

TAB 1

Palmetto City Commission
June 15, 2009 4:30 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tamara Cornwell, Commissioner
Tambra Varnadore, Commissioner (entered at 4:45 pm)
Alan Zirkelbach, Commissioner

Elected Officials Absent:

Brian Williams, Vice Mayor
Mary Lancaster, Commissioner

Staff Present:

Mark P. Barnebey, City Attorney
James R. Freeman, City Clerk
Chief Garry Lowe
Tom McCollum, Interim Planner
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 4:40 pm, followed by a moment of silence and the Pledge of Allegiance.

1. VERIZON CELL TOWER

Mike Knuckles, CCA Wireless, updated Commission on the Hidden Lake site as a potential location of a cell tower, stating due diligence has revealed no issues to prevent the construction of the proposed 100' flag pole tower, containing internal antenna for three carriers. Verizon representative Chris Lee also took part in the discussion. Mr. Knuckles requested that Commission allow the lease negotiations to occur in private. If a lease is agreed upon, then Verizon will hold community meetings concerning the proposed location.

Mr. Freeman highlighted the following points of the lease:

- City will receive 100% of the ground collocation fee in addition to an annual rental payment of \$13,200 with a 2% annual escalator. Mr. Freeman commented that he would consider a rental fee of \$1500 to \$1,800 per month to be more appropriate.
- City has requested that a white solid vinyl fence surround the compound vs. a chain link fence.
- If Commission desires that a flag be flown on the pole, Verizon has committed to providing the necessary lighting. Mr. Lee confirmed that Verizon will be responsible for the maintenance of the structure and replacement of the flag. It was consensus of Commission to display an American flag on the pole.

Commissioner Varnadore commented on the fact the new language added to the lease permitted the lessee to sublease space on the tower without the City's prior written consent. Discussion ensued on the fact the new language also prohibits the lease of any ground space (necessary for tower space) without City approval. Mr. Freeman and Mr. Knuckles stated they will review the language for possible deletion of the sentence reading, "Notwithstanding anything contained in this paragraph to the contrary, the LESSEE shall have the right to sublease space to one or more sublessees on the tower without the LESSOR's prior written consent".

Commissioner Zirkelbach commented on the fact the lease does not contain the Lessee's hold harmless and indemnification language. Attorney Barnebey agreed the language should be

present. He also stated language relating to the exemption under section 768.28 should be present.

Commission authorized Mr. Freeman and Mr. Barnebey to finalize the terms of the lease, with the intent that the topic will be brought back to Commission for approval. Commission directed that community meetings are to be held prior to Commission's final consideration of the topic. Mr. Freeman was also directed to negotiate the proposed monthly rental fee of \$1,100.

2. SPECIAL FUNCTION PERMIT

Attorney Barnebey stated the proposed ordinance had been amended based on Commission's prior comments. He noted that the ordinance still contains indemnification language, which in some cases may be impossible to obtain, and opined it may be more practical to require insurance.

Commissioner Cornwell requested that language be added that will allow a greater security fee to be charged as determined necessary by staff.

Commissioner Varnadore opined that the attendance figure requiring a Special Function Permit should be raised to 75 attendees vs. the current 50 attendees. Commissioner Cornwell requested that the capacity of each building be the deciding factor in established the figure.

Ron Koper, Risk Manager, provided a schedule listing the insurance costs for each City facility, broken down into a daily insurance fee a lessee could be charged should Commission determine additional insurance coverage will not be required. The list also showed the fee a resident and non-resident would pay. Mr. Koper cautioned that if insurance is waived for a resident, claims filed against the City's policy will increase City premiums, as there is no additional layer of insurance. Mr. Koper stated that the City can currently facilitate the purchase of additional insurance for a renter through Florida League of Cities.

Attorney Barnebey informed Commission that language requiring the return of a facility to its original condition after a rental is not contained in the ordinance. He recommended placing said language and the renter's responsibility for such action in the ordinance. Mr. Koper opined that if while a building is leased and it burns down, the lessee cannot return the building to its original condition because the lessee will not have additional insurance (if insurance is waived by the City); therefore, the City's insurance will bear the total expense. Mayor Bryant opined this insurance is a user fee and the taxpayers should not be responsible in the case of loss.

Staff was directed to bring the capacity figures for each City building back to Commission. Staff was also directed to look at security fees. Commissioner Varnadore commented on the fact she feels some of the facility rental fees should be lowered. The topic will be brought back to a subsequent workshop.

3. UNDER 21 ORDINANCE

Attorney Barnebey stated the City is attempting to adopt an ordinance more consistent with the Manatee County ordinance regarding persons under the age of 21 access to establishments where intoxicating liquors are sold and/or served, and will allow both law enforcement agencies to enforce the ordinance.

Attorney Barnebey reviewed Sec. 4-4 of the proposed ordinance. Discussion ensued on whether or not an underage spouse could enter a drinking establishment with a spouse of age; county prohibits an underage spouse entering the establishment. Attorney Barnebey reviewed the county ordinance, which prohibits the action. It was consensus of Commission to more closely parallel the county's ordinance.

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Commissioner Zirkelbach stated that in response to business inquiries, he would like discussion concerning Sunday sale of alcohol on a future workshop agenda. Mayor Bryant stated she would like the Business Advisory Group to address the topic. Commissioner Varnadore stated that should this be a topic Commission decides to consider, community meetings should be held at the beginning of the process. She also commented on the pedestrian traffic and open containers that are being seen on 8th Avenue.

Meeting adjourned at 5:50 pm.

Minutes approved:

James R. Freeman
City Clerk

Palmetto City Commission
June 15, 2009 7:00 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tamara Cornwell, Commissioner
Tambra Varnadore, Commissioner
Alan Zirkelbach, Commissioner

Elected Officials Absent:

Brian Williams, Vice Mayor
Mary Lancaster, Commissioner

Staff Present:

Mark P. Barnebey, City Attorney
James R. Freeman, City Clerk
Chief Garry Lowe
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. Rev. McArthur Sellars, New Life Baptist Church of Palmetto, gave the invocation followed by the Pledge of Allegiance.

Swearing-in of all persons intending to address City Commission or the CRA Board.

Mayor Bryant acknowledged County Commissioners Carol Whitmore and John Chappie.

1. CITY COMMISSION AGENDA

Mayor Bryant requested that Special Function Permit for the PHS Class Reunion and Noise Exception Permit for the Solorio baptism party be added as items E and F to the Consent Agenda and the 30% engineering for FDOT design build bid for the 23rd Street realignment topic be added as item 3A to the agenda.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 3-0 to approve the June 15, 2009 7:00 pm agenda with the additions.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: June 1, 2009
- B) May Check Register
- C) Special Function Permit: Rio Wedding
- D) Special Function Permit: VBS Family Fun Night
- E) Special Function Permit: PHS Class Reunion
- F) Noise Exception Permit: Solorio Baptism Party

MOTION: Commissioner Cornwell moved and Commissioner Zirkelbach seconded to approve the Consent Agenda with the additions of the PHS Class Reunion and Solorio baptism party.

Discussion: Commissioner Varnadore questioned the ending time of 12:00 am for the baptism party. After discussion of the topic, Commissioner Cornwell amended the motion to approve the Solorio baptism party to end at 11:00, and after 10:00 pm conditioned upon the lack of complaint. Commissioner Zirkelbach approved the amendment to the motion.

Motion on the floor carried 3-0.

3. RESOLUTION NO. 09-27

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE EXECUTION OF A LOCAL AGENCY PROGRAM AGREEMENT TO PROVIDE FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PARTICIPATION IN THE REALIGNMENT OF 23RD STREET WEST FROM BUSINESS 41 TO 14TH AVENUE WEST.

The realignment of 23rd Street is necessary to properly locate the Little League ball fields on property being donated by Manatee Fruit Company, which is a component of the relocation of the new Palmetto Elementary school. Realignment of and infrastructure improvements of 23rd Street will ultimately be funded by the award of \$800,000 in stimulus money. FDOT has agreed to fund the project via execution of a LAP Agreement. Mr. Tusing stated he did not foresee any issues in receiving the reimbursement from FDOT after the City completed the work.

MOTION: Commissioner Varnadore moved, Commission Cornwell seconded and motion carried 3-0 to adopt Resolution No. 09-27.

3A. 30% ENGINEERING FOR FDOT DESIGN BUILD BID FOR 23RD STREET REALIGNMENT

The City has worked with Manatee Fruit to identify a site the organization will donate for the construction of new Little League ball fields as part of the Palmetto Elementary relocation. FDOT has mandated that 30% engineered drawings be provided to all interested bidders for the 23rd Street realignment project.

Mr. Tusing requested that City Commission award the 30% design build drawing component of the 23rd Street realignment project to Heidt and Associates as a sole source contractor. This component must be completed before the project's construction bid can be issued. He based his request on the firm's knowledge of the project, because of the many hours of engineering services the firm has provided the City at the property owner's expense. The firm's knowledge of the project and already gathered data will greatly expedite the issuance of the bid and, therefore, the construction process.

MOTION: Commissioner Zirkelbach moved and Commission Cornwell seconded, for discussion, to approve the recommendation of Heidt and Associates for \$104,200.

Discussion: Commissioner Cornwell and Commissioner Varnadore voiced concerns regarding the fact the contract is not going out to bid. Mr. Tusing discussed the fact price is not bid with engineering projects, qualifications and services are sought. Mr. Tusing again discussed the knowledge and gathered information the recommended firm has of the project. Attorney Barnebey opined that if Commission approves the contract based on the time lines of the school relocation issue, it could be considered a sole source; otherwise, it would not fit that particular criterion. Attorney Barnebey opined that based on Mr. Tusing's comments, the City has a defensible position if the award of the contract as a sole source is challenged. Commissioner Varnadore voiced displeasure with having to approve the topic as presented without any contact with the City's approved engineers and any idea of what other engineering firms could charge. Commissioner Cornwell agreed in concept with Commissioner Varnadore's comment. Mr. Woodard confirmed he has spoken with several of the City's approved engineering firms concerning the topic, all of whom preferred the opportunity to bid on the construction portion of the project. Commissioner Zirkelbach stated he felt the price from Heidt and Associates is fair, given the scope of the project.

Motion on the floor carried 3-0.

4. RESOLUTION NO. 09-28

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE EXECUTION OF A LOCAL AGENCY PROGRAM AGREEMENT TO PROVIDE FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PARTICIPATION IN THE RESURFACING OF 10TH STREET WEST FROM 8TH AVENUE WEST TO 14TH AVENUE WEST.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 3-0 to adopt Resolution No. 09-28.

5. PENSION PLAN STUDY

Mr. Freeman informed Commission that after speaking with the pension attorney and actuary for both boards, the decision to make pension plan amendments rests with the Commission and the boards then are responsible for implementing the amendments. The actuary has proposed a list of options for Commission to consider for both boards at a study cost of \$12,000, which must be the responsibility of the City. He cautioned Commission that the Police Officers' Pension Plan benefits are subject to restrictions from Chapter 185.

Commission discussed when the plans were last updated as the result of a study that was performed by an actuary. Mr. Tusing stated he does not recall the Commission ever having requested a study to reduce benefits to a Plan. Mr. Freeman was asked to determine what actuarial services are normally part of a contract. Karen Simpson, Finance Director, explained that the study will determine the cost associated with any option that is chosen to reduce the cost of the Plan. Mr. Freeman was also asked to determine when the last study was performed for the Plans. Chief Lowe stated the last study was performed in 1995-1996.

Mr. Freeman stated he will load the budget with the assumptions discussed at the last meeting. He will also inquire when any potential savings from decisions made by Commission will become effective. The topic will be brought back to the July 20, 2009 workshop meeting.

Mayor Bryant recessed the City Commission meeting to open the CRA Board meeting at 7:55 pm.

Mayor Bryant reconvened the City Commission meeting at 8:30 pm.

6. DEPARTMENT HEAD'S COMMENTS

Mr. Tusing

Reported he attended a recent Little League meeting. One representative from the organization has been designated to communicate with the City. Reported the organization was going to contact Chanel 13 to voice their opinion that the report was not as favorable as it should have been. He reiterated the City has made no commitment for a fall and spring season on the new fields.

Mr. Freeman

Mayor Bryant was elected as the voting delegate for the Florida League of Cities conference. Mayor Bryant also discussed the department heads and attorney attending the entire conference, given budget constraints. She discussed the training the department heads receive from their respective educational areas. Attorney Barnebey opined there are areas that may be helpful and areas of the Municipal Attorney Association conference he would like to attend. Final determination of attendance will depend on the conference schedule once posted.

Informed Commission there is an issue with the generator at City Hall. Initial quotes off the state contract put replacement cost at approximately \$20,000 installed. He is still looking at possible grant funds for the replacement.

Hopefully the budget will be distributed to Commission July 1. Distributed a proposed budget schedule through the end of July. He requested Commission respond with any comments concerning the dates.

Chief Lowe

The Third Citizens Academy Class graduated fifteen participants. The next class is scheduled in September.

The SEU Task Force has started. He requested he be contacted with any comments or areas of concern.

Palmetto PD was chosen as a recipient of a \$275,000 grant for upgrading the dispatch area.

Attorney Barnebey

Reported the Palmetto Elementary closings are still on schedule for Thursday.

7. MAYOR'S REPORT

The Business Advisory Group will meet Thursday beginning at 5:00 pm. The Police Department will make a presentation on performing a safety assessment for local businesses, and Manatee County EOC will speak on emergency evacuation and the re-entry process.

Mr. Freeman stated five spare cell phones have been ordered, which can be made available in the event of an emergency. He stated data phones will cost \$45 per month; phones are free. Funds have been placed in the budget for voice services.

8. COMMISSIONERS' COMMENTS

Ms. Cornwell

No report.

Mr. Zirkelbach

No report.

Ms. Varnadore

Requested that Commission be notified of when articles concerning the City are going to be in the paper or on TV, as well as supplying articles staff may see in the papers.

Reported she had attended St. Andrews AME Church, which celebrated its 114th anniversary; the church was organized in 1895.

Meeting adjourned at 9:00 pm.

Minutes approved:

James R. Freeman
City Clerk