

**CITY OF VERO BEACH, FLORIDA  
NOVEMBER 16, 2021 9:00 A.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

Pastor Nate Swearingen from Pathway Church gave the invocation.

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

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

**B. Roll Call**

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

**2. PRELIMINARY MATTERS**

**A. Approval of Minutes**

**1. Regular City Council Minutes – November 2, 2021**

**Mrs. Minuse made a motion to approve the November 2, 2021 minutes. Vice Mayor Neville seconded the motion and it passed unanimously.**

**2. Special Call City Council Minutes – October 25, 2021**

**Mr. McCabe made a motion to approve the October 25, 2021 Special Call minutes. Mrs. Minuse seconded the motion and it passed unanimously.**

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

Mrs. Tammy Bursick, City Clerk, requested that item 3-D) be pulled off of the consent agenda and discussed by the City Attorney under the consent agenda items. She asked that item 2B-2) be pulled from the agenda, which is a Proclamation proclaiming For the Love of Paws Senior Pet Sanctuary, which will be heard at the December 7, 2021, City Council meeting. Staff requested that item 9-B) “Three Corners Plan” be moved up on the agenda and heard before Public Hearings.

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

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

**1) National Domestic Violence Awareness Month – October 2021**

Vice Mayor Neville read and presented the Proclamation.

**2) For the Love of Paws Senior Pet Sanctuary, Inc.**

This Proclamation will be read at the December 7<sup>th</sup> City Council meeting.

**3) Michelle Dion, Air Show Volunteer Coordinator, to speak on the Air Show**

Mrs. Kim Prado and Mrs. Michelle Dion gave an update on the Airshow for 2022, which will be held April 29, 2022 through May 1, 2022.

**4) Police Chief Currey to Discuss House Check & Night Watch**

Police Chief David Currey explained the house check and night watch program that they offer to the community. The house check program started many years ago for seasonal residents. When someone leaves for the season they would let the Police Department know and Police Officers would check their homes periodically. Also, when residents go for long vacations and sometimes even long weekends they let the Police Department know so that their houses can be checked by Police Officers. When the residents come back to town they let the Police Department know so that they checks can be stopped. The night watch is mostly for businesses. Once a Police Officer checks a business at night they leave their card so when the business owners comes in the next day they can see that a Police Officer has been there and checked on their business.

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

- A) Change Order #1 for Contractor Ranger Construction Industries, Inc. for project titled Rehabilitate Runway 12R/30L (FDOT #445950) (\$493,847.00)**
- B) Change Order #2 for Contractor Ranger Construction Industries, Inc. for project titled Rehabilitate Runway 12R-30L (FDOT #445950) (decrease - \$152,502.00)**
- C) Lease between the City of Vero Beach and RMC Holdings Group, LLC**

These items were unanimously approved.

**D) Agreement for Consent to Sublease Agreement between the City of Vero Beach, RMC Holdings Group LLC and Vero Beach Distilling LLC**

This item was pulled off of the consent agenda and discussed.

Mr. John Turner, City Attorney, asked that the word “moveable” before the word “Equipment” in Exhibit B be struck (new wording attached to the original minutes).

**Mr. McCabe made a motion to approve the agreement for Consent to Sublease Agreement between the City of Vero Beach, RMC Holdings Group LLC and Vero Beach Distilling LLC. Mrs. Minuse seconded the motion and it passed unanimously.**

**E) Change Order to ORENCO Systems, PO #S015060**

**F) Orenco Systems Inc., Contract #P-15-2018, PRELOS Equipment Order in the amount of \$224,923.83**

**Vice Mayor Neville made a motion to approve items 3-A), B), C), E), and F). Mrs. Minuse seconded the motion and it passed unanimously.**

**\*Item Moved up on the Agenda –**

**9-B) Three Corners Plan – Marketability and Financial Feasibility Analysis**

Mr. Monte Falls, City Manager, gave the background of Dr. Hank Fishkind, Ph.D from PFM Group Consulting (an affiliate of the City's financial advisory firm) who analyzed the marketability and financial feasibility of the recommended Three Corners Project Community Master Concept Plan approved by Council in May 2021.

Dr. Fishkind provided a Power Point presentation on the Marketability and Financial Feasibility of the Three Corners Plan (attached to the original minutes).

Vice Mayor Neville asked Dr. Fishkind if he has considered the third parcel across the street from the Power Plant.

Dr. Fishkind explained that he was not asked to look at that site, but they could add it to his scope of work.

Vice Mayor Neville explained that the area would provide additional event space and parking.

Dr. Fishkind agreed that parking was necessary and that would be a good place for it.

Mrs. Minuse asked about having a walking bridge across where the Power Plant and Water Plant are now.

Dr. Fishkind explained that it could be done, but it is very expensive.

Mayor Brackett commented that the developer would decide a lot of what is going to be done on the property. They want people to be excited about the project and to create a destination space, but the developer will be providing a lot of input on what they think will work on the property.

Dr. Fishkind agreed that they must adhere to the basic plan. He agreed that the developer would be making a lot of the decisions, but they also want to have competition for people bidding to build on this property. They want to expose this proposal to the market so they will be prepared for the referendum. They will wait until after the referendum until they launch the Request for Proposals (RFP).

Vice Mayor Neville asked Dr. Fishkind if there was a blank slate with no plan agreed upon by the public, what would be his perspective of the use of this property.

Dr. Fishkind said that he would not have any residential dwellings on the property. He said that he did not think that residential was necessary, but that would be in a perfect world. However, there may be some developers that are going to want to have residential on the site because of the economy.

Mr. Cotugno understood that these are just guidelines for what they are going to be doing next. The developer will look at the feasibility of the project based on these guidelines and things could be modified.

Dr. Fishkind agreed with the comments made by Mr. Cotugno. He said that these are things that can be accomplished according to their community plan.

Vice Mayor Neville asked Dr. Fishkind what his thoughts were about having a chapel on the site.

Dr. Fishkind said that he liked the idea of having a chapel there and felt that it was a good place to have it.

Mrs. Minuse appreciated all the information that Dr. Fishkind was bringing to them today. She said when they first started discussing what to do with this property they hired a consultant who gave them what was better known as the “Standing Ovation Plan” and then he developed another plan after COVID and she said the “Standing Ovation Plan” no longer exists. She asked if Dr. Fishkind was he working on the new plan that was presented to them.

Mr. Falls explained that the consultant did do a post pandemic plan and then they went back to the Steering Committee who made a motion to go with the “Standing Ovation Plan,” which is what they have now. He said that Dr. Fishkind has made suggestions on what he thinks will make the plan better and then they will have a final report done. They will be working on getting letters of interest from developers and getting the referendum passed. He agreed with Dr. Fishkind about waiting until after the referendum to put out the RFP because they want this to be about the plan and not the developer.

Vice Mayor Neville commented that one of the suggestions made by Dr. Fishkind was to add a jitney service from the hotel to the beach at South Beach Park and add a pavilion for beach type services and bar/beverage/snack services. He asked who would fund that.

Dr. Fishkind explained that the developer would pay for it and it would be a ground lease.

Mr. John Turner, City Attorney, expressed that the Park would be open to the public so if this is done it would be open to the public.

Mr. Falls asked Council to look over the feasibility study and come up with any comments that they have and they can discuss this again at their December 7<sup>th</sup> meeting.

Mr. Jason Jeffries, Planning and Development Director, explained that the last step in terms of the plan would be to work with DPZ, their consulting firm in finalizing the document.

Dr. Fishkind agreed that Council needed to provide comments to them and then he will work with Mr. Jeffries in finalizing the document with DPZ based on the input that they received and then come back with a Resolution. The document will be included along with a completed map. Then they would do a request for information and the next phase would be to do pre-qualifications and pre-qualify a group of developers that would be interested. He reiterated they would request that an RFP be done after the referendum.

Mr. Falls commented that they have had close to a dozen inquiries from developers who are interested in the site. He said if they make a formal request he feels that they will get a good response because of the study that they have put together showing this is a viable concept.

Mr. Cotugno asked what is the timeline. He was concerned that they needed to keep this moving forward.

Mr. Jeffries hoped to have the plan back to Council in January to adopt the Resolution.

Vice Mayor Neville wondered if the addition to South Beach Park as outlined in this Feasibility Study would be a part of the plan.

Mr. Falls said that it would be included in the final report.

#### **4. PUBLIC HEARINGS**

##### **A) ORDINANCES**

- A) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 30, Section 30-2 in “General Ordinances” of the Code of the City of Vero Beach, Revising the Definition of “Qualifying Period”; Providing for Codification; Providing for Conflict and Severability; Providing for the Correction of Scrivener’s Errors; and Providing for an Effective Date. – Requested by the City Clerk**

The City Clerk read the Ordinance by title only and explained the reason for passage of the Ordinance. She said that the City received a request from the Supervisor of Elections to

change the City's qualifying date for elections to be earlier than what they have in place now. The reason for this was because of all the additional mail in ballots that she now sends out.

Mayor Brackett opened and closed the public hearing at 10:02 a.m., with no one wishing to be heard.

**Vice Mayor Neville made a motion to approve the Ordinance. Mr. McCabe seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

- B) An Ordinance of the City of Vero Beach, Florida, Related to the Budget for the City of Vero Beach, Florida, for the Period Beginning October 1, 2020 and ending September 30, 2021; Providing and Establishing Revisions to said Budget based on Revised Revenue, Expenditure and Transfer Estimates; Providing for an Effective Date. – Requested by the Finance Director**

The City Clerk read the Ordinance by title only.

Ms. Cindy Lawson, Finance Director, reported that the total revenues in the General Fund are projected to be \$433,000 more than the original adopted budget of \$25.0 million (an increase of 2%). Although there was a significant decrease in interest earnings on investments (\$580,000 lower than original estimates) this decrease was offset by increases in several other revenue sources including grants, code enforcement fines and State revenue sharing resulting in a net increase to total revenues. The Water & Sewer Fund has decreased its use of Fund Balance from the original budget of \$709,000 down to \$406,000 for FY 20-21 and based on the combination of increased revenue and increase expenses, the Airport Fund has a project cash carryover of \$114,000. She said this was all good news.

Mayor Brackett opened and closed the public hearing at 10:04 a.m., with no one wishing to be heard.

**Mrs. Minuse made a motion to adopt the Ordinance. Vice Mayor Neville seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

**B) RESOLUTIONS**

- A) A Resolution of the City Council of the City of Vero Beach, Florida, amending Sections 10.01 "Days Observed Earning," 11.03 "Personal Leave" of the City of Vero Beach Personnel Rules; Providing for an Effective Date. – Requested by the Human Resource Director**

The City Clerk read the Resolution by title only.

Mr. Falls reported that as part of their Union negotiations, they agreed to a Floating Holiday for bargaining unit members as well as one (1) additional Personal Day. The City of Vero Beach Personnel Rules need to be amended to include all non-bargaining unit members.

Mayor Brackett opened and closed the public hearing at 10:06 a.m., with no one wishing to be heard.

**Mrs. Minuse made a motion to adopt the Resolution. Vice Mayor Neville seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

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

Ms. Barbara Reddy was happy to learn about the house check and night watch program that the Police Department offers. She also said that she was very excited about the Three Corners project, but was curious why Dr. Fishkind said they could have a 3 star hotel on the property and not a 4 or 5 star hotel there. She brought up the rooftop restaurant and noted that Savanna has many hotels and restaurants that have roof tops. Having a rooftop restaurant at this location would be a perfect place to look at the Indian River Lagoon. She could only imagine how many hotels will be jumping at this opportunity. She liked the idea of having a jitney service and hoped that it would go down the beach and over the Barber Bridge. She was excited to get this on the referendum. She has been following the voting turnout in Vero Beach and it doesn't seem to be very strong. She said the tax dollars coming into the Savanna coffers have changed the dynamics of that City since they converted where their Power Plant once sat. She felt that the consulting report was a first class piece of work.

Mr. Keith Drewett congratulated Mr. Cotugno and Mr. Neville on their election and congratulated the new Mayor and Vice Mayor. He felt that the Three Corners plan was very exciting, but he was concerned with the current Marina and the expansion. He said that one (1) solution would be to have the City operate the Marina and then all the money would come to the City. The South Beach proposal is exciting and the jitney service is necessary. He said they could roll in a water taxi with that.

Mr. Mike Johannsen commented that he was hopeful that this project might be completed in his life time. He expressed that they need to be promoting this project so when it gets to the referendum it will pass. It is important that the voters understand the project and that it is the right thing to vote in favor of. If the referendum is turned down then the whole project goes into the "garbage can."

Mayor Brackett agreed that they need to promote the project, but the City is not allowed to spend any money on an advertising campaign.

Mr. Ben Trautman, Marine Commission Chairman, commented that the Marine Commission has not seen this plan or discussed it. He said if this plan is in the works that it is important that it be brought to the applicable boards for their feedback.

Mrs. Minuse commented that the Steering Committee has looked at all of these things.

Mr. Falls stated that there was not a problem with staff taking the plans to the Marine Commission. They will inform them as to where they are up to now and what they are doing. He said this is a concept to be explored and staff would love to have discussion about it with the Marine Commission.

Mr. Leonard Markir, Recreation Commission member, commented that the Recreation Commission has not seen the Master Plan in a formal way and hoped that staff would present it to them.

Mr. Falls informed Mr. Markir that the former Recreation Commission has seen the plan and made their recommendations to the Steering Committee. He said that there would be some recreation space in the plan and that might be the appropriate time for the Recreation Commission to look at this. He said if Council would like their Commission and Boards to look at the plan again then they could advise staff on that.

Mayor Brackett expressed that everyone needs to keep in mind that the overall concept plan will be turned over to the developer that is chosen for the project.

Mr. Falls commented that ideally it will be up to the developer to handle the things taking place at the Three Corners property. He said there might be things that the City is involved in and they need to always remember that this is a community plan and not a developer's plan. He looks forward to moving ahead on the different recommendations.

Mr. Cotugno served on the Steering Committee where they listened to the public and the Recreation Commission did make a presentation. He said if they continue to send the plan back and forth to different Commissions then they may not get to where they need to be in moving forward with the plan.

Vice Mayor Neville questioned if the developer was building the property to his standard, would the City let him do that.

Mr. Cotugno explained that this is a guideline and they have to look at the community they live in and determine if it fits or does not fit.

Mrs. Minuse commented on the different Commissions that the City has and wondered if they understand where the City is on the project and what their responsibilities are.

Mr. Falls said that there will be green space on the south side of the property and maybe the Recreation Commission could advise on that. He said the reason to get the Marine Commission's input is because this is the first time that a proposal to put docks there has come up and the Marine Commission's input is necessary.

Ms. Barbara Reddy recalled that in Savanna there was a lot of discussion between the City Council and the hotel developer before the final product came out. She said that the involvement of the community is very important.

Mr. Turner expressed the importance of having everyone understand that this property is going to be used by the public.

**6. CITY COUNCIL MATTERS**

**A) NEW BUSINESS**

**B) OLD BUSINESS**

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

**Public Hearing will be held on December 7, 2021**

- A) An Ordinance of the City of Vero Beach, Florida, amending the Text of Chapter 1, Overview of Policy Document; Chapter 2, Land Use Element, Goal, Objectives, and Policies; and Adding Chapter 11, Property Rights Element, Goal, Objectives, and Policies; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on December 7, 2021.

**Public Hearing will be held on December 7, 2021**

- B) An Ordinance of the City of Vero Beach, Florida, amending the Text of Chapter 2, Land Use Element, Goal, Objectives, and Policies; Adding to Policy 1.18, Table 2-2, The Cultural Arts Village Zoning District; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only and reported that the public hearing would be held on December 7, 2021.

**8. CITY CLERK MATTERS**

- A) Marine Commission request to have Two (2) Alternate Members on the Commission – Chairman Ben Trautman**

Mr. Ben Trautman, Chairman of the Marine Commission, asked Council to reinstate the alternates on the Marine Commission. He knows that they don't have a voting capacity unless a full member is not present, but they are important to the Marine Commission. He said that they have one of the most knowledgeable Commissions there are when it comes to the waterways and the marine industry. He said the people sitting as alternates are as

equally important to the Marine Commission. He said if they do reinstate those seats that they use the members (applicants) that sat on the Marine Commission before. He said some of them have expressed an interest to serve on the Marine Commission.

Mayor Brackett expressed that since they don't have voting rights they could still participate. He gave an example of the City Council and not having alternate members, but the Council is required to attend all the meetings.

Mr. Trautman expressed that the members serving on the Marine Commission are all volunteers. He said by having alternate members on the Commission they do help fill in when there are unexpected absences.

Vice Mayor Neville recalled that when they discussed changing the number of members on some of their Commissions/Boards, Council did say that the Chairman of the Commission could come to the City Council requesting that the Commission have alternate members on the Commission if they feel it is necessary. This clause was put in the new Ordinance.

**Vice Mayor Neville made a motion to grant permission to the Marine Commission to have two (2) alternate members on the Marine Commission. Mr. McCabe seconded the motion. He noted that other Commissions could come forward making the same request if needed.**

Mrs. Minuse asked if the main reason in doing this was to have a quorum.

Mr. Trautman said it is to strengthen their Commission and strengthen everyone on the Commission.

Vice Mayor Neville said that it is fortunate they have people that want to be on the Commission.

Mr. Trautman commented that the dedication of these members is outstanding.

Mayor Brackett had some concerns that some of the other Commissions will want to add alternates back to their Commissions, which was not the intent of restructuring the Commissions. He doesn't want to see the Commissions leaning on the alternates in order to make a quorum, which means some of the full time members may not show up for a meeting because they know that there is an alternate who will take their place.

Mr. Cotugno asked Mr. Trautman how many times was there not a quorum and the Marine Commission was unable to meet. Mr. Trautman did not think that ever occurred, but he would have to double check on that.

Ms. Reddy brought up using zoom for their meetings if someone could not attend. She was told under State law that was not allowed.

**The motion passed 3-2 with Mr. Contugno voting no, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett no.**

**B) Appointments to Council Committees**

The Council made appointments to their different Committees for 2021-2022 (attached to the original minutes).

Mayor Brackett asked the City Clerk to bring back at their next meeting appointing alternates to the Marine Commission.

**C) Discuss Cancelling the December 21, 2021 City Council Meeting**

It was the consensus of the City Council to cancel the December 21, 2021, City Council meeting because of the holidays.

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

**A) Approve Publication of Notice for a Resolution of Intent to Use the Uniform Method of non-ad valorem special assessments for the cost of providing Stormwater Improvements and Services within the incorporated area of the City**

Ms. Lawson reported that in order to collect stormwater utility fees by non-ad valorem assessment beginning in FY 22-23 the Florida Statutes requires that the City holds a public hearing and adopts a Resolution of Intent to use the uniform method of collection for this assessment program in the calendar year prior to any such collection. The Resolution does not obligate the City to use the method or impose a special assessment. It must be adopted by January 1<sup>st</sup> and sent to the Indian River County Tax Collector, the Indian River County Property Appraiser, and the Florida Department of Revenue by January 10<sup>th</sup>. A notice of the public hearing to adopt the Resolution of Intent must be published in the newspaper once a week for four (4) consecutive weeks immediately before the public hearing. If the City Council wishes to adopt a Resolution of Intent for FY 22-23, the notice would need to be published beginning November 20, 2021, with a public hearing to adopt the Resolution on December 14, 2021. This Resolution is non-binding and the City may reduce the areas covered by any future assessments or decide not to go forward with the assessment program at a later date.

Mr. McCabe commented that they are not making any commitments just keeping their options open. Ms. Lawson said that was correct.

**Mrs. Minuse made a motion to approve publication of the notice and to schedule a public hearing to adopt the Notice of Intent Resolution on December 14, 2021, at 9:00 a.m. Mr. McCabe seconded the motion.**

Mr. Keith Drewett gave an update on some things happening concerning stormwater. He said that the Public Work's director gave a good presentation to the Utilities Commission at their last meeting. Mr. Drewett was excited about the Three Corners project and some of the larger items in the project. He said there could be a large underground stormwater project. He said in the next few months they will see some new rules coming down from the State regarding stormwater. He heard that the City was looking at selecting a consultant to help with grant writing and he knows that there are a lot of grants available. He brought up the economy in Vero Beach and said that they would know more in June on where they stand. He reported that yesterday the Governor signed an Infrastructure Bill and water was included.

Vice Mayor Neville asked if their exfiltration project was associated with an outfall in front of Ocean Grill.

Mr. Falls said that there was a small one (1) there and he named where some other exfiltration projects were located.

Mayor Brackett commented that when it comes to a stormwater utility he still has some reservations about it and agreed that they would know more in June about where they stand as far as the economy goes. He will go along with this today and hopes that they get some public comments so they will know where the community stands and then go from there.

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

**B) Three Corners Plan – Marketability and Financial Feasibility Analysis**

This item was discussed earlier in the meeting.

**C) Federal Grant Agreement (VRB-SOG-3-12-0083-046-2022) Entitled “American Rescue Plan Act” (ARPA) (\$59,000.00)**

Mr. Falls reported that the President executed the approved American Rescue Plan Act into law providing economic relief funds to eligible U.S. Airports affected by COVID. As part of this Act, the Vero Beach Regional Airport is entitled to \$59,000. Staff would recommend approval of the Federal Grant Agreement.

**Mr. McCabe made a motion to approve the American Rescue Plan Act Grant for the amount of \$59,000. Mrs. Minuse seconded the motion and it passed 5-0 with Mr. Cotugno voting yes, Mr. McCabe yes, Mrs. Minuse yes, Vice Mayor Neville yes, and Mayor Brackett yes.**

**10. CITY ATTORNEY MATTERS**

**A) Chapter 164 meeting with the Town of Indian River Shores set for November 19, 2021 at 10:00 a.m. at the Charter High School**

Mr. Turner reminded Council that they would be entering into Phase 2 with the Town of Indian River Shores and having a joint public meeting on Friday, November 19, 2021, at 10:00 a.m. The meeting is in accordance to Chapter 164 in efforts to resolve the dispute that the City and Indian River Shores are involved in. The staff of both the City and Indian River Shores already conducted their meeting for Phase 1 of the meeting process and no resolution was met so they will enter into the second phase on Friday. He has not received the agenda yet for the meeting. He will contact their attorney about getting a copy of the agenda. He said their attorney contacted him last week and it was mentioned that the likelihood of resolving the matter is slim and wanted him to agree with a list of mediators involved for Phase 3. He said that he has not had a chance to look at the names of the mediators. He was reluctant to respond back because they need to be conducting Phase 2 in good faith and see if they can resolve something. In all likelihood they probably will be going to mediation.

### **B) Chapter 164 Dispute Resolution Process with Indian River County**

Mr. Turner reported that the ongoing dispute with the County on the 1989 Territorial Agreement seems to have reached an impasse on declaring an impasse. He recalled that the City Council directed the City Manager and the Mayor to send a letter to the County Commission with reasonable franchise terms and if they acknowledge the validity of the 1989 Territorial Agreement the dispute will be resolved and if not they are at impasse and it is time to schedule the mediation phase of the Chapter 164 process. The County Attorney responded by saying that he discussed the issue with the Board of County Commissioners and the Board of County Commissioners voted unanimously to move forward with having one (1) more meeting with the Mayor, City Manager, City Attorney, Chairman Flescher, the County Administrator and the County Attorney before moving forward to the mediation step. The County Attorney said this is not a litigation strategy or a delay tactic. It is consistent with what was discussed at the end of the meeting on October 6<sup>th</sup> and consistent with public nature of this dispute resolution process set forth in Chapter 164. Mr. Turner said that is not what he took from the meeting after reviewing what occurred. He said it is up to the City Council about making a determination of proceeding further. He advised the County Attorney that he thought they were at impasse, but the County Attorney indicated that the County wants to meet again on staff level with the same parties as before. He wanted to make sure that the City Council was ready to proceed with the next phase, which is selecting a mediator and possibly resolving the matter. He believes by having another meeting it is a tactic to delay the case and suggested to Council that they proceed with the mediation and deal with it that way.

Mrs. Minuse asked if the County suggested that there was anything new to address.

Mr. Turner answered no.

Mayor Brackett clarified that they had the last staff meeting held was on October 6, 2021, that included himself, and their Chairman Mr. Flescher and at the end of the meeting they were asking for them to have another meeting and he said they could have another meeting,

but it had to be contingent upon Council approving that and their comment back was they also had to have approval from the County Commission. They also asked why the City had not responded to their offer. They claimed that the City didn't want to respond or make a counter offer. He said the City did respond with a letter that was sent to the County Commission that basically said the original franchise agreement was reasonable and they agree to the original terms of the franchise agreement and the City has not received any response or any indication that they have changed their mind. He said in fact at the County meeting the County Attorney summarized what their position still was, which hasn't changed. The City has not received a counteroffer back from the County.

Mr. Falls agreed that the City did send a letter to the County on October 25, 2021 (attached to the original minutes). He read excerpts from the letter on what the County proposed for the South Beach franchise agreement and what the City proposed for the South Beach franchise offer. The City countered that they agreed with most of the issues, but they wanted to set their own rates just as the County sets their rates and the City would not levy any outside City limit surcharges. He said with the transfer of funds the City would continue to transfer 6% of revenues to the City's General Fund. The City is just asking in this new franchise that the County does the same thing. The 1987 City/County Franchise Agreement must have been reasonable because it lasted for 30 years. It left the door open for the City to levy surcharges and they agreed not to do that. It was made clear in the letter that if the County agrees to these franchise terms and acknowledges the validity of the 1989 Territorial Agreement, the dispute has been resolved. If not, they are at impasse and it is time to schedule the mediation phase of the Chapter 164 process. The City has told the County that if they didn't agree with the terms then they are at impasse.

Vice Mayor Neville watched the County Commission meeting when this was discussed and thought he heard Mr. Reingold say that in regards to the Chapter 164 process they must have a meeting before coming to impasse.

Mr. Turner explained that Chapter 164 does not specifically address that question. It says if the parties are not able to reach an agreement then they go to a mediator. He said that is where they are now.

Mr. Falls commented that they could begin the process of finding a mediator and declaring an impasse, which still gives the County time if they wish to respond to the letter.

Mr. Cotugno agreed that the County has had time to respond. It sounds like to him that this is a delay tactic. He felt it was time to declare an impasse and when the City shows up for mediation if the County really wants to put something on the table that is reasonable then they can discuss it with them. The letter is very clear and the County has had ample time to respond.

Mr. Falls commented that the County Commission has discussed the letter in an open meeting so it is time to move this process forward and stop wasting time.

Mayor Brackett agreed that by declaring an impasse and getting a mediator it is going to take a few weeks because of the holidays.

Mr. McCabe asked if it was their option to declare impasse and select a mediator.

Mr. Turner concluded that he will respond to the County Attorney that they were proceeding with the impasse phase and proceeding with the phase of going to mediation. He has already submitted some names of mediators and will present some additional names.

## **11. COUNCILMEMBER MATTERS**

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

Mayor Brackett expressed that there was a lady sometime back that had come to the City Council to discuss her cost of what she had to pay for the STEP System and because of some hard times that she had lapsed in her payment. He asked Council to let him handle this and her payment would be made. He was able to do this through the Brackett Foundation and her payment will be paid off by the end of the week.

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

Mr. Neville thanked the people who voted at the last Election. He welcomed Mr. Cotugno and told him that he was happy to have him on board.

Vice Mayor Neville showed pictures of the Halloween parade and thanked the Recreation Department for the wonderful work that they do.

Mr. Neville reported that he did the Alzheimer's and Parkinson walk on Saturday and it was an amazing event. All the money collected stays right here in the County.

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

Mrs. Minuse thanked Council for passing the Resolution dealing with Home Rule at their last Council meeting. She said that it was exceptionally well received at the Florida League of Cities Legislative Delegation meeting that she attended.

Mrs. Minuse brought up the legislation that was passed saying they had to amend their Comprehensive Plant to allow any business permitted in the City to operate in a single family dwelling neighborhood. She has talked to staff about getting this information out to the community. She said their business communities are upset about this because now these businesses can operate in residential neighborhoods. There is not much help in the Legislature this year to amend this Bill. She said right now the most important thing to do is protect their neighborhoods and to get the word out.

### **D. Councilmember McCabe's Matters**

Mr. McCabe appreciated Council giving him an excused absence from their last Council meeting so that he could attend the wedding of his last daughter to get married. He noted that he and the City Clerk were on the Bonfire Committee and the event was well attended Saturday night and he hopes that it will continue.

Vice Mayor Neville added that it was like a festival.

Mr. Falls noted that it was not a City event, but organized by the local hotels and restaurants located on the beach.

Mayor Brackett agreed that it was a great event and was well attended.

#### **E. Councilmember Cotugno's Matters**

Mr. Cotugno thanked everyone that came out to vote in the recent Election. He said it was a good and interesting campaign and of course he agrees with the outcome. He said on the ballot there was a referendum that passed, which means there will be extra money in the coffers and he would like to see what the plans are for that money. He has started receiving phone calls regarding that.

Mr. Falls acknowledged that they have not received the check yet from the County. He said the final details are still being worked out.

#### **13. ADJOURNMENT**

Today's meeting adjourned at 11:29 a.m.

/tb