

**PALMETTO CITY COMMISSION
MARCH 1, 2010**

Elected Officials Present:

Shirley Groover Bryant, Mayor
Tamara Cornwell, Vice Mayor, Commissioner-at-Large 2
Alan Zirkelbach, Commissioner-at-Large 1
Mary Lancaster, Commissioner, Ward 1
Tambra Varnadore, Commissioner, Ward 2
Brian Williams, Commissioner, Ward 3

Staff Present:

Mark Barnebey, City Attorney
Jeff Burton, Interim CRA Administrator
Jim Freeman, City Clerk
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 7:01 pm, followed by a Moment of Silence and the Pledge of Allegiance.

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

Public Comment (non-agenda items): None

Mayor Bryant recognized County Commissioner Carol Whitmore.

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the March 1, 2010 7:00 pm Agenda.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: February 15, 2010
- B) Kirk-Pinkerton Special Litigation Billings
- C) Special Function Permits: Palmetto Historical Society Annual Events
St. Pete Bicycle Club Spring Classic
First Baptist Church V.B.S. Family Night
- D) Noise Exception Permit: Cancer Society's Relay for Life
- E) Application for VOCA Grant to fund the Victim's Advocate position

Commissioner Cornwell removed items C and D for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the Consent Agenda, after removal of items C and D.

Item C: Mr. Tusing confirmed that the only costs involved in the events are the supply of cones. He also confirmed that applicants are notified of their responsibility for City costs associated with events.

Ann Marshall representing PHC and Ag Museum stated that photography event is by invitation only to members of the Ag Museum and Palmetto Historic Commission. Ms. Marshall also discussed other events recognizing the Florida Cracker Cowboy

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve items C and D of the Consent Agenda.

3. SPECIAL FENCE PERMIT: 903 AND 907 3RD AVENUE, WEST

Mr. Tusing presented the Baker's Paint & Body Shop application for a six-foot fence to replace an existing fence. A special fence permit was obtained for the property on the south side of 9th and 3rd but the fences around the perimeter of the business and storage area have been in place for approximately 30 years with no special fence permit. The special fence permit is required because the existing fence exceeds the four-foot maximum height in the setback areas on both parcels. Mr. Baker wants to put opaque fencing around the storage area; decorative wrought iron around business, with the balance of the fencing in white vinyl. All site triangle requirements will be met. Mr. Zirkelbach opined chain link would not be appropriate along the street. Mr. Tusing stated the Property Appraiser's office states the alley adjacent to the business has been vacated.

Discussion ensued on whether the permit should be restricted to prohibit chain link fencing along 9th St. and 3rd Ave. Mr. Tusing stated Mr. Baker wishes to keep the fencing at the 903 parcel visually open; the 905 parcel is storage and the fencing will be wood or vinyl.

MOTION: Commission Lancaster moved, Commission Williams seconded and motion carried 5-0 to approve Special Fence Permit #2010-01 at 903 and 907 3rd Avenue, West.

Discussion clarified that no stipulations were being placed on the permit.

4. PUBLIC HEARING: CONDITIONAL USE SIGN PERMIT (CU2010-02) 2100 US 301 N
Application by Space Box for an electronic message sign.

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

Mr. McCollum stated the original staff recommendation was for the electronic sign not to change more than two minute intervals. After testimony from Jack May, P&Z made the recommendation that the message be changed to one-minute intervals. The function of length of time is based on how long a driver can see the sign at traveling speed. There will be no scrolling effect associated with the message.

Mr. McCollum explained that if the proposed sign ordinance amends the standards, the sign will become a legal nonconforming use. The actual sign is in place and meets Code. The electronic sign will be placed below the Space Box sign, and is the only portion of the sign that is being considered by Commission at this point. The entire sign has been reviewed and future tenant lighted signage will still be within current signage limits if installed as presented in the drawing.

Commissioner Varnadore commented on the number of electronic signs that are being constructed in the City.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 4-1 to approve Conditional Use Permit #CU2010-02 for property located at 2100 US 301 N., with stipulations as set forth by the P&Z Board. Ms. Varnadore voted no.

5. PUBLIC HEARING; CONDITIONAL USE PERMIT (CU2010-03) 314 8TH AVE. W.

Application by Tony Katsamakakis to delete certain stipulations of an existing conditional use permit. .

Mr. McCollum informed Commission the property has had a conditional use for the property for a number of years. Based on correspondence from Mr. Katsamakis in December, 2009, regarding stipulations placed on the property, the P&Z Board reviewed a new application for a conditional use permit and made six stipulations.

Commissioner Williams disclosed that he has spoken with the applicant, who is of the opinion his business is being singled-out because of the stipulated closing of 6pm and the no right turn.

A letter from Mr. Katsamakis dated March 1, 2010 was read into the record, and is attached to and made a part of these minutes. Referring to the P&Z stipulations, Attorney Barnebey advised Commission that:

Stipulation #3 is a legal, valid restriction; a Code section generally addresses the issue. He further advised that if a more restrictive stipulation is being considered, Commission must have a basis for the determination.

Stipulation#4, the repair of vehicles on site is a permitted use in this category. Attorney Barnebey recommended that the stipulation not be included.

Stipulation #7 is a legal stipulation if the signage is an appropriate traffic control device. Attorney Barnebey recommended that if this is not an unusual situation that the stipulation not be included. Commissioner Zirkelbach referred to conversation during the P&Z meeting to put up the no right turn sign, but it was suggested it would be unenforceable. Attorney Barnebey opined that if the signage is erected it can be enforced.

Commission made the following comments regarding the stipulations:

Commissioner Zirkelbach agreed with Attorney Barnebey regarding stipulation #4. He also stated the outside lighting is too harsh. Regarding the no turn signage, he had no opinion. Commissioner Williams opined the traffic will not stop; the whole purpose is to keep cars from being tested in a residential area.

Commissioner Lancaster stated the stipulations should not be any more restrictive than those placed on any other business in the area.

Commissioner Williams opined the staff recommendations appropriate.

Commissioner Varnadore stated she supported deleting P&Z stipulations #4 and #7; if Commission is using Staff recommendations, delete stipulation #4.

Mr. McCollum discussed the possibility of erecting signage such as "Slow Congested Area Children at Play" which would alert the public to the residential neighborhood. Commissioner Williams also suggested the possibility of a STOP sign at 3rd and 7th, making the intersection a four-way stop. Mr. Tusing stated Commission can direct him to erect the signage or a traffic study can be performed.

Attorney Barnebey referred to stipulation #3, stating he does not know the impact of stipulation, but it is a little different from what he sees normally.

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

MOTION: Commissioner Williams moved and Commissioner Zirkelbach seconded to approve Conditional Use Permit #2010-03 for property located at 314 8th Ave. W., with stipulations as set forth by the staff.

Discussion: Stipulations shall be those set forth on page 3 of the staff report.

Motion on the floor carried 5-0.

6. FIRST BAPTIST CHURCH SITE PLAN APPROVAL

Presentation of proposed site plan for the placement of portable buildings on property owned by First Baptist Church located at the corner of 6th St. and 11th Ave. W.

A letter from Richard A. Pack, president of The Palmetto Historical Commission, Inc. stating the Board of Governors of the Commission's position on the placement of portable buildings on property owned by First Baptist Church. The letter is attached hereto and made a part of these minutes.

Upon questioning by Attorney Barnebey, Commissioner Varnadore confirmed she is a member of First Baptist Church but does not sit on any boards of the church.

Upon questioning by Attorney Barnebey, Commissioner Zirkelbach confirmed he prepared the drawings for the project; he was not paid for the work, he is not a member of the church, he has not spoken with anyone concerning be hired for the project, and he has not done work for the church in the past.

Mr. McCollum stated the Commission is being asked to decide if the proposal is compatible with the surrounding area. The City sold the property to the church in 1990 with a zoning of P (public) which has never been changed. The Code requires the city commission to determine compatibility for every project that comes forward with a P zoning.

Mr. McCollum reviewed an aerial photo showing existing church buildings, parking lots and the location for the two buildings. He displayed a photo showing the two buildings installed, stating they are not occupied. He also displayed an artist's rendering of buildings tied with a raised walk way, skirted, painted and landscaped.

In terms of compatibility with the surrounding area, Mr. McCollum displayed photos of buildings within a two block radius of the proposed buildings that showed wood siding; raised buildings on pilings with and without skirting; historic buildings on piers with skirting. He stated the photos were all entered into testimony at the P&Z meeting.

Larry Walton, Palmetto First Baptist Church, confirmed there will be no plan for a youth building until the search for a new pastor concluded. The church is trying to temporarily take care of its youth. Mayor Bryant commented on the fact the Historical Commission is supportive of purchasing the property in a reasonable time period.

Mr. Tusing confirmed that the building will be able to hook up to utilities where located.

Commissioner Williams inquired who gave permission for the buildings to be placed where they currently sit. Mr. McCollum stated that because of the time period the school gave for the buildings to be removed from its site, DRC agreed to allow the move to the temporary location during the Christmas holidays so the church would not have to move the buildings twice. He stated a precedent had been set when DRC allowed the same type of move for the Bible Baptist Church. He confirmed that when DRC made the decision, it was made clear to the church that they could not occupy the buildings and if Commission did not approve they would have to relocate the buildings.

Commissioner Williams read a portion of the definition of zoning category P (public). He read the definition for childcare, opining the definition is not clear the proposed use will be allowable. Mr. McCollum stated that when he began his investigation of the project, he began in Chapter 4 which includes a definition for church, and encouraged that the church should be invited to come forward with their explanation of what the buildings will be used for, as he understands the buildings will be used for the church's youth program. He further confirmed that a church is a

permitted use in the P district in the Land Development Code and that compatibility with the downtown core was reviewed; property located in the mid-town area.

Commissioner Williams inquired if lot was used to determine parking requirements for the church. Mr. Walton confirmed the funeral home that was purchased and demolished is used for parking; the lot under question has never been used for parking. Mr. Tusing confirmed the property was used as part of the parking calculations at the time of construction of the new church, along with a corner lot on 10th & 5th St. Since then, the church has acquired land and has adequate parking.

Mr. Tusing informed Commission stormwater retention will not be considered until a site plan comes through the DRC process; the applicant needs to find out if the project can proceed before discussing those requirements.

Commissioner Zirkelbach stated Commission is being asked to look at only site plan compatibility at this time; the church would not come before Commission with stormwater design at this time. He also opined the church can move the square footage of grass lot parking to another area.

Commissioner Lancaster commended the church for what trying to do for the youth and any assistance the City can give should be considered.

In response to Commissioner Varnadore's inquiry, Attorney Barnebey commented on the P&Z stipulation that structures would only be in place for three years. At the end of that time the project would have to come in and be reviewed again for compatibility. He opined the stipulation is legal. He stated this is the only place in the Code where a church would come before Commission.

Mayor Bryant stated again her hope that any permanent building would be put in a different location so that the property can go back to the Palmetto Historical Commission or the Agriculture Museum Board.

Commissioner Williams stated for the record that his questions were intended to only ensure the City was correctly following the process.

Don Olmstead, 627 11th Ave., spoke in opposition of the project, stating his opinion it is not good for the neighborhood and property values will decline. He spoke of the P&Z Board meetings where the project was heard. He referred to the definitions for accessory structures and portable accessory structures, the lack of parking on the lot for the buildings, definition of public/semi public, conversation with the School Board regarding the age and condition of the buildings. Stated his hope Mr. Zirkelbach would refrain from voting as he represented the church at the P&Z meeting.

Commissioner Varnadore requested that Mr. McCollum address Mr. Olmstead's comments regarding the buildings. Mr. McCollum confirmed that in the definition for church it is clear that the church is a permitted use in the P district; church includes educational buildings when operated by a church. Based upon the definition, the finding is that the buildings are not an accessory building; accessory building would be used for storage; churches are allowed in every district except C (conservation).

Commissioner Zirkelbach departed the meeting.

MOTION: Commissioner Lancaster moved to approve the First Baptist Church site plan for property located at the corner of 6th St. and 11th Ave. W. Mrs. Lancaster then requested confirmation of the stipulations that were being included. Commissioner Varnadore seconded for discussion.

To ensure understanding, Mr. McCollum read the following stipulations into the record:

1. The location of the structures will comply with the setbacks illustrated on the Site Plan. These are consistent with the setbacks within the RS-3 Zoning Category
2. Skirting will be provided around the base of the structures to enhance the residential character of the structures.
3. The use of the structures shall be limited to church-related uses.
4. Front yards (north and west) shall be landscaped to enhance the site.
5. Architectural enhancements such as paint color, trim, window treatment, and the like shall be provided in order to enhance the historic character of the area.
6. Structures that will be used for Program activities shall be ADA compliant.
7. The structures will be removed three years from the date of approval (added by the P&Z Board).

Commissioners Lancaster and Varnadore withdrew the motion on the floor.

MOTION: Commissioner Lancaster moved and Commissioner Varnadore seconded to approve the First Baptist Church site plan for property located at the corner of 6th St. and 11th Ave. W. with the stipulations read into the record tonight.

Discussion: Attorney Barnebey confirmed the buildings may be at location for three years from today; use only approved as a temporary use; buildings must meet current building codes. He also confirmed that the action is only approving the compatibility use within the P zoning. Attorney Barnebey advised that what may happen between the church and PHC should not be considered in the decision. Before the end of three years, the issue will have to be reviewed by Commission again should the buildings still be at the location.

Motion on the floor carried 3-1. Commissioner Williams voted no. Commissioner Zirkelbach was absent for the vote.

Commissioner Williams stated he voted nay because he felt it was not completed by staff; there were too many ifs. Commissioner Varnadore commented that Commission was only looking at the compatibility of the area and if it was a permitted use in the district.

Mr. Zirkelbach entered the meeting.

7. RESOLUTION 2010-08

FDOT Supplemental Agreement modifying the original project amount of \$96,873 to the revised funding amount of \$76,106. In projects where the bid amount is lower than the original LAP Agreement amount, the state will be reclaiming the difference.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE EXECUTION OF A STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT TO PROVIDE FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PARTICIPATION IN THE RESURFACING OF 10TH STREET WEST FROM 8TH AVENUE WEST TO 14TH AVENUE WEST.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to adopt Resolution No. 2010-08.

8. RESOLUTION 2010-09

Lease/Purchase Agreement for four police vehicles approved in the budget.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE/PURCHASE AGREEMENT WITH BRANCH BANKING AND TRUST (BB&T) AUTHORIZING A LEASE OF EQUIPMENT THEREUNDER; AUTHORIZING THE EXECUTION OF SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO COMPLETE THE TRANSACTIONS CONTEMPLATED HEREBY; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to adopt Resolution No. 2010-09.

9. 1st READ & ADVERTISING APPROVAL ORDINANCE NO. 2010-03
(Carried forward from the 4:30 Workshop Meeting)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; AMENDING THE DEFINITIONS RELATED TO STORMWATER DISCHARGE REGULATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve Ordinance No. 2010-03 for advertising and schedule a public hearing for March 15, 2010.

10. DESIGNATION OF CRA OFFICERS

Section 163.356(3)(c), Florida Statutes, provides that the governing body of the municipality shall designate a CRA Chair and Vice Chair from among the Commissioners. Attorney Barnebey confirmed the Mayor will remain the presiding officer; the chair and then the vice chair will take serve in her absence.

Commissioner Lancaster nominated Commissioner Varnadore as chair of the CRA. Nomination approved 5-0.

Commissioner Lancaster nominated Commissioner Zirkelbach as vice chair of the CRA. Nomination approved 5-0

Mayor Bryant recessed the City Commission meeting to open the CRA Board meeting at 8:55 pm.

Mayor Bryant reconvened the City Commission meeting at 9:55 pm.

11. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Mr. Tusing reported on the meeting with the School Board, Pirates, and North River Little League. Pirates will reach out to the Rays organization to also participate in the project. Stated a presentation will be made to the owners on the 18th of the month.

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

Commissioner Varnadore reported she had attended the last little league meeting where they discussed problems getting enough field time. Mr. Tusing will follow up with Ms. Turner, who was going to make contact with the league regarding field time.

Surveys to develop the legal descriptions for the land swap are almost complete. Contracts are in draft form. March 5 is the league's opening ceremony at Blackstone Park. Commissioner Varnadore has been asked to attend the meeting to discuss the project.

Glenn Clover informed Commission there are 95 cities and counties on the list posted by the Energy Commission office that applied for the energy efficiency grant.

12. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

Reported that based upon Veolia's contract, they have returned \$22,825.07 to the City. Mr. Tusing commended Veolia's staff for finding operational savings, which is the basis for the refund.

Chief Lowe

March 9 or 16 will be the start date of the next Citizen's Academy; need six more people.

13. MAYOR'S REPORT

Commended staff on meeting the energy efficiency and VOCA grant on deadlines.

14. COMMISSIONERS' COMMENTS

Commissioner Williams

None

Commissioner Varnadore

None

Commissioner Zirkelbach

None

Commissioner Cornwell

Commented on the Palmetto Historic Commission's Celebration of Cowboys. March 13 is Heritage Day and the annual yellow rice and chicken dinner.

Mrs. Lancaster

None

Meeting adjourned at 10:15 pm.

Minutes approved:

James R. Freeman

James R. Freeman
City Clerk