

# **CITY OF PALM BAY, FLORIDA**

## **REGULAR COUNCIL MEETING 2022-29**

Held on Thursday, the 6<sup>th</sup> day of October 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 6:00 P.M.

Brian Robinson, Information Technology Director, 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>COUNCILMEMBER</b>	Peter Filiberto	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; Fred Poppe, Recreation Director; Frank Watanabe, City Engineer; Alexandra Bernard, Growth Management Director; Leslie Hoog, Fire Chief.

### **ANNOUNCEMENTS:**

Deputy Mayor Johnson announced the following vacancies 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 Community Development Advisory Board (represents one of the following positions: 'resident of the City'; 'actively engaged in home building'; 'residential home building'; or 'for-profit provider').+**

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

Ms. Sherman announced the following revisions:

A. At the request of Mayor Medina, a proclamation for “Viva Brevard Festival – October 15, 2022” was added as Item 3, under Proclamations and Recognitions.

B. A proclamation for “Customer Service Week – October 3-7, 2022” was added as Item 4, under Proclamations and Recognitions.

C. There was a modification to Ordinance 2022-100 (Item 1, under Public Hearings) relating to the temporary moratorium.

D. The applicant for Item 16, under Public Hearings, requested that Case CU-47-2022 be continued to the October 20, 2022, regular Council meeting, to be considered with the final reading of the accompanying rezoning request.

Motion by Deputy Mayor Johnson, seconded by Mr. Foster, to continue Case CU-47-2022 to the October 20, 2022, regular Council meeting. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

E. Item 12, under Consent Agenda, relating to Police travel, has been withdrawn.

F. A resolution terminating the state of emergency has been added to the agenda as Item 3, under New Business.

G. A request for Quint Apparatus for Fire Station 7 has been added as Item 1, under Procurements.

Mayor Medina requested that Item 1, under New Business, be considered after Public Comments.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to consider item 1, under New Business, after Public Comments. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

## **PROCLAMATIONS AND RECOGNITIONS:**

The proclamations were read.

**1. Proclamation: Domestic Violence Awareness Month - October 2022. (Deputy Mayor Johnson)**

- 2. Proclamation: National Hispanic Heritage Month - October 2022. (Deputy Mayor Johnson)**
- 3. Viva Brevard Festival – October 15, 2022. (Mayor Medina) (AGENDA REVISION)**
- 4. Customer Service Week – October 3-7, 2022. (AGENDA REVISION)**

**PRESENTATIONS:**

- 1. Evans Center Inc. – update.**

Susan Phillips-Hardison, representative, provided history on the Evans Center site. The building was demolished in 2012 and rebuilt into a 6,000 square foot facility in 2019. The Evans Center hosts a fresh foods market and hot deli, community center and public facility rental space and the Brevard Health Alliance Clinic. The facility offered numerous programs and services.

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

Individuals made general comments.

1. Robert Stise, resident, said there should be security at the Planning and Zoning Board meetings.

Mayor Medina asked the City Manager to consider safety measures at all City board meetings.

Council concurred to consider Item 1, under New Business, at this time.

**NEW BUSINESS:**

- 1. Consideration of a co-sponsorship request from The Brevard Hispanic Center for the Viva Brevard Festival on October 15, 2022, at Fred Poppe Regional Park.**

Staff Recommendation: Approve the City's co-sponsorship with Brevard Hispanic Center Viva Brevard Festival, in the amounts of \$3,490 for in-kind wages (labor) and \$2,695 in fee waivers.

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

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

**PUBLIC HEARING(S):**

**1. Ordinance 2022-100, providing for a temporary moratorium to prohibit the filing, acceptance or processing of any applications to amend the Future Land Use Map or rezone property from Single Family Residential or Multiple Family Residential within the city, final reading. (Deputy Mayor Johnson)**

The City Attorney read the ordinance in caption only. The public hearing was opened. Ms. Sherman presented the request to Council. She advised that the ordinance had been modified to include revisions as approved by Council at the last meeting. Specifically, that the effective date was September 6, 2022, and excluded projects that had completed a pre-application meeting on or before September 6, 2022. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2022-100, as revised.

Motion carried with members voting as follows:

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

**2. Ordinance 2022-101, granting approval of a Preliminary Development Plan for a proposed Regional Activity Center to be known at '3 Forks Mixed Use' in AU (Agricultural Residential) (Brevard County) and SR (Suburban Residential) (Brevard County) zoning, with a tentative zoning of RAC (Regional Activity Center District), which property is located south of and adjacent to Malabar Road, in the vicinity east of St. Johns Heritage Parkway and west of Melbourne-Tillman Water Control District Canal 8 (124.33 acres) (Case PD-26-2022, Parkside Commons Center, LLC, and West 80 Acres, LLC), first reading. (Quasi-Judicial Proceeding) (CONTINUED FROM 09/15/22 RCM - FKA Resolution 2022-40)**

The Planning and Zoning Board recommended approval of the request, subject to the staff comments contained in the staff report and the following items being submitted with a Final RAC application:

- A general plan for the use of all lands within the proposed RAC. Such plans shall indicate the general location of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums);
- A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network;
- A summary of allowable development (a-e);
- Generalized regulations and development standards for the RAC district and each phase (a-e);
- Submission of an Endangered Species Assessment;
- Identification of lighting within the neighborhood;
- Compliance with the conditions of CP-26-2022; and
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the FDP and construction drawings.

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG 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 approve Ordinance 2022-101, subject to staff comments and conditions. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**3. Ordinance 2022-102, granting approval of a Final Development Plan for a PUD (Planned Unit Development) zoning residential subdivision to be known as 'Chaparral Phases IV and V' on property located in the vicinity south of Malabar Road, west of Brentwood Lakes Subdivision and Melbourne-Tillman Water Control District Canal 9R (160.51 acres) (Case FD-16-2022, Chaparral Properties, LLC), first reading. (Quasi-Judicial Proceeding) (CONTINUED FROM 09/01/22 RCM)**

The Planning and Zoning Board recommended approval of the request, subject to the staff comments contained in the staff report and the following items being submitted with construction plans:

- A preliminary subdivision plat and a boundary and title opinion;
- Deed restrictions establishing development standards;
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the construction drawings; and
- Approval of the Final Development Plan by City Council is conditioned upon the City's acceptance of the Traffic Impact Study and any subsequent development agreements or proportionate fair share agreements that may be required as a result.

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG Engineering and representative for the applicant, presented the request to Council.

Mr. Filiberto asked if a traffic study had been performed. Ms. Sherman said that the study was received last week but had not been analyzed by staff but advised that it was one of the conditions for approval. Due to traffic study still pending review, Mr. Filiberto suggested that the item be tabled and if Council was not agreeable to same, he could not support the project at this point.

Bill Battin, resident, was concerned that homeowners would complain about the adjacent gun range once they had built their house. He did not want to lose the gun range in the future because people do not want it near their homes.

Mr. Wise said that he represented the developer of the adjacent subdivision, Brentwood Lakes, and potential buyers were made aware of the gun range. He added that the traffic study was typically done during the construction plan review process. Mr. Watanabe said he had not done a thorough review of the traffic study and said that Brevard County had to approve the signal and turn lanes since it was a County roadway. There was further discussion regarding traffic, a traffic signal, turn lanes, and public safety.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2022-102, subject to staff comments and conditions.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea

Councilman Foster	Yea
Councilman Felix	Yea
Councilman Filiberto	Nay

**4. Resolution 2022-55, granting approval of a Preliminary Development Plan for a proposed residential townhome development to be known as ‘Lipscomb Street PUD’ in RM-10 (Single-, Two-, Multiple-Family Residential District) zoning, which property is located east of and adjacent to Lipscomb Street, in the vicinity west of Mango Street (24.56 acres) (PD-32-2022, Paul Daly and Don Ballew). (Quasi-Judicial Proceeding) (CONTINUED FROM 09/01/22 RCM)**

The Planning and Zoning Board recommended approval of the request, subject to the staff comments contained in the staff report and the following items being submitted with a Final PUD application:

- A preliminary subdivision plat and Opinion of Title;
- Declaration of Covenants and Restrictions establishing development standards;
- 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; and
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the FDP and construction drawings.

The City Attorney read the resolution in caption only. The public hearing was opened. Chris Ossa, of Kimley-Horn and Associates and representative for the applicant, presented the request to Council.

Deputy Mayor Johnson asked about the Citizens Participation meeting with Palm Bay Colony residents. Mr. Ossa said the main concern was traffic, existing and future. Deputy Mayor Johnson said there was a very large project in the City of Melbourne, located north of Pirate Lane. He was concerned about the traffic impact between the two projects. Mr. Ossa was not familiar with the Melbourne project but said that a traffic signal had been approved for same off of Lipscomb Street and Commerce Park Drive. Jake Wise, CEG Engineering and engineer for the Melbourne project, detailed how traffic would be addressed in the area for that project which was to be a 125-acre single family neighborhood.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2022-55, subject to staff comments and conditions. Mr. Filiberto said that after hearing the details of the project and knowing that staff was coordinating with Melbourne, and that impact fees received would be placed towards the construction of Fire Station 7, he supported the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**5. Ordinance 2022-103, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Supplementary District Regulations', by modifying provisions related to mobile food vending (T-39-2022, City of Palm Bay), first reading. (CONTINUED FROM 09/01/22 RCM)**

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.

A resident commented that food trucks were allowed to operate in the city but could not be parked in residential areas so the truck owners could not take their food trucks home unless they were parked behind a fence.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2022-103. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**6. Ordinance 2022-104, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located in the vicinity of the northeast and southeast corners of Babcock Street and St. Johns Heritage Parkway from Single-Family Residential Use and R1:2.5 (Brevard County) to Commercial Use (6.49 acres) (Case CP-29-2022, Cypress Bay Farms, LLC), only one reading required.**

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG 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 2022-104. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**7. Ordinance 2022-105, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northwest corner of Babcock Street and Davis Lane, in the vicinity west of St. Johns Heritage Parkway, from Commercial Use to Multiple-Family Residential Use (38.3 acres) (CP-31-2022, Waterstone Holdings, LLC), only one reading required.**

The Planning and Zoning Board recommended approval of the request.

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, CEG Engineering and representative for the applicant, presented the request to Council.

Deputy Mayor Johnson expressed concern with changing commercial property to multi-family. Mayor Medina said he did not want to give away commercially zoned property.

Jim McKnight, team developer for the project, said this was a project had been in the making over the past twenty (20) years. The original plan had changed because of the economy, Covid-19, ecommerce, and an increasing hybrid workforce. The need for retail and office space had decreased, and there was now an excess commercial supply. The proposed, market-rate multiple-family development would be a transitional buffer for the single-family area and would bring sustainable commercial into the area based on its proximity to Waterstone, Bayside Lakes, and the Emerald Lakes developments. Mr. Wise said the fear was that the commercial portion would just sit and never get developed. Mr. McKnight provided further details on the project.

Deputy Mayor Johnson asked about a mixed-use concept. Mr. Wise said that would be ideal for the frontage along the Parkway or Babcock Street, but not in the back area as it would not be successful.

Mr. Foster liked the project. He said it had the right mix and allowed for walkability of the residents, less vehicles on the road, and increased safety.

Residents spoke against the request stating it would add too much traffic, the school system could not handle more students, there was not enough public safety, and the property should remain commercially zoned.

Mr. Wise responded to the comments. He said a site had already been chosen for a charter school and conversations had already commenced with the School Board. Mr. Wise added that there was already 159 acres of commercial, not including this project. If this request was approved, there would be an additional 121 acres of commercial, less the property for the proposed Publix Supermarket. He said there was a huge turnout for the neighborhood meeting and there were no objections to the project. Mr. Wise and staff answered questions posed by councilmembers.

Mr. Felix supported the request as is. Mr. Filiberto said that almost 2,500 residential houses had been approved in that area already but yet there was no police station, fire station, and Sunrise Elementary School was not projected to have enough capacity. He could not support the project.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Filiberto, to deny Ordinance 2022-105.

Deputy Mayor Johnson felt that once the Comprehensive Plan was updated and after current developments were completed, Council may consider making this property multi-family, but he wanted it to remain commercial for now.

Mr. Foster said the development would bring in the needed tax revenue that would help address public safety concerns. He said that multi-family developments were taxed like a commercial property and would also keep down the ad valorem taxes in future years.

Mr. Felix agreed that commercial properties were important to this Council, but every project was different, and this project brought the needed taxable value into the city. He felt the project made sense and supported the request.

Motion carried with members voting as follows:

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

**8. Resolution 2022-56, granting approval of a Planned Unit Development (PUD) Preliminary Development Plan for a multiple-family residential development to be known as 'The Grove at Palm Bay', which property is located at the northwest corner of Babcock Street and Davis Lane, in the vicinity west of St. Johns Heritage Parkway (38.3 acres) (Case PD-37-2022, Waterstone Holdings, LLC). (Quasi-Judicial Proceeding)**

Due to the denial of Case CP-31-2022, this item was rendered moot.

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

**9. Ordinance 2022-106, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located west of and adjacent to Dixie Highway, in the vicinity north of Malabar Road, from Commercial Use to Bayfront Mixed Use (6.92 acres) (CP-32-2022, Florida Institute of Technology, Inc.), only one reading required.**

The Planning and Zoning Board recommended approval of the request.

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

Gordon Nelson, resident of Melbourne, supported the project, but said there would be traffic issues and a traffic signal would be needed.

Residents of Palm Bay Estates, located adjacent to the project site, spoke against the request, stating it would be an eyesore due to the height, wildlife would be displaced, natural beauty of the area would be eliminated, and property values would decrease.

Ms. Rezanka responded to the public comments. She advised that the applicant would adhere to whatever traffic measures were required.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Filiberto, to adopt Ordinance 2022-106. Deputy Mayor Johnson was concerned about the environmental issues but felt this was a good project. Mr. Filiberto agreed and said that staff would be closely monitoring the project as well. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**10. Ordinance 2022-107, rezoning property located west of and adjacent to Dixie Highway, in the vicinity north of Malabar Road, from HC (Highway Commercial District) to BMU (Bayfront Mixed Use District) (6.92 acres) (Case CPZ-32-2022, Florida Institute of Technology, Inc.), first reading. (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request.

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

Motion by Deputy Mayor Johnson, seconded by Mr. Filiberto, to approve Ordinance 2022-107. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**11. Ordinance 2022-108, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located east of and adjacent to Browning Avenue, in the vicinity north of Malabar Road, from Commercial Use to Single-Family Residential Use (0.23 acres) (CP-33-2022, Henry Morin), only one reading required.**

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 Mr. Filiberto, seconded by Deputy Mayor Johnson, to adopt Ordinance 2022-108. Mr. Filiberto felt the request was fair. There were other adjacent properties that could bring in the needed commercial, but this particular property was surrounded by residential, and he supported the request. Deputy Mayor Johnson agreed. Mayor Medina felt some of or all of the lots could be combined into a larger commercial piece. Mr. Felix agreed with Mayor Medina and did not support the request.

Motion carried with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Yea

Councilman Foster	Yea
Councilman Felix	Nay
Councilman Filiberto	Yea

**12. Ordinance 2022-109, rezoning property located east of and adjacent to Browning Avenue, in the vicinity north of Malabar Road, from RC (Restricted Commercial District) to RS-2 (Single-Family Residential District) (0.23 acres) (Case CPZ-33-2022, Henry Morin), first reading. (Quasi-Judicial Proceeding)**

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. Filiberto, to approve Ordinance 2022-109.

Motion carried with members voting as follows:

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

**13. Ordinance 2022-110, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located between and adjacent to Deauville and Battersea Avenues, in the vicinity north of Malabar Road, from Commercial Use to Single-Family Residential Use (0.46 acres) (CP-34-2022, John and Shirley Morin), only one reading required.**

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 Mr. Filiberto, seconded by Deputy Mayor Johnson, to adopt Ordinance 2022-110.

Motion carried with members voting as follows:

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

**14. Ordinance 2022-111, rezoning property located between and adjacent to Deauville and Battersea Avenues, in the vicinity north of Malabar Road, from RC (Restricted Commercial District) to RS-2 (Single-Family Residential District) (0.46 acres) (Case CPZ-34-2022, John and Shirley Morin), first reading. (Quasi-Judicial Proceeding)**

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 Mr. Filiberto, seconded by Deputy Mayor Johnson, to approve Ordinance 2022-111.

Motion carried with members voting as follows:

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

**15. Ordinance 2022-112, rezoning property located between Malabar Road and Biddle Street, in the vicinity west of Medplex Parkway, from RM-10 (Single-, Two-, Multiple-Family Residential District) to RM-15 (Single-, Two-, Multiple-Family Residential District) (18.44 acres) (Case Z-44-2022, ACIS Investment Group, LLC), first reading. (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended denial of the request.

The City Attorney read the ordinance in caption only.

The public hearing was opened. Attorney Kim Rezanka and Jeremy Mears, representatives for the applicant, presented the request to Council. Ms. Rezanka said this was a revised project and confirmed that an RM-10 development called Artesia with cottage-style apartments was approved by City Council in May. However, due to an increase in construction costs, the project was no longer feasible for the developer. The subject proposal was now for an RM-15 designation to allow the construction of a three-story, single- and two-bedroom apartment complex of 261 units called Allegra with a lower rental rate.

Deputy Mayor Johnson said he was more supportive of the previous project. This project alleviated traffic on Biddle Street more so than on Malabar Road. He did not want to add more onto Malabar Road in an area that was already becoming congested. James Taylor, traffic engineer for the developer, said the number of proposed units would generate the same traffic as a drive-thru coffee shop. He said that Malabar Road to the east of the site was an existing deficiency and was a top priority for the Space Coast Transportation Planning Organization (TPO) sometime in the year 2028-2030. Mr. Taylor provided further details on roadway improvements.

Adjacent property owners spoke in favor of the request, stating that the project would provide proper buffering, preservation of trees and eliminate homeless camps from the site. A resident was concerned about the added traffic to the area.

Mr. Mears responded to questions posed by councilmembers. Mayor Medina expressed concern with the number of units and the lack of infrastructure for such a large project. There was further discussion about the future widening of roadways surrounding the project.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mayor Medina, to deny Ordinance 2022-112. Mayor Medina, Deputy Mayor Johnson and Mr. Filiberto preferred the project as previously presented with the cottages. Mr. Felix felt there was still a need for this type of property and supported the request. Mr. Foster said that staff's recommendation was that the applicant had met the minimum requirements for the rezoning. He felt the applicant had met the burden of proof and supported the request.

Motion carried with members voting as follows:

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

**16. Request by ACIS Investment Group, LLC for a conditional use to grant relief to the 25-foot maximum building height requirement in a proposed RM-15 (Single-, Two-, Multiple-Family Residential District) by allowing buildings to be constructed 39.00 feet in height on property located between Malabar Road and Biddle Street, in the vicinity west of Medplex Parkway (18.44 acres) (Case CU-47-2022). (Quasi-Judicial Proceeding)**

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

**17. Ordinance 2022-113, granting approval of a Final Development Plan for a subdivision to be known as 'St. Johns Preserve - Tract A, Phase 1' on property located north of and adjacent to Malabar Road, west of and adjacent to St. Johns Heritage Parkway (19.12 acres) (Case FD-46-2022, St. Johns Preserve Investment Group, LLC), first reading. (Quasi-Judicial Proceeding)**

The Planning and Zoning Board recommended approval of the request, subject to the staff comments contained in the staff report and the following items being submitted with construction plans:

- A preliminary subdivision plat and a boundary and title opinion;
- Deed restrictions establishing development standards;
- The technical comments generated by the Development Review Staff shall be observed and incorporated into the construction drawings; and
- Any development agreement or proportionate fair share agreements which may be necessitated at any time.

The City Attorney read the ordinance in caption only. The public hearing was opened. Ana Saunders, BSE Consultants and representative for the applicant, presented the request to Council. Deputy Mayor Johnson asked if the applicant had agreed with the conditions proposed by staff. Ms. Saunders confirmed same.



The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve Ordinance 2022-113, subject to staff comments and conditions. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

### **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 7 and 11, from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

#### **1. Adoption of Minutes: Meeting 2022-25; September 7, 2022.**

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

#### **2. Adoption of Minutes: Meeting 2022-27; September 21, 2022.**

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

#### **3. Award of Bid: Road Bond Paving, Knecht Road and Port Malabar Boulevard from Babcock to U.S. Highway 1 - IFB 61-0-2022 - Public Works Department (Ranger Construction Industries, Inc. - \$4,150,056).**

Staff Recommendation: Approve the award for road bond paving, Knecht Road and Port Malabar Boulevard from Babcock to U.S. Highway 1, with Ranger Construction Industries, Inc. (Fort Pierce), in the amount of \$4,150,056.30.

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

#### **4. Contract: Superion Public Administration and Public Safety Software Maintenance and Support, renewal - Information Technology Department (Central Square (dba Superion) - \$231,610).**

Staff Recommendation: Authorize the City Manager to execute the Superion Public Administration and Public Safety Software Maintenance and Support contract renewal with Central Square (dba Superion, LLC), in the amount of \$231,610.43.

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

**5. Contract: Negotiation of Master Consultant Agreement for Architectural and Engineering Services, fire station and fire station prototypes - RFQ 55-0-2022 - Parks and Facilities/Fire Departments (CPZ Architects, Inc.).**

Staff Recommendation: Authorize staff to negotiate a Master Consultant Agreement and establish hourly rate schedules for RFQ 55-0-2022/JM, Architectural and Engineering Services for Fire Station and Fire Station Prototypes, with CPZ Architects, Inc. (Jensen Beach).

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

**6. Miscellaneous: 'Other Agency' term contracts utilized for Fiscal Year 2022-2023 for 'as needed' purchases of equipment, services and materials - multiple city departments.**

Staff Recommendation: Approve the Fiscal Year 2023 annual purchases of the equipment, services, materials and supplies on an “as needed” basis through utilization of the other agency term contracts, to include renewals, re-solicitations, and replacement contracts when a contract expires, and only if funds are appropriated by Council.

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

**7. Consideration of purchase offer(s) for Bayfront Community Redevelopment Agency owned properties located at 1608 Orange Blossom Trail (Tax ID 2832603) and Orange Blossom Trail (address unassigned; Tax ID 2866312).**

Staff Recommendation: Approve the Bayfront Community Redevelopment Agency's recommendation to accept the purchase offer from Palm Bay Landing LLC in the amount of \$142,000 for 1608 and unassigned Orange Blossom Trail NE properties and authorize staff to bring forth a Resolution conveying the properties to the Buyer prior to closing.

Councilman Felix said that the BCRA had approved these properties for a developer that he felt had bullied their way in and did not follow the process. The City had a sales price of \$150,000 and the developer wanted the appraised value of \$142,000. He said that other individuals followed the City's process and this approved offer made it appear that the City was showing favoritism to this developer.

Motion by Mr. Felix, seconded by Deputy Mayor Johnson, to deny the purchase offer and relist the property for the full asking price.

Motion carried with members voting as follows:

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

**8. Consideration of revisions to the City's Housing Programs Standard Operating Procedures Manual, Monitoring Policy, and Citizen Participation Plan.**

Staff Recommendation: Approve the revised Housing Programs Standard Operating Procedures Manual, Monitoring Policy, HOME Requirement Policy, and CDBG Citizen Participation Plan.

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

**9. Consideration of utilizing unspent General Fund Undesignated Fund Balance from Fiscal Year 2022 for Police Department capital vehicle needs (\$2,080,170).**

Staff Recommendation: Approve the Police capital vehicle expenditures and Unified Command Center repairs from the General Fund Undesignated Fund Balance, in the amount of \$2,080,170.

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

**10. Consideration of utilizing General Fund Undesignated Fund Balance for the design and construction of Fire Station 7 (\$3,958,316).**

Staff Recommendation: Allocate \$2.6 million from the pending City's match of LSGP for Fire Station 7, for the design and construction of Fire Station 7; and, approve the allocation of an additional \$1 million in General Fund undesignated fund balance for the design and construction of Fire Station 7, which, when combined with existing funds, creates a total project budget of \$3,958,316.

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

**11. Consideration of travel and training for specified City Employees (Fire Department)**

Staff Recommendation: Approve the travel and training as specified.

Bill Battin, resident, felt it was an issue to send seventeen (17) firefighters to one conference for three (3) days.

Chief Hoog said that since staff had been secured for future Fire Station 7, the capacity was currently available for the shifts and there would be no drop in service with the entire technical rescue team attending the conference.

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

**12. Consideration of travel and training for specified City employees (Police Department). (WITHDRAWN) (AGENDA REVISION)**

This item, addressed under Agenda Revisions, was withdrawn.

**PROCUREMENTS:**

**1. Miscellaneous: 'Cooperative Purchase', Quint Apparatus for Fire Station 7 (National Purchasing Partners (NPP) contract) – Fire Department (Ten 8 - \$1,111,000 (initially utilizing General Fund Undesignated Fund Balance, then CDBG funding once formally approved); approve Intergovernmental Agreement with NPP. (AGENDA REVISION)**

Staff Recommendation: Approve the cooperative purchase from NPP contract #PS20240 of a Pierce 75' Quint apparatus from Ten-8 for Station 7; approve the intergovernmental agreement with NPP; approve the purchase of a 75' Quint apparatus for Station 7 initially utilizing \$1,111,000 million of General Fund undesignated funds to begin the purchase process. Once the CDBG funding is formally approved, replace the General Fund with the CDBG funds.

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

#### **NEW BUSINESS:**

**1. Consideration of a co-sponsorship request from The Brevard Hispanic Center for the Viva Brevard Festival on October 15, 2022, at Fred Poppe Regional Park.**

This item was considered earlier in the meeting after Public Comments.

**2. Consideration of councilmembers attending the Florida League of Cities 2022 Legislative Conference, November 30-December 2, 2022, in Kissimmee; consideration of rescheduling the first regular Council meeting in December.**

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

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to reschedule the first regular Council meeting in December to Tuesday, December 6, 2022. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**3. Resolution 2022-57, terminating the State of Local Emergency declared by Legislative Order D-2022-01. (AGENDA REVISION)**

The City Attorney read the resolution in caption only.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2022-57. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Foster, Yea; Councilman Felix, Yea; Councilman Filiberto, Yea.

**COUNCIL REPORTS:**

Councilmembers addressed various subjects.

1. Mr. Filiberto asked that the Bayfront Mixed Use language be revised in the Code of Ordinances to include that multifamily and commercial uses within the same project be done concurrently.
2. Mayor Medina requested consensus to work with the City Attorney regarding Section 7.9.14 of Council's Policies and Procedures related to reconsideration of items. The policy stated that reconsideration was discouraged but was not prohibited. Mayor Medina wanted to eliminate any conflicting language between any ordinances and policies. Council concurred.

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Smith requested an Executive Session on Thursday, October 20, 2022, at 5:30 P.M., to precede the regular Council meeting, to discuss settlement negotiations pertaining to the following case: Desiree Reynolds v. City of Palm Bay, Case 05-2021-CA-043921. The meeting would take approximately fifteen (15) minutes. Council concurred.

**PUBLIC COMMENTS/RESPONSES:**

An individual made a general comment.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 1:00 A.M. on Friday, October 7, 2022.

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Rob Medina, MAYOR

ATTEST:

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Terri J. Lefler, DEPUTY CITY CLERK