

**CITY COUNCIL MEETING
March 21, 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, 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 March 7, 2024.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve the minutes for the City Council Meeting of March 7, 2024

ALL AYES:

MOTION CARRIED 5-0

6. **PUBLIC HEARINGS:**

(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. / *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.

Chief Touchberry stated that it is staff's recommendation for Council to approve the ordinance but prior to doing City Planner Bob Loring will give a brief update on the issue.

City Planner Bob Loring stated this is something the City does every year. It is an exercise that is handed down from the state and goes to the county and the county hands it down to the local municipalities. What this is the Capital Improvement Plan that both the cities and elements of Indian River County do so that it creates an environment where they can find common projects where there might be some synergy so they can leverage monies or projects to get things done. In the agenda packet are pages nine through 12 is the City of Fellsmere's Capital Improvement plan. And what is in there are project stormwater related street related and those are ongoing projects. Some of them which have numbers in front of them are projects that are typically bound by a grant, so they are time sensitive. Other projects are just long-term ongoing projects. And they brought this same item to the Planning and Zoning Board last night and their recommendation was for approval with the caveat that they want a bigger stake in how projects are brought onto and off of the Capital Improvement Plan.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Ordinance 2024-15, hearing no comments he closed the public hearing.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve Ordinance No. 2024-15.
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**

7. 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.

8. MANAGER'S MATTERS: Chief Touchberry continued with his matters.

- **Impact Fee Payment Plans for Small Businesses-** While this impact fee is due all at once, the city has no official agreement with the county and he is considering that the city will pay upfront for the impact fees, and then collect payments from the businesses that are trying to develop. It's a way to promote the growth and development and easier way for the people to do it. That is an idea that Manager Mathes is exploring and wanted to bring this to their attention.

- **July Council Meeting Date (July 4th Conflict)** – City Council agreed to only have one meeting in July. The Council Meeting will be scheduled for July 11th, 2024.

- **Federal Wetland Permitting** — on hold due to federal court injunction.

Attorney Warren Dill stated that two years ago, the State of Florida convinced the Army Corps to allow the State of Florida to do all the wetland permitting. It has been on the books for a number of years and there are a number of organizations that are disappointed with the quality of the state's review of the wetlands, and they feel that the Army Corps did not have jurisdiction or did not have the authority to give their jurisdiction away to a state. That is the lawsuit is pending.

Chief Touchberry added that the city is looking at which projects might be affected, and they are talking with our consultants. And right now, tentatively, perhaps the State Street reservoir might be impacted, and the Preserve bathroom and boardwalks. More will be reported as the learn it, but right now, they just want to make Council to be aware.

- **Additional On-Street parking at Grant Park-** It is a popular park, and they are looking at the feasibility of expanding on street parking, specifically on the east side of west Grant Avenue, and also along State Street. They will explore that a little bit more and come back to City Council.

- **Form 6 due 7/1 — start early!** – Just a reminder for City Council.

- **4/6 Give a Ruck Event at Buffer Preserve-** This is an annual event done by a local veterans group. And they start in the Buffer Preserve, and they cross over the rail trail even though it is currently under construction, there will be no issues there into the Florida Tech obstacle course, from the north side of the rail trail. It is very well attended, and they are looking forward to it.

- **4/6 Fellsmere Day has been cancelled.**

- **Three of seven radar speed signs have been installed (EB Wyoming, SB on N. Myrtle, and SB on S. Broadway)** – He reminded City Council that they had authorized approval to spend ARPA funds on some radar speeds signs. They have now purchased seven of them and so far, three of them have been installed by the Public Works department, East Wyoming, East and Wyoming I should say, from Pine Street to North pine to North Willow, also on North Myrtle as you head southbound. And as you are heading south on South Broadway from kind of on 512. And those signs do collect data and they will be doing monthly downloads of that data so they can see what is going on in those areas.

- **Amending Article V, Sec. 5.3 of Land Development Code to accommodate Food truck operations.**

The state regulates how food trucks operate, but the city now has some concerns with that operation and staff are in the process of amending Article Five, Section five, three, or the land development code to accommodate food truck operations. Some issues are the city wants to know if they are licensed by the state and they want to know if they have permission to operate where they are and they cannot operate as a permanent facility. Once they have a version ready for Council to review, they will bring it to City Council.

- **Community Resource Center update-** They had a Community Resource Center event this week at the Heritage Center. And he just wanted to make Council aware of how that event went. It was a kickoff for a capital fundraising campaign. It was pretty well attended, people came, most of them representing local nonprofit, and community partners that they already worked with, there were some other folks that were in attendance that can help secure money in the future. It served as a way to just publicly kick off the campaign, create awareness, start dialogue, and move this project to the next phase and it was a good event.
- **Council can attend Ethics training in person in Ft. Pierce on 4/19 from 9a-2p or online before 7/1/24.**
- **Chlorination of City water will occur from April 15th through May 15th.** - They will advertise this to the community in a variety of ways, they will make sure they put in a water bill, and they will do something on social media. And we will utilize the sign marquee as well.
- **CDD presentation scheduled for Thursday, April 18th at 6PM**

An updated list of all active capital projects was shared with all Council Members.

- 9. MAYOR'S MATTERS:** (a) Police Department Report – February
 (b) Public Works Department Report – February

Mayor Tyson stated that he attended the Taxpayer's Associations, and they had candidates from the County Commission. He also attended the Council of Local Government in Fort Pierce. And yesterday he and Maria went to Treasure Coast Regional League of Cities in Sewell's Point.

10. COUNCIL MEMBER'S MATTERS:

- Council Member Herrera-** He stated he had no matters.
- Council Member Salgado-** She stated he had no matters.
- Council Member Hernandez –** She stated he had no matters.
- Council Member Renick –** He stated he had no matters.

- 11. CITY ATTORNEY'S MATTERS:** Attorney Dill reminded City Council that at their March 7th Council meeting there was a gentleman named Ian Welsh, he spoke briefly to the council about his need for space for his organization that he called Motivational Edge. He was able to speak with him in regard to the city's nonprofit situation that the city has leased space to in the building where they city already has two entities. He explained to him that the city is required to give them notice if the city intends to use that room or take that room away from them and he seemed to be very understanding. The most significant thing that came out was the for-profit status of his company. The city does not have any profits that they rent to and if they do, they are going to have to start collecting sales tax. He gave a brief summary of what they talked about.
- Chief Touchberry stated that the central question they are asking was can they city use this space for profit what that would mean for the city and they were just waiting for information from the city attorney.
- Attorney Warren Dill confirmed it can be done but for profits would have to pay sales tax, nonprofits do not pay sales tax. And he did confirm that they are a taxable for-profit corporation. This will be the Council's decision.

Mayor Tyson stated that they all will have to think about that.

Attorney Dill had nothing more to add.

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 AND CHAPTER 1. FUTURE LAND USE ELEMENT GOAL FLUE B. FUTURE LAND USE MAP OBJECTIVE FLUE B-5 GARAFALO; 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 the 2nd Reading and Public Hearing for April 18,2024 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 2023-33, by title only.

Attorney Warren Dill clarified that he used the name Garafalo and that is not before City Council, it is the name that was used because this is the name that the city has on their current Comp Plan.

Chief Touchberry stated City Council tasked the developer with reworking some things and they are back here tonight to address any questions or comments. They are looking to increase units from 320 to 332 and to change the mix of units from 152 Townhomes and 168 single-family homes to 150 townhomes and 182 single-family homes. The Amendment also adjusts the boundary of the overlay district along CR512 to include the frontage of this project into the overlay district. City Council was given the development plan, draft development agreement and draft amendment annexation agreement. The goal is to do the first reading and then set for public hearing on April 18th. The developer is present if they have any questions.

City Council member asked if he could give a brief summary of the changes that he made.

Mr. Paladin stated that his engineer was also present, and that he had a PowerPoint presentation that he wanted to share. He stated that the biggest discussion they had last time was that City Council was against 40-foot lots and he eliminated the 40-foot lots, he did go back and redesign it with his engineer. And proceeded to introduce his engineer, Wesley Mills.

Wesley Mills, engineer for the Marian Estates project. He stated that pretty much all the amenities that were presented in the original project still remain within the project. They eliminated all the 40-foot lots. They have 60-foot lots around the entire perimeter and the internal lots are 50-foot lots. They kept the density this same; they are still at 332 units. There was an increase in townhomes from the original plan but gets more in line with the annexation agreement. The current design has 150 townhomes and 182 single family lots, of which 111 are 50-foot single family and 71 are 60-foot. But other than that, the project is the same. One thing that they will incorporate into construction documents is the perimeter of the project along the left side and on top, they going to try to maintain all the existing vegetation and then enhance that to keep that more of a natural look, the buffer along the bottom that abuts the neighboring properties will be a freshly landscaped with new vegetation just because of changes in the connection to the neighboring properties. He stated he was happy to answer any questions.

Mr. Mills asked what are the dates for the public hearings. Attorney Dill confirmed that the Planning and Zoning Public Hearing will be on April 17th and the City Council Public Hearing will be on April 18th.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Herrera to accept 1st Reading and Set 2nd Reading and Public Hearing for April 18,2024 on Ordinance No. 2023-33.

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

(b) RESOLUTION NO. 2024-23/ A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA AUTHORIZING THE EXTENSION OF THE LEASE AGREEMENT FOR CERTAIN CITY OWNED REAL PROPERTY PURSUANT TO SECTION 2-230 OF THE CODE OF ORDINANCES OF THE CITY OF FELLSMERE, FLORIDA, FOR LITERACY SERVICES OF INDIAN RIVER COUNTY, INC.; PROVIDING FOR THE PURPOSE FOR WHICH SUCH REAL PROPERTY WILL BE USED; PROVIDING FOR THE TERM OF THE EXTENSION OF THE LEASE AGREEMENT; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-23, by title only.

Chief Touchberry stated that item b and c are related to the lease spaces Attorney Dill had spoken about earlier. Literacy has been leased for a number of years and that lease is currently expired since September 30,2023. And staff has determined that the current conditions can continue to be extended until September of this year. But the City is increasing their lease rate to \$200 a month as opposed to \$100. Literacy services will occupy one office with one large room and one additional larger will be shared by the Learning Alliance, Inc. At the end of the lease term, the city may choose to reallocate the shared room to another service provider if desired. The tenants know that this is all tentative on other needs in the community. The city has another entity that wants to come in, but they have had no conversation with them and that would be another nonprofit.

Attorney Dill clarified the lease will go from \$150 to \$200 a month.

Mayor Tyson stated that Carol Jean Jordan the Indian River County Tax Collector would also like to have a branch in Fellsmere if the city could find space for her.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve Resolution No. 2024-23.

ALL AYES

MOTION CARRIED 5-0

(c) RESOLUTION NO. 2024-24/ A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA AUTHORIZING THE EXTENSION OF THE LEASE AGREEMENT FOR CERTAIN CITY OWNED REAL PROPERTY PURSUANT TO SECTION 2-230 OF THE CODE OF ORDINANCES OF THE CITY OF FELLSMERE, FLORIDA, FOR THE LEARNING ALLIANCE, INC.; PROVIDING FOR THE PURPOSE FOR WHICH SUCH REAL PROPERTY WILL BE USED; PROVIDING FOR THE TERM OF THE EXTENSION OF THE LEASE AGREEMENT; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-24, by title only.

Chief Touchberry stated he had nothing more to add to this item.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Hernandez **SECONDED** by Council Member Renick to approve Resolution No. 2024-24.

ALL AYES

MOTION CARRIED 5-0

- (d) Authorize Mayor to execute contract with Safebuilt to implement nonexclusive building permit services.

Chief Touchberry stated that the next two items are interrelated. Staff recommends Mayor to execute contract with Safebuilt to implement nonexclusive building permit services. At a previous meeting Council directed to have an in-house Building Official, and he would be introducing him to Council tonight, and converting vendor services to nonexclusive with multiple vendors. The contract replaces the current contract with Safebuilt and turns them into a nonexclusive provider. CAPS was recently approved providing for two nonexclusive vendors to assist the newly hired Building Official. Warren and John drafted the contract. He introduced the new building official Kevin Klepac.

Kevin Klepac stated that he just recently started this week as the new building official and is extremely excited. He shared he grew up in Vero Beach, hunting and fishing growing up and he did 21 years in the Army. And now he is with the City of Fellsmere and really looking forward to it. He is looking at this as a career and not a short-term thing. And he is hoping that he can help make it a lot better place to and to definitely help permitting issues and stuff like that they are having, so they can help streamline that and actually get on a faster track.

Mayor Tyson thanked him for his service.

Chief Touchberry added that Kevin will be shadowing Safebuilt until the contract expires.

Attorney Rhodeback stated that they did not have any legal concern with the contract.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Hernandez **SECONDED** by Council Member Herrera to execute contract with Safebuilt to implement nonexclusive building permit services.

ALL AYES

MOTION CARRIED 5-0

- (e) Authorize Mayor to execute contract with Meritage for Community Core Building Services Software.

Chief Touchberry stated this is interrelated with the previous item. He added that this is the software that is needed to operate with, and staff recommends that the City Council authorizes the Mayor to execute the contract.

Attorney Rhodeback stated that this contract is also fine from a legal perspective.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Hernandez **SECONDED** by Council Member Salgado to execute contract with Meritage for Community Core Building Services Software.

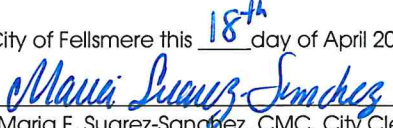
ALL AYES

MOTION CARRIED 5-0

13. ADJOURNMENT:

There being no further business Mayor Tyson adjourned the meeting at 7:46p.m.

These minutes were approved by the City Council of the City of Fellsmere this 18th day of April 2024



Maria F. Suarez-Sanchez, CMC, City Clerk
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