

Palmetto City Commission
September 1, 2009 5:00 p.m.

Elected Officials Present:

Shirley Bryant, Mayor
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Tambra Varnadore, Commissioner
Brian Williams, Vice Mayor
Alan Zirkelbach, Commissioner

Staff Present:

Mark P. Barnebey, City Attorney
James R. Freeman, City Clerk
Chief Garry Lowe
Tom McCollum, Interim City Planner
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting to order at 5:00 pm. A moment of silence was observed, followed by the Pledge of Allegiance.

1. DISCUSSION: ALCOHOL ORDINANCE

Public Comment on the topic was accepted before Commission began discussion of the topic.

Natalino Smeralda, owner of Ricco's Pizza, spoke of his attempt to obtain a license to sell beer and wine in his restaurant, and questions why one restaurant that does not meet the criteria of the ordinance can obtain a license. He spoke of his inability to grow his business without the sale of beer and wine in his dining room.

Mayor Bryant acknowledged that there are areas of contradiction to the ordinance, which has prompted the City Commission's review of the ordinance.

The following individuals spoke in favor of the Commission reviewing the ordinance regarding alcohol free zones and removing the prohibition of retail sale of alcohol on Sundays:

- Fred Forbes
- David Scalisi, The Hall
- Daniel Fulghum, Sweetbay Supermarket
- Tim Henning, Publix District Manager
- David Johnson

Bill Arnold spoke of his business that has been closed on Sunday for 21 years, and did not support alcohol sales on Sunday.

John Geeslin spoke of the different steps the City should take regarding the issue, including putting the topic to referendum.

Mayor Bryant read an email from Jonathan Leal, Wine Warehouse, supporting sales of alcohol on Sunday.

Mr. Freeman reviewed the main components of the existing ordinance: 1) Hours of sale, 2) Sales locations; 3) Consumption; and 4) Under 21, which was recently revised changing the definition of a restaurant and the percentage of food sales for Sunday sales.

Mayor Bryant commented on the conflicting property located within the 300' school measurement criteria that was issued an alcohol license in error.

Commissioner Lancaster supported the sale of alcohol on Sunday, opining there is consumption, but the City does not derive the revenue from the sale that occurs outside the City's boundaries.

She stated she is not in favor of amending the distance requirements for alcohol licenses as they relate to schools and churches.

Attorney commented on the unusual distinction of the points of measurement for schools and churches. He opined that if the measurement was to the main entrance of a school, as required for a church, the issues would be resolved.

Commissioner Zirkelbach supported the sale of alcohol on Sunday, offering a compromise for the restaurant and retail operators to begin the sales after 12:00 p.m. Mr. Zirkelbach stated that when the ordinance was adopted there were no fences at schools as there are now. He stated he liked the 300 feet rule but there should be a better definition; school accessibility point should be considered vs. "school grounds". Suggested that zoning should remedy the permitted location of sales rather than the descriptions currently listed in the ordinance. Consumption definitions should be reviewed for the maintenance facility. Verbiage in the Under 21 section should be considered to prohibit someone under 21 serving alcohol.

Commissioner Williams supported the sale of alcohol on Sunday. He cited Sections 4.1 and 4.2 of the ordinance as areas that need to be addressed. He stated that he would not want to remove a business' license where the City made the error in issuing the license.

Commissioner Varnadore agreed that Section 4.2 must be addressed and consistency on the measurement for churches and schools developed. She commented on the fact the City has one of the lowest measurements in the area, and some jurisdictions have distance limitations on alcohol sales near residential areas and between establishments selling alcohol. She stated she would not support lowering the 300 foot requirement and is happy with the balance of the ordinance as written. She commented that she has not yet heard from the residential community.

Commissioner Cornwell stated she supports keeping the prohibition of alcohol sales on Sunday, citing family values. She commented that fences do not keep individuals that imbibe in alcohol from entering school campuses. She also stated she has not heard from the residents and churches of the community.

Mayor Bryant recapped the discussion by confirming with Commission that no one is amenable to reducing the 300 foot distance requirement, but that consistency in how the measurement is made is necessary.

Mr. McCollum confirmed that zoning can control where sales of alcohol can be a permitted use.

Discussion ensued on issues the City could face should licenses that have been issued in error be rescinded. Attorney Barnebey opined that generally an error by staff is not grounds for vested rights or equitable estoppels against the City; however, there is the potential for claim and it is a very fact driven situation, in which the courts have not been consistent.

Mr. Freeman asked that staff attempt to resolve the inconsistency in the 300 foot limitation and gather input on the Sunday Sales and location and zoning issue. Attorney Barnebey confirmed the issue can probably be ready for review by September 14, 2009.

Mayor Bryant thanked Publix for addressing the grocery cart issue.

Meeting adjourned at 6:00 p.m.

Minutes approved: **September 14, 2009 Corrected to reflect that Mr. Zirkelbach did not depart the meeting at 5:00 pm.**



James R. Freeman, City Clerk