

## CITY OF PALM BAY, FLORIDA

### REGULAR COUNCIL MEETING NO. 2008-17

Held on Thursday, the 19<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.

Councilmember Zonka 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>CITY MANAGER:</b>	Lee Feldman	Present
<b>ACTING CITY ATTORNEY:</b>	James Stokes	Present
<b>CITY CLERK:</b>	Alice Passmore	Present

**CITY STAFF:** Present were Sue Hann and Jon Lewis, Deputy City Managers.

#### **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. One (1) position on the Community Development Advisory Board (represents 'areas of labor in home building').**

#### **RECOGNITIONS:**

- 1. Keep Brevard Beautiful (KBB), Inc. and Waste Management, Inc. - "Trash Bash 2008" City Competition Award; Fire Victim Relief fund donation; presentation of checks.**

George Geletko, KBB Chairman, and Larry Weber, Executive Director of Keep Brevard Beautiful, Inc., were present. Mr. Weber presented a check in the amount of \$500.00 to the

City for collecting the most trash in the Trash Bash event who donated it to the Police Athletic League. Dana Packard, representative, accepted the check. Mr. Weber presented a check to Kathryn Columbia, Community Impact Coordinator, of the United Way of Brevard in the amount of \$5,000.00 to support the relief efforts being provided to those families affected by the wildfires.

**2. Palm Bay Police Department – “Posters for Pizza” contest winner.**

Police Officer Sean Dutil recognized Leah Sequeira, student at Sunrise Elementary School, as the winner of the contest. The principal and her teacher were also present.

☞ Amateur Radio Week – June 23-29, 2008. Mayor Mazziotti read the proclamation and presented it to Police Officer Dan Fisher, representing the Platinum Coast Amateur Radio Society. Members of the Society were also present.

**PRESENTATION:**

**1. Leroy Barnidge, Vice President for State and Local Relations, Northrop Grumman – KC-45 Tanker contract.** Mr. Barnidge had contacted the City earlier in the week and cancelled his presentation.

**AGENDA REVISIONS:**

Mr. Feldman asked that Item No. 1, under New Business, be removed from the agenda.

Motion by Deputy Mayor Geier, seconded by Mrs. Isnardi, to remove Item No. 1, under New Business, from the agenda. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**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 No. 1, under Unfinished and Old 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.

**ADOPTION OF MINUTES:**

**\* 1. Regular Council Meeting No. 2008-16; June 5, 2008.**

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

**PUBLIC HEARINGS:**

**1. 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), 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 Deputy Mayor Geier, seconded by Mr. Woodard, to adopt Ordinance No. 2008-43. 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. 2008-44, 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), 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 Deputy Mayor Geier, seconded by Mr. Woodard, to adopt Ordinance No. 2008-44. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**BOARD AND COMMITTEE REPORTS:**

1. Greater Palm Bay Chamber of Commerce – Kathleen Bishop, President, encouraged participation in the bowling league starting Monday night; provided other updates.
2. Space Coast League of Cities – Mr. Zonka stated the League had supported the Grumman project which was in question; state representatives and senators present at last meeting and updated League.

## **PROCUREMENTS:**

### **Award of Bid:**

- \* 1. "Other Agency" contracts utilized for the purchase of operating materials and supplies - City Departments (approximately \$176,500 annually).**

Staff Recommendation: Approve the other 'agency contracts', approximately \$176,500 annually, that were currently being utilized by the City, which exceeded or had the potential to exceed the City's formal bid/proposal threshold amount of \$25,000 a year. All the contracts were for standard day-to-day operating materials and supplies utilized by City departments and retroactive to the actual date of agency award for each contract.

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

### **Award of Proposal:**

- \* 1. Emergency standby power generators, transfer switches - RFP No. 37-0-2008/DR - Utilities Department (Eau Gallie Electric, Inc. - \$95,070).**

Staff Recommendation: Award the proposal for the installation of emergency standby generators and transfer switch at the stock warehouse on Troutman to Eau Gallie Electric, Inc., Melbourne, in the amount of \$95,070.00.

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

### **Contract:**

- \* 1. Wastewater treatment plant and water reclamation facility permit renewal (Troutman Boulevard) - (Wade Trim, Inc. - \$76,610).**

Staff Recommendation: Approve the task order (contract) with Wade Trim, Inc., in the amount of \$76,610.00, for the Troutman wastewater treatment plant and the water reclamation facility permit renewal.

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

**UNFINISHED AND OLD BUSINESS:**

**1. Consideration of reinstating the agreement with the Greater Palm Bay Chamber of Commerce to assist the City in its economic development objectives.**

Staff Recommendation: Approve the modifications to the professional services agreement with the Greater Palm Bay Chamber of Commerce and authorize the City Manager to reinstate the agreement.

Mr. Zonka stated the Chamber was working on a project to highlight the businesses on the Palm Bay/Babcock corridors due to the Palm Bay Road widening project. He asked that the City underwrite the cost of \$14,000 for printing the brochures to market the businesses since the Chamber did not currently have the funds.

Mr. Woodard stated these would not be extra funds. He suggested that the City honor the \$20,000, budgeted for this fiscal year that was agreed upon in the contract.

Motion by Mr. Woodard, seconded by Deputy Mayor Geier, to grant the \$20,000 pursuant to the contract. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

**2. Report regarding disclosure requirement to home buyers near gun ranges (Acting City Attorney).**

Mr. Stokes advised the Council an ordinance could be enacted requiring disclosure and providing a monetary penalty against the seller for failure to disclose the information. The City could not invalidate the real estate transaction. He stated the remedy would be the hard part. He suggested meeting with councilmembers individually to discuss the pros and cons.

Mrs. Isnardi said a member of the Board of Directors of the gun club offered to erect signs on City property in the area noticing the gun range. Mayor Mazziotti expressed concern as to the number of other issues in the City that the public could ask the City to regulate. Mr. Zonka stated there was legislation that said a shooting range was not in violation if it was in compliance with the noise control laws in existence at the time of its construction or initial operation. He felt the provisions in place at that time should be determined. Mrs. Isnardi felt there was an ethical responsibility by the realtors and developers to disclose such information. She felt it would be too difficult for the City to enforce. Mr. Zonka said the City wouldn't have to enforce it, only establish a standard to provide some protection to the buyer. Deputy Mayor Geier said if signs were posted, the City should approve the wording and questioned if a sign was ever removed, who would be held liable. Mr. Woodard said there was currently litigation in Melbourne on an issue pertaining to who was responsible

for disclosure. He wanted more information on the obligation of a seller to notify and inform a buyer of adverse conditions in the surrounding area. Councilmembers concurred to meet individually with Mr. Stokes, who would report back to Council at a later date.

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

1. Alicia Young - stated she had purchased a house in the area of the gun range and had not been made aware of it; it did have a big impact on her life and family; felt signs should be posted and seller obligated to disclose.

2. Walter Lorraine, President, Brevard County Air Powerboat Association - organization in existence since early 1960s; operated airboats on river south of 192; walk-in area abutted property near gun range; hunted gators, frogs, ducks, and birds; expressed concern on impact to the organization with future development and felt potential buyers should be informed; felt there had to be a way for the two to co-exist.

**COUNCIL BUSINESS:**

**MR. ZONKA:**

1. Thanked the Palm Bay Chamber for sponsoring the Family Friendly Award started by City last year.

2. Individuals interested in volunteering in shelters, etc., required to be trained. Red Cross provided training throughout the year and encouraged public to contact the organization.

**MRS. ISNARDI:**

1. Hoped a compromise to protect everyone's rights would be found in regards to the gun range.

2. Announced the Utilities Department was sponsoring a cookout and informational meeting at Administration Facility on Osmosis Drive, Tuesday, June 24<sup>th</sup>, at 6:00 P.M., for residents in assessment areas Units 16 and 31.

**MR. WOODARD:**

1. Town Hall meeting – Saturday, June 21<sup>st</sup>, Council Chambers, at 10:00 A.M.

**NEW BUSINESS:**

**\* 1. Resolution No. 2008-60, entering into an interlocal agreement with the Town of Malabar for utilizing the services of Palm Bay's Building Division for the purpose of building inspections and plan reviews for building projects within Malabar.**

The item was removed from the agenda earlier in the meeting under Agenda Revisions.

**\* 2. Consideration of letter to the City of Melbourne in support of the consolidation of DRS Technologies, Inc.**

Staff Recommendation: Approve sending the letter to the City of Melbourne supporting the DRS consolidation in Melbourne.

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

**\* 3. Consideration of a Voluntary Part-time Conversion Incentive Program to allow full time employee positions to convert to part time employee positions.**

Staff Recommendation: Authorize the City Manager to offer and maintain a voluntary program converting full-time employee positions to part-time employee positions.

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

**\* 4. Consideration of submitting an application for Staffing for Adequate Fire and Emergency Response grant funds for staff positions at Fire Station 6.**

Staff Recommendation: Authorize the City Manager or designee to submit the grant application.

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

**\* 5. Consideration of modification to the Fiscal Years 2005-2008 and 2008-2011 Local Housing Assistance Plans (LHAP) and Fiscal Year 2004-2005 Hurricane Housing Recovery Plan (HHRP).**

Staff Recommendation: Approve the technical modification to the Fiscal Years 2005-2008 and 2008-2011 LHAPs and Fiscal Year 2004-2005 HHRP.

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

**6. Consideration of color scheme for the water tower located off Troutman Boulevard.**

Staff Recommendation: Approve the color scheme of a white tank with teal logo.

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

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Mr. Feldman asked Council to schedule a workshop for Thursday, June 26<sup>th</sup>, at 7:00 P.M., at the request of the Charter School USA, to discuss charter school issues. Council concurred.

2. Mr. Stokes requested an executive session to discuss the three (3) litigation cases related to Palm Bay Greens. Council concurred to schedule the session for July 10<sup>th</sup>, at 6:00 P.M., prior to the budget workshop meeting scheduled for the same evening.

**PUBLIC COMMENTS/RESPONSES:**

There were no public comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 8:16 P.M.

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John J. Mazziotti, MAYOR

ATTEST:

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Alice Passmore, CITY CLERK

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

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