

**CITY COMMISSION MEETING  
MARCH 7, 2011  
7:00 PM**

Elected Officials Present:

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

Staff Present:

Mark Barnebey, City Attorney  
Jim Freeman, City Clerk  
Lorraine Lyn, City Planner  
Allen Tusing, Public Works Director  
Rick Well, Chief of Police  
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 p.m. She asked that former Mayor Gordon Dole and his family be remembered during a Moment of Silence, which was followed by the Pledge of Allegiance.

Swearing-in of all persons intending to address City Commission.

Public Comment: Eileen Hoffner, 2103 27<sup>th</sup> Ave. Blvd. W., spoke of the odor emanating from Terra Ceia Bay in the vicinity of her home. She suggested that communication with the citizens could alert them to when excess reuse water is expected so it could be used in irrigating rather than being discharged. Mr. Tusing informed the public that any wastewater discharged must meet drinking water standards. Mayor Bryant commented on the public awareness campaign the City is undertaking regarding the ASR well project.

Cornelius Jackson, 210 12<sup>th</sup> St. W. spoke of a possible crack house being operated next door to him at 214 12<sup>th</sup> St. W. Mayor Bryant acknowledged the City has already taken steps to address the issue.

1. CITY COMMISSION AGENDA APPROVAL

**MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the March 7, 2011 7:00 p.m. Agenda.**

2. CONSENT AGENDA APPROVAL

**A) CITY CLERK'S OFFICE**

1. Minutes: February 22, 2011
2. February Check Register
3. Special litigation billings:

- a. Kirk Pinkerton
  - b. Persson & Cohen, P.A.
4. Special Function Permit:
- a. The Main Event for April 1, May 6, and June 3, 2011
  - b. Jerry Hill Memorial Kids Fishing Tournament
5. Budget Resolutions
- a. Resolution No. 2011-06 to establish budget for the Ward I Phase II CDBG grant award
  - b. Resolution No. 2011-10 to establish budget for the Police Department pond Supplemental Site Assessment Report
  - c. Resolution No. 2011-11 to accept, authorize execution and establish budget for the Florida Municipal Insurance Trust (FMIT) Safety Grant award
6. Approval of a three-year lease with Canon Business Solutions for new copiers to be placed at City Hall, Public Works Engineering, Police Department and CRA.
7. Selection of the Energy Efficiency & Conservation Block Grant (EECBG) Grant Administration services, contingent upon applicable contract document review by the City Attorney.

Items 1, 2, 4a, 6 and 7 were removed for discussion.

**MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to approve items 3, 4b and 5 of the March 7, 2011 Consent Agenda.**

Item #1 February 22, 2011 minutes: Commissioner Varnadore requested that the minutes be further clarified regarding the CIP discussion. It was consensus of Commission to table the minutes until the next agenda.

Commissioner Varnadore left commission chambers.

Item #2 February check register

**MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 4-0 to approve the February check register. Commissioner Varnadore was absent for the vote.**

Commissioner Varnadore returned to the meeting.

Item #4A Special Function Permit for the Main Event:

**MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the Main Event for April 1, May 6, and June 3, 2011, subject to insurance compliance requirements of the City.**

Item #6 Three-year lease with Canon Business Solutions: Mr. Freeman explained how the purchasing department had determined the most efficient copier for the departments. The lease will result in a cost savings to the City.

**MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve a three-year lease with Canon Business Solutions for new copiers to be placed at City Hall, Public Works Engineering, Police Department and CRA.**

Item #7 Energy Efficiency & Conservation Block Grant (EECBG) Grant Administration Services.  
Mr. Freeman recommended that Commission approve CCI for the grant's administration services. The company currently administers the CDBG grant. This is a 250,000 grant, which must be spent before December.

**MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 5-0 to approve item #7 on the Consent Agenda, subject to document review by the City Attorney.**

3. PUBLIC HEARING: ORDINANCE NO. 2011-04 (L. Lynn)

Mayor Bryant announced that because of her prior affiliation with the school as its CFO, and because Vice Mayor Zirkelbach had submitted a Form 8 Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, Commissioner Williams would conduct the public hearing for the next items.

Attorney Barnebey clarified that because the ordinances are related, one public hearing could be held on all four ordinances, but he recommended that separate motions should be made when taking action.

PUBLIC HEARING: ORDINANCE NO. 2011-04

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING APPROXIMATELY 1.043 ACRES OF REAL PROPERTY INTO THE CITY OF PALMETTO GENERALLY LOCATED AT 735 15<sup>TH</sup> AVENUE DRIVE EAST, PALMETTO; PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Applicant: Renaissance Arts and Education, Inc./dba Manatee School for the Arts (MSA), AN #2011-01)

Commissioner Williams opened the public hearing for Ordinance No. 2011-04

At Attorney Barnebey's recommendation, staff read the following three titles:

PUBLIC HEARING: ORDINANCE NO. 2011-05

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE CITY OF PALMETTO COMPREHENSIVE PLAN; ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 1.043 ACRES GENERALLY LOCATED AT 735 15<sup>TH</sup> STREET EAST; REDESIGNATING CERTAIN LANDS FROM COUNTY RES-6 (RESIDENTIAL 6 UNITS PER ACRE) TO CITY PC (PLANNED COMMUNITY); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Applicant: Renaissance Arts and Education, Inc./dba Manatee School for the Arts (MSA), PA #2011-01)

PUBLIC HEARING: ORDINANCE NO. 2011-06

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING AND AMENDING THE ZONING TO THE PLANNED DEVELOPMENT MIXED USE (PD-MU) ZONING DISTRICT FOR APPROXIMATELY 21.58 ACRES OF PROPERTY GENERALLY LOCATED AT 600, 700 AND 822 HABEN BOULEVARD AND 735 15<sup>TH</sup> AVENUE DRIVE EAST, PALMETTO; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Applicant: Renaissance Arts and Education, Inc./dba Manatee School for the Arts (MSA), approximately 21.58 acres Z#2011-01)

PUBLIC HEARING: ORDINANCE NO. 2011-07

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ORDINANCE NO.09-986 TO APPROVE AN AMENDED GENERAL DEVELOPMENT PLAN FOR A MIDDLE AND HIGH SCHOOL WITH A MAXIMUM OF 1650 STUDENT STATIONS AND AN EDUCATION RELATED GO-KART FACILITY FOR THE PROPERTIES GENERALLY LOCATED AT 600, 700 AND 822 HABEN BOULEVARD AND 735 15<sup>TH</sup> AVENUE DRIVE EAST, PALMETTO, AND LOCATED IN THE PD-MU (PLANNED DEVELOPMENT – MIXED-USE) ZONING DISTRICT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Applicant: Renaissance Arts and Education, Inc./dba Manatee School for the Arts (MSA), approximately 21.58 acres GDP2011-01)

Commissioner Williams opened the public hearing for Ordinance 2011-05, Ordinance 2011-06 and Ordinance 2011-07, noting the public hearing had already been opened for Ordinance No. 2011-04.

City Planner Lorraine Lyn provided a staff overview, as follows:

1. Annexation of a single family tract of land
2. Amendment of land use category for the annexed parcel from county RES-6 to City Planned Community
3. Rezoning of the the following property to PD-MU: 1) annexed parcel from RES 4.5; 2) the adjacent single-family lot that is zoned PD-MU; 3) two front parcels on Haben Blvd that was approved as part of Riviera Walk East zoned PD-MU; and the original 8-acre tract for the school that is zoned PD-MU
4. GDP and rezone which covers all 21.58 acres for the school

The land use category is consistent with the Comp Plan, with a FAR of .226, and the go-kart track is a permitted use because of the mixture of residential and commercial uses. Of two modular buildings, one modular building will remain in 2014. The project will be completed in two phases: 1) 42,000 sq ft 3-story classroom and 5,000 stem kart classroom and go-kart track in 2011 and 2) a 47,400 sq ft 3-story classroom.

Ms. Lyn stated the traffic study remains an outstanding issue. She reviewed the stipulations that have been placed on the general development plan pertaining to traffic, as well as the stipulation pertaining to noise at the go-kart track. The only amendment to the stipulations discussed (and as listed in the ordinance) is that the traffic study shall be provided during “**final**” construction plan review. Some fences being proposed may require a special fence permit. Parking is based on state requirements, and acceptable to staff. The landscape buffer has been met and the 3-story building now has a 36’ set back.

Of the eight maps, staff recommended approval of the master plan, and engineering plan.

Jon Moore, architect for the project, stated the applicant has agreed to meet all the stipulations that staff has proposed.

Commissioner Williams stated that in addition to the letters included in the agenda material, two additional letters have been received and supplied to Commission, and will become part of the record. Mayor Bryant acknowledged she has received many emails and tried to respond to all of them.

The following individuals voiced their concerns regarding the proposed project at the school:

1. Robert Wilson, president of Homes of Riviera Dunes
2. Pat Wilson, president of the Hammocks at Riviera Dunes
3. Carole Dougherty
4. Gary Parrot
5. Carlene Johnson

6. Crystal Schwartz

The following individuals spoke in support of the proposed project at the school:

1. Lauren Pierce
2. Lenell Houser

Ms. Lyn informed Commission that the third map that has been accepted and is being recommended for approval is the lighting plan. She also stated that a stipulation not in the ordinance but placed on the site plan is receipt of the landscape and irrigation plan; the applicant has agreed to provide the plan during construction plan review.

Carlene Johnson and Crystal Schwartz also voiced concern regarding the proposed project.

Commissioner Williams opened the rebuttal period of the public hearing.

Jon Moore stated the landscape buffer on the side of the property abutting Riviera Dunes including the City-maintained ditch equates to approximately 70'. He also confirmed that the decibel level for noise meets the City's existing ordinance; if the proposed level is to be lowered, he opined the City's ordinance needs to be amended.

Frederick Hillier, developer of the course, stated the course is a physics class, not a go-kart or go-kart track course. He stated the course is designed to assist in a decision to enter into design/engineering or performing arts advanced education. He opined existing technologies can make the noise level acceptable.

Terence Devine, Assistant Principal at Manatee School for the Arts, stated the school will continue to work with its neighbors. He spoke to issues that had been raised during public comment, as follows:

- The school hopes to use electric or hybrid engines in the course in the future;
- The insurance liability has been cleared with the school's insurance company;
- The course is not a spectator sport; one person will be on the track at one time;
- The security of the facility will continue to be pursued;
- Since the initiation of the FCAT in Florida, Manatee School for the Arts has had the highest FCAT score in Manatee County

Commissioner Williams closed the public hearing.

Commissioners Varnadore and Lancaster discussed the concerns they had with the project, namely noise, traffic and the required documents that have not yet been supplied.

Commission discussed specific items, as follows:

- The traffic study, which will address the student drop off/pick up area, is due before construction begins; Manatee School for the Arts is aware there is no guarantee they will receive final approval;
- If approved with stipulations recommended by staff, Commission will not see the project again
- If the school doesn't comply with the stipulations placed on the track, it will become a code enforcement issue;
- Noise violations at the site will become a police department issue;
- Charter schools timetable for project review by the School Board; if approved, construction will begin with the foundation of a building, prior to site plan approval; the applicant is aware of the

risk prior to site plan approval; construction timetable is critical to allow for the building to be constructed prior to the opening of the next school year

- The applicant has agreed to comply with all the results of the traffic study

Bob Gause, Allison Engineering, opined the insurance is not an issue for the School Board. The proposed vehicles have been approved by the insurance company. The school's contract with the School Board does not restrict the curriculum.

Mr. Devine described the expected operation of the go-kart track and how those vehicles will be fueled. The lab (for the course) is no more than 20% of the course. Mr. Hillier described topics that would be taught in a "high school physics class themed around the science of motor sports", which is a college level course.

Commissioner Cornwell requested to see the insurance policy and the application on the use of the course in a laboratory situation. She also cited her concerns with the project.

Mr. Devine stated that if the hold up on this project is the motor sports area and lab on the front of the property, they would move to remove it from the general development plan. Mr. Devine confirmed that the school would be amenable to limiting the noise from the track to 8:00 a.m. – 5:00 p.m. vs. the 6:00 p.m. timeframe previously accepted.

Mr. Gause confirmed the landscape plan was previously submitted. The final landscape and irrigation plan is ready to be submitted with the construction plans. He opined there has been an attempt to address the illegal parking at the entrance to Riviera Dunes with a traffic study. He discussed his opinion of the illegal parking being the real issue, and the traffic study may not provide answers, but the site plan can. He also stated the school is willing to work with staff to resolve the parking issues.

Staff confirmed the proposed annexation meets all requirements. Current student parking will not change and access to the new parking area will be through the existing parking lot. There will be only an emergency entrance on 15<sup>th</sup> Ave. Dr. E.

Staff confirmed the open space on the site does not meet the code's 25% requirement. Staff accepted the schools' request to allow the current play area of approximately two acres to serve as open space because of the constraints on the site due to wetlands.

Staff will process this as a small scale plan amendment because of the size of the parcel being annexed. However, because the density is 16 units per acre vs. the state limit of 10 acres per acre, there is a chance DCA will not accept it as small scale. If that is the case, it will be included in the next cycle amendments to the Comp Plan.

Commissioner Williams divulged he had received a call from Dr. Jones during which they discussed NASCAR and the book Mr. Hillier referred to as the basis of the course. He stated that once he realized the conversation would lead to the land use topic he ended the conversation. Commissioner Williams further divulged that he did not learn anything that has not been discussed during the meeting. He stated his concerns with the project, but also opined that resolution should be sought for the benefit of the students and to accommodate residents in the area. He opined that the school has to address its parking issues.

Commissioner Zirkelbach cited noise comparisons taken from the National Hearing Conservation Association periodical Base Line. He discussed his opinion that a charter school is not given enough time get projects done [in the timeframe established by the School Board]. He, like Commissioner Williams, encouraged that stipulations be developed for the project.

Mr. Devine stated that it is crucial to get the 3-story building approved, as the school is at 100% capacity. The school would be willing to separate the two projects; building and stem kart classroom.

Attorney Barnebey opined limited construction could be allowed on site. Part of the issue on this site is that parking needs to be taken care on the construction plans approved by the city engineer. He also opined that the City is looking for a safety and operational traffic study vs. a study for concurrence.

Discussion ensued on the school's attempt to address parking through its Code of Conduct and parental contracts. Chief Wells confirmed that discussion has already occurred regarding the parking at the site, referring to gates that were opened earlier last year. He stated there is a serious problem with pick up in the afternoon that needs to be resolved immediately, regardless of the proposed project under discussion. Mr. Devine stated the school welcomes a chance to work with the police department to come to a conclusion that will resolve the issue.

Attorney Barnebey confirmed that if the go-kart is removed, it would have to come back as an amended general development plan. If the first two items are approved, the parcel of land would be annexed into the City and receive a Comp Plan designation; the rezone and general development plan can be continued to a date and time certain or approve them with additional stipulations.

**MOTION: Commissioner Varnadore moved, on the recommendation of Mr. Barnebey, Commissioner Lancaster seconded, and motion carried 4-0, to adopt Ordinance No. 2011-04, which is an annexation of 1.043 acres at 735 15<sup>th</sup> Ave. Dr. E., located at the northeast corner of the MSA property. Commissioner Zirkelbach abstained from the vote.**

**MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to adopt Ordinance No. 2011-05, which is a small scale plan amendment from RES-6 to PC for 1.043 acres at 735 15<sup>th</sup> Ave. Dr. E., located at the NE corner of the MSA property, as recommended by staff. Commissioner Zirkelbach abstained from the vote.**

Commissioner Cornwell suggested moving the items forward to the March 21, 2011 workshop meeting for discussion prior to the regular meeting. Mr. Tusing opined that no building permits can be issued for any building on the site without GDP approval. Attorney Barnebey stated he could not disagree with Mr. Tusing at this point in time.

Discussion ensued on portables. Commissioner Zirkelbach stated the charter schools must meet the Building Code, even for a temporary use.

**MOTION: Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried 4-0 to continue the public hearing for Ordinance No. 2011-06 to the next scheduled Commission meeting, March 21, 2011 at 7:00 p.m., or as soon thereafter as the item may be heard. Commissioner Zirkelbach abstained from the vote.**

**MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to continue the public hearing for Ordinance No. 2011-07 to the next scheduled Commission meeting, March 21, 2011 at 7:00 p.m., or as soon thereafter as the item may be heard. Commissioner Zirkelbach abstained from the vote.**

Staff was instructed to schedule the topics for the March 21, 2011 4:30 p.m. workshop meeting.

Mayor Bryant stated that conversation had occurred in the past regarding the island in the approach to the school. She stated staff would be scheduling an appointment to meet with the school regarding the topic.

Mayor Bryant recessed the City Commission meeting at 9:45 p.m. to open the CRA Board meeting.

Mayor Bryant reconvened the City commission meeting at 10:10 p.m.

7. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Mayor Bryant stated a meeting is scheduled with the different entities on Thursday. She advised Commission she had signed an agreement extending the due diligence for an additional three months.

8. ASR WELL UPDATE

None

9. DEPARTMENT HEADS' COMMENTS

Attorney Barnebey informed Commission he will be out of town the remainder of the week.

10. MAYOR'S REPORT

Informed Commission the City's flags have been lowered in honor of former Mayor Gordon Dole.

11. COMMISSIONERS' COMMENTS

Mr. Zirkelbach

Stated he will discuss the building foundation and the possibility of starting it in violation of the rule with Mr. Tusing.

Mr. Williams

Stated he would like the Mayor to aggressively attack the parking issue at the school.

Meeting adjourned at 10:10 p.m.

Minutes approved: March 21, 2011

*James R. Freeman*

James R. Freeman  
City Clerk