

Palmetto City Commission
May 4, 2009 7:00 PM

Elected Officials Present:

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

Elected Officials Absent:

Alan Zirkelbach, Commissioner

Staff Present:

Mark P. Barnebey, City Attorney
James R. Freeman, City Clerk
Ron Koper, Risk Manager
Garry Lowe, Chief of Police
Tom McCollum, Interim City Planner
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. Chief Lowe gave an invocation, followed by the Pledge of Allegiance.

PROCLAMATION: National Safe Boating Week
Accepting: Bill Osolin, Flotilla Commander and Dee Kermode, Public Affairs Officer, USCG Auxiliary Flotilla 8-5 Palmetto

National Day of Prayer

Swearing-in of all persons intending to address City Commission or the CRA Board.

PUBLIC COMMENT (non-agenda items): There was no public comment.

1. CITY COMMISSION AGENDA APPROVAL

Mayor Bryant also requested that a Noise Exception Permit from the GTP Sickle Cell Foundation be added to the agenda. Commissioner Lancaster requested that she be allowed to speak to Commission in the early part of the agenda to make a disclosure.

MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion carried 4-0 to approve the May 4, 2009 7:00 p.m. agenda, with the addition of the Sickle Cell Foundation issue and Mrs. Lancaster's request to speak.

1A. COMMISSIONER LANCASTER'S DISCLOSURE

Commissioner Lancaster disclosed that Mr. Charles Smith has filed several complaints with the Commission on Ethics against her regarding her voting on the appointment and salary approval of Chief Garry Lowe, her nephew. Commissioner Lancaster read a historical review of her voting on the topic, stating she has always attempted to follow the law.

1B. GTP SICKLE CELL FOUNDATION NOISE EXEMPTION PERMIT

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 4-0 to approve the GTP Sickle Cell Foundation Noise Exemption Permit for May 25, 2009.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: April 20, 2009
- B) Fisher & Phillips, LLP Legal Billing
- C) Special Function Permit: July 4th Celebration

Item C was withdrawn from the Consent Agenda.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to approve items 2A and 2B of the May 4, 2009 Consent Agenda.

Discussion ensued on the Special Function Permit for the July 4th Celebration. Staff confirmed that the issue with separate tickets for drinks and the carnival rides has been resolved. Commission requested that bench seating be provided at the carnival rides. Commission was informed the Green Bridge will be closed for one hour for the fireworks display and that Riverside Dr. on both sides of 8th Avenue will be closed to traffic. Commission requested the following information:

- Noise Exception Permit for the event
- Property owner's permission to locate the carnival rides on his property
- Information regarding insurance coverage for the carnival rides

The topic will be placed on the next agenda.

3. PALMETTO ELEMENTARY SCHOOL UPDATE

Mayor Bryant updated the Commission on Palmetto Elementary School location. The school is anticipating breaking ground mid-June; three Little League and one regulation ball fields are moving forward; \$800,000 in stimulus funds is secured to realign 23rd Street and the curvature of the street is being addressed to accommodate the fields. Attorney Barnebey stated there is an issue as to who will own the property where the fields are to be located; Manatee County may request funds from the School Board for the property they are giving up to the School Board. Mayor Bryant stated Mrs. Lukowiak is working on grant funding for additional funding for the construction of the fields. Discussion ensued on how the County acquired the property they are now requesting to be compensated for. Mayor Bryant stated the County has agreed to pay the O&M for the fields and she does not want the City to delay anything in the process; issues will be worked out and the school will move forward. Commissioner Varnadore stated the topic must be worked out before the Commission signs documents. Mr. Tusing stated the 23rd Street widening is progressing and has to be completed before the ball fields can be constructed. Mayor Bryant stated the County and School Board are working to provide fields to the Little League while the project is under construction.

4. PUBLIC HEARING: 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).

Mayor Bryant opened the public hearing for Ordinance No. 08-978.

Interim City Planner Tom McCollum presented the project, stating the project has been recommended for approval by the Planning and Zoning Board.

Discussion ensued on affordable housing. Mr. Freeman confirmed the City is still in a mandatory period. Mrs. Lukowiak stated that staff had presented information about an affordable housing impact fee to be retained in a trust fund, as it was illogical to mandate an affordable unit given the affordable housing inventory. At the joint CRA and CRA Advisory Board meeting April 14, 2009 information on an affordable housing linkage fee was directed to the CRA Advisory Board for further research. She stated the Commission is supposed to review the existing ordinance annually and can return to a voluntary period at any time.

Attorney Barnebey suggested that Mayor Bryant also open the public hearing for Ordinance No. 08-979, as Commission was discussing items relating to both ordinances.

5. PUBLIC HEARING: 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).

Mayor Bryant opened the public hearing on Ordinance No. 08-979.

Mr. McCollum confirmed parking for the project remains partially in the City's right-of-way. When questioned about additional landscaping, Mr. McCollum read into the record the following stipulations on the project, which are illustrated on the drawings, and which were developed following several meetings with the developer and Commission workshops. He stated the applicant has agreed to the stipulations, as follows:

1. In order to obtain six residential units, the development shall provide affordable housing in compliance with Article III of Chapter 17, City Code.
2. The buffers on the south and east property lines shall achieve and maintain 80 percent opacity at time of installation.
3. Reclaimed water system for landscape irrigation shall be installed in the first phase of construction.
4. The Developer shall provide municipal water and sewer to all residential units.
5. Prior to approval of the Construction Plans, a Letter of Exemption, or other direction, regarding retention/detention requirements shall be provided to the City.
6. Low-volume plumbing fixtures for all units shall be addressed with the building permit.
7. Project landscaping shall incorporate xeriscaping to the maximum extent possible.

8. Residential units shall be designed and constructed in substantial compliance with the drawings presented at the May 4, 2009 public hearing on this project.

Walt Smith, representing the applicant, stated they felt it is in the best interest of the project and the City to retain the project in the affordable housing range. Mrs. Lukowiak stated the affordable housing requirement does not apply to this project.

Commissioner Cornwell stated her hesitation with the project is the parking in the right-of-way; is the City setting a precedent in giving away right-of-way without compensation. Mr. Smith stated 60% of the parking is on the project's private parking and the applicant will dedicate an easement for public parking and also include a sidewalk easement, which brings the sidewalk to the back of the curb on the south side of the project and builds the sidewalk to the corner to 6th Avenue. He also stated the units have been rebalanced on the property to create a greater buffer between the sidewalk and the units on 7th Avenue.

Mr. McCollum confirmed that a modular structure by state law will comply with all City and Building Code standards.

Commissioner Varnadore stated she also has concerns regarding the parking, but there are businesses in the City that do not have parking. She commended the group on the efforts they have made to inform the public about the project.

Mr. Tusing confirmed that the right-of-way under discussion will not be given up by the City. He compared the parking to another project in the City that also utilizes parking in the right-of-way. Mr. McCollum stated the applicant has agreed to give the City a public access easement over his portion of the parking spaces that will allow all the parking to be used as public parking. Mr. McCollum recommended that the easement be added as a new stipulation on the project.

Discussion ensued on the maintenance of the parking. Mr. Smith stated that because the parking will be pavers, the developer would prefer to retain the maintenance responsibility, which will be incorporated into the condominium land documents. He agreed that a maintenance agreement with the City can be executed regarding the maintenance. Mr. McCollum stated the topic can also be added as a stipulation to the project.

Mr. Smith confirmed that when the construction plans are submitted for approval a request will be made to turn the intersection at 7th Avenue and 5th Street into a four-way stop intersection.

Mayor Bryant called for public comment on Ordinance No. 08-978. After receiving no public comment, Mayor Bryant closed the public hearing for Ordinance No. 08-978.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to adopt Ordinance No. 08-978.

Mayor Bryant called for public comment on Ordinance No. 08-979. After receiving no public comment, Mayor Bryant closed the public hearing for Ordinance No. 08-979.

Mr. McCollum recommended the following stipulations also be applied to the project:

9. Applicant shall provide a public access easement to permit all parking spaces to be available to the general public.
10. Developer shall enter into a maintenance agreement with the City to maintain the parking spaces within the public right-of-way adjacent to the development.

Attorney Barnebey confirmed the land condominium documents will make the development responsible for the maintenance. The developer agreed to the proposed stipulations.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded and motion carried 4-0 to adopt Ordinance No. 08-979 with the additional ten stipulations as noted in tonight's discussion.

6. PUBLIC HEARING: ORDINANCE NO. 09-991

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 04-403 GDP-II, Holy Cross Manor II/Diocese of Venice, 520 26th St. W., approximately 4.01 acres).

Mayor Bryant opened the public hearing. Mr. McCollum briefly reviewed the project. After no public comment, Mayor Bryant closed the public hearing.

MOTION: Commissioner Lancaster moved, Commissioner Williams seconded and motion carried 4-0 to adopt Ordinance No. 09-991.

7. JACKSON PARK SANITARY SEWER EASEMENT

The Jackson Park drainage pond has been completed and the City reimbursed by the County. Manatee County is requesting a permanent twenty foot sanitary sewer easement along the west side of City property for maintenance purposes.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Permanent Sanitary Sewer Easement for the Jackson Park drainage pond, PID #24583.0000/7, COP Job No. 03-369.

8. TROPIC ISLES CO-OP, INC. DRAINAGE EASEMENT

Stormwater improvements along 13th Street include two outfalls behind the Tropic Isles community center building. Tropic Isles Co-Op has granted the City a permanent drainage easement through its property.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 4-0 to accept the Tropic Isles Co-Op, Inc. Permanent Drainage Easement, PID #292550030, COP Job No. 07-568.

9. PROPERTY DAMAGE RELEASE

Release of any claims relating to an accident referenced as MCSO#2008-65508 upon receipt of funds for property damage against a police vehicle.

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Release of Claims, MCSO#2008-65508.

10. RIVERSIDE DRIVE AT 8TH AVENUE IMPROVEMENTS

Project approved by the CRA Board on April 14, 2009. The project is the reconfiguration of traffic pattern prohibiting left turns onto 8th Avenue from Riverside and prohibiting the crossover of 8th

Avenue from Riverside Dr. It is a matching grant with MPO reimbursing funding of \$150,000. The project will be funded by CRA Community #6905598214.

MOTION: **Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 4-0 to approve the Riverside Drive at 8th Avenue Improvement project and allocate funds to the project not to exceed \$300,000.**

11. HABEN BOULEVARD GATEWAY PROJECT

Project approved by the CRA Board on April 14, 2009. The project is the construction of a roundabout at the 90° turn on Haben Blvd. and will receive grant funding of \$467,000. The project will be funded by CRA Community #6905598214.

MOTION: **Commissioner Williams moved, Commissioner Varnadore seconded and motion carried 4-0 to approve the Haben Boulevard Gateway Project and allocate funds not to exceed \$990,000.**

12. 8th & 9th ST. AT 4th AVE. W. INFRASTRUCTURE IMPROVEMENTS

Project approved by the CRA Board on October 21, 2008. The project is the replacement of an aluminum storm drain system in Ward 3. The project will be funded by CRA Community Renovation #6905598212.

MOTION: **Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 4-0 to approve the 8th and 9th Streets at 4th Avenue West infrastructure project and allocate funds not to exceed \$435,572.**

13. EDENFIELD PROPERTY SITE ASSESSMENT

City Commission approval of project approved by the CRA Board on April 14, 2009. The project is Phase I for the development of a site assessment plan and Phase II for the completion of the site assessment. The project will be funded by CRA Community #6905598214.

MOTION: **Commissioner Williams moved and Commissioner Cornwell seconded to approve Phase I and II of the Edenfield Property site assessment not to exceed \$116,710.**

Discussion: Mr. Tusing confirmed that an agreement for Phase II will not be entered into until DEP has approved the site assessment plan. It was suggested that evidence of potential runoff from the cross-ties that are stored on the railroad property should be documented now so that if remediation is required, possible contributors can share in the burden.

Motion on the floor carried 4-0.

14. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 09-992

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REVISE THE REQUIREMENTS FOR THE DISPOSITION OF SURPLUS PROPERTY BY THE CITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 3-0 to approve Ordinance No. 09-992 for advertising and schedule a public hearing May 18, 2009. Commissioner Williams was absent for the vote.

15. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 09-993

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, VACATING 15TH AVENUE DRIVE WEST RIGHT-OF-WAY BETWEEN THE NORTH RIGHT-OF-WAY LINE FOR 10TH STREET WEST AND THE SOUTH RIGHT-OF-WAY LINE FOR 12TH STREET WEST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion carried 4-0 to approve Ordinance No. 09-993 for advertising and schedule a public hearing May 18, 2009.

16. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 09-994 (M. Barnebey)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, VACATING THE 8TH STREET WEST RIGHT-OF-WAY WEST BEGINNING 217.5 FEET EAST OF THE EASTERN RIGHT-OF-WAY LINE FOR 10TH AVENUE TO THE EASTERN RIGHT-OF-WAY LINE FOR 9TH AVENUE WEST; VACATING 9TH AVENUE WEST FROM THE SOUTHERN RIGHT-OF-WAY OF 9TH STREET WEST TO THE SOUTHERN RIGHT-OF-WAY LINE FOR 8TH STREET WEST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve Ordinance No. 09-994 for advertising and schedule a public hearing May 18, 2009.

Mayor Bryant recessed the meeting at 9:10 pm to open the May 4, 2009 CRA Board meeting.

Mayor Bryant reconvened the May 4, 2009 City Commission meeting at 9:30 pm.

17. DEPARTMENT HEADS' COMMENTS

Mr. McCollum

The P&Z Board will hold its first workshop to discuss the Comp Plan Thursday.

Mr. Tusing

Reported that the City has in the past transported bleachers from Palmetto Youth Center to the Bradenton Yacht Club. He has received a call from Bradenton Yacht Club requesting that the bleachers again be delivered for a fishing tournament. The bleachers are not City property. Commission declined to accommodate the request.

An Osprey nest has been located on a light pole at the proposed school site. The School Board has contracted to relocate the birds to Hidden Park, which will require a permit for the pole. Staff was instructed to determine there will be no conflicts with any Osprey protection laws.

Mr. Freeman

The City has received the 2009-2010 work orders from FDOT for the traffic signalization (\$16,000) and highway lighting (\$31,000) contracts.

Verizon has completed the due diligence for the cell tower in Hidden Lake and is now ready to proceed with negotiation of a lease for the property. The item will be placed on the June 1st workshop agenda.

The updated garbage pickup schedule will be going out in the utility bills. Holidays falling on Monday will be scheduled for the following day and all subsequent services will be pushed out an additional day.

Chief Lowe

The neighborhood cook-out served over 400 hot dogs and hamburgers. The Police Department also obtained information at the event that may be of assistance in solving some crimes.

Attorney Barnebey

Regarding Commissioner Lancaster comments, please inquire as there are different requirements for different family members. Commissioner Williams inquired if elected officials are to wait to abstain on a voting conflict. Attorney Barnebey suggested he or a private attorney should be alerted of any potential conflict; an elected official can declare a conflict and still participate in discussion in most cases, but can not vote. He opined a commissioner declaring a conflict should not make a motion.

18. MAYOR'S REPORT

Reported she had attended the TBRPC meeting and orientation.

The City has received the MPO transportation enhancement projects. Geoff Seger sits on that committee and he and Mr. Tusing will bring a list forward. Van Brown has created a map with the projects. She asked Commission to review the information and submit comments as quickly as possible.

The County has contacted the City concerning the 7th Street light. The executive director of FDOT is very receptive to working with the City to resolve the issue.

Mentioned Commissioner Lancaster's request to have a Ward meeting. Mrs. Lancaster stated she wanted to have a meeting like the mobile home park meetings. Mrs. Lancaster commented on the notice from Attorney Barnebey stating the Commission and Mayor could not participate. Attorney Barnebey stated that if it is a Ward meeting he recommended the Commission and Mayor not attend, if it is a noticed meeting of the Commission then there would have to be minutes taken and an agenda set. The meeting is Monday, May 11, at 6:30. Mayor Bryant stated she will be out of town that day, as did Mr. Williams. Commissioner Cornwell stated she would attend. Commissioner Varnadore inquired if each Commissioner was holding a Ward meeting or were these intended to be community meetings. Commissioner Lancaster explained why she chose the Youth Center as the location for the meeting in Ward 1. Commissioner Varnadore and Commissioner Lancaster were of the opinion the meetings were to be community meeting. Attorney Barnebey recommended that the meetings should be noticed as a City Commission Workshop. Mr. Freeman stated that if the proposed meeting is like as in the past, it will be noticed as a public meeting, minutes will be taken, one or more Commissioner may attend, but the meetings are not chaired. Staff will be instructed to offer possible dates and locate facilities in the Wards.

MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 4-0 to extend the meeting fifteen minutes.

19. COMMISSIONERS' COMMENTS

Mrs. Lancaster

Reported she is receiving calls about the mosquitoes at the retention pond in Jackson Park.

Inquired about the speed limit signs on 3rd Avenue. Chief Lowe reported they are being created.

Inquired if there has been any improvement in the store. Mayor Bryant reported she has had discussion with the owner.

Ms. Cornwell

Requested that the information concerning street closures during the 4th of July event is posted.

Inquired if the mobile home responses have been furnished to the mobile home parks. Mr. Freeman will research and make sure the pending items are duly noted.

Mr. Williams

The Lake Rowlett outfall north of 21st and west of 24th is overgrown.

Street lights on 21st Street are not sufficient to ensure safety.

Commented on the short supply of reuse water. Mr. Tusing stated the demand has necessitated establishing hours from 7-10 am and 6-10 pm. Mr. Williams suggested using the electronic sign to alert the public of the hours.

Mr. Tusing reported the ditch at Palm Bay has been cleaned.

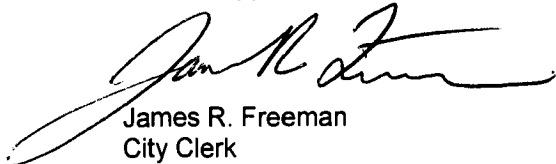
Mayor Bryant stated VFW is very appreciative of the sign on 8th Avenue.

Ms. Varnadore

Suggested that because reuse is not completed city-wide and not guaranteed, there may be a need to look at allowing wells for irrigation.

Meeting adjourned at 10:15 pm.

Minutes approved: May 18, 2009



James R. Freeman
City Clerk