CITY OF PARKER
City Hall
1001 West Park Street
Phone 850-871-4104

Mayor
Andrew Kelly

City Council
Tonya Barrow, Pro Tem
Ron Chaple
Stacie Galbreath
April Gibson

Attorney
Tim Sloan

City Clerk
Donna Perdue (acting clerk)

REGULAR MEETING
PUBLIC HEARING
OF
THE CITY OF PARKER CITY COUNCIL
AUGUST 1, 2023
5:30 PM
Located at
PARKER CITY HALL

NOTE: AT EACH OF ITS REGULAR OR SPECIAL MEETINGS, THE CITY OF PARKER COUNCIL ALSO SITS, AS EX OFFICIO, AS THE CITY OF PARKER COMMUNITY REDEVELOPMENT AGENCY (CRA) AND MAY CONSIDER ITEMS AND TAKE ACTION IN THAT CAPACITY.

AGENDA

CALL TO ORDER – Mayor Kelly

INVOCATION – Dr. Rev. Alex Palomaria

PLEDGE OF ALLEGIANCE

ROLL CALL – CLERK

ITEMS FROM THE AUDIENCE (non-agenda items)

APPROVAL OF MINUTES: 7/6/2023; 7/7/23; 7/10/2023; 7/11/2023; 7/17/2023

REGULAR AGENDA:

1. Variance Request for 5200 Soule Drive – Lynn

2. Council approval for street resurfacing cost increase
3. Council review and approval of Anchor Engineering Street resurfacing bid recommendation
4. Public Hearing and request of second reading and adoption of Ordinance 2023-416,
   AN ORDINANCE OF THE CITY OF PARKER FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 82 OF THE CODE OF ORDINANCES RELATING TO UTILITY SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCHRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.
5. Public Hearing and request of second reading and adoption of Ordinance 2023-417,
   AN ORDINANCE OF THE CITY OF PARKER FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 26 OF THE CODE OF ORDINANCES RELATING TO CODE ENFORCEMENT AND UNFIT AND UNSAFE STRUCTURES INCLUDING BUT NOT LIMITED TO PROCEDURES THERFORE; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCHRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.
6. Request for executive session to discuss Donaldson Point boat ramp

TASK LIST REVIEW

ANNOUNCEMENTS

UPCOMING EVENTS

_____
Donna Perdue, Acting City Clerk

If a person decides to appeal any decision made by the City Council with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the City Clerk at 1001 West Park Street, Parker, Florida 32404: or by phone at (850) 871-4104. If you are hearing or speech impaired and you have TDD equipment, you may contact the City Clerk using the Florida Dual Party System, which can be reached at 1-800-955-8770 (Voice) or 1-800-955-8771 (TDD).

ALL INTERESTED PERSONS DESIRING TO BE HEARD ON THE AFORESAID agenda are invited to be present at the meeting.

CITY OF PARKER
City Hall
1001 West Park Street
Phone 850-871-4104

SPECIAL MEETING
Of
THE CITY OF PARKER CITY COUNCIL
July 6, 2023
9 AM
Located at
Parker City Hall

MINUTES

CALL TO ORDER AT 9:00AM by Mayor Kelly

ROLL CALL
Ms. Barrow - present
Mr. Chaple - present
Ms. Galbreath - present
Ms. Gibson - present
Mayor Kelly - present

Regular Agenda:

1. Interview of Kimberly Rega for City Clerk position.
2. Motion by Ms. Barrow to renew memberships for the League of Cities. Ms. Galbreath seconded the motion.

Ms. Barrow - aye
Mr. Chaple - aye
Ms. Galbreath - aye
Ms. Gibson - aye
Mayor Kelly – aye

3. Interview of Shaquon Brown via Zoom or phone – no show/unable to contact.

Ms. Perdue will contact Bay County IT regarding the microphones in the council room.

Donna Perdue, Acting City Clerk

DRAFT

CITY OF PARKER
City Hall
1001 West Park Street
Phone 850-871-4104

SPECIAL MEETING
Of
THE CITY OF PARKER CITY COUNCIL
July 7, 2023
1 pm
Located at
Parker City Hall

MINUTES

CALL TO ORDER AT 9:00 AM by Mayor Kelly

ROLL CALL
Ms. Barrow - present
Mr. Chaple - present
Ms. Galbreath - present
Ms. Gibson - present
Mayor Kelly - present

Regular Agenda:

1. **Interview for city clerk position – no show**

Discussion over clerk position. One has been interviewed, others did not show or did not respond to invitation to interview. Retired clerk can be sent by the League of Cities to help in interim per Ms. Galbreath. Will post clerk vacancy on Indeed, HR Forum, Florida Association of Clerks, Florida League of Cities and set interviews for the 27th and 28th.

Motion made by Ms. Barrow and a second by Ms. Gibson to have library open on Monday, Tuesday, Wednesday, and Saturday from 10-5 beginning September 1.

Ms. Barrow - aye
Mr. Chaple - aye
Ms. Galbreath - aye
Ms. Gibson - aye
Mayor Kelly – aye

DRAFT

Mayor Kelly stated a CD needs to be obtained due to receiving a bond in the past that whose owner cannot be traced. On a motion of Ms. Barrow and seconded by Ms. Gibson council voted to buy a Certificate of Deposit for approximately $48, 000 per the advice of city attorney and city auditor.

Ms. Barrow - aye
Mr. Chaple - aye
Ms. Galbreath - aye
Ms. Gibson - aye
Mayor Kelly - aye

DRAFT

Donna Perdue, Acting City Clerk

CITY OF PARKER
City Hall
1001 West Park Street
Phone 850-871-4104

BUDGET SPECIAL MEETING
Of
THE CITY OF PARKER CITY COUNCIL
July 10, 2023
9 AM
Located at
Parker City Hall

MINUTES

CALL TO ORDER AT 9:00 AM by Mayor Kelly

ROLL CALL
Ms. Barrow - present
Mr. Chaple - present
Ms. Galbreath - present
Ms. Gibson - absent
Mayor Kelly - present

Mayor Kelly stated that Ms. Gibson is out of town and spoke with Ms. Rega, she will need to know when the clerk position will close, did not realize it would go on for another month. Ms. Rega will need to give her current place of employment ample notice if chosen. Discussion of other applicants by council. Motion made by Ms. Barrow to select Kim Rega as city clerk, seconded by Mr. Chaple.

Ms. Barrow - aye
Mr. Chaple - aye
Ms. Galbreath - nay
Mayor Kelly - aye

Regular Agenda:
Fiscal Year 2024 budget discussed. Council not wanting to increase water rates due to invoking ad valorem tax on citizens. Discussion on health insurance options for employees as a way to decrease the budget.
Next budget meeting at 9 am July 17th.

Donna Perdue, Acting City Clerk

CITY OF PARKER
City Hall
1001 West Park Street
Phone 850-871-4104

Regular Meeting
Of
THE CITY OF PARKER PLANNING COMMITTEE
July 11, 2023
5:00 PM
Located at
Parker City Hall

MINUTES

CALL TO ORDER AT 5:00 PM by Chairman Rega

Invocation – Terry Stryker

Pledge of Allegiance

ROLL CALL
Ms. Hutto – present
Mr. Robicheaux - present
Mr. Stryker - present
Chairman Rega – present

APPROVAL OF MINUTES

On a motion by Mr. Robichaeux and a second by Ms. Hutto, the planning commission approved the minutes for June 13th, 2023, with a correction of wording from "industrial" to "manufacturing".

ITEMS FROM THE AUDIENCE

- **Jake Mearhead 4819/4821 South Lakewood drive**

It was recommended by Ms. Hinrichs that Mr. Mearhead attend the planning commission meeting to request a variance for lots related to height of development relevant to the road due to slope of the land.

Chairman Rega recommends that Mr. Mearhead have an engineer look at his plans as the location he is inquiring about is a watershed area. It was recommended that Mr. Mearhead provide drawings related to the development for further discussion.

DRAFT

Attorney Sloan advised the council had previously enacted updates to the floodplains ordinance provisions that cannot be waived.

Mr. Mearhead stated that he was not in a floodplain.

Mr. Robicheaux made suggestions as to home construction on piers for Mr. Mearhead.

- **Rich Whitaker requesting provision to build on his property with a 3 versus 5-foot setback.**

- **Pat Fousek 1344 Stratford Avenue**

Ms. Fousek had questions regarding the building or developer order process and steps.

Ms. Fousek requested information on ongoing major projects that had been previously approved by the planning commission and those that are ongoing in the planning process.

Ms. Fousek inquired about gaining information regarding future projects that would reflect positively for Parker.

- **Eddie Ray Eans**

He is interested in opening a restaurant/bar. He is concerned with zoning compliance in MU2. The commission stated that there are no concerns about restaurant/bar development in MU2 so long as they comply with current LDR standards.

REGULAR AGENDA

1. **Variance Request 5200 Soule Drive -Lynn**

Project A

Mr. Lynn has requested a variance to allow for an attached garage that will impact the setback to Soule Drive.

Attorney Sloan recommended that the variance test be applied.

Mr. Rega asked Attorney Sloan to administer the variance test.

Motion to recommend by Mr. Robicheaux and seconded by Mr. Stryker

Ms. Hutto – Aye
Mr. Robicheaux – Aye
Mr. Stryker – Aye
Chairman Rega – Aye

AUDIENCE IMPUT REGARDING AGENDA ITEM 1

Pat Fousek 1344 Stratford Avenue

Ms. Fousek inquired about the tree in the front yard as well as the impervious space of both project A and B combined.

Project B

Mr. Lynn presented an additional variance request for either an attached or detached 2 story garage.

Chairman Rega related the rules regarding the LDR's exclusion of accessory dwelling structures.

Mr. Lynn was advised of setbacks and easement requirements.

Mr. Lynn voluntarily withdraws request for a variance for project B

2. **Discussion of LDR amendment to allow limited manufacturing in certain land use districts - Committee**

Chairman Rega asked that a discussion occur regarding ideas from the commission occur.

Chairman Rega suggested that a level of specificity regarding obnoxious odors be added.

Chairman Rega additionally asked that temperature requirements be addressed.

Mr. Stryker asked about the "word" manufacturing existing in the LDR.

A discussion occurred as to the location of the word and possible adjustments to its application within the LDR.

Chairman Rega questioned the use of the phrase "assembly plant" in the LDR.

Attorney Sloan suggested that this be reviewed under prohibited uses.

Mr. Robicheaux asked that this agenda item be moved forward to the next meeting on August 8, 2023.

COMMENTS AND ANNOUNCEMENTS

⟶Jake Mearhead 4819/4821 South Lakewood drive

Mr. Mearhead requested to know where he could access the variance test questions. He was instructed that they are found on the City of Parker website.

ADJOURNMENT

_____

Donna Perdue, Acting City Clerk

DRAFT

CITY OF PARKER
City Hall
1001 West Park Street
Phone 850-871-4104

SPECIAL MEETING WORKSHOP
Of
THE CITY OF PARKER CITY COUNCIL
July, 17 2023
9:00AM
Located at
Parker City Hall

MINUTES

CALL TO ORDER AT 9:00AM by Mayor Kelly

ROLL CALL - CLERK

Ms. Barrow – present
Mr. Chaple - present
Ms. Galbreath - present
Ms. Gibson - present
Mayor Kelly – present

REGULAR AGENDA:

1. **Fiscal year 2024 Budget Discussions**

Mayor Kelly suggested that the city's 3% water tax increase be discussed in relation to the ad valorem tax. Additionally, it was stated that the county would be increasing the water tax by 3% and the sewer tax by 8%.

The council, bookkeeper and accountant discussed the costs related to water and sewer costs incurred from the county, insurance cost, wages, ad valorem and hiring a grant writer.

The council determined that water and sewer fee increases from the county shall not be passed on to the citizens of Parker.

Ms. Galbreath suggested holding a special meeting regarding health insurance.

The council discussed that an RFQ for health insurance be completed.

DRAFT

Ms. Galbreath made a motion to approve an RFQ for health insurance with Ms. Gibson providing a second.

Ms. Barrow – Aye
Mr. Chaple – Aye
Ms. Galbreath – Aye
Ms. Gibson – Aye
Mayor Kelly – Aye

The council asked Mr. Summerlin explain the request for merit wage increases.

The council agreed that a merit rate increase occur for the city mechanic (92cents) and the supervisor (87cents).

Ms. Galbreath requested that a city-wide pay rate analysis be conducted. The council agreed.

The council discussed creating a detailed benefits allocation page for each employee prior to the mid-year budget review.

The council agreed to a 5% wage increase except for those in the 6-month probationary period.

The council continued an ongoing discussion about hiring a grant writer.

Mr. Summerlin suggested that a potential surplus in the utility fund might be used to fund a grant writer as the majority of grant writing would apply to infrastructure projects.

Ms. Galbreath inquired about impact fees and Mr. Summerlin explained that this was restricted to the improvement of city systems.

Ms. Galbreath suggested that the ad valorem rate be a flat 3 and that we pull the balance from utilities in order to balance the budget.

Ms. Galbreath made a motion that the ad valorem rate be a flat 3, pull the balance from utilities to balance the budget and pass the budget as presented today. Ms. Gibson seconded the motion.

Ms. Barrow – Nay
Mr. Chaple – Aye
Ms. Galbreath – Aye
Ms. Gibson – Aye
Mayor Kelly - Aye

AUDIENCE INPUT FOR AGENDA ITEM 1

- **Pat Fousek 1344 Stratford Avenue**

Suggested that the city pass along the Bay County's true cost of the water and sewer increases to the citizens.

Ms. Fousek commended the city council for their tempered judgement and stated that the city be patient as we still have money coming in from various sources. She also asked about the progress for hiring a grant writer and ways that we may find money for a grant writer.

_____

Donna Perdue, Acting City Clerk

DRAFT

CITY OF PARKER
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME OF PRESENTER:*	2. *MEETING DATE:*
Marty E. Lynn	August 1, 2023

Variance request for 5200 Soule Drive

4. *IS THIS ITEM BUDGETED (IF APPLICABLE)*

YES ☐ **NO** ☐ **N/A X**

Mr. Lynn is requesting a variance for a setback to build a 24' by 24' connected garage on the front of his home as a replacement to the carport.

- **The site plan with the location of the connected garage is attached and denoted as "A".**

AGENDA ITEM # 1

Please accept this amendment to my original application for variance dated 6/12/2023. I was provided an outdated set of variance questions by the city. The questions and answers following are compliant with Section 6-3.3 of the current LDR.

I request this matter be placed on the next scheduled Parker City Council agenda.

Marty E Lynn

Marty E Lynn

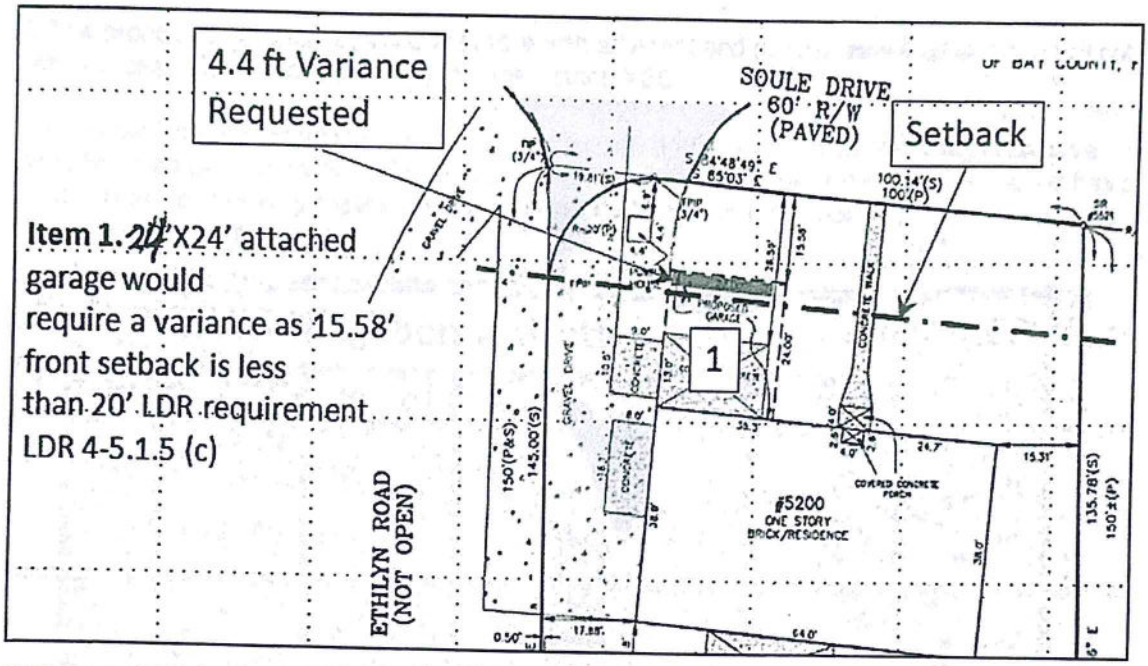
Date:

July 27, 2023

NEW

1. There is a specific hardship affecting the development of the property resulting from the strict application of the provisions of these Regulations; **YES**

A strict application of setback rules will prevent building of a conventional attached two car garage to replace the existing attached carport without demolishing part of the existing home to intrude into that space. Locating the garage on the opposite (East) end of the home would require the same (4.4ft) setback relief.



2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs; **YES**

The home and existing carport were present when the property was purchased on 3/11/2021. The owner has not modified it in any way. The ultimate location of the structure will not affect development costs.

3. The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby properties or other properties in the land use category; **YES**

An attached garage is considered part of the Principle Structure (LDR Definitions page 2-22) and is an allowed use in Residential Land Use districts and therefore a commonly accepted property right. Upgrading from an open carport to an attached garage is a logical extension of that right.

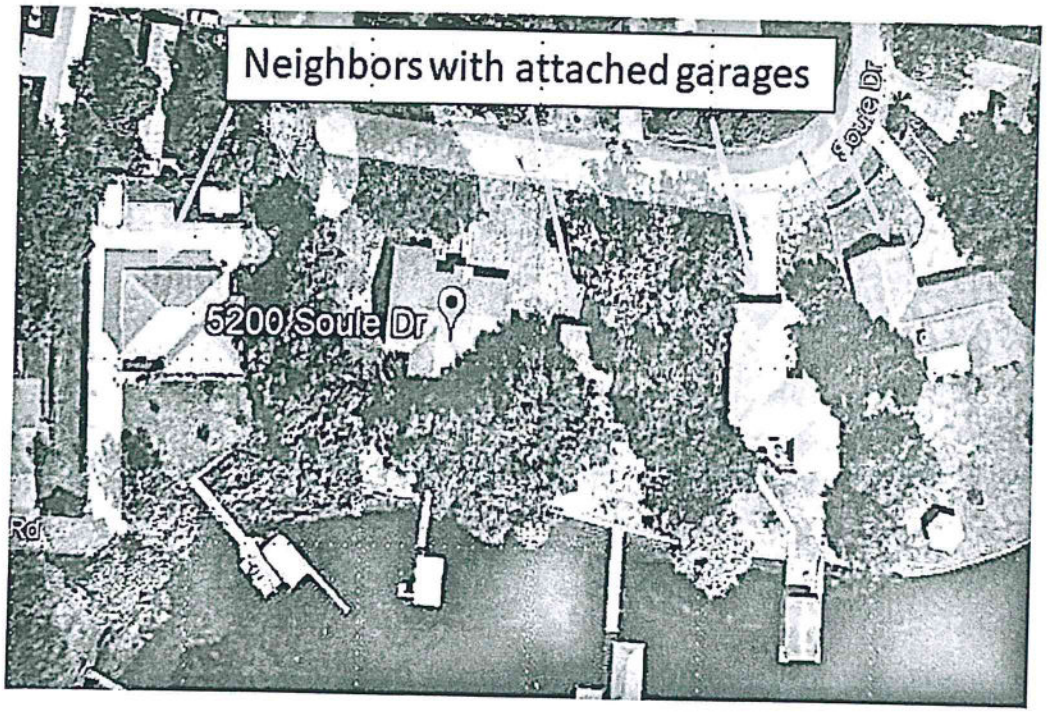
NEW

4. The proposed variance will not materially increase congestion on surrounding streets, increase the danger of fire or other hazard or otherwise be detrimental to the health, safety or general welfare of the public; **YES**

This is a de minimus 4.4 ft intrusion into the setback which will in no way impede, restrict or otherwise affect traffic or access to Ethlyn or Soule roads. No buried infrastructure (water, gas, sewage, electrical) will be affected. Additionally, as the Soule Dr. right of way is 60 ft instead of the usual 50ft emergency vehicle access will remain greater than most streets in other Residential Land Use districts.

5. The proposed variance will be compatible with adjacent and nearby development and will not alter the essential character of the land use district; **YES**

The house immediately West and three houses immediately East of this property have attached two car garages. This setback variance is required only because Soule Dr has a 60 ft street right of way instead of the customary 50 ft used in most other Residential Land Use districts.



NEW

6. The effect of the proposed variance is consistent with the purposes of the Regulations; **YES**

LDR Section 1-4 States the purpose of the regulation includes: ...encouraging the most appropriate use of land, ... to include good order and appearance. This is an appropriate use of the land and will improve the appearance of the property. Covered garages reduce clutter visible from city streets and generally improve property values for both subject property and the neighborhood.

7. The effect of the proposed variance is consistent with the Comprehensive Plan. **YES**

This variance is consistent with Comprehensive Plan Policy 1.1.1 (1) Residential Districts. No change in land use is required or requested.

NEW

CITY OF PARKER

PETITION FOR VARIANCE APPLICATION

A

Date of application: 6/12/2023 Application No: _____

Petitioner's Name: Marty E. Lynn
(Current owner of property must apply for the variance)

Address: 5200 Soule Dr.

City, State, Zip: Panama City, Fl. 32404

Telephone Number: _____ Fax Number: ___

Email: _____ gmail.com

Parcel Identification Number(s). (Obtain from Property Appraiser's Office:
12005C042GH

Legal Description: Lot 11e, Block "A", Crown Point

Description of Proposed Variance: Asking for 5ft. closer to set back line for proposed Garage 24 x 24 ft

Location of Variance Property: _____

Surveyor's Name: Anglin Surveying LLC

Address: 3712 Cornelia Ln

City, State, Zip: Panama City, FL. 32409

Telephone Number: 850-271-4055 Fax Number: _____

Email: _____

Agent's Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____ Fax Number: _____

Email: _____

"A"

CITY OF PARKER VARIANCE APPLICATION

VARIANCE REQUEST QUESTIONNAIRE

1. There are extreme practical or economic difficulties in carrying out the strict letter of the Land Development Regulations. ____YES ✓ NO Please explain below

2. The variance request is not based predominately upon a desire to reduce the cost of developing the site. ____YES ✓ NO Please explain below

3. The proposed variance will not substantially increase congestion on surrounding public roadways, the danger of fire, or another hazard to the public. ____YES ✓ NO Please explain below.

4. The proposed variance will not substantially diminish property values in, nor alter essential character of, the surrounding site ____YES ✓ NO Please explain below.

5. The effect of the proposed variance is in harmony with the general intent of these Land Development Regulations and the specific intent of the relevant subject area(s) of these Regulations. ____YES ✓ NO Please explain below

currently our home has a shed roof car port that was added at some point by the previous owner, basicly we are asking to take that off and build a 24X24 garage 2 car

CITY OF PARKER VARIANCE APPLICATION

NOTIFICATION TO AFFECTED PROPERTY OWNERS

The applicant agrees that the City has the right to post a notification sign on the property, visible from the roadway, identifying the date, time, and location of the meeting of the City Council to consider the variance application. The applicant agrees to ensure that the sign is continually posted on the property until after a final decision of the City Council on the variance request or the application is withdrawn. After the meeting, the City shall have the right to remove the sign, restoring the surfaces of the property to its former natural state.

Marty E. Lynn
Signature

6. 12. 2023
Date

"A"

REQUIRED SIGNATURE

I have read and understand all information provided in this application, the requirements listed within the application and agree to provide the necessary information requested by the City of Parker. The information I have provided on this application is true and correct to the best of my knowledge.

I understand that this application will be heard in a public meeting by the City of Parker City Council, the Parker Land Development Code shall govern the procedure of the decision.

I understand the Parker City Council cannot issue variances for the requirements of the City of Parker Comprehensive Plan. Changes to the Comprehensive Plan require a submittal of a Comprehensive Plan amendment application. (Applications are available at the City of Parker.)

I understand the City Council shall not vary the requirements of any provision of Ordinance 90-177, Parker Comprehensive Planning and Land Development Regulation Code, unless it makes a positive finding, based on substantial competent evidence on each of the finds contained in he variance application.

FLORIDA STATUES 837.06-FALSE OFFICIAL STATEMENT

Whoever knowingly makes false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

Marty E Lynn — Marty E. Lynn — 6-12-2023

Petitioner's Signature — Printed Name — Date of Signature

STATE OF FL

COUNTY OF Bay

BEFORE ME, the undersigned Notary Public in and for said County and State, appeared

Marty E Lynn, who is personally know to me or who has produced

GADL, identification and who executed the foregoing instrument.

Given under my hand and seal this 12 day of June, 2023

{Seal}

KAELYNE FORESTT BURKE
Notary Public - State of Florida
Commission # HH 066144
My Comm. Expires Nov 22, 2024
Bonded through National Notary Assn.

Signed Name of Notary Public

Kaelyne F Burke

Printed Name of the Notary of the Public

HH066144

Commission Number:

City of Parker

1001 West Park Street

PARKER, FL 32404

Ph: (850) 871-4104 Fax:

EXT. RECEIPT NUMBER

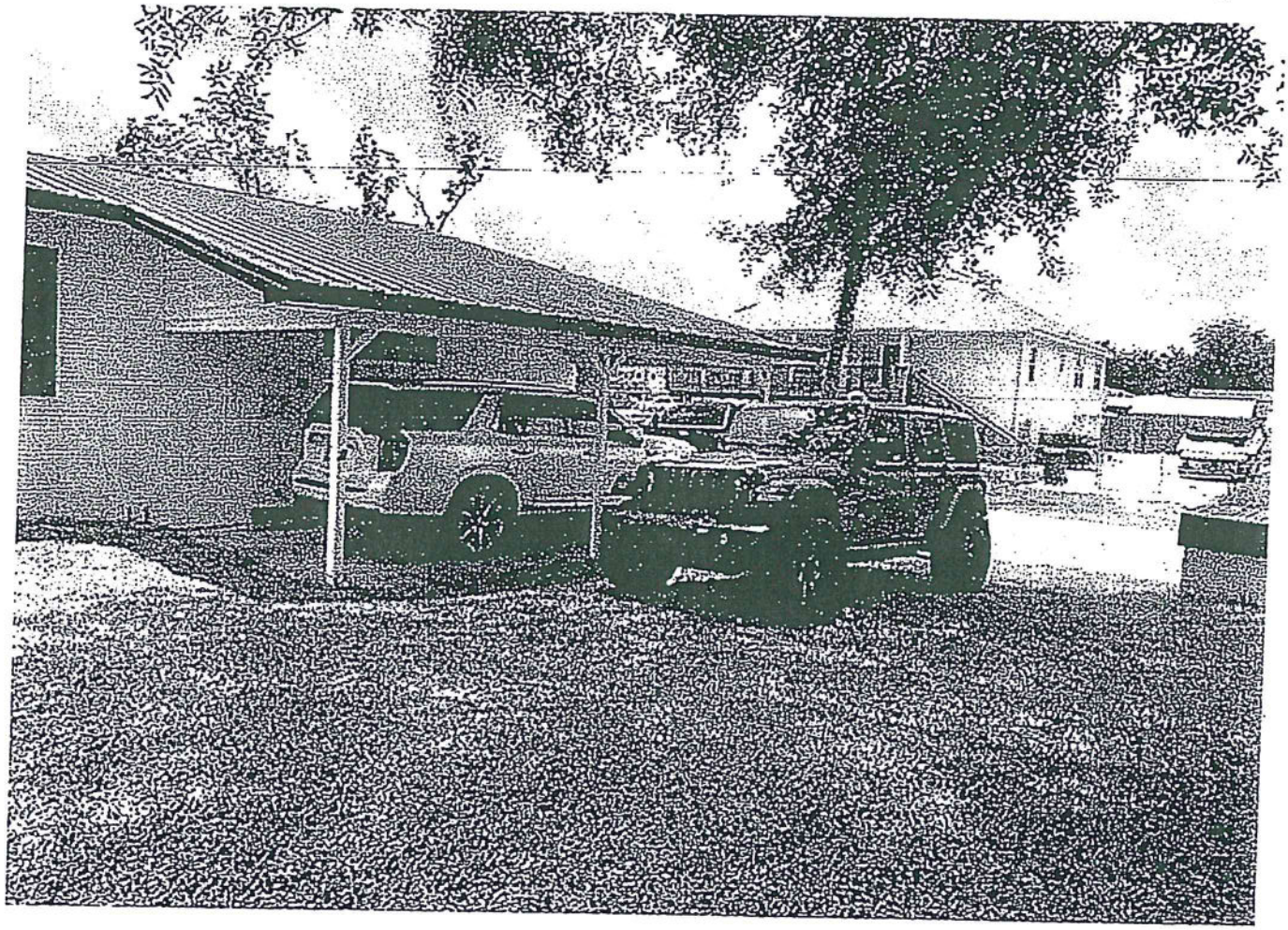
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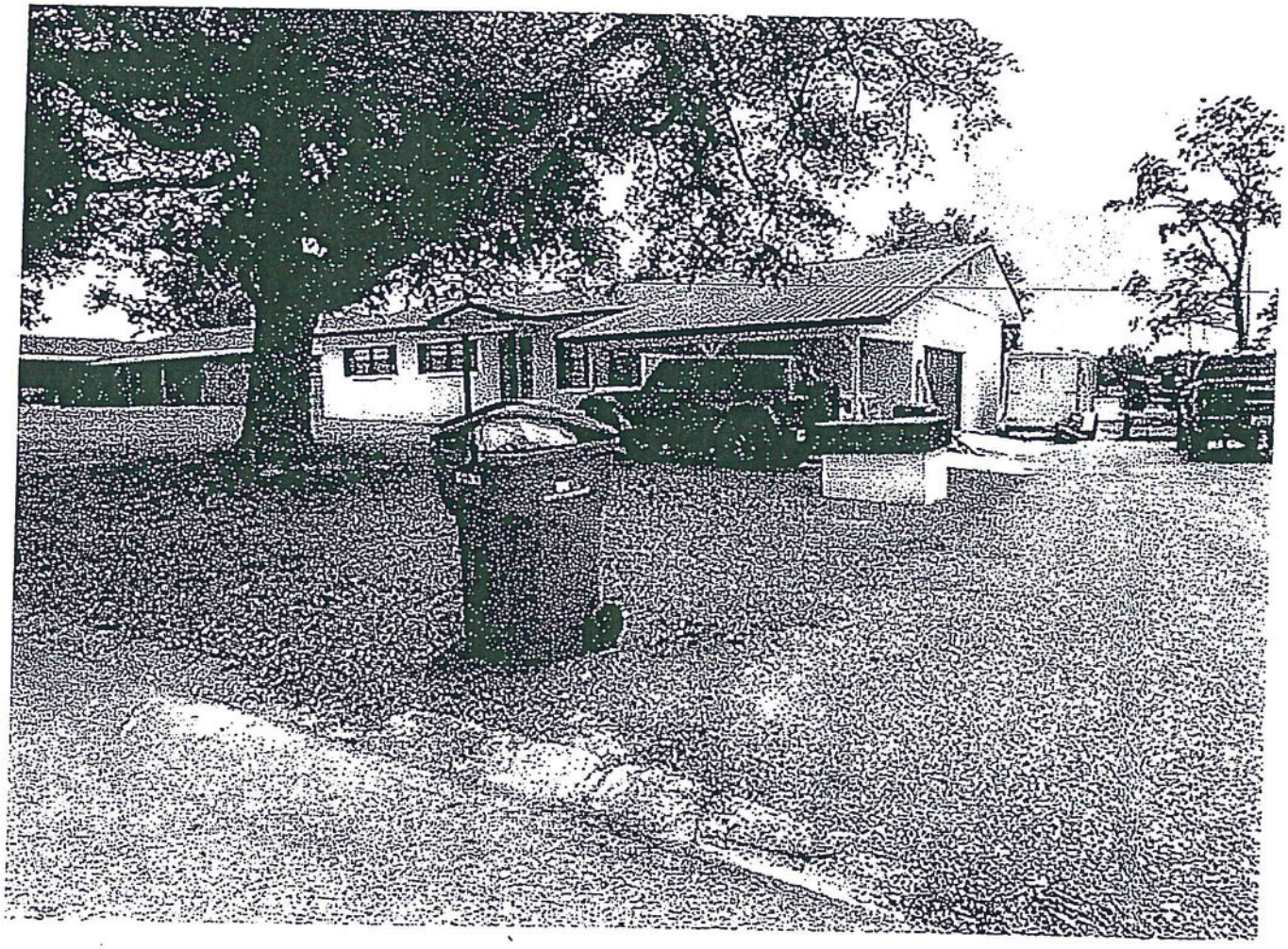
Paid By

Marty Lynn

Transaction	Type	Record	Category	Description	Amount
00000403	PZE Process	PZ23-0025	Standard Item	Variance Application	$ 150.00

Total	$ 150.00
Cash	
Check	$ 150.00
Credit	
Transferred	
Tendered	$ 150.00
Change	$ 0.00
To Overpayment	$ 0.00









Copy of the application the resident is wanting to DO if variance is approved

CITY OF PARKER

1001 WEST PARK STREET • PARKER, FLORIDA 32404
TELEPHONE (850) 871-4104 • FAX (850) 871-6684

CITY OF PARKER
MINOR DEVELOPMENT
ACCESSORY STRUCTURE
Application Review Fee - $100

Date of Submittal: 6/12/23
DO Permit #:
Bldg Permit #:
Land Use Designation: Residential
Parcel ID# 26017-000-000

Applicant Information:

Name of property owner: Marty E. Lynn

Address: 5200 Soule Dr. Panama City, FL. 32404

Telephone #: 678-300-0641 Email: Marty lynn2055@gmail.com

Name of contractor: Marty Lynn Construction (Self)

Address: 511 Pine Grove Ave, Grayson, GA. 30017

Telephone #: Email: .com

Site location: 5200 Soule Dr. Panama City, FL. 32404
(must include address)

Flood Zone: Zone "X" Zone "AE"

Building/Structure Information:

Current use of existing property: ~~Private residence~~ private residence

What type structure are you adding? garge 24x24

Will this structure be used for a business or home occupation? home

Will anyone live in this structure? ~~yes~~ no

Complete the following calculations:

Lot size: 145 x 101 Ttl sq. ft of lot: 14,645

Total existing square feet of your:
Primary structure: 38 X 64 = 2,432
Accessory structures: 13 X 20 = 260 12 X 24 = 288
Driveway/paved parking: _____
Total square feet of impervious (existing): 2,980 - 260 = 2,720 } 3,296
Amount of impervious surface to be added: 576 24 X 24
Percentage of lot coverage: _____

Provide site plan: _____
Setbacks for new structure:
Side yard: 22'-W 58'E Rear yard: 75'
Road right-of-way: 15.58 Building height: 20'
Space between structures: 0

Minimum setbacks: 5 feet side and rear [Sec 5-5.1(g)]
10 foot minimum setback between buildings (Sec 4-5.9)

Utilities Information:

Are you planning to connect this structure to water and/or sewer? NO
Number of proposed water connections 0 sewer connections _____
Is the utility account currently in your name? _____
If not, whose name is it in? _____

NOTE: Failure to comply with the provisions of this permit may subject the permit to modification, withdrawal, or cancellation, and in addition may subject the applicant and/or property owner to additional permit fees and additional costs including legal fees.

I hereby certify, under penalty of perjury, that I have read and understood the provisions of this permit, and that the information provided herein is true and correct to the best of my knowledge.

Marty E. Lyon
Signature of Applicant

6-12-2023
Date

TO EPCI BUILDING DEPARTMENT: Please be advised that you may issue a building permit to the above named applicant/contractor on behalf of the City of Parker.

_____
Signature of Approval

_____
Date

CITY OF PARKER
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME OF PRESENTER:*	2. *MEETING DATE:*
PUBLIC WORKS	August 1, 2023

SUMMERLIN

4. *IS THIS ITEM BUDGETED (IF APPLICABLE)*

YES [x] **NO** [ ] **N/A**

Mr. Summerlin is requesting the council's review and approval of the street resurfacing infrastructure cost increase.

AGENDA ITEM # 2

CITY OF PARKER
AGENDA ITEM SUMMARY

1

1. *DEPARTMENT MAKING REQUEST/NAME OF PRESENTER:*	2. *MEETING DATE:*
PUBLIC WORKS	August 1, 2023

SUMMERLIN

4. *IS THIS ITEM BUDGETED (IF APPLICABLE)*

YES [x] **NO** [ ] **N/A**

Mr. Summerlin is requesting the council's review and approve the Anchor Engineering street resurfacing bid.

1

AGENDA ITEM # 3

Anchor CEI
Engineering and Inspection

450 Magnolia Avenue
Panama City, FL 32401
P 850.215.1285 F 850.215.1286

July 26, 2023

Sent via e-mail to: parkerfire911@aol.com

Mayor Andy Kelly
City of Parker
1001 West Park Street
Parker, Florida 32404

Re: ITB 2023-01: Roadway Improvements - Phase 1
Recommendation of Award
Anchor Project No. 1620-019

Dear Mayor Kelly:

Anchor Consulting Engineering and Inspection, Inc. (Anchor) is pleased to present this ***Recommendation of Award*** for ***Bid 2023-01 – Roadway Improvements - Phase 1*** to the City of Parker (City) for review and City Council approval.

On Thursday, June 8, 2023, the above-referenced invitation to bid was advertised on the City's website. In addition, on Thursday, June 8, 2023 and Thursday, June 29, 2023, the bid advertisement was published in the Panama City News Herald. Prospective Bidders were permitted to download digital copies of the bid documents from the City's website and/or obtain hard copies from the City at City Hall.

Addenda was issued for this project and e-mailed to all registered bid holders on July 10, 2023 as well as posted on the City's website on July 11, 2023.

The bid due date was Tuesday, July 18, 2023.

Bids were received up to 2:00 p.m. CST on Tuesday, July 18, 2023. Bids were opened and publicly read aloud at 5:30 p.m. at the City Council Meeting on Tuesday, July 18, 2023.

Bid Packages were received from the following Bidders for the following Bid Amounts:

BIDDERS	AMOUNT OF BASE BID	AMOUNT OF BID ALTERNATE
American Sand Asphalt Paving, Inc.	**$825,284.00**	**$82,091.00**
CWR Contracting, Inc.	**$953,870.58**	**$141,136.67**
Roberts & Roberts, Inc.	**$692,851.75**	**$130,000.00**

The apparent lowest bidder with a Base Bid of **$692,851.75** was:

Roberts and Roberts, Inc.
1741 Sherman Avenue
Panama City, Florida 32405

It should be noted that the Bid Alternate is for reconstructing in lieu of milling/resurfacing of 733 linear feet starting at the western most portion of Boatrace Road. If the City chooses to accept the Bid Alternate, funds will be deducted from the Base Bid for milling/resurfacing along this portion of Boat Race Road and funds will be added to the Base Bid for the reconstruction of this portion of the roadway. Below includes the removal of milling/resurfacing from the Base Bid and the addition of the Bid Alternate to the Base Bid for all bids received:

DESCRIPTION	AMERICAN SAND & ASPHALT PAVING, INC.	CWR CONTRACTING, INC.	ROBERTS AND ROBERTS, INC.
Combined Base Bid Cost	$ 825,284.00	$ 953,870.58	$ 692,851.75
Deduct Boatrace Road Line Item #7	$ 48,180.00	$ 29,928.62	$ 38,500.00
Add Boatrace Road Bid Alternate of Line Item #7	$ 82,091.00	$ 141,136.67	$ 130,000.00
Bid Alternate Total*	$ 859,195.00	$ 1,065,078.63	$ 784,351.75

* Total is the Base Bid - Boatrace Road Line Item 7 + Bid Alternate Line Item 7

The apparent lowest bidder with the Base Bid including the Bid Alternate of **$784,351.75** was:

Roberts and Roberts, Inc.
1741 Sherman Avenue
Panama City, Florida 32405

Anchor recommends that the project be approved by the City Council and awarded to the apparent lowest bidder of **Roberts and Roberts, Inc.** in the amount of **$624,174.00** (in the event the Bid Alternate is not approved by the Council) or **$784,351.75** (in the event the Bid Alternate is approved by the Council).

It is anticipated that the remainder of the Project Schedule will be as follows unless otherwise determined by the Ctiy:

Recommendation of Award (Council Approval):	**Tuesday, August 1, 2023**
Notice of Award to Contractor:	**Thursday, August 3, 2023**
Notice to Proceed to Contractor:	**Thursday, August 17, 2023**
Conformed Plans & Specifications:	**Thursday, August 17, 2023**
Substantial Construction Completion (90 days):	**Friday, December 15, 2023**
Final Construction Completion (30 days):	**Sunday, January 14, 2024**
Closeout Documentation to City (7 days):	**Sunday, January 21, 2024**

We appreciate the opportunity to be of continued service to the City and look forward to awarding this important project. If you have any questions or comments, please call me at your earliest convenience.

Sincerely,
Anchor Consulting Engineering and Inspection, Inc.

Mandy Regan

for **Elizabeth S. Moore, P.E.**
President

ATTACHMENTS:
Attachment 1 Detailed Bid Tabulation

Copy: Mr. Tony Summerlin, City of Parker (via e-mail at tsummerlin@cityofparker.com)
Ms. Taylor Jeffreys, City of Parker (via e-mail at tjeffreys@cityofparker.com)

Anchor CEI
Engineering that works.

Attachment 1

Detailed Bid Tabulation

CITY OF PARKER
ROADWAY IMPROVEMENTS - PHASE 1
BID OPENING TABULATION
RECEIVED BIDS VALUE VERIFICATION

#	Description	Qty	Unit	AMERICAN SAND & ASPHALT PAVING, INC. Cost Per Unit	AMERICAN SAND & ASPHALT PAVING, INC. Total	CWR CONTRACTING, INC. Cost Per Unit	CWR CONTRACTING, INC. Total	ROBERTS AND ROBERTS, INC. Cost Per Unit	ROBERTS AND ROBERTS, INC. Total
A. LAKE DRIVE									
1.	Mobilization/Demobilization (Max of 10% of the total Bid Amount for Item A)	1	LS	$ 24,000.00	$ 24,000.00	$ 73,269.36	$ 73,269.36	$ 30,300.00	$ 30,300.00
2.	Bonds and Insurance (Max of 5% of the total Bid Amount for Item A)	1	LS	$ 12,000.00	$ 12,000.00	$ 2,488.72	$ 2,488.72	$ 3,500.00	$ 3,500.00
3	Maintenance of Traffic	1	LS	$ 17,000.00	$ 17,000.00	$ 43,025.49	$ 43,025.49	$ 22,955.00	$ 22,955.00
4	Layout and As-Builts by PLS	1	LS	$ 15,000.00	$ 15,000.00	$ 11,164.57	$ 11,164.57	$ 10,000.00	$ 10,000.00
5	Painted Pavement Markings/Striping	1	LS	$ 13,200.00	$ 13,200.00	$ 11,373.19	$ 11,373.19	$ 6,693.00	$ 6,693.00
6	Restoration	1	LS	$ 10,000.00	$ 10,000.00	$ 8,800.04	$ 8,800.04	$ 5,000.00	$ 5,000.00
PAVEMENT REPLACEMENT SECTION (North 9th Plaza to North 9th Street)									
7	Demolish and Reconstruct Roadway (North 9th Plaza to North 9th Street)	1	LS	$ 101,936.00	$ 101,936.00	$ 146,881.77	$ 146,881.77	$ 135,000.00	$ 135,000.00
ASPHALT MILLING AND ASPHALT OVERLAY (EXCLUDING REPLACMENT SECTION)									
8	Milling and Resurfacing of Existing Roadway (excluding Replacement Section)	1	LS	$ 115,694.00	$ 115,694.00	$ 114,953.46	$ 114,953.46	$ 89,750.00	$ 89,750.00
Subcontract Base Bid Amount for Bid Item A - Lake Drive Improvements					**$ 308,830.00**		**$ 411,956.60**		**$ 303,198.00**

#	Description	Qty	Unit	AMERICAN SAND & ASPHALT PAVING, INC. Cost Per Unit	AMERICAN SAND & ASPHALT PAVING, INC. Total	CWR CONTRACTING, INC. Cost Per Unit	CWR CONTRACTING, INC. Total	ROBERTS AND ROBERTS, INC. Cost Per Unit	ROBERTS AND ROBERTS, INC. Total
B. LANCE STREET (NORTH 11TH STREET TO SOUTH TYNDALL PARKWAY – MILLING AND RESURFACING)									
1.	Mobilization/Demobilization (Max of 10% of the total Bid Amount for Item A)	1	LS	$ 11,100.00	$ 11,100.00	$ 34,765.58	$ 34,765.58	$ 8,550.00	$ 8,550.00
2.	Bonds and Insurance (Max of 5% of the total Bid Amount for Item A)	1	LS	$ 5,450.00	$ 5,450.00	$ 732.13	$ 732.13	$ 3,500.00	$ 3,500.00
3	Maintenance of Traffic	1	LS	$ 11,000.00	$ 11,000.00	$ 16,032.03	$ 16,032.03	$ 15,955.00	$ 15,955.00
4	Painted Pavement Markings	1	LS	$ 4,484.00	$ 4,484.00	$ 3,778.20	$ 3,778.20	$ 2,012.50	$ 2,012.50
5	Milling and Resurfacing of Existing Roadway	1	LS	$ 98,420.00	$ 98,420.00	$ 65,881.79	$ 65,881.79	$ 55,500.00	$ 55,500.00
Subcontract Base Bid Amount for Bid Item B – Lance Drive					**$ 130,454.00**		**$ 121,189.73**		**$ 85,517.50**

#	Description	Qty	Unit	AMERICAN SAND & ASPHALT PAVING, INC. Cost Per Unit	AMERICAN SAND & ASPHALT PAVING, INC. Total	CWR CONTRACTING, INC. Cost Per Unit	CWR CONTRACTING, INC. Total	ROBERTS AND ROBERTS, INC. Cost Per Unit	ROBERTS AND ROBERTS, INC. Total
C. BOATRACE ROAD (FROM NORTH 11TH STREET TO SOUTH TYNDALL PARKWAY)									
1.	Mobilization/Demobilization (Max of 10% of the total Bid Amount for Item A)	1	LS	$ 16,000.00	$ 16,000.00	$ 36,967.84	$ 36,967.84	$ 16,600.00	$ 16,600.00
2.	Bonds and Insurance (Max of 5% of the total Bid Amount for Item A)	1	LS	$ 9,400.00	$ 9,400.00	$ 2,084.43	$ 2,084.43	$ 3,500.00	$ 3,500.00
3	Maintenance of Traffic	1	LS	$ 16,000.00	$ 16,000.00	$ 23,744.44	$ 23,744.44	$ 28,405.00	$ 28,405.00
4	Layout and As-Builts by PLS	1	LS	$ 15,000.00	$ 15,000.00	$ 8,046.21	$ 8,046.21	$ 8,000.00	$ 8,000.00
5	Painted Pavement Markings/Striping	1	LS	$ 25,600.00	$ 25,600.00	$ 22,014.15	$ 22,014.15	$ 9,056.25	$ 9,056.25
6	Restoration	1	LS	$ 10,000.00	$ 10,000.00	$ 15,145.23	$ 15,145.23	$ 5,000.00	$ 5,000.00
7	Milling and Resurfacing of Existing Roadway (Sta 0+35 to 5+00)	1	LS	$ 48,180.00	$ 48,180.00	$ 29,928.62	$ 29,928.62	$ 38,500.00	$ 38,500.00
8	Milling and Resurfacing of Existing Roadway (Sta 5+00 to Sta 12+33	1	LS	$ 72,180.00	$ 72,180.00	$ 65,966.67	$ 65,966.67	$ 57,000.00	$ 57,000.00
Subcontract Base Bid Amount for Bid Item C – Boatrace Road					**$ 212,360.00**		**$ 203,897.59**		**$ 166,061.25**
BID ALTERNATE									
7. Alt	Demolish and Reconstruct Roadway (Sta 0+35 to Sta 5+00)	1	LS	$ 82,091.00	$ 82,091.00	$ 141,136.67	$ 141,136.67	$ 130,000.00	$ 130,000.00

#	Description	Qty	Unit	AMERICAN SAND & ASPHALT PAVING, INC. Cost Per Unit	AMERICAN SAND & ASPHALT PAVING, INC. Total	CWR CONTRACTING, INC. Cost Per Unit	CWR CONTRACTING, INC. Total	ROBERTS AND ROBERTS, INC. Cost Per Unit	ROBERTS AND ROBERTS, INC. Total
D. THORNTON LANE (EAST HIGHWAY 98 TO SOULE DRIVE – MILLING AND RESURFACING)									
1.	Mobilization/Demobilization (Max of 10% of the total Bid Amount for Item A)	1	LS	$ 5,500.00	$ 5,500.00	$ 42,141.30	$ 42,141.30	$ 9,650.00	$ 9,650.00
2.	Bonds and Insurance (Max of 5% of the total Bid Amount for Item A)	1	LS	$ 2,700.00	$ 2,700.00	$ 946.03	$ 946.03	$ 2,050.00	$ 2,050.00
3	Maintenance of Traffic	1	LS	$ 15,000.00	$ 15,000.00	$ 18,440.66	$ 18,440.66	$ 16,975.00	$ 16,975.00
4	Milling and Resurfacing of Existing Roadway	1	LS	$ 124,520.00	$ 124,520.00	$ 92,274.59	$ 92,274.59	$ 2,012.50	$ 2,012.50
5	Painted Pavement Markings	1	LS	$ 3,100.00	$ 3,100.00	$ 2,793.84	$ 2,793.84	$ 66,000.00	$ 66,000.00
	Subcontract Bid Amount for Bid Item D – Thornton Lane				$ 150,820.00		$ 156,596.42		$ 96,687.50

#	Description	Qty	Unit	AMERICAN SAND & ASPHALT PAVING, INC. Cost Per Unit	AMERICAN SAND & ASPHALT PAVING, INC. Total	CWR CONTRACTING, INC. Cost Per Unit	CWR CONTRACTING, INC. Total	ROBERTS AND ROBERTS, INC. Cost Per Unit	ROBERTS AND ROBERTS, INC. Total
E. THORNTON LANE (THORNTON LANE AND SOULE DRIVE INTERSECTION – MILLING AND RESURFACING)									
1.	Mobilization/Demobilization (Max of 10% of the total Bid Amount for Item A)	1	LS	$ 5,000.00	$ 5,000.00	$ 23,476.27	$ 23,476.27	$ 4,125.00	$ 4,125.00
2.	Bonds and Insurance (Max of 5% of the total Bid Amount for Item A)	1	LS	$ 1,000.00	$ 1,000.00	$ 363.86	$ 363.86	$ 1,500.00	$ 1,500.00
3	Maintenance of Traffic	1	LS	$ 4,500.00	$ 4,500.00	$ 10,728.22	$ 10,728.22	$ 9,750.00	$ 9,750.00
4	Painted Pavement Markings	1	LS	$ 3,600.00	$ 3,600.00	$ 2,398.17	$ 2,398.17	$ 2,012.50	$ 2,012.50
5	Milling and Resurfacing of Existing Roadway	1	LS	$ 8,720.00	$ 8,720.00	$ 23,263.72	$ 23,263.72	$ 24,000.00	$ 24,000.00
	Subcontract Bid Amount for Bid Item E – Thornton Lane (Thornton Lane and Soule Drive Intersection – Milling and Resurfacing)				$ 22,820.00		$ 60,230.24		$ 41,387.50

COMBINED TOTAL OF ALL PROJECTS LISTED ABOVE (BID ITEMS A THROUGH E)	AMERICAN SAND & ASPHALT PAVING, INC.	CWR CONTRACTING, INC.	ROBERTS AND ROBERTS, INC.
Combined Base Bid Cost	$ 825,284.00	$ 953,870.58	$ 692,851.75
Deduct Boatrace Road Line Item #7	$ 48,180.00	$ 29,928.62	$ 38,500.00
Add Boatrace Road Bid Alternate of Line Item #7	$ 82,091.00	$ 141,136.67	$ 130,000.00
Bid Alternate Total*	$ 859,195.00	$ 1,065,078.63	$ 784,351.75

* Total is the Base Bid - Boatrace Road Line Item 7 + Bid Alternate Line Item 7

	Bid Item Checklist	AMERICAN SAND & ASPHALT PAVING, INC.	CWR CONTRACTING, INC.	ROBERTS AND ROBERTS, INC.
1	Valid Florida General Contractor's License	UNDERGROUND UTILITY LICENSE - EXPIRES 8/31/2024 (CONTRACTOR PROVIDED EXPIRED LICENSE BUT LICENSE IS VALID)	UNDERGROUND UTILITY LICENSE - EXPIRES 8/31/2024	UNDERGROUND UTILITY LICENSE - EXPIRES 8/31/2024
2	Bid Form	✓	✓	✓
3	Bid Bond	✓	✓	✓
4	Addenda Acknowledgement	✓	✓	✓
5	Anti-Collusion Clause	✓	✓	✓
6	Conflict of Interest Disclosure Form	✓	✓	✓
7	Identical Tie Bids/Drug Free Workplace	✓	✓	✓
8	Certification Regarding Debarment, etc.	✓	✓	✓
9	Certification Regarding Lobbying	✓	✓	✓
10	Certification Regarding Scrutinized Companies List	✓	✓	✓
11	Subcontractor's List	WILL USE EMERALD COAST STRIPING @ $35,113.25	WILL USE EMERALD COAST STRIPING @ $35,113.25	WILL USE EMERALD COAST STRIPING @ $45,000; ACME BARRICADES @ $15,000; AND, GUETLER & GUETLER @ $20,000

CITY OF PARKER
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME OF PRESENTER:*	2. *MEETING DATE:*
CITY OF PARKER CITY COUNCIL	August 1, 2023

UTILITY RATE ORDINANCE - SLOAN

4. *IS THIS ITEM BUDGETED (IF APPLICABLE)*

YES ☐ **NO** ☐ **N/A X**

Mr. Sloan will be providing a second reading of the utility rate ordinance.

AGENDA ITEM # 4

ORDINANCE NO. 2023-416

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 82 OF THE CODE OF ORDINANCES RELATING TO UTILITY SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. The Table of Contents of Chapter 82 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Division 2. Distribution, Usage, Service

Sec. 82-51. Content of division.
Sec. 82-52. Service and payment.
Sec. 82-53. Commencement of service.
Sec. 82-54. Meters, valves, pipes, other materials.
Sec. 82-55. Administrative fee.
Sec. 82-56. Tapping fee.
Sec. 82-57. Service fee.
Sec. 82-58. Bad check charges.
Sec. 82-59. Deposit required.
Sec. 82-60. Fire protection.
Sec. 82-61. Basis for billing if meter fails to register.
Sec. 82-62. Allowance not made for leaks on customer's side of meter.
Sec. 82-63. Private water systems.
Sec. 82-64. Mandatory connections.
Sec. 82-65. New subdivision connections.
Sec. 82-66. Access.
Sec. 82-67. Water shortage.
Sec. 82-68. Monthly water rate and impact fee.
Sec. 82-69. Application for city services.

Secs. 82-70--82-90. Reserved.

Section 2. Section 82-59 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 82-59. Deposit required.

A deposit will be required (over and above the tapping fee or any impact fee) for all new customers. Upon termination of service, any outstanding obligation of the customer for water or sewer services shall be paid from the deposit, and any excess shall be refunded to the customer. If the customer leaves no forwarding address or mail addressed to the last known address of the customer is returned, any refund due such customer shall be paid to the general fund of the city six months following termination of service. The city shall establish a utility deposit fund, and all funds received pursuant to this section shall be deposited therein. The current deposit for a single residential customer shall be $300.00. The current deposit in the case of meters solely relating to irrigation systems not discharging into the city's sewer system is currently $85.00. The deposit for commercial businesses, industrial users and multifamily residential units shall be determined and adjusted from time to time by the city on the basis of estimated usage and, for those commercial businesses that are anticipated to use a large quantity of water, the city shall estimate a three-month consumption, and the applicant shall pay such sum as a deposit for water, plus the first month estimated consumption charge, before water will be furnished to the applicant. The current deposit for a fire hydrant meter is currently set at $650.00. Where water is afforded to a customer outside the city limits, the customer shall pay a deposit in accordance with the foregoing, plus a surcharge of 25 percent thereof. Any customer with service not included in the foregoing shall pay a deposit as determined by the city to be appropriate to the circumstances. The foregoing deposits may be adjusted from time to time by the city by Resolution. All deposits are refundable (less any unpaid billings) upon termination of city utility services.

Section 3. Section 82-69 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

Sec. 82-69. Application for city services.

An applicant for water, sewer, trash or any other utility service provided by the city shall complete an application for such on a form approved by the city.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Scrivener's Errors.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 6. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 7. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may

be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 8. Repeal of Conflicting Codes, Ordinances, and Resolutions.

All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 1st day of August, 2023.

CITY OF PARKER

_____
Andrew Kelly, Mayor

ATTEST:

_____
Donna Perdue, Acting City Clerk

Examined and approved by me, this 1st day of August, 2023.

_____
Andrew Kelly, Mayor

CITY OF PARKER
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME OF PRESENTER:*	2. *MEETING DATE:*
CITY OF PARKER CITY COUNCIL	August 1, 2023

CODE ENFORCEMENT ORDINANCE -SLOAN

4. *IS THIS ITEM BUDGETED (IF APPLICABLE)*

YES ☐ **NO** ☐ **N/A X**

Mr. Sloan will be providing a second reading of the code enforcement ordinance.

1

AGENDA ITEM # 5

ORDINANCE NO. 2023-417

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 26 OF THE CODE OF ORDINANCES RELATED TO CODE ENFORCEMENT AND UNFIT AND UNSAFE STRUCTURES INCLUDING BUT NOT LIMITED TO PROCEDURES THEREFORE; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. Section 26-1 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-1.-Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actual cost means the actual cost to the city for terminating and abating a violation of this chapter on a lot, tract, or parcel, plus administrative fees, filing fees, costs of pictures taken of the property, the cost of serving notice(s) of the violation, postage, the cost of obtaining title information on the property, and all other identifiable costs including but not limited to fees and costs incurred by the city in the terminating and abating of a violation of this chapter. In addition to the foregoing, if the city has entered into a contract for the termination or abating of a violation of this chapter, the actual cost shall include the contract amount plus interest, if any, as invoiced by an independent, private contractor for terminating and abating a violation of this chapter on a lot, tract, or parcel.

City attorney means the designated attorney(s) for the city.

Code means each and every ordinance, this Code or any land development regulation enacted by the city.

Code enforcement means any action initiated by the code inspector to assure compliance with the Code.

Code inspector means any agent or employee of the city whose duty it is to assure code compliance.

Continuing violation means any violation which remains uncorrected beyond the reasonable time period for correction contained in either the citation or the final order of the special magistrate, whichever is applicable. For each day of a continued violation after the time for correction has run, an additional penalty in double the amount as that prescribed for the original violation shall be added (not to exceed $500.00 per day). No continuing violation penalties shall accrue during the time period from the date of the citation until the date of the administrative hearing, if the named Respondent timely requests an administrative hearing of the citation or in the event that the special magistrate suspends the continuing violation penalties in the event of a timely filed appeal.

Excessive growth means grass, weeds, rubbish, brush, branches, or undergrowth that has reached a height of one (1) foot or more.

Fill means material such as dirt that is imported and deposited on property by artificial means.

Grass, weeds, or brush means grass or weeds or brush that, when allowed to grow in a wild and unkempt manner, will reach a height of one (1) foot or more. This definition does not include bushes, shrubs, trees, vines, flowering plants, and other living plant life typically used and actually being used for landscaping purposes.

Imminent public-health threat means the condition of a lot, tract, or parcel of land that threatens the public health, safety or welfare or that causes or may potentially cause ailment or disease to the public. An imminent public health threat can also be defined as a condition of a lot, tract, or parcel of land that, because of the accumulation of trash, junk, or debris, such as broken glass, rusted metal, automotive and appliance parts, some of which may contain chemicals, such as freon, oils, fluids, or

the like, may cause injury or disease to humans or contaminate the environment, or the condition of a lot, tract or parcel that, because of the excessive growth of grass, weeds, or brush, can harbor criminal activity, vermin, or disease.

Interested person means (1) any person who is the fee-simple record owner of the of the property which is the subject of the proceeding; (2) any person lawfully in possession of the property which is the subject of the proceeding, especially as reflected in the official records of the county; (3) any other person reflected in the official records of the county who may have a direct and immediate impact from any order of abatement/condemnation of a nuisance for an unfit or unsafe structure. The term "interested person" (except in the context of a nuisance involving an unfit or unsafe structure or an imminent public health threat that may result in demolition of a structure) does not include any person holding a mortgage on any portion of the property which is the subject of the proceeding; however, the city may choose, but is not required, to give notice to any such mortgage holder. The term "interested person" also does not include any adjoining real property except in the context of a nuisance involving an unfit or unsafe structure or imminent public health threat in which case any adjoining property owner whose property may reasonably be impacted by an order of abatement of the special magistrate shall receive notice.

LDR means the comprehensive planning and land development regulation code of the city, adopted pursuant to Ordinance No. 2012-358, as amended.

Levy means the imposition of a non-ad valorem assessment against property found to be in violation of this article.

Non-ad valorem assessment means a special assessment that is not based upon millage and that can become a lien against a homestead as permitted in Section 4 of Article X of the Florida Constitution.

Non-ad valorem assessment roll means the roll prepared by the city and certified to the county property appraiser and tax collector, as appropriate under Florida law, for collection.

Nonliving plant material means nonliving vegetation such as leaves, grass cuttings, shrubbery cuttings, tree trimmings and

other material incidental to attending the care of lawns, shrubs, vines and trees.

Repeat violation means a recurring violation of the code by a violator who has previously been guilty of the same violation within five years prior to the present violation, or who has admitted violating the same provision within five years prior to the present violation, even if the violations occurred at different locations. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of the penalty prescribed for the original violation by this article or any other code, ordinance or resolution referenced in this article. The amount of the civil penalty due for each subsequent repeat violation shall be double the amount of the penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one repeat violation shall be $500.00. A repeat violation that remains uncorrected beyond the time prescribed for correction in the citation shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be equal to the doubled amount due for the first day of the repeat violation.

Respondent means any person cited by the code inspector in a code enforcement case or who is named as the potential responsible party in any unfit and unsafe proceeding, property-related public nuisance, or imminent public health threat proceeding.

Special magistrate or *magistrate* means any individual, designated by the city council, granted the authority to hold hearings and assess fines against persons violating the City Code. A hearing officer shall be the same as a special magistrate.

Trash, junk, or debris means waste material, including, but not limited to, putrescible and nonputrescible waste, combustible and non-combustible waste, and generally all waste materials such as paper, cardboard, tin cans, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household appliances, dismantled pieces of motor vehicles or other machinery, rubber tires, rusted metal articles of any kind and yard waste.

Uncorrectable violation means a violation that cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an

ongoing condition or circumstance. Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty in the same amount as that prescribed for the original violation. If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by such violator shall constitute a repeat violation.

Unfit or unsafe dwelling or *unfit or unsafe structure* means any dwelling, structure or building, or portions thereof, including but not limited to any accessory building, which is structurally unsafe, unstable or unsanitary by reason of fire, age, decay, moisture intrusion, deterioration, structural defects, improper design, unstable foundation, termite infestation or by any other condition; is inadequately provided with exit facilities; constitutes a fire hazard; is unsuitable or improper for the use or occupancy for which it is used; constitutes a hazard or menace to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; is unfit for human habitation if so intended or used; is otherwise in violation of the housing, building, electrical, mechanical, plumbing, sanitation, health, safety and fire codes of the city, the county or the state; is so unsafe as to endanger life or property; or to render the use of public streets dangerous.

Violation means any noncompliant act, condition of whatever origin or cause, whether intentional or unintentional, of the code of the city.

Violator means any person who is legally responsible for a violation of any code of the city. For the purposes of this chapter, violators shall be deemed to be those persons or entities creating or permitting a violation of the codes listed in section 26-37, or those persons or entities owning or possessing land where a violation of codes listed in section 26-37 is created or maintained. Once found legally responsible/guilty of a violation, the term Respondent is synonymous with violator.

Section 2. Section 26-17 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-17. General code enforcement procedure.

(a) Code inspectors shall have the authority to initiate enforcement proceedings as provided below. No special magistrate shall have the power to initiate such proceedings.

(b) The city finds and determines that the owner of land has an obligation to know whether conditions created or maintained on that land violates any city code and therefore is deemed to have actual or constructive knowledge of any such violation. The owner of land has a legal duty to determine whether conditions created or maintained on their land violate any city code, and to correct such violations.

(c) A code inspector who finds a violation of the codes listed in section 26-37 shall determine a reasonable time period within which the responsible party (Respondent or violator) must correct the violation, provided that such time period shall be no more than 30 days and shall provide notice of such to the responsible party (Respondent or violator) except as set forth below. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. Notwithstanding the foregoing and except for cases involving repeat violations or violations presenting a threat to the public health, safety or welfare, a code inspector may, but is not required to, give a civil violation notice giving a time for correction prior to the issuance of a citation. In the event that the code inspector does give a civil violation notice, the time to correct the violation shall be no more than 30 days.

(d) Except in the case where the code inspector gives a civil violation notice or issues a notice pursuant to sec. 26-19, a code inspector who finds such a violation shall issue a citation to the responsible party (Respondent or violator), pursuant to section 26-18. The citation shall include the following and the civil violation notice (if given) may include relevant portions of the following:

(1) Date of issuance;

(2) Name of code inspector issuing the notice;

(3) Name and address of the violator;

(4) Section number of the code section that has been violated;

(5) Brief description of the nature of the violation, including location, date, and time of violation;

(6) Amount of the civil penalty for which the person may be liable;

(7) Instructions and due date for paying the civil penalty; i.e., fine or filing for an administrative hearing before a special magistrate to appeal the civil fine;

(8) Time within which the violation must be corrected, if applicable;

(9) Notice that each day of continuing violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount without the need for additional notices of violation;

(10) Notice that the filing of a written request for an administrative hearing will toll the accrual of continuing violation penalties;

(11) Notice that failure to request an administrative hearing in writing within 20 days after service of the citation, or within the specified time period listed for a violation of a specific section of the code, shall constitute a waiver of the named person's or persons' right to an administrative hearing before the special magistrate, and that such waiver shall constitute an admission of violation;

(12) Notice that the responsible party may be liable for the reasonable costs of the administrative hearing should they be found guilty of the violation; and

(13) Notice that if the violator fails to pay the civil penalty in the time allowed, or fails to appear in

court to contest the violation, the violator shall be deemed to have waived the right to contest the violation and that in such case, judgment may be entered against the violator by the special magistrate for the amount of the maximum civil penalty.

(e) After issuing a citation to an alleged violator, the code inspector shall promptly deposit the original and one copy of the citation with the city clerk.

(f) In any written document, any alleged violator, other named person or any interested person shall use any applicable form approved by the special magistrate with the consent of the city council or other written form to meet the facts of a particular case so long as the substance is expressed without prolixity.

(g) In the event that the named party requests a hearing, the city clerk or designee shall provide a notice of the hearing to the named party at least five (5) days but not more than thirty (30) days prior to the date of the hearing.

(h) The hearing shall be before the special magistrate who shall determine whether a violation based upon the citation existed and shall be conducted in accordance with sec. 26-35.

(i) In the event that the special magistrate determines that the violator is guilty of the violation, then the special magistrate shall:

(1) determine the time for the correction of the violation;

(2) determine the fine in accordance with sec. 26-37;

(3) impose any administrative costs; and

(4) assess costs of the city.

(j) Any fines, fees and costs awarded by the special magistrate shall be and constitute a continuing lien on the property as set forth in sec. 26-34 and may result in a non-ad valorem assessment as discussed in sec. 26-21.

Section 3. Section 26-19 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-19. Process for unsafe or unfit dwellings or structures.

(a) Code inspectors shall have the authority to initiate enforcement proceedings including but not limited to abatement for all violations involving an unsafe or unfit dwelling or structure as provided below. Except as specifically provided in this section relating to the abatement of unsafe or unfit dwellings or structures, the remaining provisions of articles II and III of this chapter shall apply.

(b) Once a code inspector has made the initial determination that a structure is unfit or unsafe but not an imminent public health threat, the code inspector shall advise the building official of the city. The building official shall also inspect the subject property to determine if an unfit of unsafe structure exists. The building official shall issue a report to the code inspector.

(c) In the event that the building official concurs that an unfit or safe structure exists, then the code inspector shall, with the assistance of the city attorney upon request, serve the owner or other interested person with a notice of any hearing in which the special magistrate may consider whether any structure is a nuisance by virtue of being unfit or unsafe. In such event, notice shall also be given to the lessees or occupants, if any and if ascertainable by the code inspector, and persons of record interests; i.e., those persons having an interest reflected by an instrument recorded in the official records of the county, such as mortgage holders, contract purchasers, lienors, agents with power of attorney, persons claiming an interest under lis pendens and the like. The notice of hearing notice shall be given in accordance with section 26-18.

(d) Any person identified in sec. 26-19(c) above, may request to intervene in the proceedings and such intervention is at the discretion of the special magistrate and, if allowed to intervene, said person's claims shall be subordinate to and in recognition of the main proceeding, unless ordered by the special magistrate in his or her discretion. Unless the request is made orally at the hearing, it shall be stated in a written document filed with the city clerk and copied to the code inspector.

(e) A hearing shall be held before the special magistrate to determine if any part or parts of any dwelling or structure is unfit or unsafe.

(1) In the event that the special magistrate determines that all or a part of any dwelling or structure is unfit or unsafe, the special magistrate shall issue an order of such. The initial order shall generally contain the following:

a. A description of the property and the structure(s) that have been found in violation.

b. A statement of what can be done to alleviate the unfit or unsafe condition, the time to obtain a permit from the city (if not specified, then a permit must be obtained within 30 days of the order).

c. A statement advising any fines, abatement costs, postal costs, publication costs, recording costs, and other costs to be awarded in favor of the city shall be a continuing lien against the property, subject to foreclosure.

d. A statement advising that upon the violator's failure to comply with the order, the city may demolish or otherwise abate the unsafe or unfit dwelling or structure in accordance with the order stated in the notice, and the expense of such performance by the city shall be charged against the real property shall also constitute a non-ad valorem assessment upon such property.

e. The order shall contain a statement advising the final decision of the special magistrate may be appealed in accordance with sec. 26-35 of this article.

(2) The hearing before the special magistrate shall be generally conducted pursuant to section 26-33(a) through (l) of this article.

(3) If the determination is made by the special magistrate that a structure is unsafe or unfit, the city clerk shall serve a copy of the order on the violator and any other parties specified in sec. 26-19(c) above.

(4) No dwelling or structure shall be subject to repair, restoration or replacement if the anticipated cost of repairing, restoring or replacing any part or parts thereof would exceed fifty (50) percent of the value of such structure after repair, restoration or replacement.

(5) If the determination is made by the special magistrate that a structure is unsafe or unfit, Unless specified in the order, all work done and the correction of the unfit or unsafe condition shall be completed within 90 days from the date of the permit for repair or demolition or such time as may be determined by the special magistrate.

(f) Once the code inspector commences the process of determining any structures as unfit or unsafe, all persons are on notice of the proceeding against the property. Any transfer of an interest in the subject property after the code inspector has initiated the unfit or unsafe process, subjects the subsequent owner or lessee to liability for the condition of the property and shall not relieve the subsequent owner or lessee from any determination or order that may be entered. The owner or lessee of the property when the process is commenced or any subsequent owner or lessee is jointly or severally liable for all determinations, orders, fines, abatement amounts, fees and costs.

(g) In addition to sending the notice to the owner of record and any other interested person, the code inspector shall post a notice stating "This Structure is Unsafe and/or Unfit for Human Habitation" at the entrance to the structure or the most obvious access to the property. The placard shall remain posted until the required repairs and/or rehabilitations are made or until the structure is demolished. Once the structure is posted, it shall be unlawful for any person to enter such structure except for the

purposes of making the required repairs or demolishing it. If the structure is occupied at the time of posting, it shall be vacated immediately. Thereafter, no person shall occupy or allow another to occupy such a placarded structure. The owner shall immediately begin action to bring it into compliance within the time prescribed. It shall be unlawful for any person to remove or deface the placard that has been posted on an unsafe or unfit dwelling or structure. The placard shall remain until such time as the code inspector orders the placard to be removed.

(h) If a person obtains a building or demolition permit within the period ordered and, in good faith and in due time, begins work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request with the code inspector stating the reasons they have been unable to complete compliance. If reasonable grounds are shown therefore, the special magistrate or his or her designee may, with or without a hearing, issue an amended order authorizing an extension of time in which to complete compliance with the original order. The special magistrate, in exceptional cases, upon written request, may extend the completion date as merited by special hardship, unusual difficulty, or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of 365 days.

(i) The special magistrate, upon recommendation of the authorized building official of the city or other designated person, may also order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as may be necessary, and for this purpose may close a public or private way. Any such action concerning adjacent structures or other protective means involving adjoining property(ies) may only be ordered by the special magistrate following notice having been given to the adjoining property(ies) owner(s) and a hearing.

(j) The special magistrate is granted and assumes jurisdiction over all unsafe and unfit proceedings previously ruled upon in a quasi-judicial proceeding by the city council. The special magistrate shall retain jurisdiction over any cases involving unsafe or unfit structures until such time as the special magistrate either (i) enters an order following the repair or demolition required by a prior order of the city council or the special magistrate and quantifying any amounts set forth in subsection 26-19(17), or (ii) closes the case following compliance

by the property owner(s) of the prior order of the city council or the special magistrate determining a property to be unsafe or unfit and quantifies any amounts set forth in subsection 26-19(17) above incurred by the City in going through the unsafe and unfit structure process including but not limited to postal expenses, publication costs, interest, and other costs of the city.

(k) Any and all fines imposed and costs incurred by the City pursuant to this section including but not limited to costs of abatement, postal expenses, publication costs, interest, and other costs shall constitute a lien on the affected property in accordance with sec. 26-34 that shall be recorded in the official records of the county. All costs of abatement including but not limited to postal expenses, publication costs, interest, and other costs may result in the city imposing a non-ad valorem assessment in accordance with section 26-21 of this article.

(l) Any final order of the special magistrate may be appealed in accordance with section 26-35 of this article.

Section 4. Section 26-20 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-20. Condemnation and Demolition following determination of special magistrate.

(a) If the unsafe or unfit condition is not corrected within the specified time indicated on the order, the named violator may file a code compliance extension request form with the code inspector citing any extenuating circumstances. In such event, the code inspector shall bring the matter before the special magistrate for a determination. In the event that the special magistrate, determines that extenuating circumstances exist, the special magistrate may extend the correction date up to and including 90 days.

(b) If the unsafe or unfit condition is not corrected within the specified time indicated on the order and the named violator has not filed a code compliance extension request form within the same timeframe, the code inspector shall file an affidavit stating such in the underlying proceedings and condemn the unsafe or unfit structure.

(1) The code inspector shall send the written order of the special magistrate setting out the required correction, the affidavit of non-compliance, and the condemnation order together with the intent to demolish the structure by certified mail to the owner of record and other interested persons identified in sec. 26-19(c) above at the address on file with the city. However, failure to effect personal notice upon the owner of record or any other interested parties shall not prevent the city from demolishing the structure. In addition to sending the foregoing items to the owner of record and to any other interested parties, a copy of the condemnation order shall be posted in a conspicuous place upon the unsafe or unfit dwelling or structure and a notice of intent to demolish shall be recorded in the official records of the county.

(2) Ten days prior to authorizing the demolition of any unsafe or unfit dwelling or structure, a notice of intent to demolish shall be served on the owner and other interested persons identified in sec. 26-19(c) above and published in a newspaper of general circulation within the City. Such notice shall be substantially in the following form:

Notice of Intent to Demolish

The owner and other interested persons, having failed to either repair or demolish the structure at (address) as ordered by the City of Parker, are hereby notified that the City of Parker will proceed to have the structure demolished on (date), and shall place a lien and impose a non-ad valorem assessment against the property to recover all costs.

(c) Prior to demolition, exterior and interior (if accessible without trespassing) photographs of the structure will be taken when feasible.

(d) The city shall complete the abatement including but not limited to the demolition required under this section using city employees or an independent contractor submitting the best and lowest bid.

(e) All costs of abatement including but not limited to postal expenses, publication costs, title expenses, utility cut-off expenses, interest, fees and costs shall constitute a non-ad valorem assessment against the property.

(f) When a rodent infestation exists in a structure that is to be demolished or removed, the code inspector may require that a licensed pest control operator exterminate the rodents to preclude the migration of rodents.

(g) Except when done by or on behalf of the city, a parcel of property from which a structure is demolished shall also have any foundation or concrete slab demolished at the same time and demolished material shall be removed within two (2) days after demolition. In addition, the property shall be sodded, seeded with grass, or otherwise covered with vegetative landscaping within five (5) days of the completion of demolition except when done by or on behalf of the city.

Section 5. Section 26-33 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-33. Scheduling and conduct of hearing.

(a) In the case of a proceeding of a claimed nuisance relating to an unfit or unsafe structure or upon receipt of a named party's timely request filed with the city clerk for an administrative hearing, the special magistrate shall set the matter down for hearing on a future hearing date or as soon thereafter as possible or as mandated in the specified code section that is enforced pursuant to this chapter.

(b) The city clerk or designee shall provide a notice of hearing by certified mail to the named party at his or her last known address. Alternatively, the notice may be delivered as provided in section 26-18. The notice of hearing shall include, but not be limited to, the following:

(1) Place, date and time of the hearing;

(2) Right of a named party to be represented by a lawyer;

(3) Right of named party to present witnesses and evidence;

(4) Notice that failure of named party to attend hearing may result in civil penalty being assessed or other relief issued against him or her; and

(5) Notice that requests for continuances will not be considered if not received in writing by the special magistrate at least two (2) calendar days prior to the date set for hearing.

(c) The special magistrate shall call hearings on a periodic basis or upon the request of the city clerk or code inspector. No hearing shall be set sooner than five (5) calendar days from the date of service of the notice of the hearing.

(d) A hearing date shall not be postponed or continued unless a request for continuance showing good cause for such continuance is received in writing by the special magistrate at least two (2) calendar days prior to the date set for the hearing.

(e) All hearings by the special magistrate shall be open to the public. All testimony shall be under oath and shall be electronically recorded. Assuming proper notice, a hearing may proceed in the absence of the named party/violator.

(f) The proceedings at the hearing may be recorded and may be transcribed at the expense of the person requesting the transcript. In the event that any person desires a verbatim transcript of the proceeding, such person shall be responsible for arranging and paying for such a verbatim transcript. Minutes shall be kept of all hearings by the city clerk.

(g) The city clerk shall provide clerical and administrative personnel services, forms, and facilities as may be reasonably required by each special magistrate for the proper performance of his or her duties, and shall collect for the city all civil penalties, costs, and other sums due and payable hereunder.

(h) Each case before a special magistrate shall be presented by the code inspector or any other person designated by the city council or the mayor.

(i) The hearing need not be conducted in accordance with the

formal rules relating to evidence and witnesses, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the special magistrate finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.

(k) The special magistrate may take testimony from the code inspector and the alleged violator. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called them to testify; and to rebut the evidence against that party.

(l) At the hearing, it shall be unlawful for any person to knowingly and willfully falsify, conceal or cover up by any trick, scheme or device whatsoever a material fact, or make any false, fictitious or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

(m) The named party and the city may stipulate to certain facts or other matters. Such stipulation shall be in writing filed with the city clerk or incorporated into an order of the special magistrate.

(n) The named party if an individual shall appear personally or through a person designated on an appearance request form. The named party if an entity shall appear through an officer, manager, director, managing member or any other person designated on an appearance request form.

(o) The special magistrate shall make findings of fact based on the evidence of record. In order to make a finding upholding the code inspector's decision, the special magistrate must find that a preponderance of the evidence indicates that the named Respondent was responsible for the violation of the relevant section of the code as charged.

(p) If the named Respondent is found guilty of the violation, they may be held liable for the reasonable costs of the administrative hearing as set forth by the city. If the city prevails in prosecuting a case before the special magistrate, the city shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate and such costs will be

included in the lien authorized under code section 26-34 and possibly result in a non-ad valorem assessment under sec. 26-21.

(q) The fact-finding determination of the special magistrate shall be limited to whether the violation alleged did occur or whether the unfit or unsafe dwelling or structure exists. If so, whether the person named in the notice is responsible for that violation or owns the property on which the unfit or unsafe dwelling or structure is located. Based upon this fact-finding determination, the special magistrate may reverse or affirm the decision of the code inspector concerning the responsibility of the named Respondent for the code violation or determine that the owner of the property is responsible for the unfit or unsafe dwelling or structure, and shall issue an order affording the proper relief. If the special magistrate reverses the decision of the code inspector or determines that a dwelling or structure is not unfit or unsafe, the named Respondent shall not be liable for the payment of any civil penalty, absent reversal of the special magistrate's findings pursuant to section 26-35. If the special magistrate affirms the decision of the code inspector and/or building inspector, the special magistrate shall issue an order, and shall determine a reasonable time period within which correction of the violation or of the unfit or unsafe condition must be made.

(o) If the owner of the property that is subject to an enforcement action or other proceeding under this chapter transfers ownership of such property at any time after the initial citation or notice is given, the owner shall:

(1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee;

(2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor;

(3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding; and

(4) File a notice with the city clerk of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner

within five days after the date of transfer.

A failure to make the disclosures described in subparagraphs (o)(1), (2), and (3) above before the transfer creates a rebuttable presumption of fraud that may be a separate offense. If the property is transferred during the process after the initial notice or citation is given, the proceeding shall not be dismissed but the new owner will be added as an additional party of record. The property involved shall be subject to the lien and possible non-ad valorem assessment resulting from all orders entered by the special magistrate, regardless of who owned the property at the time the lien arose or when the assessment was levied. All parties shall be jointly and severally liable for all determinations, orders, fines, fees and costs.

(p) At any time within ten (10) days of the date of rendition of an order by the special magistrate, a named party may request a rehearing by filing an approved form requesting such with the city clerk. The special magistrate will consider any such request at a future hearing. Until the request for a rehearing is decided by the special magistrate, the time for an appeal is tolled; i.e., by way of example if the request is filed on day 5 after the order is executed then if the rehearing request is denied, the violator would have 25 days from the date of execution of the order denying the rehearing. In the event that the special magistrate grants the request for a rehearing, then the underlying order shall be stayed until a decision on the rehearing. Upon the expiration of the ten-day period after the execution of any order by the special magistrate with no request having been received by the city clerk, no applications for a rehearing after that date shall be considered by the special magistrate and the time for appeal of the order shall not be tolled.

(q) At any time within the time within ten (10) days of the date of rendition of an order of the special magistrate, a named violator found guilty of a violation may request a reduction in the fine and therefore the amount of any such lien against the property (excluding any abatement costs, and direct city costs) by filing an approved request form with the city clerk. The special magistrate will consider any such request at a future hearing and the person requesting the reduction shall bear the burdens of proof and persuasion. The filing of a request for reduction in fine shall not toll the time for the filing of a rehearing request or the time for the filing of appeal of any order. The special magistrate shall not reduce any abatement costs, and direct city

costs including but not limited to publication or postage charges, title search costs or recording fees. Upon the expiration of the ten-day period after the rendition of any order of the special magistrate with no request for a reduction having been received by the city clerk, no applications for a reduction in the fine or other amount assessed after that date shall be considered by the special magistrate.

(1) In considering a reduction in the fine or other penalty amount assessed, the special magistrate may consider a number of factors to include but not limited to:

a. The gravity of the violation resulting in the fine.

b. Whether the amount owed includes any abatement costs or any direct city costs including but not limited to publication or postage charges, title search costs or recording fees and if such abatement/direct city costs have been paid to the city or have been levied as a non-ad valorem assessment.

c. Whether to named violator has complied with all other provisions of the applicable order except the amount owed and the time it took to get in compliance.

d. Whether the violator has applied for and obtained any required permits from the city and such permits have not expired.

e. Whether the named violator has paid all other amounts due to the city unrelated to the applicable order.

f. Whether the named violator has been found guilty of any other city code violations.

g. Whether the name violator was transferred the property which was the subject of the code proceeding during the existence of the code violation or during the code proceedings.

h. Such other factors as may be determined by the special magistrate including but not limited to

hardship of the named violator.

Section 6. Section 26-34 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-34. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; foreclosure.

(a) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties and/or the enforcement of any order of a special magistrate. In an action to compel payment of civil penalties, the prevailing party is entitled to recover all costs. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien.

(b) A certified copy of an order imposing a civil penalty, or a penalty plus repair costs, abatement costs or remediation amounts may be recorded in the official records of the county and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator and any other real property owned by the violator in any county in Florida in which a certified copy is recorded. Upon petition to a court of competent jurisdiction, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the filing of any lien that remains unpaid, the city may foreclose or otherwise execute on the lien.

(c) If an order is recorded in the official records of the county, and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the official records of the county. A hearing is not required to issue an order acknowledging compliance.

(d) Notwithstanding any provisions of this Code, no municipal officer, agent, employee, or board shall approve, grant, or issue any operating permit, license, development permit, building permit, certificate of use, certificate of occupancy, occupational license, platting action, or land use or zoning action

to any named violator with:

(1) Unpaid civil fines and penalties;

(2) Unpaid administrative hearing costs;

(3) Unpaid investigative, enforcement, testing or monitoring costs;

(4) Unpaid title search and recording costs;

(5) Unpaid publication or postage type costs;

(6) Unpaid liens; or

(7) Unpaid abatement or remediation costs.

Any or all of which is owed to the city pursuant to the provisions of this code.

Section 7. Section 26-35 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-35. Appeals.

(a) The named violator, an interested person who intervened in the proceedings before the special magistrate, or the city may appeal a final order of the special magistrate by filing a notice of appeal in the circuit court in and for this county and a copy with the city clerk. An appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate related strictly to the appealed order. An appeal shall be filed within thirty (30) days of the rendition of the order to be appealed. Rendition shall be the date on which the order signed by the special magistrate is filed with the city clerk and served on the named violator. In the event that one or more prior final orders have been rendered by the special magistrate relating to unfit or unsafe structures and the time for appeal has expired as to each with no appeal having been filed, those prior final orders shall not be the subject of the current appeal; however, they may be included in the record on appeal for informational purposes.

(b) In any appeal the city clerk shall prepare the record on

appeal and transmit it to the clerk of court of the county within twenty (20) days after the filing of the notice of appeal. Except for the evidence presented at the hearing which is the basis for the appealed order and any minutes or tape(s) of the hearing, no other portions of the record shall be transmitted.

(c) The Florida Rules of Appellate Procedure in effect at the time of the notice of appeal shall govern the appeal.

(d) Unless the decision of the special magistrate in the appealed final order are overturned in a proceeding held pursuant to section 26-35, all findings by and the decision of the special magistrate shall be admissible in any proceeding to enforce the terms of the appealed order or to collect unpaid fines, penalties or costs.

Section 8. Section 26-104 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-104. City action on failure to comply; assessment of costs; lien.

In addition to any other remedy of or recourse by the city to enforce the terms of this chapter or to cause the cessation of a nuisance, the following shall apply:

(1) If the owner or other interested person referred to in sec. 26-19(c) above, fails to correct (i) a nuisance within the time permitted by the notice of civil violation or order, (ii) any order determining an unfit or unsafe dwelling or structure exists, or (iii) any property related public nuisance or imminent public health threat order of the city council resulting from a quasi-judicial action issued pursuant to this chapter unless stayed by order of the tribunal or the appellate court, the city is authorized to vacate, demolish or remove or otherwise abate the nuisance, using city employees or an independent contractor submitting the lowest and best bid.

a. Except in the case of an imminent public health threat, in the event the anticipated cost of

abatement/remediation is less than or equal to $1,000.00, the city clerk shall make the determination and direct the abatement.

b. In the case of an imminent public health threat or in the event that that the anticipated cost of abatement/remediation is more than $1,000.00, the city council shall make the determination and direct the abatement.

c. The lien relating to nuisance abatement or imminent public health threat costs shall be a lien upon the property superior to all others except taxes.

(2) Except in cases of motor vehicles:

a. At any proceeding under this chapter where the special magistrate or the city council in a quasi-judicial action may enter an order assessing amounts against a party in such action. Such assessment, when made, shall constitute a lien upon the real property in favor of the city.

b. The city clerk or designee shall record the orders of the special magistrate or the city council, as appropriate, creating such a lien in the official records of the county, showing the nature of such lien, the amount thereof, and an accurate description or identification of the real property, which lien shall have its priority as of the time and date of recording.

c. The lien of the city shall encompass, in addition to the abatement costs for the vacation or removal of the facility, all administrative, legal, postal and publication expenses, as well as rodent extermination when employed, and all other direct or indirect costs associated therewith.

d. The lien shall recite the names of all persons affected including but not limited to the owner or interested parties.

e. Such amounts assessed and the lien imposed shall bear interest from the date of execution at the same

rate as judgments obtained within the state and shall be enforceable in accordance with the laws of the state on the enforcement of liens pursuant to F.S. ch. 713.

Section 9. Section 26-120 of the Code of Ordinances, City of Parker, Florida, is added to read as follows:

Sec. 26-120. Imminent public health threat.

(a) In addition to and not in lieu of any other provisions of this article, the following conditions on property within the city if the code inspector preliminarily determines a property is an imminent public health threat, the situation shall be brought before the city council at the earliest opportunity.

(b) The city will attempt to contact the owner prior to the hearing before the city council; however, prior notice of an imminent public health threat shall not be required for a determination or abatement/remediation.

(c) The city council shall conduct a hearing in accordance with sec. 26-107 to determine if the conditions on the property present an imminent public health threat and any abatement/remediation required.

(d) After abatement/remediation, notice will be provided by the city to the owner within a reasonable time after the abatement/remediation. An after-the-fact notice shall be sent in accordance with sec. 26-18 to the owner and any other interested person identified in sec. 26-19(c) above, and the owner or other such person shall have twenty (20) days from the date the notice is received or, if the notice is not delivered to the owner, within twenty-five (25) days of the date the notice is properly mailed to reimburse the city for the actual costs of the abatement of the imminent public health threat. At the end of the reimbursement period, any costs incurred by the city and not paid by the owner, together with costs, interest and other costs of the city (1) shall become a lien on the affected real property, being perfected in accordance with Section 26-31(e); and (2) shall also constitute a non-ad valorem assessment in accordance with section 26-21.

Section 10. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 11. Scrivener's Error.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 12. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 13. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 14. Repeal of Conflicting Codes, Ordinances, and Resolutions.

All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 15. Effective Date.

This Ordinance shall take effect immediately upon its passage. This Ordinance is prospective in nature and shall not affect any final decisions previously rendered pursuant to this chapter.

PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 1st day of August, 2023.

CITY OF PARKER

_____
Andrew Kelly, Mayor

ATTEST:

_____
Donna Perdue, Acting City Clerk

Examined and approved by me on this 1st day of August, 2023.

_____
Andrew Kelly, Mayor

CITY OF PARKER
AGENDA ITEM SUMMARY

1. *DEPARTMENT MAKING REQUEST/NAME OF PRESENTER:*	2. *MEETING DATE:*
CITY OF PARKER CITY COUNCIL	August 1, 2023

SLOAN

4. *IS THIS ITEM BUDGETED (IF APPLICABLE)*

YES ☐ **NO** ☐ **N/A X**

Mr. Sloan is requesting that the city council meets at an executive session to discuss the summary judgment for the Donaldson Point boat ramp.

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AGENDA ITEM # 6