

Palmetto City Commission
May 21, 2007 7:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor
Eric Ball, Vice Mayor (entered at 7:05)
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 7:21 pm. A moment of silence was observed for overseas military personnel.

Mayor Bustle presented Hal Willis, County Veterans Service Officer for Manatee County, a proclamation declaring May 28, 2007 as Memorial Day

All persons planning to speak to Commission were sworn in.

There was no public comment.

1. AGENDA APPROVAL

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the May 21, 2007 7:00 PM agenda, with the addition of item 1A the discussion of Olympia Theater.

1A. OLYMPIA THEATER

As a follow-up to the litigation assessment shade meeting held at 6:00 pm, Special Counsel Mickey Palmer framed a motion for consideration by Commission in the matter of the City of Palmetto v. Charter and Service Supply Company, et al, an eminent domain proceeding relevant to the Olympia Theater property, to extend a counter proposal of settlement to the property owners.

MOTION: Mrs. Lancaster moved and Mr. Ball seconded that the City will offer the aggregate sum of \$750,000 to purchase the property, which sum is inclusive of all attorney fees and costs; the owner's response must be provided to Mickey Palmer, outside counsel, within ten calendar days of the owner's receipt of a written offer from Mr. Palmer; the closing of the transaction must occur within thirty days of a signed settlement agreement; the City reserves the right to do a pre-closing inspection of the property and the right to terminate the transaction should untoward damage be discovered; there will be no other offers or proposals that will be considered by the City of any nature; and, the City will dismiss its appeal of the trial court's ruling in exchange for the property owners dismissing their counter appeal.

Discussion: Ms. Varnadore discussed her understanding that the offer to dismiss the City's appeal would be a motion and the counter offer would be a motion, and the fact she would vote differently on each motion. Attorney Palmer and Attorney Hall agreed the motion could be bifurcated.

Mrs. Lancaster withdrew her motion and Mr. Ball withdrew his second.

Attorney Hall advised Commission she would prefer two motions, clarifying that the acceptance of the City's offer would be contingent upon the dismissal of a cross appeal.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 5-0 to instruct Counsel Mickey Palmer to file a voluntary dismissal of the pending appeal in the matter of City of Palmetto v. Charter Services Supply Co., et al.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 3-2 to authorize Counsel Mickey Palmer to extend a written counter offer of settlement to the property owners for a purchase price of \$750,000, inclusive of all attorney fees and costs; the response to the counter offer of settlement must be in writing and must be received by Counsel Mickey Palmer within ten calendar days of their receipt of the City's written offer; the closing of the transaction must occur within 30 days of a signed settlement agreement being executed; the city reserves the right to do a pre-closing inspection of the property and the right to terminate the settlement agreement in the event untoward damage is discovered; the city will not entertain any other offers or proposals of any nature in settlement of this matter; and as a condition of the settlement, the property owners will agree to dismiss their cross appeal. Mr. Williams and Ms. Varnadore voted no.

2. CONSENT AGENDA

The Special Function Permits were withdrawn from the Consent Agenda.

A) Minutes: May 7, 2007

MOTION: Commission voted unanimously to approve the May 7, 2007 minutes.

B) Special Function Permits: 1st Baptist Church Youth Bar-B-Que
Palmetto High Class '97 Reunion
Manasota Mopar Club, Inc. Car Show & Fund Raiser

Mr. Ball inquired if there is a policy that determines how a fee is assigned to Special Function Permits. Mr. Lukowiak explained that some applicants personally place the cones to close streets or portions of streets, so a Parks & Recreation cost is not assigned.

Also discussed was the fact that car shows may damage the sprinkler systems in the parks; therefore, the applicants should be responsible for any repairs. The applicant for the Manasota Mopar Club, Inc. verbally agreed the club would pay for any damages caused by their event.

Mr. Williams requested that maps be included in the applications when appropriate.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the three Special Function Permits, subject to the sprinkler system discussion.

3. PUBLIC HEARING: ORDINANCE NO. 07-930

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING APPENDIX B, ARTICLE IV OF THE CITY OF PALMETTO CODE OF ORDINANCES IS HEREBY AMENDED BY ADDING A SECTION 4.4, RELATING TO DEVELOPMENT WITHIN DOWNTOWN PALMETTO; PROVIDING FOR FINDINGS OF FACT; PROVIDING DEFINITIONS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR APPLICABILITY AND REVIEW; DESIGNATING THE GEOGRAPHICAL AREA BOUNDED BY THE MANATEE RIVER, THE EASTERMOST BOUNDARY OF 11TH AVENUE WEST, THE SOUTHERNMOST BOUNDARY OF 10TH STREET WEST AND THE WESTERMOST BOUNDARY OF US 41/301 AS THE DOWNTOWN CORE; PROVIDING FOR DOWNTOWN CORE DEVELOPMENT GUIDELINES; ESTABLISHING CHARACTER DISTRICTS WITHIN THE DOWNTOWN CORE; PROVIDING DEVELOPMENT REGULATIONS FOR EACH CHARACTER DISTRICT; PROVIDING FOR REPEAL OF CONFLICTS; 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 and Mrs. Lancaster seconded to adopt Ordinance No. 07-930.

Discussion: Mr. Schmitt confirmed that the P&Z Board unanimously recommended approval of the ordinance. He also confirmed that the density figures and building heights are appropriate, but they can be reviewed in the future, if necessary. Commission agreed that the City's current appeal is what they wish to retain.

Motion on the floor carried 5-0.

4. PUBLIC HEARING: ORDINANCE NO. 07-931

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

MOTION: Ms. Varnadore moved and Mrs. Lancaster seconded to adopt Ordinance No. 07-931.

Discussion: Mr. Ball voiced his opinion that additional discussion of the topic was not necessary, stating he felt there were only two issues that ever needed to be considered; minor issues can be decided as they occur. Ms. Varnadore spoke in favor of the extension. Mr. Williams agreed with Mr. Ball.

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

5. MEMORANDUM OF UNDERSTANDING FOR FLORIDA NATIONAL GUARD

Agreement for the Florida National Guard and the City to provide mutual support in the event of crises and during special events.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Memorandum of Understanding or Memorandum of Agreement Between the Florida Army National Guard and the City.

6. RESOLUTION NO. 07-16 (Chief Lowe)

Budget amendment to accept grant funds from the Department of Justice.

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. 07-16.

7. RESOLUTION NO. 07-18

Annual operation and maintenance cost of an automatic railroad traffic control device at 2nd Avenue West.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, APPROVING THE RAILROAD REIMBURSEMENT AGREEMENT FOR 2ND AVENUE WEST WITH CSX TRANSPORTATION, INC. AND THE STATE FLORIDA DEPARTMENT OF TRANSPORTATION.

8. RESOLUTION NO. 07-19

Annual operation and maintenance cost of an automatic railroad traffic control device at 5th Avenue West.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, APPROVING THE RAILROAD REIMBURSEMENT AGREEMENT FOR 5TH AVENUE WEST WITH CSX TRANSPORTATION, INC. AND THE STATE FLORIDA DEPARTMENT OF TRANSPORTATION.

9. RESOLUTION NO. 07-20

Annual operation and maintenance cost of an automatic railroad traffic control device at 9th Street West.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, APPROVING THE RAILROAD REIMBURSEMENT AGREEMENT FOR 9TH STREET WEST WITH CSX TRANSPORTATION, INC. AND THE STATE FLORIDA DEPARTMENT OF TRANSPORTATION

Commission discussed the three resolutions pertaining to CSX's offer to install automatic railroad traffic control devices at their choice of locations. Given the lack of traffic at the locations and the City's obligation to contribute to the annual maintenance of the equipment, Commission rejected the installation of the equipment.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to removed items 7, 8 and 9 from the agenda and instructed Mr. Lukowiak to advise CSX of the City's rejection of their generous offer.

10. RESOLUTION NO. 07-21

An FDOT Transportation Regional Incentive Program (TRIP) for Riverside Drive and Business 41, wherein FDOT pays for 50% of the cost of construction for the improvement.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, APPROVING STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, TRANSPORTATION REGIONAL INCENTIVE PROGRAM AGREEMENT FOR INTERSECTION IMPROVEMENT PROJECT.

Mayor Bustle reminded this is a project requested from and awarded by the Metropolitan Planning Organization. Mr. Williams inquired if the motion to approve could be made and then delay the project. Ms. Varnadore also questioned the timelines. Mrs. Lukowiak informed Commission the City has a year to design and construct the project, and the CRA will fund the \$150,000 match.

MOTION: Ms. Cornwell moved and Mrs. Lancaster seconded to adopt Resolution No. 07-21.

MOTION: Mr. Williams moved and Ms. Varnadore seconded to amend the motion on the floor to include the requirement of City Commission's approval of the engineering and construction plans prior to the expenditure of any CRA or grant monies.

Discussion: Mrs. Lukowiak explained that engineer plans are not typically reviewed by Commission; however, all construction contracts are approved by Commission. Mrs. Lukowiak also explained this is a reimbursement project and the City will not receive funding until the project is completed.

The amended motion carried 4-1. Mr. Ball voted no.

The motion as amended carried 5-0.

11. APPROVAL: AGREEMENT WITH COASTAL TENNIS, LLC FOR USE OF CITY FACILITIES

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Agreement for Use of City of Palmetto Park Facilities with Coastal Tennis, LLC.

12. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 07-932

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING SECTIONS 17-52(C) AND 17-54 OF THE CITY CODE OF ORDINANCES; PROVIDING FOR THE TOLLING OF DEVELOPMENT APPLICATION REVIEW DURING CITY PLANNER REVIEW OF A REQUEST FOR INCENTIVES FOR THE CONSTRUCTION OF ATTAINABLE HOUSING UNITS; PROVIDING FOR AN INCREASE IN THE OPPORTUNITY FOR DEVELOPERS TO MAKE PAYMENTS IN LIEU OF CONSTRUCTING ATTAINABLE HOUSING UNITS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 07-932 for advertising and schedule a public hearing June 4, 2007.

13. DEPARTMENT HEADS' COMMENTS

Mrs. Lukowiak

Reviewed the upcoming grants available to the City as follows: 1) Land and Water Conservation matching grant for recreational venues; 2) BYRNE grant for police that is allocated funds; 3) Wildflower grant; and 4) SWFWMD education grant.

Chris Lukowiak

Requested permission to correspond with Larry Mau, to request that Manatee County transfer jurisdiction to the City of a final right-of-way at the 11th Street Court Pelican Bay project. Commission concurred.

Requested permission to terminate the contract with American Lighting, the vendor responsible for maintenance of the street lights, because of inadequate response time. He informed Commission he is working with Purchasing to develop a new RFP for street light maintenance. Commission concurred.

Reported he has met with the county on Jackson Park, the 7th Street signalization and the Snead Island Bridge. Jackson Park is proceeding; Commissioner Whitmore did go to the county's legal department concerning the topic. The 7th Street signalization cut through to Haben Blvd. will be a county commission workshop agenda item. He will attend the County Commission meeting tomorrow to observe the discussion on the Snead Island Bridge.

Mr. Freeman

No report.

Chief Lowe

No report.

14. MAYOR'S REPORT

Informed Commission on expose on the Palmetto Guest Home will be on the 11:00 news on Channel 8.

15. COMMISSIONERS' COMMENTS

Ms. Varnadore

Concerning the markings Verizon is doing throughout the City, Mr. Lukowiak explained they are for soft digging, open cutting will only occur when problems are encountered. Mr. Lukowiak stated he will review the agreement for language addressing street cutting.

Mr. Williams

Suggested that target completion dates should be placed on all the Suspense Log topics.

Mrs. Lancaster

No report.

Mr. Ball

Concurred with Mr. Williams' statement concerning the Suspense Log.

Reported on the events he had attended in the Mayor's absence.

Ms. Cornwell

Reported Thursday is the last day of school.


Inquired if 12th Street was scraped before paving, and reported it still has bumps. Mr. Lukowiak will look at the street.

Inquired about adding a time limit for issued permits to an agenda for discussion. Mr. Lukowiak reported the Florida Building Commission has informed him there is a local amendment chapter in their code. Attorney Hall is researching to determine how the City may use the local amendment policy. Mayor Bustle discussed the letter he is composing regarding the Olympia Theater's mobile sanitation issue, Special Function Permit and Building Permit. Commission concurred that the letter should be mailed immediately.

Mayor Bustle reviewed the June and July meeting dates. Mr. Freeman stated a budget will be available to Commission by July 9th 2007.

Meeting adjourned at 8:50 pm.

Minutes approved: June 4, 2007


James R. Freeman
City Clerk