

Palmetto City Commission
February 26, 2007 7:00 p.m.

Elected Officials Present:

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

Staff and Others Present:

James R. Freeman, City Clerk
Michele Hall, Attorney
Chief Garry Lowe
Chris Lukowiak, Public Works Director
Tanya Lukowiak, CRA Executive Director
Bob Schmitt, Planning Consultant
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:01 pm, followed by a moment of silence for overseas military personnel and the Pledge of Allegiance.

Mrs. Lenore Stewart, great-granddaughter of S. S. Lamb, known as the "father" of Palmetto, presented a portrait of her great-grandmother, Sara Elizabeth McCloud Lamb. Mrs. Stewart gave a brief biography of the Lamb family's history and contributions to Palmetto.

Persons planning to address Commission were sworn-in.

1. AGENDA APPROVAL

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the February 26, 2007 7:00 PM agenda.

2. CONSENT AGENDA

Items B, C and D were removed for discussion.

A) Minutes of February 5, 2007 Commission meetings

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Consent Agenda Item A.

B) January Check Register

C) Attorney Billing through January 31, 2007

D) Special Function Permits: Palmetto Historic Commission (Multi-events)
St. Pete Bike Club Spring Classic
75th Anniversary for Post 2488

Items B, C and D were discussed. Commission approved a request for the 75th Anniversary for Post 2488 to close 9th Avenue between 6th St. and Parkway from 11:00 am to 5:00 pm. No further changes were made to the individual items.

Commission suggested that Special Function Permits should be reviewed and amended to require public noticing when an applicant is requesting street closures.

Commission suggested that Special Function Permits should be reviewed and amended to require public noticing when an applicant is requesting street closures.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried to approve items B, C and D of the February 26, 2007 Consent Agenda, including the closure of 9th Avenue for Post 2488.

3. PUBLIC HEARING: ORDINANCE NO. 07-914

Ordinance No. 07-914 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING SECTIONS 7-220 AND 7-221 OF THE CODE OF ORDINANCES, PERTAINING TO LANDSCAPE SPECIFICATIONS AND PLANS; PROHIBITING REMOVAL OF APPROVED PLANTS AS PART OF MAINTAINING APPROVED LANDSCAPING; PROVIDING FOR SPECIFIC PLANT TYPES IN LANDSCAPING PLANS; 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: Mr. Ball moved, Mrs. Lancaster seconded to adopt Ordinance No. 07-914.

Discussion: Discussion ensued on Section 7-220(b), Maintenance Responsibility, regarding the definition of property owner as it pertains to a developer and/or a Homeowners' Association and responsibility for common areas of a development. Commission questioned where the responsibility for maintenance of common areas rests when a Homeowners' Association is defunct and how the ordinance will be enforced. Staff confirmed the ordinance was developed to ensure there is a landscape plan identifying specifically named vegetation submitted during the approval process for commercial, industrial and office developments and common areas in condominium and subdivision developments, not single residential lots. Attorney Hall confirmed the Code currently addresses applicability in Section 7-218. If the City has to intervene because of non-maintenance, the issue will be addressed through the code enforcement action. All platted developments will be enforced by Homeowner Association documents.

Mrs. Lancaster suggested Commissioners speak with Attorney Hall and table the matter to a later date. To resolve the issue, Attorney Hall requested the ordinance be deferred to the end of the meeting to allow her time to develop language for Sec.7-220 exempting individual lot owners and applicable enforcement actions.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 5-0 to table the item to the end of the agenda.

4. PUBLIC HEARING: ORDINANCE NO. 07-915

Ordinance No. 07-915 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR A REVISION TO THE REGULATORY LANGUAGE PROHIBITING THE DISTRIBUTION OF HANDBILLS; 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. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Ordinance No. 07-915.

5. PUBLIC HEARING: ORDINANCE NO. 07-916

Ordinance No. 07-916 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR CITY LIEN PRIORITY; PROVIDING FOR THE DURATION OF SUCH LIEN; PROVIDING FOR THE LIMITED PURPOSE OF CODE REFERENCES IN SUCH LIEN; 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. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Ordinance No. 07-916.

6. PUBLIC HEARING: ORDINANCE NO. 07-917

Ordinance No. 07-917 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR CHANGES TO THE COMMUNITY REDEVELOPMENT PROVISIONS OF THE CITY CODE; AMENDING THOSE PROVISIONS TO CONFORM TO STATE LAW; REMOVING THE AUTHORITY OF THE CRA TO USE EMINENT DOMAIN; AMENDING THE DETERMINATION OF THE TAX INCREMENT DEFINITION TO CONFORM TO STATE LAW; 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: Mr. Ball moved, Mr. Williams seconded and motion carried 5-0 to adopt Ordinance No. 07-917.

7. PUBLIC HEARING: KECK SPECIAL FENCE PERMIT 0701

Application for a special fence permit at 1711 6th St. W. to install a 6' fence in the setback area at the southwest corner of the property.

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

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Special Fence Permit 0701 for 1711 6th St. W.

8. BOAT DOCK CONSTRUCTION

Mr. Lukowiak recapped events leading up to the last Commission meeting, during which Mr. Smart addressed Commission concerning his proposed boat dock and Commission instructed staff to bring the topic back with a recommendation to resolve the issue.

Mr. Lukowiak discussed a meeting that occurred between Geoff Seger, Mr. Smart, Mr. Sharpe and himself, during which he believed a verbal agreement was reached by all parties to realign the dock off the middle of an existing tiki hut. Mr. Lukowiak informed Commission DEP has agreed to the realignment of the dock so long as the approved drawing depicting the structure is not altered.

Mr. Lukowiak discussed the Smarts' willingness to delay construction of their dock while the City completed its investigation regarding the permit issue. Attorney Hall referred to her legal memo

regarding the topic and asked that it be entered into the record of the meeting. Mr. Lukowiak confirmed his opinion the dock would conform to the new dock ordinance regarding docks constructed in the river. He also confirmed the dock should not be subject to the boat dock moratorium. Mr. Lukowiak requested Commission ratify his decision to allow the Smarts to begin construction of the dock.

Attorney Hall opined the Smart dock was a lawful exception to the moratorium and would have been under construction if they had not complied with Mr. Lukowiak's request to postpone construction until the City completed review of internal procedures.

MOTION: Mr. Ball moved and Mr. Williams seconded to ratify staff's recommendation to allow the construction of a boat dock at 2215 7th Street, West.

Gardner Sharpe distributed material that was emailed to the Mayor, Commission and certain staff members, a copy of which will be entered into public records for this meeting. Attorney Hall reminded Mr. Sharpe and the Commission that the City has acted as a mediator in this matter; for now the City is not involved.

Mr. Sharpe discussed the moratorium as it relates to the permit issued by the City and his opinion the Smart dock was subject to the moratorium. He contended the reason the Smarts were held up initially in constructing the dock was because of the Manatee ban. As the matter relates to the City, he stated his request that Mr. Lukowiak look at the dock is what stopped construction. He opined this permit should not be treated any differently than any other permit subject to the moratorium ordinance. Attorney Hall explained her reasoning in her memo has nothing to do with the fact there was a permit: "It is not addressed by the language in the ordinance referenced by Mr. Sharpe, it deals with the fact construction would have begun except for the acts of the City."

Mr. Sharpe read a portion of a letter from Mr. Lukowiak regarding the incorrect stake placement for the dock. Mr. Lukowiak confirmed the investigation proved his statement in the letter to be incorrect.

Mr. Sharpe continued to read from the material distributed to each Commissioner. At Mr. Sharpe's reference to DEP approval for a change in the placement of the dock, Mr. Lukowiak stated the Smart's have every right to construct their dock as permitted; the realignment was the Smart's willingness to meet half-way to resolve the matter. Mr. Williams interjected he had spoken with DEP, who confirmed the permit was valid; however, DEP is looking into the vacation of the street, which has no bearing on the permit issue.

Attorney Hall voiced concern that the discussion may be perceived as a public hearing. Because the permit is a staff level decision, her inability to find anything that grants a right to appeal, and her lack of time to review the material submitted by Mr. Gardner, she cautioned the Commission on taking any type of action. Mrs. Lancaster suggested the matter should be returned to the Director of Public Works.

Mr. Ball withdrew his motion.

Attorney Hall clarified her statement regarding appeal, explaining Mr. Sharpe may appeal to the courts.

Mr. Williams withdrew his second.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to return the issue to the Public Works Director.

9. APPOINTMENT APPROVAL

MOTION: Mr. Ball moved, Mr. Williams seconded and motion carried 5-0 to approve the appointment of Charles C. Cook as an alternate member of the Code Enforcement Board for a term ending January 2010.

10. MEALS ON WHEELS PLUS CAPITAL CAMPAIGN

MOTION: Mr. Ball moved, Mr. Williams seconded and motion carried 5-0 to approve a donation to the Meals on Wheels PLUS capital campaign in an amount not to exceed \$5,000.

11. CSX RAILROAD POTENTIAL SPUR ABANDONMENT

CSX requires confirmation from the City that a potential abandonment of a spur of its railroad is consistent with existing City land use plans. Mrs. Lukowiak stated this issue is separate from the Palmetto Elementary School land assembly issue; the abandonment is for the line only. CSX will provide the City information on the portion of the removal for which it will be responsible. Commission approval will be requested if City funds are necessary to complete the removal of the spur.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to authorize the Mayor and Staff to confirm to CSX Railroad the abandonment of the spur beginning south of 10th Street West at 5th Avenue extending to Heartland Fertilizer is consistent with existing City land use plans.

12. PALMETTO ELEMENTARY SCHOOL SURVEY

Mayor Bustle reported the survey regarding the location of Palmetto Elementary in the downtown resulted in 78% of the responses voting to keep the school on or near its present location and 58% responded in favor of using CRA funds to assist in assembling the property.

Mayor Bustle informed Commission of a possible School Board plan for the construction of a new elementary school at 33rd Street West, and then construction of a new Palmetto Elementary at or near its present site. Commission discussed whether or not the City should continue assembling land, at a maximum \$1.6 million expenditure excluding the Day Care Center, in the event a school is built at the downtown location in the future.

Commissioners expressed the need to negotiate with the School Board concerning the amount the City would be willing to contribute. Commission also indicated the land purchased by CRA should remain in the City's ownership if a new Palmetto Elementary is not built on or near its present location. Mrs. Lukowiak described the land remaining to be purchased as: 1) Halfway house, 2) Day Care, and 3) State property the School Board would have directly purchased. Ms. Lukowiak opined that the CSX property (3.22 acres), together with the other previously discussed property, excluding the Day Care Center, would be sufficient acreage to locate the school. She further stated she could not assure the CSX property would be considered by the School Board because of the environmental issues that may be present because of the property's use by the railroad. Ms. Varnadore stated she is not in favor of expending CRA funds to further assemble land until such time the School Board makes a firm decision on the location of Palmetto Elementary.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-1 to direct the CRA to continue to purchase property adjacent to Palmetto Elementary school for future City of Palmetto use. Ms. Varnadore voted no.

Mayor Bustle recessed the meeting for ten minutes.

Attorney Hall informed Commission she had developed language to amend Ordinance No. 07-914. She opined the amendment was not sufficient to warrant additional noticing, and read the amendment, as follows:

Sec. 7-220(b) First sentence: Property owners other than owners of a single lot of record shall be responsible for the maintenance of all landscape areas in a manner that is consistent with an approved landscape plan.

Second sentence: Where vegetation is not maintained in a healthy state, it shall be subject to enforcement action by the code enforcement board.

MOTION: Mr. Ball moved, Mr. Williams seconded and motion carried 5-0 to adopt Ordinance No. 07-914 as amended.

13. 2007 CIP AMENDMENT OF PROJECTS

Mr. Lukowiak referred to the statute concerning CIP amendments, whereby DCA will be provided minutes of the meeting wherein the amendment was approved. Mr. Lukowiak reviewed proposed reallocation of funds, based on prioritizations recommended/requested by City Commission and staff. Mr. Lukowiak stated the total CIP amount as approved will not be changed. He reviewed and explained the amendments as follows:

1. Amendment #1: Addition of 8th and 9th Street resurfacing (including avenues)
To be funded by the deletion of engineering for dredging projects (\$80,000) until 2008
2. Amendment #2: Addition WWTP to Amendment #1
To be funded by reductions from:

| | |
|------------------------|----------|
| ADA Compliance | \$10,000 |
| PARS | \$25,000 |
| Historic Park Upgrades | \$25,000 |
| PW Facility Upgrades | \$25,000 |
| Backflow Prevention | \$10,000 |

The total CIP remains at \$2,084,085.22. Mr. Lukowiak stated a total of \$255,000 has been reallocated to fund the projects discussed in both amendments.

Mayor Bustle stated 12th Street, was in his opinion, worse than 8th Street and 9th Street. Mr. Lukowiak concurred and stated he felt he may be able to resurface 12th Street with 8th and 9th Streets and requested permission to add 12th Street.

MOTION: Mrs. Lancaster moved and Mr. Williams seconded to approve the 2007 CIP project amendments as stated.

Discussion: Mr. Ball reminded Commission the issue regarding resurfacing of 8th and 9th Street vs. the dredging projects was addressed when, by 3-2 vote, Commission decided the funds would be allocated for dredging. He stated moving funds to a project that can't be completed without additional funds is understood, but he voiced objection to deleting dredging for 8th and 9th Street. Ms. Cornwell reiterated her position on resurfacing streets if utilities are not going to be installed at the same time.

Motion on the floor carried 3-2. Ms. Cornwell and Mr. Ball voted no.

14. APPROVAL: PERKLING CONSTRUCTION CONTRACT AMENDMENT

Mr. Lukowiak requested the item be removed from the agenda for further verification of funds. Commission concurred.

15. APPROVAL: WESTRA CONSTRUCTION CORPORATION CONTRACT

Agreement for construction services for the 10th Street and 26th Avenue upgrade.

MOTION: Mr. Williams moved, Mr. Ball seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Westra Construction Corporation Agreement for General Construction Services in an amount not to exceed \$500,000.

16. APPROVAL: EXTENSION OF WALLACE, ROBERTS AND TODD CONTRACT

The Evaluation and Appraisal Report is not yet finished, and the firm's contract expires March 6, 2007. Staff proposes extending the contract an additional 180 days.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to extend the Wallace, Roberts and Todd contract by 180 days.

17. APPROVAL: ATTORNEY CONTRACT

Approval of contract to formalize the Mayor's appointment of the City Attorney.

MOTION: Mr. Williams moved, Mr. Ball seconded and motion carried 4-1 to approve and authorize the Mayor to execute the 2007 City Attorney Appointment contract letter. Ms. Cornwell voted no.

18. APPROVAL: RECORDS AGREEMENT WITH DYE, DEITRICH, PETRUFF AND ST. PAUL

Agreement governing possession and access to existing records relating to previous legal services provided by Dye, Deitrich, Petruff and St. Paul.

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Agreement with Dye, Deitrich, Petruff and St. Paul governing possession and access to existing Firm records.

19. VETERANS' MEMORIAL RELOCATION

Approval to negotiate the relocation of the Veterans' Memorial to Sutton Park.

MOTION: Ms. Cornwell moved and Mr. Williams seconded to authorize the Mayor to negotiate the relocation of the Veterans' Memorial to Palmetto.

Discussion: Ms. Varnadore suggested the City should also consider the Estuary Park as a possible location for the Veterans' Memorial, because so much space would be lost from Sutton Park.

Motion on the floor carried 4-1. Ms. Varnadore voted no.

20. APPROVAL: EQUIPMENT LEASE

Approval of a three year lease of a multi-functional copier/scanner for the Planning Department and authorization to issue the purchase order.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 5-0 to authorize the issuance of a purchase order for a three-year lease to Ricoh Corporation in a total amount not to exceed \$23,199.

21. RESOLUTION NO. 07-08

Establishes budget for the purchase and sale of two cemetery spaces.

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. 07-08.

22. RESOLUTION NO. 07-09

Authorization to establish budget for installation of three trees at the Memorial Tree Walk.

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 and Mrs. Lancaster seconded to adopt Resolution No. 07-09.

Discussion ensued on how the Memorial Tree Walk was developed and past installation practices. Mayor Bustle stated that in the absence of any policy or procedure, any individual may purchase a tree and plaque for the Memorial Tree Walk. Discussion ensued on the lack of a policy governing the installation of a tree on the Memorial Tree Walk. Staff will draft a Memorial Tree Walk policy for Commission's review.

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

23. RESOLUTION NO. 07-10

Authorization to establish budget for the acceptance of grant funds from FDEP's Office of Greenways and Trails for the Riviera Dunes scenic trail.

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: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to adopt Resolution No. 07-10.

24. DEPARTMENT HEADS' COMMENTS

Mr. Schmitt

Informed Commission a decision has not yet been made concerning the Riverside Plaza signage.

Mr. Freeman

Reviewed the March Commission meeting schedule.

Referring to the memo concerning the Customer Service Supervisor, Mr. Freeman confirmed the budget impact is \$3,500, which will be funded from a \$5,000 contract services line item that will be eliminated because the new supervisor is performing the investigative legwork for the audit. Mrs. Lancaster stated she objected to the way the item was handled.

Chief Lowe

Informed Commission the Police Department has accepted title to a vehicle. Commission concurred with the acceptance.

Mr. Lukowiak

Construction begins on the 7th Street signalization March 5, 2007. It is anticipated construction will take approximately 30 days. Steps have been taken to mitigate traffic issues.

25. MAYOR'S REPORT

Urged Commissioners to educate themselves on the property tax reform that is being discussed in Tallahassee. A legislative roundtable is scheduled at 11:30 am on Tuesday. Senator Bennett will be holding a forum Tuesday 2-4 at the county commission chamber.

Olympia Theater hearing has begun.

Commented on the grand opening of the new Palmetto Library.

Reported staff has received a first draft of an interlocal agreement between the City and Palmetto Historic Commission. Attorney Hall has not yet reviewed the document.

Mayor Bustle requested Commission's agreement to limit spending by leaving unfilled positions open and postpone contracts that are not essential. Suggested the City should avoid spending as much as possible until municipalities are certain what will happen in Tallahassee. Mr. Freeman informed Commission information from Florida League of Cities projects the City's millage rate may be cut to 2.5 mills which equates to a 49% reduction in ad valorem tax revenue, a \$2.2 million decrease to the General Fund.

26. COMMISSIONERS' COMMENTS

Ms. Varnadore

Reported Bradenton employees confirmed a memo freezing all hiring has been distributed.

Staff confirmed the Veterans' Memorial motion was to move it to Palmetto.

Stated a 23 item agenda is aggressive and suggested the agenda should not be so large in the future.

Mr. Williams

Suggested having the landscape ordinance on the workshop would have shortened the meeting.

Chief Lowe confirmed K-9 Kantu is doing well and will be out of training in April.

Stated he would like to see Commission meetings advertised on real estate signs placed throughout the City and banners at the City's gateways.

Stated he would like to discuss what would have to be done to extend 12th Street through the fairgrounds.

Daylight Savings time begins March 11, 2007.

Mrs. Lancaster

Chief Lowe confirmed 11th Street Drive is going very well. She reported she had received calls over the weekend.

Reiterated she is very disturbed about some decisions made by staff and the way the issue was handled.

Mr. Ball

Residents of Colonial Mobile Manor and Palm Bay have been offered the chance to purchase the parks for \$17.8 million. Opined Commission may see zoning requests for land that is currently a mobile home park. Stated his only concern is the affordable housing units that may be lost.

Ms. Cornwell

Spring break begins March 26, 2007.

Referring to the issue raised by Mrs. Lancaster, Ms. Cornwell stated she would prefer a change in salary be an agenda item for open discussion. Mayor Bustle stated staff effectively got the item approved by the Commission through phone calls. Mayor Bustle stated it was within the prerogative of the department head because the money was available; it was an operational decision. Ms. Cornwell stated she agreed with the change in salary but she objected because it was not an agenda item.

Meeting adjourned at 11:00 pm.

Minutes approved: March 19, 2007



James R. Freeman
City Clerk