

**CITY COMMISSION MEETING
NOVEMBER 7, 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
Ward 1 Commissioner - Vacant
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 p.m. She asked that local historian Katherine Kermode who passed away on October 15, 2011, be remembered during a Moment of Silence. The Pledge of Allegiance followed.

RECOGNITION: Eagle Scout Timothy Foote
Judge Gilbert Smith, Boy Scouts of America, Manatee District Chairman
Mayor Shirley Groover Bryant and City Commission

PROCLAMATION: Veterans Day, November 11, 2011
Accepting: Don Courtney, Chairman, Manatee County Veterans Council

Farm City Week, November 14 – 19, 2011
Accepting: Jimmy Michener, Farm City Week Committee

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

Public Comment: Chris Lukowiak referred to a recent article in the Bradenton Herald regarding police budget constraints, and offered his company's assistance in writing any police grants, at no cost to the City.

Mr. C. Jackson thanked Mary Lancaster for her service. He voiced his concerns regarding weapons being used in Viet Nam that are now being used to harm children. He offered his help to the Police Department in any way to rid the community of the problems that exist. Mayor Bryant acknowledged Mr. Jackson's attendance at the non-violent training session he recently attended.

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve the November 7, 2011 Agenda.

2. CONSENT AGENDA APPROVAL

A. CITY CLERK'S OFFICE

1. Minutes: October 17, 2011
2. Resolution No. 2011-36 will establish budget for the bulletproof vest replacement cycle

3. Approval of contract with DSM Technology Consultants for the IT Virtualization project as part of the Energy Efficiency Block Grant. Contract is for a not to exceed amount of \$57,656.
4. Special Function Permit: MLK Parade
Palmetto Riverside B&B Weddings: January 7, 14, 21, 28;
February 4, 11, 18, 25, 2012; March 3, 10, 17, 24, 31, 2012

B. POLICE DEPARTMENT

1. Approval of Victor Woods motivational speaker fee for the next year in an amount not to exceed \$16,000.

The MLK Parade Special Function Permit was removed from the Consent Agenda for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Varnadore seconded and motion carried 4-0 to approve the November 7, 2011 Consent Agenda, with removal of the MLK Parade.

Chris Lukowiak discussed the parade route, stating it would “come out the same way it always comes out”. It was suggested that if the school buses parked at Lincoln Middle could be moved to another campus, the back parking lot of the school could be used to stage the parade. Mr. Lukowiak confirmed there will be additional parade marshals this year to keep the parade moving.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-0 to approve the MLK Parade Special Function Permit.

Commission will be supplied a map once the parade route is finalized.

3. WARD 1 COMMISSIONER NOMINATION AND APPOINTMENT

The following individuals spoke in support of Charles Smith being appointed to the Ward 1 Commission seat:

Corey Holmes, Russell E. White, Ruby Byrd, Robert Smith, Jr., Geneva Presha, Betty Rhodes, Henry Lawrence, Shirley Pearson, Charles Smith, and Betty Rhodes.

Individuals supporting Mr. Smith were asked to stand.

The following individuals spoke in support of Carolyn Higdon being appointed to the Ward 1 Commission seat:

Mary Lancaster, Jane Hunter and Gregory Reeves

Individuals supporting Ms. Higdon were asked to stand.

Mayor Bryant accepted nominations from the City Commission.

Commissioner Zirkelbach nominated Carolyn Higdon.

Commissioner Varnadore nominated Charles Smith.

MOTION: Commissioner Williams moved, Commissioner Cornwell seconded and motion carried 4-0 to close the nominations.

Mayor Bryant asked for a vote by hand for Carolyn Higdon. Commissioner Zirkelbach voted by hand. Mayor Bryant asked for a vote by hand for Charles Smith. Commissioner Varnadore, Commissioner Williams and Commissioner Cornwell voted by hand.

Charles Smith was appointed to the vacant Ward 1 seat by a three to one vote, and will be sworn into office at the November 21, 2011 Commission meeting.

Mr. Smith thanked the Commission for the appointment.

Mayor Bryant inquired of Ms. Higdon if she may be interested in serving on the CAR Advisory Board. She indicated she will be in touch with the Mayor.

Mayor Bryant recessed the meeting for five minutes.

4. PUBLIC HEARING: ORDINANCE NO. 2011-21

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING APPROXIMATELY 4.3 ACRES OF REAL PROPERTY INTO THE CITY OF PALMETTO GENERALLY LOCATED AT 2007 21ST STREET WEST, PALMETTO; AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (AN #2011-03 Applicants: Pamela Roy, Brian and Heidi Allwood)

Mayor Bryant reopened the public hearing continued from October 3, 2011.

5. PUBLIC HEARING: ORDINANCE NO. 2011-22

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, APPROVING A SMALL SCALE AMENDMENT TO THE FUTURE LAND USE MAP OF THE CITY OF PALMETTO COMPREHENSIVE PLAN BY REDESIGNATING APPROXIMATELY 4.3 ACRES OF PROPERTY GENERALLY LOCATED AT 2007 21ST STREET WEST, FROM RESIDENTIAL-3 (COUNTY) TO RESIDENTIAL 4 (CITY); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (PA-2011-03 Applicants: Pamela Roy, Brian and Heidi Allwood)

Mayor Bryant reopened the public hearing continued from October 3, 2011.

6. PUBLIC HEARING: ORDINANCE NO. 2011-23 (L. Lyn)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; REZONING APPROXIMATELY 4.3 ACRES OF PROPERTY GENERALLY LOCATED AT 2007 21ST STREET WEST, PALMETTO, FROM SUBURBAN AGRICULTURE (A-1) (COUNTY) TO PLANNED DEVELOPMENT HOUSING (PD-H) (CITY); REZONING APPROXIMATELY 3.68 ACRES OF PROPERTY GENERALLY LOCATED AT 2011 21ST STREET WEST, PALMETTO, FROM ESTATE RESIDENTIAL (ER) TO PLANNED DEVELOPMENT HOUSING (PD-H); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-2011-03 Applicants: Charles and Pamela Roy, Brian and Heidi Allwood)

Mayor Bryant reopened the public hearing continued from October 3, 2011.

7. PUBLIC HEARING: ORDINANCE NO. 2011-24

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A GENERAL DEVELOPMENT PLAN AND PRELIMINARY PLAT FOR 8.01 ACRES OF PROPERTY GENERALLY LOCATED AT 2007 AND 2011 21ST STREET WEST, PALMETTO, AND LOCATED IN THE PLANNED DEVELOPMENT – HOUSING (PD-H) ZONING DISTRICT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP-2011-03 Applicants: Charles and Pamela Roy, Brian and Heidi Allwood)

Mayor Bryant reopened the public hearing continued from October 3, 2011.

Ms. Lyn reviewed the actions the proposed ordinances propose:

- Annexation of 4.3 acres located at 2007 21ST St. W. and change that property from a RES-3 to RES-4
- Rezone of an existing property located at 2011 21ST St. W. from ER to PD-H and zone county property from A1 to City PD-H (planned development)

- Approve a general development plan for eight single-family lots, which will serve as a preliminary subdivision plat. The average density will be one unit per acre, because some lots as proposed will be less than an acre. The two properties involved each currently have a structure located on the property.

Ms. Lyn stated the annexation and the plan amendment are consistent with the Comp Plan. The rezoning to PD-H is the most appropriate district for the project as proposed, to recognize the existing structures and the difference in the size of the proposed lots, barn and proposed equestrian arena. Also, all the proposed lots will be private single-family lots.

Ms. Lyn discussed the site plan being proposed. Access to all the proposed lots will be from one private drive off of 21st Street. Staff is recommending setbacks of 30 feet in the front, 25 feet in the rear and 10 feet on the side. The maximum height shall be 35 feet. The P&Z Board recommended approval of the project as proposed.

Leo Mills, Jr. and speakers for the project were sworn.

Mr. Mills stated Mr. Roy has lived on the property ten years and has established certain uses, including equestrian uses. He discussed the density being comparable to the ER zoning category and the A1 zoned surrounding properties. He stated that Mr. Roy is asking for acceptance of the project without any service from the City. The sole access into the property and the internal infrastructure will be private. He further stated that Mr. Roy is seeking a project for his family members. The two homes on 21st Street (Lot 1 and 8) will have a front-facing façade with entrance off the private drive, while the homes inside the project will face the internal drive. Mr. Mills acknowledged that if total build-out occurs there will not be room for horses; therefore, a development agreement with the City is being drafted to phase out certain items as development occurs.

Attorney Barnebey acknowledged that under the PD zoning horses can be kept temporarily. He suggested that conditions should be placed in the approval of the general development plan.

Attorney Steven Thompson, representing owners adjacent to the property and particularly the Harllee's, objected to the project, citing the appearance that the annexation does not comply with Statute 171.046; there was no referendum; there is no evidence of an interlocal agreement. The annexation is opposed to because of the increase in density and intensity in the area; and the proposed zoning and subdivision will result in more intense land use. He stated his client did not oppose four lots, but does oppose eight lots. He opined ER or RES-1 is the most appropriate zoning for the property.

Peter S. Harllee, Jr., 1803 21st St. W., stated he has lived adjacent to the proposed project for 35 years. When his property was purchased 40 years ago, it was his understanding that the property would be deed restricted with lots no smaller than 2.5 acres. He requested that the project be denied because it is not in compliance with what does currently exist in the neighborhood.

Elizabeth Bluangtook, 2111 21st St. W., was sworn. She also opposed the proposed project, citing the development north of 21st St., and the concession that developer made so the neighbors would not have to see anything that was built. She requested that same concession from the applicant. She opined that eight lots were too many; the personality of the neighborhood would be changed.

Ken Burton, Jr, 2121 21st St. W., was sworn. He specifically cited the garbage pickup and asked that the Commission vote in the negative.

Rebuttal: Hugh McGuire reiterated that the Planning Commission gave the project a unanimous recommendation. He suggested that the Commission probably cannot restrict to whom properties can be sold. He referred to the staff opinion that the project is in compliance with the Comp Plan and the area. He stated the reason the PD-H zoning is sought is for the horses; nothing will be changing today or tomorrow. He asked that Commission approve the project.

Mr. Mills commented on the Future Land Use being RES-4, with a maximum density of four units per acre. He stated his client is not looking to intensify the density, so he did not request that category. The property east of the proposed project is under the Manatee County Future Land Use RES-3, which under PD-H would allow six

units per acre. He again reiterated that his client is willing to annex into the City and develop the property for his family.

Attorney Barnebey stated this is a voluntary annexation and there is no requirement for an election or vote and because there is City property abutting the property, there is no enclave being created. He noted that the RES-3 might allow six units per acre, but that would probably only be in an affordable housing development; he would have to research to confirm his opinion. He recommended that if Commission wishes to restrict the use of horses on the site, the size should be restricted to a minimum of two acres of land under one ownership. He also recommended a condition that no access from the lots will be directly onto 21st Street.

Ms. Lyn stated she did not know of any existing deed restrictions. Attorney Barnebey reminded Commission that they cannot enforce deed restrictions; they would be enforced through civil courts. He also noted that before this development gets to the final plat approval, it will require a development agreement. He concurred with Mr. McGuire's assessment that it cannot be restricted to family members.

Mayor Bryant closed public comments for the proposed ordinances.

Attorney Barnebey informed Commission that because two Commissioners live in close proximity to the proposed project, there could be a conflict for them in the vote. He suggested that if the applicant is willing, an informal opinion from the Attorney General should be requested, which would necessitate continuing the items until the November 21, 2011 meeting. Attorney McGuire and the applicant agreed to the continuance of the items until the AGO opinion is received.

MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion carried 4-0 to continue the public hearing for ordinance No. 2011-21 until November 21, 2011 at 7:00 p.m. or as soon thereafter as same may be heard in these chambers.

MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion carried 4-0 to continue the public hearing for ordinance No. 2011-22 until November 21, 2011 at 7:00 p.m. or as soon thereafter as same may be heard in these chambers.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-0 to continue the public hearing for ordinance No. 2011-23 until November 21, 2011 at 7:00 p.m. or as soon thereafter as same may be heard in these chambers.

MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion carried 4-0 to continue the public hearing for ordinance No. 2011-24 until November 21, 2011 at 7:00 p.m. or as soon thereafter as same may be heard in these chambers.

8. PUBLIC HEARING: ORDINANCE NO. 2011-29

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING APPROXIMATELY 0.26 ACRES OF REAL PROPERTY INTO THE CITY OF PALMETTO GENERALLY LOCATED AT 1615 & 1619 OAKWOOD AVE, PALMETTO; MORE PARTICULARLY DESCRIBED AS LOTS 4 AND 5, BLOCK 3, PAL-ELL PARK (PLAT BOOK 8, PAGE 123); PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (AN #2011-05 Applicant: Waste Services of Florida, Inc.)

Mayor Bryant opened the public hearing.

9. PUBLIC HEARING: ORDINANCE NO. 2011-30

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, APPROVING A SMALL SCALE PLAN AMENDMENT TO THE FUTURE LAND USE MAP OF THE CITY OF PALMETTO COMPREHENSIVE PLAN BY REDESIGNATING APPROXIMATELY 0.26 ACRES OF PROPERTY GENERALLY LOCATED AT 1615 & 1619 OAKWOOD AVE, PALMETTO, FROM IH (County) to HCOMI (City); PROVIDING FOR REPEAL OF

ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (PA-2011-05 Applicant: Waste Services of Florida, Inc.)

Mayor Bryant opened the public hearing.

Action Request: Motion to adopt Ordinance No. 2011-30.

10. PUBLIC HEARING: ORDINANCE NO. 2011-31

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; REZONING APPROXIMATELY 0.26 ACRES OF PROPERTY GENERALLY LOCATED AT 1615 & 1619 OAKWOOD AVENUE, PALMETTO, FROM HEAVY MANUFACTURING (HM) (County) to COMMERCIAL HEAVY-INDUSTRIAL (CHI) (CITY); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z-2011-05 Applicant: Waste Services of Florida, Inc.)

Mayor Bryant opened the public hearing.

Ms. Lyn described the scope of the project, which will annex two lots owned by the applicant and will expand an existing use and will be part of the applicant's overall operation.. She confirmed that there will be not an enclave created with the annexation. The P&Z Board recommended approval.

Public Comment: Dwayne and Albert Cummings, adjacent property owners stated they did not want their property affected by the annexation. Mayor Bryant assured them any Commission action on the proposed annexation would have no affect on their property.

Mayor Bryant closed the public hearing for Ordinance No. 2011-29

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 4-0 to adopt Ordinance No. 2011-29.

Mayor Bryant closed the public hearing for Ordinance No. 2011-30.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-0 to adopt Ordinance No. 2011-30.

Mayor Bryant closed the public hearing for Ordinance No. 2011-31.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-0 to adopt Ordinance No. 2011-31.

11. APPEAL OF CODE ENFORCEMENT LIEN ON 221 3RD AVE. DR. W.

Mr. Freeman explained the new property owner of 221 3rd Ave. Dr. W. is appealing the amount of the lien imposed by the Code Enforcement Board. Total liens amount to \$10,660, of which the City has incurred hard cost expenses of \$5,793 associated with this action. The property was in foreclosure and the bank did not meet the Code Enforcement Board's deadline for demolition of an existing boathouse structure. The City worked with the CRA to affect the demolition approximately three weeks after the property sold to the owner appealing the lien amount.

Jeb Mulock, ZNS Engineering, represented the new property owner. Mr. Freeman stated that since taking possession of the property, the new owner has been in contact with the City regarding requirements to bring the property into compliance. Mr. Mulock stated a plan is being developed to improve the property.

Commissioner Cornwell proposed reducing the lien to the City's hard costs of \$5,793.

Mr. Mulock confirmed the new owner was aware of the liens before purchasing the property.

MOTION: Commissioner Varnadore moved and Commissioner Williams seconded for discussion to accept a lien settlement amount of \$9,000.

Discussion: Commissioner Zirkelbach stated that historically the City would double the hard costs as a minimum; but this case is unique because of the hard costs amount.

Commissioner Zirkelbach departed the meeting.

Commission discussed the amount of lien that would be acceptable. Mr. Mulock stated it was more expedient and economical to allow the City to continue with the demolition process that was begun before the closing sale date on the property.

Motion on the floor carried 2-1. Commissioner Cornwell voted no. Commissioner Zirkelbach was absent for the vote.

Mayor Bryant recessed the City Commission meeting at 9:25 p.m. to open the November 7, 2011 CRA Board meeting.

Mayor Bryant reconvened the City Commission meeting at 9:30 p.m.

Commissioner Zirkelbach returned to the meeting.

12. 2011-2015 COMMUNITY REDEVELOPMENT PLAN

13. OCTOBER 2011 CHECK REGISTER (Informational only)

14. 23rd STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

Mayor Bryant stated a meeting had been held with County staff, Commissioner Bustle and Mr. Goforth of the Little League regarding the conceptual plan of adding three fields at Blackstone Park. The County offered no funding, but the item will be moved forward by issuing an RFP based on a phased process. Conversation with the Commissioner representing Palmetto will be held regarding the County's assistance in funding the project.

Mayor Bryant stated an update will be forthcoming regarding the extension of 10th Avenue.

15. ASR WELL UPDATE

No report.

16. DEPARTMENT HEADS' COMMENTS

Mr. Freeman

Manatee County notified the City that the wholesale water rate would increase by 3.3% on November 1, 2011. City residents are being notified of the pass through increase on their utility bills.

Chief Wells

No report.

Mr. Tusing

The ASR well engineer is continuing design of the well at 2.4 mgd; originally looked at 1.5 mgd. With the 2.4 mgd, all the flow can be placed in the well. In the long run the larger capacity will be cheaper to the City. The cost of the project is estimated at \$2.298 million. Mr. Tusing feels the price will be less with the bid.

Attorney Barnebey

Stated that while Statute does not require it specifically, he would like to take item #12 under consideration.

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 4-0 to authorize transmittal of the proposed 2011-2015 Community Redevelopment Plan to Manatee County and other taxing authorities in the CRA for comments, as recommended by the attorney.

17. MAYOR'S REPORT

Mayor Bryant read the article from the Bradenton Herald on November 15, 2011 regarding the unsynchronized lights in downtown Bradenton being intentional. Comments were made regarding the affect the lights have on traffic crossing the river from Palmetto.

Reminded everyone of the Veterans Parade on Friday, November 11, 2011.

Updated Commission on the MPO meeting, where it was approved to pursue a study for the corridor of 17th St. in Palmetto to 13th Ave. in Bradenton, contingent upon Manatee County approving the delay in widening Ellenton-Gillette Road.

18. COMMISSIONERS' COMMENTS

Commissioner Zirkelbach

Referring to the recent shooting incident, he inquired if marketing will be undertaken on the City's image. Mayor Bryant stated she, and a lot of alumni of Palmetto High School, are notifying the papers when articles erroneously identifying an address as being in Palmetto. She suggested that Commissioners and their friends should do the same.

Commissioner Varnadore

Commended Mayor Bryant for offering Carolyn Higdon the opportunity to sit on the CRA Advisory Board.

Mr. Williams

He is receiving complaints regarding people burning yard waste. The item will be placed on a future workshop.

He commented on the old, rusty vehicles parked at the Slick's Garage in an area that is not fenced. Code Enforcement will follow up on the item.

19. PUBLIC COMMENTS FOR CITY COMMISSION

None

Adjourned at 9:45 p.m.

Minutes approved: November 21, 2011

James R. Freeman

James R. Freeman
City Clerk