

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2021-15

Held on Thursday, the 17th day of June 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.

Pastor Jim Campbell, Bay West 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
CITY CLERK:	Terese Jones	Present

CITY STAFF: Present was Chris Little, Utilities Director; Nelson Moya, Chief of Police.

ANNOUNCEMENT(S):

Deputy Mayor Johnson announced the following vacancies and term expiring, 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).++**
- 2. Two (2) vacancies on the Community Development Advisory Board (represents 'residential home builder', 'actively engaged in home building', 'employer within the City', 'for-profit' or 'not-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).++**

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

AGENDA REVISION(S):

1. Ms. Sherman announced the following:
 - a. The BCRA Financial Statements for Year Ending September 30, 2020, were provided for Item 4, under Consent, relating to the BCRA financial audit.
 - b. The audit report, completion letter, and presentation were provided for Item 1, under Presentation, relating to the Comprehensive Annual Financial Audit for Fiscal Year ended September 30, 2020.

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. Foster, that the Consent Agenda be approved as presented with the removal of Items 2 and 3 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 2021-12; May 20, 2021.

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

2. Miscellaneous: North Regional Water Treatment Plant rehabilitation, Change Order 2 – Utilities Department (Eau Gallie Electric, \$151,603).

Staff Recommendation: Approve Change Order 2 with Eau Gallie Electric for North Regional Water Treatment Plant Rehabilitation in the amount of \$151,603.15; and approve the appropriation of funds on the next scheduled budget amendment in the amount of \$9,208.

Bill Battin, resident, asked if there were any provisions in the contract that would hold the contractors liable for their mistakes instead of it being a cost to the City. Mr. Little explained that the Treatment Plant was online and fully functional. He said the plans were old and there was the potential for mistakes to happen. He would be working with the Procurement Department regarding the Errors and Omissions provision of the contract to see if any monies could be recovered.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the Change Order for the rehabilitation of the North Regional Water Treatment Plant 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. Resolution 2021-23, amending Resolution 2019-44, which granted final development plan approval for a portion of the mixed-use development to be known as 'Emerald Lakes Regional Activity Center', by correcting a scrivener's error to the name of the applicant.

The City Attorney read the resolution in caption only.

A resident made a general comment.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Resolution 2021-23. 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 the Bayfront Community Redevelopment Agency Annual Financial Audit Report for Fiscal Year 2019-2020.

Staff Recommendation: Accept the Bayfront Community Redevelopment Agency Annual Financial Audit Report for Fiscal Year 2019/2020.

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

5. Consideration of a budget amendment allocating Fiscal Year 2021 funds to create a new position (Housing Program Specialist II - \$20,494).

Staff Recommendation: Approve a budget amendment allocating \$20,494 in Fiscal Year 2021 to fund the position of Housing Program Specialist II within the Community and Economic Development Department.

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

6. Consideration of transferring funds from Fire Rescue to Information Technology for air cards to provide internet service for new equipment (\$1,587).

Staff Recommendation: Approve the transfer of funds from Fire Rescue to Information Technology for air cards to provide internet service for new equipment \$1,587.

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

7. Consideration of a budget amendment to reallocate funds for the purchase of iPhones and tablets for key Parks staff (\$24,152).

Staff Recommendation: Approve a budget amendment reallocating \$24,152 for the purchase of twenty-four (24) iPhones and ten (10) tablets for key Parks staff.

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

8. 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.

9. Acknowledgement of the City's monthly financial report for April 2021.

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

PROCLAMATION:

The proclamation was read.

1. Juneteenth Celebration - June 19, 2021. (Deputy Mayor Johnson)

PRESENTATION:

1. Moore Stephens Lovelace, P.A. – Comprehensive Annual Financial Report for Fiscal Year ended September 30, 2020: Joel Knopp, CPA, presented the audit to City Council and provided an overview of same.

a) Consideration of forwarding the report to the Auditor General.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to forward the Annual Financial Report to the Auditor General. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

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

1. Bill Battin, resident, asked various questions about the paving of Garvey Road: the cost, when paving would begin, and if the lot had been purchased that was preventing the project from starting. Staff would research same and advise Mr. Battin accordingly.
2. Multiple residents spoke about a property on Glenwood Street. The property was an eyesore and was receiving daily fines by Code Compliance. There were other issues that the neighbors said the City and other enforcement agencies said they could not address. They asked Council to do something because this situation had been going on for at least ten (10) years. They wanted the City to foreclose on the property.

Ms. Sherman confirmed all of the comments by the neighbors but advised that she was limited by the parameters of the Code of Ordinances. Ms. Smith said the main issue was that the property was homesteaded. Liens would continue to accrue but the Florida Constitution only allowed very few avenues to overcome homestead and a municipal code lien was not one of those avenues. Ms. Smith said an option would be to seek a Mandatory and Prohibitive Injunction which would be filed in the court system stating that the property was a public nuisance. If granted, the injunction would allow the City to enter upon the property to abate the nuisance or the judge could order that the owner abate the nuisance within a certain period of time. The item would be brought to Council for consideration at the next regular meeting.

Mr. Bailey said if the judge granted the order and the City cleaned up the property or the owner was forced to clean up the property, at some point it could become a nuisance again. Ms. Smith said it could be requested for the judge to grant a continuous jurisdiction so the City could reopen the case through the courts and access the property, but there would be no open-ended case to permit the City to go onto the property at will.

Mr. Bailey did not want there to be a false sense of hope that the issue would be fixed. He said if the judge did not grant the order, it could make the situation worse, but he wanted the City to at least try to get the injunction. Staff advised that information was being gathered and an agenda item would be presented to Council at the first meeting in July.

Mr. Foster said the City needed to take action immediately. Deputy Mayor Johnson asked if it was appropriate to request permission from the owner to enter his property or to send a letter from the Mayor. Ms. Smith said she could not prohibit a councilmember from doing so, but it was not recommended to communicate with the owner and allow staff to go through the legal process.

PUBLIC HEARING(S):

1. Ordinance 2021-32, amending the Code of Ordinances, Chapter 30, City Manager, by modifying provisions contained therein, final reading.

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

Bill Battin, resident, commented on Items 1 thru 7. He said there were no reflected costs at this time on any of the Legislative Memoranda but said there would be future costs in the next fiscal year budget. He questioned the amounts for those future costs.

Ms. Sherman explained the proposed amendments for Items 1 thru 7. There were no proposed costs or creation of positions associated with the amendments.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-32. 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 2021-33, amending the Code of Ordinances, Chapter 36, Parks and Recreation, by modifying provisions 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. Felix, seconded by Deputy Mayor Johnson, to adopt Ordinance 2021-33.

Mr. Bailey reiterated his comments from the last meeting and said that Parks and Recreation should remain together or combine Facilities with Parks and Recreation.

Motion carried with members voting as follows:

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

3. Ordinance 2021-35, amending the Code of Ordinances, Chapter 39, Community and Economic Development, by modifying provisions 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 Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-35. 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 2021-36, amending the Code of Ordinances, by creating Chapter 41, Information Technology Department, 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. Felix, to adopt Ordinance 2021-36. 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 2021-37, amending the Code of Ordinances, by creating Chapter 42, Public Works Department, 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. Felix, to adopt Ordinance 2021-37. 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 2021-38, amending the Code of Ordinances, by creating Chapter 43, Parks and Facilities Department, 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. Felix, to adopt Ordinance 2021-38. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

7. Ordinance 2021-39, amending the Code of Ordinances, by creating Chapter 44, Utilities Department, 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. Felix, to adopt Ordinance 2021-39. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

8. Request by Joe Hess to vacate a portion of the rear public utility and drainage easement located within Lot 25, Block 144, Port Malabar Unit 6 (Case VE-4-2021). (WITHDRAWN)

UNFINISHED AND OLD BUSINESS:

1. Appointment of one (1) member to the Community Development Advisory Board.

Ms. Thibert and Mr. Lazarre requested Council's support for appointment to the Board.

Mr. Bailey said he had communicated with staff to determine if both applicants could be appointed to the resident position. Ms. Smith opined that if there was a representative for at least six (6) of the position categories pursuant to Florida Statutes, the other

vacancies could be appointed with any other position as reflected in the statute, even if the position was a duplicate.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to appoint Rebecca Thibert and Rito Lazarre to the 'resident of the City' positions on the Community Development 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. Bailey said the sound barrier wall between Interstate 95 and Holiday Park needed to be cleaned and the City logo colors updated.

Ms. Sherman was under the impression that it was the responsibility of Florida Department of Transportation, but she would research same.

2. Mayor Medina requested Council action to move forward with the Glenwood Street property discussed under Public Comments. Mr. Bailey felt it should wait until staff gathered the necessary information to present to Council. Deputy Mayor Johnson agreed with Councilman Bailey. Ms. Smith said she would not file anything until authorization was given by Council and the documents still had to be prepared for filing. Ms. Sherman said that funding had not been designated for this purpose and she would need to bring forth an agenda item. Council concurred to consider the item at the next regular meeting.

NEW BUSINESS:

1. Consideration of councilmembers attending the annual Florida League of Cities Conference, in conjunction with the Florida League of Mayors, August 12-14, 2021, in Orlando; appointment of voting delegate.

Mayor Medina, Deputy Mayor Johnson, and Councilmembers Foster and Felix would attend the conference.

Motion by Mr. Felix, seconded by Mr. Foster, to appoint Mayor Medina to serve as the voting delegate. 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. Smith requested an executive session on Thursday, July 1, 2021, at 6:00 P.M., to discuss settlement negotiations pertaining to the following cases:

- Colleen Henry v. City of Palm Bay, Case 05-2018-CA-040288, consolidated with Lori Armstrong v. City of Palm Bay, Case 05-2018-CA-040256;
- Norman Massey v. City of Palm Bay, Case 05-2019-CA-020580; and
- David Matthew v. City of Palm Bay, Case 05-2020-CA-046537.

Ms. Smith advised the meeting should not exceed one hour and announced those who would be in attendance. Council concurred.

PUBLIC COMMENTS/RESPONSES:

A resident made a general comment.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 9:20 P.M.

Robert Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK