

**CITY COUNCIL MEETING
January 4, 2024 – 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 Rhodback
3. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
4. **INVOCATION:** Mayor Tyson gave the Invocation.
5. **APPROVAL OF MINUTES:**
(a) City Council Meeting of December 6, 2023.

MOTION by Council Member Renick **SECONDED** by Council Member Salgado to approve the minutes for the City Council Meeting of December 6, 2023.

ALL AYES:

MOTION CARRIED 5-0

6. **PRESENTATION: (a)** Boys and Girls Club of Indian River County
 Mayor introduced the presentation, and Teresita Mosqueda, the Program Director for the Boys and Girls Club came to the podium. She introduced the Angela Martinez Hernandez, Youth of the Year and Melandie Ramos, Junior Youth of the Year. She stated that the Youth of the Year is the highest honor a Boys and Girls Club member can receive, and the Youth of the Year program recognizes young people for their outstanding leadership service academic excellence and dedication to health and wellbeing. This program offers the opportunity to compete on a national level and become the National Youth of the Year to represent the Boys and Girls Club of America and the voices of millions of clubs. This opens many doors to branch out and make connections and could also win scholarships and guidance through college.
 Mayor Tyson and the Council congratulated both ladies. Photos were taken.
7. **PUBLIC COMMENTS:**
 Mayor Tyson asked if anyone else from the public had a comment to state their name and address for the record, hearing none he continued with the next agenda item.
8. **MANAGER'S MATTERS:** Manager Mathes continued with his matters.
 - **Homeless Children's Foundation-** This item will be pushed off to the next meeting, they have asked to come and introduce themselves, but they had to cancel at the last minute.
 - **Building Services Agreement-** Council has authorized Manager Mathes to look for alternative firms to SAFE BUILT as an alternative to bring in a house building official just because of the concerns of the cost of an in house building official. He has all the paperwork done through the attorney's office to bring in a new firm. However, he received an email from Allen Duff just last week, who is a former City of Fellsmere building official in the early 2000's and he was basically looking to get back into government building official work. He has been working as a private inspector for a number of years now. And he was looking to come back, and he certainly would be able to work for an affordable rate that would allow the city to bring him in. Here he has had a long career, his concern would be his tenure here and the transition if they were to go with an in house building official. He suggested that if the Council wants an in-house building official, he will ask that they also have a standing contract with a building firm that would be able to be used when Allen is not available. They have two options, an in-house option or changing to CAPS, which is the company he vetted for. And if they go with an in-house, he will reach out to both SAFE BUILT and CAPS and see if they wish to be the standard in the firm. He asked Council for their direction. After discussion, the Council agreed to bring in an in-house building official and also reach out to a stand in firm. Manager Mathes stated the he will go ahead and speak to Mr. Duff a little bit more to iron out any specifics, his price would be the price of about a director. And with his experience, it would not be the entry director price, but it would be close to \$90,000.

- **Building Permit Help Workshop** – He is thinking about maybe holding a series of workshops, with Dulce, the new permit clerk, and just try to help people understand how to be successful on applying for a permit, closing it out, getting the inspections called, where they can find data, because technically, we're not supposed to do it for him.
- **Joint BOCC/ City Council Meeting, City Hall Auditorium – January 30th from 1-3pm-** He had a meeting with the County Administrator to review the draft agenda, there was many items stricken through and he asked if there was anything that was stricken through that they would like to be back on the Agenda. After discussion, the Council made their suggestions.
County Commissioner Susan Adams came to the podium and wanted to give some background on kind of the structure of these meetings and what we have hoped to accomplish with the series of meetings. Tom Lanahan, from the Treasure Coast Regional Planning Council will be present and act as moderator. They have allotted two hours. And the goal is to have conversations about larger policy issues that the two governmental bodies might need to collaborate on reach not regionally, but just in the bigger picture. And she thinks some of the things that got struck from the list, were things that probably needed to have a staff level conversation ahead of time, it's not that they don't want to talk about them, or that staff doesn't think that they need to be talked about, with some of our newer staff, it just needs to have a little bit of time for their staff to get up to date with some of those things. And some of it is really just a conversation that probably needs to happen between Manager Matthes and the Administrator. Their intent is to is to have multiple meetings a year, maybe twice a year with each group, to continue having these conversations. For the first meeting, the goal was kind of to talk about some of the broader things that we all might need to just start getting our heads around as it impacts what the county is doing, what the city's plans might be.
Manager Matthes recommended to the Council take all the issues that are stricken out that they want to talk about and add them as secondary, that if there is time, maybe they can just bring them up really quick at the end. The items that they agreed on were the South Pipe Crossing, the FWC ditches, and three interlocal agreements. The Council agreed.
Mayor Tyson would like to have the conversation regarding the FWCD put on the agenda. The council agreed to have it on the agenda as a standing item instead of an additional item.
- **Joint FWCD/ City Council Meeting on Stormwater-** He has an invite to attend the Fellsmere Water Control District board meeting on the 11th. They are going to be talking about a number of things. One, they are going to be talking about the discussion, they have already started with the district about taking over some of their ditches, no commitments, just more conversation, obviously, they will be talking about the maintenance of the ditches in general. And he will be asking again about the meeting date.
- **FEMA Appeal for Road Dirt** – The second appeal has been submitted. The city was denied on the first appeal. The second appeal is going to an impartial judge and will be scheduling a scheduling meeting next week to figure out the process how long is it going to take to get to the end it sounds like it's not going to take long, he is hoping for by spring summer the latest and this will be done either yes or no one of the two. It may end up being a negotiation.

The following are announcements for future deadlines and events:

- **Form 6 to be online 01/01/24 and due on 07/01/24**
- **Offices Closed 1/15(MLK and 1/18 & 1/19 (1/2 day for FrogLeg)**
- **HALO Spaygetti Family Festival 2/3 from 10am-6pm.**

9. MAYOR'S MATTERS:

Mayor Tyson attended the Council of Local Government meeting at Marsh Landing, there was one installation. He congratulated Susan Adams that is now the chair of the County Commission. The council applauded.

10. COUNCIL MEMBER'S MATTERS:

Council Member Herrera- He stated that the Our Lady of Guadalupe event went very well. He wanted to thank the Chief for taking care of a person that was throwing fireworks on the church grounds.

Council Member Salgado – She had no matters.

Council Member Hernandez – She had no matters.

Council Member Renick – He stated that he attended the MPO meeting. They did a presentation on the census urban area boundaries that is updated every ten years. They also had a brief presentation on the 2020 community characteristics report. The City of Fellsmere's median age is actually the lowest in the county at 33.9 years.

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 GARAFOLO; 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./ *1st Reading and set 2nd Reading and 1st Public Hearing for February 1,2024 at 7:00 P.M.*

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

Manager Mathes stated that they tried this in December and the Council directed that they bring it back with the drafts of the entire packet to date so that they can get a feel for the project as a whole before they start making individual decisions. This is one of these complex projects that requires multiple approvals to get through the whole thing. The Comp Plan being the first one and their request is to add 12 units from 325 to 337. The big issue is the switch from the ratio of townhomes and single family. In the current comp plan language, that ratio is almost a 50/50 ratio. With the proposed comp plan, that language is closer to about 30%, townhomes and 70% single family. What that does to the property is your you need more land for a single family because it takes one single family to equal two townhomes space-wise. And what results is results in a lot of 40-foot-wide lots and 50-foot-wide lots. And there is nothing wrong with that, if that is acceptable to the Council, they just do not have good experience with 50-foot lots in Fellsmere the only example they have is the Habitat subdivision Grace Meadows and they do not have enough parking spaces for cars. And so, they park them on open space on front yards and the place is just a mess with dirt and just run out grass, and that is one of his concerns. Ryan Homes is the home builder for this project, and they have had a lot of success in doing this in other places that 40- and 50-foot lots. They claim that strong HOA is going to take any concerns they have. At the staff level, they try to mitigate the proposed Comp Plan change and the resulting site plan by forcing some dispersed parking for guests and overflow.

What they did with this concept is they really just deleted lots. In the original concept all those were single family lots. To get back to 325 units and a 50/50 split, they really just deleted lots as all they did, they did not really delve deeply into redesigning it and to see how it would work. And he does not know if this is really a fair analysis of how their development would look with the Comp Plan change not being approved. But clearly you can see there is a lot of available space that is not being used under the original Comp Plan site plan that either could be preservation or could be taking these 50-foot lots and turning them all into 60-foot lots. And what that would mean is you would have to spread them out a little bit more in the common space that would be taken up by single-family homes. Even though it does not meet the 75-foot frontage of the city's normal code a 60-foot frontage is a lot more beneficial for providing a driveway on the side to get to the back, if they felt that was important for overflow parking.

This is why in December he cautioned Council that he did not think it was fair to the developer to approve a Comp Plan and then later on, deny the Site Plan. And so, they wanted to make sure that at this time, if there are any concerns that they really do share them.

Manager Mathes stated that there's a couple of questions that the Council will have to answer not so much the Comp Plan, but with the Site Plan so that that can bleed into whether the Comp Plan change is needed. The first question is whether the Council is going to accept the payment in lieu of for conservation. If the answer is no, he has to take 15% of his site and preserve it. The second question is what buildable lot is the Council comfortable with. If they are not comfortable with the forty feet, then why give the Comp Plan change, because the only reason the Comp Plan changes are needed so he can get the 225 single family instead of the 150 that he is originally supposed to get into this current Comp Plan. And those extra seventy units is what is causing it to go to plus 40-foot lots. If the Council decides to live with a 50-foot lot or smaller, then they have to decide if they want to impose the conditions which they adopted in the city's Land Development Code for non-conforming legal lots. That is going to be very important to know, for the home builder, because he is going to have to pick a model that fits into that development width. They are not decisions, but they are really guidance at this point.

Council Member Renick stated that if they are going to theoretically approve the Comp Plan amendment as proposed, it would not necessarily be the site plan that it would be bringing forth. He has a concern with the small lot size and feels like there are a lot of unanswered questions, is it something that is beneficial or problematic or somewhere in between.

Council Member Salgado stated that she would like the lots to be 60 feet or more because Habitat is 50 foot lots and they have issues.

Manager Mathes asked if there would be some compromise in that if they gave the city a concept that maximize the 60-foot lots, but they could not do them all 60 because of the space limitations stormwater. Would there be some compromise for some 50s just so they can hit the current Comp Plan total of 325.

Manager Mathes asked Council if they would like to see a real concept plan of what they would propose if they deny the Comp plan, maximize the 60-foot lots based on the current Comp Plan and see what they can provide for preservation. The Council agreed.

Susan Adams asked if they were proposing to put parking separate from like additional parking. Manager Mathe showed Mrs. Adams the proposed parking on the site plan. Mrs. Adams commented if it realistic for people in a single-family home to park somewhere else and carry their stuff. She also agreed with Council Member Renick and Salgado regarding the lot size. She wanted to caution the Council that not every project that comes to the city is going to be necessarily the best project for the city. And sometimes they have visions and goals that they are trying to achieve. And it might take a little bit longer for that right person to come along to carry those out. But if they make exceptions for everybody that comes along, they are never going to get to that goal. And it is okay to say no, sometimes even if it is hard.

Manager Mathes added that it is not a no to the project. It is a no to the iteration of the project. He does not think anyone is saying they do not want this property to develop and be part of Fellsmere. It is just that they want it to be the city's vision. Timing is always important to what is their breakdown, what is their take down. He will try to have the developer attend the next meeting so that he can answer some questions.

MOTION by Council Member Salgado **SECONDED** by Council Member Renick to table this item to February 1st, 2024 at 7pm in the Council Chambers, 22 S. Orange St., Fellsmere, Florida.

ALL AYES

MOTION CARRIED. 5-0

- (b) **RESOLUTION NO. 2024-03/A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, PERTAINING TO THE GRANTING MAJOR RELIEF BY CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY FRUTERIA NUNO, LLC LOCATED AT 32 NORTH BROADWAY IN THE NORTH BROADWAY OVERLAY DISTRICT; PROVIDING FOR RATIFICATION; CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE LAND DEVELOPMENT CODE; APPROVAL OF CONDITIONAL USE PERMIT AND SITE PLAN; CONDITIONS OF APPROVAL; REPEAL OF CONFLICTING PROVISIONS; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE./1st Reading and set 2nd Reading and Public Hearing for February 1, 2024 at 7:00 P.M**

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-03, by title only.

Manager Mathes stated that this is a first reading so there are no decisions being made tonight. This is a conditional use as required by code for permanent food truck application. He discussed the site plans. The council had previously authorized the temporary driveway on Broadway a while back. They have conditions in the approval if it is approved that that driveway will go away once the alleyway project is done. And the city has ARPA money to help fund that project and that is working through design at this time. He does not recommend parking the food truck where it is currently parked, he does not think it is a good idea to put a food truck with a lot of activity in a parking lot. They have plenty of room to slide the food truck which is what they want to do close to their porch so people can come on their porch and access the food truck and then be able to either sit on the porch or in the future, they are going to have outdoor seating in the front yard areas. One of them is an outdoor seating pad and the other is actually a pergola. Those are different phases, obviously, and the phases really would depend on when they can afford the impact fees. Other than the food truck, this is really just providing some parking that would be needed. They are three spaces short on their parking, so there is also a payment in lieu of for that.

Council Member Salgado asked how many feet are they from Marsh Landing and if this food truck temporary. Manager Mathes responded at least twenty feet away from the building and this is a permanent food truck.

Manager Mathes discussed the conditions and only focused on the unique conditions.

- The current code requirement for food trucks says alcohol is not to be served. This being a permanent application along with a permanent building, the applicant is asking to be able to serve alcohol and that is one relief.

- They are short three parking spaces and right now the code has a parking in lieu of at \$7,000 a piece, he brought this to Council's attention a few months back and they said is too high, let's lower. They are now proposing \$3,500 per space.

- As far as the roof slope goes, it is really just to legalize the existing building, the city has a slope requirement for roofs on Broadway that is four to twelve and their existing roof is two to twelve. This is just to legalize the existing porch.

- The city code requires that any outdoor vending machines must be shown on the site plan. Furthermore, on North Broadway, it says you cannot have them in the front of the building, because most of the buildings on Broadway are supposed to be to the sidewalk, and there is really no place to put them except on the sidewalk and the city does not want them on the sidewalk. Since he has that large setback, he can put outdoor vending machines. He has two right now, he has a vending machine for money, and he also has one for propane tank sales. This condition requires him to move the propane tank sales to the side of the building and only keep the ATM up front.

- The city has code a requirement that they have to pay for adjacent alleyway swell improvements. Since the city is doing the alley, they are waiving some of that requirements. Also, there is a code requirement that the finished floor must match the back of sidewalk because that is where most of the building is going to be. Since this one is an existing building, they are basically legalizing that variance through this site plan, so it is not a new thing. It is just legalizing the building that is there now.

- Condition "g" just to acknowledge that he has a temporary driveway up front and that will go away when the alleys are done.

- Condition "h" is to legalize the setback.

- Broadway's required to plant street trees, when they develop, the city is requiring him to pay a payment of \$150 per inch, which would be a total of \$1125 for his trees that the city would then use in their Arbor fund to plant those trees whenever they do Broadway. The city does not want to put the trees in now and then get tore up when Broadway gets constructed.

- The city is giving relief of the civic space requirement because that is pretty much what his whole front yard is a civic space, he wants to do a pergola he wants to do the outdoor dining, that's all-public space.

- The city is not requiring any more additional interior open space trees, because he does have the specimen tree on there, which he is keeping.

The applicant will be required to put his landscaping and within 12 months of the approval, they will be required to have a handicap path from the parking lot to the front door, within 90 days of approval. They will obviously have to obtain permits to build a pergola and outdoor seating. He is going to remove anything on site that is inconsistent with this plan. And he will have to make sure there's ADA access to any outside areas that he creates for the public. He is using stabilized millings for his parking which is allowed, this is a standard condition the city put in there that if he does not take care of them and make them clean and neat, keep the weeds out of that we ever allowance to tell him to pave it. He needs to make sure anything he does other than what is varied is consistent with the old town district. He is not asking for any outdoor sales, except for the food truck. They are doing the city standard cross access and cross parking easement and the standard solid waste. And then he has to give the city a five-foot alleyway dedication, which is required by the city code. And he has to pay in the transit fund that is required for projects in the overlays. That is at \$100 per parking space, and he has twenty-one required spaces. And at staff level, they would be okay with payment plans for these things.

Manager Mathes stated that he did put the impact fee actual dollars but if the county updates their impact fee schedule those number will be wrong. So, it might just be a reference to the impact fee schedule. He will get with the city attorney regarding the impact fee schedule.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Renick to approve the 1st reading and set 2nd reading and public hearing for February 1, 2024, for Resolution No. 2024-03.

ALL AYES:

MOTION CARRIED 5-0

- (c) **RESOLUTION NO. 2024-13/** A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA AUTHORIZING THE ADOPTION OF THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT STATEWIDE MUTUAL AID AGREEMENT ("SMAA") AND AUTHORIZING THE MAYOR TO EXECUTE SAME; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-03, by title only.

Manager Mathes stated that this is intergovernmental paperwork. They have had this in place for about five years. And apparently, they run about every five years and the State is just asking the city to update it. It allows the city to get mutual aid in emergencies.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve Resolution No. 2024.13

ALL AYES:

MOTION CARRIED 5-0

- (d) **RESOLUTION NO. 2024-17/A** RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FELLSMERE AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE URPOSE OF PROVIDING A PORTION OF THE COSST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS 2023 ILF APLHA E SIDE BOOM MOWER & EQUIPMENT FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-17, by title only.

Manager Mathes this is a requirement of the USDA commercial facility direct loan program that even though the city is not being required to take out bonds, they still want the city to pass this resolution. He said they will get about 75% payment for this equipment, the cost is about \$300,000. This is long awaited equipment to fix the swales, fix pipes, cut trees. And the 25% will just pay directly out of the infrastructure program even though it is a loan program the city will pay that off in one payment as soon as we can. But they will see if the terms are fine, they may make payments.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve Resolution No. 2024-17.

ALL AYES:

MOTION CARRIED 5-0

- (e) **Recommendation** regarding request for Abatement of Code Enforcement Lien for 12740 CR512(Dollar General).

Manager Mathes There's a little unique aspect of this case. And one of that is the bureaucracy of Dollar General are claiming they did not get the civil violation notice. So, they did not know what is happening. But obviously, the city got a green card signed return receipt, so somebody at Dollar General knew about it. But they did not really take any action to resolve this until the kept putting more and more pressure on them. So finally, the city got to hold of the right people at that bureaucracy to make it happen.

Once they put their attention to it, Dollar General did take care of it. It was another example of their maintenance vendors not doing their job. There were holes in the side of the building, there was mold on the back of the building or mildew. There was constant outdoor storage, what is not allowed, and the landscape slowly dies and never gets replaced. And so there was like 25% of their landscape that was missing or dead. And this is also a repeat violation because four years ago, the exact same thing happened. And the city ended up collecting \$18,000 from them. Now they are at \$118,000 and they have asked for an abatement, the owner of the property is not Dollar General, to his understanding, it is one of those type of triple net leases where the tenants are responsible for everything. And the owner was trying to refinance the property and that's kind of what caused this

to have to get fixed. Because when he found the lien on the property, he could not do the refinancing. With a \$118,000 lien a bank is not going to refinance. He asked Council what abatement amount do they feel is appropriate for their behavior. And he encouraged it not to be too low, because they are repeat violators.

Manager Mathes stated that he did get confirmation from Dollar General that they are going to change their vendor to what is called a VIP service, where they have to do mulch on a regular basis, they have to replace the plants. So apparently, they just had a blow and go landscape firm. Now they are going to make it a VIP landscape service where they have to basically keep it perfect. They did make that commitment. So hopefully they will not fall back into this in the future. They are now in physical compliance.

Ruperto Irizarry, Field District Operation Manager for Dollar General. He apologized for the Dollar General in Fellsmere not being maintained. He made sure everything got completed and followed up. And the commitment that he has received is that they are going to be following up. They have a new structure, and they have a lot of different things going on at Dollar General. They do have a new CEO in place and the commitment has been made to take not only the facility in Fellsmere but across the country. He again, apologized for the matter. It is not easy in retail to get things done during the holidays, but they received the commitment from the vendor, and he actually did execute and got things done. They have taken responsibility and it is there fault, no excuses.

Mayor Tyson stated the person that is in there now is certainly doing their best. It was an embarrassment, and it got to the point where he refused to go in because of all the stuff on the floors but he has seen a big change. He stated that the store at 510 is always neat and he would like to see that that quality out in Fellsmere. He has got complaints about the size of the facility it is undersized, and it should be twice the size to accommodate the amount of business that they do. He stated that the city would appreciate it if they clean the place up and offer a good facility. Good service.

Mr. Irizarry responded that that is their goal, and they want to stay in business. He gave his contact information in case there are any further issues he will take care of it. The city can deal directly with him not with a corporation that no one seems to find, he will be effective,

Mayor Tyson stated that the city appreciates that, and they wish him lots of luck.

The Council proceeded to discuss the abatement amount.

Council Member Renick stated that he wanted to continue to be partners with them and recommended 30%.

Council Member Salgado stated that they are a corporation, and this is their second offense and if they want to do payments they can and recommended 50%.

Council Member recommended 35%.

Council Member recommended 40%

MOTION by Council Member Herrera to approve the Abatement of Code Enforcement Lien at 40%.
No second motion made.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve the Abatement of Code Enforcement Lien for 12955 100th Lane and accept 35%, \$41,643 to release the lien.

MOTION CARRIED 4-1

- (f) **Approval** of Work Authorization # 1 with Renker Eich Parks Architects to provide architectural services related to the Recreated Train Village project.

Manager Mathes stated that the city currently has a grant application pending that is supposed to be notified in spring or summer when the budget season's over. He does not think the city is going to be funded because they are pretty down on the priority list. And for the longest time the Council has talked about having to make tough decisions with ARPA, because ARPA was paying \$300,000 to this project, and the grant was like \$400,000. And without the grant 300,000 is not going to do all the buildings. And he had talked in the past about doing a couple of the buildings with the \$300,000, ARPA, and he was recommending we do the train depot, which is the public bathroom at the north end of Broadway and the Machine Shop, which is the second Community Center. With the amount of use the current community center gets, he thinks that is important. Plus, it will be a high-quality Community Center compared to the older one. And it will also have some really nice outdoor space

between the Section Foreman's house and the Machine Shop Community Center. And so, this is just to hire Renker Parks, he has done all the other buildings to design the train depot because that building has not been designed yet. And they are continuing as consultants, and it is through the city's master agreement. And this is his first work under the new master agreement that the Council approved a few months back.

Council Member Renick asked what is the amount.

Manager Mathes responded \$69,000 and they will be updating the plans because with building plans, they do go stale, not like civil plans building plans go stale every three years because every three years they update the building code. They have to update the plans for the Machine Shop and Warehouse. And then he is going to design the Blacksmith shop and the passenger train station. Plus, it also includes some construction engineering inspection and things like that.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Herrera to approve the Work Authorization # 1 with Renker Eich Parks Architects.

ALL AYES

MOTION CARRIED 5-0

- (g) **Approval** of Best Buy Technology update proposal through Omnia Partners Public Sector cooperative purchasing.

Manager Mathes asked for this item to be continued to the next meeting. The city attorney would like to delve a little deeper into their master contracts.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to table this item to the February 1st City Council Meeting.

ALL AYES

MOTION CARRIED 5-0

- (h) **Approval** of ARPA Amendment.

Manager Mathes stated this is a unique ARPA amendment, they just had a quarterly amendment, but they were having some discussions with the auditor, and this is a plan of which he had thought. The city has about \$2.3 million that they have not spent yet. And they have to have it obligated, which means under contract by December of this year. He feels pretty comfortable they can do that but to be safe, one of the things we can do, which is what this agenda item would authorize if it is acceptable to Council is to use ARPA money to pay for staff salaries until the money's gone. Because again, they can pay staff salaries. That way, they can get it all spent by end of this year and what they would do then is take all that general fund money that they are not spending, which doesn't have time limits on it doesn't have federal reporting requirements on it, doesn't have any restrictions on it they can use that money then to do the ARPA list at the city's own leisure without the pressure of these deadlines. The ARPA list does not change, they will still do those projects. He will still bring it to Council on a quarterly basis and still track expenditures. But they are kind of doing a shell game, they will be using ARPA to pay for staff, and they will use what they normally pay for staff and then to pay for ARPA, just so they can get by those deadlines and not worry about the stress of having to meet them. This authorizes staff to use ARPA to pay payroll, and they can still pay for those other projects. Any money that they do not spend on the general fund, and it will not go off and do other things with it that is going to be used for the ARPA list.

Claudia Alvarado, Finance Director stated that she wanted to remind the Council that they had elected to choose the standard allowance because the city received funds less than \$10 million. The feds allowed Council to commit these funds to government services if they wish. And because Council elected to do the standard, then they do not have to provide that breakdown of all the projects.

Mayor Tyson asked if they do a separate audit on those funds.

Claudia responded that they will eventually right now all the city has been doing is reporting by April 1 of each year. She added that under the standard allowance for a revenue loss is what allows them to spend that money that way through for payroll.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approval of the ARPA amendment.

ALL AYES

MOTION CARRIED 5-0

- (i) **Authorize** the Mayor and City Clerk to execute the "Municipal Elections Agreement" with the Indian River County Supervisor of Elections for the 2024 elections.

Attorney Warren Dill stated that this is an annual agreement that the Supervisor of Election sends out and City Clerk Maria sent it to him to take a look at and I reviewed it pulled out his file from last year and it is identical, substantially, except for years are different things like that. This agreement is what they have had every year, the charges to the city are the same as they have always been to conduct a municipal election, assuming the city continues on the same path and have the city's elections simultaneously with the state elections, which they do. There is no reason not to sign it unless they do not want to have a precinct out in Fellsmere.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve the Mayor and City Clerk to execute the "Municipal Elections Agreement."

ALL AYES

MOTION CARRIED 5-0

- (i) **ORDINANCE NO. 2024-01/AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE TEXT OF THE COMPREHENSIVE PLAN AMENDING CHAPTER 1. FUTURE LAND USE ELEMENT GOAL FLUE B. FUTURE LAND USE MAP, OBJECTIVE FLUE B-4 FELLSMERE 392 AND AMENDING THE COMPREHENSIVE FUTURE LAND USE MAPS TO CHANGE THE LAND USE CLASSIFICATION FROM REGIONAL EMPLOYMENT ACTIVITY CENTER (REAC) TO LOW DENSITY MIXED USE NEIGHBORHOOD (LDMXN) FOR 0.85 ACRES, MORE OR LESS; LOCATED IMMEDIATELY EAST OF INTERSTATE 95 AND NORTH OF COUNTY ROAD 512 WITHIN THE DEVELOPMENT KNOWN AS "FELLSMERE PRESERVE"; PROVIDING FOR RATIFICATION; AUTHORITY; COMPREHENSIVE PLAN TEXT AMENDMENT; MAP DESIGNATION; TRANSMITTAL PHASE; ADOPTION PHASE; TRANSMITTAL OF DRAFT PLAN AMENDMENT AND FINAL ADOPTION DOCUMENTS; COMPILATION; SEVERABILITY; CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE. /1st Reading and set 2nd Reading and 1st Public Hearing for February 1, 2024 at 7:00 P.M**

Mayor Tyson introduced the Ordinance and Attorney Dill read Ordinance No 2024-01, by title only.

Manager Mathes stated that this is the project they normally call Fellsmere 392, also Fellsmere Preserve. They have a representative present and online. There has been a major adjustment to this project since they started it and that is the surf park that they introduced a couple of weeks ago. And as part of that introduction, Council also authorized him to go after a Community Development Economic Development Grant to assist them with their infrastructure. What he wanted to do, if it is okay, is to ask the Surf Park Representative Luiz who is in the audience to produce a short presentation of a Surf Park and get the Council up to speed on what that is what it means, how it impacts the site plan. And then maybe they can go into the Comp Plan, they are trying first on Council's direction with Marian Estates to bring back the entire project so the Council can get a feel for before they start making decisions on individual pieces.

Luiz de Araujo introduced himself and his partner Mike Viola as the owners of the Surf Park called "The Point." He shared a PowerPoint Presentation. He stated that they will have the Surf Park along I95, a hotel, along with the pool, a food court between the pool, five hundred parking spaces, an apartment complex with a fire station in between and they will have townhomes and duplex and dog park.

Manager Mathes interjected the commercial outparcels on 512 which have not changed either.

The only change is a rearrangement of the residential and then changing three big box lots into a sports and recreation venue.

Council Member Renick asked what is the total acreage of the development site. Manager Mathes responded the whole site is 392 acres and he estimated about one hundred acres.

Luiz stated that they are super excited with this project that will bring a lot to the community. He wants to involve the county and the city. Imagine going to the ocean where there is no need to deal with sharks. The waves will run along the wall. They will have twenty people that will serve along the wall as intermediate. They will also be teaching people how to surf. Along the wall, they will have their advanced and intermediate zone, which is where they will have the bigger waves. The beginners will be in the middle and that will be more open to the public. There will also be a beach zone where the residents are going to be able to enjoy themselves. The whole park will have a food court, office, retail, a skate park as well for the community. They have major things that they would like to join with the city and the county to be able to bring in events. Special Olympic events are an example of what they would like to be able to host and also surf competitions. They will have the apartment complex and they have joined forces with the Point Grand, the commercial has not changed.

Manager Mathes stated they will have 384 residential units and a hotel with 198 rooms. Luiz added the Surf park, 62 townhome units, 40 duplex units, the fire station, and the dog park.

Manager Mathes reached out to the county on this yesterday, they seem to be excited about it. However, they need to get back to them on whether they can handle the water demand. Although it is not a continuous water demand, it is really just to fill the pool up, it will take forty-four million gallons.

Luis added that it is a massive pool it almost 6 acres.

Manager Mathes stated that they are also talking with the fire district because they are proposing to move the fire station and they are just reaching out to the fire district just to make sure they are okay with that.

Luiz stated he is flexible with moving the Fire Station. He showed an example of the apartments they want to build. They will have dog stations; they will have their own pool separately for the apartment complex, so you do not have to mix with the Surf Park. Manager Mathes stated that the apartments will have their own amenities, their own kid's area, and dog recreation area.

Council Member Renick asked if the Surf Park will be seasonal, and if they plan to use it in the middle of wintertime. Luiz responded it is year-round, they will probably have two weeks downtime, just for maintaining the machines maintain the equipment, but it is a year-round, They do not think the water will go below 58 degrees.

Manager Mathes stated that the Comp plan is cleaning up a little bit of language. The first change relates to some language about where the residential and commercial is going to be. It was referencing exhibits which are no longer appropriate. And to be honest, the residential is in LDMX. Wherever the LDMX Land uses, that is where the residential is going to be. The commercial is going to be on the Rec. Because that is what Rec is, it is commercial. And they do have the ability to do some commercials in LDMX. For the text is just basically referring back to the Land Uses instead of some exhibits that were in the prior annexation agreement, which were carried forward. And they are also asking to get rid of the requirement for green buildings and make it an option for the developer. That would be the Council's call if you want to get on that relief, which is the text change. There is a one deed restriction that they are changing, they are just clarifying that for residential development, they did not feel that we needed deed restrictions on commercial development and so they just clarified that they would need to make sure in the deeds for the residential development that there's reference to Sebastian Park and Fire Range.

Attorney Dill stated that the way it reads now, they are asking that to be changed. The way it reads now is there just has to be a deed restriction, put in the covenants and restrictions in those documents. And it does not say just residential, it says any use on the property. He just thinks it is probably safer for the city to do that because now they will have given full disclosure to everybody. It helps preserve the city's liability to give full disclosure.

Council Member Renick asked what would be the argument for eliminating it from anything other

than the residential.

Manager Mathes stated that would be a question for the applicant Nicholas Font, who was online. He asked if he was comfortable making that for all properties or if he really wants that just for residential.

Nicholas Font stated that he prefers just residential.

Manager Mathes stated that Attorney Warren Dill does make a point prescribed burns, he thinks are a bigger issue than the gun range.

Council Member Renick stated that is something to consider.

Manager Mathes continued to explain the Comp Plan. There is an area that is split between the LDMX, which is the residential and React, which is the commercial. The old Comp Plan, which was a commercial parcel, they were wanting to move the LDMX line off of that parcel over to the parcel line. That entire parcel is under one land use React. That made sense, under the old concept plan, when that was going to be a commercial parcel but now, it is going to be a residential parcel. He has talked to Nicholas and Luis about potentially changing the legal description between now and the public hearing. Instead of it all becoming React, it all becomes LDMX because again, the new concept plan has it as residential, not commercial, the old concept plan, which is when this legal was written, had it as commercial. When the Surf Park came in, they took over all the development north of 93rd Street, which is the parallel road, and they just moved things around a bit. And all their commercial is the Surf Park, they are not having any extra commercial in the residential area, so they do not need to React on the other side of 108th avenue they just needed on the west side. That will come back at a Public Hearing. Instead of going LDMX to React, it is going to go to React to LDMX.

Manager Mathes stated that this is first reading and there are some annexation things that are really parallel in the Comp Plan. basically, a lot of the Comp Plan came from the Annexation Agreement. So, if the Council is changing the Comp Plan, they more than likely are going to have to change the Annexation Agreement. There are no additional issues being approached in the annexation agreement, but they are both comparable in the changes that are being made. He also provided the development agreements; they are pretty far along but are not finalized. He asked the Council if they deny the relief of the green building then he has to make sure he puts that in the Development Agreement.

Council Member Renick asked when the green building standards were implemented and what was the incentive or intent for implementing green building standards. Manager Mathes responded it was in the annexation agreement and then was carried over into the comp plan before 2004. He stated that it was brand new at the time, it was a buzz of planning and they ended up putting it in most all of their large annexations every one of them has it. And it is not much of a buzzword anymore, but it was back then.

Prior to the final hearing of the Comp Plan, they will have to first amend the annexation agreement because the annexation agreements are the higher-level Comp Plan is the second level, then it is the Plan Development. When it comes back, not from the first hearing, but the second hearing after it goes to the state comes back to the city, Council will also have the annexation agreement amendment at that time too.

Council Member Renick asked Mr. Araujo if he or his group had been involved with any other of the other Surf Parks down south. Mr. Araujo stated they have a plan to build one south and also north. The same technology that that would be using for Fellsmere they have built in Texas, and also two in Brazil. Their first focus is Fellsmere, but in the future they do have plans to put one down south and another up north. Without that development next to it, they will not be able to put it. That is why the whole development is what comes together so they will be able to afford.

Attorney Warren Dill asked if they would like to clarify the decision regarding the release of the LED and release of the commercial from the deed restriction, so when a document comes back, it is in the form that they want.

Manager Mathes asked the Council that with the green building, did they want to make that an option to the developer or mandate to the developer.

Council Member Renick stated to release it. Council Agreed.

Manager Mathes asked the Council in regard to the deed restrictions, are they okay with just residential or did they want deed restrictions on every property that is sold out there, commercial,

or residential.

Council Member Renick stated that he is curious in the language, a deed restriction, are they just putting in the deed that they may have to deal with those issues.

Attorney Warren Dill stated deed restriction is a generic term, there is going to be a document called Declaration of Covenants, conditions and restrictions or something similar to that, that will be laid on that commercial, there will be restrictions on that commercial, I assure you of that. And there will be restrictions on the residential area, they will be substantially different because one is for residential use and others for commercial use. All he is suggesting is that, as it originally was approved by the Council back when that the restriction on notification of the burns and the gun range be across the board for the whole property. Two Council members agreed for residential and three agreed for Commercial and Residential.

Manager Mathes stated that they will be removing from number 12, the underline and take it back and the Council is not going to be supporting that particular change.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Herrera to approve the 1st Reading and set the 2nd Reading and Public Hearing for February 1st, 2024, for Resolution No. 2024-01 with the two changes.

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

****PowerPoint Presentation is attached.***

- (k) **Approval** of Professional Services Agreement with "A Walk in the Past Productions" and "Applied Webology FL, LLC."

Manager Mathes talked about this award at the last City Council meeting, and they said they would bring back a contract to this meeting. This is for a Walking Tour production both hardcopy and modern electronic Walking Tour version. He thinks they have a good strong team.

Mayor Tyson asked how much is it going to cost. Manager Mathes stated \$50,000, he added there might be a little bit of additional work but \$50,000 is the contract that is funded entirely by grant funds.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve the Professional Services Agreement with "A Walk in the Past Productions" and "Applied Webology FL, LLC."


ALL AYES

MOTION CARRIED 5-0

13. ADJOURNMENT:

There being no further business Mayor Tyson adjourned the meeting at 9:03p.m.

These minutes were approved by the City Council of the City of Fellsmere this 1 day of February 2024



Maria F. Suarez-Sanchez, CMC, City Clerk
CO20240104MINUTES.DOC

THE POINT

SURFPARK

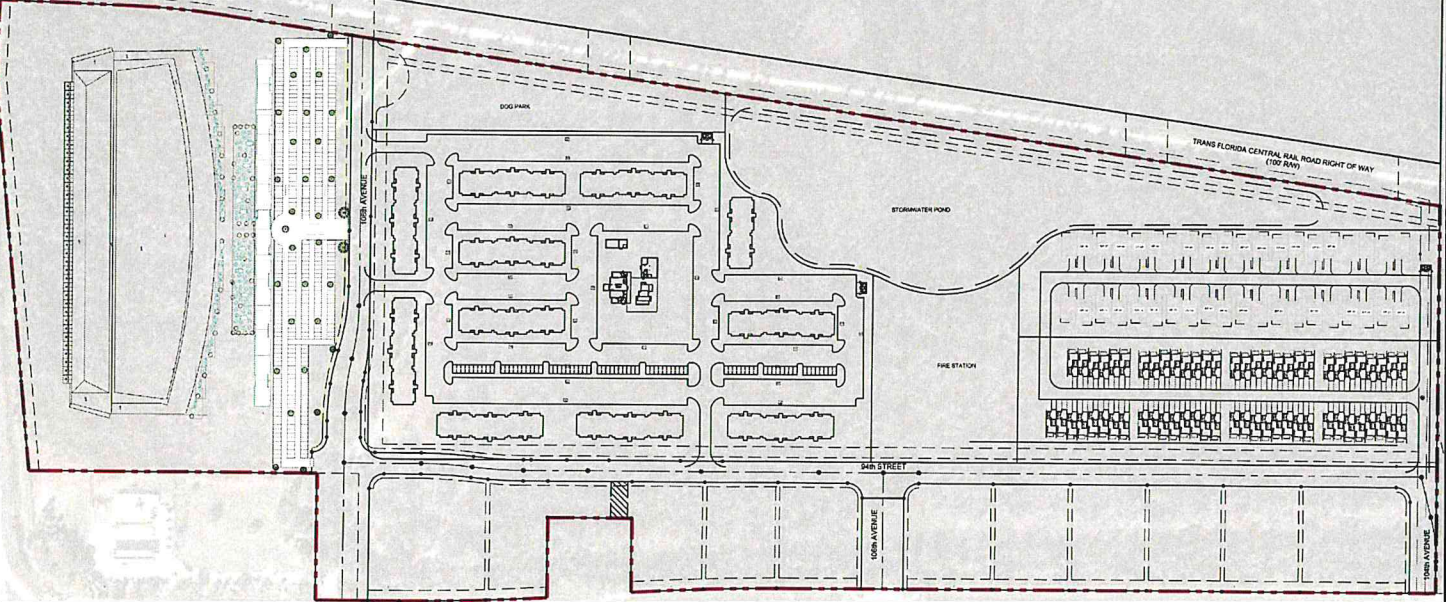


POINTE GRAND

APARTMENT HOMES

DEVELOPMENT SUMMARY:
 TOTAL SITE AREA: 86.36 ACRES (SEE LAND USE PLAN FOR FULL SUMMARY)
 VILLAGE TRACT: 15.28 ACRES
 YIELD: 300 UNITS
 TOWNHOME TRACT: 8.81 ACRES
 YIELD: 50 UNITS (WITH GARAGE)
 DUPLEX TRACT: 3.81 ACRES
 YIELD: 10 UNITS (WITH GARAGE)
 COMMON POOL: 2.84 ACRES
 *WOULD PROVIDE MAINTENANCE FOR COMMERCIAL AS WELL
 FIRE STATION: 3.33 ACRES
 DOG PARK: 3.14 ACRES

TRANS FLORIDA CENTRAL RAIL ROAD RIGHT OF WAY
(100' R/W)



THE POINT
SURFPARK

CITY OF FELLSMERE, FL



IMAGINE SURFING PERFECT WAVES EVERYDAY WITHOUT WAITING FOR A SWELL, TIDES OR CROWDS.



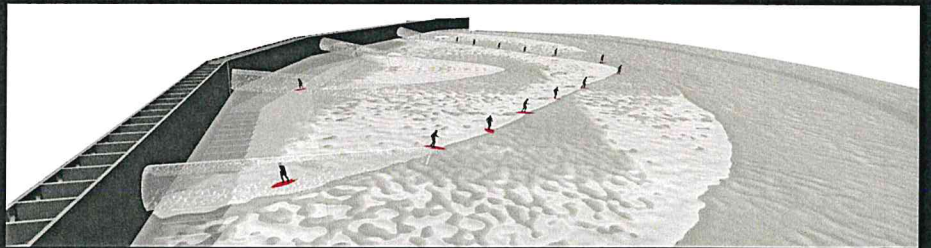
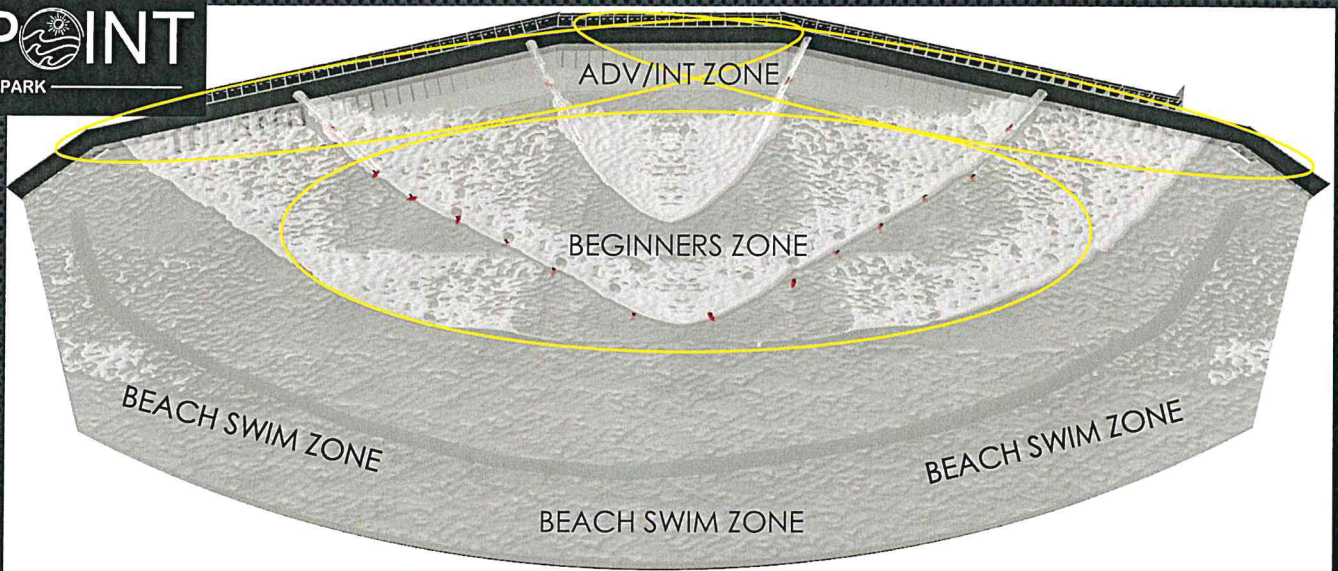
THE POINT
SURFPARK



ELIMINATING ALL DANGERS OF THE OCEAN, MARINE LIFE AND RIP CURRENTS. ENJOY YOUR BEACH DAY IN A SAFE CONTROLLED ENVIRONMENT.

THE POINT

SURFPARK



THE POINT

SURFPARK

ADVANCED AND INTERMEDIATE SESSIONS PROVIDE LONG WAVES FOR FUN TURNS.
BEGINNER SESSIONS WILL OFFER GENTLE AND FUN WAVES FOR ALL AGES.



PHASE 1 DEVELOPMENT

- WAVEPOOL
- FOOD COURTYARD
- PARKING LOT
- BEACH AREA (CABANA AND CHAIRS)
- SWIM SLASH ZONE
- 4000 SQ FT WELCOME CENTER
- SHOPS AND SURFSHOP
- POOLSIDE BATH/LOCKER ROOMS

PHASE 2 DEVELOPMENT FINAL

- 2 HOTELS ON-SITE
- RESTAURANT
- SKATE PARK



THE POINT
SURFPARK



SPECIAL EVENTS

THE POINT SURFPARK is in the process of organizing events to host at the facility that will greatly benefit the local community such as:

- Local Surf Competitions
- International Board Riders Club Surf Competitions
- SPECIAL OLYMPICS Surf Competitions
- Creation of a WAVE POOL LEAGUE to compete with other wave pools around the world.
- Surf Movie Nights
- Christmas Tree Lighting Surf Events
- New Year's Eve COUNTDOWN Surf Events
- 4th of July Celebration and Surf Events
- Halloween Surf Events including trunk or treating, costume contests, and costume surfing (a safe place for the local kids to celebrate)

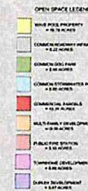
Celebration of mostly all the holidays, the ideas and opportunities are endless!!!

FELLSMERE RESIDENTS

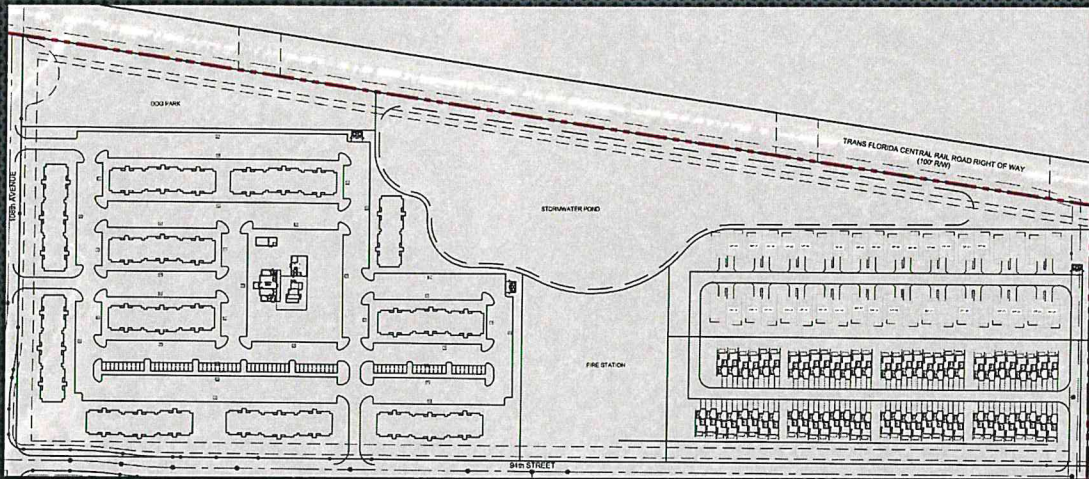
All Fellsmere residents will receive the following:

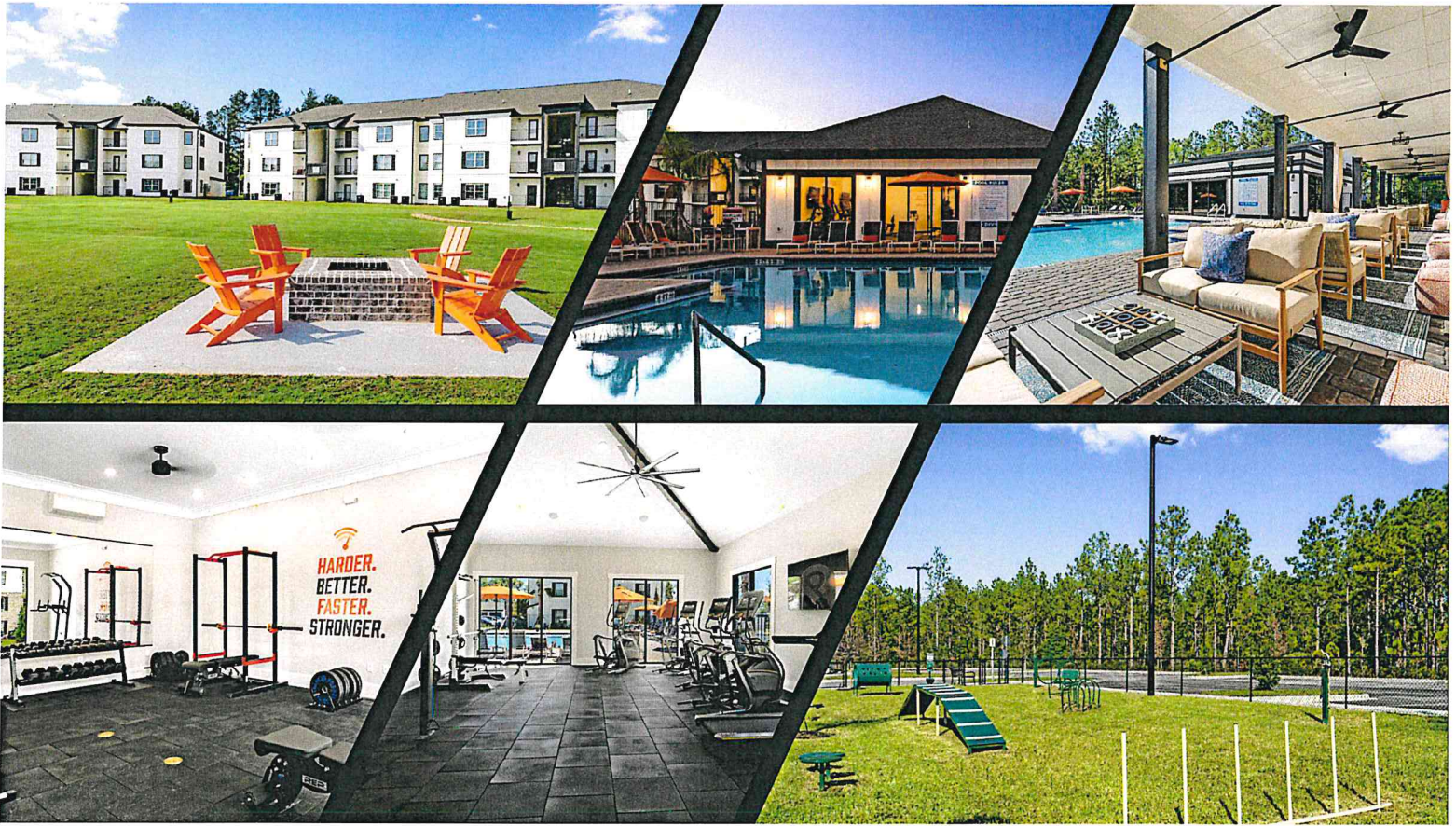
- Discounted rates on surf session purchases and park entrance fees
- Advanced ticket purchase options for surfing and beach day passes
- Discounted rates on surfboard rentals and in-park purchases
- Discounted rates on "Learn to Surf" programs
- FREE "Learn to Surf" youth program (MAX 20 children per class, available weekly)
- FREE youth water safety training classes (available monthly)

THE POINT
SURFPARK



- WAVEPOOL
- 2 HOTELS ON-SITE
- RESTAURANTS
- SKATE PARK
- MULTIFAMILY TRACT: 19.38 ACRES
YIELD SHOWN: 384 UNITS
- TOWNHOME TRACT: 6.89 ACRES
YIELD SHOWN: 62 UNITS
(3BR/2.5BA/1 GARAGE)
- DUPLEX TRACT: 5.87 ACRES
YIELD SHOWN: 40 UNITS
(3BR/2BA/2 GARAGE)
- FIRE STATION: 3.33 ACRES
- DOG PARK: 2.96 ACRES







THANK YOU

THE P  INT

— SURFPARK —



POINTE GRAND
APARTMENT HOMES