

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING 2021-17

Held on Thursday, the 1st day of July 2021, 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 7:03 P.M.

Pastor Jessica Fernandez, Centerpointe Church, Palm Bay, gave the invocation which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	Robert Medina	Present
DEPUTY MAYOR:	Kenny Johnson	Present
COUNCILMEMBER:	Jeff Bailey	Present
COUNCILMEMBER:	Randy Foster	Present
COUNCILMEMBER:	Donny Felix	Present
CITY MANAGER:	Suzanne Sherman	Present
CITY ATTORNEY:	Patricia Smith	Present
DEPUTY CITY CLERK:	Terri Lefler	Present

CITY STAFF: Present was Frank Watanabe, City Engineer; Nelson Moya, Police Chief; Nancy Bunt, Community and Economic Development Director; Larry Bradley, Growth Management Director.

ANNOUNCEMENT(S):

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

- 1. One (1) vacancy on the Business Improvement District Board (represents 'at-large' member who owns a commercial property or operates a business within the District).++**
- 2. Two (2) vacancies on the Community Development Advisory Board (represents 'residential home builder', 'actively engaged in home building', 'employer within the City', 'for-profit provider' or 'not-for-profit provider' positions).++**
- 3. Three (3) vacancies on the Youth Advisory Board (represents 'at-large' student member positions).++**

AGENDA REVISION(S):

1. Ms. Sherman requested the following revisions:
 - a. Withdrawal of Item 15 (Resolution 2021-32), under Consent Agenda, relating to Vision Zero;
 - b. Withdrawal of Item 19, under Consent Agenda, relating to the purchase of condominium office buildings located at 336 and 342 Cogan Drive; and
 - c. Move Item 9, under Public Hearings, to the first item under Public Hearings.

CONSENT AGENDA:

All items of business under the 'Consent Agenda' heading were enacted by the following motion:

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, that the Consent Agenda be approved as presented, with the removal of Items 5, 7, 16, and 20, from consent.

Mr. Bailey commented on the land sales under the Consent Agenda and was pleased that the sale prices were an increase from those previously presented to Council. However, he felt there was still the potential for maximizing the sale prices.

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

1. Adoption of Minutes: Regular Council Meeting 2021-13; June 3, 2021.

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

2. Adoption of Minutes: Special Council Meeting 2021-14; June 10, 2021.

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

3. Adoption of Minutes: Regular Council Meeting 2021-15; June 17, 2021.

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

4. Award of Proposal: Risk Insurance Broker and Risk Management Services - RFP 39-02-2021 - Office of the City Attorney (Risk Management Associates, Inc. dba Public Risk Insurance Advisors - \$878,249 estimated annually).

Staff Recommendation: Award the proposal for Risk Insurance Broker and Risk Management Services with Risk Management Associates, Inc. dba Public Risk Insurance Advisors (Daytona Beach), in the estimated annual amount of \$878,249, for an initial two-year term, renewable by the Procurement Department for two (2) additional two-year terms.

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

5. Contract: Road bond paving, Port Malabar Boulevard improvements, Change Order 5 - Public Works Department (Ranger Construction - \$195,538 deductive amount).

Staff Recommendation: Approve Change Order 5 with Ranger Construction for the Port Malabar Boulevard road bond paving improvements in the deductive amount of \$195,538.

Bill Battin, resident, thought that curbing was not part of road paving program, questioned why emulsion was being used instead of concrete and requested an update on Garvey Road.

Mr. Watanabe said that Port Malabar Boulevard was a full-depth reclamation (FDR) project, and it had some Miami curbing that had been approved by Council. He said the curbing had been damaged to the point where the road could not be completed without having something to reinforce the roadway. Mr. Watanabe said that curbing and drainage pipes were not typically part of these projects, but this was a special case. The engineering consultant for the project recommended using cement only due to the condition of the roadway. Mr. Watanabe provided an update on Garvey Road.

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

6. Miscellaneous: 'Cooperative Purchase', radio replacements, accessories, and reprogramming (Brevard County Board of County Commissioners contract) - Police Department (Communications International, Inc. – not to exceed \$250,437).

Staff Recommendation: Approve the 'Cooperative Purchase' of the radio replacements, accessories, and reprogramming, for the Police Department, with Communications

International, Inc., utilizing the Brevard County Board of County Commissioners contract, in an amount not to exceed \$250,437.

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

7. Resolution 2021-24, conveying City-owned surplus real estate located at 1048 Hunt Street to buyer Susan C. Ayer.

The City Attorney read the resolution in caption only.

Bill Battin, resident, said this home was built in 2017 for \$198,000 through the Homes for Warriors program. He asked if any monies were paid by the previous owner. Ms. Sherman said the home was never occupied.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2021-24.

Mr. Bailey felt this property listed low, especially with it being a brand-new house that had never been lived in. He said that City should be more aggressive in its list price due to the current market. He noted that lower offers were taken on these properties, and he understood that the contracts had already been signed, but asked that staff be more critical on future properties and maximize on those revenues being returned to the city.

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

8. Resolution 2021-25, conveying City-owned surplus real estate located at 245 Van Loon Avenue NE to buyer Aida Delmo.

The City Attorney read the resolution in caption only.

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

9. Resolution 2021-26, conveying City-owned surplus real estate located at 220 Blossom Lane NE to buyer Arlene Hulse.

The City Attorney read the resolution in caption only.

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

10. Resolution 2021-27, conveying City-owned surplus real estate located at 1334 Helliwell Street NW to buyer J&J Construction & Investments, LLC.

The City Attorney read the resolution in caption only.

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

11. Resolution 2021-28, conveying City-owned surplus real estate located at 357 Holiday Park Boulevard NE to buyers Brenda and Michael Miskow.

The City Attorney read the resolution in caption only.

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

12. Resolution 2021-29, conveying City-owned surplus real estate located at 906 Ebbtide Street SE to buyer Vanessa Aldalla Neal.

The City Attorney read the resolution in caption only.

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

13. Resolution 2021-30, conveying City-owned surplus real estate located at 340 Holiday Park Boulevard NE to buyer Bryan A. Nobs.

The City Attorney read the resolution in caption only.

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

14. Resolution 2021-31, conveying City-owned surplus real estate located at 1043 Pace Drive NW to buyer Synergy Homes FL, LLC.

The City Attorney read the resolution in caption only.

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

15. Resolution 2021-32, adopting the goal of Vision Zero - that no loss of life is acceptable on our city streets.

This item, announced under Agenda Revisions, was withdrawn by staff.

16. Resolution 2021-33, authorizing participation in the Florida Memorandum of Understanding and formal agreements implementing a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation.

The City Attorney read the resolution in caption only.

Bill Battin, resident, said the City/County Fund consisted of 15% of the total settlement amounts allocable to the State of the Florida. He said if Palm Bay was the first to step up and put its name on the list, it should be recognized in some form or another. He asked if Council was satisfied with the outcome for this issue.

Ms. Smith said that the way the settlement was structured, in order to divide up the monies and expedite the settlement, those that agreed to the settlement would get more money and those that were not in agreement would receive less.

Mr. Bailey said he had hoped for more, but felt the city was getting the best results based on the situation.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Resolution 2021-33. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

17. Ordinance 2021-46, amending the Fiscal Year 2020-2021 budget by appropriating and allocating certain monies (third 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.

18. Consideration of authorizing the Romano Law Group to vote in favor of the Purdue Bankruptcy Plan.

Staff Recommendation: Authorize the Romano Law Group to vote in favor of the Plan.

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

19. Consideration of entering into negotiations with Palm Bay Medical Office Corporation for the purchase of condominium office buildings located at 336 and 342 Cogan Drive to serve as satellite offices for the Building Department to service customers in south Palm Bay.

This item, announced under Agenda Revisions, was withdrawn by staff.

20. Consideration of submitting an application to the U.S. Department of Justice's Community Oriented Policing Services (COPS) development microgrant.

Staff Recommendation: Authorize submitting an application to the U.S. Department of Justice's Community Oriented Policing Services (COPS) development microgrant, in the amount of \$63,260.

Zsophia Remenyi, resident, did not feel this was warranted for Palm Bay and said it was drastic. She said it was far more than bicycles and food trailers and was connected to a Black Lives Matter agenda and defunding the police. She felt the City should be more creative. Mr. Bailey understood her concerns but asked for something specific that she felt the City would be hindered by accepting the grant. She asked if it was a one-time grant or a contract that was going to tie the City for years.

Laurie Lefebure, resident, said the grant called for the federal government to have a say in how things were done locally. She felt there should be an alternative to get the same outcome without getting a grant.

Ms. Sherman explained that this was a one-time grant through the Department of Justice (DOJ), and it was not the first time the city had applied through that agency. Staff had not applied for the grant, and it was based on approval from Council. The purpose of the grant was to expand resources for the Community Outreach Program. Food trailers would be purchased so that police could attend community events, provide food and snacks and engage with the community. The other purpose was to purchase bicycles for six officers, along with equipment and gear, to further engage the community on a one-on-one basis rather than driving through in their vehicles. Chief Moya provided further information regarding the grant and said this was another way or platform to engage the community.

Mr. Bailey asked if these were new positions. Chief Moya said the DOJ funded the positions that would utilize the bicycles but would still be assigned a patrol vehicle. It was a multi-dimensional position. He answered additional questions posed by

councilmembers. Chief Moya said the only time the federal government would step in was because the City failed in its engagement with the community or had a history of brutality, corruption, etc.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to submit the grant application.

Mr. Bailey said if it was the City's money being spent, he would not support the request, but appreciated staff going out and getting grant dollars.

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

21. Consideration of appropriating funds from the Fund Balance for the purchase of a generator and fuel tank for Lift Station 47 (\$50,695).

Staff Recommendation: Approve the appropriation of funds from the Fund Balance for the purchase of a generator and fuel tank for Lift Station 47, in the amount \$50,695.

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

22. Consideration of allocating funds from the Fund Balance for engineering costs related to the Community Development Block Grants-Mitigation (CDBG-MIT) Critical Facility Hardening Program (CFHP) grant projects (\$40,745).

Staff Recommendation: Authorize staff to submit a Budget Amendment to allocate \$40,475 from Undesignated Fund Balance for engineering costs related to the CDBG-MIT CFHP grant projects.

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

23. Consideration of travel and training for specified City employees (City Attorney's Office).

Staff Recommendation: Approve the travel and training as specified.

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

24. Consideration of travel and training for specified City employees (Community and Economic Development).

Staff Recommendation: Approve the travel and training as specified.

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

25. Consideration of travel and training for specified City employees (Information Technology Department).

Staff Recommendation: Approve the travel and training as specified.

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

RECOGNITIONS AND PROCLAMATIONS:

The proclamation was read.

1. Parks and Recreation Month - July 2021.

PRESENTATION:

1. Nancy Peltonen, President and CEO, Greater Palm Bay Chamber of Commerce – quarterly update. Ms. Peltonen provided an update on the Chamber's activities.

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

Individuals made general comments.

1. Bill Battin, resident, said that some of the Cares Act funding could be used to pay down the \$9 million towards the St. Johns Heritage Parkway after developers did not pay it. He commented on Item 19, under Consent Agenda, that had been withdrawn.

Ms. Sherman said there was approximately \$4.8 million from the Cares Act funding that was eligible to use for anything other than the specific needs as established by the American Rescue Plan Act (ARPA). She expected that the \$9 million bond would continue to be paid from Transportation Impact Fees. Ms. Sherman addressed Item 19, under Consent Agenda, and said that staff was contemplating using the buildings as

satellite offices for the Building Department and were not selected to solve a developer's problem or to assist them with a financial issue. The item was withdrawn as staff was researching the possibility of making the new building slightly larger.

2. Members of the Developing Leaders Program from Space Coast Cultural Arts and Business Organization (SCCABO) presented Certificates of Appreciation to Deputy Mayor Johnson and Police Department personnel.

A brief recess was taken after which time the meeting resumed.

Council concurred to consider Unfinished and Old Business at this time.

2. Appointment of one (1) member to the Youth Advisory Board.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to appoint Alyssa Taylor to the 'at-large student member' position on the Youth Advisory Board. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

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

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to appoint Susan Phillips to the Sustainability Advisory Board. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

PUBLIC HEARING(S):

Council concurred to consider Item 9, under Public Hearings, at this time.

9. Consideration of the Fiscal Year 2021-2022 Annual Action Plan and Recommendations of Programs and Activities to be funded by CDBG and HOME, first hearing.

Staff endorsed approval of the recommendations of the Community Development Advisory Board as follows: Aging Matters in Brevard - \$20,000; Conklin Davis Center for the Visually Impaired - \$20,000; Family Promise of Brevard - \$20,000; South Brevard Sharing Center - \$20,000; South Brevard Women's Center - \$35,253; City of Palm Bay Public Works Department - \$499,431; CDBG Administration (City Staff and Fair Housing)

- \$115,253; HOME Administration (City Staff) - \$19,170; Community Housing Development Organization (CHDO) Housing Activity - \$38,700; and Housing Activities - \$193,502.

The public hearing was opened. Ms. Bunt presented the item to City Council. Representatives from each agency explained the purpose and how the funds would be used in their organization. Questions from councilmembers were addressed.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the first hearing of the Fiscal Year 2021-2022 Annual Action Plan and Recommendations of Programs and Activities to be funded by CDBG and HOME. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

Council resumed the consideration of items in the order as shown on the agenda.

1. Ordinance 2021-43, rezoning property located north of and adjacent to Port Malabar Boulevard, in the vicinity between Clearmont Street and Sadnet Circle, from IU (Institutional Use District) to RS-2 (Single-Family Residential District) (0.30 acres) (Case CPZ-5-2021, Richard Pribell), final reading. (Quasi-Judicial Proceeding)

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 Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2021-43. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

2. Ordinance 2021-45, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations' by modifying provisions of the BMU - Bayfront Mixed Use District (Case T-8-2021, City of Palm Bay), final reading.

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

Mr. Bailey felt that non-residential ratio should be changed to reflect at least fifteen percent (15%) or perhaps raise the percentage. Deputy Mayor Johnson said the

ordinance stated there shall be a maximum of eighty-five percent (85%) residential uses. The 15% could be anything outside of those uses. He had no problem with staff working on it to see which way would be more beneficial and to look at increasing the height restrictions. Deputy Mayor Johnson questioned if it would be feasible to increase to 20% or 25%. Mr. Bradley said the ordinance was written to give the opportunity to reduce the amount of residential. The 85% was the maximum so a developer could build less residential but could not build more. Mr. Bradley said the language could also be amended to change the “non-residential” to a mix of non-residential and commercial, or that at least 10% of the 15% would have to be commercial.

Mayor Medina suggested 80% maximum residential with 20% for other and 10% of that to be commercial. Mr. Foster agreed as it provided flexibility. Mr. Bailey felt there should be a set floor area for commercial. He was more concerned with increasing the commercial portion and suggested 30%. Mayor Medina said he was comfortable with 80% residential, 15% commercial, and 5% non-residential. Mr. Bailey did not want to focus on residential at all. Mr. Foster agreed with Mayor Medina’s suggestion. Mr. Felix felt that 15% minimum for commercial was sufficient, then leave the rest to the developer. Council concurred with 15% minimum for commercial.

Ms. Smith said the ordinance was not required to be reconsidered by the Planning and Zoning Board but there should be another hearing by City Council due to the significant change.

Bill Battin, resident, said the key point was the commercial component which would bring in more taxes to the city. He supported the modifications to the ordinance.

Jake Wise, CEG Engineering, said that redevelopment projects in that area should be considered when reviewing the ordinance. The commercial pieces may not work well with some of those projects. He said that shared parking was a huge incentive, especially with mixed uses.

Mr. Bailey was comfortable with addressing shared parking in any mixed-use zoning. Mayor Medina asked if shared parking could be considered during staff’s review. Mr. Bradley confirmed same.

The public hearing was closed.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to bring the ordinance back for first reading at the July 15th regular Council meeting. Staff advised that more time was needed for review. Deputy Mayor Johnson withdrew his second to the motion.

Motion by Mr. Bailey, seconded by Deputy Mayor Johnson, to bring the ordinance back for first reading at the August 5th regular Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

3. Ordinance 2021-47, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located the vicinity south of Mara Loma Boulevard, north of Davis Lane, and west of Babcock Street, from Single Family Residential Use to Multiple Family Residential Use (9.53 acres) (Case CP-6-2021, Waterstone Farms, LLC), only one reading required.

The Planning and Zoning Board recommended that the request be approved.

The City Attorney read the ordinance in caption only. The public hearing was opened. Rochelle Lawandales, representative for the applicant, presented the request to Council.

Mr. Bailey asked if only townhomes would be constructed in the multiple family use. Ms. Lawandales said that it had not been discussed but it could be an option. Mr. Bailey clarified that his suggestion was for no apartment buildings. Ms. Lawandales confirmed that there were no plans for apartments. Mr. Bradley said that multiple family use also allowed for single family. He said a condition could be added by Council that there would be no apartment buildings.

Bill Battin, resident, asked how close this development was to the St. Johns Heritage Parkway (Parkway). He said that developers were filing numerous small scale Comprehensive Plan changes, but all of those small-scale changes in the same area would equate to a large-scale amendment. He also asked about the connector roads for residents to get out of that area.

Mayor Medina asked about the bill that passed regarding small-scale amendments. Mr. Bradley said the law became effective today that the acreage for small-scale amendments increased from ten (10) acres to fifty (50) acres. He said this was the land use request only and the development plan process would be done in the future and considered by Council. Mr. Bradley responded that the portion of the Parkway was still in the study phase, but this development would most likely be located north of the proposed Parkway. Mr. Bailey asked if density for multiple family was twenty (20) units per acre and if Council could restrict the density. Mr. Bradley confirmed same.

Ms. Lawandales said the proposed design would include 124 townhomes. She answered questions posed by councilmembers.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-47.

Mr. Bailey said he was hesitant about including multiple family but would support the request as he was not really concerned about low-income housing being developed with this project.

Mr. Bailey asked about the motion including the condition of no apartments. Mayor Medina said the applicant said it for the record. Ms. Smith said it would still be coming back to Council and if the apartments were included, Council had the authority to deny it.

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

4. Ordinance 2021-48, amending the Code of Ordinances, Chapter 179, Streets and Other Rights-of-Way, by creating a new subchapter titled 'Golf Carts' (Case T-19-2021, City of Palm Bay), first reading.

Note: The applicant for the request was Emerald Investment Holdings, LLC and not the City of Palm Bay.

The Planning and Zoning Board recommended that the request be approved, with the modification that operation of golf carts would be prohibited by minors, unless accompanied by an adult or a licensed driver.

The City Attorney read the ordinance in caption only. The public hearing was opened. Brenda Yates, representative for the applicant, presented the request to Council.

Mr. Bailey asked the current speed on the Parkway. Ms. Yates said it was 45 miles per hour. Mr. Bailey said he would support the carts within the communities, but he had concerns with crossing the main thoroughfares. He said that other cities had addressed that issue by building a golf cart overpass. Ms. Yates said the engineers were performing traffic analyses to work on appropriate crossings at those intersections. She answered questions posed by councilmembers.

Bill Battin, resident, said that all-terrain vehicles (ATVs) and utility task vehicles (UTVs) were not addressed in the criteria. He said that ATVs would eventually want to go to the same areas where golf carts were allowed. He said it could become dangerous with both pedestrian traffic and golf carts crossing the roadways. He asked if the ordinance would be effective city-wide.

Jake Wise, CEG Engineering and representative for the applicant, said that ATVs would not be allowed, and golf carts could not exceed 20 miles per hour. If this ordinance was approved by Council, the applicant would submit a request to become a golf cart community.

The public hearing was closed.

Ms. Smith advised that the golf cart restrictions were part of the Uniform Traffic Code and each time a municipality decided to add further restrictions, the Attorney General opined that it would go against the state-wide Uniform Traffic Code and would likely be overturned.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve Ordinance 2021-48.

Mr. Bailey reiterated his concerns regarding golf carts crossing major roadways, especially when kids were operating the golf carts. Ms. Smith advised that if Council wanted the changes to be city-wide, it should be done with this ordinance. If it was specific to the project, it could be done when the applicant comes back for the golf cart community designation. Mr. Bailey did not want any application for golf cart communities to have the ability to cross city thoroughfares due to safety reasons. Mayor Medina said it should be done on a case-by-case basis and not for the entire city.

Motion carried with members voting as follows:

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

5. Resolution 2021-34, granting a conditional use to allow proposed retail automotive gas/fuel sales in HC (Highway Commercial District) zoning, on property located west of and adjacent to Dixie Highway, in the vicinity between Pospisil Avenue and Deer Run Drive (1.76 acres)(Case CU-18-2021, Kenyon Palm Bay, LLC). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved, subject to the staff conditions, with the exception that the tank hours of operation be during normal

business hours for the marina, additional lighting be provided if necessary for safety, and that the aboveground fuel tank be exempted from the requirement of Section 185.044(D)(2)(d), Palm Bay Code of Ordinances.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. Mr. Bradley stated the conditions as proposed by staff. He said the applicant was not present at the Planning and Zoning Board meeting, but there was discussion regarding the hours of operation and if it would be manned hours.

The applicant confirmed that it would be manned hours and not self-service. Current hours were from 8:30 a.m. to 5:00 p.m., Monday through Thursday; and 6:30 a.m. to 5:30 p.m., Friday, Saturday and Sunday. It was a manned, double-walled tank. Mr. Bailey asked if the applicant was agreeable to any hours of operation as long as it was manned. The applicant confirmed same.

Mr. Felix asked how leaks or spills were handled. The applicant said that it was a double-walled tank and there was spill control. They were not allowed to sell to the general public, only to marina clients.

Deputy Mayor Johnson questioned additional lighting. The applicant answered that lighting already existed at the site.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Resolution 2021-34, with staff conditions and with no restrictions on the hours of operation as long as it was manned.

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

6. Request by Rene Derosin for a variance to allow a proposed screen enclosure to encroach eight (8) feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d), Palm Bay Code of Ordinances (0.31 acres) (V-9-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved.

The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Councilman Foster left the meeting at this time.

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

7. Request by Hector Rivera for a variance to allow a proposed screened porch to encroach three (3) feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d), Palm Bay Code of Ordinances (0.23 acres) (V-22-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved.

The public hearing was opened. The applicant presented the request to Council.

Mr. Bailey asked why the request was not handled administratively. Mr. Bradley said it was because the applicant was adding on to the pre-existing structure. Mr. Bailey felt that the Code needed to be revisited to address those cases.

Councilman Foster rejoined the meeting at this time.

The public hearing was closed.

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

8. Request by NSD Partners, LLC, for Final Subdivision approval of a mixed-use development to be known as 'Northshore at Palm Bay', which property is located on the southwest corner of Robert J. Conlan Boulevard and the Florida East Coast Railway, in BMU (Bayfront Mixed Use District) zoning (24.60 acres) (Case FS-2-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved, subject to all staff recommendations and the successful completion of the administrative subdivision plat review/approval process.

The public hearing was opened. The applicant presented the request to Council.

Bill Battin, resident, expressed concern with the commercial piece for the project and that it may not happen. There was no commercial in the Bayfront Mixed Use areas. Mr. Battin

expressed concern with the stormwater impact fees and the special treatment for this project. The applicant said there was a Development Agreement that mandated the development of the commercial portion. There was also an agreement for the surety bond that guaranteed the commercial portion. As for the stormwater, the applicant stated that extensive work had been done and explained the details for same.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the request, subject to all staff recommendations and the successful completion of the administrative subdivision plat review/approval process.

Mr. Bailey said this was the last time for Council to stop this terrible deal. He could not support the request. Mayor Medina said Council's hands were tied and the preliminary request had already been approved.

Motion carried with members voting as follows:

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

9. Consideration of the Fiscal Year 2021-2022 Annual Action Plan and Recommendations of Programs and Activities to be funded by CDBG and HOME, first hearing.

This item was heard earlier in the meeting, prior to Item 1, under Public Hearings.

UNFINISHED AND OLD BUSINESS:

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

This item was heard earlier in the meeting, after Public Comments.

2. Appointment of one (1) member to the Youth Advisory Board.

This item was heard earlier in the meeting, after Public Comments.

A brief recess was taken after which time the meeting resumed.

COUNCIL REPORTS:

Councilmembers addressed various subjects.

1. Mr. Bailey announced that he had accepted an out-of-state position and would be submitting his resignation from City Council. August 5th would be his last meeting. Councilmembers thanked Councilman Bailey for his service.

NEW BUSINESS:

1. Consideration of pursuing legal action for code violations at 1798 Glenwood Street NE.

Staff Recommendation: Authorize the City Manager and the City Attorney to pursue any and all legal remedies to facilitate the clean-up of the property located at 1798 Glenwood Street NE.

Mr. Bailey asked the balance in the Nuisance Fund. Mr. Bradley explained that there was a revenue fund and expenditure fund. There was approximately \$595,000 in the revenue fund. The expenditure fund was relatively low as a lot of mowing had been performed on properties.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to authorize the City Manager and the City Attorney to pursue any and all legal remedies to facilitate the clean-up of the property located at 1798 Glenwood Street NE.

Mr. Bailey expressed concern about the situation and the need for police presence, if needed, for the safety of employees, and if this would be a sustainable solution.

Motion carried with members voting as follows:

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

ADMINISTRATIVE AND LEGAL REPORTS:

1. Mrs. Lefler advised that staff requested to schedule a workshop meeting to discuss employee vehicle allowances and recommended Tuesday, July 8, 2021, at 6:00 p.m. Council concurred.

PUBLIC COMMENTS/RESPONSES:

A resident made a general comment.

There being no further business, the meeting adjourned at the hour of 11:38 p.m.

Robert Medina, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK