

**CITY OF PALMETTO  
CITY COMMISSION MEETING  
MAY 2, 2011  
7:00 PM**

Elected Officials Present:

Shirley Groover Bryant, Mayor  
Alan Zirkelbach, Vice Mayor, Commissioner-at-Large 1  
Tamara Cornwell, Commissioner-at-Large 2  
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 7:01 p.m., followed by a Moment of Silence and the Pledge of Allegiance.

Proclamation: National Day of Prayer May 5, 2011

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

Public Comment: None

1. CITY COMMISSION AGENDA APPROVAL

Mayor Bryant requested that item 2B1 be removed from the agenda.

Mr. Tusing recognized employees Wayne Washington and Chad North for observing and reporting a possible burglary and James Michener and Hazel Isom for assisting in the arrest of a purse snatcher.

**MOTION: Commissioner Zirkelbach moved, Commissioner Lancaster seconded and motion carried 5-0 to approve the May 2, 2011 7:00 PM Agenda with the removal of 2B1.**

2. CONSENT AGENDA APPROVAL

**A) CITY CLERK'S OFFICE**

1. Minutes: April 18, 2011

**B) PUBLIC WORKS**

2. Highway Safety Devices Amended Construction Agreement  
10<sup>th</sup> St. W. at 10<sup>th</sup> Ave. W. signalization project

Mr. Freeman corrected the April 18, 2011 Commission minutes to correctly identify the zoning category to RS4 rather than RES4.

**MOTION: Commissioner Zirkelbach moved, Commission Lancaster seconded and motion carried 5-0 to approve the May 2, 2011 Consent Agenda for item 2A as corrected.**

Item 2B2

Attorney Barnebey confirmed it is appropriate to amend the Highway Safety Devices contract to delete the Builders Risk Insurance, as the contract is a light signalization project.

**MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to approve item 2B2 of the Consent Agenda.**

3. PUBLIC HEARING: ORDINANCE NO. 2011-12 (TAB 4)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE SIGN CODE, ARTICLE III OF CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO, ESTABLISHING NEW SIGN REGULATIONS FOR THE INTERCHANGE INTERSECTION ON 10<sup>TH</sup> STREET IN AND AROUND THE US 41/301 INTERSECTION BETWEEN APPROXIMATELY THIRD AVENUE AND HABEN BOULEVARD; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant reopened the public hearing continued from April 18, 2011.

Commissioner Cornwell read into the minutes a letter from Charles E. Tanner supporting the 85' sign as recommended by the P&Z Board, which is attached hereto and made a part of these minutes.

There were no staff comments.

Attorney Barnebey noted the P&Z Board had recommended a maximum 325 feet of surface area for major highway oriented businesses. He recommended adding a provision to Section 3-154 that provides that major highway oriented businesses be allowed an additional 60 feet for other advertising signs. He stated the added provision is similar to what has been done for other uses and to be consistent with the other provisions (for wall signs, not free-standing signs).

The following individuals spoke in support of the proposed ordinance:

Hillary Eagleston, Lisa Kennedy, Kim Binkley Sayers, Pam DeDea, Michael Motta, Jack May and Alan Prather, Attorney for McDonald's. Materials distributed or reviewed by the speakers during public comment included pictures of Manatee County approved signage for a commercial shopping center at University Parkway, results of the McDonald's visual sign test, economic impacts provided by signage, employee statistics for McDonald's and the company's fiscal impact to local economies, and the replacement cost of non-conforming signs.

Mayor Bryant closed the public hearing.

Attorney Barnebey reviewed the changes that he is proposing for the ordinance:

Section 3-154(e)(1)(a) if Commission approved the P&Z Board recommendation, the square feet in surface area will be 325 square feet rather than 300 square feet.

Amendment of a provision in Section 3-152 to have the ability for wall signs to have up to 60 square feet, (which is similar to what they have now).

**MOTION: Commissioner Zirkelbach moved and Commissioner Williams seconded to adopt Ordinance No. 2011-12 with the correction under Section 3-154 (e)(1)(a) up to 325 square feet and under Section 3-152 on the building signage of 60 square feet.**

Commissioner Varnadore discussed her concerns with the tall signage that could be requested by other businesses in the city and its close proximity to residential areas, specifically mentioning Riviera Dunes. Mrs. Lancaster discussed the business McDonald's does without a sign. Mr. Williams discussed reasons he would support the ordinance. Mr. Zirkelbach stated he has not heard a "credible argument to negate the ordinance." He did request that the motor vehicle repair use be struck from the definition of a Major Highway Oriented Business. Mr. Williams opined that a hotel or motel should also be struck from the definition of a Major Highway Oriented Business. Mayor Bryant voiced why she supported the 85 foot signage for McDonald's and the ordinance.

Discussion ensued on Commissioner Cornwell's inquiry as to whether or not a sunset date could be included in the ordinance, because of her hesitation to approve anything that is "forever". Attorney Barnebey confirmed it may be possible to add a sunset date; however, changes would have to be made to the ordinance to limit the City's potential liability under the Harris Act. Commissioner Zirkelbach suggested that because there are businesses with non-conforming signs in the "corridor" they should be required to permit those signs now and also make application for a new permit at the sunset date. Attorney Barnebey stated the ordinance would have to be structured differently to allow for this suggestion.

Mr. Matta discussed the safety advantages of the proposed galvanized tapered pole vs. the step tapered pole, which was removed [for safety inspection].

Attorney Barnebey confirmed that the three existing signs are currently illegal. If the ordinance passes as the motion reads currently, all the signs in this area would become conforming and would become legal signs. City Planner Lorraine Lyn concurred with Attorney Barnebey's opinion.

Attorney Barnebey suggested that to affect Commissioner Cornwell's suggestion regarding a sunset date, a provision could be added to the end of subsection (e)(1) to read: This subsection 3-154(e)(1) shall terminate on December 31, 2040 and all signs within this interchange intersection shall be required to come into compliance with Section 3-154(e)(2) at that time.

Attorney Barnebey confirmed that if a business is within a commercial shopping center or is an individual property that does not meet the definition of a Major Highway Oriented Business, its sign could not exceed 30 feet but could have a sign surface of 76 square feet.

Attorney Barnebey opined that the overall sign ordinance can require all signs to have a safety inspection. He also confirmed that a permit is required to take down a sign and our ordinance would govern any reinstallation of the sign.

Attorney Barnebey restated his proposed addition as follows: This subsection 3-154(e)(1) shall terminate on December 31, 2040, and as of December 31, 2040, all signs within an interchange intersection shall come into compliance with Section 3-154(e)(2) below.

**Commissioner Zirkelbach amended his motion on the floor to include Attorney Barnebey's proposed addition and to strike motor vehicle repair [from the definition of a Major Highway Oriented Business].** Discussion ensued on the hotel or motel definition, but it was not struck from the ordinance. **Commissioner Williams seconded.**

Attorney Barnebey confirmed the following changes that are proposed for the ordinance:

1. Definition of Major Highway Oriented Businesses: (2)(a) will be amended with the deletion of Motor Vehicle Repair Establishment.
2. Section 3-152: Add a provision that will provide an additional 60 square feet of advertising signage for businesses that are Major Highway Oriented Businesses in an interstate interchange.

3. Section 3-154(e)(1)(a): Amend to change from 300 square feet to 325 square feet.
4. Section 3-154(e)(1): Add a provision at the end that basically requires that all signage within the interstate interchange must come into compliance with subsection (e)(2) by December 31, 2040.
5. Ms Lyn recommended that Industrial Park be included in Chapter 3, because the Code currently allows 150 feet and 30 feet high. Attorney Barnebey recommended that the Industrial Park be addressed in the overall sign ordinance.

**Motion on the floor carried 3-2. Commissioners Lancaster and Varnadore voted no.**

Mayor Bryant thanked McDonald's for becoming a Community Partner and stated her hope Wendy's and Burger King would also become part of that program.

4. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Attorney Barnebey reported the School Board has agreed to allow the Little League to use the old Palmetto Ag building for storage and a license between the two entities is being prepared. He also stated alternate sites for the ball fields are also being pursued. Mayor Bryant confirmed the City Commission will be apprised of any findings before meetings are scheduled with property owners.

5. ASR WELL UPDATE

Mr. Tusing reported FDEP does not want to enter into any amendment of the current permit ending in 2012. The City will proceed with renewal of the permit, which will have an administrative order attached to give the City protection during the testing cycle. A revised date for the SWFWMD agreement will be brought forward at a future meeting. FDEP is supportive of a target storage well but SWFWMD is not, and they are funding a large portion of the cost of the well. They prefer the City design to use sodium bisulfate to remove the oxygen from the water. Mr. Tusing did not think the designing as SWFWMD wishes will change the budget for the project.

6. DEPARTMENT HEADS' COMMENTS

Mayor Bryant

Commissioner Zirkelbach will attend the Water Planning Alliance on June 1, 2011.

Mr. Freeman

The new generator at City Hall was installed last week. It will be tested on Wednesday.

Construction for the Verizon cell tower for Hidden Lake has been delayed until the first quarter of 2012, but the City will begin receiving the rent this year as per the lease.

Will be meeting with FPL tomorrow on renewable energy. FPL will be providing 25 volunteers on May 9, 2011 to paint a residential rehabilitation house identified in the CRA program.

Chief Wells

Commended Mr. Tusing for recognizing his department's employees today. Commissioner Cornwell stated she hoped the police officers were also alerting Public Works of maintenance issues needing attention.

7. MAYOR'S REPORT

Went to New World Celts event, where she was made a member.

Referred to the project status report from Public Works. A list of sidewalks will be provided to Commission.

Reviewed the upcoming events that are planned in the City, offering Commissioners a chance to attend if they wish.

Requested that the CRA Advisory Board consider funding an outside contractor to complete the overall sign ordinance, since the majority of City signs are in the CRA.

#### 8. COMMISSIONERS' COMMENTS

##### Ms. Varnadore

A report on the community meetings will be supplied to Commission.

The City of Bradenton will be approached regarding the traffic on the Green Bridge during peak hours, as it appears the first two lights in Bradenton may be creating the problem.

Reported she will be absent from the June 20, 2011 Commission meeting.

##### Mr. Zirkelbach

Reported he had spoken with Attorney Barnebey regarding a conversation he had with Mr. Steve Heintz about a possible way to look at lost revenue and a way to recapture it. Commission agreed to hear a short presentation from Mr. Heintz, a Palmetto resident, and Mr. Don Hinkle, an attorney who is with a consortium of lawyers suing BP. Mr. Hinkle discussed the impact the oil spill has had on local economies. Mr. Hinkle will follow up with correspondence to Attorney Barnebey regarding the litigation, which is on a 20% contingency fee basis if there is recovery.

##### Mr. Williams

Attorney Barnebey will speak with Mike Pendley of the School Board regarding the crosswalk at Palmetto Elementary.

Referred to a previous discussion of the Mayor's expenses, where she asked for \$250 per month or she be provided a City car. A proposal will be brought back at a future meeting.

##### Mrs. Lancaster

Opined Commission forgives too much in Code Enforcement lien reduction requests.

Reminded Commission of the National Day of Prayer event Thursday, May 5, 2011.

Meeting adjourned at 9:30 p.m.

Minutes approved: May 16, 2011

*James R. Freeman*

James R. Freeman  
City Clerk