

TAB 1

Palmetto City Commission  
January 5, 2009 5:00 p.m.

Elected Officials Present:

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

Staff Present:

Mark Barnebey, Special Counsel  
James R. Freeman, City Clerk  
Tanya Lukowiak, CRA Director  
Garry Lowe, Chief of Police  
Tom McCollum, Interim Planner, ZNS  
Karen Simpson, Deputy Clerk-Finance  
Allen Tusing, Interim Public Works Director  
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 5:00 pm. A moment of silence was observed, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

**MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the January 5, 2009 5:00 pm agenda.**

Mayor Bryant introduced Tom McCollum of ZNS, who will be serving the City in the Planner's capacity.

2. DISCUSSION: BUDGET

Mr. Freeman presented a synopsis of projected revenue reductions and possible budget cuts. The projected approximate revenue reductions amount to \$183,635 in the General Fund and \$35,816 in Road and Bridge, for a total of \$219,452; total CRA TIF revenue changes increased by \$417,004.

Mr. Freeman reviewed the unreserved fund balances. Both General Fund and Road and Bridge are in compliance with the Fund Balance Policy adopted in 2008.

Mr. Freeman reviewed the proposed budget cuts to the General Fund:

1. DROP participants within this fiscal year amounting to \$39,030
2. Attrition within this fiscal year amounting to \$46,885
3. Other Accounts amounting to \$97,721

Discussion ensued on the proposed Road and Bridge Fund budget cut of one Service Worker II position. This would amount to a savings of \$40,378 if the position remains vacant for the remainder of the year. Mr. Tusing informed Commission that the position is the position that performs litter control pursuant to the pending FDOT grant funding contract. He informed Commission he will be filling the position from within, but it will become an introductory position, thus a savings will be realized. Mr. Freeman spoke of the reserve balance for the Road and Bridge Fund, which could fund the position or look at other options.

Commissioner Varnadore questioned the engineering consultant fees and how long a term the \$20,000 will fund. Mayor Bryant inquired Mr. Schmitt's level. Mr. Tusing commented on the City contract with ZNS, which contains an hourly rate for a Planner. Commissioner Varnadore requested a copy of the contract. Discussion ensued on the appropriateness of checking with all the engineers under contract with the City; ZNS already attends the DRC meetings and is familiar with the existing projects. Mayor

Bryant stated she would like to discuss the topic with the department heads and the attorney and come back to Commission with a recommendation.

Commission Williams suggested it may be advantageous to contact some municipalities that have experienced catastrophic losses to determine how realistic our reserves may be. Mr. Freeman informed Commission the Trailer Park Trust was excluded from the reserves equation. Staff was directed to again look at the Trailer Park Trust to determine exactly how the Trust may be used and send that report to the Mayor and Commission.

Discussion ensued on the TIF payments the City makes to CRA, which is generally returned to the City in a cost sharing allocation. Commissioner Zirkelbach commented on the fact the county TIF payment is used by the CRA for grants and projects, not personnel or on-going cost expenses.

Mrs. Lukowiak confirmed she has spoken with David Caldwell, the Florida Redevelopment Association's (FRA) attorney, concerning the CRA sunset date. CRA's should be able to complete their plans within the most recent Plan Amendment which, in the City's case, was done in 1996. She confirmed the TIF given by the City to the CRA covers personnel, allocations, and General Fund off sets; should the CRA cease all personnel funded by the CRA, employees would retain their jobs, allocations to different departments would continue and the City would have an additional \$1.2 million to allocate to projects. She further stated the current personnel allocations are permitted. Mrs. Lukowiak was directed to ask for Mr. Caldwell's opinion in writing.

Mr. Freeman stated instruction to reduce the revenue and expenditures can be given to staff at the quarterly budget meeting.

Commissioner Cornwell requested that staff determine if it is permissible to poll employees to determine if there are any planned retirements this fiscal year.

### 3. DISCUSSION: ACCEPTANCE OF COUNTY OWNED PROPERTY

Mrs. Lukowiak commented on a letter in September 2007 wherein the CRA inquired if the county would consider giving the City the property; response was received Monday, stating the topic would be on the next County Commission agenda. She inquired how Commission wished to proceed.

Attorney Barnebey stated there may be limited ability to decline the property if offered. Many of his initial concerns have been addressed. The ongoing liens and encumbrances will be extinguished. He suggested that title insurance should be obtained by the City, and because the City would be obtaining the property involuntarily, the City would not be responsible should there be any environmental concerns. He stated he no longer has any "big" concerns if the property is turned over to the City.

Commission discussed doing both a title search and environmental Phase I in the event of transfer in the future. Attorney Barnebey stated a Phase I would be only an indication of any additional testing that may be necessary.

### 4. DISCUSSION: LOCAL PREFERENCE INITIATIVE

Mayor Bryant stated that the proposed initiative is a starting point for support of local businesses to more easily be included in the City's bid process. Commissioner Zirkelbach stated there is an educational process necessary for local business owners and opined the proposed initiative is a viable program. Attorney Barnebey cautioned that if the City desires to award bids based on local preference, standards will have to be established by ordinance.

Meeting adjourned at 6:05 pm.

Minutes approved:

Palmetto City Commission  
January 5, 2009 7:00 p.m.

Elected Officials Present:

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

Staff Present:

Mark Barnebey, Special Counsel  
James R. Freeman, City Clerk  
Tanya Lukowiak, CRA Director  
Garry Lowe, Chief of Police  
Tom McCollum, Interim Planner, ZNS  
Allen Tusing, Interim Public Works Director  
Diane Ponder, Deputy Clerk-Administration

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

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

There was no public comment on non- agenda items.

1. AGENDA APPROVAL

Mayor Bryant requested that the agenda be modified to add the acceptance/denial of property Manatee County proposes to transfer to the City that was discussed at the 5:00 meeting and the extension of department head terms.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the January 5, 2009 7:00 agenda, with the two additions.**

2. CONSENT AGENDA

- A) Minutes: December 15, 2008
- B) Noise Exception Permit: Palmetto Church of the Nazarene
- C) Martin Luther King, Jr. Day Events (Waiver of portion of fees)

**MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion carried 5-0 to approve the January 5, 2009 Consent Agenda.**

3. PUBLIC HEARING: CONDITIONAL USE PERMIT 08-05

Application of Value Pawn for a Conditional Use Permit for an electronic message center sign at 908 8<sup>th</sup> Ave. W.

Mayor Bryant opened the public hearing.

Alan Nelson, representative of Value Pawn and Jewelry, requested approval of an LED sign at the business location. Mr. Nelson gave reasons why the sign would be beneficial to the business. Attorney Barnebey informed Commission that he did not believe Commission could approve the request at this time because the Downtown Design Guidelines (DDG) adopted by Ordinance 07-930, which requires that improvements to existing development comply with the DDG; the sign provisions of the DDG state it is inappropriate to have a sign using LED or changeable copy.

Attorney Barnebey further informed Commission he has spoken with the applicant concerning the matter. After a brief discussion of the intent of the DDG, Attorney Barnebey opined the DDG is regulatory. He stated that it may be appropriate for Commission to discuss if the provision in the ordinance is appropriate.

Attorney Barnebey advised Commission that action could be taken on the matter or it could be continued to a date certain. Continuation of the topic would mean a new application would not have to be submitted and additional advertising would not be required.

Sandy Bargfrede, Value Pawn and Jewelry, expressed disappointment that she has been given erroneous information throughout the process. She commented on the P&Z approval, existing signs in the downtown, and the expanding digital use. She stated she was not notified of this meeting and also requested notification of all future meetings where the topic would be heard.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to continue the Conditional Use Permit 08-05 for Value Pawn and Jewelry, 908 8<sup>th</sup> Ave. W. matter to May 18, 2009 at 7:00 p.m. or as soon thereafter as it can be heard in these chambers.**

The item will also be placed on the May 18, 2009 workshop agenda.

**4. PUBLIC HEARING: ORDINANCE NO. 08-978**

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 UNITS 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).

Mayor Bryant opened the public hearing. She announced that the applicant has requested that the item be continued and stated that public comment would be accepted at this time or comment could be delayed until the topic is heard by Commission.

Ray Frazier spoke in opposition of the project.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to continue the public hearing for Ordinance No. 08-978 to February 2, 2009.**

**5. PUBLIC HEARING: ORDINANCE NO. 08-979**

AN ORDINANCE OF THE CITY OF 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).

Mayor Bryant opened the public hearing. She announced that the applicant has requested that the item be continued.

**MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to continue the public hearing for Ordinance No. 08-979 to February 2, 2009.**

Mr. Freeman confirmed with Commission that the item will be placed on the January 26, 2009 workshop agenda, as the applicant would like to present the planned project to Commission.

6. PUBLIC HEARING: ORDINANCE NO. 08-980

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR PARCEL 9 OF THE RIVIERA DUNES MASTER DEVELOPMENT PLAN; 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).

Mayor Bryant opened the public hearing. She announced the applicant has requested a continuation of the item.

Staff informed Commission that a representative of the applicant has stated they requested additional time to research issues that have arisen concerning the project and a possible land swap for the project is being considered.

Attorney Barnebey confirmed that Commission may deny any continuation, which will mean the applicant will have to begin the process over, including the additional expense, or the continuation to a date certain can be granted. He stated it would be appropriate to accept comment at this time.

The following individuals spoke in opposition of the event: Jaime Mead, Steve Haeffele, Bill Horton, Virginia A. Dorris and Michael Strink. During the comments a power point presentation and an artist's rendering of the Bel Mare project were entered into the record. Points of opposition cited were the building heights, the obstruction of view, the decline in property value, and the fact the proposed project is different from what was portrayed when the individual's properties were purchased. In addition, Mr. Haeffele stated an access easement for fire purposes through Bel Mare garage has not been granted. Mr. Strink also commented on the fact that the original general development plan (GDP) was approved prior to any resident's occupancy. He stated the homeowners have initiated the talks with and are willing to work with the Chicago group on a possible land swap and remedy to the issues that have been raised.

Commissioner Zirkelbach requested that a Notice to Buyers be provided Commission before the topic returns to Commission.

Also entered into the record were a letter of opposition from Gary Tucker and a letter from Lifestyle Properties, the sales agent for the Bel Mare project, listing the sales material that was provided to prospective purchasers.

Commissioner Zirkelbach commented on the fact the project had let lapse an approved site plan that contained building with roofs of 40'. Interim Planner Tom McCollum confirmed the information, stating the roofs were flat with porches on the top of the roof. He also stated the proposed project contains three off-set buildings vs. the previously approved one building, with pitched roofs rather than flat.

Commissioner Cornwell commented on discrepancy in the building height between the Development Review Committee and Planning and Zoning Board minutes. Mr. McCollum will provide a report to Commission.

Commissioner Williams inquired if a GDP can expire. Attorney Barnebey confirmed it can. He also discussed the project being part of a DRI, which will require research to determine if a Notice of Proposed Change is appropriate. Commissioner Williams also commented on the emergency access through the garage, and the fact it may not be granted. He opined that based on the inconsistencies in the provided information and the Planning and Zoning Board denial, he was prepared to deny the continuation. Mr. Strink opined that because the development was Phase IV of the Bel Mare project, emergency access may be an oversight.

Commissioner Varnadore agreed that in fairness to all involved parties and the inconsistencies in the provided information, that the continuation should be denied. She opined that if the land swap is negotiated, the applicant would probably have to start over. Mr. Collum confirmed that it appears the project was noticed on the triangular property that was presented. Attorney Barnebey confirmed that if the project is located on a different piece of land, the project would have to be re-advertised. Staff confirmed that the applicant will be notified if the continuance is denied.

**MOTION: Commissioner Williams moved, Mr. Zirkelbach seconded and motion carried 5-0 to close the public hearing.**

**MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to deny Ordinance No. 08-980 based on the findings it is inconsistent with the Comprehensive Plan, the Zoning Code and the testimony and evidence presented into the record today.**

**7. PUBLIC HEARING: ORDINANCE NO. 08-981**

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING CERTAIN REAL PROPERTY TO THE CITY OF PALMETTO; PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (AN-08-06 – R&W Gulfcoast Properties, LLC. PID # 2578000008, approximately 1.38+/- acres).

Mayor Bryant opened the public hearing.

Will Robinson, representing the applicant Wholesale Landscaping and Supply, stated the application meets appropriate statutory requirements for annexation into the City, and that no new development is planned at this time.

Mr. Tusing confirmed that all utility services are available to the property, the applicant is wishing to obtain the sanitary sewer services and that there will be no adverse impact on the system. The property houses only bulk landscaping supplies; there are no drainage issues.

Commissioner Varnadore commented on past incidents where development has occurred on a piece of annexed property without Commission review and approval. Mr. McCollum stated that if a use different from what the proposed zoning would permit is requested then the new use would have to be approved by Commission. He confirmed that the proposed zoning category is consistent with the current use and is the best category.

Mayor Bryant read the Community Redevelopment Area [9J-5.006(3)(b)2.] Policy 1.2.4 into the record, stating staff's statement, "This site is located within the CRA and may qualify for storefront grant money if improvements are proposed in the future," may not be accurate. Mr. Robinson acknowledged the statement may not be correct and that his client's application is not contingent upon the statement.

Mayor Bryant closed the public hearing.

**MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve Ordinance No. 08-981.**

**8. PUBLIC HEARING: ORDINANCE NO. 08-982**

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 INDUSTRIAL LIGHT (IL-COUNTY), TO HEAVY COMMERCIAL/INDUSTRIAL (HCOMIND-CITY); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA-08-06 – R&W Gulfcoast Properties, LLC. PID # 2578000008, approximately 1.38+/- acres).

Mayor Bryant opened the public hearing. After no public comment, Mayor Bryant closed the public hearing.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Ordinance No. 08-982.**

9. PUBLIC HEARING: ORDINANCE NO. 08-983

AN ORDINANCE OF THE CITY OF 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 LIGHT MANUFACTURING (LM-County) TO COMMERCIAL HEAVY INDUSTRIAL (CHI-City); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-08-06 - R&W Gulfcoast Properties, LLC. PID # 2578000008, approximately 1.38+/- acres).

Mayor Bryant opened the public hearing. After no public comment, Mayor Bryant closed the public hearing.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Ordinance No. 08-983.**

10. PUBLIC HEARING: ORDINANCE NO. 08-984

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 2, SECTION 2-26 OF THE CODE OF ORDINANCES TO REVISE THE MEETING SCHEDULE FOR THE CITY COMMISSION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Freeman called attention to one typographical error in the body of the ordinance.

Mayor Bryant opened the public hearing. After no public comment, Mayor Bryant closed the public hearing.

**MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Ordinance No. 08-984 as corrected by Mr. Freeman.**

11. APPROVAL: BACKGROUND CHECK POLICY

Attorney Barnebey informed Commission that the draft of the Background Check Policy before them reflected the addition of references that an arrest for a crime listed on Exhibit A will be considered on a case-by-case basis; automatic suspension with pay will occur until appropriate action can be taken.

Attorney Barnebey made one further change to second paragraph on page 4 of the Policy, by amending the second sentence to read "All convictions or arrests for a crime listed on Exhibit A will be reviewed by the Human Resources Director in consultation with the appropriate Department Head and City Attorney."

Commissioner Williams opined that the individuals making a recommendation should also include the Mayor and Attorney. Attorney Barnebey opined that before any decision is made it will require action by the Department Head, Human Resources Director, Mayor and Attorney; therefore, he did not recommend amending the policy as stated.

Commissioner Cornwell inquired who would be notified if an arrest occurs outside the City if the Police Department is not notified. Mr. Freeman stated FDLE would get a report back from the company doing the background checks. Chief Lowe stated that if the arrest occurs outside the City and the employee does not self-report, the Personnel Policy would prevail. Lt. Tyler stated that most law enforcement agencies will not notify the City should a City employee be arrested in



their jurisdiction. He suggested that consideration should be given to screening on an annual basis.

Attorney Barnebey stated that all employees must be aware of the policy, and recommended documenting the way the policy was distributed. Discussion ensued on requiring all employees to be fingerprinted. Attorney Barnebey advised mandatory fingerprinting is a different level of review above what is being implemented in the policy; it probably will not be an issue but must be researched.

Commissioner Varnadore stated she would like to move forward with the Background Check Policy as stated; it can be amended in the future.

Mr. Freeman confirmed that the policy was submitted to the Personnel Committee and feedback was provided to Attorney Barnebey. He further stated his employees know the policy has been considered by Commission, but he has not reviewed the policy with his staff.

Commissioner Lancaster stated that if she votes to adopt the policy she is agreeing to everything in the policy, and she does not.

**MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-1 to approve the Background Check Policy as modified by Mr. Barnebey. Commissioner Lancaster voted no.**

12. APPROVAL: DEP GRANT-AGREEMENT NO. LP8966

A) State of Florida DEP \$500,000 grant to further improve the I&I Program. Mrs. Lukowiak stated the State funding was appropriated by the Legislature; if the funding is removed from the State's budget, the City will be notified. She also stated she feels that City expenditures from July 2008 will be allowed as reimbursable projects; there is no guarantee.

**MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to approve and authorize the Mayor to execute the State Financial Assistance Agreement, DEP Agreement No. LP8966, providing a minimum match not to exceed \$166,667.**

B) RESOLUTION NO. 09-01

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: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to adopt Resolution No. 09-01.**

13. APPROVAL: OFFICE OF GREENWAYS & TRAILS GRANT FUNDING

A) Acceptance of a grant funding to make improvements to the area connecting Hydrant Park to the Recreational Trail.

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve and authorize the Mayor to execute the State Department of Environmental Protection Recreation Trails Project Agreement #T2830, providing an in-kind match not to exceed \$15,000.**

B) RESOLUTION NO. 09-03

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: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to adopt Resolution No. 09-03.**

**14. APPROVAL: BEHAVIORAL HEALTH MANAGEMENT SERVICES, INC. CONTRACT**

Annual renewal of the contract to administer the City's Employee Assistance Program. Mr. Freeman stated that based on Attorney Barnebey's comments, changes to the contract were submitted to the vendor and were accepted. Mr. Freeman distributed the amended contract. Attorney Barnebey stated that with the additional changes as follows, he has no objection to the execution of the contract.:

1. Paragraph 8: Final sentence should read: "This indemnification clause is subject to limitations contained in Section 768.28, Florida Statutes, as to the employer.
2. Paragraph 13D: Section was made plural.
3. Paragraph 24: The first sentence contained in the contract was deleted.

**MOTION:** Commissioner Varnadore moved, Commissioner Varnadore seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Behavioral Health Management Services, Inc. d/b/a Baycare Life Management contract for a term ending December 31, 2009, in an amount not to exceed \$2,700, with Mr. Barnebey's approval and changes.

**15. RESOLUTION NO. 09-02**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, OPPOSING A UNITED STATES POSTAL SERVICE MANASOTA AREA MAIL PROCESSING STUDY; OPPOSING ANY ACTION THAT WILL MOVE MAIL PROCESSING FROM THE MANASOTA PROCESSING AND DISTRIBUTION CENTER; REPEALING RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

**MOTION:** Commissioner Lancaster moved, Commissioner Williams seconded and motion carried 4-1 to adopt Resolution No. 09-02. Commissioner Zirkelbach voted no.

**16. ELECTION OF VICE MAYOR**

**MOTION:** Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried 5-0 to nominate Brian Williams as Vice Mayor.

**17. 2009 OUTSIDE ORGANIZATION APPOINTMENT**

**MOTION:** Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 5-0 to approve the 2009 Outside Appointments as presented.

**18. ASSIGNMENT OF LIAISON POSITIONS**

**MOTION:** Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 5-0 to approve the 2009 Liaison Positions.

Mayor Bryant has asked that Commissioners serve on special projects, in conjunction with the Mayor's office, as follows:

Palmetto Elementary School	Commissioner Varnadore
7th Street light extension	Commissioner Williams
Personnel Policy update	Commissioner Cornwell
Shop at Home/Local Preference	Commissioner Zirkelbach

Mayor Bryant stated that Commissioner's Lancaster's project is forthcoming.

19. DEPARTMENT HEAD TERM EXTENSION

Mayor Bryant asked that the terms of the current and interim department heads be extended until such a time an advertised RFP for the City Attorney position appointment is ready for Commission's consideration.

**MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 4-1 to extend all department heads and interim department heads as currently staffed to March 9, 2009. Mrs. Lancaster voted no.**

20. ACCEPTANCE OF COUNTY-OWNED PROPERTY

This item was forwarded from the workshop agenda for Commission action. Discussion ensued on whether or not the City could decline acceptance of the property; statutory language suggests that the City must take the property if it is offered. Discussion also ensued on obtaining an O&E title search and environmental assessment.

**MOTION: Commissioner Lancaster moved and Commissioner Zirkelbach seconded that they were willing to accept the property subject to no significant issues in regards to the title on the property and a Phase I environmental report.**

Discussion ensued on the estimated cost of the title search and environmental report. Commissioner Williams disagreed with the Phase I audit.

**MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion failed 3-2 to withdraw the cost of the environmental audit. Commissioners Zirkelbach, Lancaster and Cornwell voted no.**

**Motion on the floor carried 3-2. Commissioners Williams and Varnadore voted no.**

21. DEPARTMENT HEADS' COMMENTS

Mr. McCollum

Opined Commission's decision to accept the property was a wise decision. He stated an environmental report may be advantageous if the property is sold in the future.

Mr. Tusing

Reported he is still researching equipment required to accept the FDOT grant. Commissioner Varnadore pointed out that the budget resolution to the grant acceptance was tabled to January 5, 2009.

**MOTION: Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried 5-0 to defer Resolution 08-38 to a date certain as staff obtains further information.**

Mr. Freeman

The joint Commission/CRA meeting is scheduled for January 13, 2008 at 5:30 pm. Mr. Freeman requested, time permitting, the addition of an IT item on the agenda. Commissioner Cornwell reported that she has a Fair Board conflict on that date that has been standing for a year.

The Verizon cell tower issue, 7th Avenue Cottage project presentation and the local preference issue will be on the January 26, 2009 workshop agenda.

The quarterly budget meeting is scheduled for January 27, 2009.

Reported there were noise issues in the Oakridge area. Staff met with the Mayor; Code Enforcement staff and/or patrol will be working a couple of hours on some Saturdays in the coming months. He reported he has directed Code Enforcement personnel that a 24-hour response to incoming calls is expected. Staff will research a possible four day work week for Code Enforcement.

Chief Lowe

Stated his department has taken appropriate measures for the situation discussed by Mr. Freeman not to occur again. He has spoken with Lou Eurice, who will speak with the offending tenant. Reviewed the accomplishments of the Robbery Task Force and his sworn officers over the past four weeks.

Mayor Bryant reported on her meeting with the department heads and Mr. Stollo. She also discussed the Police Department web site issues that are being addressed.

Attorney Barnebey

Review of the sign ordinance has begun; looking at the status of the EAR based Comp Plan amendment and adult entertainment ordinance.

22. MAYOR'S REPORT

No report.

23. COMMISSIONERS' COMMENTS

Mr. Zirkelbach

In lieu of time, withheld comments.

Ms. Cornwell

Reported guns being fired in her neighborhood on New Year's Eve; PD received no calls. Suggested utilizing City resources for education on the topic.

Inquired if the movie had been ordered for showing during Cinco de Mayo. Mrs. Lukowiak stated the Movie in the Park has been suspended until funding can be approved by Commission January 26, 2009; Waste Management will have to agree to provide the popcorn and drinks. Casper has been paid for and can be used within a year of renting the movie. Volunteers are being sought to man the event.

Mr. Williams

Reported a JPC meeting January 6, 2009, and commented on the organization not being included in the appointments. It was consensus of Commission to reappoint Mr. Williams as the JPC liaison; the appointment list will be amended.

Reported he is not receiving notification when department heads are going out of town.

Thanked Sgt. Taylor for quickly addressing the solicitation that was occurring on street corners.

Discussion ensued on the police vehicle video cameras that are not working. Mr. Freeman stated the problem falls within the IT issue. Mayor Bryant asked that Commission consider allowing staff to move forward with exploring how to resolve the issue. Mr. Freeman requested permission to use \$10,000 out of the salary line item of the IT position that will not be filled to explore resources that are available to resolve the IT issues city-wide. Commission concurred that Mr. Freeman moved forward with Mayor Bryant's oversight to obtain the information. Commissioner Varnadore requested she be provided a report on the situation.

Ms. Varnadore

Suggested that the email sent in March regarding ex-parte communication be reviewed by Commission.

Requested that the sign ordinance be brought forward as soon as possible. She stated staff and the Mayor should discuss how enforcement of the current ordinance is being handled.

Mayor Bryant noted that the Police Department grounds and building are being addressed by staff.

Mrs. Lancaster

Discussed the noise issue that happened in Oakridge. She commented on the ordinance governing noise; calls that were made to the Captain and the Code Enforcement Director. Chief Lowe assured Commissioner Lancaster that like situations will be properly addressed in the future. She thanked Mayor Bryant and Commissioner Williams for their help in trying to resolve the problem.

Stated she is still unclear on Commissioner Williams' comments regarding the CRA Executive Director's contract; the contract is the same as the past renewals, each for three years; the contract was signed December 13, 2007; the liaison received agenda packets; disability pay. Commissioner Williams voiced how he interpreted the disability provision; the City would be making up the difference between the disability pay so the director would receive her entire salary. It was suggested comments should be withheld until the joint meeting. Commissioner Lancaster stated she hoped the liaisons to the different departments would be required to bring back a report to Commission from the various meetings.

24. PUBLIC COMMENTS

No public comment.

**MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 5-0 to adjourn the meeting at 10:20 p.m.**

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James R. Freeman  
City Clerk

**JOINT MEETING  
PALMETTO CITY COMMISSION  
AND CRA BOARD  
JANUARY 13, 2009**

Elected Officials Present:

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

Staff Present:

James R. Freeman, City Clerk  
Tanya Lukowiak, CRA Executive Director  
Garry Lowe, Chief of Police  
Allen Tusing, Interim Public Works Director  
Mark Barnebey, Interim City Attorney  
Deanna Roberts, Administrative Assistant

CRA Board Members Present:

Scott Maloney  
Sia Mollanazar  
Jane Hunter  
Charles Smith

Mayor Bryant called the meeting to order at 5:33 p.m. The meeting began with a moment of silence followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

**MOTION:** Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion passed unanimously to approve the January 13, 2009, agenda with Mayor Bryant's recommendation to add a time certain to 6:30 p.m., to appoint Scott Maloney Interim Chair of the CRA Board, and to discuss the confirmation of the \$1,200 in the CRA Budget for the Martin Luther King Parade.

2. APPOINTMENT OF SCOTT MALONEY AS INTERIM CHAIR OF CRA BOARD AND TIME CERTAIN FOR THE JOINT MEETING

**MOTION:** Commissioner Zirkelbach moved, Commissioner Williams seconded and motion passed unanimously to establish a time certain to 6:30 p.m. and to approve the appointment of Scott Maloney as Interim Chair of the CRA Board.

### 3. CRA EXPENDITURES FOR THE MARTIN LUTHER KING PARADE

Mayor Bryant asked for concurrence by the CRA Board to expend \$1,200 in funds in the CRA budget allocated under Fairs and Events for the parade, because there had been some hesitancy regarding the expenditure. Dr. Maloney concurred on behalf of the CRA Board.

### 4. DISCUSSION CRA BOARD

Mayor Bryant commented that she is working with the Property Appraiser's Office to design a better CRA map, which will show individual parcels.

The Mayor said one of the reasons for the meeting was to discuss the importance of the accountability to the citizens by the Board and the Commission, and to discuss recent audits of some CRA's. Audits of CRA funds spent inappropriately forced the cities to repay the funds back to the CRA's. In her review of the CRA expenditures over the last five years, \$4.8 million was piggybacked to one single vendor. Piggybacking was one of the issues brought up in the audits. Strict guidelines are in place for awarding of bids. This brings up the necessity of the City Commission becoming more involved and accountable.

Mayor Bryant recognized City Attorney Mark Barnebey who went over a memo he provided to the City Commission and the CRA Board. The memo, which was a brief summary of the power and authority of the CRA and the City Commission under *Florida Statutes*, is made a permanent part of the record of this meeting.

Mr. Barnebey pointed out that under Section 163.357, *Florida Statutes*, the City Commission may, at any time, by resolution, declare itself to be the governing body of the CRA. If the Commission takes this action, it can appoint two additional persons to act as members of the CRA, and he added that the current ordinance setting up guidelines of the CRA would have to be amended.

Mayor Bryant declared that after much research, she recommends that the City Commission step in and take over the CRA, with the current CRA Board to remain as an advisory board. She called for comment.

Dr. Scott Maloney, Interim Chair of the CRA Board, voiced his opposition to the recommended action. The appointed Board gives citizens the opportunity to serve in an important position. The Board has, or has had in the past, a banker, an engineer, a contractor, all of whom bring experience and ideas to the table. He has enjoyed his many years of serving, and it has given him a great sense of civic pride.

Mayor Bryant emphasized that she does not want to eliminate the Board. It would serve much like the Planning and Zoning Board which reviews issues and brings them to City Commission for approval. Each commissioner would have to publicly approve recommended CRA Board actions and thereby be accountable to taxpayers and make sure funds are spent in the best manner possible. She invited all current Board members to remain and said they would notice little difference in things.

Commissioner Varnadore opined that she values Board input and sees this as a partnership. Due to the increased budget of the CRA and legal issues, the Commission needs to have more oversight and accountability.

Dr. Maloney said he was proud of the CRA's actions over the past years and felt they were always taken in the City's best interests. The Board always took advantage of legal counsel in decision making.

Commissioner Lancaster said the Commission has the responsibility to go over the CRA budget line-by-line, but can be accountable without taking over the Board.

Commissioner Zirkelbach asked for more Board member input. Sia Mollanazar said he was relatively new to the Board, eight or nine months, but in his opinion the Board was very dedicated and thoroughly reviewed all expenditures. He was proud to serve on the Board.

Jane Hunter, a member since October 2008, said the budget is very specific and the Board is clear on what it can and cannot approve. The Commission liaison and the Board attorney make sure the Board makes the right decision, and they work within strict guidelines. She questioned whether overseeing some of the minor expenditures they must approve is the best use of Commission time. She said the Board certainly has no political interest, and volunteer their time and expertise.

Mayor Bryant pointed out that some of the discretionary line items in the budget are over a million dollars.

Member Charles Smith said he had reviewed the documents of the CRA and years of spending practices. In his opinion, there has been questionable spending. He sees a need to help people with the inside of their homes. In the past, they have addressed flooding issues in the City and infrastructure, some wonderful things, but in the current economy things have to change and more accountability is needed. He told the Mayor there needs to be an independent audit of the CRA disbursements. He referred to the \$50,000 given to Palmetto First Baptist.

Commissioner Zirkelbach, addressing Mr. Smith's comments, said any church could have applied under the same guidelines as Palmetto Baptist and that Storefront grants are for exterior renovations only. Improving the exterior improves blighted areas and adds to the tax base. He continued that millions have been spent in Ward I.

Mr. Smith raised Commissioner Williams's earlier point about properties annexing into the City becoming eligible for CRA funding. Mayor Bryant said she will get an opinion on that.

Regarding the Palmetto Baptist Church grant, Dr. Maloney said the Board reviewed guidelines for Storefront grants to see which requests best met the requirements. The Baptist Church grant boiled down to the fact that they qualified for that grant. It may not have been a popular decision, but with the Director's and attorney's input, they qualified, and the Board approved. All decisions are not that clear cut. Commission will be taking over a lot of extra work.

**MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion passed unanimously to extend the meeting time fifteen minutes.**

Commissioner Williams said the new relationship should be a partnership. Communication has been lacking, and the City Commission has to know what's going on with the CRA budget. He did not agree with the church grant. He questioned if it was in the CRA district. The City Commission knows City ordinances and the Board knows Florida Statutes, so they can share knowledge in decision making. The City Commission has to help control the dollars.



Commissioner Cornwell agreed with the Mayor's recommendation to take over the CRA, based on the budget and accountability to citizens which lies with the City Commission. She said she was ready to move forward with the Mayor's proposal, and also wants this to be a partnership.

**MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion passed 3-2 to direct the City Attorney to prepare a resolution and appropriate ordinances for the City Commission to declare itself the CRA. Commissioners Lancaster and Zirkelbach cast the dissenting votes.**

**MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion passed 3-2 to direct the City Attorney to prepare a resolution or ordinance as appropriate to establish the CRA as an advisory board and to reaffirm those members of the existing CRA Board who wish to continue serving. Commissioners Lancaster and Zirkelbach cast the dissenting votes.**

Dr. Scott Maloney submitted his resignation as a member of the CRA Board to the Mayor and the Commissioners. His letter will become a permanent part of the record of this meeting. He said he has enjoyed his time on the Board and will make himself available to help in any way he can.

The meeting was adjourned at 6:50 p.m.

Minutes approved:

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James R. Freeman, City Clerk