

Palmetto City Commission
March 21, 2005 7:00 PM

Elected Officials present:

Larry Bustle, Mayor
Brian Williams, Vice Mayor
Eric Ball, Commissioner
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Tambra Varnadore, Commissioner

Staff and others present:

Michele Hall, Attorney
J. E. Free, Jr., City Clerk
Chief Garry Lowe
Chris Lukowiak, Public Works Director
Jessica McCann, City Planner
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:00 p.m.

Mayor Bustle gave an invocation, followed by the Pledge of Allegiance to the United States Flag.

Public Comment on non-agenda items: Mr. Flynn Fenner, 1702 10th St. W., spoke to the Commission about placing a hot dog cart at the Green Bridge City Pier. Mayor Bustle instructed Mr. Fenner to contact Mr. Free.

1. AGENDA APPROVAL

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve the March 21, 2005, 7:00 pm agenda.

2. CONSENT AGENDA

A) Minutes: February 28, 2005 Workshop and Commission
B) Special Function Permit: Boy Scouts of America

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 5-0 to approve the Consent Agenda.

3. PUBLIC HEARING-ORDINANCE NO. 05-838

Ordinance No. 05-838 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 12 OF THE CITY CODE OF ORDINANCES GENERALLY PERTAINING TO CITY ELECTIONS; AMENDING SECTION 12-1 PERTAINING TO ADOPTION OF THE STATE ELECTION CODE; DELETING SECTION 12-2 PERTAINING TO ELECTION OF OFFICERS; AMENDING SECTION 12-5 PERTAINING TO POLLING PLACES; DELETING SECTION 12-6 PERTAINING TO RESIDENCY REQUIREMENTS; DELETING SECTION 12-7 PERTAINING TO QUALIFICATION OF CANDIDATES; DELETING SECTION 12-8 PERTAINING TO PARTY AFFILIATIONS; DELETING SECTION 12-11 PERTAINING TO OATH OF CANDIDATES; DELETING SECTION 12-13 PERTAINING TO WARD BOUNDARIES; AMENDING SECTION 12-17 PERTAINING TO CANVASSING BOARDS; PROVIDING FOR RENUMBERING; FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bustle opened the public hearing. After no public comment, Mayor Bustle closed the public hearing.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to adopt Ordinance No. 05-838.

4. PUBLIC HEARING-ORDINANCE NO. 05-840

Ordinance No. 05-840 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL DEVELOPMENT PLAN FOR THE TRACT OF LAND GENERALLY LOCATED SOUTH OF FAIRWAY TRACE, EAST OF TERRA CEIA BAY, NORTH OF 17TH STREET WEST AND WEST OF 24TH AVENUE WEST; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (CP 0501 Manatee Fruit Company. PID #2414000006, 2414500054, 2414000006, and 2414510004, approx. 88.5 acres).

Mayor Bustle opened the public hearing.

Attorney Caleb Grimes informed the Commission a conceptual plan for the Pullen properties was before them for approval, which would establish a zoning designation of PDH, or planned development. The property encompasses 88.5 acres, upon which Manatee Fruit Company proposes to construct 285 units of single and multi-family units. Mr. Grimes gave a brief history of the project, as follows:

- Property annexed into the City in 1998 as part of an overall planning process for the part of the City in which the project is located.
- At annexation Manatee Fruit Company donated the right-of-way for and constructed 23rd Street at a cost of \$358,000.
- At annexation the City designated the property as a RES4 zoning category.
- Manatee Fruit Company subsequently annexed into the City the parent tract of property.
- The City's Planning and Zoning Board unanimously approved the proposed project.

Carlos Escalante, Manatee Fruit Company, explained how the conceptual plan had been developed considering the surrounding neighborhoods and their density; the higher, multi-family units will be clustered to the north and eastern portion of the property and the single-family units will be constructed on the southern portions of the property.

Mr. Escalante spoke of the two projects Manatee Fruit Company has been involved in at Terra Ceia Bay Golf and Country Club. He reported that during meetings and communications, residents have raised concerns about the amenities of the surrounding community. Mr. Escalante reviewed the approved units of the Palms of Terra Ceia CDD, and the number of units remaining that may be constructed. He stated Manatee Fruit Company felt this project is an opportunity to expand the CDD, which would result in added revenue which may solve some of the CDD issues.

Mr. Escalante reviewed the conceptual plan with the Commission. He discussed where the higher 237 unit density would be clustered, the size of the single family lots being a minimum of 15,000 square feet, the 29.8% open green space, and the buffer landscaping planned for City streets.

Mr. Bob Gruso, Kimley Horn, reviewed the traffic study his company performed and their projections made to year 2010. He stated his firm has determined there will be no adverse traffic impact, as all streets and intersections were rated at least C, better than the City's adopted level of service. Mr. Grimes informed the Commission there are other plans within the Palms of Terra

Ceia CDD that will contribute to the internal traffic increase. He advised the Commission that in the future, Manatee Fruit Company will propose to add the high density clustered multi-family units to the Palms of Terra Ceia CDD. He stressed the plan before the Commission is a stand-alone project and is not dependent upon annexation into the Terra Ceia CDD, but annexation of the property will help generate funds to address internal amenities.

Discussing the existing streets, the portions to be constructed and the associated traffic projections, Attorney Grimes informed the Commission the Planning and Zoning review resulted in a suggestion that a portion of a proposed 27th Ave. Blvd. W. connection to 20th Ave. W. be deleted. Attorney Grimes requested that staff be allowed to review the suggestion and determine its feasibility in the general development plan process.

Discussing the southern portion of the conceptual plan, Ms. Cornwell voiced concern regarding the size of the proposed lots, stating dissatisfaction with the triangle portion of land on 24th Ave. She also questioned the landscaping of the proposed berm. Mr. Escalante discussed the portion of the property that is existing platted lots, which will not be greatly altered, but will be considered part of the project to allow for the redesign of issues such as stormwater and green space. All construction will meet FEMA requirements.

Mr. Whiting Preston, Manatee Fruit Company, discussed how the project has evolved and attempts to maintain the character of single-family communities while meeting today's standards. Mr. Preston also spoke of the company's attempt to amend the Terra Ceia Bay County Club in a manner to provide synergy to the community to resolve some of its issues. He stated his belief the plan is a solid plan that has garnered approval of City staff of the City's Planning and Zoning Board.

Attorney Grimes informed the Commission the Planning and Zoning Board requested the following proposed stipulations:

- General Development Plan will require architectural review to confirm proposals are consistent with the neighborhood.
- A drainage and maintenance easement across Lake Rowlett, acceptable to Manatee County.
- Construction on lots 5, 6, 7 will be done in a manner to limit the effect on the natural habitat and to preserve as many trees as possible.
- Sidewalks will be constructed on 21st Street.
- The City will be provided proof of legal access to the internal streets of Palms of Terra Ceia.

In closing, Attorney Grimes stated the proposed project is in compliance with the City's Comprehensive Plan, LDC zoning district, meets the density and concurrency requirements, and requested a favorable approval from the Commission.

Ms. Varnadore disclosed she attended a meeting on the proposed project, but was not recognized. Ms. Varnadore provided copies of correspondence regarding the project.

Mr. George Betts, 1704 20th Avenue, made the following inquiries:

- If the traffic study considered the three planned project; staff replied in the affirmative.
- If access to Terra Ceia Bay Country Club is not granted the project would have to begin anew; staff replied in the affirmative.

Mr. Betts stated he is not against the project, but the density is high, especially in the triangle; he did not want a dirty, fenced retention pond across the street from his home; and a buffer landscaping stipulation should be placed on the developer.

Mr. Walter Zahn, 1502 Lantana Lane Ct., representing 21 other members of a homeowner's association, voice opposition to the use of their street to access the north end of the Pullen property.

Mr. Charles Roy, 2011 21st St. W., complimented the conceptual plan. He further stated that sidewalks are needed on 20th Ave. and 27th Ave.

The following residents spoke in favor of the project:

- Jay Taylor, 1724 17th St. W.
- Don Varnadore, 2503 Lantana Lane
- Charlie Ugarte, 1906 21st St. W.
- John Weiffenbach, 1621 4th St. W.
- Henry and Dana Dow, 1511 Terra Ceia Bay Club
- Morey Oster, 2910 Captains Ct.

Mayor Bustle closed the public hearing.

During comments from residents in favor of the project, the need for sidewalks adjacent to the project was mentioned. Attorney Grimes informed the Commission Manatee Fruit Company will work with City staff to maximize funds planned for sidewalks in the project and adjacent areas before the general development plan is brought forward for review. Also commented on was the need to clean existing retention ponds in the area; the City will address the issue.

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Ordinance No. 05-840.

5. PUBLIC HEARING-ORDINANCE NO. 05-844

Ordinance No. 05-844 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ARTICLE 1, "MASTER UTILITY SYSTEM REGULATIONS", SECTION 29-33, MONTHLY RATES-GENERALLY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Bustle opened the public hearing. After no public comment, Mayor Bustle closed the public hearing.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 5-0 to adopt Ordinance No. 05-844.

6. PUBLIC HEARING-ORDINANCE NO. 05-839

Ordinance No. 05-839 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING THE CITY CODE OF ORDINANCES CONCERNING ACTIVITIES WITHIN PUBLIC STREETS AND RIGHT-OF-WAYS; PROVIDING FOR RIGHT-OF-WAY USE PERMITS; PROVIDING THE DIRECTOR OF PUBLIC WORKS WITH AUTHORITY TO ENFORCE SUCH PERMITS; PROVIDING FOR THE PROMULGATION OF

PROCEDURES AND POLICIES; PROVIDING FOR ADDITIONAL AUTHORITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bustle opened the public hearing. After no public comment, Mayor Bustle closed the public hearing.

MOTION: Ms. Varnadore moved, Mr. Ball seconded and motion carried 5-0 to adopt Ordinance No. 05-839.

7. POLICE SERGEANTS' SALARY ADJUSTMENT APPROVAL

Chief Lowe informed the Commission Sergeants Taylor and Stinson had been left out of the Cody Study. The adjustment request is to correct an administrative oversight that has allowed sergeants with less time in grade to receive higher compensation. Commission requested the item be brought back at the next Commission meeting, accompanied by the Cody Study. Chief Lowe confirmed that if the adjustment is approved, neither sergeant will receive a pay adjustment on their anniversary dates in April and May.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the salary adjustments for Sgt. R. Taylor and Sgt. M. Stinson provided the background information and the budget resolution is available at the next meeting.

8. RESOLUTION NO. 05-16

The resolution establishes the budget for Impact Fee Study approved February 7, 2005.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 04-64, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2004-2005, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to adopt Resolution No. 05-16.

9. RESOLUTION NO. 05-17

The resolution establishes the budget for the US 301/41 water main relocation approved March 7, 2005.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 04-64, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2004-2005, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 05-17.

10. RESOLUTION NO. 05-18

The resolution will establish a budget for CRA's purchase of solar school zone beacon lights.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 04-64, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2004-2005, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 05-18.

11. POLICE PROPERTY ENVIRONMENTAL MONITORING

FDEP has determined the Police Department property can now be placed on an 18 month monitoring only plan. JEA will continue its environmental assessment by sampling selected wells on a quarterly basis for the first 12 months at a cost of \$24,700.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to authorize the DPW Director to issue a notice to proceed to JEA to perform monitoring services at the Police Department property in an amount not to exceed \$24,700.

12. AUTHORITY FOR NEGOTIATING FORFEITURE CASES

Attorney Groff recommends that a city official be appointed to negotiate the settlement of forfeiture cases.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to grant the Mayor, or in the Mayor's absence the Vice Mayor, the authority to negotiate forfeiture cases on behalf of the City.

13. AUTHORIZATION TO APPLY FOR A JUSTICE ASSISTANCE GRANT

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to authorize the submission of an application for a Justice Assistance Grant.

14. HISTORICAL PARK PRESERVATION SOLE-SOURCE CONTRACTOR ACCEPTANCE

Palmetto Historical Commission has requested the City accept a sole-source contract from a local construction company qualified to repair buildings in the Historical Park in accordance with standards set by the Department of the Interior. Mr. Lukowiak stated the projects would be addressed as stated in the CIP, over a three year period.

MOTION: Mr. Williams moved, Ms. Varnadore seconded and motion carried 5-0 to approve and authorize the Mayor to execute a three-year open end sole-source contract with Perkling Construction, Inc. to complete the work at the Historical Park, in an amount not to exceed \$200,000, contingent upon the city attorney's review and approval of the contract.

15. 1ST READING & ADVERTISING APPROVAL-ORDINANCE NO. 05-843

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING CHAPTER 16, ARTICLE II OF THE CITY CODE OF ORDINANCES BY DELETING SECTIONS 16-26 THROUGH 16-31, PERTAINING TO HAZARDOUS CONDITIONS ON LAND; ADDING NEW SECTION 16-26 THROUGH 16-31, PERTAINING TO NUISANCES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve Ordinance No. 05-843 for advertising and schedule a public hearing April 4, 2005.

16. 1ST READING & ADVERTISING APPROVAL-ORDINANCE NO. 05-845

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 5, ARTICLE I OF THE CITY OF PALMETTO CODE OF ORDINANCES PERTAINING TO NOISE; PROVIDING FOR FINDINGS OF FACT; PROVIDING A STATEMENT OF PURPOSE AND INTENT; PROVIDING DEFINITIONS FOR "NOISE" AND "NOISE DISTURBANCE"; PROVIDING A DESCRIPTION OF PROHIBITED ACTS; PROVIDING STANDARDS FOR EVALUATING NOISE; PROVIDING THAT CERTAIN NOISES SHALL CONSTITUTE PUBLIC NUISANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 05-845 for advertising and schedule a public hearing April 4, 2005.

17. DEPARTMENT HEADS' COMMENTS

Chief Lowe

The Police Department is participating in a program with the Sheriff's Department and Bradenton Police Department to educate residents on the illegal discharge of firearms.

Mr. Free

Commission will be provided accurate figures for expanding employees' life insurance to 1.5 times their annual salary.

Code Enforcement has been brought back to City Hall. Code Enforcement Officer Laura Paderes has resigned effective the end of March. The City will be advertising the position.

Mr. Lukowiak

As provided for in the franchise agreement contract, Waste Management will institute a rate increase for commercial customers April 1, 2005, equal to 2.5% over the current rate. The city is unable to target only commercial customers, so the notice will be placed on all monthly utility bills. Questions should be referred to appropriate City staff. Also provided in the contract is a rate increase for residential customers which will occur April 2006. An annual increase not to exceed 2.5% will occur each April for the duration of the contract.

The 5th, 6th and 7th Street projects will finish under budget by approximately \$90,000, assuming the current pace is maintained. The ditch at the WWTP needs to be addressed, but can be delayed. Mr. Lukowiak sought approval of Westra Construction change orders for the 5th, 6th and 7th Street projects amounting to approximately \$220,000. Mayor Bustle suggested the Commission consider the WWTP site while Westra Construction is in the City. Funding alternatives will be brought forward at a subsequent Commission meeting. Mr. Lukowiak explained that when developing the estimate for the cost of the projects, it was assumed 100% of the streets would not have to be dealt with, but it has been necessary to replace more than anticipated. Mrs. Lancaster requested the Commission be advised if the CIP is reprioritized. It was the consensus of the Commission to move forward.

Ms. McCann, Planner

Mr. Fogarty previously requested Commission approve the vacation of an alleyway, which was denied. Instead, the Commission instructed Mr. Fogarty to apply for a variance. Ms. McCann reported Planning and Zoning denied Mr. Fogarty's variance request. The current code requires that an appeal has to be made to a court of competent jurisdiction. She requested the Commission allow the development of an ordinance to allow an appeal to be made to the Commission first. Commission concurred.

Attorney Hall

Customer Service Supervisor Whitney Ewing inquired if the City can place a lien on utility customers outside the City's boundaries. Ms. Hall reported the City would have to get permission from the County to file a lien. Mr. Free will determine how many accounts and what dollar amount is involved before proceeding.

18. MAYOR'S REPORT

Mayor Bustle commented on the Accord vs. Charter issue, referring to a resolution passed by the County Commission in lieu of proceeding with the Charter. Mayor Bustle read a portion of the resolution's conditions regarding annexations, stating he can recommend the Commission adopt the resolution, because the City already complies with the condition. The Commission discussed the fact there is no time constraint for the County's approval, which Commission requested be

added. Attorney Hall discussed a work plan that is being developed to maintain time schedules. Mrs. McCann commented on items that may be added to each jurisdiction's planning documents, so each jurisdiction's language is the same.

19. COMMISSIONER'S COMMENTS

Ms. Cornwell

Reported pot holes on 17th Street near Lincoln Middle School.

Reported manholes were bubbling during the recent rains on 14th Street near 2nd Avenue.

Mr. Ball

Reported Palmetto's Heritage Day was a great success.

Mrs. Lancaster

Thanked Mr. Lukowiak for intervening with FPL to correct the power outage in her neighborhood.

Thanked Mr. Free for arranging for the removal of sneakers hanging over power lines, reporting that is one way locations selling drugs are marked.

Inquired the status of the structure located at 200 11th St. Drive. Mr. Lukowiak reported it would be demolished very soon.

Mr. Williams

Referring to the official notice at Palmetto Plantation. Mr. Lukowiak reported the citation was issued because the fence has not been repaired since the hurricane. Requested staff takes the necessary steps to resolve the issue.

Requested Code Enforcement be made aware of the retention pond on 24th Avenue.

Inquired how the City can address developers clearing land before a development is approved. The newly adopted Nuisance Ordinance has provisions to address the issue. Southwest Florida Water Management District has been notified in the past, and is currently researching two pieces of property in the City.

Reported all the solid waste has been picked up since his report at the 4:00 meeting.

A meeting is being scheduled with Ernie Padgett to discuss Jackson Park, US301/41 and 17th Street projects. Land acquisition is the final obstacle to finalized before construction of the Jackson Park retention ponds. Time permitting, other outstanding issues will be brought to Mr. Padgett's attention.

Commented on Ms. Ewing contacting Attorney Hall, stating his belief a list existed of personnel authorized to directly contact the attorney. Ms. Hall informed the Commission Ms. Ewing had emailed her, not contacted her directly.

Commented on the need for affordable housing in the City. Mr. Lukowiak stated CRA Executive Director Tanya Lukowiak and Ms. McCann are developing a presentation on the topic.

Ms. Varnadore

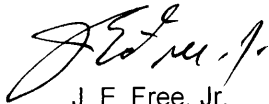
Voiced displeasure with the Planning and Zoning Board's denial of Mr. Fogarty's variance request. Planning and Zoning had been informed as to why Mr. Fogarty was before them. Expressed her hope the situation can be rectified.

Voiced her continuing concern about the height of trees and landscaping in the medians, inquiring what is planned for the Green Bridge medians; crepe myrtles are planned for the median.

Attorney Hall commented on the variance request Planning and Zoning reviewed, stating there exists in the ordinance the ability to exercise discretion in granting variances, stating that if the applicant appeals to the Commission the Commission may also be unable to issue the variance. One criterion to be considered is one homeowner may not be granted a privilege that will not be granted to everyone in a similar situation. Mayor Bustle reminded the Commission that when Mr. Fogarty was instructed to seek a variance Commission did not consider variance criteria; variance language in the Code is very explicit, a variance is not guaranteed.

Meeting adjourned at 10:30 pm.

Minutes approved: April 18, 2005



J. E. Free, Jr.
City Clerk