

Palmetto City Commission  
June 6, 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  
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 PM.

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

1. AGENDA APPROVAL

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve the June 6, 2005, 7:00 PM agenda with an amendment moving item #15 to item 3A before the public hearing for Ordinance No. 05-855.

2. 2. CONSENT AGENDA

- A) Minutes: May 16, 2005 4:00 PM and 7:00 PM Commission meetings
- B) Attorney Billing through April 30, 2005
- C) MPO Grant application

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

3A. RESOLUTION NO. 05-32

Resolution No. 05-32 will establish a revenue budget for the Pacific Tomato Growers reimbursement of expenses associated with JEA's study of their pretreated wastewater that is discharged into the sanitary sewer system. Mr. Lukowiak informed Commission Palmetto Tomato Growers has submitted a letter signed by an authorized representation agreeing that all City expenses associated with the testing will be fully reimbursed.

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. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to adopt Resolution No. 05-32.

3B. PUBLIC HEARING – ORDINANCE NO. 05-855

Ordinance No. 05-855 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A GENERAL DEVELOPMENT PLAN FOR PALMETTO RETAIL CENTER; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 05-03 Kendar Marsac LLC, PID # 2422200059, approximately 4.3 acres)

Mayor Bustle reopened the public hearing continued from May 16, 2005.

City Planner Jessica McCann informed Commission the Planning and Zoning Board had met earlier in the day and unanimously approved the project, subject to the following stipulations:

1. Landscaping around the retention pond shall be vegetation with 1 tree and 20 shrubs per 50 linear feet; no chain link fencing.
2. The proposed fence for the mini storage parcel shall not be chain link. It shall be decorative.
3. The landscaping along US 41 and 26th Street West shall be equal to 11,131 square feet of landscaping to be placed within the first thirty-five (35) feet from the right-of-ways.
4. Along the north boundary, the mini-storage wall shall be architecturally designed to minimize the impact of a long plain wall. The applicant shall provide four (4) feet by six (6) feet pilasters at twelve (12) feet off center. The pilasters shall be eight (8) feet to twelve (12) feet maximum height. City Commission may approve an alternate architectural scheme as they deem appropriate.
5. Typical perimeter landscaping shall be provided between the northern wall of the mini-storage and the property line. Trees shall be staggered to avoid conflicts with the existing trees.
6. The landscaping buffer along US 41, for the mini-storage parcel, shall have live oaks with holly under story trees in addition to the minimum landscaping requirements. This is to justify the reduction of the landscape buffer from 35 feet to 15 feet.
7. The applicant shall connect to City water, sewer, and reclaimed service as it becomes available as per our Code requirements.
8. In lieu of constructing a sidewalk along US 41 and 26th Street West, the developer shall pay into a sidewalk fund the amount equal to what the developer would have paid for the cost of installation.

Ms. McCann stated the developer has either already accomplished compliance, as noted on the revised site plan, or will comply with the stipulations during construction.

As a result of Commission's discussion, the developer also agreed to construction a four-foot chain link fence on the inside of the landscaping surrounding the pond.

Mayor Bustle closed the public hearing.

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 5-0 to adopt Ordinance No. 05-855.

4. PUBLIC HEARING - ORDINANCE NO. 05-850

Ordinance No. 05-850 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING CERTAIN REAL PROPERTY TO THE CITY OF PALMETTO; PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Palmetto Hasko LLC, AN0502, PID # 2599610108 and 2598800007 approximately 4.58 Acres).

Mayor Bustle opened the public hearing. Mayor Bustle closed the public hearing after no public comment.

Ms. McCann confirmed Manatee County staff has voiced no concerns regarding the annexation.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 5-0 to adopt Ordinance No. 05-850.

5. PUBLIC HEARING - ORDINANCE NO. 05-849

Ordinance No. 05-849 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO AMENDING THE CITY'S GOVERNING ORDINANCES AS PERTAINING TO ITS CODE ENFORCEMENT BOARD; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR ADDITION OF DEFINITION; PROVIDING FOR DESIGNATION OF THE CITY ATTORNEY AS COUNSEL TO THE CODE ENFORCEMENT STAFF AND AUTHORIZATION FOR APPOINTMENT OF INDEPENDENT LEGAL COUNSEL FOR THE CODE ENFORCEMENT BOARD; PROVIDING FOR ESTABLISHMENT OF A TWO HEARING SYSTEM IN LINE WITH *MASSEY v. CHARLOTTE COUNTY*; PROVIDING FOR AMENDMENT TO NOTICE REQUIREMENTS; PROVIDING FOR REGULATION ON THE TRANSFER OF PROPERTY SUBJECT TO ENFORCEMENT PROCEEDINGS; PROVIDING FOR AMENDMENT TO THE PROCESS TO DESIGNATE CITY EMPLOYEES AS CODE ENFORCEMENT OFFICERS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Ordinance No. 05-849 was read by title. Mayor Bustle closed the public hearing after no public comment.

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 5-0 to adopt Ordinance No. 05-849.

6. PUBLIC HEARING - ORDINANCE NO. 05-856

Ordinance No. 05-856 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE PURCHASING CODE; PROVIDING FOR FINDINGS OF FACT; AMENDING CHAPTER 2, ARTICLE III, DIVISION 2, PURCHASING, SECTIONS 2-56, 2-57, 2-58, 2-62, 2-63 AND 2-64 OF THE CITY CODE PERTAINING TO THE PROCUREMENT OF GOODS AND SERVICES, COMPETITIVE BIDDING, SOLE SOURCE PURCHASES, VENDOR DEBARMENT AND SUSPENSION, BID PROTESTS AND APPEALS, DISPUTES RELATING TO CONTRACTS AND DISPOSITION OF SURPLUS PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 4-1 to adopt Ordinance No. 05-856. Ms. Cornwell voted no.

7. ALICIA STULL CONDITIONAL USE PERMIT

Application of property owner at 1103 25th Ave. W. to establish a home office for Matt Stull Excavating, Inc. to enable applicant to obtain workman's compensation insurance.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve a Conditional Use Permit for 1003 25th Ave. W.

8. RESOLUTION NO. 05-29

Resolution No. 05-29 approves renewal of a line of credit for the CRA, which enables the timely response in possible acquisitions of key properties to facilitate redevelopment in the district.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY TO ISSUE ITS PROMISSORY NOTE, SERIES 2005, IN THE PRINCIPAL AMOUNT OF \$500,000; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to adopt Resolution No. 05-29.

9. ESTUARY PARK ACQUISITION

CRA Executive Director Tanya Lukowiak informed Commission the City has been notified it will be awarded Land and Water Conservation Fund grant funding for the purchase of the last parcel of the Estuary Park. The parcel is .89 acres abutting 7th Street. The immediate acquisition of the parcel, with the understanding the City will be fully reimbursed by the LWCF grant, will also allow the City to take advantage of Riviera Dunes Resorts, Inc. potential mitigation requirements.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to authorize the immediate acquisition of the last parcel of the Estuary Park, not to exceed \$150,000.

10. JUPITER MARINE INTERNATIONAL, INC. UTILITY AGREEMENT

Jupiter Boat manufacturers are relocating to the City in the Industrial Park. North River Fire Department requires a sprinkler system, but adequate water lines do not extend to the location. The manufacturer has agreed to fund the construction of a larger water line in exchange for an equal credit against pending impact fees.

MOTION: Ms. Varnadore moved, Mr. Ball seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Jupiter Marine International, Inc. Utility Agreement.

11. RESOLUTION NO. 05-30

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, RELATING TO ACCESS TO LOCAL PUBLIC OFFICIALS; PROVIDING A DEFINITION OF LOCAL PUBLIC OFFICIALS; PROVIDING FOR ACCESS TO PUBLIC OFFICIALS; AUTHORIZING INVESTIGATION AND RECEIPT OF INFORMATION; REQUIRING DISCLOSURE OF EX-PARTE COMMUNICATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Attorney Hall informed the Commission the legislative bodies of Manatee County and the island cities expressly declined to adopt a similar resolution. She explained that if the resolution is adopted Commission members would be permitted to speak with individuals regarding topics but must disclose the information garnered that could affect how a Commission member voted on a topic. Without the resolution in place, there is a presumption ex-parte knowledge is used in decision making. She further explained the resolution would affect only quasi judicial items. After Commission's discussion of the topic, the resolution was tabled for further investigation.

#### 12. APPOINTMENT OF SPECIAL LEGAL COUNSEL TO CODE ENFORCEMENT BOARD

To comply with language in Ordinance No. 05-849 the City must appoint legal counsel to the Code Enforcement Board. Attorney Mark Singer is the only attorney expressing interest in the position. Commission discussed why his proposed fee included travel from Sarasota; Ms. Varnadore stated the travel expense should be negotiated.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 3-2 to appoint Attorney Mark D. Singer as Special Legal Counsel to the Code Enforcement Board. Ms. Varnadore and Mr. Williams voted no.

#### 13. RESOLUTION NO. 05-27

Resolution No. 05-27 provides an upgrade of the 5th, 6th and 7th Street project's quote to include Miami curbing and a 5th Street storm drain.

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. Williams moved, Ms. Cornwell seconded and motion carried 5-0 to adopt Resolution No. 05-27.

#### 14. RESOLUTION NO. 05-31

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.

Resolution No. 05-31 establishes the budgets for the approved 2005 CIP reclaimed water projects. Because there was not a clean understanding of the budget amount, the item was tabled to the June 20, 2005 Commission meeting.

#### 15. TAMPA BAY ENGINEERING CONTRACT APPROVAL

Item carried forward from the 4:00 workshop meeting. Approval of the Tampa Bay engineering contract provides for the acquisition of a Global Information System (GIS), which will provide technology to accurately map City utilities and aid in development plan analysis. Mr. Woodard confirmed the contract included training for six staff members and operator's manuals.

MOTION: Mr. Williams moved, Mr. Ball seconded and motion carried 5-0 to approve and authorize the Mayor to execute the piggy-back contract with Tampa Bay Engineering in an amount not to exceed \$65,000.

#### RESOLUTION NO. 05-33

Resolution No. 05-33 establishes the budget to purchase Global Information System equipment.

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, Mr. Williams seconded and motion carried 5-0 to adopt Resolution No. 05-33.

16. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 05-851

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A SMALL SCALE DEVELOPMENT AMENDMENT TO THE CITY OF PALMETTO COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP BY REDESIGNATING CERTAIN LANDS FROM IL (INDUSTRIAL LIGHT - COUNTY) TO H-COM-IND (HEAVY COMMERCIAL/LIGHT INDUSTRIAL - CITY); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Palmetto Hasko L.L.C. - PA0501, PID # 2599610108 and 2598800007, approximately 4.58 acres).

MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 5-0 to approve Ordinance No. 05-851 for advertising and schedule a public hearing June 20, 2005.

17. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 05-852

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO, TO CHANGE THE ZONING OF THE PROPERTY DESCRIBED IN HEREIN FROM LM (LIGHT MANUFACTURING - COUNTY) TO CHI (HEAVY COMMERCIAL / LIGHT INDUSTRIAL - CITY); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Palmetto Hasko L.L.C. - Z0502 PID # 2599610108 and 2598800007, approximately 4.58 acres).

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve Ordinance No. 05-852 for advertising and schedule a public hearing June 20, 2005.

18. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 05-857

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A GENERAL DEVELOPMENT PLAN FOR 600 AND 822 HABEN BLVD; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 0502 Riviera Walk East, PID # 2579600152, 2579600202, approx. 10.69 acres).

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 05-857 for advertising and schedule a public hearing July 18, 2005.

19. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 05-858

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 5, ARTICLE I, SECTION 5-6, SUBSECTION 5-6(4) OF THE CITY OF PALMETTO CODE OF ORDINANCES PERTAINING TO NOISE; PROVIDING FOR FINDINGS OF FACT; PROVIDING AN EXEMPTION FOR CONSTRUCTION ACTIVITIES TAKING PLACE AT SPECIFIED TIMES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 5-0 to approve Ordinance No. 05-858 for advertising and schedule a public hearing June 20, 2005.

## 20. DEPARTMENT HEADS' COMMENTS

### Mr. Lukowiak

Public Works has applied for a FEMA mitigation grant to repair the seawall.

### Chief Lowe

Commended officers arresting suspects involved in two recent car jackings.

### Attorney Hall

Referring to the half-way house located adjacent to the daycare center on 10th Avenue, informed Commission both businesses rebuffed the CRA's attempt to help in relocation or fencing between the properties. She stated the City has no basis or authority to ask the house to move its operation.

Discussed the pending insurance claim with All Children's Hospital in the amount of approximately \$43,000:

- During 2004 the City was self insured
- Once a claim reached \$25,000 it went to a reinsurer
- Someone in the Manatee County system acted as a third party administrator, Trisetto, and is housed in Manatee County Service Center
- Administrator was bound by terms of contract existing between the provider, All Children's Hospital, who had agreed to a 60% reduction to be included in the network
- Contract provided for payment first and then an audit of a claim; reimbursement would occur if provided for by the audit
- Claims had to be paid within 40 days or they could be billed at the full rate

Because the claims were not properly handled, the City lost its right to the discounted rate. All Children's Hospital is willing to allow the discounted payment, the audit, and then a refund if it is proven usual and customary charges were over paid. The problem is neither the reinsurer nor the third party administrator has agreed to pay the \$43,000, which could lead to All Children's demanding the full rate payment amounting to approximately \$102,000.

Ms. Hall stated that there is no threatened litigation at this time, but she may come back to Commission and advise the City pay the \$43,000 to cap the liability. She stated she is actively working the situation with the third party administrator and will keep Commission updated as events occur.

Tanya Lukowiak, CRA Executive Director, gave a historical recap of a tract of vacant land adjacent to the Palmetto Palms subdivision. The Homeowner's Association Corporation was formed but the association was never activated. It appears the corporation dissolved. CRA is attempting to locate principals of the dissolved corporation so the CRA can reacquire the property. CRA will bring the topic back to Commission once it is determined exactly how to move forward in either acquiring the property or forcing the association to bring the property into compliance with the City's codes.

## 21. MAYOR'S REPORT

Informed Commission he would like to involve the Police Department in the homelessness effort underway to eliminate the problem in Manatee County within ten years. He stated Palmetto needs to support the effort, as the City is experiencing the same problem.

Referring to the in-house attorney topic, requested Commission advise him if they wish to explore the position or continue with a contract attorney. After a lengthy discussion, Commission

unanimously agreed to further explore an in-house attorney, provided they would have the same access as they now have.

Discussed the news article announcing Manatee County's intention to advertise an RFP/RFI for a hotel to be located in the parking lot of the civic center. The civic center, as well as Blackstone Park and the library extension, is in the City and construction at these sites must be permitted through the City. The civic center is zoned public and a hotel is a prohibitive use in that zoning category. Mayor Bustle stated he had spoken with Commissioner Getman about the topic and it has been withdrawn from the Manatee County Board of County Commission's agenda.

## 22. COMMISSIONERS' COMMENTS

### Ms. Cornwell

Staff provided the meeting dates through August.

Manatee County is addressing the topic of sex offenders and animals in hurricane shelters.

Questioned the City's traffic issues being rated four on a suspense log at her seat. A number of traffic related items were combined on the suspense log and should be rated number one.

Requested staff research the placement of public transit bus stops. Students wishing to attend Lincoln Middle or Palmetto High may utilize public transit if stops are placed near the schools.

### Mr. Ball

After spending the weekend in Washington DC, he has a great appreciation for Palmetto.

### Mrs. Lancaster

The City needs to be diligent in monitoring the half-way house to ensure it remains in compliance with City codes.

The City needs to make every effort to make sure there is a hurricane shelter open in Palmetto.

Property owners on a street where traffic changes are proposed should always be notified prior to Commission's review.

### Mr. Williams

Numerous streets and speed bumps need striping. Mr. Lukowiak stated the Kimley Horn study would recommend which streets should be striped. He will obtain the price to stripe the speed bumps.

There is no update on the school and fair properties. Fawley Bryant has begun the City's needs assessment with a survey to be completed by staff members. Commission will be provided a copy of the survey.

Inquired how the Commission will be communicated with during a weather event. Mr. Lukowiak stated the hurricane preparedness plan is being completed and the topic will be brought to Commission at a subsequent meeting.

Mr. Lukowiak stated there should be no conflict with Ms. McCann representing the City until a new planner is employed.

Inquired about the city clerk position. Mayor Bustle stated he is seriously considering Jim Freeman and may make him an offer.



Ms. Varnadore

Inquiries have been received concerning the streets of Palms of Terra Ceia not being swept by the City. Mr. Lukowiak stated he is preparing a quote for Mr. Boltz to take to his board and Attorney Hall is preparing a contract to allow the City to offer that service. The topic will be brought back to Commission once the board of the CDD has approved it.

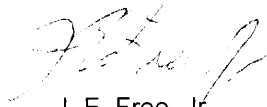
Inquired if there are issues to her holding a community meeting within her ward. Commissioners discussed how they had held previous ward meetings. The meeting should be advertised as a sunshine meeting.

Homeowners should contact the Police Department when they wish to register a complaint about noise at residential properties.

Stated the City's general insurance has not been bid in five years and stated her opinion an RFP should be done before renewal. Commission discussed history supporting Florida League of Cities' rates being lowest because the majority of the cities insure with the entity. It was consensus of Commission to advertise the RFP.

Meeting adjourned at 10:20 PM.

Minutes approved: June 20, 2005



J. E. Free, Jr.  
City Clerk