

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2021-21

Held on Thursday, the 19th day of August 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.

Pastor Chris Adams, Christian Development Center Church, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	Rob Medina	Present
DEPUTY MAYOR:	Kenny Johnson	Present
COUNCILMEMBER:	Randy Foster	Present
COUNCILMEMBER:	Donny Felix	Present
DEPUTY CITY MANAGER:	Joan Junkala-Brown	Present
CITY ATTORNEY:	Patricia Smith	Present
CITY CLERK:	Terese Jones	Present

CITY STAFF: Nelson Moya, Police Chief; Patrick Murphy, Acting Growth Management Director; Brian Robinson, Information Technology Director; Charleena Cox, Human Resources Director.

ANNOUNCEMENT(S):

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

- 1. One (1) term expiring on the Melbourne-Tillman Water Control District Board (represents 'resident of the District' position).+**
- 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).++**
- 3. Two (2) vacancies on the Community Development Advisory Board (represents 'residential home builder', 'actively engaged in home building', 'employer within the City', 'for-profit provider' or 'not-for-profit provider' positions).++**
- 4. Two (2) vacancies on the Youth Advisory Board (represents 'at-large' student member positions).++**

AGENDA REVISION(S):

1. Mrs. Junkala-Brown advised that the recognition of Police Department personnel had been added as Item 4, under Recognitions and Proclamations.

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 4 and 7 from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

1. Adoption of Minutes: Regular Council Meeting 2021-19; August 5, 2021.

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

2. Contract: Road bond paving, Units 24 and 25, Change Order 1 - Public Works Department (Asphalt Paving Systems, Inc. - \$204,512, deductive amount).

Staff Recommendation: Approve deductive Change Order 1 with Asphalt Paving Systems, Inc. for Road Bond Paving of Units 24 and 25 in the amount of \$204,511.75.

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

3. Resolution 2021-39, conveying City-owned surplus real estate located at 648 Osmosis Drive SW to buyer Brevard Island Oaks, LLC.

The City Attorney read the resolution in caption only.

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

4. Resolution 2021-40, amending Resolution 2020-35, which established the Stormwater Utility Fee, by correcting a scrivener's error and removing provisions related to the automatic adjustment of the stormwater utility fee rate based on the Consumer Price Index.

The City Attorney read the resolution in caption only.

Bill Battin, resident, asked if there would still be an annual price adjustment. He still did not agree with tax exemptions and requested a copy of exempt properties. Mrs. Junkala-Brown responded that there would be a review of the annual price adjustment. Per Council's direction, staff would also be reviewing the exemptions during Fiscal Year 2023. Deputy Mayor Johnson asked that Council receive the exempt properties list as well.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-40. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

5. Consideration of an amendment to the Community Development Block Grant – Coronavirus Relief Funding (CDBG-CV) Subrecipient Agreement with Helps Community Initiatives, Inc.

Staff Recommendation: Approve the amendment to the Subrecipient Agreement between the City of Palm Bay and Helps Community Initiatives, Inc. to convert the budget from a cost reimbursement budget to a unit of service reimbursement budget and authorize an amendment to the Subrecipient Agreement template, Section VII, General Conditions, to allow the City Manager to approve minor amendments in accordance with the Citizen Participation Plan.

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

6. Consideration of accepting grant award from Firehouse Public Safety Foundation; approving appropriation of funds; authorizing Memorandum of Understanding; and approving award for purchase of scuba equipment from Dive Rescue International, Inc. (\$39,043).

Staff Recommendation: a) accept the grant award from Firehouse Public Safety Foundation in the amount of \$39,043.45 and approve the appropriation of funds on the next scheduled budget amendment; b) authorize the City Manager to sign a Memorandum of Understanding; and c) approve the award for scuba equipment to Dive Rescue International, Inc. (Fort Collins, Colorado).

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

7. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund and entering into a multi-year, sole source agreement with Flock Group, Inc. for automated license plate reader cameras (\$42,500).

Staff Recommendation: Approve expenditures from the Law Enforcement Trust Fund as requested up to \$42,500 under a sole source lease agreement with Flock Safety Automated License Plate Reader Cameras and Solutions from Flock Group Inc., (Atlanta, Georgia) for an initial 62-month term renewable by the Procurement Department for one (1) additional 60-month term.

Bill Battin, resident, asked if the cameras would be owned by the city at the end of the contract or if they would be given back to the vendor. He saw the potential for the abuse of this resource as it would be no more than data stored somewhere that could be easily hacked.

Mrs. Junkala-Brown said that the equipment would be leased, not owned and once the contract expired, it would have to be renewed. The cameras would not be actively monitored. Chief Moya provided further details and advised that the monitors would be stationary. They would not be affixed to any police vehicles and would be utilized post-incident or as an incident was in progress.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve expenditures from the Law Enforcement Trust Fund as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

8. Acknowledgement of the City's monthly financial report for June 2021.

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

9. Acknowledgement of Investment Performance Review Report, prepared by PFM Asset Management, LLC, for the quarter ended June 30, 2021.

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

RECOGNITIONS AND PROCLAMATIONS:

The individuals were recognized.

1. Recognizing five (5) years of service as a City board member on the Code Enforcement Board - Alfred Agarie; Victor Silva-Martinez.

- 2. Recognizing five (5) years of service as a City board member on the Library Advisory Board - Charlene Horton.**
- 3. Recognizing five (5) years of service as a City board member on the Recreation Advisory Board - Salvatore Ferranti.**
- 4. Recognition of Palm Bay Police Officers for assistance provided to the American Legion Post 117. (AGENDA REVISION)**

PRESENTATIONS:

- 1. Sustainability Action Plan - Lesley Byrd, Chairperson.**

Mrs. Byrd presented the first draft of the Sustainability Action Plan (Plan) and explained that there were five (5) elements to the Plan: Natural Environment (land and water systems); Built Environment (energy and buildings); Transportation and Mobility; Innovative Waste Management; and Education and Public Engagement. There were 2-4 goals per element and each goal was broken down into objectives for City Government, Local Business and Community. Mrs. Byrd detailed each element and the associated goals.

Mrs. Byrd asked if there were any priorities desired by Council that were not represented in the plan and what priorities Council wanted the Sustainability Advisory Board to focus on now and in the future. Councilmembers provided input and their individual suggestions. Council concurred that priorities should include protecting Turkey Creek and the Indian River Lagoon, with a focus on septic to sewer with little to no cost to residents; charging stations for electric vehicles; and traffic safety such as streetlights.

- 2. Police Annual Report - Nelson Moya, Police Chief.**

Chief Moya provided an overview of the Professional Standards Annual Report. He detailed various data such as Uniform Crime Reporting data, 2020 population and demographics, traffic stop data, total arrests for 2019 and 2020, response to resistance reporting for 2019 and 2020, internal investigations versus division inquiries, officer involved accidents, vehicle pursuits, and the Performance Assessment and Review System. Chief Moya answered questions posed by councilmembers.

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

1. Bill Battin, resident, commented on the new development adjacent to Gaynor Drive that was accessing City property without the proper permits which had since been

corrected. He said that the project property had tall grass and weeds almost two-feet high and did not have proper egress from the site. Mrs. Junkala-Brown said she would get more information and address it with Mr. Battin.

2. Fyaad Nabbie, resident, also commented on the new development on Gaynor Drive. His property abutted the project site, and the grass and weeds were over six feet in height. He expressed concern about the overgrowth becoming a fire hazard during the dry season.

3. Alfred Agarie, resident, said he had been cited by staff for excessive vegetation on his property. He said he had cleaned the site to the property line and was told it was in compliance; however, the Code Enforcement Board advised that he was not in compliance. Mr. Agarie said it had turned into a property line dispute and he was being cited for something that was on his neighbor's property. He said he should not be given a fine when there was an active civil dispute regarding the issue. Mrs. Junkala-Brown said a meeting had been scheduled for the following day between Mr. Agarie and staff.

PUBLIC HEARING(S):

1. Ordinance 2021-52, amending the Code of Ordinances, Chapter 174, Floodplain and Stormwater Management, Subchapter 'Stormwater Management and Conservation, Part 2: Drainage Plan', by modifying provisions for finished floor elevations for single-family residential construction and the appeals process related thereto (Case T-23-2021, City of Palm Bay), first reading.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Mrs. Junkala-Brown presented the request to Council.

Bill Battin, resident, expressed concern with the effect of this request on older homes that were built either lower or at the same height as the crown of the previous road and now the new homes would be two feet above the crown of the newly paved roadway. He said that other areas of the city should be reviewed as well.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve Ordinance 2021-52. Deputy Mayor Johnson agreed with Mr. Battin that other parts of the city should

be addressed. Mr. Felix said that Brevard County came up with the finished floor elevation. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

2. Ordinance 2021-53, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations', by including Indoor Commercial Recreation as a principal use and conditional use within GC (General Commercial District) zoning (Case T-28-2021, City of Palm Bay), first reading.

The Planning and Zoning Board recommended approval of the request.

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 approve Ordinance 2021-53. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

3. Ordinance 2021-54, amending the City's Comprehensive Plan Future Land Use Element to create the 'Property Rights Element' in conformance with House Bill 59 (Case CP-12-2021, City of Palm Bay), first reading.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Mrs. Junkala-Brown presented the request to Council.

Deputy Mayor Johnson asked if there were any long or short-term effects regarding this request. Mr. Murphy said the Legislature passed this bill which required all counties and municipalities in the State of Florida to amend their comprehensive plans to include this property rights element. The Department of Economic Opportunity (DEO) took the stance that this amendment had to be adopted prior to any governmental bodies considering large scale amendments. Staff wanted to implement the changes now as there were numerous cases pending that were affected by this ordinance. Mr. Murphy said this request still had to be forwarded to the DEO for comment prior to the second and final hearing before City Council.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-54. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

4. Resolution 2021-41, granting a conditional use to allow for a private school in the RR (Rural Residential District) zoning, on property located west of and adjacent to Nail Street, in the vicinity north of Emerson Drive (3.00 acres) (Case CU-26-2021, Christian Development Center, Inc.). (Quasi-Judicial Proceeding)

Staff recommended the following condition: construction of an ADA-accessible sidewalk, prior to issuance of a Business Tax Receipt for the school, adjacent to the west side of Nail Street NE, extending from the sidewalk at Emerson Drive NE to the nearest existing driveway at Christian Life Church.

The Planning and Zoning Board recommended approval of the request, subject to the Staff Report.

The City Attorney read the resolution in caption only. The public hearing was opened. The applicant presented the request to Council and concurred with Staff's recommended condition.

Mr. Foster asked if the school was to be built or if it was part of the existing church. The applicant responded that the existing facility would operate as a school during the day and as a church in the evenings.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-41. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

5. Request by James and Nola Musgrove for a variance to allow a proposed detached metal garage relief from the requirement that no accessory structure shall exceed the size of the principal structure's living area; and to increase the maximum allowable size of the metal structure from 300 square feet to 1,200 square feet in RS-2, Single-Family Residential District, zoning as established by Sections 185.118 (C) and (G), Palm Bay Code of Ordinances (0.46 acres) (V-25-2021). (Quasi-Judicial Proceeding)

Staff recommended the following condition: the proposed structure must meet the requirements of Section 185.118(G), where the garage exterior simulates non-metal

construction, is treated with a textured coating on all four sides or is painted to match the color scheme of the primary residence.

The Planning and Zoning Board recommended approval of the request.

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

Bill Battin, resident, said this was one instance where the ordinances did not fit the situation and supported the request.

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 Foster, Yea; Councilman Felix, Yea.

6. Request by Thomas and Michelle Capritta for a variance to allow a proposed garage addition and concrete slab to encroach six (6) feet into the 25-foot front yard setback in RS-2, Single-Family Residential District, zoning as established by Section 185.033(F)(7)(a), Palm Bay Code of Ordinances (0.41 acres) (V-27-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request.

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

PROCUREMENTS:

1. Miscellaneous: 'Cooperative Purchase', Intuitive Municipal Solutions (iMS) software application (Omnia Partner contract) - Information Technology Department (Software House International, Inc. - \$556,173).

Staff Recommendation: Approve a budget amendment allocating \$556,173 to purchase the iMS application from Software House International, Inc., utilizing the Omnia Partner contract.

Mrs. Junkala-Brown presented the item to Council.

Bill Battin, resident, said the City had already spent \$519,000 for the previous software that did not meet the needs of the City. He asked if iMS would work with the current hardware or if that would be an additional cost. Mr. Robinson provided history of the previous vendor and why the software was not viable for the City. He said it would be housed in the Cloud so it would not be dependent on physical hardware, and the cost would be significantly higher if both software and hardware were needed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the budget allocation and iMS application as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

A brief recess was taken after which time the meeting resumed.

COMMITTEE AND COUNCIL REPORTS:

Councilmembers addressed various subjects.

1. Mr. Felix commented on the recent earthquake in Haiti. He asked residents to donate whatever they could to assist, but to be careful to which organizations they donated. He advised that donations were being accepted through the Palm Bay Municipal Foundation's Disaster Relief Committee (DRC) and could be done through the website. Mr. Felix said he was the President of the Haitian American Association of Brevard and the organization had collaborated with the City's fire stations to serve as drop-off locations for critical goods, such as toiletries, tarps, tents, anything medical, etc.
2. Deputy Mayor Johnson made the following reports:
 - a. The DRC had a current budget of approximately \$10,700. He supported any efforts to provide relief to Haiti;
 - b. Asked that staff contact Eastern Florida State College (EFSC) to possibly reopen a COVID test site;
 - c. Advised that the City of Largo had a great representation for its residents as to how the City budget was broken down, along with a sample monthly property tax receipt which reflected to which services a resident's dollars were spent. He asked that staff look into something similar; and
 - d. Noted that several municipalities in the state had legislative aides. He was not seeking to have a legislative aide but suggested a legislative intern program for those interested in seeking a career in local government. The individual(s) could provide research support on specific topics for a councilmember.

Mayor Medina asked if the interns would be from a college, high school, etc. Deputy Mayor Johnson said it was open to discussion, but the interns could be from anywhere. Mayor Medina asked if the City had an internship program. Mrs. Junkala-Brown confirmed same and said the City coordinated with organizations for such purpose. Mayor Medina felt it was a successful way to encourage individuals seeking any type of position in government.

Council supported the internship program, the budget breakdown sample, and the COVID test site through EFSC. Mrs. Junkala-Brown advised that staff had been contacted by Brevard County Emergency Management and they were looking to open three test sites in north, central and south Brevard. Although the County would provide the vendor, they were seeking a facility in Palm Bay. Staff was researching same but have discussed the use of the Captain's House or Veteran's Park.

3. Mayor Medina said that if the DRC was going to donate to an organization, it should be through a worthwhile, credible organization. He said that any potential organizations needed to be vetted by Council.

Mr. Felix said that, as Chairman of the DRC, he called for a meeting regarding assistance to Haiti which would be held on Monday, August 23rd, at 6:00 P.M. The former DRC established that only specific organizations would receive donations. He was in discussions with the City Attorney as to the ability to use other organizations. Any recommendations from the DRC would receive final approval from the Palm Bay Municipal Foundation on which City Council served as the members.

NEW BUSINESS:

1. Consideration of temporary benefits to City personnel for relief related to COVID-19 exposure.

Staff Recommendation: Authorize the City Manager to enact temporary benefits to City personnel related to COVID-19 voluntary vaccination incentive program; and a COVID-19 leave bank funded by the American Rescue Plan Act; and implement a Teleworking Policy for special circumstances.

Mrs. Junkala-Brown presented the item to Council.

Mayor Medina asked if there were exemptions, such as someone being unable to receive the vaccine due to medical reasons. Mrs. Junkala-Brown advised that if an employee had a medical exception, they would need to provide a note from their doctor, continue to wear personal protective equipment (PPE) and would be eligible for the incentive. Staff was working through the few instances in which an employee had a medical exception

and could not wear the mask. Religious exceptions would require some type of confirmation and would be eligible for the incentive as well. Ms. Smith clarified that those employees would not be waived but would be accommodated through another program with the same objective that would not violate the individual's disability or religious beliefs.

Mr. Foster asked the cost for the incentive and the leave bank. Mrs. Junkala-Brown said if every employee took advantage of the incentive, the approximate cost would be \$270,000. She did not have an exact cost for the leave bank but based on the previous program for the leave bank, the cost was approximately \$500,000. The incentive and leave bank were eligible uses of the American Rescue Plan Act (ARPA) funds. Mr. Foster asked why staff did not elect to offer more than eighty (80) hours. Mrs. Junkala-Brown said it mirrored the previous program offered through the Families First Coronavirus Response Act (FFCRA). Mr. Foster expressed concern for firefighters and police officers and the number of hours they worked per day. Ms. Cox explained that the firefighters took advantage of the program through the FFCRA. She detailed the FFCRA program and answered questions posed by councilmembers. Mr. Foster did not feel that the eighty (80) hours would work for the firefighters and said it should be a higher amount.

Mr. Felix said he had an issue with the incentive and felt the employees should not be paid to do the right thing. He said that everyone had a moral duty to be a good neighbor and protect each other. He had no problem with the leave bank and teleworking policy. Mayor Medina suggested that staff do a little more research on the incentive and Council move forward with the leave bank and teleworking policy at this time. Council concurred. Mr. Foster felt that the leave bank should be increased and also offered as an incentive. He did not want to see employees run out of leave and then end up coming to work sick because they had no accrued time to use.

Individuals spoke against the incentive stating that it was a financial coercion. Every person had the right to determine what was to be injected in their body and this was a backdoor way of knowing each person's vaccination status. It was asked if the incentive would offset the insurance or if it was a real benefit to the employees, and if there was a cost associated with the teleworking.

Mr. Foster said Council should move forward with the leave bank of eighty (80) hours and teleworking policy and increase the leave bank to one hundred twenty (120) hours for public safety personnel.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to authorize the leave bank funding of eighty (80) hours and Teleworking Policy as requested.

Deputy Mayor Johnson said that staff was not prepared to increase the leave bank but asked that staff research same and bring back to Council. Mrs. Junkala-Brown clarified that the purpose of the request was not to encourage vaccination as it was to safeguard city operations.

Council asked that staff bring back information regarding the increased leave bank for public safety personnel in September.

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

ADMINISTRATIVE AND LEGAL REPORTS:

1. Mrs. Junkala-Brown asked that the annual joint workshop between City Council and the Police and Firefighters Pension Plan, Board of Trustees be cancelled. Council concurred.
2. Mrs. Junkala-Brown requested a letter of support to Brevard Public Schools for their grant application to the Community Development Block Grant (mitigation grant) in the amount of \$5 million. The grant was for school system needs and upgrades regarding emergency alert broadcast systems. Deputy Mayor Johnson said he would support as long as the City benefited from same. Council concurred.

PUBLIC COMMENTS/RESPONSES:

Individuals made general comments.

1. Anton Evans, resident, commented on speeding on Wichita Boulevard and Babcock Street. He expressed concern for the safety of children being picked up and dropped off at the school bus stops.
2. Bill Battin, resident, made the following comments: asked if the intern would be paid or not; said that vehicles were parking illegally at the City facility on DeGroot Road and presented photos of same. He said that the City should not place provisions on the residents that it could not also adhere to.
3. Alfred Agarie, resident, agreed with Mr. Battin and said he had made complaints about numerous properties, including City properties. He provided examples and said that these issues needed to be addressed. He said that the City should not bribe its workers to get vaccinated.

Mayor Medina said that Brevard County handled Code cases differently. They had a magistrate that decided and made rulings similar to a judge and the decisions were final. The position was funded through the fines received from violations. He said it avoided situations in which members of board had to collectively determine who was in violation, who was telling on another property owner, retaliation, etc. Mayor Medina asked that Council consider the option. Ms. Smith asked if the magistrate would replace the Code Enforcement Board. Mayor Medina confirmed same. Ms. Smith said it was permissible and would require an amendment to the ordinance. Council concurred.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 11:16 P.M.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK