

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2021-11

Held on Thursday, the 6th day of May 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 7:02 P.M.

Senior Pastor Ken Delgado, The House Church, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

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

Mr. Foster participated in the meeting via teleconference.

CITY STAFF: Present was Fred Poppe, Recreation Director; Sandra Urban, Community Development Administrator; Nelson Moya, Chief of Police; Leslie Hoog, Fire Chief; Frank Watanabe, City Engineer; Laurence Bradley, Growth Management Director.

ANNOUNCEMENT(S):

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

- 1. 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).++**
- 2. One (1) vacancy on the Community Development Advisory Board (represents 'residential home builder', 'actively engaged in home building', 'employer within the City', or 'for-profit provider' positions).++**
- 3. Three (3) vacancies on the Youth Advisory Board (represents 'at-large' student member positions).++**

4. One (1) vacancy on the Sustainability Advisory Board (represents 'at-large' position).+

AGENDA REVISION(S):

1. Ms. Sherman stated that, at the request of Mayor Medina, Item 2, under Proclamations (National Police Week), was moved to Item 1 to permit the Honor Guard to present the flag.

2. Ms. Sherman announced that the Legislative Memorandum, Staff Report and Ordinance relating to Item 4, under Public Hearings (Cypress Bay West Phase 1 PUD), had been revised to include an additional condition.

3. Ms. Sherman advised that Bruce Moia, representative for Item 6, under Public Hearings (Richmond Cove PUD), requested a continuance to the May 20, 2021, regular Council meeting as he was unable to attend tonight's meeting.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to continue Resolution 2021-19 to the May 20, 2021, 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.

4. Ms. Smith announced that consideration of travel and training for the Office of the City Attorney and Procurement Department was added as Item 5, under New Business.

5. Ms. Smith advised that under Item 5, Consent Agenda (Ordinance 2021-25), "quasi-judicial" should be stricken as the quasi-judicial portion had already been addressed through another ordinance.

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 5, 6, 7, and 11, 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 2021-09; April 1, 2021.

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

2. Award of Bid: Culvert pipe replacement, Emerson Drive at Canal C-51 – IFB 32-0-2021 – Public Works Department (Timothy Rose Contracting, Inc. - \$338,519, plus 10% contingency of \$33,852).

Staff Recommendation: Award the bid for culvert pipe replacement, Emerson Drive at Canal C-51, to Timothy Rose Contracting, Inc. (Vero Beach), in the amount of \$338,519.44, plus 10% contingency of \$33,851.94, for a total of \$372,371.38.

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

3. Contract: Road Bond Paving, Units 1, 2, 3, 4, 27, 35, 43, and 47, Change Order 1 – Public Works Department (VA Paving, Inc., \$246,077).

Staff Recommendation: Approve Change Order 1 for the road bond paving of Units 1, 2, 3, 4, 27, 35, 43, and 47, with VA Paving, Inc. (Cocoa), in the amount of \$246,077.10.

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

4. Miscellaneous: Negotiate master consultant agreements and fee schedule, architectural and engineering design services, new building addition to Malabar Road City Hall Campus – RFQ 34-0-2021 – Growth Management, Building, Utilities Departments (Silling Architects).

Staff Recommendation: Authorize staff to negotiate a Master Consultant Agreement for Architectural and Engineering Services of the New City Hall Building and establish hourly rate schedules for RFQ 34-0-2021 with Silling Architects (Orlando).

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

5. Ordinance 2021-25, amending the Code of Ordinances, Chapter 51, Public Hearings, by including provisions for establishing time limits for land use (quasi-judicial) public hearings held before the City Council, first reading.

The City Attorney read the ordinance in caption only.

Bill Battin, resident, said that councilmembers should have a speaking limit of five (5) minutes with no rebuttals and asked what constituted an adversely affected person. He also suggested special Council meetings for recognitions and proclamations to reduce time at the regular meetings for Council action items.

Ms. Smith advised that aggrieved or adversely affected party pertained to a person's interest affected by the proposed land use change and differs in degree and scope than the public at-large. Ms. Smith presented the item to Council.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Ordinance 2021-25. 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 a three-year lease agreement with the Greater Palm Bay Senior Center, with the option to renew for two (2) additional one-year terms.

Staff Recommendation: Authorize the City Manager to execute a three-year lease agreement with the Greater Palm Bay Senior Center, with the option to renew for two (2) additional one-year terms.

Bill Battin, resident, supported the senior center, but said that when the City entered into agreements such as this, along with very low annual terms, the City takes on the responsibility for most of the maintenance. However, the residents pay fees and/or taxes for the use of these facilities.

Ms. Sherman said the agreement was mutually beneficial for the senior group as well as the City. Although the City paid for the bulk of operational costs and maintenance of the building, the City did not have to staff for the operations of the programming provided by the organization. Mayor Medina asked for the cost for not having to staff the facility. Ms. Sherman did not have figures on hand but noted that all of the individuals that ran the Senior Center were volunteers. Mr. Poppe advised that staffing and operations would cost approximately \$700,000 annually.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve the lease agreement. 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 designating 648 Osmosis Drive as surplus real estate and negotiating the sale to Brevard Island Oaks, LLC.

Staff Recommendation: Designate 648 Osmosis Drive as surplus real estate and authorize staff to negotiate the sale to Brevard Island Oaks, LLC.

Bill Battin, resident, stated that the Homes for Warriors Program had cost the City financially, along with its reputation. He asked how much the program had cost the city for legal fees, back taxes, etc., and if this home could be used to help the homeless program. Ms. Sherman advised that the Homes for Warriors Program was no longer active. She added that because the City was in the process of cleaning up the Homes for Warriors Program, properties were not being offered to any specific entities at this time. Ms. Urban advised that the City had not incurred any legal fees as in-house staff was utilized for same. The back taxes of approximately \$8,000 were paid by Brevard Island Oaks, LLC and were current. She said it would be very costly to rehabilitate the home and recoup those costs.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve the designation of 648 Osmosis Drive as surplus real estate and authorize staff to negotiate the sale to Brevard Island Oaks, LLC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

8. Consideration of a transfer from General Fund to the SHIP Fund to reimburse administrative costs incurred in Fiscal Year 2020 (\$77,595).

Staff Recommendation: Approve a transfer of \$77,595 from the General Fund to the SHIP Fund to reimburse administrative expenses incurred in Fiscal Year 2020.

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

9. Consideration of submitting an application for the Florida Department of Economic Opportunity's Community Planning Technical Assistance (CPTA) Grant to fund the development of a Business Corridor Improvement Plan (\$50,000).

Staff Recommendation: Authorize the City to submit a grant application under the Florida Department of Economic Opportunity Community Planning Technical Assistance grant program, in the amount of \$50,000, to fund the development of a Business Corridor Improvement Plan.

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

10. Consideration of executing the Brevard Emergency Medical Services (EMS) Trust Grant for a Life Pack 15 (\$21,700) and appropriation of funds from the Undesignated Fund General Fund balance to cover remainder of funding (\$9,205).

Staff Recommendation: Authorize the City Manager to execute the Brevard Emergency Medical Services (EMS) Trust Grant for a Life Pack 15, in the amount of \$21,700, and approve the appropriation of funds from the Undesignated Fund General Fund balance to cover remainder of funding, in the amount of \$9,205.

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

11. Consideration of construction funding for replacing the culvert on Tranter Avenue at Melbourne Tillman Water Control District Canal C41R (\$285,000).

Staff Recommendation: Approve construction funding for project 21SU15, Tranter Avenue at Melbourne Tillman Water Control District (MTWCD) Canal C41R culvert replacement, in the amount of \$285,000.

Bill Battin, resident, asked if any portion of the \$285,000 could be paid by MTWCD. Ms. Sherman responded in the negative as the road and culverts were the responsibility of the City.

Randall Olszewski questioned why a culvert was being installed to connect the two roads. He said he drove to the area and spoke to the resident that abutted the site. The resident did not want the road opened as it was used as a cut-through for residents and affected his property.

Ms. Sherman explained that this was one of the projects funded through the Stormwater Program. Several roads had been closed due to significant stormwater failure and it was always the plan to reopen the roads once repaired.

Mr. Bailey said if there was a public safety issue, he would want the road to be reopened. He asked if police and fire services would be impacted by the road reopening. Chiefs Moya and Hoog advised there were no issues for their departments. Ms. Sherman advised that the City was supposed to reopen the roads once stormwater funding was available. Mr. Watanabe said there were no stormwater issues but felt it was always a

good idea to have several points of circulation, especially with the increase in population density. Ms. Sherman stated that a survey could be done of the residents in the area if desired.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve construction funding for replacing the culvert on Tranter Avenue at Melbourne Tillman Water Control District Canal C41R in the amount of \$285,000.

Deputy Mayor Johnson said there were many empty lots in that area and once they were improved, there would be increased traffic and nowhere for the traffic to go. Mr. Felix said if the funds had been allocated then he supported the request as is.

Mr. Bailey asked if this could be delayed until the end of the Road Program and the funds could be allocated towards a road paving project. Mr. Watanabe said this was perfect timing to open the road as it was being absorbed into the Units 17 and 22 road paving projects which were currently underway. Ms. Sherman advised that the bid for the paving of Tranter Avenue had already been posted.

Mr. Felix asked staff to provide a presentation on the stormwater funding. Mayor Medina asked that the presentation be forwarded to Council. Council concurred.

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

12. Consideration of transferring funds from Public Works operating budget to Fleet Services capital account for the replacement of a tractor bush hog attachment (estimated \$7,681).

Staff Recommendation: Approve the transfer of funds from the Public Works operating budget to Fleet Services capital account for the replacement of a tractor bush hog attachment 7071, in the estimated amount of \$7,681.

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

13. Consideration of City's co-sponsorship with the Court Kingz 2021 Summer Streetball League.

Staff Recommendation: Approve the City's co-sponsorship with Court Kingz to host the 2021 Summer Streetball League; approve the application for Court Kingz to utilize

\$13,300 in Law Enforcement Trust Funds; and approve a budget amendment for \$12,935 of in-kind wages and authorize \$5,410 in fee waivers.

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

14. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund (\$13,300).

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.

15. Consideration of travel and training for specified City Employees (Office of the City Clerk).

Staff Recommendation: Approve the travel and training as specified.

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

16. Consideration of travel and training for specified City employees (Finance Department).

Staff Recommendation: Approve the travel and training as specified.

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

17. 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.

18. Acknowledgement of the City's monthly financial report for March 2021.

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

19. Acknowledgement of Budget Monitoring Report for Fiscal Year 2021 Quarter 2 (Unaudited).

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

RECOGNITIONS AND PROCLAMATIONS:

The Honor Guard presented the flag and sang the National Anthem for National Police Week.

The proclamations were read.

- 1. National Day of Prayer - May 6, 2021. (Mayor Medina)**
- 2. National Police Week - May 9-15, 2021. (Councilman Foster)**
- 3. National Women's Lung Health Week - May 9-15, 2021.**
- 4. Economic Development Week - May 10-14, 2021.**

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

Residents made general comments.

Deputy Mayor Johnson asked staff to announce the meetings regarding the update to the City's Comprehensive Plan (Comp Plan) at all Council meetings.

PUBLIC HEARING(S):

- 1. Ordinance 2021-08, completing an Evaluation and Appraisal Report (EAR) and amending the City's Comprehensive Plan Capital Improvements Element, Coastal Management Element, Infrastructure Element, Intergovernmental Coordination Element, and Transportation Element (Case CP-3-2021, City of Palm Bay), final reading.**

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

Ann Marie Fraser, resident, said it was alarming that the Comp Plan had not been updated. She said that enacting ordinances to fix issues instead of updating the Comp Plan should not continue.

Bill Battin, resident, said that with all of the development occurring throughout Palm Bay, the City was using a road rating of C, which relieved developers of having to pay in because they had not met the threshold of increased traffic. He suggested that staff look into lowering the rating to a D or E.

Ms. Sherman said that the update to the Comp Plan was not going to be another band-aid, but a full-fledged visioning and update to the Comp Plan. Staff was also working on the road classifications and would be adjusting those as well.

Mr. Bradley advised that the Comp Plan had not been fully updated since 2001. The current process to update the Comp Plan started in October and the first step was to hire a consultant. He further explained other requirements, stakeholder meetings and upcoming public sessions to be held. Mr. Bradley said there were some issues, such as road classifications, that could not wait until the Comp Plan was updated so some items and applications would continue as is for consideration by the Planning and Zoning Board and City Council. The first draft of the visioning should be completed in September and information had been posted to the City's website.

Deputy Mayor Johnson asked if an ordinance needed to be enacted to require staff to update the Comp Plan every ten (10) years. Mr. Bradley said it was a statutory requirement for the EAR amendments to be done every seven (7) years. He suggested creating an implementation committee which would be an ongoing implementation program and would assist in bringing ideas and policies to fruition. Mayor Medina felt a decade was too long between updates. Mr. Bailey said there was no set time frame for updating the entire Comp Plan and asked if the committee would have the ability to discuss and decide on such time frames. Mr. Bradley said there were no statutory requirements for the visioning study and Council or the committee could decide to implement "check-ins" at any time.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2021-08. 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 2021-24, 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), 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 Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt 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.

3. Ordinance 2021-26, amending the Code of Ordinances, Chapter 178, Signs, by establishing provisions for wayfinding signs and modifying language for wall signs (Case T-14-2021, City of Palm Bay), first reading.

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

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2021-26. 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 2021-27, granting approval of a Final Development Plan for a Planned Unit Development of a proposed single-family residential subdivision to be known as ‘Cypress Bay West Phase 1 PUD’ on property located in the vicinities south of Mara Loma Boulevard and west of Babcock Street (77.52 acres) (Case FD-11-2021, Waterstone Farms, LLC) (Quasi-Judicial Proceeding), first reading.

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

The City Attorney read the ordinance in caption only. The public hearing was opened. Attorney Tucker Byrd, Jake Wise, and Rochelle Lawandales, representatives for the applicant, presented the request to Council. Mr. Wise said it was preferred to rename the portion of Mara Loma Boulevard to Kendall Circle, since it was a rebranding for Cypress Bay and no longer related to Waterstone. He advised that Brevard E-911 had approved the name of the road.

Mr. Bailey asked if the road name change could be considered under this item. Mr. Bradley confirmed same, however, staff did not feel it was the appropriate place to change

the name. The road should connect to another road or intersection before the name changed.

Attorney Lance Clouse, representative for Waterstone Homeowner's Association (HOA), said it was brought to the attention of Council at a previous meeting that the HOA was concerned about an increase to the association pursuant to the agreement that could create a hardship for its members. Although there had been excellent discussions between himself and representatives for the developer, a formal agreement had not been reached to address the issue. He asked Council to consider renaming the roadway. The main reason being that based on the Shared Services Agreement, if Mara Loma Boulevard were extended, it would imply that the HOA would have to pay fifteen percent (15%) for the other communities in the future.

Members of the HOA commented that they had no objection to the development but did not want the HOA paying for that portion of the road for other gated communities.

Mr. Byrd noted that the Shared Services Agreement was with Mara Loma Boulevard Association, not with the developer. His opinion was that if the road name changed, it appeared that the agreement would not apply.

Mayor Medina asked why an agreement had not been drafted that the current agreement would not apply to that portion if the road name remained as Mara Loma Boulevard, especially with it being a public safety issue. Mr. Byrd said the developer wanted the name changed because it differentiated the communities.

Mr. Bailey agreed with staff's recommendation that the road name be consistent, but asked if there was any other alternative, such as a temporary road name change, until the developer and HOA resolved the issue. Mr. Bradley said the request was for final plat approval and the design and road names on the plat would be approved as presented.

Mr. Byrd clarified that the application approval was not contingent upon the road name change. It was not clear at this point whether the road would be private, gated, etc., as it was the decision of the developer.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Mr. Felix, to approve Ordinance 2021-27.

Councilmembers supported the request and explained their reasons for same. Deputy Mayor Johnson strongly encouraged the parties to communicate and resolve the name change issue. Mr. Foster agreed with staff's recommendation and did not support the

road name change. Mr. Bailey said that Council could not deny the request based on the road name change, but also hoped that the issue would get resolved.

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 time the meeting resumed.

5. Ordinance 2021-28, granting approval of a Final Development Plan for a Planned Unit Development of a proposed single-family residential subdivision to be known as ‘Chaparral Phase 3’ on property located west of and adjacent to Flying U Lane, in the vicinities south of Malabar Road and east of Allison Drive (68.82 acres) (Case FD-12-2021, Chaparral Properties, LLC) (Quasi-Judicial Proceeding), first reading.

The Planning and Zoning Board recommended that the request be approved, subject to the staff and technical comments contained in the Staff Report, with the condition that an 8-foot-high wall or fence be erected prior to completion of Phase 1.

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

Brenda Chrieki, member of Malabar Lakes West HOA, asked if the wall could be erected at or before the beginning of Phase 3 due to the dirt from construction causing a nuisance to the residents in the area. She had spoken with Mr. Wise and advised that he had agreed to same.

Mr. Wise confirmed that the wall would be erected in Phase 3.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-28, with the condition that the 8-foot-high wall or fence would be erected prior to the beginning of Phase 3. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

6. Resolution 2021-19, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a single-family residential subdivision to be known as ‘Richmond Cove PUD’, which property is located west of and adjacent to

Gaynor Drive, in the vicinity north of Ocean Spray Street (60.22 acres) (Case PD-13-2021, Joseph Cleo/Josiah King, Inc./RFK Residential Development Properties, LLC) (Quasi-Judicial Proceeding).

The item, announced under Agenda Revisions, was continued to the May 20, 2021, regular Council meeting.

7. Request by Mary Vargas for a variance to allow a proposed screen room enclosure to encroach six (6) feet and an existing swimming pool to encroach eight (8) feet into the eight-foot side accessory structure setback as established by Section 185.118(A)(4), Palm Bay Code of Ordinances. (0.47 acres) (V-10-2021) (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 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.

UNFINISHED AND OLD BUSINESS:

1. Appointment of two (2) members to the Building and Construction Advisory Committee.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to appoint Michael Dubose Sharpe and Don Jordan to the Building and Construction Advisory Committee. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

COUNCIL REPORTS:

Councilmembers addressed various subject.

1. Mr. Bailey appointed Randall Olszewski to the Sustainability Board.
2. Mr. Bailey presented a video of a Brevard County Board of County Commissioners meeting in which Commissioner Tobia mentioned a conversation with Mayor Medina regarding the Northshore project. He asked if Mr. Tobia's comments were accurate or if

other councilmembers had spoken to Mr. Tobia. Mayor Medina advised that he never had discussions of Northshore with Commissioner Tobia but did take a tour with Andrew Steele. Mayor Medina and Deputy Mayor Johnson advised that they each had a conference call with Andrew Steele, Joan Junkala-Brown, and Patricia Smith. Mr. Bailey said he would ask more questions as things moved forward.

3. Mr. Bailey addressed Chapter 8.2(K)(2) of Council's Policies and Procedures and stated that councilmembers were using letterhead against this policy. The policy stated that the City's name, letterhead, logo or seal could be used with prior consent of Council when it was perceived as representing the City or the body as a whole.

Mayor Medina said all of his letters were sent through the City Clerk and City Attorney. Mr. Bailey said there were some letters in which the City Clerk advised she did not review. Ms. Smith said she had advised the Mayor that his opinions would need to be separate from Council's official vote and there were a few letters that were prepared by staff but not reviewed by the legal office. Mr. Bailey just wanted Council to be aware of the policy and it should be changed accordingly if Council desired to do differently.

Deputy Mayor Johnson and Mr. Felix felt the policy should be changed. Mr. Foster said the policy should not be changed because it was there for a reason. He supported councilmembers sending out congratulatory, recommendation letters and the like, but was not okay with the Mayor sending out personal opinions pertaining to Council's vote on letterhead. He said the votes were on the record and that the vote speaks for itself.

4. Mayor Medina asked if Council would agree for him to send letter of thanks to Representative Fine and Senator Mayfield for baffle boxes. Council concurred for letters to be sent to the Governor, Senate President, Speaker of the House, Representative Fine and Senator Mayfield. Mr. Bailey mentioned that approval was not required for thank you letters unless sending on behalf of Council.

NEW BUSINESS:

1. Resolution 2021-20, urging the Centers for Disease Control and Prevention (CDC) to remove the ban on cruise ship operations from Port Canaveral no later than July 1, 2021. (Mayor Medina)

The City Attorney read the resolution in caption only. Mayor Medina presented the request to Council.

Deputy Mayor Johnson and Councilmembers Bailey and Foster supported the request. Mr. Felix felt the decision should be left to the experts at that level.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to adopt Resolution 2021-20.

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 2021-29, amending the Code of Ordinance, Chapter 34, Human Resources, Subchapter 'Whistle-Blower's Ordinance', by modifying provisions related to the audit committee, first reading. (Deputy Mayor Johnson)

The City Attorney read the ordinance in caption only.

Deputy Mayor Johnson presented the request to Council.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2021-29.

Mr. Bailey asked about the renaming of the audit committee. Ms. Smith responded that it would be renamed to the Fraud Investigation Committee.

Mayor Medina supported the request and felt it was important for employees to feel comfortable to speak freely. He added the possibility of having a different entity address these issues in the future so that no one felt they were being persecuted.

Mr. Bailey suggested that the resolution have some flexibility for the City Clerk to modify the composition as there may be situations that would require an outside source for assistance.

Mr. Foster supported the request but felt the Deputy Chiefs of Police and Fire should be included on the committee. Ms. Smith said the member composition of the committee would be done through the resolution. She expressed concern with including police on the committee. The process should begin with an internal investigation and if it was determined that a crime had been committed, then it would be turned over to the police.

The members from the specific departments were chosen as they would most likely be of assistance and have the best skills in issues involving fraud.

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 2021-30, amending the Code of Ordinances, by creating Chapter 62, Fraud Investigation Committee, first reading. (Councilman Bailey)

The City Attorney read the ordinance in caption only.

Councilman Bailey presented the request to Council. He reiterated that the City Clerk be afforded the flexibility to seek outside expertise if needed. He felt that, ultimately, an inspector general or some type of audit function position was needed that was separate from the City Manager. He added that language was also included to ensure that the City Attorney's Office was present to provide legal advice.

Bill Battin, resident, said that part of the problem was where the complaint originated. He felt the Whistleblower should be combined with Fraud Committee.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to approve Ordinance 2021-30.

Ms. Smith advised that the Fraud Committee could not investigate Whistleblower complaints. If it were a member of the public that filed the complaint, the Whistleblower process would not apply.

Mayor Medina felt outside sources would be a better fit than staff who already had formed relationships. Ms. Sherman encouraged the use of outside consultants to avoid a situation where staff members had to investigate their follow coworkers.

Deputy Mayor Johnson was concerned about the cost for a consultant. Mr. Bailey suggested waiting until the resolution was drafted to set guidelines for outside consultants. Mr. Felix supported outside consultants rather than inhouse staff which could impact morale.

Mr. Foster felt that the Deputy Police Chief or detective should be on the committee. He said fraud was a crime and police were the best to investigate same. He did not feel that a consultant should be the automatic option as it would waste a lot of money. A police professional could investigate and rule on these types of matters.

Ms. Sherman agreed that a member of the police should not be on the committee. She reiterated her suggestion that Council appropriate funds in the next budget for an outside auditing firm to assist with the investigations. Another option would be to eliminate the committee altogether and utilize an in-house auditing firm that would be on retainer.

Ms. Smith said that staff currently investigates other staff, which is a large function of the Human Resources Department and department heads. She suggested creating the committee as is mentioned in the Whistleblower Ordinance. Deputy Mayor Johnson asked if it was the City Attorney's recommendation to proceed with the ordinance as is and create the resolution. Ms. Smith answered in the affirmative with flexibility through the learning stages. She said it was better to make changes to the resolution rather than two readings of an ordinance.

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 scheduling a special Council meeting for June 2021.

Council concurred to schedule a special Council meeting for Thursday, June 10, 2021, at 6:00 p.m., to consider the items from the May 5, 2021, Planning and Zoning Board meeting.

5. Consideration of travel and training for specific City Employees (Office of City Attorney/Procurement Department). (AGENDA REVISION)

Staff Recommendation: Approve the travel and training as specified.

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

ADMINISTRATIVE AND LEGAL REPORTS:

1. Ms. Sherman advised the Legislative staff was polling Council for workshop for the State's Joint Legislative Audit Committee (JLAC) update of the City's audit. She asked if Council wanted to receive an update on the American Rescue Plan Funding at the same workshop. Council concurred to have one workshop for both items.

2. Ms. Smith provided an update on the opioid litigation.

PUBLIC COMMENTS/RESPONSES:

1. Bill Battin, resident, commented on the update to the City's Comp Plan. He said if something needed to be corrected, it should be done now and not wait years until the Comp Plan was updated. He added that the case heard tonight was an example of how an aggrieved party needed to be determined and time limits for speaking amended. He suggested adding language to the ordinance for requests for five (5) minutes. Ms. Smith said the five-minute speaker time was not built into the public hearing items, but the ordinance for quasi-judicial proceedings addressed time extensions which would be done at the meeting and not in advance.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 11:37 p.m.

Robert Medina, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK