

**CITY COUNCIL MEETING  
November 2, 2023 – 7:00 P.M.  
MINUTES**

1. **CALL TO ORDER:** Mayor Tyson called the meeting to order at 7:00 p.m.
2. **ROLL CALL:**  
**PRESENT:** Council Member Herrera, Council Member Salgado Council Member Hernandez, Council Member Renick, Attorney Dill, City Manager Mathes and Mayor Tyson  
**ABSENT:**  
**ALSO, PRESENT:** Chief Touchberry, Finance Director Putnam Moreman, Utility Director Kevin Burge and Attorney Rhodeback
3. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
4. **INVOCATION:** Mayor Tyson gave the Invocation.
5. **APPROVAL OF MINUTES:**  
(a) City Council Meeting of October 19,2023

**MOTION** by Council Member Renick **SECONDED** by Council Member Hernandez to approve the minutes for the City Council Meeting of October 19, 2023.

**ALL AYES:**

**MOTION CARRIED 5-0**

6. **PUBLIC COMMENTS:**

Mayor Tyson asked if anyone from the public had a comment to state their name and address for the record,

Susan Adams – 100 S. Pine St., Fellsmere – She wanted to let Council know the dates for the Frogleg Festival will be January 18 through the 21st. They will be going under the normal contract with the city and don't anticipate any changes. It will be the 33<sup>rd</sup> year anniversary. She thanked the City Council for being very gracious in giving them dedicated space for the kitchen, as well as for their offices and they are super grateful for that. Their goal is to keep it downtown and they appreciate the partnership over the years.

Susan Adams asked what is food truck regulations in the City of Fellsmere, because she knows they have kind of a lot going on. She wants to make sure that she is giving the right information to the people that ask or at least point them in the right direction.

Manager Mathes responded that the City of Fellsmere they see food trucks under two categories, the permanent and the mobile, for permanent the city requires site plan approval and if they get that approval, they don't have to remove the truck every night you're allowed to, but you don't have to. For mobile's the city's understanding is that they have been preempted by the state. On mobile's the city can do a zoning review, but it's got to be a limited review primarily for health and safety line of sight, things like that. They don't require them to get preapproval because the city has no process in place to do that. He does give them parking guidance. Other than that, they come and go and those that come and go are not supposed to be there overnight, they have to leave every day. Susan asked how does Sebastian have an ordinance.

Attorney Rhodeback responded he does not know the nuances of the City of Sebastian but it's a delicate subject. And to his point, any law could be passed until it's challenged with the new laws based on express preemption. If given notice, City of Sebastian is responsible for attorney's fees and costs that end up getting overturned. The food truck regulations, at least at the state level seem to be changing like every six months, which makes it somewhat difficult to keep up. Those are some of the challenges they face at least a legal level.

Attorney Warren Dill commented added they can find a way to do some regulation and they could do that if that is what the City Council desires.

Susan Adams had questions regarding property and sales tax on food trucks.

Fran Adams added since they brought up the conversation about the sales tax and what benefit Fellsmere could be. She assumes most of these food trucks are renting the space, the property that they're on.

Manager Mathes responded that the food truck belongs generally to the owner of the property. Fran Adams commented that the city is not getting any added benefit to pay for extra for police services or street uses and nothing's come back to that part. So only what property tax the city gets from that unimproved piece of property, and she doesn't know if it gets revalued by the Property Appraiser, since now has a food truck on it for a year if it gets revalued, which would get additional value to Fellsmere for property tax, which would be good. So that may be something legislatively that could be addressed to benefit, particularly small towns who could benefit from an additional to value property.

Attorney Dill stated that would be a question for the Property Appraiser. Manager Mathes stated that for the permanent food truck he will have to let the Property Appraiser know.

Mayor Tyson stated one of the things that he is concerned about is the cost for somebody to open a small business. It's just unbelievable.

Susan Adams suggested that he best thing the city could do as a government for some of the small mom and pops to try to help grow them is to work with some of your local banks. If the city had a program that was kind of like an incubator, new business program, and FAU did a really good presentation at the United Way leadership breakfast about their entrepreneurship incubator program. And that might be something that they might be able to bring to Fellsmere. IRSC has a great program for new businesses and that could be something the city could bring to the community and just offer that as an opportunity for people to kind of look into.

Mayor Tyson stated that is something they will have to work on.

Mayor Tyson asked if anyone else from the public had a comment, hearing none he continued with Manager's Matters.

Manager Mathes stated to Susan Adams that if she needs anything modified for the Frogleg Festival to please call him or Andy.

**7. MANAGER'S MATTERS:** Manager Mathes continued with his matters.

- **Sewer Break at Cypress & CR512** – It was repaired pretty quickly. The city will pass all the cost to repair on the person who broke it.
- **Cemetery Tower awaiting reply.**
- **Cemetery Dual Burial w/ashes-** The city has some unique requests for cemetery burial where we have a spot already utilized. This would require a code change. There will need to be form changes and they will come back with those changes.
- **Historic Train Village without grants-** He reminded Council that they do not expect to be funded, they have identified \$300,000 of ARPA money as local match. He would like to move forward with that \$300,000 without the grant if indeed the city does not get funded this coming summer, which was always their plan to make that decision at that time and then Frogleg has talked about donating some money to do a small building for Johnny's FPL. And then hopefully they would have under \$300,000 up to two other buildings, the machine shop which we'll be repurposing as a community center. He thinks it's an important one, the community center is always booked, and it's aged, and it doesn't have as good of facilities as a brand-new larger facility would have. It also creates a great space because it'd be placed right next to the Section Foreman's house. And the plaza space between that could be a great high quality outdoor space to further offer event venues. They will have an indoor space right next to an outdoor space which they don't have at the current Community Center. And then hopefully they can do the depot which would be at the north end of Broadway, and it'd be repurposed as public restrooms.

Mayor Tyson stated that would be a very nice amenity.

Manager Mathes stated that they will be moving forward and has already started asking some consultants to put some proposals together to refresh the plans because our plans are five or six years old. They actually don't have a set of design plans for the depot so they would get a set of design points from the depot.

- **Director attend Council Meetings virtually if no items-** Manager Mathes asked Council if for directors who don't have items on the agenda would they be okay if they participate virtually. Council Agreed.
- **County Evaluation of Comprehensive Plan 11/16 at 6pm N. County Library** – The County is offering 3 meetings, but he listed the closest one in Sebastian.
- **Veterans Day observed 11/10 w water shutoffs on 11/7** – He brought this up for you to let you know that there's only going to be a short time between the shut offs on 11/7 and a long weekend where they will not have water if you do not pay. They think there might be a large influx of non-

pay's this month. Manager Mathes stated that they have an option to extending the shut off date. The council agreed to keep it as is.

- **Daughters of the American Revolution – Wreaths Across America -at Cemetery 12/16 at 12pm**
- **Volunteer required for MPO Citizen Involvement Committee** – He did have a name provided but asked the Council if there's any other names that Council members want to put forward, they still have time. Maria will need to do an agenda item for the next meeting to officially appoint that person.
- **Toy for Tots drop box in City Hall.**
- **FACT Event 12/15/23 (Airboat Santa NOT coming to Town this year)-** This year, Santa is not arriving to town and an airboat. However, we are working with the fact organization to step in and do a holiday themed event. And if we pull it together, we'd be on the 15th from 5-7pm and obviously they would ask to waive the formalities of a special event permitting, which the Council has always done for the Airboat Association in the past. They'll still work with Chief to understand issues and about control is needed. They do want to make sure there's a Santa involved in that they just don't know how he is going to arrive. They will figure that out between FACT and everybody else. They are going to see if Beautification wants to get involved too.

#### **8. MAYOR'S MATTERS:**

Mayor Tyson attended the Council of Local Government in Fort Pierce, the speaker was a Corps of Engineers, young gun major. He spoke about the maximum desired level for the lake, and they would like to keep it at 12 feet but it's up to 16 feet, which means they have to let it out. And now they're trying to channel all this stuff to go out through the Everglades.

#### **9. COUNCIL MEMBER'S MATTERS:**

**Council Member Herrera-** He asked about Yolanda's place. Manager Mathes responded that she's chosen not to move forward with the food truck portion at this time, but she still wants to move forward on the retail component of the property. He added that the food trucks probably won't be a part of it for now. If it does, they will collect the impact fees at the time they show up there's no reason they collect them now.

Council Member Herrera also wanted to thank the city for the support of Our Lady of Guadalupe, they finally got her in her place. He added that the church is going to celebrate on the 12 but he does not have all the details, he will have them at the next Council meeting.

**Council Member Salgado** – She had no matters.

**Council Member Hernandez** – She had no matters.

**Council Member Renick** – He missed the MPO meeting and had nothing to report.

#### **10. CITY ATTORNEY'S MATTERS:** Attorney Dill stated he had no matters.

#### **11. NEW BUSINESS:**

- (a)** Declare Police Car as surplus and authorize to auction.

Police Chief Touchberry stated that this is the second of their three Chevy Caprice's that we have to dispose of. This one has about 175,000 miles and these cars were produced in Australia and they quit producing this particular sedan few years ago. The vehicle will have to be towed.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Herrera **SECONDED** by Council Member Salgado to Declare Police Car as surplus and authorize to auction.

**ALL AYES:**

**MOTION CARRIED 5-0**

- (b)** Approval of Change Order #9 with Boromei Construction, Inc. for TAP New York Sidewalk project.

Manager Mathes stated that they are finished with this project but closes out the paperwork takes a few more months. He stated once they agree on the final quantities then they do a final true up change order so that the contract amount matches what was actually built. And this is a reduction of a bit over \$11,000, this also adds 20 contract days because during the punch list timeframe, they couldn't get sod because it was during a wet time, so the city gave it 20 days for the sod and that's what this is the final change order from the contractor's side.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Renick **SECONDED** by Council Member Salgado approve Change Order #9 with Boromel Construction, Inc. for the TAP New York Sidewalk project.

**ALL AYES:**

**MOTION CARRIED 5-0**

- (c) Approval of Change Order #2 and #3 with Haley Ward for civil design services in support of CDBG New York Ditch Pipes project grant.

Manager Mathes stated this had been discussed during manager's matters but never was brought back as an agenda item. The original change order was because of delays during St. John's permitting. Those delays continued in the second change orders to cover the additional delays for the permitting with the state. Change order three is for work connected to value engineering work, conducting a comprehensive cost analysis of the existing design to identify areas where potential cost savings can be achieved without compromising project quality, make revisions to the New York Ditch improvements project and to review the city's entire specifications package for updates.

They don't want to abandon the project, they think it's a viable project and they want to reduce the fluff in the design, to get to the bare minimum needed to solve that ditch. The goal is to put that RFP back on the street in late November, to be under contract in January have construction done by August of next year.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Hernandez **SECONDED** by Council Member Renick to approve Change Order #2 and #3 with Haley Ward for civil design services in support of CDBG New York Ditch Pipes project grant.

**ALL AYES:**

**MOTION CARRIED 5-0**

- (d) **RESOLUTION NO. 2023-32/A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE FLORIDA DEPARTMENT OF STATE DIVISION OF HISTORICAL RESOURCES, IN THE AMOUNT OF \$50,000 FOR AN HISTORIC DISTRICT WALKING TOUR.**

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2023-32 by title only.

Manager Mathes stated the finally got the grant agreement after they asked for it and the effective date is July 1, and the city has lost 4 months out of this grant period because it took them four months to get the city a grant agreement. They are moving forward, they already have a pre-approved RFP, it's ready to hit the street they will probably make a few tweaks to it, primarily related to ADA compliance. The end product is going to be a combination of an old school walking tour pamphlet, which hopefully the businesses will keep, but also a new modern version of a phone app. And the city is hoping they can work with businesses who are in historic buildings, maybe they can put up a barcode on a hitching post out front, or maybe a plaque on the wall somewhere. So as people walk by the walking tour, they can take a shot of the QR code and get all the history on their building or something like that. This is one of the pieces they are trying to put together as the city gets new residents in town in the next few years as they redo North Broadway just trying to make all these things come together for the benefit of the residents and visitors. He reminded the Council that this came about because of the city's National District designation. This is to authorize the mayor to sign the grant agreement and the city manager and staff to implement the grant.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Renick **SECONDED** by Council Member Herrera to approve Resolution No. 2023-32.

**ALL AYES:**

**MOTION CARRIED 5-0**

- (e) **RESOLUTION NO. 2023-57/A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OFFICE OF RESILIENCE AND COASTAL PROTECTION**

PROGRAM REQUESTING \$850,000 FOR FELLSMERE ALLEYWAYS FLOOD MITIGATION; AUTHORIZING THE MAYOR TO EXECUTE SUCH GRANT IF AWARDED; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2023-57 by title only.

Manager Mathes stated this is one of those grants that came in in such a short timeframe, staff didn't have time to necessarily get this resolution to Council before they made the application, but they did get awarded the grant, nonetheless. And no, they need to process this resolution to accept the grant agreement. It's a reimbursement grant as most grants are so they get paid as they spend. And this is the second grant they received for the alleyways; they are probably able to knock out close to half of the alleyways. With regards to regrading them, making bigger swales that flow correctly with the right pipe at the end. And they don't have to get a permit from St. John's, they are going to do this as design build. This will be on the street as soon as they get the state to bless the RFP that they will be issuing for this one and the same as the other grant.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Salgado **SECONDED** by Council Member Hernandez to approve Resolution No. 2023-57.

**ALL AYES:**

**MOTION CARRIED 5-0**

**(f) RESOLUTION NO. 2023-58/** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OFFICE OF RESILIENCE AND COASTAL PROTECTION PROGRAM REQUESTING \$1,500,000 FOR FELLSMERE FLOOD RESILIENCY LIFT STATION NO. 3; AUTHORIZING THE MAYOR TO EXECUTE SUCH GRANT IF AWARDED; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2023-58 by title only.

Manager Mathes stated this is another grant just like the one before where the timeframe was too quick for staff to put this in front of Council. And staff had to end up doing it after the fact. They have the grant already. This is to basically redo lift station three by the freeway, that's the lift station that basically is just before the city passing off the sewage to the county to treat. And that lift station would have had to been redone anyway, with the growth we're having because it would not have been big enough to serve that.

He stated that this lift station is going to a different type of design, it is a lift station that has no wet well, which means the flow comes in, it gets boosted by the pump, and it goes straight through there's no tank that holds the water or the sewage and then gets re pumped out. Most lift stations, the flow goes into a tank, and it's sucked out of the tank and pushed on to the next one. This is a booster lift station, it can go forwards or backwards in case you get a rag in there, you can grind it up and go backwards and spit it out or push it through County I think has one or two of these and staff has worked with their staff kind of get a feel for those. He thinks it's the right choice here because they don't have a capacity limit anymore, if they do a wet well, they will always have the capacity limit. They have a generator there as well and they are going to work with city gas to use a natural gas generator. And the city's goal is to have city gas pay for that gate station. It basically reduces the pressure from non-retail pressure to retail pressure. Those things cost about \$500,000. By creating one of these at the freeway you now open up the freeway to use by natural gas future hotels future restaurants future other things that might benefit for natural gas will now have a retail pressure there for them and they will have not had to incur that cost. They just have to work with city gas to make sure they'll pay for it otherwise it would be on the city.

Mayor Tyson asked if it will be in the same location. Manager Mathes confirmed that the lift station will be, but he is not sure about the gate station.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Renick **SECONDED** by Council Member Hernandez to approve Resolution No. 2023-58.

**ALL AYES:**

**MOTION CARRIED 5-0**

(g) Discussion to provide direction on design of Kentucky Stormwater Greenway.

City Manager Mathes stated that Kentucky Avenue is the only right of way the city has east west, that's unopen. It doesn't mean that people haven't driven it but it's not open right away. It's not a constructed dirt road, it is a couple wheel pass made by people driving through grass. He knows that there's a concern in closing a right of way and potential access. There are no driveways off this road now that he is aware of, they will certainly look a little closer as they get into it. And again, every one of these properties has access to a regular local road. And the other thing that makes this corridor exciting is that there are a number of properties along this corridor owned by the state of Florida. And he has already reached out to them to sell the city those lands. Once he has an idea what they cost, he will bring that to Council.

Manager Mathes stated that they are trying to accomplish flood mitigation in a manner that creates an active nature-based walking trail along this stretch of the city. He stated that about half the trail is normal width which is 60 feet wide. But in some places, the state owns either 25 or 50 feet, and if the city gets that ownership, they can do attractive things to provide variety and interest along that area. They can also save some big trees that are there and build those big trees into aesthetics. He also wants to hold back the water every now and then, so they also get the effect of falling water. The flood mitigation is just that you're taking the right of way instead of having a ditch it's only 30 feet wide, and now it's 60 feet wide. He stated that this is not the trail this will be just the stormwater portion, if they want to do the trail later that would be a recreation grant in the future. The landscaping would also mostly not be done with this there'd be some landscaping as it relates to the ditch itself. He wanted to bring this back to Council since there was some concern in the past, and he wants everyone to be on the same page moving forward, it is a funded grant, the city currently has 1.5 million for this project. It is probably more than the city needs but they are going to include in the scope as far as the can downstream from Broadway, which will be all the way to Park Lateral, they are going to try to do the same thing they are doing with the New York ditch. They are going to fix any pipes that are bad, take out any high spots that are there until they run out of money. Over time, he would like to do that with all the ditches that run through Fellsmere through grants. He asked Council for their input or if they had any questions.

Council Member Renick asked if they are widening the canal bank. Manager Mathes responded that they will be widening the canal bank consistently from Willow to Broadway. But the amount they are widening varies based on how much land the city has. At a minimum, that's going to be 60 feet wide at a maximum of 110 feet wide.

Council Member Renick asked if the encroachment will be to the north. Manager Mathes confirmed it will be to the north and that's where the state-owned lands are to the north. He added that there will be graded and sodded until the trail is built.

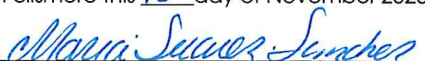
Council Member Salgado asked if it will be done in phases. Manager Mathes responded that normally, unless there's a specific reason, for example, North Broadway, there's a specific reason they are going to dictate the months of the year that they can do work. Most projects don't have a standalone reason why the city needs to control means or method. The city probably would not be directing means and methods on this because it's usually deferred to the contractor to make a decision. He asked if the Council has a strong reason why they might want to direct means and methods, he would be glad to hear.

There being no further questions, Manager Mathes stated that they will continue moving forward.

**12. ADJOURNMENT:**

There being no further business Mayor Tyson adjourned the meeting at 8:09p.m.

These minutes were approved by the City Council of the City of Fellsmere this 16 day of November 2023

  
Maria F. Suarez-Sanchez, CMC, City Clerk  
CO20231102MINUTES.DOC