

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2023-16

Held on Thursday, the 6th day of July 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 David Cannon, Grace Bible 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
DEPUTY CITY CLERK:	Terri Lefler	Present

Councilman Foster attended the meeting via teleconference.

CITY STAFF: Juliet Misconi, Deputy City Manager; Frank Watanabe, City Engineer; Nancy Bunt, Community and Economic Development Director; Jesse Anderson, Acting Growth Management Director.

ANNOUNCEMENTS:

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

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

AGENDA REVISIONS:

1. Ms. Sherman announced the following revisions:

A. Item 1, under Presentations, was withdrawn and would be rescheduled to a later date.

B. Two (2) additional exhibits were added to Item 11, under Public Hearings.

C. An update on the Pineapple Cove Academy (Lockmar) traffic history was added as Item 4, under New Business, at the request of Mayor Medina.

PROCLAMATIONS AND RECOGNITIONS:

The proclamations were read.

- 1. Proclamation: Courageous Freedom Week - July 15-21, 2023.**
- 2. Proclamation: Parks and Recreation Month - July 2023.**

PRESENTATIONS:

- 1. Nancy Peltonen, President and CEO, Greater Palm Bay Chamber of Commerce – semi-annual update. (WITHDRAWN)**
- 2. Alphanette Waters, IAS Lead Assessor - Building Department AIS Accreditation.**

Ms. Waters explained the accreditation program and the requirements to obtain such status. Based upon the IAS' review of the department's policies procedures and the onsite assessment, the Building Department was found to be operating in substantial conformance with the international standards for building department accreditation. Ms. Waters presented the Building Department staff with a plaque.

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

Individuals made general comments. There were statements made regarding the condition of the Majors Golf Course and that the city was not providing entertainment for its residents.

Mayor Medina explained that the city did not own the golf course and did not have the authority over the golf course except as allowed by law. Ms. Sherman added that the owner had received an appraised value of approximately \$7 million and was not agreeable to selling the property for less than the appraised value.

1. Alfred Agarie (Alfy's Trucking), resident, felt he was treated negatively with regard to a current contract he had with the city for spent lime removal.

Ms. Misconi explained that the contract was awarded as a primary and a secondary. Alfy's Trucking was awarded as a secondary. The primary withdrew as they could not meet the scope; therefore, Alfy's Trucking became the primary and only awarded vendor. The

Utilities Department wanted to reformat the scope and selecting another company would not be permitted. In order to redo the scope, the city would not be exercising the final renewal option and would be placing it back out to bid. Ms. Misconi said that Alf's Trucking was able to participate in the rebid.

Council concurred to consider Items 1, 2 and 4, under New Business, at this time.

NEW BUSINESS:

4. Pineapple Cove Academy (Lockmar) Traffic History Update (Mayor Medina) (REVISION)

Staff Recommendation: Discussion for Council regarding current and anticipated conditions at Pineapple Cove Academy (Lockmar).

Mayor Medina presented the item. He explained that the Lockmar residents were frustrated over the public safety issues that had been created by residents dropping off and picking up their children at the school. Mr. Watanabe advised that the issue was a car loop, developed by the school, that utilized local streets around Lockmar and because of the current set up, the loop caused a queue of vehicles. Mr. Watanabe said the school had been proactive and had expanded the internal capture of traffic by stacking the vehicles more inside the campus. The new plan was to further expand the internal capture in terms of parking, adhere to the original traffic study, and implement 30-minute staggering.

Principal Paris Koblitz and Assistant Principal John Ottinger, Pineapple Cove Academy, provided an update on the new plan for the upcoming school year. The car loop would be taken out of the neighborhood and the children pickup zone would be reconfigured to the front of the school which would allow additional cars in the loop.

Mayor Medina was concerned about creating a public safety issue along Emerson Drive. Mr. Johnson preferred to try the school's new suggestion first, and if it was not successful, then the Mayor and City Manager could meet with school officials for additional ideas. Mayor Medina requested Council consensus to send out a bid for the extended turn lane at the same time as the road bond, using impact fees, and utilizing the same contractor. Mr. Foster agreed. Jake Wise, CEG Engineering, original Engineer of Record for Pineapple Cove Academy, advised that there was a large parking lot on the northwest side of Nesbitt Street that could be permitted as a single driveway that would line up with the existing school driveway that led into the main campus. This would allow vehicles to loop and completely avoid Nesbitt Street. Council and school representatives concurred.

1. Ordinance 2023-53, granting an Ad Valorem Tax (AVT) Abatement to L3Harris Technologies Inc. for 'Project LEO', first reading.

Staff Recommendation: Approve the ordinance granting an Ad Valorem Tax (AVT) Abatement to L3Harris Technologies Inc. for 'Project LEO' as an expansion to an existing business for property located at 2400 Palm Bay Road NE, Building 31.

The City Attorney read the ordinance in caption only.

Ms. Bunt presented the item. Jason Lambert, L3Harris Technologies Inc., presented additional information on the project. Ms. Bunt and Mr. Lambert answered questions posed by councilmembers.

Bill Battin, resident, supported the project but felt preferential treatment was given to some but not to others.

Mayor Medina relinquished the chair to the Deputy Mayor and made a motion to approve Ordinance 2023-53. Deputy Mayor Felix seconded the motion. Mayor Medina said these projects fell in line with creating prosperity and jobs and would enhance the quality of life in the community. Deputy Mayor Felix felt this was merit-based and not preferential treatment. Mr. Foster said this was an opportunity to change the direction of the city from a bedroom community. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

Mayor Medina resumed as presiding officer.

2. Ordinance 2023-54, granting an Ad Valorem Tax (AVT) Abatement to L3Harris Technologies Inc. for 'Project SAMT', first reading.

Staff Recommendation: Approve the ordinance granting an Ad Valorem Tax (AVT) Abatement to L3Harris Technologies Inc. for 'Project SAMT' as an expansion to an existing business for property located at 2400 Palm Bay Road NE, Building 32.

The City Attorney read the ordinance in caption only.

Ms. Bunt presented the item.

Mayor Medina relinquished the chair to the Deputy Mayor and made a motion to approve Ordinance 2023-54. Deputy Mayor Felix seconded the motion. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

PUBLIC HEARING(S):

Council concurred to consider Items 12 and 13, under Public Hearings, at this time.

12. Ordinance 2023-39, vacating a portion of the rear public utility and drainage easement located within Lot 7, Block 802, Port Malabar Unit 16 (Case VE-4-2023, Steven Daniel Barbieri Revocable Trust), first reading.

The City Attorney read the ordinance in caption only. The public hearing was opened. Kelly Hyvonen, 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 2023-39. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

13. Ordinance 2023-40, vacating a portion of the rear public utility and drainage easement located within Lot 17, Block 2373, Port Malabar Unit 45 (Case VE-5-2023, Wayne Arthur Stephenson and Donnice McReynolds Stephenson Revocable Trust), 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 2023-40. 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.

1. 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), 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 Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-28. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. 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), final reading. (Quasi-Judicial Proceeding)

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

Bill Battin, resident, expressed disappointment about the loss of RR zoned property, but was pleased that they were placing two (2) homes on the property. He asked about the right-of-way being given to the city for future widening of the roadway.

Mr. Watanabe responded that the streets were considered local collector roads and he did not foresee any future widening of those roads as they did not connect to major arterial roadways.

The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to adopt Ordinance 2023-29. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

3. 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), final reading. (Quasi-Judicial Proceeding)

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 Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-30. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

4. 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), final reading. (Quasi-Judicial Proceeding)

The City Attorney read the ordinance in caption only. The public hearing was opened. Chris Ossa, of Kimley-Horn 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 Ordinance 2023-31. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

5. 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), final reading. (Quasi-Judicial Proceeding)

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 adopt Ordinance 2023-32. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

6. 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), final reading. (Quasi-Judicial Proceeding)

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.

A resident advised that the property was located east of Eldron Boulevard, but the ordinance reflected west. Staff confirmed that the location should read as east. Ms. Smith opined that it would be considered a scrivener’s error as the legal description in the advertisement was correct.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-33, with the modification in the ordinance caption to read as “east of Eldron Boulevard”. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

7. 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), final reading.

The City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments. The public hearing was closed.

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

8. 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), final reading. (Councilman Johnson)

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 2023-35. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

9. 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), 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 2023-36. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. 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 DeGroot Road (5.32 acres) (Case CU23-00006, David Moallem Trust/Siroos Pirzadeh and Mahnaz Pirzadeh) (Quasi-Judicial Proceeding). (CONTINUED FROM 05/18/23 RCM)

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, representative for the applicant, presented the request to Council, along with Daniel Young, Civil Engineer (H.W. Professional Consultants); Lawrence Hagan, Traffic Consultant (Hagan Consulting Services, Inc.); and Sean Wagler, Senior Director of Development (Concept Development). There was discussion regarding the need for additional turn lanes which were not warranted per the traffic study.

Bill Battin, resident, commented that the proposed store and retention pond took up fifty percent (50%) of the site. He asked if there were any plans for the remainder of the property and felt the ordinance needed to be revisited as there were numerous applications to increase the size of the structure beyond what was permitted by ordinance.

Mr. Johnson said he did not want to give up impact fees for a left turn lane that was not warranted. Mayor Medina said Council was looking at the impact to the community in the future and would agree to impact fee credits to build the left turn lane and have the right turn lane into the property. He said that lighting was also an issue. Mr. Watanabe said he agreed with the traffic study and the consultant, however, was concerned about the future growth and the volume of traffic that would be coming through that intersection. Mr. Foster supported impact fee credits. He said the city was growing at a rapid rate and Council needed to look into the future.

Mr. Wagler asked for clarification on the cost of impact fee credits. Mr. Watanabe said the impact fees would not pay for all three (3) turn lanes as discussed by Council. As St. Andre would eventually become a collector roadway, he agreed with the left turn lane from St. Andre Boulevard and the deceleration right turn lane into the store site.

Mr. Spira felt impact fees would not cover the full cost of the left turn lane, but the applicant was willing to implement same and add to the cost. The issue was the right turn lane which would place a burden on the developer. He said that if the right turn lane was a requirement that could not be offset by impact fees, then the project would not move forward. Mr. Watanabe said the impact fee credit would be approximately \$82,000.

Mayor asked if the applicant would be willing to provide additional lighting. Mr. Watanabe advised that when commercial sites were adjacent to residential sites, the lighting would have to be zero at the property line.

The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to adopt Resolution 2023-15, with the condition of including a left-turn lane from DeGroodt Road to St. Andre Boulevard, subject to receiving impact fee credits. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

11. 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. (CONTINUED FROM 05/18/23 RCM) (AGENDA REVISION)

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

Bill Battin, resident, questioned if the city received money from the performance bond since the commitment had not been met to complete the project by April 2023. He asked if impact fee credits were given to the developer.

Ms. Sherman advised that there were five (5) proportionate fair share improvements by the developer which totaled \$801,788.15.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the Development Agreement with KB Home Orlando, LLC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

12. Ordinance 2023-39, vacating a portion of the rear public utility and drainage easement located within Lot 7, Block 802, Port Malabar Unit 16 (Case VE-4-2023, Steven Daniel Barbieri Revocable Trust), first reading.

This item was considered earlier in the meeting, prior to Item 1, under Public Hearings.

13. Ordinance 2023-40, vacating a portion of the rear public utility and drainage easement located within Lot 17, Block 2373, Port Malabar Unit 45 (Case VE-5-2023, Wayne Arthur Stephenson and Donnice McReynolds Stephenson Revocable Trust), first reading.

This item was considered earlier in the meeting, prior to Item 1, under Public Hearings.

14. Ordinance 2023-41, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations', by including provisions for car washes within GC (General Commercial District) zoning (Case T23-00010, Anthony Daniele/Royal Wash PSL, LLC), 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. Chelsea Anderson, representative for the applicant, presented the request to Council.

Mr. Johnson felt some criteria should be removed as there were already numerous car washes. Deputy Mayor Felix agreed and did not see a need for a car wash. He felt a car wash may negatively affect the existing businesses. Mr. Foster supported the request

and said that Council should not get into the specifics of what services a business provided or where it should be located. Mayor Medina supported capitalism but felt it should be in a zoning that already permitted car washes.

A resident spoke in opposition to the request.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to deny Ordinance 2023-41.

Motion carried with members voting as follows:

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

15. Resolution 2023-18, 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 at the southwest corner of Jupiter Boulevard and Garvey Road (1.75 acres) (Case CU23-00002, 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. All provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.
- D. A six (6) foot high opaque masonry wall or fence shall be erected around the entire property boundary abutting residentially zoned properties.
- E. The owner/developer shall be responsible for extending utility service to the site in accordance with current City regulations.
- F. A lot reconfiguration filed with Brevard County shall be required prior to site plan approval.

- G. 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, representative for the applicant presented the request to Council.

Mr. Johnson said that since Garvey Road had been paved, speeding had increased. He was concerned with traffic. Deputy Mayor Felix felt that walkability could be an issue. Mr. Watanabe said that turn lanes were not warranted according to traffic study, but reiterated that the city had to look into the future as Garvey Road was a major north/south connector road and studies showed that this segment of Jupiter Boulevard needed to be four-laned. He suggested implementation of sidewalks/walkability and lighting, especially at the intersection, but said that turn-lanes would be challenging.

Bill Battin, resident, said that the development should be built to address the future expansion of the road, along with a traffic signal.

Mr. Spira said the applicant would be agreeable to constructing a sidewalk in front of the site up to Jupiter Boulevard. Deputy Mayor Felix asked if the sidewalk could be extended to the next closest street. The applicant agreed to same.

The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to adopt Resolution 2023-18, with condition to construct sidewalks to the south of the property to the next closest street and north up to Jupiter Boulevard, as well as appropriate lighting.

Motion carried with members voting as follows:

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

16. Resolution 2023-19, granting a conditional use to allow proposed retail automotive gas/fuel sales in CC (Community Commercial District) zoning on property located at the northeast corner of Emerson Drive and St. Johns Heritage Parkway (2.16 acres) (Case CU23-00005, Ascot Palm Bay Holdings, 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 structures relevant to retail automotive gas/fuel sales in accordance with the site plan.
- B. The Land Development Division Staff Report.
- C. All provisions of the Code of Ordinances of the City of Palm Bay and all other state and federal rules, regulations, and statutes.
- D. Completion of the lot split process prior to site plan approval.

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

Bill Battin, resident, said that St. Johns Heritage Parkway (Parkway) was one lane in each direction and if anyone wanted to turn into the gas station, they would cause a back-up along the Parkway. He asked if a center turn lane would be installed.

Ms. Saunders commented that the traffic study would identify if a turn lane was warranted for the project.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Resolution 2023-19. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

17. Ordinance 2023-27, establishing a Community Development District to be known as "Everlands II Community Development District" (143.73 acres), first reading.

The City Attorney read the ordinance in caption only. The public hearing was opened. Attorney Ginger Wald, representative for the petitioner, presented the request to Council.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-27. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

18. Ordinance 2023-42, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located east of and adjacent to Gaynor Drive, in the vicinity north of Four Winds Street, from Utilities Use to Low Density Residential Use (1.33 acres) (Case CP23-00003, MP Developers Inc.), only one reading required.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. James Boothroyd, 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 2023-42. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

19. Ordinance 2023-43, rezoning property located east of and adjacent to Gaynor Drive, in the vicinity north of Four Winds Street, from IU (Institutional Use District) to RS-2 (Single-Family Residential District) (1.33 acres) (Case CP23-00002, MP Developers Inc.), 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. James Boothroyd, 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 2023-43. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

20. Ordinance 2023-44, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located east of and adjacent to Dixie Highway, in the vicinity between Kirkland Road and Bay Boulevard, from High Density Residential Use and Urban Mixed Use to Urban Mixed Use (4.12 acres) (Case CP23-00004, Steamboat Landing, LLC and Gateway Medical Property, LLC), only one reading required.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. James Mayes and Curtis Mckinney, representatives for the applicant, presented the request to Council.

Numerous residents spoke against the request, stating there was no definitive plan for what would be built on the site, increased traffic and parking issues, the need to continue to protect Castaway Point Park and the Indian River Lagoon, and the site was too small for the proposed project.

Due to the meeting curfew being met, motion by Deputy Mayor Felix, seconded by Mr. Johnson, to extend the meeting by thirty (30) minutes (first extension), which would expire at 11:30 P.M. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

Several more residents spoke against the request. Messrs. Mayes and Mckinney responded to comments and said that major concessions and improvements would be done in the area at the applicant's expense, not the taxpayers. There would be sufficient parking for any use at the site which would be required per the Code, and there were provisions to allow for shared parking agreements. There would also be no impact to the Indian River Lagoon.

The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve Ordinance 2023-44. Deputy Mayor Felix requested that the applicant have another community meeting with the residents/petitioners and be good neighbors. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

21. Ordinance 2023-45, rezoning property located east of and adjacent to Dixie Highway, in the vicinity between Kirkland Road and Bay Boulevard, from BMUV (Bayfront Mixed Use Village District) and RM-20 (Multiple-Family Residential District) to BMU (Bayfront Mixed Use District) (4.12 acres) (Case CPZ23-00003, Steamboat Landing, LLC and Gateway Medical Property, LLC), 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. Curtis Mckinney, representative for the applicant, presented the request to Council.

Due to the first extension to the meeting curfew being met, motion by Mr. Johnson, seconded by Deputy Mayor Felix, to extend the meeting by thirty (30) minutes (final extension), which would expire at 12:00 A.M. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

Residents spoke against the request reiterating their concerns from the accompanying Comprehensive Plan amendment request.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-45. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

22. Ordinance 2023-46, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located east of and adjacent to Magnolia Street, in the vicinity north of Palm Bay Road, from Low Density Residential Use to Commercial Use (0.38 acres) (Case CP23-00005, Vision 43 LLC), only one reading required.

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Holly Tanner, 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 2023-46. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

23. Ordinance 2023-47, rezoning property located east of and adjacent to Magnolia Street, in the vicinity north of Palm Bay Road, from RS-3 (Single-Family Residential District) to HC (Highway Commercial District) (0.38 acres) (Case CPZ23-00004, Vision 43 LLC), 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 and closed as there were no comments.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve Ordinance 2023-47. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

24. Ordinance 2023-48, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Administration and Enforcement, Part 2: Amendments', by establishing Factors of Analysis required for the Planning and Zoning Board (Case T23-00004, 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 2023-48. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

25. Ordinance 2023-49, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Conditional Uses', by including provisions for conditional use applications, and repealing related language from Subchapter 'Administration and Enforcement, Part 2: Amendments' (Case T23-00012, 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 2023-49. 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 Mr. Johnson, seconded by Deputy Mayor Felix, that the Consent Agenda be approved as presented with the removal of Items 9 and 23 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 2023-10; April 20, 2023.

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

2. Adoption of Minutes: Meeting 2023-14; May 1, 2023.

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

3. Adoption of Minutes: Meeting 2023-15; May 18, 2023.

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

4. Award of Bid: Culvert pipe replacement, Unit 6 - IFB 33-0-2023 – Public Works Department (Timothy Rose Contracting, Inc. - \$495,114).

Staff Recommendation: Approve the award for Unit 6 culvert pipe replacement with Timothy Rose Contracting, Inc. (Vero Beach), in the amount of \$495,113.50; and approve the appropriation of \$50,000 from the Stormwater Utility Fund on the next scheduled budget amendment.

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

5. Contract: Architectural and Engineering Design Services, Fire Stations and Fire Station Prototypes, Task Order 2 – Parks and Facilities Department (CPZ Architects, Inc. - \$439,702)

Staff Recommendation: Approve Task Order 2 against Master Agreement 55-0-2022 for architectural and engineering design services, fire stations and fire station prototypes, with CPZ Architects, Inc., in the amount of \$439,702.

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

6. Contract: Biosolids Transportation and Disposal, purchasing authority – Utilities Department (H&H Liquid Sludge Disposal Inc. - \$36,000 increase (\$143,000 total, excluding tipping fees)); and approve appropriation of funds on the next scheduled budget amendment (\$127,000).

Staff Recommendation: Approve an increase in the amount of \$36,000, excluding tipping fees, in annual purchasing authority with H&H Liquid Sludge Disposal Inc. (Branford), for

a total revised estimated annual expenditure of \$143,000, for biosolids transportation and disposal; and approve the appropriation of \$127,000 on the next scheduled budget amendment.

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

7. Contract: Reverse Osmosis Rehabilitation Engineering Master Plan, North Regional Water Treatment Plant, Task Order 01-2019-007 – Utilities Department (Tetra Tech - \$224,058); and appropriation of funds on the next scheduled budget amendment (\$120,937).

Staff Recommendation: Approve Task Order 01-2019-007 for the North Regional Water Treatment Plant reverse osmosis rehabilitation engineering against the master agreement with Tetra Tech, in the amount of \$224,058; and approve the appropriation of \$120,937 on the next scheduled budget amendment.

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

8. Contract: Sewage Dewatering Facility, North Regional Wastewater Treatment Plant, Task Order 23-02-WT – Utilities Department (Wade Trim - \$132,050).

Staff Recommendation: Approve Task Order 23-02-WT for the North Regional Wastewater Treatment Plant Sewage Dewatering Facility against Master Agreement 36-0-2020 with Wade Trim, in the amount of \$132,050.

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

9. Miscellaneous: Pre-qualification pool of qualified general contractors for Building 'E' at the City Hall Municipal Complex – RFQ 38-0-2023 – Purchasing Department (Hedrick Brothers Construction Co., Inc., W & J Construction Corporation, and Wharton-Smith, Inc.).

Staff Recommendation: Approve the award of the pre-qualification pool for Building E, allowing Hedrick Brothers Construction Co., Inc., W & J Construction Corporation, and Wharton-Smith, Inc. the ability to submit competitive bids.

Bill Battin, resident, questioned why there was a pool of contractors instead of just selecting the best contractor. Ms. Misconi explained that staff wanted to survey the qualifications first, then the lowest, most responsive and responsible bidder would be chosen.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the pre-qualification pool of qualified general contractors for Building 'E'. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. Ordinance 2023-50, amending the Code of Ordinances, Chapter 55, Police and Firefighters Pension Plan, by modifying provisions related to optional forms of benefits and minimum distribution of benefits, first reading.

The City Attorney read the ordinance in caption only.

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

11. Ordinance 2023-51, amending the Code of Ordinances, Chapter 110, Business Taxes, Subchapter 'Business Taxes; Tax Receipts; Receipts', by revising provisions contained therein, first reading.

The City Attorney read the ordinance in caption only.

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

12. Ordinance 2023-52, amending the Fiscal Year 2022-2023 budget by appropriating and allocating certain monies (third budget amendment), first reading.

The City Attorney read the ordinance in caption only.

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

13. Consideration of the Pineapple Cove Classical Academy (Lockmar) Charter School Resource Officer agreement for the 2023/2024 school year.

Staff Recommendation: Approve and authorize the City Manager to execute the School Resource Officer Agreement with Pineapple Cove Classical Academy (Lockmar) for the 2023/2024 school year.

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

14. Consideration of the Pineapple Cove Classical Academy (Palm Bay) Charter School Resource Officer agreement for the 2023/2024 school year.

Staff Recommendation: Approve and authorize the City Manager to execute the School Resource Officer Agreement with Pineapple Cove Classical Academy (Palm Bay) for the 2023/2024 school year.

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

15. Consideration of the Odyssey Charter School Junior/Senior High School Resource Officer agreement for the 2023/2024 school year.

Staff Recommendation: Approve and authorize the City Manager to execute the Junior/Senior High School Resource Officer Agreement with Odyssey Charter School for the 2023/2024 school year.

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

16. Consideration of the School Resource Officer Program agreement with Brevard County School Board for the 2023/2024 school year.

Staff Recommendation: Approve and authorize the City Manager to execute the School Resource Officer Program Agreement with Brevard County School Board for the 2023/2024 school year.

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

17. Consideration of an Interlocal Agreement relating to apparatus use between the Town of Malabar and the City of Palm Bay.

Staff Recommendation: Approve the interlocal agreement relating to apparatus use between the Town of Malabar and the City of Palm Bay.

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

18. Consideration of participating in the 2023-2024 High Visibility Enforcement for Pedestrian and Bicycle Safety Initiative with the Florida Department of Transportation.

Staff Recommendation: Approve the Police Department's submission of the Traffic Enforcement Plan and Letter of Support for the 2023-2024 Pedestrian and Bicycle Safety program.

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

19. Consideration of reclassifying one (1) vacant Human Resources Clerk from part-time to full-time within the Human Resources Department (\$10,395).

Staff Recommendation: Approve the reclassification of one (1) vacant Human Resources Clerk from part-time to full-time within the Human Resources Department in the amount of \$10,395.

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

20. Consideration of a new full-time equivalent (FTE) position for a Land Development Division Manager within the Growth Management Department.

Staff Recommendation: Authorize a new full-time equivalent (FTE) position of Land Development Division Manager for the Growth Management Department.

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

21. Consideration of amending the Position Control Plan to move one (1) full-time equivalent position (FTE) from the Public Works Department to the Growth Management Department.

Staff Recommendation: Approve a change to the Position Control Plan to move one (1) full-time equivalent (FTE) position from the Public Works Department to the Growth Management Department; and approve a budget amendment reallocating \$19,540 in personnel costs from the Public Works Department to the Growth Management Department.

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

22. Consideration of a budget amendment for equipment and operating supplies within the Growth Management Department (\$9,378.97).

Staff Recommendation: Approve a budget amendment in the amount of \$9,378.97 from General Fund Undesignated Fund Balance for equipment and operating supplies within the Growth Management Department.

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

23. Consideration of allocating General Fund Undesignated Fund Balance and Fleet Revenue Fund to purchase a replacement truck and two tractors for the Parks and Facilities Department (\$136,606).

Staff Recommendation: Approve the appropriation of \$136,606 from the Fleet Revenue Fund and General Fund Undesignated Fund Balance to purchase a replacement truck and two tractors for the Parks and Facilities Department.

Bill Battin, resident, said the funds from co-sponsorship requests could have been used to make these types of purchases.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve the appropriation of \$136,606 from the Fleet Revenue Fund and 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.

24. Consideration of change to previously approved travel and training for specified City employees (Information Technology Department).

Staff Recommendation: Approve the change in location and addition of one (1) attendee for the Cisco Live 2023 Conference, for a total of four (4) attendees (no additional funding requested).

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

25. Consideration of utilizing General Fund Undesignated Fund Balance for the Police Department's Crime Awareness and Prevention Program, to be reimbursed by Community Development Block Grant funds (\$38,408).

Staff Recommendation: Authorize the use of \$38,408 in General Fund Undesignated Fund Balance for the Police Department's Crime Awareness and Prevention programs, as awarded through the Community Development Block Grant (CDBG) reallocated Program Year 2022 funding.

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

26. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund for Crash Data Retrieval Tool (\$55,000).

Staff Recommendation: Approve the expenditure of funds as specified in the City Manager's memorandum.

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

27. Acknowledgement of the City's monthly financial report for April 2023 (Unaudited).

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

NEW BUSINESS:

1. Ordinance 2023-53, granting an Ad Valorem Tax (AVT) Abatement to L3Harris Technologies Inc. for 'Project LEO', first reading.

This item was considered earlier in the meeting, prior to Public Hearings.

2. Ordinance 2023-54, granting an Ad Valorem Tax (AVT) Abatement to L3Harris Technologies Inc. for 'Project SAMT', first reading.

This item was considered earlier in the meeting, prior to Public Hearings.

3. Consideration of councilmembers attending the annual Florida League of Cities Conference, in conjunction with the Florida League of Mayors, August 9-12, 2023, in Orlando; appointment of voting delegate.

Mayor Medina, Deputy Mayor Felix, and Councilman Johnson would attend the conference.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to appoint Mayor Medina to serve as the voting delegate. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

4. Pineapple Cove Academy (Lockmar) Traffic History Update (Mayor Medina) (REVISION)

This item was considered earlier in the meeting, prior to Public Hearings.

COUNCIL REPORTS:

1. Mr. Johnson said he would be working with staff to implement additional provisions related to conditional uses which would be comparable to other cities. Council concurred.

ADMINISTRATIVE AND LEGAL REPORTS:

There were no reports.

PUBLIC COMMENTS/RESPONSES:

Residents made general comments.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 11:57 P.M.

Rob Medina, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK