

TAB 15



City of Palmetto Agenda Item

Meeting Date

February 28, 2011

Presenter: Jim Freeman/Mark P. Barnebey,
Esq.

Department: City Clerk/City Attorney

Title: Consideration of Suspension of Noise Exception Permit Application Acceptance

Background: The City noise ordinance allows the approval of a noise exception permit for a one time exception to the noise ordinance contained in Chapter 5 of the Palmetto Code of Ordinances. Issues have been raised regarding the extent of a noise exception permit which allows unlimited noise for a certain period of time. Recently, the City Commission has discussed limiting the nature of noise exception permits such that after one complaint, a second complaint would essentially terminate the permit.

Discussion:

Without a noise exception permit, the City Police Department would warn a potential violator after a complaint and then, if the violation continued, it would take action to shut the offending noise down. At its meeting on February 22, 2011, the City Commission asked this matter to come before the Commission to place a 6 month suspension on the processing and issuance of noise exception permits to evaluate the impact of possible long term elimination or any modification of the requirements.

Budgeted Amount:	\$0.00	Budget Page No(s):		Available Amount:	\$0.00	Expenditure Amount:	\$0.00
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Additional Budgetary Information:

Funding Source(s):	<input type="text"/>	Sufficient Funds Available:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Amendment Required:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Source:	<input type="text"/>
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City Attorney Reviewed:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Advisory Board Recommendation:	<input type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> N/A	Consistent With:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="text"/>
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Potential Motion/ Direction Requested: I move to Adopt Resolution 2011-09 placing a 6 month suspension on the processing and issuance of noise exception permits.

Staff Contact:

Attachments: Draft Resolution 2011-09

RESOLUTION 2011-09

A RESOLUTION OF THE CITY OF PALMETTO, FLORIDA, TO PLACE A SIX MONTH SUSPENSION ON THE PROCESSING AND ISSUANCE OF NOISE EXCEPTION PERMITS TO EVALUATE THE IMPACT OF POSSIBLE LONG TERM ELIMINATION OR ANY MODIFICATION OF THE REQUIREMENTS, 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 resolutions in furtherance thereof; and

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

WHEREAS, the City regulates noise emissions and has allowed for the granting of noise exception permits on a case by case basis; and

WHEREAS, there have been numerous complaints about the excessive noise allowed with the noise exception permits; and

WHEREAS, there have been complaints about the time and location of events where noise exception permits have been granted; and

WHEREAS, the City Commission has determined if appropriate to suspend the program allowing the processing or issuance of a noise exception permit while the City examines the appropriateness for the permits, and if granted, conditions of granting such a permit; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PALMETTO:

Section 1. The City Commission of the City of Palmetto hereby resolves to place a six (6) month suspension on the processing and issuance of noise exception permits to evaluate the impact of possible long term elimination of the program or modification of the requirements.

Section 2. If any section, subsection, clause or provision of this resolution is held invalid, the remainder shall not be affected by such invalidity.

Section 3. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 4. This Resolution 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 Resolution by at least four (4) votes.

PASSED AND DULY ADOPTED, in regular session by the City Commission of the City of Palmetto with a quorum present and voting, this 28th day of February, 2011.

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

By: _____
Shirley Groover Bryant, Mayor

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk

