

**PALMETTO CITY COMMISSION  
MARCH 15, 2010 - 7:00 PM**

Elected Officials Present

Shirley Groover Bryant, Mayor  
Tamara Cornwell, Vice Mayor, Commissioner-at-Large 2  
Alan Zirkelbach, Commissioner-at-Large 1  
Mary Lancaster, Commissioner, Ward 1  
Tambra Varnadore, Commissioner, Ward 2  
Brian Williams, Commissioner, Ward 3

Staff Present:

Mark Barnebey, City Attorney  
Jeff Burton, CRA Interim Administrator  
Jim Freeman, City Clerk  
Garry Lowe, Chief of Police  
Allen Tusing, Public Works Director  
Frank Woodard, Deputy Director of Project Management and Engineering  
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. A Moment of Silence in honor of City employee Lennard Zel Mays was observed, followed by the Pledge of Allegiance.

PROCLAMATION: Vice Mayor Tamara Cornwell read a proclamation declaring April as Water Conservation Month, which was accepted by Terri Behling, Community Affairs Manager of Southwest Florida Water Management District.

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

Public Comment (non-agenda items):

Palmetto Mobile Home Club's group Jack's Jammers performed their rendition of "Oldie from Palmetto". Members of the group were Jack and Pat Young, Bob and Vickie Wheeler, Larry Nicholson, Sam Carnahan, Carl Kleymeer, Bill Slater and Joyce Beckner.

Jean Moreland, 1107 6<sup>th</sup> Ave. Dr. W., applauded the 17<sup>th</sup> St. project and inquired when paving would occur on the streets east of 8<sup>th</sup> Ave. Mr. Tusing stated the Ward 1 Phase II project is underway; permitting is being completed, engineering is at 100%. A grant is being applied for to assist with part of the funding. The project will go to bid, the project will be started with allocated funds, and the receipt of grant funding will complete the second half of the project.

1. CITY COMMISSION AGENDA APPROVAL

Mayor Bryant requested that a discussion regarding attainable housing be added as item 7A.

**MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to approve the March 15, 2010 7:00 PM Agenda with the addition of item 7A, a brief discussion on attainable housing.**

2. CITY COMMISSION CONSENT AGENDA

A) Minutes: March 1, 2010

- B) February Check Register
- C) Kirk-Pinkerton Special Litigation Billings
- D) Special Function Permits: Jerry Hill Memorial Kids Fishing Tournament  
First Fridays on Fifth
- E) Noise Exception Permit: First Fridays on Fifth
- F) Acceptance of Easements for Palmetto Elementary School project

Commissioner Cornwell pulled items D, E, and F from the Consent Agenda for discussion.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve items A, B and C of the March 15, 2010 Consent Agenda.**

D: First Friday on Fifth: Commission discussed the applicant's request to approve the events for a year, with concern voiced because of a possible conflict with historic events that occur on Fridays. Also discussed was the unknown traffic impact on 5th Street after the Riverside Dr. project is completed. Mr. Tusing suggested that if the events are going to be on a long-term basis, a traffic study for 5th Street should be completed. The applicants discussed their plans to stage their events so that they fit with the events that are normally held in the area. They also offered the City the chance to review their security film in assisting with any traffic study.

**MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 5-0 to approve April 2, May 7, and June 4 events, with staff coming back with information in three months.**

Attorney Barnebey directed that a new application with new dates should be attached to this application and submitted for approval.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the Jerry Hill Memorial Kids Fishing Tournament.**

F: Acceptance of Easement for Palmetto Elementary School project: Mr. Tusing explained why the easements were 23 feet.

**MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 5-0 to approve item 2E, the Noise Exception Permit for First Fridays on Fifth for the April 2, May 7 and June 4 dates and item 2F, the Acceptance of Easements for Palmetto Elementary School project.**

3. PUBLIC HEARING: ORDINANCE NO. 2010-03

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; AMENDING THE DEFINITIONS RELATED TO STORMWATER DISCHARGE REGULATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing. After no public comment, Mayor Bryant closed the public hearing.

**MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to adopt Ordinance No. 2010-03.**

4. APPROVAL: AGREEMENT WITH CLARK COMMUNITIES, INC.

(Carried forward from the 4:30 workshop)

Approval of the Agreement with CCI for the application and administration of a Florida Small Cities Community Development Block Grant (CDBG) in the Neighborhood Revitalization Category.

**MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the Agreement between Clark Communities, Inc. (CCI) and the City of Palmetto for 8% of the CDBG grant up to a maximum of \$60,000, which payment is contingent upon the City being awarded CDBG funding by the DCA for the application submittal.**

#### 5. LAND LEASE AGREEMENT- HIDDEN LAKE CELL TOWER

Mr. Freeman stated the proposed land lease agreement with Verizon Wireless is for the installation of a 152' monopole cell tower on a certain portion of Hidden Lake Park. Items discussed at previous meetings have been incorporated into the lease; landscaping, vinyl fencing and maintenance of the flag. If approval of the land lease is granted, Verizon will proceed with application of a conditional use permit for the tower as defined in the Zoning Code.

Mike Knuckles, Craig & Associates and an independent contractor for Verizon Wireless, briefly commented on the project that was started approximately 35 months ago. Verizon was represented by a construction manager and implementation engineer.

Discussion ensued on the lease, as follows:

#5 Extension Rentals: Prior version of the lease reflected an annual 3% increase; current version reflects 2%. Mr. Freeman explained the prior increase was a total of 15% for a five year term and during negotiations it was broken into an annual increase every year. The increase has been reduced 1% per year. Mr. Knuckles confirmed the decrease was a corporate change from Verizon. He discussed the revenue the City would receive at \$500,000 over 25 years and also the ground revenue. The ground area being leased will support two additional carriers on the tower, who would have to negotiate the lease for the ground with the City. During the discussion, Commissioner Williams voiced his objection to a 25-year lease.

#22 Assignment: Attorney Barnebey confirmed the City will have no approval of any transfer of lease. The provision runs with the land, but the new owner will be subject to all terms of the lease.

Length of time: Attorney Barnebey stated the length is an initial five year term and then Verizon can extend the lease four times. Both parties have the ability to terminate at the end of 25 years. Commissioner Varnadore also voiced concern about the 25 year term, and locking the City into the rates for that period of time.

Commissioner Varnadore stated she would like some assurance that as new technology develops, including safety advancements, that the site will be updated. Mr. Knuckles opined that discussion of this topic should occur during the zoning process. Attorney Barnebey stated that if a new provision is wanted in the lease, it will have to be taken back to Verizon. Janet Palado, project information analyst for Verizon, stated Verizon is spending \$50 million in Florida to improve its technology. She stated every site is upgraded as technology improves.

Attorney Barnebey confirmed the City would provide its own legal defense in the event a suit is filed against the City and Verizon. Commissioner Williams wants a provision in the lease that Verizon will assume the defense responsibility in any lawsuit.

Attorney Barnebey stated both requests are material clauses to the agreement. If Commission desires the amendments, he would recommend bringing the lease back after a chance to review the topic.

**MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 3-2 to approve the Land Lease Agreement between the City of Palmetto and Verizon Wireless for a portion of the City-owned parcel located at 1720 12th St. W. Commissioners Cornwell and Williams voted no.**

Commissioner Cornwell stated she voted down the topic because she had not received the information she had requested; a report from Florida League of Cities on controls covering new towers. Mr. Freeman stated he had reported back to Commission that he had contacted the League and the telecommunications committee Commissioner Cornwell had referred to had been disbanded and no information was available. She stated that with the lack of information she had requested, she was uncomfortable and would not support the tower.

6. RESOLUTION NO. 2010-10

Resolution amending the budget to reallocate the expense and revenue for the 2010 Fireworks display from the CRA into the General Fund. A resolution reallocating the now unencumbered \$10,000 in the CRA budget will be brought for approval at a later date.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 09-38, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2009-2010, AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to adopt Resolution No. 2010-10.**

7. 1st READ & ADVERTISING APPROVAL ORDINANCE NO. 2010-04

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; AMENDING THE QUALIFYING PERIOD FOR CITY ELECTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Ordinance No. 2010-04 for advertising and schedule a public hearing April 5, 2010.**

7A. ATTAINABLE HOUSING

Commissioner Zirkelbach informed Commission he has learned that a prospective buyer of the Sanctuary Cove project may back out because of the ordinance on that one project. To possibly salvage the project, he inquired if Commission could consider repealing the ordinance until Commission has had time to look at the entire ordinance. Attorney Barnebey advised Commission they could amend the project's ordinance or the potential buyer can request an amendment. He also stated Commission could amend the housing ordinance to correct irregularities that have already been discussed.

Commissioner Varnadore commented on the fact this is the only project under the housing ordinance, which the owners of the project agreed to before it was adopted. She suggested placing stipulations rather than repealing the ordinance. She inquired if a new general development plan (GDP) will be submitted and if they will fall under the ordinance because the City is now in a voluntary period. Commissioner Zirkelbach stated there is a possibility the density will be significantly lowered. He also inquired if a new GDP will come back for Commission approval or will it be administratively approved.

Attorney Barnebey stated a reduction in units may not come back to Commission, but a revision to stipulations would; however, they are required under their current ordinance to comply with the housing ordinance. Attorney Barnebey opined that eliminating the stipulation from their ordinance may or may not solve their problem.

Commissioner Williams inquired if Commission could place the project in a voluntary period, contingent upon Commission's review of a new GDP. Attorney Barnebey stated it is his legal opinion the project is under the voluntary period regardless of Commission action, but in the future, the project will be subject to the housing ordinance.

Commissioner Varnadore stated she does not want to "tailor make an ordinance to fit a certain individual project", but she had no objection to staff bringing back recommendations. Commissioner Cornwell stated her opinion that staff should legally "make it happen" so that one entity does not fall under it without changing the whole ordinance". Commissioner Lancaster agreed. Commissioner Zirkelbach stated it is very difficult for anyone to understand what the future holds; the prospective buyer is very worried how this will affect them in the future. Attorney Barnebey stated the simplest way is to delay the effective date, but all possibilities would be looked at.

It was consensus of Commission to instruct staff to bring back options on the topic.

Mayor Bryant recessed the City Commission meeting at 8:37 to open the Special CRA Board meeting.

Mayor Bryant reconvened the City Commission meeting at 9:08 pm.

#### 8. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)

Received the exhibit regarding the land swap, final drawings for new right-of-way and vacation sections and are working on design built specs. A joint meeting was held on Friday with the involved entities and a representative from the Rays. A letter will be submitted stating needs and intent. Manatee County will be filling out the maintenance portion.

#### 9. DEPARTMENT HEADS' COMMENTS

##### Allen Tusing

FDOT has requested the warranty section of the contract with Woodruff to do 10<sup>th</sup> & 14<sup>th</sup> be removed, because of stimulus dollars. The contract is only for the resurfacing portion of the project. He stated that the City will not receive the funding without the amendment. Attorney Barnebey recommended a motion to remove the provision from this contract so FDOT will fund the project.

**MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to allow staff to amend the contract with Woodruff to eliminate the warranty clause that the State has objected to.**

Mayor Bryant asked that a letter to State representatives be drafted regarding this topic. Commission agreed to the Mayor signing such a letter.

A tree planting memorial for Lennard Mays will be held Friday at 1:00 at Hidden Lake Park.

##### Jim Freeman

A presentation of the Local Mitigation Strategy to identify projects in the event of a hurricane will be on the April 5, 2010 workshop, and a resolution adopting the strategy will be carried forward to the 7:00 agenda.

Received a Special Function Permit from Regatta Pointe Marina on Friday. The marina is trying to get permitting for a small power boat race April 9 and 10, at which time they will request to close the boat ramp. They are working with the Coast Guard and other appropriate agencies, but have not yet secured the necessary permit.

Commented on the sample chairs for Chambers, stating he is not happy with any of the selection.

Chief Lowe

New vehicles have arrived. Commended Lt. Tyler for the way they were purchased and outfitted. Arrangements are being made for auction of excess vehicles.

Commended selective enforcement; 201 citations were issued during the Click It or Ticket campaign; 170 seatbelt violations.

Last week K9 unit Cantu passed away. Recognition for all three passed K9's is being planned.

Attorney Barnebey

Moving ahead on the 23<sup>rd</sup> Street project; have met with the attorneys involved in the two contracts. Recommend annexing 8th Ave., as north of existing 23 Street it is in the county. Annexation will solve a number of issues.

10. MAYOR'S REPORT

Reported the Cracker Cowboy & Heritage Celebration events were exceptional.

Congratulations to Jet Park for their mortgage burning celebration. The park's visit is Saturday at 8:30. Commissioners Lancaster and Cornwell stated they would be attending.

Stated there has been some confusion about the Riviera Dunes visit. A flyer has been distributed and they are anticipating a visit Wednesday at 6:00. She requested that she be alerted who would attend.

11. COMMISSIONERS' COMMENTS

Mr. Williams

Spoke of the Jet Park mortgage burning ceremony.

Mr. Tusing reported the barges were in the river for restoration to the underside of DeSoto Bridge.

Mr. Tusing stated he has spoken with the Coast Guard regarding the boats anchored in the river; all they can do is make sure the boats are OK. The City would have to consider a mooring field to combat the situation.

Ms. Varnadore

Mr. Freeman reported he has emailed Mr. Foster regarding the bait shop lease, alerting him it will take four to six months to obtain a dock permit. Ms. Varnadore stated the topic needs resolution.

Suggested that the City should develop an overall calendar for all special events. Discussion will occur in the department head meeting to set criteria for posting other events being held on the city website.

Suggested funding should be considered for resurfacing 10<sup>th</sup> Ave. between 7th and 10th Streets.

Mr. Zirkelbach

Inquired about the CBI building. Mayor Bryant reported she is still talking with Dr. Alkire. Mr. Burton reported he has until end of the month to make a decision. Mr. Burton also stated CRA is updating demolition to remove the building to use for parking. The CBI and Ford properties will be included as part of an upcoming streetscape plan. He will ask CRA Advisory Board to fund parking of the entire piece. Dr. Alkire will be offered the chance to participate in the project.

Ms. Cornwell

Commented on the meetings this week; the calendar will be most helpful in avoiding conflict in meeting dates.

Inquired of the update of the website. Mr. Burton stated CRA is looking at the topic and should have resolution within 60 days.

Ms. Lancaster

Mr. Tusing reported the road gang will be Jackson Park once they are finished at Estuary Park.

Meeting adjourned at 9:45 pm.

Minutes approved: April 5, 2010

*James R. Freeman*

James R. Freeman  
City Clerk