

TAB 1

Palmetto City Commission
October 20, 2008 4:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor
Tambra Varnadore, Vice Mayor
Eric Ball, Commissioner (departed at 5:10 pm)
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner

Staff Present:

James R. Freeman, City Clerk
Michele Hall, City Attorney
Chris Lukowiak, Public Works Director
Chief Garry Lowe
Tanya Lukowiak, CRA Executive Director
Bob Schmitt, City Planner
Bill Strollo, Code Enforcement Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 4:05 pm. A moment of silence was observed for our military men and women, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve the October 20, 2008 4:00 pm agenda.

Commission agreed to move item #3 forward due to the delay of the arrival of Attorney Wendy Smith.

2. DISCUSSION: PROPOSED UNDER 21 ORDINANCE

Attorney Hall informed Commission she had mirrored the county ordinance as closely as possible to allow for enforcement by the Sheriff, if necessary. She stated the proposed ordinance amended only division 4.4 of the City's existing ordinance, and opined the existing ordinance should be completely updated, due mainly to inconsistencies and undefined terms.

Attorney Hall confirmed the ordinance allows a minor child to accompany a parent into a bar. Also, the current ordinance makes the owner responsible for an underage individual, while the proposed ordinance allows an underage individual to be ticketed if they are consuming alcohol.

Ms. Varnadore stated her understanding was that the Commission did not want to adopt the county ordinance; they wanted law that would prevent the entry of individuals under the age of 21 from entering establishments and consuming alcohol. The other Commissioners did not dispute her statement.

Ms. Cornwell requested that the revised ordinance contain language that clearly identifies penalties for non-compliance. Chief Lowe requested that the ordinance contain language referring to F.S. Ch. 901. Mrs. Lancaster requested that Attorney Hall research to determine if a parent can be prevented from taking a minor child into a bar. Mr. Ball also brought up the potential issue of children in private social clubs where alcohol is served. Mr. Williams requested that the ordinance contain a method for Code Enforcement to audit the books of establishments so it can be determined if food sales meet the current 51% of gross sales. Mr. Williams further requested a report on the businesses in the City that serve food and alcohol on Sundays,

showing the percentage of food that is being sold. Code Enforcement Director Bill Strollo stated that while he has not performed an audit, there are two cases pending before the Code Enforcement Board for Sunday alcohol sales.

Commission directed Attorney Hall to amend the City's existing ordinance, showing it in track changes. Mayor Bustle also stated that the language of ordinances should be enforceable; if not, the ordinances should be updated.

3. DISCUSSION: BACKGROUND CHECKS

Attorney Wendy Smith confirmed she had reviewed the relationship of the Jessica Lunsford Act to the City's issue and concluded, in part, that if the City is going to require Level 2 screening under the Act, then: 1) The City must determine if there are contractual relationships with the School Board, and 2) Do City of Palmetto employees have access to school grounds or do they have direct contact with students. Attorney Hall inquired if the City determines that the Act does not apply, does the City have the right to make the decision that screenings are a matter of critical safety for certain positions and Level 2 screenings will be implemented, even though they are not required by the Act. Attorney Smith discussed the City's ability to make the decision to implement Level 2 screenings, and if the Act does apply, the City is complying as mandated by law. Attorney Hall opined that she will determine if there are current contracts with the School Board. Attorney Smith stated the City will still have to determine if, by virtue of their employment, City employees will go onto school grounds or have access to students, or do they have access to or control of school funds.

Ms. Cornwell stated areas of concerns are City utilities to schools and interlocal agreements with the School Board for use of any park. Mr. Lukowiak stated the City's utility obligations end at the meter, or property line. Mr. Williams commented on City easements that may cross school property. Mr. Lukowiak also confirmed that the City does not maintain Lincoln Park.

In response to Mrs. Lancaster's inquiry, Chief Lowe stated he is not aware of any reported incident involving a City employee and a student on any school property. Attorney Smith reminded Commission that the Act only allows adverse action against employees who have been convicted of certain types of offenses against minors; it's a narrowly tailored act to prevent direct contact with children, as opposed to occasional or incidental contact.

Attorney Smith stated, from a practical position, if there are a minimal number of employees who fit the criteria of the Act, background screenings are done and the screening is clean, the Act may not apply at all. So, to protect the City from potential liability, Commission should consider some type of background screening; most people outside the Act only perform Level 1 screenings.

Attorneys Smith and Hall agreed with Mr. Williams' opinion that the City has the ability to perform Level 2 screening, if so desired. He suggested that the City go to Level 2 in certain employee areas such as Parks & Rec and Water & Sewer, because of the possible exposure to children. Attorney Smith opined that rather than focusing on those two departments, because suits she has seen for negligent intention by employers did not all involved children, maybe the City should look instead to the employees who could do most harm to a third party, not focus strictly on children. She opined a definition for a safety sensitive position should be developed. While Attorney Smith did not advocate Level 1 or Level 2 screening, she opined that should the City perform Level 1 screenings she did not think the City could be found negligent. Commission discussed the difference between the two screening levels.

Mrs. Lancaster inquired if there are any procedures in place for what would happen if a prior conviction was found during a screening. Attorney Hall stated a policy and procedure would have to be developed before any screening is implemented, because that is what would make the screening defensible; Attorney Smith concurred.

Attorney Smith discussed the possibilities that could affect the City should retroactive screenings be performed, as well as what could occur if screenings are not performed. Attorney Hall also discussed Florida being an at-will state; however, there are many exceptions to at-will.

Attorney Smith reviewed the specific guidelines the EEOC has developed for the situation the City may face in taking adverse action as the result of a screening, and if discrimination is charged, as follows: 1) How serious was the conviction? 2) How long ago did it happen? and 3) Does it bear any relationship to the job the employee would be performing for the City. She suggested these guidelines would be a good starting point for the City's policy.

Ms. Cornwell stated that she would like to look at a three-tiered system for screening, based on the longevity of the employee. She also stated that she felt self-reporting within 48 hours of an arrest must be included in any policy developed by the City.

Ms. Varnadore inquired if there is a time limit for verification of information contained on an application. Attorney Smith discussed the normal procedure for verification of application information. Ms. Varnadore also inquired what Attorney Smith's recommendation would be regarding the retroactive background screening for all current employees. Attorney Smith again discussed the possibilities of what could occur if the City did or did not elect to perform retroactive background screening, i.e. once probation has passed, employees have a greater expectation of job right properties in the public sector. The City should weigh all theoretical possibilities, look at positions that are safety sensitive and limit the screening to a specific time period, both actions to decrease the risk of an employee law suit.

Attorney Hall inquired if Commission wants to perform retroactive background checks on all employees and at what level. Discussion resulted in a majority of the Commission agreeing to at least a Level 1 retroactive background screening for all employees.

Mr. Williams stated that Parks & Rec employees, meter readers, their supervisors, department heads, and elected officials should be included in a possible Level 2 screening, due to possible public contact. Attorney Hall opined the screening should be limited to safety. Mr. Lukowiak stated that all Public Works employees should be screened, given that many employees in addition to those mentioned have public contact.

Ms. Varnadore referred to a draft policy that was distributed to Commission in the past, stating it appeared to be a very good starting point, and suggested that it be looked at again.

Mr. Williams inquired if a reaffirmation of an application is possible. Attorney Smith stated the employee should be able to see the application before reaffirming original submitted information. She opined she would rather see the City require all employees to submit a new application, or update the original application, which is within the Commission's purview. Attorney Smith further opined it may be more reasonable to require personal information.

Mrs. Lancaster discussed the negative message retroactive screening may send to the employees. Attorney Smith concurred it could be a negative employee relations issue.

The topic will be returned to the November 3, 2008 workshop agenda.

Meeting adjourned at 6:05 pm.

Minutes approved:

James R. Freeman
City Clerk

Palmetto City Commission
October 20, 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, 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 4:01 pm. A moment of silence was observed for our military men and women, followed by the Pledge of Allegiance.

PROCLAMATION: Ramon Lopez, Jr., Army Specialist, E4, October 20, 2008

Swearing-in of all persons speaking to Commission.

PUBLIC COMMENT: Allen Tusing commented on the proposed intersection improvement of 14th Ave. and 10th St., stating the City should reconsider adding improvements to the north and southbound segments of 14th Ave. due to the traffic congestion during the high school's early out on Wednesday.

1. AGENDA APPROVAL

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the October 20, 2008 7:00 agenda.

2. CONSENT AGENDA

- A) Minutes: October 6, 2008
- B) Check Register for September 2008

Ms. Cornwell removed the September Check Register for discussion.

MOTION: Mr. Williams moved, Ms. Cornwell seconded and motion carried 5-0 to approve the October 6, 2008 minutes.

Staff provided explanations for items questioned on the Check Register and will provided additional information on several entries after research is completed.

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 5-0 to approve the September Check Register.

3. PUBLIC HEARING: SPECIAL FENCE PERMIT

Palmetto First Baptist Church is seeking a special fence permit for property located at 1020 4th St. W.

Mayor Bustle opened the public hearing.

First Baptist Church representative Terry Wells corrected the address of the fence installation to 1021 5th Street, West.

MOTION: Ms. Cornwell moved and Mrs. Lancaster seconded to approve Special Fence Permit 08-01 for First Baptist Church, 1020 4th St. W.

Discussion: Mr. Wells confirmed the fence is being located on the playground and that there is no plan to alter the traffic pattern along the eastern boundary of the property.

Mayor Bustle closed the public hearing.

Motion on the floor carried 5-0

4. TERMINATION OF INTERLOCAL AGREEMENT

Termination of the Interlocal Agreement with Manatee County for the maintenance of two medians on the north and south side of 17th Street East, US Hwy 41.

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 5-0 to terminate the Interlocal Agreement for Landscaping Maintenance with Manatee County executed by the City on October 27, 2000, for two medians located to the north and south of 17th Street East

5. RESOLUTION NO. 08-25

Resolution No. 08-25 establishes an Investment Policy governing the investment of public funds.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, TO ESTABLISH POLICY SETTING GUIDELINES FOR THE INVESTING OF PUBLIC FUNDS FOR PURPOSES OF ENSURING THE FINANCIAL STABILITY OF THE CITY.

MOTION: Mr. Ball moved and Mrs. Lancaster seconded to adopt Resolution No. 08-25.

Discussion: After discussion, Commission made the following changes to Resolution No. 08-25:

1. Section 5. Delegation Of Authority
The Investment Committee shall meet at least quarterly, prior to the City commission budget review meeting, to review the City's investment strategy. "Periodically" was deleted.
2. Section 15. Performance Measurements
B. Merrill Lynch was deleted.

3. Section 16. Reporting

Both references to reports were amended to read semi-annual.

4. Section 17. Third Party Custodial Agreements

Only the City Clerk was authorized to give instructions to a third party custodian. "Or designee" was deleted.

Only the Deputy Clerk-Finance was authorized to accept safekeeping receipts from a third party custodian. "City Clerk" was deleted.

Mr. Ball and Mrs. Lancaster amended the motion to approve Resolution No. 08-25 as per discussion.

Motion on the floor carried 5-0.

6. RESOLUTION NO. 08-35

Resolution No. 08-35 will amend the FY09 budget to add unspent funds in the FY08 budget for the City's carry-over purchase orders.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 08-32, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2008-2009, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Ball moved and Mrs. Lancaster seconded to adopt Resolution No. 08-35.

Discussion: Staff explained the individual items contained in Exhibit A to the resolution that were questioned by Commission.

Motion on the floor carried 5-0.

7. RESOLUTION NO. 08-36

Resolution No. 08-36 will amend the FY09 budget to add the revenue and expense line items to record receipt of the FRDAP-Riverside Park-Pier Resurfacing and Urban Tree grants.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 08-32, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2008-2009, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 08-36.

8. APPROVAL: PITNEY BOWES CREDIT CORPORATION LEASE

Approval of a 48-month lease for the City Hall postage meter.

MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Pitney Bowes Credit Corporation lease for the City Hall postage meter, in a total amount not to exceed \$3,811.68.

9. APPROVAL: COVERALL CLEANING CONCEPTS CONTRACT

Approval of a 12-month contract for the City Hall and Public Works janitorial services.

MOTION: Mr. Ball moved and Mr. Williams seconded to approve and authorize the Mayor to execute the Coverall Cleaning Concepts contract for City Hall and Public Works janitorial services in a total amount not to exceed \$14, 522.00.

Discussion: Attorney Hall informed Commission that subsequent to the publication of the agenda, she has recommended changes to the contract, as follows:

1. Deletion of the automatic renewal, the contract will allow for a one-year renewal upon written agreement by both parties.
2. Language to prevent the company from automatically terminating the contract because of non-payment by the City, because the City does not have the right to automatically terminate.
3. Questioned if the ten day billing period is enough time for the City.
4. Inclusion of the full, legal name of the entity.

Mr. Freeman informed Commission the company had agreed to three of the four changes. Attorney Hall stated the outstanding item would be resolved by telephone.

Ms. Varnadore stated she preferred to see the final contract before approving. Mr. Freeman stated that the City is currently on a month-to-month contract until approval; the item can be placed on the November 3, 2008 agenda, if Commission prefers.

Commission also requested that the scope of services for the contract be provided.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to table the item until November 3, 2008 meeting.

10. DEPARTMENT HEADS' COMMENTS

Attorney Hall

Informed Commission the Strand decision has been reversed.

Chief Lowe

No report.

Mr. Freeman

Referring to his email for proposed dates for quarterly reviews, he will update the dates to eliminate any holidays.

The November 3, 2008 agenda will contain the background check and the Regatta Sublease. Attorney Hall will provide the Orlando policy, along with other materials for a starting point in developing the process. Attorney Hall confirmed with Commission that it was their intent to perform Level 1 checks on all employees; Commission concurred.

Confirmed the CRA joint meeting with Commission is scheduled for December 1st.

Mr. Lukowiak

Informed Commission a cave-in at 12th Street and 15th Avenue was caused by Verizon piercing a sewer line, and he intends to bill Verizon for damages. He discussed the oral commitment

Verizon representatives made to pay for the repairs and asked that the City not cut their line. Mr. Lukowiak acknowledged his crew's efforts to quickly rectify the problem, stating the Verizon cable is now located over the sewer line. Mr. Lukowiak also reported there is a potential for a cave-in at 3rd Avenue between 8th and 9th Streets, but it is a stormwater issue and is related to the age of the pipes. Attorney Hall advised that the homeowners in the affected area should be provided a warning of the situation.

Mr. Schmitt

Informed Commission they would be receiving a copy of the P&Z agenda on the Wednesday prior to the following Monday meeting.

Mrs. Lukowiak

Reported she will be commuting to the FRA Conference in Tampa, taking classes as appropriate. Tomorrow a group from the conference will be touring the area's CRA's and will tour the Village of the Palms.

11. MAYOR'S REPORT

No report.

12. COMMISSIONERS' COMMENTS

Mr. Ball

Reported his attendance at his first Palmetto High School homecoming game – another great benefit of living in Palmetto.

Ms. Cornwell

Reported her attendance with the Mayor at the Council of Governments meeting, where he brought up Palmetto's list. Additional information will be coming back to the City concerning the items.

Reported she has received an inquiry on what papers are used for advertising. She requested a list of the City's advertisements, their purpose and what the language is concerning what type of paper must be used.

Mr. Williams

Distributed pictures of the Thomas Taylor headstone that was knocked down and repaired, stating it should be looked at because he felt it needed to be better repaired. Mr. Williams said it was his understanding the headstone was knocked over while the City was mowing.

Suggested that because of the budget situation staff should seriously look at how it would affect City personnel and the citizens if the workweek was reduced to four ten hour days. Mr. Freeman reported Bradenton and Anna Maria have gone to a four day week, but it is mainly administrative and City Hall personnel.

Opined serious thought should be given to moving the city attorney under the Commission rather than the Mayor. He stated there is a need to have balance in the legislative process.

Ms. Varnadore

Reported that Thomas Taylor's headstone was discussed by the Historical Commission, and the reason it is so important is that for years Mr. Thomas donated funds to Palmetto Elementary to insure each student had a gift. In return, at the time of his death, the children of Palmetto Elementary collected funds to purchase the headstone.

Friday, October 24, the Historical Commission is having its Halloween Festival and the City will show Casper at the Movie in the Park.

Stated that she receives calls from constituents about items coming before various boards, thus the request for the P&Z Board agenda. She further requested that she receive the agenda and minutes of every board of the City, including the CRA. Mr. Freeman reported the agendas and minutes for P&Z and CRA are now posted on the website, and the audio for the meetings can also be posted.

Mrs. Lancaster

Inquired the proper procedure a Commissioner should follow if a misunderstanding should arise with an employee. Mayor Bustle agreed that he should be the first point of contact, and then he will take an issue to the appropriate department head, who will report a resolution of the situation to him so he can then contact the Commissioner.

Meeting adjourned at 9:15 pm.

Minutes approved:

James R. Freeman
City Clerk