

Palmetto City Commission
May 15, 2006 7:00 p.m.

Elected Officials Present:

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

Staff and Others Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Chief Garry Lowe
Tanya Lukowiak, CRA Executive Director
Michele Hall, City Attorney
Ric Hartman, Planning Supervisor/Zoning Administrator
Frank Woodard, Deputy Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:01pm. Pastor David Smiley, Providence Presbyterian Church, gave the invocation, followed by the Pledge of Allegiance.

Mayor Bustle read a proclamation declaring May 20-26, 2006 as National Safe Boating Week in the City. Commander Braxton Ezell and Vice Commander Dee Kermode, Flotilla 85-US Coast Guard Auxiliary accepted the proclamation. Commander Ezell commented on the importance of safe boating in Florida waters.

Mayor Bustle read a proclamation declaring May as Older American's month in the City. Director of Home Delivered Meals Shirley Brewer accepted the proclamation on behalf of Meals on Wheels.

Persons planning on addressing Commission were sworn in.

PUBLIC COMMENT: Palmetto Historic Commission President Debbie Thornton distributed information concerning Palmetto Elementary School and the FFA building housed on the school's property.

1. AGENDA APPROVAL

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve the May 15, 2006 7:00 PM agenda, and time permitting to continue discussion of the attainable housing ordinance at the end of the agenda.

2. CONSENT AGENDA

- A) Minutes of April 24 and May 1, 2006 Commission meetings
- B) April Check Register
- C) Special Function Permit: 4th of July Festival

The Special Function Permit for the 4th of July Festival was removed from the Consent Agenda for discussion.

MOTION: Mr. Ball moved, Mr. Williams seconded and motion carried 5-0 to approve the May 15, 2006 Consent Agenda, with the removal of Item C.

Staff confirmed the boat ramp would be closed at midnight, June 30, 2006 and that coolers and fireworks are not allowed at the Festival.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the Special Function Permit for the 4th of July Festival.

3. RESOLUTION 06-15 (17:33)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, DECLARING LEGISLATION IN PROGRESS CONCERNING AMENDMENT OF THE COMPREHENSIVE PLAN AND CODE OF ORDINANCES AS THEY RELATE TO THE WATERFRONT DEVELOPMENT PLAN; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR DURATION OF LEGISLATION IN PROGRESS; DIRECTING CITY STAFF NOT TO APPROVE ANY APPLICATIONS, PETITIONS OR REQUESTS THAT ARE INCONSISTENT WITH SUCH AMENDMENT; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Hall informed Commission Section 5 would be corrected to read "This Resolution hereby repeals all resolutions and parts of resolutions in conflict herewith to the extent of such conflict".

MOTION: Mr. Ball moved and Mrs. Lancaster seconded to adopt Resolution No. 06-15.

Discussion: CRA Executive Director Tanya Lukowiak explained the resolution provides a legitimate reason to use the pending legislation as a means to not approve a development plan that is not feasible or conflicts with the Waterfront Development Plan; it is designed to prohibit industrial use in the downtown waterfront area. Attorney Hall confirmed the City has not yet developed the legislation to enact the Waterfront Development Plan.

The resolution doesn't address the appeal process. Attorney Hall stated the Code currently provides for an applicant to appeal a decision of the City Planner directly to the Commission.

Attorney Hall explained the City will probably not be able to bring the Comp Plan into effect as quickly as needed to prohibit a plan that is not compatible or feasible with the vision and implementation strategy of the Waterfront Development Plan. Mrs. Lukowiak discussed the land development codes that must be developed for the Evaluation Appraisal Report submittal by July 1, 2006. The resolution alerts property owners and a developer to the fact the City has a conceptual plan for what the city should look like for the area between Manatee River and 7th Street. Ms. Varnadore requested a point paper discussing the status of the Evaluation Appraisal Report.

Ms. Cornwell stated that her approval of the resolution was contingent upon the fact that the Waterfront Development Plan is a vision and Commission has the authority to decide the feasibility of each development project in the area legislated by the Waterfront Development Plan. Mrs. Lukowiak concurred with Ms. Cornwell's statement.

Ms. Varnadore requested that the appeal process language be added to the resolution. Attorney Hall suggested adding language regarding Ms. Cornwell's statement concerning her understanding of the Commission's authority to approve or deny the feasibility of individual projects proposed within the Waterfront Development's Plan purview. Commission concurred with the amendments. Attorney Hall will develop language to incorporate the amendments before the end of the meeting.

The motion on the floor was tabled to allow Attorney Hall to draft the language to amend the resolution as approved by Commission.

4. OLYMPIA THEATER PROPERTY ACQUISITION (40:46)

RESOLUTION NO. 06-16

A RESOLUTION OF NECESSITY AND FOR EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PUBLIC PURPOSE OF ACQUIRING AND CONSTRUCTING A CITY BUILDING/MUNICIPAL AUDITORIUM IN THE CITY OF PALMETTO, FLORIDA.

RESOLUTION 06-17

A RESOLUTION AUTHORIZING USE OF "QUICK TAKING" CONDEMNATION PROCEEDINGS FOR THE PUBLIC USE AND PUBLIC PURPOSE OF ACQUIRING AND CONSTRUCTING A CITY BUILDING/MUNICIPAL AUDITORIUM IN THE CITY OF PALMETTO, FLORIDA; PROVIDING AN EFFECTIVE DATE.

Attorney Mickey Palmer, retained by the City for his expertise in eminent domain law, explained that Resolution 06-16 serves to determine public purpose and reasonable public necessity for the acquisition of Olympia Theater by eminent domain and Resolution 06-17 authorizes counsel to utilize the quick take process.

Regarding the quick take process, Attorney Palmer stressed the fact that if the court grants the City's request for an order of taking, the City may not cancel the lawsuit without the property owner's agreement.

Attorney Palmer stated Commission is charged with considering cost figures before condemnation of the property under discussion and cited two costs the City must consider:

- The appraisal of \$445,000 was performed in September 2005 and is considered stale for eminent domain purposes; a new appraisal has been ordered on the City's behalf.
- Renovation expenses; property owner cost estimate is \$800,000 to \$1,000,000. (Staff confirmed the City has no estimate of renovation expenses.)

Attorney Palmer also stated Commission should consider alternatives, if any are available, when making the eminent domain decision.

Kevin Hennessey, attorney for Mr. and Mrs. Joel Jarvis, owners of Olympia Theater, addressed Commission, stating the Jarvis's wish to complete the building to provide a community resource for the City, but they are willing to partner with the City, and are willing to negotiate an agreement to that end. He further stated that if an agreement with the City can not be reached, his clients wish to oppose the taking.

Discussion ensued on the following topics:

- Restoration plan submitted to CRA
- Unproductive meetings that have occurred regarding the property
- New eminent domain law
- Jarvis's acquisition of the property and the CRA grants awarded the property
- City's funding of improvements to the theater's parking lot
- Status of the condition of the building
- The Backstage facility currently operating outside on site
- Reasons for the delay in completing the building's restoration

MOTION: Ms. Varnadore moved and Ms. Cornwell seconded to authorize staff to enter into negotiations with the Jarvis's to come to a resolution of the situation by June 16, 2006.

Discussion: Attorney Hall suggested that as a starting point of negotiation, the property owner should take comments received from CRA on the prior proposal and the concepts discussed in a February meeting with Mr. and Mrs. Jarvis and their counsel.

Motion on the floor carried 3-2. Mr. Ball and Mrs. Lancaster voted no.

5. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 06-884
AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA AMENDING CHAPTER 2, ARTICLE IV, SECTIONS 2-82, 2-85 AND 2-90, PROVIDING FOR REIMBURSEMENT OF REASONABLE COSTS OF INVESTIGATING AND PROSECUTING CODE ENFORCEMENT ACTIONS; PROVIDING FOR ACTUAL NOTICE AS GOOD NOTICE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve Ordinance No. 06-884 for advertising and schedule a public hearing June 5, 2006.

6. DEPARTMENT HEADS' COMMENTS

Mr. Hartman

Discussed the reasons for changing consultants for the Evaluation Appraisal Report. Mr. Hartman will provide an update on the status of the report.

Mr. Freeman

Anticipate bringing Impact Fees to Commission at the June 5, 2006 meeting.

The air-conditioning unit at City Hall was replaced after system failure.

Chief Lowe

Participated in the local Police Memorial honoring fallen officers nationwide.

The laser speed control equipment has a range of 2,500 feet, but officers try to be within 1,000 feet for accuracy reasons. Two speed bumps in Jackson Park; 1800 block of 5th Ave. and 1900 block.

On average, 129 speeding tickets are issued monthly; attempting to run the location of each ticket.

Working with Public Works to quickly eradicate graffiti. Palmetto and Bradenton Police Departments, Manatee Sheriff's Office and the State Attorney's Office have formed a Violent Crime Task Force. In the first week 20+ gang related arrests were made. A special prosecutor for gang related crimes will be assigned the cases.

Addressed the noise issue with the owner of Club Nitros.

Attorney Hall

Attended the City and County Local Government Bar's annual seminar. Noise, purchasing and procurement, eminent domain and school concurrency were topics of discussion.

Reviewed the supplementary language to Resolution No. 06-15 as follows:

A new Section 5 be inserted that would read: "A decision of City staff pursuant to Section 4 of this resolution may be appealed to the City Commission by the party submitting the subject application, petition or request within 30 days of receipt of a written determination by City staff."

A new Section 6 be inserted that would read: "Upon consideration of an appeal pursuant to Section 5, the City Commission shall have the authority to make a determination that an objective or implementation strategy of the Waterfront Development Plan is infeasible, impracticable or otherwise not in the best interest of the public welfare such that the City Commission may direct City staff to approve an application, petition or request in apparent conflict with said objective or strategy, notwithstanding, or anything herein to the contrary."

Existing Section 5, 6 and 7 will be renumbered to Section 7, 8 and 9.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to take Resolution No. 06-15 off the table.

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 5-0 to amend Resolution No. 06-15.

The motion on the floor to adopt Resolution No. 06-15, as amended, carried 5-0.

Mrs. Lukowiak

The CBI property appraised at \$695,000; the purchase price is \$840,000; CRA may still cancel the contract to purchase. She reported the CRA Board has directed her to try to renegotiate down to 110% of the purchase price. She also reported CRA is waiting on quotes to demolish the recently purchased duplexes. A new aerated concrete product will allow for construction of workforce and affordable housing at a much lower price.

Referring to the school assembly issue, the aluminum business wants to sell and CRA is attempting to purchase it at 110% of the appraised value. If the CRA is successful, the School Board will purchase the property from the City, or the City may sell the property by RFP if not purchased by the School Board. Mrs. Lukowiak confirmed the School Board has agreed to donate the historic building to the Palmetto Historic Commission, who will be responsible to move it. Referring to the public comment earlier in the meeting concerning the name of a new Palmetto Elementary, Ms. Cornwell discussed her understanding of how a school is named.

7. PROPOSED ATTAINABLE HOUSING ORDINANCE (1:52:44)

Discussion on the proposed ordinance continued, with Commission making the following amendments:

Page 19: Amended to reflect the payment in lieu shall be 20% of the then-current maximum Attainable Housing Unit Sales price.

Page 20: (4) Add manufactured homes

Page 21: (c) Amended to make the City Planner responsible for confirming the determination of eligibility.

The City Planner will mean City Planner, or his or her designee, and will be so stated in the definitions portion of the ordinance.

Attorney Hall confirmed the proposed ordinance can be modified or repealed, but vested rights will remain in effect.

A new draft will be brought to the June 5, 2006 workshop meeting.

8. MAYOR'S REPORT

Announced he has graduated from the Leadership Florida.

An emergency management session for elected officials is scheduled for Tuesday, May 16, 2006, beginning at 6:30 pm.

Walmart's grand opening is Thursday, May 17, 2006 at 8:30 am. A preview of the store is scheduled for Wednesday evening at 6:30 pm.

9. COMMISSIONERS' COMMENTS

Mr. Ball

Discussed a complaint he received regarding a ticket issue on Business 41 from the north. Mr. Ball commented on the different speed limits on the road. Mr. Lukowiak reported he has passed the information to FDOT Project Manager Ed Giddens.

Reported that of the seven homes in the historic district built before 1900, only five remain. Opined Commission should look quickly to historic preservation.

Commented on the mobility study and the traffic count that will occur during the off-season.

Ms. Varnadore

The historic preservation ordinance is a high priority on the suspense log. The draft ordinance will be distributed to Commission. Also referring to the suspense log, requested the status of the legal issue topic be kept on the log with a high priority, as the City is trying a new concept, the issue is not "done".

Ms. Cornwell

Requested an update on the Scott property issue.

Requested an estimate of the expenses to make the Olympia Theater habitable.

Suggested Public Works should report areas where graffiti is repeated to the Police Department.

Reported the close of school in two weeks.

Mrs. Lancaster

Chief Lowe confirmed the Police Department patrols the Groover's Market area at every opportunity, but is trying to encourage the MSO to patrol the area because it is not in the City's municipal boundaries.

Mr. Williams

Thanked appropriate individuals for saving the bricks at the Chapel.

Inquired if the City can lower the speed limits on City streets. Mr. Lukowiak stated the speed limits will be looked at as part of the mobility study.

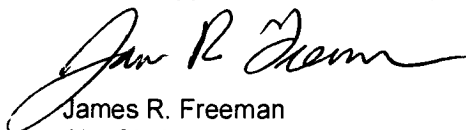
Mr. Lukowiak confirmed he is attempting to schedule a short presentation on the lighted crosswalks when the company is in the area and when agenda space is available.

Requested a portable speed bump, like the one in Jackson Park, be placed at 5th Street and 18th Avenue.

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Meeting adjourned at 9:30 pm.

Minutes approved: June 5, 2006



James R. Freeman
City Clerk