

**TAB 1**

**Draft Minutes**  
**CITY COMMISSION WORKSHOP MEETING**  
**JANUARY 24, 2011**  
**4:30 PM**

**Elected Officials Present:**

Alan Zirkelbach, vice Mayor, Commissioner-at-Large 1  
Tamara Cornwell, Commissioner-at-Large 2  
Mary Lancaster, Commissioner, Ward 1 Absent  
Tambra Vamadore, Commissioner, Ward 2  
Brian Williams, Commissioner, Ward 3

**Elected Officials Absent:**

Shirley Groover Bryant, Mayor Absent

**Staff and Others Present:**

Allen Tusing, Public Works Director  
Jim Freeman, City Clerk  
Chief Rick Wells  
Mark Barnebey, City Attorney  
Deanna Roberts, Administrative Assistant

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Commissioner Zirkelbach opened the meeting at 4:32 P.M.

**1. PRESENTATION GOVERNMENT FINANCE OFFICERS ASSOCIATION (FGFOA) CERTIFICATE OF ACHIEVEMENT FOR THE FYE2009 COMPREHENSIVE ANNUAL FINANCIAL REPORT**

Vice Mayor Zirkelbach presented the Certificate of Achievement for Excellence in Financial Reporting to Finance Director Karen Simpson. The award was presented to the City by the Government Finance Officers Association. This is the fifth year in a row that Finance has received this award. Finance Director Karen Simpson introduced her staff and complimented them on their hard work. Mrs. Simpson thanked Commission for their support.

**2. PROPOSED FPL FRANCHISE AGREEMENT RENEWAL**

Mr. Freeman briefed Commission on the FPL franchise agreement. The agreement with FPL will expire on March 3, 2011. FPL has proposed another thirty-year agreement. The City currently receives about \$742,000 in franchise fees. Under the proposed agreement the revenue will be about \$870,000. Without an agreement, FPL would provide services, but the City would not collect the fees.

City Attorney Mark Barnebey informed Commission that the plan is to have this on the next agenda for first reading and then to adopt the agreement at the following meeting. He commented that other jurisdictions receive a higher percentage in fees.

Mr. Freeman interjected that the City of Sarasota entered into a separate agreement with FPL in addition to the franchise agreement relative to renewable energy. He suggested Commission may want to consider the same.

Mr. Barnebey, speaking for Mayor Bryant who was absent, said her desire was for the City's agreement to mirror the one FPL has with the City of Sarasota.

Commissioner Williams concurred with Mr. Freeman regarding renewable energy options. Representatives of FPL appeared before Commission to discuss the agreement. Present at the meeting were: Rae Dowling, Area Manager/External Affairs, Patrick Bryan, Senior Attorney, and Don Sayre, Governmental Accounts Manager.

Ms. Dowling informed Commission that the franchise agreement is up for renewal, and over the past five years the franchise has been worth \$3.5 million to the City. She explained that this is a non-exclusive agreement, and in return for the fee, the City agrees not to go into the electric business. FPL pays the City monthly. The current fee is 5% and the proposed agreement would take it to 5.9%. FPL projects it would bring the City \$164,000 more per year. The calculations in the new agreement are different and the result is more money for the City. In the past, ad valorem taxes were a part of the calculation. The fee remitted equaled 5% of the revenue inclusive of property taxes. The new calculation excludes ad valorem taxes from being a part of the calculation.

Ms. Dowling said the City's request for a 6% fee will be submitted to FPL corporate offices. She said that FPL has the lowest rates in the State and one of the lowest in the southeast. She said on a typical bill, the customer should expect to pay about \$1.47 more per bill at the 5.9% fee.

Commissioner Varnadore requested that the reference in the ordinance to City Council be changed to City Commission. Regarding her question about the reference to a previous ordinance on page 5, Mr. Barnebey said that will be removed. He has also recommended that the language on page 9, Section 11, regarding outstanding claims should be removed. Mr. Bryan said FPL has modified that language so that it reads, "All claims that are not asserted, in writing, within one year after the effective date of the new franchise, are barred." The City must put FPL on notice within one year, and the claim is good for five years per the statute of limitations.

Commissioner Varnadore requested additional language that might address innovations that might come in the future for renewable energy. Mr. Bryan reiterated that the agreement is non-exclusive. In the future, the City could go to another provider if retail competition opened up in this area. This applies only to City facilities. And, nothing prevents the City from installing renewable energy sources at City facilities.

### 3. PROPOSED PROCEDURES FOR CITY COMMISSION MEETINGS

Mr. Barnebey presented some procedures for the City Commission meetings. He said the City has been operating under Roberts Rules of Order which is not really written for government use. Changes made to the Charter in November are reflected in the proposed document.

A change, not addressed in Roberts Rules, occurs at the top of page 2 in Section C: In the absence of a quorum of the City Commission, if only one member should be present, that member may:

1. take measures to obtain a quorum;
2. fix the time to which to adjourn, take a recess, or reschedule a meeting; and
3. continue a meeting or a public hearing on any scheduled matter to a time and date certain.

Mr. Barnebey explained that this would typically happen at a regular meeting where there is a public hearing scheduled. This would avoid the notice process and the cost involved. Mrs. Cornwell said this has not happened in all her years on the Commission.

In Section D, Mrs. Varnadore asked to add "with Commission approval" under Appointments of Members to Other Boards. Also change "such appointees shall report items of interest to City Commission" to may.

### Part III. Meetings

Section A. Regular meetings may be changed, postponed, or cancelled by a majority vote of the City Commission members present.

Subparagraph a. Citizen Comments: It was decided to allow three (3) minutes for citizen comments.

The discussion will continue in subsequent workshops.

**4. DISCUSSION: USE OF CITY PARKS FOR TEMPORARY BALL FIELDS**

Discussion of waiving the fees for Sutton Park as a practice field for the Little League T-ball teams.

Mr. Tusing informed Commission that the Little League has asked the City to waive the fees at Sutton Park so that they may use them for T-ball. They are also requesting use of the fields on 14<sup>th</sup> Avenue. The City does not charge for the use of those fields. Public Works will do some maintenance to get the fields ready.

There was a consensus by Commission to waive the fees for a limited period of time; perhaps six months or a year. Commission asked to have a schedule of dates the Little League will use the fields. On other days, the fields will be made available to the public.

Commissioner Varnadore asked for an informal written agreement. Commissioner Williams asked for a waiver of liability.

The storage facility the City has made available to the Little League has a roof leak. Mr. Tusing said that Public Works will seal the leak. Mr. Tusing told Commissioner Cornwell that the Little League has use of the building until ball fields become available. She was concerned with the City's liability if the building is unsafe.

CRA Director Jeff Burton explained that the agreement gave each party a 90 day opt out. It was a simple agreement. CRA is looking into redeveloping the area and the Birkholz building is not part of the plan. Mr. Barnebey will take a look at the agreement to check the City's liability. Commissioner Cornwell said she was under the impression it was a storage facility for equipment, and now they are using the building for meetings. Mr. Barnebey commented that if the building is unsafe, the City may have to ask them to leave.

**5. ADJOURNMENT**

Vice Mayor Zirkelbach adjourned the meeting at 5:58 p.m.

Minutes approved:

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James R. Freeman, City Clerk

**Draft Minutes  
CITY OF PALMETTO  
CITY COMMISSION MEETING  
AND  
CRA BOARD MEETING  
January 24, 2011  
7:00 PM**

**Elected Officials Present:**

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

**Elected Officials Absent:**

Shirley Groover Bryant, Mayor

**Staff and Other Present:**

James R. Freeman, City Clerk (departed meeting at 8:15 p.m.)  
Allen Tusing, Public Works Director  
Chief Rick Wells  
Lorraine Lyn, City Planner  
Mark Bamebey, City Attorney  
Deanna Roberts, Administrative Assistant

Vice Mayor Zirkelbach called the meeting to order at 7:00 p.m., followed by a Moment of Silence and the Pledge of Allegiance. Chief Wells asked all to remember the St. Petersburg police officers killed in the line of duty today.

Vice Mayor Zirkelbach presented the Certificate of Achievement for Excellence in Financial Reporting to Finance Director Karen Simpson. The award was presented to the City by the Government Finance Officers Association.

All persons intending to address City Commission were duly sworn.

Public Comment (non-agenda items) None

**1. CITY COMMISSION AGENDA APPROVAL**

**MOTION:** Commissioner Cornwell moved, Commissioner Williams seconded, and motion carried unanimously to approve the January 24, 2011 7:00 p.m. agenda with the addition of Items 2 and 3 under Item 2A: to accept the resignation of Chris Moquin and appoint Jim Pastor to the Planning and Zoning Board [same seat].

**2. CITY COMMISSION CONSENT AGENDA**

**A. MAYOR'S OFFICE**

**1) Appointed Officers' Terms:**

Recommendation to extend all appointed officers' terms to the organizational meeting scheduled for the first regular meeting following the 2012 general election for the Mayor's seat, so they are consistent with the term of the appointed City Attorney. Currently the appointed officers' terms run concurrent with Mayor Bryant's term.

**B. CITY CLERK'S OFFICE**

**1) Minutes:**

- a. January 3, 2011
- b. January 4, 2011 (Council of Governments)
- c. December 11, 2006 (Workshop with Manatee County School Board)

**2) Noise Exception Permits:**

- a. Slick's Garage
- b. Eccentric Otter

Discussion: Chris Humphrey of Slick's Garage and Stacy Stinton of Eccentric Otter addressed Commission and reported there were no problems at the previous event.

**3) December, 2010 Check Register**

**4) Florida Clean Energy Grant #AS2050:**

Acceptance of and authorization for the Mayor to execute the grant documents for the second energy grant award to the City in the amount of \$287,760.

**5) BayCare Life Contract Renewal**

Renewal of the BayCare Life contract to continue the Employee Assistance Program for a term ending December 31, 2011.

**6) Morgan Stanley Smith Barney Contract**

Approval of a contract with Morgan Stanley Smith Barney to provide for the maximization of the City's investment funds, pursuant to the Investment Policy.

Discussion: Finance Director Karen Simpson informed Commission that this is not an exclusive agreement. There is no time frame on the contract; the City can end it at any time. The City does not pay fees to Morgan Stanley; they receive their fees from the investment instruments. Commissioner Cornwell requested the motion be changed to read "agreement" and not contract. Mr. Barnebey said there are two remaining items under discussion. Regarding the jurisdiction of disputes, Morgan Stanley shifted it to the state of Florida, and the City has requested courts in Manatee County. They asked the City to waive the right to jury, and Mr. Barnebey said he is okay with that if they also waive their right.

**C. PUBLIC WORKS DEPARTMENT**

**1) PBS&J Work Assignment No. 2 relating to the Palmetto Police Department Environmental Issues**

Authorization to fund a Supplemental Site Assessment Report to obtain data necessary to bring closure to the petroleum environmental issue, rather than continue to monitor the site on an annual basis.

Discussion: Commissioner Varnadore asked where the money would come from. Mr. Freeman said from fund balance, and he will be bringing back a budget amendment. Mr. Williams questioned the need for more wells. Mr. Tusing explained that there is a need to dig three, deeper wells for a supplemental report. If the report shows improvement, the City may be able to go to once a year monitoring. If there is no improvement, the solution may be as simple as designating the site for parking lot use only. In answer to Mrs. Cornwell's concerns, Mr. Tusing said there is no danger to the public; the concern is the water getting into the aquifer. The reports will determine where the confining layers are. The DEP is requiring the action as the last quarter monitoring showed no improvement.

D. PALMETTO POLICE DEPARTMENT

**1) Declaration of surplus property**

Recommendation to declare police vehicles #626, 629 and 630 as surplus property and consign them to auction and authorize use of the proceeds to continue the installation of the new graphics on the patrol fleet.

**2) Resolution No. 2011-04:**

A budget resolution to authorize the purchase of three fully equipped police bicycles.

Items B3 and C1 were removed from the Consent Agenda for discussion by Commissioner Varnadore.

Items B2, 4, 5 and 6 were removed from the Consent Agenda for discussion by Commissioner Cornwell.

**MOTION:** Commissioner Williams moved, Commissioner Cornwell seconded, and the Consent Agenda was approved unanimously as presented.

**MOTION:** Commissioner Cornwell moved, Commissioner Lancaster seconded, and motion carried 4-1 to approve Item B2, Noise Exception Permit, on the Consent Agenda, with the stipulation that if asked to turn the music down they will comply. Commissioner Varnadore was not present for the vote.

**MOTION:** Commissioner Cornwell moved, Commissioner Williams seconded, and motion carried 4-1 to approve Item B3, the December Check Register, on the Consent Agenda. Commissioner Varnadore was not present for the vote.

**MOTION:** Commissioner Cornwell moved, Commissioner Lancaster seconded, and motion carried unanimously to approve Item B4 on the Consent Agenda: acceptance of and authorization for the Mayor to execute the grant documents for the second energy grant award to the City in the amount of \$287,760.

**MOTION:** Commissioner Cornwell moved, Commissioner Williams seconded, and motion carried unanimously to approve Item B5 on the Consent Agenda: renewal of the BayCare Life contract to continue the Employee Assistance Program for a term ending December 31, 2011.

**MOTION:** Commissioner Cornwell moved, Commissioner Williams seconded, and motion carried unanimously to approve Item B6 on the Consent Agenda: the agreement with Morgan Stanley Smith Barney to provide for the maximization of the City's investment funds, pursuant to the Investment Policy and subject to final approval by the City Attorney.

**MOTION:** Commissioner Varnadore moved, Commissioner Lancaster seconded, and motion carried unanimously to approve Item C1 on the Consent Agenda: authorization to fund a Supplemental Site Assessment Report to obtain data necessary to bring closure to the petroleum environmental issue, rather than continue to monitor the site on an annual basis.

**3. PUBLIC HEARING: CONDITIONAL USE PERMIT #CU2010-06 (L. Lynn)**

Application for approval for video amusements/computer slots/games space at Palm Plaza I, 1035 Hasko Road.

City Planner Lorraine Lyn explained this hearing was continued from a previous hearing where it resulted in a tie vote. She informed Vice Mayor Zirkelbach that Staff and Planning and Zoning had recommended in favor of the permit.

Ms. Lyn said there are conditions in 6.22 of the Zoning Code: Access on an arterial roadway must be buffered if it is adjacent to residential, and the hours of operation are from 8:00 a.m. to 12:00 a.m. Mr. Barnebey suggested these be incorporated as conditions 1 and 2 in this Conditional Use Permit.

Vice Mayor Zirkelbach asked Mr. Barnebey if a time frame could be set on the permit, and Mr. Barnebey said it could.

Attorney Alan Prather of Porges, Hamlin, Knowles and Prouty, representative for the petitioner, addressed Commission. He explained the proposed use. Computer terminals will be available, and customers purchase time on the computers for internet access, email, research, to play games or go to video poker sites. Any prizes won there can be collected from the retailer. There will be no food or drink.

Commissioner Williams commented that Commission had talked in the past about passing an ordinance for businesses that might become a problem. He is in favor of setting a time limit on the permit until the City explores what it will do relative to video arcades, etc.

Mr. Zirkelbach stated he is in favor of limiting the time of the permit and reviewing it later for a continuance. New laws may be passed in the interim. This is a stipulation he would want.

**MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded, and motion carried 3-2 to approve Conditional Use Permit (CU2010-06) for video amusements /computer slots/games space at Palm Plaza I, 1035 Hasko Road with conditions 1-5:**

**1- all sites for recreation and amusement services uses shall front on a principal arterial roadway, and shall utilize such arterial roadway as the primary access for the site;**

**2- all recreation and amusement services uses shall provide a six-foot perimeter wall or opaque fence for all portions of the site which are adjacent to residential uses or residentially zoned property;**

**3- hours of operation for recreation and amusement services uses shall be limited to the hours between 8:00 a.m. and 12:00 a.m.**

**4- In the event that the operator or a patron at this location is found to be in violation of Florida Statutes relating to gaming or gambling, then this conditional use shall be terminated by a court of competent jurisdiction;**

**5 - the conditional use shall be valid for a period of five (5) years.**

Commissioner Zirkelbach opened the public hearing. There being no public comment, he closed the public hearing. The vote was taken, and the motion carried 3-2 with Commissioners Williams and Varnadore voting nay.

Vice Mayor Zirkelbach clarified for Ms. Lyn that the applicant would have to reapply at the end of five years.

Mr. Zirkelbach recessed the City Commission meeting to open the CRA Board meeting.

Mr. Zirkelbach reconvened the City Commission meeting following the CRA Board meeting.

**4. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)**  
Debra Gestner, Capital Philanthropy Group, gave a PowerPoint presentation which is attached to the minutes.

Ms. Gestner outlined sources of funding for the ball fields, a concession stand and a police substation. Funding gaps could be filled in by loans and reimbursed later with subsequent grants. Commissioner Varnadore commented that the City had pledged \$1.2 million from the sale of property towards the



project, and that is all she is willing to commit to. She would be willing if there were multiple applicants, for example to include Manatee County.

Ms. Gestner said she has three requests to make of Commission:

- 1) Request authority to apply for the Land Water Conservation Fund and the FRDAP grants which must be submitted by February 15.
- 2) Asked to amend her contract to bill hourly for work done up to an additional \$11,000.
- 3) Suggested that the City budget for planning and a project manager.

The total fee for the LWCF grant, application and management, is \$6,000. She will bill on an hourly basis up to a total of \$6,000. It will initially be \$3,000 to apply, and an additional \$3,000 to manage and carry to closure. Any State grants must be hard copies, and the City will have to pay for the printing costs. She suggested budgeting \$15,000 for expenses.

In answer to Mrs. Varnadore's question, Mr. Barnebey said the due diligence on the property should be completed in three to four weeks. She expressed concern that if the grants are applied for, and the location of the ball fields changes, that might be problematic. And, she is looking for more of a partnership from the County.

Discussion continued on proceeding with only the two grants that have February due dates and Ms. Gestner's proposed amended contract. Mayor Bryant and City Clerk Jim Freeman were absent from the meeting, and there was a concern about proceeding. Ms. Gestner clarified for Commission that it would be \$3,000 each for the LWCF and the FRDAP grant applications.

**Motion:** Commissioner Cornwell moved to authorize Capital Philanthropy Group (CPG) to prepare and submit a \$200,000 ball field grant to LWCF on the basis of \$150 per hour up to a maximum of \$3,000 before the grant is filed, and \$150.00 per hour up to \$3,000 for grant administration, with the original CPG contract to come back with amendments and recommendations by the City Attorney.

The motion died for lack of a second. The matter will be scheduled for the February 7 Workshop.

#### 5. DEPARTMENT HEADS' COMMENTS

Allen Tusing - None

Chief Wells - None

Mark Barnebey - None

#### 6. MAYOR'S REPORT

Mayor Bryant was absent.

#### 7. COMMISSIONERS' COMMENTS

Commissioner Lancaster - None

Commissioner Cornwell - Reported concerns about the MLK Parade. Other Commissioners concurred. She opined that the parade needs to be discussed, and more law enforcement may be needed. Chief Wells reported he has already had talks with NFRD and EMS and he will meet with the Palmetto Youth Center to discuss the changes that are needed. He will keep Commission informed.

Commissioner Lancaster - Reported she took an announcement to the churches in the community so they could report what was going on at the parade.

Commissioner Williams - Suggested shortening the parade. Chief Wells said that had been discussed. Referenced a letter Commissioners received from Stanley Roberts regarding Sawdust Joes. He would like to have this brought back for discussion, with historical documents of the property provided, at the March 7, 2011 meeting.

Commissioner Varnadore – Suggested putting the address of the new Palmetto Elementary School on the sign located at the old school. She has applications available for the 4-H golf tournament fundraiser. This is the major fundraiser for the 4-H and helps provide scholarships for summer camps, among other things.

**8. PUBLIC COMMENTS FOR CITY COMMISSION**

None

**9. ADJOURNMENT**

Vice Mayor Zirkelbach adjourned the meeting at 9:58 p.m.

Minutes Approved:

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James R. Freeman, City Clerk