

**AGENDA MINUTES
CITY COMMISSION MEETING
CITY HALL, 501 W MEADOW STREET
MONDAY, MARCH 25, 2024 5:30 PM**

1. CALL TO ORDER

The City of Leesburg Commission held a regular meeting on Monday, March 25, 2024, at Leesburg City Hall. Mayor Burry called the meeting to order at 5:30 p.m. with the following members present:

Commissioner Allyson Berry
Commissioner Jay Connell
Commissioner Mike Pederson
Commissioner Alan Reisman
Mayor Jimmy Burry

Also present, were City Manager (CM) Al Minner, City Clerk (CC) J. Andi Purvis, City Attorney (CA) Grant Watson, the news media, and others.

INVOCATION

Mayor Burry gave the invocation followed by the Pledge of Allegiance to the Flag of the United States of America.

Before continuing the meeting, he informed the audience about the Sunnyside/Magistrate PUD under first readings. He would have the planning and zoning director explain the PUD, but we will not have any public comments tonight. Comments on that will be heard at the second reading. Later on the agenda we will have a discussion about the magistrate's rendering, at which point they will allow for public comments.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS:

A. None

3. PRESENTATIONS:

A. None

4. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

Dr. Erika Jasper of 2110 Johns Avenue, said she wanted to bring public awareness of the annual spring-cleaning cleanup, which will be held on Saturday, April 6th. They will meet at Berry Park, J. L. Johnson Park, and Susan Street Park. They are soliciting volunteers or anyone who needs community service hours.

Murray Tucker of Lone Oak Cemetery Board of Trustees said he was there on behalf of the board and himself to thank the city for their participation in Sgt. Hall's funeral. All the agencies did a phenomenal job. Commissioners showed up along with the staff. They pulled up in a fire truck, which was breathtaking. It was a lifetime event and everyone made the city look superb. On behalf of the board, he thanked the city, they should be very proud.

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

Commissioner Reisman moved to adopt the Consent Agenda as presented, and Commissioner Pederson seconded the motion.

The roll call vote was:

Commissioner Connell	Yes
Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Mayor Burry	Yes

Five yeas, no nays, the Commission adopted the Consent Agenda, as follows:
(Each item has its coordinated resolution number listed below the header)

A. CITY COMMISSION MEETING MINUTES:

1. Regular meeting held March 11, 2024

B. PURCHASING ITEMS:

1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute Amendment One to an Existing Task Order with Dewberry Engineers, Inc. for additional permitting services; and providing an effective date.

ADOPTED RESOLUTION 11,796

C. RESOLUTIONS:

1. **Resolution of the City Commission and the City of Leesburg to authorize the Leesburg Police Department to purchase replacement ballistic protective vests, ballistic protective helmets, and a full service K-9 with training through the use of the Police Forfeiture funds; and providing an effective date.**

ADOPTED RESOLUTION 11,797

2. **Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from Kane Roman Distributors, LLC, for the purpose of granting the City an Easement over the property described therein; and providing an effective date.**

ADOPTED RESOLUTION 11,798

3. **Resolution of the City Commission of the City of Leesburg, Florida, accepting a Utility Easement to the City of Leesburg from Silver Lake Pointe Community Association, Inc. and Stanley Martin Homes, LLC, for the purpose of granting the City an Easement over the property described therein; and providing an effective date.**

ADOPTED RESOLUTION 11,799

6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:

A. SECOND READING OF ORDINANCES

1. **None**

B. FIRST READING OF ORDINANCES

1. **An Ordinance of the City of Leesburg, Florida, in accordance with the Special Magistrate's recommendation pursuant to the Sunnyside Lake Landing Holding, LLC, and Cenizo Ventures Florida, LLC v. City of Leesburg, dated January 15, 2024, rezoning approximately 120.5 +/- acres, from PUD (Planned Unit Development) to PUD (Planned Unit Development) to allow for 150 detached single family residential dwelling units on a property located south of U.S. Highway 441 and west of**

Sunnyside Drive as legally described in Sections 29 and 32, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Sunnyside/Magistrate PUD)

Commissioner Reisman introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Mayor Burry asked the planning and zoning director to provide some history of this item. **CA Watson** pointed out he would like to get everyone sworn in before beginning. He asked for anyone in attendance, including city staff, who wished to provide testimony on any first reading or non-routine item to stand and raise their right hand. He swore them all in.

PZD Miller said this was the first reading for the PUD that the magistrate provided recommendations for. This request is for a rezoning of approximately one hundred and twenty point five acres. It is generally located south of US 441 and west of Sunnyside Drive. The project includes one hundred and fifty units on one hundred and twenty acres for a gross density of one point two five units per acre. This is the proposed PUD as the result of the special magistrate's recommendation of the settlement agreement, which will be heard tonight on the agenda under non-routine items. This PUD differs from the PUD application that was originally submitted to the city in the following areas. The total acreage of the project has been lowered from one hundred and thirty-nine acres to one hundred and twenty acres, which is due to the land to the east of Sunnyside Drive being dropped from the plan. The total number of units under consideration was reduced from one hundred and fifty-nine units to one hundred and fifty units. Dropping the total number of units increased the size of a few open space buffering areas, meaning adjacent to the nearest properties of existing residences. He did not have the exact number, but it did increase a little bit. All requirements of the PUD as previously presented have been maintained, which includes the requirement for fifty, seventy, and eighty foot lots, design and architectural standards for the houses at twenty-five feet and planted buffers around the perimeter of the property. There is a requirement for a boulevard with turning lanes, sidewalks, and upgrading the roadway adjacent to the property, as well as preservation of the wetlands and recreational requirements that remain. **Mayor Burry** asked if there were any questions for the planning and zoning director. There were none. As this is the first reading, it will come back before the commission on April 8th for the second reading.

2. **An Ordinance of the City of Leesburg, Florida, adding a PDO (Planned Development Overlay), with a waiver from Section 25-282 (a) (1) PDO five-acre minimum, to the existing R-3 (High Density Residential) zoning, on approximately 0.22 +/- acres to allow for an office, retail, and classroom uses for a property generally located south of East Main Street and west of Mike Street, lying in Section 25, Township 19 South, Range 24 East, Lake County, Florida; and providing an effective date. (CDC Office Mike Street PDO)**

Commissioner Reisman introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Mayor Burry requested comments from the Commission and the audience.

PZD Miller stated this was the first reading for the CDC Office/Mike Street Planned Development Overlay (PDO). This is a request from the CDC Corporation for a planned development overlay to allow for office, retail, and classroom uses. The property is generally located on point twenty-two acres. It is

located on the west side of Mike Street, south of Main Street. It is about halfway down Mike Street. Heading east on Main Street, this would be on the right side. The lot goes all the way through from Mike Street to Childs Street. It makes a double frontage lot. For some background, the planned development overlay is similar to planned unit developments, but they are simply an overlay to add additional uses, conditions, or design for uses not found in the underlined zoning district. In this case, it would be very similar to the PDO that was done for the CDC down at the corner, same thing. The property is zoned R-3, high density residential and the proposed uses are office, retail, and classrooms. This is the office of James Durdan, who was the first African American attorney in the city. **Mayor Burry** asked about the overlay. It looks like there is a house kind of on both sides of the property line. **PZD Miller** stated the only way to determine that one hundred percent is to have a specific survey done. They find that this happens quite a bit when scaling the maps in and out, and sometimes it appears it is a little bit over even though it is not. In this case, he could not guarantee either way. They do find that scaling maps in and out makes it a little difficult. **Mayor Burry** asked what the plans were for the house. **PZD Miller** answered the building would stay. They are not planning to do anything other than renovations to the building. This is a historically significant building for sure. **Commissioner Berry** asked about the original building. It is the original attorney's office. Will they be extending beyond that? **PZD Miller** answered right now they have no plans to do that, but they could in the future. All they want to do is refurbish the building and add some additional uses for offices, retail, and classrooms. **Commissioner Berry** requested more information on the actual project as a whole because, as she understands, this would be the second overlay. **PZD Miller** agreed. **Commissioner Berry** asked if they anticipated anymore coming forward. **PZD Miller** said that depends these are individualized situations. A PUD generally encompasses a planned unit development, and it generally covers a larger area which includes all the zoning for that area. A PDO is an overlay to add something to that area to make it more useful. **Commissioner Berry** asked if it could be changed again. **PZD Miller** answered yes, it could. **Commissioner Berry** asked if there was a way to get further information on this. She would like to have a clear understanding, so when other PDO's come up she has a true feel for what is happening. She was invited to a meeting which she plans to attend, and she is hoping to get all that information. She would like to know what is coming up in terms of planning and the actual goals, whether it be short term or long term for the Pine Street project.

John Christian of 903 CR 468 said the reason he asked for the PDO was because this building had people renting it. The newest tenant is involved with the State of Florida and Medicare. They are in need of an actual office. Although the attorney's office is on residential property, and unfortunately it is in this neighborhood, they are bound by the identity bills used for commercial zoning and uses. It has residential zoning, which is the reason for the PDO. This building has already been remodeled. It will be used by the new tenants. However, they need state approval and zoning for a commercial use. That was why he had to engage the city, in order to get that zoning. If they did not need state approval, he would not be there asking for a PDO. Unfortunately, Mr. Durand's law office was zoned residential and that was why they needed to update that. He would provide the commission the plans. They have several businesses set up there, and he would give a proper introduction of all the businesses on Pine Street to the city commission, so everyone has the plans of the CDC. **Mayor Burry** asked if there were any other questions from the commission. There were none. He asked for public comments. There were none. He stated this item would lay over until the meeting of April 8th.

3. An Ordinance of the City of Leesburg, Florida, amending the City Code of Ordinances, by amending Article IV, Chapter 9 - Elections; providing for five single member commissioner districts; providing for severability; providing for conflicts; and providing an effective date.

Commissioner Reisman introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Mayor Burry requested comments from the Commission and the audience. There were none. He asked the city attorney to provide an update on this item. **CA Watson** stated this was a housecleaning type ordinance. When the charter was amended to account for districts four and five, there would no longer be floating seats. However, the city code was not updated, and this item makes sure that the city code is consistent with the charter amendment. The charter amendment would govern anyway, but this ensures that the code and charter are consistent. **Mayor Burry** stated this item would lay over until the meeting of April 8th.

4. An Ordinance of the City of Leesburg, Florida, amending the boundary lines of the Village Community Development District No. 14, pursuant to chapter 190, Florida Statutes; and providing an effective date. (Villages CDD 14 Amendment)

Commissioner Reisman introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Mayor Burry requested comments from the commission and the audience. There were none. He asked the planning and zoning director to provide an overview.

PZD Miller stated this item was for the Villages CDD-14 amendment which covers the overall boundary of the area, which encompasses the Community Development District 14 within the Villages of West Lake. Everyone should be pretty familiar with CDD's by now. They are provided under Chapter 190 of the Florida Statutes as a way of creating and funding special purpose districts. These districts manage, finance, and deliver basic community services such as water, wastewater, roads, bridges, and security. They are limited to specific areas, and cannot encumber debt to the local governments. They have no zoning or police powers. They would like to amend the acreage to eliminate thirteen hundred and seventy-two acres from the current two thousand three hundred and eighty-five acres. They would end up with one thousand and thirteen acres in this district. The one thousand and thirteen acres consists of the area on CR 470. Referring to a map, he said The Villages wants to keep the CR 470 area where the houses are currently being constructed. The area they want to get rid of is south of CR 470 and north of the Turnpike down in the old renaissance trail area. The area they would like eliminated from the CDD-14 is the area being proposed for people who work in The Villages who are not fifty-five years old. That area will eventually get its own CDD. Beyond that, the city has six or seven other CDD's, and we anticipate a number more coming as the city develops. **Mayor Burry** asked if there were any comments or questions. There were none. He stated this item would lay over to an undetermined meeting in May for second reading.

C. NON-ROUTINE ITEMS

1. Resolution of the City Commission of the City of Leesburg, Florida accepting the settlement agreement with Sunnyside Lake Landing Holding, LLC and Cenizo Ventures, LLC; and providing an effective date.

ADOPTED RESOLUTION 11,800

Commissioner Reisman introduced the resolution to be read by title only. CC Purvis read the resolution by title only.

Mayor Burry asked the city manager to provide an overview of this item.

CM Minner said the city has been considering the Sunnyside Lake Land Holding, LLC., situation for a couple of years now. This evening we are considering a resolution to accept the settlement agreement. Essentially, the city commission turned down the petition to rezone along with the comprehensive plan for this property that included the number of units, acreage and uses that the planning and zoning director outlined earlier this evening on first readings. The city previously annexed some of the property, but never moved forward with the zoning or land use. When we did this, the commission, by a two to two vote, denied the request for land use. That denial caused the applicants to file a petition against the city. They asked the court to provide a legal interpretation of the actions taken by the city for denying the request. The vote was two to two for denial and because it was a majority vote, that meant they needed three votes. A tie vote is considered as a denial. When filing a petition against a municipal corporation there are certain steps outlined in the state statutes for that process. It is a three-step process, and mediators are required to be hired, and both sides get to pick their own mediator. The city picked a land use attorney who has handled several cases. He is an experienced land use attorney by the name of Carlos Alvarez. He served as the special magistrate on behalf of the city. The first step in mediation is to have both sides meet. Prior to the mediation hearing, the commission held two or three shade meetings, which were posted correctly and the records from those meetings have been kept. All records from the shade meetings will be made public once the matter has been settled. Everything that was discussed, reviewed, and considered will become a public record after settlement. However, after mediation, there was no movement by either side because the commission wanted to enforce the Sunnyside task force resolution that was laid out and developed back in the early 2000s. That resolution laid out a series of lesser density development options for US 441 heading south to the tip of Sunnyside. That area would have consisted of one to three units per acre. Now, remember the commission denied the development because it infringed upon the Sunnyside task force agreement. The petitioners wanted a PUD of one hundred and fifty-nine units and the city commission wanted a development in the neighborhood of thirty or forty units, so obviously, there was a big disparity. Mediation was actually very short, we met in the morning for about three hours. We reviewed everything and found there was no reasonable way to solve the issue, so we had to move to step two. Step two of the process was to have a rehearing of the case. The hearing was conducted by the city and the special magistrate who served as a quasi-judicial parliamentarian for the proceedings. At those proceedings, the city was represented by Brionez & Brionez and the petitioners were represented by Attorney Brent Spain. Each side made their case to the special magistrate and, based on that testimony, Mr. Alvarez provided a recommended order, which was to ensure that the Sunnyside accords that were previously approved be implemented and the petitioners' PUD be approved. In short, the special magistrate's recommendation came back in January, and it was made part of this proceeding. The special magistrate's report has now been made public. It was included in the agenda packet in two locations; first under first readings of ordinances, which was the PUD, and it was also made part of this resolution. There is a forty-page recommendation made by Mr. Alvarez who completed the review and ruled in favor of the petitioner. His recommendation was completely in favor of the petitioner. He did not yield one iota of the city's argument. After that, we held another shade meeting and the direction of the commission was that it would be in the best interest of the city to consider a settlement agreement. So, after that shade meeting, we instructed attorneys Brionez & Brionez to get with Mr. Spain to work out a settlement agreement. At this point, there are two options left for the city. One is to approve the settlement agreement that is before the commission tonight and that settlement agreement would end the dispute. We would agree to implement the order recommended by the special magistrate, which is the PUD that the planning and zoning director spoke about on first readings, and the commission should approve the resolution ending the settlement. They have one more stab at this when the PUD comes forward for final approval. It is important to point out that even though the PUD was heard on first readings, it is not an approval. That was just the first reading of the ordinance, which is part of the

process to adopt a PUD by ordinance. The final process of the PUD will be heard on April 8th, at which point a public hearing will be held and will include public comments. Procedurally, the petitioner would normally have to petition the planning and zoning department with proper applications, which would be reviewed by staff. It would normally go before the planning and zoning board before coming to the city commission for two readings. Normally, after first reading, the applications would be submitted to the state for recommendation because there is a large modification at stake. However, in this case, it was deemed unnecessary because the petitioner had previously gone through that process. Therefore, repeating the process was not required statutorily and that was in the ruling by the special magistrate. Now, we are left with the process of settling the dispute and approving the PUD. If we do not settle, we will enter the third phase of the process, which would be the circuit court. That is an option for the commission, but staff has recommended to settle the matter based on the special magistrate's report. He pointed out that each side kept all costs associated with litigation, which means the petitioner paid for their attorney and the city paid for their attorney. That was important to mention. The recommendation and information provided by the special magistrate in the report is very important, and the recommendation is to settle the matter and move forward with adoption of the PUD on April 8th.

From the audience, **Mr. Cauthon** asked the city manager to provide a listing of when all the meetings were held. **CM Minner** replied he could provide that for him later. He did not have that information readily available. **Mayor Burry** asked for public comment.

Murray Tucker said he was a bit confused because PUDs have a second reading, and he was under the impression that this was the first reading of the settlement. He thought the decision would be made at the second reading. His team was going to defer until the next reading. **CM Minner** replied he was incorrect. This process is two-phased. We have to approve the settlement agreement, and, pending which way the commission goes, the next step would be to adopt the PUD. However, the settlement agreement states the petitioners' PUD would have to be approved. For example, if the recommended order had been in the city's favor, the petitioner may not have wanted to move forward with their PUD, so we would not have the PUD issue to deal with. In this case, one way or another, the city has to deal with the PUD. It was determined that the city turning down the PUD was incorrect, and we have to settle the matter. We have the recommended order, which says if this body agrees with the recommended order, we have to do a PUD. If we went back to court we would see the same outcome. We will have a court order stating we have to approve the PUD. The PUD has to be adopted in some sort of fashion. The process is not germinate on what comes first; the chicken or the egg. The PUD is adopted by ordinance with two readings of the ordinance which has been set up. The second reading is potentially set for April 8th. The settlement matter is done by resolution because the settlement is an agreement, not a PUD, and we adopt agreements by resolution. Both the PUD and agreement have been duly advertised. **Mr. Tucker** said he understood, but that was not the way it was presented to him. Had he known, he would have had a full team present. He did not know if he agreed with how this was going down, because their team would not have a chance to present.

From the audience, **Mr. Cauthon** said he wanted to move for a continuation, considering the notice was only sent out on March 12th, and he believed the testimony by the city was that they had the agreement back in January. As a party to the application regarding the Sunnyside agreement, they did not receive notice. In fact, one commissioner did not receive notice until last Friday. They are asking for additional time since this has been going on for years. He was of the position that this may prejudice the homeowners because the notice was sent out on March 12th. A number of residents who live within the area guidelines did not receive the notice. **CM Minner** responded that he respected his legal opinion. However, at the end of the day, the commission knew about the proceedings, the public knew about the proceedings, and the resolution to adopt the settlement agreement was publicly advertised and duly followed the correct process. It would be up to the commission to continue this matter. There are time

parameters associated with a continuance that the petitioner would have to agree to along with the attorneys who are in the back of the room nodding their heads, so they are in agreement with what was said. If they believe there are grounds for action in the future, he would respect that opinion. **Mr. Cauthon** asked if he could tell him who the applicants were. **CM Minner** answered the applicant is Sunnyside Lake Land Holding LLC., and Cenizo Ventures, LLC., who are represented by Attorney Brent Spain. **Mr. Cauthon** pointed out that Cenizo Ventures was not a valid Florida Corporation. That corporation lapsed, so they cannot proceed due to the lapse in corporate entity. That corporation was dissolved. **CM Minner** said duly noted.

Mayor Burry asked the city attorney if they needed to pause due to that information. **City Attorney, (CA) Mark Brionez** of Brionez & Brionez answered no. The city already has everything they need in front of them. As a matter of fact, the special magistrate's order has a certain time period in which the commission has to act. The petitioner agreed to extend the time period to today, and they have the settlement agreement in front of them. From the audience, **Mr. Cauthon** questioned the corporation. It shows dissolved and lapsed, so why is the commission being asked to vote on it today? **CA Brionez** said pursuant to the special magistrate's order, unless the petitioner agrees to extend the time period, they have to take action on this item. They are present in the audience, and they can speak about that.

Brent Spain of Theriaque & Spain, 1809 Edgewater Drive, Orlando said he was there on behalf of the petitioners. With the dissolving of the corporation that was handed out, this entity is a Delaware Corporation, so the information provided on Florida Sunbiz is not accurate. That was a different entity. The information for the owners of the subject site was corrected in the settlement agreement which was attached to the agenda packet. They can see where their client signed it, crossed out Florida limited liability company and initialed it. They stated it was a Delaware limited liability company. Actually, it is a Texas limited liability company, so the information that the gentleman handed out was not accurate. With respect to continuing this, at the end of the day, that is a matter within the city's discretion. No one in the room should be surprised about this matter being on the agenda. It has been covered by the local newspaper and Mr. Tucker attended the special magistrate hearings. He was sure he had been actively following the matter with the city either by email communications or public record requests. He was a bit surprised by them suggesting that somehow they were prejudiced by this. As a land use attorney with twenty-four years of practice, it seemed like they were trying to put an argument on the record, so they could potentially challenge it down the road by saying they were prejudiced. The reality of it all, is that they have a full and fair opportunity to present at the second hearing. Also, tonight was the first time he heard it was scheduled for April 8th. He wanted to go on the record saying he would be in Massachusetts on April 8th looking at a school for his son. He asked that the second reading be held on April 22nd, which is the following meeting. It would also provide an additional two weeks for everyone to get prepared. He wanted to clarify a few things for the record because a few commissioners were not on the board in March 2022 when this matter was denied by a two to two vote, which was a technical denial. There were only four members present and the annexation was denied. The annexation involved was for eighteen and a half acres located on the east side of Sunnyside Drive. The future land use was also denied on the eighteen and a half acres, so that reverted the PUD proposal back to the original parent track of one hundred and twenty acres, which the city annexed in 2005. The city rezoned it to PUD in 2005 and assigned a future land use to the one hundred and twenty acres in 2006 of estate-residential. He was not here for a comprehensive plan amendment because there is no annexation or land use change. The first reading occurred earlier this evening on the proposed modified PUD. The proposed resolution would approve the settlement agreement. The settlement agreement's purpose is to implement the special magistrate's recommendations that followed an all-day evidentiary hearing which Mayor Burry attended. There was full cross-examination of the witnesses who introduced all the evidence because it was a mini-trial. It was more formal than a regular zoning hearing and it went all day. There was a forty-page order entered that was in favor of his client on all issues raised. The magistrate recommended approval of the

modified plan that was touched upon earlier. It stated his client had reduced the number of total units, and increased the buffers and open space for the closest residential units. They intend to do a full presentation at the second reading for the record. However, the main issue he was counseled on two years ago was with the applicability of the Sunnyside task report. He did not want to bore everyone with details in the magistrate's order, but he did not just gloss over that issue. He thoroughly considered that issue, which he explained in detail for rejecting it, both from a factual standpoint of history on this property and a legal standpoint. The Task Force study was never implemented into the city's comprehensive plan or land development code. In fact, the magistrate quoted on page six of the order saying "there is no land use regulation in Florida, and unlikely in any state that would be enforceable or valid under such circumstances. Such a scenario is the definition of unreasonable and arbitrary, and certainly unfairly burdens the use of the property". He goes on in the actual body of the order to discuss why that is. Again, his client has been trying very diligently to be receptive to the city and the residents' concerns along with cognizant of the land use rights that were granted back in 2005 and 2006 with the future land use on the property in the prior PUD, which the magistrate indicated had never technically expired on the property. He asked respectfully for the commission's support of the settlement agreement which staff and his client support. His client has already executed the settlement agreement. At the end of the day, they will have a second and full reading of the PUD ordinance where Mr. Tucker and anyone can make a presentation. In theory, if the PUD is approved, and they do not like it, they have the right to retain counsel to try and challenge the approval in court. The matter before them this evening is the consideration of the settlement agreement and whether the commission decides to defer the settlement agreement to the second reading, which he asked to be on April 22nd. That would be a matter within their discretion. If that was the commission's decision, he would not kick, scream, or object to it. His client is eager to resolve this matter amicably because this has been going on for more than two years. He first became involved in 2019/2020, and he remembered having to wear a mask to that meeting, it was in the middle of covid. He appreciated the city's support, and he would answer any questions about the modified PUD. Their planner was also in the audience, but they did not intend to make any presentation tonight. This is an administrative hurdle that needs to be crossed in order to get to the second and final reading.

Mayor Burry asked if there were any questions for Mr. Spain. **Commissioner Pederson** said for clarity the city manager referenced a deadline for the city to approve this. He wanted to know if they were granting the city until April 22nd. He wanted to see if the city had their blessing on that. **Mr. Spain** answered the deadline under the statute said they had forty-five days to consider the recommendation and the recommendation was issued on January 15th. His client extended the deadline to tonight, March 25th. That was done in light of the settlement agreement. **Commissioner Pederson** thanked him for the answer. **Mr. Spain** added if a majority of them said they were inclined and preferred to defer both items until April 22nd, he would not object to it. He did not believe there were legal grounds raised by Mr. Tucker to do that because he was there just as he was, and he was not doing a presentation either. He will have an opportunity to do that during the second reading on April 22nd.

Mr. Cauthon said they were not asking to delay anything, they were asking that nothing be prejudicial today. There have been several calls made to city hall to find out the procedures. When the Sunnyside Homeowners Association met with the city several years ago, we entered into an agreement. It was posted on the map for the county and the city. That agreement was with the city, the county, and Sunnyside. Now, all of a sudden, they have learned that somebody's position was that it did not apply to them, yet the resolution is still on the books. It had not been vacated. They want an opportunity to come back before the board without being prejudiced by not having their whole group there. The same thing happened last time. They did not have a big group on day one, but they did on day two, which they intend to do again. They also have counsel who was not able to come today. Their counsel told them not worry about it, because there was no prejudice to the city.

Wendy Beringer said she owns fourteen acres that share a boundary with the proposed development. She has owned it since September 2021 and the notice she received about this meeting was the absolute first notice she has received. When she bought the property, it was supposed to be a family compound for her retirement. They saved and scraped whatever they could to buy that property, and she did not intend to have a neighborhood on the side of them. They were leaving a neighborhood to come to a rural area. All the language speaks about existing residences, and it is zoned R-2, so she could put up multiple structures for her family on that piece of property, which she fully intends to do. She called the city to ask for a plot of the development. She spoke with a Dan who did not give her anything. He told her he would get back with her. She told him that she had not been told about it, and he said he would find out and let her know. She never heard back from him, so she showed up tonight thinking this was not a decision-making night. Her husband was not present. They never had the option to get legal counsel of their own to fight this. She does not want one hundred and fifty homes next to her dream property. You can speak the language all you want, but if this was happening next to your dream property you would not just lay down for it. It was very upsetting and this was the first she had seen. She read the city's comprehensive plan, and she was not involved with the PUD, but at that time she did not own the property. She cannot see how this PUD fits into the comprehensive plan with roads and ecological preservation. There are gopher tortoises and tons of other reasons for not putting a planned unit development in the middle of beautiful Lake County. We already have enough. They are just being greedy. There is no reason to put one hundred and fifty homes on one hundred and twenty acres. How many of those acres are already deemed wetlands and the conservation wraps the whole side of her property where this is being proposed. There are cypress trees, and who knows how old those are? She did not understand how this was happening, and she was not notified that this was happening or given all the information.

Mayor Burry asked if there were any more questions. **Mr. Spain** asked if he could briefly respond because this is what he was trying to avoid. If they look at the settlement agreement, they would see that nothing was being finalized this evening. They are approving a settlement agreement, which under paragraph three is allowed. His client agreed to extend it thirty days, so the second reading of the modified PUD will be on April 22nd, which falls within the thirty days. If the city fails to do it within the thirty days or if his client does not agree to extend it thirty days or if the city decides to deny the modified PUD, paragraph three says this agreement would be null and void and the parties shall retain all the rights to continue with litigation, which is the pending circuit court proceedings. Under this agreement, it would ultimately be dismissed, and all parties would bear their own fees and costs. All parties have a mutual release to any claims. Again, the suggestion that something is receiving final approval this evening is not completely accurate. All they are doing is approving a settlement agreement by which they agree to implement the special magistrate's recommendation that requires a public hearing process and a first reading of the ordinance which was heard earlier this evening as an administrative matter. There is a second and final reading where neighbors can come forth to present evidence. They can try to convince the city that somehow the special magistrate had it wrong after an all-day evidential hearing. They were given an opportunity to speak at that hearing and not one resident in attendance introduced any exhibits or spoke in opposition. Again, he would defer to the commission about bumping both matters until April 22nd. The PUD is not receiving final approval, this is simply a step in the process to get to the second and final hearing.

Mr. Cauthon asked from the audience how many commissioners have read the settlement agreement. **Mayor Burry** answered that every one of them have read it. **Commissioner Pederson** pointed out that he read it multiple times. **Mr. Cauthon** wanted to know when they received it. **Mayor Burry** said he received it last Wednesday when it was provided in the packet. **Commissioner Pederson** added that they had been briefed on this before, and he read it a week ago. From the audience, **Mr. Cauthon** said nothing showed that this would be voted on tonight. **Commissioner Pederson** commented that if it does not put the city in legal trouble and if Mr. Spain agrees, out of respect to the Sunnyside residents. They could

review both items on April 22nd. He was a little confused because if they approve the settlement today they are bound by it. He did not see a lot changing, but he wanted to throw that out for discussion. If commissioners want to move it or vote on it tonight, he would be fine either way. He did not want to sit, argue, and debate it. He was involved in the original PUD and he voted no. He was the mayor when this was denied. It has been a long ride. **Commissioner Reisman** wanted to know about the legality. **CA Brionez** clarified as Mr. Spain said the terms are in the agreement. It would become null and void if the commission decides at second reading not to approve it. If they approve the settlement agreement tonight, the language in paragraph three says; if the city does not proceed or if they do not approve the PUD after second reading, the agreement is null and void and litigation will continue. There is no harm in proceeding tonight, but it is up to the commission. If they choose to readvertise, and have this at the same time as the PUD second reading, he would agree to that. **Commissioner Pederson** said it sounds like the final approval is on the 22nd, but whatever the commission's pleasure is. **Mayor Burry** announced that the second reading for this item will be held on April 22nd at 5:30 here at City Hall. **CM Minner** stated for clarity purposes that it was for the zoning and land use second reading and public hearing. The zoning hearing for the PUD for Sunnyside Lake Landing Holding, LLC., will be conducted here at City Hall in the Commission Chambers at 5:30 p.m. on Monday, April 22nd. The resolution considering the settlement agreement is before this body tonight. **Mayor Burry** said in considering the settlement agreement a suggestion has been made to put that off until April 22nd.

Commissioner Pederson made a motion to extend this item until the meeting of April 22nd, so they could deal with the resolution and the PUD at the second reading. There was no second to the motion. The motion failed.

CM Minner said considering the lack of a second, the motion still stands to consider the settlement agreement this evening. The motion to table failed, we are back to the consideration of the resolution. He believed the resolution to settle the agreement had a motion and a second. **CC Purvis** pointed out that there was no motion on the floor. **Mayor Burry** stated in the beginning he asked the city manager to explain this item, and they went right into public comments.

Commissioner Reisman made a motion to adopt the resolution and Commissioner Connell seconded the motion.

Mayor Burry stated we already heard from the Sunnyside property owners who want to push this off until April 22nd. Mr. Spain has agreed to that and legal counsel said we could. We had a motion that did not receive a second, and we now have a motion to adopt the resolution. We have already had discussions between commissioners. He asked if they would like to vote. **Commissioner Connell** agreed they should just vote. **Commissioner Pederson** added he was involved originally and this has been a long, tough process. He was sensitive to the people that lived nearby. He voted no the first time because this does not fit the area. The density is too high, the roads are completely inadequate, but based on the process we have gone through, it does not leave many options. **Mayor Burry** wanted to go on the record saying he was completely against this project based solely on the fact that the roads are terrible. However, every traffic study says they are fine, and we all know what that means. The city came to an agreement a long time ago, and the city said we would not do that. However, at that time, the city did not implement the study into our comprehensive plan and when the petitioner purchased the property, they purchased the property under the assumption that they could do what they suggested they could do. Property owners have rights and the city fought this hard, but we lost. That is the fact, and he cannot side with spending more taxpayers' money to fight something we have already lost. We all know this is not the right thing. Right or wrong, this should have been introduced into the comprehensive plan. This is a lesson for everyone. We are currently redoing the comprehensive plan, and he suggested that everyone in the room be a part of that. That way, we know what to expect because our comprehensive plan says they can build

what they want to build in the city. **Commissioner Pederson** clarified that this happened way before their time. He did not want people thinking that a mistake was done on their watch. This happened eighteen to twenty years ago when they were not on the commission. He did not want people thinking they had dropped the ball over the last few years.

From the audience, **Mr. Cauthon** wanted more clarity from the mayor about whether he was concerned about eliminating attorney's fees. **Mayor Burry** pointed out that he was worried about taxpayers' money and spending it on something the special magistrate already told them they would not win. He was not an attorney, so he relies on the attorneys to give advice. **Commissioner Connell** stated they have had discussions and there was a motion on the floor. They need to just call roll call. **Mayor Burry** asked if there were any other comments. There were none.

The roll call vote was:

Commissioner Reisman	Yes
Commissioner Pederson	Yes
Commissioner Berry	Yes
Commissioner Connell	Yes
Mayor Burry	Yes

Five yeas, no nays, the Commission adopted the resolution.

7. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

A. None

8. CITY ATTORNEY ITEMS:

CA Watson commented that, as the commission knows, we are in the midst of the transaction with the parcel across from the airport. It is a ten acre parcel, and we are now under contract with that parcel. The buyer is in the midst of their government approval, due process period. They have sent a couple of documents that need to be signed with the city still being the underlying property owner for permitting, FDOT, and drainage connections. It is a fairly mundane, fairly routine item, but he wanted to bring that to the commission's attention, and he brought documents this evening for the mayor to sign. He asked if anyone had questions about where they stood with the transaction. There were none.

9. CITY MANAGER ITEMS:

CM Minner had no further comment this evening.

10. ROLL CALL:

Commissioner Berry had nothing further.

Commissioner Connell had nothing.

Commissioner Reisman gave a huge thanks to the special events department. He went to the Blooms and Brews over the weekend. It was a great time downtown. He also gave a shout-out to Sergeant Shannon Walsh of the Leesburg Police Department (LPD) and her team who attended Roll with Patrol at Skate World last night. It was a fun time even though he had an accident, but he is okay. Lastly, on April 6th is JAG, which is the Junior Athletic Games that the LPD puts on for elementary students here in Leesburg. He encouraged everyone to come out and attend. It will be held at the high school. Lastly, at the next meeting, could they get an update on where we are with Bikefest? **CM Minner** said yes.

Commissioner Pederson had no further comment.

Mayor Burry had nothing further for the evening.

11. **ADJOURN:**
PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." The City of Leesburg does not provide this verbatim record.

With a motion by Commissioner Reisman and a second by Commissioner Pederson, the meeting adjourned at 6:36 p.m.