

CITY OF PALM BAY, FLORIDA

REGULAR COUNCIL MEETING NO. 2018-32

Held on Thursday, the 20th day of December 2018, 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, Palm Bay, gave the invocation, which was followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

MAYOR:	William Capote	Present
DEPUTY MAYOR:	Brian Anderson	Present
COUNCILMEMBER:	Harry Santiago, Jr.	Present
COUNCILMEMBER:	Jeff Bailey	Present
COUNCILMEMBER:	Kenny Johnson	Present
CITY MANAGER:	Lisa Morrell	Present
ASSISTANT CITY ATTORNEY:	Rodney Edwards	Present
CITY CLERK:	Terese Jones	Present

CITY STAFF: Present was Andy Anderson, Director of Economic Development and External Affairs; Charleena Cox, Human Resources Director.

ANNOUNCEMENTS:

Deputy Mayor Anderson announced the following vacancies and solicited applications for same:

1. **Two (2) vacancies on the Community Development Advisory Board (represents 'for-profit provider' and 'actively engage in home building' positions).++**
2. **One (1) vacancy on the Disaster Relief Committee Executive Board.++**
3. **One (1) vacancy on the Sustainability Board (represents at-large position)++**

AGENDA REVISIONS:

1. Mrs. Morrell announced that the St. Johns Heritage Parkway update, Item No. 2, under Presentations; and the Investment Performance Review Report, Item No. 6, under New Business, were withdrawn by staff.

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 Anderson, seconded by Mr. Bailey, that the Consent Agenda be approved as presented with the removal of Item No. 3, under New Business. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

RECOGNITIONS:

Students were recognized.

- 1. Palm Bay elementary schools and one home school – recognizing winners of the Water Conservation Christmas Tree Ornament Contest – Palm Bay Utilities Department.**

PRESENTATIONS:

- 1. Nancy Peltonen, President and CEO, Greater Palm Bay Chamber of Commerce – quarterly update.** Ms. Peltonen provided an update on the Chamber's activities.
- 2. Conroy Jacobs, Traffic Engineer/Planner – St. Johns Heritage Parkway – update.**

The item, announced under Agenda Revisions, was withdrawn by staff.

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

Individuals commented on various issues.

1. Butch Orend, resident, advised of a recent article by Florida Today regarding the infrastructure which was based on the 2016 analysis. He questioned how new data would be acquired to notify the public of the roads and the City's definition of good, fair, poor and failed roads. Mrs. Morrell said that the 2016 analysis was performed by a vendor that created a video to provide pavement condition index (PCI) scores. No road projects had been completed since that time, so the data was still accurate. She advised that "good" was considered a rejuvenation, "fair" was a thin lift, and "poor" or "failed" roads were considered full depth reclamation or construction.

PUBLIC HEARINGS:

♣1. Ordinance No. 2018-65, rezoning property located west of and adjacent to Ring Avenue, in the vicinity north of Malabar Road and east of Interstate 95, from CC (Community Commercial District) to GC (General Commercial District) (1.26 acres)(Case No. Z-26-2018, John Larosa), final reading.

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 Mr. Santiago, seconded by Deputy Mayor Anderson, to adopt Ordinance No. 2018-65. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

2. Ordinance No. 2018-66, creating the City of Palm Bay Business Improvement District, final reading. (Councilman Santiago)

The City Attorney read the ordinance in caption only. The public hearing was opened.

Mr. Santiago advised that the goal of a Business Improvement District (BID) purpose was to provide better quality of life; increase revenue; keep high-tech/high pay residents local. He hoped to work alongside with the BCRA to bring the BID to fruition.

Bill Battin, resident, commented on the expense and travel for the Board; authority of the Board to hire and fire personnel; special assessments being equal to all within the District; and the tax funding source should be reallocated back to the City once the objectives had been accomplished.

Thomas Gaume, resident, said that the tax increment financing (TIF) be limited at the inception with a cap of fifty percent (50%). He said the ordinance did not provide for equal levy of assessments and there was no citizen representation on the Board.

Mrs. Morrell said that travel was regulated through the General Services Administration (GSA) and rates were established through same. Travel requests would be processed and tracked through the City.

Andy Anderson said the hiring language was standard in Florida Statutes for Community Redevelopment Agencies (CRA), but could be modified by Council at any time.

The public hearing was closed.

Motion by Mr. Santiago, seconded by Deputy Mayor Anderson, to adopt Ordinance No. 2018-66.

Mr. Bailey said there was no real power with the ordinance as you could not go into an area, implement a tax, and provide some type of service or incentive to force growth to that area. He did not feel it was the right way to go and that cities did not grow themselves out of deficit. There had to be proper budgeting and controlled spending. He reiterated his suggestion of presenting it to Brevard County.

Mr. Santiago said there were two (2) resident positions on the Board.

Mr. Bailey said there were no residents or business community members that came forth stating that this was a good idea. Mr. Santiago said that he spoke with numerous individuals and business owners and received no opposition. Deputy Mayor Anderson supported the ordinance as a downtown was needed. He said that Council could make adjustments accordingly if needed.

Motion carried with members voting as follows:

Mayor Capote	Yea
Deputy Mayor Anderson	Yea
Councilman Santiago	Yea
Councilman Bailey	Nay
Councilman Johnson	Yea

3. Ordinance No. 2018-67, amending the Fiscal Year 2018-2019 budget by appropriating and allocating certain monies (first budget amendment), final reading.

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

Bill Battin, resident, commented on Council's salary and asked if the recent increase concurred with what was allowed per the City Charter. Mayor Capote said the increase was based on that received by General Employees. Mr. Bailey said the Charter did not reflect the employee group. Ms. Cox advised that the union group mentioned had received a higher increase than City Council. Mr. Bailey said that as the Charter language was broad, Council should receive the lowest increase for City employees. Ms. Cox would confirm same.

Motion by Mr. Santiago, seconded by Deputy Mayor Anderson, to adopt Ordinance No. 2018-67. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

4. Ordinance No. 2018-68, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Off-Street Parking and Loading Requirements', by revising provisions related to design requirements (Case No. T-29-2018, City of Palm Bay), 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. Mrs. Morrell presented the request to Council. The public hearing was closed.

Motion by Mr. Santiago, seconded by Deputy Mayor Anderson, to adopt Ordinance No. 2018-68. Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

PROCUREMENTS:

Miscellaneous:

*** 1. X2 tasers, equipment, training, replacement parts – Police Department (Axon Enterprise, Inc. - \$155,500, over five (5) years (sole source)).**

Staff Recommendation: Approve the sole source purchase of 100 police X2 TASERs from Axon Enterprise, Scottsdale, Arizona, and enter into a 60-month agreement in the amount of \$155,500 over five (5) years.

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

UNFINISHED AND OLD BUSINESS:

1. Consideration of employment agreement with Lisa Morrell, City Manager. (Deputy Mayor Anderson)

Deputy Mayor Anderson advised that the salary was negotiated at \$165,000. The severance clause would increase five (5) weeks each year for four (4) years for a maximum of twenty (20) weeks. The city vehicle provision was removed, but the vehicle allowance would remain as defined for Group 1 employees.

Motion by Deputy Mayor Anderson, seconded by Mr. Bailey, to approve the employment agreement with Lisa Morrell.

Mr. Santiago felt the salary should reflect the risk of the position and the demands of the job. He said that the City Attorney's salary was currently \$169,000. He suggested \$170,000 for Mrs. Morrell. Mayor Capote felt the proposed salary of \$165,000 was sufficient. He also wanted to revisit the evaluations of Charter Officers, which could provide for annual increases. Deputy Mayor Anderson said that Council should set a goal to meet with each Charter Officer in February and have reviews completed by March. Mayor Capote said that increases should be done during the budget process and bonuses given at that time. Mr. Bailey said that evaluations should be done at the anniversary of the employee.

Mr. Bailey suggested that Section 9 reflect the \$450 monthly automobile allowance. Council concurred for the language to remain as is.

Mr. Johnson supported the \$165,000 annual salary.

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

2. Discussion of revising Council's Policies and Procedures with regard to visual presentations by the public. (Councilman Bailey)

Councilman Bailey explained the City's meeting recording vendor required at least twenty-four (24) hours' notice for audio presentations. He suggested that the deadline to submit visual presentations be by 2:00 P.M. on the day of the meeting. He also wanted to include a notation to the public regarding the audio presentations.

Thomas Gaume, resident, felt the policy caused a restraint on freedom of speech. He said the policy was put in place by a former councilmember for personal reasons and should be removed.

Motion by Mr. Bailey, seconded by Deputy Mayor Anderson, to amend Section 7.8.6(A), to read as follows:

"7.8.6 VISUAL PRESENTATIONS BY THE PUBLIC

A. Members of the public wishing to use electronic media when addressing city council must provide the electronic file to staff for screening no later than ~~noon two (2) business days prior to~~ 2:00 P.M. on the day of the meeting. Screening ensures that the material is in a format capable of broadcast or presentation over the audiovisual system, and assures that the material is legally appropriate for broadcast over the audiovisual system and cable. No visual materials may be displayed through the audiovisual system that City staff has not screened. No visual presentations containing offensive material will be displayed or utilized in any fashion. (Note for the Public: Please coordinate presentation

materials through the City Clerk/Legislative Department. It is recommended that if the presenter intends for audio presentations to be broadcast during the meeting, files must be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting.)”

Mr. Bailey wanted to clarify that any visual materials brought to, held or worn at the meeting was permitted. The policy was to protect the City's network and service systems. His preference was to eliminate the entire section. He also suggesting removing the last two (2) lines of Section 7.8.6(A). He felt it could be construed by the public as being a prior constraint on speech as commented by Mr. Gaume.

Mr. Santiago said that there have been attacks on the City's network system through emails and he wanted to protect same. He questioned if there would be an issue with removing those sentences from the policy but had no issue with the language as is. Mrs. Morrell said that the City supported hundreds of computers and sufficient notice from outside individuals of their presentations would be necessary in order for staff to prepare the materials and have it available for viewing. If there were videos to be shown from social media sites, there could be inappropriate material such as advertisements. Mr. Edwards said there was no legal liability with regard to removing the language or keeping as is.

Motion by Mr. Bailey, seconded by Mr. Santiago, to amend the motion to include the deletion of the last two (2) lines of 7.8.6(A). The language would read as follows:

“7.8.6 VISUAL PRESENTATIONS BY THE PUBLIC

A. Members of the public wishing to use electronic media when addressing city council must provide the electronic file to staff for screening no later than ~~noon two (2) business days prior to~~ 2:00 P.M. on the day of the meeting. Screening ensures that the material is in a format capable of broadcast or presentation over the audiovisual system, and assures that the material is legally appropriate for broadcast over the audiovisual system and cable. ~~No visual materials may be displayed through the audiovisual system that City staff has not screened. No visual presentations containing offensive material will be displayed or utilized in any fashion.~~ (Note for the Public: Please coordinate presentation materials through the City Clerk/Legislative Department. It is recommended that if the presenter intends for audio presentations to be broadcast during the meeting, files must be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting.)”

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

COMMITTEE AND COUNCIL REPORTS:

Councilmembers provided updates on activities of various agencies and boards on which they served as members.

1. Mr. Santiago said that three (3) City advisory boards had no meetings in 2018. He would present the issue to Council for further action and possibly dissolving those boards if there was no participation. Council concurred.

2. Mr. Bailey said there were some advisory boards in which the membership terms were not concurrent with the council seats. He would research same and bring back to Council. Council concurred.

NEW BUSINESS: (Ordinance is for first reading.)

*** 1. Resolution No. 2018-66, amending Resolution No. 2018-49, adopting the Five-Year Capital Improvements Program for Fiscal Years 2018-2019 through 2022-2023.**

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

2. Ordinance No. 2018-69, creating a Youth Advisory Board. (Councilman Johnson)

Councilman Johnson presented the item to Council.

Motion by Mr. Johnson, seconded by Deputy Mayor Anderson, to approve Ordinance No. 2018-69.

Mr. Santiago said the ordinance did not include charter schools. Mr. Bailey said they fell under public schools. Mr. Santiago said that home-schooled students were not necessarily involved in Brevard County curriculum. He said it may limit homeschoolers from applying for the Board.

Motion by Mr. Johnson, seconded by Mr. Santiago, to approve Ordinance No. 2018-69, with the following amendment to Section 3(A)(1)(e):

“e. Student members shall be required to receive two (2) letters recommending the student for service on the Youth Advisory Board from two (2) adults, i.e., neighbor, principal, dean, guidance counselor, pastor, coach, teacher, employer, or any other adult the Board may deem acceptable. ~~If the student is home schooled, verification of satisfactory participation in an approved curriculum by the Brevard County School District shall be required and a letter of recommendation from a business leader, religious leader, or other qualified individual shall be required.~~”

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

3. Consideration of the purchase of certain property from United Forming Properties, LLC, in order to relocate and reopen Fire Station No. 5 (1525 Foundation Park Boulevard; \$875,000, plus closing costs).

Staff Recommendation: Approve and authorize the City Manager to proceed with the purchase of 1525 Foundation Park Boulevard, SE, from United Forming Properties, LLC, for the purchase price of \$875,000, plus closing costs, contingent on the appraisal of the property and environmental site assessment.

Bill Battin, resident, questioned why the purchase price was \$875,000, when the appraised value was \$538,000.

Motion by Mr. Santiago, seconded by Deputy Mayor Anderson, to approve the property purchase as requested.

Mr. Santiago explained that the appraised value on the Brevard County Property Appraiser's site was done on a different appraisal formulation. The assessed value was always much lower than the market value. He said there was a clause in the contract for the buyer's right to cancel.

Mr. Bailey asked if there were plans for other administration or expansion at the site. Mrs. Morrell said it was under discussion, but no plans at this time.

Motion carried with members voting as follows: Mayor Capote, Yea; Deputy Mayor Anderson, Yea; Councilman Santiago, Yea; Councilman Bailey, Yea; Councilman Johnson, Yea.

*** 4. Consideration of modifying the Fiscal Year 2018/2019 Position Control Plan to include three (3) position reclassifications and two (2) pay grade adjustments.**

Staff Recommendation: Approve the recommended modifications to the Fiscal Year 2019 Position Control Plan.

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

*** 5. Acknowledgement of the City's monthly financial report for September 2018.**

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

*** 6. Acknowledgment of Investment Performance Review Report, prepared by PFM Asset Management LLC, for the quarter ended September 30, 2018.**

The item, announced under Agenda Revisions, was withdrawn by staff.

*** 7. 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.

8. Consideration of rescheduling the first regular Council meeting in July 2019.

Council concurred to reschedule the first regular Council meeting in July 2019 to Tuesday, July 2, 2019, at 7:00 P.M.

9. Consideration of councilmembers serving as representatives to other agencies/organizations.

Councilmembers selected the following:

Space Coast League of Cities

Mayor Capote, Delegate
Councilman Johnson, Alternate

Space Coast Transportation Planning
Organization

Deputy Mayor Anderson
Councilman Santiago
Councilman Bailey
Councilman Johnson, Alternate
Mayor Capote, Alternate

Tourist Development Council

Councilman Santiago
Deputy Mayor Anderson, Alternate

Palm Bay Hospital Advisory Council

Deputy Mayor Anderson
Mayor Capote, Alternate

School Impact Fee Advisory Committee

Councilman Johnson

Economic Development Commission
of Florida's Space Coast

Mayor Capote

Economic Development Commission of
Florida's Space Coast – Executive Committee

Mayor Capote

(Member receives confidential information and participates in discussions regarding potential companies contemplating expansion or locating in Brevard County).

Ad Valorem Tax Abatement Council

Councilman Santiago
Councilman Bailey, Alternate

Risk Management Committee

Mayor Capote

ADMINISTRATIVE AND LEGAL REPORTS:

There were no reports.


PUBLIC COMMENTS/RESPONSES:

A resident made general comments.

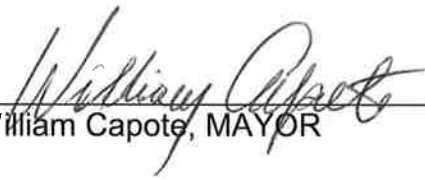
ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 9:37 P.M.

ATTEST:



Terese M. Jones, CITY CLERK



William Capote, MAYOR

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