

PALMETTO CITY COMMISSION
JUNE 21, 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
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00 pm, followed by a Moment of Silence and the Pledge of Allegiance.

Mayor Bryant itemized specific items in the CRA Audit, stating a final report will be made available to Commission. She also discussed the negotiation and execution of the 2004 CRA office lease that was again reviewed and approved by the CRA Advisory Board in March, 2009. Mayor Bryant also informed Commission that a vendor the City contracted with in 2007 has recently **been (corrected July 19, 2010)** arrested and charged with one count of conspiracy of unlawful compensation or reward for official behavior; the city is not currently doing business with the vendor. Lastly, Mayor Bryant reported that all background checks have been completed and all employees successfully passed the checks.

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

Item #12 was removed from the agenda.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve the June 21, 2010 7:00 PM Agenda, as amended.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: June 7, 2010
- B) Legal billings - Kirk Pinkerton
- C) Plans for the new Splash Park at Lincoln Park

Item 2B was removed for discussion.

MOTION: Commissioner Cornwell moved and Commissioner Zirkelbach seconded to approve item 2A.

Mayor Bryant corrected the minutes to reflect that the request to close Riverside Dr. for safety reasons was only for the July 4th festivities.

Commissioners Cornwell and Zirkelbach amended their motion to include the correction to the June 7, 2010 7:00 minutes. Motion carried 4-0.

Item 2B: Legal Billing: Attorney Barnebey removed the billing for the Jarvis foreclosure property issues, as his firm is still verifying the correctness the billing.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve item 2B, as amended.

2C: Splash Park for Lincoln Park

David Bishop and Charlie Ugarte, Ugarte & Associates, and Susie Dobbs, Manatee County Neighborhood Services Department, updated Commission on the Splash Park at Lincoln Park.

Mr. Bishop reported that they are at the schematic design portion of the plan. He reviewed the plan and the parking in the future phase. He reported the DRC reviewed the plans and discussed stipulations, to which Manatee County has agreed. The plan includes a 3,500 square foot splash pad, and as required by Code, water fountains will be included. Trees currently on site will not be removed. Hours of operation will be six days per week, four hours per day, and is comparable to the rest of the parks in the county. It is the intent to provide shaded seating locations. Ms. Dobbs stated that as budget permits, additional amenities will be provided.

Attorney Barnebey confirmed that the Code requires that Commission approve the use of the property because of the PU zoning; any substantial changes will have to come back to Commission. Commission acknowledged their satisfaction with the design, but commented on the lack of construction drawings that sets forth exactly what is intended and the deviation from the normal approval process. Attorney Barnebey further stated that Commission can approve the project with stipulations, or can refer the public to the County Commission.

Mr. Ugarte stated that the physical portion of the project is as provided in the drawing. Construction drawings will progress through the normal approval process. All comments made by DRC will be incorporated into the plan.

MOTION: Commissioner Zirkelbach moved, Commission Williams seconded and motion carried 4-0 to approve the use of the Lincoln Splash Park and plans for the Splash Park presented with the following conditions:

- 1. The splash pad shall be a minimum of 3,500 square feet**
- 2. There shall be a minimum of two drinking fountains provided**
- 3. There shall be covered seating with at least two benches at least four feet in length provided**
- 4. There shall be at least four benches at least four feet in length provided**
- 5. Construction shall be in substantial compliance with the plans provided at this June 21, 2010 meeting and the applicant shall comply with the comments of the DRC with the exception of the improvements to the parking area which has already been completed**

Ms. Dobbs confirmed that she will keep Commission apprised of the plans as they progress and any changes to the plans that are proposed.

3. CITIZENS TASK FORCE RECOMMENDATION

The Citizens Task Force comprised of two City residents, Eric Gilbert and Charles Smith, and one City staff member, Jeff Burton, met with Lauren Clark, Clark Communities, to review the application for a Ward 1 Phase 2 Community Development Block Grant (CDBG). Jeff Burton stated the committee recommended moving forward with the CDBG grant.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-0 to accept the recommendation from the Citizens Task Force regarding the Ward 1 Phase 2 CDBG grant application.

4. CDBG 2009 FAIR HOUSING WORKSHOP

Lauren Clark of CCI read a Fair Housing workshop statement for the realtors and property owners. The workshop provided education regarding the Fair Housing Act and citizen's rights pertaining to the Fair Housing Act.

MOTION: Commissioner Zirkelbach moved, Commission Williams seconded and motion carried 4-0 to accept the Fair Housing statement as read.

5. 2ND PUBLIC HEARING FOR THE CDBG GRANT

Commission will accept public comment regarding the City's application for a CDBG grant up to \$750,000. If awarded, the grant will assist the City in funding the Ward I Phase II infrastructure improvement project.

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

6. RESOLUTION NO. 2010-16

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO AUTHORIZING MAYOR SHIRLEY GROOVER BRYANT TO APPLY TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) FOR APPROVAL OF THE CITY OF PALMETTO'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)-NEIGHBORHOOD REVITALIZATION CATEGORY FFY 2009/2010 APPLICATION, ADOPTING THE PALMETTO COMPREHENSIVE PLAN AS THE CITY'S COMMUNITY DEVELOPMENT PLAN, AND PROVIDING AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 4-0 to adopt Resolution No. 2010-16.

7. 1ST READ AND ADVERTISING APPROVAL: ORDINANCE NO. 2010-09

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, CREATING A FAIR HOUSING ORDINANCE TO BE CODIFIED IN THE PALMETTO CODE OF ORDINANCES AS THE "FAIR HOUSING CODE"; PROVIDING FOR A DECLARATION OF POLICY TO PROHIBIT DISCRIMINATION IN HOUSING ON THE BASIS OF RACE, COLOR, ANCESTRY, NATIONAL ORIGIN, RELIGION, SEX, MARITAL STATUS, FAMILIAL STATUS, HANDICAP OR AGE; PROVIDING DEFINITIONS; DESIGNATING AS UNLAWFUL CERTAIN DISCRIMINATORY PRACTICES IN THE SALE OR RENTAL OF HOUSING, AS WELL AS IN ADVERTISING IN CONNECTION THEREWITH, IN THE FINANCING OF HOUSING, AND IN BROKERAGE SERVICES RELATED TO EXCEPTIONS; PROVIDING FOR AN ADMINISTRATOR TO BE DESIGNATED AND PRESCRIBING THE GENERAL POWERS AND DUTIES OF SUCH ADMINISTRATOR, PRESCRIBING ACTION UPON A DETERMINATION OF PROBABLE CAUSE, AND AUTHORIZING THE PROMULGATION OF FORMS AND REGULATIONS; MAKING PROVISIONS FOR THE FILING OF COMPLAINTS AND RESPONSES THERETO, AND THE PROCESSING THEREOF BY THE ADMINISTRATOR; PROVIDING FOR ADDITIONAL REMEDIES;

PROVIDING FOR PROHIBITING UNTRUTHFUL COMPLAINTS OR FALSE TESTIMONY; PROVIDING FOR PENALTIES FOR VIOLATION OF SUCH CODE; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-0 to approve Ordinance No. 2010-09 for advertising and schedule a public hearing July 19, 2010.

8. CODE ENFORCEMENT FINE REDUCTION – 1525 17TH ST. W.

On May 17, 2010 Commission deferred action on this Code Enforcement fine reduction request for a settlement offer of 50% of the outstanding \$7,200 lien. Elizabeth Wolfe, on behalf of purchaser, offered a settlement to be paid within 48 hours of \$2,000 or the 50% settlement within 30 days.

Code Enforcement Director Bill Strollo reviewed the case. He confirmed that violations occurred during the time before the foreclosure was finalized. He confirmed that the City's expenses as of May 10, 2010 amount to \$692.93, plus two hours in legal expenses and the Code Enforcement Board's counsel. A 50% settlement would amount to approximately \$3,531.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 3-1 to accept the offer of 50% of the current code enforcement fine for the property located at 1527 17th St. W., PID # 2800310359. Commissioner Cornwell voted no.

Attorney Barnebey stated an ordinance requiring the registration of foreclosure properties will be ready by the next meeting.

9. PUBLIC HEARING: EMERGENCY ORDINANCE NO. 2010-08

AN EMERGENCY ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, DECLARING A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION OR ANY APPLICATION FOR THE ESTABLISHMENT OF PAIN MANAGEMENT CLINICS AS DEFINED HEREIN; PROVIDING THAT SUSPENSION OF ANY SUCH ZONING, PERMITTING AND LICENSING PROVIDING THAT SAID MORATORIUM SHALL BE IN EFFECT FOR A PERIOD OF ONE (1) YEAR OR SHALL TERMINATE ON THE EFFECTIVE DATE OF THE CITY'S ADOPTION OF LAND USE AND DEVELOPMENT REGULATIONS TO REGULATE PAIN MANAGEMENT CLINICS; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF PAIN MANAGEMENT CLINIC; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing.

Attorney Barnebey stated this is an emergency ordinance declaring a moratorium on pain management clinics. The ordinance was advertised but there was no first reading. Per Statute, approval will require four votes of the sitting Commissioners. He further informed the Commission that the Manatee County ordinance may not necessarily apply in the city. A Grand Jury investigation that was filed indicates the clinics are a major problem in the state. Manatee County is ranked in the top five counties with distribution of this type of medicines. The State has also regulated this matter, which will take effect in October. The effectiveness of the ordinances and statutes will be reviewed the beginning of the year.

Mayor Bryant closed the public hearing.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 4-0 to declare that pain management clinics in our area are an emergency that apparently exist so that we have to take action.

MOTON: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-0 to adopt Ordinance No. 2010-08, given that an emergency exists.

10. PRESENTATION: DOWNTOWN MOBILITY STUDY FINAL REPORT

Whit Blanton, Renaissance Planning Group, presented the Executive Summary of the Bradenton/Palmetto Downtown Mobility Study, which will be included on the Metropolitan Planning Organization on June 28, 2010. The study area was bounded by 23 Street on the north side of the city to Canal Road on the east side, west to Wares Creek/23 St. and south to Tropicana in Bradenton. FDOT can't endorse the study due to recommended changes for State Road 64 and Manatee Ave. Bradenton is continuing to work with FDOT to move process forward

One item of interest discovered in the data gathered found no increase in traffic growth on major State roadways since 2000.

Mr. Blanton discussed Palmetto signature projects:

- Bike and pedestrian shared path on the Green Bridge
- 7th Street - extend and remove the signal at Haben Blvd.
- 8th Avenue - long-term project to convert to two-lane with center turn lane
- 10th Avenue - parallel two-lane connection for Business 41

A copy of the Executive Summary of the Downtown Mobile Study Final Report is attached hereto and made a part of these minutes.

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 4-0 to accept the Downtown Mobility Study as presented by Renaissance Planning Group.

11. AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR SCHOOL FACILITY PLANNING

This Agreement includes revisions primarily intended to ensure unnecessary school construction does not occur for phantom students and to address recent Legislative changes.

Attorney Barnebey commented on the changes to two general areas of the adopted Interlocal agreement. A copy of an ILA Amendments Overview prepared by the School District of Manatee County is attached hereto and made a part of these minutes.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Amended and Restated Interlocal Agreement for School Facility Planning.

12. APPROVAL: ECo CONSULTANTS INCORPORATED CONTRACT

Deleted from the agenda.

13 APPROVAL: FDOT AGREEMENT

Mr. Tusing reported this is a joint project with the Florida Department of Transportation (FDOT) and Manatee County for the City to provide a conduit system for the installation and maintenance of fiber optics for an Advanced Traffic Management System. City traffic signals on 8th Ave. from 5th to 17th Street

will be connected to Bradenton and Manatee County signals, and will be monitored at the new Manatee County facility. The conduit will be provided to FDOT at no cost. The City will be responsible for maintenance of its signals and will receive appropriations from the State, if available.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 3-1 to approve and authorize the Mayor to execute the Agreement Between The City of Palmetto And Florida Department of Transportation, FPID #426635-1-52-01, COP Job #04-418. Commissioner Williams voted no.

14. FLORIDA LEAGUE OF CITIES

Nomination of a Voting Delegate for the Annual Business Session during the Florida League of Cities Annual Conference.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 4-0 to nominate the Mayor as the Voting Delegate.

15. APPOINTMENT TO METROPOLITAN PLANNING ORGANIZATION (MPO) (Mayor Bryant)

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 3-1 to approve the appointment of Mickey Hopkins to the MPO Citizens Advisory Committee for a term ending July 1, 2013. Commissioner Zirkelbach voted no.

16. RESOLUTION NO. 2010-17

Budget resolution to purchase a master meter from water impact fees, for installation at Holy Cross. Mr. Tusing request to amend the amount from \$10,000 to \$16,000. He stated the meter is a necessity because of the expansion of the new facility at Holy Cross; the meter provides additional capacity for the north portion of the City.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 09-38, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2009-2010, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commission Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-0 to adopt Resolution No. 2010-17, with the amended amount of \$16,000.

17. RESOLUTION NO. 2010-18

Budget resolution to correctly allocate expense and revenue from the Submerged Land Lease with Regatta Pointe Marina from \$65,000 to \$68,300.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 09-38, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2009-2010, AND PROVIDING FOR AN EFFECTIVE DATE.

Commission Zirkelbach announced his voting conflict.

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 3-0 to adopt Resolution No. 2010-18. Commissioner Zirkelbach abstained from the vote.

18. 1ST READ AND ADVERTISING APPROVAL: ORDINANCE NO. 2010-07

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR AMENDMENT OF THE TIMES ALLOWED FOR THE SELLING OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, and Commission Williams seconded to approve Ordinance No. 2010-07 for advertising and schedule a public hearing for July 19, 2010.

Discussion: Staff estimated it would cost approximately \$200 to advertise the ordinance. Attorney Barnebey confirmed that this would be the time to amend the ordinance.

Commissioners Zirkelbach and Williams voted aye. Commissioners Cornwell and Varnadore voted no. Motion failed because of a tie vote.

19. 1ST READ AND ADVERTISING APPROVAL: ORDINANCE NO. 2010-10

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING SUBMISSION OF AN AMENDMENT OF THE CITY CHARTER TO THE VOTERS AT THE NOVEMBER, 2010 GENERAL ELECTION FOR AN AMENDED AND RESTATED CITY CHARTER; PROVIDING FOR THE CREATION AND POWERS OF THE CITY; PROVIDING FOR SECTIONS RELATING TO HEADINGS, DEFINITIONS, THE FORM OF GOVERNMENT, BOUNDARIES, WARDS, LEGISLATIVE POWERS, COMMISSIONERS, COMMISSIONER QUALIFICATIONS AND OFFICE HOLDING, PROVIDING FOR A VICE MAYOR, COMMISSION MEETINGS, REQUIREMENTS FOR A QUORUM AND NEED FOR A MAJORITY VOTE, COMMISSIONER VACANCIES AND REPLACEMENT, PRESIDING OFFICER, ORDINANCES, AND VETOES; PROVIDING FOR THE EXECUTIVE BRANCH, THE MAYOR, APPOINTED OFFICERS, MAYOR QUALIFICATIONS, AND VACANCY AND REPLACEMENT OF THE MAYOR; PROVIDING FOR ELECTIONS, TERMS OF OFFICE AND THE OATH OF OFFICE, RECALL OF ELECTED OFFICIALS, AMENDMENT AND REFERENDUM OF THE CHARTER, EFFECT ON EXISTING RIGHTS AND ORDINANCES, INTERPRETATIONS OF THE CHARTER, CHARTER REVIEW, AND THE EFFECTIVE DATE OF THIS CHARTER; PROVIDING FOR APPROVAL OF A BALLOT QUESTION; PROVIDING FOR APPROVAL OF BALLOT QUESTION TITLE; PROVIDING FOR PUBLICATION; PROVIDING FOR COORDINATION WITH SUPERVISOR OF ELECTIONS; PROVIDING FOR ELECTION DATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Williams moved and Commissioner Cornwell seconded, for discussion, to approve by roll call vote Ordinance No. 2010-10 for advertising and schedule a public hearing July 19, 2010.

Attorney Barnebey reviewed the points that were amended from the last meeting:

- Commission concurred that "appointed official" is to be changed to "appointed officer".
- The Mayor shall appoint someone else to serve within 60 days of an appointment that is not confirmed by Commission; the person not confirmed may not be reappointed without approval of the Commission. Discussion ensued on the vote necessary to confirm an appointment, with Commission deciding that a super majority of members eligible to vote shall be necessary if less than five members are present, i.e. if four members present, approval must be by three votes.
- No term of an appointed officer shall extend beyond the date of the first organizational meeting
- Attorney Barnebey will send a red-lined version to Commission.

Commissioners Williams amended the motion to reflect the changes discussed and Commissioner Cornwell seconded the amendment. Commissioner Williams voted aye; Commission Varnadore voted aye; Commissioner Zirkelbach voted aye; and Commissioner Cornwell voted aye.

20. RFP RECOMMENDATION FOR ENGINEERING SERVICES

Mr. Tusing reported the City received 30 responses to the Request for Qualifications. The committee narrowed the responses to ten and held interviews, resulting in the proposal as listed in the motion.

MOTION: Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried 4-0 Q to accept the recommendation from the RFQ Selection Committee of Lombardo, Foley, Kolarik as City Engineer, Wade Trim, PBS & J, Jones Edmunds as additional engineers and authorize staff to begin contract negotiations with each firm for continuing engineering services.

Mayor Bryant recessed the City Commission meeting to open the June 21, 2010 Special CRA Board meeting at 9:42 pm.

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

21. JOB DESCRIPTION APPROVAL

Approval of the CRA Director job description as amended by CRA

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve the CRA Administrator job description and authorize advertisement of the position as recommended by the CRA.

22. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)

No report; working with the grant writer to facilitate the grant application.

23. DEPARTMENT HEADS' COMMENTS

Attorney Barnebey

No report

Mr. Tusing

Discussed the situation with 4th of July falling on Sunday and the vendors that have sold beer at past festivals. Commission took no action to allow the sale of alcohol on Sunday.

Commission Williams moved to adjourn. Motion died for lack of a second.

Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried 4-0 to extend the meeting to 10:15 pm.

Mr. Freeman

The Florida Clean Air Grant was submitted. Ward 1 Phase II has been out to bid; hope to get 23rd St. Phase 2 out this week. Proposed budget meeting schedule will be prepared in the next week. The budget should be available the first week in July.

Chief Lowe

Reported his department is saturating zone 2 with law enforcement and has the situation under control. Discussion ensued on ways to resolve communication issues. Reported detectives consistently work cases and the department has the highest closure rate in the county.

24. MAYOR'S REPORT

Thanked Veolia for bringing in more water.

Will be making a report on the Marauders Game.

Commissioner Varnadore moved, Commissioner Cornwell seconded and motion carried 4-0 to extend the meeting five additional minutes.

25. COMMISSIONERS' COMMENTS

Ms. Cornwell

Note that Mrs. Lancaster is not present.

Mr. Zirkelbach

Explained his vote on the MPO appointment.

Commented regarding the vote on the alcohol ordinance.

Ms. Varnadore

Responded to Mr. Zirkelbach's comments regarding the vote on the alcohol ordinance.

Mr. Tusing still reviewing applications for the City Planner position.

Commented on the pattern developing for late agendas.

Mr. Williams

Congratulations to Ms. Varnadore for her unopposed candidacy; he and Mrs. Lancaster drew opponents

Inquired about the lack of information coming forward on lighted crosswalk. Mr. Woodard reported he steps being taken to gather the requested information.

Commented regarding the vote on the alcohol ordinance.

Meeting adjourned at 10:29 pm.

Minutes approved: July 19, 2010 with correction

James R. Freeman

James R. Freeman
City Clerk