

**CITY OF VERO BEACH, FLORIDA
FEBRUARY 3, 2009 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

Mayor Sabin Abell, present; Vice Mayor Tom White, present; Councilmember Debra Fromang, present; Councilmember Bill Fish, present and Councilmember Kevin Sawnick, present Also Present: James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

Ms. Pat Pellington of the First United Methodist Church gave the invocation.

C. Pledge of Allegiance

The audience and the Council joined together in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mr. White made a motion to adopt the agenda as presented. Mr. Fish seconded the motion and it passed unanimously.

B. Proclamations

1. Healthy Floridians Initiative Week – February 15-21, 2009

Mayor Abell read and presented the proclamation.

2. Plaque to be given to Tom White thanking him for serving as Mayor

Mayor Abell presented a plaque to Vice Mayor Tom White thanking him for serving as Mayor from March 2006-2008.

C. Public Comment

1. Mr. Frank L. Zorc to speak on Piper

Mr. Zorc was not present for today's meeting.

Mr. Joseph Guffanti continued speaking about an incident that he has talked about at previous meetings. He said an incident took place about two years ago with the arrest of an individual who was engaged in an illegal drug activity, which he had nothing to do with. He said that Police Officers showed up headed by a DEA Agent. They came to arrest someone who had already been arrested and was out on bond. There were eight officers that showed up with two police dogs. The lady he was visiting at this location was not engaged with this crime. This was the result of the Agent saying lets get together and we will have a trial run and arrest this man. At this time, Mr. Guffanti was told that his three minutes were up.

Mr. Ken Daige read a prepared statement (please see attached).

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – January 20, 2009**
- 2. Special Call City Council Minutes – January 8, 2009**
- 3. License Agreement between the City of Vero Beach and Mattel, Inc.**
- 4. Request for Approval of Above-Ground Fuel Tank for T&D Building**
- 5. Final Payment Request – Flood Barriers – Architecture Metals LTD. Co.**
- 6. Conn Beach Dune Restoration – Bid No. 020-09/JV**

Mr. Fish made a motion to adopt the consent agenda. Mr. White seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 74, “Traffic and Vehicles,” of the Code of the City of Vero Beach; reserving certain section numbers for future use in Article IV; creating Article V, to be entitled the “Intersection Safety Enhancement Ordinance,” providing definitions; authorizing the Establishment and Operation of a Traffic Signal Violation Automated Enforcement Program and the use of Traffic Signal Violation Detectors; requiring Driver Obedience to Traffic Control Signals; providing for Vehicle Owner Responsibility and Defenses; providing for Enforcement and Penalties; providing for Appeals; providing for a Public Awareness Campaign and a thirty day grace period; and providing an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. Wayne Coment, Assistant City Attorney, pointed out that basically what they have before them today is the same Ordinance that they discussed at their last meeting when this Ordinance was first heard with a few changes made, which makes it easier to follow.

Police Chief Don Dappen recalled at their last meeting there were a lot of questions and discussion that took place on just how this project would work if approved. He asked Mr. Sheir of American Traffic Solutions to give them a Power Point presentation outlining how the project will work.

Mr. Sheir gave a Power Point presentation (on file in the Clerk's office).

Mr. Fish mentioned that if they pass this Ordinance today they are not selecting a vendor, however he did appreciate Mr. Sheir being at their meeting today. He said that in Florida they have an awful lot of license plates that are hard to read. He didn't know how the cameras were going to pick up those license plates. Another problem is there are some license plates that have been created with such a background that you can't find the lettering. He said there are two kinds of red light runners. Those who know the light is red and those who are totally oblivious.

Mr. Sheir agreed that there are two types of red light runners. He said the ones that are not paying attention are the more dangerous ones and the ones that run the red light on purpose are the ones that can cause a serious accident.

Mr. Fish had some concerns that an officer should be talking to these people that run red lights in person.

Chief Dappen explained that what they are looking for is people who have not entered the intersection. The person who just gets caught under a yellow light and it changes to red is not what they're looking for. If someone is issued a citation and they want to see if their vehicle did in fact run a red light they can view it on the internet.

Mrs. Fromang asked if they know where the problem intersections are, then why aren't they policing those intersections.

Chief Dappen said that they are.

Mrs. Fromang felt that the problems would stop if they police those intersections for two weeks straight. She said that this is just a revenue producer, which is why a lot of cities are passing it.

Mr. Fish commented that this also has to do with officer safety.

Chief Dappen reiterated that American Traffic Solutions has not been selected as the vendor. He said that the most dangerous intersection they have is US1 and State Rd 60 and if they had a Police Officer there policing that intersection most people would not see the officer because of all the different ways that traffic is moving. He said that the officer can only do exactly what the camera is going to do. There are at least five lanes at that intersection that the officer is not going to be able to cover.

Mr. Sheir added that when a municipality moves forward with this program the intersections are reviewed and the municipality has the final decision on which intersection they want to place the cameras.

Mrs. Fromang asked why shouldn't their City Engineer and Traffic Engineer do this study for them.

Mr. Sheir felt that the study that they do would accomplish the same thing that a Traffic Engineer would come up with, just at no cost to the City.

Chief Dappen stated that at the intersection of US1 and State Road 60 there were approximately 29 crashes that occurred. He explained that if someone runs a red light it is a failure to yield to the right of way and this is something that an officer can prove. However, the City does not have the equipment to show what a Company or vendor can provide. The important thing to remember is the prevention of accidents. He again referred to statistics that show that communities who already have the cameras in place are creating a safer environment. He agreed that there is a great deal of money generated, but there is also a great deal of safety generated because of it.

Mr. Sheir commented that the number of violations will drop after the red light cameras are put in because people will know that they are there. But, it has been proven when cameras are removed the violations will go back up. He went over how the contract is usually set up. He mentioned that the company that he works for is based out of Arizona, but they do have offices in Florida and he resides in Sarasota, Florida.

Mr. White brought up economics and having these cameras. He said that in the long run it will be cheaper to have a camera put in place then to have an officer at the intersection because they don't have to pay benefits (retirement, medical, etc.). Also, if there is an accident that takes place at an intersection where the cameras are being used it will aide the officers in investigating the accident. Having the cameras in place will help people be more attentive when they enter an intersection that has the cameras. He is looking at the safety side to make their streets a little safer.

Mr. Sawnick stated that the red light cameras will free up officers to work on other duties. He said that it was important for law enforcement to be proactive. The initial cost to implement this is zero and if this Ordinance is on the books it will allow them to move forward with the program if they choose to do so. He asked Mr. Sheir if the Police Officers are allowed access of the video if there is an accident and it doesn't deal with a red light.

Mr. Sheir answered yes. He said that the City can capture whatever the City wishes. The camera system goes live when the red light is engaged.

Mayor Abell asked what is the fine for running a red light.

Chief Dappen said that it is \$208.00.

Mayor Abell noted that the intersections that need the cameras have been established. He referred to the intersection at Indian River Boulevard and said that you would need at least three officers there to be able to watch all of the different areas at that intersection. He asked Chief Dappen if they have ever considered putting cameras on stop signs.

Chief Dappen did not know of any municipality that has done that yet.

Mayor Abell felt that they should consider imposing a fine of \$500.00.

Mr. Fish suggested asking Mr. Chris Mora, County Traffic Engineer, to go get the data while the winter residents are here and take a look at what happens at those intersections on any given day.

Mrs. Fromang said if there is a problem at these intersections then they should know about it. They shouldn't have to hire a vendor to put a red light camera up. She felt that they didn't have enough information to move forward with this.

Chief Dappen went over how many crashes have occurred at the different intersections.

Mr. Monte Falls, Public Work's Director, explained that the type of cameras located at the intersections now will not provide the data that they are looking for.

At this time, Council took a five-minute break (10:42 a.m.).

Mr. Sheir wanted to make it clear that when a vehicle goes up to a red light and then backs up it is not reviewed by an officer or caught on camera.

Mayor Abell opened the public hearing at 10:55 a.m.

Mr. Joseph Guffanti said the last time that he checked the death by auto rate in Florida was twice what it is in New York. This indicates to him that there is something wrong in the State of Florida with respect to transportation. He said there are no jug handles in Indian River County. A jug handle is a way of eliminating left hand turns. The set ups (speed limits, stop signs) are a hindrance to people and cause them to break the law. The reason why some people run red lights is that they are annoyed at how the traffic lights are set up. No one has addressed the issue of inadvertently going through red lights and what the results are. He agrees that there are occasions when you should go through a red light (avoid getting rear ended). He felt that this proposal before them will alienate people. He does not think that this is in the best interest of the citizens of Vero Beach.

Mr. Rusty Bragg told Chief Dappen before the meeting started that he wasn't going to oppose this. He just had some concerns about the owner of the vehicle. He is all for public traffic safety. However, this does seem like a revenue maker. He would like to know what the split is between the vendor and the City. If someone gets a citation in the

mail what is their recourse to appeal it and if someone doesn't pay the citation what happens to that individual.

Chief Dappen answered the questions brought up by Mr. Bragg. He explained the payment between the vendor and the City could be a flat split, but they would have to negotiate what that split would be. He said that if a person wants to contest a ticket/citation, they can do that and go before the Code Enforcement Board and plead their case. If they don't pay the citation then what happens is the same as what they do for people who don't pay parking tickets and that is send them to a collection agency. When someone receives one of these citations there are no points assessed against their drivers license. The citation cost would be \$150 and about 30% of that cost will go to the vendor. If the State passes this then they will have to operate under the State Statute. However, they have been told that the municipalities who have an Ordinance already in place will be able to operate under it for the next two to three years.

Mr. Coment explained how the Code Enforcement Board procedures work.

Mr. Ken Daige asked if there was another reading of this Ordinance.

Mayor Abell told him that this is the final hearing.

Mr. Daige requested that Council table this Ordinance and get more public input. He suggested contacting the cities that have this set up to get some feedback on how it is working in their municipality. Also, he felt that the vendor contract needed to be reviewed. He would have some concerns once revenue started dropping. They should also look at the length of time of the contract. He didn't see any reason why they couldn't do this on a trial basis. He hoped they had people lobbying for them for the money to stay with the City so that the State can't get it.

Mr. White commented that today they are just passing the Ordinance. Any vendors interested in the bid will have to be interviewed and that a contract to select a vendor would have to come back before Council.

Chief Dappen added that the contract would have an escape clause in it that after ninety days they can get out of the contract if they need to. He said that the cameras would cost approximately \$100,000 to install.

Mayor Abell felt that this would pay for itself and there would be no cost to the City.

Mr. George Grundey presented Council with a letter at their last meeting (on file in the City Clerk's office). He said if the cameras are installed then there would be no education given to the public concerning running a red light. He runs a traffic school and teaches his classes the meaning of the green, yellow and red traffic light. He urged Council to stay with the old system and keep the money in the State. He said that if you look at the overall picture he did not think that a camera will educate the drivers.

Chief Dappen explained that even if they go forward with this that his officers would still be writing traffic citations and educating the public will continue.

Mayor Abell closed the public hearing at 11:24 a.m., with no one else wishing to be heard.

Mr. Fish reiterated that by passing this Ordinance they would not be putting cameras up on the poles.

Mr. White made a motion to approve the Ordinance. Mr. Fish seconded the motion and it passed 5-0 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

B) An Ordinance of the City of Vero Beach, Florida, applying Interim Regulations to amend Chapter 38, Article 1 of Part III of the Vero Beach Code of Ordinances related to Sandwich Board (“V-Shaped”) Signs; establishing the Interim Ocean Drive/Cardinal Drive Commercial Sign Overlay District; providing for Interim Permitting of Sandwich Board Signs; providing Requirements for Sandwich Board Signs; providing an effective date.

Mayor Abell read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, requested that the Ordinance be continued until another meeting, which would give him time to find out what the property owners and businesses owners thoughts are on the Ordinance.

Council agreed with Mr. McGarry’s recommendation.

Mr. White made a motion to table the public hearing on this Ordinance until the March 3, 2009 City Council meeting. Mr. Fish seconded the motion and it passed 5-0 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

None

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

A) An Ordinance of the City of Vero Beach, Florida, amending Section 2-46 “Regular Meetings” of the Code of the City of Vero Beach to change the Time generally appointed for Regular City Council Meetings from 7:00 P.M. to 9:30 A.M. on the First and Third Tuesday of each month; providing for

**adjustment of the Date, Time and Place for any future specific meetings;
clarifying the meeting notice provision; and providing for an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. White made a motion to approve the Ordinance on first reading and set the public hearing for February 17, 2009. Mrs. Fromang seconded the motion and it passed 3-2 with Mr. Sawnick voting no, Mr. Fish no, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

B) A Resolution of the City of Vero Beach, Florida, setting Rates and Fees for the Municipal Cemetery; providing for an effective date.

Mayor Abell read the Resolution by title only.

Mr. White commented that he looked over the rate schedule on this. He noticed that with the new rate schedule the County residents and the out of County residents will be charged the same rate. He wanted to see the City resident's rate either stay the same (not increased) or reduced. He agreed to move the Ordinance forward to the public hearing knowing that these changes could be made then.

Mr. Falls said that he would be happy to use any rate structure for City residents that the Council wants him to. He explained that Crestlawn Cemetery is totally operated by the City of Vero Beach and that the City taxpayers are paying a premium to run the cemetery. He said that a rate study was done comparing their cemetery with what other cemeteries are charging, which is how they came up with the new rates before Council today.

Mrs. Fromang asked why such a high jump in the price for cremations.

Mr. Falls explained by charging this amount it will get them up to market rate.

Mr. Fish wondered if this new rate structure was in place last year would they still be putting money into the General Fund.

Mr. Falls briefly explained what their reduction would have been if this rate structure had been put into place last year. He also mentioned what the cost savings to the General Fund will be once they have built the columbarium. Also by having the columbarium it will extend the life of the cemetery by a number of years.

Mr. Fish made a motion to approve the Resolution on first reading and set the public hearing for February 17, 2009. Mr. Sawnick seconded the motion.

Mr. White reiterated that he would like to see them keep the same rates for City residents or give them a smaller increase.

Mayor Abell suggested moving forward with the Resolution and then discuss these changes at the public hearing.

The Clerk polled the Council and the motion passed 5-0 with Mr. Sawnick voting yes, Mr. Fish yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

6. CITY CLERK'S MATTERS

Ms. Vock mentioned that in the City Hall lobby there is a box where people can drop off their unwanted eyeglasses.

7. CITY MANAGER'S MATTERS

A) Cost of Service/Rate Study Contract for Electric, Water and Sewer

Mr. R.B. Sloan, Utilities Director, recommended approval of the contract for the Professional Services Master Agreement for Professional Rate Consulting to Public Resources Management Group. He said that the evaluation team of Rob Bolton, John Lee and himself met and narrowed the nine proposals received down to this firm. He said that that they are going to receive more services than were anticipated. In the proposal they asked that whoever was chosen to commit to holding public presentations. He said that this firm has confirmed that they will be holding seven public meetings.

Mr. White referred to Work Order No. 4 which is the new Wastewater Treatment Plant Rate Impact Analysis. He thought that had already been done.

Mr. Rob Bolton, Water & Sewer Director, explained that the only thing that they did not look at was the change in what the operation cost will be.

Mayor White referred to the contract and referenced Work Order No. 3. He asked what is the Wastewater Disposal Rate.

Mr. Bolton said it is for the deep injection well. He said that a rate needs to be set so they have one to publish.

Mr. White did not see why they needed to do Work Order No. 4 at this time.

Mr. Bolton explained that it was just the way they wrote things in the contract to analyze the cost. He said certain information would need to be given to the consultant in order for them to provide this task and if that information is not given to them then they won't perform it.

Mr. White asked Mr. Bolton to keep Council informed on this.

Mrs. Fromang wanted them to get the information (referring to Work Order No. 4). She felt that it was important for them to know.

Mr. White didn't understand why it needed to be done when they were not doing anything with the Plant at this time.

Mayor Abell interjected that this is a water issue so they needed to find out if the water rate is going to go up.

Mr. White explained that his point of not doing this now was because they don't know if they are going to receive any funding to tear down the Plant and build a new one.

Mr. Bolton pointed out that it would be months down the road before this task ever needs to be done.

Mrs. Fromang made a motion to approve the Cost of Service/Rate Study Contract for the electric, water and sewer. Mr. White seconded the motion and it passed unanimously.

B) State Revolving Funds Loan/Stimulus Package Project Description

C) State Revolving Funds Loan Application

Mr. Bolton provided Council with a copy of the State Revolving Funds Loan/Stimulus Package Project Descriptions (on file in the Clerk's office). He said that this is a wish list of projects that they would like to have within the next 30 or 40 years. He has no idea what the State will fund, but the City wanted to make sure that their name was on the list. He was hoping that Mr. White would take this package with him to Washington when he is there doing some lobbying for the City. He then passed out a copy of a "Request for Inclusion". He asked Council to make a motion giving the City Manager approval to sign the request so that it can be sent to the State. He mentioned how fast this program is moving.

Mr. Fish made a motion to give the City Manager approval to sign the "Request for Inclusion." Mr. White seconded the motion and it passed unanimously.

Mr. Bolton mentioned that there will also be additional funds coming in for grants that they will be applying for.

Mr. Sloan talked about the cold weather they were expecting later this week. He was mainly concerned with Thursday morning and would be asking their customers to turn off their heat and conserve the uses of electricity between the hours of 6:00 a.m. and 10:00 a.m.

D) Vision Implementation Plan Program Update

Mr. McGarry reported that the Architectural Review Commission met and agreed to a few minor changes in the Code in order to make the procedures of how they are handling some of their cases more flexible. He said that this Thursday the Planning and Zoning Board will hold a workshop to discuss the overlay zone.

Mr. Fish asked how have the neighborhood meetings been going.

Mr. McGarry said that the meetings have gone well and the consultant is working on putting together some draft plans.

8. CITY ATTORNEY'S MATTERS

Mr. Vitunac was happy to report that the City won their lawsuit with the Indian River County Property Appraiser. He said that this case has been going on for the last five years. Mr. Nolte felt that the City should be paying taxes on T-hangars that they own and the City did not agree with that.

9. CITY COUNCIL MATTERS

A. Old Business

Mrs. Fromang referred to the letter that Council received from Indian River Shores (see attached) opposing the creation of an Utility Authority. However, they (Indian River Shores) would like to see two more seats added to the Utilities Commission. One seat would be designated for a representative from the Town of Indian River Shores, and the other seat would be for a representative of the residents in the unincorporated area of the County who are served by the City of Vero Beach Utilities. She wondered how they should proceed on this.

Mr. Vitunac will look at the Resolution to see what needs to be changed to accommodate this request.

Mrs. Fromang mentioned that she would like to see one of their applicants, Mrs. Jane Burton, put on the Utilities Commission because of her expertise with water issues.

Mr. White suggested that they contact Indian River Shores and have them appoint someone from their City to attend the Utilities Commission meetings.

Mayor Abell wanted it made clear that they would be attending the meetings and allowed to provide input, but would not have any voting powers.

Mr. Vitunac will provide Council with some options on how to handle this at their next meeting. He said that they could invite someone from Indian River Shores to attend the Utility Commission meetings.

Mr. White made a motion that Indian River Shores select/invite a representative from Indian River Shores to sit in on the Utility Commission meetings. Mrs. Fromang seconded the motion and it passed unanimously.

The City Manager will handle sending a letter to Indian River Shores relaying this information.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Sabin Abell's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mayor Abell reminded everyone that Coffee with the Mayor and City Council will be held this Friday at the Airport in conjunction with Aviation Day. He also thanked their utility customers for conserving energy on those cold days.

3. Comments

B. Vice Mayor Tom White's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. White reported that he attended a Senior Resource meeting and a Treasure Coast League of Cities meeting.

3. Comments

C. Councilmember Debra Fromang's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

A) Discussion of Board members serving on more than one Board or Commission

Mrs. Fromang mentioned that they received a letter from Mrs. Pilar Turner who has resigned from the Finance Commission because she has recently been appointed to serve on the County Planning and Zoning Board. Mrs. Fromang wasn't sure why someone was not allowed to serve on two boards simultaneously of any other local government unless approved by Council.

Mr. White said because it could be a conflict to have someone serving on two different boards.

Mr. Vitunac agreed that in some cases there could be a conflict of interest. However, he thought that this was a good opportunity to revisit this.

Mrs. Fromang made a motion that Mrs. Pilar Turner be allowed to remain on the Finance Commission. Mr. Fish seconded the motion and it passed unanimously.

D. Councilmember Bill Fish's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

None

E. Councilmember Kevin Sawnick's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Sawnick reported that on Saturday morning he flipped pancakes for the Pilot Club and on this Thursday there will be an Economic Summit held at Sebastian City Hall beginning at 9:00 a.m.

11. ADJOURNMENT

Mr. White made a motion at 12:13 p.m. to adjourn today's meeting. Mr. Fish seconded the motion and it passed unanimously.

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