

CITY OF VERO BEACH, FLORIDA
AUGUST 22, 2023 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

Pastor Jim Gallaher of Calvary Chapel gave the invocation.

PRESENT: John Cotugno, Mayor; Linda Moore, Vice Mayor; Tracey Zudans, Councilmember; John Carroll, Councilmember and Rey Neville, 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 Cotugno led the 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 – August 8, 2023

Vice Mayor Moore made a motion to approve the August 8, 2023 City Council minutes. Mrs. Zudans seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

Mr. Monte Falls, City Manager, requested that Council approve the addition of item 9-B) “Water and Sewer Director to give an update on Grants” to be heard under City Manager’s Matters.

Mayor Cotugno requested adding on and discussing after Proclamations are heard the letter they received from the Military Officers Association of America (MOAA).

Mr. Neville had some concerns as to why the Veterans Council was not included in this letter. He acknowledged that Mrs. Zudans was a member on the Board for the Veterans Council and asked her that question.

Mrs. Zudans explained that the Veterans Council is aware of the situation and they are working with the different organizations. She said if they need additional information then they should probably have the Executive Director attend a future meeting to speak on it.

Mayor Cotugno asked Council did they want to add this item on the agenda under Proclamations and discuss it or did they want him to add it on under his matters and discuss it.

Mrs. Zudans had no problems with MOAA speaking at the meeting today. She felt that it was worth a deeper conversation. She said they have a very large population of veterans in their community so bringing this forward as an agenda item down the road is a great idea.

Mr. Neville commented that typically their Veterans Council is the body that speaks on behalf of the veterans. He said that Council looks to the Veterans Council for their guidance on matters and felt it was important to hear their voice as well.

Mrs. Zudans explained that the Veterans Council is not a governing body. It is a non-profit organization that has an umbrella with six (6) other veteran organizations and it doesn't necessarily dictate what the other organizations do, but it does holistically help and support the vast majority of veterans in this community and the Veterans Administration (VA).

Mr. Neville stated that when they look to veteran issues they look to the Veterans Council. He is surprised they are silent on this, which is what is bothering him.

Mrs. Zudans explained that the Veterans Council is working behind the scenes on this matter.

Mr. Neville said as far as he is concerned they are silent in regards to this issue because he has not seen anything about it.

Mrs. Zudans said if they would like the Executive Director of the Veterans Council to come and speak on this she was sure that the Executive Director would be happy to do that.

Vice Mayor Moore made a motion to approve the agenda with these additions. Mrs. Zudans seconded the motion and it passed 4-1 with Mr. Neville voting no.

B. Proclamations and recognitions by Council.

1) International Overdose Awareness Day

Vice Mayor Moore read and presented the Proclamation.

2) Mrs. Angie Schepers to present a check to the City for the July 4th Event

Mrs. Angie Schepers presented a check to the City of Vero Beach for the July Fourth event held this year.

**3) Add on Item –
Letter from Military Officers Association of America (MOAA)**

Mayor Cotugno stated that the City Council received a letter from the MOAA (on file in the Clerk's office) regarding the Veteran Healthcare located in Indian River County. He said the reason he brought this up today was not to discuss who had jurisdiction over this clinic, but to see if Council would support a letter from the City asking that an investigation be done regarding the clinic to find out what is going on there and that they need to try to improve the healthcare for their veterans. They are a City that supports their veterans and that is well known in the County. It is beyond their purview to get involved in the investigation, but they need to show their support to improving the veterans community by writing a letter of support.

Mrs. Zudans commented that there is something behind having numbers on what we are trying to do. She is in support of the City sending a letter. She said it is hard enough for veterans to have to deal with the VA system in the first place, but it was easier on them by having a local clinic. She said to have to travel to either West Palm Beach or Vieira to visit a clinic can be difficult and they should at least have a clinic in this community that they can go to. They have a very large veterans population in this area and any support that they can show towards the veterans should be done. She explained the City does not contribute money to the Veterans Council, but the County does.

Vice Mayor Moore was in favor of sending a letter and making their voices heard when it comes to supporting their local veterans.

Mr. Carroll commented that he personally does not know enough about these allegations to decide if they are true or false. He doesn't know what kind of letter they could write to show their support, other than supporting the veterans. He would be leery of supporting the letter that was sent to the VA Healthcare system because they don't know anything about the situation.

Mrs. Zudans felt that sending a letter saying that they support their local veterans and healthcare within their community says a lot.

Mr. Carroll said that he could support that.

Mayor Cotugno explained tht he was looking at sending a letter of support on behalf of the veterans and the letter would be generated with the guidance of their City Attorney.

Mr. John Turner, City Attorney, needed some direction in preparing this letter. He thought what they were looking for was a letter saying that the Council supports their local veterans and wants to see their City veterans receive the best health care possible.

Mrs. Beth Fortunato, Secretary of the MOAA local chapter, requested to speak. She said that MOAA decided as a Board that this needed to be immediately addressed. The clinic is being mismanaged under a contract and run by the VA. Her husband was a doctor at that clinic so they do have firsthand knowledge of the mismanagement that was taking place. He has resigned from his position. He gave them a 90-day notice and they let him go after 30 days. She thinks the reason he was let go early was because they brought in Congressman Posey's Representative to the Clinic who met the Director of the Clinic. Then two (2) months later the Congressman sent out a letter calling into question the contractor and their mismanagement. The Clinic was doing well until upper management did not do anything to change the middle management, which is where the problem is. There will be no physicians at the Clinic as of October 5th. There is only going to be a Physician's Assistant (PA). She said they are bringing in physicians from the other five (5) clinics that they operate, which are also not fully staffed. MOAA feels that the VA should strongly look at the contract that is up for renewal at the end of September and perhaps award the contract to someone else to get this straightened out. They wanted all the local politicians and government agencies to know about the situation. She said that the Veterans Council is aware of this and they also will be addressing it.

Mr. Neville was concerned that the Veterans Council was not copied on the letter.

Mrs. Fortunato explained that they intended the letter to go out to the government organizations and their representatives. They have asked the Veterans Council to address it separately. She was sure that it was going to be addressed at the Veterans Council meeting scheduled for tomorrow. Her husband also sits on the Board for the Veterans Council. She said the more pressure they can put on the VA system to look at this contract and come back to them with an answer as to why when they had a clinic that was running beautifully this would be allowed to happen.

Mayor Cotugno made a motion that under the City Attorney's direction they will generate a letter in support of the veterans and effective health care provided in Indian River County-Vero Beach. Vice Mayor Moore seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

The letter will be brought back at the August 30, 2023, Special Call meeting for Council's review.

3. **CONSENT AGENDA** (include amount of expense)
 - A) **Consider the Approval of the UWHCA for the Valve Adjustments due to Florida Department of Transportation (FDOT's) Road Improvements on US Highway 1 from 12th Street to 20th Place**
 - B) **Hanson Professional Services Work Order 2 for Master Stormwater Drainage Plan (\$204,700.00)**
 - C) **Glock Handgun Trade in Request**

Mr. Carroll made a motion to approve the consent agenda as presented. Mr. Neville seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

B) RESOLUTIONS

- 1) A Resolution of the City of Vero Beach, Florida, Authorizing the Purchase of City Fleet Vehicles; Authorizing the Execution and Delivery of Additions to the Municipal Lease-Purchase Agreement with Baystone Financial Group (Kansas State Bank if Manhattan, N.K.A. KS Statebank) for the purchase of Fleet Vehicles in the amount of \$181,227.18; Authorizing the City Manager to take all steps necessary to finalize and implement the terms and conditions of the Lease-Purchase Financing Agreement; and Providing for An Effective Date.**

The City Clerk read the Resolution by title only.

Mr. Falls reported that the City budgeted funds to procure police vehicles in its adopted FY 2022-2023 budget and the Five Year Capital Program for FY 2023-2027. The request for the four (4) police vehicles were not available at the time of the earlier lease-purchase financing agreement in March 2023, due to supply chain constraints and are now at a higher purchase price than what was included in the budget. The increase, along with a 1.85% higher interest rate than what was in the budget are the primary reasons for the annual debt service in excess of the adopted budget, by \$3,802.98 in Fund 304. He recommended approval of the Resolution.

Vice Mayor Moore made a motion to adopt the Resolution. Mrs. Zudans seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, Mayor Cotugno yes.

5. PUBLIC COMMENT (3-minute time limit)

Mrs. Laura Bagby spoke as owner of the Rio Coco Café and the recent fires that occurred in Maui, Hawaii. She said that she is from that area and her restaurant is accepting cash or card donations to help victims of the catastrophic fire of August 8-9, 2023 on the island of Maui, the deadliest fire in U.S. history in the past 100 years. They will personally distribute these funds to needy families during their trip to Maui in September. She said donations can be dropped off at Rio Coco Café.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

1) Request from Youth Sailing Foundation to name the Park surrounding the planned community sailing center on the grounds of the Vero Beach Waste Water Treatment Plant the “Charlie & Chris Pope Marine Recreational Park.”

Mr. Turner reported that this is a request from Youth Sailing to name the Park area surrounding the planned community sailing center on the grounds of the Vero Beach Waste Water Treatment Plant. They are proposing to name the Park the “Charlie & Chris Pope Marine Recreational Park.” He said that this item should be sent to the Recreation Commission (according to the recently approved Resolution) for their input and then brought back to City Council.

Mr. Neville expressed that some time ago he sent a letter to everyone regarding the naming of properties and he regrets that he was not present at the meeting when this Resolution was approved. He has some views on this and wanted to share them with Council. He believes that they should honor those who have passed and not those who are still alive. He said it is one thing when Youth Sailing is going to name their building and that is fine because it does not become a part of the land. On the other hand a piece of property such as the Park gets on maps and will become a named place. So when that Park land is named they need to name it with great seriousness and considerable thought. The worst thing that could happen is being required to change the name because someone embarrassed themselves while still being alive. The safest way to deal with that is to designate the name to someone that has passed and has a lifelong record to be honored in some way. He then brought up that the process only includes the Recreation Commission. There are certain properties that don't fall within the Recreation Department's purview. An example would be the Three Corners property. He believes that would ultimately fall to the Council to name and thinks that should go through a process where they can get a selection of names that will be considered thoughtfully and carefully before making a decision. He asked Council to table this request until they have time to take another look at the way their Resolution is crafted.

Vice Mayor Moore brought up the Three Corners property and said there is not a developer yet and she would be concerned that there might be some more holistic approach and the developer would want some kind of input on this. She thought maybe they should wait until the developer has been selected.

Mrs. Zudans agreed that they were getting ahead of themselves. She doesn't want to potentially damage any opportunity for the Three Corners property and the whole Request for Proposal process. She said something like this request should be in memoriam of naming the building versus the entire area. She had no problem tabling this matter.

Mr. Carroll wanted to know what property they are actually naming.

Mr. Falls explained it is the parcel near Youth Sailing where their boat docks are located. They plan to put picnic pavilions there and a restroom for public use in this area.

Mayor Cotugno commented that they already have a precedence set for naming fields for people who are still living. Now they would reverse a precedence that has already been set. He asked are they now recommending that they only name Parks for people who are deceased. He brought up the Jake Owen field that sits on City property and Dyer Chevrolet field that sits on City property. He said a corporation is considered to be a live entity.

Mr. Neville asked if the Park had been renamed.

Mayor Cotugno said there is a big sign that says "Jake Owen Field". He was not against tabling this matter until they get the Resolution fine tuned, but expressed that previous Councils' have already set a precedence and wanted Council to be aware of that.

Mrs. Zudans commented that those were for fields and Parks that were already established. She said now they are talking about the Three Corners property and the land where Youth Sailing is located even though it is leased. They need to look at what they have done previously and what they need to look at going forward.

Mr. Neville commented that the land doesn't necessarily have to be a person's name. He recalled on Indian River Drive people would pull over near the Power Plant and watch the manatees so why couldn't it be named "Manatee Island." He said there are all kinds of ways they could honor that piece of property and he just feels they need to look at this further before they respond to this request.

Mayor Cotugno did not think they could specifically eliminate living people or entities.

Mr. Neville said if someone put their name on one of their Parks it was not authorized by Council.

Mrs. Zudans said it was probably a sponsorship from someone who helped with the Park. She said like a giant stadium and the stadium changes names by who sponsors the stadium.

Mr. Neville said it would not be like Young Park that was named after the man who created the City of Vero Beach.

Mr. Turner commented that the direction that they are heading in is to fine tune the Resolution and that the naming of individuals need to be deceased. The other item being discussed is any naming for the Three Corners property needs to be brought to the City Council.

Council all agreed that they were happy to get the thoughts and recommendations on the renaming of the Three Corners property from the Recreation Commission. They understand that final approval would come from City Council.

Mr. Turner continued by saying that the naming of a public building or a Park should first go to the Recreation Commission and then come to the City Council with their recommendations.

Mr. Wilfred Hart commented that the Gifford Complex was named after his father who is 92 years and still kicking. He said that most organizations in Indian River County are naming facilities after individuals who are still alive and Vero Beach is long overdue to do the same thing. He said this is very important to the residents of Indian River County.

Mrs. Zudans instructed the City Attorney to see how the County and other municipalities handle their naming rights.

Mr. Neville made a motion to table this discussion for a later date. Mrs. Zudans seconded the motion and it passed unanimously.

B) OLD BUSINESS

1) Approval of a Purchase Price for City-owned Real Property Adjacent to 608 Cypress Road

Mayor Cotugno opened the public hearing at 10:27 a.m. for the approval of a purchase price for City-owned real property adjacent to 608 Cypress Road.

Mr. Falls reported that this item was tabled at their last meeting to come back to Council. He said that the current owners of 608 Cypress Road have requested to purchase the half lot adjacent to the property. To determine the value for the property, they applied the same methodology used by the City for the sale of a similar half lot on Camelia Lane in 2018 resulting in a value of \$42,000. The owner agreed to this price and executed a Purchase and Sale Agreement. The matter was scheduled for City Council action at their May 16, 2023 meeting, but the item was pulled in order to obtain a formal appraisal. Both the City and the adjacent owner had appraisals performed by State licensed appraisers. The appraisals received stated the value of the parcel as being \$100,000 from the City appraiser and \$35,000 from the appraisal that was done for the property owners. Staff looked at both appraisals and averaged them out and made an offer of \$70,000 to the owner to purchase the property. The applicant has now agreed to offer the City \$60,000 for the property. The amount was determined by taking the 2021 sales price for a similar City parcel (\$35,000) and inflating it by approximately 60%. Sixty percent represents the change in value from two years' time and the increased value from the Indian River County Property Appraiser. Staff recommends accepting the offer of \$60,000 for this parcel.

Mr. Carroll commented having been a developer, at one time he bought a large parcel to put a single house on it and divided the lots and sold the lots with houses on them. He said the idea is that a developer is going to try to get the lowest price for anything that they purchase. He said obviously appraisals can vary depending on the client that you are working with. The way he reads Section 2-372 from the City Charter is it says when the City Council has determined at a hearing that any real property owned by the City and is no longer needed the property may be sold by bid, by auction with reserve or negotiated sale or exchange subject where appropriate for a minimum price established by an MAI appraiser who provides the market value of such property. Mr. Carroll said that the City

went out and obtained an appraisal and the value that the appraiser arrived at was \$200,000 and he (appraiser) reduced the price to \$100,000 because of the fact that it is not a marketable piece of property. He said every lot in central beach has easements on it. The easement in this instance is on the side of the property and not encumbering the property at all because it is within the side yard easements and no one could ever build on that side of the property. He said Mr. Flinchum, who is the property owner, paid \$1.3 million for two (2) lots and a teardown house. He said if you do the math that comes out to about \$46.00 per square foot then you multiply that by 3,500 square feet and you end up with about \$163,000. So the equivalent value of that lot if it had been acquired by the prior owner he would have had to pay \$163,000 and now they are being asked to accept the value of \$60,000. He said personally he could never support that. He could only support the \$100,000 provided by the City's appraiser. He thinks this Ordinance or statement is written because this is a small town in Florida where everybody knows everybody. He said when you have friends on Council the idea is he is a nice guy so we will give him a break. He said that is not why they are here. They are here for every citizen and that is why the verbiage is included in their Code to prevent sweetheart deals or any other deals you hear about.

Mrs. Zudans stated that she has a different opinion. She feels that the property owner is the only one that has value for that piece of property. Their staff has worked very hard to negotiate a fair price for the piece of property. She recalled the piece of property that they sold on Indian River Drive and Greytwig had absolutely no value to anyone else except to the property owner that it aligned with. She is fine with the \$60,000 because there will be houses developed on that property that will go on the tax roll that will put more money into the City's coffers. She said that is a better value than arguing over \$40,000.

Vice Mayor Moore agreed with the comments made by Mrs. Zudans. She said this has been going on for a long time now and staff has done their due diligence in coming up with a compromised solution. She does not see this as some sort of sweetheart deal and felt that was a little insulting.

Mr. Neville said that he did not think that Mr. Carroll was saying what is going on here is a sweetheart deal.

Mr. Carroll explained that what he was saying was that the Ordinance was written to prevent those type of deals. He was not saying that this deal was a sweet heart deal.

Mr. Turner explained that the Ordinance requires that at least a minimum amount paid has to be by an MAI appraisal and there is a minimum amount shown by an MAI appraisal as \$35,000, which was by the buyer. He said if the Council wants to compromise from what the appraisal came in at then they do have support according to the Ordinance.

Mayor Cotugno commented that at the present time this piece of property has no value because the City owns it and the only thing they have to do is maintain it. He agreed with Mrs. Zudans with the two (2) homes that can be built on this piece of property they will be able to collect taxes, which will help the revenue stream for the City. They have negotiated

a settlement on this piece of property and the condition here is another remedy, which could take between three (3) to six (6) months. He said the property owner could apply for a variance from the Planning and Zoning Board and the property owner has a good chance of getting that granted. If that happens the property owners would have to delay doing anything until he receives this approval and the City has missed out on this opportunity.

Mr. Carroll stated that currently the way the Code reads only one (1) house would be allowed to be built on the property. However, if Mr. Flinchum acquires this property it will allow him to split the property into two (2) lots and be able to build two (2) homes on the property.

Mayor Cotugno said he was not here to evaluate the business deals. He said as a Councilmember he is evaluating the value of the lot and whether or not they should proceed with this offer.

Mr. Russell Flinchum commented that Mr. Carroll was correct that in a perfect world the land would be worth so much more, but this is not a perfect world. He said there are four (4) lots and two (2) of those lots are buildable, which he briefly explained. He said he could go and get a variance, but it would take some time to do that. The reason he is not giving a lot value to the property is because there is a legacy tree on the western most part of the lot. He said that he goes out of his way to save every tree that he possibly can. He reiterated that he wanted to purchase this property in order to save some time instead of having to get a variance.

Mr. Neville told Mr. Flinchum he was sure that he knew the circumstances before he purchased the property. Mr. Flinchum said that he did. Mr. Neville continued by saying it is not like this suddenly happened and now he was asking for relief from the City.

Mr. Flinchum said if the City put this property up for sale at an auction there are only two (2) people that will show up and this is the auctioneer and himself.

Mr. Falls added that there is actually a 300 foot radius around the whole property, but it doesn't change the facts shown. One of the reasons he is comfortable bringing this to Council for approval is because the lot splits were done to create lots that are similar in size to the other lots in the area. There are 31 properties in that 300 foot radius and 16 of those properties are 100 feet wide. He said creating two (2) additional 100 foot lots will not create lots that are out of character with the neighborhood. He said knowing that there was a limited number of buyers for this property made him feel comfortable to bring a negotiated price just below the appraisal.

Mr. Neville asked Mr. Flinchum if this negotiation fails does he intend to cut down the tree.

Mr. Flinchum said no and that he is a big supporter of trees.

Mayor Cotugno closed the public hearing at 10:49 a.m., with no one else wishing to be heard.

Vice Mayor Moore made a motion to approve the sale of the land for \$60,000. Mrs. Zudans seconded the motion.

Mr. Turner stated that before the sale can be closed it must be advertised twice in the newspaper, which will be done.

The Clerk polled the Council on the motion and it passed 4-1 with Mr. Neville voting yes, Mr. Carroll no, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

8. CITY CLERK MATTERS

A) Lien Reduction Request – 442 Conn Way

Mr. David Currey, Chief of Police, reported that the applicant and property owner, Mr. John Martin Monko submitted a lien reduction request for his lien of \$40,950.00 to be reduced to \$10,000.00 for his property located at 442 Conn Way. Mr. Monko advised that he and his wife moved into the home with the intent of living there long term. However, once they moved in they discovered issues that had to be addressed. Mr. Monko was able to secure various trades to complete the work, but did not obtain the required permits for enclosing a structural wall and an air conditioning unit. A \$50.00 code enforcement citation was issued on February 15, 2021 in violation of the Code for failure to obtain building permits for the enclosed structural wall and the air condition mini-split system installed. The case came before the Code Enforcement Board on April 14, 2021 and the civil penalty of \$50.00 had not been paid. An order finding violation, allowing additional time for compliance, to pay initial civil penalty and assessing continuing penalties was issued. The violator was given 90-days from the date of the Board order to correct the violation. The case came back to the Code Enforcement Board on June 14, 2023 and an order fining violation and correction; ceasing continuing penalties to pay the initial civil penalty and accrued continuing civil penalties and costs was issued. The property was found in compliance on May 23, 2023. The continuing civil penalties accrued from February 26, 2021 through May 22, 2023 for a total of 816 days at \$50.00 per day, for an amount due of \$40,800.00. He recommended the total to release the lien with all costs included be \$41,006.70.

Mr. Barry Segal, P.A., was at today's meeting representing Mr. Monko. He said that when Mr. Monko and his wife moved into the home there was a wall enclosed without a permit. He said these things are administrative issues where proper permits were not pulled. He introduced Mr. Monko to explain to Council what has occurred and why the huge fine should be reduced.

Mr. Monko explained that he and his future wife at the time moved up to Vero Beach from Jupiter. When they bought their home there were multiple things wrong with the house and it did not pass inspection. They made an offer on the house and then they pulled their offer. They moved up to Vero Beach and rented a home. Then Covid hit. They could not find another home and they were still able to purchase this home so they renegotiated and purchased the property. He accepts responsibility that they did not do everything right, but was asking Council for a reduction in the fine. He feels that \$40,000 is too much to have to pay. He said his family did actually end up moving into the house before things were completed.

Mr. Segal commented that this is a situation where they have a number that has been pulled out of thin air that has no real meaning (referring to the fine) and there is no connection as to what has occurred here and what the fine is. They understand there is a reason for the fine and sometimes the only way that the City gets things accomplished is by imposing a fine. However, Mr. Monko owned the house during Covid and we forget how hard it was to get people to come out and do work during Covid and how hard it was to get permits. He asked what is the purpose of this fine and what are they accomplishing. He said his clients are willing to admit that what they did was wrong and have agreed to a reduction of the fine to \$10,000, which is a very substantial number to this working family. If Council feels that number is too high they would entertain a lower number. This is not a situation in code enforcement where they had complaints from the neighbors, cars in the yard, grass growing too high, etc. This situation affected no one other than the fact that the permits were not obtained.

Mr. Carroll asked what happened from April 14, 2021 up to the Code Enforcement Board hearing.

Mr. Monko said in that time him and his wife got married and the letters concerning the violation were not coming to the home, rather they were going to the house that they previously rented so they were not getting any correspondence from the City. If he had seen the letters he would have done something about this. As a regular citizen he pleads ignorance on his part.

Mr. Carroll recalled that he was at the Code Enforcement Board hearing and agreed to the 90-days continuance.

Mr. Monko said that he was getting married on May 1st and said that this is not something that he deals with every day and he is just a regular citizen who pleads a little bit of ignorance.

Mr. Carroll asked him why he finally hired a contractor and came into compliance in May, 2023.

Mr. Monko explained that he had taken a new job with his company in South Georgia and it altered the real estate, which is why it was done that way. The other issue was that there are a lot of Oak Trees on this property and there were a lot of septic problems with the

house among other things so it got to the point that they were either going to tear the house down or sell it. He said at one point they had talked to a contractor about building a new house and had no intention of leaving.

Vice Mayor Moore asked if she understood that he brought the property into compliance in 2023, because he wanted to sell it.

Mr. Monko reiterated that the home needed a ton of work because of neglect from the previous owner. They were in limbo for the last two (2) years when they were thinking of building another house. Then they needed to sell the home.

Mr. Neville asked if the notices provided to the people at the rental property ever bring the mail to him.

Mr. Monko answered no. He did not receive any communication at his home located at 442 Conn Way.

Mr. Turner commented that there are different ways in getting service on the property and one was posting on the property, which was done.

Mayor Cotugno asked Mr. Monko if he was saying that the notice went to Holly Road and not Conn Way.

Mr. Monco explained that the house they once rented was located on Holly Road and that is where the mail was delivered. They were living at the rental property when they purchased their home on Conn Way.

Mr. Segal made it clear that they were not contesting where the notices were sent. They are just asking for relief. The matter has been corrected and their request is that the fine be reduced. They were just asking for equitable relief.

Chief Currey acknowledged that the notice was posted on the property and letters were sent out certified.

Vice Mayor Moore commented that this sounds like the notices were ignored until they wanted to sell the property.

Mrs. Zudans commented that they were not negating the fact that this happened. She said they are asking Council to reduce a fine from \$40,000 to \$10,000. She wondered if this has ever been done before because they did not want to set any kind of precedence and in most cases they go with the staff's recommendation.

Mr. Turner explained to Council it is totally up to them as to what they want to do.

Mr. Neville did not think ignorance should be one of the reasons that they feel compelled to reduce the fine.

Mrs. Zudans did not want to set a precedence if there is not one that exists.

Mr. Neville asked if there has been a lien placed on the property.

Mr. Turner said yes.

Mr. Neville asked if there has been a lien placed on the property.

Mr. Turner said that there are liens on the property and he would request that Council give him direction to collect any liens on the property if there is any remaining after they have made their decision.

Mr. Monco expressed that he did not receive the order imposing the lien until March of this year. He said once he came into compliance is when the lien took effect.

Mr. Turner explained that the case was set for hearing in March and at that time the Board found that the property had come into compliance so the penalties had stopped.

Mr. Carroll asked Mr. Monco if he attended the May 10, 2023, Code Enforcement Board hearing.

Mr. Monco said that he did attend that meeting and at that time the Code Enforcement Board advised him that he needed to go before the City Council for a lien reduction.

Mr. Turner made it clear that the property came into compliance on May 23, 2023 and the continued penalties accrued from February 26, 2021 through May 22, 2023.

Mrs. Zudans asked Mr. Monco when he purchased the house were there any liens on the property.

Mr. Monco answered no. He said that the previous owner did a lot of work himself on the home and some of the things were not done correctly. He went over some of the things that had been done to the house.

Mr. Carroll commented that having sat on the Code Enforcement Board for three (3) years, the Board takes imposing fines very seriously. He said that a \$50.00 a day fine is set to encourage someone to comply.

Mayor Cotugno commented that essentially Mr. Monco wants them to lower the fine out of the graciousness of their good hearts.

Mrs. Zudans commented that if they have not set a precedence to lower liens she would hate to set the precedence now. It puts them in a situation going forward they are going to get more cases like this one coming before them. She agreed that this was a horrible situation and she felt terrible for Mr. Monco.

Mr. Monco recalled that he went to the Code Enforcement Board hearing and they told him to come here to get the matter settled. He thought that Council had made lien reductions in the past.

Mayor Cotugno commented that was fine from the Code Enforcement Board's standpoint. But, this Council usually goes with the recommendations of the Police Chief because he provides them with accurate information. He said the reality of this case is that Mr. Monco wants them to give forgiveness. He said unless they can point to a case where they have done this in the past they could be on a slippery slope and he does not want to put a future Council in that position.

Mr. Segal understood what was being said. He just wants them to balance the harm in the community by this particular violation. He said it is different than most code enforcement cases. The neighbors are not complaining, there are not junk cars on the property, high grass, etc. He is just asking Council to weigh the violations. Mr. Monco hired a professional company to come in the home and repair the things that needed to be fixed. He is not saying that there should not be a fine, but in this particular case they can do a balancing act and the fine can be less.

Vice Mayor Moore stated that the harm to the community in this instance in her view is that the fines were accruing every day and Mr. Monco was aware of it. She said that Mr. Monco waited until he wanted to sell the property to deal with the situation. The harm to the community is that other people breaking the Code see this and will want forgiveness for their fine.

Mr. Segal was not saying to forgive the fine itself just the amount of the fine. He brought up Covid and expressed that there was a delay in being able to get these repairs done because of Covid.

Mr. Carroll was looking for a compromise where they were not setting precedence. He said they could give a credit for 365 days because of Covid so it would not be a precedence that they would have to deal with going forward.

Mr. Turner went over what occurred in this case. He said at the initial hearing when this matter was brought in front of the Code Enforcement Board there was discussion of the violation and there was failure to obtain a building permit for an enclosed structural wall having to do with the air condition that was installed. He said that Mr. Monco appeared before the Code Enforcement Board on April 14, 2021 and at that time the Board found that the initial civil penalty of \$50.00 had not been paid. He said that Mr. Monco was ordered to pay the \$50.00 within 30-days of the order being issued and the cost of enforcement for the amount of \$44.70 for a total of \$94.70. In addition he was given 90-days from the day the order was entered to correct the violation and if it was not corrected within 90-days then continuing penalties would be imposed starting February 26, 2021. That is how they reached the approximate amount of \$40,000.

Mr. Monco expressed that it was difficult to get work done during Covid. He said when Jimmy's A/C did the work at the house nothing was changed other than what had to be done in order to get the permit. He did not pull the permit until March of this year.

Vice Mayor Moore stated that Mr. Monco knew that he had to get a permit in 2021, but waited until he was ready to sell the house before he applied for the permit.

Mr. Monco pleaded that he was in the process of getting married, they were living in Covid, he doesn't work in this community, among other things that were going on and he was sorry that he "slept" on this.

Mayor Cotugno said that Mr. Monco pulled the permit for work that was previously done and then someone from the Building Department had to come out and inspect it and confirm that the work was completed. He asked what that time period was. Mr. Monco said it was a two (2) week time period.

Mr. Neville commented that sometimes they have to pay the price for their mistakes. He cannot find a legitimate reason to support this request.

Mr. Falls calculated the math for Mr. Carroll's 365 day Covid relief and came up with \$18,250. He said if they were to do this the total amount would be \$22,756.70.

Mr. Neville questioned what Covid has to do with the case.

Mr. Carroll was in agreement that he did not like the amount of the fine, but the fine is what it is because Mr. Monco ignored the problem.

Mr. Segal brought up again to think about balancing out the harm to the community and what are they accomplishing. He said that \$22,000 is still a lot of money, but it is a balancing amount that could be used and that is all they are asking Council to do.

Mr. Neville said then they need to change their Code and suggest in situations where there is no material impact on the community other than not conforming as to what is required. However, that is not what is in their Code now.

Vice Mayor Moore made a motion that they impose the entire fine recommended by Chief Currey. Mr. Neville seconded the motion and it passed 5-0 with Mr. Neville voting yes, Mr. Carroll yes, Mrs. Zudans yes, Vice Mayor Moore yes, and Mayor Cotugno yes.

B) Lien Reduction Request – 1546 34th Avenue

Mr. David Currey, Chief of Police, reported that the property owner, Mr. Sloan Drummonds submitted a lien reduction request. He said that Mr. Drummonds was given a \$50.00 code enforcement citation in violation of Code Section 78.83 (a)(4) regarding septic tanks. The Code states for each complete septic tank pumping an inspection report

in a form specified by the Director shall be filed with the City within 10 days. Mr. Drummonds was given an additional 30 days to become compliant. A letter from Maxwell Plumbing President, Mr. James Maxwell on September 16, 2022 certifies all plumbing in regards to the septic tank and drain field were in working condition and up to State and local Codes and requirements. The work was completed on September 30, 2022 by Herbert Plumbing, but the report was not forwarded to the City in a timely manner by the company. The Code Enforcement Officer mailed the City Clerk's office that Mr. Drummond became compliant on September 30, 2022, which was within the additional 30-days given by the Code Enforcement Board on September 14, 2022, so there are no penalties. The initial civil penalty of \$50.00 was paid on August 11, 2023. Chief Currey's recommendation is that Mr. Drummonds pay the cost of recording the Board Order finding violation, the cost for the City Attorney to prepare a Release of Lien and the cost to record the Release of Lien, which amounts to \$112.00.

Mrs. Zudans noticed a typo with the year on page two of the document prepared by Chief Currey. It should have said October 14, 2022 instead of October 14, 2023. Chief Currey agreed that it was a typo.

Mrs. Zudans made a motion to go with Chief Currey's recommendation, which is to release the lien at a cost of \$112.00. Mr. Neville seconded the motion and it passed unanimously.

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

A) Easement at Gifford Dock Park for Stormwater Pipeline

Mr. Falls reported that in conjunction with their stormwater irrigation project they need to obtain two (2) easements for this project. They have been working with Commissioner Moss and County staff on this. The first is a Temporary Construction Easement granted by the County to the City over the entire Park site to construct the pipeline. Once installed, a second permanent easement reflecting the as-built location of the pipeline will be prepared and granted to the City by the County. As a result of the construction activities necessary at the Park site, the Park may be closed for up to 90-days. As compensation for the loss of the Park use by the residents, the City will construct a covered picnic shelter similar to the shelters at Young Park for future use by the residents. He asked that Council acknowledge this project and approve it.

Mr. Neville made a motion to move this project forward. It is the premier project in the State in reducing nitrogen and phosphorus and such an elegant process. The sooner they get this done the better. He said anyone standing in their way, then shame on them for doing that. He said lets get going and make it happen. Vice Mayor Moore seconded the motion and it passed unanimously.

**2. Add on Item –
Update on Grants**

Mr. Rob Bolton, Water and Sewer Director, commented that with the last legislative acts that took place last year it opened up some additional funding. There is a wastewater grant that is \$200 million so the City is applying for that grant and this one will request \$20 million for the reclamation facility and the water quality grant program. Also, through House Bill 1379 they created a \$100 million for the Lagoon efforts. Their lobbyist has told them to limit those projects to \$5 million, because there will be a lot of people requesting the same grant money. The next grant is for the STEP System and they are asking for \$1.5 million to be matched 50/50 of what they would invest and they are applying for these grants for just the mainland and then next year they will apply for the barrier island. He made Council aware in that grant application, unlike the initial STEP System grant money where they installed in the City limits and went through the permitting process and told the Florida Department of Environmental Protection (FDEP) the process is different now. This was 20 years ago and they were a lot more lenient in those days. The City made this voluntary and not mandatory and FDEP allowed this. He said now once you make wastewater available the property owner must be notified that they have 365 days to connect. He said that does not mean they would go in and force someone to connect, but they are required by State law to notice the property owner. In this grant submittal there is a box they have to check saying that they are doing this according to State law. He wanted to make sure that Council was aware that when they go outside the City limits, the property owner will need to be noticed that they have 365 days to hook up.

Vice Mayor Moore asked if they notice these people that they have 365 days to connect and when 365 days comes and goes, is there any enforcement.

Mr. Bolton answered there is nothing in place unless the County puts it in as a requirement and then it becomes a code enforcement issue. He knows that under House Bill 1379 there will be a requirement date of July, 2030 that everyone has to be hooked up. Their Comprehensive Plan will need to be changed to reflect these changes. He said each City will need to make a policy decision that either everyone is going to connect to sewer where there are lines or those people would have to go with the nitrogen alternative. He met with Indian River Shores last week and they will be working on what they want to do.

Mr. Neville asked if someone doesn't apply after the 365 days would that be a City or County enforcement issue.

Mr. Bolton was not sure if there was anything in the County's Code concerning enforcement, but either way it would be a County enforcement issue.

Mr. Bolton reported that there was one last grant that they will be applying for and that is a resilient grant and hopefully they will be able to make the September 1st deadline for it.

10. CITY ATTORNEY MATTERS

- A) Pursuant to Sec. 286.011 Florida Statutes, Request an attorney-client session for August 22, 2023, commencing at 2:00 p.m. in the City**

Manager’s Conference Room in City Hall, 1053 20th Place, Vero Beach, Florida 32960, for the purpose of settlement negotiations or strategy session related to litigation expenditures, in the case of Town of Indian River Shores v. City of Vero Beach, before the Supreme Court of the State of Florida, Case Number 31-2020-CA-576, Appeal No. 4D22-1646. Attending the meeting will be Mayor John Cotugno; Vice Mayor Linda Moore; Councilmember Tracey Zudans; Councilmember John Carroll and Councilmember Rey Neville; City Manager, Monte Falls; City Attorney, John Turner; Thomas A. Cloud, Outside Counsel and a Court Reporter with the Firm of Indian River County Court Reporting. The meeting is expected to last 30 minutes. At the conclusion of the attorney-client session, the meeting shall be reopened in the Council Chambers and the Mayor shall announce the termination of the session.

Mr. Turner requested an attorney-client session to be held today at 2:00 p.m. to discuss the settlement negotiations in the case of the Town of Indian River Shores v. City of Vero Beach.

11. COUNCILMEMBER MATTERS

A. Mayor Cotugno’s Matters

Mayor Cotugno commented that he spent last Friday hosting the Mayor of Nantucket, Rhode Island, who was looking at the buses that the Source is providing. They are in the process of determining if they will need one (1) or two (2) buses. He also attended the 100th birthday party of a local Veteran. He announced that the USTA grand opening of their facilities will be held this Saturday at the Riverside Tennis courts at 9:15 a.m.

Mayor Cotugno announced when the SR 60 Lane Repurposing public meetings would be held. He said on October 5th and November 16th there will be public meetings held at the Community Center from 5:30 p.m. to 7:30 p.m. to discuss the repurposing on SR 60. The Metropolitan Planning Organization (MPO) will also be scheduling a time to discuss the matter. The matter will be voted on at the December 16th City Council meeting and then FDOT will make the final determination.

B. Vice Mayor Moore’s Matters

Vice Mayor Moore reported that Downtown Friday will be occurring south of the Twin Pairs this Friday.

C. Councilmember Zudans’s Matters

D. Councilmember Carroll’s Matters

Mr. Carroll reported that he attended the ribbon cutting ceremony at Skyborne Air Lines Academy welcoming the new Propel Flight Academy by Delta Airlines. There were nine (9) Delta Pilots attending the ribbon cutting ceremony.

E. Councilmember Neville's Matters

Mr. Neville thanked the Council for allowing him to go on vacation and take a cruise to Alaska. He reported on the Beach and Shores Commission meeting that took place yesterday and said that the turtles have been very well taken care of this year.

13. ADJOURNMENT

Today's meeting adjourned at 12:04 p.m.

/tb