

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2020-40

Held on Thursday, the 19th day of November 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:

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
CITY CLERK:	Terese Jones	Present

CITY STAFF: Present was Chris Little, Utilities Director; Frank Watanabe, Public Works Director; Laurence Bradley, Growth Management Director; Chief Leslie Hoog, Fire Department.

ANNOUNCEMENT(S):

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

- 1. Two (2) terms expiring on the Infrastructure Advisory and Oversight Board (represents 'at-large' positions).+**
- 2. One (1) vacancy on the Recreation Advisory Board (represents 'at-large' position).+**
- 3. One (1) vacancy on the Business Improvement District Board (represents 'bank or financial institution' position).++**

4. Three (3) vacancies on the Disaster Relief Committee.++

5. One (1) vacancy on the Youth Advisory Board (represents 'at-large student member' position).++

AGENDA REVISION(S):

1. Ms. Sherman advised that:

a. A revised Highway Maintenance Memorandum of Agreement was provided by the Florida Department of Transportation for Item 4, under Consent Agenda. The compensation to the City increased from \$33,217 to \$48,473 annually.

b. Republic Services provided additional documents related to fuel tanks for Item 1, under Public Hearings.

CONSENT AGENDA:

All items of business reflected under Consent Agenda were considered and enacted by the following motion:

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, that the Consent Agenda be approved as presented. 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 2020-36; October 15, 2020.

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

2. Adoption of Minutes: Special Council Meeting 2020-38; October 29, 2020.

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

3. Miscellaneous: Caterpillar equipment; parts, services and new equipment – Public Works Department (Ring Power Corporation - \$120,000, as needed (sole source)).

Staff Recommendation: Approve the sole source annual purchases of parts, services, and new equipment on an 'as needed' basis from Ring Power Corporation (Palm Bay), in the estimated amount of \$120,000.

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

4. Resolution 2020-57, authorizing a Highway Maintenance Memorandum of Agreement with the Florida Department of Transportation for roadside and median maintenance of State right-of-way within City limits (Babcock Street (northern City limits to Malabar Road); Malabar Road (I-95 to eastern City limits); and US-1 (southern City limits to University Boulevard)) (\$99,651, three-year term).

The City Attorney read the resolution in caption only.

The item, considered under Consent Agenda, was approved as recommended by City staff, with the revised compensation to the City as announced under Agenda Revisions.

5. Consideration of a budget amendment from Neighborhood Stabilization Program (NSP) Fund Balance to cover the cost of mowing maintenance for six (6) City-owned NSP properties for Fiscal Year 2020-2021 (\$4,600).

Staff Recommendation: Approve a budget amendment from Neighborhood Stabilization Program (NSP) Fund Balance to cover the cost of mowing maintenance for six (6) City-owned NSP properties for Fiscal Year 2020-2021, in the amount of \$4,600.

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

6. Consideration of appropriation of Fund Balance from the General Fund (\$70,000) and Building Fund (\$38,800) to cover the cost of credit card acceptance fees.

Staff Recommendation: Approve the appropriation of Fund Balance from the General Fund (\$70,000) and Building Fund (\$38,800) to cover the cost of credit card acceptance fees.

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

7. Consideration of appropriation of funds to the Building Division Operational Budget to install a door access system at the new office location (\$7,995).

Staff Recommendation: Approve the appropriation of funds to the Building Division Operational Budget to install a door access system at the new office location, in the amount of \$7,995.

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

8. Consideration of utilizing Fire Impact Fees to purchase an air compressor at Fire Station 5 (\$50,000).

Staff Recommendation: Approve the utilization of Fire Impact Fees to purchase an air compressor at Fire Station 5, in the amount of \$50,000.

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

9. Consideration of an additional full-time Fire Inspector position within the Fire Prevention Bureau (\$63,383).

Staff Recommendation: Approve an additional full-time Fire Inspector position within the Fire Prevention Bureau, in the amount of \$63,383.

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

10. Consideration of utilizing Police Impact Fees for the purchase of six (6) patrol vehicles and on-boarding expenditures for six (6) new entry level Patrol Officer positions awarded under the Department of Justice (DOJ) Cops Hiring Program (CHP) Federal Grant.

Staff Recommendation: Approve the utilization of Police Impact Fees for the purchase of six (6) patrol vehicles and on-boarding expenditures for six (6) new entry level Patrol Officer positions awarded under the Department of Justice (DOJ) Cops Hiring Program (CHP) Federal Grant.

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

11. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund (\$16,510).

Staff Recommendation: Approve the expenditure of funds as specified in the City Manager's memorandum.

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

12. Consideration of travel and training for specified City employees (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):

The proclamation was read.

1. Proclamation: Sixteen (16) Days of Activism for the Elimination of Violence Against Women - November 25-December 10, 2020.

PRESENTATION(S):

1. Beverley Squire-Wiggins and Marianne Solomon, Homelessness Task Force - status update.

Ms. Squire-Wiggins advised that the Task Force's mission was to develop strategies and recommendations to improve the homeless situation in the City.

Long term recommendations included identifying an organization(s) and/or person(s) to take the full lead on homelessness in the City; designating a department within the City that would provide support to selected organization/person; and developing a comprehensive plan to address the specific needs of Palm Bay's homeless population, including a system to capture ongoing data about homeless population that was reported to the City on a regular basis.

Short term recommendations included online and social media presence aimed at homeless population; capture current agencies presently providing service for homeless population; determine the needs of the homeless population being met and needs to be addressed; data collection system to capture ongoing data about the homeless population for agency and City use; and establishing an advisory group, including at least one member from the homeless population.

Mr. Bailey asked staff to provide data on the number of homeless camps in Brevard County.

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

There were no public comments.

PUBLIC HEARING(S):

1. Resolution 2020-56, granting a conditional use to allow for an automotive fuel dispensary in LI (Light Industrial and Warehousing District) zoning on property located in the vicinity east of Northview street and north of Robert J. Conlan Boulevard (3.41 acres) (Case CU-23-2020, Republic Services of Florida, LP) (Quasi-Judicial Proceeding). (CONTINUED FROM 11/05/20 RCM)

The Planning and Zoning Board recommended that the request be approved, subject to an eight (8) foot high opaque fence being erected along the west and north property lines, and the relocation of the fuel tank onsite, according to approved staff location.

The City Attorney read the resolution in caption only. The public hearing was opened. Jake Wise, representative for the applicant, presented the request to Council.

Mr. Bailey asked if applicant agreed to staff's relocation of the fuel tank. Mr. Wise confirmed that there was a 30-40-foot difference in the location, but staff had agreed to same.

George Sherman, Environmental Manager from Republic Services (Republic), provided a presentation which detailed the types of tanks that would be installed onsite; information on the Stormwater Pollution Prevention Plan; and information on the Spill Prevention, Control, and Contingency Plan. At the request of Council from the last meeting, Mr. Sherman advised that Republic had twelve (12) facilities with seventeen (17) regulated aboveground storage tanks (ASTs): twelve (12) diesel and five (5) oil. Tank installations ranged from 1989 to 2006. There were no reported cleanups associated with spills from regulated ASTs for Republic.

Mr. Santiago asked if there would be cameras at the site. Mr. Sherman confirmed same. Mr. Santiago asked how Republic was currently fueling its vehicles. Mr. Sherman said a mobile refueler was being utilized. Mr. Santiago asked if Republic was in violation of the Code of Ordinances (Code) as mobile refuelers were prohibited without a conditional use. Ms. Smith said that mobile refueling was not specifically addressed in the Code, but the interpretation was that mobile refueling required conditional use approval and Republic would be in violation based on that intent.

Deputy Mayor Johnson asked if numerous trucks would be fueling at the same time. Mr. Sherman said trucks would be coming back to the site to refuel in a staggered fashion.

He said the site could accommodate any lineup of trucks for refueling and would not cause offsite vehicular traffic.

Mr. Bailey asked staff about expectations regarding fumes and the location of the tank. Mr. Watanabe said the Public Works site had three, 15,000-gallon, underground tanks and each had a venting stack. He was unaware of any emission issues or leaks with those tanks. There was also a 12,000-gallon aboveground tank at the Main Street site, also with a venting unit, and there had been no issues. Mr. Bradley said staff recommended the relocation of the tank, but it was not a requirement. Site plan review was still required, and staff would see the exact location of the tank at that time. The intent was that the tank would be shielded from residential properties.

Mr. Anderson asked the depth of the bollards. Mr. Sherman said the depth was approximately the same as what was seen aboveground and they were filled with concrete.

Mr. Bailey asked if the applicant's noncompliance of the Code due to onsite refueling could have any bearing on Council's decision. Ms. Smith said an issue that would be relevant was the repercussion to Republic if the conditional use was not granted. Additionally, the only question was if Council was going to allow fuel dispensing on the site. Council had no control of whether Republic should be located at the site or if they could have trucks on the site. Those uses were already permitted within the zoning district.

Numerous individuals spoke against the request, stating that the vapors were explosive and caused cancer; safety to residents in close proximity; Republic's history of spills and fines at other locations; Glover Oil located a couple of miles away; and impact on property values.

Mr. Bailey asked for staff comment about the safety of the application and any related experiences. Chief Hoog said that diesel tanks typically invoked an environmental concern. The setup proposed by the applicant was very safe. She said the homeowners expressed concern with an explosion and due to vapors, there was an explosion hazard. However, the difference between diesel and gasoline was that diesel required an ignition source. If the tanks were properly vented, the vapors would not build up.

Mr. Wise responded to the public comments. Mr. Bailey asked if the applicant would agree to a condition that once the video cameras were installed at the site, recordings would be available to the City in a reasonable timeframe upon request, such as within 24-48 hours. Mr. Wise confirmed same.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to discuss the request.

Deputy Mayor Johnson said he made the motion to deny the request at the last meeting due to Item G of the Staff Report. He said that many of his concerns had since been addressed.

Mr. Anderson said the problem was the City's Comprehensive Plan. The applicant had done everything properly and they were allowed to be at the site due to the zoning. The only question was if the City would permit fuel tanks on the property.

Mr. Santiago was still concerned with Item G of the Staff Report related to vehicular movement and Republic having to bring in a refueler. The only difference was that, if approved, Republic would have fuel delivered once per week instead of daily.

Mayor Capote said he felt for the residents and understood their concerns, but it was Council's responsibility to follow the laws of the hearing. He supported the request and said that Council should not impede Republic from doing its job. Councilmembers made further comments. Mr. Bailey did not feel that vehicular movement under Item G was defensible as it would subject every applicant that requested a storage tank on their property to that same issue.

Motion by Deputy Mayor Johnson to adopt Resolution 2020-56. Mr. Bailey asked that the motion include his condition request regarding the surveillance video.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Resolution 2020-56, subject to the 8-foot high opaque fence and buffering agreed upon, and staff's approval of the location of the fuel tank, and with the condition that the applicant record video surveillance of the pump station and that such surveillance be provided to the City within forty-eight (48) hours upon request.

Motion carried with members voting as follows:

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

2. Ordinance 2020-76, amending the Code of Ordinances, Chapter 62, Road Maintenance District, by repealing the chapter in its entirety, final reading.

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

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-76. 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 2020-77, amending the Code of Ordinances, Chapter 184, Subdivisions, by removing the requirement for recordation of the subdivision plat prior to issuance of building permits for model homes and developer owner/building homes, final reading.

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

Bill Battin, resident, said that pursuant to the ordinance, if the subdivision fell through and was not completed, any model homes had to be demolished. He asked if the model homes scattered throughout the City had to be demolished as well. Mr. Bailey asked if the model homes were specifically for subdivisions or could they be built on random vacant lots. Mr. Battin said he was unsure, but the signs advertised for specific developments. Ms. Sherman said the ordinance applied to subdivision developments only, and not the scattered lots throughout the City.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2020-77. 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 2020-78, amending the Fiscal Year 2019-2020 budget by appropriating and allocating certain monies (fifth budget amendment), final reading.

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

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to adopt Ordinance 2020-78. 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 2020-79, amending the Code of Ordinances, Chapter 171, Fair Share Impact Fees, Subchapter 'Water and Wastewater Impact Fees', by adjusting the capital charges and capital charge recovery fees and removing the annual indexing of amounts (Case T-25-2020, 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 public comments.

Motion by Deputy Mayor Johnson, seconded by Mr. Anderson, to adopt Ordinance 2020-79. 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 a substantial amendment to the Fiscal Year 2019-2020 Annual Action Plan.

The public hearing was opened. Ms. Sherman presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve the substantial amendment 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.

7. Consideration of a technical revision to the substantial amendment to Community Development Block Grant prior years (Fiscal Years 2014, 2015, and 2016) Unspent Funds.

The public hearing was opened. Ms. Sherman presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve the technical revision to the substantial amendment 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.

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.

NEW BUSINESS:

1. Consideration of an addendum to the Avery Springs Subdivision utility agreement; and increase to quote from Hydra Service, Inc. for the purchase of pumps and electrical panel.

Staff Recommendation: Authorize staff to execute the amendment to the Avery Springs Subdivision Utility Agreement; and approve the increase of the piggyback purchase of pumps and electrical panel from Hydra Service, Inc., utilizing the Orange County purchasing agreement.

Bill Battin, resident, did not agree with developers receiving tax credits for something that was the responsibility of the City.

Motion by Deputy Mayor Johnson, seconded by Mr. Santiago, to authorize staff to execute the amendment and approve the increase of the piggyback purchase as requested.

Mr. Bailey asked if there were any guarantees or protection clauses in the agreement. Mr. Little said that the City would work with developers on the cost of the developers' share and how it related to the City's Utilities Master Plan. Once the project was completed, the City had the ability to review the final certified cost to ensure that the developer was not trying to make money off the City.

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 general comments.

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ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 9:40 p.m.

Kenny Johnson, DEPUTY MAYOR

ATTEST:

Terese M. Jones, CITY CLERK