

**CITY COMMISSION MEETING
NOVEMBER 21, 2011
7:00 PM**

Commission Members

Shirley Groover Bryant, Mayor
Alan Zirkelbach, Vice Mayor, Commissioner-at-Large 1
Tamara Cornwell, Commissioner-at-Large 2
Charles Smith, Commissioner, Ward 1
Tambra Varnadore, Commissioner, Ward 2
Brian Williams, Commissioner, Ward 3

Staff Present:

Mark Barnebey, City Attorney
Jeff Burton, CRA Director
Jim Freeman, City Clerk
Lorraine Lyn, City Planner
Rick Wells, Chief of Police
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 7:00, followed by a Moment of Silence and the Pledge of Allegiance.

OATH OF OFFICE: The Honorable Judge Tom Gallen administered the Oath of Office to Charles B. Smith as Commissioner, Ward 1.

Chief Wells announced the Police Department and the New Life Baptist Church will host a gun buy-back, and will also accept prescription drugs on December 17, 2011.

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

Public Comment: Raye Dowling gave Commission a general FPL update on maintenance issues that had occurred in the City during the last year.

1. CITY COMMISSION AGENDA APPROVAL

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the November 21, 2011 Agenda.

2. CONSENT AGENDA APPROVAL

A. CITY CLERK'S OFFICE

1. Minutes: November 7, 2011
2. 2012 Holiday Schedule and 2012 Commission Meeting Schedule
3. Kirk Pinkerton Legal Billing
4. Special Function Permit: Christmas in the Park
5. Purchase of two electric plug-in vehicles in an amount not to exceed \$90,112.86
6. Contract approval with Eco Technologies for the installation of two (dual port) Level II charging stations in an amount not to exceed \$33,261

B. PUBLIC WORKS

1. Interlocal Agreement to Create and Administer A Brownfields Coalition between the City and the Metropolitan Planning Organization for a three year term ending September 30, 2014. (Carried from the 4:00 workshop.)

2. 2013 Cooperative Funding from SWFWMD for a \$405,000 grant with a 50% matching requirement. The additional funding will be used for the ASR project during 2013.

Commissioner Cornwell pulled item A2 for discussion.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the November 21, 2011 Consent Agenda with the exception of item A2.

Item A2: 2012 Holiday and Commission meeting schedule

Commissioner Cornwell commented that in the past Commission tried to not have a meeting on the Monday prior to an election. She asked that the meeting calendar be considered closer to the election date. Commission concurred.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve item A2 of the Consent Agenda.

3. 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 November 7, 2011.

4. 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 November 7, 2011.

5. PUBLIC HEARING: ORDINANCE NO. 2011-23

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 November 7, 2011.

6. 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 November 7, 2011.

Lorraine Lyn reviewed the project as proposed November 7, 2011. Since that meeting, the applicant has submitted a new proposal depicting six lots, all of which are at least one acre in size, with a density of 0.75 units per acre. She stated staff recommends approval of the proposal of the project, with the following stipulations:

1. The maximum number of lots shall not exceed six lots.
2. The minimum lot size shall be at least one acre in size.
3. The residences on the two lots fronting on 21st Street shall face 21st Street and be set back 50 feet.

Leo Mills, Jr., representing the applicants, reviewed the project and requested approval of the new proposal because of it being consistent with the neighborhood and meeting requirements of the Comp Plan.

Attorney Steven Thomas, representing the Harlee's, stated he and his client have not had the opportunity to review what has been proposed. He stated reasons for opposing the project.

Peter S. Harlee, Jr. and Rachel Harlee both cited reasons they oppose the project.

Mr. Tusing explained that the private utilities will be handled through a force main, with a pump station on each structure. Meters will be located along the private drive.

Tim Lewis spoke in support of the proposed project. He confirmed the property had been posted with the public hearing notice.

Attorney Barnebey commented on the statutes relating to annexation and enclaves and the legislative history related to the sections, and stated the annexation meets the voluntary annexation provision. He also stated that regarding the zoning, the project will come back to the Commission when the property is subdivided and plat approval is requested.

Attorney Barnebey also stated that relating to the zoning and when the property is sub-divided, conversation has been held with the applicant's attorney about City expectations in the process. He also stated that the PDH zoning is more restrictive in some cases than the ER zoning. And, County A1 zoning allows property to be developed in one acre parcels without public hearing if City and County requirements are met. He cited reasons why PDH is the most appropriate zoning category given the current equestrian use, the plans for the property and what he perceives Commission wishes to see happen on the property.

Mr. Mills clarified that a gate at the access to the property has been in place for years. He also confirmed that emergency vehicle access and turn around has been provided in the project.

In rebuttal, Attorney McGuire suggested that if required setbacks are not met, the project will not be approved. He opined this is an issue of property rights and the annexation is legal. He assured Commission that the required notice was given. Finally, with the new proposal, no lot is less than 1.06 acres in size. He called attention to the fact that staff's report states the project is consistent with the 2030 Comprehensive Plan and the project was unanimously approved by the P&Z Board. He requested that the new proposal of six lots be approved.

Mayor Bryant closed the public hearing on Ordinance No. 2011-21..

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to adopt Ordinance No. 2011-21.

Mayor Bryant closed the public hearing on Ordinance No. 2011-22.

MOTION: Commissioner Zirkelbach moved, Commissioner Smith seconded and motion carried 5-0 to adopt Ordinance No. 2011-22.

Mayor Bryant closed the public hearing on Ordinance No. 2011-23.

Discussion ensued on the equestrian use on the property. Ms. Lyn confirmed the ER zoning permits horses; RS1 requires two acres to have horses. Attorney Barnebey suggested a stipulation could be placed on the next ordinance requiring a minimum of two-acre lots in order to have horses.

Commissioner Varnadore opined that the PDH zoning will change the character of the entire community when the entire land area is considered. She stated she hated losing the equestrian use in the area. Attorney Barnebey confirmed that the equestrian use can be added to the PDH zoning.

Commissioner Cornwell asked Mr. Mills if the Roy's wanted to keep the horses. Mr. Mills explained the Roy's wanted to keep the horses. He stated that as a compromise with staff on the original proposal of eight lots, the equestrian use would be eliminated when a house was constructed on the parcels less than an acre. He confirmed there was never a desire to eliminate the horses and the intent is to keep horses on the site. Mr. Mills confirmed that setbacks for existing residences prohibit a straight ER zoning.

It was consensus of Commission to see horses on the property.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-1 to adopt Ordinance No. 2011-23. Commissioner Varnadore voted no.

Mayor Bryant closed the public hearing for Ordinance No. 2011-24.

Attorney Barnebey recommended the following stipulations:

1. Maximum number of lots shall not exceed 6 lots.
2. Minimum lot size shall be 1 acre.
3. Horses may be kept and housed on an approved lot or parcel.
4. Residences on lots 1 and 6 shall face 21st Street and meet a 50-foot setback from 21st Street.

Applicant agreed with the stipulations.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 4-1 to adopt Ordinance No. 2011-24 as being consistent with the Comprehensive Plan, with conditions 1, 2, 3 and 4 as read by the City Attorney. Commissioner Varnadore voted no.

7. APPEAL OF CODE ENFORCEMENT LIEN ON 1610 14th ST W.

Mr. Freeman reported that the total lien amount as of November 1, 2011 is \$8,133.20; of that total, hard costs to the City amount to \$1,248.70. Mr. Freeman reviewed the history of the property, which was taken to the Code Enforcement Board two times. The property was brought into compliance in 2009. Joe Weaver representing Field Asset Services, the property management company for the bank, stated the bank did not take title to the property until July, 2011 and now has a contract on the property.

Attorney Barnebey commented on the fact that Commission has generally placed a deadline for payment of any reduced lien amount. He recommended that if Commission reduced the lien amount the settlement should be contingent upon payment prior to December 31, 2011.

MOTION: Commissioner Varnadore moved, Commissioner Smith seconded and motion carried 5-0 to accept settlement of \$7,000 contingent upon payment prior to December 31, 2011.

8. 1ST READ: ORDINANCE NO. 2011-33 (Carried forward from 4:30 workshop)

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, ZONING CODE, TO PROVIDE STANDARDS FOR FARM LABOR CAMPS AS A CONDITIONAL USE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to schedule Ordinance No. 2011-33 for public hearing on December 5, 2011.

9. 1ST READ: ORDINANCE NO. 2011-32 (Carried forward from 4:30 workshop)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REVISE THE DEVELOPMENT REVIEW PROCEDURES OF THE CITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR REAFFIRMATION AND RATIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to schedule Ordinance No. 2011-32 for public hearing on December 5, 2011.

Recess the meeting to open the Special CRA Board meeting at 8:34 p.m.

Reconvene the City Commission meeting at 8:45 p.m.

10. 1ST READ: ORDINANCE NO. 2011-34

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, MAKING FINDINGS OF ADDITIONAL BLIGHTED AREAS; EXPANDING THE AREA OF OPERATION OF THE COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Smith seconded and motion carried 5-0 to schedule Ordinance No. 2011-34 for public hearing on December 19, 2011 at 12:00 p.m.

11. 1ST READ: ORDINANCE NO. 2011-35

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, MODIFYING THE COMMUNITY REDEVELOPMENT PLAN, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 5-0 to schedule Ordinance No. 2011-35 for public hearing on December 19, 2011 beginning at 12:00 p.m.

12. 23RD STREET REALIGNMENT UPDATE/BASEBALL FIELD UPDATE

The engineer will take the original drawing that went out to bid and amend it to fit on Manatee County property. Manatee County Parks and Recreation Director will work with staff. The Little League is pursuing grant funding. Commission will be made aware of the needs of the Little League.

13. ASR WELL UPDATE

Mr. Tusing reported he has met with engineers on site; 90% drawings are complete. Responses are ready to go to DEP for the permit. He and Mr. Aiuto are trying to reduce the price of the project by utilizing existing materials at the wastewater treatment plant.

14. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

Discussed the scheduling for Haben Roundabout and the timing of the project.

Mr. Freeman

None

Chief Wells

None

Mark Barnebey

Reported he will be meeting with Commissioner Smith tomorrow.

15. MAYOR'S REPORT

Referring to the traffic backup [across the Green Bridge], she stated she would like to write a letter to the City of Bradenton and copy DOT, who may have comments on the timing of the lights in downtown Bradenton.

16. COMMISSIONERS' COMMENTS

Ms. Varnadore

Welcomed Commissioner Smith.

Commented on the agendas becoming problematic, suggesting staff should tighten up on the schedule.

Mr. Zirkelbach

Referring to Mr. Williams' previous comments on the car repair business in downtown, he asked that Code Enforcement look at the issue. Mr. Freeman stated Code Enforcement has visited the site and he will send Commission an update.

Manasota League of Cities published its 2012 legislative priorities.

Welcomed Commissioner Smith

Mayor Bryant introduced Joyce and Leon Kotecki who have offered volunteer services to City.

Mr. Williams

Reported the boating population is leaving debris on waterfront and there is an abandoned boat at the base of the Green Bridge. He suggested that because Code Enforcement has worked with Manatee County in the past to remove derelict and abandoned vessels, Mr. Strollo should contact them regarding the current issues.

Referring to the brownfields suggestions heard tonight, he suggested that Commission should hold a workshop to prioritize a list. Mayor Bryant stated that a more comprehensive list has been submitted to the MPO after Mr. Burton took MPO representatives on a tour of the City.

Opined there is a need to develop an ordinance for open burning. Mayor Bryant asked that staff research how surrounding areas deal with the issue. Attorney Barnebey will also research to see if there are any existing statutes preempting a new ordinance

Expressed his desire to see an agenda item on lighted crosswalks.

Ms. Cornwell

Reported the PHS Mighty Tigers may be headed for State. She requested that the electronic signs are used to encourage the team.

Welcomed Commissioner Smith.

Mr. Smith

Stated he is looking forward to working with the Commission and appreciates the opportunity to serve the City.

Referring to the vacancy on the CRA Advisory Board, he inquired how to move forward in filling the position. He offered for consideration Jose Estigarribia, who is a local attorney. He also suggested Ms. Higdon as a candidate to fill his position on the CDBG Board. Mayor Bryant confirmed she has met with Mr. Estigarribia, who is Latino and will be very beneficial for that Board. She stated she has had no other applications for the CRA Advisory Board seat.

MOTION: Commissioner Smith moved, Commissioner Cornwell seconded and motion carried 5-0 to appoint Jose Estigarribia to the CRA Advisory Board.

Meeting adjourned at 9:30 p.m.

Minutes approved: December 5, 2011

James R. Freeman

James R. Freeman
City Clerk