

Palmetto City Commission
April 7, 2008

Elected Officials Present:

Larry Bustle, Mayor
Tambra Varnadore, Vice Mayor
Eric Ball, Commissioner
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner (arrived 4:07 p.m.)
Brian Williams, Commissioner

Staff and Others Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Deputy Chief Mike Mayer
Tanya Lukowiak, CRA Executive Director
Michele Hall, City Attorney
Bob Schmitt, Planning Supervisor/Zoning Administrator
Deanna Roberts, Administrative Assistant

Mayor Bustle called the meeting to order at 4:00 p.m. A moment of silence was observed to honor our military men and women serving us around the world, followed by the Pledge of Allegiance.

All persons wishing to address Commission during the meeting were sworn in.

PUBLIC COMMENT

Raymond Varnadore, 1706 8th Avenue West, Palmetto, addressed Commission regarding the Fourth Street stop sign removals notice in the water bills. He spoke in favor of retaining the stop signs because otherwise Fourth Street would become a race track. This street is narrow, and there are a lot of runners and walkers on the street. He requested a copy of the study that suggested the stop signs be removed. He asked Commission to please keep the stop signs in place.

Ann Marshall, 706 20th Avenue West, Palmetto, said she has the same concerns as Mr. Varnadore. Additionally, she has concerns about 20th Avenue. It has been designated "Riverwalk" which is to encourage joggers, walkers and bikers to use that route. It is not intended to be used as a raceway. She also asked how the public will know when a 4:00 p.m. meeting is a Workshop or a regular City Commission meeting. Mayor Bustle explained that this meeting is an exception because of a joint meeting with the Board of County Commissioners at 7:00 p.m. this evening. Typically, the 4:00 p.m. meeting is a workshop.

Commissioner Cornwell inquired if the stop signs issue will come back to Commission on April 21st. Mr. Lukowiak said he can bring it back to Commission on April 21st if they wish. He reminded Commission they had voted to proceed with the stop sign removal at the time of the recommendation.

Samuel Dodson, 2004 6th Street West, Palmetto, agreed with Mr. Varnadore and Ms. Marshall. He has stop signs in his neighborhood that are run continuously. They need to remain. Fourth Street is not intended to be a major thoroughfare. The whole situation needs to be reviewed.

Dave Heckert, who lives on Fourth Street, said he has a water drain in front of his house that three or four cars a year hit. It ruins the cars. There are no stop signs there. The speed does not need to be increased at all on that street. It's already fast enough.

Commissioner Williams said he did not recall seeing a list of the signs that were going to be removed. Mr. Lukowiak said that at the workshop presentation by Renaissance Planning Group, they showed the signs that they recommended be removed. At the end of that meeting Commission approved those removals. Mayor Bustle agreed with Commissioner Williams that, based on tonight's public input, a

workshop would be in order. City Clerk Jim Freeman said it is already noticed to the public for the April 21, 2008, 7:00 p.m. agenda. It can remain on that agenda for discussion purposes only with any vote deferred to the next meeting.

Commissioner Varnadore commented that this was not the first time she has received calls about items placed in the water bills of which she had no prior knowledge.

Motion: Commissioner Varnadore moved, Commissioner Cornwell seconded, and motion passed unanimously to provide Commission with a two-week notice, and copies, of any items or information going into the water bills, other than the bill itself.

For the record, Administrative Assistant Deanna Roberts announced that the City Clerk's office is in receipt of Form 8B, a Memo of Voting Conflict form, from Commissioner Cornwell.

1. AGENDA APPROVAL

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion passed unanimously to approve the April 7, 2008, 4:00 p.m. regular meeting agenda.

2. CONSENT AGENDA

- A) Minutes: March 3, March 24 and March 17, 2008
- B) March 2008 Check Register
- C) Noise Exception Permit: S&S Kustoms
- D) Special Function Permit: Memorial Day Church Picnic

MOTION: Commissioner Ball moved, Commissioner Lancaster seconded and motion passed unanimously to approve the April 7, 2008 Consent Agenda.

3. APPROVAL OF SETTLEMENT

Approval of an offer of settlement in the Thornton litigation case.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion passed unanimously to approve the settlement offer in the matter of City of Palmetto v. Thornton.

Discussion: Attorney Hall said the offer of settlement would settle all claims for attorney's fees in the amount of \$5,000. In exchange, Mr. Thornton will issue a satisfaction of judgment and release of all claims against the City of Palmetto.

4. APPROVAL OF SETTLEMENT (M. Hall)

Approval of an offer of settlement in the Hegarty, Inc. litigation case.

MOTION: Commissioner Ball moved, Commissioner Varnadore seconded and motion passed unanimously to approve the settlement offer in the matter of Hegarty, Inc. v. City of Palmetto.

Discussion: Attorney Hall said the City will issue a quit claim deed to Mr. Hegarty and a disclaimer to Mr. Hegarty for the strip of property he claims he has title to by virtue of the Commission's passage of a resolution. The name of the road is 9th Street Drive West; the right-of-way between the Wine Warehouse and the former Suncoast Flooring and Mr. Hegarty's laundromat.

Discussion: Recommended changes to first readings for ordinances on the agenda:

Prior to the first readings for Ordinances 08-965, 08-966 and 08-967, Attorney Hall made the following corrections: Strike Section 6 from Ordinance 08-965, and replace with the effective date language found in Ord. No. 08-966, which reads that the annexation becomes effective thirty-one days after adoption;

and, remove parcel ID #'s from the legal description for each of the three ordinances. She will provide the corrected copies

5. 1st READING & ADVERTISING APPROVAL-ORDINANCE NO. 08-965

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 (AN-08-01 – Sunnydale Properties, LLC. PID #'s 2436200006, 2435900002, 2436500009, approximately 0.89 acres).

MOTION: Commissioner Ball moved, Commissioner Cornwell seconded and motion passed unanimously to approve Ordinance No. 08-965, with Attorney Hall's recommended changes, for advertising and schedule a public hearing April 21, 2008.

6. 1st READING & ADVERTISING APPROVAL-ORDINANCE NO. 08-966

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 RES-9 – RESIDENTIAL 9 UNITS PER ACRE (COUNTY), TO – RES-10, RESIDENTIAL 10 UNITS PER ACRE (CITY); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA-08-01 Sunnydale Properties, LLC., PID#'s, 2436200006, 2435900002, 2436500009 approximately 0.89 acres).

MOTION: Commissioner Ball moved, Commissioner Cornwell seconded and motion passed unanimously to approve Ordinance No. 08-966, with Attorney Hall's recommended changes, for advertising and schedule a public hearing April 21, 2008.

7. 1st READING & ADVERTISING APPROVAL-ORDINANCE NO. 08-967

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 GC (General Commercial) (County) TO RM-6, Residential Multi-Family -10 units per acre (City); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-08-01, Sunnydale Properties, LLC., PID #'s 2436200006, 2435900002, 2436500009, approximately 0.89 acres).

MOTION: Commissioner Ball moved, Commissioner Cornwell seconded and motion passed unanimously to approve Ordinance No. 08-967, with Attorney Hall's recommended changes, for advertising and schedule a public hearing April 21, 2008.

Commissioner Williams inquired about the effective date changes previously discussed. He remarked that with the suggested changes, the City is essentially rezoning a property before it is legally annexed into the City. Attorney Hall said she would look into whether the effective date provision should be changed for the annexation ordinance.

Commissioner Williams asked for a punch list from each of the entities that investigated the property for potential problems; the fire department, code enforcement, etc. Mr. Schmitt said he will make that a part of the package for the next meeting.

8. DISCUSSION: NEW ELEMENTARY SCHOOL SITE (C. Lukowiak)

Discussion of the School Board's proposal to site the new elementary school at the city-owned property currently leased to the Boys and Girls Club.

Before Mr. Lukowiak began his presentation, Mayor Bustle said the purpose of the presentation was to gain Commission's endorsement, in principle, of the concept. Voting on each aspect of the plan will come

at a later date, but the School Board proposes a press conference on Wednesday, April 9, to announce the plan, and the press conference would be contingent upon Commission's action tonight.

Mr. Lukowiak presented a table entitled "Participation Requirements for Construction of Palmetto Elementary School on 10th Street West." He informed Commission that he had met with each of the entities involved in the new site location for the school: Boys and Girls Clubs, Just for Girls, School Board, Manatee Fruit Company, North River Little League and Manatee County.

The School Board wants to purchase the land on 10th Street from the City of Palmetto for the appraised value, rather than leasing the land. Manatee Fruit Company will donate approximately eleven acres to the City for a new Little League complex, in exchange for park impact fee credits. Manatee County has agreed to honor its agreement with the Little League and continue with the services it currently provides for the Little League fields.

Mr. Lukowiak went over the items on the table under the City of Palmetto column which the Commission will be voting on as the plan unfolds: land sale to School Board, lease renewals for the youth groups and grants help, construction of the Little League complex and credits to Manatee Fruit Company (as a development agreement). He informed Commission that the possibility exists for Florida Redevelopment Development Assistance Program (FRDAP) grants for the baseball fields. Commissioner Ball inquired about the leases stating that the property would be owned by the School Board. Mr. Lukowiak explained that the School Board has requested the City retain ownership of the square footage occupied by the Boys and Girls Clubs and Just for Girls and be responsible for the leases. The City would also retain ownership of the tennis courts.

Mrs. Lancaster asked about the NOT INCLUDED section of the Little League Complex Budget Estimate spreadsheet. Later, Commissioner Williams asked that this section be brought back with a break down of each item with prices.

Commissioner Williams asked for a footprint of the proposed new school. In answer to his question about compensation for the CRA assembled property, CRA Director Tanya Lukowiak said the school will reimburse the CRA the amount it paid for the property.

Commissioner Varnadore asked what the School Board will do with the old school. Mr. Lukowiak said it continues to say it will build a lab school/professional development school on the old school site. Commissioner Varnadore said in concept she approves; her concern is that the City get enough money from the sale of the land to rebuild the Little League fields. Mr. Lukowiak said the School Board guaranteed \$90,000 per acre to cover the projected costs of the Little League field. The City will be made whole for this transaction.

Commissioner Cornwell asked the School Board's and the City's intent regarding public meetings which would include all the participating organizations. Mr. Lukowiak said the School Board is planning a press conference for Wednesday if Commission approves and then will hold a series of meetings. She expressed great concern over traffic flow at the site. Mr. Lukowiak said FDOT has approved a grant for the intersection at 10th Street and 14th Avenue. She suggested that staggering beginning/ending times for each of the organizations on the site would reduce congestion.

There was a consensus by Commission to go forward with the press conference with the School Board on Wednesday. The Commission approved the proposed plan, in concept, with details to be worked out later. Commissioners wanted to be sure there was an opportunity for public input at noticed public meetings/workshops and more information on projected costs.

City Clerk Jim Freeman asked that Commission take up items 10 and 11 before beginning agenda item 9.

10. CITY HALL AIR QUALITY UPDATE (Jim Freeman)

Staff to review HVAC report and quote to address the results of the air quality study.

MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion passed unanimously to approve and authorize the Mayor to execute the contract with West Coast Air Conditioning in an amount not to exceed \$7,357 and authorize City staff to purchase and install ceiling tiles at a cost not to exceed \$500.

Discussion: Commissioner Cornwell asked for a copy of the air quality study.

11. RESOLUTION NO. 08-12 (Jim Freeman)

Resolution to transfer CIP dollars from Public Works break room project to City Hall CIP air quality repairs.

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: Commissioner Lancaster moved, Commissioner Ball seconded and motion passed unanimously to adopt Resolution No. 08-12.

9. UPDATE REGARDING CITY/COUNTY JOINT MEETING APRIL 7, 2008 (C. Lukowiak)

Following a short recess, the meeting resumed with a presentation by Attorney Hall and Mr. Lukowiak in preparation for the 7:00 p.m. joint meeting with the Board of County Commissioners at the Civic Center.

Attorney Hall went over the chronology of events and historical documents relating to the Erie Road Landfill. The City owns the land, but the County is the responsible party. The Department of Environmental Protection has twice denied the County's request to terminate its permit at the landfill. The landfill has not been stabilized. The City may agree that the paintball operation, which subleased the land from Manatee County Radio Controllers, may have to vacate the property and remove all improvements and structures.

Attorney Hall spoke to the 7th Street Extension agenda item on the 7:00 p.m. meeting. The draft Joint Participation Agreement with Riviera Dunes reads that Riviera Dunes will execute and record a Deed Clarification saying the use of the road parcel for a public right-of-way is not a violation of the deed restriction. Mrs. Hall's research found that the initial owner of the property, who gave it to the County, kept the right to release the deed restriction and it will not expire until 2012. Riviera Dunes does not have the authority to allow the City to do the road. In the event of a violation of the deed restriction, the property would revert back to the original owner and the county would lose the land. Attorney Hall has not been able to locate the original owner. A copy of the deed is attached to the minutes. The deed restrictions are found in paragraph 5, sections a, b, and c. Mrs. Hall does not believe the reverter applies to restriction c. A solution for the City may be to go to court and file a Quiet Title action or Declaratory Judgment action. The other alternative would be to wait until 2012.

Mr. Lukowiak said he received a proposal from the county outlining its criteria for participation in the 7th Street Extension project just a few hours prior to this meeting. He went over the list provided by the County. Some of the items he does not agree with, but he thinks he can work on these with county staff and bring it back to the Commission in a Joint Participation Agreement satisfactory to both the City and County.

Mr. Lukowiak has received an email from Dan Schlandt saying the County has budgeted \$371,000 for the Jackson Park drainage project. About half of the project cost will come from the County. The City owns the property, but it's in the County. The County will not be responsible for the Operations and Maintenance of the pond. It's likely the city will move to annex the property in the future.

At this point, Mayor Bustle recognized Kevin Parker of 1208 4th Street West and 313 15th Avenue West, who had come to speak to the stop sign removal issue. He could not arrive in time for the Public Comments section of the agenda. Commission informed him the matter would come up again at the 7:00 p.m. April 21, 2008, Commission meeting.

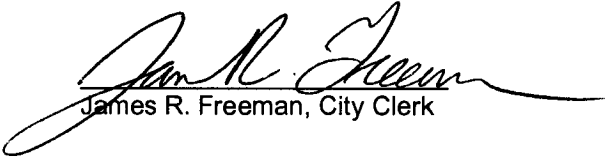
Mr. Lukowiak reported that the County has agreed to resume maintenance responsibility for the medians located at US 41 and 17th Street.

Mr. Lukowiak provided Commission with an approximate cost of maintaining a pool at Blackstone if the County built one with the stipulation that the City maintain it. Commissioner Varnadore expressed concern with taking over the expense of maintaining a pool in the current budget times. Commissioner Cornwell said she wants to make sure the City is next on the County's list for a pool.

The meeting was adjourned at 6:50 p.m.

The meeting closed prematurely due to the joint meeting with the county at 7:00 p.m. Department Heads, Mayors, Commissioners and Public Comments were not heard.

Minutes approved: April 21, 2008



James R. Freeman, City Clerk

905764

TRUSTEE'S DEED

THIS INDENTURE, made this 24th day of MAY, 1983,
by and between BARNETT BANK OF MANATEE COUNTY, N.A., as Trustee,
successor to the Westside National Bank of Manatee County, as Trustee,
under separate collateral declarations or agreements designated in
its records as Land Trust Agreement No. 152 (said declarations and
agreements being unrecorded), party of the first part, and MANATEE
COUNTY CIVIC CENTER AUTHORITY, whose mailing address is:
1/2, 801 115th St W, Bradenton, FL 34205
party of the second part;

W I T N E S S E T H

Party of the first part, for and in consideration of the sum of
Ten Dollars (\$10.00) to it in hand paid, the receipt whereof is hereby
acknowledged, has granted, bargained, sold and conveyed and by these
presents does grant, bargain, sell and convey to the party of the
second part, its successors and assigns, that certain parcel of
land, together with easements appurtenant thereto, lying and being
in the County of Manatee, State of Florida, which parcel of land
and easements are more particularly described in Exhibit "A" attached
hereto and by reference made a part hereof, together with all the
tenements, hereditaments and appurtenances, with every privilege,
right, title, interest and estate, dover, reversion, remainder and
easement thereto belonging or in anywise appertaining, to have and
to hold the same in fee simple forever.

Reserving unto the party of the first part those easements for
pedestrian walks, overhead architectural connections, ingress, egress,
drainage and utilities, as are particularly described in Exhibit "B"
attached hereto and by reference made a part hereof, and by acceptance
hereof, the party of the second part hereby acknowledged and agrees
that the descriptions set forth in Exhibit "B" relating to the easements
for the pedestrian walk and the overhead architectural connections
are preliminary descriptions only and are subject to reasonable change
upon adoption of the final development plans for the adjoining land
owned by the party of the first part. Further, the foregoing easements
and reservations are subject to and will be more fully set forth in a
right of way reciprocal easement agreement to be executed by and among
the parties hereto and Manatee Gateway No. 1, A Joint Venture, consisting
of Word Southern Dolomite Company, A Delaware Corporation, authorized
to do business in the State of Florida, and Istrin, N.V., a Netherlands
Antilles Corporation, authorized to do business in the State of Florida.

Documentary Stamp is the amount of \$45
which has been paid this 24 day of May, 1983
at Bradenton, Florida
by D. Cairns Deputy Clerk

O.R. 1054 PG. 1788

This conveyance is subject to the following:

1. County and City ad valorem taxes for the year 1983 (which have been prorated) and taxes for subsequent years.
2. Any matter or fact which an accurate survey or inspection of the premises would disclose.
3. Any applicable zoning, building, flood control or other rules, ordinances or regulations by any governmental agency which restrict, limit or prohibit the use of the described property or any part thereof.
4. That certain purchase money mortgage executed by Westside National Bank of Manatee County, as Trustee, under the provisions of that certain unrecorded Land Trust Agreement No. 152 to Florence D. Smith, a widow, sometimes known as Dorothy S. Smith, Marie Susanne Snapp, Robert Eugene Smith, Jr., Charles Curtis Smith and Florence D. Smith, George H. Harrison and Melvin Skane, as Trustees for Charles Curtis Smith, under Trust Agreement dated January 4, 1958 and recorded in O. R. Book 94, Page 377 of the Public Records of Manatee County, Florida, dated July 10, 1978, and recorded in O. R. Book 911, Page 928 of the Public Records of Manatee County, Florida, given to secure a promissory note in the original principal amount of Three Million Four Hundred Thousand Dollars (\$3,400,000.00).

5. By acceptance hereof, the party of the second part heraby covenants that:

- (a) It will commence construction of a Civic Center having at least four thousand, five hundred (4,500) seats on the subject property no later than July 30, 1983.
- (b) It will complete construction of the Civic Center in a manner so that it is open for general use by the Manatee County Civic Center Authority and public no later than July 30, 1987.
- (c) After the Civic Center is open for general use by the public, the Civic Center shall be operated continuously upon the subject property (subject to reasonable time to reconstruct after acts of God, fire, casualty or natural disaster) which Civic Center shall be for the general benefit of the public. The facility shall not be used for general administration offices of any governmental agency, other than such offices as are necessary and have a rational purpose for the operation of the Civic Center itself. Nothing contained herein shall prevent additions to the Civic Center.

If party of the second part violates either of the above covenants (a) or (b), then upon written notice by party of the first part of such violation, the party of the second part will have twenty five (25) days if the violation is of (a) and one hundred eighty (180) days if it is a violation

O. R. 1054 PG 1789

of (b) in which to cure said defect, and upon failure to cure, the property will revert to party of the first part. These covenants are for the benefit of party of the first part personally and will not run with the adjoining lands unless party of the first part specifically conveys these rights to run with the land.

Either party may apply to local State court for declaratory decree to determine their respective rights under these covenants and provisions. The filing of such an action will stay the notice, until determination by the Circuit Court (or Appellate Court, if necessary), and thereafter if the Authority is deemed in violation, it will continue to have the remaining balance of the curative period in which to cure the violation. In the event any litigation is filed to construe or enforce these provisions the prevailing party will be entitled to attorneys fees from the losing party, including costs through appeal.

*More
P.W.D.
C.M.U.* * Notwithstanding any provision to the contrary, the covenants and reversion rights or possibility of reverter set forth in this Paragraph 1 will expire thirty (30) years from the date of recording this instrument. *

The party of the first part does hereby warrant the title to said land as against all persons and parties claiming by, through or under the Barnett Bank of Manatee County, N.A., as such Trustee only and will defend the same against the lawful claims of all persons and parties claiming by, through or under the Barnett Bank of Manatee County, N.A., as such Trustee only. This instrument and all the representations and warranties contained herein are the act and deed of the Barnett Bank of Manatee County, N.A., as Trustee, as successor to the Westside National Bank of Manatee County, as Trustee, under separate collateral declarations or agreements designated in its records as Land Trust Agreement No. 152 (said declarations and agreements being unrecorded) and not in its individual capacity.

IN WITNESS WHEREOF, the said Barnett Bank of Manatee County, N.A. as Trustee, has caused these presents to be executed in its name, by its officers thereunto duly authorized, and its corporate seal to be affixed, in its capacity as Trustee under separate collateral declarations or agreements designated in its records as Land Trust Agreement No. 152 (said declarations and agreements being unrecorded), the day and year first above written.

Signed, sealed and delivered in the presence of:

L. Beverly Maguire
John ...

Attest:

By: *Donald J. Pomeroy*
Cashier

BARNETT BANK OF MANATEE COUNTY, N.A.
As Trustee under separate collateral declarations or agreements designated in its records as Land Trust Agreement No. 152 (said declarations and agreements being unrecorded)

By: *Walter ...*
Vice President and Trust Officer

(Corporate Seal)

O.R. 1954 PG 1790

