

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2020-26

Held on Thursday, the 20<sup>th</sup> day of August 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.

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

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>ACTING CITY MANAGER:</b>	Suzanne Sherman	Present
<b>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>CITY CLERK:</b>	Terese Jones	Present

**CITY STAFF:** Present was Yvonne McDonald, Finance Director

### ANNOUNCEMENT(S):

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

- 1. One (1) vacancy on the Youth Advisory Board (represents 'adult member, 30 years and older' position).++**
- 2. One (1) vacancy on the Community Development Advisory Board (can represent one of the following: 'for-profit provider', 'actively engaged in home building', 'employer within the City', or 'advocate for low income persons').++**

- 3. Four (4) vacancies on the Disaster Relief Committee.++**
- 4. One (1) vacancy on the Citizens' Budget Advisory Committee (represents 'at-large' position).++**
- 5. One (1) term expiring on the Melbourne-Tillman Water Control District.+**

**AGENDA REVISION(S):**

1. Ms. Sherman announced the following revisions:
  - a.) Item 18, under Consent Agenda, would be removed from consent in order for staff to provide a presentation.
  - b.) Additional information relating to Item 3, under Public Hearings, was provided to Council.

**CONSENT AGENDA:**

All items listed under Consent Agenda were considered 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 7, 13 and 18, 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.

**1. Adoption of Minutes: Regular Council Meeting 2020-25; August 6, 2020.**

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

**2. Award of Proposal: Dental benefits – RFP 50-0-2020 – Human Resources Department (Cigna Health and Life Insurance Company/Cigna Dental Health of Florida – \$410,854).**

Staff Recommendation: Approve the award for dental benefits to Cigna Health and Life Insurance Company/Cigna Dental Health of Florida, in the amount of \$410,854, fully paid through employee contribution; and authorize staff to negotiate a final agreement for a one-year term contract, renewable by the Procurement Department for five (5) additional one-year terms, with a rate cap for year six to be negotiated prior to renewal.

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

**3. Award of Proposal: Medical benefits to include Administrative Services Only (ASO) and stop loss insurance – RFP 51-0-2020 – Human Resources Department (Cigna Health and Life Insurance Company - \$11,973,187).**

Staff Recommendation: Approve the award for medical benefits to include Administrative Services Only (ASO) and stop loss insurance to Cigna Health and Life Insurance Company, in the amount of \$11,973,187; and authorize staff to negotiate a final agreement for a three-year term contract, renewable by the Procurement Department for two (2) additional one-year terms.

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

**4. Award of Proposal: Financial Advisory Services – RFP 54-0-2020 – Finance Department (Public Resources Advisory Group).**

Staff Recommendation: Approve the award for financial advisory services to Public Resources Advisory Group (St. Petersburg) and establish a three-year term contract, renewable by the Procurement Department for two (2) additional one-year terms.

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

**5. Award of Proposal: Comprehensive Plan update – RFP 64-0-2020 – Growth Management Department (S&ME, Inc. - \$290,995).**

Staff Recommendation: Approve the award for the Comprehensive Plan update to S&ME, Inc. (Orlando), in the amount of \$290,995 (estimated three-year agreement).

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

**6. Contract: Workers Compensation Third Party Administrator services, one-year contract extension – City Attorney's Office (PMA Management Corporation - \$55,876).**

Staff Recommendation: Approve a one-year extension of Contract 57-0-2015 for Workers Compensation Third Party Administrator services with PMA Management Corporation in the amount of \$55,876, through September 30, 2021.

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

**7. Miscellaneous: ‘Cooperative Purchase’, Fiscal Year 2020 road rejuvenations, St. Johns Heritage Parkway, Robert J. Conlan Boulevard, Krassner Drive and Lipscomb Street (Volusia County contract) – Public Works Department (Pavement Technology, Inc. - \$101,505).**

Staff Recommendation: Approve the cooperative purchase of Fiscal Year 2020 road rejuvenations to St. Johns Heritage Parkway, Robert J. Conlan Boulevard, Krassner Drive and Lipscomb Street, utilizing the Volusia County contract, from Pavement Technology, Inc. (Westlake, Ohio), in the amount of \$101,505.05.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to approve the road rejuvenations as requested. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**8. Miscellaneous: ‘Cooperative Purchase’, acquisition and installation of a span wire traffic signal, Emerson Drive at Glencove Street (Brevard County and Florida Department of Transportation contracts) – Public Works Department (Carr Construction and Econolite Group, Inc. - \$83,298 (utilizing Transportation Impact Fees)).**

Staff Recommendation: Approve the cooperative purchase for the acquisition and installation of a span wire traffic signal on Emerson Drive at Glencove Street, utilizing the Brevard County and Florida Department of Transportation contracts; from Carr Construction and Econolite Group, Inc., in the amount of \$83,298, utilizing Transportation Impact Fees, Nexus 32907.

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

**9. Miscellaneous: Mobile and portable radios (Brevard County contract) – Police Department (Communications International, Inc. - \$124,850 (sole source)).**

Staff Recommendation: Approve the purchase of twenty-eight (28) mobile police radio packages, utilizing the Brevard County contract; from Communications International, Inc., in the amount of \$124,850.

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

**10. Miscellaneous: Renewal and replacement improvements, North Regional Wastewater Treatment Plant, Change Order 3 – Utilities Department (L7 Construction – \$37,018).**

Staff Recommendation: Approve the appropriation of funds on the next budget amendment for Change Order 3 for renewal and replacement improvements at North Regional Wastewater Treatment Plant with L7 Construction (Sanford), in the amount of \$37,017.85.

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

**11. Miscellaneous: Renewal and replacement improvements, North Regional Wastewater Treatment Plant, Change Order 4 – Utilities Department (L7 Construction – \$29,238).**

Staff Recommendation: Approve the appropriation of funds on the next budget amendment for Change Order 4 for renewal and replacement improvements at North Regional Wastewater Treatment Plant with L7 Construction (Sanford), in the amount of \$29,238.22.

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

**12. Consideration of an amendment to the Planning and Zoning Board's By-Laws by including provisions for audiovisual presentations by the public.**

Staff Recommendation: Adopt the proposed amendment to Article VI of the Planning and Zoning Board By-Laws.

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

**13. Consideration of declaring certain properties within Port Malabar Holiday Park, Mobile Home Recreation District, as surplus real property; authorizing availability of said properties for sale.**

Staff Recommendation: Declare nine (9) properties within Port Malabar Holiday Park, Mobile Home Recreation District, as surplus real property and authorize staff to issue a public notice regarding the availability of such properties for sale.

Bill Battin, resident, said that these properties could have assisted with the homeless issue, such as serving as cold night shelters, rather than being sold. Mr. Anderson said it was a deed restricted community with specific age requirements and could not be used for those purposes.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to declare the specified properties as surplus. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**14. Consideration of utilizing the Bureau of Justice Assistance Grant program funds to purchase external load bearing vests for uniformed police officers (\$33,757).**

Staff Recommendation: Approve the utilization of the Bureau of Justice Assistance Grant program funds to purchase external load bearing vests for uniformed police officers in the amount of \$33,757.

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

**15. Consideration of utilizing funds budgeted in Fiscal Year 2020 for debt service no longer due, to pay off interdepartmental loans from the General Fund to the Utility and Building Funds in full.**

Staff Recommendation: Approve the utilization of funds budgeted in Fiscal Year 2020 for debt service no longer due, to pay off interdepartmental loans from the General Fund to the Utility and Building Funds in full.

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

**16. Consideration of certification of the non-ad valorem assessment roll for calendar year 2020 for PM Unit 31.**

Staff Recommendation: Approve the certification of Non-Ad Valorem Assessment Roll for calendar year 2020 for PM Unit 31; and authorize the Mayor to execute Form DR-408A.

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

**17. Consideration of certification of the non-ad valorem assessment roll for calendar year 2020 for USA 1 (PM Units 38 and 40).**

Staff Recommendation: Approve the certification of Non-Ad Valorem Assessment Roll for calendar year 2020 for USA 1 (PM Units 38 and 40); and authorize the Mayor to execute Form DR-408A.

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

**18. Acknowledgment of Investment Performance Review Report, prepared by PFM Asset Management LLC, for the quarter ended June 30, 2020.**

Staff Recommendation: Acknowledge receipt of the Investment Performance Review Report, prepared by PFM Asset Management LLC, for the quarter ended June 30, 2020.

Yvonne McDonald, Finance Director, provided an overview of the City's investment financial status and monthly financial report.

Mr. Bailey said he was under the impression that the impact fee funds were being spent on the mitigation around the southern interchange. Mrs. McDonald advised that it was being funded by the General Fund. Mr. Bailey asked if impact fees funds could be used for same. Mrs. McDonald deferred to the City Attorney but said that those funds were typically used for road related projects, not mitigation. Mr. Bailey said that impact fees were paid by the developers. He expressed concern if the impact fee fund were to become depleted, then General Fund dollars would be used.

Note: No official motion was made on this item. Council acknowledged receipt of the report and voted as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**19. Acknowledgement of the City's monthly financial report for June 2020.**

The item, considered under Consent Agenda, was acknowledged by the City Council.

**20. Consideration of travel and training for specified City employee (Police Department).**

Staff Recommendation: Approve the travel and training as specified.

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

**RECOGNITION(S) AND PROCLAMATION(S):**

**1. Recognition of Frank and Oratina Walker for their bravery and life-saving assistance to the Holly family.** Deputy Mayor Johnson read a letter recognizing Mr. and Mrs. Walker.

**PRESENTATION(S):**

**1. Nancy Peltonen, President and CEO, Greater Palm Bay Chamber of Commerce – quarterly update.** Ms. Peltonen provided an update on the Chamber's activities.

**2. Chief Nelson Moya, Palm Bay Police Department - Update.** Chief Moya gave an overview of the Police Department's Uniformed Crime Report, Use of Force Policy, Body Worn Camera Pilot Program, Traffic Unit and statistics, and enhanced engagement opportunities.

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

Individuals made general comments.

1. Don Jordan, resident, submitted a petition requesting that Port Malabar Unit 49 be added back to Year 3 of the Road Bond Paving Program. He reviewed the costs for same and questioned why Unit 49 was removed from Year 3 and placed into Year 5.

2. Bill Battin, resident, commented on the following:

a.) Felt that leaders should be thanking the residents for the \$9 million in tax dollars which paid for the St. Johns Heritage Parkway (Parkway). He found fault in Council as the developers were supposed to have paid for the roadway.



b.) Plans for Emerald Lakes did not display entrances into the development from Babcock Street, but now he has seen new plans with those modifications. He thought the purpose was that Emerald Lakes would be making its own entrances and not impacting Babcock Street.

c.) As mentioned during the financial presentation, impact fee funds could only be used in the area of the new Parkway. He was upset that taxpayer dollars were used in that area, but impact fees could not be used anywhere else except that area.

Ms. Sherman advised that the Infrastructure Advisory and Oversight Board made the recommendation regarding Port Malabar Unit 49. Mr. Bailey was opposed to moving it to Year 3 as that area had the least number of residents. Mr. Anderson felt it would be a cost savings to combine it with another unit. Deputy Mayor Johnson and Mr. Santiago supported combining it with other units. Council concurred to move Unit 49 to Year 3.

Mayor Capote responded to Mr. Battin's comment and advised that Council did not make any promises that the costs would be paid by the developers. He said those discussions occurred prior to many of the members currently on Council. He thanked the residents for supporting the initiative of the Parkway. Mr. Bailey said that the developers have paid impact fees which supported the Parkway and surrounding area.

#### **PUBLIC HEARING(S):**

**1. Ordinance 2020-45, amending the Code of Ordinances, Chapter 93, Real Property Nuisances, Subchapter 'Unightly and Unsanitary Conditions', by revising provisions related to parking of vehicles in residential areas (Case T-7-2020, City of Palm Bay), final reading. (CONTINUED FROM RCM 08-06-20)**

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

Rich Norwood, resident, commented on Items 1 and 2, under Public Hearings. He said the existing ordinances had been in place for several years and were very effective.

The public hearing was closed.

Motion by Mr. Santiago, seconded by Deputy Mayor Johnson, to adopt Ordinance 2020-45. 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 2020-46, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapters 'General Provisions' and 'Supplementary District Regulations', by revising provisions related to parking of vehicles in residential areas (Case T-7-2020, 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 Mr. Santiago, seconded by Deputy Mayor Johnson, to adopt Ordinance 2020-46.

Motion carried with members voting as follows:

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

**3. Ordinance 2020-49, amending the Code of Ordinances, Chapter 170, Construction Codes and Regulations, Subchapter 'Walls and Fences', to eliminate the requirement of building permits for fences (Case T-15-2020, City of Palm Bay), final reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. Ms. Sherman presented the request to Council. Staff had also submitted an agenda revision requesting that the ordinance become effective thirty (30) days after the enactment date to allow time for transition.

Bill Battin, resident, said there would be no cost savings as a new position would be created in lieu of charging a fee to the resident for the permit. Ms. Sherman clarified that existing positions would be reallocated, and no new positions would be created.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Anderson, to adopt Ordinance 2020-49.

Mr. Anderson said that he initially supported the request. He thought the purpose was to simplify the process, but now an entirely new process was being created. He recommended a flat fee of \$20 for a fence permit and everything else would remain as is. Mr. Bailey felt the process would be easier and as a reorganization was already underway within the department, it would be easy to implement. He said it was not a matter of financial cost, but time savings for the resident in going through the process. Mr. Anderson did not see how it would be any faster and would not support the request. There was further discussion between councilmembers.

Mr. Bradley added that a major component of the cost savings was through the inspections which would no longer be done through this new process.

Mr. Anderson withdrew his second to the motion.

Motion by Mr. Bailey, seconded by Mr. Anderson, to adopt Ordinance 2020-49, effective thirty (30) days after the enactment date.

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 2020-51, vacating a portion of the rear public utility and drainage easement located within Lots 21 and 22, Block 65, Port Malabar Unit 4 (Case VE-9-2020, Alan Flandreau), first reading.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to approve Ordinance 2020-51. 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 2020-52, vacating a portion of the rear public utility and drainage easement located within Lot 35, Block 2745, Port Malabar Unit 50 (Case VE-10-2020, Brian and Joellyn Daniels), first reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. Ms. Sherman announced that the applicant was unable to attend the meeting. The public hearing was closed.

Motion by Mr. Santiago, seconded by Mr. Anderson, to table the item to September 3, 2020. 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 2020-53, vacating a portion of the rear public utility and drainage easement located within Lot 33, Block 2018, Port Malabar Unit 46 (Case VE-11-2020, Steven Brown), first reading.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2020-53. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**UNFINISHED AND OLD BUSINESS:**

**1. Ministerial appointment of one (1) member to the Palm Bay Police and Firefighters Retirement Pension Plan, Board of Trustees.**

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to appoint Tim Lancaster to the Palm Bay Police and Firefighters Retirement Pension Plan, Board of Trustees. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

**COMMITTEE AND COUNCIL REPORT(S):**

Councilmembers addressed various subject matters, and provided updates on activities of agencies and boards on which they served as members.

1. Mr. Anderson said that some municipalities had limited discussion times for councilmembers. He asked Council's opinion on a five-minute time limit. Mr. Santiago did not agree with time limits. He said that Council adhered to the Florida Sunshine Law and the only time for a councilmember to express their opinion was at a meeting. He felt it would limit Council's ability to govern. Deputy Mayor Johnson said he may support it if Mr. Anderson researched other cities and how time limits were handled. Mr. Bailey felt

that the new City Council should make the decision. Mayor Capote said it should be left as is. He said that every councilmember would eventually become passionate about an item and did not agree with anyone being limited.

2. Mr. Bailey said he would postpone the workshops regarding the front yard fences and urban farm animals.

3. Mr. Bailey was contacted by Mr. Henry Morin stating that the properties along Malabar Road, across from the City Hall Complex, had setback issues with the adjacent residential properties. He would speak to staff and bring forward at next meeting.

4. Deputy Mayor Johnson suggested town hall meetings, held quarterly or otherwise, to get more involvement from the citizens. He also suggested a code compliance workshop to get feedback from staff and residents. Mayor Capote suggested waiting for the newly elected officials to come onboard.

5. Deputy Mayor Johnson had spoken with staff and questioned why more small businesses were not involved in the procurement process. It was that many were not aware of the opportunity, did not understand the process, etc. Staff offered suggestions such as webinars with the Palm Bay Chamber and Economic Development Commission, open houses, and communications with Space Coast Realtors.

6. Mr. Bailey said that he had been speaking with staff regarding political signs, especially on election day. He felt there should be some revision that could address time and manner of the signs. He said that campaign signs were a strain on staff as signs found in violation would be picked up and placed at a facility for candidates to retrieve them and put back out in prohibited areas; however, signs such as business advertisements or garage sales, were picked up and discarded.

#### **NEW BUSINESS:**

**1. Ordinance 2020-54, amending the Code of Ordinances, Chapter 30, City Manager, by revising provisions related to filling a vacancy in the Office of the City Manager, first reading. (Councilman Bailey)**

Staff Recommendation: Approve the amendment as requested.

The City Attorney read the ordinance in caption only. Councilman Bailey presented the item to Council.

Bill Battin, resident, did not agree with eighteen (18) months. The City would go through two budget cycles under that provision and the City Manager played a crucial role in the City's budget.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve Ordinance 2020-54.

Mayor Capote said that no matter what time frame was placed in the ordinance, it did not mean that Council had to wait that length of time to appoint a City Manager. It was a cushion to allow time to do so. He said the Acting City Manager should have the ability to handle the responsibilities of the budget process.

Mr. Santiago felt eighteen (18) months was too long. He suggested six (6) months and, with approval of majority of Council, extend the time by ninety (90) day increments, if needed.

Deputy Mayor Johnson was comfortable with twelve (12) months.

Mr. Anderson had no issue with the time limit but did not want limitations to be placed on the new Council if the process to select a City Manager took longer than anticipated. However, future Councils could modify this ordinance at any time, and they could also remove the individual from the Acting City Manager position at any time.

Mr. Bailey commented that an acting position should not have a contract. He felt that the first sentence of Section 30.06 should be deleted.

Deputy Mayor Johnson withdrew his second to the motion.

Motion by Mr. Bailey, seconded by Mr. Santiago, to approve Ordinance 2020-54, with the deletion of the first sentence of Section 30.06. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

#### **ADMINISTRATIVE AND LEGAL REPORTS:**

There were no reports.

#### **PUBLIC COMMENTS/RESPONSES:**

A resident made a general comment.

City of Palm Bay, Florida  
Regular Council Meeting 2020-26  
Minutes – August 20, 2020  
Page 15 of 15

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:53 p.m.

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William Capote, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK