened the public hearing for comments at 9:25 a.m.

Mr. Joseph Guffanti commented that he has Oak Trees on his property and he lives in the central beach area. He called the City at one time to discuss what some of his neighbors

were doing to their Oak Trees. They were cutting the Oak Trees to make them look like Palm Trees. He talked to Mr. Jeffries who said he would meet him in his neighborhood, but never showed up. He said in the State of South Carolina they have a State law formula on what is allowed or not allowed regarding Live Oak Trees. He suggested that someone from the City look over that Code and see what they have to say about the Live Oak Trees. He said one (1) of his neighbors cut down one of their Oak Trees because of the leaves.

Mr. Russell Flinchum, Applicant, stated that the reason that he lives on this street is solely because of the trees. He is not going to take down or disturb any trees. He said raking leaves does not bother him. He agreed that it is extremely expensive to have to move Oak Trees. He thanked Council for passing this Ordinance.

Mayor Brackett closed the public hearing at 9:33 a.m., with no one else wishing to be heard.

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

B) RESOLUTIONS

5. PUBLIC COMMENT (3-minute time limit)

Mr. Joseph Guffanti stated that he sent a request to Mayor Brackett concerning what liquids and/or solids are in the water (Indian River Lagoon) that are allegedly polluting the Lagoon. He also wanted to know what liquids and/or solids are in the water that are running on the other properties in the City that are allegedly polluting the Lagoon. He wanted to know how the collected tax money is to be used to improve the quality of water in the Lagoon.

Mrs. Susan Mehiel stated that every tax increases the cost of housing. They were lucky that a couple of government bodies decided that the Children's Services additional taxing authority made no sense at this time. Although, this Body approved the possibility of sending it to a referendum, she is happy that won't happen. She brought up the stormwater utility and said while they tax the cement and pavement on people's properties and businesses they approve the plans for dumping tons of cement on the banks of the Lagoon. Including to expand the boat storage and Three Corners property and more boat docks will also impact the Lagoon. All of this taxing and spending while they approved a million dollar gift and decided to take money from the COVID taxes that they received. Holding the line on taxes and spending people's money wisely has not been one of their strong suits.

Mrs. Karen Marcil stated that on June 7, 2022 the City Council decided to continue with the boat storage building that is going to be a 21,500 square foot industrial medal building in her residential neighborhood. This left the neighbors no other choice but to pursue a citizen's referendum. Their referendum is about protecting Parks and neighborhoods by limiting expansion to no more than 20% without voter approval. Their goal is to let the public decide. She said putting this item on the ballot is the people's right. Their attorney has written to the City about their part in this effort and they have spoken to them as well about getting their input, but have not had a response. They discovered in this process even

though they will be ready with their petition numbers (10% of the City voters) the City may not be ready for its part since the schedule will be so tight and it is the City's right to tell the Supervisor of Elections to place the referendum on the ballot. The fact that they do not have a meeting on August 16th is a problem. Since the target date that the Supervisor of Elections has for finalizing the ballot is August 15th they are requesting to remedy the lack of an additional meeting. They have met with three (3) Councilmembers recently and they have all agreed that the democratic process should move forward. Your role is to send the referendum to the Supervisor of Elections to put on the ballot and not to make a decision on whether or not they think it is right or wrong. The referendum language meets the statutory requirements. If you have any questions about its legality or sufficiency there has been time to address these things and they have not done so, which means they must move forward. She suggested that Council have a short meeting on August 15th to accomplish the ministerial duty of referring the referendum to the Supervisor of Elections. They will have the language ready by August 15th. They could ask the Supervisor of Elections to give them until August 16th, which would be City Council's normal meeting date. They have done their best to coordinate this with the City and have received no response. She asked that this be prepared. Their goal is giving back to the public on their decisions of the property protected by the Charter. She asked Council to set a special meeting and take the petitions that will be verified by the Supervisor of Elections and put the referendum item on the November ballot.

Mr. Ken Daige thanked the ladies for stepping up (Mrs. Marcil and Mrs. Tiley). She said there are other people that have been involved in the situation that involves their neighborhood. He said that neighborhoods do matter and are the heart of their City. They will be meeting tomorrow on the budget. He asked them to think about the downtown area near the Rotary fountain at Pocahontas Park. He said that the homeless situation in this area is getting worse. He said being homeless is a sad situation and sometimes innocent people get hurt. He said at Pocahontas Park they will often see small children playing there. He requested that Council allocate some money in the budget for lighting, which would help the situation. Also, continue taking out the benches. The fountain still has not been cleaned and it needs to be. He pleaded with Council to address this.

Mayor Brackett told Mr. Daige that they are working on getting more lighting downtown and the money is coming out of the Economic Development Council Fund.

Mr. Daige was aware of that project, but felt that something needed to be done sooner. He said that more and more homeless people are moving into that area and this needs to be addressed.

Mrs. Leslie Tiley asked if they could have a Council meeting date scheduled so they can move forward with the referendum.

Mr. Falls explained that if the City receives the certification from the Supervisor of Elections then they will make sure per Florida Statutes that this item gets put on the ballot. He said if it requires a meeting and Council approval then they will schedule a meeting. He thinks that it can be done without a meeting of Council according to Florida Statutes.

They spoke with the Supervisor of Elections yesterday and they are going to try to speak with the attorney representing this matter later today to make this happen.

Mr. John Turner, City Attorney, stated that they intend to follow State Statute 166.031. He said it is not crystal clear as to their obligations, but it states specifically that the governing body shall transmit the matter to make sure it is put on the next general election or a special election. They intend to do that if it meets all of the qualifications and standards by law. He said it is not that they are not going to do it, but they will be recommending a certain procedure to be adopted. It will be done assuming all of the signatures have been verified and is done in a proper order.

Mayor Brackett asked if it requires a vote of this Council.

Mr. Turner answered no. He said in his legal opinion this can be done without the vote of the Council so long as everything is worked out with the Supervisor of Elections.

Mayor Brackett said then once the City receives that the petitions have been verified they can forward the referendum item on to the Supervisor of Elections without having a meeting.

Mrs. Lamarre Notargiacomo pointed out that she has attended many City Council meetings where the residents have filled the Council Chambers about a particular matter and the Council did the exact opposite of what the people attending the meeting were in favor of. They are giving away a million dollars and it is always justifiable when it is for the children. She said that decision was poorly noticed to the public and not really done in the Sunshine. There are a lot of very wealthy people who believe in that project and she suggested that they were the people that needed to step forward and fund this project. She said people with six figure incomes and maybe millionaires could easily fund it without picking the pockets of taxpayers. She said it is easy to be generous with other people's money. That is taxation without representation. She urged Council to do the right thing and allow private donors to fund these pet projects and leave them right side up instead of upside down. She attended the meeting at the School Board, which was not well noticed to the public and she asked how they said they raised \$2.5 million already. They said that the City generously gave them a million dollars and Florida Power and Light generously donated \$500,000. So the City is donating million dollars of taxpayer's money for this pet project across the street from the High School. The neighbors in that area said that they were not notified regarding the project and no one asked their opinion and they have some concerns about noise, traffic, and parking. Once again the City Council just says its in the works... She said the same thing is happening with the Three Corners project. The public has not been properly notified and now there are plans for a five start hotel on the Three Corners property, which is the last thing that the public wanted. She said when they vote at election time the people will remember how they treated the taxpayers.

Mr. Turner went back to the referendum item and commented that the referendum question to be added to the ballot must comply with State law. He said that State law requires that it has to be 75 words or less and it has to be clear and unambiguous and have a chief purpose

stated in the referendum question. He said those are questions that will have to be addressed along with the required number of signatures to be verified. He said assuming everything meets those State requirements then it will move forward. If it doesn't then they will need to address those issues.

Mayor Brackett wanted to make it very clear that at no time has this Council ever violated the Sunshine law. He said to have that accusation made without proof is not a nice thing to do.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

B) OLD BUSINESS

1) Update on the Vero Beach Community Complex Project – Requested by Councilmember John Cotugno

Mr. Cotugno commented that there has been a lot of information regarding the Vero Beach Community Complex project and some of it has been misinformation. He has asked those who are involved with that project to come forward and give an update to disclose what they are doing and what their goals and objectives are. Then they can move forward with discussing on whether or not this Vero Beach Community Complex project is a project that will benefit their community and help with the revitalization of downtown.

Mayor Brackett added that people keep calling this a donation, which is not true at all. They are moving into a joint venture with the School District of Indian River County to provide Parks and greenspace for children. They constantly are receiving requests for more Parks and greenspace from the public, so they are entering into this project jointly with other government entities to make it happen. It is not a donation to some charity, but a joint venture between government entities and private donations.

Mr. David Moore, Superintendent of the Indian River School Board, reported that the School Board received the land through a donation and then went into the community to listen to them to hear what they wanted to do with this land. It became clear that it was to give it back to the community. This will be an open space that will be open from dawn to dusk. They have been completely transparent on what they want to do with this property and they see it as a great opportunity to be in service and create a foundation in their community. This facility will have a walking park that allows the community to learn about the history of Vero Beach while they are getting exercise. It will have an upgraded playground that allows disabled children the opportunity to play. There will be a community center that people can rent out and have celebrations. They are moving full speed ahead and are in the process of creating the designs and are ahead of schedule. He said this is a significant investment for the School District of Indian River County in which they will absorb the costs to maintain it for the community.

Ms. Cindy Emerson, Director of Instructional Innovation, referred to a link which is always available on what is being done on this project and has the most updated information. She briefly went over some changes and new things that have come into the plan at the request of parents and stakeholders. They will now have a Press Box as part of the plans for the Jimmy Graves Sports Stadium. They also have included a locker room. She briefly went through the project. She said that the budget for this project has remained at \$3,800,000. The facility will be open to other schools to rent. It will bring immediate relief to the Citrus Bowl. She talked about the inclusive playground, the Student Entrepreneurial Center and the Community Open Space Amphitheater. Ms. Emerson briefly went over the timeline. She said that the kickoff party for the project will be on August 27th from 12:00 p.m. to 3:00 p.m. She invited everyone to attend. She briefly went through the current budget for the project.

Mr. Cotugno commented that this is a kick-off project for the downtown area and revitalization for downtown should be an important goal for the City Council. As this project is being an anchor to the downtown area they will be able to begin the revitalization of downtown, justify stakeholders downtown to invest more in their property to enhance it. They have also included in their budget this year to bring a community plan together for downtown and this is a great start for good things to come. He was proud to be able to host the only exclusive playground in the entire County. This is such an addition to their community and not something that he could see anyone objecting to. He thanked everyone who showed up and gave the presentation this morning.

Mrs. Minuse commented that they have been working with the Metropolitan Planning Organization (MPO) to help with funding for the historical walking trail. They are moving ahead positively right now. There have been meetings with Mainstreet and MPO to develop a map.

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

8. CITY CLERK MATTERS

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

Mr. Falls gave an update on the new street sweeper. He said that the street sweeper will be in front of City Hall tomorrow for Council to look at it before it is put in service.

10. CITY ATTORNEY MATTERS

A) Request Authorization to Initiate Code Enforcement Actions Against Gino Abbate for Approximately \$11,650.00 Plus Continuing Penalties and John Desjardins for \$67,950 Plus Continuing Penalties

Mr. Turner explained that the code enforcement actions against Mr. Gino Abbate and Mr. John Desjardins have gotten to a point where they must take the cases to the next level and

do something. He requested permission from the Council to initiate code enforcement board lien action against Mr. Abbate and Mr. Desjardins and hopefully motivate them enough to come in and take care of their obligations.

Mr. McCabe made a motion to initiate and file actions against these two cases (collecting liens and bringing the properties into compliance). Mrs. Minuse seconded the motion and it passed unanimously.

B) Discussion of Proposed License Agreement with Vero Beach Little League Baseball, Inc.

Mr. Turner was excited to announce the partnership that the City is about to engage in with the Vero Beach Little League Baseball. He said they are an impressive group and he is excited to proceed with them. He asked Council to proceed with approval of the license agreement, which is for a three (3) year term initially and then extensions afterwards.

Vice Mayor Neville made a motion to approve the license agreement with Vero Beach Little League Baseball, Inc. Mrs. Minuse seconded the motion and it passed unanimously.

Mr. Jason Palmer, President of the Vero Beach Little League Baseball, commented that they are ready to get started. They will take care of all the necessary maintenance, as well as the water and electric bills. They see no reason why they will not be able to make this program become bigger and better. They are great stewards of the property. They want to put more kids on these fields and anticipate approximately 450 students participating. They will let Council know when the opening day will take place.

Mr. Ken Daige stated that he thinks this is a great idea for the City. He said that one (1) thing the organization will need some help on is the old utility poles that are still on the land and the dumpster enclosure needs to be installed. He agreed that the Vero Beach Little League was a good fit for the neighborhood.

Miss Autumn Dancy did not know that the City Council had meetings or she would have spoken under public comments. She is in college majoring in environmental projects. She said there hasn't been an environmental impact statement done regarding the Marina project and coastline and one is needed.

Mrs. Minuse explained to her that was part of the permitting process.

Mr. Turner added that the consultant on the project is handling that as far as the permits that are needed for the Marina expansion project.

Miss Dancy asked once these environmental statements are done will they become public record. She was told yes. She then asked about the timeline for the project. Mr. Turner told her he would be happy to talk to her once the meeting has adjourned.

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

Mayor Brackett apologized to his fellow Councilmembers because the two (2) individuals who tried to beat them up on the Community Complex project are after him. They are big supporters of his opponent in the race that he is in and the Council should not be blamed for what is happening and this is their way of coming after him. He said one of the people is the campaign manager for his opponent. He is their target and not the Council.

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

1) Presentation on Substance Awareness

No one showed up to talk about this matter.

B. Vice Mayor Neville's Matters

Vice Mayor Neville reported on the boat trip that he recently took to St. Augustine. He said it was a nice trip, but he is still getting caught up on things.

C. Councilmember Minuse's Matters

Mrs. Minuse reported on the Treasure Coast Council of Local Government and Treasure Coast Regional League of Cities joint meeting and BBQ that was held on July 20th. She said that the guest speaker was Mike Elfenbein who is the Conservation Chair for Izaak Walton League of American and he spoke on the Lake Okeechobee Nutrient Reduction project. This Friday at the Executive Courthouse there will be a fundraiser to support the Youth Group for Vero Beach Church of Christ where they will be having an adult Prom Disco. The event starts at 7:00 p.m. and the cost is \$25.00 per person.

The RBI Baseball World Series and Play Ball event will take place at the Jackie Robinson Training Complex on Saturday, August 6th and everyone is invited to attend.

D. Councilmember McCabe's Matters

Mr. McCabe thanked everyone for attending Downtown Friday. He said the Pirate Fest will be coming soon and take place Under the Oaks. The Vero Beach Chamber of Commerce will be handling the sunset concerts from now on and the Sunset Rotary Club will be in charge of the annual Oceanside Christmas Parade.

E. Councilmember Cotugno's Matters

Mr. Cotugno was excited about the baseball game that will take place on August 6th. He asked that everyone should try to attend the game to support what MLB is doing for their community.

13. ADJOURNMENT

Today's meeting adjourned at 10:30 a.m.

/tb