

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING NO. 2013-05

Held on Thursday, the 7th day of March 2013, 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.

Richard Spellman, resident, gave the invocation, which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	William Capote	Present
DEPUTY MAYOR:	Kristine Isnardi	Present
COUNCILMEMBER:	Michele Paccione	Present
COUNCILMEMBER:	Ken Greene	Present
COUNCILMEMBER:	Harry Santiago Jr.	Present
CITY MANAGER:	Sue Hann	Present
CITY ATTORNEY:	Andrew Lannon	Present
DEPUTY CITY CLERK:	Terese Jones	Present

CITY STAFF: Present was Chad Shoultz, Deputy City Manager; Yvonne McDonald, Finance Director; Dave Watkins, Growth Management Director.

ANNOUNCEMENTS:

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

- 1. One (1) vacancy on the Community Development Advisory Board (represents 'for-profit provider' position).**
- 2. One (1) vacancy on the Youth Advisory Board (represents students in grades 9-12).**

AGENDA REVISIONS:

Mrs. Hann asked that ratification of the strategic planning summary be added as Item No.13, under New Business, as consent. Mr. Lannon asked that travel for his department be added to Item No. 1, under Administrative and Legal Reports.

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 Isnardi, seconded by Mr. Greene, that the Consent Agenda be approved as presented with the removal of Item Nos. 1 and 12, under New Business, from consent, and the addition of Item No. 13, strategic planning, under New Business, and additional travel under Item No. 1, Legal and Administrative Reports. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

PROCLAMATIONS:

The following proclamation was read:

1. **Irish American Heritage Month, March 2013.** The proclamation was not read as the individual/organization requesting same was not present.
2. **Women in Construction Month, March 3-9, 2013.**

PRESENTATION:

1. **Yvonne McDonald, Finance Director – January 2013 financial report.** Mrs. McDonald provided Council with an overview of the financial report for January.

ADOPTION OF MINUTES:

- * 1. **Regular Council Meeting No. 2013-04; February 21, 2013.**

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

PUBLIC COMMENTS/RESPONSES: (Non-agenda Items Only)

Individuals commented on various issues.

PUBLIC HEARINGS:

1. **Ordinance No. 2013-16, vacating a portion of the rear public utility and drainage easement within Lot 2, Block 1839, Port Malabar Unit 39 (Case No. VE-1-2013, William and Christine Ryan), for first reading.**

Staff recommended approval of the request subject to the applicant completing a Hold Harmless and Indemnification Agreement.

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 Mrs. Paccione, seconded by Mr. Santiago, to adopt Ordinance No. 2013-16. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

2. Ordinance No. 2013-17, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located between Ruffin and Buffing Circles, in the vicinity east of Eldron Boulevard, from Single Family Residential Use to Public/Semi-Public Use (20.2 acres)(Case No. CP-2-2012, DSG, LLC), for first reading.

The Planning and Zoning Board recommended that the request be denied. The City Attorney read the ordinance in caption only.

The public hearing was opened. Dr. Dan Segina and Jake Wise, representatives for the applicant, presented the request to Council. Mr. Wise explained the modifications made to the site plan to accommodate the concerns of the residents in the adjacent neighborhood. Residents spoke against the request stating the project was not compatible with the neighborhood, it would devalue their properties, and increase traffic in the area. Mr. Wise and Dr. Segina addressed the residents' comments. The public hearing was closed.

Motion by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to adopt Ordinance No. 2013-17. Mr. Greene expressed concerns with regard to stormwater runoff and would not support the request. Mrs. Paccione felt it would not devalue the surrounding properties. Deputy Mayor Isnardi and Mayor Capote explained their reasons for supporting the project. Mr. Santiago stated an incredible amount of effort had been made to accommodate the residents' concerns.

The motion was restated by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to include staff's recommendations. Motion carried with members voting as follows:

Mayor Capote	Yea
Deputy Mayor Isnardi	Yea
Councilwoman Paccione	Yea
Councilman Greene	Nay
Councilman Santiago	Yea

♣3. Ordinance No. 2013-18, rezoning property located between Ruffin and Buffing Circles, in the vicinity east of Eldron Boulevard, from RS-2 (Single Family Residential District) to IU (Institutional Use District) (20.2 acres)(Case No. CPZ-2-2012, DSG, LLC), for first reading.

The Planning and Zoning Board recommended that the request be denied on the basis the change would be inconsistent with the existing Single Family Residential land use designation.

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

Motion by Mr. Santiago, seconded by Deputy Mayor Isnardi, to adopt Ordinance No. 2013-18. Mr. Greene reiterated his concerns regarding stormwater runoff.

The public hearing was reopened to allow Mr. Watkins to address the stormwater runoff. Mr. Watkins stated the request was for rezoning, which had no site plan. But in anticipation of the conditional use request that would be heard next, he compared the effects of single family structures versus the proposed structures. He stated the tendency for any adverse effects was less with the proposed structures. He stated the requested use was more compatible with the comprehensive land use of public/semi-public use than the current residential use. The public hearing was closed.

Motion by Mr. Santiago, seconded by Deputy Mayor Isnardi, to adopt Ordinance No. 2013-18. Motion carried with members voting as follows:

Mayor Capote	Yea
Deputy Mayor Isnardi	Yea
Councilwoman Paccione	Yea
Councilman Greene	Nay
Councilman Santiago	Yea

4. Request by DSG, LLC for a conditional use for an assisted living facility in IU (Institutional Use District) zoning on property located between Ruffin and Buffing Circles, in the vicinity east of Eldron Boulevard (20.2 acres)(Case No. CU-12-2012).

The Planning and Zoning Board recommended that the request be denied on the basis that an assisted living facility was not a permitted use in an RS-2, Single Family Residential District.

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

Motion by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to approve the request. Motion carried with members voting as follows:

Mayor Capote	Yea
Deputy Mayor Isnardi	Yea
Councilwoman Paccione	Yea
Councilman Greene	Nay
Councilman Santiago	Yea

5. Ordinance No. 2013-19, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located south of and adjacent to Malabar Road, in the vicinity east of Cassia Avenue, from Single Family Residential Use to Commercial Use (4.59 acres)(Case No. CP-1-2013, 940 Malabar Road, LLC), only one reading required.

The Planning and Zoning Board recommended that the request be approved subject to staff conditions.

The City Attorney read the ordinance in caption only. The public hearing was opened. Jake Wise, representative for the applicant, presented the request to Council. An adjacent property owner spoke in favor of the request, but asked that lighting be addressed and that an eight foot fence replace the six foot fence as noted in the site plan. The applicant addressed some of the comments and felt the eight foot high fence was a reasonable request. The public hearing was closed.

Motion by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to adopt Ordinance No. 2013-19, subject to staff recommendations, and the erection of an eight foot high fence on the west side of the property versus the six foot high fence. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

***6. Ordinance No. 2013-20, rezoning property located south of and adjacent to Malabar Road, in the vicinity east of Cassia Avenue, from RR (Rural Residential District) and HC (Highway Commercial District) to CC (Community Commercial District) (4.59 acres)(Case No. CPZ-1-2013, 940 Malabar Road, LLC), for first reading.**

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

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

Motion by Mrs. Paccione, seconded by Mr. Santiago, to adopt Ordinance No. 2013-20. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

♣7. Request by 940 Malabar Road, LLC for a conditional use for planned commercial development in CC (Community Commercial District) zoning on property located south of and adjacent to Malabar Road, in the vicinity east of Cassia Avenue (4.59 acres)(Case No. CU-4-2013).

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

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

Motion by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to approve the request, with the condition that an eight foot high fence be erected along the west side of the property. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

♣8. Request by Jack Hobbs Jr. for a variance to allow a proposed room addition to encroach three (3) feet into the 25-foot rear setback in RS-2 (Single Family Residential District) zoning (0.23 acres)(Case No. V-1-2013).

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

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

Motion by Mrs. Paccione, seconded by Deputy Mayor Isnardi, to approve the request. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

PROCUREMENTS:

Award of Proposal:

*** 1. Grit dewatering equipment, Wastewater Treatment Plant – RFP No. 11-0-2013 – Utilities Department (Moss-Kelley, Inc. - \$46,995).**

Staff Recommendation: Award the proposal for the purchase of replacement grit dewatering equipment for the pretreatment process at the Wastewater Treatment Plant to Moss-Kelley, Inc., Lake Mary, in the amount of \$46,995.

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

Contracts:

- * 1. **Realignment and utility relocation, Troutman Boulevard Realignment Project – Public Works Department (Infrastructure Engineers, Inc. - \$50,000 (realignment) (Construction Services Task Order)); BRPH Architects - \$30,000 (utility relocation) (Professional Services Agreement)).**

Staff Recommendation: Authorize the task order for post-design services (Troutman Boulevard realignment) with Infrastructure Engineers, Inc. in an amount not to exceed \$50,000; authorize entering into a Professional Service Agreement for the limited construction administration services (Troutman Boulevard utility relocation) with BRPH Architects-Engineers, Inc. in an amount not to exceed \$30,000.

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

Miscellaneous:

- * 1. **First floor build out, City Hall Annex – Police Department (\$43,000).**

Staff Recommendation: Authorize the build out of the unfinished first floor annex space to be used by the Police Department.

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

COUNCIL BUSINESS:

Councilmembers addressed various subject matters.

1. Mrs. Paccione asked for a proclamation at the next meeting for the Relay For Life event and asked everyone to wear purple.

2. Mayor Capote said he would like to see the profits from the Mayors' Ball used towards the construction of a two-story museum/art center within the Bayfront Community Redevelopment District.

NEW BUSINESS:

- 1. **Ordinance No. 2013-21, designating the City's Code Enforcement Board as the administrative board pursuant to Section 893.138, Florida Statutes, to hear complaints regarding the nuisances defined therein, for first reading.**

The City Attorney read the ordinance in caption only.

Motion by Deputy Mayor Isnardi, seconded by Mr. Santiago, to adopt Ordinance No. 2013-21. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

*** 2. Ordinance No. 2013-22, amending the Fiscal Year 2012-2013 budget by appropriating and allocating certain monies (third budget amendment).**

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

*** 3. Ordinance No. 2013-23, repealing Ordinance No. 2007-08, which granted an economic development ad valorem tax exemption to Bombardier Recreational Products US Inc.**

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

*** 4. Ordinance No. 2013-24, repealing Ordinance No. 2011-43, which granted an economic development ad valorem tax exemption to Project Megalo (Escent LifeSciences, LLC).**

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

*** 5. Ordinance No. 2013-25, repealing Ordinance No. 2011-70, which granted an economic development ad valorem tax exemption to Global Voter Solutions, LLC dba ThePeoplesVote.com.**

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

*** 6. Ordinance No. 2013-26, renaming a public right-of-way located within Port Malabar Unit 60 from Executive Circle to Sportsman Lane.**

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

*** 7. Ordinance No. 2013-27, renaming a portion of the public right-of-way located within Port Malabar Unit 60 from Hollywood Boulevard to Bass Pro Drive.**

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

*** 8. Acknowledgement of the City's monthly financial report for January 2013.**

The item, considered under Consent Agenda, was acknowledged by the City Council.

*** 9. Consideration of membership in the Sister Cities International.**

Staff Recommendation: Authorize the City to join Sister Cities International.

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

***10. Consideration of foreclosure on property legally described as Lot 3, Block 2280, Port Malabar Unit 44 (Robinson/Chalk).**

Staff Recommendation: Authorize the foreclosure of the City's liens on real property legally described as Lot 3, Block 2280, Port Malabar Unit 44 (1320 Natal Street, NW).

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

***11. Consideration of establishing a 501(c)(3) subsidiary for the City.**

Staff Recommendation: Authorize the pursuit of creating of a 501(c)(3) subsidiary for the City.

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

12. Consideration of utilizing Ryan Law, PA for arbitrations with the National Association of Government Employees, Local R-5-186 (Blue).

Staff Recommendation: Approve the utilization of Ryan Law, PA for arbitrations with the National Association of Government Employees, Local R-5-186 (Blue).

Ms. Hann provided an update on the negotiations with the union. Mr. Greene felt an executive session should be scheduled. Deputy Mayor Isnardi said the authorization to utilize the law firm was only if it was absolutely necessary.

Motion by Deputy Mayor Isnardi, seconded by Mr. Greene, to utilize Ryan Law, PA for the arbitrations. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

☞ **13. Consideration of ratification to the Strategic Planning Workshop Summary.**

Staff Recommendation: Ratify the strategic planning workshop summary.

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

ADMINISTRATIVE AND LEGAL REPORTS:

*** 1. Consideration of travel and training for specified City employees.**

Staff Recommendation: Approve the travel and training as specified.

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

PUBLIC COMMENTS/RESPONSES:

There were no public comments.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 10:24 P.M.

ATTEST:



Terese Jones, DEPUTY CITY CLERK



William Capote, MAYOR

* Identifies items considered under the heading of Consent Agenda.

♣ Indicates quasi-judicial proceeding.

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