

**TAB 2**



# City of Palmetto Agenda Item

**Meeting Date**

7/26/10

**Presenter:** Mark P. Barnebey

**Department:** City Attorney

**Title:**

**AMENDMENT TO DUTIES AND QUALIFICATIONS FOR THE PLANNING & ZONING BOARD (INCLUDING ADDING TREE BOARD DUTIES)**

**BACKGROUND:**

In order to become a "Tree City" pursuant to the Tree City, U.S.A. Program, the City needs to establish a "Tree Board", which will monitor and make recommendations to the Mayor and City Commission on implementation of an annual forestry work plan.

**DISCUSSION:**

The Planning & Zoning Board is an existing Board which could logically perform the duties of Tree Board.

During the discussion of designating the Tree Board, the City Commission also reviewed the Planning & Zoning Board qualifications. There was significant discussion with the members of the Planning and Zoning Board as to the appropriate duties and qualifications for Board members. The Planning and Zoning Board concurred that it was the most logical City board for designation as the City "Tree Board". The draft Ordinance provides for a five member Planning & Zoning Board beginning in 2011 with at least three members being City residents. At the last Commission meeting, the Commission also requested that restrictions be placed on who can serve in the other seats of the Planning and Zoning Board. These seats must be filled by residents of the City or by business owners, who own at least 10% of their business and whose businesses are licensed within the City and own property within the City. The duties of the Planning and Zoning Board in its advisory capacity were also clarified.

**Budgeted Amount:** \$0.00    **Budget Page No(s):**    **Available Amount:** \$0.00    **Expenditure Amount:** \$0.00

**Additional Budgetary Information:**

**Funding Source(s):**    **Sufficient Funds Available:**  Yes  No    **Budget Amendment Required:**  Yes  No    **Source:**

**City Attorney Reviewed:**  Yes  No  N/A    **Advisory Board Recommendation:**  For  Against  N/A    **Consistent With:**  Yes  No  N/A

**Potential Motion/Direction Requested:** I move to approve Ordinance 2010-06 for First Reading and authorize advertising the ordinance for a public hearing on the next available agenda.

**Staff Contact:**

**Attachments:** Ordinance 2010-06

**ORDINANCE 2010-06**

**AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA AMENDING THE COMPOSITION OF AND CLARIFYING AND ADDING DUTIES TO THE PLANNING & ZONING BOARD; DELETING PROVISIONS RELATED TO A "PLANNING COMMISSION"; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and

**WHEREAS**, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and

**WHEREAS**, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law, and to enact ordinances in furtherance thereof; and

**WHEREAS**, within the above-referenced grant of powers, the City of Palmetto (the "City") has the authority to regulate conditions and activities within the City for the protection of the public health, safety and welfare; and

**WHEREAS**, the City Planning and Zoning Board has been serving as the City Planning Commission; and

**WHEREAS**, the City has determined that referencing different titles for the Planning and Zoning Board is confusing to the public; and

**WHEREAS**, the City is considering applying to become a Tree City; and

**WHEREAS**, to be considered as a Tree City, the City is encouraged to have a board to serve as a Tree Board, which will monitor and make recommendations to the Mayor and City Commission on implementation of an annual community forestry work plan; and

**WHEREAS**, consistent with the findings stated above, the City Commission has determined that adoption of this ordinance is in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:**

**Section 1. Findings of Fact.** The above “WHEREAS” clauses are adopted herein as findings of fact.

**Section 2. Revision Language.** The Code of the City of Palmetto is hereby amended as follows:

- A. Sections 2-1 through 23-40, inclusive, are hereby deleted.
- B. Section 12.1 of Appendix B is hereby amended to read in its entirety as follows:

The Planning and Zoning Board shall consist of seven (7) members until December 31, 2010. As of January 1, 2011, the Planning and Zoning Board shall consist of five (5) members. None of the members shall be employed by the city. The terms of office shall be staggered three (3) years. Members shall be appointed by the Mayor from among persons in a position to represent the general public interest and confirmed by a majority of the City Commission. Three (3) of the seats of the Planning & Zoning Board shall be filled by legal residents of the City, as defined in the City Charter. The remaining seats of the Planning & Zoning Board shall be filled by legal residents of the City, as defined in the City Charter, or by persons who own at least a 10% ownership interest in a business which has an occupational license which business is within the City, and which business owns real property within the City of Palmetto.

- C. Section 12.4(a) of Appendix B is hereby amended to add subsections (5) and (6).Section 12.4(a) shall read in its entirety as follows:

- (a) *Planning.* The planning and zoning board shall serve in an advisory capacity to the city commission with respect to planning functions such as review of applications for development, annexation, zoning and comprehensive plan amendment. In furtherance of its function as a recommending body, the board shall have the following powers and duties:
- (1) To make recommendations regarding the acquiring and maintaining in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions, all relating to development within the City. Such basic information and materials may include maps and photographs of manmade and natural physical features of the area concerned, statistics on past trends and present conditions with respect to population, property values, economic base, land use and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the area and its various parts;
  - (2) To recommend principles and policies for guiding development within the city;
  - (3) To recommend whether specific proposed developments conform to the principles and requirements of the zoning code and the comprehensive plan;
  - (4) To conduct public hearings and make recommendations to the city commission; and
  - (5) To keep the city commission informed and advised as to general planning matters;
  - (6) To serve as the Local Planning Agency for the City of Palmetto for the purposes of Chapter 163, Florida Statutes; and
  - (7) To serve as the "Tree Board" for the City of Palmetto. In such capacity, the Board shall have the following duties:
    - (a) Working with the City Planning and Public Works Director, preparing an annual community forestry work plan for consideration by the City Commission, which shall address planting, watering and fertilizing of the trees, dead and hazardous tree removal, safety pruning, and insect and disease control;
    - (b) Working with the City Planning Director, preparing an ordinance which sets forth public tree policies for planting, maintenance and removal of trees and the recommended tree species to be planted; and

- (c) Working with the City Clerk, annually preparing a budget recommendation to implement the community forest work plan.

All other portions of Section 12.4 of Appendix B shall remain in full force and effect.

**Section 3.**     **Repeal of Inconsistent Ordinances.**     This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 4.**     **Severability.**     If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 5.**     **Effective Date.**     This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

FIRST READING	JULY 26, 2010
PUBLICATION DATE	AUGUST 6, 2010
SECOND READING	AUGUST 16, 2010

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE  
CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session  
assembled, this 16th day of August, 2010.

CITY OF PALMETTO, FLORIDA, BY AND  
THROUGH THE CITY COMMISSION OF THE  
CITY OF PALMETTO

By: \_\_\_\_\_

SHIRLEY GROOVER BRYANT, MAYOR

ATTEST: James R. Freeman  
City Clerk

By: \_\_\_\_\_

City Clerk/Deputy Clerk