

TAB 1



City of Palmetto Agenda Item

Meeting Date

1/24/11

Presenter: Jim Freeman

Department: City Clerk

Title:

Appointed Officers' Terms

During Mayor Bryant's administration, she has appointed, and Commission approved, the terms of all appointed officers (sitting department heads) to run concurrent with her term in office.

Section 17 of the newly amended Charter now mandates that "No term of appointment for an appointed officer shall extend beyond the date of the first Organizational Meeting following a General Election for the Mayor's office." On November 1, 2010, Commission approved the extension of the City Attorney's contract to the organizational meeting in January, 2013. Staff proposes that the appointed officers' terms also be extended to the first organizational meeting in January, 2013. Approval of this proposal will assure the continuity of the day-to-day operations of the government until the operational meeting when all the mayor's appointments can be considered on the same date.

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: Motion to extend the appointed officers terms to the first organizational meeting in January, 2013.

Staff Contact:

Attachments: Section 17 from the Charter and minutes documenting appointed officers' terms.

Section 16. Mayor—Powers and Duties.

The Mayor shall have direct supervision over all *Appointed Officers* of the City and the manner of conducting all City business, except as otherwise provided by this Charter, or by law. The Mayor shall be responsible for the proper administration of the City government and all City affairs as provided by or under this Charter or by ordinance or resolution of the City Commission. The Mayor shall:

- (a) See that all laws, provisions of this Charter and acts of the City Commission, are faithfully executed;
- (b) Sign contracts on behalf of the City pursuant to the provisions of ordinance and as authorized by such ordinances and resolutions or acts as may be enacted or approved by the City Commission; and
- (c) Have the power to bid on all property for the City at any and all judicial sales under process of law where the City is a party, up to an amount equal to the maximum amount owed to the City or to such other amount as may be authorized by the City Commission.

The Mayor shall have the power to appoint members of all boards, commissions and committees of the City, unless otherwise provided by law or City ordinance, and subject to approval of *Majority Vote of the Commission*. No Mayoral appointment to any board, commission, or committee shall extend beyond a term of two (2) years.

(Ord. No. 2010-10, § 1(Exh. A), July 19, 2010)

Section 17. Appointed Officers—Appointment and Removal.

The Mayor shall appoint all *Appointed Officers* of the City. If such officer is appointed for a term of one (1) year or shorter duration, the Commission shall confirm the appointment by *Majority Vote of the Commission*. If the term for such *Appointed Officer* is more than one (1) year, the Commission shall confirm the appointment by four (4) or more votes. If the person does not receive sufficient affirmative votes to be confirmed as provided herein, the person shall no longer be an *Appointed Officer* and Mayor shall appoint another person to serve as the *Appointed Officer* within sixty (60) days of the prior appointment. A person who is not confirmed by the Commission may not be reappointed to that position without approval of the Commission. No term of appointment for an *Appointed Officer* shall extend beyond the date of the first Organizational Meeting following a *General Election* for the Mayor's office. The Mayor may suspend or remove *Appointed Officers*, subject to approval of *Majority Vote of the Commission*, unless prevented by law or this Charter. The City Commission may suspend or remove *Appointed Officers* by its own motion adopted by four (4) or more votes of the Commission members. In all cases when less than five (5) Commissioners may be eligible to vote by law regarding the appointment, suspension or removal of an *Appointed Officer*, then such action may be taken by a Majority Vote of the Commission. Commissioners shall be entitled to request and receive information from all *Appointed Officers* as may be necessary to conduct the duties of their office.

(Ord. No. 2010-10, § 1(Exh. A), July 19, 2010)

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.

9. RESOLUTION NO. 2010-34

Resolution No. 2010-34 will establish the budget for the first FECC Grant award.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 2010-29, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2010-2011, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to adopt Resolution No. 2010-34.

10. 1st READ AND ADVERTISING APPROVAL: 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 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.

MOTION: Commissioner Lancaster moved and Commissioner Zirkelbach seconded to approve Ordinance No. 2010-12 for advertising and schedule public hearings for November 1, 2010 and November 15, 2010.

Commissioner Varnadore opined it would better serve the City for the topic to be a conditional use because of the broad scope of the commercial core.

Motion on the floor carried 3-2. Commissioners Varnadore and Williams voted no.

11. DISCUSSION OF DEPARTMENT HEAD COMPENSATION SCHEDULE

Mayor Bryant referred to the information that was provided, stating that as discussed at the CRA Advisory Board, it is her intent to nominate Mr. Burton as the CRA Director. Mr. Freeman confirmed that \$78,660 is what is currently budgeted for the position. Discussion ensued on Mr. Burton's compensation amount as a vendor. Mayor Bryant recommended Mr. Burton's salary be established at approximately \$79,000 plus the use of an available City vehicle; she concurred that the budgeted amount would be sufficient.

Mayor Bryant stated there remains one Public Work issue, but she is making no other changes at this time.

12. CRA DIRECTOR NOMINATION

MOTION: Commissioner Zirkelbach moved, Commissioner Varnadore seconded and motion carried 5-0 to approve the nomination of Jeff Burton as CRA Director for a term concurrent with Mayor Bryant's term, at \$78,660, with a car available.

13. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Attorney Barnebey reported that the due diligence is being performed and discussed various items that will be coming to Commission in the near future.

Mayor Bryant opened the discussion to public comment. The following individuals spoke on the issue:

Joseph Clawson spoke of the type of experience he would like to see a candidate possess.

Pastor Charles Williams, King of King Baptist Church, related his recent conversation with Chief Lowe regarding his decision to retire. They had also discussed his retirement approximately eight months ago.

Webster Hayes, president of the local Southern Christian Leadership and vice president at a state level, applauded Mayor Groover Bryant's choice on a personal level and on behalf of the organization in which he is involved.

Chris Lukowiak expressed concern regarding the nomination process.

Charles Smith applauded the appointment of Mr. Wells. He spoke of past appointments, and the fact a search had never been conducted.

Jean Moreland commended on the past promotions from within the police department, and opined that more than one candidate is necessary.

Dorothy Middleton, Chair of the *Tempo News* Editorial Board, stated the *Tempo News* sanctioned the endorsement of Mr. Wells.

Cynthia Fobbs commented on the crime in the City and asked that Commission put a priority on addressing crime.

Coach Shannon, a Manatee County Distinguished Citizen, supported the appointment of Rick Wells.

Manatee County Deputy Bruce Mead, spoke highly of Mr. Wells on a personal level, opining he will do "very well as the Chief".

Frank Gargett spoke highly of Mr. Wells on a personal level.

Jerry Parrish, who does Gang Prevention in Manatee County, supported the Mayor's decision.

Commissioner Cornwell voiced concern regarding the proposed salary, due to the fact Mr. Wells has no years of service with the City, and it is higher than the salaries of the other department heads. She also voiced concern with the proposed term, opining it should be for one year, and then be reviewed in July, 2011. Commission held a general discussion regarding the issues brought forward by Commissioner Cornwell. In addition, they each voiced their personal opinion on the appointment.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the appointment of Lieutenant Richard Wells as Chief of Police for the City of Palmetto for a term running concurrent with Mayor Bryant.

Meeting adjourned at 6:55 pm.

Minutes approved: July 19, 2010

James R. Freeman

James R. Freeman
City Clerk

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve Items A, B and C of the Consent Agenda.

Gretchen Leclezio, applicant for the Palmetto Art Center Special Function Permit confirmed that the abutting property owner to the requested street closure is aware of the event and that he is also participating.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Item D of the Consent Agenda.

3. VERIZON CELL TOWER AT HIDDEN LAKE PARK

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to authorize Verizon to proceed with due diligence study at the Option #1 cell tower site at Hidden Lake Park.

4. DEPARTMENT HEAD APPOINTMENTS

Mayor Bryant appointed Jim Freeman as City Clerk, Allen Tusing as Public Works Director and Garry Lowe as Police Chief for a term to run concurrent with her term.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 5-0 to approve the Mayor's Department Head appointments to run concurrent with the term of the Mayor.

5. CITY ATTORNEY APPOINTMENTS

Mayor Bryant appointed Mark Barnebey of Kirk Pinkerton as City Attorney for a term to run concurrent with her term.

MOTION: Commissioner Williams moved and Commissioner Cornwell seconded to approve the appointment of Mark Barnebey of Kirk Pinkerton as City Attorney.

Discussion: Mrs. Lancaster stated her belief there may have been a conflict of interest in doing business; at the Attorney General's advice she has sent the information to the Florida Bar. Discussion also ensued on the proposed fees as they related to the other submitted proposals and the term Mr. Barnebey's fees would be applicable. Mayor Bryant reviewed her estimate of time an attorney would spend on City business as a comparison between the proposals as well as the issues the appointed attorney faces. Commissioner Zirkelbach stated that as a matter of cost Mr. Barnebey's term should be shorter. Attorney Barnebey discussed the services his firm can provide and stated he has confirmed with the Mayor that they will look at the cost at a later date after some of the existing issues have been settled.

MOTION: Commissioner Williams moved and Commissioner Cornwell seconded to amend the motion on the floor to approve the appointment of Mark Barnebey of Kirk Pinkerton as City Attorney for a one year term. Motion carried 4-1. Commissioner Lancaster voted no.

6. INTERAGENCY AGREEMENT FOR INFORMATION-SHARING ON SELECT JUVENILES

Revised interagency agreement that was approved by City Commission January 26, 2009. Mayor Bryant suggested that if Commission approves the document it should be contingent upon the signature block conforming to the request the City made when the last document was presented for consideration. Chief Lowe reviewed the change to the document in section 2.3 requiring teacher notification of a juvenile placed in probation or commitment program for a felony offense. Discussion ensued on the accuracy of the named school district employee in section 2.3. Chief Lowe could not confirm the School District has approved the document. Attorney Barnebey confirmed the signature block for the School District is not the standard format. Chief Lowe requested to table the item until a later date so he can clarify the discussion points.