

Palmetto City Commission  
December 18, 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, Attorney  
Bob Schmitt, Planning Consultant  
Frank Woodard, Public Works Deputy Director  
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:00 pm, followed by an invocation and the Pledge of Allegiance.

All persons planning to address Commission were sworn in by Diane Ponder.

Mayor Bustle recognized the following individuals who have distinguished themselves in the performance of their duties as City Employees of the Year:

Bill Strollo	City Hall
Bernie Eckert	Palmetto Police Department
Adam Spatafora	Palmetto Police Officer
Jim Michener	Parks Department
Frank Perry	Parks Department
Hank Adams	Public Works Department
Lennard Mays	Public Works Department
Leslie Martin	Public Works Department
Bob Baublitz	Public Works Department
Pat Supharat	Building Department

PUBLIC COMMENT: There was no public comment

ORDER OF BUSINESS:

1. AGENDA APPROVAL

**MOTION: Mr. Williams moved to approve the December 18, 2006 7:00 PM agenda, with the removal of item #7 to a workshop for further discussion. Mr. Ball seconded the motion to approve the agenda as amended. Motion carried 5-0.**

## 2. CONSENT AGENDA

- A) Minutes of November 20, 2006 4:00 PM & December 4, 2006 Commission meetings
- B) Special Function Permits: Tony Toledo's New Year's Eve Party  
Vintage Wheels Antique Car Show  
North River Care Pregnancy Center's Walk for Life  
DeSoto Heritage Festival Children's Parade  
DeSoto Heritage Festival Grand Parade

Mr. Freeman requested that the November Check Register included in the agenda under tab 13 be added to the Consent Agenda for approval.

**MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the December 18, 2006 Consent Agenda as amended with the inclusion of tab 13.**

## 3. PUBLIC HEARING – ORDINANCE NO. 06-908

AN ORDINANCE OF THE CITY OF PALMETTO AMENDING CHAPTER 29, ARTICLE VII, ESTABLISHING A STORMWATER UTILITY PURSUANT TO SECTION OF 403.0893(1), FLORIDA STATUTES; PROVIDING FOR ESTABLISHMENT OF A STORMWATER UTILITY; PROVIDING FINDINGS AND DETERMINATIONS; PROVIDING DUTIES AND POWERS; PROVIDING AUTHORITY FOR STORMWATER UTILITY FEES; PROVIDING FOR RESIDENTIAL AND NON-RESIDENTIAL FEES; PROVIDING FOR FEE ADJUSTMENTS; PROVIDING AUTHORITY FOR A READINESS TO SERVE FEE; PROVIDING APPEAL, FEE ADJUSTMENT AND BILLING PROCEDURES; PROVIDING FOR A STORMWATER MANAGEMENT UTILITY SYSTEM ENTERPRISE FUND; PROVIDING FOR LIMITED LIABILITY; PROVIDING FOR INSPECTIONS AND MAINTENANCE; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

**MOTION: Mr. Ball moved to adopt Ordinance No. 06-908. Mr. Williams seconded for discussion.**

Discussion ensued on whether or not adoption of the ordinance should be considered given the removal of item #7, Resolution No. 06-42, which proposes recommended reductions to the 2007 budget pertaining to the Stormwater Fund. It was consensus of Commission to proceed, as the proposed resolution has no impact to the proposed user fees.

**Motion on the floor carried 5-0.**

## 4. PUBLIC HEARING - ORDINANCE NO. 06-909

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, ADDING ARTICLE V, SECTIONS 10-110 THROUGH 10-113, TO CHAPTER 10 OF THE CITY OF PALMETTO CODE OF ORDINANCES, PROVIDING FOR THE ISSUANCE OF DOCK AND DOCK-RELATED STRUCTURE PERMITS; PROHIBITING THE CONSTRUCTION OF DOCK AND DOCK-RELATED STRUCTURES WITHOUT SUCH PERMITS; PROVIDING FOR GENERAL REGULATIONS FOR THE CONSTRUCTION AND REPAIR OF DOCK AND DOCK-RELATED STRUCTURES; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bustle opened the public hearing.

Tom Rodgers stated his belief the proposed ordinance did not relate to private property such as Tropic Isles, which actually owns the bottom of the basin. Mr. Lukowiak explained Mr. Rodgers was referring to the boat basin at Tropic Isles, which he also thought was exempt as it is the private property of Tropic Isles. Mr. Rodgers informed Commission that a six month moratorium this time of the year would adversely impact the real estate sales during the most active season in the development. Attorney Hall confirmed that the moratorium would prohibit new boat dock construction on all the waters within the jurisdiction of the City. Repairs to existing boat docks are allowed with a proper building permit.

Mayor Bustle discussed the need for the moratorium to allow the City time to create a boat dock ordinance that will best serve the City, while preventing construction of boat docks that may adversely impact surrounding property owners and environmentally sensitive areas. Mr. Rodgers stated Tropic Isles has an Architectural Review Committee that developed rules and regulations patterned from the City's rules and regulations. Mr. Lukowiak confirmed the development has done a fair job of policing docks in the boat basins, but they do currently have a few issues. Attorney Hall opined there may be a legal basis for the City to exempt Tropic Isles because the basin is private property and could be treated as private development.

Gardner Sharpe offered his opinion issues such as the one under discussion is exactly why a moratorium is needed, to ensure an ordinance is created that is fair for everyone. Tony Toledo voiced his opinion on the moratorium, stating it would in effect reduce the value of waterfront properties by 50%. He questioned what Commission felt would be accomplished in six months, given the period of time the City has been working on the proposed boat dock ordinance.

Commission discussed the proposed ordinance. Attorney Hall explained a caveat was included in the verbiage because it is subject to regulation. Attorney Hall concurred with Mayor Bustle's explanation that upland is defined as land that has not been platted separately.

The matter of jurisdiction was again discussed, with Attorney Hall explaining that the City will have jurisdiction so long as its ordinance is more stringent than the other governmental agencies that have jurisdiction on a dock.

Commission questioned how this proposed ordinance will protect the citizens against docks being built that are approved by other governmental agencies. Mr. Lukowiak stated that existing City building permits are not legitimate because the Building Official did not have the authority to grant a building permit for a dock. Attorney Hall explained that because the City had no ordinance granting the Building Official authority to issue a building permit for a dock, any current permits are null and void. Attorney Hall further stated that to clarify the ordinance, language could be added to the end of Section 10-111 as follows: ...first obtained a permit issued subsequent to the adoption of this ordinance. Mr. Lukowiak confirmed that any person who has obtained a building permit for a dock will be notified and the permit fee will be refunded or credited against a future building permit.

Attorney Hall discussed the legal position a municipality was in when a third inspection revealed a building was built in the right-of-way. Because of a legal doctrine, a building permit was never issued to build in the right-of-way, and the inspections were declared null and void. She compared the building permits for docks to the example, stating it is unjust but it is the legal result. She further confirmed the legislation in progress resolution for docks no longer became enforceable as the dock ordinance was being created. As the timeframe lengthened for adoption of the draft ordinance, she confirmed she advised Mr. Lukowiak his department should not enforce the legislation.

Mayor Bustle stated the moratorium will stop the construction of the new dock at the end of 7th Street approved by DEP, even though it was objected to by citizens of the City. He explained it was staff's intent to prevent the problem with a moratorium until a final dock ordinance can be

developed and adopted by Commission, rather than address the dock and its issues after its completion. He further opined the moratorium will prevent the construction of the dock under discussion. Attorney Hall directed Commission to Ordinance No. 06-910, and read: This moratorium shall not affect construction of docks or dock related structures that commenced construction prior to the effective date of this ordinance. She stated that language could be changed to read: ....shall not affect construction of docks or dock related structures that received a permit from the City prior to the effective date of this ordinance. The change in verbiage will bring all existing permits issued by the City or other governmental jurisdiction into the exemption. Mayor Bustle opined a moratorium can prevent the construction of all docks within the City's jurisdiction.

**MOTION: Mr. Ball moved to adopt Ordinance No. 06-909. Motion failed for the lack of a second.**

Attorney Hall confirmed that any person with a permit would have to apply for a City permit, at which time the applicant would be told a moratorium is in effect. Attorney Hall stated she is not prepared to offer a legal opinion on litigation, but that the theory would be one of estoppel, if the one doctrine relied upon is that the City permit was void from the beginning because it was issued without authority.

**Mayor Bustle stated the discussion was out of order because the motion had failed for a lack of a second, and that the following item would not be discussed.**

Mr. Williams inquired if a moratorium could be instituted without a dock ordinance in place. Attorney Hall explained the City has to have the authority to issue a permit in place before the City can have the authority to stop the issuance of permits.

**MOTION: Ms. Varnadore moved and Mr. Ball seconded to adopt Ordinance No. 06-909.**

Discussion: Ms. Cornwell suggested Commission agreed with Ms. Varnadore that the ordinance is a starting point, but she maintained clarification language is needed concerning the existing permits.

**MOTION: Mr. Ball moved and Ms. Varnadore seconded to amend Section 10-111 by adding to the end of the sentence "having first obtained a permit for construction or such repair from the Building Department issued after December 18, 2006.**

**Attorney Hall further clarified the motion, stating Section 10-111 would read in its entirety as: No person shall construct or repair a dock or dock related structure within or upland of the waters of the City without having first obtained a permit for such construction or such repair from the Building Department. Dock permits issued by the City prior to December 18, 2006 shall not entitle a party to construct a dock or dock related structure. A permit must be issued by the City subsequent to December 18, 2006.**

**Motion on the floor carried 4-1. Mr. Williams voted no.**

5. PUBLIC HEARING - ORDINANCE NO. 06-910

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, ESTABLISHING A MORATORIUM ON THE ISSUANCE OF PERMITS TO CONSTRUCT DOCKS WITHIN THE CITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN EFFECTIVE TERM OF THE MORATORIUM; PROVIDING FOR EXEMPTIONS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bustle opened the public comment.

Tom Rodgers, Tropic Isles, commented on the two years the City has been working on a dock ordinance. He inquired if Commission could reduce the six month moratorium to a shorter period, due to the financial impact to the community. Mayor Bustle and Commission inquired of Mr. Lukowiak if the issue could be resolved in 90 days. Mr. Lukowiak stated if the determination of which governmental agency has jurisdiction on a particular water as requested by Commission could be finalized 90 days would be sufficient time. He further stated he is confident the draft dock ordinance that is prepared is sufficient if enforcement can be settled at a later date.

Gardner Sharpe suggested the City should utilize surrounding municipal dock ordinances that are already in place. He also opined the Manatee River should be included in any dock ordinance. Mr. Sharpe offered his services, stating he would like to lead a citizen committee to work with staff. Mayor Bustle asked Mr. Sharpe to develop the committee and use the document the City has created as a reference. Commission agreed to retain a six-month moratorium with the understanding it is the objective of the committee and staff to bring a document back to Commission for review within 90 days.

Mayor Bustle closed the public hearing.

**MOTION: Mr. Ball moved and Ms. Varnadore seconded to adopt Ordinance No. 06-910.**

Discussion: Staff confirmed construction on a dock is not permitted unless it has already begun. Ms. Cornwell stated construction language should be included in the ordinance. Attorney Hall suggested clarification to Section 2 to read: Where construction of a dock or dock related structure has not commenced prior to December 18, 2006, dock permits issued by the City prior to December 18, 2006 shall not entitle the party to construct a dock or dock related structure.

Mr. Lukowiak stated he will identify individuals holding a permit for a dock or dock related structure, notify them of the six-month moratorium and refund the permit fee.

**Mr. Ball and Ms. Varnadore accepted the amendment to the motion on the floor.**

**Motion carried 5-0.**

6. RESOLUTION NO. 06-39

Resolution No. 06-39 authorizes renewal of FDOT Highway Maintenance Contract BDC14 for an additional year.

A RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT RENEWAL FOR HIGHWAY MAINTENANCE WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE.

**MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 06-39.**

8. RESOLUTION NO. 06-43

Resolution No. 06-43 establishes a revenue and expense budget for the repurchase and resale of cemetery spaces the City may acquire from individual cemetery space owners.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 06-33, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2006-2007, AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 06-43.**

9. RESOLUTION NO. 06-44

Resolution No. 06-44 establishes the budget to allow the Police Department to purchase an F150 Passenger Van from the Reserve for Special Law Enforcement Fund fund balance.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 06-33, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2006-2007, AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 06-44**

10. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 06-911

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO, TO DESIGNATE THE ZONING OF THE PROPERTIES DESCRIBED IN EXHIBIT "A" AS PD-H (PLANNED DEVELOPMENT-HOUSING); AMENDING THE ZONING MAP OF THE CITY OF PALMETTO PERTAINING TO THE PROPERTIES DESCRIBED HEREIN; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR THE PROPERTIES DESCRIBED HEREIN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z 0604, CP 0601, GDP 0602 Genesis Development Partners, L.L.C. PID # 2936300209, approx. 1.64 acres).

**MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 06-911 for advertising and schedule a public hearing January 8, 2007.**

11. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 06-912

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR HARBOR SIDE AT RIVIERA DUNES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 0603 Harbor Side at Riviera Dunes Development Partners, LLC and Riviera Dunes Retail Partners, LLC, PID #s 2581600709, 2581600709, 2581600809, 2581600859, 2581600609, 2581600319, 3133700509, approx. 12.07 acres).

Staff corrected the parcels numbers read as part of the title, as follows: 2581600709 was deleted as a duplication and 2581600859 was added to the title of the ordinance.

Attorney Hall stated she was going to recommend that a line be added to the ordinance after explanation from Attorney Caleb Grimes, representing the applicant. Attorney Grimes explained that to assure consistency with the prior ordinances for the DRI and approval of the GDP,

Ordinance 06-912 will clarify the submittal timelines. The proposed ordinance does change or extend the DRI in any way, or change any Commission approval rights; it only extends the timeline to bring in the general development plan for this particular development. Attorney Hall explained that as a build out date is extended, the timeline for submittal of a site plan is also extended; in this case the administrative site plan submittal timeline did not occur. This ordinance corrects the dates to ensure this submittal is timely. Attorney Hall further informed Commission a whereas clause should be added to the ordinance to similarly read: WHEREAS, City Commission has determined it is appropriate to permit applicant to submit a request for approval of a General Development Plan, notwithstanding Ordinance No. 02-752. Attorney Grimes also informed the Commission a history of the ordinances for the Riviera Dunes projects will be provided at the public hearing for this ordinance. Mr. Lukowiak informed the Commission the Planning Department also maintains a history of the project, i.e., swaps, mitigations, etc.

**MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve Ordinance No. 06-912 for advertising and schedule a public hearing January 8, 2007.**

12. 1st READING & ADVERTISING APPROVAL – ORDINANCE NO. 06-913

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR BELLA PONTE CONDOMINIUMS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 0604 Riviera Dunes Retail Partners, LLC, PID # 2603633353, approx. 12.52 acres).

**MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 5-0 to approve Ordinance No. 06-913 for advertising and schedule a public hearing January 8, 2007.**

13. DEPARTMENT HEADS' COMMENTS

Mr. Lukowiak  
No report.

Mr. Freeman  
Reported the test site for the remote payment on line service. If testing is successful, the service will be brought on-line in January.

The Cemetery Committee has had its final meeting and is proposing a February date to bring the revised ordinance and Supplemental Rules and Procedures to Commission.

Invited Commission to City Hall's holiday luncheon on December 19, 2006.

Chief Lowe  
Thanked Commission for approving the purchase of the passenger van.

Attorney Hall  
Reported the Olympia Theater order of taking hearing dates are February 27 and 28, 2007.

14. MAYOR'S REPORT

No report.

15. COMMISSIONERS' COMMENTS

Mr. Williams

Inquired when the funding for the CIP will be available. Mr. Freeman stated Ms. Simpson is planning to have the information available the first week in January.

Ms. Cornwell

Inquired about the slide in Hydrant Park. Mr. Lukowiak will contact her concerning the slide.

Ms. Varnadore

Requested that Commission be notified when information is added to the agenda books.

Requested that Commission be notified when staff makes decisions concerning legislation that is no longer appropriate, so Commission is aware of current issues surrounding topics of discussion.

Inquired how Commissioners felt about Requesting that joint meetings with other governmental agencies be scheduled 4:00 or later, for the public's benefit and for working Commissioners. Commission concurred, except in the case of emergency meetings.

Mr. Ball


Thanked the Police Department for escorting the annual event sponsored by the Moose.

Acknowledged the difficulty of the dock ordinance and his opinion the City has reacted appropriately to protect the public.

Mr. Williams commented on the success of the Celebration of Lights. He requested a workshop meeting where Commission can identify and name City sponsored events.

Meeting adjourned at 9:25 pm.

Minutes approved: January 8, 2007

  
James R. Freeman  
City Clerk