

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2020-17

Held on Thursday, the 7<sup>th</sup> day of May 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 7:00 P.M.

Councilman Santiago gave the invocation which was followed by the Pledge of Allegiance to the Flag.

### ROLL CALL:

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

**CITY STAFF:** Present was Suzanne Sherman, Deputy City Manager.

Pursuant to Section 286.011, Florida Statutes, and Executive Order 20-69, this public meeting was conducted via communications media technology (teleconference/video conference).

### 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').++**
- 2. One (1) vacancy on the Youth Advisory Board (represents youth board member 'at-large' position).++**

- 3. Four (4) vacancies on the Disaster Relief Committee.++**
- 4. One (1) vacancy on the Citizens' Budget Advisory Committee (represents 'at-large' position).++**
- 5. Three (3) terms expiring on the Community Development Advisory Board (represents 'residential home building', 'banking industry', and 'advocate for low-income persons' positions).+**

**AGENDA REVISION(S):**

1. Mrs. Morrell announced that Item 1, under Proclamations, was withdrawn by staff.

**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. Santiago, that the Consent Agenda be approved with the removal of Items 5 and 6, 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.

**PROCLAMATION(S):**

- 1. Kids to Parks Day – May 16, 2020.**

The item, announced under Agenda Revisions, was withdrawn by staff.

**ADOPTION OF MINUTES:**

- \*1. Special Council Meeting 2020-12; April 15, 2020.**
- \*2. Regular Council Meeting 2020-13; April 16, 2020.**
- \*3. Special Council Meeting 2020-14; April 22, 2020.**

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

Note: A correction to Item 3, under Adoption of Minutes, was considered under Council Reports.

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

A resident made a general comment.

**PUBLIC HEARING(S):**

**1. 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), final reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-10. 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 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), final reading.**

The City Attorney read the ordinance in caption only.

The public hearing was opened. Mrs. Morrell presented the request to Council and advised that the definition of ‘Accessory Dwelling Unit’, under Section 185.006(4), should read as follows:

“(4) No accessory dwelling unit shall be sold separately from the principal dwelling unit. The accessory dwelling unit and the principal dwelling unit shall be located on a single lot or parcel, or on a combination of lots or parcels ~~unified under a recorded unity of title document.~~”

The public hearing was closed.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Ordinance 2020-13, with the revision as stated.

Mr. Bailey asked that Council consider other accessory dwelling units, such as detached garages and sheds. He wanted to bring forth language establishing a size limit and removing the permitting requirements. He also wanted fencing provisions addressed for urban farming.

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 2020-21, amending the Code of Ordinances, Title III, Administration, by creating Chapter 39, Community and Economic Development, final reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-21. 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 2020-22, amending the Fiscal Year 2019-2020 budget by appropriating and allocating certain monies (second budget amendment), final reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to adopt Ordinance 2020-22. 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 2020-23, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Barber Street, in the vicinity north of Barcelona Road, from Recreation and Open Space Use to Single-Family Residential Use (1.7 acres)(Case CP-3-2020, M. David and Joan Moallem), only one reading required.**

The Planning and Zoning Board recommended that the request be approved, subject to the staff comments contained in the staff report.

The City Attorney read the ordinance in caption only. The public hearing was opened. Tracey Parrish, representative for the applicant, presented the request to Council.

Nosrat and Zoy Sarpoolaki, residents, provided a virtual comment objecting to the request.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Santiago, to adopt Ordinance 2020-23. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**♣6. Request by Palm Bay Greens, LLC for preliminary subdivision approval for a proposed 68-lot single-family subdivision to be known as 'Country Club Lakes Estates Phase 4', which property is located east of Interstate 95, in the vicinity north of Meadowbrook Road and south of Riviera Drive, in RS-1 (Single-Family Residential District) zoning (32.31 acres)(Case PS-1-2020).**

The Planning and Zoning Board recommended that the request be approved, subject to staff comments and conditions contained in the staff report; and to the voluntary condition that perimeter lots to abut existing properties outside Country Club Lakes Estates be restricted to no more than one-story in height; and that a six-foot high opaque fence be erected along the common property line of Lot 21, Block 102, Port Malabar Country Club Unit 10, prior to construction of the cul-de-sac on Killian Drive.

The public hearing was opened. Attorney Jack Spira, representative for the applicant, presented the request to Council.

Larry Hyland, resident, provided a virtual comment and asked for clarification as to where the fence would be erected.

Cheryl Huggins, resident, provided a virtual comment and asked if the additional ten (10) feet from the property line of current owner to property line of Country Club Estates had been confirmed, if the water area would remain as is behind her property, and if historic trees would remain around Seymour Road.

Mr. Spira addressed the comments. He said that an opaque fence would be erected to address Mr. Hyland's concerns. He offered to meet with Mr. Hyland and Ms. Huggins to discuss their concerns.

The public hearing was closed.

Motion by Mr. Anderson, seconded by Mr. Santiago, to approve the request subject to staff comments. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**7. Consideration of the public service agencies to receive funding from the Fiscal Year 2020-2021 Community Development Block Grant and HOME Investment Partnership funds.**

The public hearing was opened. Mrs. Morrell presented the request to Council. She advised that the verbiage listed on the agenda should be revised to read as follows: “Consideration of Fiscal Year 2020-2021 Annual Action Plan and recommendations of programs and activities to be funded by Community Development Block Grant and HOME Investment Partnership funds”.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to approve the Fiscal Year 2020-2021 Annual Action Plan and recommendations of programs and activities to be funded by Community Development Block Grant and HOME Investment Partnership funds. Mr. Bailey asked that any additional funds be used to support infrastructure. 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 Proposal(s):**

**\*1. DNA processing and database services – RFP 20-0-2020 – Police Department (Bode Cellmark Forensics, Inc. - \$59,270 annually (two-year contractual obligation total of \$118,540)).**

Staff Recommendation: Approve the award for DNA processing and database services to Bode Cellmark Forensics, Inc. (Lorton, Virginia) in the amount of \$118,540 for an initial 24-month period (\$59,270 for the first year), with three (3) additional 12-month renewal periods.

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

**Waive of Bid Process and Award:**

**\*1. Relocation of water and force mains (Babcock Street, Wyoming Drive, and Valkaria Road), emergency purchase – Utilities Department (Youngs Communications Co., Inc. - \$81,815; Mac Tapping - \$14,100; Ferguson Waterworks Inc. - \$14,016; United Rentals - \$4,335; contingency - \$11,427); authorize appropriation of funds (\$125,693).**

Staff Recommendation: Approve the appropriation of funds on the next scheduled budget amendment in the amount of \$125,693.04; approve the emergency purchase of the directional drilling services to Youngs Communications Co., Inc., in the amount \$81,815; line tapping services from Mac Tapping, in the amount \$14,100; pipe and fittings from Ferguson Waterworks Inc., in the amount \$14,016.40; equipment rental from United Rentals, in the amount of \$4,335; and construction contingency funding in the amount of \$11,426.64.

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

**COUNCIL REPORTS:**

Councilmembers addressed various subject matters.

1. Councilman Anderson addressed COVID-19 funding from Brevard County. He said a report should be coming next week and had contacted staff about rental assistance.
2. Mr. Bailey asked that a revision be made to Item 3, under Minutes (Page 3, Paragraph 2, third sentence), to read as follows: “Mr. Bailey asked for confirmation that the ten percent (10%) franchise fee was built in for the residential within the agreement”.

Motion by Mr. Bailey, seconded by Mr. Anderson, to revise the Special Council Meeting 2020-14 (April 22, 2020) minutes as stated. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

3. Mr. Bailey appointed Joe Laughlin to the Sustainability Board.

**NEW BUSINESS: (Ordinance is for first reading.)**

**\*1. Resolution 2020-18, amending Resolution 2020-09, as amended, extending the State of Local Emergency as declared by Legislative Order D-2020-01.**

The City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

**\*2. Resolution 2020-19, amending Resolution 2019-38, adopting the Five-Year Capital Improvements Program for Fiscal Years 2019-2020 through 2023-2024 (second amendment).**

The City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

**\*3. Resolution 2020-20, amending Resolution 2019-49, authorizing the execution of a Local Agency Program Supplemental Agreement with the Florida Department of Transportation regarding construction services for sidewalks and surrounding crosswalks for Christa McAuliffe Elementary School as part of the Safe-Routes-To-School program.**

The City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

**\*4. Resolution 2020-21, amending Resolution 2019-51, authorizing the execution of a Local Agency Program Supplemental Agreement with the Florida Department of Transportation regarding construction services for sidewalks and surrounding crosswalks for Discovery Elementary School as part of the Safe-Routes-To-School program.**

The City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

**5. Ordinance 2020-24, amending the Code of Ordinances, Chapter 110, Business Regulations, by revising provisions related to Business Tax Receipt exemptions.**

The City Attorney read the ordinance in caption only.

Bill Battin, resident, provided a virtual comment and inquired as to how to register with the City and State to monitor how much this would end up costing the City. Mrs. Morrell replied that as the City would no longer charge the Business Tax Receipt (BTR) application fee for religious organizations, they would be removed from the City's database and would no longer be tracked through the City's system.



Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve Ordinance 2020-24. 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 Transportation Impact Fees for Phases 1 and 2 of the St. Johns Heritage Parkway Intersection Project (\$300,300).**

Staff Recommendation: Budget and appropriate \$300,300 from Transportation Impact Fees, Nexus 32909, for Phases 1 and 2 of the St. Johns Heritage Parkway (SJHP) Intersection project, to complete the connection to Babcock Street and install a southbound left-turn lane.

Bill Battin, resident, provided a virtual comment stating that there was currently a \$9 million loan for the SJHP. He recommended using that fund for the remainder of the SJHP connecting to Babcock Street, then use any remaining monies from that loan to pay down the \$9 million. He felt the intersection could be paid with TIF funds as all future TIF funds from that area would pay for Babcock Street. Mrs. Morrell said that the debt was pledged with Local Option Gas Tax and was currently being paid by TIF funds. General Fund dollars were not being used.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to utilize Transportation Impact Fees as requested.

Mr. Bailey expressed concern with taking on too much with the impact fees that the City may have to utilize General Fund revenues if there was not enough TIF funds. He asked that staff be cognizant moving forward and not placing anything on the taxpayers.

Mr. Anderson said he was waiting on final figures from staff regarding liquidated damages from Community Asphalt. He said that once that was settled, he hoped that those dollars would help to alleviate the TIF funds being used.

Motion carried with members voting as follows:

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

**\*7. Consideration of a budget transfer reallocating funds from the Parks Improvement and Parks Development accounts to the Buildings account for the Palm Bay Senior Center ADA accessibility improvements project (\$577,158).**

Staff Recommendation: Approve a budget transfer reallocating funds from the Parks Improvement and Parks Development accounts to Account 112-3353-554-6201, Buildings, for Project 20D01, Palm Bay Senior Center ADA accessibility improvements, in the amount of \$577,158.

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

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Mrs. Morrell advised that beginning next week, the Palm Bay City Hall site would be performing COVID-19 testing. Florida Department of Emergency Management would also be hosting a drive-thru testing clinic at Eastern Florida State College.

**PUBLIC COMMENTS/RESPONSES:**

There were no public comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 7:55 p.m.

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William Capote, MAYOR

ATTEST:

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Terri J. Lefler, DEPUTY CITY CLERK

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