

TAB 1

Palmetto City Commission
December 1, 2008 4:00 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tambra Varnadore, Vice Mayor
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner

Elected Officials Absent:

Alan Zirkelbach, Commissioner

Staff Present:

James R. Freeman, City Clerk
Mark Barnebey, Special Counsel
Michele Hall, City Attorney
Chief Garry Lowe
Allen Tusing, Interim Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 4:00 pm. Commissioner Lancaster gave the invocation, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 4-0 to approve the December 1, 2008 4:00 pm agenda.

2. DISCUSSION: WORKSHOP MEETING SCHEDULE

Commissioner Cornwell requested that Commission consider adjusting the workshop meeting schedule, citing Commissioners work schedules and the fact that the 4:00 start time was not convenient for the business people in the City that wish to attend the meetings.

Discussion ensued on several options, as follows:

- Start time of 4:30 or 5:00, ending at 6:00
- Hold the workshop on Thursday prior to the Monday Commission meeting, with a later start time
- Start time of 5:00, provided a draft of the next 7:00 agenda is ready so Commissioners can research the topics prior to the meeting
- Dedicate each Monday, alternating weeks for the workshop and Commission meeting

The Commissioners present favored adjusting the workshop meeting time to 4:30 to 6:00 pm. The item was placed on the next 7:00 agenda for Commission action.

3. DISCUSSION: CRA BOARD

Mayor Bryant began the discussion by stating Commissioner Zirkelbach had to be absent from the meeting, but has stated he would like to discuss the item. If the item is moved forward, she would like Commissioner Zirkelbach to have the opportunity to voice his opinion on the topic.

Mayor Bryant stated the discussion is not to be construed as criticism of the CRA Board or any actions that have been taken; periodic review of the composition of the board, its accountability and the dynamics of the City is necessary. She also stated that constituents commented on the Board during her campaign.

Commissioner Varnadore acknowledged that she wanted to hear Commissioner Zirkelbach's comments, but without his input, she preferred that the CRA Board not be disbanded, rather that it be an advisory board. This would allow Commission to have more knowledge, control and accountability on what is happening in the CRA district. Commissioner Varnadore opined the CRA Board and director have done a very good job.

Commissioner Lancaster also stated the CRA Board and director have done a good job and have been very diligent. She commented on the reason a Commission liaison is appointed is to attend the CRA Board meetings and bring information back to Commission. She stated she did not want the responsibility of being the CRA Board and questioned what the Commission would do differently from what is currently being done by the CRA Board. She also inquired if the Commission would develop the CRA budget or review and amend it as is currently done with other City departments.

Commissioner Cornwell stated that at this point there is no liaison. She stated her issue is the CRA budget, and the fact that the CRA Board had two months to hold the required annual joint meeting with City Commission concerning their budget, but failed to do so. She commented on Commission policies that City boards may not be following, referring specifically to the extension of department head terms beyond a mayor's term, which Commission has voted down during the term of the two preceding mayors. Commissioner Cornwell also commented on the Commission's budgetary responsibility to ensure that funds expended by any group are being done in the best interest of the City. Commissioner Cornwell questioned the point in having a CRA Board if they could not meet with Commission once a year, as required.

Mayor Bryant commented on her research regarding audits performed by the Auditor General for the State of Florida. The audit reports revealed that funds not spent as stated in guidelines establishing the CRA would have to be reimbursed to the CRA by the City. Mayor Bryant opined the current budget is very limited and would have difficulty making such a payment if an unforeseen problem should arise. She also commented on the fact the CRA budget is increasing, which leads to more responsibility for the elected officials.

Commissioner Williams opined the CRA has done an excellent job, giving the City a tax base over \$225 million in Riviera Dunes alone. He referred to comments made by a previous council member who disapproved of the CRA being a board that was not controlled by the council. Commissioner Williams opined there should be only one entity controlling the money of the City. He stated he would prefer the CRA Board be an advisory board, with City Commission making the final decision on expenditures. He commented on his disapproval of a storefront grant that was awarded to a church; taxpayer funds should not be awarded to a tax exempt entity. He commented that some of the TIF should be used for slum and blight, not development.

Mayor Bryant stated that while sitting in the audience of Commission meetings she observed there appeared to be a lack of communication between the Commission and CRA, acknowledging that Commission did ask for a joint meeting with the CRA Board on several occasions. She also opined that the increasing CRA budget will become a growing issue for the Commission.

Mayor Bryant suggested that Attorney Barnebey research the addition of CRA expenditures on the Commission's Consent Agenda that were not previously included in the approved CRA budget. This action would ensure that CRA Board decisions are made subject to City

Commission approval. Attorney Barnebey confirmed for his research that the addition to the Consent Agenda would be for a specific line item, as opposed to the budget as a whole. Commission concurred.

Discussion ensued on Commissioners being advised not to attend various board meetings, yet there is a need for Commission to be made aware of items that will be considered by the boards before action is taken. Attorney Barnebey confirmed that Commissioners may individually speak with board members on matters they do share with the board; there are exceptions, a quasi judicial board being one where the board members may not speak with anyone outside the hearings.

Commissioner Varnadore spoke of getting the agendas she had requested, but minutes are more problematic; minutes are not posted until after approval. Mr. Freeman confirmed that the agendas are being posted on the website in a more timely manner. Staff will work with the clerks of the various boards to provide Commission with draft minutes.

Commissioner Cornwell commented on the need to appoint a CRA liaison, which Mayor Bryant confirmed she will do in the near future. Commissioner Cornwell commented on the Mayor's duty to renew all the department head contracts in January. She requested that Attorney Barnebey research the renewals, as they are a Commission policy and no advisory board has the capability of over-riding the elected board; specifically an extension beyond the Mayor's recommendation.

Mrs. Lancaster commented on the fact that she has always been told the CRA is a different entity and the CRA Director is not a department head. Commissioner Cornwell opined the CRA Director is appointed by the Mayor. Commissioner Varnadore stated the CRA Director is the only employee in the City with a contract, which was extended to her by the CRA Board. Mayor Bryant directed the topic to Attorney Barnebey for his opinion, which will be provided to Commission at the next meeting.

Commissioner Cornwell reiterated the fact that the Commission has all the responsibility over the budget, yet none of the authority over the CRA budget. She opined that Commission needs to review the CRA budget in detail, with CRA Board members in attendance; if the members are not in attendance they should not be on the board.

Commissioner Williams referred to Florida Statute 163.356(3)(c), which states the governing body shall designate a chair and vice chair of the CRA Board annually. He pointed out the fact the City Commission is not making that designation, stating there are many areas that need to be refined. He again opined that an advisory CRA Board may be the best way to resolve some of the issues, and that the City Commission must take a more active role in the CRA budget.

Mr. Freeman confirmed the quarterly budget review will occur later in January. Mayor Bryant concurred with Commissioners that a joint meeting with the CRA Board should occur, and that it could be held the same time as the quarterly budget review.

Mayor Bryant also stated she has met with different board members and suggested that perhaps Attorney Barnebey could hold an orientation with the new board appointees before their term begins.

The CRA Board topic will be placed on the December 15, 2008 regular Commission agenda.

4. DISCUSSION: BACKGROUND CHECKS

Mr. Freeman informed Commission that currently level two background screenings are performed on all new hires through the VECHS Program, administered through Florida Department of Law Enforcement at a cost of \$53.25 per person. Level one screening is performed through the state

at a cost of \$24 per person. The difference between the two screenings is level 2 is state and federal and level 1 is state only. Mr. Freeman stated that given the small difference in cost, level two screening has been included across the board in the policy. Mr. Freeman highlighted the balance of the amendments to the policy.

Attorney Barnebey stated there are some things he would like to discuss with Mr. Freeman, citing consistent terminology throughout the document. Attorney Hall explained that the document intentionally does not address what action will be taken upon an arrest; action taken after consultation with the City Attorney may, as an example, include the transfer of an employee to a different position, rather than suspension, demotion or termination.

Commissioner Williams inquired how an incident will be handled should one arise with a long-term employee, suggesting the employee's employment history should be considered in any action. Commission Varnadore agreed that Commissioner Williams' suggestions had merit and may need further legal review. She opined that if a screening revealed an employee's crime fell under any of the crimes on Exhibit A, that employee would be terminated. She requested clear direction on that type of occurrence. Attorney Barnebey acknowledged that he had just received the document, but stated his belief the Commission has some flexibility on what action would be taken.

Commissioner Cornwell discussed the possibility of using the Personnel Board as a body to review different resolutions to incidents that may occur. Discussion ensued on the difference between the Personnel Board and the Personnel Committee, and which body will review the proposed Background Check Policy before its adoption.

Attorney Hall informed Commission that Attorney Wendy Smith has opined that she has met her obligation under the agreed upon flat rate fee; all future legal consultations will be at an hourly rate.

As a result of the discussion, Commission requested a roster of the Personnel Committee and an update on the revision to the Personnel Policy on which they have been working.

Mayor Bryant confirmed Attorney Barnebey will review the document, research the items cited by Commission and respond. After Attorney Barnebey's response, the proposed policy will be forwarded to the Personnel Committee, after which it will be placed on a future workshop agenda.

Commissioner Lancaster moved, Commissioner Williams seconded and motion carried 4-0 to adjourn the meeting at 5:30 pm.

Minutes approved:

James R. Freeman
City Clerk

Palmetto City Commission
December 1, 2008 7:00 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tambra Varnadore, Vice Mayor
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner

Elected Officials Absent:

Alan Zirkelbach, Commissioner

Staff Present:

James R. Freeman, City Clerk
Mark Barnebey, Special Counsel
Michele Hall, City Attorney
Chief Garry Lowe
Allen Tusing, Interim Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. Diane Ponder gave the invocation, followed by the Pledge of Allegiance.

All persons intending to address Commission were sworn in.

PUBLIC COMMENT: Fred Forbes commented on the fact that alcohol sales are not permitted in certain areas along 10th Street or on Sundays. He requested that Commission reconsider the prohibition of the sale of alcohol in the City on Sunday. Mr. Forbes also commented on the fact that the City's business tax license schedule does not have a listing for a certified financial planner in the professional category; his business tax license was issued from the stockbroker category. He suggested that the business tax license schedule should be reviewed and amended.

1. AGENDA APPROVAL

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to approve the December 1, 2008 7:00 agenda.

2. CONSENT AGENDA

A) Minutes: November 17, 2008

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 4-0 to approve the November 17, 2008 minutes.

B) Sanctuary Development Partners, LLC Utility Easement

Mr. Tusing explained the easement provides the location for the City and county's master meter, and it has been constructed. Dick Clark, ZNS Engineering, confirmed the legal is correct; the meter is located outside the boundary of the Sanctuary Cove plat immediately adjacent to the right-of-way for Hwy 301, 400 – 500 feet east of Canal Road; and is part of the eastside master utility expansion project. Attorney Hall confirmed the document is a possessor not ownership easement and can be used for the purposes listed. Commission directed that future acceptances

of property are to be an agenda item with a point paper and map depicting the location of property.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 4-0 to accept the Sanctuary Development Partners, LLC Utility Easement.

C) Special Function Permit: De Soto Heritage Festival Grand Parade
De Soto Heritage Festival Children's Parade

Commission directed staff to confirm the insurance applies to both events, to ensure any overtime is flex time rather than billable time, and to determine how City costs are calculated.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to approve the Desoto Heritage Festival Special Function Permit.

3. RESOLUTION NO. 08-37

Resolution to supersede Resolution No. 08-25, the City's Investment Policy, to amend the policy's portfolio composition limits to allow 100% to be invested in certificates of deposit and a maximum of 50% in any one individual issuer.

Commissioner Cornwell voiced concern in the 100% investment level. Discussion ensued on the investment level of 100% in certificates of deposit vs. a lower percentage rate. Mr. Freeman confirmed that the investment amount would be based on the balance of the funds available after projected needs.

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: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 3-1 to approve Resolution No. 08-37 revising the Investment Policy Resolution 08-25, as attached. Commissioner Cornwell voted no.

4. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-978

Mr. Freeman requested that the public hearing date be January 5, 2009 for this and the following two ordinances.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A SMALL SCALE DEVELOPMENT AMENDMENT TO THE CITY OF PALMETTO COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP BY REDESIGNATING CERTAIN LANDS FROM RES-14 (RESIDENTIAL 14 UNIT PER ACRE) TO PD (PLANNED DEVELOPMENT); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA-08-05 Charles Palmer and Jonathan Shute, PID # 2778600003, approx. 0.3+/-acres).

MOTION: Commissioner Lancaster moved and Commissioner Varnadore moved to approve Ordinance No. 08-978 for advertising and schedule a public hearing January 5, 2009.

Discussion: Mr. Williams commented on the information not being complete, because of the lack of minutes. Attorney Hall confirmed it is within the Commission's discretion to postpone the first reading. Attorney Barnebey concurred, stating there would be opportunity to provide the information at the second reading. Commissioner Varnadore spoke in favor of approving the advertising so the applicant would not be penalized. Mayor Bryant asked the Commissioners to

move the item forward, as Mr. Tusing is aware of Commission's direction that all agenda packets must be complete.

Motion on the floor failed by a tie vote. Commissioners Varnadore and Lancaster voted yes. Commissioners Williams and Cornwell voted no.

5. 1st READ & ADVERTISING APPROVAL: ORDINANCE No. 08-979

AN ORDINANCE OF THE CITY OF FLORIDA, PALMETTO FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO, TO CHANGE THE ZONING OF THE PROPERTY DESCRIBED HEREIN FROM RM-6 – RESIDENTIAL MULTI-FAMILY TO PDH – PLANNED DEVELOPMENT HOUSING; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR A SINGLE FAMILY RESIDENTIAL PROJECT DEPICTING SIX (6) UNITS. PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-GDP-08-05 Charles Palmer and Jonathan Shute, PID # 2778600003, approx. 0.3+/- acres).

MOTION: Commissioner Varnadore moved and Commissioner Lancaster seconded to approve Ordinance No. 08-979 for advertising and schedule a public hearing January 5, 2009. Motion failed by a tie vote. Commissioners Varnadore and Lancaster voted yes. Commissioners Williams and Cornwell voted no.

6. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-980

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR BEACH TOWNHOMES AT RIVIERA DUNES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 08-06 Beach Townhomes Investors, LLC, PID# 2581600959, approx. 1.31± acres).

MOTION: Commissioner Varnadore moved and Commissioner Lancaster seconded to approve Ordinance No. 08-980 for advertising and schedule a public hearing January 5, 2009. Motion failed by a tie vote. Commissioners Varnadore and Lancaster voted yes. Commissioners Williams and Cornwell voted no.

7. DISCUSSION: PUBLIC PARTICIPATION POLICY

Mr. Freeman stated the proposed Commission Policy 09-02 establishes a written policy reinforcing the City's current practices concerning public participation at City Commission meetings.

Commissioner Cornwell asked that the policy be amended to reflect the correct workshop meeting time.

Commissioner Lancaster referred to the last two sentences in the section titled Addressing the Commission, Manner, Time, inquiring if Commission would be limited in commenting on a topic. Mr. Freeman opined the language was directed to additional audience members. Mayor Bryant concurred with Mr. Freeman, stating there is discretion as to how to public comment is received and responded to, but comments should be directed to the mayor, who can then include Commission to provide their communication. Commissioner Cornwell stated her opinion the language was directed to the public, but the Mayor can give permission for the Commission to speak.

Commissioner Williams referred to the section titled Speaking on Subjects Not on the Agenda, stating that if a citizen wants to address the Commission, the Commission should be allowed to respond; if the citizen is going to be allowed to only address the Mayor, the citizen should do so

during working hours in the Mayor's office. He stated the proper procedure is not to respond to a citizen during the meeting so staff has time to research the issue to obtain documentation for a proper response.

Mayor Bryant opined that the way the document is written is for the benefit of the Commission.

Commissioner Varnadore stated she agreed with the document as written because it provided order, which is needed in any meeting. She also stated she has not seen an instance where a Commissioner was not recognized.

Commissioner Cornwell opined that the document as written gave the power to the chair; the chair could use available resources to prevent a verbal attack on any one person and remove the offender from the meeting if necessary; the document does not silence the Commission.

Commissioner Williams questioned how the Mayor would make the determination as to when a citizen should be ejected from the meeting.

MOTION: Commissioner Varnadore moved and Commissioner Cornwell seconded to approve City Commission Policy 09-02.

Discussion: Attorney Hall informed Commission that the workshop time change would be contrary to the existing ordinance and inquired if Commission intended to make the amendment to Section 2 of the Code. Attorney Barnebey suggested deleting the first paragraph of the policy.

Commissioner Varnadore withdrew her motion and Commissioner Cornwell withdrew her second to the motion on the floor.

The policy will be brought back to Commission at a future date.

8. DEPARTMENT HEADS' COMMENTS

Attorney Hall

Requested a litigation assessment meeting pursuant to Section 286.0111(8)(a) F.S., for the purpose of discussing pending litigation strategy and potential settlement of the Jackson Park eminent domain case. Also attending the meeting will be Attorney Bob Gill. Attorney Hall briefly updated Commission in a general nature on the current status of the case. Mr. Freeman confirmed Commission the interlocal agreement has been forwarded to Manatee County for execution.

Mr. Freeman

Deployment of the Commissioner's laptop computers will be completed by Friday. Mr. Freeman asked for an hour of each Commissioner's time.

Informed Commission the original site proposed for a cell tower at Hidden Lakes Park will not work. Correspondence has been forwarded to the City inquiring if the City is interested in reviewing a new location closer to the middle of the park. Commissioner Cornwell asked for the impact a cell tower may have on the proposed new school location. Commissioner Varnadore requested that staff determine the information Commission requested when this topic came before Commission earlier in the year and bring the data to a future workshop. Commission Lancaster requested that a discussion be held on how many towers will be allowed in the City.

Mr. Tusing

Stated his observation that in the past there seemed to be a lack of communication between Public Works and the Commission. He assured Commission that his department will make sure the Mayor and Commission has all the information needed to make an informed decision on the topics he brings forward.

9. MAYOR'S REPORT

Staff will be sending Commission the vacancies on appointed boards. Mayor Bryant requested recommendations for the Commission, stating she would like to see appointees paired with boards that would benefit from their individual expertise. She also stated the different boards will have an orientation for new appointees. Commissioner Cornwell suggested that all board members should be given established policies and should be sworn in before being seated.

Mayor Bryant informed Commission some sitting board members have requested training on Roberts Rules and she would like to find the cost of the training.

Department Heads will meet this week. In addition, meetings have been schedule on the 7th Street light and Palmetto Elementary.

Reported she has received complaints on the pawn shop's display of wares. Code Enforcement will be directed to address the issue.

Discussed Chief Lowe's possibly seeking funding from the CRA Board to support an initiative to curb criminal activities in the City. Chief Lowe reported he has moved forward on the initiative with CRA funding and has assigned five officers to selective enforcement to address street robbery and theft throughout the City.

10. COMMISSIONERS' COMMENTS

Commissioner Lancaster

Thanked Chief Lowe for keeping her informed of activities; more police officers may be necessary.

Reported she has received complaints concerning the items left outside at the day care located on 17th Street. Mr. Freeman reported Code Enforcement has spoken with the business; a screen was erected and they have been doing a better job of putting the equipment in one place. Code Enforcement will revisit the topic.

Commissioner Varnadore

Agreed with Mayor Bryant and Commissioner Lancaster that she is in full support of any assistance the Commission can lend the Police Department in its public initiative.

Opined that a lot of the frustration for the Commission has been the lack of communication, and she is looking forward to working with new leadership and staff with much more open communication.

Mr. Williams

Requested that Mr. Forbes comments be responded to.

Inquired if a new Suspense Log will be developed. Mayor Bryant stated she and Mr. Freeman have discussed the issue. Mr. Freeman informed Commission the log will be brought back; based on Commission comments, it will be updated. Mr. Williams commented on some of the topics he felt should be on the log.

Referring to a letter published in the paper from Clyde Boltz regarding the outstanding stormwater issue, Commissioner Williams opined a response should be formulated because of the incorrect information in the letter. Commissioner Varnadore disagreed, but did state she felt the stormwater fees approved should be revisited by Commissioner before being implemented. Mayor Bryant suggested that with the new members on the board, a meeting with City employees may be able to resolve the issue.

A decision on the repair of the Thomas Taylor headstone needs to be made. Repair costs in Georgia will be \$100, \$250 in Inverness, and \$1,500 if it is replaced.

Inquired if Tanya Lukowiak is still the City's grant writer.

Reported he and Mayor Bryant had toured the banquet hall at Regatta Pointe, which he found quite impressive. He opined that while there are still questions, Regatta Pointe is trying to make headway with the City and the different entities involved.

Commissioner Cornwell

The workshop time change will be placed on the December 15, 2008 agenda.

Requested a recommendation on how to move forward with the City cell phones that were used for personal business. Mayor Bryant stated she has spoken with all the department heads, who have been directed to make sure all the employees are aware of the City's Personnel Policy and the importance of adhering to the Policy.

Requested that the Spanish movie "Under the Same Moon" be added to the Movie in the Park schedule during the Cinco de Mayo festivities in May.

Recalled a Commission discussion regarding a mandatory garage/parking facility on newly constructed homes, and inquired if a policy was established. Staff will research if there was resolution to the discussion.

Inquired the status of the letters/signage on the Riverside building. The topic will be scheduled for a workshop in the near future.

Mr. Tusing will be providing an expense report on the Tomato Festival.

Commented on issues she felt should be addressed before the next election.

Asked permission to meet with staff to discuss the possibility of utilizing available grant monies to fund youth summer jobs; the program could assist the City in addressing overgrown lawns. The program would be administered through church organizations at no cost to the City. Commission concurred.

Mr. Williams moved, Mrs. Lancaster seconded and motion carried 4-0 to adjourn at 9:20 am.

Minutes approved:

James R. Freeman
City Clerk