

TAB 2

DRAFT MINUTES
CITY COMMISSION WORKSHOP MEETING
October 25, 2010
5:30 p.m.

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 (Entered the meeting at 6:58 p.m.)

Staff Present:

Jim Freeman, City Clerk
Allen Tusing, Public Works Director
Lorraine Lyn, City Planner
Mark Barnebey, City Attorney
Deanna Roberts, Administrative Assistant

Mayor Bryant called the meeting to order at 5:30 p.m.

1. COMPREHENSIVE PLAN AMENDMENT

Discussion of the Comp Plan Amendment pursuant to receipt of the DCA Objections, Recommendations and Comments Report.

City Planner Lorraine Lyn began the discussion on page 56. She pointed out three types of residential units being introduced based on a previous policy.

Page 61, Policy 6.1.6: A period is needed at the end of the sentence.

Page 64, Policy 7.1.1: Following discussion, decision was made to add "and any extension that may be granted" following December 31, 2015 [the end of the water contract date]. DCA wants to see dates, but dates may be problematic if Amendment 4 passes.

Page 65, Policy 7.3.4: Reuse: "Any future development must expand water to the site and within the development and will have to hook up to reclaimed when it is available." The City is only responsible for existing sites. Mrs. Varnadore had requested clarification.

Policy 7.3.6: Mr. Tusing asked to delete "or payment to City for future pipe installation shall be required." He explained that the developer will be required to install dry lines.

Page 67: The subtitle will be changed to Protection and Enhancement of Coastal Resources and Wildlife.

Page 68, Policy 8.1.7: The policy states that by December 31, 2011, the City shall map native coastal areas and adopt rules and policies regarding the protection of manatee habitat areas. The data analysis packet has the map called for. The City's objective is to adopt rules and policies, etc. The City will probably adopt the County's policy.

Commission asked Ms. Lyn if dates in the Comp Plan are calendared in order to meet the requirements in the Comp Plan. Mr. Tusing said a matrix will be done to track the dates, and Commission will be kept informed. The dates for compliance will be monitored. At some point the Comp Plan will be updated to show compliance. Mr. Barnebey said soon the City will go through the EAR and check for dates. They will either be shown as met, or the City will ask for an extension.

Page 69, Policy 8.3.3: Mr. Barnebey commented that Mixed Use will be changed to Planned Community.

Page 70, Objective 8.4: Mayor Bryant questioned the wording that the City would "ensure" that adequate shelter will be provided during hurricane evacuations. Ms. Lyn pointed out that it just meant the City's objective would be to work with the County. Mr. Barnebey will reword this section.

Objective 8.4.1: Mr. Barnebey asked that "within the Coastal High Hazard Area" be deleted.

Policy 8.4.4: Following discussion initiated by Commissioner Cornwell, Mr. Barnebey commented that "new" is not defined, and he will look at this section. Commissioner Varnadore asked if there is a criteria to apply. Mr. Barnebey said probably 50%. This Comp Plan has no grandfathering provision. He will make it consistent with City Codes. [References "new" mobile home parks being required to provide accessible hurricane-safe shelter for 100% of the residents.]

Page 72, Policy 8.5.7: Commissioner Varnadore asked about the expanded language in this section. It has reworked this whole section and the densities in the Coastal High Hazard Areas. Ms. Lyn said this is just a reword except for the last paragraph which is new. Mr. Barnebey commented this was based on DCA comments, and DCA is happy with this language. The City may revisit this at some time in the future. Mrs. Varnadore asked if the chart or Section #2 in this section will rule in formulating densities. Mr. Barnebey said #2 will cap the maximum density. Ms. Lyn said the last paragraph was new because a developer was approved for eighteen condo units, and he wanted to switch to a single-family house. Mr. Barnebey said this allows a low level of development without having to go through the whole plan process, and preempts a property rights challenge.

Page 73, Objective 8.6: Commissioner Cornwell commented that this section calls for the City to establish Post Disaster Redevelopment Plans, and she asked where those plans would be found. Mr. Barnebey said they would be by separate ordinance or resolution. Some will be in the Land Development Code. It is not required to be in the Comp Plan.

Page 74, Policy 8.6.5: Mayor Bryant asked about the statement, "...the City shall continue to fund the Emergency/Disaster Contingency Fund." Mr. Freeman said this is an internal fund which the City sets aside that could be supplemented in the event of a disaster.

Page 75, Policy 8.6.7: Commissioner Cornwell said this is the language she was referring to adding in Policy 8.4.4. Mr. Barnebey said this language should be everywhere in the Comp Plan.

Page 80, Policy 9.3.5: Mayor Bryant asked where the educational materials should be made available. Consensus was at City Hall or on the website.

Page 83, Policy 10.1.3: Commissioner Varnadore asked for a definition of recreational development. Following discussion it was decided to leave this broadly defined; however, Mr. Barnebey will modify this section. This refers to parks in new development and those near the waterfront.

Page 84, Policy 10.3.3: Following discussion on Commissioner Varnadore's comments, it was decided this section will be deleted.

Page 85, Policy 10.5: Policy 10.5.1, the Level of Service standard will be deleted. Policy 10.5.3 will end after boat ramp on line 2. Policy 10.5.5 will read "the City will continue efforts to improve the boat ramp facilities at the DeSoto Bridge." Mr. Barnebey said the actual stated objective in 10.5 is okay.

Page 91, Policy 11.6.1: Commissioner Cornwell pointed out that a period needs to be added at the end of the second bullet after 11.6.2.

Commissioner Zirkelbach remarked that the City needs to look at maximum FAR in regard to public facilities.

Mr. Barnebey said he will be recommending that Commission move this to November 1, 2010 to continue the discussion. Mr. Zirkelbach informed Commission that he will be absent from the November 1 meeting.

Commissioner Cornwell pointed out that a period is needed after School Board in 12.3.4 on page 98. On page 100, Policy 13.1.1, she questioned the amount of \$30,000 [re capital projects]. Mr. Barnebey said it is in the existing policy. Mr. Freeman will check on the amount.

Page 100, Policy 13.1.3: Mayor Bryant noted this eliminates elected officials and the Police Chief from the prioritization of capital projects included in the CIP. Mr. Barnebey commented that it should say to bring to City Commission for review. She asked that the CRA Director be added.

Lorraine Lyn will provide a clean copy of the Comp Plan to City Commission on November 1.

Ms. Lyn discussed the Data Analysis Report handed out prior to the meeting which will remain a part of the permanent record of this workshop. This document identified the subject areas of the Department of Community Affairs (DCA) recommendations and comments (shown in bold type).

Mr. Barnebey said he will make a modification in policy based on the DCA comment regarding the water supply and population projections. He will review the document to see if any other policy changes are required.

Ms. Lyn commented that mobile home parks were added to RES 14.

The City will have enough water until 2030 based on 105 gallons per day per person level of service. Mr. Barnebey will adjust the policy to recognize what we have now and get a new contract. He pointed out the MPO maps project a different future than what has been discussed, and this will have to be looked at later.

Commissioner Varnadore asked about the 2030 Future Land Use Map (FLUM). Mr. Barnebey said once this is adopted and approved by DCA, it will be the official future land use map. In answer to her question, Mr. Barnebey said that if there is an inconsistency between the FLUM and the zoning maps, the Comp Plan governs. Transitional areas need to be reviewed. Inconsistencies need to be brought into compliance. Densities are governed by FLUM. Commissioner Zirkebach pointed out that 100% of any changes must come to City Commission for approval.

Mrs. Varnadore asked about Planned Community (PC). Ms. Lyn said it is the same as the Planned Development category that was created originally. It requires a site plan, and densities are based on surrounding densities. Mrs. Varnadore asked to meet Ms. Lyn outside of a meeting for clarification.

Ms. Lyn informed Commission that she went back to the minutes of the November 20, 2006 public hearing in which the Commission approved an increase in the FARs and density of the new Planned Community category. It was clearly the intent of the Commission to allow increased densities and intensities when property was in the CRA, so she went back to the base FAR and base density of 1 FAR and 16 units per acre in that category. The only way it can be increased is if the property is in the CRA.

Mr. Barnebey informed Commission that the ordinance did not reflect that intention, and that change could give the City property rights claims. Nothing in the adopted Comp Plan limits the Comp Plan designations of 10 FAR and 45 units per acre. Commissioner Varnadore opined that the Commission always took that as a guideline for the downtown core. Mr. Tusing said it is possible that projects outside the downtown core and in PUD designations may not have ever been aware they had those densities. Mr. Tusing also commented that Commission approved an ordinance allowing those densities with the intent of just one property in the downtown core and not every PUD in the City.

Following discussion, Mr. Barnebey said the potential for litigation still exists if the densities are changed, even though there are no applications currently submitted. He recommended not making the change.

Commissioner Varnadore asked for clarification. Mr. Barnebey said Ordinance 06-898 amended the Comp Plan in 2006 to increase the densities. Commission approval would be required for anything over FAR 1 and 14 units per acres. She asked how there could be a challenge if Commission approval is required. Mr. Freeman said with current PC designation, whether or not the property is in the CRA, there is the ability, with Commission approval, to get the increased density. With a change, those outside the

CRA with the designation will not even have that as an option, and that creates the risk. Ms. Lyn commented that there are not that many properties affected; only 14 parcels.

Commissioner Zirkelbach pointed out that in RES 6, 10, and 14 categories limiting the FAR to 2.5, community centers, schools and libraries would be non-conforming.

Mr. Zirkelbach commented that the 10th Street extension and 23rd, designated PC, limiting to .5 FAR discourages a commercial core corridor. There should be more of a transition. On main thoroughfares, there should be business corridors where appropriate. He thinks an FAR of 4 would be best. Mr. Barnebey will speak to Manatee Fruit Company (MFC) as this is their property. Mr. Barnebey said everything east of 10th and south of 23rd is General Commercial.

The map will be changed to show the agreement reached with MFC.

Mr. Zirkelbach agreed to an FAR of 3 in the PC zoning district for commercial structures. He commented that anything over 1 will have to come to Commission. Mr. Tusing said PC allows for mixed use. Mrs. Varnadore commented that since this document just came to Commission prior to this meeting, she needs time to review it. Mr. Zirkelbach said he wants to encourage compatible commercial uses in neighborhoods. FARs are solely for commercial uses.

Mr. Barnebey commented that currently marinas are not compliant, but an FAR of 3 would probably make them compliant.

Mr. Tusing asked for clarification. Commission agreed on an FAR of 3 in PU and PC and anything over FAR 1 would come to Commission. Regarding density, following discussion, Commission agreed on 16 units to the acre outside the CRA, with a maximum FAR of 3. Public facilities will be an FAR of 3, so that all schools and libraries will be conforming. Mobile home parks will be .5 for community centers and to support neighborhood services.

Commissioner Varnadore asked to look at recreational resorts again. Consensus was to keep the section but remove the definitions. Mr. Barnebey will limit resorts to RV's with accessory recreational and appropriate community uses.

The discussion will continue at the workshop on November 1, 2010.

Mayor Bryant adjourned the meeting at 8:17 p.m.

Minutes approved:

James R. Freeman, City Clerk

**DRAFT MINUTES
Special Commission Meeting
October 25, 2010**

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:

James R. Freeman, City Clerk
Allen Tusing, Public Works Director
Lorraine Lyn, City Planner
Mark Barnebey, City Attorney
Deanna Roberts, Administrative Assistant

Mayor Bryant called the meeting to order at 8:20 p.m.

1. CITY COMMISSION AGENDA APPROVAL

Motion: **Commissioner Zirkelbach moved, Commissioner Lancaster seconded, and motion carried unanimously to approve the October 25, 2010 agenda.**

2. PUBLIC HEARING: ORDINANCE NO. 2010-01 (L. Lyn & M. Barnebey)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING ORDINANCE NO. 624 (THE CITY OF PALMETTO COMPREHENSIVE PLAN); ADOPTING AMENDMENTS TO THE DEFINITIONS SECTION, FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, HOUSING ELEMENT, SANITARY SEWER ELEMENT, SOLID WASTE ELEMENT, STORMWATER ELEMENT, POTABLE WATER ELEMENT, COASTAL MANAGEMENT ELEMENT, CONSERVATION ELEMENT, PARK, OPEN SPACE, AND RECREATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, CAPITAL IMPROVEMENT ELEMENT, AND PUBLIC SCHOOL FACILITIES ELEMENT OF THE CITY OF PALMETTO COMPREHENSIVE PLAN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from October 18, 2010.

MOTION: **Commissioner Williams moved, Commissioner Cornwell seconded, and motion carried unanimously to continue the public hearing for Ordinance 2010-01 to November 1, 2010 at 7:00 p.m.**

3. PUBLIC HEARING: ORDINANCE NO. 2010-05 (L. Lyn & M. Barnebey)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, THE CITY OF PALMETTO COMPREHENSIVE PLAN; ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 2.1 ACRES AT THE INTERSECTION OF 17TH STREET WEST AND THE FUTURE EXTENSION OF 10TH AVENUE WEST (PARCEL 1) FROM PUBLIC FACILITY (PF) TO GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 14.0 ACRES AT THE INTERSECTION OF 23RD STREET WEST AND THE FUTURE EXTENSION OF 10TH AVENUE WEST (PARCELS 2, 3 AND THE HALF RIGHTS-OF-WAY FOR 10TH AVENUE WEST ADJOINING PARCELS 2 & 3) FROM PLANNED DEVELOPMENT (PD) TO GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 14.0 ACRES LOCATED EAST OF 8TH AVENUE WEST, NORTH OF 23RD STREET WEST, AND WEST OF BUSINESS U.S. HIGHWAY 41 (PARCEL 4) TO DESIGNATE THE PROPERTY AS GENERAL

COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 29.0 ACRES LOCATED EAST OF BUSINESS U.S. HIGHWAY 41, NORTH OF 21ST STREET WEST AND WEST OF BAYSHORE ROAD (PARCEL 5) TO DESIGNATE THE PROPERTY AS GENERAL COMMERCIAL (GCOM); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from October 18, 2010.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded, and motion carried unanimously to continue the public hearing for Ordinance 2010-05 to November 1, 2010 at 7:00 p.m.

4. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)

Mr. Tusing informed commission that CSX will be reworking railroad crossings in the City at 5th, 9th and 11th Streets and at 11th Street Drive. The work will be done all in one day on November 4. City crews will replace the asphalt within three to four days after the compaction period. Seventh Street will be done at a future date.

Mayor Bryant said that without objection, she will dispense with the rest of the agenda.

Mayor Bryant informed Commission that the police officer injured in an accident last week has been released from the hospital.

The Mayor said she judged a pie eating contest on Saturday for the Palmetto High School boosters.

Commissioner Williams asked where the City is in the process with the thirty-day review of the multi-party agreement of the 23rd Street realignment and 10th Avenue. Attorney Barnebey said it is moving forward, but he is talking to Manatee Fruit Company about a thirty-day extension in order to do due diligence and to make sure everything is done correctly.

Regarding the upcoming November 1 election, Commissioner Cornwell proposed not having a meeting on the day before an election in the future.

Mayor Bryant adjourned the meeting at 8:32 p.m.

Minutes approved:

James R. Freeman, City Clerk

**DRAFT
CITY COMMISSION WORKSHOP MEETING
November 1, 2010
4:30 p.m.**

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
Jeff Burton, CRA Director
Jim Freeman, City Clerk
Lorraine Lyn, City Planner
Allen Tusing, Public Works Director
Rick Well, Chief of Police
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 4:40 p.m.

Mayor Bryant asked that item #2 be deferred

1. COMPREHENSIVE PLAN AMENDMENT

City Planner Lorraine Lyn advised Commission of minor editorial changes that have been made since the last meeting. She also reviewed the following densities:

Planned Community (PC)	16 du/ac with a FAR of 3
Downtown Development Core (DCC)	Maximum of 35 du/ac with a FAR of 7
General Commercial (GCOM):	10 du/ac with a FAR of 3
Neighborhood Serving and Commercial	FAR of .5

Staff reviewed the proposed CRA Plan Map, explaining that three parcels designated as PF will be changed to DCOM and one parcel designated as RES14 will also be changed to DCOMC. Attorney Barnebey and CRA Director Jeff Burton discussed the reasons why the changes were proposed.

Review of the proposed Comp Plan continued, with Commission making the following changes:

1. Policy 1.10.1: Reference to a 50 foot height limitation was deleted. (Height limitations will be added to the zoning regulations.)
2. Policy 3.6.2: Language was added to reflect that the "CRA will be requested" to direct the use of tax increment funds from commercial projects to subsidize affordable housing.
3. Policy 3.7.1: Language was amended to encourage projects receiving "public" funds to use green building practices....
4. Policy 5.1.4: Language was added to state the City will support Manatee County's efforts to purchase additional landfill sites "or provide for alternative disposal methods"...

Attorney Barnebey stated the Comp Plan will take precedent over zoning. He confirmed that the Future Land Use Map may be broader than zoning, as it is a 20-year projection over what is in place today.

Commission made no further changes to the Comp Plan.

2. FINANCE DEPARTMENT REORGANIZATION

Deferred to the next Commission Workshop Meeting.

3. OLYMPIA THEATER PROPOSAL

Mayor Bryant stated that Commission had been provided a copy of the proposal. She suggested that the topic has been presented to the CRA Advisory Board, but in a different format as a request for a grant. Mayor Bryant stated that this presentation is for a loan of \$600,000. Mr. Joel Jarvis stated the overall program is the same.

Mr. Jarvis recalled his memory that the CRA Advisory Board did not vote at an earlier presentation of the proposal, but had recommended that someone with more experience be located for the program. He stated the Asolo Repertory Theater is willing to assist the Olympia Theater is setting up its Children's and Youth Theater Program.

Mr. Jarvis introduced Brian Hirsch, Asolo Repertory Theater Education and Outreach Director. Mr. Hirsch discussed the presence the theatre will have at Palmetto High School next year. He stated their role with the Olympia Theater will be to help create programming and give oversight and professional guidance for the theater's children's and youth program.

Mr. Jarvis also introduced B.C. Murphy, drama teacher at Bayshore High School.

Mayor Bryant questioned Mr. Jarvis about some of her concerns, such as the theater not being a 5013C corporation, site contamination, property ownership, appraisal value, etc.

CRA Director Jeff Burton acknowledged he had assisted the theater in locating potential grants and passed the information to Mr. Jarvis. He also informed Commission that the CRA Plan addresses 10th Avenue, but not Olympia Theater, as it was not in existence when the Plan was adopted. Also, strategies in the Plan do not mention arts and entertainment. Mr. Burton discussed the CRA 5-year budget, which has allocated all funds. He also mentioned that the CRA loan is only permitted to fund government projects.

Mr. Burton presented three options to City Commission:

- 1) Do nothing
- 2) Use tax increment funds
- 3) Secure a commercial loan and lend the funds

Commission discussed the topic with Mr. Jarvis. It was consensus of the Commission that there are no City programs in place that will accommodate the time frame developed by Olympia Theater. They were also of the opinion that the topic must be taken to the CRA Advisory Board for a recommendation before it can move forward.

Meeting adjourned at 6:15 pm.

Minutes approved:

James R. Freeman, City Clerk

DRAFT
PALMETTO CITY COMMISSION MEETING
November 1, 2010
7:00 PM

Elected Officials Present:


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


Elected Officials Absent:

Alan Zirkelbach, Commissioner-at-Large 1

Staff Present:

Mark Barnebey, City Attorney
Jeff Burton, CRA Director
Jim Freeman, City Clerk
Lorraine Lyn, City Planner
Allen Tusing, Public Works Director
Rick Wells, Chief of Police
Diane Ponder, Deputy Clerk-Administration


 Call to order at 7:00 pm followed by a Moment of Silence in honor of Keith McCloskey, and the Pledge of Allegiance.

 Proclamations: Farm City Week, November 12-20, 2010
Accepted: Ann Marshall and Gretchen Leclezio, Farm City Week Committee

Pancreatic Cancer Awareness Month, November 2010

FPL Energy Efficiency Program
Accepted: Don Sayre, Florida Power & Light

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

 Public Comment (non-agenda items):
Brad Buckley, 751 10th St. E., commented on Section 4-2 of the Code regarding consumption of alcohol, stating that the Morning Breeze Restaurant on 10th Street, W. is allowed to sell alcohol, yet it cannot be consumed in the restaurant. He opined the ordinance needs to be revised to allow consumption on the premises of the restaurant.

 1. CITY COMMISSION AGENDA APPROVAL

Mayor Bryant requested that items #3 and #11 be removed from the agenda and added item 2F- Special Function Permit for Palmetto B&B and item 2G - Noise Exception Permit for Maria Munoz.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-0 to approve the November 1, 2010 7:00 p.m. Agenda.

 2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: October 18, 2010 Workshop and Commission
- B) Business Information Systems, Inc. (BIS) Support Agreement Renewal
- C) Special Function Permit: Eccentric Otter
- D) Special Function Permit: Martin Luther King, Jr. Parade
- E) Noise Exception Permit: Placido Antunez
- F) Special Function Permit: Palmetto B&B


G) Noise Exception Permit: Maria Munoz


Items D through F were removed from the Consent Agenda for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 4-0 to approve items A, B and C of the November 1, 2010 Consent Agenda.

Item D - Martin Luther King, Jr. Parade: Discussion was held regarding the expenses associated with the 12 police officers needed for the parade. Chief Wells stated he will arrange for as many reserve officers as possible to volunteer for the duty and then supply a final expense amount for the Police Department. Mayor Bryant suggested approving the Special Function Permit, subject to the final expense amount being supplied when determined. Chris Lukowiak, Palmetto Youth Center, thanked Commission for the consideration given to costs associated with the parade.

Item E - Noise Exception Permit for Palcido Antunez: The applicant was advised that if complaints are received by the Police Department they will visit the event ask that the music be turned down. If a second visit is required the music will be turned off.

 Item F - Special Function Permit for Palmetto Riverside B&B: After discussion regarding the parking, the permit was deferred to the November 15, 2010 meeting to give staff the chance to address parking for the event.

 Discussion ensued on the general practice that has occurred regarding approved Noise Exception Permits. Attorney Barnebey confirmed that the Code does not contain a specific provision in Section 5-7 stating that if an applicant is notified they must stop the music; the permit allows the applicant to violate the noise ordinance for the time frame in the application. Chief Wells stated they do not respond during the time frame listed on an approved permit and questioned even having the Noise Exception Permit. Attorney Barnebey stated that the permits should be reviewed and approved on a case by case basis, and apply stipulations as appropriate. If no special exception is granted, the standard would be that the music must be turned down, no matter the time. The special exception permit grants a time frame for noise exception, unless stipulations are placed on the application.

Staff was directed that the Noise Exception Permit should be amended to allow for stipulations.

MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 4-0 to approve the special exception for music from 7:00-10:00 p.m.

Chief Wells will have Officer Martinez call the applicant to fully explain the approved permit.

 Item G: Noise Exception Permit for Maria Munoz

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 4-0 to approve the Noise Exception Permit for 6:00 – 10:00 p.m.

Item D: Special Function Permit-Martin Luther King, Jr. Parade

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion carried 4-0 to approve the Special Function Permit, subject to actual cost of police officers that will be required.



3. PUBLIC HEARING: ORDINANCE NO. 2010-01

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING ORDINANCE NO. 624 (THE CITY OF PALMETTO COMPREHENSIVE PLAN); ADOPTING AMENDMENTS TO THE DEFINITIONS SECTION, FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, HOUSING ELEMENT, SANITARY SEWER ELEMENT, SOLID WASTE ELEMENT, STORMWATER ELEMENT, POTABLE WATER ELEMENT, COASTAL MANAGEMENT ELEMENT, CONSERVATION ELEMENT, PARK, OPEN SPACE, AND RECREATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, CAPITAL IMPROVEMENT ELEMENT, AND PUBLIC SCHOOL FACILITIES ELEMENT OF THE CITY OF PALMETTO COMPREHENSIVE PLAN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from October 18, 2010. After no public comment, the public hearing was closed.

Attorney Barnebey reviewed the Future Land Use Map amendment made during the 4:30 p.m. workshop. If certain planned projects do not happen, staff will come back to Commission and make a recommendation.

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion carried 4-0 to adopt Ordinance No. 2010-01, with the amended Future Land Use Element Map (FLUM), with changes to Policies 3.6.2, 3.7.1 and 5.1.4 as outlined in the workshop discussion, and changes identified by Lorraine Lyn.



4. PUBLIC HEARING: ORDINANCE NO. 2010-05

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, THE CITY OF PALMETTO COMPREHENSIVE PLAN; ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 2.1 ACRES AT THE INTERSECTION OF 17TH STREET WEST AND THE FUTURE EXTENSION OF 10TH AVENUE WEST (PARCEL 1) FROM PUBLIC FACILITY (PF) TO GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 14.0 ACRES AT THE INTERSECTION OF 23RD STREET WEST AND THE FUTURE EXTENSION OF 10TH AVENUE WEST (PARCELS 2, 3 AND THE HALF RIGHTS-OF-WAY FOR 10TH AVENUE WEST ADJOINING PARCELS 2 & 3) FROM PLANNED DEVELOPMENT (PD) TO GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 14.0 ACRES LOCATED EAST OF 8TH AVENUE WEST, NORTH OF 23RD STREET WEST, AND WEST OF BUSINESS U.S. HIGHWAY 41 (PARCEL 4) TO DESIGNATE THE PROPERTY AS GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 29.0 ACRES LOCATED EAST OF BUSINESS U.S. HIGHWAY 41, NORTH OF 21ST STREET WEST AND WEST OF BAYSHORE ROAD (PARCEL 5) TO DESIGNATE THE PROPERTY AS GENERAL COMMERCIAL (GCOM); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from October 18, 2010. After no public comment, the public hearing was closed.

Attorney Barnebey announced that these proposed changes have also been incorporated into the previously adopted ordinance. This ordinance will allow changes to the FLUM relating to two parcels which should have had a Comp Plan amendment in 1998, and to the three parcels related to the ball field project.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 4-0 to adopt Ordinance No. 2010-05, as recommended by staff.

 5. 1st PUBLIC HEARING ORDINANCE NO. 2010-12

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES; ZONING CODE, TO ADD CHILD CARE CENTER AS A PERMITTED OR CONDITIONAL USE IN THE COMMERCIAL CORE (CC) DISTRICT WITHIN THE SCHEDULE OF PERMITTED USES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The ordinance was noticed to allow Commission to decide if the proposed child care amendment to the Zoning Code should be a permitted or conditional use. Discussion ensued on the topic, resulting in consensus from the Commission that it should be added to the Zoning Code as a conditional use in the CC district.

Mayor Bryant announced that the second public hearing will be held November 15, 2010 at 7:00 p.m., or as soon thereafter as the item can be heard, in these chambers.

6. RESOLUTION 2010-22

Proposed Resolution 2010-22 to establish a City wide budget policy was deferred to the November 15, 2010 meeting.

 7. CRA ADVISORY BOARD MEMBER APPOINTMENT

Jeff Burton reviewed Rev. Sellars' credentials and opined he will bring wisdom to the CRA Advisory Board and will and represent the area quite well.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 4-0 to approve the appointment of McArthur Sellars to the CRA Advisory Board for a term ending January, 2012.

 8. CANVASSING BOARD APPOINTMENT (J. Freeman)

Pursuant to Section 12-10 of City Code, the City Clerk and Mayor are to be appointed to the Canvassing Board.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-0 to appoint the City Clerk and Mayor to the Canvassing Board for the General Election to be held on November 2, 2010.

 9. CONTRACT APPROVAL: WARD 1 PHASE 2

The contract is between the City of Palmetto and Gator Grading and Paving, LLC for construction activities associated with the Ward I Phase II project.

MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 4-0 to approve and authorize the Mayor to execute the contract between the City of Palmetto and Gator Grading and Paving LLC for construction activities associated with the Ward I Phase II project in an amount not to exceed \$2,277,764.50.

Signs announcing that the project is being funded by the CRA and CDBG funding are being developed and will be placed on site. Construction will begin after the holidays.



10. EXTENSION OF DUE DILIGENCE FOR PHASE II PALMETTO BALLFIELD AND DEDICATION AGREEMENTS

Mayor Bryant requested that a meeting be scheduled to discuss the topic, as a decision must be made by November 8, 2010. The topic was deferred to a Special City Commission meeting scheduled for November 3, 2010, beginning at 5:30 p.m.

11. FINANCE REORGANIZATION

Proposed reorganization of the Finance Department as was deferred to the November 15, 2010 Commission meeting.



12. Code Enforcement Lien Reduction

Palmetto Funding, LLC is requesting a reduction in a Code Enforcement lien on property located at 98 US 41 N. that was the subject of a mortgage foreclosure. Mr. Burton asked for an extension of time to allow him to contact the property owner regarding the possibility of the CRA purchasing the property. Commission agreed, instructing that the topic be placed on the November 15, 2010 Commission meeting agenda.



13. EXTENSION OF CITY ATTORNEY CONTRACT

Attorney Barnebey stated the firm has prepared the extension of the contract to the first organizational meeting after the 2012 general election. The proposal will freeze the rate until the maturity of the contract.

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 4-0 to approve Kirk Pinkerton as City Attorney for the City of Palmetto for the period from November 1, 2010 until the organizational meeting in January, 2013, at a monthly cost of \$18,333 or \$220,000 per year.



14. 1st READ & ADVERTISING APPROVAL: ORDINANCE 2010-15

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, VACATING PORTIONS OF 8TH AVENUE WEST AND 23RD STREET WEST, AS MORE PARTICULARLY DESCRIBED IN SECTION 2 OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to approve Ordinance No. 2010-15 for advertising and schedule a public hearing November 15, 2010.



15. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 2010-16


AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO RELATING TO REAL PROPERTY; PROVIDING PURPOSE, INTENT, DEFINITIONS, AND APPLICABILITY, REQUIRING MORTGAGEE REGISTRATION RELATING TO REAL PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR AN ELECTRONIC FORM OF REGISTRATION; REQUIRING MAINTENANCE OF CERTAIN REAL PROPERTY BY PROPERTY OWNERS AND MORTGAGEES, PROVIDING SECURITY REQUIREMENTS; PROHIBITING OBSTRUCTION OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR IMMUNITY OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR ADDITIONAL MAINTENANCE AND SECURITY REQUIREMENTS; PROVIDING SUPPLEMENTAL AUTHORITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion carried 3-1 to approve Ordinance No. 2010-16 for advertising and schedule a public hearing November 15, 2010. Commissioner Williams voted no.

 16. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 2010-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 17, ARTICLE III, OF THE CODE OF ORDINANCES, TO REVISE THE REQUIREMENTS RELATED TO THE PROVISION OF ATTAINABLE HOUSING; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Varnadore seconded and motion carried 4-0 to approve Ordinance No. 2010-17 for advertising and schedule a public hearing November 15, 2010.

 Commissioner Varnadore requested that item #17 be placed on a workshop before moving forward for first reading, provided it is not a time sensitive issue. Attorney Barnebey stated it will resolve an on-going dispute between two property owners and will have an impact on properties throughout the City. Commissioner Cornwell requested information on the properties being affected by the proposed ordinance and the parameters of stipulations joint owners can apply to one another. It was consensus of Commission to place the item on the November 15, 2010 workshop agenda and then move it forward to the 7:00 p.m. agenda for action.

17. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 2010-19

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, SECTION 28-74, TO ADD PROVISIONS RELATED TO THE JOINT USE OF PARKING FACILITIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.


Mayor Bryant recessed the City Commission meeting at 9:00 p.m. to open the November 1, 2010 CRA Board meeting.

Mayor Bryant reconvened the City Commission meeting at 9:10 p.m.

 18. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)

No report. Mayor Bryant announced the Special City Commission Meeting scheduled for Wednesday, November 3, 2010 beginning at 5:30 p.m.

19. DEPARTMENT HEADS' COMMENTS

 Allen Tusing

Reminder that on November 4, 2010 the railroad will be coming through and four streets will be blocked. Mr. Tusing was asked to alert the schools of the street closures.

Signs will be placed in the construction areas to let people know the polls will be open.

 Jim Freeman

Announced Public Works is doing reconfiguration construction of curbing and traffic flow at City Hall relating to Access Agreement recently approved by Commission.

Commented on the markings in the City Hall parking lot in preparation of installation of the new generator.

 Chief Wells

Manatee County is making modifications on 17th St. and they will be placing signage alerting the public the road will be open during voting hours. Chief Wells confirmed an officer will be on site during voting to ensure there are no issues.



Attorney Barnebey

Thanked Commission for his firm's contract extension.



19. MAYOR'S REPORT

Announced the Halloween Social at the Historic Park went very well.

20. COMMISSIONERS' COMMENTS



Mrs. Lancaster

Mr. Tusing stated he will personally check on the school bus going through Palmetto Mobile Home Park. The times of the bus route are 7:10 a.m. and 3:50 p.m.

Mr. Tusing stated it is his department's position that they want everyone in the City to have reuse. He is not aware of any plan not to serve 13th Street with reuse water.



Ms. Cornwell

Suggested that for individuals needing language assistance, she would like to work toward a goal of having City forms in English and Spanish. She suggested that at the very least the forms should ask if language assistance is necessary. Mayor Bryant suggested that when necessary, an on-duty Hispanic officer may be able to attend a meeting to offer interpretation.

Requested that the noise ordinance be placed on a future workshop agenda.

Stated that Halloween went smoothly - City is a wonderful place in which to have children.



Ms. Varnadore

Reminder that she asked for a list of conditional use permits that have been granted for farm worker housing.

Mr. Williams

No report.

Meeting adjourned at 9:30 pm.

Minutes approved:

James R. Freeman, City Clerk

**DRAFT
CITY OF PALMETTO
SPECIAL CITY COMMISSION MEETING
November 3, 2010
5:30 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
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 5:37 p.m., followed by a Moment of Silence and the Pledge of Allegiance.

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

Public Comment (non-agenda items): None

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to approve the November 3, 2010 Agenda.

2. EXTENSION OF DUE DILIGENCE FOR PHASE II PALMETTO BALL FIELD AND DEDICATION AGREEMENTS (M. Barnebey)

Mayor Bryant stated that not all the due diligence will be performed by the expiration of the 30-day agreement, and inquired if the City can opt out if issues regarding the soil are insurmountable. Attorney Barnebey advised Commission that the City has until 5:00 p.m. on November 8, 2010 to opt out of the agreement. After that time the city cannot terminate the contract.

Attorney Barnebey introduced Michael Hankin (by phone) and Andy Cohen, both attending as City Special Counsel.

Attorney Barnebey informed Commission that in anticipation of not having all the due diligence completed by the agreement's date and time, a meeting was held with all the involved entities to request an additional 30-day extension, which was agreed upon by the parties at that time. Upon receipt of the extension period proposal, [Manatee Fruit] is requesting an additional \$27,000 to cover their costs and fees to grant an extension and also to delay their due diligence timeframe until closer to closing. Discussions were held with all the entities involved in the project regarding the conditions for granting an extension for the due diligence period.

Based on comments during discussions, it is estimated that since the initial \$63,000 in fees and costs were incurred, there has been an additional \$80,000 (including the \$27,000 being requested to grant the extension) in fees and costs incurred. There is potential for additional fees to be incurred, but no estimate has been made.

Attorneys Hankin, Cohen and Barnebey held a general discussion with Commission regarding the City's options and any potential liability regarding fees should litigation occur, referring to the motion adopted by City Commission on May 17, 2010. Discussion ensued on what "reasonable" fees will total.

Also discussed was the initial environmental testing showing some contamination at the site, which is one of the reasons for the proposed 30-day extension period.

Commission discussed capping the attorney fees. Mayor Bryant stated that an amount of \$90,000 has been discussed with Manatee Fruit and rejected. Attorney Barnebey opined that if Commission agrees on an amount to cap the fees and it is rejected by Manatee Fruit, the City can terminate the contract, as it governs the fees at this stage of the contract.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to authorize the Mayor to execute an Amendment to the *Dedication Agreement* between the City of Palmetto and Manatee Fruit Company, Inc. (commonly referred to as the "Dedication Agreement") and an Amendment to the *Agreement Regarding the Transfer of Lands and Construction and Operation of Park Facilities* among The School Board, The County, The City of Palmetto and Manatee Fruit Company, Inc. (commonly referred to as the "Phase II Agreement") to (1) provide for extensions of the Inspection Periods contained in the Dedication Agreement and the Phase II Agreement until December 8, 2010; (2) provide for extensions of certain other deadlines for the city to provide boundary surveys and sketches and descriptions of easement areas; (3) provide an extension of time within which Manatee Fruit Company is required to give or respond to title objections until later on in the transaction, when the City has obtained a commitment for funding for the new 23rd Street Roadway project, and; (4) imposing a limitation on the amount of reasonable costs and fees, including attorneys fees and costs, which the city shall pay to Manatee Fruit Company related to these two agreements in a maximum amount of \$100,000, which includes any sums previously paid to Manatee Fruit Company pursuant to these agreements. In the event that said Amendments cannot be agreed upon under the above terms, the Mayor is authorized to terminate the agreement prior to 5:00 p.m. on November 8, 2010.

Mayor Bryant announced that the City will delay the grant application until the matter is resolved.

Mayor Bryant displayed a possible alternative site for location of ball fields. The property owner has indicated that environmental issues have been successfully resolved.

Mayor Bryant discussed the re-carpeting of Commission Chambers.

Attorney Barnebey informed Commission that the City has received a petition in relation to the PBA unionizing the Police Department.

Commissioner Cornwell reminded certain Commissioners of a meeting that has been scheduled for November 9, beginning at 7:00 p.m. The CRA Board will hold a joint meeting with the CRA Advisory Board that date beginning at 5:30 p.m.

Mr. Freeman informed Commission that the antenna at City Hall that previously held City technology equipment will be removed in preparation for the installation of the new generator.

Meeting adjourned at 7:10 p.m.

Minutes approved:

James R. Freeman
City Clerk

**DRAFT
CITY OF PALMETTO
SPECIAL CALLED CITY COMMISSION MEETING
November 8, 2010
2:00 PM**

Elected Officials Present

Shirley Groover Bryant, Mayor
Tamara Cornwell, Vice Mayor, Commissioner-at-Large 2
Tambra Varnadore, Commissioner, Ward 2
Brian Williams, Commissioner, Ward 3

Elected Officials Absent (Attending by phone)

Alan Zirkelbach, Commissioner-at-Large 1
Mary Lancaster, Commissioner, Ward 1

Staff Present

Jim Freeman, City Clerk
Attorney Hankin, Special Counsel
Scott Rudacille, Chief Assistant City Attorney
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 2:04 p.m.

Mayor Bryant read a letter relating to the Dedication Agreement (23rd Street) and Phase II Agreement (re: ball fields) regarding attorney fees into the record, a copy of which is attached hereto and made a part of the minutes

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 3-0 to approve the November 8, 2010 Agenda.

2. EXTENSION OF DUE DILIGENCE FOR PHASE II PALMETTO BALL FIELD AND DEDICATION AGREEMENTS (M. Barnebey)

Attorney Rudacille advised Commission that a written request from a Commissioner to attend a meeting by telephone could be waived for today's meeting.

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 3-0 to approve the acceptance of Mary Lancaster and Alan Zirkelbach to participate in this meeting by telephone.

Attorney Hankin reviewed the amendment that was passed by Commission November 3, 2010, limiting attorney fees to \$100,000. A copy of the amendment has been received from Manatee Fruit, which redacted out the cost reimbursement, which would then default to the language in the contract, i.e. no cap on the attorney fees.

Attorney Hankin reviewed the options of the City to 1) agree to the amendments made by Manatee Fruit or 2) terminate the contract. Mayor Bryant agreed that the attorney fees are problematic, but cautioned the Commission to consider the current stage of the project, together with the fact the City is on "the cusp" of applying for the grants [that will fund the project]. She also commented on the contractors that have also been delayed, and the benefits the City will lose should the project not occur.

Discussion ensued on the attorney fees estimated to be approximately \$140,000, a figure verbally submitted. Attorney Hankin confirmed that a written amount was requested, but has not yet been

received. Mr. Tusing suggested that consideration should be given to the possibility that the attorney fees could be considered the cost of the land, which equates to \$10,000 per acre. Attorney Hankin confirmed that the position of Manatee Fruit has been consistent, in that they are not willing to accept a cap on attorney fees.

Mayor Bryant departed the meeting at 2:30 p.m.

Discussion ensued on what Commission considered "reasonable fees" and the continued accumulation of the fees.

Attorney Hankin opined that the amendments do somewhat delay Manatee Fruit Company's future fees by delaying their due diligence such as surveys and title work until after the City funds the project. He opined that Mr. Preston does not want to be responsible for fees should the project not happen.

Attorney Hankin stated that the agreements stated that \$63,000 will be paid on execution and \$27,000 plus all other accrued attorney fees will be paid at closing. At execution there was an estimated \$90,000 of accrued fees. He confirmed that today Commission can only approve the extension of the due diligence period, as amended by Manatee Fruit Company, for 30 days with an option to extend for an additional 30 days, at no cost. He confirmed the due diligence is at the City's sole discretion, and the topic of negotiating the fees can be brought back to Commission next Monday.

Mr. Freeman confirmed \$913,000 from the proceeds of the sale is available for the project. There is a possibility that the CDBG grant could fund approximately 5% of the fees, but that amount would still have to be taken from City funds set aside for the project.

MOTION: Commissioner Williams moved and Commission Varnadore seconded to authorize the mayor to execute the two amendments to the Dedication Agreement and Phase II Agreement as revised by Manatee Fruit Company, notwithstanding the prior motion approved November 3, 2010. A roll call vote was taken, as follows: Commissioner Williams-Yes; Commissioner Varnadore-Yes; Commissioner Zirkelbach-Yes; Commissioner Cornwell-Yes; Commissioner Lancaster-Yes. Motion approved 5-0.

Attorney Hankin stated the City has until noon tomorrow to execute the amendments.

Meeting adjourned at 3:00 p.m.

Minutes approved:

James R. Freeman
City Clerk