

MAYOR  
Hal J. Rose

DEPUTY MAYOR  
John Dittmore

COUNCIL MEMBERS  
Daniel Batcheldor  
Pat Bentley  
Daniel McDow  
Stephen Phrampus  
Andrea Young



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## CITY COUNCIL REGULAR MEETING

### MINUTES

October 5, 2021

#### 1. CALL TO ORDER

Mayor Rose called the meeting to order at 6:30 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 John Dittmore, and Council Members Pat Bentley, Andrea Young, Daniel Batcheldor, Stephen Phrampus and Daniel McDow.

Also present: City Manager Scott Morgan, City Attorney Morris Richardson, Assistant City Manager Tom Bradford, Assistant City Manager Tim Rhode, Finance Director Margi Starkey, Police Chief Rick Wiley, Planning Director Christy Fischer, Public Works Director Mark Piccirillo, Parks and Recreation Director Rich Boprey, Human Resources Director Kimberly Gale, Jacobs Project Manager Brian Mascher, Systems Administrator Christian Arsenault, City Clerk Cynthia Hanscom, and members of the public.

#### 4. PRESENTATIONS/PROCLAMATIONS/INTRODUCTIONS

**Introduction of New Employees.** Police Chief Wiley introduced Public Service Aide Juan Montemayor who started with the City on September 24, 2021. Parks and Recreation Director Boprey introduced Recreation Worker Dean Jones, who started with the City on October 4, 2021.

**Presentation of the Jacobs/CH2M Annual Wastewater Operations Report.** Jacobs Project Manager Mascher introduced representatives from Jacobs who would be assisting with the presentation on the Annual Wastewater Operations Report. In attendance were Vice President Operations Management Andy Rouse, retiring

Maintenance Supervisor Mike DeBerry, and Maintenance Supervisor Sherman Huffman. They presented the report and answered questions made by Council.

Council asked questions on reuse, the capacity of the plant and testing for COVID. Jacobs' staff were complimented on having no accidents and the safety measures that were in place. In addition, the operation of the plant with no spills during Hurricane Irma, unlike other municipalities, was mentioned. When asked about the biggest challenge, Mr. Rouse commented that the current staffing issues and getting qualified staffing. A comment was also made on the physical lab and office building and the need to improve working conditions in the building.

## **5. PUBLIC HEARINGS**

**Comprehensive Plan Text Amendment for Private Property Rights.** Planning Director Fischer presented the second reading of an ordinance to include a set of private property rights policies, objectives and goals in the Comprehensive Plan. She reviewed that the ordinance was in response to a State mandate. She provided the staff analysis and noted that this was recommended for approval by the Planning & Zoning Board.

City Attorney Richardson read, in title only, Ordinance No. 2021-19:

### **ORDINANCE NO. 2021-19**

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, FLORIDA AMENDING THE COMPREHENSIVE PLAN TO INCORPORATE A NEW PRIVATE PROPERTY RIGHTS ELEMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; AND, PROVIDING FOR IMPLEMENTATION OF THE STATUTORY STATE REVIEW PROCESS AND AN EFFECTIVE DATE.

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

*Council Member Phrampus moved to adopt the new comprehensive plan element which includes a set of private property rights policies, objectives and goals and approve the second reading of Ordinance No. 2021-19. Deputy Mayor Dittmore seconded the motion, which passed unanimously.*

**Small Scale Comprehensive Plan Amendment and Rezoning for Dobbs Equipment Property.** Planning Director Fischer presented a small scale comprehensive plan amendment and rezoning for property located on the east side of Columbia Lane for Dobbs Equipment.

City Attorney Richardson reminded Council that the rezoning was a quasi-judicial hearing and asked for disclosures for any communication outside the public hearing or site visits that would be material to the decision. There were no disclosures.

Planning Director Fischer reported the applicant was Dobbs Equipment and they were planning on building on a vacant property along Columbia Lane. The property was annexed in 2008 but there was no future land use or rezoning applied to the property at that time.

Planning Director Fischer presented the future land use designation and provided the staff analysis of surrounding future land uses. She noted the proposed land use would be compatible and would balance the private property rights. She reviewed the proposed rezoning and provided an analysis of the possible impacts and compatibility with surrounding property. The binding development plan had been approved at a previous meeting and would provide aesthetics to the building facade.

City Attorney Richardson read, in title only, Ordinance Nos. 2021-20 and 2021-21:

#### **ORDINANCE NO. 2021-20**

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 7.0 ACRE PARCEL OF LAND LOCATED ON THE EAST SIDE OF COLUMBIA LANE, AND AS MORE FULLY DESCRIBED HEREIN FROM BREVARD COUNTY CC (COMMUNITY COMMERCIAL) TO CITY OF WEST MELBOURNE IND (INDUSTRIAL); PROVIDING AN EFFECTIVE DATE.

#### **ORDINANCE NO. 2021-21**

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, REZONING A 7.0 ACRE PARCEL OF LAND GENERALLY LOCATED ON THE EAST SIDE OF COLUMBIA LANE, AND AS MORE FULLY DESCRIBED HEREIN FROM BREVARD COUNTY TU-2 (TRANSIENT TOURIST COMMERCIAL) TO CITY OF WEST MELBOURNE M-1 (LIGHT INDUSTRIAL AND WAREHOUSING); PROVIDING AN EFFECTIVE DATE.

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

*Council Member Bentley moved to approve the second reading of Ordinance No. 2021-20, amending the City's future land use map amendment to change from Brevard County CC (Community Commercial) future land use designation to City of West Melbourne IND (Industrial) future land use designation on property located on the east side of Columbia Lane. Council Member Phrampus seconded the motion.*

Mayor Rose asked about the binding development agreement. Mr. Andy Kirbach, with Morgan & Associates engineering firm and representing Dobbs Equipment, stated that they had no issues with the binding development plan. Mayor Rose commented the abutting unincorporated properties should have similar binding agreements if the properties want to annex into the City.

Mayor Rose asked about the paving of Columbia Lane. Mr. Kirbach stated they continued to work with the County and would be paving a portion of the roadway up to the driveway of the property.

*Council then voted on the motion to approve Ordinance No. 2021-20, which passed 7-0.*

*Council Member Phrampus moved to approve the second reading of Ordinance No. 2021-21, rezoning 7.0 acres of property located on the east side of Columbia Lane from Brevard County TU-2 (Transient Tourist Commercial) to City of West Melbourne M-1 (Light Industrial and Warehousing) zoning with a binding development plan. Mayor Rose seconded the motion, which passed 7-0.*

**Traffic Impact Fee Credit/Reimbursement Agreement for Ascend at Hammock Landing.** City Attorney Richardson presented the Traffic Impact Fee Credit/Reimbursement Agreement for Ascend at Hammock Landing. He reminded Council that a 'hold harmless' agreement had been approved which allowed the developer to move forward with land clearing and permits. However, the proposal was early in the engineering process and the estimated cost of the improvements had increased. The project improvements would be at the Hield Road and Minton Road intersection and would require converting to a mast arm signalization. Based on the traffic engineering study, the developer would pay for all the construction on the front end. Based on traffic generated from the project, the costs would be \$947,000 with an additional \$296,000 eligible to be paid through impact fee credits.

Mayor Rose opened the public hearing.

Scott Glass, attorney representing the developer for Ascend at Hammock Landing, stated the developer was in agreement with the impact fees and expressed appreciation in working with the City staff.

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

Council Member Phrampus asked how the cost share was determined. City Attorney Richardson explained it was based on the traffic engineering with review by the City's consulting engineer. It is also reviewed by the Brevard County Transportation engineers. Council Member Phrampus stated that it seemed that the developer's share should be higher. City Attorney Richardson stated that the analysis provided for improvements based on the needs to upgrade the area. Mr. Glass commented that the formula was based on State statute.

*Deputy Mayor Dittmore moved to approve the three-party agreement between the City of West Melbourne, Brevard County, and DHIC-Hammock Landing, LLC, and authorize the Mayor to execute the agreement on behalf of the City. Council Member Young seconded the motion, which passed unanimously.*

**Small Scale Comprehensive Plan Amendment and Rezoning for Feast Road Properties.** Planning Director Fischer presented the small scale comprehensive plan map amendment and rezoning for property recently annexed on Feast Road. She reported the subject property was 0.52 acres and contained a five-plex apartment with five different addresses. She noted the development was compatible with the City's medium density residential zoning.

City Attorney Richardson read Ordinance Nos. 2021-24 and 2021-25, in title only:

#### **ORDINANCE NO. 2021-24**

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN TO PROVIDE FOR MD-RES (MEDIUM DENSITY RESIDENTIAL) LAND USE ON 0.52 ACRES OF NEWLY ANNEXED LAND LOCATED AT 2005, 2015, 2025, 2035, AND 2045 FEAST ROAD AND AS MORE FULLY DESCRIBED HEREIN; ESTABLISHING AN APPROPRIATE LAND USE FOR THE PROPERTY; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; EXTENDING THE GOALS, OBJECTIVES, AND POLICIES AND OTHER LAND USE PLANNING REQUIREMENTS TO THE PROPERTY; AND, PROVIDING AN EFFECTIVE DATE.

#### **ORDINANCE NO. 2021-25**

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, REZONING A NEWLY ANNEXED 0.52 ACRE PARCEL OF LAND LOCATED AT 2005, 2015, 2025, 2035, AND 2045 FEAST ROAD, AND AS MORE FULLY DESCRIBED HEREIN, FROM BREVARD COUNTY RU-2-10 (MEDIUM DENSITY MULTIPLE-FAMILY RESIDENTIAL) TO CITY OF WEST MELBOURNE R-2 (ONE-, TWO- AND MULTI-FAMILY DWELLING); PROVIDING AN EFFECTIVE DATE.

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

*Deputy Mayor Dittmore moved to approve the second reading of Ordinance No. 2021-24, a small scale comprehensive plan map amendment to change the future land use on 0.52 acres of property located on Feast Road from Brevard County NC (Neighborhood Commercial) to City of West Melbourne MD-RES (Medium Density Residential). Council Member Phrampus seconded the motion, which passed unanimously.*

*Deputy Mayor Dittmore moved to approve the second reading of Ordinance No. 2021-25 rezoning 0.52 acres of property located at 2005, 2015, 2025, 2035, and 2045 Feast Road from Brevard County RU-2-10 (Multiple-Family Residential) to City of West Melbourne R-2 (One-, Two- and Multi-Family Dwelling). Council Member Young seconded the motion, which passed unanimously.*

## **6. PUBLIC FORUM**

Sandra Michelson, 745 Greenwood Manor Circle, thanked City Manager Morgan for his service to the community. She stated that the City was in a bad place when he was hired and had come so far under his guidance. She noted that he had gained the respect from the entire community and named many of his accomplishments.

## **7. CONSENT AGENDA**

*Deputy Mayor Dittmore moved to approve the following consent agenda. Council Member Young seconded the motion, which passed unanimously.*

- Regular City Council meeting minutes for Wednesday, September 22, 2021.
- Authorization for the City Manager to electronically sign the Small Cities Community Development Block Grant (CDBG) funding agreement between the City of West Melbourne and the Florida Department of Economic Opportunity.
- Authorization for the Mayor to sign Addendum #1 to the agreement dated March 2, 2021, between the City of West Melbourne and Summit Professional Services for administrative support in grant term compliance for a recently awarded \$750,000 grant from the Florida Department of Economic Opportunity.

## **8. ACTION AGENDA**

**Resolution Supporting the Space Coast Health Foundation’s Campaign for “Get Vaccinated Brevard.”** City Clerk Hanscom presented a resolution from the Space Coast Health Foundation asking for support for their “Get Vaccinated Brevard” campaign.

Cathy Renfro, 827 Sylvan Drive, spoke in opposition to the resolution noting that the normal population was in the dark and uninformed. The globalists, making up 1 percent of the population classified as super rich, wanted the uninformed to be slaves that think that they have freedom. She stated that COVID-19 could be cured with medication but the globalist want to put fear in the world. She stated the vaccine was a harmful chemical and the boosters will make people sterile, which plays into the globalist view of depopulation. She asked Council not to approve the resolution.

*Council Member Phrampus moved to adopt Resolution No. 2021-32 supporting the Space Coast Health Foundation's Campaign for "Get Vaccinated Brevard." Council Member McDow seconded the motion, which passed unanimously.*

**Purchase of Two New Vehicles for the Administration Department.** Assistant City Manager Rhode presented a request to approve the purchase of two new vehicles for the Administration Department. He stated that there was \$60,000 in the budget and they were proposing to purchase two Ford Explorers.

Council Member Bentley asked when the City would make the conversion to electric vehicles. Assistant City Manager Rhode stated that there would need to be some pre-planning. City Manager Morgan stated the traveling range of the vehicles was getting better and he predicted that this could be done in a couple of years. Council discussed looking at changing the fleet to electric vehicles and agreed that this would need to be done strategically.

Mayor Rose asked for reassurance that the vehicles that were purchased were similar to the Police Department's Administrative/shared vehicle.

*Council Member Bentley moved to approve the purchase of two new 2021 Ford Explorers using the Florida Sheriff's Association and Florida Association of Counties piggyback bid from Duval Ford LLC in the amount of \$54,322, as similar vehicles to that for the Police Department's Administration vehicle. Deputy Mayor Dittmore seconded the motion, which passed unanimously.*

### **Salary Increase for City Manager.**

*Council Member Young moved to take this off the table for discussion. Council Member Bentley seconded the motion, which passed unanimously.*

Mayor Rose expressed concern that this was delayed. He noted that everyone agreed that City Manager Morgan was impressive and he agreed with the comments made by Ms. Michelson earlier in the meeting.

*Council Member Young moved to provide a salary increase for City Manager Morgan to the top of scale at \$168,972, effective October 1, 2021. Mayor Rose seconded the motion.*

Both Council Member Bentley and Council Member Young provided accolades to City Manager Morgan for his service to the City and the accomplishments that he has made during his tenure.

Council Member Phrampus said this proposal would result in an increase of almost 10 percent. He believed it would be better to use the same formula as that for all employees. Deputy Mayor Dittmore stated that he had been in public service for 30 years and had never seen a 10 percent increase.

Council Member McDow agreed that there needed be uniformity in the way that increases were applied but believed the City Manager was an exception.

*Council then voted on the motion to provide the salary increase to City Manager Morgan, which passed 5-2, with Council Member Phrampus and Deputy Mayor Dittmore opposed.*

**Amended Noise Ordinance.** City Attorney Richardson presented the first reading of an ordinance to repeal and replace the provisions of the code relating to regulation of noise. The current noise ordinance does not have specific criteria for decibel or distance that the noise could be heard and was difficult to enforce. The proposed ordinance would provide measurements and times that can be modified as needed.

City Attorney Richardson reviewed the noise regulation techniques for decibel based standards, plainly audible standards, and nuisance standards. He also reviewed the time frames for residential, commercial and industrial areas and the decibels for violation. The ordinance included exceptions, such as emergency sirens, landscaping equipment and garbage collection. There were also prohibitions, such as operating a vehicle without a muffler, yelling and shooting, and horns. The City does not currently have decibel meters but they can be purchased and provided to enforcement staff.

Council Member Batcheldor thanked the City Attorney for preparing the ordinance and suggested the language be changed to bring forward the nighttime hours to 9:00 p.m., because young families are trying to put their children to bed. He stated he would also like to see construction activity noise levels, which are usually non-stop and create unreasonable environments, be restricted to 7:00 a.m. to 9:00 p.m. as well. During the weekends, the construction noise should be limited to 9:00 a.m. and cease at 5:00 p.m.

Mayor Rose commented on several things that should be exempted and commented that consideration would need to be made for daylight savings time.

Mayor Rose asked about barking dogs. City Attorney Richardson stated the Brevard County Animal Control would handle barking dogs.

Mayor Rose asked about the sound meters and whether or not they were reliable. City Attorney Richardson stated that they had held up to challenges in the courts.

Council Member McDow also stated that carnivals and festivals may need to be exempted as well. City Attorney Richardson explained the special event permits would address the noise ordinance.

City Attorney Richardson read Ordinance No. 2021-22 in title only:

### **ORDINANCE NO. 2021-22**

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, FLORIDA RELATING TO NOISE REGULATION AND REPEALING AND REPLACING THE PROVISIONS OF CHAPTER 26, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF WEST MELBOURNE, FLORIDA; ESTABLISHING MAXIMUM NOISE LEVELS AND PROHIBITING NOISE DISTURBANCES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

*Council Member Batcheldor moved to approve the first reading of Ordinance No. 2021-22 to repeal and replace the provisions of the City Code relating to the regulation of noise with the modification of a noise restriction for residential outside of the hours from 7:00 a.m. to 9:00 p.m. and construction noise permitted only between 7:00 a.m. to 9:00 p.m. on weekdays and 9:00 a.m. to 5:00 p.m. on Saturdays. Council Member Phrampus seconded the motion, which passed 6-1, with Mayor Rose opposed.*

#### **Legislative Intent for Potential Tree Removal/Landscaping Code Changes.**

Planning Director Fischer presented tree and landscape code proposals. She reminded Council that a workshop had been held on August 17 where staff had been given preliminary direction on tree and landscape code changes. The proposed changes would not affect the requirements for single-family homes on individual lots.

Planning Director Fischer reviewed several staff recommendations for tree removal and preservation code changes, including higher tree clearing fees, clarifying the need for more hardwoods, minimum replacement caliper, using tree bank fees for arborist services, and increasing credits for saved trees.

Bruce Moia, representing the Home Builders and Contractors Association (HBCA), commented that his organization promotes homeownership and they would be opposed to anything that would prohibit or discourage homeownership. He noted that Titusville had proposed changes and realized that changes were not needed for residential but were needed for commercial. He stated that they were not opposed to many of the suggested changes but hoped that an ordinance would be incentive based.

Council discussed the impacts to the residential community and using funds from the tree fund. Concern was expressed about the expenditure of the tree fund and balancing the need to promote tree preservation with the impacts on the development community. Comments were mixed on the incentives but comments were made to provide greater incentives for saving larger trees.

Council agreed that staff was moving in the right direction to make changes that would reinforce tree preservation efforts.

## **9. CITY COUNCIL REPORTS**

Council Member Phrampus reported he had attended the ethics training with the School Board and asked about the fire services analysis. City Manager Morgan reported the request for proposal had been published and proposals were due back on October 22. This would come before Council at their meeting of November 16.

Council Members Batcheldor and Bentley, and Deputy Mayor Dittmore had no reports.

Council Member Young reported that City Manager Morgan had made a very good presentation on flood reduction at the legislative meeting with the County. She also reported that she had attended the ethics class held by the School District and attended disaster training. She asked that the dead trees at the I-95/U.S. 192 interchange be removed.

Council Member McDow reported he had attended a multi-cultural group meeting affiliated with the Chamber and a redistricting meeting. He also attended an interview with CETA and friends.

Mayor Rose reported he had attended ethics training and would be attending the Palm Bay Chamber and Economic Development Commission meeting the following week.

## **10. ADJOURNMENT**

There being no further business, the meeting adjourned at 10:19 p.m.