

**CITY OF VERO BEACH, FLORIDA
MARCH 3, 2009 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
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

Pastor Kent Hawkins of Cornerstone Christian 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

The Clerk requested that item 2D-4) "Request to Purchase Police Boat and Pay a Portion of the Cost from the Police Forfeiture Account" be moved and placed under City Manager's Matters as item 7-C).

Also, Sue Hersey will not be able to make today's meeting, so her item on the agenda will be postponed until a later date.

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

B. Proclamations

1. Motorcycle Safety Awareness Month – March 2009

Mayor Abell read and presented the proclamation.

C. Public Comment

Mr. Joseph Guffanti commented that after the last meeting when he spoke, he called Officer Harrison and gave him the date that the incident he has been referring to

occurred, which was July 25, 2009. He wanted to end this episode today. He said that if someone was going to rebuttle his remarks that he wanted them to do it now. He has told them what happened and again requested that they cease and desist all their ties with DEA. He said that some of them might think that he was at the wrong place at the wrong time, which was not so. He can choose to go where he wants to go. He reiterated the dramatic effect that this had on the lady that he was visiting and they (DEA) were lucky that it was not his wife or daughter.

Mr. Brian Heady came up to the podium saying liars, cheets and thieves should not be in charge of government agencies. He said that the City Attorney has advised Council that those words are not allowed in these chambers and the Mayor has declared him out of order when he uses those words. He recalled that someone else came to the podium and used those same words without any impact at all.

At this time, Mayor Abell called Mr. Heady out of order and asked him not to return until he has cleaned up his act.

Mr. Charles Vitunac, City Attorney, reiterated to Mr. Heady that he has been declared out of order and to please leave.

Mr. Ken Daigne requested that Special Call meeting agendas be posted on the web site. He said that this would help the general public.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – February 17, 2009**
- 2. Award of Bid #490-08/JV – Water Meter Annual Supply Contract**
- 3. Renewal of Bid #010-06/PJW – Annual Tree Trimming Contract**
- 4. Request to Purchase Police Boat and Pay a Portion of the Cost from the Police Forfeiture Account**

Mr. White made a motion to adopt the consent agenda as amended (item 2D-4 was pulled). Mr. Fish seconded the motion and it passed unanimously.

- **Ms. Sue Hersey, Energy Advantage Consulting to give a Presentation on the Power Supply**

This item will be heard at a later date.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Sections 2.02, 2.04, 2.08 and 4.05 of the Charter of the City of Vero Beach to reflect the change in date of the General Municipal Election from the “First Tuesday in November” of each year to the “First Tuesday after the First Monday” in November in each year, and to provide for an Organizational Meeting of the**

City Council as the first meeting after the General Municipal Election; providing for an effective date.

Mayor Abell read the Ordinance by title only. He opened the public hearing at 9:46 a.m.

Mr. Heady asked Mr. Vitunac to explain the reason for moving the Election to November. He wondered if it was because Councilmembers would be given a longer term in office before the election took place.

Mr. Vitunac explained that Council voted some time back to change the election date to November and there has already been a City election held in November. What this Ordinance does is make sure that the elections are held the first Tuesday after the first Monday in November and that the Organizational meeting of the City Council would be held after the Supervisor of Elections has certified the results of the election.

Mr. Abell asked the Police Officer to remove Mr. Heady from the building.

Mr. Vitunac requested that Mr. Heady be allowed to finish his discussion if he stays on point.

Mr. Heady commented when you (Mayor/Council) don't like what I have to say they ask a Police Officer to remove him from the Chambers. He said that this City Council goes through a lot of measures to shut the public up and shut the public out.

The public hearing was closed with no one else wishing to be heard.

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 for an effective date.

Mayor Abell read the Ordinance by title only.

Mr. Tim McGarry reported that he has talked to the Oceanside Business Association and they are doing a questionnaire concerning sandwich board signs to go out to all the property and business owners in this area and requested that this hearing be continued until their March 17, 2009 meeting giving enough time for the questionnaires to come back.

Mr. White made a motion to continue the public hearing until their March 17, 2009 meeting. Mrs. Fromang seconded the motion.

Mr. Rusty Bragg commented that they can't seem to resolve this issue. He wondered if there was a lack of interest from the businesses on the beach. He was also under the impression that this came up because of the Lemon Tree restaurant. However, the Lemon Tree Restaurant appears to be packed every time he drives by there. He understands wanting to help the businesses, but felt that this was kind of "tacky."

Mr. Brian Heady stated that the last thing you need in a tough economy is for a governing authority coming up with new restrictions on businesses. He said that he clearly thinks that the business owners should have some say and be involved in this. The entity that should not be involved at all is the governing entity. He said that this is clearly one more example that this Council sticks its nose into something and imposes an Ordinance without knowing if the businesses want it.

Mr. Ken Daige appreciated that a questionnaire was being sent out.

Mr. White explained that the whole thing (proposed Ordinance) was being done at the request of the Oceanside Business Association District.

Mr. McGarry said that they would find out exactly the sentiment of the business owners. There are some that want it and some that don't.

Mayor Abell added that there does seem to be a numerous number of signs on posts. He said that maybe they should consider more standardization of that type of size.

Mr. Gabbard reported that he was approached by the Oceanside Business Association to allow these sandwich board signs in order to attract more business. He met with a number of people over several weeks and thought that there was great support for this. Then more businesses found out about it and some felt that it is not what they wanted. He said that this is not a waste of time, it was something they were trying to do for the businesses.

This Ordinance will be continued until the March 17, 2009 meeting.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, providing for Installation of a Sewer System to replace an existing Lift Station for Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach, Inc., and the Cardinal Drive Townhouses, to be paid for entirely by Special Assessments against benefited properties; providing the Manner and Time in which said Assessments are to be made, the total estimated cost, and a description of the area to be served.**

Mayor Abell read the Resolution by title only.

Mr. Rob Bolton, Water & Sewer Director, reported that he received a request that the City look at the cost of installing a municipal sewer system to replace their existing lift station. The current lift station does not meet City specifications and is in need of replacement. In lieu of the current users replacing the existing lift station and continuing maintenance responsibility, they would like to connect directly to a City owned and operated lift station. The affected property owners for this proposed project would be Ocean Towers of Vero Beach Beach, Inc., Ocean Towers II of Vero Beach, Inc., and the Cardinal Drive Townhouses. He has polled the property owners resulting in a 71.25% favorable vote. He has not received any negative responses. There have been a couple property owners who have not responded at all, which would constitute a no vote.

Mr. White knew that this matter has been going on for a long time. He asked Mr. Bolton if there were any sewers at this location.

Mr. Bolton explained that there are gravity sewers North of the property, but they can't extend them because it is too shallow.

Mrs. Fromang made a motion to approve the Resolution. Mr. White 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) A Resolution of the City of Vero Beach, Florida, setting a Time and Place at which the owners of properties located in the Condominium Units of Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach, Inc., and the Cardinal Drive Townhouses, and other interested persons, may appear before the City Council and be heard as the propriety and advisability of installing a Sewer System; as to the cost thereof; and as to the amount to be specially assessed against each property benefited thereby.

Mayor Abell read the Resolution by title only.

Mr. White made a motion to approve the Resolution and set the public hearing for April 7, 2009, which would give a chance for the property owners to be heard. Mrs. Fromang 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.

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

None

6. CITY CLERK'S MATTERS

A) Appointment to Tree and Beautification Commission

There is an opening for an alternate member on the Tree and Beautification Commission.

Mayor Abell nominated Mr. Daniel Crisafulli for the position. Mr. Fish seconded the nomination.

Mr. White nominated Ms. Susan Viviano for the position. The motion died for lack of a second.

The motion passed 5-0 to appoint Mr. Daniel Crisafulli as the alternate member on the Tree and Beautification Commission.

Ms. Vock noted that at their last meeting Council nominated new members to the Historic Commission. On that Commission there will be a representative from the Planning and Zoning Board and a representative from the Architectural Review Commission. The Planning and Zoning Board selected Scott McCracken to be their representative and the Architectural Review Commission selected Chris Crawford to be their representative, but wanted Council to be aware that he (Mr. Crawford) also serves on the County Historic Commission.

Mrs. Fromang made a motion to appoint Mr. Chris Crawford as the representative from the Architectural Review Commission to the Historic Preservation Commission. She did not see a problem with dual-enrollment. Mr. Fish seconded the motion and it passed unanimously.

Mr. Fish made a motion to appoint Mr. Scott McCracken as the representative from the Planning and Zoning Board to the Historic Preservation Commission. Mr. White seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) Pinnacle Data Systems Purchase of Sungard

Mr. John Lee, Customer Service Manager, reported that Sungard Business Systems has provided Utility Bill printing and mailing services since March of 2000. On November 1, 2008, Pinnacle Data Systems L.L.C. purchased Sungard. They have agreed to honor the provisions of the contract between the City and Sungard at the same level of efficient and cost effective printing and mailing services that the City has received from Sungard. Pinnacle has printed, inserted and mailed approximately 35,000 billing statements per month for the past several months without incident. He said they took over in November and there has not been any disruptions. He would recommend approval of the agreement.

Mr. White wondered if they could change the way some things are listed on the bill.

Mr. Lee explained that would be a function of the City. They can make whatever changes they feel are necessary.

Mr. Fish questioned putting public service announcements with their utility bills.

Mr. Lee liked to keep those inserts to City business only. He said that they don't want to have multiple insertions with their utility bills.

Mr. White asked if they send the utility bills out via-email.

Mr. Lee answered that they do not. He said in order to do that the website would have to be upgraded and probably only 10% of their customers would use it. He said that a lot of people like to receive a paper bill.

Mr. White mentioned that they need to be looking at innovative ways to save money, such as sending out the utility bills by email.

Mr. White made a motion to approve the agreement with Pinnacle Data Systems, to provide utility bill printing and mailing services. Mrs. Fromang seconded the motion and it passed unanimously.

B) Vision Implementation Plan Program Update

Mr. McGarry mentioned that he told Council sometime back that the Public Work's Department was looking at providing center parking at Royal Palm Pointe and the property/business owners would be assessed the cost. He will be meeting with the property owners to make sure that they are still interested in moving forward on this.

Mr. McGarry commented that the Planning and Zoning Board has completed reviewing the overlay district. He has also taken this before the Architectural Review Commission who have some ideas. He should have some options to bring before Council in the near future.

Mrs. Fromang wanted to make sure that the Planning and Zoning Board is receiving the minutes/notes of the Architectural Review Commission meetings.

C) Request to Purchase Police Boat and Pay a Portion of the Cost from the Police Forfeiture Account – (Item removed from the consent agenda).

Police Chief Don Dappen requested permission to purchase a police boat. He said that since he has been in Vero Beach (last 33 years) there has been a police boat patrolling the intercoastal waterways. The problem with the boat they currently have is that it is 16 years old, decrepit and not safe for the activities that they need to do on the waterways. He said there are a lot of activities on the water and the police need to be out there. It is important that they provide this service, which is to patrol property from the waterway. The boat they want to purchase is a 20-foot pathfinder. It will allow them to patrol areas that they currently cannot go. The money to purchase the boat is coming out of their forfeiture account. No budgeted funds are being used. He requested permission from the Council to purchase this boat.

Mr. White commented that the Police Department does not have anyone patrolling the waterways full time anymore.

Chief Dappen explained that there will be officers patrolling the waters more often now because he is in the process of having two officers marine trained. He expressed that during the summer when water traffic is high they will need to have an officer patrolling just about full time.

Mr. White wondered if they could hire a Police Officer under the COP's program.

Chief Dappen explained that it is a grant program and they can apply for it. He understood that under the COP's program that in three or four years they would have to assume the cost for a new Police Officer.

Mr. White heard that there is a possibility that an extension could be granted so that they wouldn't have to come up with the money after three years has passed. He suggested to the Police Chief that he should look into this program.

Chief Dappen said that he would look at the numbers. He mentioned that the current boat will be transferred to the Marina and used for a waste pumping boat.

Mr. Fish added that the old boat is in far worse shape then you can imagine. He said there was no way it would pass Coast Guard inspections.

Mr. White made a motion to approve the purchase of a police boat, motor, and aluminum trailer. Mr. Fish seconded the motion and it passed unanimously.

8. CITY ATTORNEY'S MATTERS

Mr. Vitunac reported that the Property Appraiser has once again appealed the tax case that the City of Vero Beach was found in favor of (won the case).

Mr. White questioned how much money is this costing the taxpayers.

Mr. Vitunac did not know how much has been spent. He said that Mr. Nolte hires a private firm to handle the law suit.

Mr. Vitunac briefly reported on his trip to Washington D.C.

9. CITY COUNCIL MATTERS

A. Old Business

Mrs. Fromang referred to the letter that they received from Indian River Shores concerning the Interlocal Agreement (on file in the Clerk's office). She wanted to make sure that this Council was still on board with pursuing the Interlocal Agreement.

Mr. White reminded everyone that the City of Vero Beach initiated the whole project (Interlocal Agreement) and now they are very close to having it signed.

Mr. Vitunac reported that the County and Sebastian have met a couple of times to try and resolve some issues that they have. He hopes that they can have all this completed by May 15th. He said that Vero is not in the "driver's seat" anymore. They have to wait until these two entities solve their issues. He also noted that Fellsmere still has not received a response back from DCA.

Mr. Fromang commented that time is not of the essence and there is nothing wrong with making sure that everything is being done correctly.

Mr. Vitunac explained that if either Sebastian or Fellsmere drop out it would kill the deal.

Mr. Gabbard would speak with the Town Manager of Indian River Shores concerning the letter that was sent.

Mr. White added that in a few months the Town of Indian River Shores will have some new Councilmembers.

Mrs. Fromang wanted to make sure that Indian River Shores is informed of all the meetings taking place to discuss the Interlocal Agreement.

Mr. Vitunac agreed with continuing to invite Indian River Shores to their meetings. He said that they are welcome to send a representative.

B. New Business

Mayor Abell reported that Coffee with the Mayor and Council is being held at the Vero Beach Theater Guild on Friday, March 13, 2009 starting at 9:00 a.m.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Sabin Abell's Matters

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

Mayor Abell reported that he attended the Healthy Floridians walk at Riverside Park. He also participated in the Mental Health Association walk, attended the Farmers Market held on the Oceanside, the Chamber of Commerce leaders of the Community seminar, and the Special Call meeting held on Monday.

3. Comments

B. Vice Mayor Tom White's Matters

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

Mr. White reported that he participated in Step up Florida, he met with Senator Bill Nelson while he was in Washington, D.C. to talk to him about the stimulus plan which he reported on, he attended the Italian American Festival and the Special Call meeting that was held on Monday.

Mr. Ken Daige asked that they follow up on the information provided to them by Mr. White, especially when he noted that population might be a key in how much money a municipality would receive from the stimulus package.

3. Comments

C. Councilmember Debra Fromang's Matters

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

Mrs. Fromang reported that she attended an Economic Development Council meeting. She noted that she was informed that Tourist Tax dollars are down only 3%. She also mentioned the response that she received back from County Chairman Wesley Davis concerning the letter that she recently sent to him. She asked Mr. White that it be discussed at his Beach and Shore meeting.

3. Comments

D. Councilmember Bill Fish's Matters

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

Mr. Fish proposed that they meet at night for their April 7th City Council meeting.

Mr. Vitunac reminded Mr. Fish that there will be times when they will have to meet at night because Florida Statutes requires it.

Mr. Sawnick expressed the need to remain consistent in the times that they are meeting.

Mr. Fish then brought up that he heard that the School Board would like to meet with them regarding Osceola Elementary.

Mr. Gabbard said that he was waiting to hear back from the Superintendent concerning the meeting.

3. Comments

E. Councilmember Kevin Sawnick's Matters

1. Correspondence

2. Committee Reports

Mr. Sawnick reported that he attended an Affordable Housing Committee meeting, The Step up Florida walk, and a meet and greet session for the public that he is holding every other month. On Thursday he will be attending a County Recreation Commission meeting and on March 7th he will be walking for Carenet.

3. Comments

Mr. White brought up that he disagreed with charging someone \$1.00 to attend Dancing under the Stars.

Mr. Gabbard said that he would look into that. He said that the \$1.00 fee was to offset some of the cost for food.

11. ADJOURNMENT

Mr. White made a motion to adjourn today's meeting at 11:03 a.m. Mr. Fish seconded the motion and it passed unanimously.

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