

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2021-10

Held on Thursday, the 15<sup>th</sup> day of April 2021, 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.

Reverend Dr. Dee Wellington Bright, Sr., Church of Our Savior, Palm Bay, 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 Juliet Misconi, Chief Procurement Officer; Joan Junkala-Brown, Deputy City Manager.

### ANNOUNCEMENT(S):

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

- 1. Two (2) vacancies on the Building and Construction Advisory Committee (represents 'at-large' positions).++**
- 2. One (1) vacancy on the Business Improvement District Board (represents 'at-large' member who owns a commercial property or operates a business within the District; preferably a member of the Palm Bay Chamber of Commerce).++**
- 3. One (1) vacancy on the Community Development Advisory Board (represents 'residential home building', 'actively engaged in home building', 'employer within the City', or 'for-profit provider' positions).++**
- 4. Three (3) vacancies on the Youth Advisory Board (represents 'at-large student member' positions).++**

**AGENDA REVISION(S):**

1. Ms. Sherman announced the following revisions:
  - a. Item 12, under Consent Agenda, was withdrawn by staff.
  - b. Consideration of submitting a grant application through the National Police Dog Foundation for a K-9 heat alarm kit was added as Item 4, under New Business; and
  - c. Consideration of honoring Reverend Richard Spellman was added as Item 5, under New Business, at the request of Councilman Bailey.

**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 with removal of Items 2 and 14, from consent. 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 2021-07; March 18, 2021.**

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

**2. Award of Proposal: Pool slide, Palm Bay Aquatic Center – RFP 33-0-2021 – Parks and Recreation Department (AuMiller Pools LLC - \$192,000, plus \$9,600 for contingencies).**

Staff Recommendation: a) Approve appropriation of funds on the next scheduled budget amendment; and b) approve the award of RFP 33-0-2021, Palm Bay Aquatic Center Pool Slide, to Aumiller Pools LLC (Winter Park), in the amount of \$201,600.

Mrs. Misconi advised of a typographical error on the scoring and tabulation sheet but noted that AuMiller Pools LLC remained as receiving the highest score.

Mr. Bailey said the project was already over-budget and questioned if a lower cost slide option was considered in order to stay within the budget. Mrs. Misconi said there was no ability to revise the proposals as submitted. She added that the cost of raw materials have increased significantly.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to appropriate funds and approve the award as requested.

Mr. Bailey felt the scope of work should have been revisited and having the entire project done at one time, but with the price of materials going up, he 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.

**3. Contract: South Regional Water Treatment Plant Expansion - 4MGD to 6MGD, Change Order 2 - Utilities Department (Florida Design Contractors, Inc. - \$138,466).**

Staff Recommendation: Approve Change Order 2 with Florida Design Contractors, Inc. for the South Regional Water Treatment Plant Expansion in the amount of \$138,466.36.

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

**4. Resolution 2021-16, amending Resolution 2020-49, adopting Classification and Pay Plans and the Position Control Plan for employees of the City of Palm Bay (second amendment).**

The City Attorney read the resolution in caption only.

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

**5. Resolution 2021-17, amending Resolution 2020-50, adopting the Five-Year Capital Improvements Program for Fiscal Years 2020-2021 through 2024-2025 (second amendment).**

The City Attorney read the resolution in caption only.

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

**6. Consideration of a Memorandum of Understanding with the East Central Florida Regional Planning Council to prepare an Economic Development Strategic Plan.**

Staff Recommendation: Authorize the City Manager to execute a Memorandum of Understanding.

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

**7. Consideration of an Intergovernmental Cooperative Purchasing Agreement with the National Cooperative Purchasing Alliance.**

Staff Recommendation: Approve the City Manager or her designee to agree to the Master Intergovernmental Cooperative Purchasing Agreement.

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

**8. Consideration of contracting with Jason M. Gordon to serve as the Code Enforcement Board Attorney.**

Staff Recommendation: Authorize the City Attorney to contract with Mr. Gordon.

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

**9. Consideration of submitting a grant application to the Florida Department of Environmental Protection's Resilient Coastlines Grant Program, in collaboration with the East Central Florida Regional Planning Council.**

Staff Recommendation: Authorize staff to submit the grant application as requested.

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

**10. Consideration of the appropriation of funds from the Fund Balance for changes to the scope of services for the telemetry system (Change Order 1) to the North Regional Water Reclamation Facility reclaimed water high service pump area improvements project (\$26,871).**

Staff Recommendation: Approve appropriation of funds for Change Order 1 as requested.

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

**11. Consideration of transfer of funds from General Fund to Fleet Fund to purchase light bars for Code Compliance vehicles (\$2,500).**

Staff Recommendation: Approve the purchase of light bars as requested.

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

**12. Consideration of authorizing the Mayor to delegate signing authority to the City Manager for all environmental review records relating to federally funded projects.**

The item, announced under Agenda Revisions, was withdrawn by staff.

**13. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund (\$2,000).**

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.

**14. Consideration of the appropriation of General Fund Undesignated Fund Balance for expenditures to cover the July Police Academy cost for sponsorship of non-certified recruits (\$35,150).**

Staff Recommendation: Approve the appropriation of General Fund Undesignated Fund Balance as requested.

A resident commented in favor of the request.

Motion by Mr. Bailey, seconded by Mr. Felix, to approve the appropriation 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.

**15. 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.

**16. Acknowledgement of the City's monthly financial report for February 2021.**

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

**PRESENTATIONS:**

**1. Nelson Moya, Chief of Police - panhandling update.** Chief Moya provided an overview of the homelessness in Palm Bay. He said that panhandling was not always a homelessness issue. Chief Moya advised of the service providers to assist the homeless, the City's laws regarding solicitation in the rights-of-way, calls for service related to panhandling, and how violations were addressed at intersections and on private property. He said that Community Resource Officers have been actively educating panhandlers about the City's ordinance and have achieved verbal compliance, and there had been a noticeable decrease in panhandling at intersections.

Chief Moya answered questions posed by councilmembers. Mr. Bailey asked how many accidents had been caused due panhandlers. Chief Moya would research same, but said it would be minimal, if any.

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

An individual made general comment.

**PUBLIC HEARING(S):**

**1. Ordinance 2021-19, amending the Fiscal Year 2020-2021 budget by appropriating and allocating certain monies (second budget amendment), final reading.**

The City Attorney read the ordinance in caption only. 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. Felix, to adopt Ordinance 2021-19. 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 2021-20, amending the Code of Ordinances, Chapter 52, Boards, Subchapter 'Sustainability Board' by modifying the name of the board and revising quorum requirements, final reading.**

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

Susan Connolly, resident and member of the Sustainability Board, said this ordinance was critical for the board to properly function as there had been many quorum issues in the past.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-20. 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 2021-21, amending the Code of Ordinances, Chapter 93, Real Property Nuisances, Subchapter 'Unsightly and Unsanitary Conditions', by including additional provisions relating to unimproved real property, final reading.**

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

Mr. Felix was glad that this was brought forward. He felt that property owners were being forced to liquidate their properties due to excessive accrued fines, especially owners that did not live in the area. He said it protected owners' property rights.

Bill Battin, resident, said there was no language in the ordinance about preservation of mature trees. Mr. Bradley said the ordinance addressed mowing and low height nuisance vegetation, not trees or removal of trees.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2021-21. 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 2021-24, vacating a portion of the rear public utility and drainage easement located within Lot 8, Block 912, Port Malabar Unit 22 (Case VE-3-2021, Magaly and Peter Martz), first 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 Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2021-24. 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) adult member to the Youth Advisory Board.**

The individuals were rated by the City Council due to the number of applications exceeding the number of vacant positions. Number 1 represented the first choice of each councilmember and so on. The individual(s) receiving the lowest number(s) to the position(s) were considered for appointment to the board.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to appoint Murielle Pamphile to the 'adult member' position on the Youth Advisory Board. 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 appointed Susan Connolly to the Citizens' Budget Advisory Board.
2. Mr. Foster suggested designated parking spots near Council Chambers for councilmembers. Deputy Mayor Johnson and Mr. Felix were open to the idea. Mr. Bailey did not feel it was necessary. Mayor Medina said it was a good idea but did not want to be a target. He felt the topic should be visited at a later time. Council concurred.
3. Mr. Foster suggested that the City become involved with Sister Cities International. He said the City could start with San Juan, Puerto Rico; Kingston, Jamaica; and Port-au-Prince, Haiti. Mrs. Jones advised that Palm Bay was a member of the organization back in 2013 but never officially adopted a resolution to collaborate with a specific city. Mr. Foster would meet with staff to discuss same and bring to Council in the future. Council concurred.



4. Mr. Bailey appointed Caleb Boothroyd to the Youth Advisory Board.
5. Mr. Bailey said he had been accompanying the Public Works Director and staff in the field to see the road improvements over the past few weeks. He suggested having a third party review the designs and layouts for verification purposes. Also, to have existing City-contracted consultants perform spot checks on future designs. He had faith in staff but felt it was always good to have a third-party review. Council concurred.
6. Deputy Mayor Johnson felt it was important to create an ordinance for anonymous complaints and clarified that this was different from the whistle blower ordinance. Council concurred.

**NEW BUSINESS:**

**1. Resolution 2021-18, requesting the United States Secretary of the Interior to add Roberto Clemente's place of death in Loiza, Puerto Rico, to the National Register of Historical Places. (Councilman Foster)**

The City Attorney read the resolution in caption only. Councilman Foster presented the item to Council.

Roberto Clemente, Jr. and Luis Roberto Clemente, sons of Roberto Clemente; and Tom Brasuell, President of the Roberto Clemente Foundation, expressed thanks to City Council for the resolution.

Samantha Bickman, representative for the United Third Bridge and the Florida Puerto Rican Hispanic Chamber of Commerce, spoke in favor of the resolution.

Councilmembers expressed their support of the resolution.

Motion by Mr. Foster, seconded by Mr. Felix, to adopt Resolution 2021-18. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Request to reconsider an amendment to Chapter 34, Human Resources, Subchapter 'Whistle-blower's Ordinance'. (Deputy Mayor Johnson)**

Deputy Mayor Johnson presented the request which was to modify the composition of the audit committee. As the current members reported to the City Manager, he felt that the City Manager should be replaced with the City Clerk, then no member of the committee would have supervisory authority over another.

Mr. Bailey supported the request but also felt there should be a charter office for inspector general. He was aware that would take some time to implement and suggested a position, such as a compliance officer or the like, under the purview of the City Clerk along with the City Attorney as legal advisor. This would be an added level of accountability in addition to Deputy Mayor Johnson's request. He requested consensus to meet with charter officers to discuss same. Council concurred.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve reconsideration of the ordinance 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.

### **3. Consideration of certain City-owned real estate to be designated as surplus and listed for sale to the public.**

Staff Recommendation: Approve the list of City-owned real estate to be designated as surplus and listed with the City's real estate broker.

Bill Battin, resident, said he understood when the City previously sold its land as it was a fund generator for paving roads, but now there was a mechanism to pave roads via the Road Bond Program. He said the City could not generate more greenspace than what currently existed, and the City did not need to sell off its greenspace.

Susan Connelly, resident and member of the Sustainability Advisory Board, felt Council should wait for the Sustainability and Comprehensive Plans to be finalized in order to preserve greenspace and not sell anything for tax value.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to designate certain City-owned real estate as surplus and list for sale to the public.

Ms. Sherman said the list was for eleven (11) properties in which some were single family lots surrounded by homes and others were smaller lots that were multi-family. There were still hundreds of properties on the surplus list and larger parcels were excluded.

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 submitting a grant application through the National Police Dog Foundation for a police vehicle K-9 heat alarm kit. (AGENDA REVISION)**

Staff Recommendation: Authorize staff to apply for the 2021 Heat Alarm grant under the National Police Dog Foundation.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to submit the grant application 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.

**5. Consideration of honoring Reverend Richard Spellman. (Councilman Bailey) (AGENDA REVISION)**

Councilman Bailey presented the item to Council. He wanted to name the Council Chambers or a street after Mr. Spellman and if that was not agreeable, he suggested that the charter officers meet and figure out the best way to honor him.

Councilmembers supported the request. Mayor Medina said that for whatever was done, a scripture should be done with it.

Mr. Bailey said there would be a celebration of life and asked if the City should organize the event with the family and include snippets of Mr. Spellman's public comments from various Council meetings. Council concurred.

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Smith said there was an allocation of settlement proceeds from the opioid litigation. She, along with outside counsel, Michael Kahn, would present a resolution in the future as drafted by the Attorney General.

2. Ms. Smith addressed interim options for the City's commercial broker while waiting for the solicitation process to be completed: a) continue with the current broker until a new broker was selected; b) award to the second highest bidder; c) City would solicit Letters of Interest for individual properties; d) use auction services; or e) leave as is until another broker was chosen.

Mr. Bailey asked staff's recommendation. Mrs. Junkala-Brown recommended going with second ranked firm, Dreyer and Associates (Dreyer). However, Dreyer had not been approached as yet, so it was unsure if they would accept the offer. Ms. Junkala-Brown expressed concern with the performance of the current broker. There was further discussion on the options.

Mr. Foster and Mr. Felix said they would go with staff's recommendation. Mrs. Misconi explained that the contract term would be for one year, with the option to renew for an additional one-year term. Mr. Bailey felt that contracting with Dreyer was the best option and if declined by Dreyer, then remain with the current broker until a new broker was selected through the solicitation process.

Council concurred for staff to confirm if Dreyer and Associations would accept the terms.

**PUBLIC COMMENTS/RESPONSES:**

A resident made general comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:32 P.M.

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Robert Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK