



**City of Palm Coast
Minutes
COUNCIL BUSINESS
MEETING**

City Hall
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoastgov.com

**Mayor David Alfin
Vice Mayor Ed Danko
Council Member Theresa Carli Pontieri
Council Member Cathy Heigher
Council Member Nick Klufas**

Tuesday, February 7, 2023

6:00 PM

COMMUNITY WING

City Staff

**Denise Bevan, City Manager
Neysa Borkert, City Attorney
Virginia A. Smith, City Clerk**

- Public Participation shall be in accordance with Section 286.0114 Florida Statutes.
- Other matters of concern may be discussed as determined by City Council.
- If you wish to obtain more information regarding the City Council's agenda, please contact the City Clerk's Office at 386-986-3713.
- In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a reasonable accommodation to participate in any of these proceedings or meeting should contact the City Clerk at 386-986-3713, at least 48 hours prior to the meeting.
- City Council Meetings are streamed live on YouTube at <https://www.youtube.com/user/PalmCoastGovTV/live>.
- It is proper meeting etiquette to silence all electronic devices, including cell phones while meeting is in session.
- Any person who decides to appeal any decision of the City Council with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to hire a court reporter to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

A. CALL TO ORDER

Mayor Alfin called the meeting to order at 6:00 p.m..

B. PLEDGE OF ALLEGIANCE TO THE FLAG

C. MOMENT OF SILENCE

D. ROLL CALL

Present and responding to roll call were the following:

Council:	David Alfin
	Ed Danko
	Theresa Carli Pontieri
	Cathy Heighter
	Nick Klufas

City Clerk Virginia Smith called the roll. All members were present.

E. MINUTES

Pass

Motion made to approve by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heighter

- 1. APPROVE MINUTES OF THE CITY COUNCIL:
JANUARY 17, 2023, BUSINESS MEETING
JANUARY 31, 2023, SPECIAL WORKSHOP MEETING**

F. PUBLIC PARTICIPATION

Public Participation shall be held in accordance with Section 286.0114 Florida Statutes. And pursuant to the City Council's Meeting Policies and Procedures:

- (1) Each speaker shall at the podium, provide their name and may speak for up to 3 minutes.
- (2) The Public may provide comments to the City Council relative to matters not on the agenda at the times indicated in this Agenda. Following any comments from the public, there may be discussion by the City Council.
- (3) When addressing the City Council on specific, enumerated Agenda items, speakers shall:
 - (a) direct all comments to the Mayor;
 - (b) make their comments concise and to the point;
 - (c) not speak more than once on the same subject;
 - (d) not, by speech or otherwise, delay or interrupt the proceedings or the peace of the City Council;
 - (e) obey the orders of the Mayor or the City Council; and
 - (f) not make any irrelevant, impertinent or slanderous comments while addressing the City Council; which pursuant to Council rules, shall be considered disorderly.
- (4) Any person who becomes disorderly or who fails to confine his or her comments to the identified subject or business, shall be cautioned by the Mayor and thereafter must conclude his or her remarks on the subject within the remaining designated time limit.

Any speaker failing to comply, as cautioned, shall be barred from making any additional comments during the meeting and may be removed, as necessary, for the remainder of the meeting.

Members of the public may make comments during the public comment portion of the meeting. Please be advised that public comment will only be permitted during the public comment portions of the agenda at the times indicated by the Chair during the meeting.

Joe Runac-Cell phone tower proposed on Club House Drive, opposes this location.

Steve Carr-Traffic and pollution on Florida Park Drive; wants to know what the City is doing about the health issues, traffic issues, and pollution.

Bruce Stone-Provided a handout, which is available in the Clerk's Office. Spoke of Cimmaron Drive and safety measures for Cimmaron Drive. If he gets hit, he will sue.

Brian Beard-Small Business Loans and services available for FEMA assistance. The deadline is approaching.

Mary Kay Hayward-Florida Park Drive traffic issues. Provided a handout which is available in the Clerk's Office.

Celia Pugliese-Cannot support Mr. Carr or Ms. Hayward any longer but I do support Mr. Runac regarding the cell tower. If you go through with the towers you need to put up signs that state, "You are entering a radioactive area."

Larry Stencil-My wife was run down on day; lives by Club House Drive and was severely injured.

Gary Kunnas-Al Krier visited several hours before he passed and said he would die before the City does anything about Cimmaron Drive. The cement dust is covering everything. A few weeks ago, I provided the Clerk with a device for the canals, and nothing was done. The canals are being filled with dirt and debris all the time. This needs to stop. Spoke on air conditioning units and amp issues.

Ed Fuller-Thanked the Council and everyone coming out today. Also, thanked the Mayor and Vice Mayor for attending Al Krier's services. Great work on the new sign. Stormwater crews did a heck of a job in safety and the work doing the swales. Whoever drives the tractor for clearing the foliage does a great job. Thanked Parks & Recreation for the Tunnel to Towers event.

Greg Blose-Shared a surprising 1/2 point drop in unemployment. December 2.7% a half point drop. Provided statistics regarding employment rates versus last year.

G. PRESENTATIONS

2. PRESENTATION OF THE ANNUAL HEALTH AND SAFETY EMPLOYEE CALENDAR

Ms. Mini presented the awards to the winners of the Employee Calendar Contest.

Mayor Alfin stated the theme of today's artwork, and we should always look to our younger generation, as they are our future.

H. ORDINANCES SECOND READ

3. ORDINANCE 2023-XX HARBORSIDE MASTER PLANNED DEVELOPMENT – APPLICATION # 5132

O20230001

Pass

Motion made to be adopted on second reading by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 3 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas

Denied - 2 - Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

City Attorney Borkert read the title into the record. Second read. Provided an overview of the procedures for City Council and called for any ex parte communications.

VM Danko received letters pro and con and they will not affect his decision tonight. CM Carli Pontieri received the same pro and cons and her decision will not be affected by those emails. Mayor Alfin stated he received the same emails and will base his decision on what is presented tonight. CM Heigher stated the same as well as CM Klufas.

Mr. Tyner provided an overview of the item for second read. Mr. Hoover provided Council with a presentation on this item.

Mr. Livingston provided an overview on behalf of the Applicant.

Council, staff, and the Applicant held a lengthy discussion. Topics included: project density, eight standards of the project to be met, project path, ship store, gazebo, sit-down restaurant, boat ramp and/or access, right of first refusal timing, liability of the project path and gazebo, easement for the path, and traffic concerns.

Public Comment

Peter Johnson-Spoke of density issues, path access to the area, traffic, and the need for intersection improvements. Also had concerns about the dredging of canals and costs associated.

Larry Stencil-Lives very close to this project, my wife was severely injured so where is all the traffic and construction traffic going to get there? The traffic today shakes the house; speeding-like the one who almost killed my wife. Shared the T-shirt from Centex that he was presented at the meeting at the high school. Concerned with the density issues.

Greg Blose, Chamber of Commerce-The Applicant did what Council requested- met with staff and reduced the number of units for this project. The Chamber of Commerce supports the project.

Bruce Stone-Opposes the project due to density and traffic issues.

Tom Pusco-I do not understand how an Agreement from 20 years ago is still valid. I have a boat, so I have a concern about the access to the Marina for fuel. Love it here but don't make it so I want to move.

Alvin V. Jackson of 146 Palm Coast resort unit-He supports the project for growth for the Marina and the neighborhood. It will increase our ad-valorem taxes, create additional jobs, provide for much needed multi-family housing opportunities. It will attract additional private investment for those vacant properties that are still in the area of this Marina. Your approval of this zoning change will most definitely create a vibrant walkable, livable, and an economically diverse community, which speaks volumes to you in creating a world class community.

Steve Carr-Traffic and health, all the break dust, fumes, noise. How can we do this to our residents? Safety and health of our residents. What will be done to protect our residents?

Ron Murphy-Has a boat and would like Council to mandate they keep the fuel open for 20 years, and the trail open public access and keep it.

Mark Lewis-Agrees with Ron's comments. We need to maintain the fuel dock and the Marina. Would be very nice to get a restaurant. Traffic will be a mess.

Alan Lowe-Discussion at first reading, VM Danko brought up ingress/egress there is a limited way out. I heard the Developer mention will look to north and south. Council should look to another exit. Has concerns for safety at the boat ramp. Knows of 5 people that have past at the ramp.

Celia Pugliese-The Marina and hotel with restaurant and pool. It was the Community Resort destination. Also shared the T-shirt from Centex in 2007. We were duped once, we need to have assurances, we will be provided a restaurant, a marina, a resort.

Tom Hellman-President of the board of directors of the condos-endorses and supports the project.

Maureen Murphy-The PLDRB and staff issued a denial at first reading, not sure why you are trying to make unacceptable lots. Gut instincts are usually correct. It was initially denied the planning board and staff. Secondly, you said evidence. Evidence is based on fact, and who better than to have the facts than the

residents of Palm Coast, who have been here either long term or short term. You articulated very well the concerns are traffic, health, welfare and the safety, the road systems, all have been enumerated time and time again; they all have been ignored and avoided; I think we all need to lookout for all not just are own area, but Palm Coasters look out for each other. Who has maintained the Marina? It has gone by the wayside. Who will run the Marina?

Charles Weist-The board is supportive of the project but there is 95% of the residents surveyed that were against the density of this development. When he retired, he left Miami Springs, the traffic was bad due to density building.

Amy Wistowski-All of this is a zoning change. The PLDRB denied this plan completely. Very sad that Council approved on first read with conditions. Thanked staff for all their hard work. There is no real resort area for tourists. Changing the zoning to multi-family. Asking to deny or ask for more time.

Ken Pulowski-My comments align with the last speaker. A few more questions, why is the gazebo in disrepair, how can we trust the developer if he is not keeping it up now? We are opposed to the density. 122 extra sites. Why are you even considering this project?

John-The traffic will become very bad; infrastructure exiting on one area will be very bad.

Mike Norris-Opposes the project. The Applicant was trying to strong-arm Council. Intent and standards and 371. Intent-developed in 2000's, was supposed to be a destination resort, 47,000 sq. feet of restaurants, bars, etc. 371 jobs from the previous development. We have lost close to \$200 million by that project not being completed.

Public comment ended.

VM Danko-wants to hear the Applicants response to public comments. A discussion was held regarding the public comments. Topics discussed: traffic, LOS to be maintained, traffic analysis, roadway improvements and impact fees, dredging of canals and special assessment district, second ingress/egress, Marina and fuel facilities, trust of the developer, gazebo, restaurants, and ship store.

Additional comments were held by Council. The topics discussed were the boat ramp, the path continuity, a possible easement for the path.

CM Danko motion to approve staff's recommendation with 2 conditions for discussion. Motion was seconded by CM Klufas.

Attorney Borkert clarified the motion to be to approve the MPD with additional following conditions regarding a walkway and second condition boat ramp shall remain and maintained for government access.

Council Carli Pontieri thanked the Applicant to their respect for our residents; appreciates the compromise. She wants to be robust and comprehensive as we are setting legal precedence by whatever our decision will be.

CM Carli Pontieri recommends tabling the item. CM Klufas-what are the wants and wishes of your enumerated items? CM Carli Pontieri-Lower density to 18 or more; efficient and sufficient ingress/egress, we have to have a restaurant on the water and a walkway.

Further Council discussion was held on the record. Topics included: business plans, the models of a business plan, precedential decision, reducing density as a good compromise, growth and traffic is a fact of life, but with that growth comes an increase in traffic, importance of moving forward, codes for a reason, diversity of City's revenue sources, consideration for what this development will do to this neighborhood. The Applicant discussed the following issues: boat ramp vs. a boat slip for government access, liability of the path, and obtaining an easement for the path.

Motion by CM Carli Pontieri to table, Attorney Borkert provided an overview with regards to the Motion to table.

CM Carli Pontieri made a motion to table to date certain to February 21. Motion died for a lack of a second.

Motion from CM Danko to approve with additional language regarding government agency use of a portion of the Marina for emergency purposes.

Mr. Livingston provided more information for permitted items and suggested changes.

Fire Chief Berryhill provided information regarding emergency vessels.

Attorney Borkert suggested in Section 4 C 2 adding the following: (After to the extent that a private boat ramp is contained in the project) if a boat ramp is not provided, the owner shall provide a docking area within the Marina to accommodate emergency vessels during the emergency situation.

Applicant agreed to the Ms. Borkert's suggested language.

CM Danko stated that would be his motion.

Attorney Borkert restated the motion for the record. A Motion to approve the proposed MPD, Application # 5132 and the Harborside MPD Development Agreement to rezone 17.64 acres from Harborside Inn and Marina PUD to Harborside PUD with the additional following condition added to Section 4 C 2: If a boat ramp is not provided, the owner shall provide a docking area within the Marina to accommodate emergency vessels during the emergency situation. As conditions in the MPD Development Agreement the project meets the following requirements of the Comprehensive Plan goals. Goal 1.1 and policies 1.1.12d policy 1.1.22 of the Land Development Code sections 334 and 334B (2) and 334D.

CM Klufas - Second for discussion

CM Klufas was concerned about approving without a path and funding mechanisms to obtain a path and potential stormwater drainage issues.

Staff and Mr. Livingston provided overviews to each of their positions.

I. RESOLUTIONS

4. RESOLUTION 2023-XX APPROVING THE FINAL PLAT FOR THE REVERIE AT PALM COAST PARK PHASE 1 (APPLICATION AR #5120)

R20230018

City Attorney Borkert read the title into the record. Ms. Borkert reminded Council this is a quasi-judicial item. Called for any ex parte communications. There were none from VM Danko, CM Carli Pontieri, CM Klufas, nor Mayor Alfin. CM Heigher returned from a brief break and upon return Ms. Borkert asked for any ex parte communications. CM Heigher had none either.

Mr. Tyner, Ms. Lens, and Mr. Leap presented to Council on this item.

*Public Comments:
There were none.*

Pass

Motion made to approve by Council Member Carli Pontieri and seconded by Vice Mayor Danko

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

5. RESOLUTION 2023-XX APPROVING A PRE-ANNEXATION AGREEMENT WITH SEMINOLE WOODS INVESTMENTS, LLC AND BJ'S WHOLESALE CLUB INC.

R20230016

Pass

Motion made to approve as amended by Council Member Klufas and seconded by Vice Mayor Danko

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

City Attorney Borkert read the title into the record. Mr. Jose Papa presented to Council on this item.

Slight change in 2nd whereas clause will be discussed by the Attorney for the parties of the Agreement. Revisions were provided by Jay Livingston on behalf of the parties. Mr. Livingston provided the clerk with 2 copies to have executed for recording.

Mayor Alfin requested the next steps. Mr. Papa provided the next steps to be the parties will be a Utility Agreement, closing on the land, then request annexation, then the building of BJ's. Mayor Alfin clarified if City Council will see this again before annexation. Attorney Borkert confirmed.

CM Carli Pontieri questioned why the City would not be receiving impact fees until Phase 2 of this project. Mr. Tyner stated if BJ's is developed and constructed within the County, then those impact fees go to the County. Impacts are paid at time of CO. If the outparcels are built after annexation, then those impact fees would go to the City.

Public Comment

Preston Zepp-Researcher in the County. The Brick Road on BJ's which is actually Moody Blvd. CR 13 border to Espanola has been annexed. There was false information provided on social media. There is a difference in the Brick Roads.

Attorney Borkert reminded Council that any motion made to approve; should include the change to recital c as referenced by the Applicants attorney.

CM Klufas made a motion to approve with the change to recital c as referenced and was seconded by VM Danko.

6. RESOLUTION 2023-XX APPROVING ADDITIONAL EXPENSES RELATED TO THE BELLE TERRE PATHWAY/BRIDGE REHABILITATION PROJECT

R20230011

Pass

Motion made to approve by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heighter

City Attorney Borkert read the title into the record. City Manager Ms. Bevan provided an overview of this item and how important it is.

Mr. Morales presented to Council on this item.

CM Carli Pontieri budgeting concerns and how do we budget and how do we manage the contract. why are the contractors continually asking for more money, how confident are you with this, will be there be any more changes and are we able to cut elsewhere? Also, concerned with cuts to other projects so the City is not expending the budget and asking for more.

Mayor Alfin with the supply chain and rising costs are no way to be known. Can we feel comfortable that this is buying us a discount for the long term? This expense, at the cost of another project or timeline, is this buying us a future on this infrastructure for 2, 3, or 5 years from now in costs? Mr. Morales said it will give us at least 40 years.

*Public Comment:
There were none.*

J. OTHER BUSINESS

7. APPEAL REQUEST BY INB FUND 1, LLC, OF PLANNING AND LAND DEVELOPMENT REGULATION BOARD DECISION FOR VARIANCE FOR 54 UTICA PATH, APPLICATION NUMBER 5287

R20230017

Pass

Motion made to approve by Mayor Alfin and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

City Attorney Borkert read the title into the record. Went over process and called for ex parte there were none.

The City Clerk requested those who are testifying rise and raise their right hand to take the oath. Mr. Tyner, Ms. Lens, Mr. Sullivan and two property owners took the oath.

Mr. Tyner and Ms. Lens provided an overview of this item.

Attorney Borkert reminded Council of the time and their Meeting Policy and Procedures clause to either agree to a time certain to end the meeting or continue. Council agreed to end the meeting at 11:30 PM and continue tomorrow, if necessary.

Vince Sullivan presented on behalf of the property owners to City Council.

CM Carli Pontieri-concerned with the picture that the house across the street is identical in the odd shape of a lot. Why is this lot special? Mr. Tyner advise why the lot was different.

For Council's convenience, Attorney Borkert stated in variance situations, it does not set precedence.

Public Comment
There were none.

Mayor Alfin confirmed there were no letters received from the neighbors. Mayor Alfin provided the options available. Mayor Alfin passed gavel and made a motion to reverse the PLDRB decision (verbiage from PP), which was seconded by CM Klufas.

K. CONSENT

- 8. RESOLUTION 2023-XX APPROVING MASTER SERVICES AGREEMENTS WITH MULTIPLE FIRMS FOR CITYWIDE GRANT COMPLIANCE ASSISTANCE ON AN AS-NEEDED BASIS**

R20230020

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

- 9. RESOLUTION 2023-XX APPROVING A MASTER SERVICES AGREEMENT FOR PHASE 2 FOR THE TOWN CENTER CULTURAL ARTS AND RECREATION MASTER PLAN DEVELOPMENT WITH JOHNSON CONSULTING**

R20230021

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

- 10. RESOLUTION 2023-XX APPROVING PIGGYBACKING THE VOLUSIA COUNTY CONTRACT WITH STEVE'S FIRST CHOICE PAINTING FOR CITYWIDE PAINTING SERVICES**

R20230012

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

- 11. RESOLUTION 2023-XX APPROVING A MASTER SERVICES AGREEMENT WITH STRICKLAND SOD FOR SOD MATERIALS AND SOD INSTALLATION ON AN AS NEEDED BASIS**

R20230019

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

- 12. RESOLUTION 2023-XX APPROVING PIGGYBACKING THE FLORIDA SHERIFFS' ASSOCIATION CONTRACT WITH TRADEWINDS POWER CORP FOR THE PURCHASE OF A 125KW GENERATOR PACKAGE**

R20230013

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

- 13. RESOLUTION 2023-XX APPROVING A MASTER PRICE AGREEMENT WITH ALPHA GENERAL SERVICES, LLC FOR EMERGENCY REPLACEMENT PEP TANKS**

R20230015

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heigher

14. RESOLUTION 2023-XX APPROVING A MASTER PRICE AGREEMENT WITH ALPHA GENERAL SERVICES, LLC FOR EMERGENCY REPLACEMENT PEP PUMPS

R20230014

Pass

Motion made to be adopted on consent by Vice Mayor Danko and seconded by Council Member Klufas

Approved - 5 - Mayor David Alfin, Vice Mayor Ed Danko, Council Member Nick Klufas, Council Member Theresa Carli Pontieri, Council Member Cathy Heighter

L. PUBLIC PARTICIPATION

Remainder of Public Comments is limited to three (3) minutes each.

There were none.

M. DISCUSSION BY CITY COUNCIL OF MATTERS NOT ON THE AGENDA

VM Danko will reserve his motion for another time regarding the Invocation Policy to be discussed at next workshop.

CM Carli Pontieri-Happy Birthday to our Assistant City Manager. The Tunnel to Towers was a great event. Shout out to Renina Fuller-Happy Birthday.

N. DISCUSSION BY CITY ATTORNEY OF MATTERS NOT ON THE AGENDA

Happy Birthday to CM Carli Pontieri.

O. DISCUSSION BY CITY MANAGER OF MATTERS NOT ON THE AGENDA

Ms. Bevan will bring her comments next week.

P. ADJOURNMENT

Meeting adjourned at 11:06 P.M.

*Respectfully submitted by:
Virginia A. Smith, MMC/CP
City Clerk*

*Residents follow up after today's meeting for City Council:
Gary Kunnas-debris in canals*