

**PALMETTO CITY COMMISSION
MAY 17, 2010 - 7:00 PM**

Elected Officials Present:

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

Elected Officials Absent:

Mary Lancaster, Commissioner, Ward 1

Staff Present:

Mark Barnebey, City Attorney
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 7:00 pm. She read a poem, *Freedom Is Not Free* by Kelly Strong, followed by a Moment of Silence and the Pledge of Allegiance.

PROCLAMATION: Commissioner Varnadore read a proclamation for Memorial Day, May 31, 2010, which was accepted by Commander Carl Patten, VFW Post 2488.

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

Public Comment (non-agenda items): Gillian French, 515 77th St. E., was going to speak to Commission regarding flooding until it was determined she does not live in the City. Mayor Bryant suggested that she attend the County Commission meeting or speak with County Commissioner Whitmore who was in the audience.

1. CITY COMMISSION AGENDA APPROVAL

Commission added the Bradenton Yacht Club Noise Exception Permit to the Consent Agenda as item 2D.

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 4-0 to approve the May 17, 2010 7:00 PM Agenda as amended.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: May 3, 2010
- B) April Check Register
- C) Request for Code Enforcement Fine Reduction
- D) Noise exception permit for Bradenton Yacht Club 6/27

Commissioner Cornwell removed item 2C for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve items 2A, B and D of the May 17, 2010 Consent Agenda.

2C Request for Code Enforcement Fine Reduction: Mr. Freeman discussed the history of the lien placed on property located at 1525 17th St. W., which had accumulated to approximately \$7,100. The property went into foreclosure and was subsequently acquired by a mortgage company, who is now requesting a

reduction in the fine bases on a sale of the property. Staff is recommending acceptance of a settlement of 50% of the lien amount, as the amount of \$3,559,79 would cover City costs to date. Attorney Barnebey confirmed the City has a valid lien and Commission has the discretion to reduce the lien amount. Commission discussed the topic and the precedent that may be set if a reduction is approved. They also discussed the need to bring back the proposed ordinance that was created to require the registering of foreclosed properties by mortgage holders.

MOTION: Commissioner Zirkelbach moved and Commissioner Varnadore seconded to approve a settlement amount of \$4,500. Commissioners Cornwell and Williams voted no.

Commission requested that a more descriptive time line of when actions were taken be provided, as well as the fine amounts for when the mortgagee took possession of the property and when the property was brought into compliance.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-0 to table the topic to June 7, 2010.

3. PUBLIC HEARING: TRANSMITTAL OF ORDINANCE NO. 2010-05

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, THE CITY OF PALMETTO COMPREHENSIVE PLAN; ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 2.1 ACRES AT THE INTERSECTION OF 17TH STREET WEST AND THE FUTURE EXTENSION OF 10TH AVENUE WEST (PARCEL 1) FROM PUBLIC FACILITY (PF) TO GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 14.0 ACRES AT THE INTERSECTION OF 23RD STREET WEST AND THE FUTURE EXTENSION OF 10TH AVENUE WEST (PARCELS 2, 3 AND THE HALF RIGHTS-OF-WAY FOR 10TH AVENUE WEST ADJOINING PARCELS 2 & 3) FROM PLANNED DEVELOPMENT (PD) TO GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 14.0 ACRES LOCATED EAST OF 8TH AVENUE WEST, NORTH OF 23RD STREET WEST, AND WEST OF BUSINESS U.S. HIGHWAY 41 (PARCEL 4) TO DESIGNATE THE PROPERTY AS GENERAL COMMERCIAL (GCOM); ADOPTING AN AMENDMENT TO THE FUTURE LAND USE MAP FOR AN AREA OF APPROXIMATELY 29.0 ACRES LOCATED EAST OF BUSINESS U.S. HIGHWAY 41, NORTH OF 21ST STREET WEST AND WEST OF BAYSHORE ROAD (PARCEL 5) TO DESIGNATE THE PROPERTY AS GENERAL COMMERCIAL (GCOM); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from April 19, 2010.

Attorney Barnebey explained that the Manatee Fruit ordinance regarding parcels 1-5 plus the rights-of-way between the parcels is for transmittal purposes to the Department of Community Affairs (DCA). Comments from DCA will be received within 120 days, after which adoption will occur within 60 days.

Mr. McCollum reported the P&Z Board unanimously recommended approval.

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

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-0 to authorize transmittal of Ordinance No. 2010-05 to the State of Florida Land Planning Agency.

4. PUBLIC HEARING: TRANSMITTAL OF ORDINANCE NO. 2010-01

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 DEFINITIONS SECTION, FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, HOUSING ELEMENT, SANITARY SEWER ELEMENT, SOLID WASTE ELEMENT, STORMWATER ELEMENT, POTABLE WATER ELEMENT, COASTAL MANAGEMENT ELEMENT, CONSERVATION ELEMENT, PARK, OPEN SPACE, AND RECREATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, CAPITAL IMPROVEMENT ELEMENT, AND PUBLIC SCHOOL FACILITIES ELEMENT OF 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 from April 19, 2010.

Attorney Barnebey explained this is the EAR based amendments to Comprehensive Plan. Once approved for transmittal to DCA for comments within 120 days, after which the City will have 60 days to adopt.

Attorney Barnebey stated the changes that were approved by consensus at the workshop will be incorporated into the final draft of the document. In addition, he commented on the following issues that need discussion before transmittal of the document:

1. Capital Improvements Element: A list of proposed projects that have already been approved relating to capacity issues will be included. (No changes to what has been approved.)
2. Concurrency: Based on Florida Statutes language, the City is a dense urban land area and therefore considered a transportation concurrency exception area. However; the current Plan (adopted by ordinance) contains concurrency. DCA maintains that if concurrency is adopted by ordinance, a city has concurrency. Attorney Barnebey advised Commission they have the ability to keep or remove concurrency, or keep it in a portion of the City. He suggested that level of service (LOS) standards should remain in the Plan, as the City is required to adopt LOS even though it is a transportation concurrency exception area and could choose not to have concurrency. He also informed Commission that regardless of the concurrency issue, the City is required to do a mobility analysis within one year. (Joint mobility study with City of Bradenton was completed in 2009.)

Discussion ensued on the impact development concurrency requirements would have on portions 8th Ave. and 10th Ave., both of which are State roads, and failed roadways in the City.

Discussion also occurred on the possibility of eliminating concurrency and keeping the LOS or eliminating concurrency from certain geographic boundaries of the City. Attorney Barnebey recommended from a legal standpoint, that transportation concurrency be eliminated from the document, receive DCA comments, and then address if necessary. *Commission concurred with Attorney Barnebey's recommendation*, and asked staff to determine what impact this action would have on potential grant funding, prior to receipt of DCA comments.

3. Public School Facility: Minor changes have been made to the document that reflects changes to the Interlocal Agreement that Commission will review June 7, 2010.
4. Water: Mr. McCollum stated that the City must adopt a 10-year water supply plan, which DCA commented on when the 2007 EAR was approved by DCA. He suggested that transmittal of the Plan should not be delayed, but the water supply plan should be developed, preferably before DCA comments on the Comp Plan are returned to the City.

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

Mr. McCollum informed Commission that he has spoken with Manatee County personnel who confirmed that the MARS 1 project is complete; therefore, he would like to remove the reference from Policy 7.15. Commission concurred.

Attorney Barnebey informed Commission that the LOS for Parks & Rec was deleted, which is reflected in the current draft.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-0 that with changes made with consensus at workshops regarding Chapters 1-5, and in this meeting today on Chapters 6 – 13, to authorize transmittal of Ordinance No. 2010-01 to the State of Florida Land Planning Agency, with changes recognized in transportation concurrency exception for the City and incorporation of approval of appropriate portions from the City's 5-Year Capital Improvement Program.

5. RESOLUTION NO. 2010-11

A RESOLUTION OF THE CITY OF PALMETTO, FLORIDA, SUPPORTING AND ADOPTING THE MANATEE COUNTY LOCAL MITIGATION STRATEGY; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 4-0 to adopt Ordinance No. 2010-11.

6. CONTRACT RENEWAL: GRUBBS EMERGENCY SERVICES

Renewal of the Grubbs Emergency Services contract executed in 2004 for an additional year.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Grubbs Emergency Services letter of agreement to renew the emergency services contract for the term of one year.

7. DISCUSSION: LEGAL EXPENSES RELATED TO LAND SWAP BETWEEN CITY OF PALMETTO, MANATEE COUNTY SCHOOL BOARD AND MANATEE FRUIT COMPANY

Discussion ensued on the initial resolution wherein the City agreed to facilitate the relocation of Palmetto Elementary to a new site. Mayor Bryant highlighted initial commitments and estimated expenses vs. actual data, as follows:

- Manatee Fruit agreed to donate 6.5 acres; actual donation amounted to 14.7 acres
- Construction of complex estimated at \$750,000, which is not relevant to actual expenses
- Utilities of \$208,000 to be paid from the proceeds of the sale
- Realignment of 23rd St. at \$560,000 was to be paid from CIP funds that did not exist

Mayor Bryant reported discussion has been held with the School Board regarding the reimbursement of closing costs for the land sale to assist the School Board is relocating the school amounting to approximately \$25,000. The School Board has declined to pay the City's out-of-pocket expenses, which ultimately were paid out of the proceeds of the sale of the property.

Mr. Tusing reported that the School Board had stated that only tangible expenses incurred by the City could be considered for reimbursement. In an attempt to recoup City out-of-pocket expenses, a projected value of fill dirt that was removed from Hidden Lake Park for the construction of the new school was calculated by Mr. Tusing. He reported that an existing Manatee County bid was used to calculate the value of the fill dirt of approximately \$180,000. Discussion ensued on the City's calculation and how the School Board arrived at their calculated value of \$21,000 they are willing to pay for the dirt. Commission discussed the total estimated amount the City will have invested in all the projects relating to the relocation of the school and the amount of land the City gained in the relocation of the school. Mayor

Bryant stated a meeting is scheduled with the other entities on Friday, where she will seek further commitments to the ball field projects.

Referring to the correspondence from Manatee Flora regarding legal fees, Commission concurred that the property owner donating the land should not be responsible for the legal fees relating to the swap. Attorney Leslie Gladfelter of Grime, Goebel and representing Manatee Fruit Company, confirmed legal fees to date amount to \$65,000. Whiting Preston, Manatee Fruit, opined that the City Commission has made good decisions; unfortunately the project has become more complicated in difficult economic times. He stated that it is important that grants be pursued, but they can't be until the contracts are executed. He commented that at this point the drafts are not satisfactory; land value being donated is meaningful.

Attorney Barnebey stated that after the meeting on Friday more information may be available regarding the other entities' willingness to share in expenses being incurred by the City. He also stated he would need to receive a copy of the legal fees to date incurred by Grimes Goebel, expecting that reasonable fees regarding the project would be paid.

Mayor Bryant stressed the City is not at odds with Manatee Fruit Company on any of the issues, but "is recognizing frustration in not having all our governmental entities on board with us as we anticipated they would be."

Ms. Gladfelter requested assurance from Commission regarding the fees.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-0 that reasonable fees will be paid by Palmetto.

8. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Mr. Tusing reported seven responses were received for Phase I; Phase II will go out to a minimum of three. Discussion ensued on the fact that contractors cannot be approved without funds. Attorney Barnebey confirmed that everyone involved understands the project may have to be done in phases as funds become available. Mr. Freeman anticipated having an indication of grant funding by the end of June. Mayor Bryant reported that the grants writer has requested a motion or commitment in the public record regarding moving forward with the ball fields at the proposed location.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-0 that subject to available funding, Palmetto City Commission is committed to moving forward with the relocation of 23rd Street, construction of 10th Ave. and construction of ball fields at that intersection.

Mr. Freeman suggested requesting the topic on the next Council of Governments meeting agenda. Mayor Bryant concurred and asked him to notify Commission of the date of the meeting when it would be considered.

9. DEPARTMENT HEADS' COMMENTS

Attorney Barnebey

Proposed moratorium on pain management issue ordinance was placed on the June 7th workshop agenda and Commission agenda for first reading.

The tree board planning issue be placed on a workshop for discussion.

He has spoken with the Ethics Commission regarding wording in the Charter relating to the nomination of department heads. The proposed revision will be taken back to the Charter Review Committee.

He will bring back a draft ordinance requiring foreclosure registration.

Chief Lowe

Tampa Machinery sold the surplus police vehicles May 5th for \$8,600.

Reported he will be participating in the Empowering Youth Mentor Leadership on Wednesday.

Reported he is pursuing a Byrne Grant of \$82,800 and local funding availability of \$27,713.

Mr. Freeman

Clarified the topics that will be placed on the next workshop; pain management; tree board, budget policy, personnel policy.

The necessary information for the charter revision must be provided to the Supervisor of Elections by the first week in August. A meeting will be scheduled with the Charter Review Committee to review the proposed language.

The department heads will receive the initial budget packets. Some assumptions will be 10% reduction ad valorem; a 15% increase in health ins until more information is received at renewal; no increase in salaries or a cost-of-living; 2.39% in the Police Pension, equating to \$18,000-\$19,000; hopeful there will be a reduction in the General Employees' Pension based on steps taken during the year.

Mr. Tusing

No report.

10. MAYOR'S REPORT

A community meeting will be held May 27 at Lincoln Middle School. The final community meeting will be scheduled as soon as a site location can be confirmed.

11. COMMISSIONERS' COMMENTS

Ms. Cornwell

Chief confirmed he will make arrangements for the traffic increase during graduation ceremonies. Chief Lowe discussed possible summer programs that will be established.

Requested that the City's flags be mounted on the light poles before Memorial Day and left up until after July 4th.

Mr. Zirkelbach

Mr. Freeman will provide a tally of the alcohol survey at the June 7th meeting. For the June 7th meeting, Commissioner Varnadore that something will have to be dropped off because of the number of items that are already proposed. Mayor Bryant suggested that the personnel policy should be held at a meeting where it is the only agenda item. The tree board ordinance as last seen will be placed on the June 7th workshop agenda.

Ms. Varnadore

Reported on the Palmetto Historic Commission's meeting she attended. Reported some maintenance issues at the Historic Park, which Public Works will address. Mr. Zirkelbach will contact the church to see if they are willing to donate a set of steps for the cottage building. Mrs. Ponder confirmed the only information she has on the Yellow Fever Cemetery burials is what was provided by the Commission.

Announced she will be seeking re-election to her seat.

Mr. Williams

Commented on staff adhering to the budget. The budget will be distributed early July, with budget workshop meeting normally scheduled in August. Mr. Freeman will send out a proposed budget meeting calendar for discussion at a future workshop meeting.

Commented on the increased use of the Estuary Park.

Mayor Bryant reported the dates of Florida League of Cities will be provided Commission

Meeting adjourned at 9:40 pm.

Minutes approved:

James R. Freeman

James R. Freeman
City Clerk