

Palmetto City Commission  
May 19, 2008 4:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor  
Tambra Varnadore, Vice Mayor  
Eric Ball, Commissioner (arrived at 4:55 p.m.)  
Tamara Cornwell, Commissioner  
Mary Lancaster, Commissioner  
Brian Williams, Commissioner

Staff and Others Present:

James R. Freeman, City Clerk  
Chris Lukowiak, Public Works Director  
Captain Mike Mayer  
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 4:00 pm. A moment of silence was observed for our military men and women serving overseas, followed by the Pledge of Allegiance.

**1. AGENDA APPROVAL**

**MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion passed 4-0 to approve the May 19, 2008, 4:00 p.m. agenda.**

**2. UPDATE: SCOTT FORECLOSURE (J. Freeman)**

Attorney Bob Schermer will update Commission on the Scott property foreclosure.

Mr. Freeman introduced Attorney Bob Schermer who gave an update on the foreclosure on three properties known as the Scott properties located at: 810 Parkway Drive, 811 7<sup>th</sup> Street West and 818 Parkway Drive. A status report prepared by Mr. Schermer is included in the agenda packet.

Mr. Schermer advised Commission that he has filed an action against the three properties and reminded Commission that in a shade meeting it was decided to extend a settlement offer to the Scotts. Their attorney indicated they are trying to raise the funds to pay. He has prepared a motion for Summary Judgment. In the meantime, the offer is still out there.

Mr. Schermer received a call from the Clerk of Court's office to let him know that two of the properties are up for tax deed sale. The City could pay the taxes and add it to the amount of the lien, but he advises against doing so because all the City's liens are protected. Any new owner will be responsible for the lien. The tax deed sale should take place in about thirty days.

The hearing date for the Summary Judgment should occur within thirty-sixty days from today. The foreclosure sale would be approximately thirty days after that.

Mr. Schermer confirmed to Commissioner Williams that the City is still accruing interest on the liens.

In conclusion, he advised Commission to do nothing in regard to the tax deed sale; just let it happen.

### 3. UPDATE: MANATEE COUNTY AREA TRANSIT FACILITY (B. Schmitt)

MCAT representatives will update Commission on the revised plan for the bus transit facility. Additional retention was needed, resulting in the reduction of parking spaces from eleven to five.

Mr. Schmitt reminded Commission that this plan had been previously presented to Commission on January 22, 2008. The plan has since been modified due to the need for additional storm water. The proposed bus facility is located at 1802 8<sup>th</sup> Avenue West. This was presented as a park and ride facility. The modification reduces the actual number of parking spaces from eleven to five. Mr. Schmitt asked MCAT to come to City Commission and explain why the change was needed.

Ralf Heseler, MCAT, informed Commission that when FDOT gave MCAT the grant money to purchase the property for the transit center, the hope was always to have a park and ride facility on the property, or near the property. During the permitting and approval phase, FDOT came back and said the requirements for the drainage had changed, and therefore the pond site would have to be larger. The only way to correct that was to remove some of the parking spaces, or move the building further to the east which would be too close to the adjoining neighborhood. He is already looking for other properties to add other park and ride opportunities in this area.

Mark Buler, Jetson and Group Engineering, clarified that the reduction is actually eleven parking spaces to six. SWFWMD issued a permit for the plan as presented originally; however, FDOT's criteria is more restrictive. To answer Mr. Williams's question, he said the swale is an existing swale and cannot be used for storm water management. This site is only 7/10 of an acre and FDOT's criteria increased the requirements of the site by 200 percent.

Again, Mr. Heseler stated he is looking for nearby or adjacent properties and reiterated that the original plan did not call for a park and ride, only for a transit center.

Commissioner Cornwell inquired about shared storm water management with surrounding areas. Mr. Lukowiak said he will check with the County to see if there is an oversized pond that would hold the storm water from this site.

Mr. Buler said he has been in contact with the County, and he will be meeting with FDOT tomorrow to address the hardship the requirements place on the site. He noted that 50 percent of the area is impervious and that is the problem.

Mrs. Lancaster asked for clarification on the parking spaces. Mr. Heseler said there are six spaces: four regular parking, one handicapped and one employee space.

Mr. Heseler said he will apply for a grant for park and ride money from FDOT in the coming fiscal year. He is hoping to get priority because of the last minute change of requirements on this property.

### 4. DISCUSSION: LINCOLN PARK UPGRADES (B. Schmitt)

Staff will review Manatee County's proposed improvements to Lincoln Park.

Mr. Schmitt introduced Tom Yarger, Manatee County Property Management Department. Regarding the proposed improvements to Lincoln Park, he said they do not require site plan approval, but he asked Mr. Yarger to give Commission a presentation to describe the improvements.

CDBG grant money has become available. A list of the planned amenities is included in the agenda packet. There is a deadline of June 25, 2008, to spend the grant money, and although the County may not meet the deadline, it plans to continue with the amenities as money becomes available. In future years, the size of the restrooms will be increased. Mr. Schmitt remarked that although none of the current amenities requires approval, the City would like to see the parking lot plans to make sure the circulation is acceptable for police vehicles. Mr. Yarger agreed. He reported that he has a SWFWMD permit that allows for all the current improvements, as well as for the restrooms in the future.

Mr. Yarger said the plans also call for resodding of the soccer fields sometime after June 1, 2008.

Commissioner Williams asked about plans for a splash pool. Mr. Yarger said it has been discussed, but it doesn't look like there will be enough money until 2010 for a splash pool to be considered.

At this time there is \$193,000 available, and the planned amenities total \$220,000. He said some amenities may have to be cut, but he expects additional money to become available next year. The plans are to continue to enhance Lincoln Park.

Commissioner Williams said there is only one restroom, and he feels the restroom should be a priority. Mr. Yarger agreed, but he said the time constraints for use of the money and the time it would take for permitting preclude that. When asked about a modular restroom, Mr. Yarger said the intent is to expand the existing restroom facility because all the utilities are there.

#### 5. DISCUSSION: EMPLOYEE BACKGROUND CHECKS (M. Hall/J. Freeman)

Discussion to update Commission on the status of the employee background check topic.

Attorney Hall provided a memorandum to Commission regarding criminal background checks on City employees. The memo is included in the agenda packet. Two things not included in the agenda that she wished to point out to Commission were Florida Statutes 112.011 and 166.0442. Based on those statutes, it is her opinion that the City would be on solid ground if it performed checks for certain positions that put the public at risk; citywide may be a different story.

Mrs. Hall introduced Wendy Smith, an attorney with a national firm specializing in labor and employment law. Ms. Smith resides in Palmetto. Attorney Hall informed Ms. Smith that the City is considering adopting an ordinance to require criminal background screens on employees, whether or not they consented on their initial applications, as a condition of continuing employment with the City. Ms. Smith said she saw no problem with that.

Ms. Smith said the City has a compelling interest to protect the public. With the workplace the way it is today, we must give up perceived invasiveness due to violence in the workplace and the Lunsford Law. The City must limit its potential liability. Assuming a conviction were found on an employee's screening, criteria could be established to determine if it has a rational relationship to the employee's position; how long ago did the conviction occur and how serious was the offense. This could be used to determine if there is any future liability to the City in continuing employment. Mayor Bustle was concerned about making value judgments. Ms. Smith said it is possible to come up with some criteria that is not subjective. In reply to Mrs. Lancaster's comments about long term employees, Ms. Smith said what happens to a long term employee who is convicted of something while they're still employed. If that employee were grandfathered in and gets in serious trouble, how do you deal with that circumstance? Would the City be liable for negligent retention? She said employees do have post-termination rights and the impact would have to be considered before proceeding with the background check on existing employees.

A lengthy discussion ensued. Ms. Smith's focus was on potential liability and negligent retention. She opined that doing nothing is not the right thing, and the City should begin with safety sensitive positions. She reiterated that it is about limiting liability, because the world is different now.

Commissioner Williams asked if the labor firm could help the City. Attorney Hall replied, definitely. Ms. Smith said her firm, Fisher and Phillips, represents employers in the public sector and this is the only type of law they practice. Commissioner Williams remarked that he is in favor of moving forward with the background checks.

Commissioner Cornwell reviewed some of the employment applications the City has used over the years. She asked what the City would do if the employee committed a crime after the background check. Ms. Smith said she has several clients that require the employees to self-identify if they are convicted of a crime, because if there is media attention the entity needs to know about it in advance. Some employers require rechecks every five to seven years.

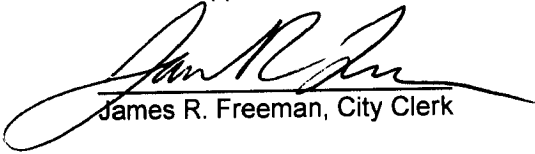
Commissioner Varnadore commented that she supports screening the 50 percent of employees who have not yet been screened. Background checks are needed to protect the public. She supports an ordinance and spending the money to proceed with the background checks.

Commissioner Williams stated that spending the money for the background checks may be more cost effective than the cost of settling a liability claim. He inquired about drug tests for all employees. Ms. Smith said that public sector employees choose to do that to get a reduction on Workers Comp insurance. She does not recommend random testing but pre-employment, post accident and reasonable suspicion testing. The Florida Drug Free Workplace Law requires a minimum of sixty days advance notice to implement a drug testing program that is at all contrary to the current policy.

There was a consensus to schedule a workshop in the near future. Commissioner Cornwell asked for a two hour workshop on the topic. It can then be carried to the 7:00 p.m. meeting following that workshop for action. It will be scheduled on one of the next two workshops. Mayor Bustle asked staff to prepare a report.

The meeting was adjourned at 6:03 p.m.

Minutes approved: June 2, 2008



James R. Freeman, City Clerk