

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2023-29

Held on Tuesday, the 14<sup>th</sup> day of November 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:

<b>MAYOR:</b>	Rob Medina	Present
<b>DEPUTY MAYOR:</b>	Donny Felix	Present
<b>COUNCILMEMBER:</b>	Kenny Johnson	Present
<b>COUNCILMEMBER:</b>	Randy Foster	Present
<b>COUNCILMEMBER</b>	Vacant	
<b>CITY MANAGER:</b>	Suzanne Sherman	Present
<b>CHIEF DEPUTY CITY ATTORNEY:</b>	Michael Rodriguez	Present
<b>CITY CLERK:</b>	Terese Jones	Present

Councilman Foster attended the meeting via teleconference.

**CITY STAFF:** Juliet Misconi, Deputy City Manager; Chris Little, Utilities Director; Mariano Augello, Chief of Police.

### ANNOUNCEMENTS:

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

- 1. One (1) term expiring on the Bayfront Community Redevelopment Agency (represents 'at-large' position).++**
- 2. Three (3) terms expiring and one (1) vacancy on the Disaster Relief Committee Executive Board.+**

### AGENDA REVISION(S):

There were no agenda revisions.

**PROCLAMATIONS AND RECOGNITIONS:**

The flag was presented, and the proclamation was read.

- 1. Recognition: Presentation of the American Flag - honoring the service of Marc Gray. (Mayor Medina)**
- 2. Proclamation: National Native American Heritage Month - November 2023.**

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

Individuals made general comments.

- Daniel O'Brien, resident, stated that property owners should have been made aware of Ordinance 2023-101 regarding mandatory connection to City utilities. He asked that City Council reverse its decision until property owners were properly notified.
- Roy Young, resident, asked why the City had changed its laws related to the size of metal buildings and structures.

Ms. Sherman responded that she would speak with staff that had been working with Mr. Young and advise him accordingly.

Mr. Rodriguez responded to Mr. O'Brien's comments. He advised that there was no requirement for a direct mailing for residents being affected by Ordinance 2023-101 prior to it being adopted. He advised that there were two (2) notice procedures per Chapter 166, Florida Statutes, that governed the minimum requirements for all cities to adopt ordinances. Mr. Rodriguez noted that the City had followed the guidelines correctly.

**PUBLIC HEARING(S):**

- 1. Ordinance 2023-94, providing for the annexation of certain real property located south of and adjacent to Malabar Road, in the vicinity west of Melbourne Tillman Drainage District Canal 7, into the City (6.00 acres) (Case A23-00003, Diaz Treasures, LLC), final reading.**

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

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-94. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**2. Ordinance 2023-95, providing for the annexation of certain real property located south of and adjacent to Malabar Road, in the vicinity southwest of St. Johns Heritage Parkway and west of Melbourne Tillman Drainage District Canal 7, into the City (13.05 acres) (Case A23-00005, City of Palm Bay), final reading.**

The Chief Deputy 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 adopt Ordinance 2023-95. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**3. Ordinance 2023-102, amending the Fiscal Year 2022-2023 budget by appropriating and allocating certain monies (fifth/final budget amendment), final reading.**

The Chief Deputy 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 adopt Ordinance 2023-102. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**4. Request by Sunrise Plaza Enterprise, Inc. for a conditional use to allow retail automotive gas/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). (RESCHEDULED TO 12/06/23 P&Z AND 12/07/23 RCM)**

**5. Request by AZAD Business Corporation for a conditional use to allow alcohol service at a proposed dining establishment in BMUV (Bayfront Mixed Use Village District) zoning, in accordance with Section 185.053(D)(2), Palm Bay Code of Ordinances, on property located east of and adjacent to Dixie Highway, in the vicinity south of the intersection of Dixie Highway and Anglers Drive (0.3 acres) (CU23-00014). (RESCHEDULED TO 12/06/23 P&Z AND 12/07/23 RCM)**

**6. Request by AZAD Business Corporation for a conditional use to allow outdoor seating at a proposed dining establishment in BMUV (Bayfront Mixed Use Village District) zoning, in accordance with Section 185.053(D)(3), Palm Bay Code of**

**Ordinances, on property located east of and adjacent to Dixie Highway, in the vicinity south of the intersection of Dixie Highway and Anglers Drive (0.3 acres) (CU23-00016). (RESCHEDULED TO 12/06/23 P&Z AND 12/07/23 RCM)**

**7. Request by Diaz Treasures, LLC, to amend the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Malabar Road, in the vicinity west of Melbourne Tillman Drainage District Canal 7, from Residential 1 Unit Per Acre (Brevard County) to Commercial Use (6.00 acres) (Case CP23-00017). (RESCHEDULED FOR 12/06/23 P&Z AND 12/21/23 RCM)**

**8. Request by Diaz Treasures, LLC, to rezone property located south of and adjacent to Malabar Road, in the vicinity west of Melbourne Tillman Drainage District Canal 7, from AU Agricultural Residential (Brevard County) to CC (Community Commercial District) (6.00 acres) (Case CPZ23-00009). (RESCHEDULED FOR 12/06/23 P&Z AND 12/21/23 RCM)**

**9. Request by the City of Palm Bay to amend the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Malabar Road, in the vicinity southwest of St. Johns Heritage Parkway and west of Melbourne Tillman Drainage District Canal 7, from Residential 1 Unit Per Acre (Brevard County) to Commercial Use (13.05 acres) (CP23-00019). (RESCHEDULED FOR 12/06/23 P&Z AND 12/21/23 RCM)**

**10. Request by the City of Palm Bay to rezone property located south of and adjacent to Malabar Road, in the vicinity southwest of St. Johns Heritage Parkway and west of Melbourne Tillman Drainage District Canal 7, from AU Agricultural Residential (Brevard County) to CC (Community Commercial District) (13.05 acres) (Case CPZ23-00011). (RESCHEDULED FOR 12/06/23 P&Z AND 12/21/23 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 1, 7 and 10, from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**1. Contract: Lead and Copper Rule Revisions Compliance, Service Line Material Inventory and Compliance Planning, Task Order 23-15-WT – Utilities Department (Wade Trim - \$302,840); and approve appropriation of funds on the next scheduled budget amendment (\$302,840).**

Staff Recommendation: Approve Task Order 23-15-WT, against Master Agreement 36-0-2020, for lead and copper rule revisions compliance, service line material inventory and compliance planning, with Wade Trim, in the amount of \$302,840; and approve the appropriation of funds on the next scheduled budget amendment, in the amount of \$302,840.

Bill Battin, resident, inquired if the Lead and Copper Rule was being reviewed just because of the mandatory connection ordinance. He asked if contractors would have to enter residential homes for material inspections and replacement and who was going to pay for the expenditure.

Mr. Little said that although the Lead and Copper Rule had been in place for years, the Environmental Protection Agency (EPA) had issued a rule revision requiring utilities that provided water to perform a full inventory of the service lines throughout the system, both on the public and private sides. He explained that the City had inherited the utilities system from the Town of Malabar which contained lead and copper, and staff was actively working to remove those this year. Palm Bay's system did not have the lead and copper lines.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Task Order 23-15-WT with Wade Trim as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**2. Miscellaneous: GIS Software, Small Municipal and County Government Enterprise Agreement, renewal – Utilities and Public Works Departments (ESRI - \$288,300).**

Staff Recommendation: Approve the Environmental Systems Research Institute, Inc. (ESRI) Small Municipal and County Government Enterprise License Agreement renewal for a three-year term with ESRI (Redlands, CA), in the amount of \$288,300.

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

**3. Miscellaneous: ‘Other Agency’ term contract, Fiscal Year 2023-2024 ‘as needed’ purchases of equipment, materials and supplies – multiple city departments.**

Staff Recommendation: Approve the Federal General Services Administration Multiple Award Schedule contract GS-00F-332CA for the purchase of the new MILO system and associated accessories up to the budgeted allocation of \$155,000.

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

**4. Miscellaneous: ‘Cooperative Purchase’, elevator products and services (OMNIA contract) - Parks and Facilities Department (Thyssenkrupp Elevator - \$162,000).**

Staff Recommendation: Approve the award for elevator products and services with Thyssenkrupp Elevator (Atlanta, GA), through the OMNIA contract, in the amount of \$162,000.

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

**5. Miscellaneous: ‘Piggyback Purchase’, ‘as needed’ purchases of capital vehicles (Bradford County Sheriff’s Office contract) - various departments (multiple vendors).**

Staff Recommendation: Approve the Fiscal Year 2024 purchases of capital vehicles and equipment on an “as needed” basis, to include renewals, re-solicitations, and replacement contract if it expires, with multiple vendors, through the Bradford County Sheriff’s Office contract.

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

**6. Consideration of a budget amendment allocating General Fund Undesignated Fund Balance to build out office space for the Land Development Division (\$22,156).**

Staff Recommendation: Approve a budget amendment allocating General Fund Undesignated Fund Balance to build out office space for the Land Development Division, in the amount of \$22,156.

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

**7. Consideration of utilizing Police Impact Fees (32908 and 32909 Nexus) for Capital Outlay requests for two (2) Radar Trailers (\$30,000)**

Staff Recommendation: Approve the appropriation of Police Impact Fees from the 32908 and 32909 Nexus on the next budget amendment for the capital outlay purchase of traffic equipment for the Police Department, in the amount of \$26,000 (total project cost).

Bill Battin, resident, supported the request and suggested including cameras that could be utilized as an additional component.

Chief Augello advised that the Radar Trailers did not have cameras as it would be expensive. He explained that the cameras would not be effective in issuing summonses for speeding due to many legal aspects.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve utilizing Police Impact Fees as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**8. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund for legal costs associated with the Asset Forfeiture Program, bank fees, and Annual Reindeer Run (\$14,800).**

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.

**9. Consideration of submitting an application to the Florida Department of Law Enforcement, Office of Criminal Justice, Drone Replacement Program.**

Staff Recommendation: Approve the submittal of an application to the Florida Department of Law Enforcement, Office of Criminal Justice, Drone Replacement Program.

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

**10. Consideration of revising Council's Policies and Procedures with regard to the Consent Agenda.**

Staff Recommendation: Approve the revisions to Council's Policies and Procedures as requested by staff.

Bill Battin, resident, stated that he was in favor of the Consent Agenda being addressed at the beginning of the meetings. He felt it would make it easier for staff.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve revisions to Council's Policies and Procedures as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**11. Acknowledgement of the City's travel expenses for the fourth quarter of Fiscal Year 2023 (July 2023 - September 2023).**

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

**12. Acknowledgement of the November 2023 GO Road Bond Paving report update.**

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

**NEW BUSINESS:**

**1. Consideration of councilmembers serving as representatives to other agencies/organizations/committees.**

Councilmembers announced on which agencies/organizations/committees they wished to serve.

- 1) Space Coast League of Cities  
Kenny Johnson, Delegate  
Rob Medina, Alternate
  
- 2) Space Coast Transportation Planning Organization  
Rob Medina  
Randy Foster, Alternate  
Donny Felix  
Kenny Johnson



- 3) Economic Development Commission of Florida’s Space Coast (Board of Directors)  
Rob Medina
- 4) Economic Development Commission of Florida’s Space Coast (Executive Committee)  
Rob Medina
- 5) Economic Development Commission of Florida’s Space Coast (Ad Valorem Tax Abatement Council)  
Nancy Bunt
- 6) Risk Management Committee  
Randy Foster
- 7) Capital Outlay Committee  
Joan Junkala-Brown or designee
- 8) Community Development Advisory Board  
Donny Felix

**2. Selection by councilmembers of a Deputy Mayor.**

Motion by Mr. Johnson, seconded by Mr. Foster, to select Councilman Donny Felix as Deputy Mayor. 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.

1. Mayor Medina asked for consensus to direct staff to communicate with the owner of the Majors Golf Course regarding the sale of same.

Ms. Sherman advised that Ms. Joyner (property owner) had not submitted a new application at that time but understood that one would be submitted soon.

Mr. Rodriguez asked if the intent was to purchase the golf course or enter into a private-public partnership. Mayor Medina wanted the City to purchase the golf course and have a private entity operate it.

Mr. Johnson was okay with moving forward but did not feel there was much interest from the owner in the past and the cost to purchase at that time was too high.

Council concurred for staff to communicate with Ms. Joyner.

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Sherman made the following reports:

A. Asked for Council's consensus to become part of two (2) class action lawsuits related to per- and polyfluoroalkyl substances (PFAS) contamination and public water systems/drinking water. Council Concurred.

B. Invited the public to the Community Workshop to review the City's Vulnerability Analysis and Resiliency Best Practices on December 5, 2023, at 6:00 P.M.in City Hall Council Chambers. She advised that the news release could be found on the city's website.

C. Invited the public to the Tree Lighting Ceremony on December 1, 2023, at 6:00 P.M.; and the Holiday Light Parade on December 2, 2023, at 6:00 P.M.

**PUBLIC COMMENTS/RESPONSES:**

Residents made general comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 7:34 P.M.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK