

Palmetto City Commission  
May 5, 2008 7:00 PM

Elected Officials Present:

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

Elected Official Absent:

Eric Ball, Commissioner

Staff and Others Present:

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

Mayor Bustle called the meeting to order at 7:05 p.m., followed by a moment of silence for overseas military personnel and the Pledge of Allegiance.

PROCLAMATION: National Safe Boating Week May 17, 2008 through May 23, 2008  
Accepting: Debbie Healey, Public Affairs Officers, Flotilla 85, USCG  
Auxiliary, Palmetto

Persons planning to address Commission were sworn in.

PUBLIC COMMENT:

Heidi M. Tidd spoke in opposition of the stop sign removal on 20<sup>th</sup> Avenue. Bill Belle opined the City is not doing enough to advise the citizenry of the public meetings associated with the Mobility Study the City is participating in with Bradenton and Manatee County.

ORDER OF BUSINESS:

1. AGENDA APPROVAL

Per Mrs. Lukowiak's request and the time sensitive issue of the grant application, Mayor Bustle requested that Resolution No. 08-15 be added to grant permission to apply for a Forestry Grant.

**MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 4-0 to approve the May 5, 2008 7:00 agenda as amended with the inclusion of Resolution No.08-15.**

2. CONSENT AGENDA

- A) Minutes: April 21, 2008
- B) April 2008 Check Register

Ms. Varnadore removed the April 21, 2008 4:00 and 7:00 minutes from the Consent Agenda.

**MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 4-0 to approve Item B of the May 5, 2008 Consent Agenda.**

Ms. Cornwell asked for clarification of the April 21, 2008 4:00 minutes pertaining to the Palms of Terra Ceia Stormwater Charges and Seawall, specifically: 1) They (the CDD) also want the City to accept the responsibility for maintenance of the eight ponds there; and 2) The CDD wants the city to take over the system or give mitigation credits.

Ms. Varnadore asked if the eight ponds make up the CDD's entire stormwater system. Mr. Lukowiak explained that either the eight ponds or one ditch (Jones Creek) make up the development's stormwater system. Mr. Lukowiak also explained that the City will continue to charge the entire stormwater fee while review of the various options continues.

Mr. Freeman clarified for Ms. Varnadore that all materials distributed during a commission meeting will be attached to the minutes unless they have been included in the agenda packet.

Under the April 21, 2008 7:00 pm minutes, Ms. Varnadore requested that item 2E Public Meeting Regarding Stop Sign Removal minutes be amended as follows:

Addition to the sentence "Commissioner Varnadore commented that the mobility study was never an approved agenda item; **Commission concurred to move forward with some of the phases of the Mobility Study.**

Remove the sentence "At that time, Commission voted to go ahead and remove the stop signs and have since asked repeatedly why the stop signs haven't been taken down."

Attorney Hall asked that the audio tape be researched and the minutes be amended, if applicable, to reflect the fact under item 19 Legal Research Requests she discussed the fact that her initial research did not indicate that it was City Commission's jurisdiction to determine if Mr. Lukowiak could become a candidate and asked that Attorney Finkelstein provide the authority that supported his statement. It was her recollection that Attorney Finkelstein recanted that statement.

**MOTION: Ms. Varnadore moved, Ms. Cornwell seconded and motion carried 4-0 to approve the April 21, 2008 4:00 pm minutes.**

Staff will submit the amended April 21, 2008 7:00 minutes to City Commission for review and approval at the May 19, 2008 meeting.

### 3. AMENDMENT TO PROPERTY DECLARED SURPLUS

Staff requested approval of the revised listing of surplus property that will be auctioned on May 17, 2008. After reviewing the revised list, Commission removed the 137 red bricks from the property list. Chief Lowe confirmed his department had looked at the found property he placed in the auction to determine if it had been reported as lost or stolen.

**MOTION: Ms. Varnadore moved, Ms. Cornwell seconded and motion carried 4-0 to approve the revised surplus property list, with the deletion of the 137 red bricks, and amend Exhibit A of Resolution No. 08-11 approved March 17, 2008.**

### 4. DISCUSSION: MCDONALD'S SIGNAGE AND GENERAL DISCUSSION OF SIGNS

Mr. Schmitt informed Commission McDonald's is proposing to demolish the existing structure and replace it with a new prototype store. This will be discussion only of a potential conditional use to allow the existing McDonald's signage to remain as a legal nonconformity. The existing sign is 80-feet tall and Code has a height limitation of 30-feet.

Mr. Schmitt introduced McDonald's representative Kim Binkley-Seyer. Ms. Binkley-Seyer discussed the fact McDonald's is located in the City's Enterprise Zone and the possible economic impact the location could experience if the existing sign is removed. She supplied statistical data concerning McDonald's employment practices and their contribution to local communities. She also discussed the fact that she has not encountered any instance when the demolition of an existing building for the construction of a new restaurant has triggered the loss of signage. She suggested the City should research different municipalities' Enterprise Zones and how they work with Code issue regarding signage.

Mr. Williams was the only commissioner who spoke in favor of keeping the existing signage. Mayor Bustle commented on the current economic situation and the fact a decision would be easier to reach in a strong economy. Mayor Bustle also took the opportunity to comment on other businesses in Palmetto that have voiced concern about the inability to erect signage and the impact that lack of signage is having on their business.

### 5. RATIFICATION OF POLICE OFFICERS' PENSION BOARD TRUSTEE APPOINTMENT

Mrs. Lancaster read into the record a statement concerning her understanding of her ministerial duty to ratify the 5<sup>th</sup> Trustee to the Police Pension Board; however, she also stated her opposition to appointing anyone to any board of the City that has been accused of, with evidence provided to substantiate, discrimination. She spoke of the lack of right to exercise her personal judgment or discretion, stating she would reluctantly take the action she is duty bound to perform.

**MOTION: Ms. Varnadore moved and Mr. Williams seconded to ratify the appointment of Kenny Bright as the 5<sup>th</sup> Trustee of the Police Officers' Pension Plan Board of Trustees.**

Discussion: Attorney Hall confirmed our ordinance mirrors Florida Statute 185.05, which requires the ratification of the appointment of the 5<sup>th</sup> Trustee as a ministerial duty. She researched the definition of ministerial duty in the legal data base for case law for ministerial duty, which confirmed there is no discretion, it has to be done.

**Motion on the floor carried 3-1. Mrs. Lancaster voted no.**

6. 1<sup>st</sup> READ & ADVERTISING APPROVAL – ORDINANCE NO. 08-968

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO AMENDING CHAPTER 22, PERSONNEL, ARTICLE IV, GENERAL EMPLOYEES' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO; AMENDING SECTION 22-81, DEFINITIONS; AMENDING SECTION 22-89, VESTING; AMENDING SECTION 22-90, OPTIONAL FORMS OF BENEFITS; DELETING SECTION 22-106, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

**MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-0 to approve Ordinance No. 08-968 for advertising and schedule a public hearing May 19, 2008.**

7. RESOLUTION NO. 08-15

Staff requested approval to apply for a matching Urban and Community Forestry Grant in the amount of \$3,000. The match will be \$2,000 that has been budgeted and \$1,000 in in-kind services.

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA TO ENTER INTO AN URBAN AND COMMUNITY FORESTRY GRANT MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Ms. Cornwell moved and Mrs. Lancaster seconded to adopt Resolution No. 08-15.**

Discussion: Mr. Williams questioned whether the trees listed are the best choice for placement at the wastewater treatment plant, as they will not inhibit the noise or odor. Mr. Lukowiak stated trees had to be named in the application, but at time of acceptance a plan will be provided Commission concerning the plant material. Attorney Hall commented on language in the resolution authorizing the Mayor to enter into the agreement. Staff informed Commission that if the grant is awarded, the acceptance of the grant funding must be approved by City Commission.

**Motion on the floor carried 4-0.**

7. DEPARTMENT HEADS' COMMENTS

Mr. Schmitt

Palmetto High School has erected the electric message board sign that was approved under conditional use permit. Mr. Schmitt will report on the sign in six months.

Reported he and Mr. Lukowiak have met with the new owner of the Italian Restaurant located in Riverside Plaza. The name of the restaurant will be changed to Saints & Sinners. The owner has expressed the limited signage is one of the reasons for business failures at the location. Mr. Schmitt suspects this topic will be workshop item in the future.

Informed Commission there will be no May meeting of the P&Z Board.

Mr. Lukowiak

Recalled the meeting when Commission approved the MCAT bus transfer station, which included an eleven car park and ride lot. The plans have been redesigned and only contain five spaces, two of which are handicapped spaces. Mr. Lukowiak has informed Mr. Hessler, MCAT

representative, that the new plan will not be approved until they resubmit a new plan. The topic will be on the May 19, 2008 workshop agenda. Mr. Lukowiak stated staff strongly recommends that the plan with five spaces not be approved.

Mr. Freeman

Reported Verizon Wireless is interested in citing a monopole wireless tower at the eastern edge of Hidden Lake Park. Before the topic comes to Commission the company must perform due diligence. Mr. Freeman stated that if Commission has no interest in entertaining the topic he will advise the company before due diligence is begun. Ms. Cornwell stated she would like to hear the pros and cons of locating the tower in the City. Mr. Williams suggested the same stipulations Commission stated when the last company inquired would apply to this location, and stated that at this point she would say no. Ms. Varnadore stated she is inclined to say no at this time. Mr. Freeman will relate the information to Verizon and see if they are interested in attending a workshop.

Informed Commission that the City was unable to retain bankruptcy counsel from the firm of Grimes Goebel. Instead, Gilbert Smith, with Hamrick, Perrey, Quinlan, & Smith has been retained. Ms. Varnadore informed Commission this is the firm she works for and she may need to exclude herself from voting on issues coming to Commission because of her personal benefit.

Informed Commission the authorization letter for Manatee Mosquito Control to continue its aerial fly over of the City has been executed.

The Florida League of Cities conference is August 14 – August 16<sup>th</sup> at the Waterside Marriott in Tampa. Mr. Freeman suggested that with the close proximity it would not be necessary to stay on site Wednesday night.

Very early property tax values received from the Property Appraiser's office indicate that the City will see an increase of approximately 8%. He also stated FLOC has advised by email that a glitch bill regarding the calculation of roll-back rates has been introduced. He suggested some additional workshops may be necessary before the July break. If the meetings occur they will be scheduled at 5:30 pm.

Chief Lowe

Commended his staff on their performance in the apprehension of the three bank robbery suspects, which occurred with incident.

Attorney Hall

Reported there is still no decision in the Escambia County v. Strand issue.

8. MAYOR'S REPORT

Public Works will be holding a CPR class on Tuesday and a first-aid class on Thursday, 8 a.m. to 12 p.m., both days.

The next community meeting for the Mobility Study is scheduled for May 8, 2008 at 5:30 p.m. at the Central Library in Bradenton.

9. COMMISSIONERS' COMMENTS

Ms. Cornwell

Inquired about the status for recommendations for employee screening. Attorney Hall reported the information gathering is complete; no record of any jurisdiction instituting across-the-board for all employees was found. Sharon Jones found that some jurisdictions screened employees critical to public safety. Attorney Hall also stated she and the Mayor have had conversation with

different counsel concerning the violation of employees' rights if the employee hadn't consented on their application for background checks. Ms. Cornwell requested the item be placed on a workshop for an update. Mr. Williams suggested the Jessica Lunsford Act should also be considered, as the City is a vendor of the School Board. Mrs. Lancaster stated it is not the employees fault if the City didn't do it when they were hired, and she is not for it now.

Asked that the new regulation on speed bumps be performed and brought to Commission.

Asked for a report on the items that were approved with stipulations, i.e. attorney fees, insurance, etc. Mr. Freeman will compile a complete list of items.

Mr. Williams

Commented on the City's ability to place bags over stop signs in the event of an evacuation. Mr. Lukowiak will pass the information along to the consultant. Chief Lowe reported that 87 citations were issued last year to individuals running stop signs. He confirmed officers are stationed on 20<sup>th</sup> Avenue watching the stop signs.

Referring to Mr. Belle's comments, Mr. Williams opined it would be nice to have a location where the public can pick up informational material.

Referring to the late hour of the grant application, he inquired if it is time to either hire a full/part time grant writer or assign the task to someone else, given Mrs. Lukowiak's work load and responsibilities. Mr. Lukowiak stated that while he did not wish to speak for another department head, staff is looking at ways to hold employee numbers to current levels.

Inquired the status of the 8<sup>th</sup> Avenue car lot that was recently annexed. Mr. Schmitt reported he has been working to improve the 8<sup>th</sup> Avenue car lot. The owner has stated the restriction of four cars is hurting his business. Mr. Schmitt stated he will have conversation with the owner about the restrictions again and involve Code Enforcement if necessary.

Reported a citizen discussed the boat sales wanting to locate at Thornton Mazda, implying staff decided this was something that wasn't needed in the community. Mr. Schmitt informed Commission Section 6.20 of the Land Development Code allowed boat sales in the CC district under certain conditions, all of which was discussed with the interested party. He also informed the party he would take a conditional use permit and site plan and process it within three weeks for presentation to Commission. The party never returned.

Mr. Williams stated Commission may want to spend Wednesday night at the FLOC Conference.

Mr. Varnadore

Commended the Police Department on their involvement in robbery apprehension.

Asked for an update on the Regatta Pointe sub-lease. Attorney Hall stated she is waiting on Mr. Vogler, Mr. Van der Noord's attorney.

Commission concurred that going forward Attorney Hall will provide itemized monthly statements.

Mr. Lukowiak reported he has received final comments from the county regarding the Jackson Park Interlocal agreement. He stated it will probably be in the next agenda.

Mr. Lukowiak reported representatives from all the organizations will be meeting. The School Board has been negotiating with Just for Girls and the Boys Club; assisting them with leases that will be presented to the City; identified easement and traffic issues; and developed a more formal plan. Community input meetings have not yet been scheduled. Mr. Lukowiak also stated the

Little League is being addressed by Mr. Preston; a 12 acre site will be provided that has been accepted by FDEP as having met the requirements for a ball field. Mr. Williams stated he would prefer the fields be located close to Blackstone Park. The items that were not included on the list are items that are moveable and transferable. A CAD drawing of the design has been created; which has been approved by the Little League. Five fields will be built. Ms. Varnadore asked that the item be placed on a workshop so updated information can be presented to Commission

Mrs. Lancaster

Reported the Palmetto Elementary Multicultural Fair was a big success. The school will be a summer school site, serving breakfast and lunch. Mr. Lukowiak will send the schedule to Commission.

Mr. Williams asked that a thank you letter be sent to Mrs. Alvarez for the Cinco de Mayo festival held at her restaurant.

10. PUBLIC COMMENTS

Margaret Tusing inquired how the relocation of Palmetto Elementary and the move of the ball field will be funded; voiced some concern about traffic; inquired why the School Board does not want locate the school at its present location. Mayor Bustle commented on the amount of conversation that has been held on this topic and suggested Mrs. Tusing consult the minutes are meet with staff.

Meeting adjourned at 9:30 p.m.

Minutes approved: May 19, 2008

James R. Freeman  
City Clerk