

Palmetto City Commission
June 18, 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
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:04 pm. A moment of silence and appreciation was observed for overseas military personnel.

All persons planning on addressing Commission were sworn in.

There was no public comment on non-agenda items.

ORDER OF BUSINESS:

1. AGENDA APPROVAL

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the June 18, 2007 7:00 PM agenda.

2. CONSENT AGENDA

- A) Minutes: June 4, 2007
- B) May 2007 Check Register
- C) Special Function Permit: 4th of July Celebration
July 4th Block Party
Special Permit Exception to City's Noise Ordinance: Bradenton Yacht Club

Ms. Cornwell requested the Bradenton Yacht Club's Special Permit Exception to the City's Noise Ordinance be withdrawn for discussion.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the June 18, 2007 Consent Agenda, with the removal of the Bradenton Yacht Club.

Mr. Ken Nyus, manager of the Bradenton Yacht Club, informed Commission the date of the planned event is July 1, 2007. He explained events that are planned and confirmed the fireworks display will be from a barge located in the Manatee River off the club's property.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the Special Permit Exception to the city's Noise Ordinance.

3. APPROVAL: BRIGHT HOUSE NETWORKS MOVIE IN THE PARK SPONSORSHIP

Bright House Networks proposes to sponsor the Movie in the Park for the months of July 2007 through December 2007.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Bright House Networks Movie in the Park sponsorship letter.

4. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 07-927

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 (AN0703 – Palmetto Warehouse Company, LLC, PID#2424300008, 0.32± acres).

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 07-927 for advertising and schedule a public hearing July 9, 2007.

5. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 07-928

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 ROR (Residential-Office-Retail) - COUNTY TO GCOM (General Commercial) - CITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA0703 – Palmetto Warehouse Company, LLC, PID#2424300008, 0.32± acres).

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to approve Ordinance No. 07-928 for advertising and schedule a public hearing July 9, 2007.

6. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 07-929

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 HEREIN FROM RSF-4.5 (RESIDENTIAL SINGLE FAMILY) - COUNTY TO CG (COMMERCIAL, GENERAL) – CITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z0703 – PALMETTO WAREHOUSE COMPANY, LLC, PID#2424300008, 0.32± ACRES).

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 07-929 for advertising and schedule a public hearing July 9, 2007.

7. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 07-933

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING ARTICLE XIV OF APPENDIX B, *ZONING CODE*, OF THE CITY CODE OF ORDINANCES; PROVIDING FOR A PROPORTIONATE FAIR-SHARE PROGRAM, TO ALLOW UNDER CERTAIN CONDITIONS CONTRIBUTIONS TO BE MADE TOWARD TRANSPORTATION CAPITAL IMPROVEMENTS, AS REQUIRED BY SECTION 163.3180(16), F.S.; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 07-933 for advertising and schedule a public hearing July 2, 2007.

8. DISCUSSION: LEGISLATIVE PROPERTY TAX REFORM

Mr. Freeman updated Commission on the recently approved legislative property tax reform. The first phase and initial impact to the City is the statutorily mandated roll back in the aggregate millage rate plus an additional 9% reduction. The new millage rate for FY2007-2008 equates to 4.4078. He explained Commission has the option to adjust the millage rate, but only by certain approval criteria established by the legislature.

The second phase of the legislation will be decided by the voters in January. If passed by 60% of the voters, the legislation will allow a homesteaded property owner the choice of retaining the "Save Our Homes" 3% cap or a maximum \$195,000 "super" exemption on homesteaded properties – 75% exemption on the first \$200,000 and 15% on an additional \$300,000 on home valued \$500,000 or more. The second phase, if passed by the voters, will affect the City during FY 2008-2009.

Mr. Freeman informed Commission staff is completing the budget and anticipates it will be ready by an initial review during the July 2, 2008 workshop meeting. He also stated the CIP and the stormwater assumptions have been added to the FY 2007-2008 budget.

Mr. Freeman confirmed approximately \$1 million has been added to the General Fund over last year.

9. DEPARTMENT HEADS' COMMENTS

Mrs. Lukowiak

Referring to the Interlocal Agreement with Manatee County, Mrs. Lukowiak informed Commission the agreement allows a Greenways and Trails grant \$200,000 to continue the trail from Hidden Park to Snead Island. The City will perform the grant work and Manatee County will contribute the matching funds.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to authorize the Mayor to sign the Interlocal Agreement between the City of Palmetto and Manatee County for recreational trails funding.

Informed Commission the summer camps are going very well.

Geoff Seger, Parks & Recreation Director, updated Commission on the 4th of July Celebration.

Mr. Lukowiak

Palmetto Youth Center would like to hold youth football registration in Sutton Park July 7 or July 14 and has requested the City waive the rental fees. Rather than waiving the fees, Mayor Bustle suggested that the Center should be told to set up in the park, with the understanding they may have to share the park. Commission concurred.

Requested Commission ratify a letter to the Metropolitan Planning Organization (MPO), stating the City will apply for a portion of the \$800,000 Congestion Management System grant funding. Mr. Lukowiak stated the grant funds would be used for the Canal Road turn lane, the signalization of Canal Road and US 301, and left turn lanes at 10th Street and 10th Avenue. As part of the MPO application for consideration, a letter endorsed by the City Commission must be submitted listing the identified City projects. Mr. Lukowiak read the letter that will be signed by Mayor Bustle.

MOTION: Mr. Ball moved, Mr. Williams seconded and motion carried 5-0 to apply for the MPO Congestion Management System projects.

Informed Commission a retention wall on hole nine at Palms of Terra Ceia has given away. Mr. Lukowiak reported Terra Ceia's contention is that they pay stormwater fees and they should not have to repair the wall. The project is approximately \$29,000. Manatee Fruit Company has agreed to pay one-third of the cost. Terra Ceia has agreed to pay one-third if the City will agree to pay one-third. Mr. Lukowiak stated this is a project that needs to be done.

Mr. Lukowiak advised Commission that Terra Ceia has raised the issue of stormwater fees for approximately two years. He opined the bad pond design is what has created the problem with the retention wall. Terra Ceia claims they pay their stormwater fees, yet they maintain their stormwater system. Attorney Hall stated this issue is what prompted the stormwater ordinance amendment to allow for property owner mitigation credits. When questioned what the difference is between Palms of Terra Ceia and a grocery store that has stormwater retention, Attorney Hall explained the difference is Palms of Terra Ceia assess their residents to pay for stormwater and they claim the residents are being double taxed. Ms. Varnadore opined they are being double taxed to be a part of the community development district.

Mr. Lukowiak further stated Palms of Terra Ceia believes they will receive mitigation credits once the stormwater ordinance is finalized and, while the issue is being resolved, the wall should be repaired. If it is in fact determined they will receive 100% mitigation, the City will acknowledge the \$10,000. If it is found the mitigation is not applicable, Palms of Terra Ceia could owe the City the \$10,000 repair bill.

It was consensus of the City not to participate in the repair of the retention pond. Mr. Lukowiak referred to the county agenda distributed before the beginning of the meeting relating to the Erie Road Landfill. He stated county staff is of the opinion the transfer of the long-term closure permit for the landfill should be transferred to the City of Palmetto. Mr. Lukowiak opined that until the end of the closure permit, after the landfill has been monitored 20-30 years, it is still the county's issue. Mr. Lukowiak stated the 1982 Agreement states the City would pay 40% of the closure costs. City records reflect a bill was been received in 1984, which was paid in the amount of \$10,259. No other invoice or payment records have been located. The county now budgets an annual expense of \$70,000 to the landfill.

Mr. Lukowiak recommended Commission not entertain this proposal. He requested permission to attend the county commission meeting to report the City is not interested in assuming the landfill at this time, there are too many unknowns.

Mr. Lukowiak reported on a conversation with DEP, who stated that while there is an active closure permit, it is an inactive site, not a closed site. He further asked DEP the condition of the landfill. Susan Phelps, DEP, stated she would not answer the questions but did state that at a minimum the city should hire an environmental consultant and review the file before assuming the property. Mr. Lukowiak informed Commission he has advised the county in written correspondence several times over the past two years that the City is not interested.

He provided a brief history of the issue and explained the county is requesting the City accept the responsibilities of the closure permit they have with the DEP. The City owns the property but Manatee County is responsible for the property. Mr. Lukowiak stated the current permit expires 2014, but it is his opinion the site will never close.

Commission discussed the issue. Attorney Hall stated she hasn't reviewed the contract in detail for the last couple of years. She also stated there are several defenses concerning the non-billing issue. Mayor Bustle recommended that Mr. Lukowiak advise the Board of County Commissioners that the City's counsel is reviewing the Agreement and at this time, we are not prepared to accept any responsibility for the closure of the permit. Mayor Bustle stated he would attend the meeting to relate the City's position.

Mr. Freeman

Reminded elected officials and department heads that Form 1 is due July 1, 2007.

Inquired about the election of the voting delegate for the Florida League of Cities conference.

MOTION: Mr. Ball moved, Mrs. Lukowiak seconded and motion carried 5-0 that Mayor Bustle be appointed the voting delegate at the Florida League of Cities.

Chief Lowe

No report.

Attorney Hall

Informed Commission the Olympia Theater attorney fees totaled \$250,000, which does not account for bonus or additional payment the court may find justified, pursuant to the statute. She and Attorney Mickey Palmer recommended the City accept as a settlement responsibility for payment of the attorney fees totaling \$250,000.

MOTION: Mr. Williams moved and Mrs. Lancaster seconded to approve a settlement with the property owners of the Olympic Theater, for a one time lump payment by the City of Palmetto \$227,500, in full payment of all of the property owners' attorneys' fees, costs and expenses, in the eminent domain matter of City of Palmetto v. Charter Service and Supply Company, et al., Case No. 2006-CA-3827, with payment to be made by the City within 10 days of adoption of this motion, to the appropriate party.

Discussion: Attorney Hall confirmed both appeals have been dismissed. Once the court approves the amount, the City is finished with this proceeding.

Motion on the floor carried 5-0.

10. MAYOR'S REPORT

Stated he would like the City to pay for any alterations to the women's shirts for the FLOC conference. Commission concurred.

11. COMMISSIONERS' COMMENTS

Ms. Cornwell

Mr. Lukowiak confirmed the ability to mitigate stormwater has not been worked out yet, but meetings with each Commissioner and Andy Burnham of Burton and Associates have been scheduled.

Mayor Bustle confirmed there is no new information on the pool at Blackstone Park.

Mr. Ball
No report.

Mrs. Lancaster

Informed Commission and the Mayor that as a result of calls she has received concerning the fence at the cemetery. She stated she had entered the cemetery on 14th Avenue and exited on 8th Street. She opined there could be a visibility problem at night. She suggested that because the fence will continue to be problem it may be best to relocate the fence to another area.

Mr. Williams

Mayor Bustle confirmed a concave mirror will be installed at 8th Street and 14th Avenue to resolve the fence issue. Mayor Bustle asked that Commissioners advise him when they receive calls so he knows how many calls are being received. Mr. Williams stated he was not sure the fence is the best solution, but he is glad the City is doing something.

Regarding ordinances that are coming to Commission, he stated appropriate staff members should be reviewing the documents. Mayor Bustle confirmed the department heads are responsible for drafting and reviewing the ordinances. Mr. Williams suggested that if everyone got together there may be opportunity to alleviate some of the problems identified by Commission. Attorney Hall confirmed that relevant department heads and staff members develop and proof the ordinance before submission to Commission.

Ms. Varnadore

Chief Lowe confirmed the eight Coban computer systems installed in the police cars are working pretty well. Some minor issues have been identified and corrected.

Inquired what the Commission's policy is regarding asking for research from the City attorney. Mayor Bustle requested that is there is significant research or workload to be placed on any department head that he be asked and he will agree or request that the other Commissioners be consulted for their agreement to the task. She stated she would like feedback from the commissioners, because she then asked, "Is silence consent?" She sited several times during the meeting when the Mayor asked, "Is there consensus?" and there was no comment – is that considered consensus, if no one objects or comments? Discussion ensued on the topic.

The issue revolves around the fence at the cemetery and the request Ms. Varnadore made at a previous meeting for a report from Risk Management concerning the City's liability. Ms. Varnadore stated that at the time of her request there was no objection from the other Commissioners and she assumed the report would be done. She asked for clarification because since there was silence she believed there was consensus among Commission regarding her request.

Mayor Bustle suggested that if a Commissioner wants to ensure consensus on a topic the sure way is to have a motion. He also suggested that if a Commissioner would inquire if anyone has a problem with a request and no one objects, then that could also indicate consensus. Ms. Varnadore stated she received the clarification she was seeking.

MOTION: Ms. Varnadore moved and Mr. Williams seconded to have research done on the liability of the City regarding the fence we placed there without a permit.

Discussion: Ms. Cornwell stated her objection to the motion is that there is only a perceived threat; to her knowledge there has been no accident. She also cited the precedent DOT has set in not doing anything until an accident has occurred. Ms. Varnadore commented on wanting to know the City's liability before an accident occurs.

Mrs. Lancaster discussed a building the City allowed to be built too close to the street at 8th Avenue and 11th Street. She acknowledged that at the cemetery you could see well enough not to cause an accident, but the people she has spoken with have voiced their opinion the fence is a problem. She also commented on the majority of people she has seen at the cemetery are elderly.

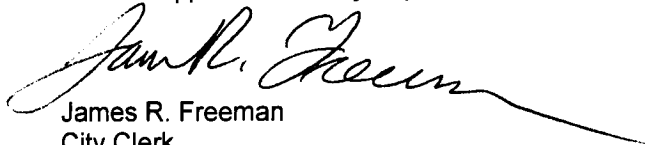
Mr. Williams inquired of Mr. Lukowiak if he gave a report the clear site triangle is satisfactory. Mr. Lukowiak confirmed he never gave a written report; he verbally said he had been out in his vehicle and was able to see fine.

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

Mrs. Lancaster informed she will not be at the next two meetings.

Meeting adjourned at 9:25 pm.

Minutes approved: July 2, 2007


James R. Freeman
City Clerk