

Palmetto City Commission
September 8, 2008 7:00 PM

Elected Officials Present:

Larry Bustle, Mayor
Tambra Varnadore, Vice Mayor
Eric Ball, Commissioner
Tamara Cornwell, Commissioner
Mary Lancaster, 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 Supervisor/Zoning Administrator
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:01 pm. In observance of a yet unofficial naming of September 11, 2008 as Patriot Day, a moment of silence was observed for the 9/11 Heroes and military heroes serving overseas, followed by the Pledge of Allegiance.

Swearing-in of all persons speaking to Commission.

Mayor Bustle recognized Manatee School Board members Chairman Harvey, Mr. Kinnan, Ms. Pfeilsticker, Mr. Gause and Mr. Miller.

Proclamation: National Alcohol and Drug Addiction Recovery Month
Nancy McCarty, Director of Community Development, Manatee Glens
Kimberleigh Donnelly, Recovery Coach

Constitution Week
Lou Ann Douglas, Regent, Osceola Chapter, DAR
Linda Farley, Regent, Manatee Chapter, DAR
Harold Crapo, Sons of the American Revolution

PUBLIC COMMENT (non-agenda items): Comments will be limited to two minutes.

ORDER OF BUSINESS:

1. AGENDA APPROVAL

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 5-0 to approve the September 8, 2008 7:00 agenda.

2. CONSENT AGENDA

- A) Minutes: August 25, 2008
- B) August Check Register
- C) Special Function Permits: Myron Hunter Anniversary

Stepping Out Against Domestic Violence
Rockin to the Oldies Fundraiser Car Show (Approved 8/25/08;
event rained out 8/30/08)

Ms. Varnadore removed the Stepping Out Against Domestic Violence and Rockin to the Oldies Fundraiser Special Function Permits for discussion.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve the September 8, 2008 Consent Agenda as amended.

Discussion ensued on the overtime expense and police expenses associated with the Stepping Out Against Domestic Violence. Mr. Harry Van der Noord volunteered to cover those expenses.

The Rockin to the Oldies Fundraiser Car Show is a make-up date. The City will not absorb the port-o-let and banner expenses associated with the event.

MOTION: Ms. Varnadore moved, Ms. Cornwell seconded and motion carried 5-0 to approve the two Special Function Permits as noted in discussion.

3. RESOLUTION NO. 08-27 (Carried forward from 4:00 meeting)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA; PROVIDING FOR FINDINGS OF FACT; PROVIDING AN AGREEMENT IN PRINCIPLE THAT THE CITY WILL TAKE CERTAIN ACTIONS AND ENTER INTO CERTAIN AGREEMENTS TO FACILITATE DEVELOPMENT OF A NEW ELEMENTARY SCHOOL TO BE GENERALLY LOCATED AT 1600 10TH STREET WEST IN PALMETTO; SUPERSEDING RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 5-0 to adopt Resolution No. 08-27 as amended by discussion at the 4:00 workshop meeting.

Ms. Debra Zanders spoke of the illness she has experienced since working as a teacher at Palmetto Elementary. Ms. Zanders was accompanied by another teacher also experiencing health issues.

4. PUBLIC HEARING – ORDINANCE NO. 08-976

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A GENERAL DEVELOPMENT PLAN FOR THE PROPERTIES DESCRIBED HEREIN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 08-01, PERLE FINE LLC, PID # 3125400006, approx. .74 acres).

Mayor Bustle opened the public hearing. Mr. Harry Van der Noord spoke in favor of the project. As a result of discussion on the site's parking, Mr. Van der Noord also stated he would work with the property owner in the event additional parking is necessary. Mayor Bustle closed the public hearing.

MOTION: Mr. William moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Ordinance No. 08-976.

5. PUBLIC HEARING – TENTATIVE MILLAGE RATE AND TENTATIVE FISCAL YEAR 2009 BUDGET

Mayor Bustle opened the public hearing for the adoption of the tentative millage rate and the tentative fiscal year 2009 budget, as evidenced by the following two resolutions.

Mayor Bustle discussed the fiscal year 2009 tentative millage rate of 4.6662, which is less than the rolled-back rate of 6.1609 mills by 24.26%. He announced the City has no voted debt service millage. Mayor Bustle opened the floor to public comment concerning the tentative millage rate.

Brian Vance, Green Forest Industries, commented on his TRIM Notice and the fact that his taxes will increase \$1,300 if the budget is not approved, and will be about the same as last year if the budget passes. He commented on the fact prices are going down but the taxes continue to rise and are placed on the private sector. Mayor Bustle suggested that Mr. Vance get with the City Clerk; Mr. Freeman discussed the assessment process by the Property Appraiser's Office. Mayor Bustle discussed the fact that the tentative millage of 4.6662 mills is set at the same level as last year.

Mayor Bustle discussed the tentative fiscal year 2009 budget, announcing the budget for each Fund.

After no further public comment, Mayor Bustle closed the public hearing for the adoption of the tentative millage rate and the tentative fiscal year 2009 budget

A) RESOLUTION NO. 08-29 (Read in its entirety)

A RESOLUTION OF THE CITY OF PALMETTO OF MANATEE COUNTY, FLORIDA, ADOPTING THE TENTATIVE LEVYING OF AD VALOREM TAXES FOR THE CITY OF PALMETTO FOR FISCAL YEAR 2009; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 08-29.

B) RESOLUTION NO. 08-30 (Read in its entirety)

A RESOLUTION OF THE CITY OF PALMETTO OF MANATEE COUNTY, FLORIDA, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2009; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded to adopt Resolution No. 08-30.

Discussion: Ms. Varnadore asked for clarification on the following topics:

- IT Manager step increase removal: Commission did not elect to reinstate the increase
- Verizon locates: Staff confirmed \$5,000 is the amount in the FY 2009 tentative budget
- Monitoring wells: Mr. Lukowiak discussed the fact two operational line items have been merged to fund this cost center
- Repairs & Maintenance/Water & Sewer: Staff confirmed \$5,000 had been removed from each cost center
- Backflow/Telemetry Meters: Staff discussed the intent to transfer \$100,000 from the telemetry meter project in the CIP to the operational account

Ms. Varnadore stated she is willing to approve the tentative budget, but reserved the right to revisit the monitoring well and backflow/telemetry meters at a future meeting.

Ms. Cornwell stated she does not see the benefit of allowing employees take-home vehicles when those vehicles are taken outside the City limits. She called for a policy addressing the topic to be placed on a future workshop agenda.

Mr. Williams stated he is **“against borrowing \$400,000 from the Building reserves to support what is right now, and possibly for the next two to three years at least before it can get back up to be earning enough money to support itself; I think it is not proper budgeting.”**

Motion on the floor to approve Resolution No. 08-30 passed 3-2. Ms. Cornwell and Mr. Williams voted no.

Mr. Ball departed the meeting at 8:00 pm.

6. ACCEPTANCE: URBAN AND COMMUNITY FORESTRY GRANT

Acceptance of an Urban and Community Forestry Grant in the amount of \$6,000 with a 50% match by the City.

MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 4-0 to accept and authorize the Mayor to execute the Urban and Community Forestry Grant Memorandum of Agreement in a matching amount not to exceed \$3,000.

7. APPROVAL: AMENDMENT NO. 1 TO PROFESSIONAL ENGINEERING CONSULTING SERVICES AGREEMENTS

Amendment No. 1 approves the extension of the City's eight professional engineering firm's contracts for one additional year. The contracts may be renewed for one additional year in 2009 and then the contracts must be bid.

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 4-0 to approve and authorize the Mayor to execute Amendment No. 1 to the Professional Engineering Consulting Services for General Engineering Projects contracts with the engineering firms of Post, Buckley, Schuh & Jernigan, Inc.; Jones, Edmunds & Associates, Inc.; Lombardo, Foley & Kolarik, Inc.; Ghafari Associates, Inc.; Giffels-Webster Engineers, Inc.; ZNS Engineering, LC; TBE Group, Inc.; and CPH Engineers, Inc..

8. APPROVAL: EXTENSION OF VEOLIA WATER CONTRACT (C. Lukowiak) (TAB 8)

Approval of a two-year extension of Veolia Water's contract for the operation of the wastewater treatment plant. Ms. Varnadore requested that the item be tabled until the September 22, 2008 meeting **because the original contract was not included in the agenda packet and she did not receive it in time to allow for her review.**

MOTION: Ms. Varnadore moved, Mrs. Lancaster seconded and motion carried 4-0 to table the item until September 22, 2008.

9. APPROVAL: US 301 FUTURE UTILITY EXPANSION & CANAL ROAD UTILITY PROJECT

Approval of Work Assignment #1 and Change Order #1 from ZNS Engineering. Mr. Lukowiak confirmed that the work assignment and work order pertains only to Leg 3 of the project; Leg 4, which is the utility expansion, has been removed. He explained why there was a need for issuance of the work assignment and work order for the East Side Utility project. Dick Clark, ZNS Engineering, also discussed the cause for the change order, which has resulted in significant savings in the construction contract. After a lengthy discussion of the project Commission called

for the development of policies for the pretreatment of wastewater and approval procedures for work orders and work assignments for review at a future workshop.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 3-1 to approve and authorize the Mayor to execute ZNS Engineering, LC Work Assignment #1 for East Side Utility Improvement Leg 3 in an amount not to exceed \$60,600 and Change Order #1 for East Side Utility Improvement Leg 2 and 3 in an amount not to exceed \$66,955. Ms. Varnadore voted no.

10. DISCUSSION: JACKSON PARK DRAINAGE PROJECT INTERLOCAL AGREEMENT

Mr. Freeman confirmed the City has expended \$745,000 on the project, plus outstanding sidewalk construction of \$14,000 and \$72,000 for additional property acquisition in the eminent domain proceeding for a an approximate total of \$833,000. Mr. Freeman stated the utility relocation of \$71,000 is included in the \$833,000. Manatee County will reimburse the \$71,000 for the utility relocation and 50% of the project up to \$350,000.

Mr. Lukowiak stated he is seeking direction on how Commission feels the operation and maintenance (O&M) on the pond should be proposed to the County; the City owns the land, but the pond is located in the county. Mr. Lukowiak opined the City built the pond and he would like to see Manatee County pay a portion of the continuing O&M. Mr. Lukowiak also suggested the Commission should decide if the City should retain ownership of the land or transfer ownership to the County, which would then be totally responsible for the O&M.

Mr. Lukowiak stated the Parks Department has been mowing the property while this Interlocal agreement has been being developed. Commission discussed the need to keep up the property, given the close location to Jackson Park. Attorney Hall opined there are always issues when one governmental agency owns property in another governmental jurisdiction. Commission discussed retaining ownership of the pond and the costs that will be associated with the O&M, which will consist of spraying and mowing.

After discussion, Commission agreed to the need to retain the property and amended paragraph #11 of the Interlocal agreement by adding language to reflect agreement by the County to pay for 50% of the cost of the O&M within 30 days of receipt of quarterly invoices.

11. 1st READING & ADVERTISING APPROVAL-ORDINANCE NO. 08-977

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA PERTAINING TO ABATEMENT OF NUISANCES AND NOTICE PROCEDURES ; PROVIDING FOR REVISION OF SUCH PROCEDURES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-0 to approve advertising of Ordinance No. 08-977 and schedule a public hearing for September 22, 2008.

12. DEPARTMENT HEADS' COMMENTS

Attorney Hall

Reported she is on the FLOC's Environmental and Natural Resources Committee, which will meet one Friday in Orlando for the next three months.

The mailing to the Palms of Terra Ceia CDD was completed Thursday; Mr. Freeman stated he has not personally received any calls. Attorney Hall stated the City is still in the conflict assessment process and the next step is the board-to-board meeting. Commission directed

Attorney Hall to draft correspondence to the CDD Board requesting dates for the board-to-board meeting.

Chief Lowe
No report.

Mr. Freeman
Adjustments will be made to the budget prior to the September 22, 2008 meeting.

Mr. Lukowiak
Thanked Commission for their actions on this date's two long agendas.

Mr. Schmitt
Palmetto High School is expanding and, under the interlocal agreement (ILA), it is at the discretion of the local agency to hold a public meeting for the project. Attorney Hall stated that under the ILA the City cannot deny the expansion, but can place reasonable terms and conditions on the expansion. Commission requested the hearing. Mr. Schmitt stated the item will be on the agenda for the first October meeting.

13. MAYOR'S REPORT

Reported he is meeting with Mr. Hunzeker on Saturday at the Chamber Retreat and will discuss Jackson Park, Palmetto Elementary and other issues. Reported he spoke with Mr. Hunzeker and Dr. Dearing after the workshop meeting to advise them of the school decision.

14. COMMISSIONERS' COMMENTS

Ms. Cornwell
Commented on the recent Movie in the Park event and the situation that occurred by candidates. Ms. Cornwell proposed that Commission consider the temporary enactment of a policy that will prohibit political activity near or during a City event or on City property, until Commission has had a chance to develop a strong policy. Ms. Cornwell requested that the administrative code of ethics is reviewed with employees because it was broken. She opined it would be safe to protect City events to ensure they are for the community and not for political gain. Ms. Cornwell requested Commission comments on the topic. Attorney Hall stated that this area under the terms of freedom of speech and the right to express political views is protected and the public parks are the most protected; regulations cannot be tied to public speech. Ms. Cornwell stated she is suggesting to not allow sole use of surrounding City properties if a City event is occurring in the park. Attorney Hall stated there is not research to perform on the topic; as long as a policy is kept content neutral; a political event cannot be singled out in a policy. Mrs. Lancaster did not agree with the establishment of such a policy. Mr. Williams opined that policies developed by Commission should be better supported by staff.

Ms. Cornwell read into the record the section of the Personnel Policy covering political activity. Attorney Hall inquired if there were alleged violations. Mr. Williams cited a call he received concerning the wearing of political tee shirts by Chris and Tanya Lukowiak; Mr. Lukowiak informed Commission he was not working and Mrs. Lukowiak denied the allegation. Ms. Cornwell reported a call she received concerning the content of the message of the electric message sign, and stated that if the City's sign was improperly used it should be addressed. Mr. Lukowiak stated he will deal with any improper use of the City's message, if necessary.

Ms. Cornwell requested that the topic be brought up at a workshop.

Mr. Williams
Thanked the Police Department for supporting the schools. He congratulated Chief Lowe on his 27 year anniversary with the City.

Mr. Lukowiak reported Public Works continues to use work orders. He requested that Mr. Lukowiak ensure that all departments complete work orders; Mr. Lukowiak stated he has rectified the situation.

Ms. Varnadore

Referring to the letter from Mrs. Wheeler, Mr. Lukowiak reported he has met with Mr. Wheeler and will meet with Mrs. Wheeler this week. The City has agreed to pay for the City's portion of removing branches of a tree that is partially in the right-of-way. FPL will not remove debris from the power pole to the home. Mr. Lukowiak will keep Ms. Varnadore informed on the topic.

Attorney Hall reported the Regatta Pointe sublease is still in progress.

The labor camp issue will be placed on the September 22, 2008 workshop.

Commented on the approval of the elementary school, citing the teamwork between the different agencies.


Mrs. Lancaster requested that the minutes of a previous meeting be amended to reflect that Garry Lowe, Jr. spoke to Commission concerning the school issue, not Garry Lowe.

Mr. Lukowiak reported Eddie Clark intends to return to work, but he will bring the topic back to Commission if Mr. Clark is unable to return.

Mr. Williams informed Public Works that lights are out on the north side of Riverside Dr.

Meeting adjourned at 9:43 pm.

Minutes approved: Corrected September 22, 2008 (Corrections in bold)



James R. Freeman
City Clerk