

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2021-02

Held on Thursday, the 21<sup>st</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 7:00 P.M.

Pastor David Cannon, Grace Bible Church, was not in attendance. Pastor Ken Delgado, The House Church, 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>CITY MANAGER:</b>	Suzanne Sherman	Present
<b>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>CITY CLERK:</b>	Terese Jones	Present

**CITY STAFF:** Present was Fred Poppe, Director of Parks and Recreation; Joan Junkala-Brown, Director of Community and Economic Development.

### ANNOUNCEMENT(S):

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

- 1. One (1) vacancy on the Youth Advisory Board (represents 'at-large student member' position).++**
- 2. Two (2) terms expiring on the Building Construction Advisory Committee.+**
- 3. Two (2) terms expiring on the Recreation Advisory Board.+**
- 4. Two (2) terms expiring on the Youth Advisory Board (represents 'at-large student member' positions).+**
- 5. Three (3) terms expiring on the Youth Advisory Board (represents 'adult member' positions).+**

**AGENDA REVISION(S):**

1. Mrs. Jones asked that Item 6, under Consent Agenda, be tabled to the next meeting as the ordinance was not included in the agenda packet. Council concurred.

**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. Felix, that the Consent Agenda be approved as presented with the removal of Items 3 and 5, from consent; and to table Item 6 to the next regular Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**1. Contract: Voluntary supplemental insurance benefits, two-year renewal – Human Resources Department (Life Insurance Corporation of North America (Cigna Group Insurance) - \$56,000 (employee-paid coverages)).**

Staff Recommendation: Approve the two-year renewal of voluntary supplemental insurance benefits for hospital care, accident injury, and critical illness with Life Insurance Corporation of North America (Cigna Group Insurance) through December 31, 2022, in the amount of \$56,000 (employee-paid coverages).

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

**2. Resolution 2021-05, amending Resolution 2020-49, adopting Classification and Pay Plans and the Position Control Plan for employees of the City of Palm Bay (first amendment).**

The City Attorney read the resolution in caption only.

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

**3. Resolution 2021-06, amending Resolution 2020-50, adopting the Five-Year Capital Improvements Program for Fiscal Years 2020-2021 through 2024-2025 (first amendment).**

The City Attorney read the resolution in caption only.

Bill Battin, resident, questioned the City’s expenses for the Drive Through Light Festival of \$93,200, and why there were different costs listed for the same line item on the Unexpended Fund Rolls attachment. Ms. Sherman explained that the use of generators contributed to the cost for the Light Festival, but the City would be investing in underground electrical lines to offset those future costs. In response to Mr. Battin’s other question, Ms. Sherman said the funding source was different for those line items, even though it was same project.

Mr. Bailey asked if impact fees were used for the Light Festival and, if not, could impact fees be used for future projects. Mr. Poppe said that unexpended funds from the Palm Bay Aquatic Center were used for the Light Festival and said that impact fees may possibly be used for new construction projects. The City Manager and City Attorney would research same. Mr. Bailey asked what other funding sources were reallocated to other projects and why those funds were not initially used for improvements at the Aquatic Center. Mr. Poppe clarified that monies were used for the Aquatic Center.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-06.

Motion carried with members voting as follows:

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

**4. Resolution 2021-07, rescinding the Procurement Manual adopted by Resolution 2016-32 and replacing with the Procurement Manual adopted by Administrative Code.**

The City Attorney read the resolution in caption only.

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

**5. Consideration of the Greater Palm Bay Chamber of Commerce’s annual trustee membership renewal (\$15,000).**

Staff Recommendation: Approve the expenditure of \$15,000 for the 2021 Greater Palm Bay Chamber of Commerce's (Chamber) annual trustee membership renewal.

Mr. Bailey said that he had requested that the membership level be increased to Platinum status a few years ago. He said that his intent was for the Chamber to have leverage for the larger companies, such as Harris, Publix, etc. to contribute to the community. He wanted to see what type of progress had been made and Council's expectations for the next year.

Nancy Peltonen, President and CEO of the Chamber, said the Chamber's focus was on the small businesses which were taking the hardest hit this year. The Chamber guided the small businesses and organizations on how to receive grants and loans.

Mr. Bailey suggested that performance measures be included in the contract. Ms. Peltonen advised of the various membership statuses. Mr. Bailey asked that trustee information be provided to Council and included as part of the contract in the future.

Deputy Mayor Johnson felt that the City's membership with the Chamber was an investment. Ms. Peltonen answered questions posed by councilmembers. Mrs. Junkala-Brown said that the City and Chamber were working closely together to benefit both the City and the business community.

Motion by Mr. Foster, seconded by Mr. Bailey, to approve the Greater Palm Bay Chamber of Commerce's annual trustee membership renewal as requested. 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 reinstating the Infrastructure Advisory and Oversight Board.**

Staff Recommendation: Approve the reinstatement of the Infrastructure Advisory and Oversight Board for a three-year period to sunset December 31, 2023.

The item, considered under Consent Agenda, was tabled to the next regular Council meeting.

## **7. Consideration of submitting an application for the Brevard EMS Grant to purchase a Life Pack 15.**

Staff Recommendation: Authorize staff to submit an application for the Brevard EMS Grant Program for the acquisition of a Life Pack 15 device for Fire Station 1.

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

**8. Acknowledgement of the City's monthly financial report for September 2020.**

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

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

Individuals made general comments.

**PUBLIC HEARING(S):**

**1. 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) (Quasi-Judicial Proceeding), 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 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.

**2. 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), final reading.**

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.

Bill Battin, resident, asked if there would be a connector to Lowry Boulevard. Mr. Wise responded in the negative.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Felix, to adopt Ordinance 2021-02, subject to the staff comments contained in the Staff Report and the conditions as set forth in Section 2 of the ordinance. Mr. Bailey agreed there should be a connection in that area but felt it would be an expensive task. 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), final reading.**

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

Bill Battin, resident, asked if the dog park at Fred Poppe Regional Park would remain in place once the dog park at Riviera Park was completed. Ms. Sherman responded that both dog parks would be available to residents.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt 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.

**PROCUREMENTS:**

**1. Award of Bid: Road Bond Paving, Port Malabar, Turkey Creek to Railroad Tracks – IFB 16-0-2021 – Public Works Department (Asphalt Paving Systems, Inc. - \$949,280, with a 10% contingency fund of \$94,928).**

Staff Recommendation: Approve the award for Port Malabar road bond paving, Turkey Creek to railroad tracks, to Asphalt Paving Systems, Inc. (Zephyrhills), in the amount of \$949,280, with a 10% contingency fund of \$94,928.

A resident said there was a lot of trash and debris due to construction. He wanted to spearhead cleaning up the area.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to award the bid as requested. 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 Business Improvement District Board.**

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to appoint Gordon Brown to the Business Improvement District. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

#### **COMMITTEE AND COUNCIL REPORTS:**

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

1. Mr. Felix made the following announcements:
  - a) He would be working with staff to improve streetlights throughout the City; and
  - b) He requested an orientation packet for newly appointed board members.
2. Mr. Foster advised that he was working with staff to name a baseball field at Roberto Clemente Sports Complex (located at Fred Poppe Regional Park) after Jackie Robinson. He said the request would be presented to the Recreation Advisory Board for recommendation to City Council.
3. Mayor Medina said he was coordinating with staff to bring back midnight basketball.

#### **NEW BUSINESS:**

##### **1. Consideration of an amendment to Section 4, Chapter 7, 'Meetings Rules and Order', of Council Policies and Procedures. (Mayor Medina)**

Mayor Medina presented the item to Council.

Residents spoke in favor of the proposed amendment.

Motion by Mr. Bailey, seconded by Mayor Medina, to amend Council Policies and Procedures as requested.

Mr. Bailey asked the intent of the proposed language. Mayor Medina said it would prohibit councilmembers from adding an agenda item after the agenda packet had been distributed, which was the Friday prior to the meeting date. It was mainly to provide proper notice and transparency to the public. Mr. Bailey felt that if the item was not an emergency, then it could wait until the next meeting.

Mayor Medina said the request was not about pointing fingers and had nothing to do with the item from the last Council meeting. It was all about being transparent to the citizens.

Mr. Felix said that valid points had been made and he wanted Council to be transparent. He suggested tabling the item and having a discussion at a workshop. He did not want to handcuff Council.

Mr. Bailey felt that the proposed language should apply to all Charter Officers as well.

Deputy Mayor Johnson did not see a need for the policy amendment but would go with the will of Council.

Mr. Foster felt this request was related to the item he added to the last agenda. He said that this policy had been in place long before the current Council and he had witnessed other councilmembers present items at the last minute. He said that Council was being transparent and was required to do so pursuant to the Sunshine Law. Mr. Foster said that amending the policy was not going to make Council be transparent. If residents had an issue with his adding the item to the last meeting, they would have shown up at tonight's meeting to make a comment.

There was further discussion on transparency and Council voiced their opinions on the proposed amendment.

Mr. Bailey suggested that the language read as follows:

“A. The city council, by a majority vote or general consent of its members, may modify the agenda at a meeting by:

1. Adding an additional item per the request of a councilmember or the city manager.

- a. In such event, an individual who wishes to address the city council with respect to the new agenda item shall be afforded a reasonable opportunity to do so in accordance with the procedures for public comments on agenda items.

b. For items which a councilmember or city manager would like council to act upon, a request must be made for the item to be scheduled for a subsequent meeting for formal consideration and action. The council may, by a majority vote of council, act upon an item due to extenuating circumstances or an emergency situation.

2. Proposing the rearranging of agenda items.
3. Removing an agenda item per the request of a councilmember or the city manager.”

Motion by Mr. Bailey, seconded by Mayor Medina, to amend the motion with the language as stated by Councilman Bailey.

Mr. Foster said this had nothing to do with transparency and Council already had the ability to vote against an agenda revision from a councilmember. He said these changes took power away from councilmembers and would not support the request.

Motion failed with members voting as follows:

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

**2. Consideration of reallocating \$200,000 in undesignated General Fund Reserves to serve as a local match for the City's 2021 State legislative funding appropriation request to install two nutrient separating baffle boxes.**

Staff Recommendation: Authorize the reallocation of \$200,000 in undesignated General Fund Reserves to serve as a local match for the City's 2021 State legislative funding appropriation request to install two nutrient separating baffle boxes.

Councilman Bailey left the meeting at this time.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to reallocate \$200,000 as recommended. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Consideration of appropriation of funds from Building Department Undesignated Fund Balance for additional positions within the Building Department (\$154,471).**

Staff Recommendation: Approve a budget amendment to transfer funds from the Building Department Undesignated Fund Balance to fund two (2) additional positions within the Building Department in Fiscal Year 2021 in the amount of \$154,471.

Councilman Bailey rejoined the meeting at this time.

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

**4. Consideration of appropriation of funds from the Building Department Undesignated Fund Balance for the purchase of two vehicles (\$47,927).**

Staff Recommendation: Approve the appropriation of funds from the Building Department Undesignated Fund Balance for the purchase of two pickup trucks in the amount of \$47,927.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to appropriate funds as recommended. 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 a special Council meeting and workshops for January and February 2021.**

Mrs. Jones announced that special meeting scheduled for Tuesday, January 26, 2021, at 6:00 P.M.; and workshops for the 'Budget Overview' and 'Incentives and Inducements for Development in the City' on Thursday, January 28, 2021, at 6:00 P.M. and Thursday, February 11, 2021, at 6:00 P.M., respectively.

Ms. Sherman requested a workshop for a presentation by the Federal Bureau of Investigation (FBI) regarding anti-corruption on Thursday, February 25<sup>th</sup>, at 6:00 P.M.

Council concurred to schedule the meetings as requested.

**6. Consideration of an Employment Agreement with Suzanne Sherman, City Manager. (Deputy Mayor Johnson)**

Deputy Mayor Johnson presented the item to Council. The proposed annual salary was \$185,000, and the vehicle allowance was removed from the contract.

Mr. Foster left the meeting at this time.

Mr. Bailey felt that the twenty (20) weeks' severance pay should be earned over time and not given in total up front. He also felt that \$185,000 was too high but was pleased that the car allowance was eliminated.

Mr. Felix supported the contract as is.

Mr. Bailey felt the salary should remain at \$165,000 and increase the severance annually.

Mr. Foster rejoined the meeting at this time.

Mr. Foster said Ms. Sherman was not utilizing a city vehicle and the allowance had been removed. She was also saving the City money by not having a Deputy City Manager while she was Acting City Manager. He felt the salary was too low.

Mayor Medina supported the contract as is.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the employment agreement with Suzanne Sherman, City Manager, with an annual salary of \$185,000.

Motion carried with members voting as follows:

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

**ADMINISTRATIVE AND LEGAL REPORTS:**

There were no reports.

**PUBLIC COMMENTS/RESPONSES:**

A resident made general comments.

Deputy Mayor Johnson asked if Council wanted to receive project updates. Mayor Medina felt the information should also be announced at Council meetings. Mr. Bailey suggested quarterly updates. Council concurred.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:52 P.M.

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Robert Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK