

**Palmetto City Council
June 10, 2002 4:00 PM**

Elected Officials Present:

**Larry Bustle, Mayor
Mary Lancaster, Vice Mayor
Shirley Bryant, Council Member
Tamara Cornwell, Council Member
Charlie Grace, Council Member
Brian Williams, Council Member**

Staff and others present:

**Jim Dye, City Attorney
Karen A. Conlon, City Clerk
Lt. Craig Himes, Palmetto Police Department
Mike Hickey, Public Works Director
Diane Ponder, Administrative Assistant**

Mayor Bustle called the meeting to order at 4:00 p.m.

Reverend Sterling Forrester, Southside Baptist Church gave the invocation, followed by the pledge of allegiance to the United States flag.

Mayor Bustle read a proclamation declaring June 14, 2002 as National Small Cities Day.

Citizen Comment:

Daniel West, 1525 17th Street, West read a prepared statement, a copy of which is attached hereto and made a part of these minutes, concerning the drainage issues at his residence. Mr. West discussed a meeting that was held December 5, 2001 resulting in the representative of Southwest Florida Water Management District giving the site engineer for the adjacent property owner 30 days to develop a plan to correct the drainage problem before further permitting would be granted. Mr. West stated that to date there has been no resolution.

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried unanimously to authorize staff to utilize the attorney, notify all parties involved, clarify the issue, and move forward with notification within 15 days instructing the engineer to have a plan in place within 30 days to correct the issue.

1. APPROVAL OF AGENDA

Mayor Bustle requested the agenda be amended to include a Creel v. City of Palmetto litigation meeting date and the Top 3% settlement topics.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried unanimously to add the Creel v. City of Palmetto litigation meeting date and Top 3% Oakridge discussion and approve the June 10, 2002 agenda.

2. RESOLUTION NO. 02-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, EXPRESSING SUPPORT OF THE CHALLENGE DAY PROGRAM AT PALMETTO HIGH SCHOOL AND THE SEPTEMBER 7, 2002 CITY WIDE CHALLENGE DAY EVENT.

The City supports the concept of Challenge Day; no City funds or City property is to be deemed part of that support.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried unanimously to adopt Resolution No. 02-08.

3. WASTE WATER TREATMENT PLANT PERMIT CONTRACT

Attorney Dye informed Council that Jones Edmunds & Associates had amended the short form contract to include the scope of work, hourly rate charge and acknowledgment of the sovereign immunity clause. Mr. Dye stated with those changes the city attorneys have no objection to the proposal.

MOTION: Ms. Cornwell moved, Ms. Bryant seconded and motion carried unanimously to approve the contract with Jones Edmonds & Associates for the Waste Water Treatment Plan application dated June 10, 2002, and authorize Mayor Bustle to sign said contract.

4. REFUND OF WATER DEPOSITS

Mrs. Conlon discussed the payment of interest on utility deposits as called for in the master utility ordinance. Whitney Ewing, customer service supervisor, discussed the utility deposits. She presented to Council a service available whereby credit checks can be performed, thereby allowing waiver of the required deposit. Mrs. Ewing also discussed the collection agency used by the City for delinquent accounts. Staff will bring back the following information to Council for further discussion:

A proposed formula for payment of interest on refunded deposits
Funds paid to the agency for delinquent account collection
Options on payment/waiver of utility deposits

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5. ELECTRONIC MAIL POLICY

The topic was placed on the June 17, 2002 agenda for adoption. Also discussed was the procedure covering the mail received at city hall.

6.. CITY HALL PUBLIC MESSAGE BOARD

Mrs. Conlon will determine if the public works department can produce this type of signage. The topic was placed on the June 17, 2002 agenda.

7. JULY COUNCIL MEETING SCHEDULE

Discussion ensued on canceling the July 1, July 8 and July 15, 2002 council meetings. The topic was placed on the June 17, 2002 agenda for vote at a regular city council meeting. Also discussed was the development of a timeline for the budget meetings.

8. APPROVAL OF CO-COUNSEL - CREEL V. CITY OF PALMETTO

Attorney Dye retaining A. J. "Jim" Spalla as co-counsel on the Creel v. City of Palmetto matter because of his consulting service to Dye, Deitrich, Prather, Petruff & St. Paul, P.L. during the early versions of the case.

MOTION: Ms. Bryant moved, Mr. Williams seconded and motion carried unanimously to approve A. J. "Jim" Spalla as co-counsel on the Creel v. City of Palmetto litigation at an hourly rate of \$160 plus out-of-pocket costs.

MOTION: Ms. Bryant moved, Ms. Cornwell seconded and motion carried unanimously to set a litigation assessment meeting for June 17, 2002 at 6:00 p.m. to discuss the Creel v. City of Palmetto matter.

9. TOP 3% SETTLEMENT

Mayor Bustle encouraged Council to consider instructing city staff to proceed with the alternate plan for Oakridge, subject to identification of funding.

MOTION: Mrs. Lancaster moved, Mr. Bryant seconded and motion carried unanimously to instruct Mayor Bustle and staff to proceed with steps necessary to implement the alternate plan of Oakridge, subject to identification of funds.

Staff will contact the CRA requesting they encumber funds to the highest available extend to help fund the alternate fund for the Oakridge project, as it is located within the CRA boundaries.

10. DEPARTMENT HEAD REPORTS

Lt. Craig Himes, Palmetto Police Department

- An arrest has been made in the vehicle burglaries west of 10th Avenue.
- The department is still working the residential burglaries.

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- **Discussed the loose newspapers on 7th Street between 10th and 20th Avenues. Code Enforcement is in the process of billing the company for the cleanup.**

11. INDIVIDUAL COMMENTS

Mrs. Lancaster

Commented on the job descriptions for the public works director and city clerk not reflecting responsibility for the building department. Mrs. Conlon stated the descriptions will be corrected.

Inquired why the city clerk would sign a Notice to Proceed on the public work's project. Mrs. Conlon explained why, in Mr. Hickey's absence, she signed the notice.

Inquired about the pictures showing the flooding at Oakridge. Mayor Bustle informed Council the pictures were damaged during a recent water leak and he disposed of them.

Stated the ordinance addressing the Harassment Policy needs to come back to Council to correct the exclusion of the "garrity" clause.

Requested police visibility on 12th Street off 2nd Avenue to deter speeding. It was suggested the Police Department coordinate with the Oakridge Community Center about teaching traffic safety.

Ms. Bryant

Thanked Lt. Himes for resolving the U-Haul intrusion into the right of way on 10th Street. Ms. Bryant discussed code violations happening on the weekends asking the code enforcement officer alter her work week to work some Saturdays. She also commented on construction taking place on the weekends. Mrs. Conlon will address these issues with the code enforcement officer and building inspector.

Discussed a homeowner's ability to renovate or construct a home if they are going to live in the residence for a certain period of time. Asked staff to determine how long after that timeframe the owner could request the property be rezoned to commercial. Ms. Bryant stressed the need to protect the public by ensuring a licensed contractor was utilized in renovation of a building that is being considered for the public's use. Mr. Williams stated there is no penalty for this type of violation other than the fact the City will not issued another building permit to the applicant.

Thanked Mayor Bustle and Council for their indulgence in allowing Mr. West to address them. Mayor Bustle mentioned the City needing to take care in the development west to the area under discussion as it relates to drainage.

Ms. Cornwell

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Advised Mr. Hickey she has been receiving compliments on the Estuary Park, with Geoff Seger also being highly praised.

Thanked the police department for help in getting all the children home safely from the schools.

Referring to the June 6, 2002 memo from Mayor Bustle, Ms. Cornwell asked for recommendations from staff regarding the balloon payment and salary/benefits. In addition she recommend the inclusion of the CRA and things discussed with them such as infrastructure; put pipes underground, pavement, sidewalks, lighting and an increase in pedestrian traffic.

Mr. Grace

Thanked Mr. Hickey for the sidewalk survey, stating we need to plan to repair the sections needing repair.

Mr. Williams

Commented on the Albertson's grand opening.

The tentative budget of the library board is ready for submission to the city clerk.

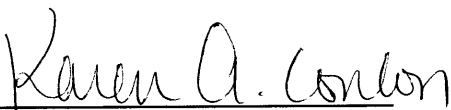
Commented on the additional vendor signs being placed around the city. Code enforcement and the police officers are removing. An attempt is being made to locate the owner of the signs.

Asked that the management plan for the Estuary Park be brought up for discussion prior to the budget.

Asked that business owners be contacted to get their e-mail address.

Meeting adjourned at 6:25 pm.

Minutes approved: June 17, 2002


Karen A. Conlon
City Clerk

Dan West
Rec'd 6/10/02

722-3698

FILE
cc: Karen Conlon
Mike Hickey

Flooding Problem at 1525 17th St. W. Palmetto

Honorable Mayor and Council Members,

My name is Daniel West and I have resided at 1525 17th St. W. since 1977. I am here to speak on behalf of drainage issues I have regarding this residence. The house in question was permitted and built at city specifications. In my family's twenty-five years at this home we have grown accustomed to having a water problem. Everyone knows that we have had this problem since day one. However, in the past year we have dealt with floods that have been more severe than any we have faced previously. At no time between 1977 and June 2001 did we have water threaten the inside of our home. We have had water in the garage many times but the inside of the house was never in jeopardy. When LampPost Place was constructed a few years ago my mother (then the owner) questioned city officials about the proposed drainage impact on the home and neighborhood. The city engineer sent word that floods that we had known in the past would never happen again because the drainage plan for that development had diverted waters to the south.

Prior to the two floods in question of July and September of 2001, the last flood occurred in January of 1997 when the Fair was closed on opening day. The four-year period of relative calm was due to the lack of rainfall during this time. We were in a drought situation.

The flood of July 2001 occurred in the middle of the night with 2-5 inches of rainfall reported in the area. This rain caused water to enter the garage and come within 1 inch of entering the house. The rainy season had begun in June and the ground was moist. The pond behind our home was not to total capacity but was holding a considerable amount of water from previous rains. We did not sand bag the garage or other points of entry due to the fact that the forecast did not seem severe.

The flood of September 2001 (Tropical Storm Gabrielle) dumped up to 10 inches of rain on the area. Knowing that we had a possible Hurricane we sand bagged the garage and all points of entry into the house. During the day we pumped water from the garage every hour to prevent water from

entering the home. I would safely estimate that the house would have been flooded throughout with at least 3-4 inches of water.

During the rains of Gabrielle, I inspected the pond and east ditch of my property I could see that water was sheeting onto my property from the rear adjacent property. The once vacant property to our south was draining in our direction. I began researching the drainage plan of the development and found that they had altered the pond and that their retention area was discharging into the pond, which I own half of. Upon further research I found that the engineers of the development were required by SWFWMD rules to obtain an easement agreement to allow this water to drain onto my property. This SWFWMD rule was not fulfilled by the engineer nor was it caught by the City or by SWFWMD itself. I would have never signed an agreement knowing that my property would become the basin for their storm-water and compound my water problems.

After the September flood I contacted the City of Palmetto to ask about the easement agreement. The City engineers had nothing on file for this as I knew they would not. The City engineer contacted the development engineer and asked about the agreement. They did not have any such agreement on file. I then asked for a meeting with the City of Palmetto, SWFWMD, Church on the Rock and their engineer. We met at Church on the Rock in mid November to look over the site and discuss possible solutions to correcting the problem. The city engineer and the site engineer made plans to meet following this the first meeting. All parties agreed to meet again in two weeks.

The second meeting took place on December 5th 2001 at Church on the Rock. Again the site engineer spoke about possible solutions. The Church on the Rock representative stated that the problem was not theirs and that I had always had a water problem. In the end the SWFWMD representative said that the site engineer was to be given 30 days to develop a plan to correct the problem and they would then be eligible to seek further permitting. He also stated that the site plans for Church on the Rock had exceeded the scope of the initial fast-track permit that was granted to them by SWFWMD and that they would have to reapply for permitting for further construction plans. The SWFWMD representative also said that in order for the site engineer to be granted another permit that they would have to

comply with SWFWMD rules in regard to the easement agreement which was not obtained in the previous permit.

Since the second meeting, I have made numerous calls to the City of Palmetto, SWFWMD and talked and met with officials from Church on the Rock. At this time, the site engineer has submitted no plan. It has been six months since the December meeting and no action has been taken by any of the parties involved. If there has been a violation of SWFWMD rules how long are you allowed to be in non-compliance? Furthermore, without proper permitting, soil has been removed and fill has been brought in to form a foundation for new development at Church on the Rock. City officials contacted the Church and notified them that they had no permits from SWFWMD or the City of Palmetto to construct any new development.

So I am here for advice. What regulatory agency can I turn to to get a solution to this problem?