

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2020-03

Held on Thursday, the 6th day of February 2020, at the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 6:59 P.M.

Pastor Rob Medina gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	William Capote	Present
DEPUTY MAYOR:	Kenny Johnson	Present
COUNCILMEMBER:	Harry Santiago, Jr.	Present
COUNCILMEMBER:	Jeff Bailey	Present
COUNCILMEMBER:	Brian Anderson	Present
CITY MANAGER:	Lisa Morrell	Present
CITY ATTORNEY:	Patricia Smith	Present
DEPUTY CITY CLERK:	Terri Lefler	Present

CITY STAFF: Present was Suzanne Sherman, Deputy City Manager; Larry Bradley, Growth Management Director; Patrick Murphy, Assistant Growth Management Director; Valerie Carter, Code Compliance Supervisor; Frank Watanabe, Public Works Engineering Division Manager.

ANNOUNCEMENT(S):

Deputy Mayor Johnson announced the following vacancies and terms expiring, and solicited applications for same:

- 1. Three (3) vacancies on the Community Development Advisory Board (represents 'for-profit provider', 'actively engaged in home building' and 'employer within the City' positions).++**
- 2. Two (2) terms expiring on the Youth Advisory Board (represents youth board members 'at-large' positions).++**
- 3. Two (2) terms expiring on the Youth Advisory Board (represents 'adult over 30 years of age' positions).++**

4. One (1) vacancy on the Community Development Advisory Board (represents 'real estate' position).+

AGENDA REVISION(S):

1. Mrs. Morrell advised that a revised Legislative Memorandum, with accompanying documents and the Interlocal Agreement for the St. Johns Heritage Parkway and Babcock Street intersection had been provided for Item 2, under New Business.

CONSENT AGENDA:

All items of business marked with an asterisk were considered under Consent Agenda and enacted by the following motion:

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, that the Consent Agenda be approved with the removal of Item 5, under New Business, from consent. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

ADOPTION OF MINUTES:

***1. Regular Council Meeting 2020-02; January 16, 2020.**

The minutes, considered under Consent Agenda, were approved as presented.

PUBLIC COMMENTS/RESPONSES: (Non-agenda Items Only)

There were no public comments.

PUBLIC HEARING(S):

1. Ordinance 2019-43, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located west of and adjacent to Dixie Highway, in the vicinity between Kingswood Drive and Robert J. Conlan Boulevard, from Industrial Use and Commercial Use to Bayfront Mixed Use (21.83 acres)(Case CP-10-2019, MLEF2-1, LLC), final reading. (CONTINUED FROM RCM – 01/02/20)

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG Engineering, and Brenda Yates, Yates and Company, representatives for the applicant, presented the request to Council.

Attorney Samuel Miller, Akerman LLP and representative for Far Research, said that all of the public records were not made available as requested. He felt that the lack of public records made it impossible for the hearing to be transparent and proper. He did not agree with Council moving forward and said that the case should be denied until the records were made available.

Attorney Cecilia Bonifay, Akerman LLP, spoke against the request. She said the project did not comply and was not compatible with the City's Comprehensive Plan or Land Development Code. She further stated her reasons of opposition to the request.

Janice Crisp, resident, spoke against the request due to lack of response on public records. A gentleman spoke against the request as his company, which was zoned industrial, was located near this project and did not agree with a high-rise residential unit being constructed next to heavy industrial zoning.

Mr. Bailey asked if Akerman LLP was stating that their client, Far Research, was a danger to the surrounding community. Ms. Bonifay answered in the negative but said that their client engaged in the manufacture of hazardous chemicals. All state and federal requirements were met, but with anything of this nature, there could be an accident. The concern was that Council would be putting the population in harm's way. Mr. Bailey asked if Council could ever take away their client's right to operate. Ms. Bonifay felt that anything could be done by local government.

Mr. Wise said no new evidence had been presented regarding the case. There were existing single-family residential units, a motel and duplexes prior to this project. There were no objections to the Northshore project which was in the area. Mr. Wise and his associates responded to other comments.

Attorney Cole Oliver, representing the applicant, advised that the City had responded to the records requests and he had received a letter from Akerman LLP that records had been received. There was not a total non-responsiveness to the records requests. He felt the City should not continue to delay the case because the opposition submits records requests and then claim the City had not responded to same.

Mr. Bailey asked for clarification regarding the public records requests. Mrs. Smith said the records requests were not part of what was being considered by Council.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to adopt Ordinance 2019-43.

Mayor Capote supported the request. He said if there was an issue with public records, FAR Research should have come to Council.

Mr. Anderson said that the opposition did not clarify what records were missing and why it was prudent to the hearing. He felt that if records were missing, they should have notified Council prior to tonight's hearing. He supported the request.

Mr. Bailey said there was already existing residential, and this project was for mixed use. The question was whether Council wanted to grow that area and he felt this was a great project for growth. He was happy the applicant was not asking for money as was done with other projects. He supported the request.

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

♣2. Ordinance 2019-44, rezoning property located west of and adjacent to Dixie Highway, in the vicinity between Kingswood Drive and Robert J. Conlan Boulevard, from HC (Highway Commercial District) and HI (Heavy Industrial District) to BMU (Bayfront Mixed Use District) (21.83 acres)(Case CPZ-10-2019, MLEF2-1, LLC), final reading. (CONTINUED FROM RCM – 01/02/20)

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG Engineering and representative for the applicant, presented the request to Council. Mr. Wise asked that the testimony for the previous item be entered into the record for this item.

Attorney Samuel Miller, Akerman LLP, asked that previous testimony be considered for this item. He mentioned that the public records from January 15th contained inaccessible documents and was advised that they would be provided with accessible documents which have not been received to date. Cecilia Bonifay, Akerman LLP, spoke against the request and asked that the item be tabled or denied.

Attorney Oliver read comments from a letter received by Akerman LLP on October 17, 2019, in which the firm confirms that it had received responses to numerous records requests from the City.

Mrs. Morrell responded to Mr. Miller's comment that the records were inaccessible. She said the City was only required to provide the records in the format as retained by the City. The records sent to Akerman LLP were in an Outlook format.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to adopt Ordinance 2019-44. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

3. Ordinance 2020-09, vacating portions of the rear and side public utility and drainage easements located within Lot 5, Block 2200, Port Malabar Unit 28 (Case VE-9-2019, Christine Stevens and Juan Delgado), first reading.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Anderson, to adopt Ordinance 2020-09. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

4. Ordinance 2020-10, amending the City's Comprehensive Plan Future Land Use Element to provide for accessory dwelling units in the Single-Family Residential Use category (Case CP-1-2020, City of Palm Bay), first reading.

The Planning and Zoning Board recommended that the request be approved.

The City Attorney read the ordinance in caption only. The public hearing was opened.

Bill Battin, resident, asked how the amendment affected homestead exemption for residents. He added that RR (Rural Residential District) zoning was not listed in the ordinance. Mr. Bradley said this request was to amend the Comprehensive Plan. The zoning amendment would include RR zoning. Mrs. Morrell would notify Mr. Battin about the homestead exemption status.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Anderson, to adopt Ordinance 2020-10.

Mr. Bailey said that in the zoning portion, there were minimum and maximum limits regarding the accessory dwelling units (ADU) in single family areas. He had met with staff to make various changes to the Land Development Code and he was pleased to see it moving forward.

Mr. Santiago said there needed to be other types of housing as well. There could be more affordability if there was more quantity and diversity in the types of housing. Mr. Bailey felt it added more flexibility. Mr. Anderson wanted the residents to have options as well as affordability.

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

5. Ordinance 2020-11, amending the Code of Ordinances, Chapter 169, Land Development Code, to revise the provisions for administrative variances (Case T-1-2020, City of Palm Bay), first reading.

The Planning and Zoning Board recommended that the request be approved.

The City Attorney read the ordinance in caption only. The public hearing was opened. Mrs. Morrell presented the request to Council. The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Santiago, to adopt Ordinance 2020-11.

Mr. Bailey said the amendment streamlined the process for smaller variance requests instead of having to go through the Planning and Zoning Board in addition to Council. It also reduced costs for the applicants.

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

6. Ordinance 2020-12, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapters ‘District Regulations’, ‘Planned Unit Development (PUD)’, and ‘Off-Street Parking and Loading Requirements’ by including provisions related to “tiny homes” (Case T-2-2020, City of Palm Bay), first reading.

The Planning and Zoning Board recommended that the request be approved, subject to an exception of the minimum living areas being changed to “none” for zoning districts RM-10 and RM-15 (Single-, Two-, Multiple-Family Residential Districts), BMU (Bayfront Mixed Use District), and BMUV (Bayfront Mixed Use Village District).

The City Attorney read the ordinance in caption only. The public hearing was opened. Mrs. Morrell presented the request to Council.

Lynda Hauser, resident, gave a presentation in support of tiny homes. She said that homes should be affordable in relationship to one's income. Higher density meant greater tax revenue.

Mike Cheatham was a manufacturer of tiny homes and stated his reasons for supporting the amendment.

Kim Hiltbrant, Cornerstone Tiny Homes in Longwood, supported the ordinance. She said affordable housing was crucial.

Jinky Eckles, Braveheart Properties of Brevard, believed in smaller/tiny homes for what they provided in affordability. Maintenance costs were reduced, and it gave people a safe and secure home.

Bill Battin, resident, supported tiny homes but said it was a way a life, and not necessarily a financial benefit for those who did not have means. He said it would not solve the homeless problem because tiny homes were quite expensive.

Mary Netler spoke in favor of the ordinance. She said that tiny homes could be expensive when building with a foundation, but financing could be obtained. If there was no foundation, you could not get financing as it would be considered similar to a recreational vehicle. There would also be significant cost for well and septic if there were no City utilities available.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-12, subject to the conditions as recommended by the Planning and Zoning Board.

Deputy Mayor Johnson agreed that a tiny home was not for everybody, but smaller families could purchase same. He was excited about the proposed ordinance.

Mr. Bailey said it was more about practicality. He said there were limits and you could not pack a large family into a tiny home. He said the areas in which tiny homes were permitted was very small. He wanted to see more areas but was okay with the areas presented at this time. He felt it was a great start. Mr. Anderson and Mr. Santiago supported the request. Mr. Santiago said that tiny homes were a component of bringing affordability but was one component of many and provided housing diversity.

Mr. Bailey asked about the current level of density. Mr. Bradley said that the density was based on the underlying land use. In RM-10 or RM-15 zoning, it was ten (10) units or twenty (20) units per acre, respectively. Mr. Bailey wanted to see the maximum square footage of eight hundred (800) increased in order to provide more variety. He suggested one thousand (1,000) square feet.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to amend the motion adopt Ordinance 2020-12, subject to the conditions as recommended by the Planning and Zoning Board, and to increase the square footage limit from eight hundred (800) square feet to one thousand (1,000) square feet.

Mr. Murphy clarified that staff had set the maximum at eight hundred (800) square feet because the minimum home size in a regular PUD was eight hundred (800) square feet. If Council concurred to exceed the eight hundred (800) square feet, then it would no longer be considered a small PUD. This was a way to distinguish between a small PUD and regular PUD. Mr. Bailey felt that an amendment to the regular PUD could be brought forth in the future.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-12, as is, subject to the conditions as recommended by the Planning and Zoning Board. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

7. Ordinance 2020-13, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapters 'General Provisions' and 'District Regulations' by creating definitions and establishing regulations related to accessory dwelling units (Case T-3-2020, City of Palm Bay), first reading.

The Planning and Zoning Board recommended that the request be approved.

The City Attorney read the ordinance in caption only. The public hearing was opened. Mrs. Morrell presented the request to Council.

Individuals spoke in favor of the request. Phil Weinberg, resident, spoke against the request. He said that decreasing from a two-car garage to a single car garage in certain zoning districts would not make housing more affordable. He said difference in cost was minimal.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Anderson, to adopt Ordinance 2020-13.

Mr. Bailey did not feel it was a necessary requirement to have a two-car garage on a 1,200 square foot home. He would not be opposed to having no garages in certain zoning districts or just having carport. He did not agree with the maximum build of seven hundred fifty (750) square feet for the ADU and said it should be (800) square feet or higher.

Mr. Santiago had no problem with a one-car garage, but there could be consequences. The homeowner would be limited to a single car driveway and limited to the number of vehicles parked on an impervious area. He suggested that the minimum square footage be decreased from three hundred (300) to two hundred (200).

Mr. Anderson withdrew his second.

Motion by Mr. Bailey, seconded by Mr. Anderson, to adopt Ordinance 2020-13, with the condition of increasing the maximum to eight hundred (800) square feet and the minimum to two hundred (200) square feet. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

PROCUREMENT(S):

Award of Bid(s):

***1. Brass fittings, Ford brand only – IFB 17-0-2020 – Utilities Department (Ferguson Waterworks - \$150,000, as needed).**

Staff Recommendation: Approve the award for brass fittings (Ford brand only) to Ferguson Waterworks (Melbourne), in the amount of \$150,000, as needed.

The item, considered under Consent Agenda, was approved as recommended by City staff.

***2. Lift Station 93 Rehabilitation – IFB 18-0-2020 – Utilities Department (Danus Utilities - \$106,966).**

Staff Recommendation: Approve the award for Lift Station 93 rehabilitation to Danus Utilities (Sanford), in the amount of \$106,966.

The item, considered under Consent Agenda, was approved as recommended by City staff.

Waive of Bid Process and Award:

***1. Vacuum and pump truck services, Lift Station 42 (emergency purchase) – Utilities Department (Meeks Plumbing - \$95,355); and sewer pipe and manhole repair, Danr Drive (emergency purchase) – Utilities Department (Gregori Construction - \$42,750).**

Staff Recommendation: Approve, for the record, the emergency purchase of vacuum and pump truck services, Lift Station 42, to Meeks Plumbing (Vero Beach), in the amount of \$95,355; and repair of damaged sewer pipe and manhole to Gregori Construction (Titusville), in the amount of \$42,750.

The item, considered under Consent Agenda, was approved as recommended by City staff.

UNFINISHED AND OLD BUSINESS:

1. Appointment of one (1) member to the Bayfront Community Redevelopment Agency.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to appoint Peter Filiberto to the 'at-large' position on the Bayfront Community Redevelopment Agency. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

2. Appointment of two (2) student members to Youth Advisory Board.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to re-appoint Alexander Owens and Linval Maragh to the 'at-large student' positions on the Youth Advisory Board. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

3. Appointment of one (1) adult member to the Youth Advisory Board.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to re-appoint Denise Bowes-Valcin to the 'adult member' position on the Youth Advisory Board. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

Councilmembers made the following appointments:

Mayor Capote re-appointed Kristi Howell to the Youth Advisory Board.

Deputy Mayor Johnson re-appointed Ronald Reagan to the Youth Advisory Board.

Mr. Bailey re-appointed Joseph Stokes to the Youth Advisory Board.

Mr. Santiago re-appointed Abigail Perez to the Youth Advisory Board.

COUNCIL REPORTS:

Councilmembers addressed various subject matters.

1. Mr. Anderson appointed Carlos Santiago to the Youth Advisory Board.
2. Mr. Santiago wanted to work with staff regarding small residential income properties by decreasing the regulations and encouraging more development of those types of properties in the area. They were defined as two to four family homes. Council concurred.

NEW BUSINESS: (Ordinance is for first reading.)

1. **Ordinance 2020-06, amending the Code of Ordinances, Chapter 93, Real Property Nuisances, Subchapter 'Unsightly and Unsanitary Conditions' by modifying provisions contained therein. (CONTINUED FROM RCM – 01/16/20)**

The City Attorney read the ordinance in caption only.

Bill Battin, resident, said there were conflicts with the language related to vegetation within fifteen (15) feet of an improved lot. All vegetation would have to be cut down within that footage limit and other ordinances state you cannot remove trees. Also, as he owned a farm, this ordinance would place him in violation due to parking his tractors and trucks all over his property which was all grass. He said a simple fix would be to exclude RR (Rural Residential District) zoning from the ordinance.

Phil Weinberg, resident, felt the ordinance would adversely affect the value of his property. He did not feel the parking regulations should be amended.

Sherry Hanselman, resident, participated in preparing the ordinance two years ago. She said that a homemade parking lot was unsightly, unkept, destroyed grass growth, compromised the swale drainage, and devalued neighboring properties.

James Boothroyd, resident, initially asked for this ordinance to be considered by Council in order to reduce the blight caused by excessive parking. He said there was some confusion with ordinances because one ordinance stated you could park a camper on the side of your property, but another stated you could not park vehicles on your property. He felt vehicles should not be parked in front of the front door and there should not be a junk yard in the yard.

Mr. Bradley advised of the definition of “automotive vehicle” in the Code of Ordinances: Any self-propelled vehicle or conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise or any substance. The phrase shall include passenger cars, trucks, buses, motorcycles, scooters and station wagons, but shall not include tractors, construction equipment or machinery or any device used for performing a job except as stated above. Farms were a permitted use within certain zoning districts and the City would not enforce against a permitted use.

Mr. Bradley provided a parking ordinance presentation. Approved parking areas included the driveway, alongside the driveway on an improved surface, on the side of the home on an improved surface, and the rear yard with a six foot (6’) opaque fence enclosing the rear yard. An exception was that one inoperable vehicle may be parked in the rear yard.

Mr. Bailey asked if recreational vehicles (RVs), trailers and boats could be parked on the side of the home without an improved surface. Mr. Bradley confirmed same. Mr. Bailey said that cars required an improved surface on the side of the home which caused a conflict of the ordinances in Chapters 93 and 185.

Mr. Santiago asked if there would be an issue with making the vehicles consistent with the RV’s and not having an improved surface. Mr. Bradley felt that an improved surface was a good idea as it prevented erosion and drainage issues on the side of the home. It did not have to be paved, but could be gravel as well.

Mr. Bailey asked if any other properties in the area of Craftsland Lane had been cited during routine patrol or when responding to a complaint at the unsightly residence on Craftsland Lane. Ms. Carter answered that no other properties except for 1234 Craftsland had received complaints or had been cited.

Motion by Mr. Santiago, seconded by Mr. Anderson, to adopt Ordinance 2020-06.

Mr. Santiago said the ordinance was enforceable, measurable and had a positive impact to the community.

Mr. Bailey said that what he was hearing was that this was a very successful program. However, there needed to be a definition of “complied”. He said that going out to a property and checking that a car was no longer there did not mean it was in compliance. Vehicles moved on a regular basis. The ordinance was overbearing on the people who simply parked one vehicle in a reasonable spot on their property but did not address the people who were egregious.

Mr. Santiago did not agree with Mr. Bailey and felt the ordinance was a success. If someone came into compliance and then a complaint was filed sometime later for the same issue, then Code Compliance would go out to the property and cite the property again. If properties did not come into compliance, then liens were placed on the property. He said the ordinance worked as designed.

Mr. Anderson said the only issue he had was with the side lot and it having to be an improved area. He did not want to place strain on the residents if they could not afford pavers, gravel or concrete. He wanted to see a variety of improvements for the side yard.

Mayor Capote suggested that the conflicts between the two chapters be addressed before Council makes it final decision. Mr. Santiago was not opposed to tabling the item and meeting with staff to fix the language and discuss additional options for improved surfaces.

Mr. Anderson withdrew his second. Mr. Santiago withdrew his original motion.

Motion by Mr. Santiago, seconded by Mr. Anderson, to table Ordinance 2020-06.

Motion carried with members voting as follows:

Mayor Capote	Yea
Deputy Mayor Johnson	Yea
Councilman Santiago	Yea
Councilman Bailey	Nay
Councilman Anderson	Yea

2. Consideration of interlocal agreement with Brevard County for St. Johns Heritage Parkway and Babcock Street intersection.

Staff Recommendation: Approve the St. Johns Heritage Parkway (SJHP) and Babcock Interlocal Agreement and authorization to budget and appropriate \$50,0000 in Transportation Impact Fees (Nexus 32909) to complete the paving of the last 96 feet of the SJHP upon acceptance of the agreement by the Brevard County Commissioners.

Mrs. Morrell presented the item to Council. She said the agreement contained a three-phase approach: Phase 1 was an opening day permit for the maintenance of operations scenario within five (5) days of execution of the agreement with a span wire signalization;

Phase 2 improved the maintenance of traffic permit with an intersection to include a single southbound left turn lane; and Phase 3 was a fully widened four lane intersection with two turn lanes and permanent traffic signal system. Upon the effective date of the agreement, the City would take ownership of the Intersection portion of the project within City limits necessary to complete the project and would take responsibility for maintenance of the portion outside of City limits.

Ms. Sherman provided further details of the agreement. One issue that was still under consideration between both parties was the timing of the ownership transfer. For the intersection itself, the County's expectation was that the City build the intersection, fully widened, by 2023 and the City would take over ownership of that section. Staff preferred to take ownership at the start of the project. Ms. Sherman explained the reasons for same. Other discussions within the agreement included City ownership of the Babcock Street/SJHP intersection; City construction of the intersection outside of City limits; setting aside of future Transportation Impact Fees (TIF); disclosure of impact fee agreements; and participation of other agencies for the future project. Ms. Sherman said the two major issues that had not been agreed upon as yet was the timing of the ownership of the intersection and when it would get transferred, and how the Joint Planning Agreement (JPA) and Interlocal Agreement (ILA) connect together.

Ms. Smith said there was no language within the JPA that noted taking ownership of Babcock Street. The issue was that the JPA could only be amended or terminated. Her concern was also based on the State's audit findings in which the City did not seek contributions from other agencies that benefited from certain roadways.

Deputy Mayor Johnson said that City Council and the Brevard County Commissioners should meet and discuss the agreement. Mr. Anderson said that the City did not agree to take ownership of the intersection and transfer of Babcock Street as noted in the ILA, this issue would not be considered by the County at their upcoming meeting and it would continue to delay. Mayor Capote said he wished that staff would have engaged Council sooner so that both parties could have met prior to getting to this point. He wanted the

City and County to have a joint meeting. He said it was unacceptable to have a road that did not have an intersection. Mr. Anderson said that Council could approve two changes to the agreement right now and have an open intersection.

Mr. Bailey said his major concern was having to complete Phase 3 by 2023. If there was no development and no impact fees, then the taxpayers would be paying for the roadway. This was not just a Palm Bay project. He said there should have been a City version of the agreement presented tonight which the Council would stand behind, send it to the County and have the County explain why the agreement was not good enough. Mayor Capote said the governing bodies needed to meet. Mr. Bailey said he would not support the agreement as written.

Mr. Santiago said he was not opposed to having staff continue negotiations. He asked if the County Commissioners would be obligated to meet if the City asked to do so. Mayor Capote said the County could deny the meeting. Ms. Smith said there was a provision in the JPA that if the parties could not come to an agreement, then either party could request a meeting to discuss the objections. Mr. Santiago did not feel comfortable having a meeting with the County until Council and staff figured out exactly what was wanted in the agreement first.

Mr. Anderson suggested having the joint meeting. If the County denied the invitation, then Council would have a meeting and decide on an agreement to resubmit to the County.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to request a meeting with the County to discuss the ILA as soon as possible. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

Mr. Bailey asked if Council would consider a workshop to discuss the agreement. Mayor Capote suggested waiting for a response from the County. Council concurred.

3. Consideration of the Road Bond Phase 2 Paving Program.

Staff Recommendation: Approve the GO Road Bond Phase 2 Paving Program.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve the GO Road Bond Phase 2 Paving Program. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

***4. Consideration of Addendum 1 to the Development Agreement between Palm City Investments, F.H., LLC, and City of Palm Bay.**

Staff Recommendation: Approve Addendum 1 to the Development Agreement between Palm City Investments, F.H., LLC and City of Palm Bay.

The item, considered under Consent Agenda, was approved as recommended by City staff.

5. Consideration of utilizing Transportation Impact Fees for the acquisition of additional right-of-way to straighten the alignment on Gaynor Drive (\$29,150).

Staff Recommendation: Approve utilization of Transportation Impact Fees (Nexus 32908) for the acquisition of additional right-of-way to straighten the alignment on Gaynor Drive in the amount of \$29,150.

Motion by Mr. Anderson, seconded by Mr. Santiago, to utilize Transportation Impact Fees for the acquisition of additional right-of-way to straighten the alignment on Gaynor Drive in the amount of \$29,150. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

***6. Consideration of utilizing Fire Impact Fees towards the Fire Station #5 Rebuild for a generator (\$70,090).**

Staff Recommendation: Approve appropriation from Fire Impact Fees Fund 190 Balance totaling \$70,090 towards project 18FD01, Fire Station #5 Rebuild, for a generator.

The item, considered under Consent Agenda, was approved as recommended by City staff.

***7. Consideration of appropriating funds for payment of Florida Department of Environmental Protection permit fee and legal ad for the South Regional Water Treatment Facility Expansion project (\$10,425).**

Staff Recommendation: Approve the appropriation of \$10,425 on the next scheduled budget amendment for the payment of the Florida Department of Environmental Protection permit application fee and legal ad for the South Regional Water Treatment Facility Expansion Project #18WS04.

The item, considered under Consent Agenda, was approved as recommended by City staff.

***8. Consideration of travel and training for specified City employees.**

Staff Recommendation: Approve the travel and training as specified.

The item, considered under Consent Agenda, was approved as recommended by City staff.

ADMINISTRATIVE AND LEGAL REPORTS:

There were no reports.

PUBLIC COMMENTS/RESPONSES:

A resident made a general comment.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 11:20 p.m.

William Capote, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK

- * Identifies items considered under the heading of Consent Agenda.
- ♣ Indicates quasi-judicial proceeding.