

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2023-19

Held on Thursday, the 3rd day of August 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 6:03 P.M.

Pastor Jerry Klemm, Covenant Presbyterian 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: Jesse Anderson, Acting Growth Management Director; Larry Wojciechowski, Finance 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:

Ms. Sherman requested that Item 1, under New Business, be considered prior to Public Hearings.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to consider Item 1, under New Business, prior to Public Hearings. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

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

Individuals made general comments.

1. Marie Corcoran, resident, requested a flashing beacon and additional street striping at the intersection of Emerson Drive and Starland Street. She said there was a pedestrian crosswalk but vehicles on Emerson Drive travelled at high rates of speed.

Council concurred to consider Item 1, under New Business, at this time.

NEW BUSINESS:

1. Resolution 2023-22, supplementing Resolution 2018-63, by authorizing the issuance of not exceeding \$50,000,000 in aggregate principal amount of City of Palm Bay General Obligation Bonds, Series 2023, in order to finance roadway improvements.

Staff Recommendation: Approve a supplemental resolution authorizing the issuance of the General Obligation Bonds, Series 2023.

The City Attorney read the resolution in caption only.

Molly Clark, Public Resources Advisory Group, presented the item to Council.

Bill Battin, resident, asked if this draw would appear on this year's tax bill and the annual amount for the road bond on the tax bill with this final draw. Ms. Sherman responded that it would appear on 2024 tax bill. She could not estimate the cost on someone's tax bill as there were many other factors involved in a tax bill.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Resolution 2023-22. 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 2023-55, vacating a portion of the rear public utility and drainage easement located within Lot 21, Block 2065, Port Malabar Unit 46 (Case VE-6-2023, Tracey-Ann Andrea Walker), 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 2023-55. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. Ordinance 2023-57, vacating a portion of the rear public utility and drainage easement located within Lot 35, Block 758, Port Malabar Unit 16 (Case VE-8-2023, Patricia Hartter and Jean Schicker), 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 2023-57. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

3. Ordinance 2023-58, vacating a portion of the road right-of-way known as Kinney Avenue NE, lying between Orange Blossom Trail and Water Drive (0.63 acres) (Case VRW-1-2023, Palm Bay Marina, LLC), 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 2023-58. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

4. Ordinance 2023-65, extending the time period for meeting conditions for vacating the road right-of-way known as Kinney Avenue, lying between Orange Blossom Trail and Florida East Coast Railway (Case VRW-2-2022, Palm Bay Marina, LLC), 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 2023-65. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

5. Ordinance 2023-66, providing for the naming a private roadway to be known as Zen Way NE, 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 2023-66. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

6. Ordinance 2023-67, amending the Code of Ordinances, Chapter 53, State of Emergency, Declaration, by modifying provisions related to the termination of a State of Local Emergency, 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 Mayor Medina, to adopt Ordinance 2023-67. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

7. Ordinance 2023-56, vacating a portion of the rear public utility and drainage easement located within Lot 1, Block 489, Port Malabar Unit 12 (Case VE-7-2023, Luis Roberto Viera and Luz Eneida Roman Viera), first reading. (CONTINUED FROM 07/20/23 RCM, FIRST OCCURRENCE)

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

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve Ordinance 2023-56. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

8. Ordinance 2023-68, vacating a portion of the side public utility and drainage easement located within Lot 5, Block 674, Port Malabar Unit 15 (Case VE-10-2023, David Jr. and Evelyn Daniels), first reading.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant was not present. The public hearing was closed. As the applicant was not present for the first hearing, pursuant to Section 51.03 of the Code of Ordinances, the item was automatically rescheduled to the next meeting.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to continue Ordinance 2023-68. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

9. Ordinance 2023-69, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located southeast of and adjacent to Warrington Road, in the vicinity north of Jupiter Boulevard, from Utilities Use to Low Density Residential Use (1.01 acres) (Case CP23-00007, Jennifer Torres), 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. The applicant presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-69. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. Ordinance 2023-70, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter ‘Supplementary District Regulations’, by modifying provisions related to accessory structures (Case T23-00006, 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. Mr. Anderson presented the request to Council.

Bill Battin, resident, disagreed with the language for metal structures. He said a height of twelve feet (12’) would not allow enough clearance for a motor home or recreational vehicle to be parked inside the structure. Mr. Anderson responded that the actual allotments for metal structures was not changing. The Code currently allowed for twelve feet (12’) with a 300 square foot base. The reasoning was that metal structures did not coalesce and were not conducive with typical residential structures, such as stucco which were more fastened. Ms. Sherman added that carports and detached garages were still allowable up to twenty-five feet (25’) in height.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-70. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

11. Ordinance 2023-71, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter ‘General Provisions’, by modifying provisions related to the site plan review process (Case T23-00009, 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. Mr. Anderson presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-71. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

12. Ordinance 2023-72, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter ‘Supplementary District Regulations’, by including provisions for outdoor dining (Case T23-00016, 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. Mr. Anderson presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-72. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

13. Request by Royal Wash PSL, LLC, for a conditional use to allow a retail car wash in GC (General Commercial District) zoning on property located at 1300 Malabar Road (1.15 acres) (CU23-00008). (WITHDRAWN)

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. 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 2023-16; July 6, 2023.

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

2. Contract: Expansion to 8MGD Design Services, South Regional Water Treatment Plant, Task Order 23-10-WT – Utilities Department (Wade Trim - \$370,685); consideration of fund appropriation on next scheduled budget amendment (\$650,000).

Staff Recommendation: Approve Task Order 23-10-WT for the South Regional Water Treatment Plant expansion to 8MGD design and bid phase services, against Master Agreement 36-0-2020, with Wade Trim, in the amount of \$370,685; and approve the fund appropriation on the next scheduled budget amendment in the amount of \$650,000.

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

3. Consideration of a letter of support for the Brevard County Sheriff's Office for the Fiscal Year 2022-2023 Edward Byrne Memorial Justice Assistance Grant Program, Countywide Prisoner Transport Program.

Staff Recommendation: Authorize the Mayor to sign a letter of support for the Brevard County Sheriff's Office for the Fiscal Year 2022-2023 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for a Countywide Prisoner Transport Program.

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

4. Consideration/acknowledgement of submitting a grant application to Florida Department of Emergency Management for the 2023/2024 Hurricane Legislative Appropriation Program for impacts from Hurricane Nicole.

Staff Recommendation: Acknowledge the City's grant application to Florida Department of Emergency Management for the 2023/2024 Hurricane Legislative Appropriation Program for impacts from Hurricane Nicole.

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

5. Consideration of appropriating funds from General Fund Undesignated Fund Balance for public safety equipment for the Police Department (\$65,000).

Staff Recommendation: Approve the appropriation of funds on the next scheduled budget amendment in the amount of \$65,000 from General Fund Undesignated Fund Balance for public safety equipment for the Police Department; and authorization to move forward with the purchase immediately following approval.

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

6. Consideration of an additional capital asset for the Police Department utilizing savings from the Fiscal Year 2023 approved police vehicles.

Staff Recommendation: Approve the purchase of an additional unmarked sedan utilizing projected savings within Project 23PD01, Fiscal Year 2023 police vehicles.

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

7. Consideration of travel and training for specified City employees (City Manager's Office).

Staff Recommendation: Approve the travel and training as specified.

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

8. Consideration of travel and training for specified City employees (Fire Rescue).

Staff Recommendation: Approve the travel and training as specified.

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

9. Consideration of travel and training for specified City employees (Police Department).

Staff Recommendation: Approve the travel and training as specified.

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

10. Acknowledgement of the City's travel expenses for the third quarter of Fiscal Year 2023 (April 2023 - June 2023).

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

NEW BUSINESS:

1. Resolution 2023-22, supplementing Resolution 2018-63, by authorizing the issuance of not exceeding \$50,000,000 in aggregate principal amount of City of Palm Bay General Obligation Bonds, Series 2023, in order to finance roadway improvements.

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

2. Ordinance 2023-73, amending the Code of Ordinances, Chapter 52, Boards, Subchapter 'Citizens' Budget Advisory Board', by repealing the subchapter in its entirety, thereby dissolving the Citizens' Budget Advisory Board, first reading. (Councilman Foster)

Staff Recommendation: Approve the ordinance as presented or revised as needed.

The City Attorney read the ordinance in caption only.

Councilman Foster presented the item.

Susan Connolly, resident and member of the Citizens' Budget Advisory Board (Board), said that this had been a topic of the Board since the ordinance to dissolve was proposed late last year. The Board had authorized its Chair to write a letter to Council asking how the Board could serve in a more efficient way and it was unanswered. The Chair also spoke publicly at a Council meeting and there was no response. Ms. Connolly objected to the way this was being handled without a thorough discussion of how the Board could be utilized from a citizens participation view. She requested Council to deny or table this item until there was a deeper discussion on the topic.

Nathan White, resident and member of the Board, said the city and the Board members valued this Board. The Board existed to advise Council and the citizens. He said it was a great environment for learning about the budget and serving City Council in an advisory capacity. Mr. White said the Board had value and voting on this item was insulting to the Board members.

Motion by Mr. Foster, seconded by Deputy Mayor Felix, to approve Ordinance 2023-73.

Mr. Foster did not feel there was any value to the Board, and it was costing city hours and staff hours. One of the most important jobs of a councilmember was to pass a balanced budget and he wanted to free up City staff to do their jobs.

Mr. Johnson said the Board was designed to properly inform City Council and the residents. The main concern was misinformation and putting out false information stating that the City was facing financial catastrophe and were unable to adopt a balanced budget. The City was required to adopt a balanced budget pursuant to law. Mr. Johnson supported the request.

Mayor Medina wanted the public to be engaged. Council received a letter from the Board and Council gave no direction. Council should be providing guidance and setting parameters. Mayor Medina said Council could give the Board further direction and cultivate it so the members could engage Council more effectively. He did not support the request.

Deputy Mayor Felix agreed with Mr. Johnson's comments. He asked the process if a citizen wanted to be educated about City's budget process. Mr. Wojciechowski responded that the Finance Department had an open-door policy. He said he had offered to meet with each Board member, but no one had set up a meeting with him to date.

Deputy Mayor Felix and Councilman Johnson did not support the way the Board was currently operating. Mayor Medina wanted to keep the Board and restructure. Deputy Mayor Felix felt it should be dissolved until the City Manager could completely restructure the Board.

Motion carried with members voting as follows:

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

COUNCIL REPORTS:

1. Mr. Johnson made the following reports:

A. *Rezoning*s - advised that he would be working with staff on City initiated rezoning's. Council concurred.

B. *Fee Reductions* - wanted to research building fee reductions for affordable housing, but only in those areas that were currently zoned residential. Ms. Sherman explained it would be comparable to the City's program for commercial investment, but for affordable housing. Mayor Medina asked that Council be cautious as he did not want

to create developments or certain areas that were going to be specifically for low-income housing. Mr. Johnson said he would gather more information and bring back to Council for discussion. Council concurred.

C. *Drainage* - he had received numerous complaints about drainage. He wanted to give authorization to the City Manager to utilize third parties to assist in maintaining drainage and be proactive in addressing issues before a hurricane threatened the area. Mayor Medina said that if the builders and developers were responsible then they needed to be held accountable. Ms. Sherman was unsure if additional assistance was needed at this time but would confirm with staff. She advised that a notification was sent out to the builders reminding them of their requirements to keep swales clear, keep construction sites clean, etc. Mr. Johnson suggested a notification be sent out requesting residents to notify the City if they see anything that needed to be addressed.

2. Deputy Mayor Felix made the following reports:

A. *Affordable Housing* - asked that Council do everything in its power to attract developers to build affordable housing. He felt it was a critical component, not only in the City, but nationwide.

B. *Mayor's Business Spotlight Program* - felt the program should be reviewed to include additional criteria, such as if the business was a member of the Greater Palm Bay Chamber of Commerce, how was the business giving back to the community, etc. Mayor Medina said criteria was already in place. He noted that he could not force a business to be a member of the Chamber. Deputy Mayor Felix said it could be on the list of criteria, but it would not be a requirement.

ADMINISTRATIVE AND LEGAL REPORTS:

There were no reports.

PUBLIC COMMENTS/RESPONSES:

Individuals made general comments.

1. Nathan White, resident and member of Citizens' Budget Advisory Board, did not agree with Council dissolving the Board because Council did not like what was being said publicly related to his petition that was filed to amend the City Charter.

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ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 8:12 P.M.

Rob Medina, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK