

Palmetto City Commission
October 6, 2008 4:00 p.m.

Elected Officials Present:

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

Elected Officials Absent:

Eric Ball, Commissioner

Staff 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
Karen Simpson, Deputy Clerk-Finance
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 4:01 pm. A moment of silence was observed for our overseas military men and women, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

Mayor Bustle requested that a discussion of the DR422 Certificate of Final Taxable Value be added as item 1A to the agenda.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-0 to approve the October 6, 2008 agenda with the addition of item 1A.

1A. DR422 - CERTIFICATE OF FINAL TAXABLE VALUE

Mr. Freeman informed Commission the Property Appraiser's office has provided the City the DR422 Certificate of Final Taxable Value, which shows a 2.5% reduction in the taxable value, down from \$1,110,777,974 to \$1,082,799,208, a \$124,000 decrease. Mr. Freeman explained that Florida Statutes allow an administrative adjustment if the final percentage of change in taxable value, plus or minus, exceeds 1%. To collect the same amount of ad valorem tax revenue, the Commission would have to approve increasing the millage rate by .1205 mills to 4.7867 mills vs. the adopted 4.6662 mills per thousand. Mr. Freeman recommended the administrative adjustment, based on the possibility of further reductions in state revenue sharing.

Discussion on the topic ensued, and resulted in a final determination that the millage would not be administratively adjusted.

Discussion also ensued on reconsidering the adopted final budget. Mr. Freeman explained that Commission has the ability at any time during the year to amend the adopted budget. Attorney Hall concurred with Mr. Freeman, recommending it would be more conservative to amend the budget rather than reconsidering the adoption of the budget because of statutorily mandated adoption dates, which the City has complied with. Mr. Freeman stated the budget can be brought

back to a workshop and then, as suggested by Attorney Hall, a resolution to amend the budget would be placed on the next regular meeting.

2. DISCUSSION: RESOLUTION NO. 08-25

Mr. Freeman informed Commission the draft resolution was developed by Ms. Simpson and Jeffrey Green, financial consultant with RBC Dain, as a result of the previous comments received by Commission. The resolution proposes an Investment Policy that establishes rules to govern the investment of surplus funds, and focuses on the safety of principal, liquidity and a maximum return on investments.

During the review and discussion of the proposed resolution, Commission made the following changes:

Throughout the document, any reference to responsibilities assigned to the Deputy Clerk-Finance will be changed to City Clerk or his designee.

Section 5 – Delegation of Authority

The additional person appointed to the Investment Committee will be appointed by the Mayor and ratified by the City Commission. Written procedures for the operation of the investment portfolio shall require ratification of the City Commission. The City may retain an investment manager to assist in managing some of the City's portfolios, with City Commission approval.

Section 16 – Reporting

A semi-annual investment report will be provided City Commission.

Section 17 – Third-Party Custodial Agreements

The City Clerk or his designee shall provide transaction instructions to a third party custodian.

No adjustments were made to the proposed investment schedule worksheet.

Mr. Freeman requested that the resolution not be moved forward to the 7:00 agenda. Changes will be made and the resolution will be brought back to Commission for formal approval.

Mayor Bustle recessed the meeting for five minutes.

3. DISCUSSION: EMPLOYEE BACKGROUND CHECKS

Attorney Hall informed Commission Attorney Wendy Smith would discuss the opinion letter she issued regarding employee background checks. Attorney Hall also disclosed that she contributed to the point paper, but it did not discuss what actions the City may take after an investigation has been concluded; the discussion tonight was to be limited to what is and is not legal.

Ms. Cornwell referred to level two screening required by a school district for any individual entering a campus, stating that if the City chose to focus on a core group of employees that are exposed to the public, that group would be absorbed every five years. Attorney Smith explained that through attrition all employees would eventually be screened. She stated her belief that the question under discussion was the issue of screening those individuals already employed before new hire screenings were implemented; through attrition all employees will eventually be screened. She stated the City's situation is different from a school district because of a legal mandate requiring level two screening of all employees.

Ms. Cornwell inquired if the Jessica Lunsford Act applies to any City employee who may have contact with a child given the fact local schools use City parks as recreation sites. Attorney Smith confirmed she will have to further research the Jessica Lunsford Act because she was not aware

of any contracts with the school district permitting the use of City facilities. She commented that the City will comply with the Act as it pertains to employees that may qualify to its language.

Attorney Smith further stated that "if a check is not a Jessica Lunsford Act circumstance, retroactively checking those affected individuals and taking adverse action would be outside the parameters of Jessica Lunsford".

Commissioner Williams inquired if it would be better to change job descriptions to include level two screening or could the City require current employees to periodically update their applications. Attorney Smith stated it could be "overkill" to require a periodic update of applications, which could also be cumbersome to administer, but as a separate issue, the City may require everyone working now as a condition of continued employment to consent to a screening. She also confirmed that a job description requirement is not a legal requirement, whereas a Jessica Lunsford requirement is a legal requirement. Attorney Smith also acknowledged that a self-reporting policy with strong consequences for failure to report could be developed.

Attorney Smith discussed the City's responsibility in knowing a person's background, referring to negligent hiring retention i.e. a standard "knew or should have known". She cited two cases where the courts found that a background check should have been performed for employees who entered individuals' homes. She opined that using the discussed cases as a legal standard if the City is going to retroactively check anyone, the checks should be limited to the people that are most likely going to be in a position to harm someone.

Attorney Hall stated she had checked with other city attorneys, Sharon Jones checked with other human resource representatives and Attorney Smith networked through her firm and no city has initiated retroactive background checks. Attorney Smith also opined that background checks have become a normal process in the last ten years. Discussing the City's liability, Attorney Smith stated that by developing a sound policy concerning retroactive background checks, the City would show the performance of due diligence, which could possibly limit the City's exposure.

Attorney Hall inquired if staff should work with Attorney Smith to bring back proposed guidelines if Commission decides to perform retroactive background checks. Attorney Smith stated that if the City Commission elects to implement retroactive background checks, risks should be evaluated and reasonable parameters and standards should be developed prior to implementation to prevent the City appearing arbitrary.

Commission directed that the item should be brought back to the next workshop meeting, along with the Under 21 proposed ordinance.

Meeting adjourned at 6:08 pm.

Minutes approved: October 20, 2008


James R. Freeman
City Clerk