

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2024-01

Held on Thursday, the 4th day of January 2024, 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.

Ken Delgado, The House Church, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	Rob Medina	Present
DEPUTY MAYOR:	Donny Felix	Present
COUNCILMEMBER:	Kenny Johnson	Present
COUNCILMEMBER:	Randy Foster	Absent
COUNCILMEMBER:	Vacant	
CITY MANAGER:	Suzanne Sherman	Present
CITY ATTORNEY:	Patricia Smith	Present
DEPUTY CITY CLERK:	Terri Lefler	Present

CITY STAFF: Joan Junkala-Brown, Deputy City Attorney; Juliet Misconi, Deputy City Manager.

ANNOUNCEMENTS:

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

1. Three (3) terms expiring and one (1) vacancy on the Disaster Relief Committee Executive Board.++

AGENDA REVISIONS:

Ms. Sherman announced the following revisions:

A. A proclamation for Human Trafficking Awareness Month/National Human Trafficking Awareness Day was added as Item 2, under Proclamations and Recognitions.

B. The Legislative Memorandum for Item 6, under New Business (Flag Program Nominee), was revised to include additional information.

PROCLAMATIONS AND RECOGNITIONS:

The proclamations were read.

- 1. Proclamation: Florida Arbor Day - January 19, 2024.**
- 2. Proclamation: Human Trafficking Awareness Month - January 2024; National Human Trafficking Awareness Day - January 11, 2024. (AGENDA REVISION)**

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

Individuals made general comments.

APPROVAL OF CONSENT AGENDA:

All items of business under the 'Approval of 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 3, 7, 8, and 9, from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

- 1. Adoption of Minutes: Meeting 2023-31; December 14, 2023.**

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

- 2. Adoption of Minutes: Meeting 2023-32; December 14, 2023.**

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

- 3. Award of Bid: Construction of Building E, City Hall Campus – IFB 01-0-2024 – Parks and Facilities Department (W&J Construction Corp. - \$15,028,033).**

The item was removed from Consent Agenda and heard after Public Hearings under Consideration of Items Removed from Consent Agenda.

- 4. Award of Bid: General construction services – IFB 06-0-2024 – Parks and Facilities Department (Multiple Vendors – \$250,000 (estimated annual expenditure)).**

Staff Recommendation: Approve the award for general construction services with multiple vendors (A1A Builders of Florida, Inc.; Dane Contracting, Inc.; Done Right Contracting, LLC; FSV Construction Company; Jim's Complete Construction, LLC; Lawson Masonry & Construction Co., Inc.; MGM Contracting, Inc.; and Universal

Contracting and Construction, Inc.), in the annual estimated amount of \$250,000, for a one-year term contract, renewable by the Procurement Department for four (4) additional one-year terms.

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

5. Ordinance 2024-01, amending the Fiscal Year 2023-2024 budget by appropriating and allocating certain monies (first 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.

6. Consideration of City Council Flag Program nominee, Earl Johnson. (Deputy Mayor Felix) (AGENDA REVISION)

Staff Recommendation: Approve Earl Johnson as a nominee for the City Council Flag Program.

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

7. Consideration of a Ground Lease Agreement with Verizon Wireless for a new telecommunications tower at Fred Poppe Regional Park.

The item was removed from Consent Agenda and heard after Public Hearings under Consideration of Items Removed from Consent Agenda.

8. Consideration of a Transportation Improvement Cost Allocation Agreement with Pulte Home Company, LLC, for development project 'Lipscomb Street PUD'.

The item was removed from Consent Agenda and heard after Public Hearings under Consideration of Items Removed from Consent Agenda.

9. Consideration of three (3) new full-time equivalent (FTE) positions for a Grants Manager, Records Specialist, and NPDES Coordinator within the Public Works Department (\$172,485 for the remainder of Fiscal Year 2024).

The item was removed from Consent Agenda and heard after Public Hearings under Consideration of Items Removed from Consent Agenda.

10. Consideration of reclassifying the Secretary position within the Parks and Facilities Department from part-time to full-time.

Staff Recommendation: Approve the reclassification of the Secretary position within the Parks and Facilities Department from part-time to full-time; and transfer funding from the Undesignated Fund Balance to Parks and Facilities/Facilities Division Personnel accounts and increase the department's full-time equivalent (FTE) count.

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

11. Consideration of utilizing Stormwater Utility Funds to budget for culvert pipe replacement at Yukon Street NE and Melbourne Tillman Water Control District C-50 canal (\$100,000 (Project 24SU09)).

Staff Recommendation: Approve the utilization of Stormwater Utility Funds to budget for culvert pipe replacement at Yukon Street NE and Melbourne Tillman Water Control District C-50 canal, in the amount of \$100,000 (Project 24SU09).

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

12. Acknowledgement of the City's monthly financial report for September 2023 (Unaudited).

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

PUBLIC HEARING(S):

1. Ordinance 2023-106, rezoning property located south of and adjacent to Alcantarra Street, in the vicinity between Calcutta and Chamberlin Avenues, from RS-2 (Single-Family Residential District) and SRE (Suburban Residential Estate Category) to RR (Rural Residential District) (10.58 acres) (Case Z23-00013, Michael and Rebecca Crews), final reading. (Quasi-Judicial Proceeding)

The City Attorney read the ordinance in caption only. The public hearing was opened. Joseph Cruz, 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 2023-106. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

2. Ordinance 2023-107, rezoning property located west of and adjacent to Glenham Drive, in the vicinity south of Palm Bay Road, from RS-1 (Single-Family Residential District) to RS-2 (Single-Family Residential District) (15.53 acres) (Case Z23-00014, SKA Properties, LLC), final reading. (Quasi-Judicial Proceeding)

The City Attorney read the ordinance in caption only. The public hearing was opened. Bill Price, Price Family Homes, presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-107.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Felix	Yea
Councilman Johnson	Yea

A resident called a Point of Order, stating three (3) affirmative votes were required to pass the request. Ms. Smith agreed and suggested that the item be reconsidered at a future meeting as this was an extenuating circumstance and not the fault of the applicant. If Council did not want to reconsider with a date certain, then the item should be readvertised.

Mayor Medina said he did not agree with the request regardless and would not support reconsidering the item.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to reconsider Ordinance 2023-107 for final reading at the January 18, 2024, regular Council meeting.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Felix	Yea
Councilman Johnson	Yea

Ms. Smith advised that the item would be readvertised and would not be considered on January 18th, but staff would notify the applicant accordingly. Council concurred.

3. Ordinance 2023-109, rezoning 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, Diaz Treasures, LLC), final reading. (Quasi-Judicial Proceeding)

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 2023-109. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

4. Resolution 2024-01, granting a conditional use to allow retail automotive gas/fuel sales in CC (Community Commercial District) zoning on property located south of and adjacent to Malabar Road, in the vicinities west of Melbourne Tillman Drainage District Canal 7 and south of St. Johns Heritage Parkway. (6.00 acres) (Case CU23-00012, Diaz Treasures, LLC). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended approval of the request.

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

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Resolution 2024-01. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

5. Ordinance 2023-111, rezoning 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, City of Palm Bay), final reading. (Quasi-Judicial Proceeding)

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 2023-111. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

6. Ordinance 2023-114, amending the Code of Ordinances, by creating a new Chapter 71, to be titled 'School Zone Speed Infractions', final reading; authorize the establishment of a speed detection system on roadways maintained as school zones within the City.

The City Attorney read the ordinance in caption only. The public hearing was opened.

John Ryan, Jenoptik Smart Mobility Solutions, spoke in favor of the request and said it was very important to protect the children. He said that his company offered these services, along with many others, and encouraged the issuance of a Request for Proposal (RFP) so that all options could be explored.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Mayor Medina, to adopt Ordinance 2023-114 and authorize the establishment of a speed detection system on roadways maintained as school zones within the City. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

7. Ordinance 2023-115, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Planned Unit Development (PUD)', by modifying the timelines related to preliminary development plan submittals (Case T23-00028, 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 2023-115. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

8. Ordinance 2023-116, amending the Code of Ordinances, Chapter 184, Subdivisions, by modifying the process for submission of preliminary and final plat applications (Case T23-00029, 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 2023-116. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

9. Consideration of a Settlement Agreement and Release of Claims with FAR Research, Inc. and MLEF2-1, LLC.

Staff Recommendation: Approve the settlement agreement and authorize the City Manager to execute.

The public hearing was opened. Ms. Smith presented the request to Council. The agreement included provisions for setbacks, deed restrictions, noise/vested interest, expansion or modification of FAR property, drainage, mutual releases, attorneys' fees and costs, etc. The agreement allowed, but did not require, FAR to build a wall around the property.

Mayor Medina felt that the barrier wall should be required. Ms. Smith said that staff could negotiate that particular provision, but the City would not participate in the funding of same. Council concurred for staff to negotiate including the requirement of the barrier wall as part of the agreement.

Bill Battin, resident, asked if the portion of land that was to be changed to Bayfront Mixed Use (BMU) zoning would still be changed. Ms. Smith advised that the entire property was BMU zoning which included the commercial and industrial portions.

Betsy Delgado, resident, asked the types of chemicals being used and asked about the drainage in the area. She did not understand how a chemical plant could be located so close residential areas.

Ms. Sherman gave a brief history of the business. She said the chemical plant had been at that location since the 1980's and they manufactured different types of chemicals used in a wide range of pharmaceutical applications.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the Settlement Agreement and Release of Claims with FAR Research, Inc. and MLEF2-1, LLC, with the requirement that a barrier wall be built around the property. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA:

3. Award of Bid: Construction of Building E, City Hall Campus – IFB 01-0-2024 – Parks and Facilities Department (W&J Construction Corp. - \$15,028,033).

Staff Recommendation: Approve the award for construction of Building E, City Hall Campus, with W&J Construction Corp. (Rockledge), in the amount of \$15,028,033.

Bill Battin, resident, asked the initial estimated cost to the city that was proposed years ago and the current estimated cost; the funding source; and if the funding was available or if it was to be financed.

Ms. Sherman responded that the project would be funded by American Rescue Plan Act (ARPA) and Building Enterprise Funds. There would be no debt associated with the building and it was fully budgeted. The original estimate back in 2022 was \$18 million and was based on a buildout of all three (3) stories, which was now changed to a buildout of two (2) stories. The third story would be a shell to be developed in the future. An Emergency Operations Center was also added to the project. The current budget was \$16 million, and the lowest bid was approximately \$15 million.

Nathan White, resident, said the ARPA funding could have been used for at least two (2) new fire stations, not for an office building.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve request as recommended by staff. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

7. Consideration of a Ground Lease Agreement with Verizon Wireless for a new telecommunications tower at Fred Poppe Regional Park.

Staff Recommendation: Approve a Ground Lease Agreement with Verizon Wireless for a new telecommunications tower at Fred Poppe Regional Park and authorize the City Manager to execute the agreement.

Bill Battin, resident, recommended that the \$25,000 in annual revenue be used to offset the in-kind co-sponsorships through a separate account related to the General Fund.

Ms. Sherman advised that the \$25,000 would be new revenue and would be designated to the General Fund and all co-sponsorship expenses were already part of the General Fund.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the Ground Lease Agreement with Verizon Wireless as recommended by staff. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

8. Consideration of a Transportation Improvement Cost Allocation Agreement with Pulte Home Company, LLC, for development project 'Lipscomb Street PUD'.

Staff Recommendation: Approve the Transportation Improvement Cost Allocation Agreement with Pulte Home Company, LLC, for development project 'Lipscomb Street PUD'.

Bill Battin, resident, asked if the road infrastructure, with all the projected new homes and apartments, would be met in the one (1) year timeline given because the roads in the area were deficient. He felt that if the infrastructure for the roads was not met in that time frame, transportation issues would not be resolved.

Ms. Sherman agreed that the roads in the area did have preexisting deficiencies that predated the proposed project. She clarified that the total amount owed for Transportation Impact Fees was \$579,000, with \$270,000 of those fees to be paid prior to the final plat. Ms. Sherman believed the one (1) year time frame for buildout was pulled from the traffic study but it was not related to the road projects being completed by that time.

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

9. Consideration of three (3) new full-time equivalent (FTE) positions for a Grants Manager, Records Specialist, and NPDES Coordinator within the Public Works Department (\$172,485 for the remainder of Fiscal Year 2024).

Staff Recommendation: Approve three (3) new full-time equivalent (FTE) positions for a Grants Manager, Records Specialist, and NPDES Coordinator within the Public Works Department, in the amount of \$172,485 (for the remainder of Fiscal Year 2024).

Bill Battin, resident, questioned why the positions were needed and the duties of the positions. Ms. Sherman explained each position and the responsibilities for same.

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

UNFINISHED AND OLD BUSINESS:

1. Appointment of one (1) member to the Community Development Advisory Board.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to appoint Alfred Agarie to the Community Development Advisory Board representing the 'employer within the city' position. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

NEW BUSINESS:

1. Consideration of councilmembers attending the Florida League of Cities Leadership Inaugural Class in Kissimmee, February 9, 2024.

Councilman Johnson would attend the conference. Council concurred.

COMMITTEE AND COUNCIL REPORTS:

Councilmembers addressed various subject matters.

1. Mayor Medina made the following reports:

a. Requested consensus to explore YouTube as an additional avenue to engage with residents for meetings and events. Council concurred.

b. As Councilman Foster had been attending meetings via telephone for the majority of 2023 due to health issues, Mayor Medina requested consensus to fly the American Flag honoring Councilman Foster when he was physically able to attend a Council meeting. Council concurred.

ADMINISTRATIVE AND LEGAL REPORTS:

There were no reports.

PUBLIC COMMENTS/RESPONSES:

Individuals made general comments.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 7:53 P.M.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK