

CITY OF VERO BEACH, FLORIDA
SEPTEMBER 20, 2022 5:30 P.M. (after budget hearing has adjourned)
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

A representative from Calvary Church gave the invocation.

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

1. CALL TO ORDER

A. Pledge of Allegiance

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

B. Roll Call

The City Clerk performed the roll call.

2. PRELIMINARY MATTERS

A. Approval of Minutes

1. Regular City Council Minutes – September 6, 2022

Vice Mayor Neville made a motion to approve the September 6, 2022 City Council minutes. Mr. Cotugno seconded the motion and it passed unanimously.

2. Special Call City Council Minutes – September 6, 2022

Vice Mayor Neville made a motion to approve the September 6, 2022 Special Call City Council minutes. Mrs. Minuse seconded the motion and it passed unanimously.

3. Special Call City Council Minutes – September 13, 2022

Vice Mayor Neville made a motion to approve the September 13, 2022 Special Call City Council minutes. Mr. Cotugno seconded the motion and it passed unanimously.

4. Special Call City Council Minutes – September 9, 2022

Vice Mayor Neville made a motion to approve the September 9, 2022 Special Call minutes. Mr. Cotugno seconded the motion and it passed unanimously.

A. Agenda Additions, Deletions, and Adoption.

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

B. Proclamations and recognitions by Council.

3. CONSENT AGENDA (include amount of expense)

- A) Compressed Liquid Chlorine Supply Contract 123-2022/Bid 320-21 Brenntag Mid-South, Inc. Estimated Annual Expenditure \$300,000 (First Year) \$425,000 (Second Year)**
- B) Agreement Consenting to Assignment of Commercial Lease Agreement between the City of Vero Beach, Bridgeton Real Fund I, L.P., and Zion Opto Inc.**
- C) Award of Bid for Airport Facility Air Condition Project (FDOT #447634-1, Farmer and Irwin \$534,900.00)**

Mr. Monte Falls, City Manager, presented the City Council with a corrected memo for the Award of Bid for the Airport Facility Air Conditioning Project.

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

4. PUBLIC HEARINGS

A) ORDINANCES

B) RESOLUTIONS

5. PUBLIC COMMENT (3-minute time limit)

Mr. Robert Randall Fox spoke on the matter coming up at the October 4, 2022 City Council meeting regarding Azalea Lane and stated that he was not in favor of the proposed rezoning for Azalea Lane. He thanked the Council for their excellent services that they provide to the City.

6. CITY COUNCIL MATTERS

A) NEW BUSINESS

B) OLD BUSINESS

7. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing will be heard on October 4, 2022 at 9:00 a.m.

- A) An Ordinance of the City of Vero Beach, Florida, amending the Comprehensive Plan Future Land Use Map by changing the Future Land Use Designation from RL, Residential Low (up to 6Units/Acre) to RM, Residential Medium (up to 10 Units/Acre) for property located at 705 Azalea Lane, containing 0.27 acres more or less; Providing for an Effective Date. – Requested by the Applicant**

The City Clerk read the Ordinance by title only and announced that the public hearing would be held on October 4, 2022 at 9:00 a.m.

8. CITY CLERK MATTERS

- A) Lien Reduction Request – 2726 22nd Street**

Mr. David Currey, Chief of Police, reported that the Property Owner, Mr. Andrew Zaleski, has applied for a lien reduction to reduce the current lien of \$29,450.00 to \$0.00 for the assessed property at 2726 22nd Street. Mr. Zaleski was cited and in violation of Code Section 64.05(a)(b)(7), - fence replaced without Code Compliance Certification from the City of Vero Beach Planning Department or a building permit from the Indian River County Building Department. The code enforcement warning citation was issued on July 9, 2019 in violation of the fence and to be corrected by July 17, 2019. A \$50.00 Code Enforcement Citation was issued on October 15, 2019 that the fence was replaced without a Code Compliance Certification from the City of Vero Beach Planning Department or a building permit from the Indian River County Building Department. The case went before the Code Enforcement Board on November 13, 2019. The civil penalty of \$50.00 had not been paid, the violation had not been corrected, nor was there an appeal by the violator. An order finding violation; allowing additional time (30-days) for compliance, and to pay the initial civil penalty of \$50.00 and costs of enforcement of \$72.84 was ordered. If the violation was not corrected by December 13, 2019 a continuing penalty would be imposed commencing on the original compliance date of October 29, 2019 in the amount of \$50.00 per day the violation had existed and continues to exist until the date it is corrected. The case went before the Code Enforcement Board again on August 11, 2021 and a notice of the hearing was served and the violator did not appear. The property was found to be in compliance on June 9, 2021. Continuing penalties of \$29,450.00 from October 29, 2019 through June 8, 2021 together with all the costs of recording the Board's order in the public records and costs of satisfying and recording the release of the resulting lien upon payment were imposed. On December 6, 2019, Mr. Zaleski's father went to the Planning Department and paid \$110.00 for a Code Compliance Certification application. His father was told only the property owner could apply. The property owner, Mr. Zaleski was in North Carolina. The Planning Department needed a signature from the property owner. The property owner, Mr. Zaleski went to the County permit office and paid \$154.00 for a Fence Model Residential permit. Mr. Zaleski states that he was not under the impression that he needed a permit since he was only repairing/replacing fence panels. Photos of the fence were passed around for Council to view and are part of the record. The Code

Enforcement Officer, Ms. Melody Sanderson, returned a phone call to Mr. Zaleski and was advised Mr. Zaleski was working in North Carolina. She made 20 notations of no permit obtained or action taken between December 16, 2019 and June 9, 2021. The recommended total to release the lien is \$29,580.50.

Mr. Chad Leininger, Realtor and Representative for this case, pointed out the fact that Mr. Andrew Zaleski's (property owner) father went to the Planning Department and paid \$110.00 for a Code Compliance Certification application. At the time Mr. Zaleski's understanding was that his father went to the Code Enforcement Department and asked what needed to be done to take care of the situation and he paid what was needed to comply. He even received an approval from the Planning Department on December 6, 2019. His father also stopped by the permit office and was told only the property owner could apply. In the meantime, Mr. Zaleski was in North Carolina and could not travel due to COVID restrictions. Now the penalties have jumped to \$29,450.00 plus additional fees all for a \$500 fence repair. He pointed out that anytime fees can accrue this high, any government agency, always send out a certified letter in order to properly notify someone. Mr. Leininger said that Mr. Zaleski wants to do the responsible thing and take care of this and has no problems with the recording fees and the time put into getting the property in compliance, but felt that \$29,000 was excessive. Mr. Zaleski noted that the picture he received from the Code Enforcement Officer only has pictures of the new panels. He said had the Code Enforcement Officer moved to the left of the new panels, a picture would have shown the old panels were still there and not replaced. He did not understand why the Planning Department could not have told Mr. Zaleski's father what needed to be done.

Mrs. Minuse asked why the property owner did not show up at the Code Enforcement Board meetings when his case was being heard.

Mr. Leininger said because he did not know about them. He does not live at this property and his father does not pick up the mail very often. Mr. Zaleski was under the impression that that the fence was approved by the Planning Department.

Mayor Brackett asked if Mr. Zaleski was fined in the middle of the job.

Mr. Leininger answered no. He said that they just replaced five (5) panels for the fence. He said there is a whole other fence that is still there.

Mayor Brackett referred to the photo and said that there is a lot of wood showing price tag stickers still on them.

Vice Mayor Neville stated that his concern was that there needs to be some type of mechanism in place to trigger action on behalf of the Planning Department or Code Enforcement to find a way to contact people when they have these spiraling fines happening like this one. He said \$29,000 seems unreasonable considering what happened in this case. He explained what happens with the mail if they put a forwarding address and give it to the Post Office it only lasts for a year and then after that the mail is returned to the sender. He asked staff to find some process where they can do a better job of nipping

these issues in the bud before the fines get too high. He said in this case it wasn't because the job had not been done (fence replaced). It was the bureaucratic process that the property owner did not understand. He was inclined to want to mitigate this fine to some degree.

Mr. McCabe asked if there was anyone living in the house. Mr. Leininger said no. Mr. McCabe asked if the letters were sent out certified.

Chief Currey stated that notice for all hearings are served. He said no one appeared at either Code Enforcement Board meeting held on this matter and the property owner was given an additional 30-days to comply. As noted again, the Code Enforcement Officer made 20 notations of no permit obtained or action taken. The Code Enforcement Officer also telephoned him in North Carolina and was told that Mr. Zaleski was working and no one ever called her back. Chief Currey was not sure what more from a code standpoint could have been done. The onerous is on the property owner to meet them at least half way and honestly why this came up is because the house is ready to be sold and now the lien has to be satisfied.

Mr. Leininger said that he asked the City Clerk if there was any notices sent to Mr. Zaleski that came back to the sender undelivered and she said there was not any. He said the property owner selling the house had nothing to do with the process.

Chief Currey said generally when a home is being sold and a lien is found is when these lien reduction cases come up. Meanwhile the fee could have been mitigated way before.

Mr. Cotugno asked the Planning Director when someone comes into the Planning Department to get an approval for someone and they get signed off on their permit are they given like a punch list on what they need to do next.

Mr. Jason Jeffries, Planning Director, explained they are told that they need to go over to Indian River County and get a building permit. The City shares their Building Department with Indian River County and any building permit requests are referred to the Building Department because they do the building permit reviews for the City.

Mr. Cotugno asked if that is in writing or is someone just told verbally.

Mr. Jeffries said instructions are attached to the application.

Mr. Cotugno said so in this process this person received the approval. Mr. Jeffries said he received the Code Compliance approval and was told about the required building permit. It was also spelled out in the citation. He said they were on notice from the start that they needed both permits to correct this violation.

Mr. McCabe agreed with Vice Mayor Neville in this case. He said there is the letter of the law and then the spirit of the law and as much as he wants to support the Code Enforcement Department and Police Department this case just seemed to spiral a little out of control.

Chief Currey commented that the only address on record is where the notices were sent to.

Vice Mayor Neville asked when the Code Enforcement Officer called North Carolina was she given an address of where to send these notices.

Chief Currey said that the Code Enforcement Officer was hoping to get a call back from Mr. Zaleski, but she did not get one.

Mr. Cotugno asked if this work was done by an individual or by a fencing company.

Mr. Leininger explained that the individual is a contractor so he thinks he can do everything himself.

Mr. John Turner, City Attorney, asked if Mr. Zaleski still owns the property and is it listed for sale now. Mr. Leininger said that is how they found out that there was a lien on the property, when they had the title company do a title search He said that Mr. Zaleski still owns the property at this time.

Mr. Turner asked if the subject property is Mr. Zaleski's homestead. Mr. Leininger said that it is not now.

Chief Currey made it clear that the Police Department does not want to have to impose these high fines and they always try to be fair.

Mayor Brackett did not disagree that this hasn't gotten out of control. However, he is now concerned when he hears that the man is a general contractor and he doesn't think that he needs a permit. They have seen a lot of cases that when the homeowners sell their homes everything is going to go away until they find out that there is a lien filed on their home. Then they come before the Council and ask for a lien reduction because the fine is huge. He agreed that \$29,000 seems aggressive, but he also agrees that staff works hard to get these violations taken care of and when Council goes against staff on lien reductions they want to make sure that they are doing it for the right reasons. He said the property owner was told what was needed and it is spelled out in two (2) different places and now they find out the property owner is a contractor and most contractors check to see if a permit is needed.

Mr. Leininger said that he lives in Sebastian and getting permits in Sebastain is different than Vero Beach. He only had to pay \$50.00 for a permit when he put up his fence in Sebastian and did not have to go to the Planning Department.

Mr. Cotugno asked what the additional costs were.

Mrs. Minuse asked if this man is still licensed as a contractor.

Mr. Leininger said not anymore. He said that Mr. Zaleksi built the house that that he lives in and that was 25 years ago and that was the last house that he built.

Mayor Brackett assured him that they have not done away with permits and they have actually increased them.

Chief Currey replied that the additional costs amount to approximately \$135.00.

Vice Mayor Neville felt that they should consider the time that the Code Enforcement Officer has put into this case.

Chief Currey said that the Code Enforcement Officers will continue to try to connect with the property owners and individuals. However, there is only so much they can do. He reiterated they do not like to see these fines get out of hand.

Mr. Leininger said if they knew that there was an address in North Carolina (where Mr. Zaleski now lives) wouldn't they send the letter there.

Chief Currey explained they had a phone number and no one returned their phone call.

Mr. McCabe made a motion to recover all of their costs that the Chief has laid out for them and do 50% of the penalties as a part of that.

Mrs. Minuse had difficulty with that because this is a man who is supposed to know better. She has complete respect for their Code Enforcement Board. She said they are very sympathetic and their outreach is good and reducing the penalty sets a bad standard. They are a City that is dependent on following laws and many efforts were made to try to reach this man.

Mr. McCabe withdrew his motion.

Mrs. Minuse made a motion to follow the recommendation that staff has made for the total lien. The motion died for lack of a second.

Vice Mayor Neville made a motion to impose the accrued costs (approximately \$135.00) plus 50% of the penalties. The motion would be to make it half of the fine amount, plus expenses.

Vice Mayor Neville commented that if there was something wrong with the property and not being maintained that is another story. But this is a case where there is some indifference on part of the owner, there is some misunderstanding on part of the father and the neighborhood does not realize anything is happening. He said he would like to see them receive 50% of the total lien, as well as all of the costs including the hours that the Code Enforcement Officer spent on this case.

Mr. McCabe seconded the motion.

Mr. Turner explained that under their Code Enforcement Board Ordinances they do not have a provision that would cover that cost per say (Code Enforcement Officer's time) and felt that it would be a little difficult to add at this point. The respondent has been put on notice as to what the claim is and the basis for the claim and he recommended that they not include the costs for the Code Enforcement Officer. He recommended sticking with the costs that are listed and the amount of the penalty. He has calculated that 50% of the penalty, plus the costs and it amounts to \$14,855.50.

Vice Mayor Neville amended his motion that the costs to release the lien will be \$14,855.50. Mr. McCabe seconded the amendment.

Mayor Brackett felt that they were being too lenient here. He said it would be nice if the property owner was at the meeting to tell his side of the story.

The Clerk polled the Council on the motion and it passed 3-2 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse no, Vice Mayor Neville yes, and Mayor Brackett no.

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

Mr. Falls commented that Coach Dale Dawkins made a speech at the County Commission meeting this morning that was very inspirational. He invited everyone to listen to that speech if they have time.

10. CITY ATTORNEY MATTERS

11. COUNCILMEMBER MATTERS

A. Mayor Brackett's Matters

Mayor Brackett commented on the event held at the County Commission meeting this morning and said it was so wonderful to see the whole community involved. He was impressed how the event was so organized. He recalled that 41 years ago, he signed a letter of intent as a college kicker. He said it is not easy and takes a lot of determination to get there. He said those students will learn a lot when they go off to college.

B. Vice Mayor Neville's Matters

Vice Mayor Neville echoed the comments made by Mayor Brackett. He said the GameDay event was great this morning and he was so happy to be a part of that wonderful ceremony.

C. Councilmember Minuse's Matters

Mrs. Minuse reported that the Metropolitan Planning Organization (MPO) has approved the final report for the Visioning Study. She said that one thing not addressed is how it

will be impacting the urban areas. She has asked them (MPO) to include in their Comprehensive Plan an update of the kinds of impacts they are feeling here, particularly with water and the Indian River Lagoon.

Mrs. Minuse reported on a new program created by the Mental Health Collaborative called “Unstruggle.” Said because of COVID mental cases have gone up and the people needing help need to know it is okay to ask for it. She has been chosen as an Ambassador for this movement. The new program will launch on October 6, 2022, beginning at 4:30 p.m. at the First Presbyterian Church.

D. Councilmember McCabe’s Matters

Mr. McCabe agreed that the event at the County Commission meeting this morning was wonderful. It was nice to have the community come together with the School Board and the bands from the Vero Beach High School and Sebastian High School both played at the event. He said they need to continue moving this forward. He hoped that they would have this event on an annual basis.

E. Councilmember Cotugno’s Matters

Mr. Cotugno reported that he is a member of the Florida League of Cities, Natural Resources & Public Works Committee. He recently attended a Committee meeting and there are some interesting things happening. He will keep Council updated.

Mr. Cotugno commented that the Chamber Music Society of Lincoln Center is back and will be performing at the Community Church on November 8, 2022 at 7:00 p.m.

13. ADJOURNMENT

Tonight’s meeting adjourned at 6:39 p.m.

/tb