

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2021-31

Held on Thursday, the 2<sup>nd</sup> day of December 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 Luis Lugo, Iglesia El Sinai, 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; Charleena Cox, Human Resources Director; Patrick Murphy, Acting Growth Management Director; Valentino Perez, Chief Building Official; Chris Little, Utilities Director.

### ANNOUNCEMENT(S):

Deputy Mayor Johnson announced the following vacancies and terms expiring, 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) term expiring on the Bayfront Community Redevelopment Agency (represents 'at-large' position).++**
- 4. Four (4) terms expiring on the Disaster Relief Committee.+**

**AGENDA REVISION(S):**

1. Ms. Sherman advised of a revision to Resolution 2021-70 (Item 4, under Consent Agenda), which reflected the waiver of pre-application for all commercial projects regardless of zoning districts.

**PROCLAMATIONS:**

The proclamations were read.

1. **Proclamation: Family Christmas Extravaganza Day - December 18, 2021.**
2. **Proclamation: Cyberbullying/Cyber Stalking Prevention Month - December 2021.**
3. **Proclamation: Recognizing The Titans, Eastern Florida State College Women's Soccer Team - winners of the NJCAA Division I National Championship. (Deputy Mayor Johnson)**

**PRESENTATIONS:**

1. **Mehul Parekh, Public Works Director - Public Works Department overview.**

Mr. Parekh provided an overview of the duties and responsibilities of the department. He gave an update on the Road Paving Program and stormwater improvements and advised of additional staffing needs for the department. Mr. Parekh said improvements were needed to the yard at the Public Works facility. There was no hurricane-safe building, lack of covered storage for equipment, excess of small storage units which made it difficult to find tools and equipment. He was currently working on a proposed site plan which would include an additional building and parking lot. Mr. Parekh answered further questions posed by councilmembers.

Mayor Medina commented on the staffing needs and asked about the timeframe from someone being hired to the first day of employment. Ms. Cox said the timing would vary due to background checks and when information was received from the state. She said the estimated time was between two weeks and one month.

Mr. Felix said there was mention of a revised list of exemptions as it related to stormwater. Mr. Parekh confirmed same and said the published list had some discrepancies and the consultant provided a revision to be presented to Council on December 16<sup>th</sup>.

Mr. Felix questioned the need for two positions to handle the Republic Services contract. Mr. Parekh responded that there used to be a Business Operations Manager that handled the contract so that position, along with a support person, would be needed. Mr. Felix did not feel more taxpayer dollars should be used towards positions specifically for that contract. Republic Services should be performing their contract and providing excellent customer service, and Republic Services should be hiring one or two people as liaisons to the city. Mayor Medina understood that Republic Services was a huge contract for the city but questioned how many active contracts were being managed by the city. Ms. Sherman said that each department was responsible for handling contracts related to their services. Mayor Medina asked how many employees managed the Waste Management contract. Ms. Sherman said that the Waste Management contract did not have the level of detail as Republic Services, but she wanted to make sure that staff was setting up the city for success by ensuring that the vendor was being held accountable and adhering to every provision of the contract. She clarified that the requested position would monitor more contracts than just Republic Services.

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

1. Anne Marie Burrows, resident, said that the city used to have a local drop-off site for residents to dispose of household hazardous waste. She asked Council to consider establishing a site again.

Ms. Sherman responded that the landfill on Sarno Road in Melbourne was the drop-off location for hazardous materials.

2. Terri Smith, Truth Revealed Ministries, said their facility that was used as a cold night shelter for the homeless had burned down. There were no other cold night shelters in Palm Bay. She hoped for a permanent solution for a homeless shelter and that affordable housing would become a priority for City Council. Ms. Smith asked that citizens visit the church's website and donate to the restoration fund.

Mayor Medina asked about The Source and the use of their Dignity Bus. Mrs. Junkala-Brown said upgrades were still being made to their second bus. She would follow-up and provide an update to Council.

**PUBLIC HEARING(S):**

1. **Ordinance 2021-72, vacating a portion of the rear public utility and drainage easement located within Lots 38 and 39, Block 509, Port Malabar Unit 12 (Case VE-10-2021, Luis Sanchez), final reading.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-72. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Ordinance 2021-77, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Coconut Street, in the vicinity west of Emerson Drive, from Public/Semi-Public Use to Single-Family Residential Use (11.91 acres) (Case CP-16-2021, Hossein Rezvani), only one reading required.**

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

The City Attorney read the ordinance in caption only. The public hearing was opened. Attorney George Boris and Alexander Fundora, representatives for the applicant, presented the request to Council.

Mr. Foster asked if the community would have a homeowner's association. Mr. Fundora answered in the negative and said the road would be dedicated to the city. Mr. Foster said his concerns were related to traffic and lighting and asked if traffic issues had been addressed. Mr. Fundora said the traffic would be addressed during the design phase but there would be two entrances and two exits, and streetlights were required.

Mr. Felix felt the project was compatible with the area and supported the request.

Randall Olszewski, resident, expressed concern with the application. He said that the laws had changed with regard to small scale and large-scale amendments. He understood this application was in process when the law changed to reflect that small scale amendments were now for fifty (50) acres or less instead of ten (10) acres or less but felt a new application should have been completed since it showed it as a large-scale amendment. He added that the application fee had been waived and questioned staff's reasoning for doing so, as well as why only one reading of the ordinance was required.

Andrea Cannizzano, resident of Coconut Street, spoke against the request as it would devalue her home, the ingress/egress would be in front of her newly built home and front yard view would be the backyards of the new community. She added that there were

issues with excessive speeding and traffic on Coconut Street. Ms. Cannizzano said a privacy fence surrounding the community should be required, along with additional entrances and exits.

Bill Battin, resident, supported the request because the project proposed thirty-eight (38) homes on a property of twelve (12) acres.

Donna O'Conner, resident of Coconut Street asked if the drainage for the new community would help with the drainage on Coconut Street; said speeding was an issue in the area; and asked if sewer would be available to the surrounding neighborhood since the new community was getting water and sewer.

The representatives addressed the comments. They said traffic would be alleviated as the community would have two entrances, but they had no control over any existing traffic issues, and they would work with the city to mitigate as much flooding as possible. Fencing had not been considered but the project was still in its planning stages and the proposed homes along Coconut Street would not face the same direction as the existing homes. They would face east and west, except for a few homes at the end of the block.

Deputy Mayor Johnson asked that the applicant be a good neighbor and reach out to the affected homeowners, so they were aware of what was being proposed.

Mr. Murphy explained the waiver of the fees. He said that back in 2007, the applicant went through the process and had paid all of the necessary fees, but the city did not transmit the request to the state as was required for large-scale amendments. It was no fault of the applicant and staff decided to waive the fees. Mr. Murphy provided further details on the project.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-77, subject to staff comments. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Ordinance 2021-78, rezoning property located west of and adjacent to Babcock Street, in the vicinity south of Foundation Park Boulevard, from CC (Community Commercial District) to GC (General Commercial District) (6.28 acres) (Case Z-45-2021, Roth Freedom 2010 LLC and Linda N. Shah), first reading. (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Kiel Causby, Kimley-Horn Engineering and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve Ordinance 2021-78. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**4. Ordinance 2021-79, granting approval of a Final Development Plant for a PUD (Planned Unit Development) zoning residential subdivision to be known as ‘Gardens at Waterstone Phase III’ on property located in the vicinity west of Mara Loma Boulevard and south of Melbourne Tillman Water Control District Canal 38 (47.99 acres) (Case FD-47-2021, Waterstone Farms, LLC), first reading. (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to staff comments contained in the Staff Report being addressed upon submission of the administrative construction plans as follows:

- Fully engineered construction drawings;
- A Subdivision Plat meeting Chapter 177 of Florida State Statute requirements and a title opinion;
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the engineered construction drawings; and
- No roads shall be accepted by the City of Palm Bay for operation and maintenance until and unless the Developer requests acceptance through the process promulgated in Chapter 182 of the City of Palm Bay’s Code of Ordinances. Upon commencement of said process, staff will determine if acceptance of any roads would provide a public benefit and that current City of Palm Bay construction standards are met.

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. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve Ordinance 2021-79, subject to the staff comments contained in the Staff Report. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**5. Resolution 2021-68, amending Resolution 2003-61, by granting modification to the conditional use to allow expansion for an automated warehouse in CC (Community Commercial District) zoning, on property located south of and adjacent to Malabar Road, in the vicinity between Holiday Park Boulevard and Cassia Avenue (28.97 acres) (Case CU-42-2021, Wal-Mart Stores East L.P.) (Quasi-Judicial Proceeding)**

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

The City Attorney read the resolution in caption only. The public hearing was opened. Andrew Petersen, Bowman Consulting 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 2021-68, subject to the staff comments contained in the Staff Report. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**6. Resolution 2021-69, amending Resolution 2012-45, by granting modification to the conditional use to allow expansion of a permitted use on a parcel of ten (10) or more acres of area for a recreational vehicle detail and delivery shop in CC (Community Commercial District) zoning, on property located east of and adjacent to Culver Drive, in the vicinity north and south of Centre Lake Drive (24.05 acres) (Case CU-46-2021, Giant Recreation World). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to the following conditions:

- A vegetative buffer along the western property line and a row of canopy trees along the southern property line, adjacent to the proposed development;
- The new building shall be fire sprinklered;

- At the time of site plan submittal, the applicant shall work with the City's Engineering Division to establish a drainage easement along the southern property line; and
- Preserve the existing trees indicated on the conceptual plan.

The City Attorney read the resolution in caption only. The public hearing was opened. Jake Wise, CEG Engineering and representative for the applicant, presented the request to Council. He answered questions posed by councilmembers.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-69, subject to the staff's comments and conditions. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**7. Ordinance 2021-80, amending the Code of Ordinances, Chapter 64, Business Improvement District, by repealing the Chapter in its entirety, first reading.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2021-80. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**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, 7, and 11, from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**1. Award of Bid: Culvert pipe replacement, Country Club Units 1-10 – IFB 01-0-2022 – Public Works Department (Loren Jock Trucking, Inc. - \$724,656).**



Staff Recommendation: Approve the award for culvert pipe replacement, Port Malabar Country Club Units 1-10, with Loren Jock Trucking, Inc. (Stuart), in the amount of \$724,655.50; and approve the appropriation of funds on the next scheduled budget amendment.

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

**2. Contract: Neptune water meters and parts – Utilities Department (Ferguson Waterworks – \$800,000 (annual estimate, ‘as needed’ basis)(sole source)).**

Staff Recommendation: Approve the sole source purchase of Neptune water meters and parts with Ferguson Waterworks (Newberry), in the estimated annual amount of \$800,000, on an ‘as needed’ basis, from January 1, 2022, through December 31, 2022.

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

**3. Miscellaneous: North Regional Water Treatment Plant rehabilitation, Change Order 3 – Utilities Department (Eau Gallie Electric, \$90,942); appropriation of funds from Undesignated Fund Balance.**

Staff Recommendation: Approve Change Order 3 for the North Regional Water Treatment Plant rehabilitation with Eau Gallie Electric (Melbourne), in the amount of \$90,942.05; and approve the appropriation of funds on the next scheduled budget amendment in the amount of \$29,103.

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

**4. Resolution 2021-70, authorizing a temporary building permit fee rebate program and pre-application fee waiver.**

Staff Recommendation: Adopt the resolution authorizing the Building Permit Fee Rebate Program and waiver of the Growth Management Pre-Application Conference Fee as an economic incentive for commercial development within the city.

The City Attorney read the resolution in caption only.

Bill Battin, resident, agreed with the incentive being for all throughout the city rather than certain zoning districts. He asked how long the program would be in place since it was

temporary. Ms. Sherman responded that it was through the end of this fiscal year, September 30, 2022.

Ms. Sherman advised of a correction to the third line of the first Whereas clause of the resolution: building impact fees should read as building fees.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to adopt Resolution 2021-70, with the correction as stated by the City Manager. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**5. Ordinance 2021-81, amending the Code of Ordinances, Chapter 35, Finance Department, by repealing the Chapter in its entirety, first reading.**

The City Attorney read the ordinance in caption only.

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

**6. Ordinance 2021-82, amending the Code of Ordinances by creating Chapter 35, to be titled 'Finance Department', first reading.**

The City Attorney read the ordinance in caption only.

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

**7. Consideration of entering into negotiations with Palm Bay Medical Office Corporation for the purchase of condominium office buildings located at 336 and 342 Cogan Drive to serve as satellite offices for the Building Department to service customers in south Palm Bay.**

Staff Recommendation: Authorize staff to negotiate the purchase of 336 and 342 Cogan Drive SE and bring forth the final purchase agreement for consideration at a future City Council meeting.

Deputy Mayor Johnson questioned the need for these buildings when plans for Building E at the City Hall campus were underway. Mr. Perez said it would serve the residents in the south area of the city and add to the government hub that already existed in that area. Deputy Mayor Johnson asked if there was any other purpose for the buildings once the

Building E was constructed. Mr. Perez said there were options due to the expansion in that area. The city could keep those buildings for expansion of future services or sell them at some point in the future.

Mayor Medina asked about the current lease at the Winn Dixie Shopping Center. Mr. Perez said it was a three-year lease and it was currently in the first year.

Councilmembers spoke in favor of the request.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to authorize staff to negotiate the purchase of 336 and 342 Cogan Drive SE and bring forth the final purchase agreement for consideration at a future City Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**8. Consideration of an Opioid Participation Agreement (McKesson Corporation).**

Staff Recommendation: Approve the Opioid Participation Agreement with McKesson Corporation and authorize the City Manager to execute the Election and Release.

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

**9. Consideration of an Opioid Participation Agreement (Janssen/Johnson and Johnson).**

Staff Recommendation: Approve the Opioid Participation Agreement with Janssen/Johnson and Johnson and authorize the City Manager to execute the Election and Release.

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

**10. Consideration of appropriation of Fund Balance from the General Fund (\$70,000) and Building Fund (\$34,000) to cover the cost of credit card processing fees.**

Staff Recommendation: Authorize the appropriation of Fund Balance from the General Fund, in the amount of \$70,000, and the Building Fund, in the amount of \$34,000, to cover the cost of credit card processing fees.

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

**11. Consideration of appropriating funds from the Undesignated Fund Balance for fuel for the North Regional Water Treatment Plant replacement generator (\$16,200).**

Staff Recommendation: Authorize the appropriation of funds from the Undesignated Fund Balance, in the amount of \$16,200, for fuel for the North Regional Water Treatment Plant replacement generator.

Nathan White, resident, said the request did not include fuel. He asked what happened to any remaining fuel in the previous tank and how there was a budget for the tank, but not for the fuel. Mr. Little responded that previous fuel had been removed, cleaned, and would be reused. He said it was an oversight by staff that the fuel was not accounted for in the budget.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to authorize the appropriation of funds from the Undesignated Fund Balance, in the amount of \$16,200, for fuel for the North Regional Water Treatment Plant replacement generator. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**12. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund for donation to the 2021 Reindeer Run (\$6,578).**

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.

**13. Consideration of travel and training for specified City Employees (Fire Department).**

Staff Recommendation: Approve the travel and training as specified.

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

**14. 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.

**15. Consideration of travel and training for specified City employees (City Attorney's Office).**

Staff Recommendation: Approve the travel and training as specified.

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

**UNFINISHED AND OLD BUSINESS:**

**1. Councilmember appointments to the Charter Review Commission.**

Council appointed members as follows:

Mayor Medina	Kenneth Delgado David Meyers
Deputy Mayor Johnson	David Jones Jordin Chandler
Mr. Foster	William Capote Phil Moore
Mr. Felix	Phil Weinberg Jeffrey McLeod

**2. Appointment of two (2) members to the Charter Review Commission (represents 'at-large' positions).**

The individuals were rated by the City Council due to the number of applications exceeding the number of vacant positions. Number 1 represented the first choice of each councilmember and so on. The individual(s) receiving the lowest number(s) to the position(s) were considered for appointment to the board.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to appoint Aaron Parr and Kay Maragh to the 'at-large' positions on the Charter Review Commission. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**NEW BUSINESS:**

**1. Consideration of scheduling a special meeting for December 2021.**

Council concurred to schedule a special Council meeting for Thursday, December 9, 2021, at 6:00 p.m., for follow-up discussion regarding American Rescue Plan Act funds.

**COUNCIL REPORTS:**

Councilmembers addressed various subjects.

1. Mr. Foster made the following reports:

a. Requested that future tree lighting ceremonies be held at the City Hall campus;  
and

b. Asked Council to consider utilizing American Rescue Plan Act (ARPA) funds for a temporary cold night shelter since the only code night shelter in Palm Bay located at Truth Revealed Ministries had burned down.

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Sherman requested a special meeting of the Palm Bay Municipal Foundation (Foundation) prior to the regular Council meeting on Thursday, December 16, 2021, at 6:00 p.m., to consider an Interlocal Agreement with the American Legion for fundraising related to the Mayor's Ball. Council concurred.

Ms. Sherman explained the intent of the agreement. She said that Sacrifice Park, located between the City Hall Complex and DeGroodt Library, was built many years ago by volunteers and police officers as a memorial to honor law enforcement officers that had lost their lives in the line of duty. Mayor Medina's charity selection was to renovate Sacrifice Park and the American Legion had taken the lead to raise funds for the improvements and the funds would go to the Foundation.

**PUBLIC COMMENTS/RESPONSES:**

Individuals made general comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:42 P.M.

---

Rob Medina, MAYOR

ATTEST:

---

Terri J. Lefler, DEPUTY CITY CLERK