

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2020-34

Held on Thursday, the 1st day of October 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:

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

CITY STAFF: Present was Frank Watanabe, Public Works Director/City Engineer; Joan Junkala-Brown, Community and Economic Development Director; Juliet Misconi, Chief Procurement Officer.

ANNOUNCEMENT(S):

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

- 1. Three (3) vacancies on the Disaster Relief Committee.++**
- 2. One (1) vacancy on the Business Improvement District Board (represents 'bank or financial institution' position).++**

- 3. One (1) vacancy on the Youth Advisory Board (represents 'at-large student member' position).+**
- 4. One (1) vacancy on the Code Enforcement Board.+**
- 5. 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 'real estate professional').+**

AGENDA REVISION(S):

There were no revisions.

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 4, 6 and 8, 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: Special Council Meeting 2020-29; September 9, 2020.

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

2. Adoption of Minutes: Special Council Meeting 2020-30; September 10, 2020.

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

3. Adoption of Minutes: Regular Council Meeting 2020-32; September 17, 2020.

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

4. Award of Bid: Road bond paving, Unit 46 road paving – IFB 77-0-2020 – Public Works Department (Asphalt Paving, Inc. - \$2,306,763).

Staff Recommendation: Approve the award for road bond paving, Unit 46, to Asphalt Paving, Inc. (Zephyrhills), in the amount of \$2,306,763.14.

Motion by Mr. Bailey, seconded by Mr. Santiago, to approve the award 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.

5. Miscellaneous: ‘Other Agency’ term contracts utilized for Fiscal Year 2020-2021 ‘as needed’ purchases of equipment, services and materials – multiple city departments.

Staff Recommendation: Approve the Fiscal Year 2021 annual purchases of equipment, services, materials and supplies on an ‘as needed’ basis through utilization of the other agency term contracts listed.

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

6. Resolution 2020-52, amending Resolution 2019-40, by extending the commencement period of the conditional use granted for retail sales of agricultural products in RR (Rural Residential District) zoning (Case CU-20-2019, Anna Hutson).

The City Attorney read the resolution in caption only.

Mr. Bailey advised that he voted against the conditional use request and would remain consistent and vote against the extension as well.

Motion by Mr. Santiago, seconded by Mr. Anderson, to adopt Resolution 2020-52.

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 amending Council Policies and Procedures by modifying public comments at workshops and special meetings.

Staff Recommendation: Approve the amendment to Council’s Policies and Procedures as requested.

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

8. Consideration of a budget amendment to record additional program income revenue (\$53,086) and the appropriation of funds for the HOME Down Payment Assistance Program for eligible first-time homebuyers (\$53,086 of income revenue; \$5,000 in reserves).

Staff Recommendation: Approve a budget amendment to record \$53,086 in additional program income revenue (Account 114-0000-345-9002); and appropriate \$53,086 of income revenue, in addition to \$5,000 in reserves (Account 114-3351-593-9901), to the HOME Down Payment Assistance Program/16CD01 (Account 114-3353-554-3803) for eligible first-time home buyers.

Bill Battin, resident, asked if the \$53,000 would be for one family or multiple families. Mrs. Junkala-Brown advised it would be multiple families.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to approve a budget amendment and appropriation 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.

9. Consideration of travel and training for specified City employees (Fire Department).

Staff Recommendation: Approve the travel and training as specified.

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

PUBLIC COMMENT(S)/RESPONSE(S): (Non-agenda Items Only)

Individuals made general comments regarding their dissatisfaction with the new company for solid waste services, such as increased cost, no need for twice per week pick-up, and refusal to collect hazardous materials.

Mr. Bailey said that he did not vote for the contract or for twice per week pick-up.

Mr. Anderson said that Waste Management did not submit a bid for the contract and City Council did not advise Waste Management that the City no longer wanted to use their

services. There were three (3) companies that submitted bids for the contract – one withdrew their bid, and the other was Waste Pro which had a higher cost. The original negotiation cost with Republic Services was \$29.00 and the City negotiated it down to \$23.00. Any hazardous materials were not picked up by Waste Management and would not be picked up by Republic Services. Customers have to take it to the service station. Mr. Anderson said that it had been ten (10) years since the last contract and that was a long time to not have a price increase. He said the cost would have increased regardless of what company was awarded the contract but felt this was a good contract for the City and the residents.

PUBLIC HEARING(S):

1. Ordinance 2020-63, amending the Code of Ordinances, Chapter 37, Growth Management Department, by removing references related to the Building Division, 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 2020-63. 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 2020-64, amending the Code of Ordinances, by creating Chapter 40, to be titled "Building Department", 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 2020-64. 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 2020-65, vacating a portion of the rear public utility and drainage easement located within Lots 8 and 9, Block 2063, Port Malabar Unit 46 (Case VE-12-2020, Ronald Giscombe), final 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 Deputy Mayor Johnson, to adopt Ordinance 2020-65. 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 2020-67, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapters 'General Provisions' and 'Planned Unit Development (PUD)', by establishing language that will permit tiny homes on wheels and revising provisions contained therein (Case T-21-2020, City of Palm Bay), first reading. (Deputy Mayor Johnson)

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. Deputy Mayor Johnson presented the request to Council. He asked the City Attorney if this request would require Council approval for reconsideration pursuant to Council's Policies and Procedures. Ms. Smith advised that due to revisions related to this request being considered by Council within the past year, the request would require a motion from Council to reconsider the issue. If Council approved to reconsider the item, then it would have to be tabled to a subsequent meeting.

Mr. Bailey said that this motion should be consistent with a previous item that was reconsidered and tabled to when new Council was in office. He suggested the December 3, 2020, regular Council meeting.

Mr. Santiago did not feel the item was substantial enough to warrant the attention of a new Council. Mr. Anderson agreed with Mr. Santiago.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to approve the item for reconsideration.

Motion carried with members voting as follows:

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

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to table Ordinance 2020-67 to the October 15, 2020, regular Council meeting.

Mr. Bailey disagreed with reconsidering this item based on how Council addressed his item a few meetings ago. He said that certain councilmembers claimed that items such as this were being considered too close to the election. He felt that Council needed to be consistent.

Motion carried with members voting as follows:

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

5. Ordinance 2020-68, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located south of an adjacent to Alegriano Road, in the vicinity east of Jupiter Boulevard, from Recreation and Open Space Use to Single-Family Residential Use (1.55 acres)(Case CP-7-2020, M. David Moallem), only one reading required.

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

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

Motion by Mr. Anderson, seconded by Mr. Bailey, to adopt Ordinance 2020-68. 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 2020-69, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located southeast of and adjacent to Firestone Street, in the vicinity north of the Melbourne Tillman Water Control District Drainage Canal 51, from Recreation and Open Space Use to Single-Family Residential Use (1.59 acres)(Case CP-8-2020, Jared and Megan Cooper), only one reading required.

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

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 Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-69. 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 2020-70, granting approval of a Final Development Plan for a proposed single-family residential Planned Unit Development (PUD) to be known as ‘Chaparral Phase II’ on property located west of and adjacent to Melbourne Tillman Drainage District Canal 9, in the vicinity south of Malabar Road (13.24 acres) (Case FD-10-2020, Chaparral Properties, LLC) (Quasi-Judicial Proceeding), first reading.

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

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, Construction Engineering Group, LLC, and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve Ordinance 2020-70. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

8. Request by Rook at Palm Bay, LLC, for Final Subdivision approval of a commercial and multi-family residential subdivision to be known as “Crown Square”, with requests for waivers from Section 184.18(B), Palm Bay Code of Ordinances, to allow for the reduction of a proposed road right-of-way width and cul-de-sac radius, which property is located south of and adjacent to Malabar Road, in the vicinity east of Cassia Avenue and West of Corporate Circle, in CC (Community Commercial District) and RM-20 (Multiple-Family Residential District) zonings (21.0 acres) (Case FS-1-2020) (Quasi-Judicial Proceeding).

The Planning and Zoning Board recommended that the request be approved, subject to completion/approval of Items A through D in the Staff Report during the administrative site plan review.

The public hearing was opened. Mr. Watanabe asked that a condition be included in the Staff Report. He requested that a mountable curb be added on the cul-de-sac to allow fire apparatus to mount the curb and make the turn radius.

Jake Wise, P.E., Construction Engineering Group, LLC, and representative for the applicant, presented the request to Council. He advised that the applicant had complied with the additional condition and construction drawings had already been submitted for the mountable curb.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve the request, subject to completion/approval of Items A through D in the Staff Report during the administrative site plan review, and with the additional condition of installing a mountable curb in the cul-de-sac. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

9. Request by Luis and Tammy Sanchez for a variance to allow an existing screen room enclosure to encroach 4.17 feet into the 25-foot rear building setback (0.46 acres) (V-22-2020) (Quasi-Judicial Proceeding).

The Planning and Zoning Board recommended that the request be approved, subject to obtaining a building permit for the screen room enclosure.

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 approve the request, subject to obtaining a building permit for the screen room enclosure. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Johnson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Anderson, Yea.

10. Ordinance 2020-50, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Supplementary District Regulations', by increasing the maximum number of chickens permitted on single family lots; and including provisions for urban farm animals permitted on developed single family lots (Case T-16-2020, City of Palm Bay), first reading. (WITHDRAWN)

PROCUREMENTS:

1. Award of Proposal: State lobbying services – RFP 67-0-2020 – Community and Economic Department (Sunrise Consulting Group - \$48,000).

Staff Recommendation: Approve the award for State lobbying services, to Sunrise Consulting Group (New Port Richey), in the amount of \$48,000, for a one-year term, renewable by the Procurement Department for four (4) additional one-year terms.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to award the proposal as requested.

Mr. Bailey asked that the members of the review committee (Deputy Mayor Johnson; Suzanne Sherman, Acting City Manager; Joan Junkala-Brown, Director of Community and Economic Development) verbally share their notes. Mr. Santiago wanted to hear their recommendations as well. He expressed concern with this item. He said that Ronald Book was very well known in Tallahassee and had served the City for a long time. He cautioned Council on changing from a long-standing relationship with a firm that had done so much for the City and had many connections in Tallahassee, then going with a firm that he felt was not well-established.

Deputy Mayor Johnson said that Sunrise Consulting Group (Sunrise) and Ronald Book were the top two firms. He felt that Sunrise provided a more detailed oral presentation of what they could do for the City, as well as working with Council, individually and as a group. They also said they would hold workshops to get a feel of the needs of the City. He was impressed that they were familiar with budget discussions at the recent workshop.

As there was a public comment, Mr. Anderson withdrew his second to the motion.

Rob Medina, resident, felt the new Council should make the decision on this item as they would be working with the new firm.

Mr. Santiago agreed with Mr. Medina and had communicated his concern with staff. He said that the future Council would be developing the relationship with the lobbyist. Mayor Capote requested a legal opinion and said he had no issues with retaining Ronald Book or if this process could be reviewed again by staff.

Ms. Smith understood Council's concerns, but once the solicitation process had begun and had now reached the award stage, if the item was tabled and then the new Council selected another firm, then it would appear that something was wrong with the procurement process. The scope had been set, proposals were submitted based on that

scope, and evaluations by the committee were performed. It should not matter who was sitting on Council and if it appeared that the City was allowing politics or favoritism to make its decision, it could subject the City to a bid protest. If there was an issue with how the matter was scored, then Council could use the same criteria as the committee to re-evaluate. She said Council could not be arbitrary or show favoritism.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to award the proposal as requested.

Deputy Mayor Johnson said that Council should be careful due to the recent audit from the State. He was concerned with tabling this item and raising a red flag with the State.

Mr. Anderson said he agreed with the public comment, but the new Council would not be sworn in until weeks after the election. The contract was for one year, with annual renewals, so if the next Council did not feel the new firm was good for the City, then it could be changed. He supported the award.

Mr. Bailey wanted to hear comments from Ms. Sherman and Mrs. Junkala-Brown.

Mr. Anderson withdrew his second to the motion. Ms. Sherman suggested that Mrs. Misconi explain the item.

Deputy Mayor Johnson withdrew his motion.

Mrs. Misconi reviewed the points received for each firm. Some of the concerns was that Sunrise did not have a lot experience with large municipalities, but they did have experience with larger appropriations for their clients. She said there was a one-point difference with the scoring, but oral presentations were also considered. After oral presentations, Sunrise received more points for that section.

Mr. Bailey questioned why the Chief Procurement Officer approved the renewals instead of the City Council or City Manager. Mrs. Misconi said that in the Procurement Ordinance, any items approved by Council that were due for renewal were sent to the respective department for a vendor performance evaluation. If a minimum satisfactory evaluation was received, and the department desired to renew the contract, then she could approve the renewal. She advised Council that the motion could be amended to require Council approval of the renewal after the first year. Ms. Smith confirmed same.

Mr. Santiago asked if there were any comparable agencies handled by Sunrise that were the size of Palm Bay. Ms. Sherman answered that they handled Hernando and Pasco Counties. She mentioned some of their appropriation accomplishments. Mr. Santiago asked if there was any reason to believe that Mr. Book's firm fell below the performance level of Sunrise. Mrs. Misconi said the submittals received were compared to the submittal requirements, not to each other. The only area in which they were compared was price which was a factor in determining points for the selection. She said that for the oral presentations, the evaluation team was asked, individually, to provide questions to present to each firm. Some questions were unique to a firm's proposal.

There was discussion on minimum qualifications for an RFP.

Mrs. Junkala-Brown said she had scored them very closely (1 point). She felt that Sunrise did a much better job on the oral presentation and that Sunrise had good connections in Tallahassee. Sunrise had secured over \$100 million overall and their funding appropriation success rate per client was very high. Mrs. Junkala-Brown said she had questioned why they did not have a large municipality as a client, and they responded that they liked to have diversity in clients. The driving factor for her score was the oral presentations, but she felt that they excelled overall.

Ms. Sherman advised that both firms could do the job. She said that Sunshine's presentation gave her an extra level of comfort, specifically with connections with high levels of leadership at the State level. As the contract was only for a year, changes could be made if Council or staff was not satisfied.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to award the proposal as requested, with the provision that the contract renewal would be presented to Council for consideration after one year.

Mr. Santiago said he still had concerns, especially since the rankings were so close prior to oral presentations. He felt it was not just about price, but what the company could bring to the City. Sunrise did not have a lot of experience with larger municipalities. He did not support the award.

Mr. Bailey felt he needed to vote to protect the Procurement process. He was pleased that staff recommended bringing it back to Council for renewal after one year and that it was included in the motion.

Motion carried with members voting as follows:

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

COUNCIL REPORTS:

Councilmembers addressed various subject matters.

NEW BUSINESS:

1. Resolution 2020-38, providing for the acceptance of real property conveyed to the City by the Brevard County Board of County Commissioners, located at the intersection of the St. Johns Heritage Parkway and Babcock Street.

Staff Recommendation: Approve the acceptance of real property conveyed to the City by the Brevard County Board of County Commissioners, located at the intersection of the St. Johns Heritage Parkway and Babcock Street.

The City Attorney read the resolution in caption only.

Bill Battin, resident, asked the estimated cost over the next ten (10) years.

Motion by Mr. Santiago, seconded by Deputy Mayor Johnson, to adopt Resolution 2020-38.

Mr. Bailey said that when the City signed the Interlocal Agreement, the City was to accept approval of value engineering for construction costs. He asked if an estimate had been received for same. Mr. Watanabe submitted revised comments and plans to Brevard County, but estimates had not been received to date. Mr. Bailey said he did not want to accept any liability for the roadway until cost estimates were received. He felt the item could be tabled, but he would not support it tonight if Council moved forward.

Deputy Mayor Johnson asked if the item could be tabled. Ms. Smith said the issues were not related and the City had already committed to accepting the intersection. She said Council should abide by the Interlocal Agreement.

Mr. Anderson reminded the public that impact fees were being used in that area and not taxpayer dollars. Mr. Bailey said that although impact fees were being used for construction of the intersection and roadways, there was not enough dollars to incur the liability already accrued. There was not enough to pay off the debt and the City was still relying on enough impact fees to come in. He hoped that the developers would pre-pay impact fees through developer agreements. He said that it would have been better if the developers had paid for the road and the City could have provided impact fee credits, then the City would have no liability or debt.

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 request from The House Family Ministries, Incorporated, for the City to co-sponsor its 12th Annual Christmas Extravaganza.

Staff Recommendation: Approve the co-sponsorship of the 12th Annual Christmas Extravaganza and waive fees associated with the event for City resources in the absence of an improved administrative code regarding special events for accountability.

Bill Battin, resident, read the list of items being waived for a total of \$8,486. He asked the criteria to determine who received free services.

Pastor Ken Delgado, The House Family Ministries (The House), presented the request to Council. He explained that the City was not giving any money for the event and that The House would be giving approximately \$40,000 in prizes and gifts to the community.

Mr. Bailey asked Pastor Delgado if he was aware that the City paid overtime for The House to utilize the Honor Guard for the event. Pastor Delgado said he was not aware there was a cost. Mr. Bailey asked if it would be agreeable to remove the use of police officers from the agreement and perhaps The House could utilize volunteers, such as the Junior ROTC or Veteran's programs. Pastor Delgado confirmed same.

Ms. Sherman responded to the public comment and advised that a policy was being developed by staff which would address criteria for co-sponsorship of events.

Motion by Mr. Anderson, seconded by Deputy Mayor Johnson, to co-sponsor and waive fees associated with the 12th Annual Christmas Extravaganza.

Mr. Anderson felt the co-sponsorship was well worth it and with the happy residents.

Mr. Bailey asked if the motion could include utilizing a volunteer organization to provide the Honor Guard services. He expressed disappointment that a City policy was not yet in place. Mr. Santiago agreed with using a volunteer organization.

Deputy Mayor Johnson withdraw his second to the motion.

Mr. Anderson said that if none of the organizations were available then The House would be left without an Honor Guard for its event. He felt the agreement should be approved as is if The House could not get volunteers.

Deputy Mayor Johnson said his second to the motion would stay. He asked Pastor Delgado to do his best on obtaining volunteers.

Motion carried with members voting as follows:

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

3. Consideration of: a.) providing an exception to Section 4 of the lease agreement for 2230 Washington Street NE with Little Growers, Inc.; and b.) a lease agreement with Little Growers, Inc., for the use of vacant, unimproved City-owned property located at 2230 Washington Street NE (\$12 annually).

Staff Recommendation: Authorize an exception for Little Growers, Inc. related to Section 4 of the lease agreement and authorize the Mayor to execute a lease agreement with Little Growers, Inc. for property located at 2230 Washington Street, in the annual amount of \$12.

Ms. Sherman presented the request to Council. The exception was to Section 4 of the agreement which stated, "Further, Tenant agrees that it has an obligation to ensure all employees, contractors, subcontractors and assigns employed by Tenant or working under the direction of Tenant have no felony convictions, unless without the prior written consent of City is obtained."

Evelyn Espinoza, resident, did not support removing the provision from the agreement. She said the language was placed there to protect the City and its residents and there was no need for a community garden in the neighborhood. She felt a police substation should be placed at the site instead of a garden.

Connie McClary, President of Powell Subdivision Neighborhood Watch, said she had discussions with former City Manager Sue Hann and the plan was to put a police substation at the property. She commented that there used to be a substation in the neighborhood, and it made a big difference in the community.

Margaret DeHart, Powell Subdivision Neighborhood Watch, also supported a police substation at the site. She felt Little Growers was a great idea, but the Camille Hadley (Program Director) no longer lived in the area. She requested that the felony clause remain as is and asked that the City deed register the property to the Palm Bay Police Department so that no one else could use it outside of its intended purpose.

Jared Cooper, investor in the Powell Subdivision, said that the police substation used to be there and crime was reduced. He stated there were numerous parks in the area, but the neighborhood was missing a police substation. He said he would donate the surveillance equipment if the property was is given to the Police Department.

Camille Hadley, Program Director of Little Growers, Inc., said that putting police in neighborhoods did not reduce crime. Crime reduced 16-18% with renovated green spaces. She shared the same concerns as the residents of Powell Subdivision which was why they chose this particulate site. She had worked with the Police Department many times with other community garden projects.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to approve the lease agreement with the exception.

Deputy Mayor Johnson said he had family in that community and was aware of crime. He asked if there were any records regarding the police substation. Ms. Sherman said

there was nothing formal on record or presented to Council for consideration. Deputy Mayor Johnson said that both sides were concerned with crime. He said his only hesitation was if crime evolved once the garden was in place.

Mr. Santiago said that crime would not be reduced by just having police presence. Deputy Mayor Johnson said the lease for one year and Little Growers should be given a chance.

Mr. Bailey felt a community garden was a great idea. His preference was that the parcel be purchased. He did not agree with removing the language from Section 4 and made the following suggestion: "Further, Tenant agrees that it has an obligation to ensure all employees, contractors, subcontractors and assigns employed by Tenant or working under the direction of Tenant have no >>disqualifying<< felony convictions, unless without the prior written consent of City is obtained. >>A felony is disqualifying if it has been 3 years or less since the person has been convicted or released from confinement, whichever is later or any felony conviction listed in Exhibit A.<<" Mr. Bailey said the felony convictions in Exhibit A were mostly related to major violence and children, such as murder, manslaughter, kidnapping, sexual battery, child abuse or neglect, etc.

Mr. Anderson said that the Main Street substation was approximately two (2) miles away. He did not feel that an additional substation so close would be fiscally feasible within the next three (3) years.

Mayor Capote fully supported the community garden and said that more police presence should be in the area. Mr. Bailey said he would not support the request as he felt one of the other City properties was better suited for the project or to sell the property to Little Growers. Mr. Anderson said that Ms. Hadley had expressed interest in purchasing the property but because the lease had been held up for so long, there would be more delays if the City had to advertise the property for sale.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to approve the lease agreement with the revisions to Section 4 as presented by Councilman Bailey.

Motion carried with members voting as follows:

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

ADMINISTRATIVE AND LEGAL REPORTS:

1. Ms. Sherman announced the City's Military Tribute Banner Program. Any residents interested in honoring veterans, active duty, reserve and National Guard could sponsor a full, color banner. It would be prominently displayed between Veterans Day and Memorial Day at one of the City properties, City Hall or one of the larger parks. Information had been posted on the City's website. The program was presented by Joseph Stokes of the City's Youth Advisory Board.

PUBLIC COMMENTS/RESPONSES:

1. Peter Filiberto, resident, commented on the new roads. He said there was almost a five-inch drop-off on the shoulder. He said this was a safety concern and could also lead to edge cracking. He asked if there were any laws that regulated edge drop-offs for roadway resurfacing projects. He said he met with Republic Services and one of their issues was the need for an onsite gas station. Currently, Republic had to use regular gas stations, but had submitted a conditional use application for gas services onsite. He requested an update on their application.

Ms. Sherman clarified that the timing for consideration of Republic's conditional use application was based solely on when they submit the application. There was a process to get it placed on the agendas for the Planning and Zoning Board, and City Council. It would be considered by the Board on October 7th, and by City Council on November 5th. Republic had advised that if their request was not approved by Council, they would utilize fuel tank trucks to fill their trucks each day.

Ms. Sherman advised that there were criteria regarding the drop-off on pavements. She would have the Public Works Director contact Mr. Filiberto but encouraged him to advise staff of any unsafe road conditions.

Mr. Bailey said he had been out in the field with City staff and contractors to see the road work, installation of pipes, etc. He was also concerned about the road edges, but he said that the backfill and sodding were being handled. He asked that if crews ripped up sod on properties, it should be replaced with the same type of sod.

ADJOURNMENT:

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There being no further business, the meeting adjourned at the hour of 9:49 p.m.

William Capote, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK