

TAB 1

DRAFT
PALMETTO CITY COMMISSION
WORKSHOP MEETING
JUNE 7, 2010 – 4:30 PM

Elected Officials Present:

Shirley Groover Bryant, Mayor
Tamara Cornwell, Vice Mayor and Commissioner-at-Large 2
Alan Zirkelbach, Commissioner-at-Large 1 (entered at 4:50 pm)
Mary Lancaster, Commissioner, Ward 1
Tambra Varnadore, Commissioner, Ward 2
Brian Williams, Commissioner, Ward 3

Staff Present:

Mark Barnebey, City Attorney
Jim Freeman, City Clerk
Garry Lowe, Chief of Police
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 4:35 pm, followed by a Moment of Silence and Pledge of Allegiance.

1. REPRESENTATIVE BILL GALVANO – LEGISLATIVE UPDATE

Representative Galvano highlighted issues the legislature addressed during its recent session:

- Manatee County received \$190 million in various revenue items
- Seminole Gaming Compact finalized; revenue \$435 million this year for the State
- Golf cart bill has passed; gives more authority to local governments re golf cart traffic
- Red light camera bill; deterrent as well as revenue source

In response to Commission questions, Representative Gallo commented on the following topics:

- The crisis is the Gulf of Mexico; since the oil spill, there has been a “chilling effect” on moving forward with offshore drilling
- Funding per student has again increased this year
- Local job creation from alternative energy sources; how the State will use a “javelin point” approach to attracting particular types of industry
- Legislation similar to Arizona's re illegal immigration may be issue in the next session
- Amendment 4

2. PROPOSED ORDINANCE: CHARTER REVIEW

Distributed an updated proposed ordinance, based on comments from the Charter Review Committee's review. He stated that generally the Charter Review Committee liked the Charter that was brought forward to Commission.

Attorney Barnebey reviewed the changes made to the ordinance in the updated version:

- Minor changes made to the definitions
- Section 10: Clarification that the vice mayor, while serving as interim mayor, does not have veto authority
- Section 11: The organizational meeting shall be held the first Commission meeting in January rather than in November
- Section 14: Clarification of the Mayor's actions when exercising veto power
- Section 17: Amended to reflect that the Mayor shall appoint and Commission shall confirm all appointed officials of the City. The section was amended to allow for an

appointment and confirmation of an appointed official for less than one year. Language was also added to allow for the appointment of another person within 60 days should there not be enough votes to confirm the first appointment. The amendment is based on conversation with an Ethics Commission official relating to the ethics complaint filed against Commissioner Lancaster regarding her vote on an appointment of a relative.

- Section 21: Clarification of Oath of Office language
- Section 27: Amended to reflect that the Charter shall take effect the day after the General Election of November 2010

It is anticipated the public hearing will be held the first meeting in July. Mr. Freeman will confirm when the Supervisor of Elections needs the referendum language for the November ballot.

Commissioner Lancaster requested that a workshop on the nepotism law be scheduled.

Discussing the organizational meeting being held in January, Attorney Barnebey confirmed that in all cases appointments will expire the first meeting in January after a Mayor is elected. He stated the Mayor can appoint in November, but confirmation must be made by Commission at the organizational meeting. An amendment will be made to reflect that terms for appointed officials can only be extended to the organizational meeting in January.

Discussion ensued on the City Commission removing appointed officials. Attorney Barnebey confirmed that there could possibly be an issue with a sitting Commissioner's vote in removing an appointed official who is a relative, which he will research. Removal of an appointed position takes four votes; therefore, if one Commissioner abstained, the removal vote would have to be a unanimous vote of the remaining members of the Commission. Attorney Barnebey cautioned that a Commissioner attending by telephone does not count toward a quorum, but does count toward a vote. Attorney Barnebey will amend Section 17 to add/and or revise language regarding the required vote should a Commissioner be absent.

Attorney Barnebey stated the proposed ordinance does not address the issue of a candidate for an appointed position that was voted down continually holding office while the appointment is repeatedly brought forward, but there is language stating that the Mayor shall appoint another person within sixty days of the prior appointment. Attorney Barnebey will strengthen the language to prohibit the same person being appointed by the same Mayor after a failed vote, for a specific time period, except as entertained by the Commission.

Commissioner Lancaster suggested that Attorney Barnebey secure the tape regarding the ethics complaint, because there was not a voting a conflict. Commission concurred with Mayor Bryant's request that a letter is sent to the Ethics Commission regarding its voting conflict form.

Attorney Barnebey explained the difference between majority vote and majority vote of the Commission.

Attorney Barnebey confirmed that the current ordinances of the City do not recognize the CRA director as a position appointed by the Mayor; none of the appointed officials are listed in the Charter. He stated that as currently proposed, the CRA director position will be an employee of the City and will report directly to the Mayor. He also confirmed that a CRA Board is required by Florida Statutes. Discussion ensued on how the CRA director can be hired.

Attorney Barnebey explained that Commission must first confirm that a Mayor can no longer perform duties of the position, and must then wait ten calendar days to appoint a permanent new Mayor.

Attorney Barnebey explained that a special election would be called if there were 180 days left in the term of the new permanent Mayor after confirmation that the current Mayor is no longer able to perform duties of the position. Attorney Barnebey stated that a reference to when the 180 days begins can be added to the language.

Discussion ensued on Commission's belief that they had requested that the Charter Review Committee look at their suggestion that the Vice Mayor would become interim Mayor until such time an election was held, and the Vice Mayor could then decide whether or not to return to the Commission seat or run for the Mayor's seat. Attorney Barnebey stated the Charter Review

Committee considered the suggestion, but felt the language in the current proposed Charter was a better solution.

Commissioners Cornwell and Williams agreed that a change should be made to allow the interim Vice Mayor to become Mayor for a specific time period, hold an election, and then return to the Commission seat or run for the Mayor's seat. Attorney Barnebey stated that if the suggested scenario happens, he will have to look at whether or not the interim Mayor will have veto power. Commissioner Varnadore also suggested that language to clarify the powers of a Commissioner when elected Vice Mayor and acting as interim Mayor should be stated in the proposed Charter. Commissioner Lancaster also agreed that the public should be given the opportunity to elect their Mayor.

Mr. Freeman was asked to speak with the Supervisor of Elections office to determine how much time would be needed to prepare for a special election. The length of time may have an impact on the amount of time the interim Mayor's position would be applicable.

Commissioner Varnadore stated that she supports the language as proposed, because of the election contingency included in each annual budget. She suggested it has to be determined how much time will be necessary to allow the Commission to appoint a resident of the City to fill the Mayor's seat should none of the sitting Commissioners wish to act as Mayor.

The topic was moved to the next workshop agenda in its current form.

3. PROPOSED ORDINANCE: ALCOHOL SALES

The topic is the proposed ordinance and options pertaining to alcohol sales on Sunday. Because of the absence of time, it was consensus of the majority of the Commission to move the item to the 7:00 meeting.

4. PERSONNEL POLICY (J. Freeman)

A special meeting will be developed for review of the Personnel Policy.

Meeting adjourned at 6:06 pm.

James R. Freeman
City Clerk

DRAFT
PALMETTO CITY COMMISSION
JUNE 7, 2010 - 7:00 PM

Elected Officials Present:

Shirley Groover Bryant, Mayor
Tamara Cornwell, Vice Mayor, Commissioner-at-Large 2
Alan Zirkelbach, Commissioner-at-Large 1
Mary Lancaster, Commissioner, Ward 1
Tambra Varnadore, Commissioner, Ward 2
Brian Williams, Commissioner, Ward 3

Staff Present:

Mark Barnebey, City Attorney
Jim Freeman, City Clerk
Garry Lowe, Chief of Police
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:02 pm, followed by a Moment of Silence and the Pledge of Allegiance.

PROCLAMATION: Commissioner Zirkelbach read a Proclamation declaring the month of June as Hurricane Preparedness Month.

Mayor Bryant announced there will be a hurricane preparedness presentation by Manatee County and City Risk Manager Ron Koper on June 10th at 7:00 pm in Commission Chambers. A Ward 1 community meeting will be held on June 10, 2010 at 5:30 at Lincoln Middle School.

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

Public Comment (non-agenda items): Jane Hunter, 708 Riverside Dr., asked that Commission consider closing the block of Riverside Dr. between 7th and 8th Ave. for public safety reasons. Chief Lowe and Mr. Tusing will look at the topic and report the decision to Commission.

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Zirkelbach moved, Commissioner Varnadore seconded and motion carried 4-1 to approve the June 7, 2010 7:00 pm agenda with the addition of item 3A item for alcohol and removal of item #4 to be continued on next agenda. Commercial Cornwell voted no.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: May 17, 2010
- B) Special Legal: Greene Hamrick Perrey Quinlan & Schermer
- C) Special Function Permit: First Fridays on Fifth (July, August & September)
- D) Noise Exception Permit: First Fridays on Fifth (July, August & September)
- E) Edward Byrne Memorial Justice Assistance Grant Application Approval
- F) May Check Register
- G) FDOT Lighting Maintenance and Compensation Agreement

Mr. Williams removed item G for discussion.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 4-0 to approve the June 7, 2010 consent agenda. Commissioner Varnadore was absent for the vote.

Item G: The additional copy of the FDOT compensation was provided to show the increase in FY 2010-2011 compensation.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve item G of the consent agenda.

3. CDBG 2009 FAIR HOUSING WORKSHOP

Mr. Freeman informed Commission staff has finalized the RFP documents for Ward 1 Phase II, which will be advertised by the end of the week. As part of the application, Clark Communities, Inc. (CCI) will conduct a Fair Housing workshop for the local public and elected officials and a Citizens Task Force must be appointed. The Citizens Task Force will meet prior to the 2nd public hearing and make a recommendation to Commission regarding the application.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Citizen Task Force members Mary Mann, Eric Gilbert and Interim CRA Administrator Jeff Burton.

Attorney Barnebey cautioned that the members are subject to the Sunshine Law; therefore, they may not communicate amongst themselves.

Lauren Clark, CCI, read a statement regarding citizen's rights pertaining to the Fair Housing Act, which is attached hereto and made a part of these minutes. The statement is meant for non-discrimination purposes. A roster of elected officials present was completed.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the statement as read.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to set the second CDBG public hearing for June 21, 2010 at 7:00 pm or as soon thereafter as the item may be heard.

Bud Clark described items that must still be accomplished by Commission prior to the submittal of the application.

As an update on the 31h grant for the stormwater drain program, CCI recommended, with DEP concurrence, that the City should delay its application until the next grant cycle in May, 2011, to ensure that proper documentation is submitted.

3A Alcohol Ordinance (moved forward from 4:30 workshop meeting)

Commissioner Zirkelbach stated that given the results of the poll, direction should be given to the attorney to draft an ordinance for option 1. Commissioner Williams inquired if Commission would like to consider the possibility of starting the sales after 12:00 or 1:00 pm. He added that the City would be the only place in the county that would be different. Commissioner Zirkelbach disagreed, stating the City's businesses should be allowed to compete with the rest of the county; enforcement would be difficult.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 3-2 to direct the City Attorney to prepare the first reading Ordinance 2010-07 for revision of the alcohol ordinance to allow sales on Sundays. Commissioners Cornwell and Varnadore voted no.

4. CODE ENFORCEMENT FINE REDUCTION – 1525 17TH ST. W.

Item removed from agenda for consideration at the June 21, 2010 Commission meeting.

5. CODE ENFORCEMENT FINE REDUCTION – 4009 11TH St. Ct. W.

Mr. Freeman stated BMR Funding has taken possession of the property, brought it into compliance, and is requesting a reduction in the outstanding Code Enforcement lien. The outstanding balance of the lien as of May 31, 2010 was \$22,419.06. BMR Funding is offering a settlement agreement of \$18,000. Mr. Freeman stated the Code Enforcement director supports the offer; all costs incurred by the City will be paid in full.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-1 to accept the \$18,000 settlement offer for the Code Enforcement fine at 4009 11th St. Ct. W., subject to being paid within 30 days of this hearing. Commissioner Cornwell voted no.

6. 4TH OF JULY FESTIVAL

Mr. Tusing stated the proposed documentation is necessary to secure surrounding properties and parking facilities for use during the 4th of July Festival. Commission will be provided information regarding layout of event locations; which will not change from last year.

MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Hold Harmless and Indemnification Agreement with Superior Bancorp, Hold Harmless and Indemnification Agreement with Manatee River Fair Association and Manatee County, and Lease Agreement with Circle K. Stores, Inc. pertaining to the July 4th city-sponsored event, subject to attorney review.

The Lease Agreement will be amended to include the same indemnity language as the Hold Harmless Agreements.

7. JOB DESCRIPTION APPROVAL

Mr. Freeman stated the proposed CRA Administrator's position will be a grade 122S, which is comparable to all other department heads, and the individual hired to fill the position will be considered a City employee. The salary range will be advertised, with the salary set when the position is filled.

Discussion ensued on whether or not the CRA Board should be deciding the matter. Attorney Barnebey stated because the position is intended to be a City employee, it was appropriate for the City Commission to approve the job title and pay scale. Mayor Bryant stated that it is important that the position receive full time supervisor.

Discussion ensued on the Administrator position's supervision responsibility compared to other individuals in the same grade. Mayor Bryant spoke of the position's job responsibilities and the need to have the position be an integral part of all department head meetings and City departmental operations. Attorney Barnebey agreed the position could become an appointed official position after amending ordinances. City Commission agreed that the position should be an appointed official of the City.

Attorney Barnebey stated the proposed job description would place the position directly under the day-to-day supervision of the Mayor; oversight will be from the CRA Board. The job description will be amended

to reflect the Mayor's supervision and be signed by the Mayor. Amendment was also made to the language regarding the necessity of obtaining of a State of Florida driver's license. Attorney Barnebey confirmed that if the City Commission proceeds with filling the position as a City employee, their action would comply with State Statutes.

Attorney Barnebey explained how the CRA Board implements the requirements of the Statute.

Staff requested that the job description for Bradenton and Sarasota be obtained. They also requested that additional research from the Statutes be completed regarding oversight by the CRA Board, as well as a definition for day-to-day supervision of a City employee.

Attorney Barnebey suggested the topic be brought back to a Special CRA Board meeting on June 21, 2010.

A brief conversation was held regarding the City Commission relinquishing the CRA Board responsibilities.

Mayor Bryant recessed the City Commission meeting at 8:25 pm to open the June 7, 2010 CRA Board meeting.

Mayor Bryant reconvened the City Commission meeting at 9:24 pm.

8. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

The RFP Committee reviewed the seven applications, which will be narrowed to three. Attorney Barnebey will individually brief Commissioners on the status of the land swaps.

9. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

Reported the Engineering Services RFP responses have been shortlisted to ten. Interviews will be held next week. It is anticipated three engineering firms will be selected.

The RFP for Ward 1 Phase II will go out this week.

The 17th St. railroad crossing should be open to local traffic this Friday.

The SAR for the Edenfield Property has been submitted to FDEP. Mr. Tusing briefly discussed three options, which will be brought back to City Commission for direction.

Will determine if the movie screen is part of the cost factor.

Modifications to the control of City properties have been put in place, and replacement equipment has been ordered.

Mr. Freeman

The Estuary grant was approved for full reimbursed at \$200,000.

Will schedule a meeting for review of the Personnel Policy and a CRA meeting to discuss the job description.

Chief Lowe
No report.

Attorney Barnebey
A special CRA Board meeting will be scheduled for June 21, 2010.

Will be bringing forward an emergency pill mill moratorium ordinance at the June 21, 2010 meeting.

10. MAYOR'S REPORT

Ward 1 community meeting is scheduled for June 10th at 5:30 at Lincoln Middle School.

June 17th is Palmetto Day at the Marauders game.

Thanked Mrs. Lancaster for the name for the Citizens Task Force.

11. COMMISSIONERS' COMMENTS

Mrs. Lancaster

Thanked Commissioner Cornwell for arranging the meeting at Lincoln Middle School.

Commented on her discussions in Commission meetings regarding the need for police visibility in her neighborhood, stating she needs to be able to tell the people what is being done about the situation. Chief Lowe discussed the steps the Police Department has taken, but cautioned that if people want the cases solved, they are going to have to speak with law enforcement. Discussion ensued on community policing and how the community can plan events to get the people involved, which will deter crime. Matt Bloom, Manatee County Crime Stoppers, stated his organization would work with the Police Department with problematic areas in the City.

No other commissioners had comments.

Mr. Tusing

Reported that after completing another pilot program that was not as successful, the City will move forward with the Theo Guard program at the wastewater treatment plant.

Meeting Adjourned at 9:56 pm.

Minutes approved:

James R. Freeman
City Clerk