

**CITY OF VERO BEACH, FLORIDA  
AUGUST 17, 2021 8:30 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**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 – July 20, 2021**

**Vice Mayor Neville made a motion to adopt the minutes. Mr. McCabe seconded the motion and it passed unanimously.**

**A. Agenda Additions, Deletions, and Adoption.**

Mrs. Tammy Bursick, City Clerk, requested that item 3-F) “Change Order #1 for Ranger Construction Contract 106-2021 for Construct Ramp Phase II (Construct Hangar Apron) (\$100,230.00)” be added to the consent agenda.

Mr. Winger asked that under City Clerk’s Matters that they discuss replacing him on the Tourist Development Council.

Mayor Brackett asked that item 8-B) Appointments to Commission/Boards be pulled from today’s agenda and brought back next month when the Clerk has received additional applications.

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

**B. Proclamations and recognitions by Council.**

There were no Proclamations or recognitions on today's agenda.

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

- A) Orenco Systems, Inc. STEP Component Inventory Replenishment Order Contract P-15-2018 (\$255,392.84)**
- B) SJRWMD – Contract No. 36890 Cost Share Agreement – FY 2021-2022 – Funding for Vero Beach Canal to Irrigation Water Project**
- C) Work Order #1 Rehabilitate Runway 12R/30L Construction, Engineering and Inspection (CEI) Services for Hanson Professional Services, Inc. (\$897,900.00)**
- D) Renew Disaster Debris Removal Management – Contract SRVC-30-2017, Thompson Consulting Services, LLC – Contract SRVC-31-2017, Tetra-Tech, Inc. (Secondary) – (No cost unless activated)**
- E) FMIT Health Insurance (estimated at \$5,188,160)**
- F) Change Order #1 for Ranger Construction Contract 106-2021 for Construct Ramp Phase II (Construct Hangar Apron) (\$100,230.00).**

Mrs. Minuse referred to item 3-F) that was added on to today's agenda and asked why an additional \$100,000 was needed for permitting in this project.

Mr. Monte Falls, City Manager, explained that the project was designed and bid with the understanding that there would be a need to relocate gopher tortoises, a designated threatened species. Relocation of gopher tortoises is controlled and permitted by the Florida Fish and Wildlife Conservation Commission (FWC). Currently, the traditional relocation recipient sites are no longer accepting gopher tortoises, and FWC has agreed to allow the relocation of the tortoises to another site on Airport property. However, FWC is charging a significantly higher cost for permitting this method of relocation. The project is unable to proceed until all gopher tortoises are removed from the project site. The project has a deadline to complete by December 31, 2021, due to the Florida Department of Transportation (FDOT) grant expiration. FDOT and Florida Aviation Administration (FAA) will fund the entire cost of the change order so there will not be Airport Fund or General Fund revenue expended on this project.

Mrs. Minuse was shocked at the cost to remove a gopher tortoise. She said that they are looking at \$3,000 per gopher tortoise, which she doesn't understand the justification for that.

Mayor Brackett questioned they are saying that there are 37 gopher tortoises so what happens if they only find 18 gopher tortoises to be removed. He asked what would the cost be.

Mr. Todd Scher, Airport Director, explained that if they don't relocate the specified number of gopher tortoises then they would get a refund from FWC.

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

Miss Judy Ann Jackson asked what happens if more gopher tortoises than the 37 indicated have to be removed. She was told then they would incur more costs to have the additional tortoises removed.

#### 4. PUBLIC HEARINGS

##### A) ORDINANCES

- 1) **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.

Mr. Jason Jeffries, Planning and Development Director, announced that he received a letter this morning from Mr. Barry Segal, Attorney representing the applicant in this case and his client has withdrawn their application (letter attached to the original minutes). He said that there is a one (1) year limitation before the applicant can reapply.

Mr. Winger commented that there have been four (4) different public hearings held between the City Council and the Planning and Zoning Board concerning this matter. He said that essentially the Planning and Zoning Board did a great job. He would be against changing the FAR citywide, although he feels that sustainability is important. The other thing that was referenced was the Comprehensive Plan. He still did not understand why this matter came to Council if the Planning and Zoning Board turned it down. He thought that Council sent it back to the Planning and Zoning Board for them to decide.

Mayor Brackett explained that the Planning and Zoning Board does not have the final say. He said they make recommendations and then the final decision is determined by the City Council. He assumed that the applicant withdrew their application because they knew where this was heading.

Mr. John Turner, City Attorney, commented that there is a procedure that an applicant must follow. He said there are certain due process considerations that they have to comply with, acknowledge, and follow. He said that the applicant has withdrawn his application so no further action is needed. This case will not be considered today.

Mr. Winger felt that they needed to look at this citywide. He said if an applicant wants to build something then they could come forward with that request.

Mayor Brackett added that according to Code the applicant went through the process and the process worked when they look at the results. He said that every citizen has the right to speak and apply for what they want.

Mrs. Minuse commented that maybe if this would have happened 10 years ago the applicant may have received approval. She said that the private sector has taken over with sustainability. This is a matter for the private industry.

**2) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 61, Article I, Single-Family Residential Districts, to allow construction of Private Rear Alley Driveways with Common Access Easements; Amending Chapter 70, Section 70.03, Definitions to add a Definition of Alley, Private; Providing for Codification; Providing for Conflict of 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.

Mr. Jeffries reported that Mr. Robert McNally on behalf of Beach Road Associates is the applicant in this case proposing a text amendment to Chapter 62, Single Family Residential Districts, to allow the construction of private rear access driveways (alleys) with dedicated common access easements in single-family residential zoning districts, if a dedicated public alley does not exist. The applicant is requesting the ability to construct residential homes with traditional residential lot layout with the garages in the rear of the lot to improve the appearance of the residence from the front street by using a common rear access easement. He then went through a Power Point presentation (attached to the original minutes). The Planning and Zoning Board held a public hearing on July 1, 2021 and voted 5-0 in favor of the Ordinance.

Mr. Robert McNally, applicant, stated that he owns Palm Coast of Vero Beach. He purchased three (3) lots on Azalea Lane and there are some beautiful trees and his thought was for the betterment of the project to preserve the character of the trees and to allow garages in the rear of the lot to help with not having to back out of Azalea Lane on to traffic. He had pictures if the City Council wanted to see them.

Mr. Jeffries commented that he is looking at changing the Zoning Code to allow this type of development pattern.

Mr. McCabe asked if the easement gets recorded. He was told that it does.

Mayor Brackett closed the public hearing at 8:56 a.m., with no one else wishing to be heard.

**Mrs. Minuse made a motion to approve the Ordinance. Mr. McCabe 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.**

- 3) **An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article IV, Industrial District, and Article VII, Airport Master Plan Land Use Zones, to add Craft Distilleries to the list of permitted uses in the M, Industrial and ALI-1, Airport Light Industrial Zoning Districts; Amending Chapter 60 (Appendix. Definitions) to add a Definition of Craft Distillery; 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.

Mr. Jeffries reported that the applicants in this case are Raymond and Mandy Hooker who are proposing a text amendment to Chapter 62, Airport Master Plan Land Use Zones, to add craft distilleries to the ALI-1, Airport Light Industrial-1 zoning district. The purpose of the text amendment is to allow facilities for the distilling spirits and packaging of distilled spirits for distribution, retail or wholesale, on or off premise that produces less than 250,000 gallons per year in the ALI-1 zoning district. Adding the use to the ALI-1 zoning district will allow craft distilleries, a use compatible with the other commercial and light industrial uses in the zoning district. Currently, the craft distillery use is not permitted in the City. This is the first of two (2) public hearings. The second public hearing will be held on September 7, 2021. The Planning and Zoning Board held a public hearing on June 17, 2021 and voted 5-0 to approve the Ordinance. He then gave a Power Point presentation.

Mayor Brackett commented that currently they allow for breweries in that zoning and this will now include distilleries to be permitted.

Mr. Jeffries said that was correct. He explained this is why you allow amendments to the Code because things change down the road as new things come up and they need to be changed. This fall he plans to look at the use matrix and at the standard uses in planning profession and what their uses are and see if there are additional uses allowed in some of their zoning districts.

Mayor Brackett opened the public hearing at 9:04 a.m.

Mr. Raymond Hooker explained that they are looking at taking over a building at the Airport that is in really bad shape and make it their warehouse, which will be an asset to the City of Vero Beach. He said compared to other states, Florida is behind with how many craft distilleries that they have.

Mrs. Joann Standberry commented that she moved to Vero Beach about a year ago from New York. She said that the Hookers will be amazing business owners. She loves going to Walking Tree because it is a gathering place for the community. She wants to have a distillery in the area so she can go to both the distillery and the brewery. They are talking

about creating an experience for people to come together. It will be so good for the community.

Mr. Leonard Makir was curious as to if this public land was sold or leased and what the details of that will be.

Mayor Brackett explained that the final lease will come back to Council for approval. It is a standard lease specific to this type of industry and because it is on Airport land it will have to be approved by FAA. He said that this property is leased by the Airport and rent payments go directly to them.

Mayor Brackett closed the public hearing at 9:10 a.m., with no one else wishing to be heard.

**Mrs. Minuse made a motion to approve the Ordinance on the first public hearing. Mr. McCabe 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.**

- 4) An Ordinance of the City of Vero Beach, Florida, Calling for a Referendum to be held on Tuesday, November 2, 2021 to Replace an Existing Lease with Indian River County with a New Lease for 1.2 acres of the Old City Nursery Site; Providing for Effect of Referendum Results; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date. – Requested by Indian River County**

The City Clerk read the Ordinance by title only.

Mr. Falls reported that what they have in front of them is a proposal from Indian River County who currently operate a tower on the old nursery property, which is the vacant property across from Crestlawn Cemetery. The City currently leases them a small parcel of land where the tower is located. They are in negotiations to have a long term lease with a second provider that would take over the operation of the tower and use it for commercial purposes. They have been offered a sum of \$1.7 million for this option and they have offered the City \$500,000 to agree to move forward with it. This tower currently has the emergency services communications on it. The County is asking for some additional land to expand the footprint of the building there to support additional uses on the tower and they have to make a decision because that property is in the Charter and would need to go to the voters for approval for the commercial uses on the tower. It became Charter protected after the original lease was drawn up. The County has agreed to relinquish its interest in some property they own on South Beach, as well as an additional parcel of land that is adjacent to Charles Park.

Mr. Turner stated that his job in this matter is to craft an agreement with the County that will be the structure for the subsequent acquisition or use of the tower by the sub-lessee or another party who is going to pay the amount to the County and to the City. That organization is called Tower-Point. They have not completed final approval of that lease

agreement. He said at this point they do not have an agreed to 99-year lease between the City and the County over usage of the tower. Also, his job is to craft the Ordinance that is in front of them today that will set forth the language that is going to be on the ballot for the November election.

Mr. Falls explained that they were trying to meet the deadline that the Supervisor has to get items on the ballot. That deadline date is September 3, 2021.

Mrs. Minuse asked Mr. Turner if his continuing negotiations are going to be reflected on this.

Mr. Turner said that it would have to be presented back to Council for approval.

Mrs. Minuse asked if they will incur any kind of problems if they approve this and then get the information on the lease agreement later.

Mr. Turner said that is a possibility. He wanted to have it all concluded by today, but that has not been possible. He said what they are saying is they are going to adopt an Ordinance to allow it to go on the ballot as a referendum item, but they don't have the details yet on how it is going to operate. He said that they could condition the Ordinance on the lease, which would be an option.

Mayor Brackett asked if they approve the Ordinance and turn it over to the Supervisor of Elections is there a time period in which they can pull it.

Mr. Turner said that is a good question and he would need to check with the Supervisor of Elections on that. He said that their next Council meeting will be on September 7<sup>th</sup> and if at that time there is no agreement reached then they have directions to pull the Ordinance. He said that he would feel comfortable with that condition and approve it based upon that. If they don't have an agreement approved in principle by the City and the County by that date this will not go forward.

Mayor Brackett asked Mr. Turner what does he think is a fair time to complete this lease agreement would be.

Mr. Turner said that it is in the County's court now. He hoped that they could complete it in about a week.

Mayor Brackett suggested tabling this item and setting a Special Call meeting one (1) week from now and let the County know that will be their deadline and this needs to be expedited as much as possible if they want this matter on the ballot for this November Election.

Vice Mayor Neville did not understand this relationship between the City and the County. They had to effect a public records request to get the information about the values that they were proposing to get from these towers. He only found one (1) contractor and apparently the City Attorney had found where there are two (2) contractors. He said one (1) of the

contractors is interested in the Baily property, which is in the Sebastian area and the Old Dixie property, which is owned by the City. Things have not been forthcoming with this process. The County has added lessees to the property after the land went into public trust to use if for commercial services, which they would generate \$2,000 a month, none of which will be shared by the City or even divulged to the City. There are actually two (2) or three (3) carriers on this tower at the present time and the County has the emergency services at the very top. It was originally built in the mid-90's and the original arrangement was that AT&T would construct it at no cost and the County would have benefit of it for 25-years. The lease with the City was for 30-years and their lease does not expire with the County for five (5) years from now. He does not see what the sense of urgency is regarding this matter. They don't understand the pricing or the sharing relationship. What they have is a 30-year old tower that has depreciated and has no value presently other than its use. In the meantime, the City is providing the land and their land continues to depreciate. So it seems to him that the greatest value is the land and not the tower. However, the County seems to want to take \$1.2 million from this offer and give the City \$500,000. He said that there is no logic to this. If at very best, they should be equal partners in this. They have not been treated as an equal partner or even as a junior partner. They have been told this is the way that it is going to be done and he thinks that relationship is unhealthy. They are an incorporated City that has rights and their neighbors who are part of this community need to share that same philosophy. He said that there are two (2) towers in question that are being dealt with at the same time. He said the other tower is on Baily Road in Sebastian. There are six (6) carriers on that tower and it is valued at \$4 million. It is hard to understand the difference between a \$4 million tower in Sebastian versus a \$1.6 million tower in Vero Beach. He does not believe either of these towers have been appraised. He said that you can't have a tower without the land and the City owns that land. They call this a lease, but it is a sale because it is for 99-years. He said this is a very serious matter and their job is to represent the very best interest of their community. He believes that they should be negotiating this on an equal footing and on an equal basis. He does not feel that has been the case. He is not saying they should not do this, but it should be done in a way that both entities benefit fairly and he doesn't believe that is the case now. He showed the Council a couple of pictures so they had an idea of what they are dealing with. He said that the City needs to carefully consider this and renegotiate it and be on an equal footing.

Mayor Brackett agreed with the comments made by Vice Mayor Neville. He did say in fairness to the County that besides the \$500,000 they did include two (2) pieces of land.

Council considered setting a Special Call meeting on Tuesday, August 24<sup>th</sup> at 1:30 p.m. to continue discussion this matter.

Mr. Falls asked Council to give him some parameters on what they are looking for so he can relay that to the County.

Vice Mayor Neville stated that what he finds agreeable is that they let the lease expire in five (5) years and they will then do their own negotiations with the people who want to lease that property. This would not be compromising the emergency services that is currently provided by the tower.



Mr. Dan Russell, Information Technology Director for the County, was at today's meeting on behalf of the County Administrator. He said that the management of the towers in question is under his purview. He apologized that they felt that their public records request was not answered in a timely matter. He said that request was for a huge amount of records and it has taken some time to gather that information. The initial offer for both of the towers in question was approximately \$5.5 million combined made by Tower-Point on March 5, 2021. Then on March 10, 2021, the offer was corrected and broken into two (2) separate parts and that is because they responded to Tower-Point letting them know that the County has a short term lease on that particular property. So they offered a little over \$1.6 million for the tower at the old nursery site. Their consultant did not agree with the valuation and they took this matter to the County Commission. He said for the record there have been two (2) other offers that have been submitted for the property.

Mayor Brackett asked Mr. Russell if the valuations were done because of the short term lease with the City and now that they are signing a 99-year lease so it is not a short term lease anymore. He asked if that changed the valuations.

Mr. Russell said that it did. However, he explained that the evaluation was broken down by market value and the market value was based on the carriers. The revenue generated by the tower located on Bailey Road is higher because there are six (6) carriers on that tower.

Vice Mayor Neville asked what is the forecasted revenue acknowledging the fact that they are not allowed to have commercial activity on site. He referred to the Tower-Point timeline and pointed out on some paperwork that he had that the two (2) revenues being generated was blacked out. This is the revenue generated from Horizon and AT&T.

Mr. Russell made it clear that the County does not receive any revenue from Horizon or AT&T. Their agreement with AT&T is for the construction of the tower. Since December of this past year that lease expired and they have not collected revenue because they were looking at the possibility of a sale so they have not renewed the lease. He explained if they did not receive an agreement with Tower-Point then the County would renegotiate the leases with AT&T and Horizon.

Vice Mayor Neville asked Mr. Russell if they directed AT&T to remove all of their equipment from the site.

Mr. Russell answered no. He said that they terminated the existing lease, but have not directed them to remove their equipment.

Mr. Russell talked about emergency services. He said that if the lease was not to be renewed in 2026 then they would need to relocate the emergency services radios to another property and construct another tower and this would be disruptive and very expensive.

Vice Mayor Neville made it clear that was never what he suggested or intended. What he believes is that the City of Vero Beach can equally as well lease that property. The way they are doing this now by leasing the property to the County and the County leasing it to someone else seems like an awkward arrangement. He said lets allow the lease to run out or it could be terminated early and let the City negotiate for the use of that tower. The City would also allow the County to have the benefit of the top tier on the tower for emergency services. What they are trying to accomplish here is equal partners in this process. He still didn't understand why the City had to make a public records request to receive information regarding this matter.

Mr. Russell stated that he was happy to share any information that he has with Council. He said in terms of valuation that was discussed earlier he has two (2) other offers. He said that they are not dealing with private equity. There is an offer from Vertical Bridge for \$1.2 million and another from Everett that is for \$1.6 million. He reiterated that the market is telling them that the value for the property is about \$1.6 million.

Vice Mayor Neville believed if they were to put the proposition out differently that once this has passed referendum that they can have as many antennas on there as they want to that would change the dynamics dramatically.

Mr. Russell explained that there is a load of capacity that is allowed to be reached on these towers, which is why they are negotiating with Tower-Point who understands these things very well. Their primary purpose is to ensure that public safety remains safe and operational. He said that this is not a profitable operation for the County. They are only seeking to offset the costs for operation.

Vice Mayor Neville asked how they arrived at the sharing arrangement.

Mr. Russell explained the County Administrator handled the offer/negotiations.

Vice Mayor Neville said it was not an offer, it was a declaration. He asked Mr. Russell if there was no negotiation here and this is the way it is going to be. He felt that was unfair and wrong.

Mr. Russell appreciated his position, but said he was not authorized to negotiate. He just wanted to make sure that Council has all the information that they need as they make this decision. He agreed with Mr. Turner that they are making progress on the lease and are very close at this point. There are a couple of provisions that seem to be holding them up in moving forward. He was a little concerned with the timeframe suggested for completing this and discussing it at their scheduled Special Call meeting. One (1) of those provisions continues to prevent the commercial use of the tower and that Tower-Points entire offer is based upon being able to use the tower commercially. He said that is an important provision that needs to be agreed upon and they also need to allow Tower-Point time to review the lease and make sure they are comfortable with it. He was a little concerned with the timing. He did not believe that the amount of the offer was likely to change and

the intent from the County is to ensure that they could continue funding to sustain the radios and that is what is intended where the funds would go back to.

Vice Mayor Neville commented that the City of Vero Beach has been maintaining the Veterans Memorial Island Sanctuary for many years. It has come to their attention that the bridge to get over to the Island was not properly installed many years ago and needs to be replaced. So they went to the County and suggested working together and both share the cost for this \$1.4 million bridge. He said that they were rejected by the County. He said so the City has their own problems to deal with.

Mr. Russell said it seemed like the matter in front of them today will generate some revenue for the City.

Vice Mayor Neville stated that if they split it down the middle it would be an interesting proposition.

Mr. Falls added that the commercial use of the tower could not be decided by staff or this Body. The commercial use of the tower could only be decided by a vote of the electors. He said what they are trying to do is bring a referendum question to the electors that they would find in the best interest of the City so they could get the approval for that commercial use. They have to be able to get across to their citizenry who is going to be voting that this is a good deal for the City of Vero Beach.

Mrs. Minuse asked if the \$500,000 was a one-time payment. She was told that it is. She said that the County will have this property for the next 99-years with no financial obligations to the City.

Mr. Falls said that as he understands it the one (1) time payment to the County would occur and there would be no additional revenue generated for it to the County or to the City. He said it would be as if Tower-Point would own the tower for 99-years and use it as they would like to.

Mr. Winger brought up that the original offer from the County was much less than \$500,000.

Mr. Falls said that was correct. That the original offer from the County was \$250,000 and through some negotiations they came up with \$500,000. He agreed with Vice Mayor Neville that it should be \$600,000.

Vice Mayor Neville added that they could not have the tower without the land. He said that the land is the big proponent here. It is not the tower. You can build the tower anywhere if you are able to find the land to build it on.

Mr. Russell felt like the Council was focused on the dollar value of the land and the market has indicated that it is approximately \$1.6 million. They may be overlooking the

importance of public safety, which is where their focus is. He said that this particular site was the investment of the upgrades that have been made.

Vice Mayor Neville made it clear that they were not asking that the tower be relocated. He did ask why they needed an acre of land.

Mr. Falls explained that in the initial negotiations the County asked for one (1) acre, which left a small parcel adjacent to Old Dixie Highway that would be unusable to anyone. So he suggested that they square off the boundaries, which brought it up to 1.2 acres. He said if Council wants to give staff additional parameters in negotiating the lease this would be the time to do it. He said they could ask for the lease to say no additional towers. He also brought up that the City of Vero Beach has long supported commercial services in this community as evidenced by their fire station sights. There are two (2) in the City and one (1) is located on the river and there is no rent collected from the City. He said they are happy to do that in support of emergency services. They support emergency services more than just the taxes that their citizens pay.

Mrs. Minuse asked if the terms of a 99-year lease is negotiable.

Mr. Falls explained that the 99-year lease is the value of what the \$1.6 million was used to do that. He put on the doc cam the location of the existing tower.

Mrs. Minuse asked if FEMA had any requirements for security on this property.

Mr. Russell explained that it is considered to be a part of the public safety network and the tower needs to be secured appropriately and protected. The access to the tower will be handled the same way that they handle access to all of their towers.

Vice Mayor Neville instructed Mr. Falls to pursue an equal share on the negotiations for this tower. He said that the land has greater value than the tower does. He said the ratio should be 50/50.

Mr. Falls took direction from Council as a whole to continue to talk to County staff and they will bring something back at a Special Call meeting.

Mr. Turner agreed with Mr. Russell that a week might not be enough time to work out an agreement and have all the parties review it.

Council agreed to reschedule the meeting for August 30, 2021 at 1:30 p.m.

Mrs. Linda Hillman commented that she completely agreed with the comments made by Vice Mayor Neville. She said this looks like they are giving the County a blank slate for \$500,000. They are giving this land to the County and the City has no say in it. She sits on the Charter Review Committee where they are going through the Charter to see if there is any more land located in the City that needs to be protected. She said in this matter they needed to collect more money. She said it is ridiculous that they are giving this land away

to the County. She said that the County never wants to help the City when they ask for it. She pleaded to Council not to give this land away.

Mrs. Linda Moore commented that they have something that the County wants so maybe some negotiating could be done with the bed tax money that the City would like to receive. She said that she doesn't feel like the County helps them with anything. She asked why they couldn't use the bed tax money to fix the bridge on the Island. She sees the need for the tower, but the bed tax money is what they want and there needs to be a little bit more negotiating on that.

Mr. Ken Daige suggested having the County turn over the lease to the City and the City negotiate the tower with the company. He said that there is no value in this for the City residents. This 99-year lease is forever. This is going to be a good deal for the County. Then when the City goes and asks for something from the County they say no, such as helping out with the cost for the bridge at Memorial Island or considering giving the City more of the bed tax money. He said that the City is now in the driver's seat on this issue. He reiterated that the County needs to turn the lease over to the City and allow them to deal with it. He thanked Vice Mayor Neville on all the research that he did to bring this before the Council. There is no hurry to have a Special Call meeting held for this matter if there is five (5) more years left on the lease. He said the other side (County) is pushing them into doing something that is a bad deal for the City. He said that no one in this City has a problem with communications or anything of that nature.

Mayor Brackett expressed that Council has not seen the lease agreement yet. He agrees with the information that has been provided to them by Vice Mayor Neville this morning, but felt that they needed to see the lease agreement first. He agreed that they have some work ahead of them.

Vice Mayor Neville commented that he did not want to "kill the deal," but just make the deal more palatable for their community.

Mayor Brackett was concerned with what this will look like in 30-years. He questioned if towers will be needed then. He said that is something that the lease needs to address that towers may be obsolete by then.

Mr. Turner said that he would meet with each Councilmember individually and get their thoughts on the lease agreement for the tower.

**Mr. McCabe made a motion to continue this matter until a Special Call meeting to be held on August 30, 2021 at 1:30 p.m. Mr. Winger seconded the motion and it passed unanimously.**

## **B) RESOLUTIONS**

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

Mr. Mike Johansen referred back to the Sustainable Development Incentive Ordinance where the applicant withdrew his application. He asked can this come back to Council.

Mr. Turner said that the applicant would have to reapply and go through the whole process.

Mr. Jeffries added that per land development regulations this cannot occur for another full year.

Mr. Winger asked if the new request would first go to the Planning and Zoning Board. Mr. Jeffries answered yes.

Mrs. Linda Hillman expressed that everyone needs to remember that there is a grass and fertilizer Ordinance in place that has been on the books for years. She said that a lot of people are not following it.

Mr. Turner said that it is hard to enforce, but the City knows that it is on the books.

Mrs. Hillman hates to see City employees blowing the grass on the streets.

Mr. Falls explained that when that happens they have a street sweeper who comes and picks up the clippings. He told Mrs. Hillman if she sees this being done and the street sweeper is not there to give him a call.

Vice Mayor Neville asked if business licenses were required for landscapers.

Mr. Jeffries explained that a business license is needed, but all it is, is a tax. He said that there are some municipalities who have passed Ordinances requiring their landscapers to go through proper training.

Mr. Keith Drewett wanted to make sure the provision of not having the proper equipment available was not an obstacle to having the STEP System process move quickly for the City.

Mr. Ken Daige asked when going back to the tower situation are they all in favor of removing commercial use in the wording for the referendum.

Mr. Falls explained that the only reason that this is going to referendum is because they want to add commercial use. The tower is there and has been used for the last 25 years. Putting some other antennas on the tower will not change the look when the public drives by. He feels that the commercial uses are worth pursuing.

Mr. Daige commented that going forward if the towers are under the control of the City then if they don't want any more towers on this property they can stop it. He wants the City to have control of this property.

Mayor Brackett reiterated that they need to see the lease first and see what it says.

Mr. Daige hoped that they were not being pushed to hurry this through. He said that if they feel more time is needed to review the lease and other things then this can wait another year.

Mrs. Minuse added that the County is relinquishing all rights to a piece of property that they own at Charles Park and South Beach Park, which has been part of the negotiations.

Mr. Daige suggested looking at the County deeds referring to the tower and said that this property has to stay green space forever.

**6. CITY COUNCIL MATTERS**

**A) NEW BUSINESS**

**B) OLD BUSINESS**

**7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING**

**Public Hearing will be held on September 7, 2021 6:00 p.m.**

- A) An Ordinance of the City of Vero Beach, Florida, restructuring and amending Chapter 60, adding Article I heading to be entitled “General Provisions”; deleting Section 60.11 Regarding Noncompliance; adding Article II, to be entitled “Enforcement Provisions of Land Development Regulations”; 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 will be held on September 7, 2021 at 6:00 p.m.

**Public Hearings will be heard on September 7, 2021 at 6:00 p.m. and September 21, 2021 and 6:00 p.m.**

- B) An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article X, Downtown District, to add Craft Distilleries to the list of permitted uses with use conditions in the DTW, Downtown Zoning Districts; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener’s Errors; and Providing for an Effective Date.**

The City Clerk read the Ordinance by title only and reported that the public hearing will be held on September 7, 2021 and September 21, 2021 at 6:00 p.m.

**Public Hearing will be held on September 7, 2021 at 6:00 p.m.**

- C) An Ordinance of the City of Vero Beach, Florida, amending the Land Development Regulations by amending Chapter 62, Article XIII, Section**

**62.504 Site and Building Development Standards, to add Open Space Standards in the Cardinal Drive/Ocean Drive Commercial Overlay District; 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 will be held on September 7, 2021 at 6:00 p.m.

Vice Mayor Neville asked what this Ordinance is about.

Mr. Jeffries told Vice Mayor Neville that he would be happy to speak with him one on one since this Ordinance is applicant driven.

At this time, Council took a 10-minute break and the meeting reconvened at 10:37 a.m.

**8. CITY CLERK MATTERS**

**A) Adding Stormwater as another one of the Utility Commission's areas of responsibility – Chairman Jane Burton**

Mrs. Jane Burton, Utility Commission member read a prepared statement requesting that the Council add stormwater as another one (1) of the Utility Commissions areas of responsibility.

Council agreed with allowing this and supporting it.

Mr. Falls said that the Utilities Commission would be reviewing the master plan as they move forward.

Mayor Brackett was not sure that the person he appointed to serve on the Utilities Commission has any expertise in stormwater. Then he brought up the appointee that serves on the Commission as Indian River Shores appointment. He noted that three (3) out of the seven (7) members on the Utilities Commission do not live in the City limits and he would have some issues if they talked about setting rates for City customers.

Mrs. Burton assured Council that the Utilities Commission does not set rates. She said that is more of a function for the Finance Commission. She said that they do review them, but that is all. She is a County resident and would never advocate voting for City rates.

Mr. Turner commented that the Utilities Commission does give advice on rates and fees. If it is Council's wish he will amend the Ordinance to include this additional responsibility for stormwater. He could say stormwater management as it relates to the Lagoon excluding rates and fees.



Mayor Brackett did not want members of the County voting to set rates when they don't live in the City.

Mr. McCabe felt it was important that someone be advising the Council concerning stormwater. He said potentially if different projects require funding for stormwater then they could make recommendations. They are fortunate to have a Utilities Commission that can give their expertise on matters and then forward their recommendations to Council. He agreed that did not include setting rates. He wanted them to be looking at ways to improve the Lagoon and come forward with prioritizing those suggestions.

Mayor Brackett instructed the City Attorney to modify the Ordinance.

Mrs. Burton reiterated that the Utilities Commission does not wish to become involved in setting rates. They do look at costs for equipment being used to keep up with technology.

**B) Appointments to Commission/Boards**

This item was pulled off of the agenda and will be heard next month.

Mr. McCabe expressed the need to have more volunteers serve on their Boards.

**C) Discussion of Mr. Dick Winger, Councilmember being replaced on the Tourist Development Council**

Mr. Winger commented that he has been recovering from an illness and would rather not make the presentation for funding to the Tourist Development Council (TDC) tomorrow. He said this presentation needs to be made at their meeting tomorrow and then they would need to fill out a formal application in March and submit it. They would be recommending that there be two (2) Districts within the Tourist Board. He said that the Finance Director brought this up as the way it is set up in the city she used to work for and it might work here. The next TDC meeting is scheduled for November 17<sup>th</sup> and he will not be on Council anymore. He suggested that someone from Council make the formal recommendation tomorrow and replace him on the TDC. He formally resigned from the TDC and recommended that either Mayor Brackett or Vice Mayor Neville take his place.

Mrs. Minuse nominated Mr. McCabe to serve on the TDC.

Mr. Winger nominated Mayor Brackett to serve on the TDC. He said that Mr. McCabe would do a fine job, but there may be some conflicts because he serves as President of the Vero Beach Chamber of Commerce.

Mrs. Minuse withdrew her nomination.

**Vice Mayor Neville made a motion to nominate Mayor Brackett to serve on the TDC. Mrs. Minuse seconded the motion and it passed unanimously.**

Mr. Winger suggested that both Ms. Lawson and Mr. Falls attend the TDC meeting tomorrow.

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

**A) PFM Financial Advisors Work Order #2 Contract 97-2021**

Mr. Falls reported that this Work Order is for the Three Corners project. The City has requested assistance from Professional, PFM Group Consulting LLC (“PFMGC”) for the following services related to this project: 1) Analysis and report on the marketability and financial feasibility of the City’s development plan; 2) Assistance with the development of a Request for Qualifications (“RFQ”); 3) Assistance with prequalification of potential developers/development partners and 4) Support the City’s analysis of the developer proposals in response to the RFQ. The dollar amount for this is under his purchasing authority, but he wanted to let Council know where they were with this project and the expediency in getting this done. He said that there have not been any funds budgeted for this so he will be bringing back a budget amendment in order to pay for it.

Vice Mayor Neville brought up the light show presentation that they had a couple meetings ago and felt that would be an exceptional thing for them to do. He said that they know they are going to have a fishing pier on the site, as well as dockage. They could fence off the area where people should not go and that would leave them space to have things like a beer festival occur while they are waiting for the plans for the development to be finished. They could put together some type of budget in anticipation of this occurring. It will be a while before this property will get to be used so in the interim they could make some use out of it. They could make it available for the public, have festivals and food trucks there.

Mayor Brackett did not have a problem with looking at this keeping in mind that this is an industrial site and they need to look at what it would take to make it safe.

Vice Mayor Neville suggested coming up with an estimate to do this and they could talk about it soon.

Mrs. Minuse asked if the suggestions would come from their consultants.

Mr. Falls said no because this would only be for a temporary use. He said allowing people to have access to the waterfront is not something that he would recommend. They need to make sure that the harbor is safe. He will put some suggestions together and bring them back for Council to consider.

Vice Mayor Neville brought up that at Young Park there is a bulkhead in front, but as you go around there is a grade that goes into the Lagoon on both sides. He was wondering if they could get a partnership with some of the people that are concerned with the Lagoon and work on establishing a native plant process.

Mr. Falls mentioned that on the south side they have individual plants there so they don't have to mow that space anymore. They could look at expanding that. He will look at what can be done and the potential costs to do it.

**B) FFCRA Voluntary Extension**

Mr. Falls explained that this was a request to continue FFCRA or Families First Coronavirus Relief Act leave for employees who test positive for COVID or are being asked to quarantine because of exposure until the end of September. It will have no impact on the budget.

**Vice Mayor Neville made a motion to approve the request to continue FFCRA leave for employees who test positive for COVID or are being asked to quarantine until the end of September. Mr. McCabe seconded the motion and it passed unanimously.**

**C) Auditor Selection Committee Final Ranking & Recommendation – Auditing Services Request for Proposals (RFP)**

Ms. Cindy Lawson, Finance Director, reported that on April 6, 2021 the City Council established an Auditor Selection Committee for the purpose of selecting an auditor to conduct the City's annual financial audit beginning on October 2021. The Auditor Selection Committee reviewed and released a Request for Proposals (RFP) in May 2021, which established the factors to be used for the auditor selection. There were seven (7) proposals that came in and the Committee interviewed their top three (3) firms and selected their choice. She said that Mayor Brackett as well as two (2) Finance Commission members sat as the Auditor Selection Committee.

Mayor Brackett enjoyed being a part of how the process works in making this selection. He said it was interesting being on the other side of the RFP process. The firm chosen is the current auditor who gave a great presentation and good pricing.

Ms. Lawson thanked the Committee for the time and energy it took to go through the seven (7) proposals.

**Mr. Winger made a motion to negotiate a contract with Cherry Bekaert and designate the City's Finance Director and Purchasing Manager to conduct negotiations on Council's behalf and place the negotiated auditing services contract on a September agenda for City Council approval. Mr. McCabe seconded the motion and it passed unanimously.**

**D) FY 2021-2022 Budget Update**

Ms. Lawson gave a recap of the budget hearings that were held in July. She said with the things that were approved (2% raises to employees, glide path funds for prior years) they are still \$30,000 short of having a balanced budget. She said unfortunately they still have not heard anything from the State concerning additional funding. She said as they have

discussed many times they can amend the budget any time throughout the year. She said if they get an answer from the State between now and September 7<sup>th</sup> they could throw those things in as they can and include those things that are not in there.

Mr. Winger stated that they need the street sweeper and body cams for the Police Department.

Ms. Lawson wanted to make sure that the priorities have not changed since when this was discussed in July. Their first choice would be the street sweeper and vehicle for him to drive, the second choice would be the cyber security position, the third choice would be the body cameras for the Police Department, and the fourth choice would be to have Demand Star.

Mr. Winger commented that body cams are something that they need and they protect their Police Officers.

Mrs. Minuse was also strongly backing body cams for the Police Department and the community. She would like to see body cams as priority number one (1).

Mayor Brackett would like to see the priorities go to the street sweeper, body cams and cyber security.

Vice Mayor Neville still wanted to see Demand Star as part of the priority list. He said that it is not expensive and vital for the community.

After further discussion the priority list is as follows: street sweeper, body cams, cyber security position and Demand Star.

#### **E) Jaycee Park, Seaside Grill**

Mr. Falls gave the history of the Seaside Grill. He said that the Seaside Grill is located in Jaycee Park and has been leased by the Culumber family since 1992 to operate the beachside restaurant. Prior to 1992, the Seaside Grill was known as the Seaburger Restaurant and the restaurant structure has existed in the Park since 1957. Mr. Daniel Culumber has informed the City that he is planning on retiring and the restaurant will not renew the lease when it terminates on May 5, 2022. They will be putting this out for an RFP and needed direction from Council on the potential term of the agreement, requirements to upgrade or renovate the structure, types of food service that they were looking for and hours of service.

Vice Mayor Neville asked who is responsible for the maintenance of the building. He was told the lessee. He said that he sent the City Manager a picture of some repairs that need to be made to the building.

Mr. Jeffries commented that the building was originally built in 1957 and then in 1982 the City did some major improvements to Jaycee Park and they went through the RFP process

for the existing concession stand, then known as Seaburger. In 1992, the City issued an invitation to bid for a contract to lease, renovate and operate the Seaburger Restaurant. The potential lessees were required to renovate the existing restaurant and update the building façade consistent with the new buildings added to the Park in 1982, without altering the size of the existing structure. Jaycee Park is a “Charter protected property” listed in Section 5.05(b) of the City Charter as a Park or public land that may not be sold, leased, or given away without holding a referendum. The building is east of the coastal construction line so they might need to find out how much limitations can be done to the building. The existing lease does not allow liquor or music.

Mr. McCabe wanted to see longer hours for the establishment to be open.

Vice Mayor Neville commented that this is a family friendly location. There are people who enjoy Jaycee Park that are not wealthy, but want to participate with the things that the Park offers.

Mr. Turner recommended that they not allow beer or wine to be sold at the establishment. People using the Park can get a soft drink and a snack.

Mayor Brackett asked what time does the park closed. He was told 10:00 p.m. They could say that the establishment will stay open no later than when the Park is open.

Mrs. Minuse wanted to hear proposals on what people would like to do with the property.

Mr. Jeffries reiterated that the coastal construction line runs through the parking lot.

Mr. Jeffries said that they could request in the proposal that the structure be upgraded or renovated. He asked would Council entertain expanding the building.

Vice Mayor Neville said that would depend on the proposal. However, they need to stay within the Charter limitations. He acknowledged the Jaycees in putting that Park together.

#### **F) Required Site Landscaping and Tree Protection Ordinance**

Mr. Jeffries reported that the Planning and Development Department researched site landscaping and the Tree Protection Ordinances of comparable communities in Florida to Vero Beach and Indian River County to determine the best practices for site landscaping and tree protection requirements. He said that the City may want to consider updating the following landscape code requirements to follow the “best practices” of codes in comparable communities: 1) Require property perimeters to be landscaped; 2) Require the building perimeter to be landscaped; 3) Require the landscape plan submitted for site plan approval to be designed by a landscaped professional; 4) Improve the minimum landscape design criteria, including restrictions on percentage of turf allowance and 5) Require a minimum 10-foot buffer between the turf and shoreline. He will work with the City Attorney to draft an Ordinance and it will go to the Planning and Zoning Board and then to City Council.

Mrs. Minuse brought up the site plan approval designed by landscape professionals and remembers the former Planning and Development Director wanting to come up with a way to handle this so applicants would not have to spend a lot of additional money on this.

Mr. Jeffries commented that these are commercial sites and they want to see the commercial sites to be designed by a landscape professional, which will be defined in the Code.

Mr. Jeffries brought up that in addition to the landscape code changes, staff is preparing amendments to the Tree Protection Codes for the City. He referred Council to a chart on page 2 of the memo that he provided to them. They are working on updating the Tree Protection Ordinance. He went over the tree removal permit and the current Ordinance requires for removal of any tree 3" dbh a separate permit would be required. In the new Ordinance a separate permit is not required for site plan or major subdivision plat. For the minimum tree canopy the current Ordinance has no minimum tree canopy requirements. The proposed Ordinance will be for one (1) tree per 2,500 of site and 25% of trees may be Palm Trees. In the current Ordinance there are no requirements for Historic Trees. In the proposed Ordinance it will require that all historic trees must remain and demonstrate development not for feasible for Planning and Zoning Board approval to remove the tree. This would be for Live Oak Trees over 30 inches in diameter. For Specimen Tree Retention the proposed Ordinance calls for retention required in yard setbacks and mitigation is allowed if in the building area. The City is also working on the right-of-way Ordinance and there will be some matching things in that Ordinance and the Tree Protection Ordinance.

Vice Mayor Neville brought up trees in Humiston Park and noted that they don't manage those trees and only take care of the trees inside the Park area.

Mr. Falls went over who manages the trees other than in the Park area and will remind them not to cut the trees the way they do.

Mr. Jeffries stated that he will work on these changes and bring back an Ordinance to Council in the near future.

### **G) Paving Management Presentation**

Mrs. Danessa Chambers, Assistant City Engineer, gave a Power Point presentation (attached to the original minutes) outlining how the City determines, which roads to pave. She walked Council through the process that they use.

## **10. CITY ATTORNEY MATTERS**

### **A) Update on Chapter 164 Meeting**

The Chapter 164 meeting will be held on September 8<sup>th</sup> at 2:00 p.m. at the Charter High School located on College Lane. He announced who would be attending the meeting.

Mr. Turner brought up the Scott McCracken code enforcement cases they have been working on to foreclose some code enforcement liens. He said that has been filed and is proceeding. He was contacted by someone regarding an action they have pending to buy some property that Mr. McCracken owns and that property is subject to one (1) of their liens. They have advised Mr. McCracken and his attorney, who has also contacted his office that they would be willing to pay off the lien for the City on that particular piece of property. The property is located at 2312 Vero Beach Avenue. He said that is one (1) of the properties that they have foreclosed in the Code Enforcement Board lien action. The terms and conditions would generally be that they would pay off the lien of \$142,378.16. He said that Mr. McCracken would not receive any of the proceeds from that sale, but the City would get their lien paid off and not release the liens on the other properties. He did not see the need to bring this into an Executive Session because this is basically a take it or leave it offer. He sees this as an opportunity to recover some of their costs and pay off the lien. He recommended proceeding in doing this.

**Mrs. Minuse made a motion to settle this on those terms and that the City Attorney work out the details for the closing. Vice Mayor Neville seconded the motion and it passed unanimously.**

## **11. COUNCILMEMBER MATTERS**

### **A. Mayor Brackett's Matters**

### **B. Vice Mayor Neville's Matters**

Vice Mayor Neville commented on an article that recently appeared in a local newspaper saying that he has had reoccurring COVID symptoms. He said that he does not have any reoccurring symptoms and is doing very well. He said speaking of COVID in the community they are in a rough spot. He encouraged people to socially distance and wear their masks and do the right thing. They have a serious problem here and everyone needs to be safe. This virus is attacking their children much more than in the first wave.

Vice Mayor Neville asked the City Manager to give them an update on Conn Beach.

Mr. Falls said by the end of this month the boardwalk should be completed all the way up to the flag pole. Next year they will proceed with getting more funding to see how far it will take them.

Vice Mayor Neville commented on it being hurricane season and asked if there was a risk on some of these uncompleted areas. Mr. Falls said that they were in good shape because the stairs will be done next.

### **C. Councilmember Winger's Matters**

Mr. Winger said a small prayer for the world.

**D. Councilmember Minuse's Matters**

Mrs. Minuse attended the St. Johns Water Management District workshop on July 28<sup>th</sup>. She said the outcome of the meeting was that Florida cannot meet their future needs for water. She said they are identifying the scientific projects and measures being used to meet future needs. She also attended the August 9<sup>th</sup> Indian River County Soil and Water Conservation meeting where the same topic was being discussed and the attention that it needs.

Mrs. Minuse attended the annual Florida League of Cities Conference last week and the big discussion was at the last week of the Legislative Session in Tallahassee they passed a Bill that preempts all cities in the State of Florida the ability to permit where businesses are allowed to locate. They can now operate in single family neighborhoods. This preempts home rule. The big thing is how they can protect their home rule. She asked Council for their permission to be able to talk about home rule at the Delegation meeting taking place on September 8th. Council had no problems with having her speak. She took a moment to acknowledge their veterans and military families.

**E. Councilmember McCabe's Matters**

Mr. McCabe complimented the City on the restructuring of the boardwalk. He announced that there would be a lunch held at Vero Beach Chamber of Commerce and the subject will be stormwater. They have invited someone from the County who is in charge of stormwater activities to make the presentation.

**13. ADJOURNMENT**

Today's meeting adjourned at 12:21 p.m.

/tb