

Palmetto City Commission
February 18, 2008 7:00 p.m.

Elected Officials Present:

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

Staff and Others Present:

James R. Freeman, City Clerk
Chief Garry Lowe
Chris Lukowiak, Public Works Director
Tanya Lukowiak, CRA Executive Director
Michele Hall, City Attorney
Bob Schmitt, Planning Supervisor/Zoning Administrator
Karen Simpson, Deputy Clerk-Finance
Diane Ponder, Deputy Clerk-Administration

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

PROCLAMATION: Future Farmers of America Week February 16 – 23, 2008
Carolyn Gilbert, Agri/Science and Academy Lead Teacher, PHS
Brittany Buckingham, FFA President

Swearing-in of all persons speaking to Commission.

PUBLIC COMMENT: No public comment.

ORDER OF BUSINESS:

1. AGENDA APPROVAL

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 5-0 to approve the February 18, 2008 7:00 PM agenda with the addition of the CRA 7th Street extension topic and the inversion of items 9 and 10.

2. CONSENT AGENDA

- A) Minutes: February 4, 2008
- B) Noise Exception & Temporary Use Permit-Chris' Catering Service

Ms. Cornwell requested that item B be removed from the Consent Agenda for discussion.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve item A of the February 18, 2008 Consent Agenda.

B) Noise Exception & Temporary Use Permit – Chris' Catering Service

Discussion ensued on the Noise Exception & Temporary Use Permit application submitted by Chris' Catering Service to allow a wrestling event one Saturday of each month at the business location, specifically that there was no time limitation on the permit and that port-o-lets would be utilized at each event. Matt Sfarikis explained why he found it necessary to use the port-o-lets rather than the bathroom facilities on site. Staff confirmed the Temporary Use Permit was submitted because code restricts the use of port-o-lets to a total of five times per year. Mr. Lukowiak suggested that the Temporary Use Permit be withdrawn and a five-month trial be allowed. Mr. Schmitt informed Commission he has spoken with Mr. Sfarikis, but he will also follow up to get the necessary information regarding the placement of the port-o-lets. Mr. Sfarikis agreed, stating the trial would prove if the event is profitable and would allow donation of some of the profits to the Sickle Cell Foundation as planned, and give him time to further research how best to provide for the athletes competing and provide permanent bathroom facilities. Ms. Cornwell informed Mr. Sfarikis that she will not support any extension of the permit if the permanent facilities are not on site by August.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the Noise Exception Permit for Chris' Catering Service from April through August, subject to approval by the Planning Supervisor.

2A. 7th STREET EXTENSION

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to include the 7th Street Extension in the project description for the CRA 2006 Series Bank of America loan.

3. SPECIAL FUNCTION PERMITS-PALMETTO HISTORIC COMMISSION

Palmetto Historic Commission is submitting Special Function Permit applications for their scheduled events for 2008. As additional vendors are scheduled for the events, the required insurance will be provided. Ann Marshall, Palmetto Historic Commission, confirmed the events have been reviewed with the City's calendar to ensure there are no conflicting event dates.

MOTION: Ms. Varnadore moved, Mr. Ball seconded and motion carried 5-0 to approve the Palmetto Historic Commission Special Function Permits as presented.

4. PUBLIC HEARING: ORDINANCE NO. 08-959

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 21, SECTION 21-8 OF THE CITY CODE OF ORDINANCES PERTAINING TO THE TEMPORARY USE OF MOBILE HOMES AND MANUFACTURED BUILDINGS AS SALES OFFICES OR ON ACTIVE CONSTRUCTION SITES; PROVIDING FOR ENFORCEMENT; 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, Mrs. Lancaster seconded and motion carried 5-0 to adopt Ordinance No. 08-959.

5. RESOLUTION NO. 08-05

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA; REGARDING SCHOOL FACILITY PLANNING; APPROVING THE FORM OF AN AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING; AUTHORIZING THE EXECUTION, DELIVERY, ACCEPTANCE AND RECORDATION OF SUCH INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 5-0 to adopt Resolution No. 08-05.

6. RESOLUTION NO. 08-06 (J. Freeman)

Budget amendment to establish budget for the revenue and expense related to the FDLE Justice Assistance Grant.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 07-39, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2007-2008, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 08-06.

7. GEOGRAPHIC INFORMATION SYSTEM ARC SDE UPDATE (C. Lukowiak)

Industry standard upgrade of ArcSDE 9.2 plus administration and maintenance training. Staff confirmed the upgrade will support the current database.

MOTION: Mr. Ball moved, Mrs. Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor to execute the TBE Group, Inc. Work Assignment #1 in an amount not to exceed \$5,149.

8. STREET LIGHT INSTALLATION (C. Lukowiak)

FPL Lighting Agreement to install three additional street lights along 24th Avenue W. from 13th Street W. to 16th Street W.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 5-0 to approve and authorize the Mayor to execute the FPL Street Lighting Agreement, Work Order 30011880, in an amount not to exceed \$520.75.

9. RESOLUTION NO. 08-09

Mr. Freeman explained the budget amendment will complete Commission's previously approved \$21,000 transfer from the Road & Bridge operating budget to the 2008 CIP Street Resurfacing budget.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 07-39, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2007-2008, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Ball moved, Mr. Williams seconded to adopt Resolution No. 08-09.

Discussion: Mr. Lukowiak explained the paving work assignments exceed the \$100,000 that was approved in the CIP; \$21,000 was identified in the Road & Bridge operating account. Currently the approved expenditure amount is approximately \$63,000. With the approval of item ten, the total will

be \$112,274. Staff confirmed the contract amount of \$120,651 does not commit the City to expend the total contract amount. Ms. Cornwell stated she was not comfortable moving the \$21,000 from the General Fund when she did not know what potential projects remain throughout the City.

Mr. Lukowiak explained that the 10th Avenue project was not identified in the CIP Street Resurfacing line item, as the funds were approved for projects that were to be identified by staff. He reviewed the work assignments approved at the January 22, 2008 meeting. Commission removed 10th Avenue and requested a quote be obtained for 7th Avenue, which was provided at February 4, 2008 meeting. Mr. Lukowiak further stated that the projects listed on the CIP included paving within the cost of the project. Mrs. Simpson confirmed the only reason for the transfer is to combine the CIP funds. Ms. Cornwell said Commission had approved \$100,000 and that is all she would support.

Discussion ensued on the practicable reasons for the transfer. Mrs. Simpson stated that if all the street resurfacing projects were included in the operating account the General Fund would fund the projects. If the projects are in the CIP, the projects can be funded with loan proceeds, thereby eliminating the use of Fund balance.

MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 4-1 to adopt Resolution No. 08-09. Ms. Cornwell voted no.

10. STREET RESURFACING IMPROVEMENTS (C. Lukowiak)

Superior Asphalt work assignment #4 to pave 10th Ave. W. from 6th St. W. to 10th St. W. Mr. Lukowiak confirmed that CRA will fund the resurfacing of 7th Avenue.

MOTION: Mr. Ball moved, Mr. Williams seconded to approve Superior Asphalt Work Assignment #4 in an amount not to exceed \$48,669.

Discussion ensued on how staff determines when to resurface vs. patching a street and the possible harm to newly paved streets if a new school is built at the school's present location. Commissioners voiced their opinions of what part of the street should be resurfaced, with the majority agreeing that the street should be paved only from 8th St. to 10th St. Mr. Lukowiak confirmed that he planned only to pave the travel lanes, but if the project is shortened the paving could be curb to curb.

Mayor Bustle questioned why the paving would be restricted when the need is there and funding is available. He also commented on 10th Avenue being the main thoroughfare through the historic district and the fact the City was encouraging development in that area.

MOTION: Mr. Ball amended the motion on the floor to restrict paving to 8th Street to 10th Street. Ms. Varnadore seconded the motion.

Discussion: Mr. Lukowiak He will obtain a new quote for the shortened but wider area.

The amending motion the on the floor carried 3-2. Mrs. Lancaster and Mr. Williams voted no.

The amended motion on the floor carried 4-1. Mrs. Lancaster voted no.

11. ASR EXPLORATORY WELL CONSTRUCTION AND TESTING BID AWARD

Award of bid to Hausinger & Associates to perform the professional services needed to furnish all materials, labor and equipment for the construction of one 6-inch exploratory ASR well and one water table monitoring well.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 5-0 to award the ASR Exploratory Well construction and testing bid to Hausinger & Associates

and authorize the Mayor to execute a contract with Hausinger & Associates for an amount not to exceed \$336,525, Job #04-427.

12. RESOLUTION NO. 08-08

Budget amendment to establish budget for funds that will be received from Southwest Florida Water Management District's 50% matching grant for construction of an ASR Well.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 07-39, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2007-2008, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to adopt Resolution No. 08-08.

13. 1st READING & ADVERTISING APPROVAL-ORDINANCE NO. 08-960

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA AMENDING THE CITY CODE OF ORDINANCES PERTAINING TO OCCUPATIONAL LICENSES; PROVIDING FOR REPLACEMENT OF THE TERMS "OCCUPATIONAL LICENSE TAX" AND "OCCUPATIONAL LICENSE FEE" WITH "LOCAL BUSINESS TAX, AND THE TERM "OCCUPATIONAL LICENSE" WITH "LOCAL BUSINESS TAX RECEIPT," THROUGHOUT THE CITY'S CODE OF ORDINANCES; PROVIDING FOR REPEAL OF CHAPTER 19, ARTICLE II OF THE CITY CODE OF ORDINANCES ; PROVIDING FOR ENACTMENT OF A NEW CHAPTER 19, ARTICLE II; PROVIDING FOR PAYMENT OF LOCAL BUSINESS TAX AND ISSUANCE OF A RECEIPT; PROVIDING FOR A DETERMINATION OF CLASSIFICATION; PROVIDING FOR A TERM AND EXPIRATION DATE; PROVIDING FOR POSTING OF BUSINESS TAX RECEIPT; PROVIDING FOR TRANSFER AND CHANGE OF OWNERSHIP OF BUSINESS; PROVIDING FOR REVOCATION OF BUSINESS TAX RECEIPT; PROVIDING FOR APPROVAL OF ZONING AND BUSINESS DEPARTMENTS; PROVIDING FOR PROCESSING AND REGULATORY FEES; PROVIDING FOR APPEAL; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING A SCHEDULE OF LOCAL BUSINESS TAX AMOUNTS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve Ordinance No. 08-960 for advertising and schedule a public hearing March 3, 2008.

14. DEPARTMENT HEADS' COMMENTS

Attorney Hall

Requested a shade meeting be scheduled March 3, 2008 at 6:00 pm to receive advice on pending litigation and possible litigation expenses on the City vs. Samuel & Bonnie Scott DBA Sabo Futures lien. She also requested permission to bring Attorney Bob Shermer, whom the city retained, to handle the case. Commission agreed to the meeting.

Mr. Freeman

Commented on the email he distributed from the Property Appraiser's office on Amendment #1, wherein it was estimated the City may see a six percent reduction in ad valorem taxes, excluding any new construction and non-homesteaded properties. He will keep Commission informed as he receives new information.

Reported the City has complied with the new law regarding the collection of social security numbers.

It is anticipated the auditors will be addressing Commission in March regarding the City's financial status.

Mr. Lukowiak

Reported the NIMS recertification, levels 100 – 700, has been completed; all Public Works employees are now certified.

Informed Commission that Walter Mastry, the emergency manager during Katrina, is recommending that the City schedule community meetings to educate residents in hurricane preparedness. The only expense the City will incur is Mr. Mastry's travel costs. Mr. Lukowiak stated he will bring the topic back once the particulars are known.

Informed Commission that the property owner of 1731 7th St. W. has reported to Public Works that a ditch runs through the property, as indicated by a survey in the property owner's possession but not verified by staff, which historically has drained Flagstone Acres into Lake Rowlett. The property owner, later identified as Frank Brunner, is proposing to grant the city an easement of record in exchange for the City providing utilities to the property. Mr. Lukowiak estimated the cost to be approximately \$21,894; \$10,000 for a grinder pump, \$1,500 for pipe & materials, waiver of connection fees of \$2,402; attorney fees of \$1,200, labor of \$2,056, and equipment of \$4,736. Mr. Lukowiak speculated that a lawsuit would cost more than the \$21,894; Attorney Hall agreed. Attorney Hall informed Commission the attorney's letter stated it was his opinion the City did not have a de factor or descriptive easement. The attorney represented that if the City does not reach a settlement, he would recommend his client sue the City for inverse condemnation; the City should have taken the property and compensated the property owner. She agreed with Mr. Lukowiak that the cost of a suit would exceed the project cost, plus the City would have to pay their expenses and attorney fees in the event the City did not prevail. She qualified her statement by saying she had not yet researched the topic. Mr. Lukowiak reviewed the facts of the topic as known to him. He opined that to answer questions being asked by Commission, it is possible he may have to expend some funds to gather the data. A majority of the Commission agreed that the item should be placed on an agenda and suggested that Mr. Lukowiak respond back to the attorney and requesting that he take no action and give the City 30 days to respond. Attorney Hall also opined (without research) that the commissioner involved would be absent from any shade meeting, should the topic go to litigation, which is a premature assumption at this point.

15. MAYOR'S REPORT

The next Council of Governments meeting is Wednesday at 4:00 in the County Administration Building. Mayor Bustle confirmed he has requested that Blackstone Park and the aquatic park be placed on the agenda, but has not received any response. Ms. Cornwell requested that data on population north of the river be obtained (relating to a county commissioner's statement that only impact fees will be expended on parks) and comments made regarding the library be available the day of the meeting.

A special ceremony at the Snead Island Bridge is scheduled February 21, 2008 at 12:30 to celebrate the newly constructed walkway.

The March 17th joint meeting with the county commission has been tentatively rescheduled to April 7, 2008

16. COMMISSIONERS' COMMENTS

Mr. Ball

Reported on his recent trip with Florida League of Cities to Washington, DC.

Ms. Varnadore

Mr. Lukowiak reported the Farmer's Market was a big success; parking and pedestrian issues have identified that will be addressed prior to the next date. Mrs. Lukowiak reported Commission will see a budget resolution for the fees CRA will pay.

Ms. Cornwell

Stated that over time items have been approved with conditions and reports staff was to provide. She suggested some type of tracking system needs to be implemented to ensure Commission receives requested information.

Commenting on the mobile home park schedule, she requested a copy of the schedule as compiled, and when the final parks are added. Staff commented on the meetings being an excellent tool to receive comments concerning Amendment 1 and its effects on community needs.

Inquired when the parking on the street issue was removed from the Suspense Log. Staff explained the topic and the stop signs were combined into the Mobility Study. Ms. Cornwell acknowledged she has received the information on stop signs. Mr. Lukowiak confirmed the parking on the street will probably require community meetings. Ms. Cornwell suggested that trials during the summer may be advantageous. She also stated she would like a workshop meeting on the parking, with recommendations from staff.

Stated that with the uncertainty of the parking garage, metering area parking spaces has been discussed so that users help support maintenance of the parking rather than the tax base. Mrs. Lukowiak stated that CRA is faced with the dilemma of being progressive in its thinking, but is then faced with the looming unknown ramifications of Amendment 1. Ms. Cornwell requested the topic be placed on a workshop to discuss planning and meters.

Mr. Williams

Mrs. Lukowiak estimated she will know by August how to proceed with the CRA properties accumulated for a new downtown school.

Mr. Lukowiak confirmed it is his intention to patch 10th Avenue between 6th Street and 8th Street.

Opined the Suspense Log is not being used properly, stating staff needs to review the older items and bring them forward. He also suggested that if an item cannot be completed within 18 months it should not be placed on the log. Several items were reviewed with staff.

Ms. Varnadore

Suggested the Suspense Log could be used at the mobile home park meetings.

Commented on the Palmetto Historic Commission having the dates for the Tomato Festival and the fact she did not recall receiving the dates. Mrs. Lukowiak described the way the information was disseminated to Commission and the public during the fair.

Mrs. Lancaster

Referring to Ward 1 Phase II, Mrs. Lukowiak stated the CRA Board has approved \$400,000 for the project's engineering. She estimated the construction of the project will probably be around \$2 million. Phase II will not be costly because of the new infrastructure that will be in place on 5th Ave. to 8th Ave. between 10th St. and 12th St. Mrs. Lukowiak confirmed the during Commission's

prioritization of potential projects, the project was placed on hold until the construction funds are available; engineering can proceed if Commission approves the expenditure. Mrs. Lancaster requested the topic be placed on a workshop agenda, because of the condition of the roads in the ward, so Commission can discuss the topic. Mrs. Lancaster stated the City is spending funds and Ward 1 Phase II should be included in the projects that are funded.

Thanked Chief Lowe and the code enforcement officer for their diligence in the Club Nitrous issue.

Meeting adjourned at 9:55 pm.

Minutes approved: March 3, 2008 **Corrected to show Ms. Varnadore as present.**

A handwritten signature in black ink, appearing to read "James R. Freeman", with a long, sweeping underline that extends to the right.

James R. Freeman
City Clerk