

**CITY OF PALMETTO
CITY COMMISSION MEETING
October 21, 2013
7:00 PM**

Elected Officials Present

Shirley Groover Bryant, Mayor
Tambra Varnadore, Vice Mayor, Commissioner, Ward 2
Tamara Cornwell, Commissioner-at-Large 2
Jonathan Davis, Commissioner-at-Large 1
Charles Smith, Commissioner, Ward 1
Brian Williams, Commissioner, Ward 3

Staff Present

Mark Barnebey, City Attorney
Scott Rudacille, Chief Assistant City Attorney
Jeff Burton, CRA Director
Jim Freeman, City Clerk
Lorraine Lyn, City Planner
Allen Tusing, Public Works Director
Rick Wells, Chief of Police
Javier Vargas, Public Works Superintendent
Amber Foley, Assistant City Clerk

Mayor Bryant called the meeting to order, followed by a moment of silence and the Pledge of Allegiance.

PROCLAMATION: Commissioner Cornwell presented the Red Ribbon Week Proclamation to Dr. Jessica Spencer, Project Director for the Manatee County Substance Abuse Coalition and Chief Rick Wells, Board Member, Manatee County Substance Abuse Coalition, Inc. Red Ribbon Week is October 23rd-31st.

Commissioner Varnadore presented the Red Ribbon Week Proclamation to Devin Bloome, GySgt Jario Nicaragua, SSGt Hannah Witham, and Pvt. Alisa Branch on behalf of the Young Marines.

All persons intending to address the City Commission were duly sworn.

1. CITY COMMISSION AGENDA APPROVAL

Motion: Commissioner Cornwell moved, Commissioner Williams seconded, and the motion carried 5-0 to approve the October 21, 2013 Agenda.

Non agenda item public comment: Rose Quin Bare, Waste Management, asked the Commission and Mayor to reconsider negotiating with Waste Management on the City's solid waste services instead of issuing a Request for Proposal (RFP). She asked that this discussion be considered on the next Commission workshop agenda.

2. CONSENT AGENDA APPROVAL

A. City Clerk's Office

1. Resolution 2013-32 Carry Forward Encumbrances
2. Special Function Permits:
 - a. DeSoto Heritage Children's Parade-April 2014
 - b. DeSoto Heritage Grand Parade-April 2014
 - c. Concert in the Park-December 2013

(There was no Consent Agenda Item #3, scrivener's error with numbering)

4. FY14 Manatee County Fair Booth Sponsorship
5. Janitorial Services Contract Renewal
6. Blalock Walters Legal Bills

B. Public Works

1. Resolution 2013-34 Budget for Sewer Line Replacement
2. Approval of Amendment 3 for the Extension of Engineering Contracts with:

- a. Lombardo Foley and Kolarik
- b. Atkins
- c. Wade Trim
- d. Jones Edmunds

C. Police Department

- 1. Resolution 2013-31 Honor the Badge
- 2. Resolution 2013-35 Reimbursement Police Vehicles
- 3. Acceptance of Grant from State Farm for License Plate Readers

Commissioner Varnadore removed item 2.A.2.c., Concert in the Park Special Function Permit, for discussion.

Motion: Commissioner Varnadore moved, Commissioner Cornwell seconded and the motion carried 5-0 to approve the October 21, 2013 Consent Agenda with the removal of item 2.A.2.c.

2.A.2.c. Special Function Permit Concert in the Park:

Mr. Burton clarified that the CRA is the originator of the permit, not the sponsor of the event.

Motion: Commissioner Varnadore moved, Commissioner Smith seconded, and the motion carried to approve the Special Function permit for the Concert in the Park on December 13, 2013.

3. PUBLIC HEARING ALCOHOL SALES ON CITY PROPERTY ORDINANCE NO. 2013-15

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR AMENDMENT OF THE REGULATIONS FOR THE SELLING AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS; PROVIDING FOR AN AMENDMENT OF THE REGULATIONS TO ALLOW SALE OF ALCOHOLIC BEVERAGES WITH A SPECIAL FUNCTION PERMIT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Barnebey presented a draft of revisions of code provisions which would allow sale and consumption of alcoholic beverages on City property, streets and right of way only with specific approval as part of a Special Function Permit. There has also been a revision to require a City function where alcoholic beverages to be sold or consumed to obtain Special Function Permits. This allows possible consideration of the sale and consumption of alcohol at City events. Alternatively, such sale or consumption could be prohibited under any circumstance. The Code is also being revised to require identification of the times and places where such beverages will be sold and consumed.

Commissioner Cornwell discussed the recent Historical Park meeting she attended. The Board is asking that their property be excluded from this Ordinance; they do not want to allow the sale and consumption of alcoholic beverages on their property. She asked that either a motion be made to exempt those properties from the proposed ordinance, or to include that language in the Special Function Permit. Commissioner Smith opined that it should not be incorporated into the ordinance because a future Historic Board could change their mind and want an event with alcohol on their property. Commissioner Varnadore disagreed, and stated that it should be incorporated into the ordinance as requested by the current Board.

In regard to open containers, Commissioner Varnadore read a memo from Chief Wells stating that from January 2010 to October 2013, law enforcement has received 616 calls regarding open container violations. She asked that the open container issue be addressed.

Mayor Bryant opened the public hearing.

Brian Varnadore, Palmetto Historical Park representative, stated that the Park is requesting that they be excluded from the proposed ordinance for the sale and consumption of alcohol on their property.

Rita Chamberlain, representative from the Manatee County Substance Abuse Coalition, stated that she is supportive of the ordinance and applauded the City for requiring all events to have a Special Function Permit that will have to be approved before the event can be held.

After hearing no further comment, Mayor Bryant closed the public hearing.

Motion: Commissioner Cornwell moved, Commissioner Davis seconded, and the motion carried 5-0 to add language to Ordinance 2013-15 to not allow alcohol on the Historical Park and the Manatee County Agricultural Museum properties.

Motion: Commissioner Varnadore moved, Commissioner Williams seconded, and the motion carried 5-0 to adopt Ordinance 2013-15 as amended.

Commissioner Varnadore requested that additional changes are made to the ordinance in the near future to include language regarding open containers.

4. PUBLIC HEARING MASTER UTILITY ORDINANCE NO. 2013-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR REPEAL OF CHAPTER 29 "MASTER UTILITY SYSTEM REGULATIONS", SECTIONS 29-1 THROUGH 29-44; PROVIDING FOR A NEW CHAPTER 29 "MASTER UTILITY SYSTEM REGULATIONS", SECTIONS 29-1 THROUGH 29-44; PROVIDING FOR DEPOSITS AND CONNECTION CHARGES; PROVIDING FOR UTILITY USAGE CHARGES; PROVIDING FOR PAYMENT TERMS; PROVIDING FOR READINESS TO SERVE CHARGES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING REMEDIES; PROVIDING FOR APPLICABILITY, RATIFICATION, PRESERVATION AND RESERVATION OF RIGHTS AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Mr. Freeman introduced Andy Burnham, Burton and Associates, who was present to answer any questions from the Commission and to discuss Commissioners comments during the workshop regarding a January 1st date instead of a November 1st date for implementation of the rate increase.

Mr. Burnham explained that a deferral of an increase in utility rates, just for the Fiscal Year 2014, to January would be a loss of approximately \$250,000 of revenue for water and sewer and approximately a loss of \$20,000 of revenue for reuse. If the utility rate increase was going to be deferred for all subsequent fiscal years, it would have a compounding effect on the loss of revenue for each utility service.

In regard to Option #1 increase versus Option #2 increase as presented at previous meetings, Mr. Burnham said that with Option #2 there is a smaller percentage increase for Fiscal Year 2014 as compared to Option #1; however, all subsequent fiscal year increases are slightly higher than those in Option #1. Option #1 percentage increases are as follows- FY14 28.0%, FY15 10.0%, FY16 2.0%, FY17 2.0%, FY18 2.0% as compared to Option #2 percentage increase of- FY14 15.0%, FY15 15.0%, FY16 4.0%, FY17 4.0%, FY18 4.0%. Both increase options will still achieve the same level of capital funding.

Commissioner Smith is in support of Option #2 if the increase will begin in January 2014 due to the impact the increase will have on residents during the holiday season.

Mayor Bryant opened the public hearing.

Ralph Umana, water service customer, presented a handout to Commission that showed his opinion on how water funds are supporting the sewer funds. He is opposed to the increase, stating that sewer rates should be increased to support sewer services.

After no further public comment, Mayor Bryant closed the public hearing.

Commissioner Davis questioned how would staff implement Option #2 when Option #1 is what is incorporated into the proposed ordinance. Mr. Freeman stated that the pages in the ordinance that show Option #1's proposed increases can be changed to reflect that of Option #2. Attorney Barnebey suggested recessing this public hearing until after the next public hearing on the agenda to allow staff the opportunity to adjust the proposed ordinance with the new percentage increases.

Mayor Bryant recessed the public hearing on Ordinance 2013-14 until after the public hearing on Ordinance 2013-13 to allow staff time to make modifications to the ordinance to reflect Option #2.

Action Request: Motion to adopt Ordinance 2013-14.

No action taken at the time. This item was recessed until after the public hearing on Ordinance 2013-13.

5. PUBLIC HEARING: ORDINANCE 2013-13 MARINA HOTEL AND PLAZA

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR 100-ROOM HOTEL, ~~3,000 SQUARE FEET OF RETAIL/OFFICE~~, AND 4 RESIDENTIAL DWELLING UNITS, ON +/- 2.37-ACRE PARCEL LOCATED AT 120 RIVIERA DUNES WAY, PALMETTO, FLORIDA; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (GDP 2013-01, Armed Forces Bank, N.A., PID# 2581600639)

Attorney Barnebey exited the meeting at 7:53 p.m. and Attorney Rudacille entered the meeting.

City Planner Lorraine Lyn made a presentation indicating that this General Development Plan (GDP) request was for a 100 room hotel and 4 residential units with surface parking on a 2.37 acre parcel located at 120 Riviera Dunes Way, within the Riviera Dunes DRI. The DRI was approved in 1999 with an intended use of 250 condos, a 125 room hotel, a public marina and private slips totaling 400, and a family golf center with aqua-driving range. Over the last 14 years, several changes or Notice of Proposed Changes, (NOPCs) have been made to the original DRI, many of which increased the residential units from 617 to 857, thereby reducing the commercial square footage. The DRI has a map attached, Map H, which shows the permitted uses with the square footage of permitted uses. Parcel 11B has a multi-family permitted use, and Parcel 12A has a designation for a 125 room hotel. The Development Agreement allows for tradeoff of uses within the DRI using the equivalency matrix which equated 312 sq. ft. of specialty retail to one hotel room. From the staff report, Ms. Lyn went through all the GDP approvals over the years and pointed out previous approvals on the subject parcel; first for retail in the BelMare GDP in 2004 and a banquet center in the Harborside GDP in 2007 which replaced the 2004 approval. She indicated that the record keeping on the DRI over the last ten years has been less than clear.

Ms. Lyn stated that the applicant has submitted several site plans trying to meet all the requirement of the Planned Development (PD) district. The applicant is asking for some deviations which are listed in the staff report. The proposed hotel height is 92 feet which is just under Laguna's height of 93 feet. Applicant is also asking for setback deviations as well.

In regards to parking, there needs to be one parking space per hotel room and a total of eight spaces for the four residential dwelling units.

Staff finds that the proposal is consistent with the Comprehensive Plan and the Planned Community Category. Staff has also listed the positive and negative aspects of the hotel proposal in the included staff report. The Planning and Zoning Board heard this public hearing at their October 17th meeting and denied the application.

Commissioner Williams discussed the Riviera Dunes DRI Current Entitlements Chart provided in the staff report prepared by Ms. Lyn. Attorney Rudacille addressed some of Commissioner Williams' concerns and stated that there have been different portions of the project developed over a 15-year time frame so it makes it difficult to determine which entitlements were shifted to where. His law firm has hired Misty Servia, Planning Department Manager for King Engineering, to review the City's documents along with

the DRI documents. She needs more time to review records from the Tampa Bay Regional Planning Council (TBRPC). This is the main reason that he had suggested to the Planning and Zoning Board that they seek a continuance; however, the applicant asked that the project not be held up any longer and that the Planning and Zoning Board hold the public hearing and make a decision.

Commissioner Williams recommended that this item be continued until after all the legal issues are taken care of to avoid a potential lawsuit with pushing this proposed hotel project forward. He stated he needs more time to review all the information.

Discussion ensued between Commissioner Smith and Attorney Rudacille regarding the DRI documents and City records regarding the Riviera Dunes project.

Mayor Bryant recessed the Commission meeting at 8:18 p.m. to allow staff to search for more seating for additional members of the public.

Mayor Bryant resumed the Commission meeting at 8:24 p.m.

Commissioner Smith questioned what impact would these DRI documents make on the Commission's decision tonight. Attorney Rudacille stated that his office is trying to put together all the exchanges that have taken place over the last 15 years. It has been represented to his office that entitlements were pulled from this parcel around the time BelMare condominium project was approved. His office has reviewed the ordinance and the minutes from the meeting where the BelMare project was discussed and approved. At that meeting, the applicant discussed pulling 40 units from Laguna. The third building project for BelMare condominiums would exceed the DRI and the applicant was told at that time they would need to pull additional units from Laguna. Mr. Rudacille's office is trying to piece together where additional units came from; this is critical to the analysis of this project. Anytime a land use exchange is done, the applicant is to provide documentation to the Tampa Bay Regional Planning Council.

James Herston, professional engineer for the RW Marina Hotel and Plaza and representative for Harry Wallia, applicant, stated that Mr. Wallia is looking to bring the Hyatt Hotel to the City of Palmetto. He has provided documentation as asked by the Planning Department. He complimented Lorraine Lyn on her excellent job of summarizing the remaining entitlements of the DRI. The site plan has been revised repeatedly until staff has recommended approval of the project. He is here asking for Commission to approve the project. Due to time limitations, if the project is not approved tonight, Mr. Wallia will pull his application for the proposed hotel project.

Mayor Bryant opened the public hearing continued from September 23, 2013.

The following people spoke in opposition of Ordinance 2013-13:

- Attorney Bob Hoonhout, representative for Dr. Gino Sedillo who is a resident of Riviera Dunes and owns lots 14, 10B, 12A, 12B, 12C, and 12D. Dr. Sedillo owns lot 12A which is zoned for a hotel.
- A presentation was given by Bill Horton, Attorney Caleb Grimes, Deborah Sperry, and Michael Strink explaining their reasons for opposition of the hotel. This presentation is attached to and made a part of these minutes.
- Greg Owen introduced Tom Sibbald of the Riviera Dunes Marina Condominium Association, who displayed pictures of easements shared by the hotel proposed parcel and the condominiums. The Association has asked the developer for a maintenance and operating agreement and has yet to receive one.
- Hugh McGuire, attorney for the Riviera Dunes Marina Condominium Association, discussed several legal issues.
- Anne Buchanan, resident of Bel Mare
- Doug Garten, resident of Bel Mare
- Michael Becks, resident of Bel Mare
- Robert Collins, resident of Bel Mare
- Kelley Johnson, Homes of Riviera Dunes Home Owner's Association President

- Coby Gaulien, Riviera Dunes Master Association President
- James Bailie, resident of Laguna

Commissioner Williams exited the meeting at 9:11 p.m. and returned at 9:13 p.m.

There were several reasons expressed for the public's opposition to the proposed Ordinance that include:

- Parking issues
- Blocking waterfront views for residents of Bel Mare
- Not appropriate use
- Entitlements issue
- Does not fit the site
- Decreased property values

Developer's 5 Minutes Rebuttal

Commission extended the rebuttal time to 10 minutes.

Mr. Herston introduced Diane Panquova, the developer's attorney, and Harry Wallia, the developer. Ms. Panquova answered several questions that were discussed during public comment. She claimed that Attorney Grimes had approached the developer and told him that if he were to buy his client's parcel for the hotel then there would not be any issues raised for his project. Ms. Panquova stated that the information regarding the proposed development was submitted to Ms. Lyn on October 1st as requested. There have been amendments since the submittal. Mr. Wallia thanked Commission and asked that they approve his development plan for the hotel.

After no further public comment, Mayor Bryant closed the public hearing.

Attorney Rudacille clarified, for the record, that at the Planning and Zoning Board meeting he questioned whether the Map H was valid. What he really was saying was that he questioned whether the Map H that the City has is the same as the Map that the TBRPC has.

Commissioner Smith expressed several concerns regarding issues that were raised during public comment and during the developer's rebuttal. He was specifically concerned about the claim made by Ms. Panquova about Attorney Grimes approaching the developer to encourage a sale of property.

Motion: Commissioner Williams moved, Commissioner Varnadore seconded, and the motion carried 5-0 to extend the meeting indefinitely.

Commissioner Williams thanked the public for their attendance and comments tonight. He opined that there are never any guarantees to a home owner's view when they buy their property. Mr. Williams asked the developer if the Commission continues the hearing, will he pull his application. Mr. Wallia stated that because of deadlines and contracts, they would have to drop out. Mr. Williams opined that there was not enough information for him to act on the proposed ordinance tonight; he is looking out for the best interests of the City.

Commissioner Smith asked that a motion be drafted by the City Attorney; one for approval and one for denial of the hotel project.

Mayor Bryant recessed the meeting at 10:13 p.m. to allow the attorney to draft motions.

Mayor Bryant resumed the meeting at 10:29 p.m.

Attorney Rudacille read two motions to Commission:

- If Commission would like to approve the project then the motion would be:

Finding that the hotel is compatible with adjacent residential uses including set back, buffering, and screening, finding the relationship between the residential uses and hotel

is compatible, finding that the variances are appropriate for the site, finding that parking is adequate for uses as proposed, and finding that the request is consistent with the Comprehensive Plan including policies 1.1.4, 1.14.4, and 1.14.5, and based on the review of and finding the request to be consistent with the Palmetto 2030 Comprehensive Plan, the Riviera Dunes DRI, and the City's Zoning Code in addition to the public comments made at the public hearing, I move to approve GDP 2013-01 with stipulations 1 and 2 and recommended by staff and to approve Ordinance 2013-13.

- If Commission would like to deny the project, then the motion would be:

Finding that the hotel is incompatible with residential units, particularly with limited setbacks, buffering and screening, finding the relationship between the residential and hotel uses creates compatibility and use issues, finding that the proposed variances are not appropriate to protect the public health, safety and welfare, finding that parking is inadequate for the uses as proposed, and finding that the request violates various Comprehensive Plan policies including policy 1.1.4, 1.14.4, and 1.14.5, and based on the review of and finding the request to be inconsistent with the Palmetto 2030 Comprehensive Plan, the Riviera Dunes DRI, and the City's Zoning Code in addition to the public comments made at the public hearing, I move to deny GDP 2013-01 and deny Ordinance 2013-13.

Motion: Based on what the attorney has proposed for a motion for denial, Commissioner Williams moved to deny GDP 2013-01 and deny Ordinance 2013-13. Motion died for lack of a second.

Attorney Rudacille clarified that a motion to continue is still an option if that is what Commission would like to do.

Motion: Commissioner Smith moved to approve GDP 2013-01 and approve 2013-13. Motion died for a lack of a second.

Discussion ensued between the Commissioners on continuing the public hearing. Commissioner Varnadore opined that it would be in the best interest of the City to continue the public hearing to gather more information in order to make an educated decision regarding this project.

Motion: Commissioner Varnadore moved, Commissioner Cornwell seconded, and the motion carried 4-1 to continue the public hearing on GDP 2013-01 and Ordinance 2013-13 to November 4, 2013 at 7:00 p.m. or as soon thereafter as same can be heard in these chambers. Commissioner Smith voted no.

Continuation of Agenda Item #4, Public Hearing Master Utility Ordinance 2013-14:

Mr. Vargas handed out a revised Ordinance 2013-14 to Commission that includes all changes made to reflect Option #2 as suggested earlier in the meeting. Mr. Freeman discussed the pages that show the new options and the percentages.

Motion: Commissioner Varnadore moved, Commissioner Cornwell seconded, and the motion carried 5-0 to adopt Ordinance 2013-14 with the changes made to reflect Option #2.

Commissioner Smith clarified that he voted no on the above ordinance. The motion carried 4-1 with Commissioner Smith voting no.

6. SEPTEMBER CHECK REGISTER (Informational Only)

7. BASEBALL FIELD UPDATE

None

8 ASR WELL UPDATE

None

9. DEPARTMENT HEADS' COMMENTS

Mr. Burton—Discussed the grant that was received from the Environmental Protection Agency (EPA) to remove two tanks from the City. The City is working with the County to apply for another EPA grant.

Mr. Vargas—Informed Commission that the utility handout that will be mailed to residents informing them of the increase will be updated tomorrow to reflect the new percentages as indicated in the adopted ordinance 2013-14 tonight.

10. MAYOR'S REPORT

None

11. COMMISSIONERS' COMMENTS

Commissioner Williams—He asked Mr. Tusing to contact the County to let them know that there are only two lights working at Blackstone Park.

Mayor Bryant adjourned the meeting at 10:47 p.m.

Minutes approved: November 18, 2013

James R. Freeman

James R. Freeman
City Clerk