

**CITY OF PALMETTO  
CITY COMMISSION MEETING  
APRIL 18, 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 Wells, Chief of Police  
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 p.m., followed by a Moment of Silence and the Pledge of Allegiance.

Proclamation: Child Abuse Prevention Month  
Safe Children Coalition

Accepting: Thomas Marer, Vice President, Community Based Care  
Kevin McKenney, Director, Community and Client Relations

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

Public Comment: None

1. CITY COMMISSION AGENDA APPROVAL

Mayor Bryant asked that item #11 be moved to be considered as item 3A.

**MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to approve the April 18, 2011 7:00 PM Agenda with changes as noted.**

2. CONSENT AGENDA APPROVAL

**A) CITY CLERK'S OFFICE**

1. Minutes: April 4, 2011
2. Special litigation billing: Persson & Cohen, P.A.
3. Special Function Permits:
  - a. Cinco de Mayo Festival, May 5, 2011
4. Budget Resolutions
  - a. Resolution No. 2011-15  
BB&T Lease / Budget Cleanup
  - b. Resolution No. 2011-16  
Ward I Phase II B Funding

## **B) PUBLIC WORKS**

1. Award of bid to Gator Grading and Paving, LLC for the Haben Blvd. Roundabout Project in an amount not-to-exceed \$381,409.30.

**MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 5-0 to approve the April 18, 2011 Consent Agenda.**

### 3. REQUEST FOR CODE ENFORCEMENT LIEN REDUCTION

Code Enforcement Director Bill Strollo reviewed the history of actions taken against the property owners on the subject property located at 412 20<sup>th</sup> Avenue West. The Code Enforcement Board imposed a \$500 per day fine because the property owner was a repeat violator, and as inducement to remedy the situation as quickly as possible. The current code enforcement lien is \$33,612.65, plus a utility lien of \$1,640.01. CitiMortgage has remitted the City a check for the total utility lien. CitiMortgage is requesting the code enforcement lien be reduced to \$1,500.

Subsequent to the liens being recorded, a mortgage foreclosure and then a bankruptcy was filed. CitiMortgage was awarded a Certificate of Sale on March 15, 2011. Discussion ensued on the amount of time it took CitiMortgage to bring the property into compliance because of the bankruptcy. Attorney Barnebey opined CitiMortgage appeared to have corrected the violation on the property as soon as they could under current law.

Discussion ensued on the process and the amount of lien reduction being requested by CitiMortgage. Mr. Strollo estimated the amount of administrative costs associated with the lien to be approximately \$600. Attorney Barnebey estimated his firm would have accumulated approximately \$200 in fees.

**MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 3-2 to accept \$5,041.90 for the code enforcement lien and the full utility lien amount of \$1,650.01, for a total of \$6,691.91, with the stipulation that the total amount must be paid within 20 days of this action. Commissioners Cornwell and Lancaster voted no.**

### 3A. CDBG WARD I PHASE II AND EECBG (ARS016) ENERGY GRANT UPDATE

Bud Clark of Clark Communities, Inc. (CCI) updated the Commission on the GDBG Ward 1 Phase II project, which is ahead of schedule and expected to be completed in July. He publically thanked the contractor for keeping the site clean. He stated the City will be eligible to again apply in next CDBG cycle.

He also stated the energy grant will be finished on or about July 31<sup>st</sup>. The Florida Energy Commission has indicated the City must put the 2010 energy grant out to request for proposals before it can be funded.

### 4. 1<sup>st</sup> READ: ORDINANCE NO. 2011-12

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE SIGN CODE, ARTICLE III OF CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO, ESTABLISHING NEW SIGN REGULATIONS FOR THE INTERCHANGE INTERSECTION ON 10<sup>TH</sup> STREET IN AND AROUND THE US 41/301 INTERSECTION BETWEEN APPROXIMATELY THIRD AVENUE AND HABEN BOULEVARD; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Barnebey explained the proposed ordinance was deleted from the last agenda for first reading, but had been advertised as a public hearing tonight. He recommended that comments for item #5 can be accepted, but Commission should not take action other than to continue the meeting to May 2, 2011.

**MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to schedule a public hearing for Ordinance No. 2011-12 for April 18, 2011.**

5. PUBLIC HEARING: ORDINANCE NO. 2011-12

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE SIGN CODE, ARTICLE III OF CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO, ESTABLISHING NEW SIGN REGULATIONS FOR THE INTERCHANGE INTERSECTION ON 10<sup>TH</sup> STREET IN AND AROUND THE US 41/301 INTERSECTION BETWEEN APPROXIMATELY THIRD AVENUE AND HABEN BOULEVARD; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing.

**MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded to continue the public hearing for Ordinance No. 2011-12 to May 2, 2011 at 7:00 p.m., or as soon thereafter as the issue may be heard.**

Discussion: Attorney Barnebey explained that the City has advertised that it is proposing to change the sign ordinance. If there is a significant change to the ordinance as written, i.e. should Commission lower the proposed 85-foot sign height maximum to lower than 60-feet or raise it to 100-feet, then the ordinance would have to be re-advertised. If the ordinance is not approved then the maximum sign height would be 30 feet.

**Motion on the floor carried 5-0.**

6. 2<sup>nd</sup> READ AND PUBLIC HEARING: ORDINANCE NO. 2011-08

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 HOUSING (PDH) ZONING DISTRICT FOR APPROXIMATELY 1.66 ACRES OF PROPERTY GENERALLY LOCATED AT 4009 11<sup>th</sup> STREET COURT WEST, PALMETTO; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Applicant: BMR Funding LLC, approximately 1.66 acres)

7. 2<sup>ND</sup> READ AND PUBLIC HEARING. ORDINANCE NO. 2011-09

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ORDINANCE NO. 06-911 TO APPROVE AN AMENDED GENERAL DEVELOPMENT PLAN FOR TWELVE SINGLE-FAMILY DETACHED DWELLING UNITS GENERALLY LOCATED AT 4009 11<sup>th</sup> STREET COURT WEST, PALMETTO, AND LOCATED IN THE PDH (PLANNED DEVELOPMENT – HOUSING) ZONING DISTRICT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Applicant: BMR Funding LLC, approximately 1.66 acres)

Mayor Bryant opened the public hearings for Ordinance 2011-08 and Ordinance 2011-09.

Ms. Lyn explained the project is a rezoning and an amendment of the development plan of the old Pelican Bay site approved in 2006. The proposed project is for 12 single-family detached units with a Density 7.2 du/ac. The project is within CHHA, and the density meets the recommendations. The units are 35 feet high and 5 feet apart and are detached under common ownership.

Ms. Lyn read the stipulations recommended by the P & Z Board.

1. Perimeter landscape set-back shall be 35 feet
2. Access road must be developed to City standards of 24 feet and be developed in phase 1
3. A 4 foot high fence is the maximum height that will be allowed, measured from the existing grade
4. If this site plan expires or the applicant elects not to utilize this site plan, the property may be developed consistent with the requirements of RS-4 zoning district

The petitioner has amended the site plan to reflect a set-back of 15 feet from the neighbor's property vs. the original eight feet.

Ms. Lyn confirmed that if the perimeter set-back remains at 35 feet that one unit in the project will be lost. Discussion ensued on the proposed stipulation regarding the perimeter set-back.

Commissioner Zirkelbach commented on the number of driveways being so close together when coming off the bridge, together with the trees along 10<sup>th</sup> Street that may affect visibility.

Discussion ensued on the width of 11<sup>th</sup> St. Ct. and emergency and sanitation truck access. Matt Morris, engineer for the project, identified the sidewalk that will allow access to 11<sup>th</sup> St. Ct. W., where all garbage will be picked up. Mr. Tusing confirmed that the garbage trucks do not traverse internal streets.

Bill Manful, the developer of the project discussed the original development plan vs. the proposed project, which reduces the density to 12 from 18 and replaces a five-story elevated structure. He also stated that currently there are nine units that use the existing driveway off of 10<sup>th</sup> Street, which is being reduced to three. Commissioner Williams requested a copy of the old general development plan. Ms. Lyn informed Commission that the old general development plan has expired.

Mr. Manful confirmed that he had submitted the Affidavit of Ownership/Agent Authorization, testifying that Mr. Fogel is authorized to sign on behalf of BMR Funding. He also confirmed that he is willing to stipulate that he will build substantially consistent with the information [building elevation] distributed to Commission prior to the meeting.

Commission again discussed the 35 foot perimeter set-back stipulation. Mr. Morris stated the developer opposes it, stating the only development option for the property would be a multi-story condominium if the stipulation remains in place.

Mr. Morris confirmed it is still the intent of the developer to do a condominium plat for the development. Model units will be constructed first and then the common elements, which will be maintained by the condominium association.

Mr. Morris stated the site plan was adjusted after the P&Z Board review and after conversation with the adjacent property owner to reflect a 15 foot set-back to the adjacent property vs. the original eight foot set-back. The set-back for villa #9 (the northeasterly corner of the building to the right-of-way) is at 23.1 feet.

Amy Griswold, adjacent property owner, spoke in support of the project with the 15 foot set-back, but stated she has concerns about the drainage onto her property and she does not want the view of the Manatee River blocked by garbage cans, fences or common elements.

Commissioner Zirkelbach stated he still has concerns with all the driveways [on 10<sup>th</sup> Street]. He suggested that an internal drive could be considered, but a unit would be lost, or possibly a unit could be rotated.

Mr. Manful stated he belief Ms. Griswold agrees with 15 foot set-back at the rear corner of the property. He stated his belief the garbage can placement can be resolved. He commented on the reduction in the

number of units [using the driveway into the project]. Discussion again ensued on the number of driveways accessing 10<sup>th</sup> Street.

Mayor Bryant closed the public hearing for Ordinance No. 2011-08.

Attorney Barnebey recommended that if Commission plans to allow the modified plan, the stipulations would read:

1. The minimum perimeter set-back shall be 15 feet from the west property line, 23.1 feet from 10<sup>th</sup> Street West and 20 feet from 11<sup>th</sup> Street Court West.
2. The access road must be developed to City standards of a minimum of 24 feet in width and be developed in phase 1.
3. A four foot high fence is the maximum height of the fence that will be allowed, measured from the existing grade.
4. If this site plan expires or the applicant elects not to utilize this site plan, the property may be developed consistent with the requirement of the RS-4 zoning district.

Attorney Barnebey also recommended an additional stipulation, as follows:

5. The units shall be constructed in substantial compliance with the front elevation submitted and identified at the April 18, 2011 public hearing.

Discussion ensued on stipulation #4. Ms. Lyn explained RS-4 would require a larger lot (10,000 square feet) than currently proposed with a density of four units per acre, and would be a permitted use; Commission approval would not be required. Discussion ensued on removing the stipulation, because Commission would not see any amended plan should it expire. Attorney Barnebey stated that if the plan expires, there will be a RS-4 use placed on the property; a multi-family in one building would require Commission approval.

Regarding 11<sup>th</sup> Street Court West, Mr. Tusing stated the minimum standards are 22 feet wide, City standards are 24 feet wide.

Mr. Tusing reviewed what had been discussed regarding the closure of the driveway closest to the bridge. One option was to eliminate one unit, which would resolve the garbage can use. Mr. Manful agreed to the closure of the driveway. Commissioner Zirkelbach suggested he would be willing to reduce the set-back next to 10<sup>th</sup> Street West in exchange for the elimination of the driveway. Commissioner Zirkelbach offered a rendering showing the elimination of the unit at its present location, rotating it on the site in a different location. Mr. Tusing stated the proposed plan as drawn by Commissioner Zirkelbach would have to comply with all City and Fire Department requirements and be approved by all pertinent agencies.

Ms. Lyn read the correct lot dimensions for the RS-6, RS-4, RS-3 and RS-2 zoning categories.

**MOTION: Commissioner Zirkelbach moved, Commissioner Varnadore seconded and motion carried 5-0 to approve Ordinance No. 2011-08.**

Mayor Bryant closed the public hearing on Ordinance No. 2011-09.

**MOTION: Commissioner Zirkelbach moved and Commissioner Cornwell seconded to approve Ordinance No. 2011-09 with the following stipulations:**

1. **The minimum perimeter set-back shall be 15 feet from the west property line, 15 feet from 10<sup>th</sup> Street West and 20 feet from 11<sup>th</sup> Street Court West.**
2. **The access road must be developed to City standards of a minimum of 22 feet in width and be developed in phase 1.**
3. **A four foot high fence is the maximum height of the fence that will be allowed, measured from the existing grade.**

4. **If this site plan expires or the applicant elects not to utilize this site plan, the property may be developed as single-family detached units consistent with the requirements of the RES-4 zoning district.**
5. **The units shall be constructed in substantial compliance with the front elevation submitted and identified at the April 18, 2011 public hearing.**
6. **The developer shall remove the middle unit fronting on 11<sup>th</sup> Street Court West and move the driveway for the northern units to this location.**

Discussion ensued on the width of 11<sup>th</sup> Street Court West. Mr. Tusing stated the developer is only being asked to widen the street, it will not have curbs. Mr. Tusing stated the street is a county maintained road. The City can control the standards because the property being developed is in within the City limits. Manatee County has a rural road section allowing for a 22 foot road with no curb; minimum State standard for a road lane is 11 feet. Attorney Barnebey agreed that the City has control as to what the minimum should be. The developer will have to obtain a permit for the road's development from Manatee County.

Discussion ensued on Commission's direction in the past that no City street will be built without curbs. Should curbs be required there will be no treatment for the collected water. Mr. Tusing reiterated the road is in existence, the City is only requiring that the road be widened so two cars can pass without having to drive on the grass. Mr. Morris agreed that Manatee County owned the road and the proposed action would be consistent with what is allowed. He identified the collection boxes that will be constructed for the calculation of run off for the new section of the road.

**Motion on the floor carried 4-1. Commissioner Williams voted no.**

Vice Mayor Zirkelbach recessed the City Commission meeting to open the CRA Board meeting.

Mayor Bryant reopened the City Commission at 10:10 p.m.

**MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to extend the meeting 15 minutes.**

8. MARCH 2011 CHECK REGISTER (Information Only)

9. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Mayor Bryant commented on her request to Attorney Barnebey to speak with the School Board about a location for storage for baseball equipment, possibly in the old Ag building.

10. ASR WELL UPDATE (A. Tusing)

No report.

12. DEPARTMENT HEADS' COMMENTS

No reports.

13. MAYOR'S REPORT

Mr. Freeman will forward the comments from the community meeting at Tropic Isles.

The next community meeting is Tuesday, April 26 at Riviera Dunes. Because of the wild dog issues the community is experiencing, Commissioner Gallen has been invited to attend.

The Palmetto Elementary dedication is May 2, at 6:00 p.m.

14. COMMISSIONERS' COMMENTS

Ms. Cornwell

Stated she would like a copy of all the community meeting questions, with the answers.

Meeting adjourned at 10:15 p.m.

15. PUBLIC COMMENTS FOR CITY COMMISSION

None

Meeting adjourned at 10:20 p.m.

Minutes approved: May 2, 2011 (Corrected RES zoning category to RS zoning category)

*James R. Freeman*

James R. Freeman  
City Clerk