

**SPECIAL CALL CITY COUNCIL MINUTES  
THURSDAY, AUGUST 25, 2022 9:30 A.M.  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

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

**1. CALL TO ORDER**

**A) Pledge of Allegiance**

Mayor Brackett let 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) Item for Discussion:**

**Public Forum to Discuss the Election Ballot question set forth by the Vero Beach Preservation Alliance**

**Shall the City Charter be amended by adding to Section 5.05 the land north of Alex MacWilliam Boat Basin Park/Bob Summers Park designated as South Marina Dry Storage; and adding to listed properties a further restriction on any future structures being added thereto of anything greater than 500 total square feet, or existing structures increased by 20% total size (footprint and volume), without a referendum approval by City voters in favor of same?**

Mr. John Turner, City Attorney, stated that they are here today sitting as a public forum, which is a term that has been designated by the State Legislature to conduct such a meeting when they are going to discuss and share information regarding a pending issue on a referendum matter. The Legislature last session put some restrictions on the prohibition of local government from using any funds or resources in an issue on a referendum to either support or oppose such a matter. However, there are some things that they are allowed to do. Those exceptions allowed would be posting factual information on the City website, printing information and material that are factual and having a public forum to share information about the proposed referendum issue. That is the reason that they have called this meeting today to hear the factual information. There has been a question submitted for the ballot decision on November 8, 2022 Election before bringing the voters of the City a question of restrictions on Charter protected properties as well as including a part of the City Marina, which contains a dry storage building for the boats. That issue and referendum question has generated a lot of comments. At this time they would like to share information and accept input from the public on this question. He said with constitutional questions that are presented to the voters on State matters there are always issues, discussions, and restrictions and what they have on a local level is different from what is allowed on the State level. State law does require certain information under State Statute 101.161, which requires if you are going to have a referendum issue on the ballot that it be no more than 75 words, that it states its chief purpose and the language in the summary must be clear and unambiguous. The Courts have adopted a few standards that

must apply and there is a requirement that the ballot summary that is submitted must inform the voters of the particular question and the issues and it must be fair and be able to advise the voters efficiently to enable him or her to intelligently cast their ballot. Today under this public forum, which they are going to share information and accept input from the public they need to keep these principles in mind. He said the information discussed today must be factual and they need to try to stay away from any information that might be more of a personal nature and not factual.

Mr. Monte Falls, City Manager, stated that today's meeting is a public forum to discuss the Election ballot question set forth by the Vero Beach Preservation Alliance. The ballot question pertains to amending Section 5.05 of the City Charter. He said that Section 5.05 contains a listing of the chartered properties that may not be sold without the vote of the electors of the City of Vero Beach. He said that Section 5.05 does contain an exception for leasing property without a referendum if the use is public or civic, which also serves as recreational, cultural, or artistic purpose. In response to the City's effort to develop the City Marina the Vero Beach Preservation Alliance was formed. They led a successful civic initiated petition drive outlined in Florida Statutes Section 166.031 to place a question on the November ballot. In July 2021, the City Council directed staff to move forward with the design of a 210 foot storage building to replace the existing building known as the South Marina Complex. This property is not included in the list of City protected property. In fact it was privately owned until 2007 when it was purchased by the City. This purchase was made in part due to citizens not wanting private developers to build condos on the site, but for the City to keep it as a public Marina. If the property was still owned privately today it could be developed just as the City is proposing in conformance with existing zoning and land use regulations. With input from the neighbors the City Council reduced the size of the dry storage building from 210 feet to 180 feet. The City Council further instructed staff to include architectural embellishments not required by the Code estimated to add \$650,000 to the project cost. The proposed ballot language summary shall read, *"Shall the City Charter be amended by adding to Section 5.05 the land north of Alex MacWilliam Boat Basin Park/Bob Summers Park designated as South Marina Dry Storage; and adding to listed Properties, a further restriction on any future structures being added thereto of anything greater than 500 total square feet, or existing structures increased by 20% total size (footprint and volume), without a referendum approval by City voters in favor of same?"* Per Florida Statutes Section 101.161 the ballot summary must be clear and unambiguous language. The ballot summary shall be an explanatory state not exceeding 75 words. The ballot summary if approved by the voters will add the South Marina Dry Storage. It will restrict any future structures from being added to the properties in the Charter to 500 square feet and will restrict any existing structures on these properties from being increased by 20% without a vote of City electors. The definition of a structure in the City Code and Land Development Regulations is *anything that is built or constructed. A structure could be but not limited to buildings, parking lots, playgrounds, docks, etc.* He gave an example of how this would impact building. He said at Pocahontas Park it could not be enlarged by 20%. A new picnic pavilion could not be added to South Beach Park if it was greater than 500 square feet. The Vero Beach Museum of Art could not expand by more than 20%. The World War II Memorial stage planned for Veterans Memorial Island could not be constructed if it is more than 500 square feet. The Dog Park couldn't add a new shade structure over 500 square feet, Youth Sailing could not build their new project and Crestlawn Cemetery could not pave new roads in the new cemetery section or build a new columbarium. Each of these project examples could not be done without a referendum vote that would add time and expense. He questioned what would happen to the Three Corners Project referendum question and this referendum question if they both passed. A column was written by Mr. Larry Reisman of TC Palm last week and he asked in his column what would happen if voters approved both this referendum and the Three Corners property referendum. The City Attorney told him that he really didn't know and neither did Vero Beach Preservation Alliance. An article appeared in Hometown News and the attorney for the Vero Beach Preservation Alliance was quoted as saying, *"That anyone thinks*

*the plans for such a development will happen overnight, or that the permitting and clearing, whatever needs to happen, will be complete before next November, the City is free to hold a special election. But it does indeed give the people who live in the City the right to vote on whatever plan is finalized. That part is definitely true".* There are many questions that need to be answered. Does the 500 feet need to apply to each new application or are they accumulative on each sight. Is the ballot question printed and clear? Have the voters been adequately informed of the consequences to future improvements to protected properties. Was the petition drive done as an effort to save the Marina or was it clearly explained that it would place restrictions on all the Charter properties. The Vero Beach Preservation Alliance was invited to be here today and they were offered the opportunity to be the first from the public to speak.

Ms. Ann McCormick read a prepared statement from the Vero Beach Preservation Alliance.

### **3. PUBLIC COMMENT**

Mr. Harry Howle commented that he has personally seen the Marina signs around town and there was a good effort on this process. He personally spent his entire childhood at the Marina and he has not seen much changes at all at the Marina that needs some upgrades. Someone came and knocked on his door wanting him to sign this petition and he declined. He talked to this nice lady and brought up the 20% rule which peaked his interest so he went to their website to look it up and on their website he found that every time they want to improve a piece of property located in the Charter it has to go to a referendum. The wording was pretty ambiguous. They have never had to do this before. He stated the fact that some of the people a part of this movement did not want to see the improvements made at Humiston Pak. They also did not want the sale of the electric utility. He believes this is an effort to keep the development of the Three Corners property from happening. It is to create more greenspace that the City cannot afford. If this happens the City Council will lose their ability to represent the citizens. The question becomes is this a referendum to stop the expansion at the Marina or is it also to stop any development over 20%. It is a two (2) prong question that is statutorily unacceptable.

Mr. Mike Johansen, Chairman of the Indian River Neighborhood Association (IRNA), stated that this is contrary to the concept of good governance. He was a member of the Steering Committee for the Three Corners project and there were many hours that went into planning and many meetings were held. He said there was a lot of public input and there were over 17,000 hits on the website. He said that the IRNA supports the Charter as it exists.

Mr. Keith Drewett stated that he lives 300 feet from the Marina and is strongly against this issue. It is bad public policy and will restrict the actions of Council and City staff. They all agree that Vero Beach is a special place and most of them are here because of choice. Why would they want to throw out the form of government that has gotten them to where they are in this special place that they live. For many years they have had a City Manager form of government and elections occur every year. It is a very open form of government. There are Council meetings, workshops, special meetings, and all their meetings are public and televised. Everyone is allowed to speak at the meetings and he has found staff to be open and more than competent.

Mrs. Lamarre Notargiacomo stated that she enjoys going to these meetings like she enjoys going to the dentist.

Mr. John Cotugno asked Mrs. Notargiacomo if she was a City or County resident. Mrs. Notargiacomo said she lives two miles from the City limits. Mr. Cotugno asked her again if she was a City or County resident and could vote on this referendum.

Mrs. Notargiacomo stated that she lives in the County and Mr. Cotugno is quite happy to harass and intimidate the people he is supposed to be representing and that is no okay. She is proud of what the Vero Beach Preservation Alliance did and they should listen to their constituents and not punish them every time they make their voices heard.

Mr. Stu Keiler, President of the Youth Sailing Foundation (YSF), commented that there has been a lot of talk about changing the government and this referendum would put them back into the Town Hall form of government meetings that happened in colonial times. This changes the form of City Council government to one that is close to Town Hall. He said that the YSF has made over \$200,000 of improvements to the property they lease from the City. The things that they have done could not have been done without first taking them before the voters. He has talked to many people since he found out this was going to be on the ballot and there are totally different interpretations from whoever he talks to. He asked if this item is going to be on the ballot and if so is there any way to stop it from being on the ballot.

Mr. Falls stated that the referendum question is going to be on the ballot.

Mr. Keiler continued saying that YSF has a path to building their new structure. About a year ago they asked for some definition on the site plan and they were given it, they have surveyed the site and have raised \$2 million for the project. They plan on breaking ground in 2024 and anything that would put an impediment in that pathway they would be very disappointed.

Mr. Turner cleared up that the YSF proposal will not go into effect until the existing Waste Water Treatment Plant is removed and built at the Airport so that the facility will not be built at the same time that the Waste Water Treatment Plant is there.

Mr. Falls said part of what Mr. Turner was saying is true. He said that the one (1) tank at the Waste Water Treatment Plant now closest to YSF's site would be removed, which would free up the ground for their project.

Mr. Keiler explained that they are in the process of putting up a fence at the Waste Water Treatment Plant so they can move forward with their project. He said one thing that has to happen is that the large tank has to come down.

Mr. Falls commented in looking at the referendum language the second restriction says: *"adding to the list of properties a further restriction on any future structures being added thereto of anything greater than 500 total square feet, or existing structures increased by 20% total size.* He thought he heard the speaker for Vero Beach Preservation Alliance say that YSF could build if it was not more than 20% of the existing structure. He did not think that YSF was adding on to an existing structure at 20%. He thought that YSF was going to build a new structure.

Mr. Keiler explained that Vero Beach Preservation Alliance's interpretation is if the tank comes down it far exceeds that.

Mr. Falls asked Mr. Jeffries to give them the definition of volume.

Mr. Jason Jeffries, Planning Director, reported that the City Code does not define volume. He said there are three (3) instances where volume is used in the Code, and relates to traffic volume, stormwater volume and ceiling volume. He said in planning when something is not defined in their Code they will go to the Planner's dictionary or Webster's dictionary.

Mayor Brackett brought up the water tank and the footprint when it comes to volume. Mr. Cotugno added that it is not an existing structure once the tank is torn down.

Mr. Jeffries explained that with YSF they have a master concept plan that the City Council has adopted for the Three Corners property. He has been working with YSF and they have presented concept plans and the City has sent them a letter saying it is consistent with the adopted master concept plan. They will still need to do comprehensive planning amendments and land use amendments before anything is finalized and will go through the site planning process for a development order.

Vice Mayor Neville commented that this is so ambiguous that one person could interpret that the tank coming down will permit another structure going up, but another person could perceive that very differently in terms of the purpose of the building going up. He could see if someone does not want that structure built they could argue this case.

Mrs. Linda Hillman spoke as a member of the recent Charter Review Commission and stated the Commission did discuss putting the Marina into the Charter and agreed because it is an Enterprise Fund that it couldn't be done and if it was done it would take a long time to do. She noted there are close to 20 Parks in the City Charter. She asked if it costs over \$300,000 a year to mow the grass at Riverside Park.

Mr. Falls explained that the Park's Department maintains over 250 acres in the City and it costs \$56,000 a year to mow the grass at Riverside Park.

Mrs. Hillman wanted to discuss what this means to 80% of the people in Vero Beach. She said it comes down to money. Her understanding is also that each time something needs to go to a referendum it costs money. She brought up the small Park in Edgewood Subdivision that was plotted as a Park (to be voted on at the November 8, 2022 Election). If they wanted to put up a pavilion or three (3) benches at that Park it would have to go to referendum. She wasn't sure this is what the Vero Beach Preservation Alliance intended, but she would like to be on their payroll when her taxes go up because of all the referendum items that would have to go on the ballot if this passes. She said this is totally ridiculous.

Mr. Mark Mucher commented that he has so many problems with this referendum item. First of all in the latest petition, which has changed many times and people have signed for one set of wording and now is completely different. It mentions South Marina Dry Storage. To him that would not include the Waddell building, which is part of the parcel for this whole effort. The current petition wording is to add this parcel to the City Charter, but he also understands that there are procedures to changing the City Charter, such as having Ordinances approved or public notices sent out. He said if this referendum item was to pass he supposed that they could make it number 26 on the Charter Parks list and walk away, but he was not sure that would be following procedures. Another major problem he has is that at least with Charter properties and the list keeps growing, they are moving towards government by referendum. They are getting away from the national form of government (City Manager/Council form of government) and all the decisions are up to the whim of the people as opposed to the City Council. He brought up the Trinity Church steeple

referendum that was defeated. It was upsetting that this wording was transmitted prior to today's meeting which applies approval by the City and will be voted on by the electors.

Mr. Turner asked Mr. Mucher if it was his position that this proposed referendum and ballot question would diminish home rule powers of the City.

Mr. Mucher said yes as it applies to the properties in the Charter. He said it would not necessarily take home rule away, but it does take it away from the Council and local form of government.

Mr. Falls made it clear that the Florida Statutes requires the City once they have a verification of signatures from the Supervisor of Elections they must transmit the ballot language. The City is not permitted to write the ballot language.

Mr. Turner added that the City only has some ministerial functions when it comes to the ballot. He gave an example that if the ballot question is over 75 words then it is a ministerial duty of the City to eliminate more than 75 words if it doesn't change the meaning of the ballot question and then send it on. If there is a question regarding the summary language the City does not have any responsibility or legal duty to address that and make those changes.

Mr. Mucher heard that it needed to be clear. He asked if the City Attorney determines that the language is not clear and it passes on the referendum then someone could challenge it. He said it would be nice if they could settle it beforehand.

Mr. Falls explained that staff did review the ballot language and sent some comments to the Vero Beach Preservation Alliance and pointed out that they included the wrong legal description of where the site was and pointed out to them where they felt there were some things that were not clear and ambiguous and for them to make those changes. What they have in front of them today are the changes made to the referendum question.

Mr. Mucher asked if it includes the Waddell building.

Mr. Falls explained the City refers to that as the "South Complex."

Mr. Mucher would be happy if the referendum read that way, but it does not. It just says "dry storage."

Mayor Brackett explained that the City is the conduit in this case. The petition language was verified, the City made some suggestions for changes to the referendum and were required to submit it to be on the ballot. It was not approved by the City Council or the Supervisor of Elections.

Mr. Turner referred to Florida Statutes Chapter 161 that says if the requirement of signatures have been met then it is transmitted from the City to the Supervisor of Elections and the translation in Spanish must be provided.

Mr. Mucher mentioned again that one of the problems that he has is that this wording is not what the petition said and what people signed.

Mrs. Tracey Zudans commented on how many people that have changed their schedules to attend today's Special Call meeting and what cowards Vero Beach Preservation Alliance was for not showing up and just

sending someone to read a statement. She said the entire situation that they are reading about is deceptive to the community. She said there has been so much wording and ambiguity that they have to put up with and there is no recourse. She has heard from them that the Marina expansion can't happen for various reasons and people that signed the petition signed it under a different wording than what other people signed the petition under. She asked what as residents do they do and what recourse the residents have except to just say no. Most people attending today's meeting are against the referendum and she thinks it is ridiculous they have to put up with it being on the ballot because of deceptive measures.

Ms. Irina Woelfle stated that she led the "Speak Up Vero Beach Campaign" for the Three Corners project. It is astonishing to her that Vero Beach Preservation Alliance could not make room in their schedules to attend today's meeting. The Three Corners property referendum, which was complicated enough, is why she started reaching out to people on August 2, 2022, notifying the community about the upcoming referendum and asking them to fill out a survey and the results were in terms of how many people would activate the Three Corners property if they were allowed to vote. She said that 78% said that they would activate the project. However, now she is getting a lot of calls that people feel that this new referendum item is a legal maneuver to convert votes on the ballot. She said that 16% of the people surveyed said they need more information before they would vote. She wanted to know who she can go to for clarity so she can communicate clearly with the people interested in understanding. She read into the record some correspondence that she has received and reiterated that clarity is needed.

Mayor Brackett told her that is what they all want.

Mr. Falls explained at the end of this meeting they were going to discuss some options that are available. He pointed out that sometimes when you have a referendum question to go on the ballot it can be confusing. The City has tried to make extra efforts to make sure that the Three Corners referendum question on the ballot is as transparent as they could. They wanted to do all they could to make sure the voters have proper information to make their decision.

Mayor Brackett asked Mr. Falls if he has seen charter language for this new referendum question. Mr. Falls answered no.

Mr. Jeffries recalled attending a meeting with someone from the Vero Beach Alliance Preservation that said that would be worked out after the referendum passed.

Mr. Joseph Guffanti stated that he was getting back to a comment made by Mr. Mucher. He surmised that the Council is saying they have no standing in the wording of the referendum.

Mr. Turner stated that writing the summary of the referendum question is not the duty of the municipality, but by those who are presenting it.

Mr. Guffanti said so they are the ones that have standing. Mr. Turner said that was correct. Mr. Guffanti asked if the people who signed the petition that don't have standing can have their names removed. Mr. Turner did not know the answer to that question.

Mr. Guffanti stated that the problem that he sees here is that there are people in this community that are content on the life that they are granted. They always want a bigger piece of the pie and are entitled to make money but not at the public's expense. There are a lot of people that like Vero Beach just the way

it is. The reason they are here today is the incompetence of their predecessors and some part them. The City Council is not capable of resolving these issues and preventing them from happening. There will be more problems down the road that they are unable to fix because they don't have the ability to do so.

Mr. Mike Johansen commented that they have a petition presented to the signatories as a "cat" and now it has turned into a "dog." The signatories have no recourse in having their name removed and the petitioners are going to write the summary being presented to the voters without any adult supervision by the Council.

Mr. Bob Daken appreciated all the comments that have been made. He moved to this community five (5) years ago. He had the opportunity to attend all the charrettes and meetings held regarding the Three Corners property. He was speaking to them today about some facts that he has learned today. He was visiting the Saturday morning Farmers Market where a woman was there asking people to sign a petition in regards to the Marina expansion. He talked to her and they showed him some pictures of some manatees who were starving because there was nothing for them to eat in the Lagoon. He expressed that he is a new boater and was not able to get a slip at the Marina because they were full. He said that he did not sign the petition and wanted to know what the referendum means.

Mr. Keith Drewett made it clear that the manatee deaths have nothing to do with Marina. They are the result of starvation because they (manatees) need seagrass and there is no seagrass. He said if this referendum passes then that is the language that will be in the Charter and the "language is the language."

Mrs. Linda Hillman brought up that the Vero Beach Alliance Preservation talks about the quality of the water and they have never answered the question as to have they corrected their septic systems, which is one of the biggest reasons for the problems they are having with the Lagoon. She told the Marina Director that he was doing an awesome job. She reiterated that she didn't want to have to pay any more taxes and let's take care of the septic system problems first.

Mr. Tony Young commented that when he first learned of this referendum item it was very troubling. His concern is the tendency of voters to cast their ballots without understanding the implications. On top of that he was concerned with the manner in which this referendum was brought forward and the lack of the ability of the people who most understand the consequences of this wording to be limited in their ability to convey it to the public in a manner that would affect their ability to vote responsibly. The first thing to come to his mind was what is the City Council and City staff's reflection on this, because the City Council cannot be insertive in being pro or con on this it is constrained. The consequences of changing the ability to manage your affairs by virtue of this process is enormous. The budget of Vero Beach is constrained. It is a different world since they have sold the Electric Utility. He said with the Three Corners property if a developer has to go through two (2) referendums it is an imposition and tells him as a resident that there is a lack of faith in the process that establishes the community. As a Veteran over the last year they have been working on a Tribute to Memorial Island. He said if you ask him if they are doing this in the public's interest, how much more safeguard do you need when you have the Council's review, the Planning and Zoning Board's review, the Veterans Memorial Island Sanctuary Committee's review, the City Attorney's review and the Planning Directors review. He said from a Veterans point of view and after having worked on this project for over a year and being told to hold off and put this on the ballot as a referendum item for next year makes no sense. As he looks at the process he is puzzled. He has confidence in staff and this has gone in the wrong direction.

Mr. Sean Collins, Marina Director, felt that it was apparent to a lot of people that this referendum started as an anti-Marina event and transpired beyond that. He said one thing that you can say is that it is so important to embrace the parts of this community that hold the most history. The Marina has been there for almost 100 years now and he is embracing that so it is in the best interest of the community.

Mr. John Carroll stated that government by referendum is not government at all. He said that you cannot have enough referendums to be able to maintain the existing infrastructure that the City is in charge of. He said as an engineer they deal with the 50% rule all the time. It seems like a simple rule if you expand the construction by more than 50% then you have to bring everything up to Code. So many people try to cheat because they don't want to spend the extra money. He questioned who is going to determine what this referendum question means and are they going to have to have a separate department set up to determine that. He said from an engineering stand point there is no way to enforce this.

Mr. Barry Segal, citizen, said that he was in opposition of this language. He said that he pulled this language off of the Vero Beach Preservation Alliance website and he was trying to figure out why he was only getting this summary that couldn't possibly be the same language that was sent over to the Supervisor of Elections. He read it three (3) times and wondered when the backup material was going to be uplifted and still couldn't believe that this is what was submitted to the Supervisor of Elections. He could sit and pull this apart for 30 minutes and come up with 30 different interpretations. He would say if the Art Museum tore down their building and then wanted to rebuild 20% higher they could not do that and he would read this to say you can take an existing building and add 20% on to it. Someone else may say you can and the people that drafted this will come to them and say that is not what we meant and the problem with that is they will be putting forward a very vague and interpretive and subjective item into their Charter, which legally speaking they cannot do. Statute 166 governs this process and one of the things it talks about is that you can't take away substantial roles of the local government. There also will be bigger problems with the Three Corners property. He said what developer is going to come in and say he is going to build this project with his money and then have to go back to referendum every time he wants to make a change on the property. Any kind of development will be held up at the Three Corners project. He suggested getting an economic income statement for this provision knowing that there is no way it could be done. This is an easy shot at making bigger government and more taxes and less effective services. He feels that Council can take action from preventing this from moving forward on the ballot for reasons just because of its vagueness, lack of clarity and it does not convey a meaning over to the voter as to what it accomplishes.

Mrs. Brooke Steinkamp referred to the Three Corners property referendum item and asked if they were removing the north site of the property from the Charter or is it staying in the Charter.

Mr. Jeffries explained in the referendum question it is leaving the property in the protected properties of Section 5.05 of the City Charter. He said what is recommended that the voters do is add a provision, Section C, to Section 5.05, which would allow an amendment to that parcel and allow the City Council to lease the property and allow development consistent with the master concept plan as approved by City Council and the Steering Committee.

Mayor Brackett closed public comments at 11:02 a.m., with no one else wishing to speak.

#### **4. COUNCIL DISCUSSION ON THE BALLOT QUESTION**

Mayor Brackett stated that he understands that the Vero Beach Preservation Alliance has a right under their Charter to have a petition to try to modify things and he would never fight to take that right away from anyone. However, as a person who has been a member on the Council for four (4) years and been a part of government for many years this will throw a big “wrinkle” into how they do day to day operations. The language is too vague and he doesn’t understand how they can do it without getting some type of verification on what this language says. He said most of the groups that this will affect are non-profit groups because they are the groups that have structures on the City’s chartered properties other than playgrounds and in that case the City has equipment on their playgrounds. He said if playground equipment, fences, parking lots, etc., cannot be installed without going to a referendum vote this is not going to work.

Mr. Falls stated that this will add uncertainty, time and expense for every project that they do. He mentioned some of the projects that have been done in the City over the years and doesn’t know why they are trying to change things if they have gotten all of these projects right and had public engagement with each of the projects.

Mayor Brackett asked Mr. Turner what are their options.

Mr. Turner reported that the ballot language has been forwarded to the Supervisor of Elections and the City cannot withdraw it nor can the Supervisor of Elections. There is only one (1) person that can withdraw it and that is a judge. Their only option based upon what they heard this morning is to bring a declaratory judgement request for a circuit court judge and explain to the judge that the language is unclear and ambiguous. It does not meet State law, that it doesn’t fairly advise the voters of the consequences if this referendum is approved and adopted. They would ask the judge to remove the referendum from the upcoming election in November.

Vice Mayor Neville was baffled by the lack of participation by those who pursued this project and there is not a sole here at today’s meeting who spoke in favor of the referendum item, nor is anyone here to explain and try to help them understand what their purposes were. He agreed with proceeding with the suggestions presented by the City Attorney.

Mr. Turner explained that if Council authorizes this action to be filed they can request and the judges under State law can accelerate this matter and give it priority under their dockets. If it is filed and the hearing is expedited then the matter can be heard in a relatively short period of time. Hopefully, the judge can be persuaded through the evidence and through the arguments that this is unclear, that it is ambiguous and it doesn’t state the purpose so that there is time for the court to act for the Supervisor of Elections to prevent this matter from being put on the ballot and if not then other action will have to be taken. If it is on the ballot and voted on it could be set aside and ruled as void.

**Vice Mayor Neville made a motion to pursue that course of action as presented by the City Attorney. Mrs. Minuse seconded the motion.**

Mr. Cotugno was disappointed that the supporters, and counsel for the Vero Beach Alliance Preservation were no shows today. That says to him that they are embarrassed. There is not one (1) person on the dais that they have not lobbied or presented their case to. He said they had their chance and usually when people do this it is because they are embarrassed about their position or their position cannot be sustained under discussion or comment. He supported the Alliance when they began their formation to try to reach a consensus on what would happen at the Marina. From his perspective, they actually did

reach a consensus. The building was going to be a lot larger than what it is going to be built now and it was scaled down. He thinks the situation has been hijacked by some people who want to keep Vero/Vero, which no one has ever defined that for him yet. They have forced the City Council into a situation where they have to go to the courts in order to make a decision. They are going to look like the bad guys no matter how this turns out. He appreciated everyone that came to the meeting today because they are the moderate majority who usually do not show up to meetings because they believe the City Council will handle the situations before them. He said the only two (2) people who spoke who were slightly negative lived in the County.

Mrs. Minuse commented that it is unfortunate that this started off with a situation with the boat basin and the dry storage area and then came to include all of their Charter properties. She agreed with Mr. Segal when he said that this referendum question can be interpreted 30 different ways and the only way to get clarity is appeal to the courts. She thanked everyone for attending today's meeting.

Mr. McCabe commented that this is such a degree of over reach from what the original concept was. He agreed with engaging in a legal challenge.

Mayor Brackett commented that in these times when they are trying to run the City it can be disappointing for something like this to occur. When he ran for office four (4) years ago they were talking about the Marina and now for a group to come out six (6) months ago and say they had no idea this was going to happen and for a group to send him an email this week saying that they were disappointed that Council never listened to them and were never given an opportunity to speak is not correct. He recalled that they held a meeting and the public spoke just on this topic at a night time meeting so everyone could be heard. He met on site personally with numerous people of this group and walked the area and even sat in people's living rooms to discuss the matter because they weren't able to come out of their home. For them to indicate and imply that they have not been transparent is a huge disappointment. Anyone that knows him knows that he has fought for four (4) years to be transparent and it started with the Three Corners project. He insisted that all of the meetings be public and that is the way it worked. He hates this alternative option, but knows that it is something that needs to be done. They need clarification. He said that he will not be here after November, but if he was he could not work well with this referendum item and try to interpret what it means and it would be terrible for staff to have to try to figure it out. He is in favor of getting clarification. He is not trying to hinder the Vero Beach Preservation Alliance's approach to use the State Statute to help regulate their Charter. He said that is fine and their right, but let's do it correctly, professionally, and ethically.

Mr. Falls wanted the public to know that they did what they should do. They scheduled this meeting and they sent the Vero Beach Preservation Alliance a copy of the agenda last week. They received an email saying they assumed that since the Council didn't ask them they are requesting their input to discuss in the discussion. We responded that anyone can speak under public comments and encouraged the Vero Beach Alliance Preservation to attend. Then they received another email saying that this meeting is about their intuitive and they have begged the Council to let them speak on more than one occasion and have been denied. Please ask the Council to allow their participation in the meeting beyond the three (3) minute time limit. Staff sent an email letting them know that they will be able to speak at this meeting and be the first people to speak. Vero Beach Preservation Alliance responded saying that they were glad that staff would like the public to be informed and doesn't know why staff or Council would set a meeting without asking them to attend right from the start, but by the time there was a change in policy most of them already had other things scheduled (all documents are on file in the City Clerk's office).

Mr. Joseph Guffanti commented that they are here because of the effort that was made to do something to the Marina, which a lot of people opposed. It unfortunately has been sidetracked by this referendum question because the Council and staff suffer from illusion of grander that they wanted to increase the size of the Marina for the benefit of very few people. The judge is the only person who has standing in this particular issue and now they are going to go down this path.

Mr. Mark Mucher commented that he wouldn't be surprised if the number of extra petitions received if that number of people couldn't go into the Supervisor of Election's office and take their petitions back. He was told that they could not.

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

Before adjourning today's meeting, Mr. Turner requested an Executive Session to be held on September 9, 2022 at 2:00 p.m. to discuss the settlement and strategy in the case between Indian River Shores and the City of Vero Beach. Those in attendance would be the City Council, City Manager, City Attorney, outside attorneys Mr. Tom Cloud and Mr. Gary Carmin from Gray, Robinson and the Court Reporter. The meeting will take approximately one (1) hour.

## **5. ADJOURNMENT**

Today's meeting adjourned at 11:20 a.m.

/tb