MINUTES
City of Cocoa
Regular Meeting of The City Council

July 25, 2023

A Regular City Council Meeting was held on Tuesday, July 25, 2023, in Cocoa City Hall, in City Council Chambers, located at 65 Stone Street, in Cocoa, Florida, 32922, as publicly noticed.

I. Opening Matters:

Mayor Blake called the meeting to order at 6:00 p.m.

Deputy Mayor Hearn provided the invocation and Councilmember Dyal led the assembly in the Pledge of Allegiance to the Flag of the United States of America.

The Assistant City Clerk took the roll.

PRESENT:	Michael C. Blake	Mayor
	Lavander Hearn	Deputy Mayor
	Rip Dyal	Councilmember
	Alex Goins	Councilmember (arrived 6:06pm)
	Lorraine Koss	Councilmember
	Anthony Garganese	City Attorney
	Stockton Whitten	City Manager
	Monica Arsenault	Asst. City Clerk

OTHER STAFF MEMBERS PRESENT:

Jack Walsh, Utilities Director; Charlene Neuterman, Community Services Director; Lorne Stinnett, Human Resources Manager; Evander Collier, Chief of Police; Rebecca Bowman, Finance Director; Jonathan Lamm, Fire Chief; Rob Beach, Chief Technology Officer; Abby Morgan, Interim Public Works Director; Lisa Richardson, Help Desk Support Tech; Jason Dowty, Help Desk Support Tech; and Luci Ribeiro, Planner.

II. Approval of Agenda and Minutes:

1. **Agenda:** Regular Meeting of July 25, 2023. (23-440)

2. **Minutes:** N/A

* **MOTION by Mayor Blake; Seconded by Councilmember Dyal, to approve the agenda for the Regular meeting of July 25, 2023 as amended by postponing item VI.9 to the August 22, 2023 City Council meeting.**

THE VOTE ON THE MOTION WAS:

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

III. Awards and Presentations:

1. Presentation of the City of Cocoa's 2023 "Cocoa Works" Summer Youth Employment Program. (23-403). (Administrative Services Director)

Ms. Gemmati provided a brief background on the students and the program and shared that the City partners with both CareerSource as well as with Cocoa and Rockledge high schools. She presented each student with a certificate.

IV. Delegations:

Mayor Blake asked City Attorney Garganese if an individual can speak on behalf of another with that person's permission. In response, City Attorney Garganese explained that they can, however a written statement provided by the person being presented is how this has been handled before.

Steve Murphy, 3733 N. Sherwood Cir., Cocoa, spoke about the MOU item placed under Consent. He thinks it's a great idea, however his only concern is there is a ten-year commitment and the Diamond Square CRA that the academy will be located in will expire prior to the ten years. He asked Council to consider a condition to address this before they make the commitment.

Paul Kamus, 116 Olive St., Cocoa, spoke about a rescue that was performed at Lost Lakes. There were three ducklings that fell down in one of the stormwater grates. The non-emergency number was contacted and a few firefighters came out to conduct the rescue.

Aleck Greenwood, 630 Brevard Ave., Cocoa, announced that he will also be speaking on behalf of Lois Felder and Mac Osborne, fellow residents of Cocoa. Mr. Greenwood talked about pending projects, specifically the 17 acres located on the corner of Indian River Drive and Dixon Blvd. He spoke about one of the Councilmembers who is a "nay-sayer". He provided a letter and a print-out[1] to each member of Council. He detailed his concerns in furtherance.

Councilmember Koss spoke to Mr. Greenwood's concerns and explained that she only submitted a letter of inquiry because her and several of her neighbors have concerns about flooding. She shared that she is on Council to champion these types of issues. She moved here in 2012 and several of her other neighbors have chosen to live in Cocoa as well. She does not like the way they have been treated as they are residents just like anyone else and have the right to voice their concerns as well.

V. Consent Agenda:

(A) General Consent Items:

1. Approve a Resolution Amending the FY23 Budget, BAF# 23-099-T, for the Fire Departments Overtime Account, Accrual Payouts, Special Pay and Contractual Salaries. (23-410). (Finance Director)

2. ~~Council approval of a non-binding Memorandum of Understanding (MOU) between the City of Cocoa and community partners to explore the construction and operation health care and childcare services within the Diamond Square Community and allow the City Manager to execute the MOU. (23-414). (City Manager)~~ **Moved to City Business, item VIII.3.**

3. Approve a Task Order with Jacobs Engineering, Inc. for Replacement of Critical Infrastructure at the Dyal Water Treatment Plant in the amount of $367,952 and Approve a Resolution Amending the FY23 Budget, BAF #23-096-T, Transferring Available Operating Funds to Fully Fund the Project. (23-416). (Utilities Director)

   * **This item is confidential and not for public release per FS 119.0725.**

4. Authorize the City Manager to approve an increase to the Blanket Purchase Order for Ferguson Enterprises LLC. for an additional $250,000 for a total of $1,900,000 for the purchase of Neptune water meters and other ancillary hardware required

[1] Letter of Concern & "Intentional Torts Against Property" print-out

to support meter operations for the remainder of FY23. (23-430). (Finance Director)

5. Approval of Resolution # 2023-080 to Revise Sec. 21.4 Fund Balance and Minimum Reserve Policy of the Financial Operations Manual (FOM). (23-448). (Finance Director)

(B) Multi-Year Contracts:

6. Approve a multi-year renewal of United Healthcare Medicare Advantage Plan for eligible retirees 65 and over from January 1, 2024 to December 31, 2024 and payments to eligible retirees for Medicare Part B reimbursement. FY2024 Expenditures are Pending the Adoption of the FY2024 Budget. (23-405). (Administrative Services Director)

7. Approval to Enter into a Multi-Year Contract with Public Trust Advisors as the City' Investment Manager Utilizing a Piggyback Contract from the City of Dania Beach Contract No. RFQ-22-008. (23-449). (Finance Director)

* **MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to amend the Consent Agenda to move item V.2 to VIII.3 under City Business.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

VI. Public Hearings:

1. Consideration of the Second and Final Reading (Ordinance 06-2023), a Future Land Use Map (FLUM) Amendment to change the FLUM designation of one parcel of real property totally 5.88 acres from "Commercial" to "High Density Residential". (23-432). (City Manager)

City Attorney Garganese announced that this is the second and final reading of Ordinance No. 06-2023 and read the title into the record as follows:

ORDINANCE NO. 06-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING THE FUTURE LAND USE MAP FOR ONE (1) PARCEL OF REAL PROPERTY WITHIN THE CITY OF COCOA, CONSISTING OF

APPROXIMATELY 5.88 ACRES, MORE OR LESS, LOCATED NORTHWEST OF THE INTERSECTION OF FORREST AVENUE AND GRIMES STREET, BEING LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; CHANGING THE FUTURE LAND USE DESIGNATION OF THE REAL PROPERTY FROM COMMERCIAL TO HIGH DENSITY RESIDENTIAL; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE COMPREHENSIVE PLAN, SEVERABILITY, AND AN EFFECTIVE DATE AND LEGAL STATUS OF THE PLAN AMENDMENT.

Ms. Neuterman provided a presentation[2] and gave a brief background on the item.

Deputy Mayor Hearn asked for clarification about rezoning. In response, Ms. Neuterman shared that the Council is only considering the FLUM tonight and any rezoning applications will have to come back before the City Council.

Mayor Blake closed the hearing to the Council and opened it to the public.

Colette Meier, 517 N. Indian River Dr., is a native to this area. She explained that transparency in government is crucial. Her and her neighbors had no idea of the changes happening and were not aware of this item. She is one of three homes that was broken into by a homeless person who had just gotten out of prison.

Kaitlyn Aliano, 12 Sunrise St., Cocoa, read a statement into the record, explaining that while she supports Matthew's Hope's mission, this is not what this is about. It is about changing the future land use of the property and what that means for the future. She asked the Council to consider tabling the item tonight and asking staff to go back and take a more incremental approach before making a final decision.

Tom Zimmerman, 509 N. Indian River Dr., agreed with Colette Meier and shared that he was the second home that was broken into. He has seven pages of a petition[3] with signatures from surrounding homeowners who are not in support of this item.

Bob Musser, 407 N. Indian River Dr., Cocoa, explained that this is to change the future land use for almost six acres. He and his neighbors were not aware of this item and while he is in support of the mission, he has several questions. He is not sure who put the plans forward because Matthew's Hope does not own the property, an LLC from out of state does.

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[2] Exhibit A: City Council Public Hearings 07/25/2023
[3] Petition Against Zoning Change

Additionally, there has been an increase in petty theft in the area and he recently had someone attempt to trespass on his property but was deterred due to his security cameras. He asked that the Council either deny or table the item and allow the community to work with the owner of Matthew's Hope to come up with a better solution.

Scott Billue, President of Matthew's Hope, stated that he understands the concerns, however he'd like to see the evidence that it was one of his own that broke into these homes. The reason he is here is because of the large amount of homeless in Cocoa and he is trying to provide a solution.

He explained that they do not take just anyone in and they conduct background checks and weekly drug testing. The majority of the people that participate in the program are homeless women with children. They also have security cameras on the property that have facial recognition capabilities.

He encouraged anyone with questions to reach out to him directly or to come visit the property and see for themselves.

Mayor Blake closed the hearing to the public and reopened it to the Council.

Councilmember Koss asked for clarification about what was included in the legal ad. In response, Ms. Neuterman explained that it was noted in the legal ad that the property was located on Forrest Avenue and included a map and legal description.

Councilmember Koss talked about her experience when she visited Matthew's Hope and shared it was a clean operation.

Councilmember Koss asked if the participants have to sign a lease. In response, Mr. Billue stated that there are documents that require a signature as these individuals are participating in a program.

Mr. Billue further explained the aspects of the program and what is and is not allowed there.

Deputy Mayor Hearn stated that he takes the concerns of the citizens very seriously, however being homeless is not a crime. He encourages anyone with questions to reach out to Matthew's Hope for more information before they make assumptions. There is an issue with homeless individuals being dumped in the City of Cocoa and he has witnessed it himself. He feels that this could be a good project to address these issues.

Councilmember Goins stated that while he understands everyone's concerns, he would like people to realize that some people are only one paycheck, one car

repair, or one accident away from being homeless and the Council has to consider this population as well.

He asked Mr. Billue if he has a relationship with the Police Department. In response, Mr. Billue explained that he does and added that there is also a staff member on-site at all times. This program is not here to help people circumvent the law. The program is here to help people get back on their feet.

Councilmember Goins asked the City Manager to clarify what the next steps are. In response, City Manager Whitten explained that if the FLUM is approved this evening, the next step will be for Matthew's Hope to come back for rezoning approval at a later date. Additionally, he will only be asking for rezoning on certain sections of the property, not the entire property.

Further discussion was held on the homeless population and how to address the issues.

* **MOTION by Mayor Blake; Seconded by Deputy Mayor Hearn, to approve Ordinance No. 06-2023 on Second and Final Reading.**

AYES: Blake, Hearn, Dyal, Goins

NAYES: Koss

THE MOTION CARRIED (4-1)

2. Consideration of Second and Final Reading of Ordinance 08-2023 Zoning Text Amendment regarding accessory structure regulations. (23-433). (City Manager)

City Attorney Garganese announced that this is the second and final reading of Ordinance No. 06-2023 and read the title into the record as follows:

ORDINANCE NO. 08-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE SUPPLEMENTAL DISTRICT REGULATIONS OF THE ZONING ORDINANCE OF THE CITY OF COCOA, RELATED TO ACCESSORY STRUCTURES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Neuterman offered to answer any questions.

There being no questions from Council, Mayor Blake opened the hearing to the public.

There being no questions or comments, the public portion of the hearing was closed.

* **MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to approve Ordinance No. 08-2023 on Second and Final Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

3. Consideration of Second and Final Reading for Ordinance 09-2023: Zoning Text AMENDMENT regarding the list of permitted and special exception uses related to Self-Service Storage Facilities within the M-2 Zoning District and certain subdistricts of the Cocoa Waterfront Overlay District and related to Retail Automotive Gasoline/Fuel Sales and Accessory Convenience Storages and Restaurants in the M-2 Zoning District. (23-434). (City Manager)

City Attorney Garganese announced that this is the second and final reading of Ordinance No. 09-2023 and read the title into the record as follows:

ORDINANCE NO. 09-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTIONS 19 AND 22, OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO AMEND THE LIST OF PERMITTED AND SPECIAL EXCEPTION USES RELATED TO SELF-SERVICE STORAGE FACILITIES IN THE M-2 DISTRICT AND CERTAIN SUBDISTRICTS OF THE COCOA WATERFRONT OVERLAY DISTRICT AND RELATED TO RETAIL AUTOMOTIVE GASOLINE/FUEL SALES AND ACCESSORY CONVENIENCE STORES AND RESTAURANTS IN THE M-2 DISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Neuterman offered to answer any questions.

There being no questions from Council, Mayor Blake opened the hearing to the public.

Ms. Robyn Hattaway, Lacey Lyons Rezanka, LLC, thanked staff for their assistance and recommendation.

* **MOTION by Mayor Blake; Seconded by Councilmember Goins, to approve Ordinance No. 09-2023 on Second and Final Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

4. Pass on First Reading of a PUD / a Rezoning (Ordinance 10-2023) of one (1) parcel from City of Cocoa RR-1 to City of Cocoa (PUD), a Large-Scale Site Plan, Preliminary Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code, and a Development Agreement for Adamson Creek Phase Two, with conditions. (23-437). (City Manager)

City Attorney Garganese announced that this is the first reading of Ordinance No. 10-2023 and read the title into the record as follows:

ORDINANCE NO. 10-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY, TOTALING 79.13 ACRES, MORE OR LESS, AND GENERALLY LOCATED ON ADAMSON ROAD, NORTHWEST OF THE INTERSECTION OF HIGHWAY 524 AND INTERSTATE 95, IN COCOA, FLORIDA, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM RURAL RESIDENTIAL (RR-1) TO PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Neuterman provided a brief background[4] on the item and offered to answer any questions.

Councilmember Koss asked for the tree mitigation value. In response, Ms. Neuterman stated that while she did not have that information at this time she will find out and share it.

There being no additional questions from Council, Deputy Mayor Hearn opened the hearing to the public.

Ana Saunders, BSE Consultants, explained that this is the final phase of Adamson Creek and they are ready to go as soon as permits are ready.

[4] Mayor Blake left the meeting at 7:52pm & returned at 7:54pm

* **MOTION by Councilmember Goins; Seconded by Mayor Blake, to approve Ordinance No. 10-2023 on First Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

5. Pass on the First Reading of Ordinance 11-2023, a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII. (23-438). (City Manager)

City Attorney Garganese announced that this is the first reading of Ordinance No. 11-2023 and read the title into the record as follows:

ORDINANCE NO. 11-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY, TOTALING 0.64 ACRES, MORE OR LESS, AND GENERALLY LOCATED ON RUTH STREET, NORTHEAST OF THE INTERSECTION OF JACKSON STREET AND RUTH STREET IN COCOA, FLORIDA, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM COUNTY SINGLE-FAMILY RESIDENTIAL (RU-1-9) TO CITY MULTIPLE-FAMILY DWELLING (RU-2-15); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Neuterman offered to answer any questions.

There being no questions from Council, Mayor Blake opened the hearing to the public.

There being no questions from the public, the public portion of the hearing was closed.

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to approve Ordinance No. 11-2023 on First Reading[5].**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

[5] Deputy Mayor Hearn left the meeting at 8:03pm & returned at 8:05pm

6. Conduct the Final public hearing on the proposed FY2023/2024 Action Plan; approve the plan for submission to HUD; and authorize the Mayor to sign all subsequent certifications and agreements. (23-441). (City Manager)

Ms. Neuterman explained the item and shared that the CDBG award for FY23/24 is $128,609.00. The updated Action Plan will include projects to be completed between 10/01/2023 and 09/30/2024.

Additionally, the HOME grant award for FY23/24 is $76,044. Ms. Neuterman provided a breakdown of what the funds would be used for.

There being no questions from Council, Mayor Blake opened the hearing to the public.

There being no questions from the public, the public portion of the hearing was closed.

* **MOTION by Deputy Mayor Hearn; Seconded by Councilmember Dyal, to approve on Second and Final Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

7. Pass on First Reading of Ordinance 14-2023, adopting a Large-Scale Comprehensive Plan Text Amendment; adopting a large-scale comprehensive plan text amendment to the Transportation Element and Capital Improvements Element removing minimum level of service standards for State Road 524. (23-442). (City Manager)

City Attorney Garganese announced that this is the first reading of Ordinance No. 14-2023 and read the title into the record as follows:

ORDINANCE NO. 14-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, ADOPTING A LARGE SCALE COMPREHENSIVE PLAN TEXT AMENDMENT TO THE TRANSPORTATION ELEMENT AND CAPITAL IMPROVEMENTS ELEMENT REMOVING MINIMUM LEVEL OF SERVICE STANDARDS FOR STATE ROAD 524; PROVIDING DATA AND ANALYSIS AND THE LEGAL BASIS SET FORTH IN THE RECITALS TO SUPPORT THE PROPOSED COMPREHENSIVE AMENDMENT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE COMPREHENSIVE PLAN, SEVERABILITY, AND AN EFFECTIVE DATE AND LEGAL STATUS OF THE PLAN AMENDMENT.

Ms. Neuterman discussed levels of service and noted that SR 524 is a state road, and the City has no authority to control the schedule and construction of capital improvements to increase the capacity of the road. Consideration of this comp plan amendment will allow the City to continue to approve projects that will enhance and grow the community and the tax base.

Additionally, the City will get impact fees from these developments that can be utilized to accelerate the SR524 Improvement Project with FDOT. Once the improvement project is complete, roadway capacity will grow beyond what is currently needed.

The city will be working with partners such as the Space Coast Planning & Transportation Organization, the Florida Department of Transportation, and the County to leverage funds and apply for grants to help accelerate the project.

It was pointed out that SR 524 is the 4th ranked project on the Space Coast Transportation Planning Organization's (SCTPO) overall project ranking and the 2nd ranked state road project on the SCTPO's Regionally Significant Project Listing.

There being no questions from Council, Mayor Blake opened the hearing to the public.

Steve Murphy, 3733 N. Sherwood Cir., Cocoa, shared his concerns about traffic and the influx of traffic due to incoming housing developments. He asked Council to deny this item.

There being no further questions or comments, the public portion of the hearing was closed.

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to approve Ordinance No. 14-2023 on First Reading with discussion.**

Councilmember Koss noted that she is a member on the Space Coast TPO and shared her concerns. She asked if there are any other options as she is also concerned for the safety of the citizens there.

City Manager Whitten explained that because SR524 is a state road the Council has no control over when changes are made to the road. He discussed the phases of the project in addition to funding, road deficiencies, and the details of the ordinance in furtherance.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

City Manager Whitten added that he would like to request a consensus from Council for him to go out and have conservations about making deals with the City's impact fee revenue. In response, Council agreed.

8. Pass on First Reading of Ordinance 13-2023, a Zoning Map Amendment consistent with Appendix A Zoning, Article XXI, to change the Zoning Map of approximately 9.1 acres, a portion of a single parcel on SR 520, from Brevard County "BU-1 General Retail Commercial" to City of Cocoa "C-G General Commercial". (23-444). (City Manager)

City Attorney Garganese announced that this is the first reading of Ordinance No. 13-2023 and read the title into the record as follows:

ORDINANCE NO. 13-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF A PORTION OF ONE (1) PARCEL OF REAL PROPERTY, TOTALING 9.1 ACRES, MORE OR LESS, AND GENERALLY LOCATED ON STATE ROAD 520, AT THE NORTHWEST CORNER OF INTERSTATE 95 AND STATE ROAD 520, IN COCOA, FLORIDA, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM BREVARD COUNTY BU-1 (GENERAL RETAIL COMMERCIAL) TO CITY OF COCOA CG (GENERAL COMMERCIAL); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Neuterman explained that the south portion of this parcel had an approved site plan in 2022 for overflow parking and affiliated infrastructure, and the applicant proposes an amendment to accommodate a Cadillac showroom sales and service Department Building with associated parking. This rezoning will not impact the level of service for facilities in this area.

There being no questions from Council, Mayor Blake opened the hearing to the public.

There being no questions from the public, the public portion of the hearing was closed.

* **MOTION by Councilmember Dyal; Seconded by Deputy Mayor Hearn, to approve Ordinance No. 13-2023 on First Reading.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

9. ~~Pass on First Reading for Ordinance 12-2023 a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXI, to change the Zoning Map designation from RU-1-7 (Single-Family Residential District) to RU-2-15 (Multiple Family Dwelling). (23-439). (City Manager)~~ **POSTPONED TO AUGUST 22, 2023.**

VII. Council Business:

VIII. City Business:

1. Approve Resolution No. 2023-078, Establishing the Rolled-Back Rate, approve a Proposed Millage Rate for the Purposes of Notification to the Taxpayers by the Brevard County Property Appraiser and set the date, time, and place for the first Public Hearing to consider the FY2024 Budget. It is also recommended for the City Manager to be instructed to complete the Florida Department of Revenue's Certifications of Taxable Value, Forms DR-420. (23-435). (Finance Director)

   Ms. Bowman provided a presentation[6]. She explained that this item is requesting that Council approve Resolution No. 2023-078 to establish the Rolled-Back rate. Furthermore, to comply with F.S. 200.065, the City must establish a proposed millage rate by August 4, 2023 with a minimum requirement of three of five votes.

   The Council must also set and approve a date for the 1st Public Hearing. Staff is requesting that this date be Tuesday, September 12, 2023 at 6pm at Cocoa City Hall. This will be advertised in the TRIM notice which will be mailed to the taxpayers in August.

   Ms. Bowman gave a historical review of the Ad Valorem tax base as well as the and Ad Valorem revenue. She provided FY24 TRIM rate options and shared comparative city rates amongst other local cities.

   Ms. Bowman discussed in detail what all of this will mean for tax payers and how they would be affected.

   There being no further questions from Council, Mayor Blake opened the hearing to the public.

   Steve Murphy, 3733 N. Sherwood Cir., Cocoa, stated that he would like to see the millage rate stay the same and hoped the Council would vote in favor of this.

   * **MOTION by Mayor Blake; Seconded by Councilmember Koss, to approve Resolution No. 2023-078, establishing the rolled-back rate at 5.8285 and**

[6] Exhibit B: 2024 TRIM Presentation 7-25-23 Final

setting the 1st Public Hearing for September 12, 2023 at 6pm at Cocoa City Hall to consider the FY24 budget.

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

* **MOTION by Mayor Blake; Seconded by Deputy Mayor Hearn, to approve the proposed millage rate at 6.9532 mills.**

AYES: Blake, Hearn, Dyal, Goins

NAYES: Koss

THE MOTION CARRIED (4-1)

2. Approve a Pre-Development Agreement and Restrictive Covenant with Allegra at Cocoa, LLC. (23-452). (City Manager)

Ms. Neuterman provided a brief background on the item and explained that the Developer is seeking certain waivers from the City Code prior to processing a site plan application for the Project. Pursuant to its Florida Municipal Home Rule Powers and the City of Cocoa Code of Ordinances ("City Code"), Section 15-21, the City Council may approve Development Agreements which waive certain provisions of the City's land development regulations when in the public interest and consistent with the Comprehensive Plan, provided the Developer demonstrates a bona fide need for the variance or waiver and agrees to provide significant enhancements to the Property in exchange for the variance or waiver.

Ms. Neuterman shared that in consideration of these waivers, the Developer must do the following:

- Convey to the City the entirety of Tax Parcel Number 24-35-23-00-775 and the portion of Tax Parcel Number 24-35-23-00-11 as depicted on "Exhibit B" to the Agreement, which is approximately 11.5 acres.

- Maintain the Project as an affordable housing project for a period of thirty (30) years, which means that, at minimum, ten percent (10%) of the occupied units in the Project will be affordable housing as provided and defined in Florida law. The Developer will be required to submit copies of tenant income verification and applicable leases to the City of Cocoa yearly to ensure compliance with this requirement.

- Reserve a minimum of three (3) one- or two-bedroom apartment units for City law enforcement officers or first responders to be rented at a 25% discounted rate, to be made available on a first come, first serve basis, at the time of initial leasing until there are no other apartments available in the Development. In addition, the Developer shall provide a lease preference above other tenant applicants to City law enforcement officers and firefighters, along with EMS/Paramedics and Brevard County school teachers teaching within the City limits, on a first come, first serve basis so long as it does not violate Federal Housing statutes.

She offered to answer any questions and noted that both the applicant and their attorney are in attendance to answer any questions as well.

Ms. Robyn Hattaway, Lacey Lyons Rezanka, LLC, thanked staff for their recommendation for approval and reviewed the conditions briefly as well.

Councilmember Koss asked why the units were down-sized. In response, it was clarified that they are slightly smaller in order to maintain affordability.

* **MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

3. Council approval of a non-binding Memorandum of Understanding (MOU) between the City of Cocoa and community partners to explore the construction and operation health care and childcare services within the Diamond Square Community and allow the City Manager to execute the MOU. (23-414). (City Manager)

Councilmember Goins wished to highlight this item as it may potentially be in his district, but it will also make a great impact in the City.

City Manager Whitten added that a need has been identified and community partners have agreed to enter into a non-binding MOU with the City to further explore this opportunity.

* **MOTION by Councilmember Goins; Seconded by Councilmember Koss, to approve the item.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

Multi-Year Contracts:

None.

IX. Informational Agenda:

1. Council request to review the cumulative purchase approvals over $35,000 and under $50,000 for period 10/01/2022 to 6/30/2023. (23-419). (Finance Director)

2. Approved change orders to construction contracts that the City Council has authorized the City Manager, by resolution, to approve in excess of the City Manager's spending authority. (23-446). (Finance Director)

3. FY 2023 June Budget Adjustment Report. (23-447). (Finance Director)

4. Council data showing the relation between the estimated and actual income and expenses to date. (23-450). (Finance Director)

X. Reports:

City Manager Whitten thanked both Ms. Neuterman and Ms. Morgan for stepping up in other capacities to fill staff vacancies. He also gave kudos to Mr. Beach for what he's been doing and serving on various boards.

Ms. Senger reminded everyone of the School Drive going on right now. Supplies can be dropped off in the Clerk's Office or at the Fire Department. They are also holding an event this Saturday, July 29, 2023 from 9am-2pm at Cocoa Walmart to collect school supplies.

Chief Lamm reminded everyone of the upcoming Swearing-in Ceremony for Deputy Chief Hennessey this Friday, July 28, 2023 at 5pm in Council Chambers.

Chief Collier shared that the Police Department has been working with an organization that will be able to step in and provide social services functions and assist with mental health needs along with other services for individuals.

Deputy Mayor Hearn talked about Anderson Park and gave kudos to Public Works for cleaning it up.

Councilmember Koss gave kudos to the Finance Department for a great budget presentation.

Councilmember Dyal wished to recognize staff for everything that they do.

Councilmember Goins shared a Back-to-School event at Clearlake Education Center this Saturday, July 29th. Additionally, his daughter is cutting hair for kids for free for the new school year. He shared a few other events including a carwash fundraiser and Dog Days of Summer.

Mayor Blake shared that he has been in communication with Waste Management and they will be coming around to collect green waste. He will be doing a ride-along with them next week.

XI. Adjournment:

* **MOTION by Councilmember Dyal; Seconded by Councilmember Goins, to adjourn the Regular meeting of July 25, 2023.**

AYES: Blake, Hearn, Dyal, Goins, Koss

THE MOTION CARRIED UNANIMOUSLY (5-0)

The meeting adjourned at 10:08 p.m.

Michael C. Blake, Mayor

ATTEST:

Carie Shealy, MMC, City Clerk
(Transcribed by M. Arsenault, Asst. City Clerk)

Social Science / Law / Civil Law

Share

Intentional torts against property

Terms in this set (12)

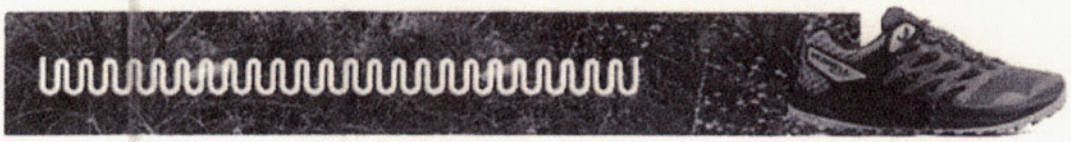
intentional torts against property include:	trespass to land, trespass to personal property, conversion, disparagement of property; they're wrongful actions that interfere with indvds' legally recognized rights with regard to their land or personal property
real property	land and things permanently attached to the land (ex. house)
personal property	consists of all other items on land, such as cash and securities (ex. stocks, bonds, and other ownership interest in companies)

trespass to land	any of the following without permission: 1. enters onto, above, or below the surface of land that is owned by another 2. causes anything to enter onto land owned by another 3. remains on land owned by another or permits anything to remain on it actual harm is not essential for this tort designed to protect with right of an owner to exclusive possession
establishing trespass	person must be established as a trespasser by the owner of the property- by signs such as "posted" trespass signs, or if someone enters to property without those signs to do illegal act
trespass to land damages	trespasser liable for any damage caused to property and generally cannot hold the owner liable for any injuries sustained on premise however watch out for: attractive nuisance doctrine as defense

defenses against trespass to land	show trespass was warranted- enter to assist someone in danger show a license to come onto the land- but licenses are revocable by the property owner if asked to leave
trespass to personal property	any individual wrongfully takes or harms the personal property of another or otherwise interferes with the lawful owner's possession and enjoyment of personal property aka- trespass to chattels or trespass to personalty harm means anything that diminishes its value, condition, or quality intentional meddling with a possessory interest defense: warranted (ex. customer's car can be held if they didn't pay for repair's, under artisan's lien)

conversion	any act that deprives an owner of personal property or of the use that property without the owner's permission and without just cause; wrongfully retaining the property civil side of crimes related to theft failure to return property person mistakenly believed that he was entitled to the goods good intentions are not a defense (ex. if person buys goods that are stolen but don't know they were stolen, can be sued for conversion and have to return the goods or pay for them even though already purchased them from the thief)
disparagement of property	economically injurious falsehoods are made about another's product or property rather than about another's reputations; slander of quality; slander of title

slander of quality	publication of false information about another's product; alleging that it's not what its seller claims prove that the improper publication caused a third person to refrain from dealing with the plaintiff and that the plaintiff sustained economic damages
slander of title	when a publication falsely denies or casts doubt on another's legal ownership of property, resulting in financial loss usually intentional- to discourage first party from dealing with the person slandered



Lorraine Koss
Councilwoman, City of Cocoa
65 Stone Street
Cocoa, FL 32922

RECEIVED
I# 147372
MAR 16 2023
130146-3
Palm Bay
Service Center

March 6, 2023

11 John Julianna //
St Johns Water Management District
525 Community College Parkway
Palm Bay, FL 32909 → 1(321)-984-4950

RE: Letter of Concern 620 Dixon Blvd., Cocoa, Florida

Mr. Julianna,

We spoke about a month ago. I appreciate your time and guidance about the property at 620 Dixon Blvd referred to in the permit application as River Shores of Cocoa. I understand the 2012 permit for that property will be expiring in April. If there is an application for renewal, or a new application, my constituents and I (addresses attached) would like to be notified. We live close to the property and have significant concerns for its development.

This area is affectionately referred to as "Cocoa's Everglades". It is the only natural property left on the shores of Indian River Drive in Cocoa. Our most senior residents, dating back more than 60+ years, have always known it as a wetland. The wildlife is evident year-round as it provides fox, owl, and alligator habitat. In the Fall, the land is almost level with the Indian River Lagoon. During storms, such as Hurricane Nichole it expands its banks to include Indian River Drive and part of Dixon Blvd. It is in the FEMA Floodplain (2016) and is vulnerable to Category 1 storm surge.

I understand the current permit includes mitigation on-site, but primarily relies on a conservation project in Cape Canaveral. As neighbors, we want to make sure mitigation serves Cocoa and protects the Indian River Lagoon. Please let me know the avenues for citizen input beyond being notified. What are the steps or points of engagement in the process?

Thank you in advance for your time and consideration.

Sincerely,

Lorraine L Koss
Councilwoman, City of Cocoa

Attachment: mailing & email addresses

Please alert us if and/or when an application is submitted to SJWMD for permitting the property at 620 Dixon Blvd.

Lorraine & Lawrence Koss, 2115 North Indian River Drive, Cocoa, FL 32922, Lorraine.koss@gmail.com

Jennifer & Todd Riggs, 1629 North Indian River Drive, Cocoa, FL 32922, jlovittriggs@gmail.com

Frank & Janette Sullivan, 1705 N Indian River Drive, Cocoa, FL 32922, jnetsullivan@gmail.com

Joseph Hamaker, 1415 N Indian River Drive, Cocoa, FL 32922, jhamaker@galorath.com

Frank & Donna Manfredi, 1209 N Indian River Drive, Cocoa, FL 32922, frank@manfredi.com

Celeste Corrado, 2606 N Indian River Drive, Cocoa, FL 32922, ccid8r@gmail.com

Janice & Russell Smith, 2107 Clairemont Drive, Cocoa, FL 32922, jrs454794@yahoo.com

Joseph Bachand, 2919 N Indian River Drive, Cocoa, FL 32822, jbachand@bachandpa.com