

## CITY OF PALM BAY, FLORIDA

### REGULAR COUNCIL MEETING NO. 2008-16

Held on Thursday, the 5<sup>th</sup> day of June 2008, 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 Shirley Groom, Fellowship United Methodist Church, Palm Bay, gave the invocation, which was followed by the Pledge of Allegiance to the Flag.

<b>MAYOR:</b>	John J. Mazziotti	Present
<b>DEPUTY MAYOR:</b>	Ed Geier	Present
<b>COUNCILMEMBER:</b>	Patrick Woodard	Present
<b>COUNCILMEMBER:</b>	Milo Zonka	Present
<b>COUNCILMEMBER:</b>	Kristine Isnardi	Present
<b>DEPUTY CITY MANAGER:</b>	Sue Hann	Present
<b>ACTING CITY ATTORNEY:</b>	James Stokes	Present
<b>DEPUTY CITY CLERK:</b>	Terese Barber	Present

**CITY STAFF:** Present was Dave Watkins, Growth Management Director.

#### **ANNOUNCEMENTS:**

Mayor Mazziotti announced the following vacancies and terms expiring and solicited applications for same:

- 1. Two (2) vacancies on the Board of Adjustments and Appeals (represents 'architect' and 'fire safety' positions).**
- 2. Two (2) vacancies on the Building and Construction Advisory Committee (represents 'general contractor' and 'residential contractor' positions).**
- 3. Two (2) positions on the Community Development Advisory Board (represents 'areas of labor in home building' and 'essential services personnel' positions).**

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

Mayor Mazziotti read the following proclamations:

- 1. Juneteenth Celebration – June 14, 2008.** Rick Scott, Parks and Recreation Department, accepted the proclamation.

**2. Motorcycle Safety and Awareness Month – June 2008.** Don Hylland, of ABATE, accepted the proclamation.

**3. Palm Bay Police Department – ceremony to administer police officer's oath; recognizing promotions.** Police Chief Berger recognized the promotion of Sergeant Chuck Basset and administered the oath to Officers Gregory Moore, Michael Lanzana, and Floyd Burke.

#### **DEPARTMENTAL REPORT:**

**1. Police Department – update.**

Chief Berger provided an overview of the Florida Department of Law Enforcement statistics for the City. He stated the Department had received its accreditation and explained the departmental accomplishments for 2008.

Deputy Mayor Geier asked that Public Works or other employees be trained to direct traffic in emergency situations.

#### **AGENDA REVISIONS:**

There were no agenda revisions.

Deputy Mayor Geier asked that the order of the agenda be revised to consider Item No. 2, under Unfinished and Old Business, earlier in the meeting.

#### **CONSENT AGENDA:**

All items of business marked with an asterisk were considered under Consent Agenda and enacted by the following motion:

Motion by Deputy Mayor Geier, seconded by Mrs. Isnardi, that the Consent Agenda be approved as presented with the removal of Item Nos. 3, 5, and 7, under New Business, from consent. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

☞ Council concurred to consider Item No. 2, under Unfinished and Old Business, at this time.

**2. Consideration of pursuing a charter high school to serve 9<sup>th</sup> and 10<sup>th</sup> grade students.**

Mayor Mazziotti wanted to pursue the charter high school. Mr. Woodard said he supported a charter high school, but did not feel it was the appropriate time to do so.

Motion by Deputy Mayor Geier, seconded by Mrs. Isnardi, to approve pursuing a charter high school to serve 9<sup>th</sup> and 10<sup>th</sup> grade students and to apply to the Florida School of Excellence and inform the School Board of same. Mr. Zonka said he saw a valid need for a high school in the foreseeable future, but felt August 2008 was too soon. He wanted to see K-8 expanded. Mrs. Isnardi stated she was in favor of it because it provided a school of choice. Jon Hage, President and CEO of Charter Schools, USA, and Eric Lewis, Principal of Patriot Charter School, provided Council with logistics regarding the existing charter school. Motion carried with members voting as follows:

Mayor Mazziotti	Yea
Deputy Mayor Geier	Yea
Councilman Woodard	Nay
Councilman Zonka	Nay
Councilwoman Isnardi	Yea

The regular agenda sequence was resumed.

#### **ADOPTION OF MINUTES:**

##### **\* 1. Regular Council Meeting No. 2008-15; May 15, 2008.**

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

#### **PUBLIC HEARINGS:**

**1. Ordinance No. 2008-41, vacating a portion of the rear public utility and drainage easement located within Lot 7, Block 171, Port Malabar Unit 7 (Case No. VE-1-2008, Stephen and Wendy Canuel), for final reading.**

The Acting City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments.

Motion by Mr. Woodard, seconded by Mr. Zonka, to adopt Ordinance No. 2008-41. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**2. Ordinance No. 2008-42, amending the Code of Ordinances, Chapter 185, Zoning Code, by clarifying requirements and definitions of arcades (Case No. T-16-2008, City of Palm Bay), for final reading.**

The Acting City Attorney read the ordinance in caption only. The public hearing was opened and closed as there were no comments.

The Council had been provided with maps depicting the areas in the City where arcades could be located. Mr. Watkins explained the depictions on the five (5) maps presented.

Motion by Deputy Mayor Geier, seconded by Mrs. Isnardi, to adopt Ordinance No. 2008-42, revising the distance from five hundred (500) feet to one hundred (100) feet. The distance from schools would remain as written. Mr. Stokes stated the revision would not constitute a substantial change. Mr. Watkins explained the origin of the five hundred feet. He stated the primary purpose of revising the ordinance was to remove the requirement of the letter from the appropriate state agency stating the facility complied with Florida Statutes. The concern when the initial ordinance was prepared was also more of regulation than zoning. Mrs. Isnardi felt the distance should be reduced and did not feel arcades were detrimental. Mr. Woodard felt there were still some legal issues to be resolved at the state level. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**3. Resolution No. 2008-51, adopting the City of Palm Bay's Comprehensive Plan Evaluation and Appraisal Report (Case No. CP-13-2008).**

The Acting City Attorney read the resolution in caption only. The public hearing was opened and closed as there were no comments.

Motion by Deputy Mayor Geier, seconded by Mr. Zonka, to adopt Resolution No. 2008-51. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**4. Request by DiVosta Homes L.P. for a final Planned Unit Development to be known as Waterstone Plat Three PUD (Heron Bay Phase 2) on property located south of and adjacent to Melbourne Tillman Water Control District Canal No. 38, in the vicinity west of Babcock Street (29.44 acres)(Case No. PUD-15-2008).**

The Planning and Zoning Board recommended approval of the request.

The public hearing was opened and closed as there were no comments.

Motion by Deputy Mayor Geier, seconded by Mr. Woodard, to approve the request. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**5. Request by Florida Land Fund II, LLC for approval of a final subdivision to be known as Palm Bay Place on property located at the northeast corner of Babcock Street and Malabar Road (22.77 acres)(Case No. FS-1-2008)(RESCHEDULED TO P&Z – 07-02-08).**

**6. Request by Lawrence D. Spector to amend the Comprehensive Plan Future Land Use Map to change the designated use of property located east of Babcock Street, in the vicinity between Palm Bay and Sun Lakes Roads from Multiple Family Residential Use to Commercial Use (4.5 acres)(Case No. CP-12-2008)(RESCHEDULED TO P&Z – TBD).**

**7. Request by Lawrence D. Spector to rezone property located east of Babcock Street, in the vicinity between Palm Bay and Sun Lakes Roads from RM-20 (Multiple Family Residential District) to HC (Highway Commercial District)(4.5 acres)(Case No. CPZ-12-2008)(RESCHEDULED TO P&Z – TBD).**

#### **PROCUREMENTS:**

##### **Award of Proposals:**

**\* 1. Traffic signal repair – RFP No. 23-0-2008 (The Signal Group Inc.).**

Staff Recommendation: Award the proposal for traffic signal repair for emergency work on an “as needed” basis to The Signal Group, Jupiter.

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

**\* 2. Equipment rental – RFP No. 32-0-2008 – Public Works, Parks and Recreation, and Utilities Departments (American Equipment Rental; Briggs Construction Equipment; Hertz Equipment Rental; Neff Rental Inc.; R.A.A. dba Discount Rental; United Rentals; Volvo Rents).**

Staff Recommendation: Award the proposal for equipment repair on an “as needed” basis as follows: American Equipment Rental, Port St. Lucie; Briggs Construction Equipment, Orlando; Hertz Equipment Rental, Melbourne; Neff Rental Inc., Cocoa; R.A.A. dba Discount Rental, Port St. Lucie; United Rentals, Melbourne; Volvo Rents, Port St. Lucie.

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

#### **UNFINISHED AND OLD BUSINESS:**

**1. Appointment of two (2) members to the Community Development Advisory Board.**

Motion by Mr. Woodard, seconded by Deputy Mayor Geier, to appoint Chuck Alzamora and Carolina Mallon to the Board. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**2. Consideration of pursuing a charter high school to serve 9<sup>th</sup> and 10<sup>th</sup> grade students.**

The item was considered earlier in the meeting after Consent Agenda.

**PUBLIC COMMENTS: (Non-agenda Items Only)**

1. Patricia McEwen, President, Vista Oaks Homeowners Association - commented on the need for a traffic light on Palm Bay Road at intersection with Bottlebrush Drive. The issue was ongoing, but asked that it be expedited.
2. Michael Wangrycht, Torrington Street - was a victim of the fires and requested that he be allowed to have a trailer placed on his property for six months until house was rebuilt.
3. Mark McConnell, owner of Paradise Luxury Pet Estate - asked City to give him ownership of Chandler Road as it accessed only his business.

**COUNCIL BUSINESS:**

***MR. ZONKA:***

1. Space Coast League of Cities – Energy Efficiency Action Committee seeking a councilmember and staff member to serve. He would coordinate with Mr. Feldman.
2. Asked for update on release from Visible Strategies.

***MRS. ISNARDI:***

1. Thanked Chief Berger and his staff for their hard work.
2. Addressed request for trailer on lot. Mrs. Hann said the City had been working with Mr. Wangrycht and found him temporary housing. Mr. Wangrycht said he wanted to stay near his family as well as avoid additional expenses. Council concurred a trailer would not be permitted on the lot. The City would continue to work with Mr. Wangrycht to find housing closer to his lot.
3. Mrs. Hann said staff would review the status and issues pertaining to Chandler Road.
4. Mrs. Hann said the County was currently reviewing the potential of installing a traffic light at Bottlebrush Drive.

***MR. WOODARD:***

1. Announced Town Hall meeting, for Saturday, June 21<sup>st</sup>, at 10:00 A.M.
2. Stated he would not be attending the budget workshop scheduled for June 12<sup>th</sup>.

**DEPUTY MAYOR GEIER:**

1. Announced benefit event for fire victims at Space Coast Harley Davidson on June 7<sup>th</sup>, at 10:00 A.M.
2. Asked status of section of Par Street sidewalk completion.
3. Review speed limit on Cogan Street between Bayside and DeGroot Boulevards;
4. Timing of traffic lights on Palm Bay Road starting at Pinewood Drive was off and traffic backed up. Mrs. Hann stated staff had been discussing the matter with the County.

**MAYOR MAZZIOTTI:**

1. Glass on Madelyn Landings' sidewalks. Mrs. Hann said all the sidewalks were being checked.

**NEW BUSINESS:**

- \* 1. Resolution No. 2008-52, accepting real property conveyed to the City by Eastwood Park Investments.**

The Acting City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

- \* 2. Resolution No. 2008-53, accepting real property conveyed to the City by HT Land Trust for various public purposes.**

The Acting City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

- 3. Resolution No. 2008-54, opposing St. Johns River Water Management District's proposed amendments to its rules and regulations concerning landscape irrigation scheduling and the use of reclaimed water for irrigation.**

The Acting City Attorney read the resolution in caption only.

Mr. Zonka questioned if Council wanted to oppose all the amendments or support those that encouraged the 'Go Green' campaign. He expressed opposition to the restrictions on the reuse water and felt there should be incentives to use it since if it was not used or stored, it would be wasted. Mr. Woodard felt the resolution addressed the major concerns of the City regarding the reuse water. He said citizens should be encouraged to conserve water, but felt the proposed amendments were too specific in some areas. Mrs. Isnardi said conservation was important, but felt the regulations were excessive. Deputy Mayor Geier felt reuse water needed to be looked at as an alternative source.

Motion by Mr. Woodard, seconded by Mrs. Isnardi, to adopt Resolution No. 2008-54. Motion carried with members voting as follows:

Mayor Mazziotti	Yea
Deputy Mayor Geier	Nay
Councilman Woodard	Yea
Councilman Zonka	Nay
Councilwoman Isnardi	Yea

**\* 4. Resolution No. 2008-55, designating City of Palm Bay elected officials the ability to be included in the Elected Officers' Class of the Florida Retirement System.**

The Acting City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

**5. Resolution No. 2008-56, authorizing City of Palm Bay elected officials membership into the Florida Retirement System.**

The Acting City Attorney read the resolution in caption only.

Mr. Zonka asked if the resolution provided for funding all the buy-back time for all Council and, if so, stated he did not agree with same. Mr. Stokes said the resolution did provide for funding all the buy-back for councilmembers' time. Discussion ensued among Council. General employees were to be considered at a later time.

Motion by Deputy Mayor Geier, seconded by Mrs. Isnardi, to adopt Resolution No. 2008-56. Motion carried with members voting as follows:

Mayor Mazziotti	Yea
Deputy Mayor Geier	Yea
Councilman Woodard	Yea
Councilman Zonka	Nay
Councilwoman Isnardi	Yea

**\* 6. Resolution No. 2008-57, rescinding Resolution No. 2008-26, by revising the referendum language for the Special Municipal Election to be held on August 26, 2008.**

The Acting City Attorney read the resolution in caption only. The resolution was approved under Consent Agenda.

**7. Resolution No. 2008-58, authorizing the use of public funds and resources to inform residents about the ad valorem tax exemption program.**

The Acting City Attorney read the resolution in caption only.

Mr. Woodard said he supported the tax abatement program, but felt \$5,000 to advocate it was too much for the City to pay versus educating the citizenry with no appropriation of funds. He felt the Chamber should spearhead advocating and educating the public. Mr. Zonka said the program served a public purpose to encourage businesses to locate in the City. Mrs. Isnardi explained why she supported the resolution.

Motion by Mrs. Isnardi, seconded by Mr. Zonka, to adopt Resolution No. 2008-58. Motion carried with members voting as follows:

Mayor Mazziotti	Yea
Deputy Mayor Geier	Yea
Councilman Woodard	Nay
Councilman Zonka	Yea
Councilwoman Isnardi	Yea

**8. Resolution No. 2008-59, appointing members to the Community Development Advisory Board.**

The Acting City Attorney read the resolution in caption only.

Motion by Deputy Mayor Geier, seconded by Mr. Zonka, to adopt Resolution No. 2008-59 and to include the appointments of the new four (4) members. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**\* 9. Ordinance No. 2008-43, amending Ordinance No. 2005-72, which amended the Comprehensive Plan Future Land Use Map to change the designated use of property located on the southeast and southwest corners of Babcock Street at its intersection with the proposed Palm Bay Parkway, by correcting a scrivener's error in the legal description (Case No. CP-27-2005).**

The Acting City Attorney read the ordinance in caption only. The ordinance was approved under Consent Agenda.

**\*10. Ordinance No. 2008-44, amending Ordinance No. 2005-73, which amended the Comprehensive Plan Future Land Use Map to change the designated use of property located on the northeast and northwest corners of Babcock Street at its intersection with the proposed Palm Bay Parkway, by correcting a scrivener's error in the legal description (Case No. CP-28-2005).**

The Acting City Attorney read the ordinance in caption only. The ordinance was approved under Consent Agenda.

**\*11. Consideration of an amendment to the Public Service Agreement with Our Lady of Grace Conference of St. Vincent de Paul Society.**

Staff Recommendation: Authorize the City Manager to execute the First Amendment to the agreement.

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

**\*12. Consideration of the permanent closure of Tarr Avenue and Ward Road at Jupiter Boulevard for the purpose of access management relating to Jupiter Boulevard improvements.**

Staff Recommendation: Authorize staff to initiate the process to permanently close the roads.

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

**13. Consideration of councilmembers attending the Florida League of Cities, 82<sup>nd</sup> Annual Conference, August 14-16, 2008, in Tampa; appointment of a voting delegate.**

All councilmembers, except Mr. Woodard, expressed interest in attending the conference. A voting delegate was not appointed at this time.

**ADMINISTRATIVE AND LEGAL REPORTS:**

**1. Noise levels at gun ranges (City Attorney).**

Mr. Stokes said he had been questioned as to whether the noise levels at the gun ranges were in compliance with City Code. He stated the Police Department had informed him that the two gun ranges were in compliance with the noise ordinance.

Mr. Zonka asked that sellers of houses within a certain radius of the gun ranges be required to disclose same to buyers. Mr. Stokes would look into same and report at the next meeting.

2. Mr. Stokes asked that Terri Leigh Jones, special counsel, be retained on a temporary basis until October 31, 2008, to assist in the workload in the Attorney's office.

Motion by Mr. Zonka, seconded by Deputy Mayor Geier, to retain Terri Jones, with temporary employment not to exceed October 31, 2008. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**PUBLIC COMMENTS/RESPONSES:**

A citizen commented on the retirement system.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 9:38 P.M.

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John J. Mazziotti, MAYOR

ATTEST:

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Terese Barber, DEPUTY CITY CLERK

\* Identifies items considered under the heading of Consent Agenda.

☞ Indicates item was considered out of sequence or added to the agenda.