

Palmetto City Commission
February 4, 2008 4:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor
Eric Ball, Commissioner
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner

Elected Official Absent:

Tambra Varnadore, Vice Mayor

Staff and Others Present:

James R. Freeman, City Clerk
Deputy Chief Mike Mayer
Chris Lukowiak, Public Works Director
Tanya Lukowiak, CRA Executive Director
Michele Hall, City Attorney
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 4:05 p.m., followed by a moment of silence for overseas military personnel and the Pledge of Allegiance.

1. AGENDA APPROVAL

Mayor Bustle informed Commission item #2, HIV Awareness Update, will be postponed until a later date. Due to the deletion of item #2, Mr. Freeman asked the Commission consider moving the proposed Short Term Occupancy ordinance that is on the 7:00 p.m. agenda as item #8 forward to the 4:00 agenda, as item 4A.

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 4-0 to delete item #2 and add item #4A, Short Term Occupancy ordinance.

2. POTENTIAL PURCHASE OF CSX PROPERTY

November 30, 2007 Commission discussed the topic and requested that staff obtain certain information from CSX. A copy of the questions and responses submitted by CSX are attached hereto and made a part of these minutes. Also attached and made a part of these minutes is a map detailing the property under discussion.

Jim Free, representing the CRA, discussed the history of the topic.

- Inquiry to remove unused rail crossings from 5th, 7th, 8th, 10th & 11th Avenues
- Inquiry to purchase two parcels fronting 10th Ave. W. and south of 9th St. W.
- Abandonment of the CSX Parrish Spur was accomplished July 10, 2007
- Track removal was bid by CSX; \$58,000 if the City would pay the expense
- CSX advised the tracks could remain in place (although abandoned) if we did not pay or City could remove the track if the underlying property was purchased
- CSX has offered 3.22 acres to the City at a cost of \$1,680,000 with significant deed restrictions that limit the future use of the property

Mr. Free confirmed approximately 100 feet of rail has been removed west of the Sawdust Joe slab. A visual inspection of the remaining sites by Mr. Free revealed the tracks are generally in place but in disrepair. He also informed Commission it is possible CSX owns the rail rights-of-way for the street crossings of 5th, 7th, 8th, 10th and 11th Avenues; a title company will have to document ownership of the streets and rights-of-way.

Mayor Bustle stated he would like Commission to agree on a set of facts:

- CSX has abandoned, but still owns, a portion of the Parrish Spur.
- CSX is not actively marketing the property.
- The City would like to keep the tracks were they are and not have the tracks removed.

Mayor Bustle discussed the fact that if the City ever wished to use the tracks for an entity such as the model depot or a future transit possibility, it would prevent the expense of having to reinstall tracks.

Commission discussed the topic in detail. Mayor Bustle stated he would like a united decision that the City needs to preserve its options, but also a united decision that now is not the time to purchase the property. Mr. Free was asked to contact CSX to see if there is any intent to market the property and, if so, is there an option for the City to have a right of first refusal. Staff was also instructed to determine the ownership of 9th Street, south of the aluminum business.

4. BUSINESS TAX ORDINANCE

Mr. Freeman informed the major changes to the existing occupational license ordinance is the verbiage changing the title of the license to "local business tax license" and change the date to issue renewals to July 1st of each year rather than September 1st. The schedule of fees is not being changed at this time.

Attorney Hall explained the additional verbiage relating to code enforcement was added because of businesses out of code compliance, and the City's inability to not renew the license; the language now allows the ability to revoke or refusal to renew a license. Attorney Hall also cited section 19-26(3) requires a license for interstate commerce (internet businesses), which also means the City will be able to inspect.

Attorney Hall reaffirmed code enforcement's powers are limited to code enforcement issues, not to enter the house. Mr. Lukowiak stated that inspection would normally occur only when complaints from surrounding neighbors are received. Mr. Freeman confirmed an existing business will not have to complete a new local business tax license application at time of renewal, inspection could happen when the location of the business changes or when there is a code enforcement issue such as property maintenance.

Code Enforcement Director Bill Strollo informed Commission that when inspection of a residential structure is necessary he has the ability to request a warrant. Deputy Chief Mayer also discussed code enforcement's ability to enter a residence behind a fire inspector when an administrative warrant has been issued.

The ordinance will be placed on a future agenda for first reading and advertising approval.

4A SHORT-TERM OCCUPANCY ORDINANCE

Mr. Schmitt explained the code does not currently prohibit the rental of residential units for a period of less than 30 days. The proposed ordinance will identify that rental or occupation of a residential structure for less than 30 days is more of a commercial venture and will be prohibited except in RM-6 categories (because boardinghouses are allowed) and MHP-1 (because rental to travel trailers is allowed).

Commission voiced concerns about the proposed ordinance as written, because it limits the rights of property owners. Examples cited by Commission were the rental of condominiums in large developments. Mr. Schmitt explained that developments in the PDMU category allow

commercial/retail; developments also have deed restrictions that may address these types of rentals.

Commission discussed the possibility of restricting the activity to certain areas. Also discussed was the requirement of conditional use permits as a tool to limit the rentals.


Mr. Lukowiak stated staff will revisit the ordinance and bring it back with additional options.

In other business, Mr. Lukowiak displayed pictures showing the progress of the Jackson Park stormwater project's retention pond. He estimated piping under 17th Street to Carr Drain will begin in approximately 30 days. USA Fence has erected a temporary fence around the pond.

Mayor Bustle informed Commission the City has commissioned a plaque commemorating Fire Chief Mike Johnson's service to the North River Fire District from December 13, 1973 to January 18, 2008. Chief Johnson declined the Mayor's invitation to attend a meeting where the plaque would be presented. He has assumed the duty of chief at the Parrish Fire District.

Meeting adjourned at 5:45 pm.

Minutes approved: February 28, 2008



James R. Freeman
City Clerk

City of Palmetto
Questions for CSX
November 30, 2007

1. What does *abandonment* mean to CSX? **Filing with the Surface Transportation Board to cease CSX's common carrier obligation.**
2. What is the normal process that occurs when CSX abandons a length of railroad track? **The initiation of abandonment varies with different projects. Many times an interested buyer (such as the City of Palmetto in this case) will be the reason CSX will study a corridor and file with the Surface Transportation Board for authority to abandon the line and cease its common carrier obligation. Once the STB approves, CSX can then discontinue rail service. As you might know, an abandonment is a complicated legal process that is federally controlled by the Surface Transportation Board (STB). The STB's process and rules governing abandonment can be found on the STB's website:
http://www.stb.dot.gov/stb/public/resources_abandonment.html**
3. When CSX abandons railroad tracks that cross city streets does that ROW revert to the city? If not, does the city have to obtain permission from anyone in order to bore under or otherwise route utilities across that abandoned crossing?
Reversion only occurs if CSX had easement title for railroad operating purposes only. If CSX has fee title, it would not revert. It looks like 10th Avenue was easement title for CSX so if the City owns the street, then the 40ft right of way across 10th Avenue would most likely revert to the City. A title company hired by the City would have to confirm that. However, CSX's signals on 10th Avenue are not included in the sale either. And, CSX will most likely remove those signals on 10th Avenue. Eddie Pollock is to confirm.
4. Must abandoned railroad tracks be removed from city street crossings? **No, they do not need to be removed.** If yes, at whose expense?

5. Who owns the real property under the tracks that have been abandoned? Please describe the rail bed and/or right of way; e.g., how wide is the ROW? **CSX's right of way is approximately 40 ft wide between the western boundary of 8th Avenue and the eastern boundary of 10th Avenue. However, the exact width of the right of way will be obtained when the survey is completed during your due diligence phase. The attached exhibit shows the right of way and out parcels that we own in fee and which are included in the sale area which is shown as the hatched areas. Those areas not hatched cannot be sold since we only had easement title for rail operating purposes. That property which is not hatched looks like it is that portion of the 40ft right of way between the eastern boundary of 10th Ave and the eastern boundary of 11th Ave. That would be property that would revert to either adjacent land owners or former owners, but that would have to be confirmed by your title company. I would think that if the City owns the street on either side of the 40ft rail corridor, then, the 40ft rail corridor, once abandoned, would revert to the City., but, you would have to have a title company confirm that. The rest of the easement 40ft rail corridor runs from the western boundary of 10th Avenue to the eastern boundary of 11th Avenue and that also would revert as well. But, the City, if it wanted that property, could use eminent domain authority to obtain it from the adjacent land owners or whoever it might revert to – former owners, etc.**

Note there is another triangular hatched parcel which is included in the hatched sale area on the Exhibit located north of the that 40ft right of way beginning about midway between 11th Avenue. All in all, according to our Exhibit attached, we can sell the City 3.22 acres, plus or minus, with the final exact measurement being determined by the survey during the City's due diligence phase.

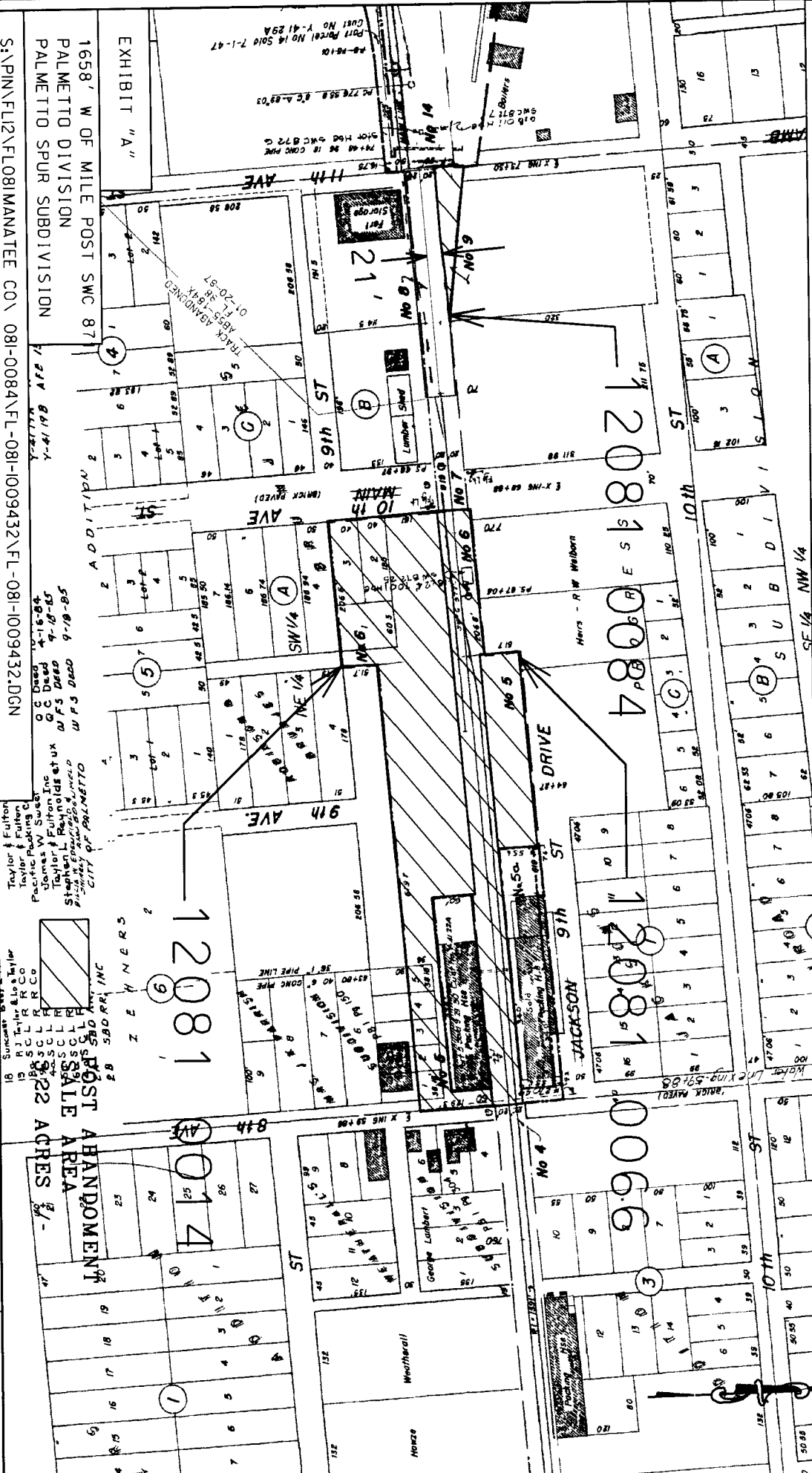
6. What happens to real property adjoining tracks abandoned by CSX? **It depends on ownership type. If CSX owned it in fee title, it will be shown on the exhibit as sale area. If CSX did not own it in fee title, it would revert to adjacent land owners or former owners, depending on how the deeds read. This would have to be confirmed by your Title Company. However, once again, if the City wanted that property, it could use its eminent domain power to obtain it.**
7. Does Palmetto have first right of refusal on the tracks and associated ROW abandoned by CSX? **No, there is no right of first refusal on tracks and associated right of way abandoned by CSX.**

8. Referring to the map drawing provided by CSX to portray the segment of track abandoned, what happens to the segment from the “End Abandonment” point on the drawing westward to the end of the track along the north side of the Heartland Fertilizer plant? **We show that property as already being sold and you would have to check court records to determine who the current owner is of that property.**
9. We understand that a segment of track has been removed somewhere between Heartland and the point where the spur branches off from the Ellenton railroad. Do you have information on how much track was removed and specifically where it was removed? **No, that property was sold almost 20 years ago.**
10. Are the rails associated with the abandoned tracks required to be removed by CSX if CRA and/or city choose not to pay for the removal? **No the track does not have to be removed by CSX. The track will be included in the sale of the property.**
11. There is a CSX-provided “Street Atlas USA” map that shows two parcels outlined in black. One of the parcels has an annotation “FL-081-1009432.” Do these two outlined parcels make up the 3.2 acres? **Yes, approximately, but the exact acreage will be determined by the surveyor in your due diligence phase.** If so, what about the tracks, rail bed or property associated with the rail bed? **Once the City buys the property, the City can either remove the track and sell it for scrap value or leave it in place.**
12. What does the city have to do if it wants a portion of the tracks to remain in place and connected to the Ellenton track? **CSX will include the track in the property sale. If the track is not included in the sale area as depicted in the Street Atlas Exhibit, then that track can still be included and sold to the City, since the track is owned by CSX. However, the land under that track which is not included in the Street Atlas Exhibit cannot be included in the sale to the City and the City would have to seek legal advice as to what it can or can’t do with the track if it is sitting on land that is not owned by the City. However, the City does have eminent domain authority and could condemn the land that is not included in the sale area so that the City would have a continuous ownership of the rail corridor. Once again, the City would have to seek legal advice to confirm that.**
13. If CSX removes tracks and rail bed, does the City get a chance to approve the finished product to make sure that all debris is removed and the job is acceptable? **CSX is not going to remove the track.**

14. Are potential environmental issues identified and dealt with by CSX in the track removal process? **Once again, CSX is not going to remove this track. It will be included in the sale area.**
15. Does CSX have any problem with an agency like the Florida Gulf Coast Railroad Museum, or another public or private entity using the tracks for their purposes, such as an excursion from Parrish to Palmetto? **The City will own the track and the land that is included in the exhibit area once it buys the property and works out the other land issues that would not be included in the sale. The City, if it decided to implement an excursion train would have to run that operation on its own, fully independent of any CSXT operations and would have to indemnify CSX against any liability arising from such use.**
16. **The proposed deed restrictions on the 3.2 acres significantly diminish the property value, are they negotiable? The residential deed restrictions are not negotiable. However, there is a method to get the restrictions removed once the City buys the property. To get the residential deed restrictions removed, see the language below which is included in our standard purchase agreement.....:**

In the event that Buyer desires the removal, post-closing, of the deed restrictions contained in Section 6.3 of this Agreement (“Environmental Use Restrictions”), Buyer must: (a) submit the Premises into a voluntary or other cleanup program administered by the Environmental Agency in the state in which the Premises is located; (b) complete remediation of any environmental contamination of the Premises to comply with the most stringent applicable standards for residential use; and (c) receive a formal Closure from the State Environmental Agency stating that the Premises has been remediated to a degree that allows residential use. If Buyer satisfies these conditions, Seller will release the Environmental Use Restrictions, provided that Buyer will protect, indemnify, and hold harmless Seller from and against any and all damages, penalties, fines, claims, demands, causes of action, liens, suits, liabilities, and expenses of every kind and nature suffered by, incurred by or asserted against Seller of Buyer as a direct or indirect result of any hazardous materials, hazardous substances, wastes or other environmentally regulated materials located on, in, at or under the Premises. NOTWITHSTANDING THE FOREGOING, THE GROUND WATER USE RESTRICTION CONTAINED IN THE LAST SENTENCE OF SECTION 6.3 CONTINUE AND SHALL NOT BE REMOVED OF RECORD.

THIS RAILROAD VALUATION MAP EXHIBIT GRAPHICALLY REPRESENTS A PROPOSED REAL ESTATE TRANSACTION. IT MAY NOT REFLECT CURRENT "ON THE GROUND" CONDITIONS AND/OR ACTUAL LOCATIONS OF FEATURES. ALL DIMENSIONS, OFFSET DISTANCES, AREA CALCULATIONS AND MEASUREMENT NOTATIONS, SHOWN ON THIS EXHIBIT ARE APPROXIMATE.



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CSX TRANSPORTATION, INC.

FL-081-1009432

PROPOSED SALE
MANATEE COUNTY, FL

DATE: 01-15-07
SCALE: 1"=200'
DRAWN BY: CD
REVISED:

CITY: PALMETTO
STATE: FL

FIPS: 12081
DWG #: 1009432

VAL. SECT.: GIS NUMBERS: PIN NUMBERS:

V2FL 04332

MAP NO: L24/S11A
12081-0014
12081-0066
12081-0084

1658' W OF MILE POST SWC 87
PALMETTO DIVISION
PALMETTO SPUR SUBDIVISION

0.22 ACRES

MANATEE COUNTY, FL

EXHIBIT "A"

12081

12084

11th AVE

10th AVE

9th AVE

JACKSON DRIVE

SPARKMAN DRIVE

AVE DRIVE

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