

CITY OF VERO BEACH, FLORIDA
JUNE 16, 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, excused absence and Councilmember Kevin Sawnick, present. **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Pastor Jerry Shepherd of the Twentieth Avenue Church of God.

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 items 4-C) and 4-D) be pulled from the agenda and that item 7-E) be added to the agenda "Parking Improvements at Riverside Park."

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

B. Proclamations

Mayor Abell presented Charlie Vitunac, City Attorney, with a Proclamation thanking him for all the hard work he does with the Vero Beach High School Band throughout the year.

C. Public Comment

1. Public Comments on the Proposed City Employee Health Center – Requested by Councilmember Kevin Sawnick

Ms. Florence J. Licata read a prepared statement (please see attached).

Mr. Ken Daige referred to item 7-A) on the agenda. He then passed out to Council a report entitled "FAA to Inspect Pilot Training at Regional Airlines" where he read the first paragraph that states AP, June 9, 2009 – Federal officials said Tuesday they will beef up inspection of pilot training programs at regional airlines in response to safety concerns raised by the crash of regional airliner in New York in February. He continued by saying that even though items 4-C) and 4-D) were pulled from the agenda he had some questions (please see attached prepared statement).

Mr. Jack Chesnutt stated that he thinks that the Airport is fine.

Mr. Charlie Wilson wanted to speak about the idea of the proposed health clinic moving forward. He was not sure why the City Council would want to get into the field of medical practice. He said there are two things that need to be considered. One is if there is a need for the clinic and two what is the plan for the clinic. He questioned the need for this clinic without getting into the plan. He wondered if there were financial reasons for wanting this clinic. Such as does the consultant and staff have some sort of financial stake by having this clinic implemented. He believed the answer was yes. He said that in the first year they might save some money, but it is a ticking time bomb over a long period of time. He commented that there are very few private employers that pay 100% of an employee's insurance. He is not trying to harm the employees, but wants the same thing available to the citizens who pay taxes. He thought that it would be wise for Council to get more information.

Mr. White expressed that the reason that Council has put off voting on this matter is to do more research. He said that no decision has been made.

Mayor Abell made it clear that the City would not be getting into practicing medicine. He said that the need for this plan is to save money. He has been told by having it in place that they would be saving \$750 a day. He explained that the City does not pay 100% of the employee's health care.

Mr. Robert Anderson, Human Resource Director, expressed the need to control health care cost and thought that this was one way to do it. If there are other suggestions he would be happy to consider them. He addressed Mr. Wilson's remarks that staff has any financial gains and said that is flat wrong. He said that Mr. Kurt Gehring, from the Gehring Group, has no financial gains in this clinic or any other clinic.

Mrs. Fromang commented that she did not think that the City should be getting into the health care business. She also felt that they needed to take their time and look at the contract and make any changes that need to be made. She said that she sent a copy of the contract to one of their Finance Commission members to review.

Mr. James Gabbard, City Manager, stated that all they are trying to do is hold costs down. Their motives are completely pure. He said that he was not getting anything from this. A document has been prepared explaining how Mr. Gehring gets paid for his services and anyone is welcome to get a copy of it. He reiterated that he is getting nothing extra for

this. He said that there is still a lot of work to be done on this and they will discuss it again in July.

Mr. Daige requested to speak again. He was told that he has already spoke under Public Comments. Mr. Daige said that he was under the impression that because the health clinic was listed on the agenda separately that he could also speak under it. He thanked Council for taking time to review the health clinic. He then read his comments.

Mr. Brian Heady recalled at the last meeting held when the health clinic was discussed Mrs. Fromang asked how many people the doctor would be able to see in a day. She was given the answer that it would be 27 patients. He didn't know any doctor who sees 27 patients in one day. He said that the only way that could happen is if the doctor worked nine hours straight without a break. He said that it was not true that the City Manager was not getting anything from this. He is getting paid well to put these things before them. He said that when you start spending taxpayers' dollars to compete with local doctors and clinics that it raises all kinds of red flags. At this time he was told that his three minutes were up. He continued by saying that governing authorities should not be spending their money to hurt other taxpayers. Mayor Abell asked him to wrap it up.

Mayor Abell commented that by having the health clinic there would be no cost to the taxpayers. He recalled that they had the Human Resource Director from both Port St. Lucie and Ocoee at one of their meetings to go over how their clinics have worked in their cities and the significant savings they have had since they opened the clinics.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – June 2, 2009**
- 2. Final Payment Request for Unit 4 Static Exciter – Paragon Electric**
- 3. Grant Purchases for Vero Beach Police Department**
- 4. Monthly Capital Projects' Status Reports**

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

3. PUBLIC HEARINGS

- A) A Resolution of the City of Vero Beach, Florida, relating to the State Revolving Fund Program; authorizing the application; authorizing the agreement; establishing pledged revenues; designating authorized representatives; providing assurances. (Drinking Water Project #DW 31022)**

Mayor Abell read the Resolution by title only.

Mr. Rob Bolton, Water & Sewer Director, reported that there is financial assistance to local government agencies to finance the construction of wastewater facilities and the

State Revolving Fund priority list designates Drinking Water Project Number DW 31022 as being eligible for funding. He said that they would need to have the application signed by the Mayor and returned to the State by July 14, 2009.

Mr. White disagreed with having the Mayor be authorized to represent the City in carrying out the responsibilities under the agreement. He said that it is not in accordance with their Charter. He referred to Section V of the Resolution and asked the word "Mayor" be changed to "City Manager" in both the first and second sentences.

Mr. Vitunac agreed that the wording needed to be changed.

Mrs. Fromang complimented staff on getting the funding.

Mayor Abell opened the public hearing at 10:09 a.m.

Mr. Brian Heady stated that the Mayor did not allow two people to speak under Public Comments. He said that there were two ladies in the back of the room who had their hands up and wished to be heard.

Mayor Abell declared Mr. Heady out of order. Mr. Heady sat back down in his seat.

Mr. Ken Daigne stated that he was in agreement with what the Vice Mayor suggested in changing the language.

Mayor Abell closed the public hearing at 10:10 a.m., with no else wishing to be heard.

Mr. White made a motion to approve the Resolution as amended. Mrs. Fromang seconded the motion and it passed 4-0 with Mr. Sawnick voting yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

- B) A Resolution of the City of Vero Beach, Florida, relating to the State Revolving Fund Program; authorizing the application; authorizing the agreement; establishing pledged revenues; designating authorized representatives; providing assurances. (Clean Water Project #WW 31020)**

Mayor Abell read the Resolution by title only.

Mr. Bolton clarified that the State Revolving Fund priority list designates Clean Water Project Number WW 31020 as being eligible for available funding. He said that they would make the same changes that they made to the Resolution just heard. He said in Section V they would change "Mayor" to read "City Manager" in both the first and second sentences. He then went over what this money pays for.

Mayor Abell opened the public hearing at 10:13 a.m.

Mr. Ken Bennett stated that he was not very well versed concerning the deep injection well. However, he commented on the aquifer in Arizona where the first aquifer went dry, the second aquifer went dry and now they are on their third aquifer and that also looks like it is going dry.

Mr. Brian Heady felt that they needed to be concerned about pumping water no matter how deep. He hoped that at least one Councilmember would challenge the Mayor and allow the ladies who held up their hands earlier to speak.

Mrs. Fromang asked Mr. Bolton to answer any questions that Mr. Bennett may have. She said that this is not wastewater; it is water that has been treated. She explained that treated water cannot go into the Indian River Lagoon anymore. She agreed that this was not the perfect solution, but it was the best that they could afford for their community. She also had the same questions that Mr. Bennett brought up.

Ms. Lakava (lady sitting in the back of the chambers) stated for the record that she was given an opportunity to speak earlier in the meeting and that her colleague did not wish to speak.

Mayor Abell closed the public hearing at 10:24 a.m., with no one else wishing to be heard.

Mr. White made a motion to approve the Resolution with the amendments made. Mr. Sawnick seconded the motion and it passed 4-0 with Mr. Sawnick voting yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida, Department of Transportation, to clear Part 77 obstructions (FDOT #405770-1-94-01).**

Mayor Abell read the Resolution by title only.

Mr. Eric Menger, Airport Director, reported that this Resolution authorizes the City to accept change in funding for this particular project. He said that the project was originally approved by Council in the Airport's FY07 Participation Agreement (JPA) from the Florida Department of Transportation (FDOT). City Council accepted a grant offer from the Federal Aviation Administration (FAA) in the amount of \$131,927. Then they awarded this survey project to URS Corporation in the amount of \$144,139.00. The total project was budgeted at \$155,139.00. Since the FAA did not fund the amount expected on this project, the FDOT has agreed to increase its share of the project cost to an amount equal to one-half of the balance not funded by the FAA. The Joint Participation Agreement would increase the FDOT amount by \$9,106 for a total FDOT participation of \$11,606, with the remaining \$11,606 to come from Airport funds.

Mrs. Fromang made a motion to approve the Resolution. Mr. White seconded the motion and it passed 4-0 with Mr. Sawnick voting yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

- B) A Resolution authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida, Department of Transportation, to rehabilitate Runway 11L-29R to include Taxiway F and Connectors (FDOT #416303-1-94-01).**

Mayor Abell read the Resolution by title only.

Mr. Menger explained that back in April 2008 the Council approved a Joint Participation Agreement for the Rehabilitation of Runway 11L-29R. Then in February 2009, the City Council approved a Supplemental Joint Participation Agreement to include Taxiway F into this project. The FDOT has agreed to fund this entire project as one single project in this fiscal year in order to save mobilization, engineering, and other costs. The runway project was delayed in order to be able to begin both projects at the same time in the new FDOT fiscal year. The SJPA increases the amount of the JPA by \$1,200,000, bringing the total FDOT participation to \$2,400,000. The additional funds will let them include both their runway and its associated taxiway at the same time in the pavement rehabilitation project.

Mr. White made a motion to approve the Resolution. Mrs. Fromang seconded the motion and it passed 4-0 with Mr. Sawnick voting yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

At this time Council took a five-minute recess.

- C) A Resolution declaring the official intent of the City of Vero Beach, Florida to reimburse itself from the proceeds of Debt for Expenses to be incurred with respect to certain projects; authorizing certain incidental actions; and providing an effective date. (Improvements to the Electric System)**

This item was pulled from the agenda.

- D) A Resolution declaring the official intent of the City of Vero Beach, Florida to reimburse itself from the proceeds of Debt for Expenses to be incurred with respect to certain projects; authorizing certain incidental actions; and providing an effective date. (Improvements to the Water and Sewer System)**

This item was pulled from the agenda.

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 74-4, Skateboards, of the Code of the City of Vero Beach to clarify the areas of the City where skateboarding is prohibited and to modify the method of enforcement and penalty for violation; providing for severability and an effective date.**

Mayor Abell read the Ordinance by title only.

Mr. Wayne Coment, Assistant City Attorney, reported that the passage of this Ordinance is basically a housekeeping measure. He said that the need for amendment of this section was recently brought to his attention when the Police Department notified them that the Clerk of Court's office is no longer accepting Florida uniform traffic citations for municipal ordinance violations even though the violation may involve a pedestrian offense. In addition to amending the enforcement provisions, he has taken the opportunity to clarify the descriptions of the affected areas of the City and included public parking lots and garages in order to help protect those facilities from skateboarding damage.

Mr. Sawnick asked where people can skateboard.

Mr. Coment answered anywhere besides what is listed in the Ordinance.

Mr. Sawnick reported that he contacted Martin County and found out that they have six skateboard parks in their County. He said that maybe in the future the City should be looking at building a skateboard park, especially if they are seeing that there is no place for people to skateboard.

Mr. Coment expressed that citations issued for illegal skateboarding have only been issued in the extreme cases where nothing else has worked.

Police Chief Don Dappen added that skateboarding is not as big as it was a few years ago. He said that the skateboarding is not such a problem as the grinding is. He said that Sebastian does have a skateboard park. He said that a few years ago there was a lot of vandalism occurring at Riverside Theater due to skateboarders. Also, in the downtown area there were some issues that people would be walking out of a building and a skateboarder would practically knock them down.

Mrs. Fromang thought that they would probably be getting some input from parents and students when they hear about this Ordinance. She feels bad that there are no places for people to skateboard in this area.

Chief Dappen reiterated what Mr. Coment had said earlier that really they have not had to enforce this Ordinance too much. There are a few people who didn't get the message so enforcement was necessary.

Mr. White made a motion to approve the Ordinance on first reading and set the public hearing for July 21, 2009. Mr. Sawnick seconded the motion and it passed 4-0 with Mr. Sawnick voting yes, Mrs. Fromang yes, Mr. White yes, and Mayor Abell yes.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Presentation on the Vero Beach Airport

Mr. Eric Menger gave a Power Point presentation (attached to the original minutes) on the Vero Beach Airport. He recognized that Airport Commission members Peter Coxhead and Bob Fox were in attendance at today's meeting.

B) Award of Bid #220-09/JV – 18th Street Paving, Drainage and Sidewalk from 27th Avenue to 20th Avenue – Community Development Block Grant (CDBG) Project

Mr. Monte Falls, Director of Public Works, reported that originally this project was designed as a petitioned paving project. However, they were able to obtain CDBG funding for it and this funding will also allow them to expand the project to include additional sidewalks, along with improvements to Jacoby Park. He recommended awarding the project to SPS. He said the project should be completed by fall.

Mr. White asked if all of the funding was coming from grant money.

Mr. Falls said all but 25% of it was coming from funding. The other 25% needed has been budgeted.

Mr. White made a motion to approve the Award of Bid No. 220-09/JV, for 18th Street Paving, Drainage and Sidewalk from 27th Avenue to 20th Avenue (CDBG Project), to SPS Contracting, Inc. Mrs. Fromang seconded the motion and it passed unanimously.

C) Award of Bid #240-09/JV – Annual Street and Parking Lot Resurfacing Program Annual Contract

Mr. Falls reported that this is their annual street resurfacing contract and he would recommend that it go to the low bidder who is Ranger Construction Industries, Inc. of Ft. Pierce.

Mr. White asked him if they were going to be tree sensitive when paving.

Mr. Falls answered yes. He said that the City has been Tree City USA for many years and have always tried their best not to impact any trees unless they absolutely have to.

Mr. White made a motion to approve Award of Bid #240-09/JV, annual street and parking lot resurfacing program annual contract to Ranger Construction Industries. Mrs. Fromang seconded the motion and it passed unanimously.

D) Vision Implementation Plan Program Update

Mr. Tim McGarry, Planning and Development Director, reported that the two neighborhoods (Osceola and Original Town) have asked for an extension in order to review the plans they recently received. They have asked to be given until July 17th. Mr. McGarry said that he has completed the draft for the commercial district for Cardinal and Ocean Drive and it will be going before the Planning and Zoning Board in July.

Mrs. Fromang asked why some people located in the beach area can put up snipe signs and other people cannot.

Mr. McGarry explained that the signs are allowed if there is going to be a special event, but they still have to get a permit for the temporary signs.

Mr. McGarry announced that he was ready to take the Tree Ordinance before the Planning and Zoning Board at their August 6th meeting. He said the subdivision Ordinance is about ready to go to the Planning and Zoning Board. He is working on the Evaluation Appraisal Report for the Comprehensive Plan and is moving in the right direction to have it go before the Planning and Zoning Board in the near future. He then briefly went over Senate Bill 360.

E) Add on Item - Parking Improvements at Riverside Park

Mr. Falls recalled that on July 15th the City Council accepted a donation from Mr. Dixon Downey for improvements at Riverside Park to include a 15-foot diameter pavilion, concrete sidewalks, shoreline protection, mangrove trimming, landscaping, benches and additional parking. The proposed parking area, consisting of 20 spaces, is to be located on the east side of Riverside Park Drive and north of the restrooms. The parking area will provide additional parking accommodations for the Grand Pavilion. In order to construct this parking area within the Park a public hearing must be held. He recommended that the public hearing be scheduled for the July 21, 2009 City Council meeting.

Mr. White made a motion to hold the public hearing for the parking improvements at Riverside Park on July 21, 2009. Mr. Sawnick seconded the motion and it passed unanimously.

8. CITY ATTORNEY'S MATTERS

Mr. Vitunac reported that the ISBA Committee recently held a meeting and they are getting closer to an agreement that everyone likes. They will hold their next meeting after getting Exhibit F from Fellsmere and the County comes back with an additional proposal that they have made.

9. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Sabin Abell's Matters

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

Mayor Abell reported that he attended the event where the City accepted the new banners displayed downtown and he also attended the Utility Commission meeting. He met along with staff the Executive Director of the Hospital trustees to discuss the proposed health care clinic and felt that it was a successful meeting. He attended an MPO meeting, he spoke at the Taxpayers luncheon about the City and the County working together regarding wastewater, he attended the webinar for Senate Bill 360, took a tour of the Harvest Food facility and saw what their plans are, and on Saturday attended the formal Humiston ground breaking event.

3. Comments

B. Vice Mayor Tom White's Matters

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

Mr. White reported that he attended the unveiling of the banners for Mainstreet, a Florida League of Cities Municipal Insurance Trust meeting, and his monthly Beach and Shore's meeting. He commented that he received an invitation from Ocean Park concerning the groundbreaking ceremony at Humiston Park and did not attend because he did not feel that it was a City function. He then asked if they were spending capital money for the project.

Mr. Gabbard explained that they will need to spend some City money on the drainage project. He said that the money that they received from Mr. Mulvey is not going to be used for anything but the Park.

Mr. White said that he thought that the City was in charge and doing the work for the Park project, not Ocean Park.

3. Comments

C. Councilmember Debra Fromang's Matters

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

A) Council approve new By-laws for the Treasure Coast Council of Local Governments

Mrs. Fromang provided Council with a copy of the by-laws for the Treasure Coast Council of Local Governments (TCCOLG). She said that they are proposing adding members of the School Board to the Committee. In order to do this each entity must approve the new by-laws.

Mayor Abell wondered if they should also include allowing alternate members.

Mrs. Fromang said that she would take that request back to the TCCOLG at their next meeting. She recalled at one of their recent Council meetings that they appointed Mr. Fish to be the alternate on this Committee.

Mayor Abell made a motion to approve the amended by-laws. Mr. Sawnick seconded the motion and it passed unanimously.

Mrs. Fromang brought up face book and asked the City Attorney for his opinion of individual members (such as Council members) on face book and what are they allowed to say. She also wondered if the Florida League of Cities needs to address the issue.

D. Councilmember Bill Fish's Matters

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

Mr. Fish was absent from today's meeting.

E. Councilmember Kevin Sawnick's Matters

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

Mr. Sawnick reported that he attended the unveiling of the banners held downtown.

3. Comments

Mr. Monte Falls requested to speak concerning Humiston Park. He explained that the work on the Park will be done and contracted by Ocean Park. He will be reviewing the contracts to make sure that the taxpayers are getting their million dollar value. He assured Council when he signs off on a project that he has been satisfied that they (the City) are getting a million dollar project.

Mr. White trusted Mr. Falls and his department, but expressed that they need to stand by the promises that they have made. He asked what kind of control the City has over the project.

Mr. Falls explained that no money will be allocated for the project until he has signed off on it.

Mrs. Fromang asked Mr. Falls if the landscaping plan for the project was going to be taken before the Tree and Beautification Commission.

Mr. Falls explained that they are still working on the final design, but once it is completed it will go before the Tree and Beautification Commission.

Mayor Abell added that the City has control over the project and the contractor has every reason to do a good job.

11. ADJOURNMENT

Mr. White made a motion to adjourn today's meeting at 11:44 a.m. Mr. Sawnick seconded the motion and it passed unanimously.

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