

**SPECIAL CALL CITY COUNCIL MINUTES  
TUESDAY, DECEMBER 8, 2009 9:30 A.M.  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, present; Councilmember Tom White, present and Councilmember Brian Heady, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

The Clerk performed the roll call.

**1. Ratification of Contract between City of Vero Beach and Coastal Florida Police Benevolent Association**

Mr. Robert Anderson, Human Resources Director, stated that the City has been in negotiations with the Coastal Police Benevolent Association (PBA) and in November the PBA agreed to accept the contract that they have before them. The contract is for the period of October 1, 2009 through September 30, 2011 with a provision to reopen articles on wages and insurance in 2010. The only real changes in the contract have to do with insurance benefits. Because the police will not be taking a wage increase, the City has agreed to pick up the additional costs of increased health insurance coverage.

Mr. White wondered if they could look at this contract and make changes to it if they needed to because of the high costs of pension. He said there was a possibility that after they have looked at the pension plan they may have to ask for additional contributions from the employees. He wondered if they could leave this part of the contract open for future negotiations.

Mr. Anderson explained that in order to do that they would have to reopen negotiations and the PBA may not agree to the contract.

Mr. White wanted it made clear that they would be looking at the General Employees Pension Plan, as well as the Police Pension Plan.

Mr. James Gabbard, City Manager, stated that there are a lot of things having to do with the Police Pension Plan that is regulated by State Statute. He said that they are hoping to get some help from the State. The Florida League of Cities will be working on legislation in order for this to occur. However, he said that there is a lot that they can do as far as existing benefits.

Mr. White asked again is there any way that they could revisit this contract earlier than 2011.

Mr. Anderson said that if Council wants to make that change then it would have to be agreed on by the Union.

Mr. Vitunac agreed with Mr. Anderson that they would be bounded by this contract until 2011. He encouraged Council to be active in the changes that may occur in Tallahassee.

Mr. Gabbard suggested tabling this item until Mr. Steve Palmquist makes his presentation later in today's meeting.

Mr. Anderson explained that with this pension plan they must abide by the State of Florida.

Mr. Vitunac agreed that whatever happens with Chapter 185, they are bounded by it.

At this time, the Pledge of Allegiance to the flag was lead by Mayor Sawnick.

Council agreed that they will revisit the PBA contract later on in the meeting.

## **2. Humiston Park Stormwater System Improvements Award of Bid**

Mr. Monte Falls, Public Works Director, reported that the City currently has two outfalls that discharge stormwater into the Atlantic Ocean. They are located at Sexton Plaza and Humiston Park. Over the past several years incidents of mandatory beach closures have occurred due to high bacteriological counts at those locations. The final construction drawings and bid documents for the outfall and pump station renovation were completed and advertised for bid on November 12, 2009. The lowest bid was received from Sunshine Land Design, Inc. He recommended that they approve the Award of Bid for the Humiston Park Stormwater System Improvements to Sunshine Land Design, Inc. Most of the costs for this project will be funded by a grant that they received from FDEP.

Mr. Heady noted that the amount and the recommendation go into details for the bids that were accepted. He said that there is another contractor listed in the back up material who is from Vero Beach. He asked if there is a process that they could look at for consideration where local contractors are given some degree of consideration.

Mr. John O'Brien, Purchasing Agent, explained that their Ordinance addresses local preference, but it doesn't define a percentage that you would give someone preference for. He said that in this economy it has been a big issue. There is no exact formula and every city is taking different approaches to it.

Mr. Heady asked if legally he could make a motion to accept the bid for the second contractor (second bidder).

Mr. Vitunac answered yes. However, they may find if they do that the bids that they receive in the future will probably sky rocket.

Mr. Heady stated that he has spent a lot of years overseeing bids and if someone bid on a project and they didn't receive the bid, that does not have anything to do with them bidding on another project (new bid).

Mayor Sawnick commented on how the County handles this. He said that they may want to use something similar to what the County uses. He asked the City Manager to provide Council with that information so that the Council can look at it.

Mayor Sawnick made a motion to approve the Award of Bid for the Humiston Park Stormwater System Improvements to Sunshine Land Design, Inc. Mr. White seconded the motion and it passed unanimously.

### **3. Council Briefing on Code Enforcement Action at Vero Beach Mobile Home Park**

Mr. Tim McGarry, Planning and Development Director, stated that this case is on the Code Enforcement Board agenda and he has been working with the owner of the mobile home park, Mr. Schlitt as well as Mr. Schlitt's attorney. He was surprised that Council received a letter from Mr. Schlitt because he felt staff has reached a compliance agreement with all parties involved. The agreement would allow Mr. Schlitt up to eight years to remove the mobile homes off of the City right-of-way and there are two years remaining on the building permit. He said that he talked to Mr. Schlitt's attorney about this and hopefully they will soon have a signed agreement.

### **4. Economic Incentives – Requested by Vice Mayor Sabin Abell**

Mr. Abell suggested that the City find out what the Chamber of Commerce, the County and the City of Sebastian have done as far as putting incentives in place for local businesses. After they have this information then they could move forward in trying to put some of these formal incentives in place and also have a tax abatement item on the November ballot such as what Sebastian has recently done.

Mayor Sawnick noted that the City Attorney is working on an Ordinance to bring forward to Council.

Mr. Vitunac said that he is waiting to receive a draft from Sebastian on this. He will also get a copy of what the County has and then bring this matter before Council.

### **5. Dodgertown Ideas – Requested by Vice Mayor Sabin Abell**

Mr. Abell mentioned that Craig Callan and the Minor League Baseball (MiLB) have been working hard in getting different activities started at Dodgertown. He said at their last meeting Mr. Heady brought up the golf course. He knew that MiLB was also interested in seeing the golf course resurrected.

Mr. White thought that when they negotiated with MiLB that the golf course was part of those negotiations.

Mr. Gabbard said that was not the case. He said that the MiLB may need additional Little League fields and they prefer to have them on the golf course property. However, they understand if the City decides to do something with the golf course then they would need to find alternative sites for the Little League fields. He said that there are other Little League fields located throughout the City. He added that MiLB would love to have the golf course restored.

**6. Retirement – Defined Benefit vs Defined Contribution – Banking Sick Time, Banking Annual Leave – Requested by Vice Mayor Sabin Abell**

Mr. Abell recalled that the Mayor asked them if they had any items to bring up at this workshop and this was an item that was discussed at their last budget workshop. He said that they need to revisit the retirement plan and define benefits as it exists now and define contributions, which a lot of the private sector has chosen to go with. He also said that they need some clarification on banking sick time and banking annual leave.

Mayor Sawnick thought that most of these items would be discussed later in the meeting except for maybe banking sick time and annual leave, which they can discuss at a future meeting.

Mr. Abell just wanted everyone aware that these items will be coming up.

**7. Discussion of Monday's Court Ruling – Requested by Councilmember Brian Heady**

Mayor Sawnick would like people who are interested in filling the vacant seat on Council to submit an application to the City Clerk and then Council will conduct interviews and then make a decision.

Mr. Heady provided Council with a hand out (please see attached). It was suggested procedures for filling vacancies on the City Council in accordance with the City Charter. The candidates would submit a one page resume to the City Clerk. Then the candidates must sign a qualifying oath. The qualifying period would be open from December 9<sup>th</sup> and close at 12:00 noon on December 21<sup>st</sup>. Council would be required to receive all of the applications no later than December 22<sup>nd</sup> and then at their January 5<sup>th</sup> meeting they would have interviews and decide a replacement. Council would have a score sheet, they could ask questions and score the candidates on a 1-10 scale with 1 being low and 10 being highest possible. Total points possible would be 100. At the end of the interviews Council could take a break and the Canvassing Board would tally the scores. The highest scoring candidate will be named as the new Councilmember and will fill this vacancy until the next regular election in November. Mr. Heady also came up with suggestions if there is a tie and for the final interview process. He said that they would bring all of the finalists into the Chambers. Have them sit together at the conference table. Give each person an opportunity for an opening statement. Repeat the Council question and answer process. Allow one question from each Councilmember. Each candidate can ask any Councilmember one question. Each candidate will be allowed to ask one another one question. Then there is a final statement by each candidate. As in the first

interview the questions to be scored by the City Council on a 1-10 scale with 1 being low and 10 being the highest possible. The total points possible would be 100. At the end of the interviews Council would take a break and allow the Canvassing Board to tally the scores. The highest scoring candidate named will be named the new Councilmember and will fill the vacancy until the next regular election in November. Mr. Heady felt that by doing this process they will be able to find out how they as a City Council will interact with this person. Also by using this process they will not be accused of appointing favorites.

Mr. White suggested interviewing each person interested just like what they would do if they were interviewing an applicant to serve on one of their Boards. He asked the Clerk to provide Council with a copy of the minutes when Council appointed a replacement for Jack Capra.

Mr. Heady said that is close to the process that he was suggesting. They could bring in one person at a time if that is Council's wishes.

Mr. Abell agreed with Mayor Sawnick and Mr. White that they handle this the way that they conduct interviews for people wanting to serve on their different Boards. He said by doing it this way they are able to find out more information from the candidates and they have more interaction. He suggested moving up the time frame and allowing people to get their applications in by December 18<sup>th</sup> and then holding the interviews on January 4<sup>th</sup>. He wanted to see this resolved as soon as possible. Then they would have the Canvassing Board come up with the weighted averages and maybe have the top three people come before them publically.

Mr. Heady felt that if there was some concern that one of the candidates would not feel comfortable speaking on television then he would rate that candidate low because one thing that you will need to do as a Councilmember is be able to speak while being televised. As far as scheduling, he asked if it was possible to do the interviews at one of their future meetings. He didn't see a lot of candidates coming forward and he felt it was important do this publically so the public sees the process.

Mr. White asked Mr. Vitunac if there were any problems with proceeding with the replacement even if Mr. Wilson appeals the judge's ruling.

Mr. Vitunac felt that they (Council) should begin the process of selecting someone to fill the vacancy on Council. He said that the worst scenario would be if an appeal is filed and Mr. Wilson was to win the appeal, then the person who is filling the vacancy would be asked to step down.

Mayor Sawnick reiterated what his suggestion would be and that was to start receiving applications until December 17<sup>th</sup> and then set up the interview process and have a Special Call meeting on January 6<sup>th</sup> to interview the three final applicants.

Mr. Heady felt that by having individual meetings with the applicants could only lead to the public not trusting the individual. He said let's do this out in the open and have the interviews

done on camera. He made a motion to take all of the City Council candidates and interview them on camera. The motion failed for lack of a second.

Mr. Abell felt that having a one on one interview would be a more humane process.

Mr. Heady felt it was a shame that Council was not going to keep this process in the public eye. He asked Council to reconsider this. He said let's not tie this new Councilmember's hands before they are elected.

Mayor Sawnick suggested having the individual meetings with applicants on January 6<sup>th</sup> and using Mr. Heady's rating system to come up with the top three. Then on January 12<sup>th</sup> they will hold a Special Call meeting with their top three candidates and vote at that time.

Mr. Ken Daige went over a couple of points for the record. He read a prepared statement. He felt that the next highest vote getter in the recent election should be considered for the position. He urged Council to fill the seat now and get it over with.

Mr. Ken Bennett was listening to what they have been discussing today and felt it was time to straighten out their Charter. He thought that it should be automatic that the next highest vote getter be chosen to fill this seat. That is who the people voted for.

Mr. Heady did not agree with Mr. Bennett. He said that Mr. Daige could go through the process and would probably have a high score. He said right now this Council has an obligation to do what the Charter says. It says that we shall appoint someone for that one year term. He reiterated that they need to do it in the open for the public eye.

Mr. Bennett said that he respectfully disagrees with Mr. Heady.

Mr. Warren Winchester stated that he believes that there was a clear message sent from the recent election, which was that the voters wanted to see a different perspective. If Mr. Wilson had not been on the ballot then the vote would have turned out different. He did not believe that Council should choose this replacement person the same way that they would choose someone who was going to serve on a Board. They should be considering people who the voters were looking at. There are three candidates who did not win the election who are in the audience today and would like to fill this vacancy. These people have been grilled by all kinds of different people with all kinds of different scenarios. It is this Council's job to select someone who expressed a desire to serve.

Mrs. Mary Beth McDonald stated that this was a vote of the people. Mr. Daige was the next highest vote getter and the people spoke in that regard and the Council should speak for the taxpayers.

Mayor Sawnick commented that each Councilmember will have their own reason for picking this person. He made a motion that the application process for anyone wishing to fill this

vacancy would begin on December 8<sup>th</sup> and end on December 17<sup>th</sup>. Then on January 6<sup>th</sup> they will hold the interview sessions and a Special Call meeting will be held on January 12<sup>th</sup> at 6:00 p.m. and they will make their decision. Mr. Abell seconded the motion.

Mr. Vitunac reminded Council that any notes they make during the one on one interviews are public records.

Mayor Sawnick said that he will ask the City Clerk to take minutes while he is doing his interviews.

Mr. Heady said rather than tie up staff why not have the meetings in the public eye. If we go behind closed doors to do this then the public is never going to buy into it.

The motion passed 3-1 with Mr. Heady voting no.

A five minute break was called at 10:29 a.m.

## **8. Budget Workshop**

### **A) Insurance Plan**

Mr. Gabbard told Council that there would be a lot of information given to them today. He didn't expect them to vote on anything today, but wanted to give Council some time to look at the different issues.

Mr. Kurt Gehring, Gehring Group, said that his firm handles about 60 different groups within the State. He then gave a Power Point presentation (please see attached).

### **B) Pension Plans**

Mr. White made a motion to ratify the PBA contract. Mr. Sawnick seconded the motion.

Mr. Heady asked Mr. Gabbard that Council be notified when a complaint has been filed (referring to the contract). Mr. Gabbard said that he would make sure that Council is informed if there are any complaints made. Mr. Heady continued by saying that the contract allows police officers to work-out while on duty. He asked if this decreases the availability of officers by having this clause in the contract. Mr. Gabbard explained that this does not require additional officers for a shift.

Mr. Don Dappen, Chief of Police, added that this clause is in the contract, but the officers know the only way they are allowed to work-out is if staffing allows it. He said that right now they are understaffed so this doesn't take place very often. However, if an officer is working out and a call comes in, the officer is there to respond.

Mr. Heady felt that in the future that they needed to look at the allowed accumulative sick time and annual leave.

The motion passed 4-0.

Mr. Steve Maillet, Finance Director, said that Mr. Steve Palmquist, Gabriel Roeder Smith & Company, the Actuary for both their Fire and Police Pension Plans was hired him to do an overview of their pension plans. He said that Mr. Palmquist will also talk about alternatives for the Police Pension fund.

Mr. Palmquist thanked Council for having him at the meeting this morning. He said that the City of Vero Beach is not alone in feeling the detriment effects that have made pension costs go up tremendously. This presentation is about a possible cut back in pension benefits. He talked about how their plan works and then covered the various options that the City has if they want to make changes in their pension plans to save money. This presentation will not discuss too much in regards to the Police Pension Plan, but basically about the General Employee Retirement Plan. He then gave a Power Point presentation (please see attached).

Mayor Sawnick thanked Mr. Palmquist for this information.

Mr. Gabbard told the Council that staff wanted them to look these numbers over for the next couple of months and then be in a position to make some decisions.

Mr. Heady referred to the annual required contribution as defined on page 16 of the report. He said that it shows an increase and then a decline. He asked Mr. Palmquist to explain this.

Mr. Palmquist said that each year when the actuarial report is done they look at what actually happened during most recent years as to what they expect will happen for the time they are looking at. He said that this is measured every year. That experienced gain or loss is paid off over the following 20 years. Some amortization bases that started some 12 to 15 years ago will be fully paid for which is why the cost will go down. He said what happened in 2008 (loss due to investments was close to nine million dollars) will remain with them for some years down the road.

Mr. Heady asked what if they decided to sell their utilities to a power provider and those employees were removed from the City plan, what would that do to their plan.

Mr. Palmquist said there is nothing in this report that takes those things into account. He gave an example of what happened when OUC took over St. Cloud. He said that St. Cloud had no more liability for those employees.

Mr. Heady asked if that was to happen to this City, how would they account for the losses.

Mr. Palmquist said that there would have to be negotiations to pay for the power and what to do with the employees.

**C) General Fund**

Mr. Maillet went over the General Fund for FY 10. He covered the revenue and expenditures and said that there is a deficit in the budget of \$50,150 and in the actual \$400,264. However, he said at this point it is not a bad news situation. He said in all the funds on the revenue side there is a flow to it. The property taxes are just starting to come in, etc. So for the first eight weeks they are pretty much where they need to be. He hasn't heard of any major changes in the State when it comes to revenue taxes. He said that if Council has any questions to please ask him anytime.

Mr. Heady asked that in all of the funds that a column be added that shows the actual from last year. That enables him to compare last year to this year.

**D) Enterprise Funds**

**1) Electric Utility**

Mr. Maillet said that this is the same set up as the General Fund (back up material attached to the original minutes). He knows that in January with them entering into the OUC contract they will see expenditures decline. He said that they don't want to borrow any money unless they absolutely have to.

Mayor Sawnick requested from staff that they provide Council with a report similar to this one on a monthly basis.

Mr. Maillet will provide them with a report every month showing the extra column as requested by Mr. Heady and also notify them of the unrestricted cash that is available.

Mr. Heady made it clear that the report will include the added column for each fund and say what cash is available.

**2) Water and Sewer Utilities**

This fund was the same as the Electric Fund.

**3) Airport**

Mr. Maillet noted that the Airport is showing a small negative, but at this time of the year that is not a problem.

**4) Marina**

Mr. Maillet said that it looks like the Marina is about \$140,000 in the hole. He explained that this is because it is early in the fiscal year and not all of the boat traffic has arrived yet. He said that once season gets started the revenues will pick back up.

## **5) Solid Waste**

Mr. Maillet explained that they have only collected about 1/6<sup>th</sup> of the revenue for the Solid Waste Fund and the expenditures are on track for the fiscal year. He said that this year Solid Waste does not have any major capital items.

Mr. Heady went back to the Marina Fund and asked when is “Black Friday” for the Marina.

Mr. Tim Grabenbauer, Marina Director, reported that his customers actually start arriving just before Thanksgiving. He said right now they are about 90% full at the Marina and will stay that way until early April. He said that in the front end of fiscal year there are always some maintenance things that have to be done. He said “Black Friday” is usually in December or January.

Mr. Gabbard stated that all the items that they have discussed this morning are important to the general employees as well as the representatives of their different unions. He said that these individuals needed to be involved and there needs to be dialogue with them.

Mr. David Gregg, Moorings, asked Mr. White and Mr. Abell if he understood them correctly to say at one of their prior meetings that in order to sell the electric system that it required competitive bidding. He asked them who told them that.

Mr. White made it clear that what he said was that there would need to be competitive bidding and he was told this by one of their consultants.

Mr. Abell said that this statement was made by their consultants when they (City Council) were given the different options for the Power Plant some years back.

Mr. Gregg felt that they needed to ask their City Attorney whether the City is required to go out for competitive bidding should they decide to sell the electric utility.

Mayor Sawnick will get the answer to Mr. Gregg on that question.

Mr. Gregg then brought up that for years Council meetings were held at 7:00 p.m. to allow anyone who worked during the day time to be able to attend their meetings. He said when they hold the meetings in the afternoon it is harder for people who work to attend the meetings. He thought that Council should consider going back to having their Council meetings at night.

Mr. White said that Council held their meetings at 7:00 p.m. for many years. But now that they are going through such tough economic times it makes sense to hold them during the day so that staff does not have to attend these night meetings. He said that right now all their employees are having to take furloughs and it just makes sense to have them in the daytime so that staff does not have to sit through their whole meeting, but can be called to come to the meeting if he/she is needed. He did note that by law there are certain meetings that have to be held during the day. He also felt that their day meetings have been very productive.

Mr. Abell added that if they would have started their last Council meeting at 7:00 p.m. that the meeting would have lasted to 2:00 a.m. in the morning.

Mr. Heady asked permission from the Council to be able to tour the OUC facilities located in Orlando on Friday (he will be reimbursed for his mileage). Council had no problems with his request.

## **9. Adjournment**

Today's meeting adjourned at 12:32 p.m.

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