

**CITY OF PALMETTO
CITY COMMISSION MEETING
November 15, 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
Mary Lancaster, Commissioner, Ward 1
Tambra Varnadore, Commissioner, Ward 2
Brian Williams, Commissioner, Ward 3

Staff and Others Present:

James R. Freeman, City Clerk
Allen Tusing, Public Works Director
Chief Rick Wells
Lorraine, Lyn, City Planner
Mark Barnebey, City Attorney
Deanna Roberts, Administrative Assistant

Mayor Bryant called the meeting to order at 7:00 p.m. A Moment of Silence was observed in honor of fallen veterans, followed by the Pledge of Allegiance.

Certificate of City Canvassers: Results of the November 2, 2010 City Ward Elections
City Clerk Jim Freeman read the results of the election into the record.

Oath of Office: Judge Gilbert Smith administered the Oath of Office to Commissioners Tambra Varnadore, Ward 2, Mary Lancaster, Ward 1 and Brian Williams, Ward 3.

Mayor Bryant recessed the meeting for five minutes.

Presentation: Manatee County Veterans Council representative Bob Greene, Assistant Parade Chair, presented a plaque of appreciation to the City of Palmetto for assistance during the Veterans Day Parade.

All persons intending to address City Commission were duly sworn.

Public Comment (non-agenda items):

Jane Hunter, 708 Riverside Drive, representing Slicks Garage, 923 5th Street West, addressed Commission regarding a letter she sent to Commission. The letter is attached and will remain a part of the permanent record of this meeting. She voiced her objection to a Special Function Permit (SFP) Commission approved on November 1, 2010, for the Eccentric Otter. The permit gave the name of First Fridays on Fifth and that was a misrepresentation. The event was a separate, for profit event, piggybacking on the existing First Fridays on Fifth event. Her event promotes not-for-profit causes in the community. She asked the Commission to reconsider their approval of the permit. It gave the impression that it was part of her event. Slicks Garage is paying for the promotion and the insurance on the existing event.

Cindy Mills, representing HSBC Bank on a code violation, said Commission had given a thirty-day extension to pay, but the fees have still not been paid. She asked for another extension of fifteen days to pay the reduced fees. Mr. Barnebey recommended the fifteen-day extension. Mr. Freeman commented that the last motion passed was to approve a lien reduction for property located at 814 16th Avenue West for an amount of \$8,400 to be paid in fifteen calendar days. This was on September 13, 2010.

Commissioner Cornwell recused herself from the vote.

MOTION: Commissioner Lancaster moved and Commissioner Williams seconded a motion to grant the extension of fifteen days.

Motion failed by 3-1 vote. Commissioner Williams was the only aye vote.

MOTION: Commissioner Varnadore moved, Commissioner Lancaster seconded, and motion carried 4-0, with one abstention, to settle the lien for \$9,000, to be paid within fifteen calendar days.

Jane Hunter asked Commission if they would make a motion to revoke the SFP for the Eccentric Otter approved on November 1, 2010, as she previously requested. Mr. Barnebey opined that this issue is between the two parties. He commented that a permit is for the purpose of public safety. The upcoming event of December 3 has already been approved. Chief Wells reported that there were no issues at the last event. Therefore, Mr. Barnebey recommended that City Commission not revoke the SFP but consider comments from tonight for any future events.

1. CITY COMMISSION AGENDA APPROVAL

Motion: Commissioner Cornwell moved, Commissioner Lancaster seconded, and motion carried unanimously to approve the November 15, 2010 7:00 PM Agenda with the addition of Item 2F.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: October 25, 2010, November 1, 3 and 8 Workshop and Commission
- B) October Check Register
- C) Special Function Permit: Palmetto B&B – Tour of Homes
DeSoto Children's Parade
DeSoto Grand Parade
- D) 2011 Holiday Schedule
- E) 2011 Commission Meeting Schedule

Commissioner Cornwell asked to remove items 2D and E for discussion. Commissioner Varnadore asked to remove items 2 B and C for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded, and motion carried unanimously to approve the October 25, 2010, November 1, 3 and 8 Workshop and Commission minutes.

Commissioner Varnadore left the dais.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded, and motion carried 4-0 to approve the October check register.

Commissioner Varnadore reentered the meeting.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded, and motion carried unanimously to approve Item 2C, Special Function Permits.

Discussion: Commissioner Varnadore returned to the dais and asked for clarification on Palmetto B&B Entre Nous Tour of Homes. [The application had been pulled at a previous meeting to address safety issues and parking concerns.] Mr. Tusing said Riverside Drive will be closed. This triggered the permit application. He does not feel there will be a problem. Chief Wells informed Commission that the organizers have told him they have the church lot available for parking. The Police Department has not had any problems in the past and does not expect any.

Commissioner Cornwell said she pulled Item 2D, Holiday Schedule, due to a discussion about substituting Presidents Day for Good Friday.

Motion: Commissioner Williams moved to approve the holiday calendar to align with Manatee County and other governments; to add Presidents Day in 2011 only as an additional holiday.

The motion failed for lack of a second.

Following discussion, it was decided to bring the Holiday Schedule back to the next meeting

Commissioner Cornwell removed item 2E, Commission Meeting Schedule, for discussion. She asked staff to remember not to schedule a Monday meeting before Election Day.

MOTION: Commissioner Zirkelbach moved, Commissioner Varnadore seconded, and motion carried 4-1 to approve the 2011 Commission Meeting Schedule as submitted. Commissioner Williams voted nay.

2F – Mr. Burton informed Commission that the CRA Advisory Board Chair brought a grant opportunity to his attention. It is for the 5th Street Streetscape and is due December 2, 2010. This is a SWFWMD grant for storm water pretreatment. The grant could cut the cost of the project almost in half. The proposed cost for the grant preparation by Ugarte and Associates, Inc. is \$10,000.

Mr. Zirkelbach expressed concern that so many things are coming in just under the \$10,000 purchasing requirement for bid. Mr. Burton said he will be using the [Consultants Competitive Negotiation Act] CCNA per Florida Statute 287.055 in the future.]

Mr. Burton, in answer to Mr. Barnebey's question, explained this is a City application as it is a City right-of-way, but it will be paid for by the CRA. To Mrs. Cornwell's question, he said this will be worth approximately \$300,000 - \$400,000 and is a matching grant with CRA matching funds. Commissioner Varnadore announced she would not vote for the proposal, as she did not have time to review the material.

MOTION: Commissioner Zirkelbach moved and Commissioner Lancaster seconded a motion to approve the grant application proposal for the Southwest Florida Water Management Districts grant for the Fifth Street improvements.

The Mayor asked to have the motion amended to allow her to accept the grant if awarded, subject to attorney approval. Mr. Zirkelbach agreed. Commissioner Williams asked to amend the motion.

MOTION: Commissioner Williams moved to amend the original motion to have the vote taken by a roll call vote. Commission Lancaster seconded and motion carried unanimously.

The amended motion on the floor carried 4-1 by the following roll call vote:

Commissioner Cornwell- aye; Commissioner Lancaster – aye; Commissioner Williams – aye; Commissioner Zirkelbach – aye; Commissioner Varnadore – nay.

The grant proposal handed out at the meeting will become a part of the permanent record of this meeting.

3. 2ND PUBLIC HEARING ORDINANCE NO. 2010-12 (L. Lyn)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES; ZONING CODE, TO ADD CHILD CARE CENTER AS A CONDITIONAL USE IN THE COMMERCIAL CORE (CC) DISTRICT WITHIN THE SCHEDULE OF PERMITTED USES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant announced that the 1st public hearing for Ordinance No. 2010-12 was held November 1, 2010, and resulted in a consensus that child care should be added to the Zoning Code as a conditional use in the CC district.

Mayor Bryant opened the public hearing. There being no public comment, she closed the public hearing.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded, and motion carried unanimously to adopt Ordinance No. 2010-12.

Following discussion, there was a consensus to bring this back to a workshop to consider making child care conditional use in other zoning categories.

4. PUBLIC HEARING: ORDINANCE 2010-15 (L. Lyn)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, VACATING PORTIONS OF 8TH AVENUE WEST AND 23RD STREET WEST, AS MORE PARTICULARLY DESCRIBED IN SECTION 2 OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing. There being on public comment, she closed the public hearing.

Mr. Barnebey announced that this ordinance will not take effect unless 23rd Street is relocated

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded, and motion carried unanimously to adopt Ordinance No. 2010-15.

5. PUBLIC HEARING: ORDINANCE NO. 2010-16 (J. Freeman)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO RELATING TO REAL PROPERTY; PROVIDING PURPOSE, INTENT, DEFINITIONS, AND APPLICABILITY, REQUIRING MORTGAGEE REGISTRATION RELATING TO REAL PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR AN ELECTRONIC FORM OF REGISTRATION; REQUIRING MAINTENANCE OF CERTAIN REAL PROPERTY BY PROPERTY OWNERS AND MORTGAGEES, PROVIDING SECURITY REQUIREMENTS; PROHIBITING OBSTRUCTION OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR IMMUNITY OF CODE ENFORCEMENT OFFICERS; PROVIDING FOR ADDITIONAL MAINTENANCE AND SECURITY REQUIREMENTS; PROVIDING SUPPLEMENTAL AUTHORITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

Mayor Bryant opened the public hearing. There being on public comment, she closed the public hearing.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded and motion carried unanimously to adopt Ordinance No. 2010-16 with the necessary changes.

Discussion: Mr. Barnebey went over proposed changes. References to vacant property in Section 18-25 will be changed to abandoned property. Per Mr. Freeman, the fee schedule will be changed: The initial fee will be changed to \$200.00 with no fee for updating information. On page 7, strike "annual" under registration. Mr. Freeman commented that language has been added in 18-25 (c) requiring the mortgagee to state whether they have the right to enter the property to maintain prior to foreclosure.

6. PUBLIC HEARING: ORDINANCE NO. 2010-17 (M. Barnebey)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 17, ARTICLE III, OF THE CODE OF ORDINANCES, TO REVISE THE REQUIREMENTS RELATED TO THE PROVISION OF ATTAINABLE HOUSING; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing. Bill Galvano addressed Commission on behalf of Wachovia/Wells Fargo. He suggested an amendment to Section 17-55 (b) of the ordinance stating that the major modification would be an addition of 10 or more dwelling units **or** a percentage of 20% or the greater of the two and give the Commission the authority to consider major modifications in a public hearing with discretion to review.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded, and motion carried unanimously to adopt Ordinance No. 2010-17 with the suggested change.

Discussion: Commissioner Zirkelbach commented that he felt personally that the ordinance should be repealed. The market should dictate the need and not an ordinance. He would like to review it in a workshop. Commissioner Williams said at the time it was adopted it was needed. With the current economy, we might

consider repealing it, but only with a lot of discussion. Commissioners Lancaster and Varnadore opined that it might need to be fixed, but not repealed. It might be needed in the future.

Mr. Barnebey said he had no problem with Mr. Galvano's suggested change of adding a percentage. It is a valid point. He has a bigger concern with giving Commission discretion in a public hearing. He reiterated the change would be to add in Section 17-55 (b) ...the addition of ten (10) or more dwelling units **or an increase of dwelling units by more than 20%, whichever is greater...**

7. CODE ENFORCEMENT LIEN REDUCTION (J. Freeman)

Palmetto Funding, LLC is requesting a reduction in a Code Enforcement lien on property located at 98 US 41 N. that was the subject of a mortgage foreclosure. CRA Director Jeff Burton requested at the November 1, 2010 meeting that the item be deferred to allow him time to investigate a possible purchase of the property.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded, and motion carried unanimously to approve the settlement of the lien on property located at 98 US 41 N. in the amount of \$18,000, contingent upon payment being made within thirty (30) days.

8. RESOLUTION NO. 2010-38 (A. Tusing)

Resolution No. 2010-38 authorizes execution of the FDOT LAP Funding Agreement for participation in the Haben Blvd. roundabout project.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE EXECUTION OF A LOCAL AGENCY PROGRAM AGREEMENT TO PROVIDE FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PARTICIPATION IN THE INTERSECTION IMPROVEMENT PROJECT AT HABEN BOULEVARD AND 12TH AVENUE EAST.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded, and motion carried unanimously to adopt Resolution No. 2010-38 with the corrected amount being given by the State.

Discussion: Mr. Tusing informed Commission that the amount in Section 1 of the resolution should be \$367,000; the portion the State will give the City.

9. SCHOOL RESOURCE OFFICER CONTRACT APPROVAL (Chief Wells)

Contract with School Board of Manatee County for two School Resource Officers located at Palmetto High and Lincoln Middle schools.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded, and motion carried unanimously to approve and authorize the Mayor to execute the agreement with the School Board of Manatee County, regarding the funding of two School Resource Officers, for a term ending July 31, 2011.

10. ENERGY SYSTEMS GROUP CONTRACT APPROVAL (J. Freeman)

As part of the EECBG grant award, staff proposes to conduct an Investment Grade Audit to identify confirm energy efficient projects.

MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded, and motion carried unanimously to approve and authorize the Mayor to execute the Investment Grade Energy Audit Agreement with Energy Systems Group, LLC, in an amount not-to-exceed \$9,000.

Mr. Freeman, in answer to Commissioner Williams question about the money to be spent, informed Commission that the City has a total of \$45,000 to spend on the grant, but this is Phase I and the City will not spend more than \$9,000 on the energy study requirement of the grant. After the study, the City may elect to contract with Energy Systems to implement the results of the study. That would come back to Commission for approval.

11. FINANCE DEPARTMENT REORGANIZATION (J. Freeman Item carried forward from the 4:30 agenda)

Linda Butler, 2912 9th Avenue Drive East, Palmetto, and City of Palmetto Planning Tech and Building Department Receptionist/Customer Service spoke to Commission of behalf of some Public Works employees in opposition to the reorganization.

Discussion ensued. Mayor Bryant asked for comp hours accrued by Finance to be distributed to Commission.

MOTION: Commissioner Varnadore moved to move forward with the recommendations there was consensus on at the workshop with moving forward with Phase I.

The motion died for lack of a second. Discussion continued.

Mayor Bryant asked Mr. Tusing to provide a list of Public Works staff working overtime.

Mrs. Varnadore said if this is what Mrs. Simpson needs, she is willing to give it a try, and any other department head is welcome to do the same thing if they can find the funds within their department.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded, and motion carried 3-2 to approve phase 1 of the reorganization of the Finance Department, as presented, by adjusting the positions of accountant and account clerk to payroll clerk and purchasing clerk, respectively; create a part-time account clerk position; and approve the associated job descriptions, inclusive of the change of titles. Commissioners Cornwell and Lancaster voted nay.

Discussion: Commissioner Cornwell stated she could not approve this because the position was not opened up to other employees who might be eligible.

12. 1st READ & ADVERTISING APPROVAL: ORDINANCE NO. 2010-19 (L. Lyn)
Item carried forward from the 4:30 agenda)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, SECTION 28-74, TO ADD PROVISIONS RELATED TO THE JOINT USE OF PARKING FACILITIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Zirkelbach seconded, and motion carried unanimously to approve Ordinance 2010-19 for advertising and schedule a public hearing for December 6, 2010.

Mr. Barnebey stated that, based on the comments at the Workshop, he will add insert a provision in Section (a) that indicates that ...cumulative parking requirements for joint use facilities may be reduced **by a maximum of 20% of the cumulative parking requirements** if the City Planner determines that one or more of the following exists...

He will add a new subsection (b) that indicates the approval of a parking plan to reduce the cumulative parking requirements by more than 20% may **only** be approved by the City Commission.

Subsection (c) will state that the City will record at the expense of the applicant.

Mayor Bryant recessed the City Commission meeting to open the Special CRA Board meeting.

Mayor Bryant reconvened the City Commission meeting.

13. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE (A. Tusing)

Mayor Bryant said she will be sending out the letters [letters of support from local officials and residents in support of the ball field's project to be submitted as part of the grant application]. She stated the City will have support from the County and the School Board. In response to Commissioner Lancaster's question, she replied that negotiations will continue.

14. DEPARTMENT HEADS' COMMENTS

Allen Tusing: Commented that in the future he will ask for a contingency on projects [referencing the change order on the Riverside Drive Project]. As long as the project is under budget, why does he have to come back in order to get a contractor paid?

Jim Freeman: He will look at options for lighting in the parking lot. Mayor Bryant said it will be part of the energy efficiency grant. It needs to be part of that funding. Regarding the sale of alcohol at a restaurant on 10th Street, does Commission want to look at that carve out provision in the ordinance? Commission said yes. Mr. Tusing informed Commission that Public Works is already looking at this issue.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded, and motion carried unanimously to extend the meeting by fifteen minutes.

Chief Wells: The condition of the robbery victim who was severely injured on November 2 has been upgraded. The investigation is progressing with closure expected soon. Reported that Mr. Tusing followed the Imagine School bus through the mobile home park. The driver agreed to change the route.

Mark Barnebey: Those Commissioners who have property in the CRA need to fill out a Conflict of Interest form. He will be bringing some foreclosures forward and some property cleanup issues.

15. MAYOR'S REPORT

Mayor Bryant passed out a signup sheet for volunteers for Movie in the Park. This is Farm-City Week. There is the Art Meets Agriculture event this Friday.

Informed Commission that she attended the Boys and Girls Club opening and tribute to Carl Weeks on Saturday, and the Club presented the City with a piece of the old building. She participated in the parade and spoke at the Veterans Day ceremony, attended the VFW in Palmetto, the American Legion north of town and then attended a Catholic Mass for veterans at the Veterans Cemetery in Sarasota. She attended the 45th anniversary for St. Mary's Church in Palmetto on Sunday. This morning she went with Chief Wells to the Palmetto Mobile Home Club for their coffee hour.

Reported that she has received complaints about Fifth Quarter. The base is rattling houses in the neighborhood. This needs to be addressed in the future.

16. COMMISSIONERS' COMMENTS

Commissioner Lancaster: Asked about removing the signals at the inactive railroad crossing past 10th on 8th Avenue. Mr. Tusing said he's working with the railroad to get the signals down. She thanked the Chief and Mr. Tusing for rerouting the Imagine School bus.

Commissioner Cornwell: Congratulated the three Commissioners on their new terms. She attended the Fair Board meeting. There is a mega pass being offered through Walgreens beginning in mid-December. Asked about a memorial for former Commissioner Joe Hampton. Mr. Seger is working on a new area for a tree memorial. Regarding SFPs, any permit issued should not infringe on any existing event. Mayor Bryant said having the Department Heads sign off on the permits should cover that.

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded, and motion carried unanimously to extend the meeting another 15 minutes.

Mr. Barnebey commented they should be reviewed on a first come, first served basis. The real question is how events affect the City and City residents. Commissioner Cornwell announced a Palmetto Historic Board meeting; all welcome.

Commissioner Zirkelbach: Reported that Florida League of Cities is looking for issues the City would like to have taken to the State. Expressed his appreciation for the service of veterans and Commissioner Hampton.

Commissioner Varnadore: Asked what issue is creating the traffic problems going over the Green Bridge. Chief Wells reported the traffic has been worse in the last month due to the work on the railroad crossings,

nothing has been done on the cycling of the lights and there has been increased traffic. She expressed concern over the ability of an ambulance to get to the hospital in an emergency under those traffic conditions. She's looking for any help with peak traffic hours. Asked if the train whistles in the middle of the night violate the noise ordinance. Chief Wells said there is a pattern they have to follow. She reiterated that she would be happy to entertain any other reorganization that any other Department Head would like to present.

Commissioner Williams: Asked for feedback on: signs for Historical Park and Woman's Club; street light out at 17th Avenue and 4th Street; workshop on Sunshine Law and ethics that Mr. Barnebey was going to coordinate; staff should communicate better, the Change Order should have been on the agenda; last minute agenda items; road striping needs to be done throughout the City; Sanctuary Cove lien and impact fees-he has not gotten an answer on yet; where are we on the sign ordinance, personnel policy and mobile home park ordinance?

17. PUBLIC COMMENTS FOR CITY COMMISSION

None.

The meeting was adjourned at 10:26 p.m.

Minutes approved: December 6, 2010

James R. Freeman

James R. Freeman, City Clerk