

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2023-28

Held on Thursday, the 2nd 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 6:01 P.M.

Pastor Ken Delgado, The House Church, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag, led by Boy Scout Troop 520.

ROLL CALL:

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

Councilman Foster attended the meeting via teleconference.

CITY STAFF: Joan Junkala-Brown, Deputy City Manager; Mariano Augello, Police Chief.

ANNOUNCEMENTS:

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

- 1. One (1) term expiring on Bayfront Community Redevelopment Agency (represents 'at-large' position).**

AGENDA REVISIONS:

- Mrs. Misconi advised that consideration of councilmembers attending the Florida League of Cities Legislative Conference in Orlando was added as Item 1, under New Business.

PROCLAMATIONS AND RECOGNITIONS:

The proclamation was read.

1. Proclamation: National Geographic Information System Day - November 15, 2023.

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

Individuals made general comments.

PUBLIC HEARINGS:

1. Ordinance 2023-97, vacating a portion of the rear public utility and drainage easement located within Lot 11, Block 2023, Port Malabar Unit 46 (Case VE-12-2023, Chante Jackson), final 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.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-97. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

2. Ordinance 2023-99, amending the Code of Ordinances, Chapter 179, Street and Other Rights-of-Way, Subchapter 'Creating, Improving, Altering and Vacating Streets', by including provisions relating to conditions governing application and procedures (Case T23-00018, 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 2023-99. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

3. Ordinance 2023-100, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapters 'General Provisions' and 'District Regulations', by including provisions for small event space (Case T23-00026, 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.

Mayor Medina said he had concerns about having events such as these and how large the crowd could be at any time. He did not support the request.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-100.

Motion carried with members voting as follows:

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

4. Ordinance 2023-101, amending the Code of Ordinances, by creating a new Chapter 203, to be titled ‘Mandatory Connection to Potable Water and Sewer Utilities’, final reading.

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

Numerous residents spoke for and against the request. Comments included that homeowners should have the right to choose, lack of notification to the affected residents, the cost would cause a hardship for many residents, poor water quality, etc.

Ken Sparks, resident and Director for Marine Resources Council (MRC) provided an overview on why the ordinance should be approved, specifically, for public health and the Indian River Lagoon.

Mrs. Misconi addressed the comments from residents. She explained that pursuant to Florida Statutes, it was mandated that residents must connect to wastewater treatment systems within one (1) year of being notified of such system becoming available. Water connection was not mandated by the state. Years ago, the City did not have the ability to offset the cost to the residents, but funding was now available through American Rescue Plan Act (ARPA) and state legislative appropriations. The only cost to the resident would be a \$100 deposit. There were currently 1,066 parcels that had sewer available but were not connected; 2,344 parcels that had water available and were not connected; and 289 parcels that had both services available and were not connected. Mrs. Misconi explained there would be a phased approach over the course of four (4) years. A \$100 deposit would be required for water connections. The abandonment or capping of the septic tank would be determined by St. Johns River Water Management District (SJRWMD) and staff was advised there would be no cost for same. The only unknown cost was for a plumber to connect from the City’s meter to the home.

Mrs. Misconi advised that there would be no notification to every household in the city. Only those homeowners that would be funded under Phase 1 would be notified of the mandatory connection. She advised of monthly costs for water and sewer, and answered questions posed by the public and members of City Council.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-101.

Mr. Johnson advised that City could not secure funding to assist the residents if no mandate was in place.

Deputy Mayor Felix said the biggest concerns were public health and the health of the Indian River Lagoon (IRL). Mr. Foster felt this was necessary for the reasons as mentioned by Deputy Mayor Felix, including Turkey Creek.

Mayor Medina felt it was a critical component to help the IRL and the smart way for the city to grow. He had also asked State Legislators for assistance in the past but was turned down because there was no mandatory hook-up rule for the city.

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

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. Foster, that the Consent Agenda be approved as presented with the removal of Items 6, 7, 9, 10, and 12, 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 2023-25; October 5, 2023.

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

2. Adoption of Minutes: Meeting 2023-26; October 17, 2023.

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

3. Adoption of Minutes: Meeting 2023-27; October 19, 2023.

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

4. Award of Bid: Mowing and related equipment (Co-Op) – IFB44-0-2023 – Parks and Facilities Department (D&K Enterprises USA Inc d/b/a/ Causeway Mowers; EFE Inc.; and ATMAX Equipment Co. - \$150,000, estimated).

Staff Recommendation: Approve the award for mowing and related equipment (co-op) with D&K Enterprises USA Inc d/b/a/ Causeway Mowers (Indianapolis); EFE Inc. (Fort Pierce); and ATMAX Equipment Co. (Tampa), in the estimated amount of \$150,000.

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

5. Award of Bid: 1.0 MG Ground Storage Tank Rehabilitation, North Regional Water Treatment Plant – IFB 56-0-2023 – Utilities Department (Crom, LLC - \$365,149).

Staff Recommendation: Approve the award for North Regional Water Treatment Plant 1.0 MG Ground Storage Tank Rehabilitation with Crom, LLC (Gainesville), in the amount of \$365,149.

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

6. Award of Bid: Police Department boat (Florida Inland Navigation District) – IFB 59-0-2023 – Police Department (Boaters Exchange, LLC - \$133,819).

Staff Recommendation: Approve the award for: Police Department boat (Florida Inland Navigation District) with Boaters Exchange, LLC (Rockledge), in the amount of \$133,818.92.

Bill Battin, resident, asked if there were any increases to the cost. Chief Augello confirmed that the initial proposal was more expensive and required a larger vehicle to tow the trailer, but it was not conducive to the needs of the department.

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

7. Contract: 1MGD to 2MGD Expansion Design and Permitting Services, South Regional Water Reclamation Facility – Task Order 23-13-WT – Utilities Department (Wade Trim, 68-0-2007 – \$670,749); and approve fund appropriation on the next scheduled Budget Amendment (\$250,000).

Staff Recommendation: Approve Task Order 23-13-WT for the South Regional Water Reclamation Facility 1MGD to 2MGD expansion design and permitting services, against Master Agreement 68-0-2007, with Wade Trim, in the amount of \$670,749; and approve fund appropriation on the next scheduled Budget Amendment, in the amount of \$250,000.

Bill Battin, resident, felt that staff should be looking at improving water quality in addition to increasing capacity.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Task Order 23-13-WT and the fund appropriation. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

8. Miscellaneous: Cured-In-Place Pipe Installation Services, Change Order 2 (additional costs to complete lining of Meadowbrook Road and Parr Street) – Public Works Department (Granite Inler, LLC - \$138,601); and approve the appropriation of funds from the Stormwater Utility Fee Undesignated Fund Balance (\$114,720).

Staff Recommendation: Approve Change Order 2 for additional costs to complete lining of Meadowbrook Road and Parr Street related to Cured-In-Place pipe installation services with Granite Inler, LLC, in the amount of \$138,601; and approve the appropriation of funds from the Stormwater Utility Fee Undesignated Fund Balance, in the amount of \$114,720.

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

9. Resolution 2023-40, providing for the acceptance of the transfer of Championship Circle, located at Fred Poppe Regional Park, from Brevard County.

The City Attorney read the resolution in caption only.

Bill Battin, resident, said the City should ask Brevard County (County) to make the roadway improvements along Malabar Road for the recreational vehicles or at least share the cost.

Mrs. Misconi advised that the City had been maintaining the road since the park was acquired from the County in 2016. She explained that the focus of the project was to build the bridge. She went on to state that the Malabar Road widening project would involve the County because the County owned part of the right of way.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to adopt Resolution 2023-40. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

10. Resolution 2023-41, extending the commencement period for a conditional use granted for a self-storage facility in HC (Highway Commercial District) zoning, on property located east of and adjacent to Babcock Street, in the vicinity west of Hardin Lane (2.45 acres) (Case CU-45-2022, Fred D. Boozer, Jr.).

The City Attorney read the resolution in caption only.

Mayor Medina suggested a six-month extension instead of one year. He wanted to expedite job creation within the city. Deputy Mayor Felix agreed.

Fred Boozer, applicant, advised that this was the first request for an extension. As the initial engineering firm he had hired was going through personal issues, he had let the project sit stagnant. Mr. Boozer said he had now hired a new firm and the project could possibly be completed within six (6) months, but he preferred one year.

Motion by Mayor Medina, seconded by Mr. Johnson, to adopt Resolution 2023-41, with the amendment to grant the extension for six (6) months.

Mr. Johnson said that he would not support an extension as he had recently denied another project for the same reason. He wanted to see job growth and did not feel that a self-storage facility would generate job growth. Deputy Mayor Felix and Councilman Foster agreed with a six-month extension.

Motion carried with members voting as follows:

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

11. Ordinance 2023-102, amending the Fiscal Year 2022-2023 budget by appropriating and allocating certain monies (fifth/final 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.

12. Consideration of a grant agreement with Florida Department of Environmental Protection for septic-to-sewer conversions (\$2,100,000).

Staff Recommendation: Authorize the City Manager to execute the grant agreement with Florida Department of Environmental Protection for septic-to-sewer conversions, in the amount of \$2,100,000; and authorize a waiver of Utilities Sewer Impact Fees and Mainline Extension Charges for all households assisted under this grant program.

Bill Battin, resident, felt this was preferential treatment to those residents that would be part of the initial phase of conversion. Other residents questioned if they would receive the same assistance when services were available in their area.

Mrs. Misconi advised that the City could not guarantee that future funding would be granted by the State Legislature but added that staff would continue to lobby for such appropriations.

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

13. Consideration of reappropriation of funds (\$108,700) and use of General Fund Undesignated Fund Balance (\$87,001) to provide a storage area network solution utilizing a previously approved cooperative contract.

Staff Recommendation: Approve the reappropriation of funds, in the amount of \$108,700, and the appropriation of \$87,001 from General Fund Undesignated Fund Balance; and authorization to purchase a proposed storage area network (SAN) utilizing a previously approved cooperative contract.

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

14. Consideration of utilizing General Fund Undesignated Fund Balance for a replacement vehicle (\$30,000) and travel/training (\$8,000) in Fiscal Year 2024 for the Code Compliance Division.

Staff Recommendation: Approve the utilization of General Fund Undesignated Fund Balance for a replacement vehicle in the amount of \$30,000; and travel/training in the amount of \$8,000, in Fiscal Year 2024, for the Code Compliance Division.

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

15. Consideration of travel and training for specified City Employees (Building 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 travel and training for specified City employees (Office of the City Attorney).

Staff Recommendation: Approve the travel and training as specified.

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

17. Consideration of travel and training for specified City Employees (Fire Rescue).

Staff Recommendation: Approve the travel and training as specified.

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

NEW BUSINESS:

1. Consideration of councilmembers attending the Florida League of Cities Legislative Conference in Orlando from November 30-December 1, 2023. (AGENDA REVISION)

Deputy Mayor Felix would attend the conference. Council concurred.

COUNCIL REPORTS:

Councilmembers addressed various subject matters.

1. Deputy Mayor Felix made the following reports:

A. Asked for Council consensus to send a letter of support regarding Florida Senate Bill 172 which would require certain disabled veterans and surviving spouses to verify eligibility to receive an exemption or discount before the purchase of property. Council concurred.

B. Advised that he was collaborating with the Brevard County School Board to facilitate a pilot program for an adult education system that could assist residents that were learning to speak English that could potentially lead to obtaining a General Educational Development (GED) certificate, diploma, etc.

ADMINISTRATIVE AND LEGAL REPORTS:

1. Mrs. Misconi provided details on the upcoming Veterans Day Parade to be held on Saturday, November 11th, 10:00 A.M. to 12:00 P.M. A celebration would also be held at Veterans Park following the parade.

PUBLIC COMMENTS/RESPONSES:

Individuals made general comments.

1. Ashley Burke, Founder of Space Coast Bunnies, commented that domestic rabbits were running freely and creating colonies, which would eventually cause problems and expenses to the city. She stressed that the City needed to be proactive as Brevard County Animal Control did not have the resources to address this issue. She suggested a letter or resolution of support to Brevard County requesting action.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 9:04 P.M.

Rob Medina, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK