

3. Adoption of Minutes: Regular Council Meeting 2024-10; May 16, 2024.

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2024-10

Held on Thursday, the 16<sup>th</sup> day of May 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.

Pastor Ken Delgado, The House 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>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>CITY CLERK:</b>	Terese Jones	Present

Councilman Foster attended the meeting via teleconference.

**CITY STAFF:** Joan Junkala-Brown, Deputy City Manager; Juliet Misconi, Deputy City Manager; Fred Poppe, Recreation Director; Richard Stover, Fire Chief; Mariano Augello, Police Chief; John Pearson, Chief Building Official; Thomas Marinelli, Acting Utilities Director; George Barber, Chief Procurement Officer; Brian Robinson, Information Technology Director.

### ANNOUNCEMENTS:

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

- 1. Four (4) vacancies on the Youth Advisory Board (represents ‘student member’ positions).++**
- 2. Three (3) vacancies on the Youth Advisory Board (represents ‘adult member’ positions).++**
- 3. Three (3) terms expiring on the Community Development Advisory Board (representing ‘not-for-profit, banking industry advocate for low-income’ positions).++**

**AGENDA REVISIONS:**

Ms. Sherman announced the following revisions:

A. The agenda and Legislative Memorandum on Item 10, under Consent Agenda, were revised to reflect an increase in cost and number of rifle-rated ballistic armor plates.

B. An Award of Bid, purchase order request, and funding allocation for paramedic education and services were added to the agenda as Item 1, under Procurements.

C. The Legislative Memoranda were updated, and background documentation added to Items 3 and 4, under New Business, relating to the Collective Bargaining Agreements.

D. A request for expenditures from the Law Enforcement Trust Fund was added to the agenda as item 6, under New Business.

E. Staff requested that the following items be considered prior to the first Public Comments portion on the agenda and heard in the following order:

- Committee and Council Reports;
- Item 1, under New Business (BCASCA Co-Sponsorship);
- Item 3, under New Business (IAFF Contract); and
- Item 4, under New Business (FOP Contract).

Motion by Deputy Mayor Felix, seconded by, Mayor Medina, to consider moving Committee and Council Reports, and Items 1, 3 and 4, under New Business, prior to Public Comments.

Mr. Johnson requested that Items 3 and 4, under New Business, be tabled until the first meeting in July. Language was added to the contracts based upon discussions at the Executive Session. He felt there was no rush to consider these contracts as they were not effective until October 1<sup>st</sup>. Council had two (2) days to review the contracts prior to this meeting. Mayor Medina felt that the contracts were negotiated in good faith and Council should move forward. Mr. Johnson questioned if the contracts as presented contained all suggestions made by the City Attorney. Mayor Medina said discussions should take place when the items were considered.

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

## **PROCLAMATIONS AND RECOGNITIONS:**

The proclamations were read, and individuals were recognized.

- 1. Recognition: Presentation of the American Flag – honoring the service of Greg Minor. (Councilman Johnson)**
- 2. Recognition: Presentation of the American Flag – honoring the service of Javier Molinares. (Councilman Foster)**
- 3. Recognition: Over nine (9) years of service as a City board member on the Planning and Zoning Board – Phil Weinberg. (Councilman Foster)**
- 4. Proclamation: National Safe Boating Week – May 18-24, 2024.**
- 5. Proclamation: Jewish American Heritage Month – May 2024.** The proclamation was read later in the meeting after Council and Committee Reports.
- 6. Proclamation: Amyotrophic Lateral Sclerosis (ALS) Awareness Month – May 2024.** As there was no representative to accept the proclamation, the proclamation was not read.
- 7. Proclamation: National Caribbean American Heritage Month - June 2024.**

Committee and Council Reports were heard at this time.

## **COMMITTEE AND COUNCIL REPORTS:**

1. Mr. Johnson made the following reports:

A. He had spoken with Justin Travis, USA BMX Director of Business and Development, who was interested in bringing a bike track to the City, specifically to the area known as the Compound. Mr. Johnson asked for consensus to explore the Compound and other areas of the City for same. He felt it would benefit the community. Ms. Sherman said the organization had a great program and they partnered with cities, counties, and other agencies to develop BMX tracks. She said that staff had suggested the former Cyclocross location located off of Osmosis Drive. Council concurred.

B. He had pulled the moratorium items at the last meeting regarding car washes and storage units as there was no support from Council. However, he said that Council could give clear direction to staff that no additional car washes and self-storage centers were needed in the City. Mayor Medina agreed and said those types of businesses could be controlled through the new Land Development Code.

C. He suggested that Mr. Foster resign due to his health reasons and that he was doing a disservice to the City and himself. Mayor Medina and Deputy Mayor Felix felt that was a decision to be made by Councilman Foster.

D. He felt that the subcontractors working on the roads needed to be held accountable if the roads did not last as long as guaranteed. Mayor Medina agreed and directed staff to pursue legal action as necessary so that the City would not have to pay to correct the issues.

E. He requested a workshop in conjunction with the Economic Development Workshop in August to discuss reprioritizing educational and employment attainment. He asked that all stakeholders in the community be invited to attend and participate in the discussion.

G. He asked for an update on the Parks Referendum revenue from Brevard County. He felt that if the City was maintaining Fred Poppe Regional Park, then the City should not be paying \$1.5 million to Brevard County. Ms. Sherman said she would research and provide an update at a future meeting.

H. He asked that Council keep the Babcock Street and Malabar Road widenings and the St. John's Heritage Parkway expansion in the forefront of their minds.

I. He asked about pre-application fees in the amount of \$250 to meet with staff. He felt that if the City wanted to entice businesses and developers to come to Palm Bay, there should be no charge to meet with staff. Mayor Medina agreed and asked about the workshop held previously discussing same. Ms. Sherman shared that a resolution was enacted in 2021 that eliminated the pre-application fee but it had expired on September 30, 2022. She said it would have to come before Council to be reinstated.

J. He wanted to keep all options open regarding the Opioid Litigation and funding received. He wanted to look at providing a portion of the funds received to Police, Fire and organizations experienced in dealing with Opioid addiction.

Item 5, under Proclamations and Recognitions, was read and accepted at this time.

## **5. Proclamation: Jewish American Heritage Month – May 2024.**

Items 1, 3 and 4, under New Business, were considered at this time.

### **1. Consideration of a co-sponsorship request from Brevard Caribbean American Sports and Cultural Association (BCASCA) for the annual Caribbean Heritage Month seasonal events held in June 2024.**

Staff Recommendation: Approve the City's co-sponsorship with BCASCA for their Annual Caribbean Heritage Month seasonal events and authorize a \$3,520 of in-kind wages (labor) and fee waivers totaling \$535, for a total co-sponsorship value of \$4,055.

Bill Battin, resident, did not agree with co-sponsorships. He mentioned that the upcoming golf tournament hosted by the City, and staff was asking for contributions from the public for the fundraiser. He said the City should not be giving “freebies” to organizations but ask for donations for its own events.

Mr. Poppe explained the details of the golf tournament, which had been held for many years. The revenue received would be placed back into the General Fund.

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

### **3. Consideration of Collective Bargaining Agreements with the Palm Bay International Association of Fire Fighters (IAFF), Local 2446, Rank and File and Supervisors Units. (AGENDA REVISION)**

Staff Recommendation: Authorize the City Manager to execute the Collective Bargaining Agreements.

Ms. Sherman presented the request to Council and provided details on significant changes to the contracts. There were three (3) areas of concern that were discussed during the recent Executive Session:

- Article 39, Alcohol and Substance Abuse Policy and Testing (Circumstances When Testing May Be Required) – the negotiated language stated that the article would be reviewed and reopened to finalize changes by April 2025. The City Attorney had requested that it be resolved by October 2024.
- Article 39, Alcohol and Substance Abuse Policy and Testing (Section 39.6) – the negotiated language stated that the article would be reopened no later than April 2025 to re-address and collectively bargain the article in its entirety.
- Reference related to the three percent (3%) cap – language stated there would be a reopener limited to compensation for Years 2 and 3.

Mayor Medina asked if the negotiations were done in good faith and if the vote was unanimous. Ms. Sherman confirmed same.

Deputy Mayor Felix asked if the Union was concerned with the language used in all three (3) items and Ms. Sherman confirmed same.

Mr. Johnson said the contract did not take effect until October and he wanted everyone to be comfortable moving forward. He asked for input from the City Attorney.

Ms. Smith said that she and her attorneys were not consulted with the language presented for the random drug testing. She said the language stated that IAFF members would have a freeze on any random drug testing until 2025. This would give the perception that they do not want to be tested which would create a negative inference making it harder to defend. Ms. Smith also explained that it was not fair to have a one-way reopener involving the three percent (3%) cap. If the cap went away, it was an automatic reopener to renegotiate to possibly increase their compensation.

Mayor Medina wanted to honor the negotiations that took place and supported the contract as the funding had already been budgeted for the next fiscal year.

Mr. Foster suggested placing an item on the ballot to increase the three percent (3%) cap to five percent (5%) or six percent (6%). Mayor Medina felt that was a discussion for the future.

Mayor Medina relinquished the chair to the Deputy Mayor and made a motion to authorize the City Manager to execute the agreement. Deputy Mayor Felix seconded the motion.

Mr. Johnson questioned how Council could ignore the advice of the City Attorney. He wanted to table the agreements until July and did not understand the rush to approve without more input from the City Attorney's Office.

Chief Stover spoke in support of the contract and stated his reasons for same. He responded to questions posed by councilmembers.

Motion carried with members voting as follows:

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

Mayor Medina resumed as the presiding officer.

**4. Consideration of Collective Bargaining Agreements with the Fraternal Order of Police (FOP) for Police Officer's, Sergeant's, and Lieutenant's Units. (AGENDA REVISION)**

Staff Recommendation: Staff Recommendation: Authorize the City Manager to execute the Collective Bargaining Agreements.

Ms. Sherman presented the request to Council and provided details on significant changes to the contracts. Chief Augello responded to questions posed by councilmembers and spoke in support of his staff.

Mr. Johnson asked if the City Attorney staff was included in previous negotiations. Ms. Sherman said that, previously, they were submitted for legal review in an untimely manner, but outside counsel was used for these negotiations and previous negotiations. Ms. Smith concurred and added that the FOP contract did not have many issues as there were no reopeners nor exemptions related to drug testing. She said that outside counsel was not part of the negotiations this year.

Mayor Medina relinquished the chair to the Deputy Mayor and made a motion to authorize the City Manager to execute the agreement. Mr. Foster seconded the motion.

Mr. Johnson felt that the contracts for IAFF and FOP should have been more similar in nature and legal counsel should be part of the process from beginning to end. Council agreed.

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

Mr. Foster left the meeting at this time and did not return.

Mayor Medina resumed as the presiding officer.

Ms. Sherman asked Council to consider Item 3, under Public Hearings, at this time. Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to consider Item 3, under Public Hearings. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**3. Ordinance 2024-25, vacating a portion of the rear public utility and drainage easement located within Lot 19, Block 1107, Port Malabar Unit 23 (Case VE-4-2024, Sherry Denise Pollard), 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 as there were no comments.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to adopt Ordinance 2024-25. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

Council resumed the order of business as shown on the agenda.

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

Individuals made general comments.

1. Robert Stise, resident, asked Council and staff to review outdated ordinances such as the Citizen Participation Plan and undeveloped commercial properties adjacent to residential properties. He referenced the Majors Golf Course and felt that one ordinance could not cover everything, and residents' properties needed to be protected.

Deputy Mayor Felix said that he lived along the golf course and agreed that the golf course property was not aesthetically pleasing. He felt that staff should start looking at particular locations and mitigate accordingly.

2. Robert Burns, resident, mentioned that there were currently three (3) Class Action Lawsuits against Dollar General in three (3) separate states. The complaints were regarding the shelf pricing being different from the price at the register. He suggested an ordinance instituting a consumer whistleblower program. Ms. Smith said she would research.

### **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 2, 4, 5, 6, 7, 12, 14, 17 and 19, from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**1. Adoption of Minutes: Meeting 2024-08; April 18, 2024.**

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

**2. Award of Bid: Castaways Point Park and Stearns Point Park Shoreline Improvements – IFB 38-0-2024 – Parks and Facilities Director (Custom Built Marine Construction, Inc. - \$1,270,541).**

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

**3. Award of Qualification(s): Continuing Consultant Services Library – RFQ 12-0-2024 – various city departments; and authorization to enter negotiations/execute agreements with the three (3) highest ranked firms for each discipline.**

Staff Recommendation: Approve the Award of Qualification(s), Continuing Consultant Services Library, RFQ 12-0-2024, and authorize to enter negotiations/execute agreements with the three (3) highest ranked firms for each discipline.

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

**4. Contract: Lift Station Permanent Bypass Pump Installations, Task Order 24-09-WT (against Master Agreement 36-0-2020) – Utilities Department (Wade Trim - \$113,635).**

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

**5. Contract: South Regional Water Reclamation Facility Construction - IFB 39-0-2020, Change Order 7 – Utilities Department (RJ Sullivan Corporation - \$913,540).**

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

**6. Contract: Septic to Sewer Project Plan Funding Advocacy, Task Order 24-07-IS (against Master Agreement 36-0-2020) – Utilities Department (Infrastructure Solution Services - \$128,200); and appropriation of funds from Utilities Undesignated Fund Balance on the next scheduled budget amendment.**

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

**7. Contract: Babcock Street and St. Johns Heritage Parkway intersection improvements – IFB 45-0-2022, Change Order 4 – Public Works Department (Timothy Rose Contracting, Inc. - \$923,768); and appropriation of Transportation Impact Fees (\$750,000).**

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

**8. Miscellaneous: ‘Piggyback Purchase’, Fiscal Year 2024 Cured-In-Place Pipe Installation Services (Polk County contract) – Public Works Department (Hinterland Group Inc. - \$458,608).**

Staff Recommendation: Approve the piggyback purchase for Fiscal Year 2024 Cured-In-Place Pipe Installation Services with Hinterland Group Inc. (Riviera Beach), utilizing Polk County Contract 23-219.

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

**9. Miscellaneous: ‘Piggyback Purchase’, Capital vehicles and equipment (Sourcewell contracts) – Fleet Services Division (National Auto Fleet Group – ‘as needed’ purchases).**

Staff Recommendation: Approve the piggyback purchase for Fiscal Year 2024 of capital vehicles and equipment on an “as needed” basis from National Auto Fleet Group, utilizing Sourcewell Contracts 091521-NAF and 060920-NAF, to include renewals, re-solicitations, and replacement contract if expires, and only if funds were appropriated by Council.

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

**10. Miscellaneous: ‘Piggyback Purchase’, Omega Rifle-Rated Ballistic Armor Plates (NASPO contract) – Police Department (Federal Eastern International - ~~\$45,000~~ \$68,160); and appropriation of funds from General Fund Undesignated Fund Balance. (AGENDA REVISION)**

Staff Recommendation: Approve the purchase of the Omega Rifle-Rated Ballistic Armor Plates from Federal Eastern International in the amount of \$68,160.

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

**11. Miscellaneous: ‘Cooperative Purchase’, Retrofitting Crisis Negotiation Team Van (Houston-Galveston Area Council (H-GAC) contract) – Police Department (Emergency Vehicle Inc. (EVI) - \$126,441).**

Staff Recommendation: Approve the cooperative purchase for a retrofitting Crisis Negotiation Team Van from Emergency Vehicle Inc., utilizing Houston-Galveston Area Council (H-GAC) Contract FS12- 23, to include amendments, renewals, re-solicitations, and replacement contract if it expires, and only if funds were appropriated by Council.

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

**12. Miscellaneous: Lien search services – Community and Economic Development Department (Orange Data’s MuniConnect Platform – revenue earning (sole source)).**

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

**13. Resolution 2024-18, providing for the renaming of Riviera Park as 'Ken Greene Memorial Park'.**

The City Attorney read the Resolution in caption only.

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

**14. Consideration of a purchase offer from Palm Bay Landings, LLC, for surplus property, municipally owned vacant land located on Water Drive (Tax ID: 2832805, Parcel ID: 28-37-24-27-3-4.01) (\$100,000).**

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

**15. Consideration of travel and training for specified City employees (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.

**16. Consideration of the Fiscal Year 2023-2024 State Assistance for Fentanyl Eradication (S.A.F.E.) in Florida Program Agreement with the Florida Department of Law Enforcement and the S.A.F.E. INITIATIVE Voluntary Cooperation Mutual Aid Agreement (Addendum A).**

Staff Recommendation: Approve the agreement between the Florida Department of Law Enforcement and Palm Bay Police Department.

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

**17. Consideration of an Impact Fee Credit Agreement with DRP FL 6, LLC, for Proportionate Fair Share contributions.**

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

**18. Consideration of submitting an application for the Water Quality Improvement Grant from the Florida Department of Environmental Protection for the Norwood Baffle Box Retrofit project.**

Staff Recommendation: Authorize staff to apply for the Florida Department of Environmental Protection, Water Quality Improvement Grant for the Norwood Baffle Box Retrofit project and to authorize the City Manager to execute the grant agreement, if awarded.

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

**19. Consideration of utilizing Stormwater Undesignated Fund Balance for the Public Works Department to procure six (6) light vehicles (\$281,152), eleven (11) construction vehicles (\$518,406), equipment (\$1,621,668), and personnel costs for seventeen (17) new positions (\$339,959); and consideration of utilizing General Fund Undesignated Fund Balance for IT equipment (\$19,602).**

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

**20. Consideration of opening the Intelligent Transportation Systems Upgrade project utilizing grant funds (Project 24PW09 - \$160,090).**

Staff Recommendation: Authorize the reallocation of \$160,900 in available funds from Fund 301 to establish the project budget for the Intelligent Transportation Systems Upgrade.

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

**21. Consideration of opening the Lipscomb Street Widening project utilizing Transportation Impact Fee funds (Project 24PW04 - \$270,216).**

Staff Recommendation: Approve the utilization of Transportation Impact Fee funds for the opening of the Lipscomb Street Widening project.

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

**22. Consideration of opening the Paved Swale Road Repair project (Port Malabar Unit 23) utilizing Road Maintenance Funds (Project 24RD03 - \$150,000).**

Staff Recommendation: Approve the utilization of Road Maintenance Funds for the opening of the Paved Swale Road Repair project (Port Malabar Unit 23), using savings from Project 24RD01 Road Maintenance Funds (307) through a budget adjustment.

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

**23. Acknowledgment of the April 2024 GO Road Bond Paving report update.**

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

**24. Acknowledgment of the Semi-Annual Report of Formal Solicitations awarded by the Procurement Department from October 1, 2023, through March 31, 2024.**

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

**PUBLIC HEARING(S):**

- 1. Ordinance 2024-21, amending the Palm Bay Code of Ordinances, Chapter 52, Boards, Subchapter 'Community Development Advisory Board', by revising provisions contained therein, 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 2024-21. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**2. Ordinance 2024-22, providing for the naming of private drives, located within Tax Parcel 510, as Azalea Avenue SE and Bainbridge Circle SE, 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 2024-22. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**3. Ordinance 2024-25, vacating a portion of the rear public utility and drainage easement located within Lot 19, Block 1107, Port Malabar Unit 23 (Case VE-4-2024, Sherry Denise Pollard), first reading.**

The item was considered earlier in the meeting prior to Public Comments.

**4. Request by Everly Mae Real Estate Fund LLC for a variance to allow a twelve (12) foot separation instead of the required thirty (30) feet between two multi-family residential buildings located on the same property as established by Section 185.038(F)(7)(e), Palm Bay Code of Ordinances (3.22 acres) (V24-00002). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended denial of the request.

The public hearing was opened. Brent Howells, Build REI, LLC, applicant, presented the request to Council. He answered questions posed by councilmembers.

Mayor Medina was concerned about fire prevention issues as the Planning and Zoning Board had commented on the separation being too close for multi-family structures. Mr. Pearson said that he had not reviewed the plans and could not give one hundred percent (100%) approval but noted that it was feasible to be that distance apart depending on the method of construction, and the buildings also had to be sprinklered.

Bill Battin, resident, said a variance would not be required if the applicant made each building nine (9) feet smaller or just one (1) large building for the forty-eight (48) units. He felt that there would not be enough parking for residents and guests according to their plans and was concerned that the residents would need another storage unit in the area to store their overflow.

Robert Stise, resident, said that he was concerned with the buildings being only twelve (12) feet apart and possible fire issues, and the ramifications for Fire Department response, especially if there was wind.

Dave Clark, resident, spoke in favor of project and said it would be an upgrade to the area.

Mr. Howells explained that the parking requirements were met pursuant to the Code. He addressed the comment regarding the building height and explained that, per the Building Code, it would be too restrictive and would cause only half of the size of the apartments, twenty-four (24) units compared to forty-eight (48) units, which would not be financially viable for the developer. Mr. Howells said that the building would be made from concrete block so the wind should not impact the structures.

Mayor Medina asked about the sprinkler systems and fire retardants that would be part of the buildings. Mr. Howells said that under the Code, the requirement was to have a six (6) inch water main that would come directly into the buildings and would be connected to a state-of-the-art fire suppression system and fire alarm system. He provided further details on the project and answered additional questions.

Deputy Mayor Felix was in favor of the project and asked how many apartments would be dedicated to affordable housing. Mr. Howells confirmed that five (5) apartments would be dedicated to affordable housing. Finishes inside the units would allow for a reduction in rent.

Mr. Johnson asked staff to address the affordable housing component. Ms. Berardi explained how affordable housing was determined through the Department of Housing and Urban Development (HUD). She needed to know more about the project to determine if affordable criteria had been met, but the developer had not applied for any funding for the affordable units. Mr. Howells stated that he would work with the City to ensure that the product was fit for the City.

Mr. Johnson would not support the request. He said that so many apartment projects had been approved that had not even broken ground yet and he did not know the future impact for this project.



The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mayor Medina, to approve the request.

Motion carried with members voting as follows:

Mayor Medina	Yea
Deputy Mayor Felix	Yea
Councilman Johnson	Nay

**5. Request by DRP FL 6, LLC, for final plat approval to allow for a proposed 64-lot residential subdivision to be known as ‘Riverwood at Everlands Phase 3’, which property is located in the vicinity east of and adjacent to St. Johns Heritage Parkway and north of Emerson Drive, in PUD (Planned Unit Development) zoning (23.81 acres) (Case FS24-00001). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to the technical staff comments contained in the Staff Report.

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.

**6. Request by DRP FL 6, LLC, for final plat approval to allow for a proposed 96-lot residential subdivision to be known as ‘Riverwood at Everlands Phase 4’, which property is located north of and adjacent to Emerson Drive, in the vicinity east of St. Johns Heritage Parkway, in PUD (Planned Unit Development) zoning (34.00 acres) (Case FS24-00002). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to the technical staff comments contained in the Staff Report.

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

**7. Consideration of a Substantial Amendment to the City's approved Program Year 2023 Annual Action Plan for Community Development Block Grant Funds, only one hearing required.**

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

Mayor Medina asked if the funds could be used for rental assistance or Florida Power and Light (FPL) assistance. Ms. Junkala-Brown explained that with the allocations received annually, fifteen percent (15%) could be used toward public services and entities that provided public services. She confirmed that these particular funds could not be used for that purpose.

Bill Battin, resident, felt that the funds should be allocated to the wastewater treatment in the area that would benefit multiple people rather than just a few for down payment assistance.

The public hearing was closed.

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

**8. Request by Kimaya, LLC, for preliminary subdivision approval of a proposed 14-lot commercial subdivision to be known as 'Palm Bay Pointe East', which property is located east of and adjacent to Babcock Street, in the vicinity north and south of St. Johns Heritage Parkway (42.95 acres) (Case PS23-00009). (CONTINUED TO 07/03/24 P&Z AND 07/18/24 RCM)**

**9. Request by Kimaya, LLC, for preliminary subdivision approval of a mixed-use subdivision, consisting of 668 multiple-family residential units and 16 commercial parcels, to be known as 'Palm Bay Pointe West', which property is located west of and adjacent to Babcock Street, in the vicinity north and south of St. Johns Heritage Parkway (84.75 acres) (Case PS23-00011). (CONTINUED TO 07/03/24 P&Z AND 07/18/24 RCM)**

**CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA:**

**2. Award of Bid: Castaways Point Park and Stearns Point Park Shoreline Improvements – IFB 38-0-2024 – Parks and Facilities Director (Custom Built Marine Construction, Inc. - \$1,270,541).**

Staff Recommendation: Approve the award of IFB 38-0-2024 Castaways Point Park and Stearns Point Park Shoreline Improvements to Custom Built Marine Construction, Inc. in the amount of \$1,270,541.

Bill Battin, resident, questioned the funding source for this request. Ms. Misconi said the original funding came from Undesignated Fund Balance, but staff would be requesting reimbursement through Federal Emergency Management Agency (FEMA).

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve the award for Castaways Point Park and Stearns Point Park Shoreline Improvements. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea

**4. Contract: Lift Station Permanent Bypass Pump Installations, Task Order 24-09-WT (against Master Agreement 36-0-2020) – Utilities Department (Wade Trim - \$113,635).**

Staff Recommendation: Authorize the execution of Wade Trim Task Order 24-09-WT for Lift Station Permanent Bypass Pump installations, against Master Agreement 36-0-2020 in the amount of \$113,635, to be funded by the Utilities Department's Renewal/Replacement Fund.

Bill Battin, resident, stated that \$111,000 was just for the planning costs of the project and asked what the expected installation cost would be and the types of failures that were expected or anticipated. He requested an explanation of how a lift station could be bypassed.

Mr. Marinelli said the cost would be based on the model and design. No failures were anticipated. He explained that the bypass system essentially transferred the sewage externally back into the pipe, thereby bypassing the station.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Task Order 24-09-WT. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea

**5. Contract: South Regional Water Reclamation Facility Construction - IFB 39-0-2020, Change Order 7 – Utilities Department (RJ Sullivan Corporation - \$913,540).**

Staff Recommendation: Approve Change Order 7 with RJ Sullivan Corporation for the South Regional Water Reclamation Facility (SRWRF) Contraction, amount \$913,540.11.

Bill Battin, resident, expressed concern that the estimated cost in year 2020 was \$25 million for a one (1) million gallon a day plant that was still not online and functional. He said that the City keeps adding development to the area as if the plant was operational. Change orders to date totaled \$6,7 million and the additional change order would make the delay for the project a total of 872 days. He asked the City's plans to confront the challenge of the upgrades that were mandated for the City's entire wastewater treatment systems by Year 2030 at the cost of \$670 million.

Mr. Marinelli explained that more development in the southern quadrant did impact the plant. The utility agreements for those developments specifically stated that until the plant was operational, the sewage and the project had to be on hold. Mr. Marinelli stated that grant funding was an option to help cover the costs for the mandated upgrades to the wastewater system and he felt changes were high to receive grant funding due to the fact that the City had an opportunity to alleviate a lot of the nitrogen loading and other detrimental parameters that impacted the Indian River Lagoon.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve the change order as requested.

Mr. Johnson was concerned with the number of change orders that had been given for this project and the length of time to get it completed. Mayor Medina agreed.

Mike Demko, Wade Trim (engineering consultant), explained that a third-party scheduler had been hired as the contractor was having trouble developing a sufficient schedule for review and they were not meeting specification requirements. The main problems had been supply chain issues, labor force and mis-management.

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

**6. Contract: Septic to Sewer Project Plan Funding Advocacy, Task Order 24-07-IS (against Master Agreement 36-0-2020) – Utilities Department (Infrastructure Solution Services - \$128,200); and appropriation of funds from Utilities Undesignated Fund Balance on the next scheduled budget amendment.**

Staff Recommendation: 1) Approve appropriation of funds on the next scheduled budget amendment in the amount \$128,200; and 2) authorize the execution of Infrastructure Solution Services, Task Order 24-07-IS, for Septic to Sewer Project Plan Funding Advocacy, against Master Agreement 36-0-2020.

Bill Battin, resident, suggested that consultants be hired to focus on the entire city, not just the Turkey Creek area.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to appropriate funds and approve Task Order 24-07-IS. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea

**7. Contract: Babcock Street and St. Johns Heritage Parkway intersection improvements – IFB 45-0-2022, Change Order 4 – Public Works Department (Timothy Rose Contracting, Inc. - \$923,768); and appropriation of Transportation Impact Fees (\$750,000).**

Staff Recommendation: 1) Authorize the execution of Change Order 4 to Timothy Rose Contracting, IFB 45-0- 2022; and 2) authorize the use of Transportation Impact Fee funds as detailed in the fiscal impact.

Bill Battin, resident, questioned why a change order was needed for such a large amount of money. He felt that something was wrong with the way contracts were being awarded to the lowest bidders and that they knew that more money would be needed to complete said projects. Mr. Battin stated that projects were continuously being projected at least twenty percent (20%) under the actual costs that were occurring. Mr. Battin asked how much money was available for zip code 32907 in Transportation Impact Fees to fund the project and why it was taking so long.

Ms. Sherman explained that the reasons for the delays were that power lines needed to be relocated by Florida Power and Light (FPL) and that AT&T played a certain component as well. There were supply chain issues as well.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve the change order as requested.

Mr. Johnson agreed with Mr. Battin's comments and asked for more clarification from staff. Mr. Barber said that the Procurement Department had been looking into the number of change orders to see if there were any types of patterns but there were none. Change orders occurred for various reasons and staff would continue to monitor the situation.

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

**12. Miscellaneous: Lien search services – Community and Economic Development Department (Orange Data's MuniConnect Platform – revenue earning (sole source)).**

Staff Recommendation: Approve the Sole Source of PropLogix, LLC d/b/a Orange Data Systems Lien Search Services utilizing MuniConnect Platform (Sarasota), for the term of June 1, 2024, through May 31, 2027.

Mr. Johnson asked why this service was not sent out for bid to offer a chance to other companies. Ms. Sherman explained that Orange Data was originally a piggyback agreement and that the software had expired. It was considered a sole source based on the way their process worked. She said if Council wanted to look at doing a Request for Proposal (RFP) in the future, she recommended approving this contract for one (1) year to allow staff time to go through the procurement process.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the sole source contract for lien search services with Orange Data's MuniConnect Platform.

Mr. Barber explained that the context of the item had been solicited as sole source so that it could be competitively bid because there were not many companies that could provide these services. It was posted on Vendorlink (solicitation mechanism) for three (3) weeks and no other companies responded.

Mr. Robinson recommended approving the contract for two (2) years rather than one (1) year due to the new operating system that was already approved for implementation. He wanted to be sure that if there was a new vendor for this service, they would be able to provide the same level of service and integrate with the new operating system.

Deputy Mayor Felix withdrew his second to the motion.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the sole source contract for lien search services with Orange Data's MuniConnect Platform for a term of two (2) years. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**14. Consideration of a purchase offer from Palm Bay Landings, LLC, for surplus property, municipally owned vacant land located on Water Drive (Tax ID: 2832805, Parcel ID: 28-37-24-27-3-4.01) (\$100,000).**

Staff Recommendation: Approve the purchase offer from Palm Bay Landings, LLC in the amount of \$100,000 for a City owned parcel located on Water Drive NE.

Bill Battin, resident, felt that the optics made it look questionable as the Property Appraiser valued the property at \$460,000, the City's appraiser valued the property at \$206,000, but the property was being sold for \$100,000.

Ms. Sherman explained the details of the offer and staff's concerns with this property which were included in the contract. There were no other interested parties. Ms. Smith stated that there were conditions that were added to the offer and contract being that the baffle box and lift station would remain on the property and an easement would be granted back to the City regarding said items. She explained the issues with the Deed and that the buyer was fully aware that if the land was not used for public use, it would revert to Brevard County.

Mike Timmons, buyer, explained the reasons why he wanted to purchase the property and the concessions he had made when speaking with staff.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the purchase offer from Palm Bay Landings, LLC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea

#### **17. Consideration of an Impact Fee Credit Agreement with DRP FL 6, LLC, for Proportionate Fair Share contributions.**

Staff Recommendation: Approve the Impact Fee Credit Agreement with DRP FL 6, LLC for Proportional Fair Share Contributions.

Bill Battin, resident, asked why the developer was receiving a \$1 million dollar credit.

Ms. Sherman explained that if there was no agreement, the developer would have to pay \$5.4 million in impact fees. This agreement dictated that the developer pay a portion of those impact fees totaling \$4.19 million, which meant that portions of their impact fees were tied to specific projects and improvements. Ms. Sherman said the developer still had to pay the impact fees, but the agreement meant they would pay sooner and that was beneficial to the City.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the Impact Fee Credit Agreement with DRP FL 6, LLC. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea

**19. Consideration of utilizing Stormwater Undesignated Fund Balance for the Public Works Department to procure six (6) light vehicles (\$281,152), eleven (11) construction vehicles (\$518,406), equipment (\$1,621,668), and personnel costs for seventeen (17) new positions (\$339,959); and consideration of utilizing General Fund Undesignated Fund Balance for IT equipment (\$19,602).**

Staff Recommendation: Approve consideration to use Stormwater Fund Balance to Procure the following (6) F-150, (2) Tractor Creeper Gear, (1) CAT Excavator, (1) Mini CAT Excavator, (1) Bulldozer, (1) John Deere Loader, (3) International Dump Truck, (1) Slope Mower and (1) Remote Control (RC) Mower. And to add the following employees (1) Administrative Assistant, (2) Engineering Inspectors, (6) Heavy Equipment Operator (HEO) I and (8) Maintenance Workers.

Bill Battin, resident, did not see that the tax revenue would support the increase in employees requested. He asked about the City paying to replace collapsing pipes and thought it was the property owner's responsibility.

Ms. Sherman explained that the request would be budgeted from the Stormwater Fund, not the General Fund. She said there was no allocation of funding to fix individual driveway pipes for homeowners.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to utilize Stormwater Undesignated Fund Balance as requested.

Mr. Johnson asked if the City was going to continue using Undesignated Fund Balance for future years. Ms. Sherman responded that future funding would be sustained in the normal budget process from the Stormwater Fund.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to utilize Stormwater Undesignated Fund Balance as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea

## **PROCUREMENTS:**

**1. Award of Bid: Paramedic education and services – IFB 41-0-2024 – Fire Rescue Department (EMETSEEI Institute, Inc. - \$47,110); and approval to issue a purchase order to Eastern Florida State College to attend Paramedic school (\$161,106); and allocation from the Undesignated Fund Balance for twenty-nine (29) Firefighters to attend Paramedic school (\$91,500 for the remainder of Fiscal Year 2024). (AGENDA REVISION)**



Staff Recommendation: 1) Approve award of IFB 41-0-2024 Paramedic Education and Services to EMETSEEI Institute, Inc for an amount of \$47,110, and approval to issue a purchase order to Eastern Florida State College (EFSC) to attend Paramedic school for an amount of \$161,106; and 2) Approve a budget amendment for twenty-nine firefighters to attend Paramedic school in the amount of approximately \$91,500 for Fiscal Year 2024.

Ms. Sherman presented the item to Council.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to 1) approve the award of IFB 41-0-2024 Paramedic Education and Services to EMETSEEI Institute, Inc. in the amount of \$47,110, and approval to issue a purchase order to EFSC to attend Paramedic school in the amount of \$161,106; and 2) approve a budget amendment for twenty-nine (29) firefighters to attend Paramedic school in the amount of approximately \$91,500 for Fiscal Year 2024. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

#### **NEW BUSINESS:**

**1. Consideration of a co-sponsorship request from Brevard Caribbean American Sports and Cultural Association (BCASCA) for the annual Caribbean Heritage Month seasonal events held in June 2024.**

The item was considered earlier in the meeting prior to Public Comments.

**2. Consideration of deeming certain property as a public nuisance and authorize bringing the property into compliance upon expiration of the repair agreement (1881 Palm Bay Road).**

Staff Recommendation: Authorize the City to deem the property a public nuisance and authorize the City to bring the property into compliance upon the expiration of the Repair Agreement on June 21, 2024.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to authorize City Staff to deem said property a public nuisance and authorize the City to bring said property into compliance upon the expiration of the Repair Agreement on June 21, 2024.

Deputy Mayor Felix stated that he had seen an improvement in the property in the past months and would support the request but was curious if they were being reluctant or careless and not addressing the issues.

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

**3. Consideration of Collective Bargaining Agreements with the Palm Bay International Association of Fire Fighters (IAFF), Local 2446, Rank and File and Supervisors Units. (AGENDA REVISION)**

The item was considered earlier in the meeting prior to Public Comments.

**4. Consideration of Collective Bargaining Agreements with the Fraternal Order of Police (FOP) for Police Officer's, Sergeant's, and Lieutenant's Units. (AGENDA REVISION)**

The item was considered earlier in the meeting prior to Public Comments.

**5. Consideration of councilmembers attending the Florida League of Cities Annual Conference in Hollywood, Florida, from August 15-17, 2024; consideration of rescheduling the second regular Council meeting in August.**

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

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to reschedule the second regular Council meeting in August to Tuesday, August 13, 2024. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**6. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund for the Community Read and Feed Summer Program within the Powell-Driskell Subdivision (\$7,000). (AGENDA REVISION)**

Staff Recommendation: Approve expenditures of Law Enforcement Trust Fund (LETf) to be donated to Community Read and Feed Summer Program within the Powell-Driskell subdivision in the amount of \$7,000 from the Law Enforcement Trust Fund Undesignated Fund Balance.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve expenditures of LETf. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea.

**COMMITTEE AND COUNCIL REPORTS:**

Reports were heard earlier in the meeting after Recognitions and Proclamations.

**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 10:34 P.M.

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Rob Medina, MAYOR

ATTEST:

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Terese M. Jones, CITY CLERK