

TAB 1

Palmetto City Commission
October 6, 2008 4:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor
Tambra Varnadore, Vice Mayor
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner

Elected Officials Absent:

Eric Ball, Commissioner

Staff Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Chief Garry Lowe
Tanya Lukowiak, CRA Executive Director
Bob Schmitt, Interim City Planner
Michele Hall, City Attorney
Karen Simpson, Deputy Clerk-Finance
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 4:01 pm. A moment of silence was observed for our overseas military men and women, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

Mayor Bustle requested that a discussion of the DR422 Certificate of Final Taxable Value be added as item 1A to the agenda.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-0 to approve the October 6, 2008 agenda with the addition of item 1A.

1A. DR422 - CERTIFICATE OF FINAL TAXABLE VALUE

Mr. Freeman informed Commission the Property Appraiser's office has provided the City the DR422 Certificate of Final Taxable Value, which shows a 2.5% reduction in the taxable value, down from \$1,110,777,974 to \$1,082,799,208, a \$124,000 decrease. Mr. Freeman explained that Florida Statutes allow an administrative adjustment if the final percentage of change in taxable value, plus or minus, exceeds 1%. To collect the same amount of ad valorem tax revenue, the Commission would have to approve increasing the millage rate by .1205 mills to 4.7867 mills vs. the adopted 4.6662 mills per thousand. Mr. Freeman recommended the administrative adjustment, based on the possibility of further reductions in state revenue sharing.

Discussion on the topic ensued, and resulted in a final determination that the millage would not be administratively adjusted.

Discussion also ensued on reconsidering the adopted final budget. Mr. Freeman explained that Commission has the ability at any time during the year to amend the adopted budget. Attorney Hall concurred with Mr. Freeman, recommending it would be more conservative to amend the budget rather than reconsidering the adoption of the budget because of statutorily mandated adoption dates, which the City has complied with. Mr. Freeman stated the budget can be brought

back to a workshop and then, as suggested by Attorney Hall, a resolution to amend the budget would be placed on the next regular meeting.

2. DISCUSSION: RESOLUTION NO. 08-25

Mr. Freeman informed Commission the draft resolution was developed by Ms. Simpson and Jeffrey Green, financial consultant with RBC Dain, as a result of the previous comments received by Commission. The resolution proposes an Investment Policy that establishes rules to govern the investment of surplus funds, and focuses on the safety of principal, liquidity and a maximum return on investments.

During the review and discussion of the proposed resolution, Commission made the following changes:

Throughout the document, any reference to responsibilities assigned to the Deputy Clerk-Finance will be changed to City Clerk or his designee.

Section 5 – Delegation of Authority

The additional person appointed to the Investment Committee will be appointed by the Mayor and ratified by the City Commission. Written procedures for the operation of the investment portfolio shall require ratification of the City Commission. The City may retain an investment manager to assist in managing some of the City's portfolios, with City Commission approval.

Section 16 – Reporting

A semi-annual investment report will be provided City Commission.

Section 17 – Third-Party Custodial Agreements

The City Clerk or his designee shall provide transaction instructions to a third party custodian.

No adjustments were made to the proposed investment schedule worksheet.

Mr. Freeman requested that the resolution not be moved forward to the 7:00 agenda. Changes will be made and the resolution will be brought back to Commission for formal approval.

Mayor Bustle recessed the meeting for five minutes.

3. DISCUSSION: EMPLOYEE BACKGROUND CHECKS

Attorney Hall informed Commission Attorney Wendy Smith would discuss the opinion letter she issued regarding employee background checks. Attorney Hall also disclosed that she contributed to the point paper, but it did not discuss what actions the City may take after an investigation has been concluded; the discussion tonight was to be limited to what is and is not legal.

Ms. Cornwell referred to level two screening required by a school district for any individual entering a campus, stating that if the City chose to focus on a core group of employees that are exposed to the public, that group would be absorbed every five years. Attorney Smith explained that through attrition all employees would eventually be screened. She stated her belief that the question under discussion was the issue of screening those individuals already employed before new hire screenings were implemented; through attrition all employees will eventually be screened. She stated the City's situation is different from a school district because of a legal mandate requiring level two screening of all employees.

Ms. Cornwell inquired if the Jessica Lunsford Act applies to any City employee who may have contact with a child given the fact local schools use City parks as recreation sites. Attorney Smith confirmed she will have to further research the Jessica Lunsford Act because she was not aware

of any contracts with the school district permitting the use of City facilities. She commented that the City will comply with the Act as it pertains to employees that may qualify to its language.

Attorney Smith further stated that "if a check is not a Jessica Lunsford Act circumstance, retroactively checking those affected individuals and taking adverse action would be outside the parameters of Jessica Lunsford".

Commissioner Williams inquired if it would be better to change job descriptions to include level two screening or could the City require current employees to periodically update their applications. Attorney Smith stated it could be "overkill" to require a periodic update of applications, which could also be cumbersome to administer, but as a separate issue, the City may require everyone working now as a condition of continued employment to consent to a screening. She also confirmed that a job description requirement is not a legal requirement, whereas a Jessica Lunsford requirement is a legal requirement. Attorney Smith also acknowledged that a self-reporting policy with strong consequences for failure to report could be developed.

Attorney Smith discussed the City's responsibility in knowing a person's background, referring to negligent hiring retention i.e. a standard "knew or should have known". She cited two cases where the courts found that a background check should have been performed for employees who entered individuals' homes. She opined that using the discussed cases as a legal standard if the City is going to retroactively check anyone, the checks should be limited to the people that are most likely going to be in a position to harm someone.

Attorney Hall stated she had checked with other city attorneys, Sharon Jones checked with other human resource representatives and Attorney Smith networked through her firm and no city has initiated retroactive background checks. Attorney Smith also opined that background checks have become a normal process in the last ten years. Discussing the City's liability, Attorney Smith stated that by developing a sound policy concerning retroactive background checks, the City would show the performance of due diligence, which could possibility limit the City's exposure.

Attorney Hall inquired if staff should work with Attorney Smith to bring back proposed guidelines if Commission decides to perform retroactive background checks. Attorney Smith stated that if the City Commission elects to implement retroactive background checks, risks should be evaluated and reasonable parameters and standards should be developed prior to implementation to prevent the City appearing arbitrary.

Commission directed that the item should be brought back to the next workshop meeting, along with the Under 21 proposed ordinance.

Meeting adjourned at 6:08 pm.

Minutes approved:

James R. Freeman
City Clerk

Palmetto City Commission
October 6, 2008 7:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor
Tambra Varnadore, Vice Mayor
Eric Ball, Commissioner
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner

Staff Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Chief Garry Lowe
Tanya Lukowiak, CRA Executive Director
Bob Schmitt, Interim City Planner
Nixa Haisley, Purchasing Agent
Michele Hall, City Attorney
Karen Simpson, Deputy Clerk-Finance
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:01 pm. A moment of silence was observed for our overseas military men and women, followed by the Pledge of Allegiance.

Proclamation: Habitat for Humanity Day - October 6, 2008
Accepting: Mike Kennedy, Board President
Catherine Ferrer, Development Director

Swearing-in of all persons speaking to Commission.

PUBLIC COMMENT

Karen Schulle, City of Palmetto Business Alliance Team representative, spoke to Commission about the team's mission and goals. She inquired about a point of contact for several City departments and documents. Mayor Bustle advised that the team should contact the City Clerk's office for a correct entry point for future dialogue.

Mike Plechy and David Scalisi, proprietors of El Sombrero, requested approval of an exemption to sell alcohol on Sunday for concerts that are planned October 19 and November 9. They confirmed that the events would be held inside the building, thus no Special Function Permit would be required by the City. After discussion, Attorney Hall stated there is no Code provision that would allow Commission to grant the request.

ORDER OF BUSINESS:

1. AGENDA APPROVAL

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the October 6, 2008 7:00 agenda, with the deletion of item #10 (Resolution No. 08-25).

2. CONSENT AGENDA

- A) Minutes: August 18, and September 22, 2008
- B) Special Function Permits: First Baptist Church Fall Festival
Family Celebration of Lights
Noise Exception Permit: Cut-a-thon

Attorney Hall requested that the September 22, 2008 4:00 minutes be corrected to reflect that City Planner Bob Schmitt distributed the material for the farm worker housing item.

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 5-0 to approve the October 6, 2008 Consent Agenda, with the change to the September 22, 2008 4:00 minutes.

3. RESOLUTION NO. 08-27 (PALMETTO ELEMENTARY)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA; PROVIDING FOR FINDINGS OF FACT; PROVIDING AN AGREEMENT IN PRINCIPLE THAT THE CITY WILL TAKE CERTAIN ACTIONS AND ENTER INTO CERTAIN AGREEMENTS TO FACILITATE DEVELOPMENT OF A NEW ELEMENTARY SCHOOL TO BE GENERALLY LOCATED AT 1600 10TH STREET WEST IN PALMETTO; SUPERSEDING RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Discussion ensued on why the resolution was placed on the agenda under a new action request, given the fact Commission has previously adopted the resolution. Mayor Bustle suggested it was because of the considerable changes; Attorney Hall explained that it was noticed as a resolution and all changes would be legal.

Louis Lawman inquired where the alternative site for the Little League complex would be located. Mr. Lukowiak confirmed it would be on the south side of 23rd Street contiguous to Blackstone Park.

Allen Tusing commented on the \$1.528 million for the construction of the Little League, yet the total from the Boys Club, Just for Girls and the School Board totals \$1,035 million. Mr. Tusing inquired where the balance of the money will be obtained. Mr. Lukowiak stated the additional funds will be provided by CIP funds, which currently contains the realignment of 23rd Street. Mr. Tusing stated he does not oppose the school, but he commented on the fact Manatee County provides recreation facilities, the City is not a large town to support Little League fields, and cautioned that the City should "think real hard before going into the recreational business". Mr. Tusing also questioned what appeared to him to be a scrivener's error in item #13, which should read provision 10 rather than 9. Staff concurred. Discussion also ensued on the possible use of the property across from Palmetto Elementary that may be swapped.

Commission held a final discussion on the resolution, during which the following amendments (in bold print) were made to Section 2:

- #8 Construction of complex \$760,000 **(added paid from proceeds of sale)**
Utilities for complex \$208,000 **(added paid from proceeds of sale)**
Realignment of 23rd St \$560,000 **(added paid from available CIP funds)**
- #9 Amended language to reflect that the City's support **will** include negotiating continued maintenance and repair service for the complex
- #11 Amended language to add **during the duration of the lease**
- #16 Amended language to reflect that the City **may** look to the **Metropolitan Planning Organization** and Manatee County for funding in excess of CMS grant funding to cover the cost of additional improvements **at the intersection of 10th Street and 14th Avenue**
- #17 Amended language to add **Metropolitan Planning Organization** to the last bulleted item

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 08-27 as amended by the discussion tonight.

4. PUBLIC HEARING: PALMETTO HIGH SCHOOL SITE PLAN

Mr. Schmitt explained that the recently adopted Interlocal Agreement gives Commission the privilege to see the proposed Palmetto High School expansion project. Per the agreement, only the construction of the classroom building which increases the number of students qualifies for a determination of consistency.

Mayor Bustle opened the public hearing.

School Board representative Mike Pendley and architect Rod Tanner discussed the components of the expansion project. Commission suggested that the School Board research the addition of lights for the new boardwalk that will connect the campus to Blackstone Park. Commission also commented on the student parking, voicing concern about the students parking off campus. Mr. Tanner suggested the City may be able to assist in discouraging off site parking, as there is adequate space on the school's campus. Mr. Schmitt suggested the City may install and enforce No Parking signage on 13th Ave. W., which may force the students back onto the campus.

Mayor Bustle closed the public hearing.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve a determination of consistency for the proposed expansion of Palmetto High School, with any stipulations as applicable.

5. APPROVAL: PPD VEHICLE MAINTENANCE AWARD OF BID

Chief Lowe requested approval of a one-year contract with Lex's Automotive and 4-Wheel Drive Repair, Inc. for the maintenance of the Police Department fleet. Chief Lowe confirmed the item was bid in July.

MOTION: Mrs. Lancaster moved and Mr. Ball seconded to approve and authorize the Mayor to execute a contract with Lex's Automotive and 4-Wheel Drive

Repair, Inc. for one year ending September 30, 2009, in an amount not to exceed \$65,000.

Discussion: Ms. Cornwell inquired how the bids were compared. Purchasing Agent Nixa reviewed a comparison of prices from the Lex's Automotive bid and historical prices from the current vendor. Ms. Haisley and Chief Lowe also confirmed that compliance with the contract is periodically audited. A representative from Lex's Automotive confirmed that inside storage of the vehicles is available at the company's location.

Motion on the floor carried 5-0.

6. APPROVAL: MANATEE FAIR ASSOCIATION LICENSE AGREEMENT

Annual approval of the License Agreement for rental of the city's fair booth.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Manatee River Fair Association License Agreement, in an amount not to exceed \$615.

7. APPROVAL: CRA BOARD APPOINTMENT

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve the appointment of Jane Hunter to the CRA Board, for a term ending January 2011.

8. APPROVAL: P&Z BOARD APPOINTMENT

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the appointment of Christopher Moquin as an alternate member of the Planning and Zoning Board, for a term ending January 2009.

Ms. Varnadore requested that the Planning and Zoning Board be placed on a future workshop agenda for discussion, as she felt members of the board should be required to be residents of the City. Commission concurred with the item being placed on a future agenda.

9. APPROVAL: HEALTH INSURANCE RENEWAL

Mr. Freeman requested authorization to renew the City's health insurance program, subject to Attorney Hall's review.

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 5-0 to authorize the Mayor to sign the necessary documents to renew the City's health insurance coverage with Meritain Health and American United Insurance Company for an amount not to exceed \$1.3 million for fiscal year 2009.

10. DISCUSSION: INITIATIVES FOR LEGISLATIVE ENDEAVORS

Mayor Bustle commented on the positive action of the County to attempt to present a unified decision from the municipalities, School Board and Chamber of Commerce on the proposed issues Manatee County has identified for the 2009 Legislative Platform. Mayor Bustle stated he will assume the Commission is in favor of everything and asked that the Commissioners advise him of any items they felt Palmetto should not support. Mr. Freeman also stated there will be

opportunity to further discuss the list at the Council of Government's meeting October 15, 2008, 4:00 at the Palmetto Library.

Ms. Cornwell commented on the Off Shore Drilling category, stating she is opposed if the off shore safety zone in the Gulf of Mexico is reduced. She also commented on drilling in the Artic and the Southwest US, stating she did not have enough information about the items. Ms. Cornwell inquired why the Ft. Hamer Bridge is not listed under Transportation Funding. Mayor Bustle stated he will attempt to get more information on the listed items.

Mayor Bustle suggested adding the following items to the list, with Commission approval:

- Growth Management, wherein Hometown Democracy should be opposed (voter referendum would be required for all Comp Plan amendments).
- Under TBARTA, place a statement of support for TBARTA.

Mayor Bustle also requested that Commission support the Port Connector as listed.

Commission concurred with Mayor Bustle's suggested additions.

11. DEPARTMENT HEADS' COMMENTS

Mr. Schmitt

A 7pm meeting will be added to the sign ordinance community meeting schedule.

Reported he had attended the SWAG meeting for the school Interlocal agreement. Revisions to dates are necessary, which Mark Barnaby will present at the Council of Governments meeting October 15, 2008.

Mr. Lukowiak

Thanked the Commission for approving the school resolution.

Reported there have been three incidents where his department employees are being stopped and people are taking pictures. He requested that if people have questions about his employees or pictures they should contact him.

Reported the judge has ruled on his lawsuit and has opined he is eligible to run for the mayor's office.

Mr. Freeman

No report.

Chief Lowe

No report.

Attorney Hall

Reported she will not be able to attend the Council of Governments meeting as she will be attending the only seminar specific to employment law.

The Regatta Pointe Sublease is ready for Commission review; the legal description will be revised and the banquet hall will be added as an acceptable use for the second and third floor. Commission directed Attorney Hall to place the item on a 4:00 workshop agenda.

12. MAYOR'S REPORT

Reported he will attend a Metropolitan Planning Organization meeting next week.

Reported TBARTA received \$2 million, which will allow the hiring of an executive director and pay an attorney to work on their issues; a recurring funding source is badly needed.

Reported there is still time to get an item on the Council of Governments agenda if Commission has an item they want to be considered. Requested Commissioners attend the meeting if at all possible.

13. COMMISSIONERS' COMMENTS

Mr. Ball

Reported his attendance at the Movie in the Park and the Habitat for Humanity event. He complimented CRA on their involvement in the Habitat for Humanity project, stating it was a huge accomplishment for the City.

Ms. Cornwell

Requested that a future workshop agenda contain the request to attend a meeting by telephone so parameters can be established. She stated she has no opposition to that type of attendance at a meeting, but an established policy should be created. Attorney Hall will provide available opinions.

Mr. Williams

No report.

Ms. Varnadore

No report.

Mrs. Lancaster

Thanked the Commissioners and staff that served at the Sickle Cell Foundation's event.

Meeting adjourned at 9:20 pm.

Minutes approved:

James R. Freeman
City Clerk