

**PALMETTO CITY COMMISSION
DECEMBER 21, 2009 - 7:00 PM**

Elected Officials Present:

Shirley Groover Bryant, Mayor
Brian Williams, Vice Mayor
Alan Zirkelbach, Commissioner
Tamara Cornwell, Commissioner
Tambra Varnadore, Commissioner

Elected Officials Absent:

Mary Lancaster, Commissioner

Staff and Others Present:

Mark Barnebey, City Attorney
Jeff Burton, CRA Administrator
Jim Freeman, City Clerk
Garry Lowe, Chief of Police
Karen Simpson, Deputy Clerk-Finance
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Finance

Mayor Bryant called the meeting to order at 7:00 pm, after which she gave an invocation, followed by a moment of silence and the Pledge of Allegiance.

RECOGNITION OF ACHIEVEMENT: Cheryl Miller, Sr. Accounting Analyst and
Matt Misco, Accountant
Award of status of Certified Government
Finance Officer

Swearing-in of all persons intending to address City Commission or the CRA Board.

Public Comment (non-agenda items):

Jim Conklin requested a temporary sign permit for a pancake breakfast at the north end of Green Bridge to announce the Tropic Isles pancake breakfast the 4th Saturday of month. Mr. Freeman explained there is a \$25 fee per week to display banners at that location. He will contact Mr. Conklin regarding the application process.

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 4-0 to approve the December 21, 2009 7:00 PM Agenda.

2. CITY COMMISSION CONSENT AGENDA

A) Minutes: December 7, 2009

MOTION: Commissioner Zirkelbach moved and Commissioner Cornwell seconded to approve the December 21, 2009 Consent Agenda.

Commissioner Varnadore noted a scrivener's error in the Commission minutes where a vote had been recorded twice. Staff confirmed the error for correction.

Motion on the floor carried 4-0.

3. SPILL PREVENTION, CONTROL AND COUNTERMEASURES PLAN

Jones Edmunds & Associates Work Assignment #10 for the development of a Spill Prevention, Control and Countermeasures Plan for the City's aboveground fuel storage tanks exceeding 1,300 gallons, as required by the Environmental Protection Agency Code 40 of Federal Regulations (CFR), Part 112.

Mr. Tusing corrected the accounts funding the project.

Discussion: Comment was made on the delay in staff implementing the EPA requirement. Jim McLellan, JEA, explained the \$900 is for an individual from the Gainesville office to physically inspect both sites and prepare a certified report. He also explained that while the implementation of the plan is a standing requirement, there is no emergency for implementation provided a spill does not occur. Mr. Tusing also stated the City's plan will be site specific.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 4-0 to approve and authorize the Mayor to execute Jones Edmunds & Associates, Inc. Work Assignment #10, in an amount not to exceed \$6,400, COP Job #09-610, with funding as stated by Mr. Tusing.

4. CRA STRATEGIC PLANNING SPECIALIST

Approval of correction in hourly pay rate from \$11.70 to \$15.0427 per hour at Grade 103P, Step 8. Mr. Burton discussed the proposed pay rate, and stated the individual filling the position is doing the work and has the credentials to support the amount. He further stated an in-house study has proved that at the \$15 per hour, the CRA will expend \$6,000 less than what paid for last year.

MOTION: Commissioner Williams moved and Commissioner Zirkelbach seconded to approve correction of the Strategic Planning Specialist hourly wage to \$15.0427, Grade 103P, Step 8.

Discussion: Mr. Burton stated that the GIS and Strategic Planner positions were supposed to be paid \$15 per hour. The Strategic Planner position was posted at \$11.70, and has been paid at that wage since his employment, but Mr. Burton confirmed he offered the applicant \$15 per hour. Commissioner Cornwell opined that there may have been more applicants if the position was posted correctly at \$15. Attorney Barnebey opined that Commission may have reclassify the pay schedule for the job if the adjustment to the schedule for the position is made based on analysis, and that from this point forward the position can be paid \$15 per hour. Attorney Barnebey confirmed the City does not need to repost the position and that the pay increase is not retroactive.

Motion on the floor carried 3-1. Commission Cornwell voted no

5. FORECLOSURE OF CITY LIEN AT 98 US 41 NORTH

Attorney Barnebey stated this is foreclosure of a Code Enforcement lien filed July, 2008, with the code enforcement fines continuing to accrue. The property is in foreclosure, in which the City was not named as defendant to the foreclosure suit. The City's lien was filed after the foreclosure. He stated his belief the City may have priority and the City can collect the lien, but the City may have to defend to that point.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to authorize the filing of a lawsuit to foreclose on the City's lien recorded against property located at 98 US 41 North, PID #25816.0036/9.

6. FORECLOSURE OF CITY LIENS AT 4009 11th ST. CT. W. & 4111 10th ST. W.

Foreclosure of Code Enforcement liens filed March, April and May, 2008. BMR Funding is the current owner of the property, as the result of a foreclosure action. The City has sent a letter to

the successful bidder on property regarding the outstanding City lien; no response has been received.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 4-0 to authorize the filing of a lawsuit to foreclose on the City's liens recorded against properties located at 4009 11th St. Ct. W. and 4111 10th St. W., PID #29363.0020/9.

7. KIMLEY HORN LETTER OF AGREEMENT

Agreement to complete engineering and obtain permits for the FRDAP Grant Estuary Park project. Kimley Horn has completed Task 1, which Commission approved October 5, 2009. He requested approval so that Kimley Horn can get the project to a point where it can be built and approved by the Department of Environmental Protection. Mr. Tusing anticipates being able to complete the project before the April 30, 2010 deadline.

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Kimley Horn and Associates, Inc. Letter of Agreement for the Estuary Preserve FRDAP Project A08113, in an amount not to exceed \$20,200.

8. REAPPOINTMENT OF CITY ATTORNEY

Reappointment of the firm of Kirk Pinkerton, PA as City Attorney. Discussion ensued on the term of the reappointment, with consensus that the term will be for one year, with reappointment occurring the 2nd meeting in January, 2011. Attorney Barnebey confirmed that the firm will ask to receive the same increase appointed officers would receive. He also stated that special litigation rates would be as stated in the letter.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Letter of Engagement reappointing the firm of Kirk Pinkerton as City Attorney, for a term ending the second regular meeting date in January, 2011 at a general representation fee not to exceed \$17,667 per month.

9. 1st READ & ADVERTISING APPROVAL: ORDINANCE 2010-02

AN ORDINANCE OF THE CITY OF PALMETTO AUTHORIZING THE CITY CLERK, PURSUANT TO THE CITY'S RISK MANAGEMENT AND INSURANCE PROGRAM, TO SETTLE CERTAIN CLAIMS MADE AGAINST THE CITY OF PALMETTO; PROVIDING FOR THE AUTHORITY OF THE CITY CLERK TO AUTHORIZE THE ISSUANCE OF SETTLEMENT CHECKS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

Attorney Barnebey reviewed the discussion commenced at the 4:00 workshop. He confirmed that settlement criteria are contained in the ordinance, with provision that any settlement over \$1,000 requires review and consent by the City Attorney.

Attorney Barnebey confirmed it would be very difficult to reverse any settlement, should staff have failed to notify Commission in advance of settlement action. Mr. Freeman explained the intent of the ordinance is to give authority to staff to be able to settle small claims in a quick and efficient manner; if Commission is not comfortable with the proposal then all items can be brought to Commission; Commission's only option to discuss and voice an opinion is during a public meeting. Attorney Barnebey also referred to the three criteria in place to ensure claims and settlement information is distributed to Commission in a proper manner. He also opined that from a legal standpoint, there is an advantage to having authority given to staff.

Commissioner Varnadore cited the possibility of numerous claims settled by staff that could have an adverse impact on the budget, and requested that language be added establishing a

cumulative amount of settlements, after which all settlements must come back to Commission. Attorney Barnebey suggested language to the effect: "If claims settled in a fiscal year exceed \$30,000 then the matter will be brought before Commission in a regular commission meeting." It was also consensus that the City Clerk should be granted the settlement authority.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve Ordinance No. 2010-02, as amended with the two changes, for advertising and schedule a public hearing January 4, 2010.

10. 2010-2014 CAPITAL IMPROVEMENT PROGRAM (Carried forward from 4:00 meeting)

MOTION: Commissioner Cornwell moved and Commissioner Zirkelbach seconded to approve the 2010-2014 Capital Improvement Program, with the telemetry meters moved to unfunded.

Discussion ensued on whether the telemetry meters should be removed from the CIP or left on as a line item but unfunded. If left as unfunded and alternative funding is obtained, City Commission approval must be granted. Also, any funding over and above the operational budget must be approved by City Commission. Mr. Tusing stated that approval of the CIP approves the program, but not the funding.

Discussion ensued on the possibility that if the item is removed from CIP, it can be funded by CRA. Commission questioned if the project has been on the CIP in the past. Mr. Burton stated the CRA Budget contains no budget for telemetry meters; the topic would have to go to CRA Advisory Board for approval.

Mr. Tusing requested the item be tabled to the January 4, 2010 meeting.

Commissioners Cornwell and Zirkelbach withdrew their motion and second.

11. 23rd STREET REALIGNMENT PROJECT

Mr. Tusing gave a very brief update on the school and Boys Club building. The soil issue remains unsettled.

12. DEPARTMENT HEADS' COMMENTS

Mr. Freeman reported Code Enforcement has met with Mr. Davis regarding the properties adjacent to his home. One property is privately owned; notice has been sent by Code Enforcement. Notice of Violation was issued on one property to the west of Davis property. The parcel to east has been addressed with the owner. Attorney Barnebey commented on the number of opportunities required by Florida Statutes before code enforcement fines can be levied.

Mr. Freeman also reported he has followed up on the utility bill complaint.

Mr. Tusing

Referred to the ZNS Work Assignment for Haben Blvd. roundabout for \$99,900 that was discussed during the 4:00 meeting. He confirmed the work is being done under a continuing contract. State deadline for the 60% drawings is March, 2009.

Commission Varnadore stated that because the topic was not an agenda item and she had not time to review the material, she could not support its approval.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 3-1 to approve and authorize the Mayor to execute the ZNS Engineering, LC Work Assignment #3, in amount not to exceed \$99,900, COP Job #03-376. Commissioner Varnadore voted no.

Mr. Freeman

External auditors finished field work last Friday. CAFR will be completed in the near future.

Chief Lowe

Be aware of surroundings during the holiday season.

Attorney Barnebey

Thanked Commission for the extension of his firm's contract.

Referring to the attainable housing ordinance, he requested Commission may want to put it on a workshop agenda to determine if it is still needed. The Planner is currently working to determine if the City should be in a mandatory or voluntary period.

13. MAYOR'S REPORT

Appreciated staff's time to develop the overview of the accomplishments this year. Requested it be emailed to Commission.

14. COMMISSIONERS' COMMENTS

Ms. Cornwell

Palmetto Historic Commission Board meeting was cancelled.

There are a number of Fair board meetings occurring.

Attended the Lincoln Memorial High School reunion events; Viewing Through the Tunnel is an excellent display.

Mr. Zirkelbach

Commented on his first year serving as a Commissioner.

Mr. Williams

Suggest that staff needs to pay attention to cost plus item in all future contracts.

Mr. Freeman updated Commission on the cell tower issue, reporting it will be coming before them in January.

Complemented the staff of BIT/IT.

Ms. Varnadore

Inquired if updates have been received on the I&I program, bait shop and tasers.

Asked for the status of projects approved but that have not moved dirt.

Requested an updated suspense log.

Requested a physical list of Code Enforcement issues, describing a physical list of numbers; address with brief description; preparation of a summary document. Mayor Bryant stated staff is looking at code enforcement software to streamline the data.

15. PUBLIC COMMENTS FOR CITY COMMISSION

None

Meeting adjourned at 8:55 pm.

Minutes approved: January 4, 2010

Palmetto City Commission
December 21, 2009
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James R. Freeman

James R. Freeman
City Clerk