

**CITY COUNCIL MEETING
March 7, 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 Hernandez, Council Member Renick, Attorney Dill, City Manager Mathes and Mayor Tyson

ABSENT: Council Member Salgado (Excused)

ALSO, PRESENT: Chief Touchberry, Utility Director Kevin Burge, Grant Administrator Laura Hammer, 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 February 15, 2024.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve the minutes for the City Council Meeting of February 15, 2024

ALL AYES:

MOTION CARRIED 4-0

6. **PROCLAMATION:**

(a) Moonshot Community Action Network-

Mayor Tyson introduced the Proclamation and Attorney Dill read the proclamation in its entirety.

Marie O'Brien, from the Learning Alliance stated that Fellsmere has been on this journey for years and they thanked the City Council for continuing to support this and caring for the children of Fellsmere.

Pastor Brown because of the moonshot moment because they are a moonshot school, and they pride themselves on every child that Graduates from the Fellsmere Community Outreach and Preschool is kindergarten ready. They are well on their way of reading at a third-grade level by the third grade.

Commissioner Susan Adams thanked the City Council for always being so committed to not only the moonshot moment but the moonshot Community Action Network. These kids and literacy are the key to our success. This is a sustainable community. Without literacy, they are not setting up our children for success. And it takes a village. And she is so proud that Fellsmere has always been that village that provides that safety net for our kids. And really, the important thing about the action network is it is a wide swath of the community. It is not just the teachers, it is not just the pastors, it is everybody in the community, from the decision makers to the business owners, putting a face and putting importance on literacy and learning.

Barbara Hammond, founder of the Learning Alliance, shared why she started the Learning Alliance. She stated that Fellsmere is a model out there. They are always talking about how great Fellsmere is, they are a united community. And they really represent what they wish, the entire Indian River County is, and they do have a documentarian who has been talking to them about doing a documentary on the moonshot journey and how they have moved from 31st to 5th and it will be collecting stories like this to share because it is a bright spot in the nation in the world. She thanked the City Council for leading the way and for being that bright spot for all of them.

They all accepted the Proclamation and proceeded to take a photo with the City Council.

(b) Designating April 2024 Child Abuse Prevention Month-

Mayor Tyson introduced the Proclamation and Attorney Dill read the proclamation in its entirety.

Mayor Tyson stated that this was an Exchange Club project, and he will give the Proclamation to Sandy Gehrke, President of the club.

7. **PRESENTATION:** (a) Audited Financial Statements by Carr, Riggs and Ingram, LLC

Christine Noll-Rhan, a partner at Carr, Riggs & Ingram, LLC introduced herself and stated she will be going over highlights from year end September 2023 audit.

She stated that the city did receive a clean unmodified opinion and will be taking them through highlights from their financial statements.

The General Fund actually increased it's funding by balance by about \$330,000. And one of the biggest attributes so that was interest earnings. The Water Tower Cell rates put that cash that they received into the Florida Class Investment. And they raised \$150,000 more in interest, so that was the biggest contributor to their increase in the general fund.

The infrastructure had a decline in its fund balance. And that was primarily due to using those funds to match grants that they received. New York sidewalk, this was a new major fund this year due to the activity of finishing that sidewalk project. The amount of it made it become a major fund for the first time.

The ARPA fund did use some more money out of that this year, as of September, they had 2.3 million left to use. And so that has to be spent or obligated by December 24. So that they do not have to give any of that back to the treasury.

Water and Wastewater Fund had a positive change in fund balance of about \$95,000. The major activity in that was that they had installed new meters. They had about \$590,000 of expenses for installing those meters, but they did get a capital grant, revolving loan fund, and \$495,000 of that is forgiven, and they do not have to pay back. The grant paid for the majority of installation of those meters.

In both the Water and the General Fund, the sale of the cell tower rights, because it is for 50 years, they only recognized at 1/50 of that sale price in their revenue. And the rest of it will be recognized 1/50 each year until it ends. On the positive side, again, they have all that cash, and they are getting some nice interest off of that.

In terms of findings, they had one finding this year, related to the financial statements, it was really kind of a combination of a lot was happening at once. Previous Finance Director Putnam Moreman was retiring, so they were trying to come out here and do audit testing prior to his leaving, they were also trying to install and implement new general ledger software. And Claudia's replacement had just been hired and was being trained. The trial was not as clean as it typically is. It is just trying to spend more time to go over that to make sure it is clean. There is nothing that they went over that it was not like the finance team was incapable or did not understand anything, it was really a lot of just not having enough time to get through it all. And on a positive note, both of your findings from the prior year, which related to grant revenue cut off, and their grant purchasing both those were cleared. So that is important to the state because they do not want to see the findings repeated. She asked if anyone had any questions.

Mayor Tyson asked if the finding was just kind of a housekeeping thing. Christine responded yes, most of the things they found were like the year end balances, it was not like systematic throughout the year. Like all this process is bad all year long. It was mostly the closing entries; it was just not enough time and not the man hours really to have time to look through it completely at the end of the year.

Council Member Renick asked if she knows how much interest was made just from the ARPA money. Christine responded that they get to keep all the interest free and clear that don't have to use that for ARPA on top of it. All of it was actually transferred from ARPA into their General Fund. The total was \$125,000.

Mayor Tyson asked if anyone had any questions, hearing none he thanked Christine for her presentation.

8. PUBLIC HEARINGS:

- (a) ORDINANCE NO. 2024-14/** 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 2.68 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./2nd Reading and Public Hearing for March 7,2024 at 7:00 P.M, City Council Chambers, 22 S. Orange St., Fellsmere, FL.

Mayor Tyson introduced the Resolution and Attorney Dill, read Ordinance No. 2024-14 by title only.

Manager Mathes stated that they did a fairly extensive presentation of this at first reading. This is the development that recently introduced the Surf Park as one of their proposed developments. There were no real issues that were brought up at that time, so brought it to the public hearing.

There are two parts to this amendment, there is a text part and there is a future land use map part. Future land use map part is nothing more than 108th Avenue, which is the signalized intersection giving access to McDonald's, Racetrack and Dairy Queen. There is a little nub that sticks out to the east of 108th Avenue. This land use amendment is simply changing that little nub, which is currently regional employment activity center in turning it into low density mixed use. The reason they are doing that is the concept plan that they presented, and we are moving forward with in their application has residential in all space, basically north of anterior Road, which is 93rd, which and east of 108th will all be residential. So south of the rail trail, north of 93rd, and east of 108th as residential, they cannot be residential on REAC, so they have to change the REAC and allow them to do that residential. That is basically their request on the future land use side.

There are really just two texts being requested. When they annex large scale properties in the past, they had the habit of taking certain portions of that annexation agreement and rolling them into the comp plan. A lot of these things, as you know, were negotiated over 20 years ago when these were annexed. And now they are finally coming to development. The things we negotiated may not be what they want today or may not be what works for the developer or both. And here is a couple that they are asking and for those who were not here there was actually residential proposed north of the rail trail in their original concept and all the residential south of the trail, they wanted to reinforce that all the density is to be transferred to the south side. The first section is just reinforcing that the density can be transferred to a specific area of the property that is already allowed in the comp plan, just reinforcing it here just to make it crystal clear as part of this policy.

The second one, number six, is changing a requirement to an option. Currently, it is required that the developer incorporate green building and site standards. They would like to change that to the extent feasible as determined by the developer to incorporate those items. And essentially, green infrastructures are intended to be infrastructure that has the lightest footprint on the environment. It could be reuse of water. It could be rain gardens, it could be living roofs, it could be solar aspects of your energy, it could be LED lighting, it could be material selections that they use, maybe local sources that have across the country. And different things you can do that would qualify. Most of the time, those things are a little more costly. And so, it is really you pay more upfront, and you are supposed to save money over time but again, they would like to change it from requirement to an option. And those are only two text changes.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Ordinance 2024-14, hearing no comments he closed the public hearing.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve Ordinance No. 2024-14 as amended.

ALL AYES

MOTION CARRIED. 4-0

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

ALL AYES

MOTION CARRIED. 4-0

9. PUBLIC COMMENTS:

Mayor Tyson asked if anyone else from the public had a comment to state their name and address for the record, seeing and hearing none he continued with the next agenda item.

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

- **Nonprofit School Request-** He has a request from a local nonprofit for space for a nonprofit school. He has introduced Ian Welsch, from the Motivational Edge some months back. He has a long history of service in the nonprofit industry related to youth and youth development, particularly at-risk youth. He has brought his talent and energies up here to this part of the state. And he is already deeply embedded in lots of initiatives. And this is one of his initiatives he had liked. For the

city to consider if there is any space, they have available. The only space he is aware of is that the city does have an option in the leaseholds downstairs, they have two providers who are taking up three rooms, we required an a condition in the lease that the city has the right upon a certain notice period, to remove one of those rooms from their lease and make it available for a third user. And so that is the only space he is aware of that they have at this point. It is about 600 square feet, 20 by 30 room done a very large room. This would not necessarily be a long-term home.

Ian Welsh- 13575 83rd St – He has lived in Fellsmere for about two years. He runs the Motivational Edge for 16 years, a Youth Development Organization. And this private school will actually be a public private partnership, it will be with a for-profit and a nonprofit arm. In the long run, they can leverage investor dollars to try to earn the building or maybe be part of a project already in the works here in Fellsmere. But they are going to be starting with is middle school, he wants to start with sixth grade and grow out the middle school first and hopefully eventually launch and grow into an accredited high school. And there will be no cost for families in Fellsmere.

Manager Mathes this is the first time the City Council has heard about this, and he is not asking for them to make a rash decision and if they want, they can bring this back in a couple of weeks so that they can talk to the tenant's downstairs and get a feel for how this may affect them. He has encouraged Ian to try and contact the owners of the building on the corner of Willow and 512. This will be a short-term lease. He also stated that he will need to talk to the city attorney and the finance director about whether the for-profit arm is an issue. He will continue conversation with Ian Welsh.

- **Cemetery Cell Tower Status-** The Cell Tower Company was directed to do an investigation and they have completed that investigation and found more unknown objects underground and so they have decided to narrow their search to a smaller area. And then to do a more detailed investigation, potentially even some probing of that nature to try to get a feel for what these obstructions may be, they cannot tell what they are from the radar. They are still interested; they are still wanting to work it out and the city will wait for a more detailed investigation.
- **Request Utility Attorney Retainer-** The Utility Director has put in a request as he gets into new more complicated utility issues to supplement the city's attorneys with a utility attorney specializing in utility services. Particularly when the city comes back in the next month or two with their promised workshops on septic sewer, and potentially getting into the business of treating sewer. There is potentially a small deposit there would be no work unless the city asks them to do something. They would coordinate that obviously through the attorney's office. There was no objection. He would like to have the city's attorney's office take a look at it and maybe there is a way to confirm if they are experienced.

Attorney Rhodeback stated theoretically be board certified in a particular area, but it would not be specific towards utilities. The only thing that they go by is word of mouth.

Manager Mathes added that the Utility Director has been in the business for 30 years and he has worked with him for many years. This is just in case they need an expert in a specific area.

- **Active Capital Projects-** The list has been updated except for the utility hardening because they had a bid opening on February 20th. It is on the current agenda to be awarded.

The following are announcements of future events:

- **FACT Capital Campaign Launch on 3/19, 6p-8p at the Heritage Center in Vero Beach** – This is not an initiative of the City of Fellsmere it is a FACT initiative. And they finally got to the point where they are ready to go public. This is a normal capital campaign kickoff; they are choosing the Heritage Center only because they want to make it as convenient as possible for the money people to come. There are a lot of nonprofits using that venue for these types of events as well. City Council is certainly welcome to attend but he has made it very clear that they do not expect a high profile of city presentation. Chief will be there as a FACT member but also as a city person to make a comment and get support from the city.
- **Form 6 Due 7/1- Start Early!** – Maria is ready to help if Council needs it.
- **04/06 Give a Ruck Event at Buffer Preserve**
- **04/06 Fellsmere Day**

11. MAYOR'S MATTERS:

Mayor Tyson stated he attended the Council of Local Government's yesterday, and they were supposed to have presentation to the utilities director for Port St. Lucie and talking about stormwater, stormwater management and he had invited Andy, but he was sick. They had to reschedule due to the presenter had to attend a funeral. That is what those committees are about networking and if somebody is doing something, maybe the city can learn something from that and not have to reinvent the wheel. Since they did not have a presenter the new chairman of the committee asked if anybody had any issues in their town and they just had a roundtable discussion, and it was pretty good. There was a bill to establish term limits for county commissioners and that failed.

Mayor Tyson stated that he is up for consideration in the election. He has a decision to make in August, he will keep all apprised of how he feels.

12. COUNCIL MEMBER'S MATTERS:

Council Member Herrera- He stated he had no matters.

Council Member Hernandez – She stated he had no matters.

Council Member Renick – He stated he had no matters.

13. CITY ATTORNEY'S MATTERS: Attorney Dill stated he and Attorney Rhodeback had some good news for the City.

Attorney Rhodeback reminded Council that they had asked him to file an appeal for one of their code enforcement lien foreclosures. They got the appeal back yesterday, there was a four-page decision issued by the fourth district that said that the trial court incorrectly ruled. And instead of remanding it back and do the trial over again, which is what the appellate court typically does whenever the trial court issued a decision that it is going to be remanded to the trial court to enter a final judgment in the city's favor, which means that they do not even have to do to the trial again. The fourth district concluded that the decision was ruled upon in the exact opposite manner that it should have been.

Manager Mathes stated that this was for 1004 Lincoln Street, Mr. Almanza. He does not live at that house but has tenants living at the house. And again, that does not necessarily mean that the city owns the house, they have to go to the foreclosure auction. And the City usually authorizes up to their amount that is owed to them, and no one usually is going to match that because the house is usually not worth that much. The city may become owners of that house with a tenant at that point, they can deal with them like anybody would deal with the tenant. Or if the City takes an inspection of the house and we see the house is viable with a little bit of work, they could resell the house back on the market with conditions obviously that they would have to bring it up to standard so there would be options at that time if they became owners.

Council Member Renick asked if there is a market value in that.

Manager Mathes stated that have not really been able to get in the house in much detail to really inspect it to see how bad it is, he really cannot answer that if it is a dilapidated house, it is not worth redoing, they are actually going to have a cost to demolish the house. And a lot itself will not be worth the price of what he owes the city in code, as well as what the demolition costs will be. The City can then put a lien on other things he owns in the county, so he can pay us in full.

Attorney Rhodeback stated that in code enforcement for collection purposes is that they automatically have a lien against any real property owned by the Violator in the county. This is not the only property owned by the Violator in this county, so to the extent this property is underwater in the sense that the code enforcement climbs exceed the value of the property, which they do, there is the ability to go after additional properties, not necessarily within the City of Fellsmere, because I don't think there are any other properties in the City of Fellsmere. But any property owned by the individual in Indian River County and there is property owned by this individual.

Manager Mathes stated that it is not necessarily the city's goal to bankrupt the family because most of those costs are daily fines and interest. It does not mean they have to continue to browbeat this guy and the properties he owns; they would have to make a policy decision and when they are happy. At the end of the day, they will have the code resolved; whether they demolish the house or they sell and get refurbished, the code case will be solved and will be no more health and safety issues. But there will be cost in there and they will have to look at all the costs of Jonathan and Warren, and especially the Special Master, to make sure they got enough back to cover those costs.

Attorney Rhodeback stated that is a policy decision by counsel how far you want to take it, there are means of collection that you have available to you.

Council Member Renick asked if the party did not own property in the county that this violation action is being taken but did in a neighboring county can they go after that property in the neighboring county.

Attorney Rhodeback stated that they could the code enforcement lien wouldn't automatically attach to the other county. However, if you are successful in the foreclosure action, you can have that particular judgment recognize or constitute a lien in a neighboring county by simply getting a certified copy and recording it.

Manager Mathes asked if they can also go after personal property like semis and trucks and things of that nature.

Attorney Rhodeback responded that they could, but it is a bit more difficult.

14. NEW BUSINESS:

(a) ORDINANCE NO. 2024-15/ AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE TEXT OF THE CAPITAL IMPROVEMENTS ELEMENT OF THE CITY OF FELLSMERE COMPREHENSIVE PLAN; PROVIDING FOR RATIFICATION; AUTHORITY; COMPREHENSIVE PLAN TEXT MODIFICATION; TRANSMITTAL; SEVERABILITY; CONFLICT AND PROVIDING FOR AN EFFECTIVE DATE. / *1st Reading and Set 2nd Reading and Public Hearing for March 21, 2024 at 7:00 P.M, City Council Chambers, 22 S. Orange St., Fellsmere, FL.*

Mayor Tyson introduced the Ordinance and Attorney Dill read Ordinance No 2024-15, by title only.

Manager Mathes stated that this is our annual Capital Improvement Element update. required by the State of Florida, the City always has to do their last because they are required to reflect in the City's CIP, any work done by any other government agency in our city. Obviously, the county does work in our city, school district does work in our city and the State of Department of Transportation does work in our city. They usually do theirs in December, but they were late this year, so the City was later than normal. Normally, they do this in January or February. And again, it is just basically the City's Capital Improvement Program that was part of the budget presentations many months ago. But not only do they take the first year of that Capital Program and make it part of the City's budget, state law requires just take the whole five-year program and throw it into the City's comp plan to kind of like a public information exercise the state makes the City do. And if you have any questions about our Capital Programs, because we are just running and we are over \$40 million in capital programs. It is just amazing where we are right now in capital program. It has taken a lot of effort by a lot of our staff to make this happen.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Renick to accept 1st Reading and Set 2nd Reading and Public Hearing for March 21, 2024 on Ordinance No. 2024-15.

ALL AYES:

MOTION CARRIED 4-0

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

ALL AYES

MOTION CARRIED 4-0

(b) RESOLUTION NO. 2024-29/ A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE APPLICATION FOR A \$2,916,485.85 LOAN; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Ordinance No 2024-29, by title only.

Manager Mathes stated that about three years ago Mayor Tyson, Council Member Renick and he had their picture taken with Governor DeSantis for a check of \$750,000. That was for this project. This is the sewer extension to Fellsmere farms to address the dip the effluent issues of the shrimp business

district business, has a salt discharge problem, as well as to open up the possibility of the 20-acre commerce park of which an application is pending here to the city. It took us a couple of failed starts of looking for grants before they finally settled on this one as success. And they are now at the very last stages of the paperwork to make this grant fundable. This is a grant slash loan. However, it is one of those things similar to the water meter replacement. He believes close to 80% will end up being forgiven, but they go through the exercise of the full amount and then you get forgiven if you meet the criteria as of the agreement with a 20% cost. They are not allowed to count the \$750,000 towards the 20%, they make that come off the loan amount. The project is 3.6 million, they had to deduct the \$750,000, the City cannot use that to pay the loan payments that has to be used to pay capital. Attorney Dill has drafted a partnership agreement with ????? and it is in their hands to review. But basically, it says if their revenue is not sufficient to cover their operating costs and their loan debt, they will supplement payments to us to cover the loan debt. And they will also perform certain construction projects to provide supplemental water to the sewer system, if the flow is not sufficient to operate correctly with a sewer system, they have to have certain minimum flow or it just starts going bad, They will basically be interjecting well water into the sewer system, if needed until he has enough customers out there to keep that system operating correctly. And so, this, again, is the revolving loan program from the state on the sewer side. Hopefully, they will be bidding on the sewer line to the farm in July.

Council Member Renick asked what the anticipated length of construction is or something like that? Manager Mathes responded that they do not have an estimate construction time but because there are no obstructions out there. It is a straight shot and a lot of issues, he thinks it should be pretty quick, but he does not have the answer.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve Resolution No. 2024-29.

ALL AYES

MOTION CARRIED 5-0

- (c) Award proposal and authorize Mayor to execute contract with Boromei Construction for the Critical Facility Hardening of the Water Plant.

Manager Mathes stated that the city used this grant to harden the police building last year, they were right back to the well, and now hardening the water plant so they are making it stronger to withstand higher winds, hurricanes, so that hopefully will be there after the event. Boromei has done a previous project with the City of Fellsmere. This is a 100% grant for all the construction.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Herrera to award the proposal and authorize Mayor to execute contract with Boromei Construction for the Critical Facility Hardening of the Water Plant

ALL AYES

MOTION CARRIED 4-0

- (d) Approval of the Florida Site Contracting as the lowest responsive bidder and authorize Mayor to sign contract for the New York Ditch Improvements.

Manager Mathes stated that this is replacement for the culverts. They had previously done a bid and got a 1.4 million single bidder and did not like the number and went back to the engineer to look at the project and took a few things out, cleaned up the plans a little bit rebid it and got three bids. Two of them came in at 1.4 million again, and one of them came in, at \$600,000. When we see those disparities, we get a little concerned. The City took a little preemptive strike on the bidder to make sure that he was going to stand by his bid and to send the City a letter saying that they will stand by that bid, and they have sent him the letter. Florida Site Contracting is an underground contractor who does work all across the Treasure Coast, he has seen their name on many construction sites. When you specialize in an area you can deliver at a cheaper price. The City tried to check his references, we have one good reference check from Palm Bay, unfortunately, they did not get a return from the other two. Because this is a short deadline because they city spent so much time

getting here, they do not have a lot of time left. Staff wanted to get it on today's agenda and staff feel comfortable with the bid. He has the he owns the equipment he needs for this job; it is really a straightforward job, you rip out the pipes reprofile the ditch put the pipes back, it is not hard work. Plus, they went with plastic pipe instead of concrete. I am comfortable. However, they did get word today, which is not in their agenda item that the state did give the city \$250,000 more dollars. Because they were concerned the second bids were also going to be high. So instead of having \$800,000 for this project, they now have \$1,050,000. They bid on this project with bid alternates and what hat I am going to recommend is as soon as we get under contract, we are going to begin his discussion on change order number one, which will be finding ways to allocate this extra money that they have. Some of the things we took out, we can now put back in. For example, they took out a lot of the alleyway pipes, Andy would like to have alleyway pipes. There are also some other pipes they did not replace because they were close enough to being okay but now, they can maybe replace those as well. He thinks they can do a much better job with the additional money they have. He recommends that we award the bid to the lowest responsive bidder Florida Site Contracting.

Council Member Renick asked if the CEI services are not included? Manager Mathes responded that they asked if it could be included, and it turned out that City Council has authorized hiring a CEI and they do not have to worry about that anymore. If they were paying a consultant for each job, he would ask for that money back but now he is paying one salary for every grant job for the next three or four years. In the future, though I have directed Laura to keep in mind trying to get reimbursements, even though they are a staff person, some grants will allow reimbursement.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve Florida Site Contracting as the lowest responsive bidder and authorize Mayor to sign contact for the New York Ditch Improvements.

ALL AYES

MOTION CARRIED 4-0

Manager Mathes asked if they could move Item g up next since Mr. Moss was in the audience. Council Agreed.

(g) Authorize purchase of Hadden and Moss Properties in support of 97th Street Flood Mitigation and Paving.

Manager Mathes stated at the last meeting they had a discussion and they committed to bringing it back to City Council with the final details as these purchases go forward so that they can see what is going on.

URA regulations as Attorney Dill, Attorney Rhodeback and he have learned is that this is a complex federal regulation, a lot of moving parts and cross references, and its typical regulations at the federal level, they are not easy to follow. They have concluded though, that these are voluntary acquisition options, they have sent him a letter at the very beginning that says the city will not eminent domain them if the they cannot come to terms. The City put themselves somewhat in a bind. That does not necessarily mean that they got taken advantage of, but it does put us in a bind. Because if the city does not get the property, he cannot do the project, or it has to be substantially revised in a manner that does not really meet its objectives anymore. He does not think either of these property owners have been aggressively greedy in any way, he thinks they've both been looking to try to make sure they are as well off as they were today. And they talked about at the last meeting, They found that with a volunteer acquisition, there is a part of the process called administrative settlement. Whenever they are offering to buy the land, or whenever you are negotiations at a point where the closing price will be higher than the appraised value, which is considered to be the comparable market price, they simply have to justify their reasons for that, put it in record. And so that one, it helps address the arbitrary capricious issues that Attorney Dill was concerned with because now they are setting for specific reasons, for a specific reason that may not apply to other properties. He cannot just ask for 25%, he has to have a specific reason for that in the future. In this particular case, particularly with Mr. Moss, the big issue is the size of his property, he had close to a two acre property, you can't find two acre properties in this area, either live in city on a 75 foot lot, or you live out in the rural area on 5,10 or 20 acres, there are no two acre subdivisions in this area. Now granted, they could aggregate some lots in town, Mr. Moss was used to living in a more of a rural area of the town, more of a dirt area, more of an agricultural area. He elected to go to the five-acre route. So obviously, those are going to cost more than a two-acre

property or an intown property. And the other part was that because they are not involuntary, because of their voluntary purchases, they technically do not get relocation costs, and the city erred in their communication with them earlier that they would be eligible for those relocation costs. And the city did not clarify to them when they first communicated that that is a reimbursement basis, they were assuming it was lump sum as part of their purchase. And they were each planning additional fees to buy down their mortgages to again make them financially more equal. And so, when each of them got the letter, that the portion that was really relocation was reversed, but they both came in and said that is not what they understood. It is not expected. I was planning on that as part of the purchase on so forth. So again, the good news is that no one's asking for more money than they city already budgeted. The city budgeted \$250,000 for Hadden and they budgeted \$550,000 for Moss. Moss is coming in at \$543,750 plus closing costs, which will get us close to the \$550,00. None of them are asking for more money, the City is just redesignating the reasons why they are going over it has nothing to do with relocation costs. It has to do with downpayment assistance, or additional payment to help with the downpayment. And again, the price differential between his land and land that was available on the market. And so will be doing an administrative settlement and the administrative settlement report for our file, they will send that file to the grantor so they can have that as well. That does not mean we are 100% right. We are not the ones who get to make that call. That is the federal government. If they get audited at some point and they say the city made a mistake, the City may have to pay them back whatever differences they say. mistakes the City made. He does not believe they are making mistakes, they have been treated them fair, they are doing what the intent to that law is, the intent of that law is you do not make someone worse off because you are taking their land, even though this was technically a voluntary acquisition. In both of these cases, they did not really want to have a paved road when there used to be on a dead-end Road. This agenda item is to approve the final cost Hayden at \$253,710.50, which includes the closing cost, which is scheduled for tomorrow, and then the Moss, which is not currently scheduled, but at \$543,750 plus closing costs, they do not know those closing costs until they get later on in the purchase process.

He asked for a motion to authorize purchase of Hadden and Moss Properties in support of 97th Street Flood Mitigation and Paving. The purchase of these lands is with ARPA money.
Finance Director Claudia Alvarado confirmed that ARPA money will be used to pay for these land.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to Authorize purchase of Hadden and Moss Properties in support of 97th Street Flood Mitigation and Paving.
ALL AYES **MOTION CARRIED 4-0**

(e) Approval of the True-up Implementation Costs related to the Aclarian ERP System.

Finance Director Claudia Alvarado stated that Aclarian ERP is the City's financial software. There was a total of three phases, phase one and two have been completed and the way the contract was presented to Council was based on an estimated amount. So now that we have completed phase one, and phase two, I have brought the agenda so we can go ahead and pay them what we owe, because it was an estimated amount. This should be the final payment for phase one and phase two. And then there is a note on there that basically the third phase is our utility module. That one is on hold. They currently have that module under R and D So they are unavailable to say if they are going to continue with that module or not. They will be bringing back phase three, if necessary.

Manager Mathes stated that they may find ourselves in a legal dispute. Because the one of the primary reasons we purchased the software was to integrate utility payments with the financial system so they could stop doing manual entries. If they do not get the utility module, they will still be doing manual entries, and why did they spend all this money on something that did not get us the core thing, one of the core things they wanted, which they promised in the contract they would deliver. He is going to be looking at the contract with Claudia and then they will be reaching out to Attorney Dill. And they are going to make a decision on whether or not they feel they have standing to either call some money back because if we can't use theirs, they are going to have to buy something else and create that patch. To spend over \$100,000 and not get what they want is

not acceptable. At this point they are not able to find a solution that is equivalent to what they promised the City.

After an extensive discussion Council decided to withdraw this agenda item.

MOTION by Council Member Renick **SECONDED** by Council Member Herrera to withdraw Agenda item 14(e) from the Agenda.

ALL AYES

MOTION CARRIED 4-0

(f) Discussion on the CR512 widening options and provide direction to staff.

Manager Mathes stated they had a joint meeting with the county regarding the CR512 widening. The City had options and now they need to know which options to select, so he can go to the county and get them to buy off on those same options. And then the City can give direction to their developers to build those roads according to the City's options. He went through a few questions to hopefully get some direction.

Council Member asked if they have all the right of way, they need regardless of which option they choose. Manager Mathes responded that they have all the right way they need for the roadway widening not all the bells and whistles, with one caveat the rural section out by the freeway, the City does not own all that right away. But he is in a positive conversation with Hanson who are good community partners, and he does expect to get that.

Manager Mathes stated that there are three sections that will be discussed the in town, the frontage road section, and the rural section out by the State Park. And they went through each one of the options separately and after an extensive discussion the following options were chosen by the City Council.

1. Small City Section- Council agreed on Exhibit 1 – Standard 3-Lane- Manager Mathes is proposing only a small landscape median, right in the middle maybe 100 feet long. That would leave about 100 feet for turning lanes on two sides. The median will serve a couple purposes, it slows down traffic and it provides an aesthetic and also it provides a nice protected midblock crossing, which is a safer crossing.
2. Frontage Road Section – Council agreed on Exhibit 3 Standard 4-Lane w/ Frontage Road.
3. Rural Section – They really did not have different roads sections. The only difference they had was the location and type of pedestrian and bicycle ways. City Council agreed on Alternate two.
4. Construction Delivery – Manager Mathes stated that he has told both County Commission and City Council at the joint meeting that his goal is to get the developers to do this. He has three developers who are willing to do that for the city. The three developers each will be responsible for their own section of the road. And the City would just have to negotiate as part of their development order. When that road gets widened while they are developing their community or their subdivision. He knows they all want it day one, but he encouraged the City Council that when they get to that point to think about cash flows of developers and try to be reasonable in their request. The other option is to go through the county, which means that they pay the impact fees, and the county then designs and builds the road or through interlocal agreement gives the City the impact fees and the City designs and builds the road. The Third option is going to the MPO and telling them to make the City a priority and that will take many years. City Council agreed on developer funding as their delivery approach.
5. Right-of-Way Acquisition- The City does not own all the right of away for the bells and whistles. The City can always do the bells and whistles later. They have a sidewalk on the south side that allows access in town, they do not have a sidewalk on the north piece. He would probably at least require a sidewalk on the north piece. Again, once they get out to the rural section, he is assuming they are going to get the right of way from Hanson. But in this regard, they really only are talking about whether or not they want to be aggressive in trying to get the right of way for the frontage road. And when for in town, do they want to be aggressive and get the right of

way for the 100 foot that they need for the ultimate section in town. West of Broadway, the City already have that 100 feet that was part of the plat but for some reason, they platted this town different on the west side than they did the east side, the east side of Broadway only has 80 feet, the typical section needs 100, the City probably only has about 25% of the land that they need, they would have to be approaching 75% of the landowners, you're working out deals for right of way acquisition, each of those 10 foot acquisitions would cost 10 to \$20,000 total near \$300,000 to \$400,000 in acquisition cost. They could try to put that on the back of the developer but that would be difficult because there is no obligation they sell. He asked if they want to do it all at once or are they happy with doing it in phases. Council agreed to do it in phases.

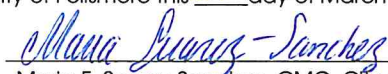
6. Access Management- The proposed full median accesses would be at the following locations, the church, Legacy Landings, which is not going to be a private access, the city has negotiated with them, that they are actually going to build a public road from County Road 512 to 97th Avenue, the transfer station, Mesa Park and at the Treasure Coast Community Health, which is the intersection of the Northern bypass and the Southern bypass. Those mentioned would be the only full median openings, everybody else would have to do right ins and right outs. If this is approved, he would be writing access management regulations to be adopted into the City's Land Development Code, so there would be no question whatsoever about who gets what, where when. The parallel frontage road will run continuously from just before Willow to the northern bypass, which is Treasure Coast Community Health. Council agreed with his recommendation.
7. Section Transitions – Manager Mathes stated that they have had conversations about traffic circles and roundabouts a long time ago, and they did not want them in town. That doesn't mean they have to be roundabouts but do they want to try to identify some feature at each of these locations to help the motorist understand that they are moving into a different environment, they're moving in from a high speed rural to a medium speed suburban with a lot more driveways or curb cuts and turn lanes moving into a slow speed with lots of pedestrians potentially on street parking. Do they want to do more than just the traffic signal at Willow. They can just simply use the signals as transitions or maybe they can do something more. Whether it is landscaping or special signage or different intersection treatment. Mayor Tyson recommended starting with a traffic signal and doing it in phases. Council Member Renick agreed with Mayor Tyson but added that he would like to see signage.

Manager Mathes had no more questions.

15. ADJOURNMENT:

There being no further business Mayor Tyson adjourned the meeting at 8:45p.m.

These minutes were approved by the City Council of the City of Fellsmere this 21 day of March 2024


Maria F. Suarez-Sanchez, CMC, City Clerk
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