

**CITY COUNCIL MEETING
June 6, 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, City Manager Mathes, Attorney Dill and Mayor Tyson
ABSENT:
ALSO, PRESENT: Utility Director Kevin Burge, Public Works Director Andy Shelton, Building Director Kevin Klopec, Grant Administrator Laura Hammer, Finance Director Claudia Alvarado, and Police Chief Touchberry.
- 3. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
- 4. **INVOCATION:** Mayor Tyson gave the Invocation.

Mayor Tyson has asked City Clerk Maria to change future agendas to do the invocation first and then the Pledge of Allegiance.

- 5. **APPROVAL OF MINUTES:(a)** City Council Meeting of May 16, 2024.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve the minutes for the City Council Meeting May 16, 2024

ALL AYES:

MOTION CARRIED 4-0

- 6. **PROCLAMATION: (a)** Call for Special Election

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

Attorney Dill stated that a Council Member has resigned and that this is the first step in the process, and they will be working with the Supervisor of Elections for an election.

- 7. **PUBLIC HEARINGS:**

(a) ORDINANCE NO. 2024-20/AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP SERIES AS REQUESTED BY MARIAN ESTATES; AMENDING THE TEXT OF THE COMPREHENSIVE PLAN CHAPTER 1. FUTURE LAND USE ELEMENT, GOAL FLUE A. LAND USE OBJECTIVE FLUE A-3 INFILL DEVELOPMENT AND REDEVELOPMEN, POLICY FLUE A-3.2. OVERLAY DISTRICT BOUNDARIES ANDCHAPTER 1. FUTURE LAND USE ELEMENT GOAL FLUE B, FUTURE LAND USE MAP OBJECTIVE FLUE B-5 GARAFOLO; FURTHER AMENDING THE FUTURE LAND USE MAP TO ADD 10.34 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./ *2nd Reading and 1st Public Hearing for June 6, 2024 at 7:00pm.*

Mayor Tyson introduced the Ordinance and Attorney Perez, read Ordinance No. 2024-20 by title only.

Manager Mathes stated that they have had multiple conversations with this over the past few months. It took them multiple times to get through the first reading. As a result of those attempts, the applicant was directed to go back and revise the site plan. He is eliminated the 40-foot lots. This is just the first of many steps. This is not a final approval. There are still opportunities, although, as I encourage you, in the past, we would not want to take them down the wrong path. Moving this forward, hopefully, would be a consistent approach of council going forward, assuming nothing else changes. Again, it is your

prerogative of council majority to decide in the future whether this continues. It will go up to the state for 30 days, come back to us for final adoption at that time. He asked for additional 12 units and that is what this does to address the number of units. And it also brings in the commercial opponent, into the overlay district. I felt being so close to Myrtle, which is the end of the City overlay and almost like an extension of the Old Town, it made sense to include that in the old town district. He recommended that in the future, that if there is any further development west of park lateral, which would be a different district. This is just transmitting it, if it is approved tonight, to the State of Florida, it is not a final action.

Council Member Salgado asked about phases.

Manager Mathes stated that the only phasing they will be on this project is the fire station will go at its own pleasure through Indian River County. Commercial will be a second phase, because he does not have an end user yet. All of the residential will be a single phase. They really treat phases on residential not by the buildings, but by the infrastructure. He plans to build all the infrastructure, the roads, the water, the sewer, the storm water, the landscape buffers to support all of the residential as a first phase.

Council Member Salgado asked when will they be doing the turn lane.

Manager Mathes responded that is going to come back as part of one of Council's future approvals that will be in the development agreement and preliminary development plan approval. Right now, they have negotiated at the staff level not the Council that no later than the 200th residential unit, so a little more than half of the project before the road is done. He will have to start it at the 100th no later than the 100th permit and finish it by no later than the 200th permit. And the reason being, he's spending the first profits of the 100 lots to help pay for the cost of this, because the impact fee reimbursements that he will get, they come after the permits issued, so he has to upfront the money and then get paid back as the houses come online, and so prior to the first 100, he's also paying for his on-site infrastructure. He has also submitted a traffic statement at this point that shows no concurrency problems. The city is still working with the county to see if there is an issue that might occur prior to the 200th permit.

Council Member Salgado stated that she would like to see that sooner than later.

Manager Mathes stated that it would be nice and fair to the applicant if they have a joint decision that they need to work out a concurrency and concurrency is dealt with for transportation on a peak-hour basis, not a daily basis. They will keep pushing the county for the response on the on this traffic statement, and we will get back to you at an appropriate time of that and we will continue that conversation.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Ordinance 2024-20 to come to the podium and state their name and address for the record,

Eric Boissat – 144 N. Cypress St., Fellsmere – Expressed caution when dealing with newcomers, and to be cautious and mindful when they are making decisions.

Mayor Tyson stated that this Council does have the capability and a very capable staff that can look for all the pitfalls and also be on the lookout for scams. They are smart enough to be able to work around, but also work with these people when they come in. Several years ago, with the help of Rochelle the City established the Community Redevelopment District and made several adjustments to what they originally thought it should be and got it set up so that everybody was happy, so that they cannot come in and build big skyscrapers or things that are that just does not fit with the ambiance of Fellsmere has always been. With that in mind, and unless we get a city council in the future that will change all that, then he thinks they are safe in that respect.

Manager Mathes added that developers and commercial properties are not protected from code enforcement foreclosure. The developers do not promise anything they are legally obligated, and if they choose not to go that way, the city can foreclose on their property. It is not a promise, it is a legal commitment.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Ordinance 2024-20 to come to the podium and state their name and address for the record, hearing no more comments he closed the public hearing.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve Ordinance 2024-20.

ALL AYES

MOTION CARRIED. 4-0

ROLL CALL: AYES: Council Member Herrera, Council Member Salgado, Council Member Hernandez, and Mayor Tyson **NAYS:** none.

ALL AYES

MOTION CARRIED. 4-0

City Council recessed and reconvened as the Board of Adjustments

(b) RESOLUTION NO. 2024-30/ A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, GRANTING A VARIANCE FOR LOT AREA, LOT DEPTH, FRONT SETBACK, AND SIDEWALK CONSTRUCTION REQUIREMENT ALONG NORTH WILLOW STREET, ALL FOR THE PROPERTY OWNED BY ANTHONY B. BROWN, SR. LOCATED AT 1005 VERNON STREET; PROVIDING FOR RATIFICATION; FINDINGS REQUIRED; APPROVAL OF VARIANCES; CONDITIONS OF APPROVAL; REPEAL OF CONFLICTING PROVISIONS; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE./ *1st Reading and Public Hearing for June 6, 2024 at 7:00pm.*

Chairman Tyson introduced the Resolution and Attorney Dill, read Resolution No. 2024-30 by title only.

City Planner Robert Loring this is a final development plan for a food truck. This particular site is located on the corner of Willow and Vernon Street. Historically, this is a residential neighborhood, but had commercial components in it. This is a continuation of those kind of uses. This particular property is less than a quarter acre in size because of the configuration of the proposed final development plan, the applicant is requesting relief from three items specifically, and that would be the lot depth from 100 foot minimum to 80 feet. The lot area from 12,000 square foot minimum to 8712 square feet. And finally, because of the location of the proposed food truck, there would be a front setback relief from 35 feet to 14 feet. And also, deference from the sidewalk being constructed along the east right away at Willow street. It is just a single loaded driveway on Vernon Street to five parking spaces, one of which is a handicap parking space with an ADA compliant walk to the food truck. And then at some point in time, the temporary seating area will turn into a permanent seating area. The perimeter will have a dry retention pond, and the site plan itself has landscaped areas designated along the front, the sides and rear of the property.

Manager Mathes added the discussion with the city attorney and him and Bob about how to proceed on this they were choosing between any planned development, conditional use versus variance. They decided that conditional uses will no longer be used if variances are needed, they will then decide to go to either a PD or variances. Attorney Dill felt this met the variance requirements of the city code. They are not self-imposed, because, for some reason, in the past, the city gave commercial use to this property. There might have been a commercial use on it back in the 50s and 60s when they created the zoning map, and so they gave it commercial at the time, it has been a vacant lot in a residential neighborhood, and it just happens to border Willow St. As a residential lot it was not platted for the purposes of commercial but yet it has a commercial designation, and the city has to respect that designation because the city gave it to them. The city is expected to give the minimum required variances necessary to make an unusable property. And this is what staff is doing with this resolution. They feel like this will give residential character by making sure there's adequate buffering and landscaping around the site and making sure it's not overly intensify being used. And again, single food truck five spaces they think would meet that requirement.

Mayor Tyson asked if they could eat on the property.

Manager Mathes responded that whenever it goes through a site plan process, which is when they are making a permanent food truck they can have dining at the site. If it is coming and going and not going through a site plan process, it can only be for takeout and delivery. That is the one that is regulated by this State, which the city has less control over, although the city will be bringing back a regulation soon that will put the controls on it that they have all talked about in the past. What this does it gives them the permission to have the onsite dining if they choose, and it gives them permission to keep that food truck there permanently if they choose. They can also take their food truck away for events and other places.

Being no further discussion Chairman Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve Resolution No. 2024-30.

ALL AYES

MOTION CARRIED 4-0

The Board of Adjustment recessed and reconvened as the City Council.

(c) RESOLUTION NO. 2024-32/ A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, PERTAINING TO THE GRANTING OF CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY ANTHONY B. BROWN, SR. AT 1005 VERNON STREET; PROVIDING FOR RATIFICATION; CONSISTENCY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; APPROVAL OF CONDITIONAL USE PERMIT AND SITE PLAN; CONDITIONS OF APPROVAL; REPEAL OF CONFLICTING PROVISIONS; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE./ *2nd Reading and Public Hearing for June 6, 2024 at 7:00pm.*

Mayor Tyson introduced the Resolution and Attorney Dill, read Resolution No. 2024-32 by title only.

City Planner Robert Loring stated that this is a site plan, or development plan for a food truck. In Resolution 2024-32 item number four, has 22 conditions of approval for this particular project. He will focus on the site-specific conditions. They have to obtain all their permits. All the public and private improvements for the development are going to be the responsibility of the applicant. They are going to defer the architectural elevations for that proposed outdoor seating area until they proceed with the building permit, and at that time, that structure would have to meet the district standards. There is also a payment in lieu of the street trees along Willow Street for the sum of \$1,800 which would be due 12 months from the adoption of this resolution, they would not require any additional interior trees, provided that they maintain their existing trees on site. The plan does not specify landscaping any longer. They would have to bring the city a landscaping plan within six months of adoption of this resolution. The reason the city is getting away from that is because the city simply does not know what is available anymore by the nurseries, so the city is kind of putting that on them to propose something.

Manager Mathes added that the city does not want to get in the business of being landscape architects. And technically, landscape plan is a site construction element, not a site plan element. Site construction plans are approved by staff. Site plans are approved by Council in most cases.

City Planner Loring continued with the conditions and stated that they have to have to build a handicap parking stall with ADA compliant walkways. If they are going to use stabilized millings or rock that stabilized area has to remain free of weeds. There is no other outdoor sales other than the food truck that is to be located on site, the applicant is going to have to get a business tax receipt, and they are going to have to operate the food truck in the coordinates with their city code. The big one is, is that the applicant is going to have to enter into a payment plan with the city for the Indian River County impact fee since broken up into two phases. Phase one will be for the food truck parking area with sidewalk that comes up to a sum of \$4,037.22 and phase two is that seating area. It is a 360 square foot area. The impact fee to the county is \$7,340.40. And one final note, the city does have a provision in

that section for conditions of approval that says, if things go haywire, they always have the right to come back and curtail the use until they bring the site back into compliance.

Manager Mathes added that this does meet the 1500 currently proposed spacing requirement if the Council were to amend the current law. This is not causing any problems with adjacent food trucks or anything like that.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Hernandez to approve Resolution No. 2024-32.

ALL AYES

MOTION CARRIED 4-0

City Council recessed and reconvened as the Community Redevelopment Agency.

(d) RESOLUTION NO. 2024-33/ A RESOLUTION OF THE CITY OF FELLSMERE COMMUNITY REDEVELOPMENT AGENCY INDIAN RIVER COUNTY, FLORIDA, CAUSING THE SUBMITTAL OF THE 2024 UPDATED AND MODIFIED PLAN WHICH CONTAINS AN EXTENSION OF THE COMMUNITY REDEVELOPMENT AGENCY TERM TO FORTY (40) YEARS SUNSETTING ON OCTOBER 1, 2046, TO THE CITY OF FELLSMERE, LOCAL PLANNING AGENCY/PLANNING AND ZONING COMMISSION AND CITY COUNCIL WITH ITS RECOMMENDATION FOR ADOPTION; PROVIDING FOR SEVERALITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

Chairman Tyson introduced the Resolution and Attorney Dill, read Resolution No. 2024-33 by title only.

Manager Mathes stated that the State made some changes in their laws that kind of concerned the City with regard to the time frame of our CRA plan. To help memorialize the longest option to keep that CRA in case they continue to go down that path of restricting things, which seems to be the mode these days. At the same time and it is not part of this action, but at the same time, the city realized they also need to amend the boundaries of the district, because the City made certain annexations recently, it only made sense those properties were included in the CRA. For example, we annexed six lots south of 89th Street near Willow, all of 100th lane, 100th place and Mr. Foti's property just on the other side of park lateral. Those are the kind of properties that were in the CRA, and once you annex them, it only makes sense to bring those new ones in too. That will be the second task they do. This one is just extending the timeline, updating the plan to reflect what they have accomplished, and maybe throw them a few new ideas that might be in there. This item is on their agenda as a CRA, because the CRA has to recommend to Council, Council will be having their item on the 20th for adoption. He did include the entire documents and asked if the Council wanted the detailed presentation or wait until the public hearing.

Council agreed to go over the presentation at the Public Hearing on the 20th.

Being no further discussion Chairman Tyson entertained a motion.

MOTION by Agency Member Herrera **SECONDED** by Council Member Salgado to approve Resolution No. 2024-33.

ALL AYES

MOTION CARRIED 4-0

Mayor Tyson asked what would it take to abolish the CRA.

Manager Mathes stated that it can either be done through state action, or it could be done by local action. The benefit of a CRA is that you get to get a little bit of the county money that you otherwise would not get, and they have to then give their portion of property taxes, not counting the school district and others. They have to give their portion that they are required to give to the City. By having a CRA the City does get extra money they would not get normally, they do have to spend that money on what the CRA offers. What the plan says the City wants to do, those are the things they can spend the

CRA money on. If it is not in the CRA plan, they cannot spend the CRA money on it. It is an important document, because it tells you how you are going to spend your redevelopment money to revitalize the downtown. This year's budget will be the first year that the City will be getting money from the 2009 expansion. On top of all that, our preliminary numbers from the Property Appraiser were that our valuations went up 11% this year.

Community Redevelopment Agency recessed and reconvened as the City Council.

8. PUBLIC COMMENTS:

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

Eric Boissat – 144 N. Cypress St., Fellsmere – Expressed concerns about mandatory trash pickup, feeling it is not right to force people to do something they do not want to do.

Mayor Tyson stated that item is on the agenda and is up for discussion.

Mayor Tyson asked 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 Manager's Matters.

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

- **Financial Reports-** The current financial reports provided to Council are the registers of where the City spends money and the balances. The information that they are not receiving is if they are staying within budget. He stated that Finance Director Claudia Alvarado wanted him to ask if Council is interested in getting Budget to Actual type of printout.

Mayor Tyson stated that is what the auditor is for.

Vice Mayor Herrera stated that if he has a concern, he will talk to her.

Council Member Hernandez was not interested.

Council Member Salgado would like them emailed to her.

- **NY Ditch Pipe Grant Issue-** They got all the way to contracting with a great priced firm a good reputation. They struggled to get their bond in place, only because they are a small firm, and they provide such great prices. They were able to convince them they had to put in extra collateral. They were all ready to issue the notice to proceed and start construction. And then I had a conversation with a second grant, the one that is doing the Broadway revitalization, decided to be forward with my thoughts, and said, Hey, you do know that Broadway crosses right over the top of the New York ditch, and the City has grants for both of these projects. Bells and whistles went off, apparently there is some federal rule that says when they have two projects in the same area, they have to do a single environmental record that combines both projects. The City had no idea they were even going to have the Broadway project when they started New York, the City did the environmental review two years ago. Now they are telling the City, they might want to hold off on starting construction on the New York project until they resolve whether or not they need to do a combined environmental report. Now they are waiting for the grantor to get back with them with a response if they do or do not need a combined environmental report. If the answer is yes, you do, we're going to sit on this for three months until this gets done, and at that point I have to talk to the contractor, if he can hold his prices. He will keep Council abreast. He added that they did find \$400,000 extra dollars for the City.

- **Challenge Course Operator withdrew (see attached)** – He passed out a letter that they no longer want to operate the challenge course. He thinks it is a very valuable facility for Fellsmere, he does not think it has been utilized as much as it could be, because they have not been able to get the boardwalk, the bathroom, the improvements out there. The City has the grant now, and if they can get the Army Corps permit issue solved, it is ready to go forward as well. The City needs to decide if they want to keep it or do they want them rip everything out and turn it into a nature preserve, or do we want them to give us a bill of sale and the City become owners of everything out there and the City will figure how to operate the challenge course.

Mayor Tyson said it could be a valuable asset, he thinks there is a lot of money out there. Manager Mathes stated that he does know that it brings in about \$20,000 a year, which covers its maintenance and certification costs, and it covers the cost of the facilitators who you have to have to use that facility. What it does not cover is the overhead staff, the marketing staff, the management staff. His understanding is that is about 30,000 a year. His expectation is, is that once we get all the bells and whistles at the park done, they should get more than \$20,000 a year in revenue. He cannot promise the City can bring in the whole 30,000 deficit, but there are plenty of funding sources that could possibly be used to support that. In addition to the general fund, he thinks there's probably language in the CRA that they could find, or put language in the CRA, if they need to. But he likes the idea of at least getting the bill of sale, and it is buying time to figure it out. They are going to work within the budget and see if they can do something. He asked Council if they were okay with him having a meeting with them to talk about this further in detail. Council Agreed.

Mayor Tyson stated that he thinks that it could be developed into something pretty nice. He asked if the City could hire some organization to manage it.

Manager Mathes responded that is the other option. The gentleman who was operating it through FIT, his pay was cut by 30% because that was the time he spent on the course. His hours were also cut by 30% so he is offered his services as a vendor, although the City would probably have to go out for a bid to do this, but, or even potentially a part time employee that does not have any benefits, it is just straight pay, which is the same as a vendor. There's a couple of options. He has been operating it for five years now. He is more than wanting to continue to operate it but would have to be not through FIT.

Attorney Dill stated that is a potential, attractive nuisance, if it is not monitored on a regular basis and sealed off from the public.

Manager Mathes stated that is not monitored on a regular basis.

Attorney Dill stated it is not the City's liability either, it is somebody else's. If the City is going to take it over, they will have to get serious about the facility out there. He suggested to start talking to the city's insurance carrier.

Manager Mathes appreciated the input and stated that he will talk to him as to how he feels might be an appropriate way to protect the city's liability.

Council Member Salgado asked if it is going to be something similar to what the city already has or will it have to be a different type of insurance.

Manager Mathes responded that he does not see it being any different to what it is today, just operated by different entity. Attorney Dill is correct, though. It brings a different liability well. He appreciated the guidance from the city attorneys, and he will start a conversation with the insurance company. He will communicate back with Council.

- **Stormwater Workshop-** The City is 50% through a major stormwater study update, and part of the scope of the stormwater update is to be consistent with the community rating system flood program, which is a program that reduces the flood insurance cost for those who have flood insurance. The City does not have a lot of flood insurance policy holders in town. A lot of people in their house outright. A lot of people just do not get regulated mortgages, but there are some in town that are in a flood zone that do have the mortgage as required if you have a federally subsidized mortgage. But the scope was with a technical engineer who is just doing the technical work. The City does not have in their scope any of the public input that would also get the City points through the CRS program. He would like to schedule a workshop with Council to go over the current findings of the study, which is basically, what are the problems and to brainstorm solutions, obviously bringing the public here. He does not think this study necessarily needs to go overboard with regards to outreach, the typical outreach should be sufficient. It's really more of an exercise to give an opportunity for the public, but also to cover the City basis for getting the necessary points to help reduce their flood insurance, if they happen to have that,

the City may follow that up in the future with the second workshop at time of adoption, to give the public an opportunity to comment on that. He would like to schedule a workshop, no later than June. Maria will assist in setting that date with Council and when set he will invite the public to see what the City's consultants come up with in terms of problems and ideas for solutions.

- **Code Enforcement-** The City has been out of a code enforcement officer now for a few months. The City lived with the part time code officer for at least 15 years, which is the time he has been with the City. For the first 10 years he was the code officer. He was able to get about a quarter of his time into the job. He has shared with Council his desire to go full time with this coming budget. Council had asked him to come back during the visioning workshop and give them a preliminary. He just wanted to again, express his concern that things are getting a little out of control, not just residential, but commercial businesses as well. He just wants to make sure that when it comes time for code enforcement and Council get a call from an irate small businessman that you have your staffs back. Because he just wants to make sure that he is given the level of enforcement that Council wants. And right now, his understanding of Council's flexibility is that if it requires a permit, they do not get it because he is not letting them put something permanent on the ground, if they do not have their site plan approved. He can do driveways, fill, and clearing but Council decided to stop where permits are needed. Hopefully, they can find a solution to that at the visioning workshop.

- **S. Carolina/ N. Pine Traffic-** He got a call from a concerned resident at North end of Pine Street for a couple reasons. One, she was hearing rumors about a storage facility coming in, he assured her that's not happening, but he did share with her that there is that potential Fish Camp coming, the one with the beautiful cottages. She did not have problem with that. But she also expressed that there are already a lot of trucks using that road. The City has a sign for no through trucks, but a lot of trucks are using. They can tell that because just looking at the road and the corner sign gets knocked down all the time. And honestly, he thinks the City needs to extend the no truck to North pine and the east side of South Carolina, not west to Babcock, but east from Broadway to Pine and North pine, he would like to extend as no truck and lower the speed limit, so it gives our officer an opportunity to enforce that as well. And they may even want to even do some potential physical road changes. If that is not enough, he thinks they should start with signage and maybe start with some other regulatory things and some enforcement see if that works, and if that does not, they need to maybe go some other things. And maybe we might even want to even think about maybe doing a traffic count of the types of vehicles. He suggested putting the counter back out and seeing if they can figure out how many trucks might be using that at the corner on South Carolina before the corner it would be good spot.

Council Member Salgado stated that New York and Broadway also get congested, and she understands why they go down that way. If they are going to do that then they have to produce another solution for that.

Manager Mathes reminded Council that a successful downtown has traffic problems. At some point you want cars to go very slow when you're downtown, because that's where you got people walking, crossing the street, and you want them going slow. He is not saying there is not a problem, he will certainly look into that, but some places he is happy people are going slow and North Broadway's is one of them, for sure.

- **Outdoor storage related to Concrete business-** The City has a gentleman wanting to come in with a nuance on concrete. Th City has an exclusion for concrete batch plants. He does not want to do concrete batch plant. He just wants to store his material separately and he wants to come pick those up in separate bins, not mix them in separate bins and drive them off the site. Because apparently there are some vehicles that do the mixing in the vehicle at the job site. He thinks it is a pump truck, is what it does. He is in the pumping business, and they do not premix it like a mixer, they wait till they get to the job site when they do the mixing. He is looking for outdoor storage. There is no mixing, there is no batch plant, there is no creating. He is just storing three separate items.

Mayor Tyson asked where does he want to do it.

Manager Mathes responded that it would be in Nick's place, Antiquo Stone. He added that Nick use to have a side where he kept cement in. He wanted to confirm that his interpretation of the code was correct, and the applicant will still have to come to Council for a site plan amendment, it may meet staff requirements, but he does not know yet because he has not submitted an application. He asked Council if they were ok with his interpretation of that use. Council agreed.

Attorney Dill asked how high are the silos.

Manager Mathes responded no more than the height limit of that district, 30/32 feet.

- **Nasa Flood Study** –FAU is doing a partnership with NASA on doing a flood study and they just asked if the City wants to be part of it. It just means he gets to go to a couple of meetings and participate. He is going to send them a letter saying that the City would love to be involved and then if any good comes out of it he will let Council know.

- **FACT Resource Center update-** He presented a brochure to Council. He wanted to talk to Council more about the partnerships about which they have talked. FACT is not a very old nonprofit, and FACT is not a service nonprofit they are more of a coordinating nonprofit, not that they have not done projects, but they are more coordinating body, and without a deep history, there is a lot of reluctance in the community to donate to them because they do not have a track record. They have been working with two very established nonprofits, one is the Economic Opportunity Council. They are the ones who run the Head Start program and other things, and the Motivational Edge, with Ian Welsh, although he is new to the county, he has done great things already being here, but he has a long track record in South Florida, having done a number of youth campuses and development programs. And they are waiting for the EOC board to formally agree to a more in-depth partnership on this. The details would be work out through a written agreement of some type, but it seems to be moving from a FACT Resource Center to a consortium of a nonprofit resource center. It was always intended to be a resource center for nonprofits to come and provide their services. That is what the whole thing is about. But it was always going to be FACT, making it happen, and now it is going to be a consortium of nonprofits to make it happen, because they need their depth, they need their history in the community. They need their respect to the community, not that the FACT does not have respect, but just do not have the long-term record yet to get that done. And they are taking a couple of months off of this process because summer is not a great time for fundraising. It will come back in time, just for the season. They can then be in full ground, have the partnerships in place, and then hopefully hit the ground fundraising a little harder this winter still with the hopes of being under construction in late 25.

And the other update was that the City has asked Fellsmere Farms to donate five acres to the City of Fellsmere, but that is not in the city. It was not in the city when they annexed originally, because they did not have 100th Lane/ 100th Place that would have created an enclave. They purposely left out that five-acre piece because they could not allow the creation of an enclave. Now that enclave is gone, he reached out for them to donate that, and they have agreed to donate that. So instead of the Resource Center being on the EOC two acres and two acres of the City of Fellsmere, they are now going to put the center on that five acres and it is now a bigger lot. He thinks it's better location, because 101st is the northern bypass, so they will have a direct connection along 101st. They will be able to come right off 101st and CR512, so it makes it easier for people coming and going to the center who might not be city residents to be able to access it without having to drive in town up Willow.

And on top of that, they have agreed not just to give the City the five acres, but also to build a 4000 square foot metal building that they can have vocational education in. The City was reached out by Youth Guidance, who wants to bring vocational training out here. That is a long track record as well, and they needed a space. And he was able to squeeze Fellsmere Farms for both the site and the space. He got verbal commitments, and he is seeking a letter of memorandum understanding just to have it in writing. He thinks things are going well, they are getting more energy into it, he thinks it is going to be a resounding success but again they will be taking a few months off to reorganize, hit the ground running come late summer, and see what we can do over the winter.

Just a reminder of upcoming meetings and due dates:

- July 11- 7p City Council Meeting and 6p Budget Workshop
- Form 6 - due 7.1.24- time is getting near please see Maria if you need help.

He provided a copy of the updated Capital projects list.

10. MAYOR'S MATTERS:

Mayor Tyson was asked to mention that they are getting a lot of questions about the butterflies along CR512. Ernie and Jan Wilson, they have been here 12 years, are part of the community. They actually have been doing the Beautification Committee, one of her neighbors and a friend of hers, they've been running the Beautification Committee for the last couple of years. They live in the county, there is nobody in the city who wants to do Beautification Committee anymore. They are not going to do it anymore; they said the Memorial Day service was their last event. They will be resigning formally.

But Ernie and Jan already had some plywood left over, and he cut those butterflies out. And he said, you start hanging those things around the City, somebody is going to complain about it. So far, nobody has, all he has is compliments. He thinks they are really great and to the point where Nick over at the Ditch 13, next to Marsh Landing is selling them now, but that is who is doing them. Ernie and would appreciate a comment.

Manager Mathes stated that they have done their part, and the butterflies look great. He asked all to now that they know that they will be resigning to help the City find some replacements.

Mayor Tyson attended the Council of Local Governments in Fort Pierce. That committee is made up of members from the school board, the County Commission, and the municipalities for the four counties. He also attends the League of Cities, which is made up just the mayors and city council people from the four counties, Indian River, St Lucie, Martin, and Okeechobee. And they are great networking venues. He has always enjoyed it and he has been part of it ever since they were formed, and they get really interesting speakers in there with people that the stuff that they work with all the time, and it is a good way to pick up information. They had a speaker that is the Communications Director for St. Lucie County, and she gave some good points on how to deal with the media. He added that those meetings are interesting, and they do a lot of advocating. There's a whole group that goes to Tallahassee, when they have the legislative days up there, where you can actually go in and talk to your Senator or Representative. He will miss it when he is not there anymore, or even on the Council. So, whoever takes this place, he would certainly recommend that they continue going down there.

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.

12. CITY ATTORNEY'S MATTERS: Attorney Dill stated that he had one items but that Attorney Rhodeback will be presenting it to Council.

Attorney Rhodeback stated that a couple of meetings ago they had a conversation about Vertical Bridge, the cemetery cell tower and he was asked to investigate what the state archeologist or district medical examiner would look for when conducting excavation or exploratory digging, when it is believed there might be some sensitive artifacts or human remains below the surface. He contacted both and he also did some of his own research. He did narrow it down to a couple of points for Council's consideration.

First and foremost, the first line of defense was done, the ground penetrating radar is the least invasive of the options, and that was performed here. Now if Council wants to continue exploring subsurface, some of the soil beneath they have a few options available. The first one is the most invasive, but not as invasive as just taking a bulldozer and lifting everything up. That would be what they refer to as echo trenching, which is almost exactly like it sounds. You have set spacing for intervals in which you dig a trench, examine the material that has been dug up and see if there is any evidence of artifacts or human remains. But in order to do so, they are going to be utilizing heavy equipment to have that done but they will not be doing a large area. They will be digging lines and set intervals.

Another option is less invasive than the backhoe, but it involves the same process. It will just take longer to do and requires more manpower, which is hand trenching, similar backhoe trenching set intervals of spacing, but people are doing it with the shovel. So that way, if they contact human remains, they have to worry about the point of the shovel, not the two-time machine that is on the surface.

The last option is instead of the trenches, it would be what they call test units or excavation units, which from the pictures that he has seen or how it was described to him, instead of a lineal trench, it would almost be in a triangular, rectangle or square like shape at various points throughout the exploratory area, there is hand digging to examine the material underneath the surface.

All three of those, however deep as you go, will be subject to OSHA regulations, which he believes are six to three feet depending on the structure of the walls that are trenches that way, nobody gets in there, and then all of a sudden, the trench falls down or collapses upon them. Those were the three options that were discussed, that if you are not going full blown, I am just going to start digging up the area, and they want to continue more exploration, which is the way they would do it. He had asked me to investigate, he tried to interpret the best way he possibly can, in the most simplistic terms, and where they go from here, as always, is a Council decision.

Manager Mathes asked him to summarize where they left the conversation with the tower company, and does the City owe them something.

Attorney Rhodeback stated that they are going to want an update. The tower company has waited patiently to their credit. They negotiated pretty much every term of the lease that they were concerned with until the last time this was discussed in which Council member Renick brought up that before they start digging up the whole foundation for the cell tower to find out from the archeologist to see what they would like, if they thought human remains were down there, what they would do to try to explore that before using the most invasive option.

Manager Mathes stated that he believes their next step is to tell them whether or not the City is willing to enter the contract as is, or whether they want one more adjustment to provide direction on how they need to proceed on any additional pre investigation, which would be the trenching or the spot poles, whether it is hand or machine. Do they want to force them to do that before they start major construction and if they do, the City attorney needs to revise the lease and get it back into them so they can see what we're asking.

Attorney Rhodeback added that he wanted to be clear that if human remains are found, jurisdiction for the City, jurisdiction for the tenant is lost, they must be contacted. The point remains is that they could not ignore the human remains without committing an egregious crime. It is a crime under Florida law if they continue to excavate in the face of human remains.

Manager Mathes recommended that they do include a clause in the contract to require a ground disturbing investigation and recommended the trench method. And he does not think they need to do it over the entire compound, they just need to do it wherever they are going to have a structure. So that would be their shed for their equipment, and it would be their foundations for the tower, whatever those are. He recommended to be more than one space, no more than three feet apart. And they have to do that report on the results before the City offers a notice to proceed with construction. Council Agreed.

Manager Mathes asked that the City Attorney's office draft that edit and he is comfortable if Council is if they could share that directly with the tenant, he does not think it needs to come back to Council before it is shared with tenants, but it would come back to Council for final approval. Council Agreed.

13. NEW BUSINESS:

- (a) USDA LOAN RESOLUTION/ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FELLSMERE AUTHOURIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTIONG, ENLARGING, IMPROVING,**

AND/OR EXTENDING ITS 2023 ILF ALPHA E SIDE BOOM MOWER AND EQUIPMENT FACILITY TO SERVICE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

Mayor Tyson introduced the Resolution and Attorney Perez read Resolution No 2024-53, by title only.

Grant Administrator Laura Hammer reminded Council that they approved the grants department and the City to submit an application for an ILF Alpha brush cutter for the Public Works Department. When they originally put in the application, the USDA's portion of the entire purchase price of the ILF Alpha mower, was \$165,900 which is 55% and the City's portion is 45%, after the application was submitted, the price of the brush cutter went up. The grants department petitioned the USDA to provide more money and give the City \$176,135 which is 55% of the increased price. For quite a while, everything was moving along, and she was getting messages saying that the documents were being processed and that the City would hear something soon. And she recently got a message from the grant administrator at the USDA stating that her boss told her that they needed a copy of the original loan resolution. And Laura told her that they are not requesting the \$165,900 anymore and she said she understood that, and that the USDA have a lot of paperwork and they apparently will not continue to process our application for the \$176,135 until the City provides them with the resolution. For Andy to get his mower, Council needs to approve this outdated resolution so the USDA can have a copy of it.

Manager Mathes stated that he thinks they are treating this as an amendment.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Renick **SECONDED** by Council Member Hernandez to approve the USDA Loan Resolution.

ALL AYES

MOTION CARRIED 4-0

- (b) Approval of Boromei Contractors Change Order #1 for HLMP Public Works Building hardening project.

Grant Administrator Laura Hammer stated that this project is underway. She has heard that Boromei is doing a good job. She reminded Council that on March 7th they approved the contract between the City of Fellsmere and Boromei. They are asking for approval of change order number one to provide for an additional \$7,554.82 for additional cost because of louver measurement changes, the measurement on the original plan did not reflect the field measurements that Boromei made. When they sent the new measurements to the louver supplier, they were issued a higher cost for the larger louvers. This amount of these funds is available in the grant itself, so the additional \$7,554.82 can be paid out of grant funds it will not come out of city funds. For that reason, she feels that she would ask Council to please approve this so that Boromei may continue the hardening that they are doing at the Public Works building.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Hernandez **SECONDED** by Council Member Salgado to approve Boromei Contractors Change Order # 1 for HLMP Public Works Building hardening project.

ALL AYES

MOTION CARRIED 4-0

- (c) Approval of MBV Engineering, Inc. Work Authorization # 1 for professional engineering services for the State Street Stormwater Reservoir Expansion.

Grant Administrator Laura Hammer stated that they have already been providing survey services, environmental studies, design and permitting in regard to the existing wet retention pond that will allow for additional stormwater storage. The state 404 program, which covers wetland permit was removed from the jurisdiction of the Florida Department of Environmental Protection Agency, which

it had been in, which we'd been operating under at this point for any project that requires wetland permits, agencies and cities are having to go to the US Army Corps of Engineers to get a permit since the Federal Department of Environmental Protection, 404 permits are on hold right now, and the ruling that came down putting a hold on the 404 was not anticipated or included in MBV's original scope of work. It is going to require additional work and services on their part, and therefore more fees. Because of this, they have issued work order number one requesting an additional \$4,300, this is not something that the project can move forward without, because the City has no idea when or if that 404, hold on the Federal Department of Environmental Protection will be lifted.

Mayor Tyson asked if this additional money requested covered in the grant.

Grant Administrator Hammer responded that this was never coming out of grant funds.

Manager Mathes added that for 90% of the grants, the City does the local design and permitting as their share and the City also usually pays for the CEI. Some grants are designed with CEI included, but others are not. This particular program does not include design, so any increase in design costs is on the City.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Salgado **SECONDED** by Council Member Herrera to approve MBV Engineering, Inc. Work Authorization #1 for professional engineering services for the State Street Stormwater Reservoir Expansion.

ALL AYES

MOTION CARRIED 4-0

(d) Approval of Request for Proposals for Trimming and Removal Services.

Public Works director stated that this is a request for tree trimming and removal services for trimming trees throughout the city, parks, everything, all city owned property, to get some prices on it, get a bid opening on it, and see who they can get in here to start trimming some trees.

Manager Mathes shared the selection criteria that the City will be using. The City is giving most of their points to the cost effectiveness and value of the services offered, some money for veteran approach to dealing with this, references, qualifications of the firm. Basically, Andy will get a couple people together, they will review what comes in, like subjective/objective, back to Council, then with those rankings and ask permission to go from there.

Mayor Tyson asked if this is just a request for proposal. Manager Mathes confirmed.

Manager Mathes added that this is probably one of many that they will be doing over the next year or two, as we try to formalize informal vendors that come and go to a more formal continuing service type contracts for vendors so that Andy has like a one to three year set thing, they do not have to worry about it. It reduces the paperwork instead of doing for every job or every year whatever it, just get it done and move forward.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve the Request for Proposals for Trimming and Removal Services.

ALL AYES

MOTION CARRIED 4-0

(e) Discussion and direct course of action for Solid Waste Services.

Manager Mathes stated that he brought this back many months ago and talked about how the counties is expiring and they're going out on their own, and that the City really had to wait to find out if they went universal or state subscription they did go universal, so the City can no longer piggyback directly on their contract and use their rates directly, but they did allow the City through their contract to negotiate. The question then becomes, is our negotiation still close enough to their RFP to let it count for the competition. That is the whole purpose of having RFPs and bids. Attorney Dill has opined that he really cannot make that decision until he knows specifically what the City would be proposing to adopt. The farther away the City gets from the rates that are in the RFP that was ultimately selected, the more likely it is not going to allow the City to negotiate directly, and the City should have to go out to their own bid. He would like the City to at least try first to see if Waste Management would give the the exact same rates for not universal, but for subscription service or universal, in his opinion, which is in the RFP. And then hopefully the city attorney's office could say that is close enough and the City does not need to go out for any more competition and then the City could just execute a contract with Waste Management directly. If the prices will not come back because we do not have enough subscriptions, because all the City has is just a handful at this point in time, they have about 50, which is not a lot. He is talking about residential, when he says 50, all the commercial has to be the residential is by choice. And if the City gets the same prices, that is where he would go. If not, then he would say they have to go out for RFP at that point otherwise the City will have no trash service in town.

This does not deal with recycling. It only deals with solid waste pickup. The City's current agreement is subscription for residential and universal for non-residential. And Council's direction was to keep it that way and because of the county wanting universal. If the County stayed subscription, they could just piggyback and be done with it. But because of that change, Council has two decisions to make, do they want to stay with stay with subscription and If that answer is yes, then they can try to negotiate to get the same prices. If the answer is, let us go to Universal, let us just go piggyback. He did add that for new subdivisions, the city's current draft that Council all could change if they choose, Marian Estates residents would have to have pickup.

After discussion Council decided to stay subscription and authorize City Manager Mathes to negotiate. Manager Mathes will update Council once he talks to Waste Management.

(f) Discussion on City Clerk yearly review.

Manager Mathes stated that it is Maria's turn for her yearly review. His hope is that they can have a successful review. At this point they have given her some great adjustments in the past to bring her in line with her qualifications that she recently received. He suggested treating her like other staff, but that is Council's choice. Beyond that he thinks everybody believes she is doing an absolutely wonderful job. Council can talk about her performance and direct her increase if chosen.

Mayor Tyson stated that he cannot say enough good things about Maria. She what she has done with that office up there, and what she inherited, I do not know how she got it done, really. And she has taken all of her training. And she is now going for her Master's Municipal Certification.

Manager Mathes stated that he supports a higher than staff bump when she crosses that threshold. She is highly liked by all and everybody that she meets too.

Mayor Tyson stated that he does not know what they would do without her. She's been training Miriam up there to kind of fill in for but just like with this Form six, I don't know how in the world any of us would have gone through that, that that thing is just absolutely ridiculous, because the research that you have to do and Maria just gets up there and clicks along on that computer and fills it. it is just almost everyday stuff. The one thing that I've done with Maria and she was she agreed to it, is bringing her along to some of those committee meetings he attends, and she's learned a lot. She

has gotten a lot out of now, when she wants to know something from somebody that has been a clerk longer than her, she knows who to call. She is worth everything that the City can afford to give her.

Vice Mayor Herrera asked what is the staff percentage.

Manager Mathes stated that normally staff is 3%, but she is a Charter Officer, and her raise is purely up to Council, but he asked if she is given a raise if it could start on October 1st. Council Agreed.

Mayor Tyson asked if they still need to do an evaluation.

Manager Mathes stated that not technically, but she would love to see the forms.

Vice Mayor Herrera and Council Member Hernandez stated that they have submitted their forms. Vice Mayor suggested 7%.

Being no further discussion Mayor Tyson entertained a motion.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve a 7% salary raise to City Clerk Maria Suarez-Sanchez.

ALL AYES

MOTION CARRIED 4-0

- (g) **RESOLUTION No 2024-63/A** RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA CALLING FOR A SPECIAL ELECTION IN THE CITY OF FELLSMERE FOR AUGUST 20,2024; STATING WHERE THE ELECTION SHALL BE HELD, NAMING THE OFFICE TO BE FILLED; CAUSING THE NOTICE OF SPECIAL ELECTION TO BE PUBLISHED IN ACCORDANCE WITH FLORIDA LAW; ESTABLISHMENT OF A QUALIFYING PERIOD; DELEGATING ADMINISTRATION OF THE SPECIAL ELECTION IN MATTERS RELATING TO VOTERS, VOTING METHODS, PROCEDURES AND CANVASSING TO THE SUPERVISOR OF ELECTIONS FOR INDIAN RIVER COUNTY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Tyson introduced the Resolution and Attorney Dill read Resolution No 2024-63, by title only.

Mayor Tyson stated that it is his understanding that the City is piggybacking on the primary election. This is very unusual, but it is a learning process for all. The qualifying period is only one week.

Being no further discussion Mayor Tyson entertained a motion.

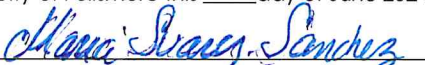
MOTION by Council Member Herrera **SECONDED** by Council Member Salgado to approve Resolution No. 2024-63.

ALL AYES

MOTION CARRIED 5-0

14. ADJOURNMENT: There being no further business Mayor Tyson adjourned the meeting at 8:52p.m.

These minutes were approved by the City Council of the City of Fellsmere this 20 day of June 2024



Maria F. Suarez-Sanchez, CMC, City Clerk
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