

**CITY COUNCIL MEETING
June 20, 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. **INVOCATION:** Mayor Tyson gave the Invocation.

4. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.

5. **APPROVAL OF MINUTES:(a)** City Council Meeting of June 6, 2024.

MOTION by Council Member Herrera **SECONDED** by Council Member Hernandez to approve the minutes for the City Council Meeting June 6, 2024

ALL EYES:

MOTION CARRIED 4-0

6.. **PUBLIC HEARINGS**

(a) ORDINANCE NO. 2024-14/ AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE TEXT OF THE COMPREHENSIVE PLAN AMENDING CHAPTER 1. FUTURE LAND USE ELEMENT GOAL FLUE B. FUTURE LAND USE MAP, OBJECTIVE FLUE B-4 FELLSMERE 392 AND AMENDING THE COMPREHENSIVE FUTURE LAND USE MAPS TO CHANGE THE LAND USE CLASSIFICATION FROM REGIONAL EMPLOYMENT ACTIVITY CENTER (REAC) TO LOW DENSITY MIXED USE NEIGHBORHOOD (LDMXN) FOR 2.68 ACRES, MORE OR LESS; LOCATED IMMEDIATELY EAST OF INTERSTATE 95 AND NORTH OF COUNTY ROAD 512 WITHIN THE DEVELOPMENT KNOWN AS "FELLSMERE PRESERVE"; PROVIDING FOR RATIFICATION; AUTHORITY; COMPREHENSIVE PLAN TEXT AMENDMENT; MAP DESIGNATION; TRANSMITTAL PHASE; ADOPTION PHASE; TRANSMITTAL OF DRAFT PLAN AMENDMENT AND FINAL ADOPTION DOCUMENTS; COMPILATION; SEVERABILITY; CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE./ *2nd Reading and 2nd Public Hearing for June 20,2024 at 7:00pm.*

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

Manager Mathes stated that being the second public hearing. This means it has gone up to the State of Florida. They reviewed it, along with other agencies. And in this particular case, there are no objections, no comments, so there is nothing they need to do other than consider whether or not Council wants to do a final adoption of it. And again, this item covered very minor things, in his opinion. It basically adjusted the low-density designation to ensure just to cover it, be sure that all the density north that is going to be in conservation can be rolled to the south if they choose. And they elected to request it to be allowed to do the green building standards as a choice instead of a mandate. And then the other change was a minor change with regards to a land use classification. Right now, they had a land use that brought in a corner, it kind of was on the other side of 108th we're basically just squishing it back, There is a small piece that's in "REAC" Regional Employment Activity Center that they want to bring into low density mixed use, so that all of that became low density mixed use, instead of having that one little corner that was REAC. Their plan had commercial along 512, commercial along the freeway, but then all that was going to be residential. So that little piece that was REAC was in the way, so they were changing that small two-acre piece from REAC to low density, mixed use.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Ordinance 2024-14 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 Hernandez **SECONDED** by Council Member Salgado to approve Ordinance 2024-14.

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

(b) Declare 12635 97th Street as surplus and direct staff to proceed with sale/ Public Hearing for June 20,2024 at 7:00pm.

Attorney Dill stated that this is separate item, and it is here because under the city code, whenever you want to declare property surplus, it requires a public hearing so people can come in and speak on it. Council conducts the public hearing and after input, if Council wants to declare it surplus and they vote, this particular item will require another public hearing in the future, because it is within the CRA. Property in the CRA is different than other properties the Council has declared surplus.

Manager Mathes stated that this is one of the properties the City bought in relationship to the 97th Street flood mitigation project. They call it the Haddon property because Mr. Hadden used to be the owner. The City of Fellsmere is now the owner. That particular property happens to be surrounded on three sides by what will become Legacy Landing. He fully expects Legacy Landing to be someone who is putting in a bid for this property, but selling under a CRA provides a little bit more flexibility in selling a property, because Council gets to sell it from a vision they want to have. You are not as focused as much on best price, it's really what's best for the vision of the CRA in the city.

The City is taking the front 40 feet and putting the rest on the market. If it was purchased by Legacy Landing, it is just going to be demolished and made part of their overall development. If it is bought by anybody else, it is going to be a single-family home surrounded by another development. It is 75-foot parcel. He is requesting that the minimum bid be \$100,000. The City did pay \$280,000 but had to buy the 40-foot front. They City probably spent \$25,000 so they have \$260,000 into the deal.

He is not sure someone is going to pay \$260,000 he does not think Legacy is going to pay but at the end of the day, they are not doing this for Legacy. And if somebody wants to spend \$260 and Council wants to sell as a single-family home, it is their choice. The only decision Council is making tonight is if they want to declare this property surplus and staff is recommending, they do.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on surplus property 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 Hernandez **SECONDED** by Council Member Herrera to declare 12635 97th Street as surplus property.

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

(c) RESOLUTION NO. 2024-35/ A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, APPROVING UPDATED AND MODIFIED SECTIONS OF THE ADOPTED COMMUNITY REDEVELOPMENT PLAN FOR THE COMMUNITY REDEVELOPMENT AREA LOCATED IN THE CITY OF FELLSMERE, FLORIDA, MAKING LEGISLATIVE FINDINGS; ADOPTION OF UPDATED PLAN SECTIONS 4, 5, PORTIONS OF 6, 8 AND 9; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND

PROVIDING AN EFFECTIVE DATE. / *Public Hearing for June 20,2024 at 7:00pm.*

Mayor Tyson introduced the Resolution and Attorney Dill, read Resolution No. 2024-35 by title only.

Manager Mathes stated this is the CRA update which Council had a presentation on May. It was a meeting he missed, but he understands that Council did get a PowerPoint presentation. He asked Council if they had any desire to re-see that presentation tonight otherwise, Rochelle will just give them some highlights.

Rochelle Lawandale stated that it is a real pleasure to be at the meeting. She stated that last night at the Planning and Zoning board meeting, they were at the five-yard line and now she thinks they are at the two yard line, and it's great to be able to bring this to fruition with all of the exciting things that are going on in and around the City and several of the proposed developments that are going on within the inner city proper, the redevelopment district is poised to, she thinks, become a real asset to the community, even more so than it already is.

What they have done is we have updated the plan to reflect several key items. Number one, taking it to the statutory limit of 40 years, which brings it to October of 2046, so that gives the City additional time to complete the projects that are outlined within the new sections, or the updated sections, they have included a Capital Improvements Program and updated projects, eliminated those that have been completed, eliminated those that really no longer have any meaning, and added two meaningful projects. New ones that will address priorities for the community. Last but not least, there are priorities that have been recommended within this plan for each of the four districts that have been outlined within CRA. They have been talking about it for a while. She thanked Council for allowing her to work on the CRA and asked if Council had any questions.

Manager Mathes stated that just to reinforce at the end of 40 years, in 2046 the CRA disappears, the special allocation of revenue from the county disappears. So that is the time frame to try to complete, unless legislation changes the state level, that is all the City gets. The CRA is not the city's official Capital Improvement Program. If we want to incorporate any of those projects, they need to bring them into the official CIP as part of the annual process of review, because it is the official CIP that sets the five-year program. This is more of a planning document to support that; they still need to bring it into the regular CIP. And again, if it is a budget year, would actually show up in the first year, otherwise it shows up in the out year. Those are two things he just wanted to highlight. I just wanted to be clear that this is not the official CIP.

Mayor Tyson asked if this is 40 years out, how do you make sure that it is going to still be viable, because any new City Council coming in could change that, can they?

Rochelle Lawandales responded absolutely, the City Council is the governing body, and they also sit as the Community Redevelopment Agency. And wearing those hats, they have authority to take the community in whatever way they believe it should go. So just like their Comprehensive Plan or Land Development Codes or any other strategic plan that they have is ruled by Council, they can change this. And she thinks the City Manager was really insightful in wanting to have a look back and look forward with the redevelopment program, to update it so that they could do an evaluation and an assessment of where they have been, where they are and where they want to go, and hopefully in the future, they will take a look again to make sure that that they are on course of where they want to be.

Manager Mathe recommended that that should be done for a minimum of 10 years. The City waited 15 years for this update.

Mayor Tyson agreed that should be done. They have had a lot of controversy here lately on people, a lot of people are saying they do not want to see Fellsmere change, they like it the way it is, that is why they bought out here. And he tries to explain the CRA to them that Fellsmere itself is not going to change, unless they get a City Council to come in and trash all the stuff that they have done over the years and start out fresh, that there is not going to be any high-rise buildings or anything like that. They

have to conform to what they already have here, which, that is what they have set in place. He asked how many years ago was this done.

Rochelle Lawandales responded that the first district was established in 2005 and then they expanded the district in 2009. What is exciting is, is that all of these things, as in life, things, take time, and it is ripe and ready. She is looking at the map with all the developments and those are things that she worked on, over the course of 25 years with the City, Fellsmere Joint Venture, the REAC, the Anson piece, the Banack piece, all of these things, and setting up the district. And now they are about to happen, and that is exciting to see, because they will create a ripple that will help spawn local businesses within the heart of the community, and the local businesses will help to feed economic development, tourism development, and things of that nature.

Mayor Tyson stated the only thing that will change is that the transportation element we have to get wider, more accessible.

Rochelle Lawandales responded that they are already working on that, and City staff and representatives of the Council serving on the MPO and TAC are working very diligently to secure these local projects as part of the priorities within the funding capabilities of those bodies.

Mayor Tyson suggested that something needs to come up every once in a while, just to remind people that that the City does have the CRA, most people do not know what it is, but the things are not going to change that drastically unless they City gets a whole new City Council. They are going to count on her to come down here and keep reminding them.

Mayor Tyson opened the Public Hearing and asked if anyone in the audience wished to speak on Resolution 2024-35 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 Resolution 2024-35.

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

Recessed as the City Council and Reconvened as the Community Redevelopment Agency.

(d) Authorize Development of Request for Proposals for Development on the S. Hickory property.

Manager Mathes stated that the City bought 300 linear feet of road along South hickory that was for sale through the Giuseppe Restaurant ownership, and the City bought that as a as a manner to help guide the development to the highest and best use for the City. And it may still end up being single family. But it could also be a number of other things. It is in a district that allows a lot of different uses. It is not really next to any homes per se, of substantial manner that would be concerns of compatibility. He has a list here of some ideas, and again, they can do a request for proposals, which is what staff would be recommending. And that request could be as generic as to give us your best idea or it could be, to give them their best idea within these constraints. Or it could be, I want this, and this only and does anybody out there want to build it for us.

It could be a variety of things how they move forward. He thinks staff were going to want as much flexibility as possible, but yet provide some guidance for the things they want. He does not want to waste people's time giving them proposals for things they do not have an interest in.

Some of the things that are needed in the area, are workforce housing but not subsidized, flexible commercial space, whether that's just a retail bay, or whether that's the old flex space, where it's

retail in the front and a warehouse door in the back, where you could either do office retail or construction trades, an AC person, electric person, some of that nature. Affordable Housing and also Treasure Coast Community Health into town but unfortunately, he does not think this parcel is big enough for TCCH, so that will not work. A hardware store, pharmacy, or grocery store. He does not think a grocery store, or a hardware store will fit there. Pharmacy would but probably not off the main road. There are other ideas that can also be done there too.

Council will need to decide if they are ready to move on this property. There are three generic options, no constraints, for sale, give the City their highest and best pitch. Then they look at them all and decide which one they want or ask to give them a proposal within a range or tell them specifically what they want. The true market-based approach is nothing wrong with that. They might get some proposals that are just bizarre, but the City would not spend any time putting them together. Manager Mathes recommended a kind of combination to make it market anything they want but give them guidance on where the City needs are and let them decide if they want to do that or anything they want. And then they will come back as proposals. Council will look at the actual RFP before it goes out, make sure it's got everything they want and need in it. Then when it comes back, they just select it, negotiate with the firm, and then off they go, developing it, just like any other private developer at that point. Now, obviously there would be conditions where would draft up some agreement. The City bought that property, not for city use, but basically to put it back on the market in a controlled manner that would get the City something more than just five single family homes. And it could very well end up being single family, ultimately, that's going to be Council's choice. He suggested at least looking and seeing what the market might support.

Rochelle Lawandales recommended letting the market take a look and see, because the market knows where the market wants to go and what is needed. There are a couple of things that they would need to make sure they have on hand as they move through this process. One would be a recent appraisal, and title work done for the property. The other would be to allow for the market, to keep it open ended, and three, to make a determination that the Council wants to put this for sale or lease through a request for proposal. If Council are considering a motion, it would help staff, if it includes those three things.

Manager Mathes deferred to the City Attorney the process to declare the property surplus to be able to sell or lease the property.

Attorney Dill stated that he did not have a lot of in-depth comments on this. This is something new for the city, they have not tried this before, they are all going to be learning as they go through the process of this. He stated that Rochelle suggested motions for ways to proceed.

The first thing to do is they need to have an appraisal and staff needs to produce an RFP for the property, and while that is occurring, they can take a look at declaring a property surplus so that they City can sell it at that time. Just because it is declared surplus does not mean you have to act on it the next day, it can sit around for a reasonable period of time. He suggested that if the Council wants to proceed with this, they can go ahead and make a motion to authorize staff to obtain an appraisal and a title search on the property.

Rochelle Lawandales reminded Council that it will be the CRA funding these activities. But ultimately, as the owner of the property, the CRA will recommend to the City Council the sale or disposition of the property and the City Council would act on that.

Attorney Dill stated that they are now the CRA, and they are authorizing staff to do two things. One, obtain an appraisal of the property. Two, obtain a title search for the property.

Manager Mathes added that if either of those costs more than his authorization. That will come back city council to authorize it.

Agency Member Salgado is comfortable with the first three items mentioned. Workforce Housing, Flex Commercial Space or Affordable Housing.

Manager Mathes responded that he would not add the others. They are not suitable. He would let them know, though, that the City does not have a pharmacy, a hardware store, or a grocery store. They just never know what they can produce.

Attorney Dill reminded Council that this would come back.

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

MOTION by Agency Member Salgado **SECONDED** by Agency Member Hernandez to motion to recommend that the City Council consider the sale lease of the such a property and authorize staff prepare an RFP for the property.

ALL AYES

MOTION CARRIED. 4-0

ROLL CALL: AYES: Agency Member Herrera, Agency Member Salgado, Agency Member Hernandez, and Chairman Tyson **NAYS:** none.

ALL AYES

MOTION CARRIED. 4-0

MOTION by Agency Member Salgado **SECONDED** by Agency Member Hernandez to authorize staff to obtain an appraisal for the property and a title search for the property,

ALL AYES

MOTION CARRIED. 4-0

ROLL CALL: AYES: Agency Member Herrera, Agency Member Salgado, Agency Member Hernandez, and Chairman Tyson **NAYS:** none.

ALL AYES

MOTION CARRIED. 4-0

MOTION by Agency Member Hernandez **SECONDED** by Agency Member Salgado to recommend that the City Council use current standards in the Comprehensive Plan, Land Development Code with a market-based approach, providing only guidance as needed as reflected in the agenda request form.

ALL AYES

MOTION CARRIED. 4-0

ROLL CALL: AYES: Agency Member Herrera, Agency Member Salgado, Agency Member Hernandez, and Chairman Tyson **NAYS:** none.

ALL AYES

MOTION CARRIED. 4-0

Recessed as the Community Redevelopment Agency 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 – suggested considering the needs of the school when planning, citing parking issues for parents pick up kids.

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.

- **Code Enforcement Case 1027 Lincoln Street** – The City currently has a code enforcement case on a house that has gone through the entire process and could be foreclosed if they chose. Unfortunately, the owner has died and now the City has a choice. They can continue to let it sit and unfortunately, this house has only gotten worse since it went to Special Master. It now has an RV sitting there as a living house for someone, and that person living in that RV was in a gunfight in the streets of Fellsmere about three months ago. The City tries to focus on these problem properties, but the City cannot do anything more on this one except foreclosure. Either the City takes the risk that it may get challenged

down the road and City would waste the entire foreclosure process, or the City petitions the court to process probate on their behalf and spend money to foreclose on the property. Apparently, when the patriarch died, there is like 13 heirs now, and that is why nothing is happening, because nobody can get together and make it happen. He asked the City Attorney's to talk about the risks.

Attorney Rhodeback stated that for multiple decades, the process for foreclosing on homes or property in which the owner is deceased, was pretty straightforward. In February of this past year, our fourth district issued a decision that called into question whether that was the proper procedure to handle these foreclosures. It created a firestorm and the fourth DCA has since backtracked on that decision by saying that, well, actually at issue in this case was homestead property, and homestead property is not technically a part of this state. The fourth district, however, did withdraw the prior opinion, the prior opinion, which called into question whether this was the proper way of handling foreclosures. Why this is significant in this case is, this is not homestead property. The property that is going to be foreclosed has not been identified as the homestead of the deceased. So therefore, on the facts in this case, is the fourth district going to reinvigorate the decision it just withdrew or is it never going to come to a head again and the City does not have to worry, that is the risk they face in this case. If Council decides they do not want to spend the money on the probate, they will proceed like they always have for the last multiple decades to move forward with the foreclosure action. If Council decides it is not worth a risk to them that they would commence an unsecured creditors probate against the decedent in order to properly administer the estate, in order for the personal representative to be a part of the foreclosure action. On the downside of that, that is more money for the City of Fellsmere. The upside to it is that it reduces the legal risk of moving forward without an estate being open for this particular individual. What makes it a little bit more complicated is that they typically they have a complying client but in this particular case they would have a deceased individual, and the City has no idea who is potentially out there and whether they would be willing to cooperate with the City to administer the estate, which makes it a little bit unique.

Manager Mathes stated that probate estimated at four to \$6000. Once they finish the foreclosure, run through the cost, it is not a salvageable property so then they have demolition costs. They would probably be into the property close to \$20,000, then foreclosure cost on there, which is also about four to six. Maybe the City will not get \$20,000 for a vacant lot, but they will get most of it back. The City will get their cost back if they do not do probate, but they have the risk. The City will not get their cost back if they do probate, but they will not have the risk.

Vice Mayor Herrera stated that it needs to be solved anyway, regardless, the City needs to do something. The City should move forward.

MOTION by Council Member Hernandez **SECONDED** by Council Member Salgado to authorize staff to initiate unsecured creditors probate for 1027 Lincoln Street, Fellsmere.

ALL AYES

MOTION CARRIED. 4-0

- **State of the City Presentation – July 10th**- He will be doing a Facebook Live presentation from the Fellsmere Auditorium open to the public in person and online.
- **Fairgrounds** – The Indian River County Firefighters Fair are looking for another home. Fellsmere Farm has owed the City a fairground site since the day they annexed, and the City can impose that dedication anytime the City wants. He asked Council if they would like staff to work with the association and any other users to identify whether or not we could support a Fairground. If there are enough users for that fairground site, it will pay for itself in terms of maintenance and so forth. He will continue having those conversations, and if they get to a point where they feel at staff that they can be successful, then they will come back to Council and look for some action, for some direction on that.
- **Self Propelled Internal Transit Loop** – There is some money out there that people are trying to give the City to do a self-propelled internal transit loop for Fellsmere. It would give them better headways. If you're traveling in town, instead of an hour headway, which is what we have today, they will have 10/15, minute headways, which means you'll be able to be picked up more frequently and dropped off more frequently. Plus, it would be new technology and it would be cutting edge for not just Fellsmere

the country, and it would probably bring some good press, plus it would be free. Karen Deagle and he will be meeting on that in the near future, talking about whether that is an option.

Mayor Tyson stated that would be great to get many mothers and their babies to the clinic safely.

- **Treasure Coast League of Cities – BBQ July 10th** – Please see Maria to reserve by July 7th, he will not be attending this year.
- **Ribbon Cutting Historical Society in Sebastian on June 25th at 9am-** All are invited.
- **Marine Bank** – They are getting bought out by a credit union, there was a change in law and now credit unions are an allowed depository, so the City does not have to move from Marine Bank.

Mayor Tyson stated that he spoke with Isabel at lthink and that they are now talking about building a new bank.

Manager Mathes stated that he spoke with them today and their answer was that they going to build the Tradition bank first, and then they are going to talk to Fellsmere after that about whether or not they are going to build the bank. He told them they have until September 26 to tell the City if they are building a bank in Fellsmere, otherwise they do not have a place that Fellsmere. They will be getting to him on the 25th with a schedule.

10. MAYOR'S MATTERS:

- (a) Finance Reports – October 2023 to May 2024
- (b) Police Department Report – May 2024
- (c) Public Works Department Report – May 2024
- (d) Development Report
- (e) Grants Report
- (f) Water Report

Mayor Tyson stated that he hopes everyone got a chance to read the department reports. He got an invitation from Jordan Newledge to be on his podcast last week to talk about what was going on in Fellsmere. He accepted the invitation and brought them up to date on what is going on in Fellsmere.

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 Attorney Rhodeback already covered the probate code case, and they do not have anything else.

13. NEW BUSINESS:

- (a) Accept the immediate resignation of Alternate Member Eric Boissat from Planning and Zoning Commission.
- (b) Accept the immediate resignation of Ben Baker from the MPO Citizen Advisory Committee

MOTION by Council Member Hernandez **SECONDED** by Council Member Salgado to approve the consent agenda.

ALL AYES

MOTION CARRIED. 4-0

14. ADJOURNMENT: There being no further business Mayor Tyson adjourned the meeting at 8:02p.m.

These minutes were approved by the City Council of the City of Fellsmere this 11 day of July 2024



Maria F. Suarez-Sanchez, CMC, City Clerk
CO20240620MINUTES.DOC