

Palmetto City Commission
December 15, 2008 4:00 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tambra Varnadore, Vice Mayor (entered at 4:45 pm)
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Brian Williams, Commissioner
Alan Zirkelbach, Commissioner

Staff Present:

James R. Freeman, City Clerk
Mark Barnebey, Interim City Attorney
Deputy Chief Mike Mayer
Allen Tusing, Interim Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 4:00 pm. Diane Ponder gave the invocation, followed by the Pledge of Allegiance.

1. AGENDA APPROVAL

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-0 to approve the December 15, 2008 4:00 pm agenda.

Mayor Bryant announced that Commissioner Varnadore was running late. Commissioner Lancaster suggested that item #3 be moved forward so Commissioner Varnadore would be present when Commissioner Zirkelbach commented on the CRA Board. Commission concurred.

2. DISCUSSION: WORKSHOP MEETING SCHEDULE

Mr. Freeman stated the item was placed on the workshop agenda to allow Mr. Zirkelbach the opportunity to comment. Staff is proposing it be moved forward to the 7:00 agenda as a first read of the ordinance that will modify the schedule.

Commissioner Zirkelbach stated he concurred with the comments made by the commission during the meeting where he was absent. He suggested that it may also be possible to move the workshop starting time to 5:00 pm at a later date. Commission concurred with changing the time to 5:00 pm.

Discussion ensued on the proposed ordinance. The language of Sec. 2-26 shall be amended to delete the reference to the 7:00 start time of the regular meeting. Attorney Barnebey confirmed that the ordinance does not have to include the time of the meeting.

Mayor Bryant recognized the attendance of County Commissioner Carol Whitmore.

3. DISCUSSION: BACKGROUND CHECKS

Attorney Barnebey referenced Commissioner Varnadore's question of what would happen if an arrest were made from any of the offenses listed on Exhibit A. He stated he had conferred with the City's labor counsel concerning the policy. Mr. Barnebey discussed different scenarios Commission could consider in the event of an arrest and recommended that adjustment be made to the policy to include the options and actions the City would consider in the event of an arrest.

Commissioner Lancaster recalled Commissioner Varnadore's opinion that if an arrest is made for any offense listed on Exhibit A termination would result. She stated she was not comfortable discussing the item because of Commissioner Varnadore's absence.

Commissioner Zirkelbach commented on the fact that there are no drug related offenses listed on either of the exhibits attached to the policy; Deputy Chief Mayer had recommended to him Chapter 893. Attorney Barnebey stated he would look into the recommendation. Mr. Freeman pointed out that Sec. 5B of the proposed policy referenced Chapter 893, but it appears as if the reference applies only to positions handling money and negotiable instruments.

Commission concurred with placing the amended policy on the next 7:00 agenda for discussion and action.

4. DISCUSSION: CRA BOARD

Commissioner Zirkelbach, who was absent from the previous discussion and from whom Commission wanted input on the topic, began by stating he served as a CRA Board member from February 2002 to November 2008. Commissioner Zirkelbach responded to several comments from the previous discussion as follows:

- CRA projects (spreadsheet distributed)
- Presentation of and Commission review of the CRA budget; lack of knowledge that numerous comments had been made regarding a joint meeting to discuss the budget
- Commission Liaison attendance at CRA Board meetings
- Storefront Grant Program; attorney opinion the First Baptist Church met program criteria; any church meeting criteria is eligible for grant funds; CRA Board attempts to make business community aware of the program
- CRA Board membership of professional volunteers; decisions are not political
- His opinion the attorney should be the same for the Commission, CRA Board and P&Z Board
- His agreement that the appointment of the CRA Executive Director should be the same term of the sitting Mayor, without extension; recommended Commission should put language in place to employ this position as other department head positions when the current contract expires
- CRA Board currently names a chair and vice chair; recommended the terms should be for two years
- Recommended Commission's regular approval of the Storefront Program and allow the CRA its administration; use local businesses, when possible, to perform grant funded improvements

Commissioner Zirkelbach stated, "The CRA should continue as it has been placed, I think it has done a good job. He opined there has been miscommunication and rumor. Commissioner Lancaster concurred.

Commissioner Cornwell discussed the fact that even after numerous requests, the joint meeting did not take place; lack of communication leads to the two bodies not being aware of each body's focus. Commissioner Williams acknowledged the work the CRA has done, but opined the Commission has not been involved in decisions that have been made, i.e. Storefront Grant application review, lack of the required joint meeting, First Baptist Church grant; appointment of the CRA Executive Director.

Discussion ensued on the issues that were brought up. Commissioner Zirkelbach opined that all the issues are communication driven, for which there is an answer. He reiterated the fact that the

individuals sitting on the CRA Board have a great desire to make the objectives of the Board work. He commented on the fact the CRA Board was never apprised of any Commission concerns by the liaison, and acknowledged that the director did not advise the Board of Commission's requests for a joint meeting, while he was in attendance.

Commissioner Varnadore entered the meeting.

Mayor Bryant referred to the Albertson tax abatement that was negotiated and executed by a former CRA director; Commission had to accept what was done by the City's agent. She stated that the lack of having any check and balance procedure in place when that abatement was granted still exists today. Mayor Bryant discussed the trend in the state for CRA audits by the Auditor General's Office and the potential tax refund liability to the City that could arise from an audit.

Mayor Bryant stated that she did not feel the CRA should be disbanded; past and present members of the Board have done a "stellar job". She stated that she would like to propose that all CRA approved topics come to City Commission in some form, such as the consent agenda, for a final approval. This type of approval process would put the check and balance procedure in place for the CRA Board and it would ensure the Commission is aware of all CRA actions.

Mayor Bryant concurred with Mr. Zirkelbach's comments; the attorney should be the same, the term of the executive director's contract should be in line with elections in the City every two years. She opined the contract extended to the executive director has terms that would not be acceptable to the citizens at large and that the Board at that time was misled in approving it. She stated she is not criticizing the board members and hopes they continue to serve.

Commissioner Varnadore agreed that Commission should have some oversight and concurred with Mayor Bryant's suggestion of approval via an agenda item such as a consent agenda. She further stated her opinions have not changed from the previous meeting.

Mayor Bryant informed Commission First Baptist Church has asked for review of the grant before accepting any grant funds; therefore, she has passed the item to Attorney Barnebey for review. Attorney Barnebey discussed where he was in that review, stating there may be discrepancies in the CRA boundaries between City records and the Property Appraiser.

Commissioner Williams opined CRA should have a full compliance audit. Attorney Barnebey will bring information regarding the audit back to Commission.

Commissioner Lancaster stated CRA has done a good job and discussed Commission's right to give CRA direction.

Commissioner Zirkelbach reiterated his opinion the issues are still a lack of communication or a breakdown in communication. He suggested that a joint meeting be held so the Board can be apprised of Commission's issues. He opined the Board would react in a swift manner to correct any oversight on their part and to carry out Commission's direction.

Discussion ensued on how the Mayor and each Commissioner envisions the approval process if the Commission chooses to implement final approval for CRA projects. Commissioner Zirkelbach stated that if Commission changes the CRA Board to a recommending board it will change the course of the CRA and he cannot support making any change to the CRA Board except telling the Board what is wanted.

Commissioner Williams discussed the executive director's contract as it refers to the budget, stating funds should have been placed in the budget for any potential buy out. Discussion

ensued on a buy out in the event of termination or injury. Commissioner Zirkelbach stated the city attorney and the previous mayor approved the contract prior to the CRA Board approval. Discussion ensued on the fact Commission had given instructions that no contract was to be approved that extended beyond a mayor's term. The fact that a previous city attorney had stated that the director was not a department head of the City, and that the CRA is a separate entity was discussed. Attorney Barnebey confirmed the CRA can hire and appoint its own director, as well as its own legal counsel, by statute. He stated his understanding the original director was a City employee who obtained a contract with the CRA; the contract was granted in 2007 and extends to 2010. He stated he will research if the CRA executive director is a department head.

Attorney Barnebey confirmed the Commission has the authority to become the CRA and the authority to appoint an advisory committee, similar to the P&Z and the county Port Authority. Attorney Barnebey discussed how the City of Bradenton operates its CRA and stated there are Attorney General Opinions that state a city can not limit what a CRA is permitted to do beyond what the statutes allow. Attorney Barnebey opined that based on his understanding of the comments he has heard, the clearest way to accomplish what the City Commission wishes is to take over the CRA Board, appoint the current CRA Board as an advisory board with the understanding that if Commission does not agree with a recommendation, the topic would go back to CRA for discussion. Commissioner Zirkelbach commented on another option that would allow two of the CRA Board members to be part of the Commission during the CRA portion, with voting authority; those two members could take any issues back to the CRA Board.

Attorney Barnebey stated that the options discussed by he and Mr. Zirkelbach followed the statutes. He cautioned that it is unclear how much authority the Commission has if something short of the options occurs, then he probably would not recommend the Commission pursue any other direction; there must be clarity on who is making decisions.

Attorney Barnebey informed Commission that in order to take over the CRA Board a resolution must be adopted, per Section 163.357 *Florida Statutes* and an ordinance amendment must be adopted. He suggested that in the interim Commission could hold the joint meeting with the CRA Board.


Mayor Bryant stated that her concern having an issue arise that the City Commission does not have the ability to override, i.e. negotiation and award of grants and contracts. Discussion ensued on the ability to control the CRA budget. It is unclear in the statutes exactly how much control the City may impose.

Mrs. Lancaster stated when a vote is taken on whether or not to take over the Board, she wanted to be on the record that she does not want to be the CRA Board.

Commissioner Zirkelbach again reiterated that as a Board member, the Board did not hear but one request for a joint meeting. He also confirmed the CEDC Partnership is in the CRA budget under the community line item.

Commissioner Varnadore moved, Commission Williams seconded and motion carried 5-0 to adjourn the meeting at 5:50 pm.

Minutes approved: January 5, 2009



James R. Freeman
City Clerk