

Palmetto City Commission
September 28, 2009 7:00 p.m.

Elected Officials Present:

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

Staff Present:

Mark P. Barnebey, City Attorney
James R. Freeman, City Clerk
Chief Garry Lowe
Tom McCollum, Interim City Planner
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm. A moment of silence was observed, followed by the Pledge of Allegiance.

PROCLAMATION: MTI Day September 30, 2009
Accepting: Mary Cantrell, MTI Director
Maura Howl, Grants and Public Relations Specialist
Manatee Technical Institute

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 September 28, 2009 7:00 pm Agenda, with a time certain end of 10:00 pm.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: September 14, 2009
- B) Kirk Pinkerton Special Litigation
- C) Special Function Permit: Fall Art Show
- D) Sarasota/Manatee MPO Tamiami Trail Brownfields Revitalization Initiative Coalition

Item C was removed for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve items A, B and D of September 28, 2009 Consent Agenda.

Item C: Gretchen Leclizio, Palmetto Art Center, confirmed Palmetto Guest Home and Ugarte & Associates had been notified of the Art Show.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 5-0 to approve the Fall Art Show to be held October 10, 2009 from 5:00 pm – 9:30 pm.

3. PUBLIC HEARING – FINAL MILLAGE RATE AND FINAL FISCAL YEAR 2010 BUDGET

Mayor Bryant opened the public hearing.

Mayor Bryant stated the tentative millage rate of 4.6662 is less than the rolled-back rate of 5.1925 mills by 10.14% and reviewed the final budget amounts contained in each Fund.

Mayor Bryant closed the public hearing after no public comment.

RESOLUTION NO. 09-37 (read in its entirety)

A RESOLUTION OF THE CITY OF PALMETTO OF MANATEE COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF PALMETTO FOR FISCAL YEAR 2010; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Williams seconded and motion carried 5-0 to adopt Resolution No. 09-37.

RESOLUTION NO. 09-38 (read in its entirety)

A RESOLUTION OF THE CITY OF PALMETTO OF MANATEE COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2010; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to adopt Resolution No. 09-38.

4. RESOLUTION NO. 09-43

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN EXTENSION OF TIME FOR COMPLETION OF THE CHARTER REVIEW; AND PROVIDING FOR AN EFFECTIVE DATE.

Co-chair Frank Brunner informed Commission a comprehensive review of the Charter has been completed and the attorney will prepare a draft.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to adopt Resolution No. 09-43.

5. PUBLIC HEARING: TRANSMITTAL OF ORDINANCE NO. 09-995

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING ORDINANCE NO. 624 (THE CITY OF PALMETTO COMPREHENSIVE PLAN); ADOPTING AMENDMENTS TO THE FUTURE LAND USE ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, AND CAPITAL IMPROVEMENT ELEMENT, AND ADDING A PUBLIC SCHOOL FACILITIES ELEMENT TO THE CITY OF PALMETTO COMPREHENSIVE PLAN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued on September 14, 2009 to consider transmittal of Ordinance No. 09-995. After no public comment, Mayor Bryant closed the public hearing.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve and authorize transmittal of Ordinance No. 09-995 to the State of Florida Land Planning Agency.

6. PUBLIC HEARING: ORDINANCE NO. 09-999

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, ZONING CODE, TO ADD RECREATION AND AMUSEMENT SERVICES TO THE SCHEDULE OF PERMITTED AND CONDITIONAL USES; PROVIDING STANDARDS FOR USE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing.

Darenda Marvin, Planner for Grimes, Goebel Grimes, Hawkins, Gladfelter & Galvano, and speaking in favor of the ordinance, informed Commission that pursuant to comments during the City Commission and Planning & Zoning Board public hearings, additional criteria to allow recreation and amusement services as a permitted use have been proposed, which will allow certain indoor uses as permitted.

Attorney Barnebey confirmed the noise ordinance will apply to all uses in the City.

Mr. McCollum stated that the proposed indoor/outdoor definition separation is consistent with what other municipalities have approved. He also stated that he had been unable to find any other areas that had established distance requirements for like businesses. Attorney Barnebey recommended that objective criteria should be developed if Commission desires to establish such criteria.

Attorney Barnebey suggested that Section 2, paragraph B of the proposed ordinance could be amended by adding "Recreation and Amusement Services shall be prohibited in all other zoning districts." to further clarify the language.

Representatives from Hungry Howies spoke in opposition of the ordinance, citing the lack of parking (their non-exclusive, first come first serve basis) and their opinion the site is not zoned properly for the proposed bingo hall use.

Mr. McCollum and Attorney Barnebey explained the text amendment as the issue Commission should consider to adopt/deny the ordinance. Mr. McCollum discussed the parking analysis for any change in use on the property under discussion that must be performed before any permit can be issued. Attorney Barnebey confirmed that if a permitted use complies with the permitted use criteria and the current Code, an application can move forward. If it is a conditional use then the application would have to comply with conditional use criteria and be approved by City Commission. He stated bingo would probably be an assembly use, which is allowed only in the CHI zoning district in the current Code.

Caleb Grimes addressed Commission on the suggestion that if the use is an indoor use and meets the established criteria, it should be a permitted use, and then must meet the balance of Code requirements. Conditional use should be assigned to uses outdoor and uses next to residentially zoned areas. He requested Commission amend the Code so it is known where recreational and amusement services can be located, and allow indoor permitted uses and conditional uses, so long as they meet established criteria.

Each Commissioner discussed their opinion of what type of use the indoor and outdoor amusements should be assigned. The possibility of requiring a permitted use to go to the Development Review Committee before issuing a permit was also discussed.

Attorney Barnebey again confirmed that the ordinance can be amended with the addition of "Recreation and Amusement Services shall be prohibited in all other zoning districts."

Mayor Bryant closed the public hearing.

MOTION: Commissioner Varnadore moved and Commissioner Cornwell seconded to adopt Ordinance No. 09-999, as amended with the additional sentence suggested by Attorney Barnebey.

Discussion: Attorney Barnebey confirmed that the recreation and amusements services will be allowed as conditional uses only in the CHI and CG zoning districts.

Motion on the floor carried 3-2. Commissioners Williams and Zirkelbach voted no.

7. PUBLIC HEARING: ORDINANCE NO. 09-1000

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR CONSISTENT MEASUREMENTS FROM CHURCHES AND SCHOOLS FOR ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing. After no public comment, Mayor Bryant closed the public hearing.

MOTION: Commissioner Zirkelbach moved and Commissioner Cornwell seconded to adopt Ordinance No. 09-1000.

Discussion: Ms. Cornwell suggested that the definition of the access point of a public street should be better defined. Attorney Barnebey recommended amending the language to read "at the starting point of the pavement of the nearest public street". It was confirmed that some businesses may now become non-conforming. Review of the other portions of the alcohol ordinance will be performed at a later date.

Motion on the floor carried 5-0

8. CODE ENFORCEMENT BOARD APPOINTMENT APPROVAL

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve the appointment of Vincent T. "Tom" DeVito, Jr. to the Code Enforcement Board and Nuisance Abatement Board for a term ending January, 2011.

9. RESOLUTION NO. 09-39

Budget amendment for the wastewater treatment plant repair and rehabilitation project.

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, Commissioner Lancaster seconded and motion carried 5-0 to adopt Resolution No. 09-39.

10. RESOLUTION NO. 09-40

Budget amendment to fund the Medical Reserve Fund.

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, Commissioner Zirkelbach seconded and motion carried 5-0 to adopt Resolution No. 09-40.

11. RESOLUTION NO. 09-41

Budget amendment to record the sale of City and CRA properties and to transfer funds to Capital Projects.

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 and Commissioner Lancaster seconded to adopt Resolution No. 09-41.

Discussion: Mr. Freeman stated the resolution established the budget to record the proceeds from the sale of the properties by the CRA and the City. CRA Interim Administrator Jeff Burton informed Commission the CRA Advisory Board will consider using a portion of the proceeds from the sale of the CRA property to pay back the CRA line of credit used to purchase the property. The CRA Board will then consider a budget amendment.

Motion on the floor carried 5-0.

12. EDENFIELD PROPERTY SITE ASSESSMENT

Work Assignment #1 from PBS&J, City Engineer, for engineering services to the Preparation of Site Assessment Plan for the Edenfield Property. Mr. Tusing and Mayor Bryant informed Commission the deed transferring the property to the CRA was never recorded, thus the property is City owned.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor to executed the PBS&J Work Assignment No. 1, Edenfield Property-Site Assessment, COP Job No. 93-142, in an amount not to exceed \$7,543.

13. MEMORANDUM OF UNDERSTANDING APPROVAL

Memorandum of Understanding between the law enforcement agencies of Manatee County for the purpose of sharing radio communications.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve and authorize the Mayor and Chief of Police to execute the Memorandum of Understanding, as presented.

14. SCHOOL RESOURCE OFFICER CONTRACT APPROVAL

MOTION: Commissioner Cornwell moved and Commissioner Zirkelbach seconded to approve and authorize the Mayor and City Clerk to execute the School Board of Manatee County School Resource Officer contract.

Discussion: Commissioner Williams requested a breakdown of what the contract funds. The total for salary and benefits for the two officers would be approximately one-half of the cost. Attorney Barnebey corrected Section 2A to read June 30, 2010. Chief Lowe confirmed that the officers are only assigned to the school when students are present.

Motion on the floor carried 5-0.

Attorney Barnebey asked that the motion be reconsidered because of the indemnification clause for the City he had not had time to review. He suggested the motion to approve be contingent upon legal review.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to reconsider the last action.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve and authorize the Mayor and City Clerk to execute the School Board of Manatee County School Resource Officer contract upon review of the City Attorney, in particular the review of the indemnification provision.

15. NEW JOB DESCRIPTION APPROVAL AND POSTING APPROVAL

Mr. Burton discussed the proposed job descriptions. Strategic Plan Specialist and GIS Specialist will be part-time. Attorney Barnebey informed Commission that all the positions will be City employees and funded by the CRA.

Discussion ensued on contracting out the Strategic Plan and GIS Specialist positions, and the fact a determination concerning a CRA Director has not yet been made. Commissioner Cornwell commented on the educational requirements for the Recreational and Facilities Coordinator. Mr. Burton acknowledged the job position has been revised since distribution. After discussion of the Recreational and Facilities Coordinator, Mr. Burton removed the job description for further clarification.

Staff confirmed all the positions will be properly posted.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-1 to approve the Community Redevelopment Area Strategic Plan Specialist, Community Redevelopment Area Geographic Information System Specialist and authorize posting of the positions. Commissioner Cornwell voted no.

16. 1st READ & ADVERTISING APPROVAL-ORDINANCE 09-997

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PERTAINING TO THE AMENDMENT OF THE PROVISIONS RELATING TO THE REQUIREMENTS FOR AND ISSUANCE OF SPECIAL FUNCTION PERMITS; UPDATING CODE LANGUAGE FOR INTERNAL CONSISTENCY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The ordinance will be brought to the October 5, 2010 workshop to clarify insurance requirements.

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion carried 5-0 to approve for advertising and schedule a public hearing for October 19, 2009.

17. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)

Mr. Tusing informed Commission that a public meeting will be necessary because of the movement of the road, which will delay bidding the project. Informed Commission that in response to the recent newspaper article, he has contacted Mr. Preston, and reported he is not willing to discuss the property at 8th Avenue and 33rd Street. He stated he will continue in the direction approved by Commission, and any deviation from the present plan will negatively impact the anticipated timeframe.

18. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

Updated Commission on the status of the new elementary school project.

Displayed a sample of stainless steel from the plates of the rag remover elevator at the wastewater treatment plant head works machinery showing the effects of hydrogen sulfide gas on machinery. Mr. Tusing reported to replace the plates cost \$33,000. The budget is funded, as there has been savings on other projects.

Referring to the newspaper article, Commissioner Varnadore stated she wants a commitment in writing from Manatee County as to how much funding they are committing to the ball fields project. Mr. Tusing stated the County Commission will consider the item at a time certain on October 6, 2009, and he hope a formal commitment will be made at that time. Mayor Bryant spoke of the funding the School Board should also contribute. Discussion ensued on the path the City should pursue should there be no commitment from Manatee County and the School Board. Commissioner Williams stated if there is no written commitment from the School Board and Manatee County, the City should not move forward with expending any funds on the project, and a survey of the populace should occur on spending their tax dollars to fund the project that should be built by Manatee County. Commissioner Lancaster stated that the Commission has committed to the ball fields and would not support totally withdrawing from the project; she does want to receive a written commitment.

Mr. Freeman

Reported that Commissioner Varnadore has filed a Form 8B for her voting conflict during the CRA meeting September 14, 2009; Commissioner Lancaster has also filed a Form 8B for her voting conflict during the Commission meeting on September 14, 2009.

Chief Lowe

An arrest has been made on the ATM robbery.

19. MAYOR'S REPORT

The taping of Fox 13 Fox on Your Block will be provided.

The community has raised \$8,500 towards the purchase of the new K-9 unit.

20. COMMISSIONERS' COMMENTS

Mr. Tusing will report on the minor flooding at the Boys & Girls Club site at the next meeting.

Commissioners deferred their comments until the next meeting.

21. PUBLIC COMMENTS FOR CITY COMMISSION
None

Meeting adjourned at 10:05 pm.

Minutes approved:



James R. Freeman
City Clerk