

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2023-04

Held on Thursday, the 16th day of February 2023, 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 6:00 P.M.

Pastor Paul Fournier, Lifepoint Church, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	Rob Medina	Present
DEPUTY MAYOR:	Donny Felix	Present
COUNCILMEMBER:	Kenny Johnson	Present
COUNCILMEMBER:	Randy Foster	Present
COUNCILMEMBER:	Peter Filiberto	Absent
CITY MANAGER:	Suzanne Sherman	Present
CITY ATTORNEY:	Patricia Smith	Present
CITY CLERK:	Terese Jones	Present

CITY STAFF: Joan Junkala-Brown, Deputy City Manager; Juliet Misconi, Deputy City Manager; Alexandra Bernard, Growth Management Director; Nancy Bunt, Community and Economic Development Director; Mariano Augello, Police Chief; Frank Watanabe, City Engineer.

ANNOUNCEMENTS:

Deputy Mayor Felix 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 Planning and Zoning Board (represents 'at-large' position).+**

AGENDA REVISION(S):

Ms. Sherman announced the following revisions:

- A. Item 1, under Proclamations and Recognitions, had been withdrawn.**

B. Items 1 and 2, under Presentations, had been withdrawn.

C. The applicant for Item 4, under Public Hearings (Case PD-36-2022), requested a continuance to the April 6, 2023, regular Council meeting.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to continue Case PD-36-2022 to the April 6, 2023, regular Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

D. At the request of Councilman Johnson, discussion of directing the City Attorney to draft a letter to the Office of the Governor requesting the Governor suspend Councilman Peter Filiberto pursuant to Section 112.51, Florida Statutes, had been added as Item 3, under New Business.

E. At the request of Mayor Medina, discussion of immediate drug testing for councilmembers had been added as Item 4, under New Business.

F. Consideration of councilmembers attending the 2023 Legislative Action Days in Tallahassee had been added as Item 5, under New Business.

Motion by Mr. Johnson, seconded by Mayor Medina, to consider Items 3 and 4, under New Business, prior to the first Public Comments heading on the agenda. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

PROCLAMATIONS AND RECOGNITIONS:

The proclamation was read, and the individuals were recognized.

1. Proclamation: Black History Month - February 2023. (Deputy Mayor Felix)

The item, announced under Agenda Revisions, had been withdrawn.

2. Proclamation: Bleeding Disorder Awareness Month - March 2023.

3. Recognitions: One (1) year of service as a City board member on the Disaster Relief Committee - Stephen Hayes; Keith Miller; Eunhea Park.

PRESENTATIONS:

1. Kittelson & Associates, traffic engineering subconsultant to Consor Engineers – northwest and southeast traffic studies update.

The item, announced under Agenda Revisions, had been withdrawn.

2. Black History Month. (Councilman Foster)

The item, announced under Agenda Revisions, had been withdrawn.

Council concurred to consider Items 3 and 4, under New Business, at this time.

3. Discussion of directing the City Attorney to draft a letter to the Office of the Governor requesting the Governor suspend Councilman Peter Filiberto pursuant to Section 112.51, Florida Statutes. (Councilman Johnson) (AGENDA REVISION)

Ms. Smith presented the item to Council. She advised of Section 112.51, Florida Statutes, which provided the process by which a municipal officer may be suspended or removed from office by the Governor. City Council did not have the ability to remove another councilmember because they had been charged with a felony.

Mr. Johnson asked about absences from Council meetings. Mrs. Jones noted that pursuant to Section 3.063, of the Palm Bay City Charter, absence from four (4) consecutive regular meetings or a total of six (6) regular meetings within a 12-month period shall vacate the seat of the member.

Numerous individuals commented and felt that Mr. Filiberto should resign.

Motion by Mr. Johnson, seconded by Mr. Foster, to direct the City Attorney to draft a letter to the Office of the Governor requesting the Governor suspend Councilman Peter Filiberto pursuant to Section 112.51, Florida Statutes.

Mr. Foster said that Mr. Filiberto took an oath of office to uphold the Constitutions of the United States and Florida and he violated that oath. He requested Mr. Filiberto resign immediately.

Deputy Mayor Felix said Mr. Filiberto should do the right thing for himself, the city, and the residents and resign immediately.

Mayor Medina reiterated that the only authority Council had in this situation was to send a letter to the Governor requesting the suspension of their fellow councilman. He supported the motion.

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

**4. Discussion of immediate drug testing for councilmembers. (Mayor Medina)
(AGENDA REVISION)**

Mayor Medina presented the item to Council. He had researched that a Council in Burbank, California, had implemented quarterly drug testing for the councilmembers, and he wanted Council to consider a similar policy. Mayor Medina said it could not be mandated but urged Council to be transparent and volunteer to do so.

Individuals made comments stating that no one would see the results; questioning if the policy was for all employees and what corrective actions would be posed; a policy should not be set based on bad behaviors or criminal actions of one person; and why background checks and credit checks were not performed on candidates by the city.

Mayor Medina relinquished the chair to the Deputy Mayor and made a motion that City Council be subjected to drug testing on a voluntary, quarterly basis. Mr. Johnson seconded the motion.

Mayor Medina asked about background checks for members of Council. Ms. Smith explained that neither the City Clerk nor any other city official had the ability or authority to prevent a person from being placed on the ballot or stop them from being sworn into office. If someone felt that a person should be disqualified, a court order would be needed. Random urinalysis could be performed in the private sector, but a governmental agency would need a reason to do so. Drug tests were considered searches under the law, and it would be unconstitutional to randomly test employees or officials without having some suspicion that the person actually engaged in some type of drug use.

Mayor Medina said he wanted this to be voluntary, possibly every quarter and the councilmember could just disclose whether the test was a pass or fail. Mr. Johnson understood the intent but other than the voters being aware of the results, there was no other recourse should a councilmember fail the test. Mr. Foster disagreed with the testing and said that he was not going to give up his constitutional right because of Mr. Filiberto's mistake. Deputy Mayor Felix did not support drug testing and felt it would set a negative precedent.

Motion failed with members voting as follows:

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

Mayor Medina resumed as presiding officer.

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

Individuals made general comments.

PUBLIC HEARING(S):

1. Ordinance 2023-07, vacating a portion of the rear public utility and drainage easement located within Lot 4, Block 1186, Port Malabar Unit 24 (Case VE-8-2022, Emily Flagge), first 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 Mr. Johnson, seconded by Mr. Foster, to approve Ordinance 2023-07. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. Ordinance 2023-08, vacating a portion of the rear public utility and drainage easement located within Lot 6, Block 470, Port Malabar Unit 11 (Case VE-11-2022, Tami and David Lee), first 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 Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-08. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

3. Ordinance 2022-116, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located west of and adjacent to St. Johns Heritage Parkway, in the vicinity east of Melbourne-Tillman Water Control District Canal 2R, from Residential Open Space Use, Single-Family Residential Use, Multiple-Family Residential Use, and Commercial Use to Multiple-Family Residential Use (1198.1 acres) (Case CP-30- 2022, Palm Vista Preserve, LLC), final reading.

The City Attorney read the ordinance in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council.

Mayor Medina said there should be a balance of commercial property and the plans only reflected houses. He wanted to see something similar to Viera master plan and more institutional uses. Mr. Johnson agreed with Mayor Medina's comments. Ms. Saunders responded to questions posed by councilmembers. She noted that there was currently sixty (60) acres of commercially zoned property in that area.

Randall Olszewski, resident, said more commercial was not needed. He said the most appropriate use would be mixed use. Other residents commented that more homes were not needed in the city, and that public safety, traffic and infrastructure had to be addressed.

Ms. Saunders responded to public comments. She said a prospective fire station site was currently being discussed at the intersection of Malabar Road and St. Johns Heritage Parkway (Parkway). She considered this project a mixed-use plan as it included commercial, a mixture of single-family homes, duplex townhomes and villas, four- and six-plex townhomes and multifamily condominiums. There was further discussion regarding the traffic study, widening of the Parkway, and wetlands on the site. Greg Pettibon, Lennar Homes, provided further information regarding the project.

The public hearing was closed.

Motion Mr. Foster seconded Deputy Mayor Felix to adopt Ordinance 2022-116.

Motion failed with members voting as follows:

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

4. Resolution 2022-60, granting approval of a Preliminary Development Plan for a proposed mixed residential development to be known as 'Palm Vista Everlands West PUD' in AU (Agricultural Residential) (Brevard County) zoning, which property is located west of and adjacent to St. Johns Heritage Parkway, in the vicinity east of Melbourne-Tillman Water Control District Canal 2R (1198.1 acres) (Case PD-36-2022, Palm Vista Preserve, LLC). (Quasi-Judicial Proceeding) (CONTINUED FROM 02/02/23 RCM)

The item, considered under Agenda Revisions, was continued to the April 6, 2023, regular Council meeting; however, due to the denial of Ordinance 2022-116, this item was rendered moot.

5. Ordinance 2023-06, amending the Code of Ordinances, Chapter 169, Land Development Code, by modifying provisions related to Citizen Participation Plans (Case T-7-2023, 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 Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-06. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

6. Consideration of the Fiscal Year 2023-2024 Annual Action Plan, Community Development Block Grant, and recommendations of programs and activities, first hearing.

The Community Development Advisory Board recommended approval of Community Development Block Grant (CDBG) funding for the following five (5) entities:

- Aging Matters in Brevard (\$27,900)
- Grand Parents Raising Grandchildren (\$14,572.40)
- Greater Melbourne Police Athletic League (PAL) (\$21,250)
- South Brevard Women's Center (\$38,500)
- Space Coast Area Transit (SCAT) Bus Voucher Program (\$6,567)
- Palm Bay Parks and Facilities (\$461,086 for improvements at Goode Park)

This distribution would provide \$108,789.90 for public services, \$471,422.90 for public facility improvements, with the remaining \$145,053.20 (twenty percent (20%) of grant allocation) allocated to Planning and Administration activities related to administering the grant program.

The public hearing was opened. Ms. Bunt presented the item to Council. Agency representatives gave detailed information on the services provided to the community and responded to questions posed by councilmembers.

Isabel Wright, resident, disagreed with Melbourne PAL receiving funding when Palm Bay should be receiving such funding if it had a program of its own.

There was discussion of reallocating the funding (\$50,000) that was not given to The Source. Ms. Bunt advised of the thirty (30) day termination clause in the contract and

the City could possibly terminate the contract and reallocate the full \$50,000. Mayor Medina wanted to see that the children of Palm Bay were served as well, not just in Melbourne. Chief Augello advised that Police staff was currently in discussion with the Recreation Department regarding summer youth programs.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the Fiscal Year 2023-2024 Annual Action Plan, Community Development Block Grant, and recommendations of programs and activities. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

7. Consideration of a Substantial Amendment to the Fiscal Year 2019-2020 Annual Action Plan and recommendations for CDBG-CV (CARES Act) funding, only one hearing required.

The Community Development Advisory Board recommended approval of CDBG-CV 1 and 3 funding for the following four (4) entities:

- Brevard Alzheimer's Foundation Inc (\$38,556.75)
- Catholic Charities of Central Florida (\$30,000)
- Greater Melbourne PAL (\$22,000)
- Helping Seniors of Brevard (\$37,000)

This distribution would provide \$127,556.75 in CDBG-CV 1 and 3 funding to Palm Bay residents for eligible programs and services.

The public hearing was opened. Mrs. Bunt presented the item to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the recommendations of the Community Development Advisory Board, awarding \$127,556.75 in FY 2019-2020 CDBG-CV 1 and 3 funding to eligible entities. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

CONSENT AGENDA:

All items of business under the 'Consent Agenda' heading were enacted by the following motion:

Motion by Deputy Mayor Felix, seconded by Mr. Foster, that the Consent Agenda be approved as presented with the removal of Item 2 from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

1. Adoption of Minutes: Meeting 2023-02; January 19, 2023.

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

2. Award of Bid: Valve Insertion Equipment, Team Brand Only – IFB 16-0-2023 – Utilities Department (Consolidated Pipe & Supply - \$120,925); and request to standardize the Team brand valve equipment.

Staff Recommendation: 1) standardize the Team brand valve equipment and 2) approve the award for Valve Insertion Equipment, Team Brand Only (rebid) to Consolidated Pipe & Supply (Mobile, Alabama). The term of the contract for the purchase of insertion valves will be for one (1) year with the option to renew for an additional four (4) twelve (12) month periods.

Bill Battin, resident, questioned the long-range plan of getting water and sewer to those neighborhoods that have none. Ms. Sherman said the first step would be to increase the capacity of the utilities plant and the second step would be funding, but there was an active appropriations request with the state to assist with the planning; however, funding was the biggest challenge.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the award for valve insertion equipment as recommended by staff. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

3. Award of Bid: Lift Station 27 rehabilitation – IFB 17-0-2023 – Utilities Department (Danus Utilities, Inc. - \$127,600); and approve appropriation of funds on the next scheduled Budget Amendment (\$40,360).

Staff Recommendation: 1) Approve appropriation of \$40,360 on the next scheduled budget amendment; and 2) approve the award for Lift Station 27 Rehabilitation to Danus Utilities, Inc. (Sanford).

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

4. Miscellaneous: ‘Cooperative Purchase’, two (2) Carrier chiller replacements, City Hall Annex Building and Police Department Headquarters (Sourcewell Cooperative Contract) – Parks and Facilities Department (Carrier - \$295,890).

Staff Recommendation: Approve procurement of two (2) chillers for Annex and PD HQ from Carrier utilizing Sourcewell Cooperative Contract.

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

5. Consideration of submitting a grant application to the Florida Inland Navigation District (FIND) Waterway Assistance Program (WAP) for continued improvements to Castaway Point Park.

Staff Recommendation: Authorize staff to submit an application to the Florida Inland Navigation Program (FIND) Waterway Assistance Programs (WAP); and direct the City Manager to allocate no more than \$100,000 in matching funds during the Fiscal Year 2024 budget process.

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

6. Consideration of travel and training for specified City employees (Building Department).

Staff Recommendation: Approve the travel and training as specified.

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

7. Acknowledgement of the City’s travel expenses for the first quarter of Fiscal Year 2023 (October 2022 – December 2022).

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

8. Acknowledgement of the City’s monthly financial report for December 2022 (Unaudited).

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

9. Acknowledgement of the City’s quarterly Budget Monitoring Report for the first quarter of Fiscal Year 2023 (Unaudited).

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

10. Acknowledgement of the February 2023 GO Road Bond Paving report update.

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

NEW BUSINESS:

1. Consideration of councilmembers attending the Florida Black Caucus of Local Elected Officials in Kissimmee, March 2-3, 2023.

Deputy Mayor Felix and Councilman Foster would attend the conference.

2. Consideration of councilmembers attending the National League of Cities 2023 Congressional City Conference in Washington, DC, March 24-28, 2023.

Mayor Medina wanted to attend the conference and if unable to do so, Deputy Mayor Felix would attend, along with Mrs. Junkala-Brown.

3. Discussion of directing the City Attorney to draft a letter to the Office of the Governor requesting the Governor suspend Councilman Peter Filiberto pursuant to Section 112.51, Florida Statutes. (Councilman Johnson) (AGENDA REVISION)

The item was discussed earlier prior to Public Comments.

4. Discussion of immediate drug testing for councilmembers. (Mayor Medina) (AGENDA REVISION)

The item was discussed earlier prior to Public Comments.

5. Consideration of councilmembers attending the 2023 Legislative Action Days in Tallahassee, April 3-5, 2023. (AGENDA REVISION)

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

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. Mayor Medina made the following reports:

- A. Appointed Logan Luse to Recreation Advisory Board.

B. Requested consensus to replace Mr. Filiberto on the Economic Development Commission. Council concurred.

2. Deputy Mayor Felix reappointed Wudson Fenelon to the Recreation Advisory Board.

ADMINISTRATIVE AND LEGAL REPORTS:

There were no reports.

PUBLIC COMMENTS/RESPONSES:

Individuals made general comments.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 10:56 P.M.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK