

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2023-23

Held on Tuesday, the 19th day of September 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 6:02 P.M.

Pastor Chris Adams, Christian Life 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.

AGENDA REVISION(S):

1. Ms. Sherman announced the following revisions:
 - A. Presentation of the American Flag to Keith Van Buren was added as Item 2, under Proclamations and Recognitions.
 - B. The applicant for Items 2, 3, 4, 5, 6, and 7, under Public Hearings, requested that the cases be continued to the October 5, 2023, regular Council meeting.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to continue Items 2, 3, 4, 5, 6, and 7, under Public Hearings, to the October 5, 2023, regular Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

C. The resolution for Item 6, under Consent Agenda (Resolution 2023-28), was added to the agenda packet.

D. Two (2) requests regarding expenditures for Risk Management Services were added as Items 1 and 2, under New Business.

PROCLAMATIONS AND RECOGNITIONS:

The proclamation was read, and the flag was presented.

1. Proclamation: Hispanic Heritage Month - September 15 - October 15, 2023; Puerto Rican Day - September 30, 2023.

2. Recognition: Presentation of the American Flag - honoring the service of Keith Van Buren. (Mayor Medina) (AGENDA REVISION)

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

Individuals made general comments.

1. Mr. Bland, resident, asked for clarification on the definition of improved real property as it related to the Majors Golf Course. He also wanted to know what would happen to those portions of the property that had been split from the lot. He felt that the cart paths and bridges would be considered improved property and therefore should be maintained by the property owner.

2. Numerous residents commented on a dilapidated home in the northwest area that had been abandoned due to a fire.

Ms. Sherman responded that similar properties would be presented to Council on October 19, 2023, for discussion. After conferring with staff, this property may be included as well.

3. Robert Stise, resident, asked about the concealed carry for city employees.

Ms. Sherman responded to the following comments:

A. Improved properties were only for those structures which had received a Certificate of Occupancy. Cart paths and bridges would not receive a Certificate of Occupancy and were considered unimproved.

B. The concealed carry permit for City employees was in final draft and was being reviewed by staff.

PUBLIC HEARING(S):

1. Ordinance 2023-90, amending the Fiscal Year 2022-2023 budget by appropriating and allocating certain monies (fourth budget amendment), 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 2023-90. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. Ordinance 2023-38, providing for the annexation of certain real property located west of and adjacent to Minton Road, in the vicinities north of Palm Bay Road and south of Hield Road, into the City (2.11 acres) (Case A23-00002, Bruce Coffman/Affordable Trailer Service and Supply, Inc.), first reading. (CONTINUED FROM 08/17/23 RCM)

This item, addressed under Agenda Revisions, was continued to the October 5, 2023, regular Council meeting.

3. Ordinance 2023-60, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located west of and adjacent to Minton Road, in the vicinities north of Palm Bay Road and south of Hield Road, from Community Commercial Use (Brevard County) to Commercial Use (City of Palm Bay) (2.11 acres) (CP23-00013, Bruce Coffman/Affordable Trailer Service and Supply, Inc.), only one reading required. (CONTINUED FROM 08/17/23 RCM)

This item, addressed under Agenda Revisions, was continued to the October 5, 2023, regular Council meeting.

4. Ordinance 2023-61, rezoning property located west of and adjacent to Minton Road, in the vicinities north of Palm Bay Road and south of Hield Road, from BU-1 (General Retail Commercial) (Brevard County) to CC (Community Commercial District) (City of Palm Bay) (2.11 acres) (Case CPZ23-00007, Bruce Coffman/Affordable Trailer Service and Supply, Inc.), first reading. (Quasi-Judicial Proceeding) (CONTINUED FROM 08/17/23 RCM)

This item, addressed under Agenda Revisions, was continued to the October 5, 2023, regular Council meeting.

5. Ordinance 2023-37, providing for the annexation of certain real property located at the southwest corner of Hield Road and Minton Road, into the City (4.58 acres) (Case A23-00001, Cole Oliver/West Malabar Properties, LLC), first reading. (CONTINUED FROM 08/17/23 RCM)

This item, addressed under Agenda Revisions, was continued to the October 5, 2023, regular Council meeting.

6. Ordinance 2023-63, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located at the southwest corner of Hield Road and Minton Road from Residential 2 Use (Brevard County) to Commercial Use (City of Palm Bay) (4.58 acres) (Case CP23-00010, Cole Oliver/West Malabar Properties, LLC), only one reading required. (CONTINUED FROM 08/17/23 RCM)

This item, addressed under Agenda Revisions, was continued to the October 5, 2023, regular Council meeting.

7. Ordinance 2023-64, rezoning property located at the southwest corner of Hield Road and Minton Road from RP (Resident Professional) (Brevard County) and AU (Agricultural Residential) (Brevard County) to CC (Community Commercial District) (City of Palm Bay) (4.58 acres) (Case CPZ23-00006, Cole Oliver/West Malabar Properties, LLC), first reading. (Quasi-Judicial Proceeding) (CONTINUED FROM 08/17/23 RCM)

This item, addressed under Agenda Revisions, was continued to the October 5, 2023, regular Council meeting.

8. Ordinance 2023-91, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located west of and adjacent to Eldron Boulevard, in the vicinities north of Bayside Lakes Boulevard and south of Devonwood Court, from Low-Density Residential Use and Commercial Use to Commercial Use (7.43 acres) (Case CP23-00014, KEW 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. 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 2023-91. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

9. Ordinance 2023-92, granting approval of a Final Development Plan to be known as ‘Chaparral Amenity Center’ within the Chaparral Planned Unit Development on property located south of and adjacent to Abilene Drive, in the vicinity south of Malabar Road and east of Flying U Lane (6.66 acres) (FD23-00007, Chaparral Properties 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. 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 approve Ordinance 2023-92. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. Request by DRP FL 6, LLC, for a final subdivision plat to be known as ‘Timbers at Everlands Phase 1C’ in PUD (Planned Unit Development) zoning (21.25 acres) (Case FS23-00007). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request.

The public hearing was opened. Ana Saunders, BSE Consultants 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 the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

11. Request by DRP FL 6, LLC, for a final subdivision plat to be known as ‘Timbers at Everlands Phase 2’ in PUD (Planned Unit Development) zoning (107.05 acres) (Case FS23-00008). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request.

The public hearing was opened. Ana Saunders, BSE Consultants 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 the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

12. Ordinance 2023-93, amending the Code of Ordinances, Chapter 170, Construction Codes and Regulations, Subchapter 'Walls and Fences', by modifying provisions contained therein (Case T23-00023, 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.

Bill Battin, resident, questioned who made the determination that a property was beautiful. He said the expense of closed-in fencing was higher than open fencing. He added that barbed wire fencing was prohibited in the ordinance, but it was the only fencing that allowed wildlife to get through it and contained the livestock; all other fencing permitted by the City prevented any wildlife crossing. He asked if those with existing barbed wire fencing would be grandfathered in.

Ms. Sherman responded that types of materials used for fencing had not changed. The ordinance allowed for use of one type of material for fencing on a property.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-93. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

13. Request by Florida Institute of Technology for a variance to allow three (3) proposed parking garage buildings to encroach twenty feet (20') into the 20-foot front-yard setback for accessory structures, as established by Section 185.058(F)(8)(e), Palm Bay Code of Ordinances (6.92 acres) (V23-00006). (CONTINUED TO 10/04/23 P&Z AND 10/05/23 RCM)

14. Request by Sunrise Plaza Enterprise, Inc., for a conditional use to allow retail automotive gasoline/fuel sales in NC (Neighborhood Commercial District) zoning on property located at the southwest corner of Glencove Avenue and Emerson Drive (3.00 acres) (CU23-00003). (CONTINUED TO 10/04/23 P&Z AND 11/02/23 RCM)

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 and 9 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 2023-21; September 6, 2023.

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

2. Contract: Superion Public Administration and Public Safety Software Maintenance and Support - Information Technology Department (Central Square (dba Superion) - \$246,050).

Staff Recommendation: Authorize the City Manager to execute the renewal contract for public administration and public safety software maintenance and support with Central Square (dba Superion, LLC), in the amount of \$246,049.57.

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

3. Miscellaneous: Clarifier 1 Drive mechanism repair, North Regional Wastewater Treatment Plant (emergency procurement) – Utilities Department (Evoqua - \$185,285).

Staff Recommendation: Approve the Emergency Procurement of parts and services from Evoqua Water Technologies, in the amount of \$165,285.34; and approve appropriation of funds on the next scheduled budget amendment in the amount of \$185,286.

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

4. Resolution 2023-26, amending Resolution 2022-51, as amended, adopting the Classification and Pay Plans and the Position Control Plan for employees of the City of Palm Bay for Fiscal Year 2022-2023 (fourth amendment).

The City Attorney read the resolution in caption only.

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

5. Resolution 2023-27, amending Resolution 2022-52, as amended, adopting the Five-Year Capital Improvements Program for Fiscal Years 2022-2023 through 2026-2027 (fourth amendment).

The City Attorney read the resolution in caption only.

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

6. Resolution 2023-28, providing for the acceptance of the transfer of a portion of Capital Drive, Tracts PA-1 and PA-2 from the Cypress Bay Preserve Homeowner's Association Inc.

The City Attorney read the resolution in caption only.

Bill Battin, resident, asked if the maintenance would remain the responsibility of the homeowner's association (HOA) if the City did not accept the property, what was the benefit to the City and what would be the expense.

Ms. Sherman explained that the transfer was required in order for the plat to be established for the commercial parcels.

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

7. Consideration of a grant agreement with Florida Department of Law Enforcement for improvements to the memorial at Sacrifice Park (\$150,000).

Staff Recommendation: Authorize the Mayor to execute the grant agreement with the Florida Department of Law Enforcement for the improvements to the memorial at Sacrifice Park in the amount of \$150,000.

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

8. Consideration of a grant agreement for the Victims of Crime Act grant program (\$59,910).

Staff Recommendation: Authorize the City Manager and Chief of Police to execute the Victims of Crime Act grant agreement, Grant No. VOCA-C-2023-City of Palm Bay Police Department-00228, for the 2023-2024 grant program year.

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

9. Consideration of accepting a grant award from the Florida Department of Law Enforcement for improvements to the Police Department's regional training grounds and gun range (\$1,250,000).

Staff Recommendation: Accept the grant award from the Florida Department of Law Enforcement for improvements to the Police Department's regional training grounds and gun range in the amount of \$1,250,000; and authorize the Mayor to execute the grant agreement.

Bill Battin, resident, asked if the \$360,000 budgeted for Fiscal Year 2023-2024 would be placed back into the General Fund since this grant fund had been received.

Mrs. Junkala-Brown responded that the \$360,000 was required to be a match for the State Legislative appropriation request in the agreement. Although the match was included in the \$1.25 million, that was an error and the City was required to put forth the \$360,000.

Robert Stise, resident, asked if the gun range would be open to the public.

Ms. Sherman advised that the gun range was a City facility and was not publicly accessible.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve acceptance of the grant award from the Florida Department of Law Enforcement for improvements to the Police Department's regional training grounds and gun range. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. Consideration of participating in the Drug Recognition Expert (DRE) Call-Out Overtime Reimbursement Program Contract with the Florida Department of Transportation.

Staff Recommendation: Authorize the Palm Bay Police Department's application submission for the Drug Recognition Expert (DRE) Call-Out Overtime Reimbursement Agreement through The Institute of Police Technology and Management (IPTM).

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

11. Consideration of a budget amendment appropriating funds from the Solid Waste Fund Undesignated Fund Balance to the Solid Waste Fund to cover the September 2023 invoice balance for Republic Services (\$578,000).

Staff Recommendation: Approve the appropriation of funds in the amount of \$578,000 from Solid Waste Fund Undesignated Fund Balance to Solid Waste Fund Other Contractual Services to cover the September 2023 invoice balance for Republic Services.

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

12. Consideration of travel and training for specified City Employee (Growth Management Department).

Staff Recommendation: Approve the travel and training as specified.

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

13. 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.

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

Staff Recommendation: Approve the travel and training as specified.

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

15. Acknowledgement of the City's monthly financial report for July 2023 (Unaudited).

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

16. Acknowledgement of the September 2023 GO Road Bond Paving Report.

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

UNFINISHED AND OLD BUSINESS:

1. Appointment of (1) member to the Melbourne-Tillman Water Control District.

Motion by Deputy Mayor Felix, seconded by Mr. Foster, to appoint Don Jordan to the Melbourne-Tillman Water Control District. 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 expenditures for Risk Insurance and Risk Management Services (\$1,460,813). (AGENDA REVISION)

Staff Recommendation: Approve the expenditure of \$1,460,813 budgeted funds for risk insurance and risk management services.

Ms. Smith presented the item to Council.

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

2. Consideration of expenditures to meet the self-insured retention level and reimburse the third-party administrator for payment of claims. (AGENDA REVISION)

Staff Recommendation: Approve the expenditure of budgeted funds to meet the self-insured retention level and reimburse the third-party administrator for payment of claims.

Ms. Smith presented the item to Council.

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

COMMITTEE AND COUNCIL REPORTS:

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

1. Mr. Johnson said that artificial intelligence was being implemented more and more throughout the public and private sectors. He would be discussing the topic with staff and how to implement within the departments.

2. Deputy Mayor Felix made the following reports:

A. Requested staff to send a letter to the Florida Department of Transportation (FDOT) to adjust their camera at the Exit 173 interchange as he was notified that the existing camera did not have full view of the exit. Council concurred.

Mayor Medina wanted to expedite the Project Development and Environmental (PD&E) Study with regard to updating the exit lanes at the same interchange. He suggested sending a letter to the FDOT, as well as the Brevard County Commissioners. Council concurred.

B. Advised that the Brevard County Commissioners reduced the Supervisor of Elections' budget by over \$300,000.00; therefore, sample ballots would not be mailed to the voters. He felt it was important for the community to be aware of Brevard County's decision.

ADMINISTRATIVE AND LEGAL REPORTS:

1. Ms. Sherman said that two (2) members of Council served on the City's Professional Auditing Evaluation Committee. Due to conflicting schedules for an upcoming meeting of the Committee, she requested that Council appoint a third member of Council to serve.

Motion by Deputy Mayor Felix, seconded by Mayor Medina, to select Councilman Johnson as an additional alternative to the Committee. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

PUBLIC COMMENTS/RESPONSES:

Residents made general comments.

1. Robert Stise, resident, said that the area known as the Compound needed to be addressed. It was a large area that was unguarded, unprotected, and needed security.

Ms. Sherman advised that the Compound was publicly accessible, and the City could not restrict access due to private property rights. Staff would continue to monitor the area with cameras and police patrol. There were no power lines, water or sewer in that area. Staff was researching the potential of changing the land use in that area to further promote development.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 7:49 P.M.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK