

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2021-26

Held on Thursday, the 7<sup>th</sup> day of October 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.

Father Brian Turner, Church of the Blessed Redeemer, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

### ROLL CALL:

|                           |                 |         |
|---------------------------|-----------------|---------|
| <b>MAYOR:</b>             | Rob Medina      | Present |
| <b>DEPUTY MAYOR:</b>      | Kenny Johnson   | 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>DEPUTY CITY CLERK:</b> | Terri Lefler    | Present |

**CITY STAFF:** Joan Junkala-Brown, Deputy City Manager; Juliet Misconi, Chief Procurement Officer; Nancy Bunt, Community and Economic Development Director; Chris Little, Utilities Director; Mehul Parekh, Public Works Director; Fred Poppe, Recreation Director; Patrick Murphy, Acting 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).++**
- 2. One (1) vacancy on the Community Development Advisory Board (represents 'residential home builder', actively engaged in home building', 'for-profit provider' or 'not-for profit provider' positions).++**
- 3. Two (2) vacancies on the Youth Advisory Board (represents 'at-large student' member positions).++**
- 4. One (1) vacancy on the Youth Advisory Board (represents 'adult member, 30 years and older' position).++**

**5. One (1) vacancy on the Recreation Advisory Board (represents 'at-large' position).+**

**AGENDA REVISION(S):**

1. Ms. Sherman announced that Item 20, under Consent Agenda, relating to the Chief Building Official salary increase, had been withdrawn by staff.

**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 7, 9, 11, 12, 15, 16, 17, 19, and 21, 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 2021-22; September 2, 2021.**

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

**2. Adoption of Minutes: Special Council Meeting 2021-23; September 7, 2021.**

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

**3. Adoption of Minutes: Special Council Meeting 2021-25; September 22, 2021.**

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

**4. Award of Bid: Temporary staffing services - IFB 63-0-2021 - Public Works Department (LFI Ft. Pierce Inc. and Compunnel Software Group, Inc. - \$140,960).**

Staff Recommendation: Approve the award for temporary staffing services with LFI Ft. Pierce Inc. (Vero Beach) and Compunnel Software Group, Inc. (Plantation), in the amount of \$140,960.

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

**5. Award of Bid: Road bond paving, Kirby Industrial Park and Palm Bay Colony – IFB 64-0-2021 - Public Works Department (Ranger Construction Industries - \$1,024,250.95).**

Staff Recommendation: Approve the award for road bond paving of Kirby Industrial Park and Palm Bay Colony with Ranger Construction Industries (Ft. Pierce), in the amount of \$1,024,250.95.

Note: The total appropriation as reflected in the Legislative Memorandum was \$1,126,675.95 (project award of \$1,024,250.95 plus \$102,425 for the contingency change orders).

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

**6. Award of Proposal: Employee Assistance Program (EAP) - RFP 53-0-2021 - Human Resources Department (Evernorth Behavioral Health, Inc. - \$18,039 annually).**

Staff Recommendation: Approve the award for the Employee Assistance Program with Evernorth Behavioral Health, Inc. (Bloomington, Minnesota), in the amount of \$18,039.36.

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

**7. Award of Proposal: Federal lobbying services - RFP 60-0-2021 (Alcalde & Fay, LTD. - \$54,000 annually).**

Staff Recommendation: Approve the award for federal lobbying services with Alcalde & Fay, LTD. (Arlington, Virginia), in the amount of \$54,000 annually.

Randall Olszewski, resident, questioned how staff would measure that the city's interests were met and the best bang for the buck was received. Ms. Sherman explained that one of the goals of the firm was to assist the city with being successful in acquiring grants and possible appropriations, especially related to infrastructure. Mrs. Junkala-Brown detailed the scope of work. Mayor Medina said the contract was for one year and then staff would make the decision to renew.

Mr. Foster said he was a member of the evaluation team that selected the firm. He felt it was a great benefit to have the firm located in the Washington, D.C. area and they did good work for other municipalities in Brevard County.

Motion by Mr. Foster, seconded by Deputy Mayor Johnson, to approve the award for federal lobbying services as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**8. Miscellaneous: 'Other Agency' term contracts utilized for Fiscal Year 2021-2022 for 'as needed' purchases of equipment, services and materials - multiple city departments.**

Staff Recommendation: Approve the Fiscal Year 2021-2022 annual purchases of equipment, services, materials and supplies on an “as needed” basis through utilization of the ‘Other Agency’ term contracts, as presented by staff, to include renewals, resolicitations, and replacement contracts when a contract expired, and only if funds were appropriated by Council.

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

**9. Acknowledgement of the Semi-Annual Report of Formal Solicitations awarded by the Procurement Department from March 19, 2021, through September 17, 2021.**

Staff Recommendation: Acknowledge receipt of the Semi-Annual Report of Formal Solicitations from March 19, 2021, through September 17, 2021.

Randall Olszewski, resident, questioned the cost of \$50,000 for auto body repair over a six-month period. He asked if there were any disciplinary actions for employees that damaged city vehicles.

Mrs. Misconi explained that when a whole dollar amount was reflected, it was for time and material-based contracts on an ‘as needed’ basis. This was an estimated annual amount of the number of repairs based on historical value for any types of auto body collision repairs. The amount could be more or less. Ms. Sherman said with regard to disciplinary actions for accidents in city vehicles, it would be based on whether the employee was at fault and a process was outlined in the City’s Administrative Code.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to acknowledge the receipt of the report as presented. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**10. Acknowledgement of the City's monthly financial report for August 2021.**

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

**11. Consideration of a purchase offer for City-owned surplus real estate, generally located at 1230 Jacob Street SE, from buyer Fred DeNicci Construction (\$135,505).**

Staff Recommendation: Authorize the City Manager to execute the purchase contract for City-owned surplus real estate generally located at 1230 Jacob Street SE (Tax ID: 2930053) from buyer Fred DeNicci Construction in the amount of \$135,505 and bring forth a resolution at a future Council meeting.

Bill Battin, resident, felt that the amount was too low for the size of the lot.

Mayor Medina agreed with Mr. Battin. He asked if the city could provide utilities to this location. Ms. Sherman said the property was near areas that had access to water service, but it would be cost prohibitive to the city and the buyer to loop the service to that lot. Mayor Medina said he was comfortable with the sale price.

Mrs. Bunt said the sale price was contingent upon the buyer being able to subdivide the property into six (6) lots and extending the road. The lots were approximately \$26,000 each plus the cost to build the road and any other infrastructure. Mr. Felix said the average lot with no utilities was approximately \$20,000. He felt it was a good offer and should be accepted. Constructing a road would place quite a burden on the buyer. Mrs. Bunt answered questions posed by councilmembers.

Mr. Felix said the buyer had up to nine (9) months to close. He did not think the sale would go through if the city counteroffered. Ms. Sherman said that pursuant to ordinance, water connection would be required if the lots were subdivided at an estimated cost of \$200,000. The sewer portion would be challenging, and staff would have to discuss those issues. Mayor Medina said he was okay with at least having water service.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to authorize the execution of the purchase contract in the amount of \$135,505. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**12. Consideration of submitting a grant application to the Coastal Partnership Initiative for rehabilitation and replacement projects at Castaway Point Park.**

Staff Recommendation: Authorize the City to submit a grant application to the Coastal Partnership Initiative (CPI) in the amount of \$60,000 for the Castaway Point Park rehabilitation and replacement projects, and to appropriate \$60,000 from General Fund undesignated fund balance for the match.

Bill Battin, resident, said the match should come from Parks budget. Ms. Sherman said the Parks budget was part of the General Fund. She said this grant would provide the necessary upgrades at half the cost.

Deputy Mayor Johnson asked if staff could do the labor in-house. Ms. Sherman said there was not enough manpower to handle everything, but portions could be done in-house. Mr. Foster said there was no guarantee that the city would receive the grant, but Council should approve applying for it.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve submission of the grant application as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**13. Consideration of a Grant Agreement with Florida Department of Environmental Protection for state funding appropriation for two (2) nutrient-separating baffle boxes (\$300,000 reimbursement grant); allocation from Stormwater Undesignated Fund Balance (\$88,000).**

Staff Recommendation: Authorize the City Manager to execute the Florida Department of Environmental Protection grant agreement to accept the state funding appropriation of \$300,000 for the construction of the two (2) nutrient-separating baffle boxes and approve an allocation of \$88,000 from Stormwater Undesignated Fund Balance.

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

**14. Consideration of an amendment to the Subrecipient Agreement with Community Housing Initiatives, Inc. for CDBG affordable housing assistance.**

Staff Recommendation: Approve the amendment to the Subrecipient Agreement with Community Housing Initiatives, Inc., for CDBG affordable housing assistance, extending the term of the agreement to September 30, 2022; and authorize the City Manager to execute the amendment.

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

**15. Consideration of a request from JIC Palm Bay Apartments LLC for SHIP Program grant funds for its affordable housing project (\$50,000).**

Staff Recommendation: Approve the funding request from JIC Palm Bay Apartments, LLC, for monetary support from the City of Palm Bay in the amount of \$50,000 from State Housing Initiatives Partnership (SHIP) Program grant funds for its affordable housing project, Palm Bay Apartments, contingent upon the award of (State Apartment Incentive Loan (SAIL) funds by Florida Housing Finance Corporation and adding an electric car charging station as an amenity to the project.

Bill Battin, resident, spoke in favor of the request.

Mr. Felix said developers should be encouraged to come to Palm Bay and build these types of projects.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request from JIC Palm Bay Apartments LLC for SHIP Program grant funds. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**16. Consideration of appropriation of funds from Fund Balance for payment of Florida Department of Environmental Protection penalties and fees (\$25,000).**

Staff Recommendation: Approve the appropriation of funds from Fund Balance for payment of Florida Department of Environmental Protection (FDEP) penalties and fees in the amount of \$25,000.

Randall Olszewski, resident, asked why the city was suddenly noncompliant.

Nathan White, resident, requested a list of the violations.

Mr. Little said that in the past, the FDEP would work with agencies without any penalties and the FDEP recently started aggressively penalizing entities, regardless of fault. This request was to cover future potential penalties that could not be offset with projects. Mr. Little gave examples of penalties, including someone discharging grease into a manhole which clogged the manhole and caused an overflow, or a contractor hit a force main on Palm Bay Road and it discharged. When a third party was at fault, the city would invoice the company and collect the payment.

Mr. Foster asked how much had been paid to the FDEP in fines. Mr. Little said it was approximately \$16,000 to date. There were additional fines pending that equaled a few thousand dollars. Mr. Little answered questions posed by councilmembers.

Motion by Mr. Foster, seconded by Mr. Felix, to approve the appropriation of funds as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**17. Consideration of appropriation of funds from Fund Balance for the Lift Station Telemetry Solar Panel Project (\$6,000).**

Staff Recommendation: Approve the appropriation of funds from Fund Balance for the Lift Station Telemetry Solar Panel Project in the amount of \$6,000.

Randall Olszewski, resident, said that when the force main was hit on Palm Bay Road, the solution was to repair seven (7) lift stations for \$20,000, and with this request, the city would fix three (3) lift stations for \$6,000 in lieu of paying fines to FDEP. He questioned why ten (10) lift stations could not be repaired for \$20,000 and how the three (3) lift stations were selected. Mr. Little said the seven (7) lift stations was an estimate and included some design to configure the telemetry; the three (3) lift stations were the actual cost to fabricate at \$2,000 each.

Mr. Foster asked the age of the lift stations. Mr. Little responded that it varied anywhere from 20-30 to 40-50 years old. He said the focus would be in the northeast sector of the city as those lift stations were the oldest and then those closest to water bodies.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the appropriation of funds as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**18. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund for legal costs associated with the Asset Forfeiture Program (\$5,000).**

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.



**19. Consideration of a scope of work for the St. Johns Heritage Parkway forensic audit.**

Staff Recommendation: Approve the scope of work for the St. Johns Heritage Parkway (Parkway) forensic audit.

Bill Battin, resident, referenced two occasions in 2008 and 2015 where it was stated that the developers would be responsible for the Parkway project, including project development, study, design, and right-of-way construction. He said this item would not be necessary if the developers were held accountable back in 2008 to pay for the roadway. He asked the overall objective of spending \$250,000 and if there would be any retribution for these costs.

Ms. Sherman provided background information on the Parkway. It was stated on the record prior to 2015 that the developers would receive impact fee credits and pay for the road. However, there was no information to support why there was a staff level decision in 2015 for the city to pay for the road, even though there were draft impact fee credit agreements with the developers on file.

Mr. Felix did not feel taxpayer dollars should be spent on an audit that may not result in any answers and even if it did provide answers, there was no legal recourse. He said those staff members were no longer employed with Palm Bay and the city and should just move forward. Mr. Foster agreed with Mr. Felix. He said Council and staff should learn from the mistakes and move on.

Deputy Mayor Johnson said there were behind closed-door discussions and handshake deals, and previous staff was solely responsible. He did not believe it was the developers. He asked what audits were currently in place. Ms. Sherman said a financial audit was performed annually. She added that a modification to previous administration's processes was that any discussions that resulted in a Developers Agreement would be routed through the City Attorney's Office and would not conflict with any city ordinances. Beyond the financial audit, Ms. Sherman advised there was an opportunity to hire an operational auditor that could review specific city processes and aspects of the overall operations and provide advice on areas that needed to be strengthened.

Ms. Smith said she had determined that the developer, the city, and outside counsel were working on an agreement for the developer to build the road. The developer had hired a firm to design the roadway and it ended up that the city took over that design. There was

no breach of contract as there was no contract. Ms. Smith said it was hard to determine if there was any fraud because, during that same time, the item came to Council for the city to pay for the road.

Mayor Medina supported the request and said it would be good to have fresh eyes review everything. He said this may show any pitfalls that were not uncovered previously. He felt it would restore the public trust in the community.

Nathan White, resident, said this was not insignificant and wanted more answers to what had occurred. He asked what had changed for the approval of this audit back in 2020 until now.

Mayor Medina felt Council should move forward with this request. Mr. Felix said his position had not changed.

Motion by Mr. Felix, seconded by Mr. Foster, to deny the request for scope of work for a forensic audit for the Parkway. Deputy Mayor Johnson wanted to proceed with the operational audit as mentioned by Ms. Sherman.

Motion carried with members voting as follows:

|                      |     |
|----------------------|-----|
| Mayor Medina         | Nay |
| Deputy Mayor Johnson | Yea |
| Councilman Foster    | Yea |
| Councilman Felix     | Yea |

**20. Consideration of an increase in the annual salary for the Chief Building Official. (WITHDRAWN)**

**21. Consideration of an increase in the annual salary for the Utilities Director.**

Staff Recommendation: Approve an 8.63 percent salary increase for the Utilities Director, effective October 1, 2021, and inclusive of the 3 percent cost of living increase.

Randall Olszewski, resident, said the increase would cause the employee to max out the pay range. He questioned the comparisons and the size of the utility structures within the landmass of those cities. He also asked what would happen next year for the employee's cost of living if the salary range was at the maximum. Mr. Olszewski said that with recent

agenda items for the Utilities Department for things that went wrong, department deficiencies, increase in utility rates, etc., he felt it was not a good time to increase the salary.

Nathan White, resident, agreed that the timing was poor and questioned the references to support the request. He was not against a salary increase but felt the memorandum provided incomplete or incorrect supporting information.

Ms. Sherman responded to the comments. She said that, if approved, the pay range would be at the maximum range and the pay ranges for all employees had not been adjusted in the past 6-7 years. A full review of all city positions and pay ranges had been included in this year's budget as it had been determined during the hiring process that many positions were not competitive with the market in the area. Ms. Sherman understood the comments about timing and said this request had been in the works for quite some time. The main reason for requesting the increase was that Mr. Little used to serve as the Utilities Engineer and, due to the current pay scale, it had been very difficult filling that position; therefore, Mr. Little had been serving in both capacities for an extended period, as well as overseeing the plant expansion and expansion of the system to new developments. Ms. Sherman explained that, after the study, if Mr. Little's pay was not adjusted, then the cost-of-living increase would be paid out in one lump sum and there would be no increase to Mr. Little's salary for the fiscal year.

Deputy Mayor Johnson felt that the study should be done prior to giving the increase.

Mr. Foster asked Mr. Little about his employment history with the city, the positions he held, and accomplishments and obstacles during his tenure. Mr. Foster felt that the eight percent (8%) increase was too small compared to other cities.

Mayor Medina and Mr. Felix supported the request.

Motion by Mr. Foster, seconded by Mr. Felix, to approve the salary increase as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

## **22. Consideration of additional positions and job descriptions in Position Control Plan for the Human Resources Department.**

Staff Recommendation: Approve the new positions and job descriptions titled Human Resources Generalist I, Human Resources Generalist II, and Senior Human Resources Generalist in the Position Control Plan for the Human Resources Department.

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

**23. Consideration of travel and training for specified city employees (Office of the City Attorney).**

Staff Recommendation: Approve the travel and training as specified.

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

**24. 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.

**25. Consideration of travel and training for specified City employees (Procurement Department).**

Staff Recommendation: Approve the travel and training as specified.

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

**PROCLAMATIONS:**

The proclamations were read.

- 1. Customer Service Week - October 4-8, 2021.**
- 2. Domestic Violence Awareness Month - October 2021. (Deputy Mayor Johnson)**
- 3. Hispanic Heritage Month, Recognizing Samuel Lopez - October 2021.**
- 4. Manufacturing Month - October 2021.**

**PRESENTATION:**

- 1. Nancy Peltonen, President and CEO, Greater Palm Bay Chamber of Commerce – quarterly update.** Ms. Peltonen provided an update on the Chamber's activities.

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

1. Michael Amicucci, Aztec Homes, asked Council to rescind the requirement to have a private engineer design and sign off on all single-family residential drainage plans, which became effective October 1<sup>st</sup>. He said it would create an added expense for the customers and would cause weeks in delays due to the lack of notice. It would also require many man hours to the surveyors or to the engineer to provide information that was previously done by the city. Mr. Amicucci said the city already required Hold Harmless Agreements so that the city would not be liable.

Mr. Parekh responded that there was a huge backlog of permits to be reviewed (approximately 500 to date) and the main reason for the delay was that staff was spending countless hours doing the work of an engineer for private contractors. He said this process was not consistent with any municipalities in the State of Florida.

2. Mildred Fry, resident, presented photographs regarding the culvert on her property that caused flooding and cracks in her driveway.

3. Bill Battin, resident, asked if illegals were being bussed or flown into Palm Bay and, if so, where they were housed. He also asked the status on the special election and when the Veterans Parade would be held.

Ms. Sherman was not aware of any immigrants and if it was happening, there was no involvement from the city. Mr. Poppe said the parade was being organized by the city, but veteran organizations and individuals would be participating in the parade. Mrs. Lefler said the special election was scheduled for March 8, 2022, and a resolution declaring same would be presented at the next Council meeting.

4. Randall Olzewski, resident, commented on the traffic signal respan at Eldron Boulevard and Malabar Road which began three (3) weeks ago. He said that after completing the project, the workers left the traffic signals on the ground at the corner of the intersection, and it was still there to date. He said pieces were falling into the canal, it was a hazard for children walking to and from school, and there was a fee in the contract for removal of the remnants. Mr. Olzewski questioned if there was language in the contracts that would hold the contractors and companies accountable. Staff would research same.

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

**PUBLIC HEARING(S):**

**1. 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), 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. Foster, to adopt Ordinance 2021-54. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Ordinance 2021-65, granting approval of a Final Development Plan for a Planned Unit Development of a proposed residential subdivision to be known as ‘Cypress Bay West Phase II’ on property located west of and adjacent to Babcock Street, in the vicinities south of Mara Loma Boulevard and north of Davis Lane (185.747 acres) (Case FD-30-2021, Waterstone Holdings, LLC; Waterstone Farms, LLC; and, Forestar (USA) Real Estate Group), final reading. (Quasi-Judicial Proceeding)**

The City Attorney read the ordinance in caption only. The public hearing was opened. Chris Tyree, Forestar (USA) Real Estate Group and representative for the applicant, presented the request to Council.

Bill Battin, resident, referenced the Technical Comments section of the Staff Report. He said the Utilities Department commented that the applicant/owner would be responsible for the property’s hydraulic share for the new utilities. Mr. Battin questioned if the utility lines would stop at the point of current development if the city did not increase the size of the lines or if the entire project would be on hold if the developer did not pay their fair share. He noted that some of the applicant names were the same names reflected in the recent audit.

Mr. Little said that staff was working with the three (3) primary developers in that area and they fully understood there were obligations upon the developer in order to have proper service to their developments.

Mr. Tyree responded to the comment and said they were new developers to Palm Bay. He provided brief details of the project.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-65. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Ordinance 2021-66, granting approval of a Final Development Plan for a proposed Planned Unit Development (PUD) residential subdivision to be known as 'Gardens at Waterstone Phase II' on property located south of and adjacent to Melbourne Tillman Water Control District Canal 38, in the vicinity west of Mara Loma Boulevard (52.26 acres) (Case FD-33-2021, Waterstone Farms, LLC), first reading. (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to the staff comments contained in the Staff Report, with the exception of an option for the applicant to come back before City Council to remove the timing of the installation of the traffic signal, and a condition to remove all inapplicable staff comments.

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

Mr. Parekh presented an additional condition to which the applicant had agreed: A permanent traffic signal with mast arm shall be constructed and operational prior to April 30, 2023, at the intersection of Mara Loma Boulevard and Babcock Street. The developer shall be required to have the final design of the traffic signal approved no later than September 30, 2022. The developer shall provide a bond by December 31, 2021, to cover the cost for the signal installation in case these deadlines were not met.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-66, with the additional condition as presented by staff. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**4. Resolution 2021-55, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a residential subdivision to be known as 'Cypress Bay West Phase III', which property is located in the vicinities west of Babcock Street and Mara Loma Boulevard and north of Willowbrook Street (190.28 acres) (Case PD-32-2021, Waterstone Farms, LLC). (Quasi-Judicial Proceeding)**

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

The City Attorney read the resolution in caption only. The public hearing was opened. Chris Tyree, Forestar (USA) Real Estate Group and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2021-55. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**5. Ordinance 2021-67, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations', by including tree and landscape businesses as a conditional use within LI (Light Industrial and Warehousing District) zoning (Case T-36-2021, Michael and Lisa Cram), 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. William Alcock, representative for the applicant, presented the request to Council.

Bill Battin, resident, supported the request and stated his reasons for same. He suggested that the applicant connect with the Sustainability Advisory Board as they had similar ideas within their Sustainability Plan.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-67. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**6. Resolution 2021-56, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a residential subdivision to be known as 'Malabar Springs', which property is located north of and adjacent to Malabar Road, in the vicinity west of St. Johns Heritage Parkway (294.70 acres) (Case PD-34-2021, Malabar Holdings Group, LLC). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to staff comments.



The City Attorney read the resolution in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council. She stated there was a Technical Comment regarding the right-of-way related to Malabar Road and said that segment of Malabar Road was still under the jurisdiction of Brevard County and the applicant would work with Brevard County if there was any right-of-way request.

Mayor Medina was hoping for another exit onto the Parkway. Ms. Saunders said that in order to get to the Parkway, access would have to go through the school property and there was also an existing project currently under construction east of the high school. She said the only other option would be to cross the C-1 Canal to the north and it was unsure how Melbourne-Tillman Water Control District would view that option. Ms. Saunders answered questions regarding the project.

Bill Battin, resident, said the applicant was planning on developing twelve (12) acres at this time with 3.6 units per acre. He said that even though the project total was 295.00 acres, the actual land mass on which to build was considerably smaller which made the density become highly compacted.

Nathan White, resident, supported the project and its placement. He said it would not be ideal for commercial and asked where commercial would be placed with so many subdivisions in that area. He was concerned with Malabar Road being one lane in each direction and asked if Malabar Road would be widened. He also expressed concern with the size of the units as they would be smaller than  $\frac{1}{4}$  of an acre.

Mr. Foster asked about sidewalks since the project was located next to Heritage High School. Ms. Saunders said pedestrian access to the high school was being discussed. Mr. Foster said that Malabar Road was a county road, but the project was within the city. He asked about the commercial tracts. Ms. Saunders said there was a 15-acre commercial piece at the northwest corner of the intersection of Malabar Road and the Parkway; a 10-acre piece in front of the high school, with a 25-acre parcel nearby; and a 60-acre commercially zoned property at the Parkway north of Emerson Drive. Mr. Murphy added that there was also a 32-acre piece of commercial property close to the proposed development.

Deputy Mayor Johnson mentioned the widening of Malabar and that both the city and county need to provide funding for same. He said that staff needed to find out the portions of Malabar Road that were owned by the city. Mayor Medina suggested that staff reach out to Commissioner Zonka as she was beneficial in getting a similar project higher on priorities list in the past.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-56. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**7. Resolution 2021-57, granting a conditional use to allow for public utility equipment and facilities not located within a utility easement or right-of-way in RS-2 (Single-Family Residential District) zoning, on property located south of and adjacent to Cabot Drive, in the vicinity east of Bianca Drive (0.29 acres) (Case CU-37-2021, City of Palm Bay). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the resolution in caption only. The public hearing was opened. Ms. Sherman presented the request to Council. Clayton McCormick, Infrastructure Solution Services and representative for the city, provided information on the project.

Bill Battin, resident, asked if piping had to be rerouted which would require digging up the roadway, the cost and how many homes would be affected. Mr. McCormick said that approximately 10,000 residents were served from that particular lift station. The project would require piping to route the discharge from the lift station.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-57. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**8. Request by Ida and Scott Miller for a variance to grant a proposed detached garage relief from the requirement that no accessory structure shall exceed the size of the principal structure's living area in RS-2, Single-Family Residential District, zoning as established by Section 185.118(C), Palm Bay Code of Ordinances (1.17 acres) (V-31-2021). (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. Deputy Mayor Johnson asked that these requests get handled by staff with a quarterly report to Council. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

### **COUNCIL REPORTS:**

Councilmembers addressed various subjects.

1. Mr. Felix addressed the public comment regarding illegals. He said he travelled to the border to assist those in need and described the horrible conditions. He also explained the process to be permitted into the United States. He said the proper term for these individuals was asylum seekers, not illegals.
2. Mr. Foster said he did not support any undocumented individuals in the city. He said the immigration system had many issues and needed to be addressed at the federal level.
3. Deputy Mayor Johnson said numerous complaints were received by Council regarding various issues. He requested an online portal with the ability to login and view complaints and requests and check the status of same. Mayor Medina said many residents were not and did not care to be electronically savvy, but he supported the idea.
4. Mayor Medina appointed Timothy Thibert to the Utilities Advisory Board.

### **NEW BUSINESS:**

#### **1. Consideration of an additional forty (40) hour leave bank to City safety personnel for relief related to Covid-19 exposure.**

Staff Recommendation: Authorize the City Council to enact an additional temporary forty (40) hour leave bank, funded by the American Rescue Plan Act, applicable to City public safety personnel for relief related to Covid-19 exposure.

Ms. Sherman presented the request to Council. Mr. Foster asked if Police Officers and Police Supervisors were included. Ms. Sherman confirmed same.

Bill Battin, resident, said there were 244 cases out of approximately 900 employees. He asked the number of repeat cases and said there could be issues in the future determining whether the illness was something other than Covid if guidelines were not established.

Ms. Sherman did not have the number of repeat cases and explained the current protocol for employees regarding Covid exposure versus symptoms.

Mr. Foster asked if there was an expiration for the leave bank. Ms. Sherman said it was December 31, 2021. Mr. Foster asked if it could be extended by Council in the future to December 31, 2022. Mrs. Junkala-Brown responded in the affirmative.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve an additional forty (40) hour leave bank to City safety personnel for relief related to Covid-19 exposure. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Consideration of revising the City's Co-Sponsorship Policy for special events.**

Staff Recommendation: Approve the revised Co-Sponsorship Policy for special events.

Ms. Sherman presented the request to Council

Mayor Medina asked if the policy included some type of grace or merit bonus points for community events that had already established a relationship with the city. Ms. Sherman said that was not built into the policy. Mayor Medina suggested that it be added.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the revised Co-Sponsorship Policy for special events. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Consideration of co-sponsorship and waiver of the fee for the mobile stage for the second Pushback 2020's Community Immunity event on October 9, 2021 (valued at \$924.78).**

Staff Recommendation: Approve co-sponsorship and waiver of the fee for the mobile stage for the second Pushback 2020's Community Immunity event on October 9, 2021, valued at \$924.78.

Ms. Sherman presented the request to Council

Mr. Foster asked if American Rescue Plan Act (ARPA) funds could be used to pay for the event. Mrs. Junkala-Brown did not believe the city could reimburse itself.

Bill Battin, resident, mentioned that the request was brought forward in a very short window. He did not agree with using city resources to provide a stage for a follow-up event.

Susan Connolly, resident and member of the Pushback organization provided details on the event.

Councilmembers expressed their support for the event.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve co-sponsorship and waiver of the mobile stage fee. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

#### **4. Consideration of scheduling two (2) workshop meetings for October 2021.**

Council concurred to schedule two (2) workshop meetings for Tuesday, October 19, 2021, at 6:00 p.m., in the Council Chambers, for the Comprehensive Plan Visioning Study and Tuesday, October 26, 2021, at 6:00 p.m., at the Tony Rosa Community Center, for commercial development review and permitting process.

#### **ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Sherman received feedback from Senator Mayfield and Representative Fine regarding the City's Legislative Priorities, and neither were in support of the dredging request. Staff had revised the priorities that were presented to the Brevard Legislative Delegation last week for a project total of \$1.2 million, which would include a \$300,000 match from either the Stormwater Fund or through a successful grant application. This would assist in constructing an additional five (5) baffle boxes in the Turkey Creek basin area.

2. Ms. Smith requested an executive session on Tuesday, October 12, 2021, at 6:00 p.m., to discuss settlement negotiations pertaining to the following case: Patricia E. Morgan v. City of Palm Bay, Case 05-2020-CA-054664.

The meeting would take approximately thirty (30) minutes. Ms. Smith announced the individuals that would be in attendance. Council concurred to schedule the meeting as requested.

#### **PUBLIC COMMENTS/RESPONSES:**

1. Bill Battin, resident, said the baffle boxes were great but preferred to have seen the dredging of Turkey Creek. He commented that the term "illegal" was correct as it was the definition of someone who had broken the law but understood that it affected people's emotions.

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**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 11:40 P.M.

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Rob Medina, MAYOR

ATTEST:

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Terri J. Lefler, DEPUTY CITY CLERK