CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING NO. 2013-07

Held on Thursday, the 4th day of April 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.

Bishop Merton Clark, Truth Revealed Ministries of Palm Bay, 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; David 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).**
3. **One (1) vacancy on the Planning and Zoning Board.**
4. **Eight (8) terms expiring on the Youth Advisory Board (represents 'three (3) adult members 30 years and over' and 'five (5) students in grades 9-12').**

AGENDA REVISIONS:

Mr. Lannon asked that the agenda be revised to consider Item No. 11, under Public Hearings, first. Council concurred.

CONSENT AGENDA:

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

Motion by Mrs. Paccione, seconded by Mr. Greene, that the Consent Agenda be approved as presented. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

RECOGNITIONS AND PROCLAMATIONS:

Employees and individuals were recognized; proclamations were read and presented.

1. **Recognizing employees for their years of service with the City of Palm Bay.**
2. **Recognizing City employees for their assistance with the 2012 United Way Campaign.**
3. **Palm Bay Police Department: a)recognizing promotions; b) recognizing the retirement of Fred Blackman, School Crossing Guard; recognizing his efforts with the School Crossing Guard Program.**
4. **Administrative Professionals Week – April 21-27, 2013.**
5. **Arbor Day – April 26, 2013.**
6. **Child Abuse Prevention Month – April 2013.**
7. **Water Conservation Month – April 2013; recognizing winners of the Drop Savers Water Conservation Poster Contest.**
8. **Body by Design Fitness Challenge 2013.**

PRESENTATIONS:

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

2. **Chief Doug Muldoon, Police Department – School Resource Officer quarterly report.** Chief Muldoon reviewed the quarterly report with the City Council.

ADOPTION OF MINUTES:

*** 1. Regular Council Meeting No. 2013-06; March 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. 2013-28, amending the Code of Ordinances, by repealing Chapter 117, Alarm Systems, in its entirety, for final reading (CONTINUED TO RCM 04-18-13).
2. Ordinance No. 2013-29, amending the Code of Ordinances, by re-creating Chapter 117, Alarm Systems (SEE NEW BUSINESS, ITEM NO. 2).

The City Council, under Agenda Revisions, concurred to consider Item No. 11 at this time.

☞11. Resolution No. 2013-10, providing for the issuance of private activity bonds, not to exceed $35,000,000, on behalf of The Cape LLC for the purpose of financing/refinancing costs related to the acquisition, construction, and equipping of senior care facilities.

The City Attorney read the resolution in caption only.

The public hearing was opened. Steve Ciancio, The Cape LLC, presented the item to Council. The public hearing was closed.

Motion by Mr. Greene, seconded by Mr. Santiago, to adopt Resolution No. 2013-10. Deputy Mayor Isnardi expressed concern with the City's reputation in acting as a conduit for private activity bonding even though it was not legally liable for same. (No vote taken on this motion as it was restated below.)

The public hearing was reopened to further explain the bond process. The public hearing was closed.

Motion by Mr. Santiago, seconded by Mr. Greene, to adopt Resolution No. 2013-10. Motion carried with members voting as follows:

Correction: See RCM 2013-09; 04-18-13

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

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

3. Ordinance No. 2013-30, amending the Code of Ordinances, Chapter 93, Real Property Nuisances, by modifying the provisions for the clearing of unimproved real property which adjoins or abuts improved real property, for final reading.

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

Motion by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to adopt Ordinance No. 2013-30. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

4. Ordinance No. 2013-31, amending the Code of Ordinances, Chapter 50, Elections, by revising the time frame for scheduling special municipal elections, for final reading.

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. 2013-31. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

♣5. Request by Gail Palmer for a variance to allow an existing six-foot high fence to encroach 25 feet into the 25-foot side corner setback in RS-2 (Single Family Residential District) zoning (0.73 acres)(Case No. V-2-2013).

The Planning and Zoning Board recommended that the request be approved with the condition that if the fence were ever removed or destroyed, the variance would cease.

The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

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, Yea; Councilman Santiago, Yea.

♣6. Request by Suzanne Clements and Patrick Converse for a variance to allow a proposed screen enclosure to encroach three (3) feet into the five-foot rear setback in a PUD (Planned Unit Development) zoning (0.17 acres)(Case No. V-3-2013).

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

The public hearing was opened. The applicants presented the request to Council. The public hearing was closed.

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, Yea; Councilman Santiago, Yea.

♣7. Request by Leigh and Joyce Hathaway for a variance to allow an existing shed to encroach 18 feet into the 25-foot side corner setback in RS-2 (Single Family Residential District) zoning (0.27 acres)(Case No. V-4-2013).

The Planning and Zoning Board recommended that the request be approved with the condition that the applicant provide buffering between the shed and road, and that if the shed was ever removed or destroyed, the variance would cease.

The public hearing was opened. The applicants presented the request to Council. The public hearing was closed.

Motion by Mrs. Paccione, seconded by Mr. Greene, 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.

♣8. Request by Jacqueline Jean Knoch for a variance to allow a proposed six-foot high fence to encroach 17 feet into the 25-foot side corner setback in RS-2 (Single Family Residential District) zoning (0.27 acres)(Case No. V-5-2013).

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

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 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.

♣9. Resolution No. 2013-09, granting a conditional use for a proposed electronic gaming establishment in CC (Community Commercial District) zoning on property located in the vicinity southeast of the intersection of Babcock Street and Palm Bay Road (12.7 acres)(Case No. CU-5-2013, Robert Sloane).

The Planning and Zoning Board recommended that the request be approved with the condition that Case No. V-6-2013 was approved to grant relief from the residential separation requirement.

The public hearing was opened. The applicant presented the request to Council. Resident expressed his concern with allowing another video arcade in the City in light of the current state legislation that he understood outlawed them. Residents objected to the request. The applicant said he would like to do what was allowed. Mr. Watkins stated the bingo operations were regulated by the state; they had to serve a charitable organization. He stated there were bills pertaining to electronic gaming that had been approved recently by the Legislature and if signed by the Governor would go into effect. The businesses would have to operate pursuant to state law. In response to Mr. Greene's question, the City Attorney stated the Council could restrict the number of electronic gaming businesses operating within the City. He further stated that the legislation approved by the Legislature had been sent to the Governor; the Governor may or may not approve it. He said the Council needed to consider only the request before them. The public hearing was closed.

Motion by Deputy Mayor Isnardi, seconded by Mrs. Paccione, to approve the request. Deputy Mayor Isnardi stated the applicant had met the City's requirements. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Isnardi, Yea; Councilwoman Paccione, Yea; Councilman Greene, Yea; Councilman Santiago, Yea.

♣10. Request by Robert Sloane for a variance to allow a proposed electronic gaming establishment to locate 35 feet within the required 100-foot minimum separation in CC (Community Commercial District) zoning (12.7 acres)(Case No. V-6-2013).

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

The public hearing was opened. The applicant presented the request to Council. A resident objected to the request. The public hearing was closed.

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	Nay
Councilman Santiago	Yea

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

PROCUREMENTS:

Award of Proposal:

*** 1. ABS pumps, parts and warranty repairs (Orange County contract) – Utilities Department (Hydra Service, Inc. – $90,000 (sole source)).**

Staff Recommendation: Approve the sole source procurement of ABS pumps, parts and warranty repairs from Hydra Service, Inc., Sanford, Florida.

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

Contracts:

*** 1. Roof and lighting protection system design, Troutman Water Treatment Plant – Task Order No. 13-03 – Utilities Department (Wade Trim - $10,140).**

Staff Recommendation: Approve the task order with Wade Trim for preparation of the plans and specifications for the removal and replacement of the roof and lightening protection system at the Troutman Water Treatment Plant.

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

*** 2. Web hosting - Communications and Information Technology Department (Vision Internet Subscription Services - $28,800).**

Staff Recommendation: Authorize the City Manager to sign a four (4) year agreement for website hosting and subscription services.

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

COUNCIL BUSINESS:

Councilmembers addressed various subject matters.

1. Mr. Greene wanted to look into revising the code pertaining to electronic gaming by limiting the number of businesses that could operate within the City and strengthening the regulations. Council concurred to wait to see what happened at the state level.

The City Attorney announced that the Governor had stated he would sign the bills making electronic gaming illegal. Mr. Greene retracted his recommendations.

NEW BUSINESS: (Ordinances were for first readings.)

*** 1. Resolution No. 2013-11, amending Resolution Nos. 2012-33, 2012-38, 2013-02, and 2013-06, adopting Classification and Pay Plans and the Position Control Plan for employees of the City of Palm Bay.**

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

*** 2. Ordinance No. 2013-29, amending the Code of Ordinances, by re-creating Chapter 117, Alarm Systems.**

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

*** 3. Ordinance No. 2013-32, amending the Fiscal Year 2012-2013 budget by appropriating and allocating certain monies (fourth budget amendment).**

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

*** 4. Consideration of increasing the work hours for the City Attorney Emeritus.**

Staff Recommendation: Authorize an increase of five hundred (500) hours for the City Attorney Emeritus.

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

*** 5. Acknowledgement of the Ad Valorem Tax Exemption Annual Report for 2012.**

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

*** 6. Acknowledgement of the City's monthly financial report for February 2013.**

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

7. Review and discussion on the draft ordinance creating a Citizens Budget Advisory Committee.

Mr. Santiago supported the committee and gave his reasons for same. Mr. Greene said he was not comfortable establishing a committee as he felt it reflected that the Council did not trust the City staff. Mrs. Paccione felt that the residents should be involved but didn't feel the committee was the way to do it. Deputy Mayor Isnardi supported the creation of the committee. She did not feel the intention for its creation was negative. Mayor Capote said he would not support the committee as he did not endorse it the last time it was brought up in 2010.

Council concurred not to proceed with the committee.

8. Consideration of Articles of Incorporation for the 501(c)(3) subsidiary for the City.

The City Attorney highlighted the articles with Council and answered questions regarding same. Council concurred with the articles as presented.

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.

2. The City Attorney requested an executive session for the litigation of John Doe I and John Doe II versus City of Palm Bay, for Wednesday, April 10, 2013, at 6:30 P.M.

Council concurred.

PUBLIC COMMENTS/RESPONSES:

Individuals commented on various issues.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 11:50 P.M.

William Capote, MAYOR

ATTEST:

Terese Jones, DEPUTY CITY CLERK

* 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.