

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2021-28

Held on Thursday, the 21<sup>st</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.

Pastor Troy Robinson, Lifepoint Church, 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>DEPUTY CITY ATTORNEY:</b>	Jennifer Cockcroft	Present
<b>CITY CLERK:</b>	Terese Jones	Present

**CITY STAFF:** Patrick Murphy, Acting Growth Management Director; Valerie Carter; Code Compliance Supervisor; Nancy Bunt, Director of Community and Economic Development.

### ANNOUNCEMENT(S):

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

1. **One (1) vacancy on the Youth Advisory Board (represents 'at-large- student member position).++**
2. **One (1) vacancy on the Youth Advisory Board (represents 'adult member, 30 years and older' position).++**
3. **One (1) vacancy on the Recreation Advisory Board (represents 'at-large' position).++**

### AGENDA REVISION(S):

There were no agenda revisions.

**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 7 and 9 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 2021-24; September 16, 2021.**

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

**2. Adoption of Minutes: Special Council Meeting 2021-27; October 12, 2021.**

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

**3. Award of Bid: Culvert pipe replacement, Unit 48 – IFB 65-0-2021 - Public Works Department (Timothy Rose Contracting, Inc. - \$581,754).**

Staff Recommendation: Approve the award for culvert pipe replacement in Unit 48 to Timothy Rose Contracting, Inc. (Vero Beach), in the amount of \$581,753.50.

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

**4. Resolution 2021-58, conveying City-owned surplus real estate located at 1942 Agora Circle SE to buyer BHA Land Investments, LLC.**

The Deputy City Attorney read the resolution in caption only.

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

**5. Resolution 2021-59, conveying City-owned surplus real estate located at 1956 Agora Circle SE to buyer BHA Land Investments, LLC.**

The Deputy City Attorney read the resolution in caption only.

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

**6. Consideration of Amendment 3 to the interlocal agreement with Brevard County for the Save Our Indian River Lagoon Project Cost Share Funding.**

Staff Recommendation: Authorize the City Manager to execute Amendment 3 to the Save Our Indian River Lagoon Project Cost-Share Funding Interlocal Agreement, SOIRL 18-17.

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

**7. Consideration of the addition of a Landscape Technician position within the Parks and Facilities Department.**

Staff Recommendation: Approve the request for the addition of a Landscape Technician position to the Position Control Plan, and to allow for the reclassification of a vacant Maintenance Worker II into a Landscape Technician.

Bill Battin, resident, questioned the four (4) vacant positions and that the city would hire one person to do the job of those four (4) positions. Ms. Sherman clarified that there were available funds due to the four (4) vacant positions. The one position would not replace four (4).

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request for the addition of a Landscape Technician position to the Position Control Plan, and to allow for the reclassification of a vacant Maintenance Worker II into a Landscape Technician. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**8. Consideration of utilizing Undesignated Fund Balance to modify the Procurement Position Control Plan (\$3,316).**

Staff Recommendation: Approve the allocation of undesignated fund balance to the Procurement Department personnel accounts in order to modify the Procurement Position Control Plan.

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

**9. Consideration of appropriating funds from the Building Department Undesignated Enterprise Fund for the purchase of a hybrid vehicle for the Building Department (\$28,960).**

Staff Recommendation: Approve the budget amendment from Building Department Undesignated Enterprise Fund Balance as requested.

Bill Battin, resident, questioned why a reserve vehicle was needed and where the fuel source would come from for the hybrid vehicle. Ms. Sherman responded there were currently no additional vehicles for the Building Department and if a vehicle was down due to maintenance, no other vehicles were available. She said the goal was to move to more hybrid vehicles and install charging stations.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the appropriation of funds and purchase of a hybrid vehicle for the Building Department. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**10. 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.

**RECOGNITIONS AND PROCLAMATION:**

The proclamations were read, and individuals were recognized.

- 1. Recognition: One (1) year of service as a City boardmember on the Police and Firefighters' Pension Plan - Anthony Sacco.**
- 2. Recognition: Ten (10) years of service as a City boardmember on the Police and Firefighters' Pension Plan - James Brock.**
- 3. Recognition: Fifteen (15) years of service as a City boardmember on the Police and Firefighters' Pension Plan - Timothy Lancaster.**
- 4. Proclamation: Recognizing hometown heroes for efforts in saving a life at the Palm Bay Aquatic Center. (Mayor Medina)**

**5. Proclamation: Lights on Afterschool - October 28, 2021. (Mayor Medina)**

**6. Proclamation: St. Francis Reflections Lifestage Care, Reflections of Love Day - November 3, 2021.**

**7. Proclamation: National Veterans Small Business Week - November 1-5, 2021. (Mayor Medina)**

**PRESENTATION:**

**1. Patrick Murphy, Acting Growth Management Director – nuisance properties update.**

Mr. Murphy said that a few residents had attended a past Council meeting and asked for a resolution regarding an unsightly property in their neighborhood. Staff had meetings to discuss different ways to address multiple types of nuisances which were being presented to Council for direction on how to move forward.

Ms. Carter explained the definition of a nuisance property and provided an overview of the Code Enforcement proceedings. Common nuisances included properties with tall grass and weeds, trash and debris, burnt or neglected structures, or structures that were not secured. Ms. Carter provided different scenarios for homesteaded and non-homesteaded properties, and how each scenario would be addressed pursuant to the Code of Ordinances (Code).

Mrs. Bunt presented a proposed Demolition and Clearance Program. The structures could be residential or commercial, but had to be non-homesteaded, vacant and uninhabitable for at least three (3) months. Community Development Block Grant (CDBG) funds would be used for the program and the city currently had \$200,000 allocated for the program, if implemented.

Staff answered questions posed by councilmembers.

Council concurred for staff to move forward with establishing the guidelines and procedures for the program and bring to Council for final consideration.

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

Individuals made general comments.

1. Vernon Densler, resident, said he had just purchased property with the intent to build. He provided history on the roadway, which was owned by the city, but he was being told by staff that he had to hire engineers and a paving company, at his expense, to pave a public road. He was told this was pursuant to Ordinance 182 which was for private land with a private entity doing the development and requesting that the city take over the maintenance. It had nothing to do with land owned by the city and public improvements on city land. Mr. Densler said it was the property owner's right to develop on their own property and he should be able to build his house. He said the only options were for the city to vacate the road, he could take over maintenance and it would become his road, leave it as is and allow him to build his home, or assess the affected property owners. Mr. Densler said he was fine with it as is.

Mr. Parekh said that according to Section 184.164, Design Improvements, any property owner who wished to improve their property on a dirt road was required to connect to the next paved road which would then be accepted by the city. In this case, the road in front of Mr. Densler's property was a dirt road and would have to be improved from the cross section up to his driveway. In order to assess the property owners, the whole subdivision had to vote and fifty percent (50%) or more had to vote in favor of the assessment.

Mayor Medina asked if the road was owned by the city. Mr. Parekh confirmed same. Mayor Medina did not think this was right and asked if there was anything staff could do. Ms. Sherman said staff was following the ordinance. Mr. Parekh said that if the city started paving these types of roads, it would set a precedent to pave dirt roads for the benefit of private properties. He added that Water Management District criteria must also be considered as stormwater ponds had to be designed and built to treat the surfaces.

Council asked staff to provide further information on the number of affected homes, the assessment process, the number of similar roadways throughout the city and possible solutions to this issue.

2. Bill Battin, resident, cited the Oath of Office for elected officials. He said that any councilmember should resign if they could not follow the Oath.

3. Robert Stise, resident and President of Summerfield HOA, said that very little had been done to eliminate the speeding issues on the curve along Bayside Lakes Boulevard. He said there needed to be a deterrent, such as issuing tickets, erecting a traffic light, etc.

4. Phillip Corcoran, resident, asked about sale of The Majors Golf Course and was concerned that the property would be rezoned or subdivided into much smaller lots for development, which would greatly reduce the surrounding property values. He said the

subdivisions in Bayside Lakes would like to partner with the city to save the golf course and asked if an application had been submitted to rezone the golf course.

Ms. Sherman responded that no applications had been submitted to date.

5. Alfred Agarie, resident, spoke about his properties being cited for Code Compliance issues. He said he had reported numerous cases and none of those had been addressed in the same manner that he was treated for his properties. He said that all citizens must be treated in the same way.

#### **PUBLIC HEARING(S):**

**1. 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), final reading. (Quasi-Judicial Proceeding)**

The Deputy City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, 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 Ordinance 2021-66. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. 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), final reading.**

The Deputy City Attorney read the ordinance in caption only.

The public hearing was opened. The applicants presented the request to Council. The public hearing was closed.

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

**UNFINISHED AND OLD BUSINESS:**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to appoint Kera L. Beard to the Community Development Advisory Board representing the 'not-for-profit' position. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Appointment of one (1) member to the Youth Advisory Board.**

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to appoint Darrien Grady to the Youth Advisory Board representing the 'at-large student member' position. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**COMMITTEE AND COUNCIL REPORTS:**

Councilmembers addressed various subject matters and provided updates on activities of agencies and boards on which they served as members.

1. Mr. Felix addressed the remarks made by Mr. Stise under Public Comments. He said Mr. Stise had been before Council multiple times regarding the same issue and said it was important for staff to address his concerns. Mayor Medina said if grant opportunities were available as mentioned previously, then he would like to explore that option.

Ms. Sherman said staff had been working actively with the community. There had been onsite meetings with neighbors, including Mr. Stise, and the traffic signal timing had been changed. Ms. Sherman said she was unaware that Mr. Stise still had concerns. Staff would have a follow-up meeting to discuss other options.

Mr. Felix suggested a permanent speed radar. He said he travelled that area every day and had not seen much of a change in that area, including police presence. Ms. Sherman would provide information to Council as to the enforcement actions that had taken place.

2. Mr. Foster said that Council and staff needed to review the top five (5) intersections in the city with the highest number of traffic accidents or speed violations. He said there needed to be a plan on the best way to reduce speeding.



3. Deputy Mayor Johnson said that, in the past, Palm Bay hosted the Tough Mudder obstacle course. He contacted Spartan Race and they were interested and requested areas in the city where it could be held and felt it would be a great opportunity for the city.

4. Mayor Medina requested a policy for raising the flag to honor first responders, military personnel, veterans, and those that have served and lived in the community. Council concurred.

**NEW BUSINESS:**

**1. Resolution 2021-60, declaring the position of Seat 5 on the Palm Bay City Council vacated as of August 10, 2021; scheduling a special municipal election for Tuesday, March 8, 2022.**

The Deputy City Attorney read the resolution in caption only.

Mrs. Jones presented the request to Council

Bill Battin, resident, questioned the time to qualify for office. He felt four (4) days was too short. He requested communications between staff and the Supervisor of Elections regarding the special election. Mrs. Jones responded that the timeframe to qualify was not defined in the Code; therefore, state law was followed.

Nathan White, resident, said there was a contradiction in the resolution as one of the whereas clauses stated the special election was to be held within 90-180 days, but the election date was scheduled for March 8, 2022, which was 210 days after the effective date of the vacancy. Mr. White cited the penalty clause pursuant to the Code.

Mrs. Cockcroft advised that staff had met the obligations of the Code by contacting the Supervisor of Elections to initiate the process. The Supervisor of Election was not required or obligated to abide by the City's Code.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2021-60.

Mr. Foster said staff had adhered to the Code and the city could not dictate when the election would be held. He said if anyone had an issue with the date of the election, they needed to contact the Supervisor of Elections. He felt it was ridiculous that over \$250,000 was going to be spent for an election and was offended that anyone would accuse Council and/or staff of breaking the law.

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

**2. Consideration of revising Council's Policies and Procedures with regard to the Order of Business at regular meetings.**

Staff Recommendation: Approve the revisions to Section 7.3.1, Order of Business, in Council's Policies and Procedures.

Mrs. Jones presented the request to Council

Bill Battin, resident, agreed that the Consent Agenda could be lengthy but felt that those items should be addressed first and not wait until everyone left after the recognitions and proclamations. He suggested having a separate meeting for proclamations and recognitions.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the revisions as recommended by staff.

Mr. Foster suggested removing the second public comments section at end of meeting. He said residents could address Council at the first public comments section, as well as being able to speak on any agenda item.

Mr. Felix disagreed with the comment from Mr. Battin. He said if citizens wanted to take part in their government, they should come to the meetings. He also supported removing the second public comments portion.

Mayor Medina supported the request as is. He liked that the opportunity was given to residents to speak twice at a meeting.

Deputy Mayor Johnson said he could go either way with public comments. He said there were typically 2-3 people that spoke at the end of the meeting. If a resident forgot to say something earlier in the meeting, they could give their comments at the end.

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. Ms. Sherman said there had been an issue with the utility billing vendor. She advised that late fees were being waived and staff would be working with residents

regarding their payments. However, the billing problems had since been corrected and the vendor was back on track.

**PUBLIC COMMENTS/RESPONSES:**

Individuals made general comments. It was requested by a few residents that the second public comments section remain on the agenda.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:31 P.M.

---

Rob Medina, MAYOR

ATTEST:

---

Terese M. Jones, CITY CLERK