

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2021-01

Held on Thursday, the 7<sup>th</sup> day of January 2021, at the Tony Rosa Community Center, Rooms A and B, 1502 Port Malabar Boulevard, NE, 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 7:02 P.M.

Richard Spellman, resident, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

### ROLL CALL:

<b>MAYOR:</b>	Robert Medina	Present
<b>DEPUTY MAYOR:</b>	Kenny Johnson	Present
<b>COUNCILMEMBER:</b>	Jeff Bailey	Present
<b>COUNCILMEMBER:</b>	Randy Foster	Present
<b>COUNCILMEMBER:</b>	Donny Felix	Present
<b>ACTING CITY MANAGER:</b>	Suzanne Sherman	Present
<b>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>DEPUTY CITY CLERK:</b>	Terri Lefler	Present

**CITY STAFF:** Present was Laurence Bradley, Growth Management Director; Frank Watanabe, Public Works Director/City Engineer; Yvonne McDonald, Finance Director.

### ANNOUNCEMENT(S):

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

- 1. One (1) vacancy on the Business Improvement District Board (represents 'bank or financial institution' position).++**
- 2. One (1) vacancy on the Youth Advisory Board (represents 'at-large student member' position).++**

### AGENDA REVISION(S):

- Ms. Sherman announced the following revisions to the agenda:
  - The resolution provided for Item 7, under Public Hearings, relating to Concept Development's conditional use request, had been revised to include the full legal description of the property.

b. Discussion of the position of City Manager had been added by Councilman Foster as Item 9, under New Business.

**CONSENT AGENDA:**

All items of business under the ‘Consent Agenda’ heading were 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 Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**1. Adoption of Minutes: Regular Council Meeting 2020-43; December 17, 2020.**

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

**2. Award of Bid: Culvert pipe replacement, Unit 20 – IFB 19-0-2021 – Public Works Department (Timothy Rose Contracting, Inc. - \$166,445).**

Staff Recommendation: Award the bid for culvert pipe replacement, Unit 20, to Timothy Rose Contracting, Inc., in the amount of \$166,445.25.

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

**3. Award of Proposal: Broker of Record, Benefits Consultant Services - RFP 03-0-2021 - Human Resources Department (The Gehring Group, Inc. - \$70,000).**

Staff Recommendation: Award the proposal for Broker of Record, benefits consultant services, to The Gehring Group, Inc., for an initial three-year contract, renewable by the Procurement Department for two (2) additional one-year terms. The annual fee will be \$70,000 for years one and two, \$72,500 for years three and four, and \$75,000 for year five.

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

**4. Contract: Superior public safety software maintenance and support, renewal – Information Technology Department (Central Square (dba Superior) - \$106,300).**

Staff Recommendation: Approve up to \$106,299.89 to Central Square, dba Superion, for the renewal of OneSolution public safety software maintenance and support.

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

**5. Contract: Building Services – Inspection and Plan Review, spending authority increase - Building Department (Bureau Veritas North American; Joe Payne; GFA International, Inc.; Safebuilt Florida LLC (\$560,000 (total contract value))).**

Staff Recommendation: Approve the increase of contract spending authority to a total estimated annual contract value of \$560,000 through the end of contract on March 19, 2021, to the multiple vendor award contracts of IFB 33-0-2018 (Bureau Veritas North America (Orlando), Joe Payne, Inc. (Tampa), GFA International, Inc. (Port St. Lucie), and Safebuilt Florida LLC (Loveland, Colorado), to be utilized on an ‘as needed’ basis.

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

**6. Miscellaneous: Wastewater Master Plan update – Task Order 21-04-IS (in accordance with Master Agreement) – Utilities Department (Infrastructure Solutions Services (ISS) – \$244,260).**

Staff Recommendation: Authorize the execution of ISS Task Order 21-04-IS for the Wastewater Master Plan Update, in the amount of \$244,260, against Master Agreement 36-0-2020.

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

**7. Resolution 2021-01, rescinding Resolution 2018-51, which authorized the closure of Waterbury Avenue, between Summer Street and Toulon Road.**

The City Attorney read the resolution in caption only.

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

**8. Acknowledgement of Investment Performance Review Report, prepared by PFM Asset Management, LLC, for the quarter ended September 30, 2020.**

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

**9. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund (\$6,255).**

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.

**10. 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.

**RECOGNITIONS AND PROCLAMATIONS:**

The proclamation was read.

**1. Proclamation: Business Partner of the Year 2020 - Palm Bay WalMart #5455.**

**PRESENTATIONS:**

**1. Joan Junkala-Brown, Community and Economic Development Director - Community and Economic Development Department update.** Ms. Junkala-Brown provided an overview of the department's divisions and responsibilities of same.

Deputy Mayor Johnson asked if extra positions were needed to assist the growing number of residents that sought assistance from the City. Mrs. Junkala-Brown said that staff was needed in the Housing and Community Development Division.

Mr. Foster said he was interested in bringing more commercial and manufacturing businesses to Palm Bay and asked how staff would work to accomplish the task. Mrs. Junkala-Brown advised of incentives to attract business, as well as working with resource partners, such as the Economic Development Commission.

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

1. A resident made a general comment.

**PUBLIC HEARING(S):**

1. **Ordinance 2020-58, amending the Code of Ordinances, Chapter 170, Construction Codes and Regulations, Subchapter 'Building Code', by eliminating the requirement for a building permit for accessory structures 120 square feet or less in residential districts associated with single-family dwellings and revising provisions contained therein (Case T-20-2020, City of Palm Bay), final reading. (Councilman Bailey)**

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

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve Ordinance 2020-58.

Motion carried with members voting as follows:

Mayor Medina	Yea
Deputy Mayor Johnson	Yea
Councilman Bailey	Yea
Councilman Foster	Yea
Councilman Felix	Nay

2. **Ordinance 2020-85, amending the Code of Ordinances, Chapter 39, Community and Economic Development, by including additional provisions for the Economic Development Division and adding the Business Improvement District as a departmental 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. Foster, to approve Ordinance 2020-85. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Ordinance 2020-86, amending the Code of Ordinances, Chapter 92, Noise, by modifying definitions contained therein, 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. Bailey, seconded by Deputy Mayor Johnson, to approve Ordinance 2020-86. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**4. Ordinance 2020-87, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations', by modifying front yard building setbacks and parking areas, and reducing the minimum side corner building setback in RC (Restricted Commercial District) zoning (Case T-33-2020, City of Palm Bay), final reading. (Councilman Bailey)**

The City Attorney read the ordinance in caption only. The public hearing was opened. Mr. Bailey presented the item to Council.

Bill Battin, resident, expressed concern with extending the setbacks. He said if a road needed to be widened in the future, the City may not have enough buffer on either side of the road. Ms. Sherman explained that this would only affect those properties in RC zoning and there were additional rights-of-way in that area for the future expansion of Malabar Road.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Felix, to approve Ordinance 2020-87. Mr. Bailey said this ordinance would bring the properties into the same setback requirements as other commercial properties along the corridor. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**5. Ordinance 2021-01, rezoning property located southwest of and adjacent to Zanzibar Road, in the vicinity south of Waco Boulevard and east of the Melbourne-Tillman Water Control District Canal 42 R-1, from IU (Institutional Use District) to RS-2 (Single-Family Residential District) (1.00 acre) (Case Z-38-2020, Samuel and Michelle Guinto), first reading (Quasi-Judicial Proceeding).**

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. The applicant presented the request to Council. The public hearing was closed.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve ordinance 2021-01. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**6. Ordinance 2021-02, granting approval of a Final Development Plan for a proposed single-family residential Planned Unit Development (PUD) to be known as ‘Gardens of Waterstone Phase 1 PUD’ on property located west of and adjacent to Mara Loma Boulevard, in the vicinity south of Melbourne Tillman Water Control District Canal 38 (44.65 acres) (Case FD-36-2020, Waterstone Farms, LLC, and PB&J Garden Investment, LLC) (Quasi-Judicial Proceeding), first reading.**

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. Jake Wise, CEG Engineering and representative for the applicant, presented the request to Council.

Mr. Bradley advised of the following conditions as recommended by staff:

- a. Fully engineered construction drawings;
- b. Specific layout and architectural drawings illustrating the amenities and walking trails; and
- c. The technical comments generated by the Development Review Staff shall be observed and incorporated into the subdivision design.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2021-02, subject to staff comments contained in the Staff Report and the conditions as set forth in Section 2 of the ordinance. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**7. Resolution 2021-02, granting a conditional use to allow a retail store occupying more than 5,000 square feet of gross floor area in NC (Neighborhood**

**Commercial District) zoning on property located northwest of and adjacent to DeGroot Road, in the vicinity south of Sexton Road (1.81 acres) (Case CU-29-2020, Concept Development, Inc.) (Quasi-Judicial Proceeding).**

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

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

Jack Spira, representative for the applicant, presented the request to Council. He corrected the Staff Report, stating that the surrounding zoning was Single-Family to the north, Neighborhood Commercial to the east, Neighborhood Commercial Institutional to the south and a 100-foot wide Florida Power and Light easement to the west. Mr. Spira provided a traffic analysis and advised that it had not been provided to the Planning and Zoning Board (P&Z) as it was not required at that time. A Project Report had also been provided to Council.

Mr. Bradley advised of the following conditions as recommended by staff:

- a. A Utility Agreement shall be executed between the property owner and the City;
- b. All applicable outside agency permits must be obtained (St. Johns River Water Management District, Melbourne-Tillman Water Control District, Florida Department of Environmental Protection, Brevard County, Department of Environmental Health Services, etc.);
- c. A Traffic Impact Analysis shall be submitted during the site plan review process to determine what improvements might be needed to DeGroot Road SW;
- d. A tree survey was required and would be utilized to determine any possible preservation of existing vegetation; and
- e. Prior to the issuance of any building permits, the engineered site plans must be granted administrative approval.

Deputy Mayor Johnson asked what would be done if staff found an issue with the Traffic Impact Analysis. Mr. Bradley said the applicant may have to complete mitigation measures, such as widening the road or installing a turn lane. Deputy Mayor Johnson said he was concerned, especially with the skate park in that area and speeding along DeGroot Road.

Mr. Bailey asked if a Traffic Analysis should include pedestrian traffic. Mr. Bradley answered that the analysis was typically related to vehicular movements. A safety analysis could be performed to address pedestrian safety.



Holly White, Licensed Professional Civil Engineer and expert witness for the applicant, provided an overview of the Traffic Analysis. She said there was no sidewalk along the development side but there was a sidewalk across the street. However, the applicant was willing to install a crosswalk to the other side of the street where the sidewalk existed. Ms. White reviewed other specifics of the project. She answered questions posed by councilmembers.

Mr. Bailey asked if discount stores normally had pedestrian traffic. Seth Lane, Concept Companies and expert witness for the applicant, confirmed same and added that it really depended on the urbanicity of the location. Ms. White said the applicant would be agreeable to constructing a sidewalk in front of the development.

Mr. Foster asked about lighting in the area as the roadway was very dark. Ms. White said the City had specific provisions regarding lighting in order to provide adequate lighting for safety and for non-spill lighting onto adjacent properties. All lighting would be reviewed during the site plan process.

Mr. Felix understood that a store could be placed at that location if it fell under the 5,000 square foot threshold. However, he was still extremely concerned about the curve on the roadway and asked when deliveries would be made to site. He said that at the growing rate of the City, the traffic study presented today would be useless five (5) years from now. Mr. Lane said deliveries would be made during non-business hours and said it would be rare to have a large tractor trailer making the deliveries. It would more of a box-type truck, such as a bread truck.

Mayor Medina concurred with comments regarding the concern of the road curve. He asked how that could be addressed. Mr. Lane said the applicant wanted to create a safe environment for the customers, employees, and the community. He said direction would be taken from City staff to ensure that safety measures were in place and the applicant would be open to those discussions.

Mr. Watanabe said that staff had concerns even when the project was 5,000 square feet. The main issues were the curved roadway and pedestrian safety. He said the project should have sidewalk connectivity along the west side to the nearest intersection so as to provide crossings away from the curve. He also suggested a left turn lane due to the area being a high-speed area. Mr. Bailey asked if the applicant would be agreeable to installing a sidewalk from Saxony Road to McGriff Park. Mr. Lane confirmed same, as long as they were not required to get right-of-way or easement rights from surrounding properties.

Bill Battin, resident, hoped that the City's updated Comprehensive Plan would be able to address site issues such this on future requests.

David Moallem, owner of the property, spoke in favor of the request. He said if there were concerns about speeding, then it should be enforced. He said the store would eliminate traffic from other roadways as residents would not have to always go to the main grocery stores. He said that other types of uses could be placed at the site without Council approval and the curve would still be an issue.

Margaret Hardison, property owner located at the corner of Sexton and DeGroot Roads, spoke against the request. She wanted to know the necessity of having another Dollar General when there was one a few miles away in each direction. She was also concerned about the speeding, and although speeding had nothing directly to do with the store itself, the store would generate additional traffic.

Mr. Spira said that the traffic already existed and additional traffic would be generated with whatever use was placed at the site. He reiterated that the applicant was willing to work with staff regarding safety measures.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-02, subject to the staff comments contained in the Staff Report and the conditions as set forth in Section 2 of the resolution, to include a sidewalk connecting to McGriff Park if property rights-of-way could be provided, as well as a turn lane.

Mr. Bailey called a Point of Order and asked that the motion be amended to include the sidewalk extending to Saxony Road. Ms. Smith said the sidewalk and traffic mitigation should be a condition upon recommendation and approval of the City Engineer during site plan review.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-02, subject to the staff comments contained in the Staff Report and the conditions as set forth in Section 2 of the resolution, with the additional condition of sidewalk and traffic mitigation upon recommendation and approval of the City Engineer during site plan review.

Councilmembers reiterated their concerns regarding traffic, speeding and lighting, but supported the request.

Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**UNFINISHED AND OLD BUSINESS:**

**1. Appointment of one (1) member to the Police and Firefighters Pension Plan, Board of Trustees.**

Ms. Smith presented the item to Council.

Mr. Foster felt that the current member, former Mayor William Capote, should complete his term and then Council could appoint at that time. Deputy Mayor Johnson agreed.

Mr. Bailey said the board was not at the pleasure of Council as it was a statutory board. He had not been contacted by Mr. Capote (current board member) so he was unsure if he wanted to remain on the board, and Mr. Capote had served on the board for numerous years. Mr. Bailey wanted to serve on the board, but he also supported Mayor Medina as the new board member.

Mr. Felix said the ordinance did not state that the board member must be a member of Council. He felt Mr. Capote should remain on the board until his term expires in 2022, then Council should appoint a different resident of City.

Mayor Medina mentioned that former Mayor John Mazziotti previously served on this board and when he was not re-elected, Mr. Capote was appointed to serve the remainder of the term. Mayor Medina felt a precedent had been set and he was willing to serve in this capacity. He said an elected official could not work for the City. He wanted to work with the City Attorney to fix this membership loophole and possibly adding that a member of Council should serve on the board.

Deputy Mayor Johnson still felt that Mr. Capote should serve until the term expired and then Council could make changes as desired.

Mr. Foster said there were two (2) individuals appointed by Council that served on the board, yet Council was only discussing Mr. Capote and his term had not expired.

Mr. Bailey asked when the term began and would expire. Mrs. Lefler said the term was for two (2) years, which began April 1, 2020 and would expire on March 31, 2022. Mr. Bailey felt that maybe the Mayor and a councilmember would serve in those positions.

Mayor Medina said he would not support Mr. Capote continuing to serve on the board. He asked if Mr. Bailey wanted to work with the City Attorney to address the ordinance language for Mayor and/or councilmember to serve on the board. Mr. Bailey agreed and felt it was important for a member of Council to serve on the board.

Deputy Mayor Johnson left the meeting at this time.

Motion by Mr. Bailey to appoint Mayor Medina to serve on the Police and Firefighters Pension Plan, Board of Trustees. Motion died for lack of a second.

### **COUNCIL REPORTS:**

Councilmembers addressed various subject.

1. Mr. Felix re-appointed Philip Weinberg to the Citizens' Budget Advisory Committee.

Note: Pursuant to Regular Council Meeting 2021-04, Adoption of Minutes, Mr. Felix corrected that Mr. Weinberg was re-appointed as his representative to the Space Coast Transportation Planning Organization's Citizens Advisory Committee.

Deputy Mayor Johnson rejoined the meeting at this time.

2. Mr. Bailey made the following appointments:

- a. James Boothroyd – Planning and Zoning Board;
- b. Peter Filiberto – Citizens' Budget Advisory Board;
- c. Thomas Gaume – Infrastructure Advisory and Oversight Board.

3. Mr. Bailey advised that he would be presenting an ordinance revision in the future to Section 185.203, Palm Bay Code of Ordinances, related to the petition process for rezoning cases.

4. Mr. Bailey said there were still some outstanding issues with Republic Services regarding solid waste collection. He hoped that staff was holding them accountable for the liquidated damages.

### **NEW BUSINESS:**

1. **Resolution 2021-03, amending Resolution 2011-34, by updating the City of Palm Bay Fund Balance Policy.**

The City Attorney read the resolution in caption only.

Ms. Sherman presented the item to Council. She said there was a recommendation to modify the stabilization reserve which currently stated that Council may set aside between 5%-7% of the Fund Balance as an emergency reserve. The proposed amendment was a permanent Emergency Contingency Fund with an annual balance of \$2-\$3 million.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Resolution 2021-03.

Mr. Bailey expressed concern about the stabilization reserve. He did not want Council to be in a position to fall below the required amount of \$2-\$3 million. He suggested a percentage, such as 5%-7% versus a nominal fixed number, and that Council 'would' do it instead of 'may' do it. He also wanted to change the minimum unrestricted fund balance from 10%-17% to 10%-12%. He felt it brought financial stability while also providing some flexibility. Ms. Sherman recommended anything over 10%.

Mr. Foster was more inclined to go with 17% as two (2) months in reserves was still too low. He supported using 'may' instead of 'shall' so that Council was not backed into a corner.

Deputy Mayor Johnson and Councilman Felix supported the resolution as is. There was further discussion on the amendments proposed by Councilman Bailey.

Mrs. McDonald recommended higher than the minimum fund balance requirement or the guidelines as established by the Government Finance Officers Association.

Mr. Foster asked if the City's credit rating would be affected by the amendments. Molly Clark, Public Resources Advisory Groups (City's financial advisor), said the rating agencies were aware that the City's existing policy required a 10% restricted fund balance and that the City historically exceeded that balance. Rating agencies were giving credit to cities for practices that were more rigorous than required by the policies. She felt that adopting a rigorous policy showed a good-faith effort to maintaining those practices. However, it could not be said whether a new policy would prompt an upgrade in credit rating, but it would be viewed as a credit positive.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Resolution 2021-03, with the amendment to the Emergency Contingency Fund with an annual balance of 2%-4%.

Ms. Sherman asked that under Section V, Stabilization Funds, fourth paragraph, the third sentence should read as follows: "The City Manager, ~~in his or her sole discretion,~~ will

determine qualified uses of the funds held in the Emergency Contingency Fund, on a case by case basis >>in accordance with the Procurement Ordinance<<.”

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Resolution 2021-03, with the amendment to the Emergency Contingency Fund with an annual balance of 2%-4%, and the language revisions to Section V, Stabilization Funds, as stated.

Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Resolution 2021-04, supplementing Resolution 2018-63, by authorizing the issuance of not exceeding \$50,000,000 in aggregate principal amount of City of Palm Bay General Obligation Bonds, Series 2021, in order to finance roadway improvements.**

The City Attorney read the resolution in caption only. Ms. Sherman presented the item to Council.

Bill Battin, resident, asked if the City could draw more funds, if needed. Ms. Sherman said that funding would be up to the maximum authority given by voters, which was \$50 million.

Motion by Deputy Mayor Johnson, seconded by Bailey, to adopt Resolution 2021-04. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Ordinance 2021-03, amending the Fiscal Year 2020-2021 budget by appropriating and allocating certain monies (first budget amendment), first reading.**

The City Attorney read the ordinance in caption only. Ms. Sherman presented the item to Council.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve Ordinance 2021-03. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

A brief recess was taken after which the meeting resumed.

**4. Consideration of utilizing unallocated funds for Contracting Mowing Services (Public Works Department - \$200,000 annually).**

Staff Recommendation: Authorize the utilization of unallocated funds for contracting mowing services for the Public Works Department, in the amount of \$200,000 annually.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the request. Mr. Bailey said there were times during the year when two times per month was not always necessary and asked that staff be mindful of same. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**5. Consideration of utilizing unallocated funds for an Operations Manager and purchase of one (1) vehicle (Public Works Department - \$86,625).**

Staff Recommendation: Approve the utilization of Undesignated Fund Balance for an Operations Division Manager and the purchase of a Ford F250 vehicle in the Public Works Department, in the amount of \$86,625.

Mr. Watanabe presented the item to Council.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**6. Consideration of utilizing unallocated funds for an Engineering Technician II in the Public Works Department (\$41,961).**

Staff Recommendation: Authorize the utilization of unallocated funds for an Engineering Technician II in the Public Works Department, in the amount of \$41,961.

Mr. Watanabe presented the item to Council.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**7. Consideration of reclassifying the part-time Data Entry Clerk to full-time (Public Works Department - \$41,584).**

Staff Recommendation: Approve the reclassification of a part-time Data Entry Clerk to full-time within the Public Works Department, with the utilization of General Fund Undesignated Fund Balance, in the amount of \$41,584.

Mr. Watanabe presented the item to Council.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request.

Mr. Bailey expressed concern about the cost. He said an additional part-time person could be secured for less than making this position full-time. He understood there may be some continuity and spacing issues, but still had reservations about the request.

Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

#### **8. Discussion of security measures at City facilities. (Councilman Foster)**

Mr. Foster presented the request to Council. Due to his background in security, he asked to meet with staff to discuss security measures within City buildings.

Deputy Mayor Johnson asked for a legal opinion. Ms. Smith said that Council could not direct Councilman Foster to meet directly with the Police Chief, but he could meet with Ms. Sherman.

Mayor Medina asked if Councilman Foster had a security business. Mr. Foster answered in the negative and said his business dealt with expert witnesses, not security.

Mr. Bailey asked if the intent was to set a policy with the City Manager or bring a policy to Council for consideration. He felt it should come to Council for final approval. Mr. Foster said he wanted to be an advisory to staff and bring back to Council for budget and/or policy. Council concurred with Mr. Foster's request.

#### **9. Discussion of the position of City Manager. (Councilman Foster) (AGENDA REVISION)**

Motion by Mr. Foster, seconded by Deputy Mayor Johnson, to appoint Suzanne Sherman as City Manager, with Councilman Foster to negotiate the employment contract with Ms. Sherman.

Mr. Foster felt Ms. Sherman was doing a great job and stated his reasons for same.

Deputy Mayor Johnson felt Council would need more time, but since it was an item on the agenda, he fully supported Ms. Sherman.

Mr. Felix had been highly impressed with Ms. Sherman for many years, even before she was part of upper management. He was in favor of her being City Manager.



Mr. Bailey stated he had always made it clear that he wanted a search performed for the position and foregoing a search was concerning to him. He did not agree with the item being placed on the agenda at the last minute with no Legislative Memorandum. He asked that it be tabled to the next agenda to give proper notice, along with a memorandum.

Mayor Medina said it was critical that this vote be unanimous. He felt Ms. Sherman had a high level of morale, as well as dedication to the staff and residents.

Butch Orend, resident, wanted to see Council vote, regardless of it being unanimous. He felt Ms. Sherman was doing an excellent job.

Bill Battin, resident, saw pros and cons. A negative was that the City performed a search previously, then Council decided to appoint an individual who was not recommended by the firm. He did not want to see money wasted if Council knew who they wanted in the position. He felt that placing the item on the agenda at the last minute was not being transparent to the public. However, he supported Ms. Sherman as City Manager.

Mr. Bailey said that Ms. Sherman would be a quality choice for City Manager. His concern was more about the item being added last minute. He reiterated that the item should be brought back at the next regular meeting with a memorandum and give time for Council to think about it and speak with Ms. Sherman individually.

Mr. Foster said there have been items put on the agenda last minute in the past. He said Ms. Sherman had worked for the City for seventeen (17) years. He questioned why Council would waste money to look for anyone else when they had a very qualified candidate ready to go. He said it was a Council decision, not a public decision.

Deputy Mayor Johnson mentioned that his first vote after being sworn in was to terminate Gregg Lynk, and the item was added to the agenda last minute. He was okay with moving forward today because Ms. Sherman had the best interest of the City.

Mayor Medina urged Councilman Foster to place the item on the next agenda to allow for public input.

Mr. Felix did not feel that Council was rushing with this item. Council agreed on Ms. Sherman's level of leadership. He felt the result would be no different in two weeks, so Council should vote tonight. Mr. Bailey felt that even placing it on the next meeting was too soon for him.

There was further discussion among councilmembers.

Mayor Medina asked Councilman Foster to reconsider and bring the item back at the next meeting. Mr. Foster did not agree and said he could live with a 3 to 2 vote. He said he placed the item on the agenda at the last minute because he did not want it to become a political arena.

Mr. Bailey felt that Councilman Foster, as a new councilmember, should not be the one negotiating the contract and he would be willing to be the negotiator. Mr. Foster said that although Councilman Bailey had been on Council longer, he had a background in negotiating contracts.

Ms. Smith recommended two separate motions. Deputy Mayor Johnson withdrew his second to the motion.

Motion by Mr. Foster, seconded by Deputy Mayor Johnson, to appoint Suzanne Sherman as City Manager.

Motion carried with members voting as follows:

Mayor Medina	Yea
Deputy Mayor Johnson	Yea
Councilman Bailey	Nay
Councilman Foster	Yea
Councilman Felix	Yea

Motion by Mr. Foster, seconded by Mr. Felix, to have Deputy Mayor Johnson negotiate Ms. Sherman's contract.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea
Councilman Bailey	Nay
Councilman Foster	Yea
Councilman Felix	Yea

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Sherman gave a general report.

**PUBLIC COMMENTS/RESPONSES:**

Residents made general comments.

1. Butch Orend, resident, commented on speeding dump trucks on the roads; Republic Services trucks placing trash cans in the roadways; asked if residents could opt out of recycling; and u-turns at major intersections on Malabar Road which caused traffic jams. Ms. Sherman would respond directly to Mr. Orend.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 12:09 a.m., on Friday, January 8, 2021.

---

Robert Medina, MAYOR

ATTEST:

---

Terri J. Lefler, DEPUTY CITY CLERK