

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2023-15

Held on Thursday, the 18th day of May 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 Ken Delgado, The House 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:	Vacant	
CITY MANAGER:	Suzanne Sherman	Present
CITY ATTORNEY:	Patricia Smith	Present
CITY CLERK:	Terese Jones	Present

Councilman Foster attended the meeting via teleconference.

CITY STAFF: Joan Junkala-Brown, Deputy City Manager; Juliet Misconi, Deputy City Manager; Fred Poppe, Recreation Director; Frank Watanabe, City Engineer; Jesse Anderson, Assistant Growth Management Director; Valentino Perez, Public Works Director; Nancy Bunt, Community and Economic Development Director; Natalie Shaber, Environmental Engineer.

ANNOUNCEMENTS:

Deputy Mayor Felix announced the following vacancy and terms expiring, and solicited applications for same:

1. One (1) vacancy on the Youth Advisory Board (represents 'at-large student member' position).++

AGENDA REVISION(S):

1. Mayor Medina requested that Items 1 and 2, under New Business, be considered after the first Public Comments section.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to consider Items 1 and 2, under New Business, after Public Comments. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster; Yea.

2. Ms. Sherman announced the following revisions:

A. A proclamation for National Police Week and National Peace Officers Memorial Day was added as Item 2, under Proclamations and Recognitions, at the request of Mayor Medina.

B. A proclamation for National Caribbean American Heritage Month was added as Item 3, under Proclamations and Recognitions.

C. A proclamation for National Gun Violence Awareness Day was added as Item 4, under Proclamations and Recognitions, at the request of Councilman Johnson.

D. An Award of Bid for Driskell Heights Stormwater Retrofit (IFB #32-0-2023) was added as Item 1, under Procurements.

PROCLAMATIONS AND RECOGNITIONS:

The flag was presented, and the proclamations were read.

1. Recognition: Presentation of the American Flag - honoring the service of Thomas Rebman. (Deputy Mayor Felix)

2. Proclamation: National Police Week - May 14-20, 2023; and National Peace Officers Memorial Day - May 15, 2023. (Mayor Medina) (AGENDA REVISION)

3. Proclamation: National Caribbean American Heritage Month - June 2023. (Deputy Mayor Felix) (AGENDA REVISION)

4. Proclamation: National Gun Violence Awareness Day - June 2, 2023. (Councilman Johnson) (AGENDA REVISION)

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

Individuals made general comments.

1. Tim Bland, resident, commented on the lack of mowing at the Majors Golf Course. He said that the property owner keeps delaying with excuses but a case was scheduled for the Special Magistrate.

2. Bill George, resident, received a citation from Code Compliance about his recreational vehicle (RV) being parked in the driveway which had been there for almost two (2) years. He was advised to move it to the side of his home which would cause him to hire a contractor and acquire permitting to extend his driveway. He requested Council to review the ordinance to allow smaller rv's in driveways.

3. Anton Evans, resident, said he would continue to attend the meetings for the safety of the children along Wichita Avenue due to no sidewalk and no bus stop. He was aware that sidewalks were in next year's budget but that did not help the current situation. He said he had also contacted the Brevard County School Board but had not received a response.

Ms. Sherman confirmed that the sidewalks were budgeted but funds would not be available until after October 1st. She said staff would contact the School Board and request the bus stop be moved to a safer location.

4. Butch Orend, resident, said a flashing pedestrian light was needed on Minton Road at the intersection of DeGroodt Library and the Winn Dixie Plaza, as well as a sidewalk along Malabar Road between Madalyn Landings Apartments and the Winn Dixie Plaza.

11. Santa Isabel Wright, President of the United Coalition Council and Florida Hispanic Chamber of Commerce, requested Council's support in condemning the immigration laws in Florida that would implement a series of hardline measures against undocumented immigrants.

Council considered Items 1 and 2, under New Business, at this time.

NEW BUSINESS:

1. Consideration of City's co-sponsorship of Brevard Caribbean American Sports and Cultural Association's (BCASCA) 3rd Annual Caribbean Heritage Month activities.

Staff Recommendation: Approve the City's co-sponsorship with Brevard Caribbean American Sports and Cultural Association for their 3rd Annual Caribbean Heritage month and authorize \$5,722.50 of in-kind wages (labor) and fee waivers totaling \$485.00, for a total co-sponsorship value of \$6,207.50.

Mr. Poppe presented the item to Council.

Bill Battin, resident, said this item should not be considered without the related consent agenda item (Item 9) being considered first. He commented that he did not agree with his tax dollars being given away to non-profits and this event could have been paid for with the funding from Item 9, under Consent Agenda.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the City's co-sponsorship with Brevard Caribbean American Sports and Cultural Association for their 3rd Annual Caribbean Heritage month and authorize \$5,722.50 of in-kind wages (labor) and fee waivers totaling \$485.00, for a total co-sponsorship value of \$6,207.50. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. Consideration of City's co-sponsorship of United Third Bridge's 26th Annual Puerto Rican Day Parade and Multi-Cultural Festival; consideration of an exception to the co-sponsorship policy; consideration of amending the Memorandum of Mediated Settlement.

Staff Recommendation: Approve the co-sponsorship request for United Third Bridge for the 26th Annual Puerto Rican Parade and Multi-cultural Festival, for a total estimated value of \$2,655.00; approve an exception to co-sponsorship policy Administrative Code G.12.5; and approve an amendment to the Memorandum of Mediated Settlement between the City and United Third Bridge.

Evelyn Thompson, United Third Bridge, presented the request to Council.

Bill Battin, resident, reiterated that this event could also have been paid for with the funding from Item 9, under Consent Agenda. He said that due to a settlement agreement, the UTB was able to have a parade and the city should not be giving any more funding than what was permitted in the agreement.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the co-sponsorship request for United Third Bridge for the 26th Annual Puerto Rican Parade and Multi-cultural Festival, for a total estimated value of \$2,655.00; approve an exception to co-sponsorship policy Administrative Code G.12.5; and approve an amendment to the Memorandum of Mediated Settlement between the City and United Third Bridge.

Deputy Mayor Felix asked the legal parameters with these changes with a court order in place. Ms. Smith advised that the agreement, like any other, could be amended as long as the amendment was not prohibited by law.

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

Council resumed the consideration of items in order as shown on the agenda.

PUBLIC HEARING(S):

1. Ordinance 2023-15, vacating a portion of the rear public utility and drainage easement located within Lot 21, Block 1865, Port Malabar Unit 41 (Case VE-3-2023, Dominick Migliaccio), 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 adopt Ordinance 2023-15. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. Consideration of a Development Agreement with KB Home Orlando, LLC, pertaining to a development project known as 'Gardens at Waterstone Phases 2 and 3', final hearing.

The public hearing was opened. Ms. Sherman presented the request to Council.

Bill Battin, resident, said the traffic signal was supposed to be in place by April 30th. He asked if a bond was received from the developer and questioned if the roads would be dedicated to the public as the documents reflected that they would be private.

Mr. Watanabe responded that the traffic signal design was still under review by Brevard County. He confirmed that Mara Loma Boulevard, which would travel through the development, would be a public road. Ms. Smith said that if Council needed clarification from the applicant or if there were changes to the agreement, this request should be continued to the next meeting.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to continue the item to the July 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.

3. Ordinance 2023-25, granting approval of a Final Development Plan for a proposed mixed-use subdivision to be known as ‘Jupiter Bay PUD’ on property located at the northwest corner of Jupiter Boulevard and Brevard Avenue (24.69 acres) (Case FD23-00001, Sachs Capital Group, LP, and Identical Investments, LLC), final reading. (Quasi-Judicial Proceeding)

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

Bill Battin, resident, did not want the city to lose any Rural Residential zoning. He suggested extending the right turn lane past Brevard Avenue and it would solve many traffic issues. Mr. Moia said to extend the turn lane would be a burden on the school.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-25.

Motion carried with members voting as follows:

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

4. Ordinance 2023-13, amending the Transportation, Housing, Recreation and Open Space, Conservation, Intergovernmental Coordination, Coastal Management, Capital Improvements, Infrastructure and Private Property Rights Elements of the Comprehensive Plan of the City of Palm Bay (Case CP-6-2023, City of Palm Bay), final reading.

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

Bill Battin, resident, said the study reflected promoting Majors Golf Course which was now closed. He said the city was constantly eliminating Rural Residential properties and there was future planning for estate homes.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-13. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

5. Consideration of the Fiscal Year 2023-2024 Community Development Block Grant (CDBG) and HOME Action Plan, final hearing.

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

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

6. Ordinance 2023-28, vacating a portion of the rear public utility and drainage easement located within Lot 4, Block 799, Port Malabar Unit 16 (Case VE-9-2022, Jesse and Gina Detwiler), first reading.

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

Butch Orend, resident, questioned the need for these requests to come before Council if they could be handled administratively.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-28. Mr. Anderson advised that some variances could be approved at staff level, but pursuant to statute, vacatings required approval by the government body.

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

7. Ordinance 2023-29, rezoning property located south of and adjacent to Castanada Street, in the vicinity east of Greenbrier Avenue, from RR (Rural Residential District) to RS-2 (Single-Family Residential District) (1.13 acres) (Case Z23-00003, Anthony and Marsha Joan Rosaci), first reading. (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended denial of the request.

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

Bill battin, resident, said that rural residential was defined as one house per acre, not horses and cows. He felt the easement should be given to city as it jutted out into the roadway.

Adjacent homeowners spoke in support of the request.

The applicant responded to comments and agreed to give easement to the city. Ms. Smith said the dedicated easement should not be condition of the zoning request.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Mayor Medina, to approve Ordinance 2023-29, and limiting the property to two (2) single family lots.

Mr. Anderson clarified that a condition could be for density only, not the number of lots. Mayor Medina withdrew his second to the motion.

Motion by Mr. Johnson, seconded by Mayor Medina, to amend the motion to approve Ordinance 2023-29, and limiting the property to two (2) units per acre.

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

8. Resolution 2023-14, granting a conditional use to allow for a self-storage facility in CC (Community Commercial District) zoning, on property located west of and adjacent to Minton Road, in the vicinity south of Chandler Road (6.09 acres) (Case CU23-00004, Palm Bay Storage, LLC). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request, subject to the applicant complying with the following:

- A. Constructing the self-storage facility in accordance with the site plan.
- B. The Land Development Division Staff Report.
- C. A traffic study shall be submitted and reviewed during the Site Plan phase.
- D. The proposed location shall prohibited from having doors facing residentially zoned properties other than ingress and egress locations.

- E. A six (6) foot high opaque masonry wall or fence shall be erected around the entire property boundary.
- F. A detailed landscaping plan submitted by a Landscape Architect shall be required during Site Plan review.
- G. Cross access drainage agreements shall be recorded with the County prior to construction.
- H. Maximum storage unit size shall not exceed 300 square feet.
- I. All provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.
- J. If violations or hazards become a nuisance, this Conditional Use could be brought back before City Council for reconsideration, revocation, or additional conditions to be applied.

The City Attorney read the resolution in caption only. The public hearing was opened. Josh Nichols, of Schmidt Nichols and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to adopt Resolution 2023-14. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

9. Resolution 2023-15, granting a conditional use to allow for a retail store occupying more than 5,000 square feet of gross floor area in NC (Neighborhood Commercial District) zoning on property located in the vicinities north of and adjacent to St. Andre Boulevard and west of and adjacent to DeGrootd Road (5.32 acres) (Case CU23-00006, David Moallem Trust/Siroos Pirzadeh and Mahnaz Pirzadeh) (Quasi-Judicial Proceeding).

The Planning and Zoning Board recommended approval of the request, subject to the applicant complying with the following:

- A. Constructing the retail store in accordance with the site plan.
- B. The Land Development Division Staff Report.
- C. A six (6) foot high opaque masonry wall or fence shall be erected around the entire property boundary boarding residentially zoned properties.
- D. The owner/developer shall be responsible for extending service to the site in accordance with current City regulations.

- E. All provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.
- F. If violations or hazards become a nuisance, this Conditional Use could be brought back before City Council for reconsideration, revocation, or additional conditions to be applied.

The City Attorney read the resolution in caption only. The public hearing was opened. Attorney Jack Spira and Holly Irish (Vector Civil Engineering), representatives for the applicant, presented the request to Council.

Mr. Johnson said this was a growing area and the traffic study did not warrant a left or right turn lane. He asked if turn lanes had been considered. Ms. Irish said the study was based on current use and noted there was no impact on the intersection and therefore no need for a turn lane. Mayor Medina felt a turn lane into the property would enhance the area and prevent accidents.

Mr. Watanabe said he reviewed the traffic study, and the trip threshold was well below the need for a turn lane. Due to curve of the roadway, if there was going to be a crosswalk, he suggested a flashing crosswalk light.

Deputy Mayor Felix supported the idea of a turn lane to address future traffic. Mr. Spira asked that Council consider approving the request as is and giving staff direction regarding the turn lane during site plan review, if it was warranted.

Jonathan Raynor, resident, did not understand the need for an additional store in the area and it was not a good location due to the blind curve. The pedestrian signal may not be seen as well either due to the curve.

Ms. Sherman advised that if the turn lane was not warranted by the study, there were times in the past when staff worked with developers to make improvements over and above what was required in which the developer would receive impact fee credits.

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

Mr. Watanabe mentioned that DeGroodt Road was a collector arterial roadway and in the City's standards for future widening, at least fifty (50) feet of right-of-way on each side was needed for widening the roadway. The applicant's plan reflected eighty (80) feet. Mayor Medina said the applicant would have to redesign the plans anyway to accommodate for future widening. Mr. Spira said he was not aware of this requirement

and it was not discussed during review with staff, but arrangements would be made to add another ten (10) feet of right-of-way to each side. He added that the applicant would be agreeable to the turn lane with impact fee credits.

The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Foster, to adopt Resolution 2023-15.

Mr. Foster supported the request and a turn lane. Mayor Medina said the motion should include the turn lane from St. Andre Boulevard and DeGroot Road onto the property. Mr. Foster withdrew his second to the motion.

Motion by Deputy Mayor Felix to approve Resolution 2023-15, to include a turn lane from DeGroot Road onto the property. Ms. Sherman clarified that Council discussion included two items: a left turn and right turn lane that would lead onto St. Andre Boulevard from DeGroot Road/San Filippo Boulevard, and the additional right-of-way needed to make the road the proper size for future widening. Mayor Medina felt there should be a turn lane into the facility.

Mr. Johnson called a Point of Order as further discussion was needed with the applicant and staff and the public hearing had been closed. Mayor Medina reopened the public hearing. Mrs. Jones advised that a motion was made and needed to be withdrawn prior to reopening the public hearing. Deputy Mayor Felix withdrew his motion.

Mr. Watanabe advised that staff was recommending the additional right-of-way of ten (10) feet on each side of the property for future widening of DeGroot Road and San Filippo Boulevard, a right turn lane coming off of DeGroot Road, a left turn lane coming off of San Filippo Boulevard and another right turn lane into the site from St. Andre.

Mr. Spira said there was a lot of confusion regarding the number of turn lanes and asked that the item be tabled. Ms. Smith agreed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to table the item to the July 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.

10. Ordinance 2023-30, granting approval of a Final Development Plan for a single-family residential development to be known as ‘Gardens at Waterstone Phase III’ on property located south of and adjacent to Melbourne-Tillman Drainage District

Canal 38, in the vicinity west of Mara Loma Boulevard (47.92 acres) (Case FD23-00004 (formerly FD-63-2022), KB Home Orlando, 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 being addressed upon submission of the administrative construction plans as follows:

- A. Full engineered construction drawings.
- B. All bodies of water must be improved with docks or piers.
- C. The technical comments generated by the Development Review Staff shall be observed and incorporated into the construction drawings.

The City Attorney read the ordinance in caption only. The public hearing was opened. Joseph Nagy, representative for the applicant, presented the request to Council.

Bill Battin, resident, questioned what would have happened with this item if the related public hearing item had not been approved, and the interlocal agreement would not be considered by Council until July. He felt that since the residents were paying the bond for the St. Johns Heritage Parkway (Parkway), the developer should pay the remaining expenses for the Parkway.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-30.

Motion carried with members voting as follows:

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

11. Resolution 2023-16, granting approval of a Preliminary Development Plan for a proposed residential townhome development to be known as ‘Lipscomb Street PUD’ in RM-10 (Single-, Two-, Multiple-Family Residential District) zoning, which

property is located east of and adjacent to Lipscomb Street, in the vicinities west of Mango Street and south of Commerce Park Drive (24.56 acres) (PD23-00002 (formerly PD-20-2023), Paul Daly and Don Ballew). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request, subject to the staff conditions and comments contained in the Staff Report, complying with and submitting the following items with a Final PUD application:

- A. The Land Development Division Staff Report.
- B. Declaration of Covenants and Restrictions establishing development standards.
- C. A Concurrency Determination letter from the School Board of Brevard County.
- D. Submission of an Endangered Species Assessment.
- E. Identification of lighting within the neighborhood.
- F. The technical comments generated by the Development Review Staff, shall be observed and incorporated into the FDP and construction drawings.
- G. All provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.

The City Attorney read the resolution in caption only. The public hearing was opened. Chris Ossa, Kimley-Horne and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Resolution 2023-16. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

12. Ordinance 2023-31, granting approval of a Final Development Plan for a residential townhome development to be known as ‘Lipscomb Street PUD’ on property located east of and adjacent to Lipscomb Street, in the vicinities west of Mango Street and south of Commerce Park Drive (24.56 acres) (Case FD23-00002, Paul Daly and Don Ballew), 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 being addressed upon submission of the administrative construction plans as follows:

- A. Preliminary Subdivision Plan.
- B. Fully engineered construction drawings.
- C. Submission of an Endangered Species Assessment.
- D. The technical comments generated by the Development Review Staff shall be observed and incorporated into the construction drawings.
- E. The need for a Development Agreement or Proportionate Fair Share Agreement shall be determined upon a completed review of the Traffic Impact Study by staff prior to construction plan approval.
- F. Proposed means of drainage per section 185.066(A)(2)(a)(8) of the LDC.

The City Attorney read the ordinance in caption only. The public hearing was opened. Chris Ossa, Kimley-Horne and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-31. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

13. Ordinance 2023-32, granting approval of a Final Development Plan for a commercial development to be known as ‘Bayside Lakes Commercial Center’ on property located north of and adjacent to Bayside Lakes Boulevard, in the vicinity east of Eldron Boulevard (2.96 acres) (Case FD23-00005 (formerly FD-67-2022), Bayside Holdings #3370 LLC, Jeffrey Hillmann / Robert and Ruth Escher), 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 being addressed upon submission of the administrative construction plans as follows:

- A. Fully engineered construction drawings.
- B. The technical comments generated by the Development Review Staff shall be observed and incorporated into the construction drawings.
- C. The need for a Development Agreement or Proportionate Fair Share Agreement shall be determined upon a completed review of the Traffic Impact Study by staff prior to construction plan approval.

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

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-32. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

14. Ordinance 2023-33, granting approval of a Final Development Plan for a proposed PUD for development of a tire service center to be known as ‘Tire Service Center – Palm Bay’ on property located north of and adjacent to Bayside Lakes Boulevard, in the vicinity west of Eldron Boulevard (1.08 acres) (Case FD23-00006 (formerly FD-10-2023), Andromeda Holdings Ltd. Partnership), 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 and the following items being submitted with construction plans as follows:

- A. Fully engineered construction drawings.
- B. The technical comments generated by the Development Review Staff shall be observed and incorporated into the construction drawings.

The City Attorney read the ordinance in caption only. The public hearing was opened. Attorney Kim Rezanka, representative for the applicant, presented the request to Council.

Daniel Corcoran, resident, expressed concern about noise from changing tires, such as the pneumatic guns. The question was raised at the Planning and Zoning Board meeting and the response was that it was a performance standard that had to be monitored after development. Mr. Corcoran felt this was an opportunity to address the problem early and design something that was different and mitigated or eliminated the noise problem. He suggested rotating the facility so that none of the bays would be facing Bayside Lakes Boulevard and the Summerfield subdivision.

Robert Stise, resident, concurred with Mr. Corcoran’s comments and questioned why another tire facility was needed at that location. The noise would degrade the quality of life for the residents.

Ms. Rezanka said this was now the final development plan and none of the residents’ concerns were raised previously. There was 1,200 feet to cross Bayside Lakes. She

agreed that sound did travel but it did not amplify. The business would have to comply with the noise ordinance and would be addressed if violated. There was no plan to rotate the building.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-33. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

15. Ordinance 2023-34, amending the Code of Ordinances, Chapter 174, Floodplain and Stormwater Management, Subchapter 'Stormwater Management and Conservation, Part 2: Drainage Plan', by modifying provisions related to the elevations for single-family residential construction (Case T23-00002 (formerly T-12-2023), City of Palm Bay), first reading. (CONTINUED FROM 04/06/23 RCM)

The Planning and Zoning Board recommended approval of the request.

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

Bill Battin, resident, said the ordinance did not address change in height from lot to lot and still relied on the comments of the Florida Health Department which made its determination by the base and flood level of the water table. The ordinance did not solve the elevation issues.

Butch Orend, resident, questioned which agency determined septic system types and the definition of crown of the road.

Mr. Perez responded to the comments. He said that City ordinance stated that after the Health Department determined the finished floor elevation, there was a buffer of no more than six (6) inches from the finished floor elevation. Mr. Perez added that the builder determined the type of septic tank but it would be inspected by the Health Department.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-34. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

16. Ordinance 2023-35, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Conditional Uses', by modifying provisions related to self-storage facilities (Case T23-00003 (formerly T-13-2023), City of Palm Bay), first reading. (Councilman Johnson)

The Planning and Zoning Board recommended approval of the request.

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 Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-35. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

17. Ordinance 2023-36, amending the Code of Ordinances, Chapter 183, Comprehensive Plan Regulations, by creating a new subchapter to be titled 'Development Agreement' (Case T23-00005, City of Palm Bay), first reading

The Planning and Zoning Board recommended approval of the request.

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

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-36. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

18. Consideration of substantial amendments to the City's approved Program Years 2017, 2018, 2019, 2020, 2022 Annual Action Plans for Community Development Block Grant funds, only one hearing required.

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

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve substantial amendments to the City's approved Program Years 2017, 2018, 2019, 2020, 2022 Annual Action Plans for Community Development Block Grant funds. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

19. Resolution 2023-17, identifying certain real property within the City to which the City holds fee simple title that is appropriate for permanent affordable housing.

The City Attorney read the resolution in caption only. The public hearing was opened. Ms. Bunt presented the request to Council.

Bill Battin, resident, commented that the list was made, but no decision as to what would be done with the home. Ms. Bunt responded that this was just to designate the property. If the City decided to donate or surplus the property, it would come back to Council for action.

Robert Stise, resident, questioned the definition of affordable housing. Ms. Bunt said that, pursuant to Florida Statutes, affordable meant a monthly rent, including taxes, insurance and utilities, did not exceed thirty percent (30%) of the client's gross annual income.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Resolution 2023-17. 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. Johnson, that the Consent Agenda be approved as presented with the removal of Items 6, 7, 9, and 13, 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 2023-13; April 25, 2023.

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

2. Award of Proposal: Catering services, emergency events - RFP 30-0-2023 (Puff 'n Stuff Catering, LLC).

Staff Recommendation: Approve the award for emergency events catering services with Puff 'n Stuff (Orlando), only implemented in the event of an emergency situation, for a

one-year term renewable by the Procurement Department for four (4) additional one-year terms.

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

3. Miscellaneous: Generator, fuel tank and automatic transfer switch replacement, Lift Station 93 – Utilities Department (LJ Power - \$7,125).

Staff Recommendation: Approve the award for an alternate 250KW generator and 510-gallon fuel tank replacement with LJ Power, through the Florida Sheriff's contract, in the amount of \$7,125; and approve the appropriation of funds from the Utilities Renewal and Replacement Undesignated Fund Balance.

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

4. Sole Source Purchases from Ring Power Corporation for Caterpillar Equipment Utilized by Public Works, Fleet Services Division, FY 2023

Staff Recommendation: Approve the sole source purchase of Caterpillar heavy equipment parts, service, and repairs with Ring Power Corporation (Palm Bay), in the estimated annual amount of \$150,000, on an 'as needed' basis, for Fiscal Year 2023.

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

5. Contract: Road bond paving, Unit 30 - IFB 39-0-2022, Change Order 6 - Public Works Department (Timothy Rose Contracting - \$37,268).

Staff Recommendation: Approve Change Order 6 for road bond paving, Unit 30 (Phase 3), with Timothy Rose Contracting, in the amount of \$37,267.50.

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

6. Contract: Road bond paving, Port Malabar Boulevard from Babcock Street to U.S. Highway 1 - IFB 61-0-2022, Change Order 1 - Public Works Department (Ranger Construction Industries, Inc. - \$658,454).

Staff Recommendation: Approve Change Order 1 for road bond paving, Port Malabar Boulevard from Babcock Street to U.S. Highway 1 (Phase 2), with Ranger Construction Industries, Inc., in the amount of \$658,453.60; and approve the transfer of \$600,000 from the Road Bond Fund Balance.

Randall Olszewski, resident, questioned how much more the debt service would increase since the Road Bond would run out of money before Phase 5, how long was it anticipated to service the debt on the property tax bills, and what was the plan for the additional funding that would be needed.

Ms. Sherman said staff had been working on different strategies since the workshop discussion with Council in order to reduce costs on future road bond projects while still providing quality roads, but she could not provide definitive figures at this time.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Change Order 1 to the contract with Ranger Construction Industries for road bond paving of Port Malabar Boulevard, between Babcock Street and U.S. Highway 1 in the amount of \$658,453.60; and approve the transfer of \$600,000 from the Road Bond Fund Balance. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

7. Consideration of submitting a grant application to the Florida Department of Environmental Protection's 319(h) program to fund recommended improvements as outlined in the Turkey Creek Restoration Feasibility Study.

Staff Recommendation: Authorize the City to submit a grant application to the Florida Department of Environmental Protection's 319(h) grant program for water quality improvement projects recommended in the City's Turkey Creek Restoration Feasibility Study; and authorize the use of stormwater utility funds for the required 40% match.

Randall Olszewski, resident, said the City needed to set up a process to inspect what was expected of these projects and consistently test water quality before, during and after these projects in perpetuity. He felt volunteers, such as the residents and/or students, could be utilized to provide testing assistance.

Ms. Shaber explained that conditions that required continuous monitoring were written into the grants.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to authorize the City to submit a grant application to the Florida Department of Environmental Protection's 319(h) grant

program for water quality improvement projects recommended in the City's Turkey Creek Restoration Feasibility Study; and authorize the use of stormwater utility funds for the required 40% match. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

8. Consideration of submitting a grant application to the Florida Department of Environmental Protection's State Water Quality Assistance Grant for two 'shovel-ready' stormwater retrofit projects.

Staff Recommendation: Authorize the City to submit a grant application to the Florida Department of Environmental Protection's State Water Quality Assistance Grant for two (2) shovel-ready stormwater retrofit projects; and authorize the use of \$100,235 in stormwater utility funds.

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

9. Consideration of submitting a grant application for the Fiscal Year 2023/2024 Tourism Development Council (TDC) Cultural Support Grant Program for multiple City events.

Staff Recommendation: Authorize staff to submit an application for the Fiscal Year 2023-2024 Tourist Development Council Cultural Support Grant for multiple City events; and authorize the City Manager execute the grant contract.

Bill Battin, resident, said this fund could have been used to offset what the residents had to pay for co-sponsorship events. He did not want any of the funding to advertise overseas for nonprofit organizations located in the city.

Mrs. Misconi explained that there were two (2) stipulations to the grant: fifty percent (50%) of the grant value had to be spent on advertising out of the county and the other was the events must have a minimum of 1,000 out-of-county participants in order to qualify for the grant.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to authorize staff to submit an application for the Fiscal Year 2023-2024 Tourist Development Council Cultural Support Grant for multiple City events; and authorize the City Manager execute the grant contract. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. Consideration of submitting a grant application to the Bureau of Justice Assistance FY 2023 Paul Coverdell Forensic Science Improvement Grants Program for software, equipment and training within the Police Department.

Staff Recommendation: Authorize the City to submit a grant application to the Bureau of Justice Assistance Fiscal Year 2023 Paul Coverdell Forensic Science Improvement Grants Program – Competitive Solicitation.

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

11. Consideration of an agreement with Florida Power and Light for additional streetlights throughout the City (Phase 2 - St. Andre and Harper Boulevards).

Staff Recommendation: Approve the addition of 32 new streetlights in Phase 2; approve the Florida Power and Light lighting agreement for Phase 2; and approve the additional funds needed to cover the monthly costs.

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

12. Consideration of acquiring two (2) easements for Eaglerock Street water main upgrades (\$7,000).

Staff Recommendation: Approve the cost of acquiring two (2) easements located on Eaglerock Street to facilitate the water main extension project, in an amount not to exceed \$7,000.

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

13. Consideration of designating two (2) City-owned single-family residential lots as surplus property and donating said lots for an affordable housing development.

Staff Recommendation: Designate two (2) single-family residential lots located at 2187 Dr. Harvey Riley Street NE and 2590 Southover Drive NE as surplus properties; and authorize the donation of these lots to Community Housing Initiatives, Inc., a designated Community Housing Development Organization, for the purposes of affordable housing, in accordance with Administrative Code 72.

Bill Battin, resident, asked how much was being paid towards the administration of Community Housing Initiatives, Inc.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, designating two (2) single-family residential lots located at 2187 Dr. Harvey Riley Street NE and 2590 Southover Drive NE as surplus properties; and authorize the donation of these lots to Community Housing Initiatives, Inc., a designated Community Housing Development Organization, for the purposes of affordable housing, in accordance with Administrative Code 72.

Ms. Bunt said that the development fee was based on different factors. In this instance, it was eleven percent (11%) of the development. The homes would sell for approximately \$300,000.

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

14. Consideration of transferring savings from City Hall Replacement Genset (Project 22PK04) to fund warranties and contingencies on chillers at Police Headquarters and City Hall (Projects 22PK05 and 22PK06).

Staff Recommendation: Approve the transfer of savings from City Hall Replacement Genset (Project 22PK04) to fund warranties and contingencies on chillers at Police Headquarters and City Hall (Projects 22PK05 and 22PK06).

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

15. Consideration of utilizing available Departmental Operating Expenditure and Capital Savings to fund the purchase of an IT Testing Lab Environment (\$52,967).

Staff Recommendation: Approve the transfer of IT Departmental operational expenditure savings and the re-allocation of capital savings towards the purchase of an IT Testing Lab Environment.

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

16. Consideration of utilizing unexpended funds in capital project 22FD03 for the purchase of fire rescue equipment (\$44,746).

Staff Recommendation: Approve the utilization of unexpended funds in capital project 22FD03 for the purchase of fire rescue equipment, in the amount of \$44,746.

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

17. Consideration of travel and training for specified City employees (Parks and Facilities Department).

Staff Recommendation: Approve the travel and training as specified.

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

18. Acknowledgement of the City's monthly financial report for March 2023 (Unaudited).

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

19. Acknowledgement of the City's Budget Monitoring Report for the second quarter of Fiscal Year 2023 (Unaudited).

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

20. Acknowledgement of the May 2023 GO Road Bond Paving report update.

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

PROCUREMENTS:

1. Award of Bid: Driskell Heights Stormwater Retrofit - IFB 32-0-2023 - Public Works Department (Ag-Scape Services, Inc. DBA Florida Site Contracting - \$234,208.95). (AGENDA REVISION)

Staff Recommendation: Approve the award for Driskell Heights stormwater retrofit with Ag-Scape Services, Inc. DBA Florida Site Contracting. (Vero Beach), in the amount of \$234,208.95; and approval to award the project to the second bidder, Jobear Contracting, Inc. (Palm Bay), if the award to the lowest bidder (Ag-Scape Services, Inc. DBA Florida Site Contracting) fails.

Mrs. Misconi presented the item to Council.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the award for Driskell Heights stormwater retrofit with Ag-Scape Services, Inc. DBA Florida Site Contracting. (Vero Beach), in the amount of \$234,208.95; and approval to award the project to the second bidder, Jobear Contracting, Inc. (Palm Bay), if the award to the lowest bidder (Ag-Scape Services, Inc. DBA Florida Site Contracting) fails. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

UNFINISHED AND OLD BUSINESS:

1. Appointment of three (3) members to the Community Development Advisory Board.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to appoint Cristina Wright to the 'Employer within the City' position; Shenielle Walker to the 'Essential Services Personnel' position; and Henry Morin to the 'Real Estate Professional' position on the Community Development Advisory Board. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

NEW BUSINESS:

1. Consideration of City's co-sponsorship of Brevard Caribbean American Sports and Cultural Association's (BCASCA) 3rd Annual Caribbean Heritage Month activities.

The item, announced under Agenda Revisions, was considered earlier in the meeting after Public Comments.

2. Consideration of City's co-sponsorship of United Third Bridge's 26th Annual Puerto Rican Day Parade and Multi-Cultural Festival; consideration of an exception to the co-sponsorship policy; consideration of amending the Memorandum of Mediated Settlement.

The item, announced under Agenda Revisions, was considered earlier in the meeting after Public Comments.

3. Consideration of allocating Undesignated Fund Balance for Parks, Fire, Police, and Transportation Impact Fee studies (\$150,000).

Staff Recommendation: Approve the allocation of \$150,000 from General Fund Undesignated Fund Balance for impact fee studies for Parks, Police, Fire, and Transportation fees.

Ms. Sherman presented the item to Council.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the allocation of \$150,000 from General Fund Undesignated Fund Balance for impact fee studies for Parks, Police, Fire, and Transportation fees. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

4. Consideration of submitting a grant application to the U.S. Department of Transportation's Federal Highway Administration's Safe Streets and Roads for All (SS4A) grant program for construction of a sidewalk on Emerson Drive NE, from Narragansett Street to Forest Street; and utilizing \$400,000 in matching funds from undesignated General Fund balance.

Staff Recommendation: Authorize the City to submit a grant application to the U.S. Department of Transportation's Federal Highway Administration's Safe Streets and Roads for All (SS4A) grant program for construction of a sidewalk on Emerson Drive NE, from Narragansett Street to Forest Street; and authorize use \$400,000 in matching funds from General Fund Undesignated Fund Balance.

Ms. Sherman presented the item to Council.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to authorize the City to submit a grant application to the U.S. Department of Transportation's Federal Highway Administration's Safe Streets and Roads for All (SS4A) grant program for construction of a sidewalk on Emerson Drive NE, from Narragansett Street to Forest Street; and authorize use \$400,000 in matching funds from General Fund Undesignated Fund Balance. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

COMMITTEE AND COUNCIL REPORTS:

Mr. Foster left the meeting at this time and did not return.

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

1. Mr. Johnson announced that he was working on implementing youth programs that could be held at the Greater Palm Bay Senior Center. Council concurred.
2. Mayor Medina wanted to research partnering with Department of Veterans Affairs or Brevard County for a veteran service officer/office in the city. Council concurred.

ADMINISTRATIVE AND LEGAL REPORTS:

1. Ms. Sherman announced upcoming events. She advised that the Florida Department of Transportation had added the City's request regarding the issues along the Malabar Road/Interstate 95 corridor as a priority project for review in the next fiscal year.

PUBLIC COMMENTS/RESPONSES:

A resident made a general comment.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 10:45 P.M.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK