

Palmetto City Commission
December 15, 2008 7:00 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tambra Varnadore, Vice Mayor
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner
Alan Zirkelbach, Commissioner

Staff Present:

Mark Barnebey, Special Counsel
James R. Freeman, City Clerk
Mike Mayer, Deputy Chief
Allen Tusing, Interim Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. Pastor David Smiley, Providence Presbyterian Church of Palmetto gave the invocation, followed by the Pledge of Allegiance.

All persons intending to address Commission were sworn in.

PUBLIC COMMENT:

Jim DeMaro, local president of Manasota Postal Workers Union, requested Commission adopt a resolution in support of retaining the local postal service at the Sarasota/Bradenton Airport and opposing any studies or actions that would move the local mail out of the area.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 5-0 to place a resolution on the next agenda supporting keeping the mail processing in our city.

ORDER OF BUSINESS:

1. AGENDA APPROVAL

Commissioner Cornwell requested that a question be added to the agenda prior to the first reading documents, #1B. Commissioner Williams also requested that the issues discussed in the shade meeting regarding items 1, 4 and 5 from City of Palmetto vs. Floyd Williams deceased, case #2007CA4115 be added. Commission concurred and added the topic as item #20.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to approve the December 15, 2008 7:00 agenda as amended.

2. CONSENT AGENDA

- A) Minutes: December 1, 2008
- B) November Check Register

Commissioner Williams removed the November Check Register for discussion.

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 5-0 to approve the December 15, 2008 Consent Agenda.

Staff was asked to determine if Jefferies Lawn Service is the only vendor that supplies the equipment purchased, and to determine if the movie Casper was shown at Movie in the Park.

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 5-0 to approve the November Check Register.

Commissioner Cornwell inquired why the 7th Avenue Cottages conceptual plan had not been presented to Commission before the first reading of the ordinance, as some other major developments have been presented. Attorney Barnebey stated this is a quasi judicial matter and most, if not all, discussion should occur in the public hearing. He requested time to research the topic before holding a workshop on the matter.

3. PUBLIC HEARING: CONDITIONAL USE PERMIT 08-05 (B. Schmitt)

Application of Value Pawn for a Conditional Use Permit for an electronic message center sign at 908 8th Ave. W.

Mayor Bryant opened the public hearing.

Sandi Bargfrede stated the only change to the sign will be to allow a static copy area to the electronic area to make it easier and safer for employees to change the message. Marjorie Batey cited four other signs on 8th Avenue that have the same type of sign. Ms. Bargfrede stated the variance was approved by the P&Z Board November 10, 2008.

Mr. Tusing stated staff recommended denial because the criteria for the sign do not conform to the Downtown Design Guidelines for the roadway. He stated the P&Z Board approved the sign with conditions that the sign must remain static for five minutes before changing. Ms. Bargfrede stated the conditions were agreed to at the P&Z Board meeting.

Wayne Parsons, employee of Value Pawn, requested approval, based on the safety aspect of a manual change to the message vs. an electronic change.

David Tockowich, manager of Value Pawn, stated the electronic message will help in terms of changing, ease of reading, over all increase of efficiency.

Mayor Bryant closed the public hearing.

Discussion: Commissioner Zirkelbach stated that while he respects the business aspect of the application, it may be best if the P&Z Board revisits the criteria of the Downtown Development Guidelines to better define what they will approve; if established guidelines are not going to be followed, they should be amended. Commission Lancaster concurred.

Mr. Tusing confirmed the sign is located on private property.

Commissioner Varnadore stated she would prefer to not approve further electronic signs until the Commission gets clear direction regarding the sign ordinance and comments regarding the Downtown Design Guidelines. She stated that at this time she does not support this action.

Attorney Barnebey recommended that the matter be continued until the next meeting to allow Commission to receive comments from the Planner.

MOTION: Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried to table the Conditional Use Permit 08-05 for Value Pawn and Jewelry, 908 8th Ave. W. until January 5, 2009.

4. CRA BOARD

Alison Hewitt of the CEDC spoke to Commission regarding the firm's association with the CRA, and how the firm assists small business owners in Palmetto. She confirmed that the \$75,000 payment was funded for fiscal year 2009. Commission requested a report from Ms. Hewitt concerning businesses they have assisted.

Dr. Scott Maloney discussed his ten year tenure on the CRA Board. He stated he is not aware of a serious communication issue between the Commission and his board; the Executive Director has made every effort to keep the CRA Board informed. Dr. Maloney stressed the fact that the board only wants to do what the City Commission would approve.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to allow Dr. Maloney to continue.

Dr. Maloney requested a joint workshop between the CRA Board and Commission to have an in-depth discussion concerning the CRA budget. He proposed opening the lines of communication and requested that Commission postpone making any rash decisions at this point. He opined the CRA Board should remain in the citizen's position of decision making and should not be an advisory board, stating he wanted to be accountable for every decision he makes.

Mayor Bryant stated she had had a discussion with Dr. Maloney and Mr. Langford, and reiterated that it is not the intent to ask the board members to step down. Commission discussed many of the same topics that were discussed during the 4:00 workshop with Dr. Maloney. Commissioner Zirkelbach referred to the executive director's contract that was provided to him, stating there is no clause referring to payment for an injury; stating it is almost identical to the contract granted in 2001. Mayor Bryant did caution Dr. Maloney that if the CRA Board executes any more contracts without Commission approval, she will take the steps necessary to make drastic changes. Staff was directed to schedule a joint workshop meeting after 5 pm.

5. APPROVAL: 2009 PLANNING AND ZONING BOARD APPOINTMENTS

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the 2009 Planning and Zoning Board member appointments of Charlie Ugarte and Christopher Moquin to a term ending January 2012 and alternate members Eric Gilbert and Jim Pastor to a term ending January 2010.

Mayor Bryant confirmed an orientation covering sunshine laws, Roberts Rules, Commission policies, etc. would be held with all new board members. Mr. Freeman discussed how information has been provided to new board members in the past.

Commissioner Varnadore reminded Commission she has requested that conversation be held concerning a requirement that all Planning and Zoning Board members be residents of the City. Commissioner Cornwell also discussed her request that all in-coming board members be asked to attend a City Commission meeting so Commission could thank them for their service.

6. APPROVAL: 2009 CODE ENFORCEMENT BOARD APPOINTMENTS

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 5-0 to approve the 2009 Code Enforcement Board member appointments of Scott Dougherty and Robert Rotondo to a term ending

January 2012 and alternate member William E. Collins to a term ending January 2012.

7. APPROVAL: 2009 NUISANCE ABATEMENT BOARD APPOINTMENTS

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 5-0 to approve the 2009 Nuisance Abatement Board member appointments of Scott Dougherty and Robert Rotondo to a term ending January 2012 and alternate member William E. Collins to a term ending January 2012.

8. RATIFICATION OF GENERAL EMPLOYEES' PENSION PLAN BOARD OF TRUSTEES' APPOINTMENTS

Pursuant to City Code Sec. 22-83 Commission shall ratify, as a ministerial duty, the General Employees' Pension Plan Board of Trustees' appointments of the sixth and seventh trustees.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to ratify the General Employees' Pension Plan Board of Trustees' appointment of Ellen Leonard and Allen Tusing as the sixth and seventh trustees to a term ending January 2012

9. RESOLUTION NO. 08-38

Resolution No. 08-38 authorizes the Mayor to execute a Florida Department of Transportation Maintenance Agreement for certain median islands, interchange areas and rights-of-way.

A RESOLUTION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING EXECUTION OF THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE AGREEMENT #BDM25, FM424087-1-78-01; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Tusing informed Commission that FDOT has notified the City that in order to comply with the terms of the agreement the City must purchase capital equipment for the street sweeper that is utilized for streets under FDOT jurisdiction and that two City trucks and employees must accompany the sweeper. He also stated the level of service for maintaining the FDOT jurisdictional streets will decrease if the agreement is not executed. Staff was directed to contact FDOT to discuss any available options, to search for any FDOT required equipment that is used and for sale, and to look at the budget to determine if a lease/purchase agreement could be utilized to obtain the required equipment.

MOTION: Commissioner Zirkelbach moved, Commissioner Varnadore seconded and motion carried 5-0 to table Resolution No. 08-38 until January 5, 2009.

10. RESOLUTION NO. 08-39

Budget amendment to recognize additional revenue from the Florida Department of Transportation Maintenance Agreement.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 08-32, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2008-2009; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to remove Resolution No. 08-39.

11. RESOLUTION NO. 08-40

Resolution 08-40 formalizes the City's current practice concerning public participation at City Commission meetings. Based on comments received during the workshop, Mr. Freeman suggested that Policy #09-02 be modified to reflect a 5:00 start time for the workshop meetings.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, ADOPTING CITY COMMISSION POLICY #09-02 ESTABLISHING RULES OF PROCEDURES FOR CITIZEN PARTICIPATION AT CITY COMMISSION PUBLIC AND WORKSHOP MEETINGS; REPEALING RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to adopt Resolution No. 08-40.

12. APPROVAL: DIVISION OF EMERGENCY MANAGEMENT GRANT

A) Approval of a State of Florida Division of Emergency Management 50% matching grant and establishment of the budget to recognize the grant revenue for the purchase and installation of six garage doors to harden the Public Works fleet maintenance building.

Mr. Tusing informed Commission that the building will not conform to the Miami-Dade Code, but is structurally sound. Commissioner Zirkelbach suggested it would be prudent to consult the building's as-built plans to confirm the building would be able to support the doors, and suggested approval contingent upon the findings of the research.

Mr. Freeman reviewed revised budget figures to fund the project, as depicted in a revised Resolution No. 08-41. Mr. Freeman stated that the grant would fall under the single audit provision in the City's annual audit. He will confirm his statement with the Finance Department and bring the item back to Commission if he finds the grant will require any additional audits.

Commissioner Varnadore also commented on the fact the City will attest that it is a drug-free workplace; staff discussed the random testing and accident-related testing that is performed. She noted a letter must be supplied attesting to the building's condition. Commissioner Williams recommended that the contact information be updated.

MOTION: Commissioner Cornwell moved to approve and authorize the Mayor to execute the State of Florida Division of Emergency Management Federally-Funded Subgrant Agreement in an award amount of \$14,445 and approve a cash match amount not to exceed \$14,445.

MOTION: Commissioner Varnadore moved to amend the motion on the floor, to include the discussed conditions and if research proves contrary that the topic will be brought to Commission. Mrs. Lancaster seconded and motion carried 5-0.

B) RESOLUTION NO. 08-41

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 08-32, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2008-2009; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commission Zirkelbach seconded and motion carried 5-0 to adopt Resolution No. 08-41.

13. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-978

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-14 (RESIDENTIAL 14 UNITS PER ACRE) TO PD (PLANNED DEVELOPMENT); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA-08-05 Charles Palmer and Jonathan Shute, PID # 2778600003, approx. 0.3+/-acres).

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 4-1 to approve Ordinance No. 08-978 for advertising and schedule a public hearing January 5, 2009. Mr. Williams voted no.

14. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-979

AN ORDINANCE 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 RM-6 (RESIDENTIAL MULTI-FAMILY) TO PDH (PLANNED DEVELOPMENT HOUSING); APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR A SINGLE FAMILY RESIDENTIAL PROJECT DEPICTING SIX (6) UNITS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-GDP-08-05 Charles Palmer and Jonathan Shute, PID # 2778600003, approx. 0.3+/- acres).

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 4-1 to approve Ordinance No. 08-979 for advertising and schedule a public hearing January 5, 2009. Mr. Williams voted no.

15. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-980 (B. Schmitt)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A CONCEPTUAL/GENERAL DEVELOPMENT PLAN FOR PARCEL 9 OF THE RIVIERA DUNES MASTER DEVELOPMENT PLAN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 08-06 Beach Townhomes Investors, LLC, PID# 2581600959, approx. 1.31± acres).

MOTION: Commissioner Lancaster moved, Commissioner Varnadore seconded and motion carried 4-1 to approve Ordinance No. 08-980 for advertising and schedule a public hearing January 5, 2009. Mr. Williams voted no.

16. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-981

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-08-06 – R&W Gulfcoast Properties, LLC. PID # 2578000008, approximately 1.38+/- acres).

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 4-1 to approve Ordinance No. 08-981 for advertising and schedule a public hearing January 5, 2009. Mr. Williams voted no.

17. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-982

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 INDUSTRIAL LIGHT (IL-COUNTY), TO HEAVY COMMERCIAL/INDUSTRIAL (HCOMIND-CITY); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA-08-06 – R&W Gulfcoast Properties, LLC. PID # 2578000008, approximately 1.38+/- acres).

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 4-1 to approve Ordinance No. 08-982 for advertising and schedule a public hearing January 5, 2009. Mr. Williams voted no.

18. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-983

AN ORDINANCE OF THE CITY OF PALMETTO, 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 LIGHT MANUFACTURING (LM-County) TO COMMERCIAL HEAVY INDUSTRIAL (CHI-City); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-08-06 – R&W Gulfcoast Properties, LLC. PID # 2578000008, approximately 1.38+/- acres).

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 4-1 to approve Ordinance No. 08-983 for advertising and schedule a public hearing January 5, 2009. Mr. Williams voted no.

19. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 08-984

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 2, SECTION 2-26 OF THE CODE OF ORDINANCES TO REVISE THE MEETING SCHEDULE FOR THE CITY COMMISSION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to approve Ordinance No. 08-984 for advertising and schedule a public hearing January 5, 2009.

20. LITIGATION ASSESSMENT MEETING

Attorney Barnebey referenced the litigation assessment meeting held at 6:00 for the City of Palmetto vs. the Estate of Floyd Williams, et al, case #2007CA4115. He requested authorization to make an additional deposit to settle the cases, as follows:

Parcel #1	\$17,562.50
Parcel #4	\$14,783.00
Parcel #5	\$15,712.50

He stated his belief the additional deposit will resolve the case as it pertains to the three parcels; parcel #1 has been purchased and parcel #2 is still in negotiation.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to approve the expenditures and amount of the deposit as delineated by City Attorney Mark Barnebey.

21. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

The planner has resigned effective January 2, 2009. He inquired how the Commission felt about contracting with the planner until a replacement can be hired. Mr. Tusing stated the EAR has been approved but the Comp Plan amendments from the document have not. Richard Clark of ZNS (one of the City engineers) stated he is certain his firm can assist the City during the upcoming public hearings and on any other projects. Mr. Freeman stated the contract services line item was moved into the salary budget. It was consensus of Commission not to contract with Mr. Schmitt and to have conversation with ZNS regarding planning services until a planner is hired.

Mr. Freeman

Requested Commission call him with any questions regarding the Scott memo.

Referring to the IT position in his budget that has never been filled, he requested permission to have discussion with firms that might be able to assist the department in certain items. Commission concurred.

Informed Commission that the Employee Assistance Program contract that renews in December was received after the agenda was published. The item will be placed on the January 5, 2009 agenda.

The Suspense Log is being reviewed at the department head meeting.

Referring to the McKinney property, the abutting church has expressed an interest in the property. Staff will try to facilitate a meeting between the two parties.

22. MAYOR'S REPORT

Reported there has been a meeting with a School Board representative concerning Palmetto Elementary and a meeting has been scheduled with the county administrator, which may have to be rescheduled because of a conflict.

The 7th Street light was discussed at the MPO. Stanley Kahn, FDOT, is emphatic the light will not be turned on without the requirements that were in place for the light. Conversation is being held with the county, and FDOT will be contacted, regarding how to move forward and make access to the City at that location.

Reported she attended the Chamber's EDC meeting. The county is trying to support local vendors as much as possible; the City will try to support the plan, but prefers to deal with the vendors and businesses in Palmetto. She discussed her plan to create a business advisory group for the mayor and Commission.

23. COMMISSIONERS' COMMENTS

Mr. Zirkelbach

No comment.

Ms. Cornwell

Publix opens December 18, 2008.

Requested the material for the public hearings be left in her agenda book.

Mr. Williams

Requested discussion on how to handle first readings. Attorney Barnebey opined there may be brief discussion at a first reading, but the public hearing is where detail discussion should occur.

Met with Mr. McClash and Mr. Tusing. Mr. McClash seemed very pleased the City is attempting to open dialogue with the county and promised to work with the City regarding better communication.

Requested a list of the audio and minutes that are available on the website.

Ms. Varnadore

Inquired what action has been taken on the Code Enforcement issues that were brought up at the last meeting. She requested that if one Commissioner brings forward an issue that time is taken during a meeting to address the topic.

Inquired how the sign ordinance issue is progressing and how the Downtown Design Guidelines apply to what the Commission is doing. '

Commented the next agenda currently has nine items. She stated she did not see the need to duplicate information from one agenda to the next if there is no new information that comes forward.

Mrs. Lancaster

Requested that the McKinney property meeting be scheduled as quickly as possible.


Reminded Commissioners to RSVP to Deanna concerning the MLK Parade.

24. PUBLIC COMMENTS

None.

Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to adjourn the meeting at 10:00 pm.

Minutes approved: January 5, 2009


James R. Freeman
City Clerk