

MAYOR
Hal J. Rose

DEPUTY MAYOR
Stephen Phrampus

COUNCIL MEMBERS
Diana Adams
Pat Bentley
John Dittmore
Daniel McDow
Andrea Young



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CITY COUNCIL REGULAR MEETING

MINUTES

September 6, 2023, at 6:00 p.m.
City Council Chamber

1. CALL TO ORDER

Mayor Rose called the regular meeting to order at 6:02 p.m.

2. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENT MEDITATION

Mayor Rose led the Pledge of Allegiance followed by a moment of silence.

3. ROLL CALL

Attending: Mayor Hal Rose, Deputy Mayor Stephen Phrampus, and Council Members Diana Adams, Pat Bentley, John Dittmore, Daniel McDow, and Andrea Young.

Also present: City Manager Tim Rhode, City Attorney John Cary, Assistant City Manager Tom Bradford, Police Chief Gregory Vesta, Planning Director Christy Fischer, Finance Director Candice Blake, Jacobs Project Manager Brian Mascher, Systems Administrator Christian Arsenault, Deputy City Clerk Eric Popham, and members of the public.

Council Member Dittmore made a motion to add an item to the agenda to speak about the proposed ordinance for residency definition, which was discussed at the last Council meeting. Deputy Mayor Phrampus seconded the motion.

City Attorney Cary stated that in order to add an item to the agenda it must be delivered to the City Manager and placed on an agenda by the City Clerk. City Council discussed procedures and options for adding an item to this agenda.

Council Member Dittmore withdrew his motion at this time.

4. PRESENTATIONS/PROCLAMATIONS/INTRODUCTIONS

Proclamation for National Service Dog Month. Mayor Rose presented a proclamation to Karen Londos with Canine Companions naming September as National Service Dog Month in the City of West Melbourne.

Presentation of Jacobs/CH2M Annual Client Wastewater Operations Report 2022/2023. Jacobs Project Manager Brian Mascher presented to Council the Annual Client Wastewater Operations Report. Council asked several questions regarding preventative maintenance needs and budgeted funds needed for the plant.

5. PUBLIC HEARING

Proposed FY 2023-2024 Millage Rate and Budget. City Manager Rhode presented the 2023-2024 millage rate and budget. He explained this was the first budget hearing, notice of which had been made to property owners through the proposed tax notice sent by the Brevard County Property Appraiser. He proposed adoption of the roll back millage rate of 1.9948. City Manager Rhode reviewed further details of the budget.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Council Member Adams moved to accept the tentative fiscal year 2023-2024 millage rate of 1.9948 per thousand dollars of taxable value. Council Member Bentley seconded the motion, which passed unanimously.

Council Member Young moved to approve the tentative 2023-2024 budget. Council Member McDow seconded the motion, which passed unanimously.

Council Member Adams moved to set a public hearing for 6:00 p.m. on Wednesday, September 20, 2023, to consider final adoption of the 2023-2024 millage and budget. Council Member Young seconded the motion, which passed unanimously.

Annual Stormwater Utility Budget and Assessment Roll. City Manager Rhode presented a resolution adopting the 2023-2024 stormwater fund budget with no change in the annual stormwater utility fee methodology or rates.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Council Member Young moved to adopt Resolution No. 2023-11 adopting the 2023-2024 stormwater fund budget and certifying the stormwater utility assessment as presented by Brevard County with no change in the annual stormwater utility fee methodology or rates. Mayor Rose seconded the motion, which passed 7-0.

Code Amendment Deleting Reference to Accessory Residential Uses in the Commercial Parkway (CP) Zoning District. Planning Director Fischer presented the second reading of Ordinance No. 2023-13, deleting the reference to residential accessory uses being permitted within the Commercial Parkway (C-P) zoning district. She explained the history of the Commercial Parkway zoning district and the removal of multi-family residential uses in 2021. However, there was a reference to accessory uses for residential that was missed when that change was made. Therefore, this ordinance would make that correction by removing the reference for accessory residential uses. Planning Director Fischer provided a zoning map showing the areas zoned Commercial Parkway.

Planning Director Fischer stated the Planning & Zoning Board, acting as the planning agency, recommended approval of the ordinance at their meeting of August 9, 2023, and Council approved the first reading on August 15, 2023.

City Attorney Cary read, in title only, Ordinance No. 2023-13:

ORDINANCE NO. 2023-13

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98, ZONING, ARTICLE III, DISTRICTS, DIVISION 8, C-P (COMMERCIAL PARKWAY) DISTRICT, SECTION 98-365, PROHIBITED USES AND STRUCTURES, OF THE CODE OF ORDINANCES TO DELETE REFERENCE TO A RESIDENTIAL ACCESSORY STRUCTURE BEING PERMITTED WITHIN THE C-P (COMMERICAL PARKWAY) ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing

Deputy Mayor Phrampus moved to approve the second reading of Ordinance No. 2023-13, deleting the reference to residential accessory uses being permitted within the Commercial Parkway (C-P) zoning district. Mayor Rose seconded the motion, which passed unanimously.

Code Amendment to Modify Time Period for Temporary Housing. Planning Director Fischer presented the second reading of Ordinance No. 2023-14, to modify the time period for temporary housing to be allowed on property within the city limits from 18 months to 36 months. She explained that the City adopted criteria in 2020 for the placement of temporary housing after a natural disaster. The change being requested is to allow temporary housing for 36 months rather than 18 months, which is consistent with changes in Florida Statutes. The proposed ordinance was advertised and was recommended for approval by the Planning & Zoning Board at their meeting of August 9 and Council approved the first reading on August 15, 2023.

City Attorney Cary read, in title only, Ordinance No. 2023-14:

ORDINANCE NO. 2023-14

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98, ARTICLE V, DIVISION 6, SUBDIVISION I, SECTION 98-1151. TEMPORARY RELOCATION HOUSING, SECTION 98-1151(a)(2) TIME PERIOD TO ALLOW TEMPORARY HOUSING ON A RESIDENTIAL PROPERTY FOR A MAXIMUM OF 36 MONTHS AND SECTION 98-1151(A)(7), OCCUPANCY, TO AMEND THE WORDING FROM PERSON TO RESIDENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There begin no comments, he closed the public hearing.

Deputy Mayor Phrampus moved to approve the second reading of Ordinance No. 2023-14, to modify the time period for temporary housing to be allowed on property within the city limits from 18 months to 36 months. Council Member Young seconded the motion, which passed unanimously.

Small Scale Amendment and Rezoning for Property located on the West Side of Griffith Lane. Planning Director Fischer presented the second reading of Ordinance No. 2023-19, a small-scale comprehensive plan amendment to change the future land use for the lift station property located off of Griffith Lane, and the second reading of Ordinance No. 2023-20, rezoning the property to Institutional.

City Attorney Cary noted that this was a quasi-judicial hearing because of the rezoning and asked Council members disclose any communication or visitation to the site. There were no disclosures.

Planning Director Fischer reviewed the change to the future land use on the 0.06 acres of a city-owned property from Brevard County Residential 4 (RES 4) to Institutional (INST). Because the lift station was the only thing on the property, there is no concurrency and no capacity impacts. The change is consistent with the comprehensive plan and consistent for the standards for infrastructure systems.

Planning Director Fischer reviewed the change to the zoning noting that it would be changed from a residential designation to institutional. This change would be consistent with the City's land development regulations.

Planning Director Fischer stated the Planning & Zoning Board, acting as the planning agency, had recommended approval of the small-scale amendment and rezoning at their meeting of August 9, 2023.

City Attorney Cary read, in title only, Ordinance Nos. 2023-19 and 2023-20:

ORDINANCE NO. 2023-19

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN TO CHANGE THE FUTURE LAND USE FOR A 0.06 ACRE PARCEL OF LAND LOCATED ON THE WEST SIDE OF GRIFFITH LANE AND AS MORE FULLY DESCRIBED HEREIN FROM BREVARD COUNTY RES-4 (RESIDENTIAL 4) TO CITY OF WEST MELBOURNE INST (INSTITUTIONAL); PROVIDING AN EFFECTIVE DATE.

ORDINANCE NO. 2023-20

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, REZONING PARCELS OF LAND TOTALING 0.06 ACRES LOCATED ON THE WEST SIDE OF GRIFFITH LANE FROM BREVARD COUNTY RU-1-11 (RESIDENTIAL 11 DU/ACRE) TO CITY OF WEST MELBOURNE P-1 (INSTITUTIONAL); PROVIDING AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Deputy Mayor Phrampus moved to approve the second reading of Ordinance No. 2023-19, a small-scale comprehensive plan map amendment to change the future land use on 0.06 acres of a city-owned lift station property on the west side of Griffith Lane near Falcon Ridge Subdivision from Brevard County Residential 4 (RES 4) to Institutional (INST). Council Member Adams seconded the motion, which passed unanimously.

Council Member Bentley moved to approve the second reading of Ordinance No. 2023-20 rezoning the City lift station from Brevard County single-family residential (RU-1-11) to City of West Melbourne Institutional (P-1), with the condition that the small-scale comprehensive plan amendment is approved. Council Member Young seconded the motion, which passed unanimously.

Small Scale Amendment and Rezoning for Properties located at 591 Ponderosa Street. Planning Director Fischer presented the second reading of Ordinance No. 2023-17, a small-scale amendment for the properties recently annexed at 591 Ponderosa Street, and the second reading for Ordinance No. 2023-18, rezoning properties at 519 Ponderosa Street to single-family residential.

City Attorney Cary noted that this was a quasi-judicial hearing because of the rezoning and asked Council members disclose any communication or visitation to the site. There were no disclosures.

Planning Director Fisher reported that Council was being asked to change the future land use from Brevard County RES-6 to City of West Melbourne low-density residential.

She provided photos of the property and the adjacent vacant lot. She provided slides showing the analysis of the surrounding uses which were single-family residential. The change would be consistent with the comprehensive plan and would provide balance of the private property rights.

Planning Director Fischer presented the rezoning for the property to change the zoning from Brevard County's Single-Family Residential Use (RU-1-11) to Residential (R-1A). She noted the change would be consistent with the zoning in the area.

Planning Director Fischer stated the Planning & Zoning Board, acting as the planning agency, had recommended approval of the small-scale amendment and rezoning at their meeting of August 9, 2023.

City Attorney Cary read, in title only, Ordinance Nos. 2023-17 and 2023-18:

ORDINANCE NO. 2023-17

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN TO CHANGE THE FUTURE LAND USE OF LAND LOCATED AT 591 PONDEROSA AVENUE AND AS MORE FULLY DESCRIBED HEREIN FROM BREVARD COUNTY RES-6 (RESIDENTIAL 6) TO CITY OF WEST MELBOURNE LD-RES (LOW DENSITY RESIDENTIAL); PROVIDING AN EFFECTIVE DATE.

ORDINANCE NO. 2023-18

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, REZONING PARCELS OF LAND TOTALING 0.60 ACRES LOCATED AT 591 PONDEROSA STREET FROM BREVARD COUNTY RU-1-11 (RESIDENTIAL 11 DU/ACRE) TO CITY OF WEST MELBOURNE R-1A (SINGLE-FAMILY RESIDENTIAL); PROVIDING AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Deputy Mayor Phrampus moved to approve the second reading of Ordinance No. 2023-17, the small-scale comprehensive plan map amendment changing the future land use on approximately 0.60 acres of property located at 591 Ponderosa Street from RES-6 to Low-Density Residential. Mayor Rose seconded the motion, which passed unanimously.

Deputy Mayor Phrampus moved to approve the second reading of Ordinance No. 2023-18, rezoning two properties located at 591 Ponderosa Street to Single-Family Residential (R-1A) from Brevard County's Single-Family Residential Use (RU-1-11). Council Member Young seconded the motion, which passed unanimously.

Code Amendment to modify Roadway/Driveway Separation Distances. Planning Director Fischer presented the first reading of Ordinance No. 2023-21, revising the Land Development Regulations Sections 63-8, Zoning Definitions, 74-87, Entrance and Exit Driveway, and 86-53 Access, defining master residential developments and adding separation requirements. Planning Director Fischer provided the background information on revisions to the City code in the past and the purpose of this change, which was to better define the language related to roadway/driveway separation distances. Additionally, this change will clarify that emergency entrances do not count as a secondary entrance for a subdivision. Planning Director Fischer noted there is an error on page five of the ordinance, section “f” where she recommended the word “master” be removed from the ordinance with Council approval.

City Attorney Cary read, in title only, Ordinance No. 2023-21:

ORDINANCE NO. 2023-21

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, CLARIFYING MINIMUM ACCESS CONNECTION REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT; PROVIDING LEGISLATIVE FINDINGS; AMENDING CHAPTER 63, DEFINITIONS; AMENDING CHAPTER 86, SUBDIVISIONS, ARTICLE II, IMPROVEMENTS, SEC. 86-53 – ACCESS; AMENDING CHAPTER 74, DEVELOPMENT STANDARDS, ARTICLE II, OFF-STREET PARKING AND LOADING AREAS AND ACCESS, DIVISION 3, DRIVEWAYS, SEC. 74-87 – ENTRANCE AND EXIT DRIVEWAYS; PROVIDING FOR INCLUSION IN THE CODE, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mayor Rose opened the public hearing. There being no comments, he closed the public hearing.

Deputy Mayor Phrampus moved to approve the first reading of Ordinance No. 2023-21, revising the Land Development Regulations Sections 63-8, Zoning Definitions, 74-87, Entrance and Exit Driveway, and 86-53 Access, defining master residential developments and adding separation requirements with correction on subsection “f” on page 5. Council Member Adams seconded the motion.

Deputy Mayor Phrampus asked if a development does not have active recreational amenities would they still need two driveways even if they are over 200 units. Planning Director Fischer responded that wording could be changed or modified if Council wishes. Deputy Mayor Phrampus would like to remove the wording “active recreational amenities” from the ordinance.

Council Member Adams asked if there was anyway to predict the number of future developments this change would affect. Planning Director Fischer responded that it would likely affect less than 10 future residential developments.

Council voted and the motion passed unanimously.

6. PUBLIC FORUM

Elizabeth Lytle of 741 Falls Creek Drive, spoke about the conditional zoning for Ellis Road/proposed diesel truck stop and voiced her opposition based on years of experience as a reporter for these types of developments. Ms. Lytle continued by citing a decrease in property values and possible rise in crime.

Paul Michele of 687 Linville Falls Drive, spoke about 9075 Ellis Road and quoted several Centers for Disease Control and Prevention, State and County noise and hearing loss related statistics and related ordinances. He continued to speak about loss of property values, wetlands, and likely increase in crime.

Pari Jamnia of 827 Potomac Drive, spoke about the residents of the Falls of Sheridan and how those residents were treated during the last Board of Adjustment meeting by the developer and the developer's attorney. The developer did not respond to questions and concerns from the residents of Falls of Sheridan who attended that meeting.

Patricia Montemurro of 717 Falls Creek Drive, spoke about the alternatives to the development at 9075 Ellis Road by suggesting more traditional commercial business which will not operate on a 24-hour basis. Additionally, Ms. Montemurro commented on the condescending behavior of the developer's attorney at the recent Board of Adjustment meeting.

Carol Dreitlein of 3260 Flanagan Avenue, spoke about the letter which she sent to Council Members previously which covered her not being able to serve on any committees in West Melbourne after moving from one home to another home on Flanagan Avenue. She spoke on this in relation to the recent reports on Mayor Rose continuing to serve while not living in the City.

Robert Griffin of 895 Shoshone Lane, spoke about the change of the City code deletion of Chapter 66 and the addition of Chapter 64 in July. This related specifically to allowing City boards to set their own rules. He brought this to the attention to Council because he was limited to three minutes when speaking before the Board of Adjustment, which was the rule when speaking before Council.

7. CONSENT AGENDA

Council Member Adams moved to approve the Regular City Council minutes for Tuesday, August 15, 2023 as presented. Council Member Bentley seconded the motion, which passed with a 7-0 vote.

8. ACTION AGENDA

Agreement with Flock Safety for Continuation of Automated License Plate Readers (ALPR) Services. Police Chief Vesta presented background information on a five-year agreement with Flock Safety which will lock in the current rate of the service which the City pays.

Deputy Mayor Phrampus asked if the agreement would change when additional cameras are added. Police Chief Vesta responded that provided the City added cameras by the end of this year we would maintain the current rate and any cameras added after that time would be at a higher rate.

Deputy Mayor Phrampus moved to approve a five-year agreement with Flock Safety in an annual amount of \$27,500.00, and authorize the City Manager to execute the agreement on behalf of the City. Council Member Young seconded the motion, which passed unanimously.

9. CITY COUNCIL REPORTS

Council Member Dittmore spoke on phone calls from non-city elected officials speaking and harassing City staff and the possibility of restricting those calls. The calls related to the subpoena that was issued to the homeowner association for documents completed by Mayor Rose and addressed the residency. Council members did not necessarily agree that calls could be restricted.

Mayor Rose spoke on the subpoena power of Council as a whole versus individual members and whether or not it was a criminal act. City Attorney Cary expressed his concerns and frustrations from the political situation and the effect on his employment.

Council Member Dittmore also spoke on the definitions from the dictionary on residency.

Mayor Rose called for a brief recess at 9:04 p.m. Mayor Rose reconvened the meeting at 9:11 p.m.

Discussion continued on the subpoena process and if the language in the charter permits individual Council Members to issue subpoenas or if that action is the decision of a majority of members of Council. Council agreed to have the City Attorney seek an Attorney General Opinion on the process. A suggestion was also made that a third-party counsel should be brought in.

Council Member Bentley had nothing to report.

Council Member Young had nothing to report.

Council Member McDow spoke about the Honor Flight in the upcoming weekend.

Council Member Adams participated in a ride-along with the West Melbourne Police Department and the morning drop-off at schools located in the City.

Deputy Mayor Phrampus thanked officers who came to Sawgrass Lakes and provided a bike safety demonstration to residents and their children. Deputy Mayor Phrampus attended several events in West Melbourne and Palm Bay.

Mayor Rose represented the City at several events around the County.

City Manager Rhode reminded the City about the Heritage Day event on October 18, 2023.

Police Chief Vesta provided information on an incident of unwanted flyers scattered at various addresses in West Melbourne.

10. ADJOURNMENT

There being no further business, the meeting adjourned at 9:36 p.m.