

**CITY OF PALMETTO  
CITY COMMISSION MEETING  
AUGUST 15, 2011  
7:00 PM**

Commission Members

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  
Jeff Burton, CRA Executive Director  
James R. 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 p.m., followed by a Moment of Silence and the Pledge of Allegiance.

Mayor Bryant recognized City Attorney Mark Barnebey as the recipient of the Manatee County Bar Community Service Leader Award.

PROCLAMATION: Children's Summit Day – August 27, 2011  
Accepting: Lynn Anderson, Human Services Analyst & Summit Committee Chair

Women's Equity Day – August 26, 2011  
Accepting: Dorothy Middleton, Dr. Mona Jain and  
Bradenton Council Woman Marianne Barnebey  
Manatee and Sarasota Commissions on the Status of Women

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

Public Comment: None

1. CITY COMMISSION AGENDA APPROVAL

**MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the August 15, 2011 7:00 PM Agenda, with removal of item #7.**

2. CONSENT AGENDA APPROVAL

**A) CITY CLERK'S OFFICE**

1. Minutes: August 1, 2011
2. Special Litigation Billing: Kirk Pinkerton  
Persson & Cohen
3. Manatee River Fair Association License Agreement for Exhibitors
4. Budget Resolution 2011-23: Police Department budget amendment to transfer funds from Reserves for Law Enforcement for special investigation for final

DNA testing expenses.

5. FY2011 Audit Engagement Letter with Mauldin & Jenkins (fka CPA Associates)
6. School Board of Manatee County Agreement to extend the initial agreement allowing the City's continued storage of personal equipment in a building the School Board purchased from the CRA.

**B) POLICE DEPARTMENT**

1. Contract Renewal: Lex's Automotive and 4-Wheel Drive Repair, Inc.
2. Declaration of PD vehicles #623, 627 and 638 as surplus property and authorize consignment to Tampa Machinery Auction for auction.

**C) PUBLIC WORKS**

1. Engineering Continuing Contract extensions for one year for:
  - a. Lombardo, Foley & Kolarik, Inc. (City Engineer) to expire August 18, 2012
  - b. Wade Trim, Inc. to expire August 16, 2012
2. Award of Bid: Wastewater Treatment Plant Energy Improvements to Veolia Water in an amount not to exceed \$167,315.

Commissioner Varnadore removed item A6 for discussion.

**MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 5-0 to approve the August 15, 2011 Consent Agenda, with the removal of item A6.**

Item A6

Commissioner Varnadore questioned the insurance coverage that will be necessary according to the Agreement. Staff will confirm if the Agreement will serve as a lease, which will mean no additional coverage other than the City's policy. If it will not serve as a lease, staff will obtain the cost of a separate policy to insure the building. It was consensus of the Commission to remove the item from the Consent Agenda and bring it back to the next meeting.

**3. PUBLIC HEARING: ORDINANCE NO. 2011-15**

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REVISE THE NOTICE REQUIREMENTS FOR CITY COMMISSION AND PLANNING AND ZONING BOARD; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR REAFFIRMATION AND RATIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing. Mayor Bryant closed the public hearing after no public comment.

**MOTION: Commissioner Lancaster moved and Commissioner Zirkelbach seconded to adopt Ordinance No. 2011-15.**

Discussion: Attorney Barnebey confirmed the only amendment to the ordinance is the change in the noticing requirement from 15 to 10 days, for consistency with statutory requirements. Sundays and holidays are not excluded for noticing purposes.

**Motion on the floor carried 5-0.**

**4. PUBLIC HEARING: ORDINANCE NO. 2011-16**

AN ORDINANCE OF THE CITY OF PALMETTO AMENDING CHAPTER 22, PERSONNEL, ARTICLE IV, GENERAL EMPLOYEES' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO; AMENDING SECTION 22-83, BOARD OF TRUSTEES; PROVIDING FOR CODIFICATION;

PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing. Mayor Bryant closed the public hearing after no public comment.

**MOTION: Commissioner Lancaster moved and Commissioner Cornwell seconded to adopt Ordinance No. 2011-16.**

Discussion: Attorney Barnebey confirmed that appointments to advisory and other boards can go up to two years and can go beyond a sitting Mayor's term. The ordinance is being amended to make it consistent with the Charter.

**Motion on the floor carried 5-0.**

5. PUBLIC HEARING: ORDINANCE NO. 2011-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ORDINANCE NO. 2011-09 TO APPROVE AN AMENDED GENERAL DEVELOPMENT PLAN FOR TEN SINGLE-FAMILY DETACHED DWELLING UNITS GENERALLY LOCATED AT 4009 11<sup>TH</sup> STREET COURT WEST, PALMETTO, AND LOCATED IN THE PD-H (PLANNED DEVELOPMENT-HOUSING) ZONING DISTRICT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Applicant: BMR Funding LLC, approximately 1.66 acres).

Mayor Bryant opened the public hearing.

City Planner Lorraine Lyn reviewed the history of the project, which was approved on April 18, 2011 for 12 single-family detached units on the site, with no access off 11<sup>th</sup> St. Ct. W. Since then, the applicant revised the site plan to reduce the single-family detached units from 12 to 10, thereby reducing the density from 7.2 to 6.0. Other changes to the site plan include phasing notes and the inclusion of a 4' fence around pool.

Ms. Lynn referred to Commission comments made regarding the RES-4 zoning district, the zoning to which the property could convert. She stated that only one unit could be built and still allow the single-family detached units at RES-4. The applicant is proposing a 5' separation between the units, whereas the RES-4 zoning district requires a 5' side setback. Another comment regarded when the amenities would be provided, to which the applicant has agreed to provide them during the first phase of the project

Since the last approval, the City has confirmed that 11<sup>th</sup> St. Ct. W. is a county road and it must be improved to county standards rather than city standards.

Matt Morris, project engineer, stated he and the applicant are available to answer questions.

Ms. Lyn confirmed the project was approved by the P&Z Board, concurring with staff recommendations and City Commission stipulations. She confirmed that the ordinance has been amended to reflect that 11<sup>th</sup> St. Ct. W. is a county road.

Attorney Barnebey informed Commission that the construction of improvements has not been addressed in the stipulations. Mr. Morris stated his client would like to have one model unit built, move into the next units and construct the amenities prior to the completion of the first phase. Attorney Barnebey stated Commission can include a stipulation regarding the construction of the amenities.

Mayor Bryant closed the public hearing.

Attorney Barnebey read stipulation #7 to Ordinance No. 2011-17 as follows:

Prior to the second certificate of occupancy, all infrastructure and private recreational improvements shall be completed or a performance security shall be provided for the benefit of the City, with an improvement agreement, approved by the City Attorney, for completion of such improvements within one year.

**MOTION: Commissioner Williams moved and Commissioner Zirkelbach seconded to approve Ordinance No. 2011-17 with stipulation #7.**

Discussion: Attorney Barnebey confirmed that construction of the amenities must be completed within one year, irrespective of any unit sales, based on Commission concerns that they must be in place beyond construction of the first unit. The one year time limit would run from 12 months of the posting of the security and agreement, at the time of the second certificate of occupancy.

Mr. Morris agreed to the new stipulation.

**Motion on the floor carried 5-0.**

6. PUBLIC HEARING: ORDINANCE NO. 2011-18

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REMOVE THE SPECIAL PERMIT EXCEPTION TO THE CITY'S NOISE RESTRICTIONS; ADDING EXCEPTIONS TO THE NOISE LIMITATIONS FOR NOISE GENERATED AT THE MANATEE COUNTY FAIR AND GOVERNMENTALLY HELD EVENTS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff corrected the title of the ordinance, as was advertised, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REMOVE THE SPECIAL PERMIT EXCEPTION TO THE CITY'S NOISE RESTRICTIONS; ADDING EXCEPTIONS TO THE NOISE LIMITATIONS FOR SPECIFIC EVENTS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bryant opened the public hearing.

Staff read into the record a letter from Jane Hunter opposing the removal of the noise exception permit.

Chris Humphrey inquired if it is legal to exempt government events from the noise ordinance. Attorney Barnebey opined that the ordinance is legal as drafted but, Commission has the option to also make additional exceptions.

Attorney Barnebey confirmed that carnivals, fairs and governmental events are exempted. If Commission wishes to consider other exemptions, they can do so during this hearing. He further confirmed that all other events will have to comply with the noise ordinance.

Mayor Bryant closed the public hearing.

Discussion ensued on the adoption of the ordinance allowing law enforcement to uphold the law for events being held throughout the City. Parades would have to comply with the ordinance as written.

**MOTION: Commissioner Williams moved and Commissioner Zirkelbach seconded to adopt Ordinance No. 2011-18.**

Discussion: Attorney Barnebey referred to the 11 criteria in the ordinance that would be used if complaints are received. He also discussed how "reasonableness" would be applied to determine a violation.

**Motion on the floor carried 5-0.**

7. COMMUNITY REDEVELOPMENT AGENCY 2011-2015 PLAN

Item carried forward from the workshop meeting was removed from the agenda.

8. COMMUNITY REDEVELOPMENT AGENCY MAP

Commissioner Varnadore departed the meeting.

Mr. Burton reviewed the map that was discussed at the workshop, which is attached hereto and made a part of these minutes. The red and purple areas contained in the map will be incorporated into the CRA District. Attorney Barnebey reminded Commission that they are approving only a tentative map. Mr. Burton stated the Map must be approved before completing the CRA Plan.

**MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 4-0 to approve the tentative Community Redevelopment Agency Map.**

Commission concurred with Mayor Bryant's request to hear item #11 before the CRA meeting.

Commissioner Varnadore returned to the meeting.

11. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

North American Little League Vice President Derek Goforth informed Commission he had met with County Commissioner Bustle and other people involved with the county commission regarding the ball field status. Mr. Goforth inquired about the possibility of renovating Blackstone Park by downsizing two adult fields to little league status, which would then allow for construction of two additional little league fields. He stated Cindy Turner, Manatee County Parks & Recreation, estimated it would cost \$700,000 to build the two fields. He felt this could be a solution in the near term, stating that if the issue remains unresolved much longer there will be no North American Little League. He stated other leagues are unwilling to play them because of the lack of regulation fields, which creates safety issues. Mr. Goforth requested that the City Commission contact the county personnel to support the renovation and also assist with the City's available funding. He stated the little league is willing to accept this option because the "perfect option" is too far away and it may be too late.

Mayor Bryant stated that if City Commission is in agreement, she will ask the county commission to bring this topic forward as a discussion point with Parks & Recreation. She further stated the City has the funding that can be dedicated to the project. After a general discussion regarding the county's responsibility in providing the fields to the level of all other fields in the county, Commission concurred with Mayor Bryant's request to contact the county commission regarding the topic.

Mayor Bryant recessed the City Commission at 8:10 p.m.

Mayor Bryant reconvened the City Commission meeting at 8:55 p.m.

10. JULY CHECK REGISTER (Informational purposes only)

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT GRANT APPROVAL

**MOTION:** Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve and allow the Mayor to execute the Southwest Florida Water Management District Grant Agreement relating to the 5<sup>th</sup> Street Streetscape project that was received, considered and discussed during the CRA Board meeting, subject to the Mayor and City Attorney approval.

12. ASR WELL UPDATE

The permit application has been signed and the package will be reviewed one more time before submission to DEP.

13. DEPARTMENT HEADS' COMMENTS

Mr. Freeman

A change summary of the budget has been provided in version three of the budget. He reviewed the changes staff has been made, reporting the General Fund and all Enterprise Funds are in a balanced position, based on the assumptions currently in place. He suggested cancelling the August 16, 22 and 23, 2011 meeting dates to allow the CRA Advisory Board to have its final review of the CRA budget, after which a final version of the FY2012 budget will be reviewed at the August 29, 2011 budget workshop. Commission concurred.

Discussion ensued on the solar panels Mr. Freeman discussed at the last meeting. The installation company is offering a zero lease, and after five years, the panels will be donated to the City. Mr. Freeman reported he was unable to locate any cities that have installed the panels on building rooftops. He explained the City must respond within the next 15 days if we are interested in the program and are willing to incur the expense associated with receiving certification from a structural engineer that the roofs of City buildings can withstand the weight of the panels. Discussion ensued on ground-mounted panels, the age of the roofs and what possible energy savings the City would realize. Commission committed to a physical site inspection only.

Mayor Bryant commented on the new City Hall lighting, stating it was installed by the safety grant not the energy efficiency grant.

Chief Wells

Reported crime stats are down 28% for the first half of the year, after being up the first half of last year. A press release will be issued when the final report is received.

Attorney Barnebey

Referring to the Jackson Park condemnation where the City acquired five parcels, the final settlement proposal has been received and his office is evaluating the offer. The outstanding tax deeds on the Rutledge were purchase and foreclosure on the outstanding liens will begin. His office is working on a number of contracts and ordinances.

14. MAYOR'S REPORT

Reported Commission Varnadore has agreed to be a team leader for the September 24, 2011 Manatee Glens Walk for Life.

She asked that if possible, Commissioners post flyers for the Children's Summit on August 27, 2011.

15. COMMISSIONERS' COMMENTS

Ms. Cornwell

Discussed the cities recognized at the Florida League of Cities conference for stewardship, opining that she hopes the City will apply next year because the City's projects would have won the recognition this year.

First day of school is August 22, 2011 – the Police Department is ready.

Mr. Tusing stated he had replied to the questions from the Historic Commission.

Mr. Williams

Mayor Bryant will issue a reminder to Mr. Pendley regarding the report he was going to furnish on the traffic issues Palmetto Elementary experienced at the end of last year.

Ms. Varnadore

She attended the last meeting of the year for the Finance & Taxation Committee at the conference. She stated it is her understanding that the cap limiting millage rate increases was not passed; it can be taken up by committee again next year. She reported she focused her time on pension issues. She will provide a copy of the materials she gathered so they can be distributed to everyone.

She commented on the little league issue, stating she hopes the City of Palmetto residents don't have to suffer. Mayor Bryant stated she will continue with the meetings; all entities involved are in attendance and are aware of the situation.

Meeting adjourned at 9:25 p.m.

Minutes approved: September 12, 2011

*James R. Freeman*

James R. Freeman  
City Clerk