

**SPECIAL CALL CITY COUNCIL MINUTES
WEDNESDAY, MARCH 23, 2005 – 3:30 P.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The Mayor called the meeting to order at 3:30 p.m. and the Clerk called the roll.

Councilmember Abell, present; Councilmember Fromang, present; Councilmember Solari, present; Vice Mayor White, excused absence and Mayor McDonald, present. Also present was the City Manager, David Mekarski; City Attorney, Charles Vitunac and City Clerk, Tammy K. Vock.

1. ITEMS FOR DISCUSSION

1) City Manager Employment Review

Mayor McDonald said that the purpose of today's meeting is to discuss the City Manager Review. She said that she would like to address her fellow Councilmembers and everyone else here today.

Mr. Vitunac said that since this is a Special Call meeting he would like the City to state the type of notice that was given for today's meeting so that the record will show that they are legal. He said that the Charter requires twenty-four hour notice of a scheduled meeting if practicable.

Ms. Vock stated that the press was notified as soon as the meeting was scheduled. She said that the agenda was also posted on the City's web-site, channel 13 and on the front doors of City Hall.

Mr. Vitunac noted for the record that there is standing room only in the Chambers. He felt that proved that adequate notice was provided for this meeting.

Mayor McDonald said that since this is a Special Call meeting we will not hear from the public at today's meeting. She said that she has made accommodations at other places for that so she asked for the audience's indulgence. She thanked the audience (for their indulgence).

Mr. Abell said that he would like to have it (the meeting) open for public comment.

Mayor McDonald asked Mr. Vitunac if that decision was up to the Mayor. Mr. Vitunac said that according to the Council's rules all motions are decided by a majority of the Council. He said what would be appropriate would be for someone to make a motion to amend the agenda and it must pass with three affirmative votes. Mayor McDonald said she would like to say that the audience is filled with City employees and she understands that probably a lot of the people are here in support, or whatever, for Mr. Mekarski. She

said that she will leave the decision up to her fellow Councilmembers as to whether they would like public input or not because she is just one member.

Mr. Abell made a motion to amend the agenda to allow public comment. The motion died for a lack of a second.

Mayor McDonald (read a portion of prepared statement that is on file in the City Clerk's office.) Mayor McDonald read, "Initially she requested this meeting to determine the circumstances under which a lawyer was hired to investigate potential ethical violations against the City Management. However, over the weekend, after discussions with Mr. Cotherman, our auditor, and after receiving other communications {from a former employee}, she believes that more than enough information exists in the public record to cause City Council to confer whether Mr. Mekarski should continue as City Manager at all, which may make any decision about spending even more money on a lawyer unnecessary. I have provided the Council with these recent documents, all a part of the public record, which I believe supports this view. It was my hope all along that we could avoid a detailed public discussion about each alleged infraction, but if that is required in order to protect the taxpayers of the City of Vero Beach, I will do it. It is all of our obligations to insure that our tax dollars are well spent. Lets begin with a quote from the Code of Ethics for Public Officers of the State of Florida, page 10. "Misuse of Public Position" No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust perform his or her official duties to secure a special privilege, benefit or exemption for himself, herself, or others. And I quote from the City of Vero Beach Personnel Rules, {section 3-3} City employees shall not use or attempt to use their position to secure special privileges or exemptions for themselves or others. Mr. Mekarski is an employee of the City.

Let's begin with a review of the well-publicized boarding up projects.

Mr. Abell asked if he could interject here.

Mayor McDonald continued, "It appears that Mr. Mekarski used his...".

Mr. Abell called for a point of order. Mayor McDonald said "excuse me but I have the floor here". Mr. Abell said, "I called for a point of order".

Mr. Vitunac told the Mayor that she can ask what the point of order is and then vote on it and it must pass by a majority vote.

Mayor McDonald asked Mr. Abell what was his point of order.

Mr. Abell said that his point of order is that we have already an audit going on by Harris, Cotherman and Associates and we already have....Mayor McDonald asked Mr. Abell to give her the courtesy to get through and then he will have his turn to speak. Mr. Abell

said no. He said we already have the audit. He said that he does not think the Mayor understands. He said this meeting is not appropriate without proper notice. He said she has not given proper notice.

Mayor McDonald said that proper notice has been given and the City Attorney has assured us that it was (given) and the City Clerk has given proper notice. Mr. Abell said, "So you are here with a kangaroo court to try to damage somebody."

Mr. Vitunac said that technically there has been a point of order raised, you have denied the point of order and if there is an appeal to the Board then there has to be three votes to overturn the vote of the Mayor.

Mr. Abell said that he will make that appeal. Mr. Vitunac asked if there is a second to that (appeal).

Mr. Solari asked Mr. Abell to restate the appeal.

Mr. Abell said yes, the appeal is that there is an audit underway that we previously asked to have done just because of a single person on the Council asking to have extra attention paid to certain expenses, so the other four people authorized an audit (and the Mayor authorized the audit as well), but they authorized an audit and they authorized an ethics audit at the same time. He said it was to be an independent situation. He said they have spent time and money with an auditor and an attorney to get to the bottom of whether there are ethic violations, whether there are violations of inappropriate expenses that, by the way were looked at by all of the rest of the Council members, by the City Clerk, by the Finance Department, by other people in the City.

Mayor McDonald said she has a point of order.

Mr. Abell continued, and we have this investigation or audit probably available in the next two weeks. That is his most recent information. He said he does not know about the ethics part of it, but he did ask for information from Ross Cotherman a week ago and he told him that he would have some information for us by Friday of this week.

Mrs. Fromang said that she also talked to Ross Cotherman yesterday. He told her that the audit was ninety percent complete and he only had about ten percent to go. She said that she would also like to have that audit in her hands. She said that she would like to have those facts and figures that he is going to provide. She felt that would be the best and that is what she would like.

Mr. Solari said that he does not have a clear purpose of what the meeting was for today, but he does have an idea of where it is going and he had some notes prepared. He said that he could either read those notes now or wait.

Mayor McDonald said that she would like to....

Mr. Solari said, not being exactly sure of what the meeting is, this may, with the Council's permission, shift the purpose, but he is not sure. Mr. Solari said if it has something to do with the City Manager's evaluation, which is what he gathers from the agenda, then he believes what we want at the end of the day is a fair process and the best possible outcome under the circumstances for the City of Vero Beach. He believes that it is important to understand that these are two different things and it is possible to have the right outcome, but to go through such a lousy process that it is not good for the City. He said at this point he is not going to suggest what the outcome should be, but he would like to make a few points as to the process. He said that he will state at the start that he does not intend to have his comments be comprehensive. Mr. Solari said that the process must be fair and this would suggest that Mr. Mekariski must have time to engage counsel or other services if he feels like it is necessary. He said the process must be deliberative and this suggests that all Councilmembers should be present, and have more than twenty-four hours notice to be present, and have adequate time for preparation. Mr. Solari said that he has not had adequate time for preparation being on the job for just two weeks. He said the process must be as open to the public as possible. He said this suggests to him that the proceedings be televised and that adequate notice be given to the public, more than twenty-four hours. Mr. Solari said that he would like to add, however, that this does not give the public the right to participate directly in the process, but rather that the public have the opportunity to know what is going on while it is going on. Mr. Solari said that he believes that the process must be timely. That is given the point that they find themselves at today, it is the best interest of the City of Vero Beach to move forward at deliberate speed. Prior to the March 8th election it appeared that an adequate process was in place, this included the State ethics inquiry, an audit and the City Council facilitator. The three taken together would have given them a fair process and all of the necessary information to arrive at the best outcome for the City of Vero Beach. This process with the delay in the State ethics inquiry and his own uncertainty as to the status of the facilitator day has broken down a bit. Therefore, what he would like to propose today is to rebuild that process and build it so that they ensure a fair, deliberative, public and timely inquiry. This may well mean that they proceed without the results of the ethics inquiry because he is not sure, based on information from the press, whether we might get a result in eight, sixteen or twenty-four weeks. He hoped by the end of the meeting today that they have a clear path forward and a process set that can be understood by all that are participating.

Mrs. Fromang said that she would like to say one more thing about the Ethics Committee. She said that is not involving the City. She said that was brought by a private citizen and the City Council does not have any privity in that. She said they do not get any correspondence and they get no say in it. She said during this period of time it is going to only be the person that brought the complaint, the people named in the complaint and that is confidential. She said we (the City Council) have nothing to do with that for the City. She said the City, for her, is not going to be an issue. But, she would like to have the audit report and the legal report that they agreed upon and move forward after that.

Mr. Vitunac said that at 3:25 p.m. today, he received a call from Bill Glenn, with the auditing firm. He said that the auditors will have their report ready to hand over to the lawyer by April 1, 2005 and then however long it takes the lawyer to make a ruling (at that time Council will receive the attorney's report).

Mayor McDonald thanked Mr. Vitunac. She said that when she spoke to Mr. Glenn and Mr. Cotherman they were still trying to gather the information and they weren't sure when it would be complete. She said the other issue that prompted this meeting was that the Council had voted on hiring an attorney on February 15, 2005. She said that she just discovered last week that an attorney had actually been hired. She felt that all of the Council should have been apprised that this attorney had been hired. Mayor McDonald said that the only information that she received was an eight and a half by eleven piece of paper with this gentleman's name on it and a post office box number from Hallandale, Florida. She said that Tom White was the Mayor at the time and his signature was on it. But, Mayor McDonald said that she does not know anything about this attorney. She does not know if he is Board certified, or where he went to law school and she feels for such an important decision as this the Council should know who we are getting. She said that she is sure, well, she is not sure that this gentleman is fine, but she would like to be assured that he is. She said that she would like to go through the process that the Council voted on previously and that was that we were going to get (she assumed) a written list from the League of Cities and Mr. Cotherman was going to make some suggestions. Mayor McDonald said not that Council should choose any particular attorney, but she felt it was proper to go through the necessary channels and keep Council apprised of everything that happened.

Mayor McDonald asked Mr. Abell if he knew that an attorney had been hired. Mr. Abell answered yes. Mayor McDonald said that she does not know why she wouldn't have known that.

Mr. Vitunac said that after the last meeting Ms. Vock talked to the League of Cities trying to follow the direction of the Council and was given a list of names. Ms. Vock relayed those names to Mr. Vitunac and he called Mr. Cotherman and gave him the names. Mr. Cotherman told Mr. Vitunac during that phone conversation that he did not want to pick the attorney. Mr. Vitunac said that he told Mr. Cotherman that they wanted to keep this independent from the City Council because this attorney was going to be issuing an opinion on everyone up here virtually (on the dais).

Mayor McDonald asked how this was kept independent from the Council if Mr. Abell knew about it and she knows that there wasn't any written notification to the City Council. Mayor McDonald asked Mr. Abell how he knew that (an attorney was hired). Mr. Abell said that he believes he was told by the City Clerk, Tammy Vock, after the League of Cities list had been forwarded to the City. He said that Mr. Vitunac picked a person off of the list, John Shubin was consulted and they picked the person that was suggested as the best person for the job.

Ms. Vock said that she does not think that Mr. Abell even asked for the name of the person (attorney). Mr. Abell answered no; he didn't even know the name. He just knew that they had an attorney and that is exactly what the minutes say; that they were to ask Cotherman and Vitunac and have them come up with somebody in an independent process that would be an arms length attorney and it wasn't for the Council to get into.

Mayor McDonald said that she isn't going to comment on that. She said that was an old Council and this is a new Council. She wanted to ask if...Mr. Abell interrupted to tell Mayor McDonald that the attorney that was hired went to the University of Miami, Catholic University America J.D. and he is a member in good practice with the Florida Bar. Mr. Abell said that this information, again, has just been presented to Council today. He said this is not the way to hold a meeting. He said this came to them today and the Mayor is giving the new folks a tough baptism on something they had already decided to operate in a different fashion.

Mayor McDonald said, "Well, you are certainly always up to speed". Mr. Abell said thank you, you have to be here to be that.

Mayor McDonald asked if there were any other comments that any other Councilmember would like to make.

Mr. David Mekarski said, for the record, that it is his hope that her request to terminate his employment agreement with the City is not in anyway a retaliation on the ethics complaint that he has filed and she received the same day that she called this meeting.

Mayor McDonald said first of all Mr. Mekarski, that was never made public and she believes because he just made that public and that is a very serious matter. Second of all, it was also brought to her attention that on February 23rd (Mr. Abell, Ms. Larkin and Mr. White) you drafted a Resolution to have her removed from office before the election. Mr. Abell said that he was not part of any draft of any Resolution. Mayor McDonald said that it is here and it is public record. Mr. Abell asked the Mayor to correct the record because he did not have anything to do with it.

Mr. Mekarski explained that the Resolution was a draft done by his attorney, which merely asked the Council to give him the ability to hire special counsel to look at the conduct of one Councilmember and the misuses of that one Councilmember and the position of authority.

Mayor McDonald said that you actually asked the City Council to pay for an attorney to represent you. Mr. Mekarski said to represent the office of the City Manager so he could delegate his responsibilities to the best of his abilities. Mayor McDonald said yes, and she hoped that the press will pick up on that fact as well.

Mr. Abell said that was an agenda item that was removed. He said that was on the agenda. Mr. Mekarski said that is correct.

Mr. Solari said since they are on this subject he would like to ask a couple of questions about it. He said that he found out about that possible Resolution last night. Mayor McDonald said she did too. Mr. Solari said that it brought up some questions. He said since the Resolution was not presented to the City Council what has been done to follow up on the alleged violations. Mayor McDonald said that she would like to know what the violations are, to protect the taxpayer's dollars?

Mr. Mekarski said to respect the confidentiality of the ethics complaint that he officially filed with the State Ethics Commission; it is his understanding of State Law that it is only the responsibility or the authority of the individual who has received the complaint to make public disclosure of that specific complaint. Being that, he is not at liberty to go into the details of the specifics of the ethics investigation. Mayor McDonald said, but you just disclosed it so, she is sorry.

Mr. Mekarski said, for the record, the Resolution was an action item for the Mayor and the City Council of the City of Vero Beach Florida, to appoint special counsel to represent the City Manager with regards to and investigate potential violations of standards of conduct for public officials of the City of Vero Beach; providing and effective date. Mr. Mekarski read Section 1 of the Resolution into the record (on file in the City Clerk's office). He noted that the Resolution also included a severability clause, a conflict clause and it provided for an effective date.

Mr. Mekarski said that (the Resolution) was intended to be introduced at the last meeting prior to the election. He said that he decided to pull that item because he felt that it was important that the item not interfere with the democratic process of the election one way or another and that it would be prudent to withdraw that to allow the people to speak their voice and to allow a democratic process to prevail.

Mr. Solari said that at this time it seems to him personally that certain things have broken down and that this (points) centers around the way the City Manager has been doing his job. So, he thinks that it is incumbent on us (the City Council) to set the process, whatever that is, to address the problems that they've got and to make sure the process is fair, open, deliberative, public and very timely. He said that it is very clear to him that the City cannot go on the way that it has been going on for the last two or three months. He said the City has become very politicized and from what he has heard from a number of department heads the work is not getting done and it is clear that we are in an untenable position where the City Manager is bringing charges against different City people. So, at this point he thinks that we (the City Council) need to set the process and make sure the process is set to move along as quickly as possible.

Mr. Abell said we have one City Councilmember that is bringing charges against the City Manager, which are invalid and that is why we have the audit.

Mayor McDonald said that she has not brought any charges against the City Manager.

Mr. Abell replied that you have brought this information, which you are repeating again today, which has been sitting on the City Clerk's desk for three months. All of this has been available and has been in the papers and it has been everywhere. He said you (Mayor) are just accelerating the process that we already have underway, which both of our new members have just stated that they didn't have enough time to digest what they are talking about today. They don't understand what this is all about and there is an audit in process where you will have your answer, Mary Beth, that you asked for on 4/1. Maybe the Attorney's answer...you may not like the Attorney or that he has a post office box for an address, but 4/1 is the date where a man can get a fair accounting and he thinks that anyone that is in this country is innocent until proven guilty.

Mrs. Fromang said this is not a court of law and nobody is doing innocence or anything. We are going to review, as a City Council, a working relationship with the City Manager and how it is all working. They will review the past, look at the audit and look at the Ethics Committee and then they are going to make a decision. She said this is not a court of law. Mrs. Fromang said that she agrees with Mr. Solari that she would like to look at the audit and look at the Attorney's recommendations and then take a vote.

Mr. Abell asked if they could adjourn the meeting.

Mr. Solari said no because we have not set a process that meets his criteria. He said that he also does not feel that the audit itself is sufficient. He said that he had the understanding that things have been set in place to get a facilitator, someone from the League of Cities, someone who could help us...

Mrs. Fromang interrupted and said that is the Attorney.

Mr. Solari questioned that is not the Attorney simply making recommendations on the audit? He said he thought they were two separate things. Mr. Abell answered yes that could be a different Attorney.

Mr. Solari said that is what he thought. He would suggest that it is a separate item so under no circumstances would he imagine that all of the items that are currently on his list would be duplicated in an audit by a CPA. He said that he anticipated that they would have this facilitator who would be able to go through these items in an orderly fashion and have some help addressing them. Mr. Solari said that before he leaves here today he would personally like to know that they not only have the audit coming on the first of April, but that they have this facilitator day set either before then or soon after then so they can continue with the process. He felt they need to commit and have a date set by which time they will finish this, for lack of a better word, evaluation.

Mrs. Fromang said that it is her understanding that April 1st is just for the accountants to finish their work, then the Attorney is going to take a look at those and give them a recommendation. She said that she, personally, does not need another facilitator to help

her take a look at the audit and the legal opinion. She felt that she could do that, along with her fellow Councilmembers, and give a vote. She said, but that is just her since she had been a facilitator herself. Mrs. Fromang said that she does not know if anyone else wants to have a facilitator. She said she is not sure of the date the information will be ready.

Mr. Vitunac said that Bill Glenn said that April 1st they will give the information to the Attorney, but before that Attorney starts his work he felt they needed to settle if they were going to keep that Attorney or pick another one. Mr. Vitunac said that the Attorney hasn't gotten into his deep work, he assumes, until after he receives the information (from the auditor).

Mrs. Fromang said her personal opinion is that he is certified in appellant practice and if he was recommended by the Florida League of Cities and by John Shubin then she thinks he would be okay. She said she would like to meet him, but she didn't think it was necessary.

Mayor McDonald said that she is sure that is fine. It is just that she felt a little uncomfortable about it because the Attorney was familiar with somebody that was involved in some of these things and she felt uncomfortable and wanted to give the new Council the opportunity to...

Mrs. Fromang said that she is comfortable with it and she thinks it is okay. She said that she was surprised too because she didn't know that an Attorney had been appointed. She said that she had asked Mr. Vitunac when they were going to get the Attorney and he said the Attorney is appointed and she said okay. She said that she didn't think to go into it more, but she is comfortable with it and he is a member of the Florida Bar.

Mayor McDonald said that she does understand that you all are new (Mrs. Fromang and Mr. Solari), but she wants them to understand that she has been here for sometime and she was a City employee. She said that different employees and department heads come here. She said that she knows a lot of the employees and she knows that Mr. Mekarski has done wonderful, wonderful things for the employees. At the same token, this Council is responsible for the taxpayers and these issues were not done elsewhere. She said they weren't done in the County, they weren't done in Sebastian and they weren't done in Ft. Pierce. Mayor McDonald said that everybody has to be on the same page and they were not given special privileges and gas and a list of all different types of things, which has been handed out at the taxpayers expense. She said this, after all, is what the Council is responsible for (the taxpayer). Mayor McDonald said that there were people at Dodgertown for weeks on end, some part-time employees, that really had no business there for weeks and the City paid for it. She said all of these things are public record. She continued that some were allowed to buy gas for free and the taxpayers paid for it and they were given three meals a day and beverages and on and on and on and on. Over and above that there have been, for several months, patterns of spending that in her way of thinking and to a lot of people is...\$15,000 for an afternoon workshop from some

people in Houston that came to give psychological testing for the Department Heads and these type of things. She said this started out with the \$15,000 to \$20,000 dollar raises and then the lobbyist. She said the list goes on and on and have been very well documented.

Mayor McDonald said yes, this meeting was hastily called, but this decision was not hastily made by her, you can be sure. The other issue is, one she just found out about last night and she feels it is a very sad, sad thing and she has never heard of it in her life, a City Manager drafting a Resolution. She said that she thought only a City Councilperson could do this (draft the Resolution). The Resolution is against her and she had no knowledge about it and to report her to the Ethics Commission was kind of...Mayor McDonald said "you've turned this into a me against you and it was never like that".

Mayor McDonald said to her fellow Councilmembers that she finds it very difficult to move forward with Mr. Mekarski as you can imagine with all of these things.

Mr. Abell said then why don't you resign.

Mr. Solari said rather than discussing anybody's possible resignation he would rather get back to actually working out a path forward. He said that the idea of the facilitator day was not to go over the opinion of the auditor or the attorney for the audit. He said he thought that the Council was going to use that facilitator to go through some of the other problems that the City is facing right now. He said if the report is coming in on the first of April and then being sent to the attorney for his opinion, he would still like to set the facilitator day or some other workshop, or get advise from Mr. Vitunac on how they should proceed with an evaluation. He said they clearly can't go on not addressing the status of the City Manager and he would like to set a process in place to clearly address or evaluate the City Manager so that at the end of the day, and hopefully that day is sooner rather than later, they can move forward with the business of the City.

Mayor McDonald said that is what they need to do.

Mrs. Fromang said if the attorney gets the report from the accountant on the first of April then perhaps they can give him two weeks, or something reasonable, and go ahead and set a workshop or special call meeting on a date certain. She also believes that we (the City) cannot go on this way. She said that she does not like this.

Mr. Abell said that the Council has a meeting April 19th anyway. He said to answer Mr. Solari's question about the facilitator, he thought Tom White's original idea was to also have the meeting as an introductory thing for you all as well (new Councilmembers). He said it would be a combination of different...

Mr. Solari did not think at this point that they could combine the two.

Mr. Abell said it might help them go through the Charter and that sort of thing.

Mrs. Fromang asked if two weeks was reasonable (for the attorney review).

Mr. Vitunac felt that was reasonable. He said he (the Attorney) knows the circumstances and is probably aware of some of the factors with the auditors already so he is not getting this cold. He said we could just tell him that we need it in two weeks.

Mrs. Fromang asked if it was possible to delay the Charter workshop and just make it this workshop because the list is pretty long for that workshop.

Mr. Abell said there are other things too that they had on individual lists. He said one thing is that maybe the staff has had storm postmortem and we have not had any postmortem of the staff. He felt that the Council should have a postmortem with the County and other municipalities and he felt they were willing to do this because there needs to be coordination. He said now that we have experience from the two storms last year he thinks there is a real interest in doing that. He said that he thinks the storm season is July 1. (Member's of the audience said hurricane season starts June 1).

Mrs. Fromang asked if they could change the meeting scheduled on the 19th from a Charter review workshop to a workshop concerning...Ms. Vock corrected Mrs. Fromang and told her that the 19th is the date of the regular City Council meeting and March 31st is the Special Call meeting.

Mr. Abell said that meeting was not scheduled just for a Charter review. Mrs. Fromang said that is right. She asked on what date do they want to do the evaluation of the City Manager.

Mr. Abell said that April 15th is the day that we are hoping that the attorney will have his input (available) so maybe they could put it on the schedule for one week later. Mr. Vitunac said that the 19th is a Tuesday so maybe they could schedule the meeting for the Thursday after that, April 21st.

Mayor McDonald said she will leave the dates up to the Council.

Mrs. Fromang said if the attorney can take a look at the audit on the first of April, then have two weeks to review it, then they could schedule a meeting...Mayor McDonald interrupted that she was not sure that he could complete in that time. She said that the auditor indicated that it would certainly take the attorney a lot longer than that, that it could go on for several weeks.

Mr. Abell said that they could ask him to work weekends.

Ms. Vock said that Vice Mayor White will be out of town so that would not be a good day. Mr. Abell asked about the 20th (April). Ms. Vock said that the 20th is fine. She said

there is a meeting in the Chambers in the morning so they could have an afternoon meeting. Council agreed on April 20th at 1:00 p.m.

Mr. Mekarski said that there are two issues that the Council may wish to consider. The review of the special audit findings and the legal opinion on the public purpose. He said if the Council is interested in conducting a performance evaluation then he would suggest the Council review his employment agreement with the City of Vero Beach and it provides under Section 12, that the City may review the performance of the Manager annually in September in a format that shall be mutually agreed upon by the City and the Manager. Mr. Mekarski said that possibly they can work in some kind of constructive work session towards a mutual resolve and meet the spirit and intent of the contract.

Mayor McDonald said that she did not think that she wants to go through another hurricane season with Mr. Mekarski.

Mr. Abell said that brings up an issue that he has. He asked the Mayor where she will be during the (next) hurricane. Mayor McDonald replied that she will not be staying at Dodgertown on the taxpayer's dollars.

Mayor McDonald said that she is sorry that Mr. Abell is behaving this way.

Mr. Solari asked Mr. Mekarski if he is suggesting that the Council waits until September for his evaluation or if something needs to be put into place so that they can accelerate the process and have it in the time frame that they are talking about for the rest of the review.

Mr. Mekarski suggested that the Council review and respect the employment agreement with the City Council and himself as an individual and abide by the provisions of that contract as it provides for performance evaluations, both timing and the process, which is described by contract. Mr. Mekarski said that they are really talking about two mutually exclusive items. The former Council set forth a process to do an independent audit and that auditor provided that the issue of public purpose needed to be done by independent legal counsel.

Mr. Mekarski said, as he has said many times for the public record, that he stands behind all of his decisions that he made during the hurricanes. He said it is probably one of his most proudest moments of his entire career and he was proud for every single man and woman.

Mr. Solari said that from what he has seen over the last two weeks the City is at a point where the City of Vero Beach cannot wait until September. He said Mr. Mekarski's statement referred to two things, the timing and the process. Mr. Solari said that he would certainly back Mr. Mekarski in the process, but he does not think the City of Vero Beach can wait until September (for the City Manager review).

Mr. Vitunac explained that the September time is to fit in with the contract to see how much of a raise, if any, any of the Charter Officers get. He said the contract says that you meet in September, you discuss how you like him or not, then you give him a cost of living raise and that is when it is settled. Mr. Vitunac said that does not preclude the Council from meeting on any of the Charter Officer's at any time to discuss whether they should go or stay. He said the Council is welcome to do that at any given meeting, schedule a meeting to pass a Resolution to terminate any of the Charter Officers. He said that is why this job has no protections other than that Charter provision. Mr. Vitunac said if Council wants to discuss a Charter Officer's performance other than in September they can do so.

Mr. Solari said his opinion at this point is that the City Manager, after the audit and some other type of review, needs a vote of confidence either up or down. He did not feel that the City can continue with the way it has continued over the last two or three months. Mr. Solari said that he thinks there might be a motion on the floor but if he needs to put this in the form of a motion he would move that they look at the dates, the process that they have set up so far, and come up with a date to get together as a Council and review the performance of the City Manager with the idea that they will give a vote of confidence either up or down.

Mr. Mekarski said that he would respect the prerogative of the Board.

Mrs. Fromang seconded the motion.

Mr. Vitunac said that they still have a point of order on the floor. He said they were discussing whether to uphold the point of order. Mr. Vitunac said that the point of order was to not go through a list of charges today but to do otherwise and the otherwise would be what Councilmember Solari just said.

Mrs. Fromang said if April 20th is agreeable to everyone and the attorney is finished she would like to schedule the meeting for that date (for the review of the audit and the attorney).

Mr. Solari said he would still like to have another meeting no more than two weeks after that meeting to give a vote of confidence. Mr. Abell asked how long it will take Mr. Solari and Mrs. Fromang to get up to speed with what is going on. Mrs. Fromang said that she felt that once she received the audit and the attorney's opinion then she can take a look at it. She asked if there is going to be more. Mr. Abell said no. He said one issue is the expenses that are under question and the other issue is how does the City Manager run the City and the City departments. He felt that was another evaluation that you have to make.

Mayor McDonald said this is a management issue. She said it is not whether the money was spent right or wrong. She said that is a matter of opinion. She said they are talking about management style. Mayor McDonald said that she had Mr. Mekarski and his

family over for Thanksgiving. She said the City of Vero Beach and Mr. Mekarski are just not a good fit. She said that she has talked to Mr. Mekarski to....the audience began making a lot of noise. Mayor McDonald asked the employees (in the audience) to please give the respect to the public.

Mr. Abell felt what they should try to investigate is whether they can get a good fit between you (Mayor McDonald) and the City Manager and that would help us all go forward.

Mr. Mekarski said Madam Mayor and members of the Council, he has stated to the Mayor and individual Councilmembers that he has an in reverence democracy and he has served in local government for over twenty-five years. He said that he has been through numerous transitions and he respects the voice of the people. He said he respects the majority wishes of this Board and it's appointment for Mayor and he would do his utmost to serve this Mayor and this Council to the best of his abilities. Mr. Mekarski thanked the Council.

Mr. Abell asked if there were any forms that could guide them in evaluations. Mr. Vitunac said that former Councilmember Fletcher made some. Ms. Vock said they were never voted on by the Council but she can provide a copy to the Council. Mr. Abell felt they might give them some guidelines and the two new Councilmembers may have better ideas than some of the rest of the Council.

Mr. Mekarski said the International City Manager Association also provides various formats for Manager review in a Council/Manager setting. He said that he would be happy to research that and provide various formats for the Council to consider. Mr. Mekarski suggested that the Council may also want to work with Mr. Freijo, with the Mercer Group, who is the head hunter that recruited him to the City of Vero Beach. He said that group also provides various performance evaluation techniques and assist City Council in both contractual agreements for City Managers assisting communities and Council/Manager relations and performance evaluations.

Mayor McDonald said if there is no further business....

Mr. Solari interrupted and said that a date has not been set for the second meeting.

Ms. Vock said there is a motion on the floor.

Mrs. Fromang said she had seconded the motion for the meeting on the 20th for the audit. Mr. Solari suggested two weeks later to hold the second meeting.

Mr. Solari amended his motion to include a Special Call City Council meeting to be held on Thursday, May 5th at 9:00 a.m. Mrs. Fromang seconded the amendment.

The motion passed unanimously.

Mayor McDonald adjourned the meeting at 4:25 p.m.

/jam

**{ } Indicates part of Mayor McDonald's statement that was not read into the record.