

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING NO. 2008-18

Held on Thursday, the 3rd day of July 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.

Reverend Carl Wallace, Greater Ward Chapel, Melbourne, gave the invocation, which was followed by the Pledge of Allegiance to the Flag.

MAYOR:	John J. Mazziotti	Present
DEPUTY MAYOR:	Ed Geier	Present
COUNCILMEMBER:	Patrick Woodard	Present
COUNCILMEMBER:	Milo Zonka	Present
COUNCILMEMBER:	Kristine Isnardi	Present
CITY MANAGER:	Lee Feldman	Present
ACTING CITY ATTORNEY:	James Stokes	Present
DEPUTY CITY CLERK:	Terese Barber	Present

CITY STAFF: Present was Sue Hann, Deputy City Manager.

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. **Four (4) terms expiring on the Planning and Zoning Board.**
4. **One (1) term expiring on the Palm Bay Police and Fire Pension Plan, Board of Trustees.**

RECOGNITIONS AND PROCLAMATION:

1. **Volunteer Program (five (5) years of service as City boardmember): a) Education Advisory Board – Lynn Fallon; b) Recreation Advisory Board – Donald W. Curry.** Mayor Mazziotti presented volunteer pins to Mrs. Fallon and Mr. Curry for their service to the City.

2. Parks and Recreation Month - July 2008. Mayor Mazziotti read the proclamation and presented it to Steve Riser, Parks and Recreation Director.

DEPARTMENTAL REPORT:

1. Parks and Recreation Department - update.

Mr. Riser presented a video which outlined activities and services available to residents, and expounded upon ongoing projects.

AGENDA REVISIONS:

There were no agenda revisions.

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. 4, 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.

ADOPTION OF MINUTES:

*** 1. Regular Council Meeting No. 2008-17; June 19, 2008.**

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

PUBLIC HEARINGS:

1. Request by Rochelle W. Lawandales for a final planned unit development to be known as Bayside Lakes Office Park on property located south of and adjacent to Bayside Lakes Boulevard, north of and adjacent to the Majors Golf Course (4.99 acres)(Case No. PUD-18-2008).

The Planning and Zoning Board recommended that the request be approved subject to all staff comments contained in the Staff Report.

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

Motion by Mr. Woodard, seconded by Deputy Mayor Geier, 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.

♣2. Resolution No. 2008-61, granting a conditional use for the expansion of a planned industrial development in LI (Light Industrial and Warehousing District) zoning on property located between Community College Parkway and Interstate 95, in the vicinity southeast of the Brevard Community College Palm Bay Campus (8.06 acres)(Case No. CU-17-2008, Ring Power Corporation).

There were no ex parte communications to be disclosed by Council.

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

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. Woodard, to adopt Resolution No. 2008-61. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

♣3. Request by Malabar Development, LLC for approval of a preliminary subdivision to be known as Malabar Development on property located south of and adjacent to Malabar Road, in the vicinity east of Cassia Avenue (23.7 acres)(Case No. PS-1-2008).

There were no ex parte communications to be disclosed by Council.

The Planning and Zoning Board recommended that the request be approved subject to all comments and recommendations of the Staff Report being addressed upon final plat submission.

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

Mr. Zonka disclosed he had a pre-existing business relationship with one of the applicants and would abstain from voting.

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	Abstained
Councilwoman Isnardi	Yea

4. Request by City of Palm Bay to amend the Code of Ordinances, Chapter 173, Adult Entertainment Code, by adopting adult entertainment locational criteria (Case No. T-20-2008)(RESCHEDULED TO P&Z – 07-02-08).

5. Request by Sutton Properties of Palm Bay, LC for approval of a final subdivision to be known as Renaissance Place on property located at the northeast corner of Palm Bay Road and Lipscomb Street (16.11 acres)(Case No. FS-2-2008)(WITHDRAWN).

PROCUREMENTS:

Award of Proposal:

*** 1. Double drum rollers – RFP No. 24-0-2008 – Public Works Department (Neff Rental - \$46,533).**

Staff Recommendation: Award the proposal for the purchase of three (3) 1.5 ton double drum rollers to Neff Rental, Cocoa, in the amount of \$46,533.

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

Contracts:

*** 1. Acquisition of property for the Malabar Road West widening project – Lot 28, Block 982, Port Malabar Unit 20 (David and Gloria Ortiz, 101 Watoga Avenue, SW - \$103,020).**

Staff Recommendation: Ratify the purchase of the property located at 101 Watoga Avenue, SW, in the amount of \$103,020.

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

*** 2. Improvements, Southeast Community Park Phase 1 – Parks and Recreation Department (Glatting Jackson Kercher Anglin, Inc. (GJKA)- \$60,865).**

Staff Recommendation: Authorize the City Manager to execute the task order with GJKA in the amount of \$60,865 to prepare construction documents for Phase 1 of Southeast Community Park.

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

Miscellaneous:

*** 1. Playground equipment, Southeast Community Park – U.S. Communities Contract – Parks and Recreation Department (GameTime - \$222,817).**

Staff Recommendation: Approve the purchase of ADA accessible playground equipment, safety surfacing and installation for Southeast Community Park to GameTime, C/O Dominica Recreation Products, Inc., Longwood, in the amount of \$222,816.52.

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

UNFINISHED AND OLD BUSINESS:

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

Motion by Mr. Woodard, seconded by Deputy Mayor Geier, to appoint Daniel Madden, representing the areas of labor in home building, 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.

PUBLIC COMMENTS: (Non-agenda Items Only)

There were no public comments.

COUNCIL BUSINESS:

MR. ZONKA:

1. Involved with Fellowship United Methodist Church to establish partnership with YMCA; asked Council to endorse.

Motion by Mr. Zonka, seconded by Deputy Mayor Geier, to endorse the effort to bring a YMCA to the City. There were no financial obligations involved. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

MRS. ISNARDI:

1. Congratulated the Parks and Recreation Department for the programs for the children.

MR. WOODARD:

1. Invited citizens to attend the Sparks and Splashes Celebration on July 4th, at 3:00 P.M., at Brevard Community College, Palm Bay Campus.

DEPUTY MAYOR GEIER:

1. Wished everyone a happy 4th of July.

NEW BUSINESS: (Ordinances are for first readings.)

*** 1. Resolution No. 2008-62, providing for the acceptance and maintenance of public improvements, with conditions, located within Sloneridge Subdivision.**

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

*** 2. Resolution No. 2008-63, entering into a Construction and Maintenance Memorandum of Agreement with the Florida Department of Transportation for various public improvements within state rights-of-way.**

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

*** 3. Resolution No. 2008-64, revising the City's Personnel Rules and Regulations, Article X, Holidays.**

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

4. Ordinance No. 2008-45, amending the Code of Ordinances, Chapter 32, Police Department, by including provisions for chronic nuisance premises.

The Acting City Attorney read the ordinance in caption only.

Deputy Mayor Geier stated he would not support the ordinance. He wanted to try to get the community involved first and elaborated on same.

Mrs. Isnardi would not support the ordinance. She stated the apartment complexes should not be responsible as they could not control their tenants. Failure to pay the fine would result in a lien on the property. She was adamantly against shutting off utilities. She felt the citizens paid for the services through their taxes.

Mr. Woodard stated the ordinance was presented back in March 2007. He said he didn't like it then and did not like it now. He was opposed to it coming back in sixty (60) days and felt it should be dealt with now.

Mr. Zonka said he understood the intent of the ordinance and felt it was a tool to modify behavior. He questioned if there were other means that could be explored to receive proactive responses from apartment complexes, etc. He wanted more information and another solution.

Mayor Mazziotti felt the ordinance discouraged citizens from making legitimate calls. He supported tabling the ordinance, but would not support the ordinance in its current form. Mr. Woodard felt the businesses with the problems should be confronted to work with the City to resolve the issues.

Deputy Mayor Geier suggested a workshop to receive comments from businesses and residents. He did not feel the ordinance was a favorable solution and felt other options should be considered.

Motion by Mr. Zonka, seconded by Deputy Mayor Geier, to table the ordinance for sixty (60) days. Mr. Woodard wanted to do away with the ordinance and seek a better approach. Motion carried with members voting as follows:

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

Motion by Mr. Zonka, seconded by Deputy Mayor Geier, to schedule a workshop with the Police Department. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

Motion by Mr. Zonka, seconded by Deputy Mayor Geier, to schedule the ordinance for the first meeting in September. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

*** 5. Consideration of entering into a Local Agency Program Certification Qualification Agreement with the Florida Department of Transportation for project development and construction administration funds.**

Staff Recommendation: Authorize the Mayor to execute the Local Agency Program Certification Qualification Agreement with the Florida Department of Transportation.

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

*** 6. Consideration of an amendment to the Impact Fee Credit Agreement with Town Center Partners, Ltd.**

Staff Recommendation: Authorize the City Manager to execute the amendment to the agreement.

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

*** 7. Consideration of the Utilities Department's Wastewater Master Plan.**

Staff Recommendation: Adopt the Wastewater Master Plan.

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

*** 8. Consideration of the Public Works Department's Strategic Plan through 2023.**

Staff Recommendation: Approve the Public Works Department's Strategic Plan.

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

*** 9. Acknowledgment of the 2007 Ad Valorem Tax Exemption Annual Report.**

Staff Recommendation: Acknowledge receipt of the 2007 Ad Valorem Tax Exemption Annual Report.

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

10. Consideration of withdrawing the Palm Bay Municipal Charter High School proposal pursuing an opening date of August 2008.

Staff Recommendation: Authorize the City Manager to withdraw contract proposals reflecting charter high school with the opening date of August 2008.

Motion by Deputy Mayor Geier, seconded by Mayor Mazziotti, to withdraw the proposal. Motion carried with members voting as follows:

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

11. Consideration of the Palm Bay Community Charter School Patriot Campus' proposed budget for Fiscal Year 2008-2009.

Staff Recommendation: Approve the proposed Patriot Campus budget as submitted by Charter Schools, USA.

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

12. Consideration of representation on the Florida League of Cities legislative committees.

The League had asked municipalities to select representatives to serve on the five (5) legislative committees. It was preferred that elected officials serve on the committees.

Mr. Zonka said he would serve on the Intergovernmental Relations Committee. Councilmembers would advise the City Manager if they desired to serve on any of the other committees.

13. Consideration of designating a representative to serve on the Brevard County Schools Capital Outlay Committee.

Staff Recommendation: Designate a person to serve on the School District's Capital Outlay Committee.

Mr. Feldman stated some cities were designating an alternate too.

Motion by Deputy Mayor Geier, seconded by Mr. Woodard, to appoint Mr. Zonka as the member and Mayor Mazziotti as the alternate to serve on the Brevard County Schools Capital Outlay Committee. Motion carried with members voting as follows: Mayor Mazziotti, Yea; Deputy Mayor Geier, Yea; Councilman Woodard, Yea; Councilman Zonka, Yea; Councilwoman Isnardi, Yea.

14. Consideration of selecting a councilmember to be present at the counting of the ballots for the PM Units 16 and 31 special assessment projects.

Deputy Mayor Geier and Mrs. Isnardi were selected to attend the meeting for counting the ballots for the PM Units 16 and 31 assessment projects.

ADMINISTRATIVE AND LEGAL REPORTS:

1. Mortgage foreclosure matters (Acting City Attorney).

Mr. Stokes said there were foreclosure cases where the City was named as a defendant due to a lien, etc., being owed to the City. The City's current procedure was to respond asserting liens existed, but not pursue the matter afterwards. He asked if Council desired to be more aggressive and try to recoup at least a percentage owed. Mr. Stokes said that a counter claim would have to be filed which made the City the plaintiff. The total cost would average from \$300 to \$900 depending on the variables of each case.

Council concurred to have Mr. Stokes pursue those cases that appeared to be favorable for the City and to report on a monthly basis those cases being pursued versus those not being pursued.

PUBLIC COMMENTS/RESPONSES:

1. Eileen Brock - in light of the recent fires, would like to see improvements to existing fire stations throughout the City especially in the southern portion.
2. Judy Thornberry - Plantation Circle - would like to see alternate funding (bond issue) for Fire Department; equipment outdated; stations in poor conditions.
3. Kathleen Bishop, Chamber of Commerce - asked Council to address the Fire Department's needs, i.e., bond issue, etc.

Deputy Mayor Geier asked if the Chamber would place something on its website polling the citizens in regards to their position on a bond referendum for the Fire Department. Mrs. Bishop said the Chamber would assist in any way possible. Deputy Mayor Geier asked that language for a bond referendum be drafted for consideration in August. Mayor Mazziotti and Mr. Woodard felt another fee would fail because of the budget crisis. Mr. Woodard felt it would be better supported if it was a citizen's initiative. Mrs. Bishop said the Chamber could have a questionnaire asking if the public would support a bond referendum available at the Chamber's booth at the July 4th celebration. She felt with the past fires, it would likely pass.

Mr. Feldman suggested a workshop be considered for Thursday, July 24th, to discuss the matter in depth.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 8:40 P.M.

John J. Mazziotti, MAYOR

ATTEST:

Terese Barber, DEPUTY CITY CLERK

- * Identifies items considered under the heading of Consent Agenda.
- ♣ Indicates quasi-judicial proceeding.