

MAYOR
Hal J. Rose

DEPUTY MAYOR
Andrea Young

COUNCIL MEMBERS
Diana Adams
Pat Bentley
John Dittmore
Daniel McDow
Stephen Phrampus



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CITY COUNCIL REGULAR MEETING

MINUTES

October 18, 2022

1. CALL TO ORDER

Mayor Rose called the regular 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 Andrea Young, and Council Members Diana Adams, Pat Bentley, John Dittmore, Stephen Phrampus and Daniel McDow.

Also present: City Manager Tim Rhode, Interim City Attorney Cliff Repperger, Deputy Police Chief Rich Cordeau, Public Works Director Mark Piccirillo, Assistant City Manager Tom Bradford, Human Resources Director Jennifer Curran, Planning Director Christy Fischer, Jacobs Project Manager Brian Mascher, Systems Administrator Christian Arsenault, City Clerk Cynthia Hanscom, and members of the public.

4. PRESENTATIONS/PROCLAMATIONS/INTRODUCTIONS

Beautification Award from Keep Brevard Beautiful. Jennifer Thompson from Keep Brevard Beautiful presented the City with a Beautification Award for the construction and landscaping of the decorative wall at the corner of Minton Road and Henry Avenue to hide the lift station.

New Employee Introduction. Acting Police Chief Rich Cordeau introduced new Police Officers Nicholas Yip and Kevin Sweeney, both who started with the City on October 3, 2022.

5. PUBLIC HEARINGS

Annexation of Property Located at 1340 South Wickham Road. Planning Director Fischer presented the second reading of Ordinance No. 2022-21 to annex property at 1340 South Wickham Road. She presented photos of the existing structures on the property noting that it was currently a landscaping business. This was a voluntary annexation and notifications went out to the abutting property owners with no feedback. Planning Director Fischer provided a summary of the urban services noting that water will be provided from the City of Melbourne. The property owner has a failing septic system and was looking to hook into the City's sewer service.

Interim City Attorney Repperger read Ordinance No. 2022-21 in title only:

ORDINANCE NO. 2022-21

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, ANNEXING BY VOLUNTARY PETITION A PARCEL OF LAND APPROXIMATELY 0.83 ACRES LOCATED AT 1340 S WICKHAM ROAD AND AS MORE FULLY DESCRIBED HEREIN; FINDING THAT THE AREA BEING ANNEXED IS REASONABLY COMPACT AND CONTIGUOUS TO THE CITY, THAT THE ANNEXATION OF THE PROPERTY DOES NOT CREATE AN ENCLAVE, AND THAT THE ANNEXATION OF THE PROPERTY OTHERWISE COMPLIES WITH FLORIDA LAW; AMENDING THE CORPORATE BOUNDARIES OF THE CITY TO PROVIDE FOR THE INCORPORATION OF THE REAL PROPERTY DESCRIBED HEREIN; PROVIDING FOR FILING OF THE REVISED CITY BOUNDARIES WITH THE DEPARTMENT OF STATE; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

Council Member Bentley moved to approve the second reading of Ordinance No. 2022-21 annexing the property at 1340 S. Wickham Road. Council Member Adams seconded the motion.

Council Member McDow asked about the property to the north. Planning Director Fischer stated that the property to north was a Brevard County canal.

Mayor Rose asked about the guarantee of the property owner hooking into the sewer system. Planning Director Fischer stated that the Brevard County Department of Health regulates the septic systems in the County. If a system fails and a sewer system is less than 500 feet, the property owner is required to connect to the sewer.

Mayor Rose asked about the driveway on Wickham Road. Tom Corella, property owner of 1340 South Wickham Road, stated that there were two entrances to the property.

Because of the entrance from Wickham was narrow, it was difficult to use to enter the property. Vehicles would enter the property from Pinecrest and then exit onto Wickham Road.

Council then voted on the motion to approve Ordinance No. 2022-21, which passed unanimously.

Comprehensive Plan Map Amendment and Rezoning for Property Located at 1340 South Wickham Road. Planning Director Fischer presented the first reading of Ordinance No. 2022-22 and Ordinance No. 2022-23 for a small-scale comprehensive plan map amendment and rezoning for a 0.83-acre property located at 1340 S. Wickham Road. She noted that this was the property that had just been approved for annexation. Because the rezoning was a quasi-judicial hearing, she asked for disclosures of communications or visits to the property by Council. There were no disclosures.

Planning Director Fischer stated the existing land use is neighborhood commercial and there was no similar land use designation in the City. Council was asked to approve the land use designation of Commercial, which would be more restrictive than that in the County. She provided a staff analysis of maximum impacts and noted that there was a decrease in the maximum buildable area. The property was proposed to be rezoned from Restricted Neighborhood Retail Commercial (BU-1-A) to Commercial Wickham (C-W), which was consistent with the land use regulations and compatible with surrounding uses. Acting as the local planning agency, the Planning & Zoning Board met on October 13 and recommended approval of both ordinances.

Interim City Attorney Repperger read Ordinances Nos. 2022-22 and 2022-23 in title only:

ORDINANCE NO. 2022-22

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 PARCEL OF LAND 0.83 ACRES LOCATED AT 1340 S. WICKHAM ROAD AND AS MORE FULLY DESCRIBED HEREIN FROM BREVARD COUNTY NC (NEIGHBORHOOD COMMERCIAL) TO CITY OF WEST MELBOURNE COM (COMMERCIAL); PROVIDING AN EFFECTIVE DATE.

ORDINANCE NO. 2022-23

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, REZONING A PARCEL OF LAND 0.83 ACRES LOCATED AT 1340 S WICKHAM ROAD FROM BREVARD COUNTY BU-1A (NEIGHBORHOOD RETAIL COMMERCIAL) TO CITY OF WEST MELBOURNE C-W (COMMERCIAL WICKHAM); 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 first reading of Ordinance No. 2022-22 for the small-scale comprehensive plan map amendment for the 0.83-acre property located at 1340 S. Wickham Road to change from Brevard County Neighborhood Commercial (NC) to City of West Melbourne Commercial (COM) future land use. Council Member Phrampus seconded the motion, which passed unanimously.

Deputy Mayor Young moved to approve the first reading of Ordinance No. 2022-23 rezoning a 0.83-acre property at 1340 S. Wickham Road from Brevard County Restricted Neighborhood Retail Commercial (BU-1-A) to the City of West Melbourne Commercial Wickham (C-W) with the condition that the comprehensive plan map amendment is approved. Council Member Adams seconded the motion, which passed unanimously.

Revision to Off-Street Parking Standards. Planning Director Fischer presented the first reading of Ordinance No. 2022-20 amending the parking standards specific for shopping centers and mixed use projects. She noted that many of the concerns expressed by Council in regards to parking space width would not change. She reviewed the sections that would change. For Section 74-53, language was proposed to eliminate references to parts of the code that no longer exist. In Section 74-54, the language would be revised to provide consistency with recently adopted perimeter landscape regulations. Changes to 74-55 would include revised parking ratios for car washes, entertainment centers, shopping centers, and theaters. Lastly, she stated Section 74-56 would be a new section for mixed uses such as the Space Coast Town Center. Planning Director Fischer reviewed language included in the ordinance based on recommendations from the Planning & Zoning Board review.

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

Council Member Phrampus commented the spaces designated for vacuum or pre-wash should not be included in meeting the requirements for car washes.

Council Member Phrampus stated the change for theaters was significant and would be one space for eight seats. Planning Director Fischer stated that there was large amount of unused spaces for the theaters in the County.

Council Member Adams stated she had attended the Planning and Zoning Board meeting where the ordinance was discussed. She noted that the parking ratios for shopping centers addressed both minimum and maximum ratios; the current code does not include a maximum ratio.

Council asked about grandfathered properties, changing uses at shopping centers, and the removal of the reference to night clubs. Planning Director Fischer noted that this

would not change what was existing on a property, but could affect future development. She also noted that the changes for shopping centers included consideration of the evolving changes that have occurred over time, such as using shopping center units for church services. Lastly, night clubs were no longer permitted in the City so the reference was being removed.

Council discussed shopping centers and the list provided by staff. It was noted that some areas that were single use, such as Walmart, were not included on the list because they were not shopping centers. Planning Director Fischer stated that shopping centers were defined as having five units.

Council Member Bentley stated he would prefer to see shopping centers with more required spaces. He understood that some were busy only three months of the year, but believed they should be requirement spaces according to the maximum use. He did not believe that parking spaces should be based on the number of employees or the highest shift.

Mayor Rose commented the unintended consequence is that shrinking parking would allow for more structure or a larger footprint. He agreed that parking should be required according to the busiest time of the year.

Mayor Rose stated that, based on the comments, the ordinance would need significant revisions.

Council Member Bentley moved to continue and first reading to the second meeting in March 2023. Council Member Adams seconded the motion.

Upon further consideration, Council discussed withdrawing the proposed ordinance at this time.

Council Member Bentley withdrew his previous motion.

Council Member Bentley moved to withdraw the ordinance to let staff come back at a later time with modifications. Mayor Rose seconded the motion, which passed unanimously.

Withdrawal of Small Scale Comprehensive Plan Map Amendment, Preliminary Plat and Development Agreement. Planning Director Fischer announced the withdrawal by the applicant of the small scale comprehensive plan map amendment, preliminary plat and development agreement for the mixed-use community called "Townhomes at Pinecrest" on ITG property as well as the code amendments proposed to the Commercial Wickham and Commercial New Haven. No action was required of Council.

6. PUBLIC FORUM

Mark Martinelli, 7420 Tropicana Avenue, spoke about problems with drainage on his property. He noted that when his home was built in 2006 there were no problems with drainage. When the other houses were built there was a cross tie which created a better water flow for drainage that flowed under Tropicana. However, when a sewer connection was done for the house next door which was built at a higher elevation, the water now settles in the front yard. He stated he had tried to fix the problem but his neighbor was not interested in any proposal. He was asking for an analysis to determine if there was a way so that the water would flow away from the house. Mayor Rose asked that staff work on this with the property owner.

7. CONSENT AGENDA

Trench Box. Council Member Phrampus asked several questions regarding the trench box and the depth. He wanted to make sure that the equipment would be adequate to insure the safety of the employees and suggested the motion be modified so that staff had flexibility in purchasing equipment.

Council Member Dittmore moved to approve following consent agenda. Council Member Adams seconded the motion, which passed unanimously.

- Approve the Special and Regular City Council meeting minutes for Tuesday, October 4, 2022.
- Award a contract to Allen Trench Safety Corp. for up to \$35,000 to purchase an aluminum buildable trench box.

8. ACTION AGENDA

Amendment to Initial Site Plan for Eden at Heritage Lakes. Planning Director Fischer presented an architectural redesign to the site plan for Eden Living at Heritage Lakes. She reviewed the changes proposed by the developer for the façade, which included removal of the balconies on the second floor and changing out the sliding doors on the first floor for French doors. She stated the developer had indicated the decision to remove the balconies was based on feedback on renter preference, cost, and maintenance issues. The exterior of the buildings had been changed from stucco to Hardie Plank. The developer had indicated that the Hardie Plank product would be superior, energy efficient, low maintenance, and came in a variety of styles and colors.

Planning Director Fischer stated the plans are still in compliance in regards to materials but she was concerned with providing building mass relief. She noted that she had contacted the Building Official on the Hardie Plank product and was told that the product would be cost effective and durable.

McGregor Love, attorney for the developer, presented drawings showing the new elevation with the removal of the balconies. He stated he understood the appeal of the balconies but the developer was more concerned with the view of I-95 for the tenants rather than the view from I-95. By removing the balconies, they were able to redesign the floor plan to be more functional. The balconies were replaced with large windows. He believed this satisfied the letter and intent of the code.

Council Member Adams asked about the Hardie Plank product and if it would be more than one color. Tia Jessee, with Eden Living, confirmed the Hardie Plank would be one color. She also provided a view of the buildings from I-95 noting that there would be existing screening in the form of vegetation.

Council Member Dittmore asked for a recommendation from the Planning Director and she responded that she did not believe the design would provide the needed visual relief from building mass.

Council Member Dittmore moved to deny the changes proposed by the developer based on the staff recommendation. Council Member Bentley seconded the motion.

Council members discussed the façade and felt it was flat and was not what was discussed when the site plan was approved.

Before a vote was made on the motion, the developer asked if they could have a few minutes. Council then took a break at 8:50 p.m. Council then reconvened the meeting at 8:55 p.m.

Interim City Attorney Repperger stated that staff met with the applicant during the break and believed there could be potential resolutions and considerations before any action is taken. Therefore, they were asking this be continued until the City Council meeting on November 1.

Council Member Dittmore withdrew motion.

Council Member Dittmore moved to continue the consideration on the changes to the architectural elements for Eden Living at Heritage Lakes until November 1. Council Member Adams seconded the motion, which passed unanimously.

City Attorney Employment Agreement. Mayor Rose reported that he and the City Manager had met with John Cary to negotiate a contract for employment. The background check would continue once Council approves the contract.

Council Member Phrampus spoke in opposition to the outside representation. He did not agree that the City's attorney should be representing another entity. The new City Attorney should focus on West Melbourne. Council Member Dittmore agreed and stated that the City should not be subsidizing another jurisdiction.

Mayor Rose stated, in the discussion with Mr. Cary, working for Melbourne Village would be done as a courtesy. City Manager Rhode stated that he got the impression that the amount of time working with Melbourne Village would be limited. He believed Mr. Cary would consider West Melbourne the main job and would be committed to the City.

Council discussed professional services provided by other attorneys. Interim City Attorney Repperger indicated there was a limited community of municipal attorneys. When a conflict arises, it is helpful to be able to call on another attorney to step in. Council discussed times when City staff assisted other communities. Interim City Attorney Repperger stated that former City Attorney Morris Richardson provided legal services to Melbourne Village because it did not interfere with the work at West Melbourne. It was noted that Mr. Cary had indicated in his interview that he would be interested in working with Melbourne Village. The language in the contract would allow him to do so but would not compel him to do so.

Council Member Adams moved to approve the employment agreement as written with John M. Cary to serve as the West Melbourne's City Attorney, and authorize the Mayor to execute the agreement on behalf of the City Council following the successful completion of a pre-employment medical screening and background process. Council Member Bentley seconded the motion, which passed 6-1, with Council Member Phrampus opposed.

Award of Bid for Three Production Wells and Three Monitoring Wells. Assistant City Manager Bradford presented bids for the Wellfield Project, which would include the construction of three production wells and three monitoring wells. This project was part of the work that needed to be done for the proposed water plant. He noted that the three monitoring wells were being required as part of the City's consumptive use permit. Two bids had been received with one of the bidders indicating that it would be more than a year before the work could commence. Therefore, because the bid amounts were close, staff and the engineering firm of Hazen & Sawyer were recommending the bid be awarded to A.C. Schultes, the bidder that would be able to commence the work sooner. He noted that \$2.6 million had been allocated for this project.

Council Member Bentley moved to authorize the City Manager to execute an agreement in the amount of \$3,071,560.00 with A.C. Schultes for construction of three production wells and three monitoring wells. Council Member Adams seconded the motion.

Council Member Bentley asked about the additional \$400,000 needed for the project. Assistant City Manager Bradford indicated that the money will be funded in future years. If the project was completed in the current year's budget, a budget amendment would be needed.

Council asked questions about the production wells, cost for the aquifer testing, and the location of the wells. Mayor Rose asked about the cost for the existing test well, and Assistant City Manager Bradford indicated it was \$553,050.

Council then voted on the motion to award the contract to A.C. Schultes, which passed unanimously.

Police Chief Confirmation. City Manager Rhode presented the finalist Gregory Vesta for appointment as Police Chief. According to the City's Charter, Council is required to confirm the City Manager's appointment.

Council Member Phrampus asked about the Tier 2 police pension. Human Resources Director Curran stated the Tier 2 plan was for officers hired after 2010.

Council Member Bentley moved to confirm the City Manager's selection of Gregory Vesta to serve as the City's Police Chief. Council Member Adams seconded the motion, which passed unanimously.

Purchase of Police Vehicles. Acting Police Chief Cordeau presented a proposal for a budget amendment to allow for purchase of vehicles that were ordered in the previous year.

Council Member Dittmore moved to adopt Resolution No. 2022-22, to increase the 2022-2023 fiscal budget by \$170,900 for vehicles ordered in July of 2021 that did not arrive in the previous fiscal year but are expected to arrive in the current 2022-2023 fiscal budget. Council Member Adams seconded the motion, which passed unanimously.

9. CITY COUNCIL REPORTS

Council Member Dittmore had no report.

Council Member Bentley reported he had attended the Space Coast League of Cities dinner, Palm Bay Chamber recognition and farm aid event.

Deputy Mayor Young displayed an aluminum bottle which was used in Alaska rather than plastic. She also stated that the priority list was reviewed by the Transportation Planning Organization. The Metropolitan Planning Organization would be meeting next week in Orlando.

Council Member McDow reported he had attended the Palm Bay Chamber recognition event, the Brevard Cultural Alliance summit, and the Space Coast League of Cities dinner. He also commented on being invited to a United States Department of Agriculture workshop on natural resources.

Council Member Adams reported she had attended the Space Coast League of Cities dinner, the Palm Bay Chamber recognition event, and the farm aid event. She announced there were be another event in November to distribute food. She asked for an update on the collection of storm debris. City Manager Rhode reported that Brevard County had set up a map online to track where pick-up had occurred. There were four dedicated trucks picking up debris.

Council Member Phrampus commented on debris pick-up following the hurricane and that he had attended the Institute for Elected Municipal Officials (IEMO) in Tampa.

Mayor Rose reported he had attended the Space Coast League of Cities dinner, the Palm Bay Chamber recognition luncheon, and the farm aid event. He also announced a Space Coast Honor Flight on November 12.

10. ADJOURNMENT

There being no further business, the meeting adjourned at 10:13 p.m.