

**CITY COMMISSION MEETING
MAY 7, 2012
7:00 PM**

Elected Officials Present

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

Staff Present

Mark Barnebey, City Attorney
Jeff Burton, CRA Director
Jim Freeman, City Clerk
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.

PROCLAMATIONS:

Letter Carriers Day May 12, 2012

Healthy Teens Day May 20, 2012

Accepting: Gary Hickerson, Treasurer, Healthy Teens Coalition of Manatee County

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

Non-agenda Item Public Comment: None

1. CITY COMMISSION AGENDA APPROVAL

Mayor Bryant added item 7A Multimodal Emphasis Corridor application submitted by the Planning Department and removed the FPL Easement for the 5th Street CRA owned property, which will be added to the CRA agenda.

MOTION: Commissioner Cornwell moved, Commissioner Smith seconded and motion carried 5-0 to approve the May 7, 2012 Agenda with the addition of item 7A and removal of the 5th portion of item #11, moving it to CRA Agenda.

2. CONSENT AGENDA APPROVAL

A. CITY CLERK'S OFFICE

1. Minutes: April 16, 2012
2. Legal Fees from Bryant Miller Olive
3. Kirk Pinkerton March Legal Fees from Kirk Pinkerton
4. Resolution No. 2012-11 amending the budget to recognize the contribution to UNIDOS and allocate revenue from a Police Department seizure

5. Resolution No. 2012-12 amending the budget to allocate the Veolia annual maintenance refund to the WWTP Lift Station Upgrade CIP project
6. Approval of a 36-month Purchase Order with SaraMana Business Products for a new City Hall copier in a total amount of \$9,468 plus maintenance based on usage
7. Annual renewal of the Physio-Control Technical Service Support Agreement to March 31, 2013, at a cost of \$867.00. The Agreement covers three automatic external defibrillators; one located in each department of the City.
8. Special Function Permit: First Fridays-ratification of decision to allow closure Of the 900 block of 5th Street

B. PUBLIC WORKS DEPARTMENT

1. Award of the July 4th fireworks display bid to Bell's Fireworks Display Co. Inc.; approve and authorize the Mayor to execute a contract with Bell's Fireworks Display Co., Inc. in an amount not to exceed \$29,500, with the option to renew for two one-year terms upon approval by City Commission.
2. Accept and authorize the Mayor to execute the FDOT Highway Lighting Maintenance and Compensation Agreement #AM860 FY2013 renewal in an amount of \$46,262.61

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve the May 7, 2012 Consent Agenda.

3. PUBLIC HEARING: ORDINANCE NO. 2012-03

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 22, PERSONNEL, ARTICLE V, POLICE OFFICERS' RETIREMENT PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF PALMETTO; AMENDING SECTION 22-171, DEFINITIONS; AMENDING SECTION 22-174, FINANCES AND FUND MANAGEMENT; 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. After no public comment, Mayor Bryant closed the public hearing.

MOTION: Commissioner Zirkelbach moved, Commissioner Cornwell seconded and motion carried 5-0 to adopt Ordinance No. 2012-03.

4. APPEAL OF CODE ENFORCEMENT LIEN 505 11TH ST. DR. W.

Mr. Freeman reviewed the history of the property, which is subject to Code Enforcement action dating back to 2006. City Commission also approved the demolition of a structure located on the property, which was funded by the CRA. Mr. Freeman reviewed the City's hard costs associated with this property which amount to \$12,812.20. Code Enforcement Director Bill Strollo recommended a reduction so someone can take possession of the property.

Commissioner Smith stated he has been working with Dr. G. I. Bradley, Pastor of Providence Missionary Baptist Church, and the purchaser of the property. The property is adjacent to the church and will be used for parking. Commissioner Smith recommended the City accept \$1,221.26, the outstanding utility amount, to satisfy the lien, payable in 60 days.

Commission discussed several possible ways the City could consider reducing the lien, including a public/private agreement for the property being used as public parking. Attorney Barnebey confirmed that the City cannot extend credit over a period of time, but could give the property owned up to one year to satisfy the lien. Another alternative considered was the property owner donating the available \$3,000 impact fee credit on the property back to the City; if a home is later built on the property, the impact fee

would have to be paid at that time. This donation would lower the \$5,400 the City has paid to outside vendors, excluding the City attorney, to approximately \$2,500. Attorney Barnebey agreed this solution could be possible.

Dr. Bradley spoke to Commission about the request to reduce the lien amount. He also thanked the Police Department for its effectiveness in the community. He did comment on the proposed public/private parking agreement, stating that proposal would not be an advantageous solution.

MOTION: Commissioner Smith moved and Commissioner Cornwell seconded to lower the lien amount to \$2,393.61 and give the church 60 days to pay such amount.

Discussion: Attorney Barnebey confirmed that the church can donate to the City any impact fee credits on the property, which should be part of the motion. He also stated an agreement will have to be executed to that affect. Attorney Barnebey also instructed that the impact fee credit amount will have to be credited to the City's capital account.

Attorney Barnebey restated the motion, to reduce the lien amount to \$2,393.61 to be paid within 60 days, and also as part of the consideration, the church will waive their impact fees that they may creditable due to the demolition of the residential structure on the property, the waiver and amount to be received within 60 days of the days of this action.

The restated motion on the floor carried 5-0.

5. REQUEST FROM PALMETTO ROTARY FOR BEER SALES ON JULY 4TH

Palmetto Rotary Club is requesting permission to be permitted to sell beer and wine at Sutton Park and by the river during the 4th of July event. Mr. Freeman explained the City's code prohibits the requested action. Alcohol sales occurred on private property at past events, but consumption had to remain on the private property. Attorney Barnebey opined the organization would have to comply with Chapter 4 of the Code.

Discussion ensued on the event last year, where coolers were permitted and consumption more than likely occurred on City property. Last year's event also had alcohol sold on private property a block away. Chief Wells described how the police monitored the consumption, and stated the Police Department would enforce the ordinance in place at the time of the event. Mr. Burton informed Commission that advertising is already in place informing the public that coolers will not be allowed during this year's event.

Attorney Barnebey informed Commission that the Code has no provisions granting Commission the authority to approve a special exception or permit. He suggested Commission could amend Chapter 4 Section 4.3 and Section 4.2 before the event to provide authority to grant a special exception for events approved by Special Function Permit or for specific dates, as decided by Commission. Mr. Freeman suggested that Chapter 19, Special Function Permits, would also have to be amended.

MOTION: Commissioner Zirkelbach moved and Commissioner Smith seconded to approve the City to look at rewriting Chapter 4 and Chapter 19 to allow the sale and consumption of alcoholic beverages on City property with a Special Function Permit for a specific date. Motion on the floor failed 3-2. Commissioners Cornwell, Varnadore and Williams voted no.

6. CLAIM IN REGARD TO THE BP OIL SPILL

Attorney Barnebey explained a request has been received to represent the City in regards to the BP oil spill. He explained representation is on a contingency basis; there would be some expenses involved in Mr. Freeman's time in developing the budget, expert witnesses and monitoring on behalf of his firm. To participate, the City must retain outside counsel. Attorney Barnebey informed Commission that other firms have approached him about the possibility of representing the City in the litigation.

Commission discussed the possible benefit of participating in the consortium, as well as possible expenses that may be involved. Attorney Barnebey estimated that his firm could incur approximately \$2,000 in expenses. Also discussed was the length of time it could take before any possible settlement is reached.

Steve Heintz, representing one of the firms in the consortium, assured Commission that the City would bear no expense in expert testimony fees. He stated that if the suit is not successful, that the City "pays nothing and loses nothing except the time to put together budgets."

Commissioners Smith and Zirkelbach both commented on firsthand knowledge of businesses affected by the spill.

MOTION: Commissioner Smith moved and Commissioner Williams seconded to participate in a claim filing in the BP oil spill.

Commissioner Zirkelbach opined that since Mr. Heintz and his firm provided the initial information and documentation, he would like to make filing specific to his firm.

MOTION: Commissioner Zirkelbach moved to amend the motion to make the filing specific to Mr. Heintz and his firm. Commissioner Smith and Commissioner Williams accepted the amendment. Motion on the floor carried 5-0.

7. APPROVAL: US 41 GATEWAY/RIVERSIDE DRIVE/10TH AVENUE/17TH STREET CORRIDOR CONCEPTUAL PLAN

MOTION: Commissioner Cornwell moved, Commissioner Smith seconded to approve the US 41 Gateway/Riverside Drive/10th Avenue/17th Street Corridor Conceptual Plan and ratify the application submitted May 4, 2012 to the Metropolitan Planning Organization for a Multimodal Emphasis Corridor 50% matching grant for Phase 1 in an approximate amount of \$1,900,000.

Discussion: Commissioner Williams inquired if there would be any benefit to remove the Riverside Park East portion of the grant. Mr. Burton opined that if that plan were removed monies would be lost from the grant. The 50% grant will be matched solely by CRA funds. Because the plan is conceptual at this time the City will have the ability to adjust the plan or refuse the grant funds. Grant funds will be received in 2016; CRA will begin growing the budget to have the 50% match when required.

Mayor Bryant inquired if Commission would amend the motion to authorize acceptance of the grant. **Commissioner Cornwell and Commissioner Smith agreed to the amendment to the motion.**

Motion on the floor carried 3-1. Commissioner Williams voted no. Commissioner Zirkelbach was absent for the vote.

Mayor Bryant assured Commission budget information and updates will be provided to Commission as the project progresses.

7A. MULTIMODAL EMPHASIS CORRIDOR GRANT APPLICATION (PLANNING DEPARTMENT)

Mr. Tusing reviewed the grant application for the US 41 and 10th Street overpass corridor. The City will partner with Pacific Tomato to implement conceptual plans including landscaping, sidewalk and lighting improvements from Second Avenue to the WalMart area. The project is estimated to cost \$182,000, with CRA funding 25% of the cost. Mr. Tusing stated the redesign of the overpass and on-ramp being contemplated will be considered in the implementation of the plan if the grant is awarded.

MOTION: Commissioner Smith moved, Commissioner Cornwell seconded and motion carried 5-0 to affirm the submittal of the Multimodal Emphasis Corridor application submitted by the Planning Department and authorize the Mayor to accept the grant in the approximate amount of \$165,940.

8. FIRST READ: ORDINANCE NO. 2012-07

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, ZONING CODE, TO PROVIDE STANDARDS FOR FARM WORKER HOUSING AND BOARDING/ROOMING HOUSES AS CONDITIONAL USES IN THE RM-5 AND RM-6 ZONING DISTRICTS; REMOVING BOARDING/ROOMING HOUSES AS A PERMITTED USE IN THE CN AND CG ZONING DISTRICTS; AMENDING GENERAL STANDARDS FOR CONDITIONAL USES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Zirkelbach moved, Commissioner Williams seconded and motion carried 5-0 to schedule a public hearing for Ordinance No. 2012-07 for May 21, 2012 and June 4, 2012.

9. FIRST READ: ORDINANCE NO. 2012-04

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 REVISING THE REQUIREMENTS FOR POLITICAL SIGNS; UPDATING REFERENCE TO CITY DEPARTMENTS; PROVIDING FOR UNSAFE SIGN REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 5-0 to schedule a public hearing for Ordinance No. 2012-04 for May 21, 2012.

10. PUBLIC HEARING FOR ADOPTION OF EMERGENCY ORDINANCE NO. 2012-08

AN EMERGENCY ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA DECLARING A MORATORIUM AS TO THE FILING AND/OR APPLICATION FOR LICENSES THE ESTABLISHMENT OF BUSINESSES KNOWN AS TEMPORARY OR PORTABLE FOOD VENDORS AS DEFINED HEREIN; PROVIDING SUSPENSION OF ANY SUCH ZONING, PERMITTING AND LICENSING; PROVIDING A TERMINATION DATE FOR THE MORATORIUM; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR DEFINITIONS; PROVIDING FOR BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Attorney Barnebey discussed the increase in the number of temporary or portable food vendors the City is experiencing and the fact the Code does not provide regulations for these types of businesses. He also commented that if these vendors set up permanently on private property new site plan approval is required.

Mayor Bryant opened the public hearing. After no public comment, Mayor Bryant closed the public hearing.

Attorney Barnebey confirmed that if vendors have received a permit they will not be prohibited from moving forward. This ordinance is for those vendors that have not received proper licensing. He also confirmed that vendors participating in events approved by Special Function Permits can be exempt from the ordinance.

MOTION: Commissioner Cornwell moved, Commissioner Zirkelbach seconded and motion carried 4-1 to adopt Ordinance No. 2012-08, exempting those vendors permitted as part of a Special Function Permit. Commissioner Williams voted no.

11. APPROVAL: STANDARD FPL EASEMENTS FOR THE SUTTON PARK AND 5TH STREET PROJECTS

MOTION: Commissioner Varnadore moved, Commissioner Williams seconded and motion carried 5-0 to approve the granting of the Standard FPL Easements, subject to receiving a legal description that is substantially consistent with the Sutton Park sketch.

Mayor Bryant recessed the City Commission meeting at 9:24 p.m. to open the CRA Board meeting.

Mayor Bryant reconvened the City Commission meeting at 9:45 p.m.

12. APRIL CHECK REGISTER (Informational only)

13. BASEBALL FIELD UPDATE

Mayor Bryant reported her last conversation with Manatee County revealed they are still working on the soil analysis. Heartland Fertilizer has been contacted again. Mr. Burton, and perhaps Mr. Zirkelbach, was asked to assist in determining if the site is large enough for the field.

14. ASR WELL UPDATE

No report.

15. 5TH STREET STREETScape AND SUTTON PARK PROJECTS UPDATE

Both of the projects are ahead of schedule. Commissioners Cornwell and Varnadore praised the monthly report received from Project Manager Bob Gause.

16. DEPARTMENT HEADS' COMMENTS

Mr. Tusing

One head of the traffic signal at the intersection at 7th St. & 10th Ave. was removed for the Sutton Park project. The light will be put on a four-way stop flash until Manatee County can assist in removing the sign. A four-way stop sign will then be installed until the roundabout is constructed.

MOTION: Commissioner Varnadore moved, Commissioner Zirkelbach seconded and motion carried 5-0 to approve [the actions explained by Mr. Tusing regarding the light at 7th St. and 10th Ave.]

Mr. Freeman

Reported he will use an additional \$2,000 from budgeted funds in Road & Bridge for a consultant to administer the closure of the Haben and 14th Avenue projects. Commission concurred.

Reported he has received an acceptance for the Assistant city Clerk position from Amber Foley, who has been with the State Attorney's office for seven years.

17. MAYOR'S REPORT

None

18. COMMISSIONERS' COMMENTS

None

19. ADJOURNMENT

Meeting adjourned at 9:50 p.m.

Minutes approved: May 21, 2012

James R. Freeman

James R. Freeman
City Clerk