

Palmetto City Commission
September 22, 2008 4:00 p.m.

Elected Officials Present:

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

Elected Officials Absent:

Mary Lancaster, 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 4:00 pm. A moment of silence was observed for our military men and women serving in harm's way overseas, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

MOTION: Commissioner Varnadore moved, Commissioner Ball seconded and motion passed 4-0 to approve the September 22, 2008, 4:00 p.m. agenda.

2. DISCUSSION: SANCTUARY COVE WELLS (C. Lukowiak)

Discussion of new wells constructed on the Sanctuary Cove site.

On a tour of the Sanctuary Cove property in June, irrigations wells were identified. Commission had asked staff to look into the legality of the permitting of the wells and how that affects the City's ordinance regarding wells and the use of reclaimed water. The agenda packet contains a copy of the SWFWMD permit.

Attorney Hall informed Commission that Public Works has applied to receive notice of any future applications. In her opinion, the state statute is preemptive and the City would have no legal basis to object. However, her conclusion is that even though the City has lines running to Sanctuary Cove, there may be times when reuse is not available, and she recommends that the permit should state the wells should be used only on a standby basis.

Mr. Lukowiak stated that at this time reclaim is not available to Sanctuary Cove on a daily basis at the needed pressure. The wells are being used for recreation/aesthetics and irrigation. Commissioner Cornwell has asked that Mr. Lukowiak get an agreement in writing from the developer that they will use reuse when available to help the City's reuse system.

Mrs. Hall said the developer is agreeable to using reclaimed, but it is important to get the permit modification so that enforcement becomes SWFWMD's responsibility. However, whether they agree to the permit modification or an interlocal agreement, it will have to be voluntary.

In response to Mrs. Varnadore's question of fairness as to a resident's ability to put in a well, even when reclaim is not available to them, Mrs. Hall said they can in fact install a well. They do have to go through Manatee County to get the permit for well installation. (Mr. Lukowiak remarked that the permit would probably be for the electrical.) Mrs. Hall reiterated that recent case law and the state statute preempt the City's ordinance. Commissioner Varnadore commented the City may want to look into requiring a permit.

Mrs. Hall's opinion was that the City cannot enforce the City's well ordinance at this time; that is, requiring resident's to use reclaim water. The statute does supersede Palmetto's home rule authority. She serves on a Florida League of Cities committee that will lobby for a change to the statute that will give municipalities local authority over the use of reclaimed water and wells.

Commissioner Cornwell expects Manatee County to monitor the wells since they are permitting them. The City of Palmetto should not be responsible for monitoring, and she wants that reflected in the minutes. She asked staff to prepare something for an agenda stating the expectation is that the County will take samples, do the monitoring and be responsible for inspection and notification. And since our ordinance requires a reuse fee if the line is available, Sanctuary Cove will still be responsible for that reuse fee. Mr. Lukowiak agreed. Mrs. Cornwell recalled that SWFWMD had said there would be no more wells when we were in a drought crisis, and the City's ordinance was in response to that.

Commissioner Williams would like a letter to SWFWMD informing them of our ordinance and the need to be notified of any applications for wells. Tests have shown that our reuse water is quality water, and he reaffirmed that the wells should be used only for backup.

Mrs. Hall said that all stipulations should go into a master interlocal agreement between the City and the CDD, into the CDD operational agreement and in the homeowners' documents.

Commissioner Williams opined that the City should be able to put reuse into the lake at Sanctuary Cove; that will actually improve the water in the lake, and they can pull from their lake for irrigation. The lake would be tremendous benefit to the City for storage capacity without having to dump into the bay.

Mr. Williams asked why CRA paid JEA for a study of a well at Rivera Dunes. Why wasn't that done for Sanctuary Cove as well? Mrs. Lukowiak said the study was actually for a valve that measures the pressure in the reclaim lines and disables the well. It would ensure that when there is reclaim in the system, the City could shut down all the wells. The balance of the study looks at how the City could store reclaim in the wells or other facilities to help balance out the availability of reclaimed water.

Commissioner Cornwell read from a brochure from Chastain-Skillman: Overuse of groundwater within the eight-county area that comprises the Southern Water Use Caution Area has resulted in depleted aquifer levels and adverse environmental impacts. In a September 3, 2008, letter from SWFWMD, we were advised there will be a meeting on October 9, 2008, at the Tampa office to discuss Minimum Flows and Levels, and the SWFWMD Sarasota office will be there. The City should send someone to that meeting to explain our situation, as we were following their guidelines. Commissioner Williams remarked that SWFWMD had mandated our reuse. Mrs. Cornwell said the City has been very proactive.

Mr. Lukowiak commented that the City is on the verge of reversing all the progress it has made; more wells mean less water is being used from reclaimed, more is being dumped into the bay causing more costs to the City and taxpayers for permits, etc.

Mr. Williams would like to see reuse lines metered so we know how much is out there, get more help from SWFWMD and DEP and encourage Sanctuary Cove to use our reclaimed water.

Mrs. Cornwell recapped what Commission wanted: a letter to Manatee County and other agencies regarding regulation, etc., and to make sure someone attends the October 9, meeting and brings forward the City's concerns. Mr. Williams wanted staff to make it clear that the City's reuse water is good.

3. DISCUSSION & APPROVAL: TOMATO/FOUNDERS DAY FESTIVAL

Discussion of specific plans and budget for the 2008 Tomato/Founders Day Festival. With Commission approval, this item will be moved forward to the 7:00 agenda for action.

CRA Executive Director Tanya Lukowiak informed Commission that the festival would be funded by the CRA.

Ralph Garrison, Chairman of Farm City Week, urged the City of Palmetto to consider hosting the Tomato/Founders Day Festival. Farm City Week brings awareness of our agricultural roots in the City of Palmetto and Manatee County. He is eager to have the festival conclude the weeklong activities of Farm City Week.

Commissioner Williams asked how the City can get more tomato packing plants to help the City sponsor the event. Mr. Garrison said Farm City Week can go to them and ask for their support.

Mrs. Lukowiak directed the Commission's attention to the spreadsheet in the packet for the projected costs, potential offsets and planned events at the festival.

Commissioner Cornwell expressed concern over the tomato fight and asked that goggles be used and appropriate liability waivers secured. She also asked Mr. Seger to make sure that schools were invited to participate; to make carnival rides "tickets only," no cash rides; and, to provide benches for parents while their children are on the rides.

Commissioner Varnadore commented that her preference would be for an "old-fashioned" festival in keeping with the celebration of agriculture in our community. She would prefer not to have the carnival rides. Mr. Seger said he is trying to get a low-cost train ride for the kids.

With no objection, the item was carried forward to the 7:00 p.m. meeting.

4. DISCUSSION: FARMWORKER HOUSING (C. Lukowiak)

Discussion of land use regulations pertaining to farm worker housing located within the City for any future revisions to the Land Development Code.

An application by C&D Fruit and Vegetable Company to expand farm worker housing located on 17th Street in Palmetto raised questions about land use. This workshop was planned as a result.

City Planner Bob Schmitt provided a copy of the Florida Statutes imposing a duty on the Department of Health. These regulations are aimed at protecting the well being of residents of migrant housing and farm labor camps. Those regulations are in contrast to land use regulations, or Conditional Use Permits (CUP's), and she told Commission that for purposes of this workshop they should look at this as a land use matter, or what impact "use" has on surrounding areas.

Statute 381.00896 Nondiscrimination, declares that ... it is the policy of this state that each county and municipality must permit and encourage the development and use of a sufficient number and sufficient types of farmworker housing facilities to meet local needs. Commissioner Williams commented that Commission will need to know the numbers and types and a definition of local needs in order to make a fair assessment.

Bob Schmitt discussed a list provided in the agenda packet: Health Department Licensed Farm Worker Housing Facilities Located within Palmetto's City Limits. None of those facilities listed have a CUP. Mr. Schmitt defined migrant labor camps as those located on the farm; residential farm housing is located within the urban area. They are occupied by farm workers and spouses who may work elsewhere. Mrs. Varnadore stated that some of those facilities listed are simply rental properties available to anyone, but Mr. Schmitt said they are licensed by the state as farm worker housing. The list was provided by Tom Larkin at the Health Department.

Mr. Schmitt said the housing on the list is inspected by the Department of Labor and the Health Department for federal housing laws. Tonight he is trying to draw the distinction between how the state

licenses these facilities versus our land use regulations. Commissioner Williams said Commission must have the licensing rules. Mr. Lukowiak commented that the rules have nothing to do with our land development codes. Attorney Hall said the Commission only needs sufficient information to determine if there are adverse impacts associated with this type of use.

Mr. Schmitt asked Commission for direction on how to handle those facilities that do not have a CUP.

Tom Larkin has agreed, that in the future, he will advise the City when a licensed facility will be opening in the City of Palmetto. Commissioner Cornwell asked what happens when the state licenses a facility in an area not compatible with our zoning and land use codes. Does that supersede home rule? Mr. Schmitt said that he was informed by Mr. Larkin that he did not believe any action the City takes could prohibit the state from issuing the license. Attorney Hall interjected that the state laws protect the health, safety and welfare of these workers, but the City has the right to regulate the land use as long as the regulation does not regulate the housing out of existence.

Commissioner Williams asked if we could require the applications forty-five days in advance. Mrs. Hall answered that we could say that due to the nature of the application we need additional review time.

Regarding the sites on the list, Attorney Hall recommended that Commission direct staff to talk to adjoining property owners and ask what adverse condition they might be experiencing. Staff can present the data to Commission for their decision on any regulation. The City could impose conditions on new facilities and may amortize conditions into farmworker housing already in existence over a period of seven years, not unlike what was done with the dock ordinance.

Mr. Schmitt said that though farmworker housing is permitted in the RM6 zoning district it requires a Conditional Use Permit (CUP), and none of the facilities listed on the table have a CUP.

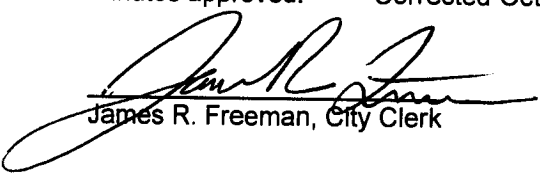
Commissioner Williams again addressed the issue of "a sufficient number" called for in the statute and questioned how the City can determine that number. What percentage must be farmworker housing? Mr. Lukowiak asked who determines the number; is it the municipality or the industry? Mr. Williams and Mr. Lukowiak again asked what the statute means by local. Is it only Palmetto, or surrounding areas as well?

Attorney Hall said the land use criteria needs research and staff will get back to Commission. If staff identifies areas that have real adverse affects that need to be regulated, it can be done. There just has to be a rational relationship between the circumstance and the need for regulation.

Mayor Bustle closed the meeting with the understanding that this would come back to Commission to get more answers to the questions raised.

The meeting was adjourned at 6:05 p.m.

Minutes approved: Corrected October 6, 2008 (correction in bold)


James R. Freeman, City Clerk