

TAB 3



# City of Palmetto Agenda Item

**Meeting Date**

7/19/10

**Presenter:** Mark P. Barnebey/Jim Freeman

**Department:** City Attorney/City Clerk

**Title:**

**Background:**

The CRA has, in recent years, had staff of the City serve as staff to the CRA. It is not unusual for city staff in other jurisdictions to serve as staff to the CRA, although the CRA can hire separate staff. The City is preparing to appoint a new CRA Director. There was direction at a prior City Commission meeting to make this position an Appointed Official, if the Director is a city employee, for coordination and benefit purposes.

**Discussion:**

Ordinance 2010-11 would make the CRA Director an Appointed Official of the City, if the CRA Director is employed by the City. This ordinance also provides for the ability of the CRA Director to opt-out of the City Pension Program in the same manner as other Appointed Officials of the City may currently do.

In updating these sections of the Palmetto Code, changes were also made to update the references from "City Council" to "City Commission" and to recognize gender equity. There were also changes to provide that the Clerk, the Public Works Director, the City Attorney, and the Police Chief have consistent language in that they shall perform such duties as "the Mayor or City Commission" may from time to time require. (Currently, there is different language for the various Appointed Officials.)

**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 2010-11 for first reading and authorize the Mayor to notice the Ordinance for adoption.

**Staff Contact:**

**ORDINANCE 2010 -11**

**AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; AMENDING THE LIST OF APPOINTED OFFICERS AND THEIR DUTIES; AMENDING PROVISIONS RELATED TO MEMBERSHIP IN THE CITY'S GENERAL EMPLOYEE'S RETIREMENT PLAN; 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**, the Charter of the City of Palmetto provides for the appointment of certain officials to assist the Mayor and City Commission in the performance of their duties; and

**WHEREAS**, the Community Redevelopment Agency has requested the City provide the staff to assist the CRA in performing its duties; and

**WHEREAS**, if the Community Redevelopment Agency Director ("CRA Director"), is an employee of the City, the CRA Director's duties and responsibilities are such that the CRA Director should be considered an Appointed Official; and

**WHEREAS**, other terms in Sections 2-2 and 22-82 of the Palmetto Code of Ordinances needed to be updated or clarified for consistency of responsibilities to the Mayor and City Commission; 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. Amendment Language and Effect on Other Subsection Language.**

A. Section 2-2 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

The appointed officers, as provided for in section 3 of the Charter of the City shall be, and the general duties of such appointed officers are, as follows:

- (1) *City Clerk.* The City Clerk shall attend all meetings of the City Commission and shall be responsible for preparing and maintaining full and correct minutes of the acts and doings of the city commission; to record, keep and maintain all ordinances passed by the commission; to keep proper books of account for the city and all agencies thereof; and to perform such other duties as the mayor or city commission may require.
- (2) *Director of Public Works.* The Director of Public Works shall be responsible for the supervision, maintenance, repair, and construction of all public works and improvements within the city, except as provided by the mayor and city commission; and to perform such other duties as the mayor or city commission may require.
- (3) *Chief of Police.* The Chief of Police shall be responsible for the operation and supervision of the police department, the police officers and other city employees working at the police department; keeping the peace; enforcement, within the boundaries of the city, of state and federal laws

and ordinances of the city, except for those ordinances that provide for the enforcement thereof by another officer, agency or board of the city; and to perform such other duties as the mayor or city commission may require.

- (4) *City Attorney.* The City Attorney shall represent the city on all matters, be responsible for the preparation of all ordinances, review of contracts presented to and acted upon by the city commission and shall perform such other duties as may be required by the mayor or city commission. The city attorney may be an individual or a law firm.
- (5) *Community Redevelopment Agency Director (if a city employee).* The Community Redevelopment Agency Director ("CRA Director"), if a city employee, shall be an appointed officer, and shall attend all CRA meetings and meetings of the Community Redevelopment Advisory Board. The CRA Director shall be responsible for assisting the CRA in preparing, revising and implementing the CRA Plan and related programs, and to perform such other duties as the mayor or city commission may require.

B. Subsection 3 of Section 22-82 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

- (3) *Opt-Out Option.* Notwithstanding subsection (1), the appointed officers as provided in Section 2-2 of this Code of Ordinances, who are employees of the City, may within ten (10) days from the effective date of the ordinance adopting this subsection, and any future appointed officers, who are employees of the City, may, in the event that officer has elected to participate in another pension program, within the first twelve (12) months of the appointed officer's employment as an appointed officer, notify the board and the city in writing of his election to not be a member of the system. In the event of any such election, the board shall refund from the fund the full amount, without interest, withheld from the member's salary and deposited in the fund and that appointed officer shall be barred from future membership in the system.

**Section 4.** **Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 5.** **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 6. 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 19, 2010
PUBLICATION DATE	July 23, 2010
SECOND READING	August 2, 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 2nd day of August, 2010.

By: \_\_\_\_\_  
Shirley Groover-Bryant, Mayor

ATTEST:

By: \_\_\_\_\_  
James R. Freeman, City Clerk