

Palmetto City Commission
June 1, 2009 7:00 p.m.

Elected Officials Present:

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

Staff Present:

Mark P. Barnebey, City Attorney
James R. Freeman, City Clerk
Tanya Lukowiak, CRA Executive Director/Grants Coordinator
Mike Mayer, Captain
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. Rev. Willie Holley, Assistant Pastor, Mt. Raymond Full Gospel Baptist Church, gave the invocation, followed by the Pledge of Allegiance.

Proclamation: Hurricane Awareness Month

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

Public Comment (non-agenda items): None

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the June 1, 2009 7:00 p.m. agenda.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: May 18, 2009
- B) Kirk Pinkerton Legal Billing
- C) Special Function Permit: Festival of Colors

Item C was removed from the Consent Agenda.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve items 2A and 2B of the June 1, 2009 Consent Agenda.

Staff confirmed item C was included on the agenda as a Special Function Permit because attendance at the event is expected to be between 50 and 72.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the Festival of Colors Special Function Permit event June 7, 2009 at 3:30 pm.

3. PUBLIC HEARING: 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.

Mayor Bryant reopened the public hearing continued from May 18, 2009.

Attorney Barnebey informed Commission the item was the first of actions Commission would consider for the relocation and construction of the new Palmetto Elementary school. The ordinance includes a portion of right-of-way previously vacated by the City and includes a portion of 15th Ave. Dr. W. which runs between 10th St. and 12th St., which is surrounded by the new school site and will allow redevelopment of the right-of-way. Referring to Resolution 90-11, Commissioner Varnadore asked if the property the resolution vacated was sufficient. Attorney Barnebey confirmed the additional right-of-way vacation was necessary. Attorney Barnebey further confirmed all the necessary pieces will be vacated.

Mayor Bryant closed the public hearing.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 5-0 to adopt Ordinance No. 09-993 vacating 15th Ave. Dr. W. between 10th St. W. and 12th St. W., as provided for in Ordinance No. 09-993.

4. PUBLIC HEARING: ORDINANCE NO. 09-994

Attorney Barnebey informed Commission that the original advertising for this ordinance stated a larger portion of land would be vacated than what is actually occurring; originally included a portion of 8th St. and 9th St. He further stated a scrivener's error has been adjusted to reflect 182 feet rather than the 153 feet being vacated on 9th Ave. The vacation will not go all the way to 8th St. at this time, as one property owner was not reached; therefore, he recommends not vacating that particular portion of the right-of-way until all parties have agreed.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, VACATING THE 9TH AVENUE WEST RIGHT-OF-WAY FROM THE SOUTHERN RIGHT-OF-WAY LINE OF 9TH STREET WEST TO A LINE 182 FEET SOUTH OF THE 9TH STREET WEST RIGHT-OF-WAY LINE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from May 18, 2009.

Attorney Barnebey confirmed the Covenants of City contained in the separate Agreement of Purchase will not have any affect on these vacations. The School Board is in agreement with the easements that must be given to the City in regards to utilities.

Mayor Bryant closed the public hearing.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to adopt Ordinance No. 09-994 vacating a portion of 9th Ave. W. between 9th St. W. and 8th St. W., as provided for in Ordinance No. 09-994.

5. PURCHASE AGREEMENT BETWEEN THE CITY, SCHOOL BOARD OF MANATEE COUNTY, JUST FOR GIRLS, AND BOYS AND GIRLS CLUB

Attorney Barnebey stated this Agreement is the first phase of documents regarding the purchase of a portion of City property by the School Board of Manatee County, Just for Girls and the Boys and Girls Club. The next two phases provide for the purchase of 1.64 acres near the existing Palmetto Elementary School and the construction of ball fields near the projected intersection of 10th St. and 23rd St.

The Agreement provides for the sale and transfer of City property of approximately 11.94 acres at the intersection of 10th St. W. and 17th Ave. The School Board will purchase approximately 8.61 acres, the Boys and Girls Club will purchase approximately 2 acres and Just for Girls will purchase 1.33 acres; purchases based on \$87,000 per acre for a total of \$1,037,910. The Agreement provides for the School Board and Boys and Girls Club to purchase a drainage easement from the City for \$55,000 and \$7,349, respectively. The City will also pay \$7,300 to the Boys and Girls Club to terminate its existing lease with the city. Closing by the School Board and Boys and Girls Club is anticipated by June 18, 2009. Just for Girls is finalizing financing and their closing may be delayed. Attorney Barnebey confirmed the Agreement provides for a separate closing date for Just for Girls.

Becky Canesse, CEO Manatee Girls Club, Inc. d/b/a Just for Girls, commended all parties involved in the project. She confirmed the Just for Girls board has not yet reviewed the document in final form; but stated it does conceptually and substantially address their concerns. She stated she does not anticipate a problem with financing. Ms. Canesse also confirmed the organization had requested that the road be placed on the east side of the building for safety reasons. She also stated they will request that the resurfacing of their parking lot be considered to carry the new surface throughout the project.

Discussion ensued on the following points:

1. Should the Boys and Girls Club and Just for Girls property be sold, the public zoning on the properties will protect the school; the Site Plan has been approved by Commission and will require Commission approval for any changes; property uses are limited to public or quasi-public.
2. City will absorb 100% of the O&M on the retention pond; Boys and Girls Club and Just for Girls will pay a stormwater fee; School Board is exempt; taking all the water to one location will result in a better system; O&M is anticipated to be \$4,000 annually on the wetlands and pond area.
3. Lights on the existing ball fields will be dismantled by the City; lights no longer meet Code. City will probably not be able to utilize the lights but may have a use for the poles; lights are not viable as security lights
4. Jerilyn Hattendorf, Kirk Pinkerton, confirmed the due diligence process has begun and stated she feels confident it can be accomplished before the closing date. She further stated that if Just for Girls can not meet the timetable the contract is not affected.
5. City is responsible for a portion of the closing costs; one-half of deed recording fees.
6. Property the City will acquire near Blackstone Park is in the process of being identified, probably in the southwest corner of the projected 10th Ave. extension and 23rd St. intersection; Manatee Fruit is working with the City to design the ball fields, which will then determine the realignment of 23rd St.; separate agreement with Manatee Fruit Company is forthcoming for the dedication of the property, associated offsets of impact

fee credits, and City commitments; Attorney Barnebey stated the recommended Agreement forthcoming will assure an environmental study has been performed and that it is acceptable; Mr. Tusing reviewed the projected realignment of 23rd St., stating stimulus funds will pay for the project; Mr. Barnebey discussed the properties that will eventually be deeded to the City in the realignment of 23rd St. and construction of the ball fields.

7. The CRA will work with the School Board to rezone property currently owned by the CRA prior to submission to the City Commission; Attorney Barnebey confirmed the School Board staff has agreed to pay cash for all the parcels they are purchasing (School Board will consider the item on June 8, 2009).
8. Just for Girls stormwater easement payment of \$4,443 was deleted from the Agreement, as the club is not constructing a new building.
9. Mr. Barnebey confirmed he is technically the School Board counsel, but this is not an adversarial topic and he has represented the City's interests. Mayor Bryant stated she is confident in Attorney Barnebey's integrity. Commissioner Varnadore agreed, but recommended the Agreement be approved contingent upon an independent legal review on behalf of the City. Commission approved a legal review of the documents by an independent counsel. Attorney Barnebey was asked to contact Mr. McGuire, a final candidate in the recent legal services request for proposal.
10. A copy of the traffic study will be forwarded to Commission.
11. The entrances and striping of 10th St. will be considered during the construction.
12. Language is added to the appropriate Agreement to prohibit the placement of commercial signage on City owned easements.

School Board Superintendent Tim McGonegal thanked the City Commission for their efforts and expressed appreciation to all the parties involved to make the new school possible.

Tim Knowles, Boys and Girls Club, stated his Board has approved the Agreement in concept, another meeting is not necessary; a \$3.5 million construction contract has been approved, and the club is moving forward, even without a signed contract, to secure the property for safety during construction. He stressed the schedule is critical and if closing doesn't occur by June 18, 2009 everything is in jeopardy. He also commented that Attorney Barnebey has always looked out for the seller's interest.

Discussion ensued on the termination of the Boys and Girls Club lease and the possibility of setting a precedent for other leases the City holds. Attorney Barnebey confirmed that the lease under discussion does not contain termination language unless the property is not used for the purpose intended. He again stated there is value to the lease in its current form and the value is not out of line. Attorney Barnebey said, "A better way to say it is I'm not sure this language would be precedent from any other leases we have".

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to:

1. Declare the 11.94 acres of City owned land as identified in the attached Agreement, at the intersection of 10th Street West and 17th Avenue West, as surplus property.
2. Approve and authorize the Mayor to execute the Agreement of Purchase and Sale Between the City of Palmetto, Boys and Girls Club, Just For Girls and the School

Board of Manatee County in a form substantially consistent with the attached Agreement, subject to approval by independent legal counsel.

- 3. Authorize the Mayor to execute documents related to, or necessary, pursuant to the terms of this Agreement for purchase and sale.**

6. NON-EXCLUSIVE TEMPORARY ACCESS, CONSTRUCTION & STAGING EASEMENT TO THE SCHOOL BOARD OF MANATEE COUNTY (M. Barnebey)

Easement to allow the placement of a construction trailer and staging area on the proposed Palmetto Elementary School site to prepare for construction, upon closing of the property.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor to execute the Non-Exclusive Temporary Access, Construction and Staging Easement to be granted to the School Board of Manatee County in substantially the form attached hereto, subject to no signage for private businesses in City easements.

7. FY2009 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG)

MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and motion carried 5-0 to authorize application for the FY2009 Edward Byrne Memorial Justice Assistance Grant in an amount not to exceed \$28,253.

8. RESOLUTION NO. 09-24

Liability claim for a trip and fall incident at the Fishing Pier.

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 Varnadore moved, Commissioner Cornwell seconded and motion carried 5-0 to adopt Resolution No. 09-24.

9. RESOLUTION NO. 09-25 (J. Freeman)

FEMA reimbursement for Tropical Storm Fay.

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 Lancaster moved, Commissioner Williams seconded and motion carried 5-0 to adopt Resolution No. 09-25.

10. RESOLUTION NO. 09-26

Approval to increase the budget for the wastewater treatment plant upgrade, due to required field adjustments in the design of the project piping for the installation of the RAS pump; project approved in the FY08 CIP.

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 Lancaster seconded and motion carried 5-0 to adopt Resolution No. 09-26.

11. CELL PHONE POLICY

Mr. Freeman stated Verizon is the state contract and will not require a contract from the City; phones are provided free of charge, but accessories will have to be purchased; there are no associated fees except the 5.4 cents per minute for calls; mobile-to-mobile and push to talk services are \$10 per month. He confirmed that based on conversation with Sprint representatives, the City does not have a current contract. Commissioner Cornwell opined the City needs to look at ceasing to supply employee cell phones, as the system she is in requires employees to provide their phones as part of doing business. She requested data be provided on the impact of savings to the City if cell phones are no longer provided.

Mr. Freeman stated the suggested Cell Phone Policy incorporates many elements of the current policy. Departments will continue to monitor the cell phone usage and provide reports to Commission. Mr. Tusing stated that in his department personal usage on City cell phones has drastically declined since November.

MOTION: Commissioner Zirkelbach moved, Commissioner Varnadore seconded and motion carried 5-0 to revoke Cell Phone Policy 04-03, approve Cell Phone Policy 09-05 and authorize staff to switch to Verizon as the cell phone provider of choice for City cell phone service.

Mayor Bryant recessed the City Commission meeting at 8:45 pm to open the CRA Board meeting.

Mayor Bryant reconvened the June 1, 2009 City Commission meeting at 9:40 pm.

12. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

The 23rd Street realignment project will be placed on the next agenda to approve engineering for the project.

Mr. Freeman

The joint meeting with the P&Z Board is scheduled for June 8, 2009 at 6:15 pm.

Mr. Freeman discussed the ad valorem estimates that have been received from the Property Appraiser's Office showing a 12% reduction in value.

Mr. Freeman discussed a possible budget meeting the week of July 13, or even in the later part of June. Ms. Cornwell requested that the meetings be scheduled 5:30 or later. Mrs. Lancaster

stated she will be away from the next meeting and the next two weeks; Mr. Zirkelbach will be absent July 13. Ms. Cornwell stated she will develop a schedule for Commission's review.

13. MAYOR'S REPORT

Requested that Commission and staff look out for graffiti. She also asked that during conversations with business owners that they be made aware of the fact PD will do safety and security inspections.

Mayor Bryant informed Commission she spoke to Bradenton Rotary and at the MSA graduation and at St. Andrews A&E Church.

14. COMMISSIONERS' COMMENTS

Mrs. Lancaster

Discussed several condemned properties and the fact people are still living in the structures. Mr. Freeman stated Code Enforcement is following up on one of the properties. Mr. Tusing will discuss the items with Mrs. Lancaster. Attorney Barnebey stated the structures must be vacated.

MOTION: Commissioner Lancaster moved, Commissioner Williams seconded and motion carried 5-0 to extend the meeting to 10:15 pm.

Ms. Cornwell

Captain Mayer confirmed PD will add the parks to their normal patrol and that they have keys to all the parks' buildings. He confirmed another task force is being developed and stated midnight basketball has not yet been considered.

Mr. Freeman was asked to inquire why the City did not receive 100% reimbursement from FEMA for Tropical Storm Fay to determine if there is anything additional the City can submit for total reimbursement. The action will then make the City aware of what expenses will not be considered for reimbursement.

Mr. Zirkelbach

Referring to the meeting with local residents in Ward 1, he requested that staff find out how much it will cost the City to televise Commission meetings. Mrs. Lancaster supplied him with old information concerning the expense.

Requested that Commission cell phones be considered during the budget process. He also requested that because of the time spent at City business, that consideration is given to allowing the mayor's position to take advantage of employee benefits.

Ms. Varnadore

The Under 21 ordinance will be on the next agenda. Attorney Barnebey still has not received a return call from MSO counsel. The item will be placed on the next workshop agenda. Captain Mayer discussed his understanding of how the county ordinance would apply within the City.

Requested an updated litigation list and assessment of each case. Staff confirmed that Commission will be apprised of potential litigation.

Mr. Freeman stated the Personnel Committee has one section left to review. The revised policy should be brought to Commission in July.

Mr. Williams

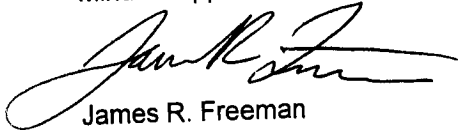
Requested that the appropriate department provide information on background checks, the Bait Shop, police car cameras, take home vehicle policy and lighted crosswalks. Captain Mayer stated COBAN is working very well.

15. PUBLIC COMMENTS FOR CITY COMMISSION

No public comment.

Meeting adjourned at 10:20 pm.

Minutes approved:



James R. Freeman
City Clerk