

Palmetto City Commission
February 18, 2008 4:00 p.m.

Elected Officials Present:

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

Staff and Others Present:

James R. Freeman, City Clerk
Chief Garry Lowe
Chris Lukowiak, Public Works Director
Tanya Lukowiak, CRA Executive Director
Michele Hall, City Attorney
Bob Schmitt, Planning Supervisor/Zoning Administrator
Karen Simpson, Deputy Clerk-Finance
Jim Free, CRA Consultant
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 4:02 p.m., followed by a moment of silence for overseas military personnel and the Pledge of Allegiance.

1. UPDATE: HIV AWARENESS

Kristen Pate, HIV/AIDS Outreach Coordinator for Manatee County, updated Commission on Manatee County's ranking in the state for cases involving AIDS and sexually transmitted diseases, stating the Pat Groover and Memphis areas were included in the RARE Project's study.

Project Smile currently utilizes a mobile unit that offers testing for HIV, sexually transmitted diseases and pregnancy, as well as support groups and educational meetings. Ms. Pate informed Commission she is looking for a place in Palmetto where Project Smile can be located.

2. UPDATE: ERIE ROAD LANDFILL

Mr. Lukowiak informed Commission a joint meeting is tentatively scheduled with the county commission to discuss the Erie Road landfill issue. Mr. Lukowiak updated the Commission on the meeting that was between county staff and the county commission concerning the topic. The issue facing the City is that Manatee County staff is suggesting the county has met its responsibilities in monitoring the landfill and that the City should assume the responsibility. City staff is of the opinion all responsibilities associated with the landfill's closure permit still lie with the county.

Mr. Lukowiak discussed the lease the City entered into with Manatee County Radio Controllers (MCRC), the subsequent sublease the City approved to the Bradenton Lawn for a paintball operation at the landfill and events originated by the paintball organization that have led to the current situation. A point paper outlining recent history of the topic is attached hereto and made a part of these minutes.

Mayor Bustle acknowledged the county is in possession of information from DEP that the City has not yet received regarding the minor modification application. Attorney Hall stated her opinion the county attorney will share information that has been gathered; if not, a formal public records request will be made to the county. Commission suggested that a formal public records request should also be made to DEP. Mr. Lukowiak stated research into the City's records regarding the landfill continues.

4. 7th STREET EXTENSION

To begin the discussion, Mrs. Lukowiak confirmed she had met with counsel to review the statute governing CRAs as they relate to the CIP. She reiterated that the CRA is very careful not to put

projects funded by TIF on the CIP. She explained the engineering for the project totaling \$98,000 was included on the 2007 CIP but the project construction was never included on the CIP. She also confirmed she had consulted with FRA Director Carol Westmoreland to verify that what she was proposing was permissible, which Ms. Westmoreland confirmed.

Mrs. Lukowiak informed Commission the CRA has \$730,000 remaining in loan proceeds from the 2006 Bank of America loan. The original amount of the loan was \$1.5 million, and was dedicated to the Ward 1 Phase 1 project and other projects for which we did not need all the money.. Mrs. Lukowiak requested that Commission amend the projects dedicated to the 2006 Bank of America loan to add the 7th Street extension project, as FDOT has indicated that full activation of the 7th Street light can occur once the extension project is under contract.

Mrs. Lukowiak discussed the Riviera Dunes DRI requirements concerning traffic. She also confirmed Riviera Dunes has met its 5% improvements requirements, in addition to the land dedications to the City.

Mrs. Lukowiak explained alternate funding sources for the project have not been found. She also discussed CRAs borrowing capabilities until the Strand decision. Bond counsel has confirmed the City can take a loan and CRA pay the City, but CRA cannot independently take a loan at this time. She also stated the loan proceeds can only be used for public facilities, and 7th St. is probably the best utilization for the limited funds that are available for use. Mr. Lukowiak agreed that 7th St. is one of his top three priorities.

Mr. Lukowiak stated he will have a more defined drawing after our engineer meets with county staff. Regarding the land swap for the street, a reverter clause when the property was conveyed to the civic center requires the land to be used only for a public purpose. The county wants the City to be sure there will not be a violation of the clause. Attorney Hall explained the right to the reverter clause still lies with the joint venture that dedicated the land, not Linda Svenson, as was believed. After these two issues are resolved, the Interlocal agreement will then have to go to the county commission for approval.

Discussion ensued on whether the project should be delayed until after the Strand decision. Mr. Free stated it is desirable to spend the loan proceeds prior to the loan's third anniversary to avoid arbitrage laws. He also recommended paying down the loan if the loan proceeds are not used for the project. He agreed with Mrs. Lukowiak that it appears a legal option would be for the City to borrow money and there be an agreement with CRA for the repayment of the debt.

Mrs. Lukowiak stated Commission must approve changing the loan description and then the CRA would have to approve and execute the contract, but a resolution would be brought to City Commission for official action. Mayor Bustle questioned if the contract should be executed by the City rather than CRA. Mrs. Lukowiak affirmed that was acceptable; Mr. Lukowiak stated a work assignment could be issued under a current piggy-back contract with Westra Construction.

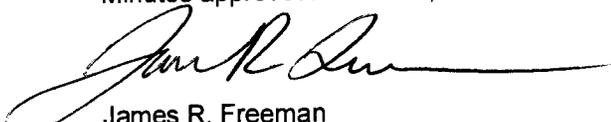
Commission agreed to move the topic to the 7:00 agenda for action.

5. PROPOSED SHORT TERM OCCUPANCY ORDINANCE

Commission discussed the revisions to the proposed ordinance made since the last workshop meeting. It was consensus of Commission to table the item.

Meeting adjourned at 6:00 pm.

Minutes approved: March 3, 2008 **Corrected to reflect Ms. Varnadore was present.**



James R. Freeman
City Clerk

City of Palmetto
Point Paper
on
Erie Road Landfill
February 13, 2008

ISSUE:

Manatee County has suggested that its responsibilities as the “permittee” under the FDEP closure permit for the Erie Road landfill (“Landfill”) have been met, and that operation of the Landfill should revert back to the City of Palmetto pursuant to an agreement entered into between the County and the City in 1982 (“Agreement”). Based on information currently available to the City, City staff is of the opinion that the County has not satisfied its obligation under said Agreement and that operation of the landfill should remain with the County. The definition of the word “closure”, as used in the Agreement and in applicable FDEP regulations, is at the center of the parties’ disagreement.

BACKGROUND:

Some time ago the City Commission approved amendments to the lease entered into between Manatee County Radio Controllers. The amendments authorized use of Landfill property for a paintball operation provided that certain terms and conditions were met. The City Commission also approved a sublease entered into between the Radio Controllers and Bradenton Lawn & Fun, who planned to operate the paintball facility. Without the City’s knowledge, the paintball operator installed certain improvements on the subleased property and did not obtain prior approval from Manatee County. Upon discovering the unauthorized improvements, the County informally notified the City that said installation constituted both a code violation and a violation of the FDEP closure permit. The City promptly contacted the Radio Controllers and the paintball operator, and issued a Stop Work order.

Over the last year, City staff has met with County administrators, staff and attorneys on a number of occasions to discuss the Landfill. Initial discussions centered on resolving the situation cause by installation of the unauthorized improvements. The parties agreed that no further activity would take place on the paintball site, and that Manatee County would submit a permit modification request to FDEP to see what, if any, additional regulation and costs would result from operation of a paintball park. While the modification was pending with FDEP, County staff first raised the issue of the City taking over as permittee under the closure permit. At that time City staff agreed to enter into negotiations addressing the possible transfer of the permit to the City. After being apprised of the situation by County staff at several Board meetings, the County Commission more than once directed County staff to pursue such negotiations. Although the City has provided a draft agreement to County staff that is consistent with the County Commission’s direction, County staff now appears to be advocating for the immediate transfer of operation of the Landfill to the City. County staff also has withdrawn the permit modification request relating to operation of the paintball park.

In a County Commission meeting on February 12, 2008 the Board approved the scheduling of a joint meeting with the City Commission and directed the county utilities staff to ask FDEP to terminate the landfill closure permit; i.e., to seek a declaration from FDEP that there is no longer a risk to the environment from the site and no longer a need to continue monitoring the site for environmental impacts. County staff reported that this would be the third time the County has sought to terminate the permit and that FDEP was unlikely to approve termination at this time. A joint meeting of the Manatee County Board of County Commissioners and the Palmetto City Commission is proposed for March 17, 2008.

Manatee County chose to assume responsibility for closure of the Landfill as part of a bargained-for agreement, and has been fulfilling that responsibility for more than two decades. It is unclear to the City why County staff - - only now - - is insisting that the permit be transferred to the City. Given the fact that the City has not participated in closure activities during that time period, and given the unknown liability associated with the Landfill, City staff believes that a hasty transfer of the closure permit is not in the best interest of the City. Assuming FDEP declines to grant the County's request for termination of the closure permit, Staff suggests that the more prudent course of action would be to gather as much information as possible about existing and potential liabilities associated with the Landfill and then resume negotiations with Manatee County.