

CITY COMMISSION MEETING
December 13, 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 Present

Mark Barnebey, City Attorney
Jim Freeman, City Clerk
Lorraine Lyn, City Planner
Allen Tusing, Public Works Director
Rick Wells, Chief of Police
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.

Swearing-in of all persons intending to address City Commission.

Public Comment (non-agenda items): Jaime Wilson made personal comments to individual Commissioners regarding the Special Function Permits considered December 6, 2010.

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve the December 13, 2010 7:00 PM Agenda.

2. CITY COMMISSION CONSENT AGENDA

- A) Minutes: December 6, 2010
- B) November Check Register
- C) Purchase of new City Phone System
- D) Purchase of new City Hall Generator
- E) Approval of final year of contract with Pyrotecnico for 2011 Fireworks Display
- F) Noise Exception Permit: Olympia Performing Arts Center

Mayor Bryant corrected the December 6, 2010 workshop minutes to reflect that she had departed the meeting during the Manatee School for the Arts bond financing discussion. She also confirmed that both items C and E will be subject to attorney approval.

MOTION: Commissioner Zirkelbach moved and Commissioner Williams seconded, for discussion, to approve the December 13, 2010 Consent Agenda, with items C and E being approved subject to attorney approval.

Item C: Mr. Freeman confirmed the equipment will be a lease/purchase phone system for the entire City and includes maintenance for five years. The new equipment will most likely be put into service a couple of months before the final existing lease will expire in March.

Item E: Attorney Barnebey recommended that from a legal aspect, the contract should not be executed until the contract is amended regarding the indemnification clause and the change of venue, and approved by the attorney. Commission requested that the item be deferred until signed, written confirmation from the City of Bradenton and Manatee County stating their intent to participate is obtained.

Item F: Commissioner Varnadore requested the application carry the stipulation that if three complaints are received the exception permit may be revoked. Attorney Barnebey opined that if an approval is not granted an event, the noise can be stopped with the first received complaint. Commission also discussed amending language that can be added to the application that will enable the Police Department to protect the public from excessive noise and maintain decorum at an event.

Mayor Bryant confirmed that the motion on the floor is to approve items A through E, with modifications. Motion carried 5-0

Item F: Attorney Barnebey stated he did not object to the stipulation as suggested by Commissioner Varnadore. He confirmed that Commission may place a stipulation that an event may have an established time frame to bring the event into compliance if a complaint is received or it will be closed down, but cautioned that a complaint can be lodged by someone who simply doesn't like the event, not because it is too noisy. Commissioner Varnadore withdrew her suggested stipulation, based on the fact excessive complaints for this particular event have not been received. She asked that language be developed before the first of the year to amend the application so it is enforceable by the Police Department. The topic will be placed on a future workshop agenda.

MOTION: Commissioner Lancaster moved to approve the Noise Exception Permit for Olympia Performing Arts Center with the stipulation that if it gets too noisy and complaints are received, the Police will shut them down. Commissioner Cornwell seconded.

Attorney Barnebey stated that essentially the motion is giving the applicant nothing. Mayor Bryant suggested that the application be approved subject to agreement the bass and volume will be turned down should complaints be received.

Commissioners Lancaster and Cornwell amended their motion that the approval is subject to the applicant's agreement that the bass and volume will be turned down should complaints be received. Motion carried 4-1. Commissioner Williams voted no.

3. PUBLIC HEARING: ORDINANCE NO. 2010-18

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ORDINANCE NO. 08-972 TO APPROVE AN AMENDED GENERAL DEVELOPMENT PLAN FOR THE PROPERTIES DESCRIBED IN THE ATTACHED EXHIBIT "A", LOCATED IN THE PDMU (PLANNED DEVELOPMENT – MIXED-USE) ZONING DISTRICT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 2010-18 Sanctuary Cove (Bradenton), ASLI VI, LLLP, approx. 225.22 acres).

Mayor Bryant opened the public hearing.

Attorney Barnebey informed Commission that the ordinance had been revised to be consistent with the action taken by the P&Z Board; 1) with the changes made to the Attainable Housing ordinance, the project would not be subject to attainable housing, and 2) the boardwalk requirement has not been removed.

Bill Galvano, speaking on behalf of Wells Fargo, supported the original ordinance to amend the general development plan. He cited reasons why the requirements relating to attainable housing and construction of the boardwalk should be deleted from the ordinance. City Planner Lorraine Lyn stated the applicant was willing to consider alternative public access. Mr. Tusing opined that the boardwalk offered no connectivity and the City may have to expend funds to secure property to extend the boardwalk to the west of the site. Attorney Barnebey confirmed the City would not be in violation of the Comp Plan, based on the current proposal, as the roads will be private and there is no direct public access at the current time.

Mayor Bryant closed the public hearing.

MOTION: Commissioner Zirkelbach moved and Commissioner Lancaster seconded to approve Ordinance 2010-18 with modification on the 7th WHEREAS to say that conditions have changed in this development and within the City such that the City Commission has determined that it is not necessary to 1) assurance compliance of the project with the Attainable Housing Ordinance, and 2) require construction of a boardwalk along the perimeter of the property fronting the Manatee River that would be tied with the proposed Manatee Riverwalk

Attorney Barnebey recommended that stipulation #5 also be amended to read, "Any reference to the "Future City of Palmetto Boardwalk Pending Permitting Approval" on the site plan shall be considered deleted with the approval of this ordinance."

Commissioners Zirkelbach and Lancaster agreed to the modification to the motion.

Motion on the floor carried 5-0.

4. PUBLIC HEARING: MANATEE SCHOOL FOR THE ARTS INDUSTRIAL DEVELOPMENT REVENUE BONDS

Mayor Bryant departed the meeting.

RESOLUTION NO. 2010-40

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA AUTHORIZING THE ISSUANCE OF THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE AND REVENUE REFUNDING BONDS (MANATEE SCHOOL FOR THE ARTS PROJECT), IN TWO OR MORE SERIES (COLLECTIVELY, THE "BONDS") IN THE AGGREGATE PRINCIPAL AMOUNT DESCRIBED HEREIN FOR THE PURPOSE OF PROVIDING FUNDS TO MAKE A LOAN TO RENAISSANCE ARTS AND EDUCATION, INC. D/B/A MANATEE SCHOOL FOR THE ARTS (THE "BORROWER") TO PROVIDE FUNDS FROM THE BONDS TO FINANCE THE NEW PROJECT AS DEFINED HEREIN, REFINANCE THE CITY'S OUTSTANDING INDUSTRIAL DEVELOPMENT REVENUE BONDS, (MANATEE SCHOOL FOR THE ARTS PROJECT), SERIES 2007, REFINANCE THE CITY'S OUTSTANDING INDUSTRIAL DEVELOPMENT REFUNDING REVENUE BOND (MANATEE SCHOOL FOR THE ARTS PROJECT), SERIES 2008, MAKE A SWAP TERMINATION PAYMENT RELATED TO A PRIOR HEDGE AGREEMENT, AND PAY THE COSTS OF ISSUING BOTH SERIES OF BONDS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT, A BOND PURCHASE AND CONSTRUCTION FINANCING AGREEMENT, A MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT, AN ASSIGNMENT OF LOAN AGREEMENT, MORTGAGE, PROMISSORY NOTE AND OTHER COLLATERAL AND A SATISFACTION OF MORTGAGE; AWARDED THE SALE OF THE BONDS BY A NEGOTIATED SALE TO REGIONS BANK; AUTHORIZING OFFICIALS OF THE CITY TO TAKE CERTAIN ACTION IN CONNECTION WITH THE ISSUANCE OF THE BONDS; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Cornwell opened the public hearing.

Attorney Barnebey acknowledged Attorney Churuti, present on behalf of the school.

Attorney Barnebey requested the following information from staff:

1) Mr. Freeman confirmed Manatee School for the Arts has supplied two years of audited financial reports, both of which were unqualified opinions. Mr. Freeman stated that pursuant to Florida Statutes 159.29, a ratio analysis was performed; net assets increased over the last three years; net income as a result of operations is positive; and there is an ability to cover debt. He opined that to the best of his ability, the school appears to be financially responsible. (Response as to the borrower's financial capability, responsibility and willingness to fulfill the financial obligation of the project as contemplated in the resolution.)

2) Mr. Tusing confirmed the school has an approved site plan and is in compliance with that site plan at this time. (Response as to whether or not the City can cope with the impact of the project without any obligation on the City's part.)

Attorney Barnebey stated the prior information was requested so Commission could make the findings in respect of section 4 of the resolution and in consideration of its adoption.

Attorney Barnebey confirmed that the responsibility and legal obligation to repay the loan, pursuant to the loan agreement and Resolution No. 2010-40, is the responsibility of Manatee School for the Arts. The City is only a pass through for the bond issuance.

Vice Mayor Cornwell closed the public hearing.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to approve Resolution No. 2010-40 and authorize the Mayor, City Attorney and staff to execute such documents necessary to effectuate the Bond Issuance, upon approval of the City Attorney.

5. RESOLUTION NO. 2010-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, TO ESTABLISH POLICY SETTING GUIDELINES FOR THE ESTABLISHMENT OF THE CITY'S BUDGET FOR THE PURPOSES OF ENSURING THE FINANCIAL STABILITY OF THE CITY.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to adopt Resolution No. 2010-22.

6. RESOLUTION NO. 2010-41

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 Varnadore seconded and motion carried 5-0 to adopt Resolution No. 2010-41.

7. BID AWARD FOR THE 10TH ST. AT 10TH AVE. INTERSECTION IMPROVEMENT PROJECT

Mr. Tusing requested that rather than a not to exceed amount, that Commission approve a contingency amount for the project. This would eliminate the need for change orders and work stoppage until the change orders can be approved by Commission

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to award the bid for the 10th St. W. at 10th Ave. Intersection Improvement Project to Highway Safety Devices, Inc. in an amount not to exceed \$189,102.60 plus a contingency of 15%.

8. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

No report.

9. DEPARTMENT HEADS' COMMENTS

Attorney Barnebey

Stated he will be looking at other jurisdictions before he brings the noise ordinance back to Commission. It is anticipated it will be placed on a January agenda.

Mayor Bryant entered the meeting.

Mr. Tusing

Notice has been received that the State has approved the Haben Boulevard roundabout project. The project will go to bid as soon as possible.

Stated that he had tried to incorporate all the topics that had been discussed over a period of time into the alcohol ordinance. He opined it is important to allow businesses operating in the right area to be able to do business.

Mr. Freeman

Informed Commission that the contract amount to purchase the new phone system had increased by \$27.63 since the agenda was published.

MOTION: Commissioner Cornwell moved, Commissioner Williams seconded and motion carried 5-0 to reconsider the purchase of the new phone system.

MOTION: Commissioner Cornwell moved, Commission Williams seconded and motion carried 5-0 to approve the purchase of the new phone system in an amount of \$71,971.18, subject to attorney approval.

Chief Wells

Commented on the new patrol car wrap, stating a couple of the cars should be available in the next two weeks.

Jeff Burton

Informed Commission a CRA employees' job has been upgraded. He needs to find a job description that fits her current responsibilities and change her to the position or he will lose the employee to another part time position in the City. The new CRA position will still be a part time position. Protocols will be followed for the new CRA part time position, by advertising it internally and holding it open a minimum amount of time.

The CRA has budgeted \$10,000 for the Martin Luther King Parade. T shirts will again be used to disseminate CRA information.

Ray DiAuto, Project Manager for Veolia Water, had not received notification that the employee luncheon planned for Thursday was changed to Wednesday. Mayor Bryant announced that since the beginning of the meeting, Mr. DiAuto has changed his itinerary so he will be able to cook for the luncheon. The luncheon is from 11 am to 2 pm. Local businesses have donated door prizes.

10. MAYOR'S REPORT

She and Mr. Tusing attended the MPO meeting, where she was elected as Vice Chair. Minutes will be emailed to Commissioners.

11. COMMISSIONERS' COMMENTS

Mr. Williams:

Commented on receiving documents at the last minute and suggested Commission should be given time to review the material or move the item to the next meeting. He also commented on the need to have the motion correctly stated on the agenda.

Ms. Varnadore

Stated she would like an update on the ball field project and how the county will handle the situation with the new baseball season beginning soon. She suggested the City should offer assistance to the Little League to find alternative sites for T-ball players. Mr. Williams also asked for information regarding the uses of the fields at Blackstone Park.

Mr. Zirkelbach

Suggested that the field by his office could be an alternative site. Mr. Tusing discussed past attempts to assist the Little League, who chose not to separate T-ball from regular ball players.

Ms. Cornwell

Chief Wells confirmed he will be putting out information and stepping up enforcement regarding New Years Eve activities.

Confirmed Lt. Tyler and Sgt. Kaufman have spoken with Palmetto Elementary regarding the new Palmetto Elementary opening. Chief Wells has attended meetings at Riviera Dunes, Palmetto Mobile Home Park and Tropic Isles regarding crime prevention and personal safety. He has contact personnel in place for each community.

Thanked Ms. Varnadore for attending the Palmetto Historic Commission's board meeting.

Mr. Tusing described the steps that are being taken on 17th Street to accommodate Fair traffic.

Mrs. Lancaster

No report.

Mayor Bryant stated an email had been sent out, which some Commissioners did not receive, regarding the officer that has been the subject of articles in the paper. She stated that based on personal knowledge and reviewing the material, the article was not researched on both sides and there are many unfounded allegations.

Meeting adjourned at 8:40 p.m.

Minutes approved: January 3, 2011

James R. Freeman

James R. Freeman, City Clerk