

**CITY COUNCIL MEETING  
December 7, 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, Utility Director Kevin Burge, Public Works Director, 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 November 16, 2023

**MOTION** by Council Member Renick **SECONDED** by Council Member Hernandez to approve the minutes for the City Council Meeting of November 16, 2023.

**ALL AYES:**

**MOTION CARRIED 5-0**

**MOTION** by Council Member Herrera **SECONDED** by Council Member Salgado to move item #7 Public Comments ahead of item #6.

**ALL AYES:**

**MOTION CARRIED 5-0**

**7. PUBLIC COMMENTS:**

Mayor Tyson asked if anyone else from the public had a comment to state their name and address for the record. He asked Manager Mathes to explain what is going on with the flooding events in Fellsmere. Mayor Tyson asked the public if they have one or two spokesperson to speak on behalf of them.

Manager Mathes gave a discussion on the background of how the system works in Fellsmere. He also showed an aerial map of the area of the county west of 95 that encompasses the area that is considered a portion of the Fellsmere Water Control District. Fellsmere Joint Venture told them that the system generally recovers two inches over a 24-hour period. They could take the position that if you get fourteen inches of rain, it may take up to seven days for that water to leave. The water left quicker than seven days.

As far as who is responsible for what, there are six entities that regulate different parts of the system. the federal government through the Army Corps of Engineers, which controls the C54 and the discharge of C54, they have some say in that and whether or not we remove the weir obviously removing the weir, they will get more water out of here quicker because it is not holding back some of the water. But that would be permitting modifications to the Army Corps, you also have the State of Florida, they would also be part of that permit process to make those major changes like that. If Fellsmere Water Control wanted to do that, they would have to get permission from the state and the federal government to do that. Then you have the Fellsmere Water Control District who owns every east west ditch in every north south ditch, that ditches their responsibility and nobody else's. So even though ditches run through the City of Fellsmere, even though they run through unincorporated county, those ditches do not belong to the city, they do not belong to the county. At the same time, I say that the district does not own any pipes. They do not need pipes. All they need is the ditch. In fact, pipes actually are a problem for the district. But we all need pipes because we have to access our property. When you need to access your property and you get a pipe, that pipe is yours. If that pipe fails, you replace the pipe. If you put a pipe in without a permit, and it is too small, that is creating part of the problem, please get your pipes permitted. As far as the county's role, they have very little role with regards to the ditches as he mentioned, however, they are obviously if you live in unincorporated county, they are the folks who respond to you when you need a building permit. They are the ones who allow access down those Fellsmere Water Control District rights away for you to access your property. They have some role because they have allowed you to live in that area of the

county through their zoning rules and their comp plan. roles and permits they offer. They have partnered with the district in trying to fix some of the washouts that occurred.

As far as the City of Fellsmere, they have no role in the ditches legally. That does not mean that the city does not want to help solve the problem. They are entertaining the public as one example of their efforts to help hear their concerns and try to formulate partnerships to get these things resolved. However, the city goes beyond just trying to facilitate solutions, they will even go as far as I try to physically make some improvements. But the city has to be judicious in where they can fix those ditches, they certainly would have a hard time justifying to the City of Fellsmere taxpayers that they are fixing a ditch five miles outside the city limits, but he can certainly justify fishing a ditch that goes through the city and helping those residents outside the city where that ditch leaves the city and now goes into unincorporated county makes no sense for him to fix half a ditch, I'm going to fix a ditch, I'm going to fix the whole ditch.

The city of Fellsmere has a project to fix the New York ditch, that project will be on the street in probably another month. And it is going to regrade that entire ditch is going to replace any pipes that are undersized or in the wrong elevation. They also have a project on 97th Street, which is really the same as New York, but east of Willow they will be doing that portion as well. There's also unincorporated residences there. And again, they are going to do that ditch all the way from the state park all the way to Park Lateral. They have already done some work on the railroad ditch. They have built the North Regional Lake, which is a flood mitigation project to reduce flood levels because now the water has some place to go, except people's front yards and backyards. They also have already finished the 42-acre stormwater lake called the South Regional Lake on the 89th Street ditch, which is the very southern ditch in the city and that is also a flood mitigation project. The city also has \$4 million that they have received from the state to do further stormwater improvements. Those will be more focused and localized in the City of Fellsmere. But one of them happens to be on the ditch that runs down Kentucky Avenue, which is the first ditch south of County Road 512. They will also be expanding a ditch with some hold back structures so that we have places for floodwaters to go along that ditch. Fellsmere has a master stormwater plan, and they update that plan every 10 years, they are currently in the process right now of updated their master plan. He is proud to say that the city's current master plan was done 2015 and the city has almost taken care of every project that was listed in that master plan. He added that the city is very successful in getting grants and that is how they are able to do all the work they do.

Manager Mathes stated that some other things the city has done is attended the Fellsmere Water Control District meeting, they have kept pressure on the district to set the joint city and Fellsmere Water Control District meeting, he expects it would be in January. He added that the meeting would be advertised and suggested they attend. One of the ideas the City of Fellsmere floated is taking over the maintenance of the ditches that fall in the city or run through the city. That is a very beginning conversation, and it will probably be part of the conversation of that joint meeting. They are also meeting at staff level with both the county, the Fellsmere Water Control District, and the city to again talk about how they could work together to solve this issue. That meeting will be coming up in the short term and will help inform the joint meeting between the city and the Fellsmere Water Control District.

Manager Mathes stated that concluded his summary and he would be glad to answer any questions.

Mayor Tyson asked Butch Barnes to come to the podium.

Butch Barnes- 13675 103<sup>rd</sup> Street, Fellsmere – Mr. Barnes stated he knows what the problem is, and they want to know when someone is going to start to fix the problem. They have been waiting for months for something to happen. He stated that the Fellsmere City Council needs to hold those people responsible because they do not have the power, they are depending on the Fellsmere City Council. He also stated that they want to form a property owner association and want to be able to use the Fellsmere Auditorium. He stated that a lot of people lost a lot because of the flooding and who is going to help these people. He stated that there is no drainage and with all the construction coming Fellsmere is going to drown. He is speaking on behalf of the people sitting in the room who have the same feelings as he does. He wants Fellsmere City Council to hold those people accountable and have them start doing their jobs. He got a lot of rain and the water set for three days and backed up on his property. Amazingly on Monday it dropped two foot. Why? It did not drop two foot after Friday, Saturday, or Sunday, it all backed up. No one can answer that question. Somebody had to open a gate to let the water out.

Manager Mathes responded there is no gate. Butch Barnes stated the C54 gate. In case of an emergency like they had they could have opened that gate. There are lots of ways that they could have gotten rid of the water if our ditches had flowed to let them get rid of the water.

Manager Mathes interjected and stated that was a good point they almost need to have the Fellsmere Water Controls District, and maybe even the county and the city, have an emergency plan so that when they get these unexpected, because no one is expecting fourteen inches in seven hours. But when they get that they should have a plan in place that they know what they need to do, what they can do, what they should do. And he is not sure if they are Fellsmere Water control plan has an emergency plan. I know they city's master plan does not but that is a good idea to put in there. This has spawned an idea that it is a great idea.

Butch Barnes stated that all they are asking to clean the ditches. And they are asking for Fellsmere City Council to help them. He does plan to attend the Fellsmere Water Control District meeting on January 11<sup>th</sup>, he added that he did not appreciate how he was treated at the last Fellsmere Water Control District meeting it was very unprofessional and he had never been so intimidated. He would like to see a date on paper for when they will be seeing equipment in the ditches. They do not want to be told we do not want to hear it; they want to see it on paper.

Manager Mathes stated that in regard to communication with the district he spoke to the President of the district two days ago and reminded him again of this need to have this joint meeting. He has reached out to them three to four times and he will keep the pressure on him. And it is definitely in their hands. He will notch up his requests on a more frequent basis and keep the pressure on him, but he suggested that the residents should also call. He thanked Council for their time.

Jose Edgardo Aranes- 13960 101<sup>st</sup> Street, Fellsmere- He is a retired military person, 26 years, retired here in Fellsmere. Part of his job in the military was to be a planner. He does not understand why the district does not have an emergency plan for flooding. He will be attending the joint meeting and recommend some sort of standard operating procedure, where when they have indications that something is going to happen, that is going to end up flooding, a lot of people probably go ahead and get that standard operating procedure done in maybe some sort of emergency management, maybe not the county, but little old Fellsmere here to do that. That would probably mitigate some of that stuff, along with what Butch Barnes said with cleaning the ditches. But that was not very satisfactory, as a taxpayer, to be able to see all that happening. His five-acre farm with horses ended up being one big lake that was all consolidated with the four other farms in the area.

Ron Williams 14275 109<sup>th</sup> St.- He had a complaint that happened years back, a grove company had come in and put a culvert under 141<sup>st</sup> and 109<sup>th</sup>. It is a small culvert. But this backed up in the water was running from Park Lateral back into his property instead of out, the person that owns the property to his west, just started dumping trash and dirt, construction debris and he went down and talked to them and they told him that he had approved him to do that, because all that water supposed to drain west. So, he wanted to put the plug and now it plugs right into his property. That culvert is actually not supposed to be under 141<sup>st</sup>, the water is supposed to drain west, according to them. He asked if that was something into which they could look.

Manager Mathes responded that the city has no jurisdiction in that area and that it might be more appropriate for him to reach out to the county and the district. The city has no legal authority to act outside the city.

Mr. Williams stated that it gets kicked back to the Fellsmere Water Control District. Manager Mathes stated that is the confusion the city is not the Fellsmere Water Control District.

Mayor Tyson stated that the city will do what they can, and they will continue to push it. He stated to Mr. Barnes that if he needed help in forming the Property Owners Association, he would be glad to help him with that.

Manager Mathes reminded the audience that the January 11 meeting at 10am is a regular board meeting of the Fellsmere Water Control District and it is not the joint meeting with the City of Fellsmere.

Matt Simmons – Ditch 7, Fellsmere – His road is a dead end, and he has been there for 20 years, and it has not been cleaned out. The ditch has caved on itself on his property and every time they have a flood, everybody's water is going in that ditch, there is nothing going on that ditch is going into his house. He lost his house and part of his grove; he stayed up for three days pumping water. He is concerned that this is not a small project it is a major project because the ditches have to be completely redone. He understands it is expensive, but do they have to wait for the next storm? He also lost a lot of fill dirt about 15-20 truckloads in the ditches. He asked if he was responsible for all that dirt that washed out of my property and if he was going to get compensated for that.

Manager Mathes responded that those ditches are not the City of Fellsmere. The district is responsible for the ditches and if there was a cave in the district is responsible to fix that. If it is a washed-out pipe, it is the property owner's responsibility to fix the pipe. He added that he cannot answer the compensation question.

Susan Adams- 100 S. Pine St., Fellsmere -She introduced herself as the Indian River County Commissioner for district one, which includes this district. She wanted to kind of give some support to the city and some information to the group that is there tonight. They have a staff level meeting between the city and the county and the water control district, scheduled and their goal with that meeting is to have a conversation about how they as separate entities can address the infrastructure concerns that were prevalent in the last flooding event. She also has property and a business on Broadway, and she completely understands and recognizes the concerns that were shared. The county and city can respond to the issues, but they do not have control of the system.

The goal with that meeting is to try to figure out how they can address those things in a positive and constructive manner, whether it is trying to collaborate on grants or cleaning out Park lateral, which is identified as one of the major issues, it will cause money, and it will take time. But if they do not start somewhere, it is never going to happen. And if they do not all combine their efforts to try to push something forward in a positive manner, they are all just going to be spinning their wheels. She stated to the residents that they might see things happening prior to a more public meeting but behind the scenes, they are having discussions so they can put something in place to address the concerns moving forward, because they have heard them on a county level, and she knows the city has heard them also on a city level. Hopefully out of that meeting will come some constructive answers that they can then relay at this public meeting. She wanted all to know that the city and the county are working together on this for those that are in unincorporated county. And that they are partnering and trying to see what they can do globally on this issue.

Mayor Tyson asked Susan Adams what is happening to the money they all pay. Susan Adams stated she did not have an answer.

Mayor Tyson stated that there needs to be a way of keeping all those residents informed about what is going on. Susan Adams responded that one of the goals of the staff level meeting is to try to figure out a way to get the information to the people that need the information.

Debbe Cross- 8350 130<sup>th</sup> Ave, Fellsmere - She wanted to thank county Road and Bridge. She has created an email address for all of them and she will make sure the Council has it so that if they want to reach her and the citizens, she can pass everything along to all of them.

Mayor Tyson appreciated what she was doing. He stated that if by forming the Property Owners Association, having a place where they all can congregate, and stay up to date with what is going on, that is important. He stated that one of the first things they have to do is file with the state, they cannot open a bank account until they file with the state.

Daniel Judah- 12420 79<sup>th</sup> Street, Fellsmere- He asked who gives sole ownership of the ditches to the water control district.

Manager Mathes responded that the State of Florida.

Judah asked who controls them, they are obviously not doing much.

Manager Mathes responded that they are an independent district created by the State of Florida.

He suggested they reach out to their local legislators and express their disappointment.

Judah stated that phone calls are not going to get very far, he suggested emailing so that it is on file and on paper.

Attorney Warren Dill stated that someone stated that they will be providing their email list, he said that was fine, but he wanted them to know that that list becomes a public record.

Debbie Cross stated that she will not be giving the city the list just her email address, she will not share all those people's addresses.

Attorney Dill stated he just wanted to make that clear that if the city has that list and if somebody asks for it, the city has to give it to them.

Johnson 13755 81<sup>st</sup> St, Fellsmere - He stated he has been a Fellsmere resident for 23/24 years. He originally purchased property the taxes were \$49 a year, improved it put fence on it, it went to \$490 a year. Now he put a house and a shop and now my property taxes are \$4700 a year along with my

insurance and flood insurance. His question is, when he purchased the property, the 660 by 330 road frontage, he was told he owned to the center of the ditch, which I understand they take ownership, cleaning it all that stuff. And then he gives twenty foot for easement to his neighboring people beyond him so they could get down and up, to get utilities and etc. What is it that they were paying, or someone was paying them to maintain that 330 foot?

Manager Mathes responded that if he is talking property taxes, none of that was going towards maintaining of the ditches because that ditch is not owned by Indian River County, which is who he paid his property taxes to, in addition to paying property taxes, you had an assessment for the district. And it was the district who is supposed to be maintaining that 330 feet minus your culvert. He suggested he attend the district meeting to ask that question.

Mayor Tyson asked if anyone else had a public comment, hearing none he continued with the next agenda item. He thanked all the citizens for coming to the meeting.

## 6. PUBLIC HEARINGS:

- (a) **ORDINANCE NO. 2023-13/** AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF PDD-PLANNED DEVELOPMENT DISTRICT FOR LAND HAVING A COMPREHENSIVE FUTURE LAND USE MAP DESIGNATION OF NEIGHBORHOOD COMMERCIAL (NC) CONTAINING 0.58 ACRES, MORE OR LESS, LOCATED AT 12645/12665 COUNTY ROAD 512; PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENCY WITH COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR ZONING; PROVIDING FOR ZONING MAP; FURTHER PROVIDING FOR SEVERABILITY, CONFLICT, AND AN EFFECTIVE DATE./ *2<sup>nd</sup> Reading and Public Hearing*

Mayor Tyson introduced the Ordinance and Attorney Dill read Ordinance No 2023-13, by title only.

Manager Mathes stated that he would like to make one presentation for this item and the next item. They are both the same item, this is the rezoning, and the next item is the approval of the plan.

Manager Mathes proceeded with showing Council where the property is on a map. He stated that this is a mixed-use building, and it has been a mixed-use building since it first came into the city many years ago and even before that when it was in the county. The reason it is before them today is because the new owner, has owned it for a few years now, wants to add an additional use that was not on the original approval so therefore a revised site plan is needed. But the use they want is not allowed in the zoning district they have so they requested a rezoning to plan development so they can have that use and that use is outdoor storage.

Moving on to the site plan, they have gotten rid of the original driveway that was on CR512. And now they basically have a U-shaped access through their property. With the existing building right in the middle. They have a public space in front for people of the retail building, and the person who lives in the apartment complex with a handicapped spot that has not been built yet and then six spaces which meet code. The private space in the back, which will be their outdoor storage. Because of the outdoor storage, the city code requires a 25-foot buffer. There is a 25-foot buffer around the property.

Being concerned at staff level about the surrounding residential neighborhood, he wanted to talk to about some of the conditions that they put on the property. These are not conditions on the rezoning, rezoning do not do conditions. These are the conditions of the site plan approval.

The city did require that they dedicate ten feet of land along 512, because of the widening of 512 in the near future. And the city also put a condition regarding the condition of 126th court. That is one of the relief they requested as part of the plan development. The city code normally requires that if you are a business on an unpaved road, you have to pave that portion of the road to your last driveway. Being a mom-and-pop staff supported their request for a waiver of that. And if it ever becomes problematic, because of their use, the city has the ability to revoke that waiver and say you need to fix that and pave that up. Same thing goes with their use of non-paved driveway services and parking which is a standard condition the city puts in any approval that does not use paved driveways and parking and that if for some reason that becomes a problem, you have to pave that upon city's request. And then they talked about the machinery, equipment, and deliveries that may occur outdoors. And they basically allow that only from 9am to 5pm, so there will be no noise generating after five and before nine. So that is how they have dealt with their concerns with the community. The city did not waive the buffer, landscaping, or the buffer with that we did also have a second relief to move the required fence from ten feet off the property line to five feet off

the property line, there is still an opaque fence that instead of being ten feet off, it would be five feet off.

Mayor Tyson asked if this is the property in front of Dollar General. Manager Mathes confirmed it was.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Ordinance 2023-13 to come to the podium and state their name and address for the record, hearing no more comments he closed the public hearing.

**MOTION** by Council Member Renick **SECONDED** by Council Member Salgado to adopt Ordinance No. 2023-13

**ALL AYES**

**MOTION CARRIED. 5-0**

**ROLL CALL: AYES:** Council Member Herrera, Council Member Salgado, Council Member Hernandez, Council Member Renick and Mayor Tyson **NAYS:**

**ALL AYES**

**MOTION CARRIED. 5-0**

**RESOLUTION NO. 2023-20/** A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT FOR RETAIL OFFICE, OUTSIDE DISPLAY, OUTSIDE STORAGE, WHOLESALING, NURSERY, HAND CAR WASH AND ONE (1) APARTMENT UNIT; PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENT WITH COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR FINAL DEVELOPMENT PLAN APPROVAL WITH CONDITIONS; AND FURTHER PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS AND AN EFFECTIVE DATE. / **2<sup>nd</sup> Reading and Public Hearing**

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2023-20, by title only.

Manager Mathes stated he had nothing further to add.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Resolution No. 2023-20 to come to the podium and state their name and address for the record, hearing no more comments he closed the public hearing.

**MOTION** by Council Member Herrera **SECONDED** by Council Member Hernandez to adopt Ordinance No. 2023-20.

**ALL AYES**

**MOTION CARRIED. 5-0**

**ROLL CALL: AYES:** Council Member Herrera, Council Member Salgado, Council Member Hernandez, Council Member Renick and Mayor Tyson **NAYS:**

**ALL AYES**

**MOTION CARRIED. 5-0**

- (b) ORDINANCE NO. 2023-28/** AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO CHANGE THE ZONING CLASSIFICATION FROM INDIAN RIVER COUNTY, FLORIDA A-2 AGRICULTURAL TO CITY PDD-PLANNED DEVELOPMENT DISTRICT FOR LAND HAVING A COMPREHENSIVE FUTURE LAND USE MAP DESIGNATION OF LOW DENSITY MIXED USE NEIGHBORHOOD (LDMXN) CONTAINING 3.0 ACRES, MORE OR LESS, LOCATED ON THE CORRIGAN RANCH FOR FIRE STATION 7 OWNED BY INDIAN RIVER COUNTY, FLORIDA; PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENCY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR ZONING; PROVIDING FOR ZONING MAP; FURTHER PROVIDING FOR SEVERABILITY, CONFLICT, AND AN EFFECTIVE DATE. / **1<sup>st</sup> Reading and Set the 2<sup>nd</sup> Reading and Public Hearing for December 7, 2023 at 7:00 P.M.**

Mayor Tyson introduced the Ordinance and Attorney Dill read Ordinance No 2023-28, by title only.

Manager Mathes stated that he would make one presentation for this item and the next because they are related.

This particular piece of property is south, it is basically the furthest south in the City of Fellsmere. It is basically located cross the city boundary off of 98th Avenue to the northeast of the CVS distribution



center is a three-acre parcel bought by the Emergency Division of Indian River County for a replacement for their rural firefighting station number seven. And the city is happy to have another fire station in the City of Fellsmere. Its primary services serve the more rural agricultural areas but obviously will serve within its service radius.

They are in planned development not because necessarily are asking for too many relief for variances but because when the city annexed the large tracts of land in Fellsmere they require development to be done as planned developments except for agricultural type uses. This being a non-Ag use, it was required to be a planned development.

He showed the site plan to the Council on a map. It is the typical design they are using now with a drive around type arrangement which is more convenient for fire trucks. It is a very nice-looking building, there is also an unfortunately a poor drawing of the elevations in the packet, but it is an attractive fire station. And again, they asked for no real relief from the development regulations, but they do have a couple of reliefs that he wanted to go over.

He went directly to the relief being sought and if there is a desire to approve this, he asked for a motion to approve with one revision because they did leave one relief off that they need to add. The relief is the sidewalk relief, the city felt that was no real need to put a sidewalk when that is the only use within miles and there is really nobody walking to a fire station so much. But it is a deferral until another non-governmental site plan is approved on the property. Because he would much rather do these types of extractions and development when he knows what is going on in the larger areas so that he can make the connection to the sidewalk, make sure it is the right width, the right location. They are deferring that until basically something else develops on the west half of the ranch. The condition they left off, it is in the annexation agreement, there is a requirement just as there is for Fellsmere Farms that with any site plan approval or plat they have to donate 10% of that acreage to the City of Fellsmere for future parks and open space. He does not think it is of any value to the City of Fellsmere to obtain at this point in time a point in time, a point three-acre parcel somewhere on the Corrigan Ranch, when the city has no idea how that is going to fit into other developments in the future. And so, with that being said, they would be asking if there is a motion to approve, that is to add a relief for the 10% dedication, and that would occur again at the next non-governmental approval on the property. There are no other special reliefs being granted on this project.

Attorney Dill stated that it is not necessary to grant relief because it does not qualify them to give the city the 10%. It does not fall into that category.

Manager Mathes stated he would rather be safe and put it in there. If it is not needed. It is not going to hurt anybody.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Resolution No. 2023-28 to come to the podium and state their name and address for the record,

Aaron Stanton, Civil Engineer for the project, he works for MBV engineering and for the engineers of record part of a team, CPZ is the architect who is providing the building design, or the site layout and he can answer any questions they might have on the project.

Hearing no more comments Mayor Tyson closed the public hearing.

**MOTION** by Council Member Renick, **SECONDED** by Council Member Salgado to adopt Ordinance No. 2023-28 including the relief of the 10% dedication.

**ALL AYES:**

**MOTION CARRIED 5-0**

**ROLL CALL:** AYES: Council Member Herrera, Council Member Salgado, Council Member Hernandez Council Member Renick and Mayor Tyson NAYS: None

**ALL AYES**

**MOTION CARRIED 5-0**

Attorney Warren Dill stated that the waiver that they just talked about is supposed to go in the Resolution and not in the Ordinance.

**MOTION** by Council Member Renick, **SECONDED** by Council Member Salgado to reconsider Ordinance No. 2023-28.

**ALL AYES:**

**MOTION CARRIED 5-0**

**MOTION** by Council Member Renick, **SECONDED** by Council Member Salgado to adopt Ordinance No. 2023-28.

**ALL AYES:**

**MOTION CARRIED 5-0**

**ROLL CALL:** AYES: Council Member Herrera, Council Member Salgado, Council Member Hernandez Council Member Renick and Mayor Tyson NAYS: None

**ALL AYES**

**MOTION CARRIED 5-0**

**RESOLUTION NO. 2023-50/** A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT BY INDIAN RIVER COUNTY, FLORIDA/EMERGENCY SERVICE DISTRICT FOR FIRE STATION # 7 ON THE CORRIGAN RANCH; PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENT WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR FINAL DEVELOPMENT PLAN APPROVAL WITH CONDITIONS; AND FURTHER PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS AND AN EFFECTIVE DATE. / *1<sup>st</sup> Reading and Set the 2<sup>nd</sup> Reading and Public Hearing for December 7, 2023 at 7:00 P.M.*

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2023-50, by title only.

Attorney Dill stated that they need to add relief from the 10% requirement for land to be donated to the city as per the annexation agreement that needs to be added to Section seven of Resolution No. 2023-50.

Manager Mathes stated that the presentation he made before was for both items and he had nothing else to add.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Resolution No. 2023-50 to come to the podium and state their name and address for the record, hearing no more comments Mayor Tyson closed the public hearing.

**MOTION** by Council Member Renick **SECONDED** by Council Member Renick to approve Resolution No. 2023-50 including the relief for the 10% dedication.

**ALL AYES:**

**MOTION CARRIED 5-0**

- (c) Declare 208 South Mulberry Street as Surplus Property. / *1<sup>st</sup> Public Hearing and set 2<sup>nd</sup> Public Hearing for January 4, 2024 at 7:00 P.M.*

Manager Mathes stated this was a 25-foot-wide lot that somehow the city became owner of many years ago more than 20 years ago. When a mobile home was originally placed on the private lots adjacent to the city lot the surveyor must have made a mistake and moved over a lot and resulted in the mobile home being set not on their two lots, they owned but one of their lots and the city's lot. And then subsequent to that there is an addition done that further encroached upon the city lot. The city did not even know they owned the lot but uncovered it by doing ownership searches and the city has been trying to get rid of it for a while. The city's prior method of disposing property had to be amended because the city had created a CRA in that timeframe and state law requires you to dispose of property in a CRA slightly different property outside of the CRA. This is the first property they will be requesting a disposal of that are in the CRA and so it took Attorney Dill, himself, and Maria a little bit to get up to speed on that new state process. This is a public hearing just to declare it surplus at this point, at which time, the city will put an ad in the paper to inform the community that the lot is for sale, and they will offer proposals to us and what they want to do with the land. The city's goal would be to try to work with hopefully an adjacent owner who is hopefully interested in this lot because it has no value to anyone to be honest, except one of the adjacent owners. And he would say the owner with the encroachment the most. The city is going to try to get their money back the best they can, but it does not have as much value as a buildable lot. This is the first to a multi-step process to declare and then sell the property on the open market.



Attorney Dill stated that this is a public hearing determining whether the Council wants to declare it surplus.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on this matter to come to the podium and state their name and address for the record, hearing no more comments Mayor Tyson closed the public hearing.

Attorney Dill clarified that they would have one public hearing which they held right now to declare the property surplus and that was advertised by Maria. They will have a second public hearing for the CRA requirements to make a decision about the sale of the property within the CRA.

Mayor Tyson asked if they would have to recess and open the CRA at the next public hearing. Attorney Dill confirmed and added that they will also have to turn their hats back around and as a City Council authorize the sale again.

**MOTION** by Council Member Salgado **SECONDED** by Council Member Hernandez to accept 1<sup>ST</sup> Public Hearing and Set 2<sup>nd</sup> CRA Public Hearing for January 4, 2024 at 7:00 P.M.

**ALL AYES:**

**MOTION CARRIED 5-0**

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

- Denial of FEMA Appeal- They city has until the 4<sup>th</sup> of January to appeal the denial of the appeal. He thinks it is worth the effort because history shows that when you appeal a denial of an appeal, they usually go into negotiated settlement, it will give them something instead of nothing.
- Rental of City Facilities to For Profit entities- He does not have any issues with that, he just wanted the Council to be aware of that. He does not think there is an issue with insurance, but he will double check with Putnam.
- Parking for Community Center Renters- Susan Adams has been a kind neighbor for years and been tolerating people who rent the City's Community Center parking in her parking lot and sometimes unfortunately, also littering around the cars and her parking lot and her staff has been kind to take care of that. But this last event got a little bit too out of control and when her staff apparently tried to address the owners of the vehicles that were there were met with some rudeness, and the trash was a little higher than normal. The city does not need to put their businesses in that position, particularly for a city rented facility. Some of the things that they are going to look to do is the city is going to direct them more firmly on where parking is, if on street parking is not sufficient, because again, they are right across the street from the Orange Street parking lot, it is only an extra fifty feet walking from Susan's parking lot. The city is going to basically staple the parking guidelines to the approval document for every new rental. And Chief has promised to also ensure that the patrols are on that night do make sure they drive by to see how things are going and that they can be the ones confronting the bad behavior instead of a local citizen or business owner. Another option is that they can also offer condition for community rentals that if they rent the community center and there's trash within X feet of that center after you are done, the city will attribute that trash to their rental, and they will be responsible for picking it up. And if you do not, we will charge you for our services to pick it up.

Susan Adams stated that people that have been renting the community center that have been using her parking lot has not really been a huge deal. The trash that has been left over the years, she has sent her staff out to pick up trash regularly anyway, so they just pick it up and throw it away. What happened this weekend is they had a bunch of Christmas parties and a bunch of offsite catering. They were trying to move back and forth through our parking lot as well to pick up stuff and take it and the people from the baby shower were parking and usually, they park at the far end by the community center. This time because they were so busy, they were parking very close to the building, kind of where staff needed to be. My manager asked one lady if she could move her car or not to park there was for Marsh Landing that was met with much disdain and some unkind words to put it nicely. And she just felt like she needed to let the city know that she does not want her staff getting into some kind of argument with people and then it is becoming a bigger deal than it needs to be. She is exploring the possibility of putting up Marsh Landing tow away signs, which she does not want to do. She has talked to city staff, and she thinks they have a great handle on how to move forward and they are happy to help in any way and they do not want to be in an adversarial stance it just was more to kind of bring the city's attention on what was kind of going on.

Council Member Salgado asked if she ropes off her parking lot for Frogleg. Susan stated they do rope off the parking lot for Frogleg and put up a hand painted Marsh Landing sign. They try not to do that any other time because it is not a big deal, but she could do something similar.

Manager Mathes summarized that staff will be more forceful on directing and where the parking is and have patrols go by when it is rented. He questioned if they would like to move forward with the other option regarding the condition of the trash.

Council Member Renick stated to try only one step at a time. Council Agreed.

- Flood Water Intrusion - other addresses are pending more information-cooperation from the owners/tenants, there was a total of eight home reported with the county's Emergency Operations Center. The EOC mentioned that there may be more if they can get the cooperation from the homeowners to report it.  
26 South Bay Street, 36 South Bay Street, 102 South Magnolia Street, 1021 Vernon Street, 1031 West Grant Street, 1043 West Grant Avenue, 229 South Willow Street and 12645 126th Court  
They already know about Bay Street, that first block of South Bay is what is called a repeat repetitive loss property. Bob, and he will be having to send a letter to that property owner and other property owners along that block as their in the repetitive loss area to see if there has been any damage and see if they are requesting a claim, because if they are requesting a claim, the city has to do what is called a substantial loss determination. Because if it was substantially damaged, they are not allowed because they are in a flood zone, they are not allowed to replace it. He does not think a little bit of water on their floor is going to cause them to meet that threshold, but they do need to follow up on that.
- Vocational Space Request - FJV donations - it is a state funded organization that provides vocational education. It is the old fashioned vocational, electricians, A/C's, plumbers, welders, and other kinds of things. They asked him if they could find a two thousand square foot minimum four thousand square foot metal building in Fellsmere so they can bring vocational training to the residents. Fellsmere Farms is going to be providing an application for a 200-acre commerce park out there at the stop sign where the shrimp farm is at and they have the same condition that the Corrigan's have that when they develop, they have to donate 10% of the land to the city for certain uses. And wanted to get the Council's support for when this happens to request, instead of the 10% of the two hundred acres, maybe request part of that and then convert the rest of it into FJV having to build the city a building for this vocational training. He wanted Council's support to start conversation with the Farm regarding this building. Council Agreed.
- CDBG ED Grant to Support F392 Surf Park- A Surf Park is potentially going out at the Fellsmere 392 area behind Dairy Queen they have negotiated a deal. It has not been finalized yet. He is excited about this because it will draw a lot of people to Fellsmere it also blends in with their outdoor recreation type mentality. It brings the outdoor adventures to Fellsmere and brings people to town. They can hold competitions there. It would be a manmade surfing lagoon. There is one proposed in Tampa, one proposed in Orlando, one was proposed in Fort Pierce and West Palm. He would like an opportunity to start a conversation, not necessarily commit the city, but start a conversation with the Community Development Block Grant people. He would like to go after an economic development grant to soften their infrastructure costs, build the road, build their stormwater, and build their water and sewer which all would then be owned by public bodies. They would maintain them obviously, but the city would have to be the owners. He will have the surf park representative give a presentation in the near future. Council agreed to continue conversation.
- Joint BOCC / City Council Meeting, City Hall Auditorium -January 30th from 1-3p (draft agenda attached) – Council Agreed on the time for the joint meeting.
- Joint FWCD/City Council Meeting on Stormwater – He still does not have a date; he will keep Council updated.
- Request for Letter of Support for Brightline Station in Ft. Pierce (attached)- Council Agreed to send the letter of Support.

**There following are announcements of upcoming events and meetings:**

- Fellsmere Cleanup -Motivational Edge in January 2024, A date has not been set.
- City of Fellsmere Christmas Lunch -December 14 at Noon in Marsh Landing
- FACT Event 12/15/23 - Santa is Coming to Town
- Wreaths Across America at Cemetery 12/16 at 12
- Form 6 to be Online 1/1/24 - due 7 /1/24 – Please see Maria for any questions.

## 9. MAYOR'S MATTERS:

Mayor Tyson attended the Chamber of Commerce luncheon and the Council of Local Government meeting. Dr Moore had a presentation and said that everything is going well with the school district. Mayor Hudson from Fort Pierce called him for support on the Brightline and he said he would bring it to Council and get it back to her. He stated that Stuart is also in contingent to this but to the City of Fellsmere's benefit Fort Pierce is closer.

He had to make a reservation today over at Marsh Landing restaurant for forty-five people on the third of January for the installation dinner of the Treasure Coast Council of Local Governments officers for next year and invited all Council.

## 10. COUNCIL MEMBER'S MATTERS:

**Council Member Herrera-** He had no matters.

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

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

**Council Member Renick –** He stated that he was not able to attend but they had the final Florida League of Cities legislative committee meeting November 30<sup>th</sup> and they approved the two suggestions that were presented and will be sent to the state legislature to be considered.

## 11. CITY ATTORNEY'S MATTERS:

Attorney Dill stated he had no matters.

## 12. NEW BUSINESS:

- (a) **ORDINANCE NO. 2023-33/** AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP SERIES AS REQUESTED BY MARION ESTATES; AMENDING THE TEXT OF THE COMPREHENSIVE PLAN CHAPTER 1. FUTURE LAND USE ELEMENT, GOAL FLUE A. LAND USE OBJECTIVE FLUE A-3 INFILL DEVELOPMENT AND REDEVELOPMEN, POLICY FLUE A-3.2. OVERLAY DISTRICT BOUNDARIES ANDCHAPTER 1. FUTURE LAND USE ELEMENT GOAL FLUE B. FUTURE LAND USE MAP OBJECTIVE FLUE B-5 GARAFOLLO; FURTHER AMENDING THE FUTURE LAND USE MAP TO ADD 8.21 ACRES MORE OR LESS AS CR512 OLD TOWN OVERLAY DISTRICT; PROVIDING FOR RATIFICATION; AUTHORITY; COMPREHENSIVE PLAN TEXT AND MAP AMENDMENT; TRANSMITTAL PHASE; ADOPTION PHASE; TRANSMITTAL OF DRAFT PLAN AMENDMENT AND FINAL ADOPTION DOCUMENTS; COMPILATION; SEVERABILITY; CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. / *1<sup>st</sup> Reading and set 2<sup>nd</sup> Reading and 1<sup>st</sup> Public Hearing for January 4,2024 at 7:00 P.M.*

Mayor Tyson introduced the Ordinance and Attorney Dill read Ordinance No 2023-33, by title only.

Manager Mathes stated this is the Marian Estates project which again is the seventy-eight acres lying south of 512 west of the Myrtle properties. It was annexed some years back with a comprehensive plan amendment that contains kind of a summary of certain of the development aspects of annexation agreement and place them in the comp plan. And one of the things they placed in the comp plan was the total number of allowed units and breakdown of the units between townhomes and single families. Applicants requesting an amendment to increase those units by seven from 325 to 332, and then the more aggressive one is to change the split from townhomes and single family that used to be like 156 townhomes, they reduced it to 105 which means they are increasing the single family by that same forty units. What that does is it puts more pressure on squeezing things in, because a townhome is much smaller than a single-family lot. And he just wanted to make sure the Council were clearly aware before they approved the comp plan. He showed a picture to the Council of their site plan approximately as it exists today. There are a lot of 40-foot-wide lots, the city has never approved 40-foot-wide lots, when he came to Council earlier, they all expressed that they could support the project. And he is not asking them not to support the project, he just wants to make sure they clearly understand what they are supporting because they have never done 40-foot lots. What he did make sure was that they had lots of first come first serve parking. They added .25 spaces per unit for the guests, and they spread them around the property.

This is just the comp plan, and it is just to adopt the text amendments. It says 105 townhomes used to say 145 townhomes plus or minus the 227 was reduced by those forty plus the additional seven that they are asking. This was down to around 180 instead of 227. So that is the one change they are making. And then the other change they asked to get rid of the LED standards, he is recommending they do that. He reminded them that they had a conversation about getting rid of the affordable housing component because it was their goal to provide all these units at less than \$300,000. That is still his intent, but the city cannot sit here today and guarantee he is going to deliver that. And if the city deletes the affordable housing complex, and now he is selling these at 325 the city would have lost

the opportunity to get 10% of these as affordable. It was originally 320 units and now they are adding twelve units, and they are splitting from 145 townhomes to 105 townhomes. He recommended putting the affordable housing back because so much time has passed, and because they just cannot tell the future, he is beginning to think it might be better to keep that in.

Mayor Tyson asked what is the price difference between the townhouses and single family. Manager Mathes responded that he does not have that answer and that most likely Ryan Homes will be setting those prices. Originally, he was going to do \$270,000 for the homes and less than \$250 for the townhomes.

Council Member Renick asked if there will be a reduction in the amount of retention of open space. Manager Mathes responded no, none of that has changed. He stated that if this development goes through as proposed what is the most heavily wooded nearly 80-acre parcel in the heart of the city is going to be completely denuded. He expressed some concerns about the process and how it can affect the residents that live around this development. He is concerned where they consider limited conservation elements as part of their land development ordinances, and they cannot have any measure of conservation at all on this eighty acres when it is almost virtually all naturally wooded most of habitat. And it is going to be just a complete and absolute moonscape when it has done.

Manager Mathes responded that they will not be looking at a denuded area because one of the requirements is a buffer and that buffer is an infrastructure requirement. It will still be denuded, but the people will not be seeing it.

Council Member Renick asked if they will be reducing the size of the lakes where they have more than enough stormwater to reduce that footprint and put in more housing footprint.

Manager Mathes responded that there are two things that generate a lake on a residence development, obviously, stormwater and the second is the fill. He does not know because he has not gotten the site construction plans whether these lakes are sized for just stormwater, for stormwater plus because they need more fill.

Manager Mathes stated that this item was about the comp plan amendment and whether or not Council wants to direct any changes to staff on those two issues, the affordable housing, and the increase in units by twelve and the change of split between townhomes and single family.

Mayor Tyson asked if they will still be leaving the room for a fire station. Manager Mathes responded that they are and that the fire station is part of their seven or eight acre commercial.

Attorney Dill asked Manager Mathes that he noticed on the fire station site plan, they are only allowing one acre. Manager Mathes stated that it is closer to two acres and the reason is because they do not need stormwater and they were also directed to make sure the fire district supports this lot.

Council Member Renick stated they could at least add back the condition of the affordable housing. The council agreed to add that back as a condition.

Manager Mathes asked how about the split and count of units.

Council Member Salgado asked what the count was before and what are the sizes. Manager Mathes responded from 320 to 332 total and 145 towns to 105 towns. He stated that he does not have a concept plan from the original. He cannot tell the Council how many 50-foot lots 60-foot lots or forty foot lots they proposed because they have not given him a concept with the original plan. Because they have been going down this path the whole time.

Council Member Salgado stated that she would rather know than have a decision made because it all depends on that.

Manager Mathes asked Council if anybody else would like to see the concept plan on the current comp plan to see what it is going to look like. All the Council agreed.

Manager Mathes stated that he will ask them to generate a concept plan.

Attorney Dill stated that this is a complex development. There are a lot of moving parts here, Mark was asked to put this on the agenda, it is not something he just decided he wanted to do. This is only one part of what will come before Council. They want to amend the annexation agreement, they want to change this to a development agreement, there are going to be three or four more documents that are going to have to come to get this approved. And his concern in talking to Mark and his concern as well was that, selfishly, he does not want to be in a position of having to defend an approved Comp Plan Amendment when the Council decides there's other things that they want and that they do not want to approve. His preference was really that Council would have all the documents in front of them at one time to look at, so they do not have any issues on what is being approved.

Manager Mathes stated that this first reading, public hearing with the comp plan, there's 45 or 60 days before it comes back for the second hearing. And what they have always done is they do not do the second hearing of the comp plan until the other documents catch up. The council will have an

opportunity to see the entire package with all the documents before the second hearing if this Comp Plan happens. Just because Council approves it on transmittal does not mean they have to approve it on adoption.

Council Member Salgado agreed with Attorney Dill, and she would prefer to have all the documents before approval. Mayor Tyson agreed.

Manager Mathes stated that he will follow the direction of Council. He just wanted to clarify that when they have projects that have comp plan amendments, that Council does not want to see them until they are also seeing the development agreement, the preliminary development plan, and the rezoning ordinance at the same time. What that means to the applicants is the Council is forcing them on a three-month delay, because comp plans have a longer approval timeframe than zoning and preliminary plan.

After Discussion Council agreed to bring this item back. Manager Mathes stated that what they are going to do is bring this item back once he gets the second concept of the original comp plan. So, they compare, and they will have the draft development agreement, it is not going to be on your agenda to approve, but it is going to be an advanced draft development agreement. They already got the strikethrough and underlined the annexation done. They will have all the pieces they need. They will not be on the agenda at the same time for approval, but they will see them all, they are very advanced, both the applicant, the attorney and your city manager have looked at them all numerous times. And so it may be in January, maybe February but at this point they will not take action on the first reading.

**MOTION** by Council Member Salgado **SECONDED** by Council Member Hererra to table the first reading of Ordinance No. 2023-33 to January 4<sup>th</sup>, 2024 at 7pm at City Hall, 22 S. Orange Street, Fellsmere Florida.  
**ALL AYES:** **MOTION CARRIED 5-0**

**(b) Recommendation** regarding request for Abatement of Code Enforcement Lien for 12955 100<sup>th</sup> Lane.

Manager Mathes stated that this is a code case, from 2016 for a dilapidated property on 100th lane that had a carport on it when it used to be part of a larger property. The adjacent property was a single-family home, somehow the lots got split, single family home became owned by someone else, the carport became owned by Pacific Financial, LLC. Somehow, over time, Pacific Financial had changed their address and were not checking the address of record that the city had for them through the tax collector's office. There may have been some notice issues early on, he thinks the city ended up having to post the property at some point which is least efficient way to post a property, particularly a vacant piece of property. But nevertheless, it went through and got approved, the city followed all the rules, and the city had a judgment, and no action was really taken on the property. Again, it might be just because they weren't aware of it notice wise but the city ended up foreclosing on the property at Council's direction the city became the owner of the property and the value of that property was not sufficient to cover the value of the lien that had been placed and the lien was equal to the cost of the case plus the daily interest in fines to the date of foreclosure for prior to the date of foreclosure at the date of the court filing. After becoming owners, they had a balance that was still do the city and what happens is the lien stays in place. And when other property owned by this entity is sold, the city has a claim against the proceeds of that sale. And one of those properties was sold a while back and the city did receive through negotiation \$42,000 Plus towards their lien amount, the total lien amount was \$147,000 and they still have a balance do of about \$105,000 on that amount. The city is selling the parcel at some point staff will probably be coming to the Council for surplus designation, probably selling that back on the market, so there will be some gain from that sale. He estimated probably 20 to 30,000. If they were to include that in there at \$20,000, there would still be 85,000 owed on the lien. The city often abates requests, sometimes the city abates requests to much less. This entity may still have in fact does still have two properties that the lien could still apply to if that was the Council's direction. Pacific Financial though, has asked for an abatement request, which the city always offers. And the gentleman here from Pacific Financial is in the audience to speak as part of this request. And they did offer the city \$1,000 to release the lien.

Michael Stiles with Pacific Financial stated that he has managed properties in this county for 25 years and they have had numerous code violations on properties that they have taken over and managed, typically through foreclosures managed a lot of properties for banks over the years. Quite a few in Fellsmere and their policy has always been to immediately clean up any code violations or problems

with the property, regardless of who caused them, whether it be junk vehicles, tall grass, unsafe structures, they would do it immediately and then they would contact code enforcement and let them know they have taken care of this problem and clear up the old code cases and liens. This was a unique property because it was part of a single-family home with a lot next door that had a pole barn built on it. When the property was sold, this was 15 years ago, the home was sold but the lot next door was not needed with the home, and they ended up with their own piece of surplus property that they could not do anything with. They did maintain it for many years, about six or seven years, but that particular neighborhood, as most of you probably know, it was very bad. And they got to a point where his lawn guys would not go in that neighborhood anymore, because there was so much crime and vandalism on that street. They made attempts to donate that property to a couple of different entities like Habitat. They even talked to the previous city manager years ago about giving it to the city, they just wanted out of it. They did have communication with the police department in Fellsmere on a couple of occasions. Time went by and they tried to sell it and unknown to him code violations started to ensue on it. And they were being sent to a property office address that they had in Fort Lauderdale. It had been moved actually two times since then. He never got notice of the violation or the impending liens. Had he known about it, they would have taken care of it. He also had a family member that was ill, so I was distracted for like two years.

They had just a few properties left in that entity. And one of them was sold and they worked with his attorney Fred Kretschmer and the county attorney, and they had some proceeds from that sale. And they came to the city and said can they work out an agreement on this property and they will give the city some of the proceeds and see if they can abate the ongoing fines and settle the matter. They made a settlement amount, and it was \$42,259, pretty significant for a lien with no with no hard costs on it. The city did end up getting a deed to the property through a foreclosure. And Pacific Financial at the time when that was happening, had been under the impression that that was going to settle the matter and they would close it out and be done with it. But at the last minute, the city said no, they were not going to release the lien, but they will release the one property and they were kind of in a bind and they said okay, we will accept that, and they did. Pacific Financial is currently shut down. It is not an operation anymore. It does have two properties in it. They are in Indian River County, both outside of the city limits of Vero Beach. They are single family lots they are unimproved. They do not have a lot of value. And he would like to dispose of those lots and clean up anything that is left remaining in Pacific Financial. He has requested that the city release the lien, the code violations have been closed out. And he understands there is paperwork involved and things about that and that is why they made an offer of \$1,000 to settle it.

Attorney Rhodeback stated that he has been dealing with this file for about three and half to four years. It is correct that this property is no longer a code violation. And the reason is because the city took it over. Because for a four-year period, there was a dilapidated structure, the lawn was not being maintained and there was trash and debris all over the place. The only reason it got cleaned up is because the city had to take it back in a foreclosure action and do the work. This is not just a case where there are not out of pocket costs for the city, they are actually quite substantial out of pocket costs for the city, not only in attorney's fees, but the appraisal fees associated with getting a deficiency judgment in court.

Now, with respect to the notice, issue, the notices that we are sent or sent to the address that was listed with the Department of State for the State of Florida, that that address is still the same address to this very day, as far as the State of Florida is concerned. And whether those notices were actually received during the code enforcement, he can assure them during the code foreclosure case, is that they are not allowed to get a deficiency judgment unless they obtain personal jurisdiction over a defendant. They do not have the ability to post an order to serve notice on people in a litigation matter. They have to personally serve individuals in litigation matters in order to get a money judgment. Whether it was Mr. Stiles who was served or not, but somebody accepted service on behalf of Pacific Financial.

He stated to the Council that they have a judgment call to make today, which is an abatement, the abatement being offered was \$1,000. The decision is ultimately up to counsel whether to accept \$1,000. But he did want to let Council know what that entails. There are two properties out there owned by Pacific financial, those two properties have relatively low value, the Property Appraiser deems both of those properties together in the amount of approximately \$55,000 They are not encumbered by anything. In fact, Council today could go after those properties, if they so choose. Several months ago, they were contacted by Fred Kretschmer and said that these properties have no value whatsoever and will the city take \$1,000 to release its lien against Pacific Financial. City Attorney did some investigation work and they noticed that a tax deed sale was upcoming. And they also noticed the value of the property because these properties have no value then they are surely going to let this



property go away at the tax deed sale. They redeem the tax deeds certificate, and he is a big believer in listening to people what they say by what they do. And they redeemed a tax certificate because they believed in his opinion that that property had at least some value otherwise they would have let it go back to the county. The city does frequently grant abatement requests, but the ultimate decision is up to the Council. There is nothing encumbering Council from going after more.

Manager Mathes asked Attorney Rhodeback if he had to put an estimate on the legal expenses to date on this, where what ballpark would he have. Attorney Rhodeback stated it was \$4700 in attorney fees.

Manager Mathes stated that between demolition and special master costs was around \$15,000. The max \$20,000 that he cities into it cost wise. And they have paid \$42,000 plus.

Council Member Renick stated that after what he has heard today, he thinks that is enough.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Herrera **SECONDED** by Council Member Hernandez to approve the Abatement of Code Enforcement Lien for 12955 100<sup>th</sup> Lane and accept the \$1000 to release the lien.  
**ALL AYES** **MOTION CARRIED 5-0**

**(c) Approval of Indian River County American Rescue Plan Agreement.**

Manager Mathes stated that this is the document that will allow the county to give the city \$3.413 million to combine with the city's \$2.8 million grant so that they put the broadband RFP back on the street. The city is now offering \$6 million to improve broadband west of 95 instead of three million. The county has not actually acted on this yet, so they have two choices. They can approve as is and if the county commission makes changes they can reconsider or they can table this issue to the next meeting and at that time the county will have acted and then they can see if there are any changes the Council wants to do.

Attorney Dill recommended to wait for the county.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Renick **SECONDED** by Council Member Salgado to table the Indian River County American Rescue Plan Agreement to January 4<sup>th</sup> at 7pm or thereafter at City Hall, 22 S. Orange Street, Fellsmere, Florida.

**ALL AYES** **MOTION CARRIED 5-0**

**(d) Award Historic District Walking Tour Proposal to A Walk in the Past Productions, LLC and Applied Webology FL, LLC.**

Manager Mathes stated that this is the walking tour they have talked about a few times in the past, the city has a small matching grant from the State of Florida Department of Historic Preservation, to give the city \$50,000 to create a both hardcopy and digital version of a walking tour. And the only proposal the city got was from the local Rich Votopka. "A Walk in the Past Production" is Rich Votopka. and he is partnering up with a web firm "Applied Webology FL, LLC" and together they were a proposal as a single entity, just separate companies. And if you agree to award the proposal, then Attorney Dill and he will have to draft a contract with each of these entities. And they will bring that contract back to you hopefully by January 4, so that they can get them started because this has a hard deadline of June 30, 2024, and so time is of the essence here. That is why they made sure this was on the agenda now. He is excited about it and Rich Votopka is going to be great to do this. He is going to focus mostly on North Broadway with this a few other homes. And they will negotiate those specific properties that are going to be part of this when they get into the contract negotiations.

Mayor Tyson stated that Rich Votopka is the city's historian. He has done a lot of research on all of the historical placards that are got around town, he wrote most of those. If anybody were going to do this, he was the guy that is most qualified to do it, so he recommended him would recommend.

Manager Mathes stated that the web firm is the same firm that wrote the police's app to city's police app. And has been happy with that app and that is a good testimonial for the web people.

Attorney Dill stated that the proposals that came in from the two applicants, they kind of joined together to make the presentation jointly, they have asked for two separate contracts, one for each

one and he does not recommend that. He proposed that they have one contract, both parties named in the contract, and they can decide amongst themselves who is going to do what and when. Manager Mathes agreed. The only risk the city has in that is they could deny and walk away, which means the city would have to give the grant back. They can try again in a couple of years. Either way it is okay.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Hernandez **SECONDED** by Council Member Salgado to award the Historic District Walking Tour Proposal to A Walk in the Past Productions, LLC and Applied Webology FL, LLC, with direction to staff for a single contract.

**ALL AYES**

**MOTION CARRIED 5-0**

**(e) Approval of ARPA Amendment.**

Manager Mathes stated this is the quarterly update. Staff identified an additional piece of City Hall technology they were increasing that from 50 to 65,000, because they got the proposal back for the technology. But they realized there is a piece of equipment that is not in that proposal, and they would like to increase the city all technology to 67,000 and I would reduce the Senior League soccer field rejuvenation.

What they do on a quarterly basis, they update this to a variety of different things in this particular update they have spent to numbers are always being updated each quarterly update. They added some money into the 97th to purchase that one lot outside because the city wants to resell that lot and the city cannot resell it if they buy with the grant money. They only need the front yard, but the owner will not sell just the front yard, so the city has to buy the whole house. They added a new item to purchase lots along the Kentucky Stormwater Greenway, these are owned by the State of Florida. They went ahead and added back in heavy Public Works heavy equipment trailer just because it is an important thing. He is actually looking to buy some heavy equipment and so having a trailer to move it around might be a good idea.

And then they just reduced ARPA funding for those items that were done, because some of them had been corrected.

The city has a \$2.8 million allocation and right now their list adds up to a little over \$3 million. Between now and the end of summer, they have to cut \$200,000 out of this list. And the way they do that is by identifying projects that are just not going forward. They will be making a few more changes between now and when it gets finalized after summer, there will be no more changes because technically you have to have an obligated meaning under contract by the end of December of 2024. So obviously the list has to stop moving at some point. And again, things are working as they plan, they are adjusting as they go along. They are hitting the things that are important to staff and Council and he is happy with what they have done with the 2.8 and what they plan to do with it.

Being no further discussion Mayor Tyson entertained a motion.

**MOTION** by Council Member Renick **SECONDED** by Council Member Herrera to approve the ARPA Amendment with the adjustment of \$2,000 into the city hall technology fund.

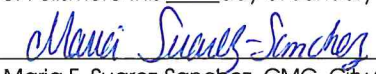
**ALL AYES**

**MOTION CARRIED 5-0**

**13. ADJOURNMENT:**

There being no further business Mayor Tyson adjourned the meeting at 9:46p.m.

These minutes were approved by the City Council of the City of Fellsmere this 4 day of January 2024

  
\_\_\_\_\_  
Maria F. Suarez-Sanchez, CMC, City Clerk  
CO20231206MINUTES.DOC