

**CITY COUNCIL MEETING
April 18, 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 21, 2024.

MOTION by Council Member Herrera **SECONDED** by Council Member Renick to approve the minutes for the City Council Meeting of March 21, 2024

ALL AYES:

MOTION CARRIED 5-0

6. **PROCLAMATION: (a)** National Public Safety Telecommunicators Week.

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

Robyn Candarini, Indian River County Sheriff's Office, accepted the proclamation. Indian River County dispatchers were also in the audience.

Ms. Candarini stated that telecommunicators are more than just a calm voice on the other end of the line. They are the vital first link in the emergency response chain, and the protectors of law enforcement and fire rescue. Every year, they mention that there is a bill in Congress to change them from being office administrators to a protective service occupation. And every year they ask if City Council has the opportunity to write senators and congressmen to recommend, they do this that they can help them with that. She invited Council to tour their facility so they can see what they do.

Mayor Tyson stated he has taken the tour and urged the City Council to do the same. He thanked all the dispatchers for all they do. That is tremendous service.

There was a short recess to take a photo. Dispatches thanked Council for the Proclamation.

Attorney Warren Dill recommended City Council to remove item #7(a) because they made some changes in their calculations, which has resulted in the need for us to re-advertise the amendment to the comp plan.

MOTION by Council Member Renick **SECONDED** by Council Member Salgado to amend the agenda to delete items 7(a) do to Marian Estates, changing the acreage of the commercial area from 8.21 acres to 10.34 acres and having to readvertise the caption.

ALL AYES:

MOTION CARRIED 5-0

Manager Mathes stated to City Council and Audience that the Marian Estates public hearing has been rescheduled for May 15 at the Planning and Zoning Commission at 5:05pm, and May 16th for City Council at 7pm.

7. PUBLIC HEARINGS:

(a) *Item 7(a) was removed from the Agenda.*

(b) Declare 1037 Vernon Street as surplus property. /Public Hearing

Manager Mathes stated that he had a request from an heir of the prior owner to seek to purchase this property. And the first thing they do when they want to consider potentially selling a piece of property is to give Council an opportunity to declare its surplus. Staff has no value for this property. This is an individual lot in a residential neighborhood, it is not suitable for anything other than a residential home. The City does not need it for right of way, parks, stormwater, or utilities. From a staff perspective, it would be considered surplus by their means. This is a public hearing to give public an opportunity to comment as well as council to direct this as a surplus property which they would come back then for the required steps to offer it for sale.

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

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to declare 1037 Vernon Street as surplus property.

ALL AYES:

MOTION CARRIED 5-0

8. PUBLIC COMMENTS:

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

Robert Cove, 7750 130th Avenue. – Mr. Cove asked about the video that was currently circulating and speaking about developments in Fellsmere. He commented that it is completely contrary to the aesthetic of this neighborhood.

Manager Mathes stated first of all that development is not in the west part of town. It is almost on State Route 60. Okay, and identify. Secondly, there is actually no application in the City of Fellsmere for that development. It is speculative at best. That developer does not have control of the land, he does not own the land and that article is more than likely a fluff piece to help them get investors. That developer has talked to them, and they have shared their thoughts about that project in that area. If someone were to come to him and offer that project anywhere near the historic part of Fellsmere, he would not agree to it. But 10 miles away on State Route 60, easy access to I95, If you are going to put a facility like that somewhere, that would be the place to put it. You are near the commercial, you are near industrial, you are not really near that much residential. It is pretty much all raw land down here. And there would be no interaction of that development with historic part of Fellsmere because there would be no need to.

Mr. Cove asked about lot sizes and if they are going to maintain five-acre lots over there. Manager Mathes stated that the City of Fellsmere does not have agricultural ranchette lands. If you are in the City of Fellsmere, you are the city, you are usually going to have city-related services and city-related land uses. That does not mean that cannot apply for ranchettes as part of your development. But again, there is no application. If an application were to come in, then he could ask and inform the public about what their proposal is. There is no proposal I have no idea what they are proposing for housing down there.

Mr. Cove asked how many developments are being proposed right now to be built in this in the city limits.

Manager Mathes stated he has two applications, one for Marian Estates and another for a project at the interstate. Those are the only applications the City of Fellsmere has for residential developments.

Marian Estates is west of Myrtle, on the south side of 512 adjacent to Park Lateral, it is about an 80-acre vacant tract of land. They have been in the city since early 2000s, with the rights to develop exactly what they are asking for, while they are tweaking it by 12 units. The City currently has an application for that project, that project was just tabled tonight to a future meeting in May. There will be public comment periods for any major development Fellsmere multiple times through the process.

The issue that the public needs to understand is that there are certain definitions of property rights in Florida. One of them is that when the City gives them a comprehensive plan designation on their land, they have expectations to be able to develop according to that future land use. And all the Villages of Fellsmere, which is the 18,000 acres west of town and all of Corrigan Ranch, which is down there by State Route 60. Have a comprehensive plan designation, that already have certain development allowances that they can expect, not guaranteed, but can expect the only way it can be guaranteed is if they make applications for development. And again, there are no applications for development for residential homes for Fellsmere Farms or Corrigan Ranch.

Mr. Cove asked how about the racetrack community. Manager Mathes stated that is the one that is going by State Route 60. That is the speculum article that they saw on the TV.

Manager Mathes clarified that the public hearings for Marian Estates will be on May 15th and May 16th. Marian Estates is a 332-lot subdivision with 158 townhomes and 180 plus or minus single family. The minimum lot size is 50 feet wide and there are some 60 foot as well. They will have a commercial frontage on CR512, they do not know what the uses are going to be. He is trying to bring it to a neighborhood grocery store. But he needs to come up to a deal with the grocer before he can make that happen. There will also be a fire station, they are replacing the station on North Broadway, the county wants to remove themselves from Broadway and get a bigger spot. The City of Fellsmere worked with that developer to donate the two-acre Fire Station parcel.

Manager Mathes stated that for those that may have seen the articles, it was unfair, they did not say everything. It was a 15-minute interview and obviously, they pick what they want to pick to say to the public. They did not hear you did not get a chance for me to say there are no applications. It is speculative.

Mr. Cove stated that that all of these properties flooded about four months ago. And he does not know what has been done on drainage. Yet he hears about all this development. It is very concerning.

Manager Mathes stated that they need to stay on top of the Fellsmere Water Control District to make sure they do their job because most of the flooding, to his understanding has been whether it is correct or not, has been trying to be attributed to the lack of maintenance of those ditches. They are a public government body, and they also have public meetings. They have agreed to have their meetings in the auditorium and there meeting dates are on their webpage.

Mayor Tyson asked if again 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.

9. **MANAGER'S MATTERS:** Manager Mathes continued with his matters.
- **Traffic Cabinet Wrap - \$500** – The County is offering a program or if we want to decorate our traffic cabinets for \$500, they can even use local/historic pictures. The City only has one at the traffic light on Willow Street. Council Agreed.
 - **Sand Lakes Conservation Area - request to IRC for city ownership-** Manager Mathes asked for permission from City Council to authorize the mayor to pin a letter to the county commissioners requesting transfer of ownership of Sand Lakes to the City of Fellsmere. They did that with the Fellsmere Preserve. The county put in 10% of the money to buy the Fellsmere preserve 86-acre park, the state put in 90%, the county agreed to give the city their 10%. And the City will be just asking for the same thing for Sand Lakes. It has been in the county's ownership and St. John's ownership since 2007 and they have

not done anything with it and the City can do something with it with grants. And the City can open it up to the public and make another amenity for our residents and visitors.

The reason he kept putting this off was because he wanted to time the ownership of this with the commencement of the Corrigan mine, the mine operator for the Corrigan mine has indicated he is going to get started in 2025. And we negotiated a 25 cent per ton or something like that payment to the city for everything they mined, they estimated that would be about \$20,000 a year, then they made the City commit to using that money for environmental purposes. That would be allocated for the preservation and maintenance of this park, as well as our 86 acre Preserve. And they will also likely get ownership of the top 240 acres of Fellsmere 392 because that is all going to be conservation. The City of Fellsmere will have three large conservation tracts. He thinks that \$20,000 a year will help maintain them all. Council agreed.

- **PayScale adjustment for Deputy Clerk/Administrative Assistant & F/T status for Customer Service Rep. and Code Officer.** - One of his duties is not necessarily even during the budget cycle, but according to the SOP to occasionally do reviews of positions, make sure we are paying them fairly. There is one they think should be adjusted for PayScale and a couple of others he wanted to talk to Council about changing to full time status. The Administrative Assistant for the Police Department Miriam Bedolla is currently also training to be deputy clerk and has been recently reassigned as the Planning and Zoning clerk and they have realized she is getting underpaid. She is making about the same as our customer service reps and she has a lot more responsibility and a lot more job requirements. They would like to give her an adjustment and an additional 5%. Maria has the money in her City Clerk budget if it needs to come to that. Council agreed.

Request to make the current part-time Customer Service Rep. to full time. The prior Permit Clerk was a full-time Customer Service Rep and they tried to fill it with a part time position. But they realized they need a full time, but she will be cross trained in building permitting too. When someone calls there will be more than one clerk that can help. And with only a few months left in the fiscal year, I think we can absorb that in our current budget.

They currently have an opening in the Code position. It has been a part-time position for over 15 years but in the last 3 years they have had 4 people. He thinks it is more likely because it is a part time position. They would certainly be requesting as part of the budget to change that to a full-time job. So that they can hopefully get a more long-term position in code. They definitely have the workload, the city has over 300 cases backlogs. There are a lot of code violations in the city, but they are not egregious; those that are egregious the City will continue to push those through as quickly as possible, even if he has to do the work himself. Council can decide if they want to make that change mid-year. The City Council decided to wait until later in the year to make that decision.

- **Old School Windows at \$1M with \$600k budget-** The City is still having issues bringing this budget into budget. They did a bid for a million but they only have a \$600,000 budget. And again, this is to basically go through every window replace the rot, repaint them, weather seal them. But there is so much unknown because you cannot see the rot, so the people are overpricing the job because they do not know what they are getting into. Because our architect price has a fixed fee. He has told the architect stop pricing as a fixed fee and price as a unit price and price it as a per foot of each board. The city is going to try and bid on it as a unit price in the next month. If we do not get it done, then we are going to have to give the grant back. Because the City cannot produce \$400,000 on this project, because every one of their grant projects is going to be over budget and they have to make sure that they pick the projects that are most important for the community if they are spending local dollars. He does not think although certainly it is a good idea to have these windows repaired, it is a little bit extra on a utility bill, because the air inflow, they currently put hurricane shutters up, so it is not a hurricane issue. This would be one he would recommend giving up if they cannot bring it into the budget, or at least close to budget.

Council Agreed.

- **Fellsmere Inn sale/purchase** – He got a call from Fred the owner the Fellsmere Inn and he is tired waiting for the right buyer. He said if the City cannot find somebody that would like to buy it and if the City is not interested in buying it, he is going to put in on the market and is going to be less concerned

about who buys it. He is just, he has been trying to sell it the right way, meaning what is best for the city. But he is at a point in his life where he needs to move on. He would sell to the City for 1.5, which is the same offer he had with the college. He asked City Council if they want staff to look at grant opportunities and partnerships for the City to be involved in buying it, or do they just want staff to beat the bushes as best we can to find somebody privately.

Mayor Tyson stated that he would prefer to find somebody that would be able to run that, so that City does not take on that kind of responsibility.

Manager Mathes agreed but someone could be in that building that would not be the best fit for the City's vision. We do not want to burden the City, but if they were to get involved in some type of partnership, they would have hands off approach. He would like the option to do both.

Council Member Renick stated that he could explore without committing to it. Council Agreed to explore both ideas.

- **Girls Coalition space in City Hall (see reverse)** - Coalition and other nonprofit would like to space and City Hall, these folks are doing some training and education for young ladies. And they are interested in acquiring it because it is more of a classroom setting. We have nobody leasing that room. He figured it is a no brainer to give them the same rate we gave our other nonprofits to start with just \$100 a month. And if they are okay with that, he will continue that process of working up a lease agreement.

Mayor Tyson asked if they have found room for the Tax Collector.

Manager Mathes stated that he has given the new Building Director the task of interviewing all the department directors and staff who want to be involved in understanding what the city space needs are. His initial concept did reserve a room for the tax collector and the Property Appraiser shared room for those two, which I think would fit with them. But first we need to make sure that somebody else in the City does not need that space. They are going to do that over the next month or two. And once they determine that there is space that would be available then they will start a conversation with Carol Jean.

Mayor Tyson stated that would be a tremendous service to our people out here.

Manager Mathes stated that he just wanted them to know that that space would not be available until the FACT Resource Center is built and the tenants the City has downstairs moved to the FACT Resource Center. Because right now the entire basement is leased out between the Frogleg Festival and the two nonprofits. They are hoping the FACT building will be under construction in 2025. It would not be until 2025-2026 before they can bring anyone out.

- **Sewer Workshop request** – He asked Council to set a date for a workshop in May to talk about septic to sewer and getting into the sewer treatment business. I would like to do it at 6:00pm at a non-council meeting so that we do not have the constraint of a one-hour workshop period. Council agreed to reach out to City Clerk Maria with the chosen dates.

- **North South Institute request for partnership food incubator** - A few years ago they help the City organize a major meeting amongst many, many state and federal agencies. They met at the Boys and Girls Club, and they talked a lot about some of the needs in Fellsmere. One of those was food security, which they work on every day with the Treasure Coast Food Bank, with the food refrigerator outside and with all the other things they do in town, for giveaways on food. But they are focused on small farms, like community gardens, or just small farm operations. And so, they are creating a program to help train individuals who want to get into the small farm business, it could be a current owner of five acres in town or just thought about getting into something and they just need a little training and education to help them. And what would happen is they would bring the City grant funding to hire the facilitator slash/educator who would then work with the City for a period of years to do that education throughout the community. He asked Council if he thinks that fits well for the City needs.

Council Member Renick suggested that they do have a county extension office, it is not in Fellsmere but that is a resource that already exists, and it is already funded. They can act as a coordinator who can use the City to coordinate when there is a need. Council agreed.

Mayor Tyson asked how the community gardens are doing.

Manager Mathes stated that the one on Myrtle Street is still going but the garden on Willow is not.

- **SLP Tractor Services status-** This is a business, it is in the county that apparently is operating a business that is not consistent with the county's zoning, and they have had code enforcement they have been made to stop was what code enforcement does. And they have been parking their vehicles over at Operation Hope and trying to operate until they can get their site plan approved. But the problem is, they are not very good at focusing on their site plan. It has been languishing and it is not the City's fault. But they have gotten to the point where Operation Hope has pretty much priced them out of being able to stay there. And they said they understand they have code enforcement, but he has no other choice, I have to get going. And he was told that he cannot get a fence permit until the City gets a site plan. But if you want to go out there and put your landscape in, landscaping is not a big deal. Anything else they do is at their own risk. He just wanted to give City Council a heads up.

Council Member Renick suggested they put barricades up around the trees because they have already gotten underneath those trees. He reminded Council that this is a site plan that has two retail buildings on 512 completely compliant with the City's overlay district. And then a contractor yard in the back. The contractor's yard is the one that requires a special approval, the rest is fully compliant. He is happy with the plan, he just wished they could have their paperwork going quicker.

- **79 S. Orange Demo - floors worth saving -** That is an historic home that's had a code enforcement violations for years, and he recently talked with the owner and she's finally getting around to tearing that building down. asked permission to go in and take a look because we know we have a code that requires a 30-day stay on demolitions of historic buildings where the city inspects it and makes a determination whether they want any part of it or all of it. Per the building official there is no value in that building except maybe the wood floors. It is a lot of work to pull up wood floors and keep them in good condition, they also would have to store them.

Council Member Renick asked if there is any way we can just advertise through the city for somebody else if you want them.

Manager Mathes stated that he would have to work with the owner to see if there is someone out there that might want those.

- **City Clerk Evaluation-** She will be sending out her evaluation form and will put that on the May 16th Council meeting.

- **Citizen Budget Survey released –** This will be the second year this survey has been released; it is going to go into the next water bill. This year, we have enhanced it, they have kept the same questions because he would like to kind of track trends over time. That does not mean they will not change questions over time as things come up. But the questions are still pertinent that are there. But he also added an online survey option. And making both the paper and the online version, both in English and Spanish.

- **Direct Technical Assistance for Flood Resiliency - What** this means is that they are going to give the City some direct technical assistance for flood resiliency. What this means is they are gonna assign us an expert to help us identify our weaknesses, and to help the City identify programs to plug those weaknesses as it comes to flood resiliency. Even though he thinks the City is doing a good job without the experts, why pass away free expert advice. The City is going to continue to work with them and see what kind of advice they can get and what kind of work they can get for free out of somebody.

- **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 –** He added that after the chlorination, we will be no longer on ammonia, we will be on hydrogen peroxide, so our odor and color issues should disappear.

Council Member Salgado stated that she has heard that it is a little too much chlorine and asked if they are adding the same amount.

Utility Director Burges responded that they have added a little bit more because they are changing their treatment after this, they are trying to burn everything out before the started adding peroxide.

Manager Mathes asked if they are adding a little more chlorine is it still all in the allowable regions for safe drinking water.

Utility Director Burges responded that the allowable maximum is 4.0 and it is at 2.8 right now and it is usually at 1.2.

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

- 10. MAYOR'S MATTERS:** (a) Police Department Report – March
(b) Public Works Department Report – March
(c) Development Report
(d) Grants Report

Mayor Tyson stated that he will be attending the Ethics training in Fort Pierce with City Clerk Maria and Vice Mayor Fernando Herrera. He did not have any other meetings; they cancelled the League of Cities meeting.

Manager Mathes shared with the public that item 10(c) is a development report, and this is given to Council once a month and it is usually the second meeting of the month. It is a very detailed report of where every development application is in the process. There are many opportunities for you all to know what is going on.

11. 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 asked if when the city issues a permit for development is there a condition that requires tree protection barricades.

Manager Mathes stated that it is in the code, and that is one of the things that they are going to be doing better at with the new inspector. He stated that it is on the construction plan.

Council Member Renick suggested that he understands it can take more time, but it could probably save a lot of time and frustration, hopefully in the long run is that especially with developments. Before they start that they have a preconstruction meeting out there and those barricades need to be up, and the silt fences and they do not do any work until they have a preconstruction meeting out there and the city signs off. Because otherwise, especially as with some of these new developments, trust me, they are going to get way out of control, and we will be sorry for the results.

12. CITY ATTORNEY'S MATTERS: Attorney Dill stated that Attorney Rhodeback has an updated on the Shrimp Farm code enforcement.

Attorney Rhodeback stated this is in regard to a situation out at the shrimp farm about some saltwater discharge. Long story short, the city was attempting to move forward some code enforcement action against the shrimp farm for the conditions that existed that the tenant at that property promptly filed chapter 11 bankruptcy, they had to seek special counsel in order to get potential relief, or what we call a comfort order from the automatic state to ensure that we don't run violation of federal law for violating the automatic stay. They had a successful ruling by the Southern District Court bankruptcy court, and the City is permitted to proceed forward with the foreclosure action. However, that goes but he did want to bring that to City Council.

Manager Mathes clarified that they are proceeding with the Code Enforcement case not the foreclosure action.

Attorney Rhodeback stated that is correct, and they currently have no lien, and the City actually do not have the right to lien because they are still under Chapter 11 bankruptcy.

Manager Mathes added that the City can proceed with the code case. And the City can lay levy daily fines, they just can't record those fines as a lien until the bankruptcy is discharged or until they're in compliance, then we give the amount owed to the bankruptcy court who would then make that part of

their debt. Attorney Dill was asked to assist in this case because it is a bit more complicated than your standard unpermitted work. And so, he will be coordinating with him on a timeframe for that case, I am sure he is going to need a month or so to prepare or longer. They are also going to involve the state agencies because they are not really doing their job in their opinion, and they are going to see if they can get some better traction out of the state agencies as well.

Code Case on 1004 Lincoln Street - Manager Mathes stated that there is second code case that he needs to talk about with a foreclosure sale scheduled for May 22, 2024. The respondents are in the audience. This case is in regard to 1004 Lincoln Street.

Manager Mathes explains the history of the code case from many years ago related to some unpermitted work. The unpermitted work, unfortunately, was never resolved correctly. The City lost in the original case, City Council were requested to allow them to appeal the original case, they did appeal it, and the City won the appeal. The foreclosure sale has now been scheduled to May 22, 2024. They have between now and May 22, to either stay on the course, or listen to the gentlemen here who are the owners of 1004 Lincoln, as well as a property on 89th Street, to see if there is some way they might be able to keep their homes. They have applied for a permit. The City has rejected the initial application, but they have a course of action to supplement that application to make it permissible. The City expects to issue the permit tomorrow, at the latest Monday, and then do an initial inspection to see if there is any rot behind the siding and then they will have to finish whatever work is needed based on what the permit requirements are. And then do a final inspection.

The problem is, is that it has gone so far down the path. It's not just city council now who gets to say, it still requires us to go back to the court and get the court to change course, there's been a change in that court recently, there's now a new judge in charge, that just doesn't play. He is not sure that they will get additional time. encouraged the applicants to do everything in their power to get this permit closed as quickly as possible, so that we can have a conversation with Council about what their costs are due to the City because it has gone so far down the road. Costs are going to be very large. He discusses legal issues mentioning potential costs and delays in resolving the case. He expressed concern that the case may be dismissed with prejudice, preventing further action. The City's goal is not to take someone's property, it is to be in compliance. We finally have his attention. He is finally paying attention and hopefully doing what is right to being in compliance, it has just taken so long that the City is no longer in control of the ship.

Attorney Rhodeback stated that when a case progresses as far as this one has, their ability to control where it goes diminishes. This is a 2020 case. The City filed the lawsuit in 2020 and they put the lawsuit on hold multiple times because Manager Mathes had tried to work with the residents in order to try to get the code violations rectified. And the City could have proceeded for with the foreclosure in 2020, because nothing had been filed at that time. The City took this to appeal. The fourth district said the City is right. The Fourth District issued a mandate which is the moment the Fourth District says I relinquished jurisdiction trial court you can hear it. That day the judge that is presiding over the case selected May 22, 2024.

The City can request a postponement of that foreclosure sale. But there is a very real chance the judge says absolutely not and there is also a very real chance where the judge gives one or two options. The City either goes forward with the foreclosure sale or they vacate the final judgment and dismiss the case.

His concerns are this case has been on the judge's docket for four years. The other concern is that the property is presently not in compliance. Another issue is that they have a final judgment amount of \$238,503.89. There are attorney's fees of \$14,391.08 and also out of pocket costs that the city has paid for publications, recreation of transcripts, filing fees associated with the court in the amount of \$4,924.38.

Manager Mathes added that the City probably has another \$1,000 in non-attorney costs. There are the Special Master fees and cost. There is the mailing and copy cost that they have incurred in prosecuting the case. So probably close to \$20,000 plus cost alone, that would have to be borne by the respondent in the City's code does not allow those to be reduced. Nor would he recommend it because that is cost out of the City's pocket.

Council Member Renick asked what was the first cost. Attorney Rhodeback the \$238,000 are the daily fines, because this dates back to 2018. He explained the procedure stated that he wants the City Council to be aware of what they are asking him to do.

Resident Pablo Almanza and Pedro Almanza 1004 Lincoln Street- Pablo Almanza explained his view of the way the code case was handled and did agree they had a Special Master Hearing, and they gave him 2 weeks before any fines could be established. They did finish a lot of the stuff; a lot of stuff was just minor trash. The City did want a permit for skirting around the home and then he was told to get a permit for a small piece of rotten wood which he did not get a permit for and still does not have a permit for. He has asked for a permit but has not been given the permit, which is all that he is aware that is active. Manager Mathes agreed that everything has been resolved except for the unpermitted repair.

Pablo Almanza stated that he does not understand where that large amount is coming from if he took care of most of the issues quickly. He wanted to clarify that when the photos were taken there was nobody living at the home. That home is in a poor neighborhood and people would break in and he had no control. The power and water were off, no one should have been living there for many years. He was trying to be complaint and now the City wants to come for two of his properties because of damage to a small wall. If he gets kicked out, he and his family will be homeless. He claimed that he has done an appeal to their appeal with the new judge. And he is now presenting his case again to defend himself. He has spoke to Manager Mathes and said they may be able to get it done but does not know about the timeframe. He does not understand why the city wants to go forward with the foreclosure if they have tried to be in compliance.

Pedro Almanza stated that a few years ago the City has taken one of his properties without him being aware there was an issue. And that is why they told the judge that they have been harassed because the City had previously taken that one property. And now they want to take two more. The City is supposed to help citizens not hurt them.

Pablo Almanza stated that this has been going on for years because for many years he has been going back and forth with the current Manager and the previous Manager and they never got a straight answer on how to resolve the issues.

Pedro Almanza stated that they are hard workers and work seven days a week, he has worked hard for his homes and now they will be taken away because of a piece of skirting. He does not understand how this is happening in the United States.

Pablo Almanza stated that if there are fines, they will pay, and he understands that some fines can be waived. What he does not understand is why they are going for both of his properties.

Attorney Rhodeback stated that the court has determined \$238,533.89 is owed to the city for the accumulation of fines, they have reserved the attorney's fees and costs, which are \$19,325.46, that is in addition to \$238,533. If the attorney has to do an additional response to their appeal, and it is going to be filed, there will be additional attorney's fees.

Manager Mathes added that add that at every communication related to the rotten siding was clear that a permit was required. He does work with residents and does waive certain violations. He cannot waive a project that requires a permit because they chose to do without a permit and that is exactly what they did. They did the work without a permit after every document they received said a permit was needed. And now they are getting a permit, and it was submitted a few days ago and they are going to get one tomorrow that is pretty good service. At the end of the day, I would love this thing to be resolved. He has no need for the person's house, but the City has just lost control of the case because it has gone so far. It is not their decision anymore.

Council Member Renick asked what would the City accept as the final resolution to this case.

Manager Mathes responded to pay the City's cost in full before May 15th and have Council on the 15th waive anything else other than a token civil penalty. Since the costs are going to be so high they would not be asking for 10 or 15% of other costs unless Council wants to do some punitive damage on him to hope to convince him not to do it again. But at a minimum, he would need full payment of all our costs plus some

payment on penalty by May 15. Because he cannot get into a payment plan, because the judge is not going to hold the case for a payment plan.

Council Member Renick asked to clarify the costs.

Manager Mathes stated that he would have to do the analysis and share it with them and Council, but it is probably not less than \$20,000 and not more than \$30,000 which include all his attorney fees, city costs and a little bit to cover daily fines and penalties, which is the City's normal course of action. And it would also include complete compliance and successfully closed out permit by the 15th.

Pablo Almanza said he can work with that number. If the City can honor giving him a permit, he would honor his part and get things resolved, it is in his best interest to do so.

Manager Mathes clarified that the city is not doing any action to stall the foreclosure sale, it is all in the owner's hands to make it happen. If the make it happen by the 15th the City will issue an order of dismissal to the court. If it is not done by the 15th the foreclosure sales are going forward.

Council Member Renick stated that now they know what they need to do.

Pablo Almanza confirmed he will be there tomorrow to get the permit and as long as the City honors that everything else will get done in time.

Council Member Salgado stated that it is not on Manager Mathes it on the City staff.

Council Member Herrera asked if this can be done by May 22nd. Manager Mathes responded that if the owner does his part, he can have a successfully closed permit by the 15th.

Attorney Rhodeback stated that if there is diligence on behalf of the residence to get this rectified, it should be able to get done. He will be able to do the paperwork asking to vacate the final judgment and issue an order dismissal as the settlement has been reached. The only thing that he has concern about is, is there still fighting about stuff that should not be fighting about tonight.

13. NEW BUSINESS:

(a) Abatement Request for 36 South Lime Street Code Enforcement Lien.

Manager Mathes stated this is a standard request. It just so happens this case was compliant a long time ago but just because turnovers and code enforcement officers, the City never pushed for them to pay their final amount due. And now they are selling another property and code enforcement attaches to every property you own. And so now they can't sell the other without paying off this lien, the lien has grown because they haven't paid it and they don't want to waste all that money, so they're asking for a typical abatement. The details were shown to City Council and the total amount in terms of cost is \$1,980.71. The least City Council can go per the City code is the base cost is \$467.53.

He added this was a case related to a new nonresidential project that did not do all the things they were required to do when they first opened up, they forgot to install their Backflow Preventor on their plumbing they had some landscaping that needed to do and some parking improvements. They actually got on a really good they and took care of them pretty quickly, so it was a good case to prosecute it was it was a good relationship. The City just forgot to collect the money due. The respondent was present.

Melina Zamarripa- 100 S. Lime Street – She had nothing to add.

Council Member Salgado suggested cost plus 10%.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve the abatement for cost plus 10%. Total of \$618.85.

ALL AYES

MOTION CARRIED 5-0

(b) Approval of Post Occupancy Agreement for Moss property.

Manager Mathes apologized to Attorney Dill for not sharing with him that he had talked to the owner about staying a little bit after because the city's closing was a week before his closing and so he needed that week to get the new house and then to move into the house. This should have been something that was prepared at closing that was on him for lack of communication. Attorney Dill was very gracious and in getting this out and prepared it as quickly as possible. It has already been signed by the prior owner of the property.

Attorney Dill stated that the City purchased this property last week. Mr. Moss stated at closing that he would be staying there for three months, and he was told that the city now owns it and everything in it. Mr. Moss stated that he has discussed that with Manager Mathes. Attorney Dill then called Manager Mathes and he acknowledged there had been a discussion but not for three months. They promised Attorney Dill that they would be out in two weeks. In these situations, he normally would have had what is called a post-closing occupancy agreement and have them sign it right after closing. He had to put this together and get it over to City Clerk Maria and she had the Moss's family sign the document it is not signed by the Mayor. The purpose of the meeting today is to authorize the Mayor to sign the agreement, this makes it very clear that they are going to indemnify the City if there is anything wrong, they have to carry a one-million-dollar insurance for two weeks. In the agreement they are promising in writing in the context of the contract to be out by 5pm, on or before April 27, 2024, which was approximately two weeks after our closing, but it's time certain date certain to be out of property. If they are not, then the City has legal recourse under this agreement now to go in and get them out of there. In addition to that, he sent each of the council members a letter stating that they are now landlords of two houses. There is a lot of responsibility when you are a landlord. But the city is now responsible for mowing the grass, paying the insurance, keeping the power etc. He did copy the Chief as well with some thoughts that if he thinks the property needs to be posted.

Manager Mathes stated he appreciates the letter, and that Public Works director is on it.

Attorney Dill stated that the purpose of the letter was to give them an overall what happens when you become a landlord. Because they are not usually a landlord, they are usually buying vacant land, and do not have to worry about this.

Council Member Renick asked about the mentioned insurance is that just normal homeowners' insurance, that they have to extend.

Attorney Dill responded that they are supposed to add the city as additional insured to their policy.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Herrera to approve the Post Occupancy Agreement for Moss property.

ALL AYES

MOTION CARRIED 5-0

(c) Approval of Cemetery Cell Tower Lease Agreement and Authorize Mayor to execute Lease Agreement.

Manager Mathes stated that the graphics shown by the City Council were the results of the ground penetrating radar. And they have recommended the lease area be relocated to what is shown in the red square to minimize the anomalies. But their position is they did not want to get into ground

disturbance investigations without site control or something like that. And their recommendation has let us just execute the lease. And then they can do the ground disturbing investigation. If the City were to agree with that, he would highly recommend the lease be revised to include a condition at all work stops if human remains are found and that they would be legally improperly reinterred or revise their plan and avoid it.

Attorney Rhodeback stated that the only thing he wanted to add is that the City made certain demands upon them. And they complied with the demand. Their counteroffer that was discussed in December meeting, the City wants a higher option payment the first year, they need to pay for the attorney costs, and they have to do ground penetrating radar to confirm that there is not a body or bodies. They did comply and they discovered some anomalies. It is normal for them to ask for something more formal. The biggest concern is that when they lock the city into a lease agreement, if they do find dead body what happens then. And that is the hard part, Attorney Dill broached the subject, possibly about a license agreement, which is an as long-term binding as a lease agreement, meaning it would be much easier to pull the plug on such a thing, if something is discovered. The other thing that is a big no go is they wanted to cap attorney fees at what they incurred as of three months ago, and they haven't incurred a lot since maybe 15 20 minutes on reviewing the lease and confirming that these were the only things they changed, but there are going to have to be some decent amount of rewrites, which are going to make the fees go up. He recommends not agreeing to cap on fees.

Council Member Renick asked if they do move forward what are the next steps.

Manager Mathes stated next step is for them to get entitlements from Indian River County.

Council Member Renick asked if they do find something do they have to hire an archaeologist and who is going to do that. And who is going to incur the responsibility and the cost for doing that further exploration?

Manager Mathes stated that he has had that conversation with them, and their response is they will be glad too, but they would like to do it under a signed lease, instead of not a signed lease.

Council Member Renick stated that it is still unclear that if they find something what can they do and how is it supposed to be handled.

Manager Mathes stated that he does not think Attorney Dill practice much in reinterment cases in his life, so it is probably a little bit of education is needed. He confirmed with Council that they would like to bone up the requirements if a body is found, so that they can know what the next step would be. And Council would like to know that before they agree to either enter a lease or even give them a license agreement. Council wants to know, and they should want to know exactly what the requirements are going to be if they find something.

Council Member Renick suggested that professional archaeologists be contacted, they would know how to document it, they understand the laws associated with it, and how to handle the body thereafter.

Manager Mathes asked Attorney Dill if they could draft a letter to the applicant that the City is not willing to sign the lease yet, because they need to address the issues of what happens if they do find something. And since neither of them knows, the City is going to figure that out first and then they will talk about potentially lease or license agreement. Attorney Dill also suggested removing the cap on attorney's fees.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Saigado **SECONDED** by Council Member Herrera to defer action subject to research that City Council has directed to do.

ALL AYES

MOTION CARRIED 5-0

(d) RESOLUTION NO. 2024-38/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 SUBSTANCE ABUSE COUNCIL OF INDIAN RIVER COUNTY, INC. D/B/A SUBSTANCE AWARENESS CENTER OF INDIAN RIVER COUNTY; 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 2024-38, by title only.

Manager Mathes stated that there has been some evolution of this particular lease space. This is actually the upstairs one of the cubicles outside his office, and they are often not there. It is not a full-time occupancy, like the tenant's downstairs. And they have had a conversation just this week with the group that is creating these free legal justice service centers throughout the County. They have one at the courthouse got one at the center. They are trying to expand one branch out to Fellsmere. They also need a desk space. They also will not be there full time, and he would like to revise this lease and maybe do not act on it at this time to make it very clear in there that they were going to be sharing that space with another nonprofit. And let those two nonprofits coordinate together about the times they are at the desk. The City has a lot of interest for nonprofits in Fellsmere and they do not have a lot of space and so every time the City can share a space, he thinks it is best for the residents and community. He would like to reach out to the Substance Abuse, give them a heads up, and maybe even reduce their rent to \$50 a month since the other entity will also be paying \$50. The City will still get the same lease rate for that space, but they will just have to share it and coordinate with the other body. He would like to table this item until the next meeting and bring it back with those revisions.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to table Resolution No. 2024-38 to the next City Council Meeting on May 2nd, 2024, at 7:00pm.

ALL AYES

MOTION CARRIED 5-0

Mayor Tyson recessed the meeting for a restroom break at 8:52pm.

Mayor Tyson reconvened the meeting at 8:57pm.

(e) Approval of Change Order #2 to Work Order #4 with Culpepper & Terpening to provide for additional survey work for the Rail Trail from Broadway to the State Park Preserve

Manager Mathes stated that this is the Rail Trail grant from the state park to Broadway. It is expected to be under construction in early 2025. As part of the design, environmentalists found a couple of wetlands which in his opinion, are from the existing ditch that ran along there, but because nobody maintained that ditch for 100 years, it is now considered a wetland.

And since they were not expecting any wetlands, because it's not a wetland that looks like one, especially in the dry season, they didn't put any wetlands surveying in the contract, they didn't expect it to be there, obviously him serving the wetland is an additional service, he should be justified, as well as the permit work to impact that wetland. They are going to try and avoid it the best they can but there might be some impacts anyway. The City was also asked by the state grantor because they do not have the staff to review the City's ownership documents. The State has ask to give them an exhibit that spells out without any question whatsoever that the City owns the land. He has to unfortunately spend money with a consultant preparing a survey exhibit with sketches and descriptions of the land. And those are two items with regards to this agenda request the location to mapping and then the additional surveying and exhibits for the proper ownership

documents.

Mayor Tyson stated that for future reference he thinks it is best to go ahead and do the survey because we are not going to live forever.

Council Member Renick stated that he may want to tell the consultant that if that ditch was cut through upland soils, it is not a wetland a surface water. The upland soil map can tell them if they are upland soils or not.

Manager Mathes stated that it was cut throughout from soils, but the problem is they have no proof. He will reach out to the consultant.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve Change Order #2 to Work Order #4 with Culpepper & Terpening.

ALL AYES

MOTION CARRIED 5-0

(f) Approval of Employment Contract for Public Works Engineering Inspector.

Manager Mathes stated that the City does not usually do employment contracts except for their charter officers. However, the City do not usually hire people for short duration, the City usually hire their permanent employees until they move on. They felt it is best to start with this construction Engineering Inspector, though as a set three-year term, just in case grants dry up just in case the capital program dries up and it is not justified anymore, and the City can let them go. He is hoping that is not the case. He is hoping that during that timeframe, the City's revenues will grow so that they can continue the robust capital program even without grant funds or with a reduced amount of grant funds in the future. But still just to give the City the flexibility, the protection. It is easier to have a contract than just to let somebody go.

This is a full-time position, he will be outside his office next to Laura, the Grant Administrator because she is managing a lot of projects. He will also be doing private inspections for development, as well. He may even help out with some code, and they will just try their best to keep him busy. They should be starting a notice to proceed on New York Ditch soon.

His starting salary will be \$63,000.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Salgado to approve Employment Contract for Public Works Engineering Inspector.

ALL AYES

MOTION CARRIED 5-0

(g) Discussion to provide direction for code changes to regulate mobile food trucks in Fellsmere.

Manager Mathes stated that for the longest time, Fellsmere did not allow food trucks. About 10 years ago, the City decided to try a food truck as a transition to a permanent kitchen for Yolanda at 81 North Broadway, she was never able to successfully do the transition to a kitchen. But during that timeframe, the City started approving other permanent applications of food trucks, and then all of a sudden the state adopts a law that says they can no longer outlawed food trucks in the City's jurisdiction. They are not meaning the permanent food trucks; they are meaning the ones that come and go. And he shared a copy of the state law as part of the agenda. And it is very clear that it is for takeout and delivery meals only. So, when you are a purely mobile food truck, you do not have tables and chairs, they are to come and go. The City has had a slew of food trucks show up in the city because of that. And since the City has not had rules, the City has not been able to really control it. I did not want to start saying no or providing directions when he had no legal authority to do that. The only thing the City has really

been focusing on is traffic safety if they park in the wrong spot. And they have had a couple of them have asked to move. Obviously, the City does want to make sure that they do have permission from the property owner. Council and the community probably want to do more, and they have always talked about bringing some regulations. Council had also talked about wanting to go back and visit the regulations for permanent food trucks as well. The permanent food truck are not up for discussion tonight but he will give a quick update on them. With permanent food trucks it is currently a 500-foot spacing, Council has asked to go more, and they are going to be recommending a 1500 foot spacing on the permanent food trucks. And those that are already there will specifically have language that if you were previously permitted, you would be legal conforming.

Manager Mathes stated that they will be going over the mobile food trucks if there should be regulations, spacing requirements, signage requirements, type of food, if alcohol can be sold, etc. Planner

Planner Robert Loring gave a brief summary of what was discussed at Planning and Zoning. He stated that there was no direct recommendation to City Council. However, items that the Planning and Zoning members did discuss had a general consensus and were as follows.

1. Food trucks must operate truly as mobile unless they go through the site plan process already in place.
2. To allow for city staff and police to easily verify that food truck has a state license.
3. A provision that allows city staff or police to verify that food truck operators have insurance for the operation of the food dispensing vehicle.
4. The ability for police to easily enforce traffic laws. If a food truck location poses a nuisance or safety hazard to the surrounding community.
5. Protect brick and mortar businesses as much as possible but allow for larger parcels that have vast overages of parking to have the ability to have multiple trucks on site i.e., Operation Hope has a vast amounts of parking areas that could accommodate more than one food truck.
6. Planning and Zoning members discussed the possibility of a common food truck location at a community event.
7. Existing restaurant owners should have the ability to review the food truck ordinance and make recommendations for P&Z and City Council.
8. No food trucks on city owned property unless it is marked as a Special Event.

The following items were discussed on the mobile food vending units as accessory use.

1. Mobile food vending unit as an accessory use shall only be allowed within the following zoning districts: C-1, C-2, RPO, I, PIN, and PDD and must be located on a developed property.
2. To qualify as an accessory use, the mobile food vending unit must not park overnight at the developed commercial property and may only be open for business at the same times as the business located on the developed commercial property.
3. Shall require certificate of zoning as set forth in Section 17.21.A of the Land Development Code prior to operation. This is not a permit or registration but review for compliance with these rules.
4. The following conditions shall be demonstrated to the City of Fellsmere to receive a certificate of zoning for mobile food vending units operated as accessory uses:
 - a. Shall not be located closer than 1,500 feet from another accessory or principal mobile food vending unit.
 - b. No signage beyond that which may appear on the mobile food vending unit except for one (1) A-frame sign located on the same property as the mobile food vending unit. The big flags will not be allowed.
 - c. Parking requirements shall be five spaces for each separate mobile food vending unit placed on the property in addition to the required parking for all other permitted uses on the site. Location of mobile food vending unit may not result in the loss of parking below the code required minimum parking unless otherwise approved by the City Manager.
 - d. The location of the mobile food vending unit shall not block any ingress/egress, building entrance or emergency exits or conflict with required fire access, intersection site distance requirements, or required access for the principal use or be within a public or private road

- right-of-way or easement.
- e. Shall operate only during business hours of the principal business located on the property.
 - f. No outdoor seating is allowed. Food and beverages for sale are for take-away service only.
 - g. No temporary or permanent furniture or improvements on site shall be allowed in support of the mobile food vending unit except for temporary trash/recycling receptacles.
 - h. No alcohol shall be sold.
 - i. Permission from property owner to locate on site.
 - j. Proof of licensing by the State.
 - k. When operating on city-owned land, a mobile food vendor must maintain insurance as required by the City and naming the City of Fellsmere as additional insured.

Manager Mathes stated that the Planning and Zoning Board encouraged City Council not to allow them on city lands, but he personally does not see a problem with it and Council will need to provide direction. He stated that he always likes to present these things to City Council in a non-binding way for their input before a public hearings. There were some members in the audience who are food truck operators, who wanted to share some thoughts.

Mayor Tyson asked if anyone in the audience wanted to speak on this matter.

Mike Russano – The Watering Hole – 36 N. Myrtle St., Fellsmere

He asked what the fees would be because the state statute says that any municipality, county, or city cannot incur fees on a mobile food dispenser.

Manager Mathes stated that they would be quite minor if they start as low as \$25 and the independent zoning certificate is \$75. He clarified that the government may not require a separate license, registration or permit or require the payment of a license registration or permit. The City is not charging for a license, registration or for a permit, the City will be charging to review for compliance against the City zoning code.

Mr. Russano wanted clarification on moving the food truck once every thirty days.

Manager Mathes stated that may be a state requirement, but they let the zoning to City. And because they left zoning to the City, the City gets to decide that locally. And it is up to City Council if they want to be as lenient as the state would be on that 30 days. And they are asking that it comes with the business for a mobile unit.

Mr. Russano asked is it only the permanent food trucks that cannot be within 1500 feet of a brick-and-mortar restaurant or is it two brick and mortar restaurants as well. What is the difference if they are making it a permanent food truck.

Manager Mathes responded that two brick and mortar restaurants can be next to each other. The zoning will really be up to City Council to make that decision. Some of it comes from the mantra of brick and mortar is a much bigger investment than a food truck and maybe some of that comes into the mindset.

Mr. Russano in his case, they can have a really bad property owner, that you do not want to invest in the property that is not yours. So, to take that money and put it in a mobile food truck to give you the chance to have the kitchen that you need, which is not anywhere near there. We are fine with doing any rules that you imply we just don't like the back and forth of all the different entities. Their bar is inspected by the Department of Health, our food trucks are inspected by Department of State, each department has different rules and different regulations that we have to abide by. And then the city comes in and has their rules and regulations. So as long as everybody has all three inspections with all three codes, he is perfectly fine with all that but if they contradict along the lines is where it gets kind of blurry.

Attorney Rhodeback stated there is no contradiction, these are land use planning issues. There have been certain regulations preempted by the state but when it comes to where you are allowed to put your food truck, how close you can be, what hours you can operate, that would be like any other business.

Mr. Russano asked if they want to become a permanent, who needs to do your site plan.

Manager Mathes responded that they will need permission from the property owner to process the site plan and as soon as they have that permission, they are pretty much in control of that process. The property owner will need to sign the City's authorization letter form.

Manager Mathes asked if he had any suggestions or modifications or concerns with the regulations mentioned.

Mr. Russano stated not necessarily an issue but when they close later at night it is pretty hectic closing the food truck it can take up to two hours after closing to shut down to just come back the following morning and nobody has seen that they have left.

Manager Mathes stated that a permanent food truck will be treated as a brick and mortar and will not have to move.

Karen Severino – 233 S. Elm St. Fellsmere –

She thinks it is a little too much to say that only an "A" sign be allowed. She suggested not to allow too many and also not allow City property.

Manager Mathes responded that they do not allow flags in the City already. The ones that you see in the city are illegal and not proper. The City already does not allow flags. The only time the City allows flags is if it is a special events, so like if you first move your food truck to a site, there's an allowance for up to 14 days of a grand opening. It has been a problem in the City, and they are waiting to get the Code office to take care of the problem.

Ms. Severino asked what would be the reason to make the business hours open only when the primary businesses open.

Manager Mathes responded if the City does not have an hour limitation the food trucks could be selling goods at three in the morning. There are hours on business and bars it would be the same and it is not uncommon to put hours on certain businesses.

Ms. Severino stated that she hopes the hours are reasonable because she personally operates out of Operation Hope, Grandpa's Tacos, and she does not know specifically what their hours are, and they operate till 8:30pm. She agreed to having set hours and would prefer 9am to 9pm. She operates 3 days a week and comes and goes is it ok for her to come and go to the same spot. Manager Mathes confirmed that is ok.

Ms. Severino asked if they could have a 10 by 10 canopy. Manager Mathes stated they cannot, because once you start doing canopies, they have to be fire retardant. They have to be anchored and they have to be inspected by the fire official. That is what is supposed to happen with canopies.

Ms. Severino stated that she previously called the DBPR and asked them if liability insurance was required and was told no. Manager Mathes stated that was just brought up at the Planning and Zoning board last night and he will do some research on that.

Attorney Rhodeback added that there is nothing that he could find that precludes local government requirements for insurance if you are concerned about liability. Manager Mathes cannot speak on why Planning and Zoning asked for it, but they can get sick at a brick-and-mortar restaurant just like you can get a food truck, so he thinks it is the same.

He encouraged them to stay tuned for future agendas as this item will come back in the future. Tonight, this was on the agenda just as a discussion.

Jonathan Cortez – 204 S. Oleander St., Fellsmere– He asked if he could get a copy of the rules and guidelines. Manager Mathe took his email and will be sending him the requested information.

Attorney Rhodeback added that there is a city website and under agendas they can find all

agendas and supporting documents online.

Mr. Cortez asked when do they think these new regulation will take effect. Manager Mathes stated that probably before summer is over.

Manager Mathes asked if there is any direction from Council.

Council Member Salgado stated that she feels like the A frame sign is too small. Manager Mathes stated that is not a small sign, it is almost three-square feet, four feet tall and it can have signs on both sides. Plus, they usually have signage on their vehicle as well. He wanted Council to keep in mind because this will be an additional signage from what is on the principal business. And there is always going to be sign on the principal business too.

Council Member Salgado liked the idea of the set hours. Manager Mathes stated that could be workable as a as a compromise because there are some businesses that do close early, and he would not be opposed at a staff level.

Attorney Rhodeback stated that he does not' want to overstep on policy, but if it truly an accessory use, are there going to be any limitations on how many days, or these businesses can operate as if they are doing this 365 days?

Manager Mathes stated that private agreements would always trump and that is something that the City would probably require, in the authorization letter from the owner, any conditions they have imposed. The authorization letter and if the business is providing any conditions in them being there that needs to be in that letter.

Attorney Rhodeback asked since we are requiring permission from property owner to locate on site, do you think we should amend that the written permission. Council Agreed.

Attorney Dill stated that he would prepare a draft.

Being no further discussion Mayor Tyson proceeded with the next item.

(h) Discussion to provide direction on required action for outstanding code enforcement cases.

Manager Mathes requested this discussion at the next meeting for the sake of time.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Mayor Herrera to remove Item 13 (h) from the agenda.

ALL AYES

MOTION CARRIED 5-0

(i) Approval of ARPA Amendment.

Manager Mathes stated that this is the normal quarterly update. They updated the spent to numbers, they increased a little bit on the 97th parcel purchase because they have one more full parcel purchase on 97th. It should not cost the City more than \$50,000. They go rid of some old school A/C's, they are just not going to get to it in time. Again, they have to have these under contract by end of the year. They are going to delete the heavy equipment trailer because it is not needed at this time. And put a little bit of savings in the Broadway Alley just because they think that inflation is going to make that cost a little more than what they have estimated at this time. And Item J deals with Kentucky and Senior League purchases and they want to add those \$3,000 into ARPA to pay for those purchases. They used the 512 left turn lane is kind of like a balance to balance the ARPA funds and they always have infrastructure to make up the difference. They did their first allocation of staff costs to ARPA. And that was from October 1 through March 31. And they only covered salary, they did not cover retirement contributions because that is not allowed and that was \$832,000. The spent to has gone up. He did want to reinforce the Council just because they have used their power to pay for staff. They are not pulling that money out of the ARPA list, because

all that did was free up that same amount of general fund. They are still going to use that general fund that has been freed up for these ARPA projects. It is just spending the ARPA quicker, so they do not get caught with that deadline of December.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve the ARPA Amendment.

ALL AYES

MOTION CARRIED 5-0

- (j) **RESOLUTION NO. 2024-39/A** RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AUTHORIZING THE PURCHASE OF LAND LOCATED AT AND INCLUDED WITHIN THE SENIOR LEAGUE FIELD FROM THE STATE OF FLORIDA, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF STATE LANDS, FOR A COST OF \$1,500.00 PURSUANT TO THE CONTRACT ATTACHED HERETO AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT; PROVIDING FOR RATIFICATION; PROVIDING FOR APPROVAL OF CONTRACT; AUTHORIZATION; AND PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-39, by title only.

Attorney Warren Dill stated This is a fantastic deal that the City got and may not seem like it, but he has actually been working with this lady named Miss Parks for two years only on the Senior League Field and Manager Mathes has been dealing with them on the Kentucky Greenway. Miss Parks from the State of Florida has been very, she has been very professional, very nice. The City got a phenomenal deal.

Manager Mathes stated that the City is buying more than half of the Senior League Field for \$1500. Attorney Dill stated this will make life a lot simpler for staff when they go for grants now that the City will have ownership. And the City will now have a clean title from the State for the Senior League Field and the Kentucky Greenway.

Manager Mathes stated that this just makes the stormwater project much more valuable to reducing flood and increasing water quality because now the City has more areas to put water to settle and to keep it out of people's front yards. We will be getting some 90% of the plans in a couple of weeks on this project. They should be getting 90% of the plans in a couple of weeks on this project. He thinks it is going to be a great addition; they are only going to be able to do the stormwater component now. But they will come back with a recreation grant to put in trails and all that great stuff. And it will be a nice walking path for the residents to really exercise and enjoy a different view while they are doing that.

Mayor Tyson asked if that was going to be water. Manager Mathes responded that the will abandon the right away for roadways, expand that ditch, which currently is 30 feet wide and that ditch is now going to be 60 feet wide, where these lots are at that much more wider. And they will be putting a weir, which is a control structure to hold the water back at certain locations so that they can create what looks like a nice little pond or a lake and have a little water fountain, have some benches, have a trail going along the edge. The trail is going to be on the north side because they cannot put on the south side because that is where the current ditches at, they just do not have room. The trail will meander along the north side and then the rest will be a water control feature.

Council Member Renick stated that he has walked that many a times and a lot of culvert pipes that drain into that ditch that are going to be potentially below the water elevation, that he thinks he is envisioning in that in that canal. And that means that that's not gonna allow those properties to drain. Manager Mathes responded that they are going to actually not be able to hold the water up that much even though it is going to look like a water body cannot make it that deep, but they will take a look at it when it comes in. That was the last thing they were trying to do is figure out how much water they can hold back. And that is really a question for the Fellsmere Water Control District.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Salgado to approve Resolution No. 2024-39 subject to City Attorney's final blessing.

ALL AYES

MOTION CARRIED 5-0

RESOLUTION NO. 2024-40/A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AUTHORIZING THE PURCHASE OF LAND LOCATED ALONG KENTUCKY AVENUE FOR THE KENTUCKY GREENWAY STORMWATER PROJECT FROM THE STATE OF FLORIDA, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF STATE LANDS, FOR A COST OF \$1,500.00 PURSUANT TO THE CONTRACT ATTACHED HERETO AND AUTHORIZING THE MAYOR TO SIGN THE CONTRACT; PROVIDING FOR RATIFICATION; PROVIDING FOR APPROVAL OF CONTRACT; AUTHORIZATION; AND PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-40, by title only.

Manager Mathes stated he has nothing more to add.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Salgado to approve Resolution No. 2024-40 subject to City Attorney's final blessing.

ALL AYES

MOTION CARRIED 5-0

(k) Award proposal and authorize Mayor to execute contract with Holler Construction, Inc. for the Senior League Park Concession Stand Renovation.

Manager Mathes stated that this is the long-awaited Senior League Park concession stand and reconstruction. And after this, we will roll into other components of the park. They are waiting for determination of whether they got the grant award. If not, they will do what they can locally, but they are going to wait till the grant award and at the end of this budget session.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to execute contract with Holler Construction, Inc.

ALL AYES

MOTION CARRIED 5-0

Council Member Renick asked Manager Mathes on the status of the Fellsmere Water Control District.

Manager Mathes responded that they basically came back to him said they do not believe a joint meetings is required anymore because they have started doing their meetings in the auditorium and they have already started doing the deferred maintenance that everyone is asking for them to do. They think a joint meeting is really not going to be productive. They have asked the City to reserve the auditorium for their future meetings to accommodate them.

14. ADJOURNMENT:

There being no further business Mayor Tyson adjourned the meeting at 9:54p.m.

These minutes were approved by the City Council of the City of Fellsmere this 2nd day of May 2024



Maria F. Suarez-Sanchez, CMC, City Clerk
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