

## **CITY OF PALM BAY, FLORIDA**

### **REGULAR COUNCIL MEETING 2022-01**

Held on Thursday, the 6<sup>th</sup> day of January 2022, 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 7:00 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>	Kenny Johnson	Present
<b>COUNCILMEMBER:</b>	Randy Foster	Present
<b>COUNCILMEMBER:</b>	Donny Felix	Present
<b>CITY MANAGER:</b>	Suzanne Sherman	Present
<b>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>DEPUTY CITY CLERK:</b>	Terri Lefler	Present

**CITY STAFF:** Joan Junkala-Brown, Deputy City Manager; Charleena Cox, Human Resources Director; Britta Kellner, Special Projects Manager.

#### **ANNOUNCEMENT(S):**

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

- 1. One (1) vacancy on the Youth Advisory Board (represents 'at-large student' member position).++**
- 2. One (1) vacancy on the Disaster Relief Committee.++**

#### **AGENDA REVISION(S):**

- Ms. Sherman advised of the following revisions:
  - An updated presentation had been included for Item 1, under Presentations, and the presenter listed on the agenda had changed from Sue Williams to Jacob Benator.

b. The applicant for Items 13 and 14, under Public Hearings, had requested that the cases be continued to the February 17, 2022, regular Council meeting.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to continue Items 13 and 14, under Public Hearings to the February 17, 2022, regular Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

c. Item 16, under Consent Agenda, relating to Phase 4 of the GO Road Bond Paving Program, had been rescheduled to the January 20, 2022, regular Council meeting.

#### **PROCLAMATIONS AND RECOGNITIONS:**

The proclamation was read.

##### **1. Proclamation: Human Trafficking Awareness Month - January 2022.**

#### **PRESENTATIONS:**

##### **1. Jacob Benator, Florida Power and Light - Storm Secure Underground Program. (AGENDA REVISION)**

Bart Gaetjens, External Affairs Manager, explained that the program would involve removing hard to access lines in residents' backyards and converting them to underground service in front of the properties. Mr. Benator provided an understanding of power lines and explained hardening, storm secure underground program value, Palm Bay improvements and plan, the design and outreach process, and an overview on construction. He answered questions posed by councilmembers.

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

Individuals made general comments.

1. Randall Olszewski, resident, said that the Citizens' Budget Advisory Board (CBAB) had not met since July and therefore did not have the opportunity to make recommendations to Council during the budget process. He asked that Council encourage its appointees to attend those meetings. He also requested an update on Emerson Drive project and the estimated completion date.

Mayor Medina said there was a core group of individuals that served on the advisory boards on a continual basis, but Council's policy limited them to two (2) boards. Councilmembers Felix and Foster agreed with increasing the number of boards. Deputy

Mayor Johnson said the CBAB meetings would be cancelled prior to actually having the meeting as staff knew there would be no quorum beforehand, but then the board members would not be penalized for the absence unless the meeting had been held. He felt it was important to schedule the meetings accordingly and then board members' absences would be counted against them. Once a member reached the limit of absences, they would be removed from the board and replaced.

Council concurred to modify the policy to increase the number of boards on which a resident could serve from two (2) to three (3) boards and have the item on the next regular meeting.

Ms. Sherman advised the Emerson Drive closure was a stormwater project, which was the C-51 culvert, and that the roadway was scheduled to reopen on January 21<sup>st</sup>, contractor substantial completion was scheduled for February 21<sup>st</sup>, and the final completion date was March 1<sup>st</sup>.

#### **PUBLIC HEARING(S):**

**1. Ordinance 2021-83, vacating a portion of the road right-of-way known as Mercury Avenue SE located within Port Malabar Unit 40 (0.722 acres) (Case VRW-3-2021, Mercury Avenue LLC and Mercury Avenue Too LLC), final reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. Bruce Moia, MBV Engineering and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-83, subject to the conditions contained in the Staff Report. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**2. Ordinance 2021-85, rezoning property located at the northwest corner of Robert J. Conlan Boulevard and Commerce Park Drive, from LI (Light Industrial and Warehousing District) to BMU (Bayfront Mixed Use District) (7.11 acres) (Case CPZ-11-2021, NSD Palm Bay IV, LLC), final reading. (Quasi-Judicial Proceeding)**

The City Attorney read the ordinance in caption only. The public hearing was opened. Andrew Steele, Northshore Development and representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-85. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**3. Ordinance 2021-88, rezoning property located north of and adjacent to Malabar Road, in the vicinity west of St. Johns Heritage Parkway, from PMU (Parkway Mixed Use District) to CC (Community Commercial District) (9.75 acres) (Case CPZ-18-2021, Willard Palmer), final reading. (Quasi-Judicial Proceeding)**

The City Attorney read the ordinance in caption only. The public hearing was opened. Ms. Sherman advised that Ana Saunders, BSE Consultants and representative for the applicant, was unable to attend the meeting but requested Council approval for final reading of the ordinance. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-88. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**4. Ordinance 2021-91, amending the Code of Ordinances, Chapter 55, Police and Firefighters Retirement Pension Plan, by increasing the supplemental benefit amount for police officers separating with vested service or retiring on or after October 1, 2021, final reading.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-91. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**5. Ordinance 2021-92, amending the Code of Ordinances, Chapter 117, Alarm Systems, by repealing provisions which provide for civil penalties for false alarms, final reading.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-92. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**6. Request by Michael and Jeanne Cullen for a variance to allow a proposed swimming pool and deck to encroach seven (7) feet into the 10-foot rear accessory structure setback in PUD (Planned Unit Development) zoning, as established by Section 185.118(A)(4), Palm Bay Code of Ordinances (0.17 acres) (V-51-2021). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request. The public hearing was opened. The applicant presented the request to Council.

Bill Battin, resident, said this was an example of why the city should keep as many of the larger lots and rural residential designations for people that do not want to be packed into a small lot.

The public hearing was closed.

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

**7. Resolution 2022-01, granting a conditional use to allow a proposed security dwelling unit in GC (General Commercial District) zoning on property located east of and adjacent to Thor Avenue, in the vicinity south of Agora Circle (0.56 acres) (Case CU-53-2021, Scott Macfarlane). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to the special requirements and conditions listed in the Staff Report as follows:

- The unit will only be permitted in conjunction with a site that has wholesale trade, warehousing, storage, contractor offices with storage, assembly, machine shops, commercial flex-space and/or similar uses.
- No one under the age of eighteen (18) may reside within the unit, and at no time may the unit be occupied by more than two (2) persons.
- The unit resident must be the owner of the property or an employee of the property owner. If the resident is not the owner, a signed and notarized contract between the property owner and the employee shall be provided to staff that addresses provisions for security.
- The unit may contain no more than one thousand (1,000) square feet of gross floor area and may not be located in a free-standing structure.

- There may be only one (1) security dwelling unit per property.
- There shall be at least one (1) parking space designated on-site for the resident of the unit.
- Applicants must demonstrate that approval of an onsite security dwelling minimizes the need for other security measures including but not limited to chain link fencing, strands of barbed wire atop fencing or walls and excessive security lighting thereby promoting a more aesthetically acceptable site development pattern.

The City Attorney read the resolution 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. Felix, to adopt Resolution 2022-01, subject to the special requirements and conditions listed in the Staff Report. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**8. Ordinance 2022-02, vacating a portion of the rear public utility and drainage easement located within Lots 6 and 7, Block 2602, Port Malabar Unit 49 (Case VE-11-2021, Cynthia and Alfred Bernhofer), first reading.**

Staff recommended approval of the request with conditions per the Analysis Section of the Staff Report.

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. Felix, to approve Ordinance 2022-02. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**9. Ordinance 2022-03, vacating a portion of the side public utility and drainage easement located within Lot 21, Block 1998, Port Malabar Unit 42 (Case VE-12-2021, Gary Goodnight), first reading.**

Staff recommended approval of the request with conditions per the Analysis Section of the Staff Report.

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. Felix, to approve Ordinance 2022-03. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**10. Ordinance 2022-04, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations', by including canine training and similar uses as a permitted use in LI (Light Industrial and Warehousing District) zoning (Case T-52-2021, Michael Piazzola), first reading.**

The Planning and Zoning Board recommended approval of the request.

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. Felix, to approve Ordinance 2022-04. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**11. Ordinance 2022-05, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Supplementary District Regulations', by modifying provisions related to the architectural appeal process (Case T-55-2021, City of Palm Bay), first reading.**

The Planning and Zoning Board recommended approval of the request.

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2022-05. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**12. Ordinance 2022-06, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Arabia Road, in the vicinity west of Cleaves Street, from Recreation and Open Space Use to Single Family Residential Use (1.46 acres) (Case CP-19-2021, Steffany and Victor Lopez), only one reading required.**

The Planning and Zoning Board recommended approval of the request, subject to staff comments.

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

Sharon Lopez, resident located across from the property, was advised that the property was already designated Single Family and said the narrow roadway would create a problem for ingress and egress from both sides of the street. Ms. Sherman responded that the reason for this request was that the current zoning for this parcel was RS-2 (Single Family Residential District), and the current land use did not match the zoning district.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2022-06. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**13. Ordinance 2022-07, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located east of and adjacent to Krassner Drive, in the vicinity north of Hayworth Circle, from Commercial Use to Multiple Family Residential Use (6.52 acres) (Case CP-20-2021, Bibi and Gurudeo Chand), only one reading required.**

This item, addressed under Agenda Revisions, was continued to the February 17, 2022, regular Council meeting.

**14. Ordinance 2022-08, rezoning property located east of and adjacent to Krassner Drive, in the vicinity north of Hayworth Circle, from NC (Neighborhood Commercial District) to RM-15 (Single-, Two-, and Multiple-Family Residential District) (6.52 acres) (Case CPZ-20-2021, Bibi and Gurudeo Chand), first reading. (Quasi-Judicial Proceeding)**

This item, addressed under Agenda Revisions, was continued to the February 17, 2022, regular Council meeting.

**15. Ordinance 2022-09, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northwest corner of Jupiter Boulevard and Brevard Avenue, from Single Family Residential Use to Mixed Use (23.86 acres) (Case CP-13-2021, Sachs Capital Group, LP and Identical Investments, LLC), only one reading required.**



The Planning and Zoning Board recommended approval of the request, subject to the following conditions:

- At the time of development plan submittal, the property owner shall submit a traffic impact analysis and Phase One Environmental Study;
- The maximum density shall be 176 residential units;
- The maximum commercial development shall be 30,000 gross square feet;
- At the time of development plan submittal, the property owner shall submit a Declaration of Covenants, Conditions, and Restrictions that identifies the development standards;
- An additional vegetative buffer on the north and east property lines; and
- An 8-foot fence on the east property line.

The City Attorney read the ordinance in caption only. Mayor Medina asked for clarification whether this request was substantially different from a previous request denied by City Council. Ms. Smith said Council could decide to take testimony now as a procedural matter to determine whether it was a substantial change or during the regular public hearing. Council concurred to hold the public hearing.

The public hearing was opened. Attorney Kim Rezanka, representative for the applicant, presented the request to Council. She advised that the request as presented in April 2021 was to change the land use to Commercial and Multi-Family Residential. This request was to change to a Mixed Use along with a Planned Unit Development (PUD). Ms. Rezanka provided further details of the project and site plan.

Mayor Medina said there was one entrance/exit and asked if another exit was being considered. Ms. Rezanka responded that their traffic engineer said it was not safe to have an exit onto Brevard Avenue. Mayor Medina asked about an exit onto Grandeur Street and said his concern was giving first responders an opportunity to navigate through the community. He did not feel there was a substantial change from the previous request.

Deputy Mayor Johnson said that Ms. Rezanka answered many of his questions and he felt this request was a substantial change as there were so many items that Council did not know from April 2021. He was pleased that the applicant was working with the School Board to alleviate school traffic, and he wanted to explore another entrance/exit point from Grandeur Street. He asked if there was any feedback from the public. Ms. Rezanka said residents wanted an eight-foot (8') fence and larger buffers to the north and east,

which had been provided to the best ability possible. She advised that other areas of concern were a traffic study and extension of the turn lane, but Council had the option to include conditions, if desired.

Mr. Felix said the presentation was very clear and agreed that there were substantial changes. He expressed concern with so many single-family homes being constructed at a cost of \$300,000 and up, but this project was bringing a viable solution for what was needed in the city. He supported the request and hoped the applicant would consider, at the very least, an emergency exit from the site.

Bruce Moia, MBV Engineering and representative for the applicant, said the residents did not want the site to access Brevard Avenue. He said it was rare that a Council or Commission would ask the applicant to connect to a local road when there was access to a collector road as neighborhoods do not like more traffic on their streets. A second access was not required unless there was over two hundred (200) units, but an emergency exit only onto Grandeur Street may be an option as the residents would not get traffic on a daily basis. Mr. Moia answered questions posed by councilmembers.

Mr. Foster felt the emergency exit should be included. Deputy Mayor Johnson agreed, especially since the residents along Grandeur Street were not notified and did not have the opportunity to comment before Council. Ms. Smith advised that any conditions should be placed on the subsequent rezoning request and not the land use request.

David “Monty” Montgomery, resident, asked that Council deny the request. He said the area was already congested by two (2) schools, there were stormwater issues, and increased density. He felt it was the same request as presented previously, with additional detail being added.

Scott Wall-DeSouza, resident, supported the request and said affordable homes were going to be the best for that area.

Bill Battin, resident, said this was another example of changing a site to a higher density and decreasing the number of larger lots that could be placed throughout the city. He said traffic currently backed up for three (3) blocks in that area and questioned where the Rural Residential properties were located in the city.

Butch Orend, resident, agreed with Mr. Battin’s comments. He said parents parked along the area in front of the golf course and questioned where parents would park to pick up their kids. He also asked where a one-acre lot could be purchased in the city that was not within a subdivision.

Nathan White, resident, asked for clarification on the number of units per acre as half of the acreage was proposed for “other various uses”. He felt it was inappropriate to have the land use change and the PUD considered at the same meeting and said it severely limited public input.

Phil Moore, resident, felt traffic safety, green spaces, and density would need to be addressed. He said that townhomes were a current need in Palm Bay and supported affordable housing in the city.

Randall Olszewski, resident, did not believe this request differed from the previous request presented in April 2021. He said it was the same request, just with additional information. He said the project was too big of a scale for its geographical location.

Ms. Rezanka addressed the public comments. She said this was not the location for million-dollar homes as it was not compatible due to the schools, collector road, etc. No one wanted to keep the site as a golf course as it had not been used as such for a long time. The PUD required a twenty-five percent (25%) open space, and this project would have over thirty-seven percent (37%). Ms. Rezanka added that traffic engineers would be physically standing out during school hours to watch traffic flow.

Mayor Medina asked if the number of units could be reduced. Gregory Sachs, applicant, said it would not be a good return on capital and would not benefit the buyers as the price per unit would be significantly higher. Mr. Foster asked if the applicant would be receptive to the emergency exit and Mr. Sachs confirmed same and said it could start out as an emergency exit with the possibility of changing to an everyday exit. Mr. Sachs answered questions posed by councilmembers.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2022-09.

Mayor Medina felt it was too much for that corridor, especially being only two lanes. He also wanted one-acre lots instead of the high-density units.

Deputy Mayor Johnson felt a lot of information was presented at this hearing than back in April. He appreciated that the applicant was working with the Brevard County School Board and supported the request.

Mr. Foster said it was a blighted area with homeless people on the site. He said this project would clean up the area, bring diversity and much needed affordable housing. He

agreed that there needed to be larger lots in the city, but not at this location. He supported the request.

Motion carried with members voting as follows:

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

**16. Resolution 2022-02, granting approval of a Preliminary Development Plan for a proposed mixed-use development to be known as ‘Jupiter Bay PUD’ in RR (Rural Residential District) zoning, which property is located at the northwest corner of Jupiter Boulevard and Brevard Avenue (23.86 acres) (Case PD-48-2021, Sachs Capital Group, LP and Identical Investments, LLC). (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject comments listed below, with the elimination of the condition to provide access to Parcel 752.

- A preliminary subdivision plat and Opinion of Title;
- Declaration of Covenants and Restrictions establishing development standard;
- Construction drawings;
- A Concurrency Determination letter from the School Board of Brevard County;
- Submission of an Endangered Species Assessment;
- Identification of lighting within the neighborhood;
- Explore options for providing access for Parcel 752; and
- Compliance with the conditions of CP-13-2021.

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

Ms. Sherman said there was a comment from the Public Works Department stating that any landlocked properties would be provided access to the development. There was a parcel located near the project site that was owned by a third party and did not have

access to the development. It was not included in the motion from the Planning and Zoning Board, but Ms. Sherman asked that Council consider same. Ms. Rezanka said they would work with the owners but could not guarantee access as there may be a legal remedy that would require the owner to pay for access. Ms. Smith agreed and said that staff could make the suggestion, but it could not be mandated.

Individuals made general comments.

Bill Battin, resident, said if a roadway was designated as an emergency exit, it did not mean that drivers would not be aware of it and use it as a cut-through at some point in the future.

Ms. Rezanka advised that the applicant would agree to install a gate at the emergency exit.

Ms. Smith responded to a previous comment as to why the land use and rezoning were considered at the same meeting. She said if the land use was amended, the zoning had to match the land use category and coincide with state law.

Scott Wall-DeSousa, resident and realtor, addressed comments regarding real estate prices for single family homes, one-acre lots, etc. in the area.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to adopt Resolution 2022-02, with all conditions listed above, with the amendment that the applicant coordinate access for Parcel 752, and the additional condition to include an emergency exit with the intent of pursuing full access, if needed.

Motion carried with members voting as follows:

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

**17. Request by Alfred and M. Agarie to rezone property located east of and adjacent to Dixie Highway, and west of and adjacent to Ridge Road, from HC (Highway Commercial District) to BMUV (Bayfront Mixed Use Village District) (0.34 acres) (Case Z-54-2021). (CONTINUED TO 01/05/22 P&Z and 02/03/22 RCM)**

**18. Ordinance 2021-89, amending the Code of Ordinances, Chapter 37, Growth Management Department, by removing the Code Compliance Division from the department's composition, final reading. (WITHDRAWN)**

**19. Ordinance 2021-90, amending the Code of Ordinances, Chapter 40, Building Department, by including the Code Compliance Division under the department's duties and responsibilities, final reading. (WITHDRAWN)**

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

**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 9, 14, 15, and 17 from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**1. Adoption of Minutes: Regular Council Meeting 2021-31; December 2, 2021.**

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

**2. Adoption of Minutes: Special Council Meeting 2021-32; December 9, 2021.**

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

**3. Award of Bid: Auction services – IFB 05-0-2022 – Procurement Department (George Gideon Auctioneers, Inc.).**

Staff Recommendation: Approve the award of Auction Services to George Gideon Auctioneers, Inc. (Zellwood) for a three (3) year term contract, renewable by the Procurement Department for two (2) additional one (1) year terms.

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

**4. Miscellaneous: 'Other Agency' contract, sodium hypochlorite system upgrade, North Regional Water Treatment Plant (Town of Davie contract) – Utilities Department (Odyssey Manufacturing – \$168,055).**

Staff Recommendation: Approve the 'Other Agency' contract with Odyssey Manufacturing, utilizing the Town of Davie contract, for the North Regional Water Treatment Plant sodium hypochlorite system upgrade, in the amount of \$168,055.

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

**5. Miscellaneous: 'Cooperative Purchase', miscellaneous products and services, online marketplace (Omnia Partners contract) – various City Department (Amazon Business – 'as needed' purchases); approval of Amazon Business Prime Medium subscription (\$1,299).**

Staff Recommendation: Approve the purchase of the products and supplies for citywide departments from Amazon Business (Seattle, Washington), utilizing cooperative Omnia Contract R-TC-17006 through the expiration including any renewal options and approve the Amazon Business Prime Medium subscription.

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

**6. Resolution 2022-03, conveying City-owned surplus real estate located at 171 Holiday Park Boulevard NE to buyer Tommy E. Ratcliffe (\$20,990).**

The City Attorney read the resolution in caption only.

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

**7. Resolution 2022-04, conveying City-owned surplus real estate located at 340 Holiday Park Boulevard NE to buyer Stephen Gower (\$20,875).**

The City Attorney read the resolution in caption only.

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

**8. Ordinance 2022-10, amending the Code of Ordinances, Chapter 52, Boards, Subchapter 'Code Enforcement Board', by repealing the subchapter in its entirety, first reading.**

The City Attorney read the ordinance in caption only.

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

**9. Ordinance 2022-11, amending the Code of Ordinances, Chapter 52, Boards, by creating a new subchapter to be titled 'Code Enforcement Special Magistrate', first reading.**

The City Attorney read the ordinance in caption only.

Bill Battin, resident, questioned the cost of a magistrate versus continuing with the Code Enforcement Board; how to challenge a violation before being faced with a fine; and why this change was needed and the benefit of same.

Ms. Smith said this request was at the direction of Council. She said that any cost would be an increase as the members of Code Enforcement Board did not receive any payment. The salary for the magistrate had not been determined as it was going through the procurement process.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2022-11. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**10. Ordinance 2022-12, amending the Code of Ordinances, Chapter 55, Police and Firefighters Retirement Pension Plan, by modifying the minimum distribution of benefits and miscellaneous provisions, first reading.**

The City Attorney read the ordinance in caption only.

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

**11. Ordinance 2022-13, amending the Fiscal Year 2021-2022 budget by appropriating and allocating certain monies (first budget amendment), first reading.**

The City Attorney read the ordinance in caption only.

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



**12. Consideration of an interlocal agreement with Brevard County for regional opioid settlement funds.**

Staff Recommendation: Authorize the Mayor to execute the interlocal agreement.

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

**13. Consideration of the Odyssey Charter School Junior/Senior High School Resource Officer Agreement for the 2021/2022 school year.**

Staff Recommendation: Authorize the City Manager to execute the Odyssey Charter School Jr/Sr High School Resource Officer Agreement for the 2021/2022 school year.

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

**14. Consideration of an Addendum Counteroffer to the purchase offer for City-owned surplus real estate, generally located at 1230 Jacob Street SE, from buyer Fred DeNicci Construction (\$70,000).**

Staff Recommendation: Authorize the City Manager to execute the addendum or provide a counteroffer for City-owned surplus real estate generally located at 1230 Jacob Street SE (Tax ID: 2930053) from buyer Fred DeNicci Construction.

Ms. Sherman said that in October 2021, the buyer submitted an offer of \$135,505, which Council had accepted, and the buyer began his due diligence. Subsequently, the buyer counteroffered with \$70,000, which was mostly related to the cost of water and sewer. The City's broker provided a recent Comparative Market Analysis which reflected a value closer to \$101,194.50. She was seeking direction from Council to either counteroffer with \$101,194.50 or put the property back on the market.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve a counteroffer of \$101,194.50. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**15. Consideration of accepting the Community Development Block Grant - Mitigation Critical Facility Hardening Program grant awards for the Police Main Station (Matching HMGP Funding/Replacement Generator) and the Police Substation (Replacement Generator/Hurricane Shutters).**

Staff Recommendation: Approve DEO Agreement I0147 – City of Palm Bay MIT Agreement – Main Station (Malabar); and DEO Agreement I1048 – City of Palm Bay MIT Agreement – Substation award agreements; and authorize the City Manager to execute the initial agreement and any future grant modifications under these awards.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve DEO Agreement I0147 – City of Palm Bay MIT Agreement – Main Station (Malabar); and DEO Agreement I1048 – City of Palm Bay MIT Agreement – Substation award agreements; and authorize the City Manager to execute the initial agreement and any future grant modifications under these awards. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

**16. Consideration of the GO Road Bond Paving Program, Phase 4. (AGENDA REVISION)**

This item, addressed under Agenda Revisions, was continued to the January 20, 2022, regular Council meeting.

**17. Consideration of extending temporary benefits to City personnel for relief related to COVID-19 exposure.**

Staff Recommendation: Authorize an extension to the temporary benefits to City personnel related to COVID-19 leave bank to be funded by the City's allocation under the American Rescue Plan Act (ARPA).

Ms. Sherman presented the request to Council. She asked that the forty (40) hour leave bank be changed to eighty (80) hours for all employees.

Mr. Foster asked how many public safety personnel had tested positive for COVID-19. Ms. Cox responded that as of July 1, 2021, it was a total of thirty-eight (38) for the Police Department, twenty-two (22) for the Fire Department, and seventy-six (76) out of the remaining employees.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the eighty (80) hour leave bank for city personnel as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

Note: The item was reconsidered after Item 1, under New Business.

**18. Consideration of modifying the funding source for the salary increase (11%) for the Chief Building Official.**

Staff Recommendation: Approve funding the eleven percent (11%) salary increase for the Chief Building Official out of the Building Fund.

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

**19. Consideration of travel and training for specified City employees (Office of the City Manager).**

Staff Recommendation: Approve the travel and training as specified.

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

**20. Consideration of travel and training for specified City employees (Police Department).**

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 the City's 2022 federal legislative priorities.**

Staff Recommendation: Approve the 2022 Federal Legislative Priorities.

Ms. Kellner provided an overview of and requested Council's support for three (3) major funding needs which were critical to the City's transportation and environmental concerns:

- Malabar Road Widening - \$2.5 million;
- Septic to Sewer Program - \$3 million; and
- Indian River Lagoon Protection - \$1.5 million.

Ms. Kellner advised that staff was also seeking support for the following programs/policies:

- Support for Department of Justice (DOJ), and Department of Homeland Security (DHS) funding programs that provide assistance to State and local governments to enhance public safety, and improve emergency response through support for personnel, equipment, training, technology, and pre-disaster mitigation and disaster recovery;
- Environmental Protection Agency (EPA) Regulations Imposing Water Quality Standards in Florida;
- Continuance of full funding for Department of Housing and Urban Development (HUD) - Community Development Block Grant Program (CDBG) for maintaining its full funding that enables the city to serve its low and moderate-income residents; and
- Support in advancing the proposed Florida National Guard Readiness Center Project, specifically related to the Malabar Space Force Annex on Minton Road in Palm Bay.

Mr. Foster asked if the lobbyists could seek grants in which the funding would come directly to Palm Bay. Ms. Kellner responded that the majority of funding would be filtered through the state and state agencies and very little allocation came directly from the federal government to local jurisdictions. She answered questions posed by councilmembers.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the 2022 federal legislative priorities. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

Item 17, under Consent Agenda, was reconsidered at this time.

**17. Consideration of extending temporary benefits to City personnel for relief related to COVID-19 exposure.**

Ms. Sherman advised that the previous motion was for eighty (80) hours but did not include the additional forty (40) hours for public safety personnel.

Mr. Foster withdrew his second to the previous motion.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to approve the eighty (80) hour leave bank for city personnel and an additional forty (40) hours for public safety personnel as requested. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

## **2. Discussion of use of additional General Fund Undesignated Fund Balance for Fiscal Year 2021-2022.**

Staff Recommendation: Approve the use of Undesignated Fund Balance as reflected in Legislative Memorandum.

Ms. Sherman presented the request to Council. Deputy Mayor Johnson asked about the Asset Manager position. Ms. Sherman said it would be a new position under the Finance Department and would serve as an auditor to ensure that departmental assets were properly managed. Deputy Mayor Johnson felt the Asset Manager was needed more than an additional Community Information Coordinator (CIC). Mayor Medina still wanted to include the CIC position as he knew that they needed additional assistance.

Nathan White, resident, asked if any of the money could be used for road maintenance or road work.

Ms. Sherman said that staff did not specifically look at funding road maintenance because the primary focus was to resolve some of the outstanding capital needs, such as equipment and vehicles. She said that over the past few years, funding had been set aside for road maintenance through a recurring line item in addition to the property sale dollars that were placed in that fund.

Mr. Felix supported staff's recommendation and the list as presented, but agreed with the Mayor that a CIC was needed. Ms. Sherman clarified that the Asset Manager position would be eliminated for now in order to fund the CIC position, but she preferred to keep the Asset Manager.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the use of Undesignated Fund Balance with the amendment of including the Asset Manager position and eliminating the Community Information Officer position. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

## **COUNCIL REPORTS:**

Councilmembers addressed various subjects.

1. Deputy Mayor Johnson said he had requested late last year that Council consider changing the start time of the regular meetings to 6:00 P.M. Council suggested bringing the issue back at the beginning of the new year and he hoped that Council would reconsider at this time. Councilmembers Felix and Foster concurred for staff to present

the item at the next regular meeting to allow the public the opportunity to speak on the issue. Mayor Medina did not support the request and felt the residents should be given enough time to attend the meeting.

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Sherman commented on various topics.

**PUBLIC COMMENTS/RESPONSES:**

Residents made general comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 11:33 P.M.

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Rob Medina, MAYOR

ATTEST:

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Terri J. Lefler, DEPUTY CITY CLERK