

Palmetto City Commission
April 21, 2008 4:00 p.m.

Elected Officials Present:

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

Staff and Others Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Chief Garry Lowe
Tanya Lukowiak, CRA Executive Director
Bob Schmitt, Interim City Planner
Michele Hall, City Attorney
Deanna Roberts, Administrative Assistant

Mayor Bustle called the meeting to order at 4:01 pm. A moment of silence was observed for our military men and women serving around the world, followed by the Pledge of Allegiance. The Mayor recognized Mr. and Mrs. Martin Lawson, frequent observers at the Commission meetings, who will be celebrating their 58th wedding anniversary tomorrow, April 22, 2008.

1. AGENDA APPROVAL

MOTION: Commissioner Lancaster moved and Commissioner Williams seconded a motion to approve the April 21, 2008, 4:00 p.m. agenda.

Discussion: Commissioner Cornwell asked to amend the motion by adding the videotaping of the 7:00 p.m. meeting to the 4:00 p.m. agenda. Commissioner Varnadore seconded the amendment. The amendment passed unanimously.

MOTION: The motion as amended passed unanimously.

2. DISCUSSION: PROPOSED ORDINANCE TO AMEND THE BENEFITS OF THE GENERAL EMPLOYEES' PENSION PLAN (J. Freeman)

Attorney Scott Christiansen, counsel to the General Employees' Pension Plan Board of Trustees, will discuss a proposed ordinance to offer an optional form of benefit known as a Partial Lump Sum Option (PLOP). This option is intended to be an alternative to the Deferred Retirement Option Plan (DROP) currently offered to general employees.

Mr. Freeman said the proposed ordinance will come to Commission for formal adoption at a future meeting. The ordinance changes the definition of credited service and adds an additional benefit known as the partial lump sum option (PLOP). The Pension Board attorney advised adding this option based on what he had seen in other cities. Mr. Freeman explained that a retiree can elect to receive a portion, 10-25%, of his retirement in a partial lump sum with the balance paid in a monthly annuity benefit. Section 22-106, Reemployment after Retirement, is being deleted and incorporated into a new section, 22-109. The actuarial assumption is being changed from 8 to 8½ % return. **The actuary has determined there will be no actuarial impact to the pension fund.** A letter from the actuary, Gabriel Roeder Smith & Company, confirming this is in the agenda for Commission's review. The Pension Board has forwarded this to the Commission for feedback and Scott Christiansen, counsel to the General Employees' Pension Board, is at the meeting to answer any questions.

Mr. Christiansen explained the difference between the deferred retirement option plan (DROP) and the PLOP plan. Members can only elect one option, not both. The PLOP option is taken when the retiree is actually ready to retire, unlike the DROP plan. Under the DROP, if there are salary increases they do nothing to increase your benefit as you are already retired, and any enhanced benefits will not be received. Under the PLOP, you continue to work as an active employee until you're ready to retire and then select what percentage of the benefit 10-25% you would like to receive. If you don't take a partial lump sum, your monthly benefits will be higher. Mr. Christiansen said this is considered the more flexible plan.

Commissioner Ball, who is also chair of the Police Officers Pension Board, asked Mr. Christiansen, who is also the counsel to the Police Board, to address the question of the Pension Board's own appointments. Mr. Christiansen handed out a copy of Florida Statutes Chapter 185 which deals with the administration of police pension plans and it specifically provides that the Board is made up of five trustees: two elected by the police officers, two are appointed by the City Commission and the fifth trustee is elected by a majority of the other four. The state statute says the name of the fifth member is submitted to the governing body, in this case City Commission, and upon receipt of the fifth persons name, that body **shall**, as a ministerial duty, appoint such person to the Board as its fifth member. A ministerial duty is defined as an act which one performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority without regard to, or the exercise of its own judgment, upon the propriety of the act being done....nothing is left to discretion. Mr. Christiansen said the local ordinance of the police plan has the same language as Chapter 185, which it has to have for the plan to receive state funding. This is an appointment, not an approval.

In answer to Attorney Hall's question about tabling the appointment indefinitely, Mr. Christiansen said the fifth member is not a trustee until he's appointed. But, the City would be violating the provision of state law and its own ordinance, and the Board could file a lawsuit to force the City to do what it is required to do under the law. Mr. Christiansen said the only exception would be in a case where there might be a legal reason why that person couldn't serve.

Mr. Freeman said the proposed ordinance would be on the May 5, 2008, agenda for first reading and advertising approval.

3. PRESENTATION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (J. Freeman)

Jim Freeman and CPA Associates will present and discuss the City's 2007 Comprehensive Annual Financial Report.

Mr. Freeman presented the 2007 Comprehensive Annual Financial Report (CAFR) covering Major Initiatives, Financial Highlights, Governmental Funds, Proprietary Activities, Fiduciary Funds, Management Letter Comments and Conclusion. The report is attached to, and made a part of these minutes.

Mr. Freeman reported that revenues increased approximately \$1.49 million in governmental funds. The millage rate last year was 5.1645. The increase was attributed to property taxes which were up \$ 1.1 million in 2007. A large portion of that was related to new construction and an increase in values. He expects that in the coming year property values will go down and new construction will decrease.

Revenues in the proprietary funds were up. These funds are user-based fees for water/sewer, storm water, reclaimed and solid waste. All the funds were positive in terms of operating income. The storm water fund is still receiving a subsidy from the General Fund. He projects that in the next four to five years that fund will be self-supporting.

In 2007, 11% was added to the pension funds. This was a change in net assets up from 7% in 2006.

He concluded that based on the current economic climate, the City will have to control operating costs in all funds, find ways to stretch out the CIP dollars for the upcoming year and develop financial policies (fund balance, debt, investment, budget) in the coming year. A proposed contract for a consultant to assist in these policies is slated for discussion later in the meeting.

Mr. Freeman introduced Tommie Barrie, CPA Associates, who reported the results of the audit. She first congratulated the Finance Department for receiving the Certificate of Achievement for excellence in financial reporting. She remarked that this is a coveted honor.

Ms. Barrie informed Commission that this year the auditors issued an unqualified opinion which is the highest form of assurance that can be rendered with regard to the financial information contained in the CAFR. There were no issues found in internal control. The City is in compliance with all the rules of the Auditor General for the year ending 2007. She thanked the City for the opportunity to serve and Finance for their cooperation.

Commissioner Cornwell and Commissioner Williams asked for budget projections for the coming year as soon as possible.

4. DISCUSSION: PALMS OF TERRA CEIA STORMWATER CHARGES AND SEAWALL

(J Freeman/C. Lukowiak) Discussion of the Palms of Terra Ceia storm water charges and repair of the seawall.

Mr. Lukowiak handed out a quote from Custom Dock and Davit to repair the seawall. The agenda packet already contained a quote from Duncan, but this quote arrived later and is significantly lower than Duncan. He explained that the City's portion of the repair would be an amount not-to-exceed \$10,000. The CDD at Terra Ceia is willing to pay one-third of the cost not-to-exceed \$8,000 and Whiting Preston has agreed to pay one-third. The CDD is willing to pay one-third of the cost of the seawall repair in exchange for storm water mitigation credit. They also want the City to accept the responsibility for maintenance of the eight ponds there. Currently the City is not maintaining the ponds.

In answer to Commissioner Cornwell's question, Mr. Lukowiak said the ponds are not storing any of the City's runoff. Commissioner Williams asked why we are even discussing this if that is the case. Mr. Lukowiak said it is possible that some of the reclaimed water sprayed on the golf courses there may end up in the ponds. And, it is the CDD's contention that it pays about \$38,000 per year in storm water fees and receives nothing in return. The CDD wants the City to take over the system or give mitigation credits. Mr. Lukowiak said this discussion has been going on for about five years.

Commissioner Williams asked for an engineering report and an idea of what the City's role there will be in the future. Mr. Lukowiak said the City should ultimately probably take it over as it is part of our storm water system, but he will do a walkthrough first and identify all deficiencies that exist there.

Commissioner Williams asked Attorney Hall if the City does not put any storm water into the ponds there, and they handle their own run off, could the City elect to do away with the storm water fees for that CDD area. She replied there is no provision for 100 percent mitigation, and it can only be given against the operations and maintenance component; however, their fees could be reduced significantly.

There was consensus by Commission to have Mr. Lukowiak continue negotiations with the CDD and bring back alternate options. Mr. Lukowiak will put the seawall repair out for bid.

Commissioner Varnadore asked for a map of all the ponds there.

Commissioner Williams asked for a chronological history of the discussions.

Mr. Lukowiak said he will bring back a list of deficiencies with the cost for the City to assume maintenance there, or the amount to give back in a credit.

Commissioner Cornwell asked that the CDD be advised in writing of how the Commission is proceeding.

5. DISCUSSION: FINANCIAL SERVICES AGREEMENT (J. Freeman)

Proposed contract to retain the services of an independent Consultant/Financial Advisor to assist with long term capital planning, debt analysis and investments. ***Staff requests that this item be moved forward to the 7:00 agenda for action.***

Mr. Freeman is asking for Commission to approve up to \$6,000 to retain the consultant. He has gotten referrals for the company from several other municipalities.

Commissioner Varnadore asked to change the proposed contract to add "with Commission approval" to page 1, Section 2, addressing renewal of the agreement, and at the top of page five regarding amendments to the agreement to add "with Commission approval."

There was consensus by Commission to move this forward to the 7:00 p.m. meeting for a vote.

6. DISCUSSION: WASTEWATER TREATMENT PLANT PERMIT RENEWAL (C. Lukowiak)

Jim McLellan of Jones Edmunds will provide a cost analysis regarding the wastewater treatment plant's needed improvements and permit renewal requirements.

Jim McLellan of Jones Edmunds (JEA) presented a PowerPoint entitled "Palmetto WWTP Rerate and Repermitting Update", the project that JEA is working on for the City. The PowerPoint is attached to, and made a part of these minutes. He advised Commission that the objective is to add life to the system; an additional ten to fifteen years. There is no reserve capacity. The goal is to add capacity, because dumping water into the bay will be subject to ever-increasing restrictions. The permit had to be repermited this year. JEA went ahead and repermited the plant as is while they are evaluating the other components. So, the City is not committed to anything at this point that it does not wish to do.

Mr. McLellan continued his discussion of the plant and needed upgrades. Commissioner Varnadore suggested this item should be brought back to another workshop due to the time constraints of this meeting and the importance of the topic. She stated that it is too important to rush. Mr. McClellan said he will come back to the next Workshop scheduled for Monday, April 28, 2008, at 5:00 p.m.

7. VIDEOTAPING OF COMMISSION MEETINGS (Commissioner Cornwell)

Commissioner Cornwell's concern over the videotaping was whether it would fall under political advertising. If it were used for that purpose, waivers must be obtained from every person appearing in the video. Also regarding children in the audience, if they had protection, as in a child custody case, and unintentionally appeared in the video, it could be a liability for the City.

Attorney Hall said the video is being taken by a private citizen. Commissioner Cornwell said that citizen is a mayoral candidate. Her concern is the fact that it may be used for political gain. It was stated in an email to her that this would be used for a web site for a mayoral candidate.

Commissioner Cornwell asked to direct the City Attorney to look into the videotaping as it pertains to a campaign. Commissioner Varnadore commented that the particular candidate is an employee of the City; does that bring any further liability to the City? Attorney Hall said it must always be clear in which capacity he is acting; either candidate or public works director. And he must be aware of the ethical requirements of each of those. Commissioner Varnadore said she plans to amend the 7:00 p.m. agenda to include a discussion on City policy regarding an employee running for office and legal research requests by Commissioners.

Commissioner Cornwell wanted a disclaimer made at the 7:00 p.m. meeting that it was being taped in order to protect the City.

There was consensus of the Commission to have the attorney research the legality of using the videotape of the Commission meeting for political advertisement.

The meeting was adjourned at 6:32 p.m.

Minutes approved: May 5, 2008