

Palmetto City Council  
May 24, 2004 5:00 PM

Elected Officials present:

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

Staff and others present:

Attorney Richard Groff  
J. E. Free, Jr., City Clerk  
Chief Garry Lowe  
Chris Lukowiak, Public Works Director  
Diane Ponder, Administrative Assistant

Mayor Bustle called the meeting to order at 5:00 p.m. Mayor Bustle asked for a moment of silence for military personnel overseas, followed by the Pledge of Allegiance to the United States Flag.

Chris Lukowiak reviewed a video tape by Equitas Sewer Service of the Riverside Drive sewer main video and cleaning project. As evidenced by the video, there is substantial accumulation of grease in the 16" pipe, as well as some shifting of the pipe and one recorded crack. The grease accumulation closed the pipe opening to approximately 8" and resulted in Equitas only being able to video and clean approximately 140 feet. Mr. Lukowiak voiced concern regarding the shifting because approximately 600 feet of the sewer line is located under the Manatee River.

Mr. Lukowiak requested Council approval of an amendment to the Equitas Sewer Service contract for additional cleaning at a price not to exceed \$4,400. He further requested the Council approve entering into an agreement with Insituform Technologies for the relining of the sewer main at a price not to exceed \$50,000. He stated the quote was for 867 feet; 330 feet may not need additional attention, which could result in the quote being approximately \$34,000. Mr. Free confirmed funds are available through either the Water, Sewer Fund fund balance or the Bank of America financing.

Mr. Lukowiak informed Council a portion of the I&I approved in the CIP is dedicated to this type of project. He stated the approved CIP plan would be followed as approved, but the timetable may have to be adjusted due to unforeseen circumstances.

Mayor Bustle discussed the urgency of the situation because of the pipe being located under the river. Mr. Williams suggested it would be appropriate to declare the item an emergency.

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried 4-0 to declare the situation as brought forward today as an emergency, to proceed with the amendment to the agreement with Equitas Sewer Service to provide additional cleaning not to exceed \$4,400 and enter into

an agreement with Insituform Technologies to provide the relining of the sewer main, not to exceed \$50,016.

#### Charter Revision

Attorney Groff explained the revised copy received before the meeting was to update the version under discussion. He suggested time should be spent on the changes to assure the Charter will say what Council intended.

Council reviewed and discussed the draft Charter as follows:

Mayor Bustle commented that elected officers should be changed to elected officials throughout the document.

#### Section 2. Gender

Language will be included stating all references to masculine should be construed to be both masculine and female gender.

#### Section 6. Legislative Power

The last sentence of the section, "Except as provided elsewhere in this Charter, the power of the Commission shall not extend to involvement in management of City operations, or any other power granted to the Executive Branch in Part III hereof." was discussed. Mrs. Lancaster commented on a Council members' ability to bring forth a problem a Mayor may choose to ignore. It was Ms. Bryant's opinion the issue is no different from the way Council now operates; it is important Council to be able to make inquiries of department heads but not to try to manage. Mr. Williams stated the verbiage was vague as it related to powers granted the Mayor; if other powers are granted they should be stated.

Responding to the discussion, Mr. Groff advised Council the statement described the Charter Review Committee's vision - it separates the power between the two branches of government. He further opined it was a Council member's political duty to bring up issues a Mayor may resist. As to the powers granted the Mayor, he directed Council to Section 14 which outlines a Mayor's powers and duties.

The verbiage under discussion was not altered.

#### Section 7. Commissioners

Mr. Free brought to Council's attention the fact that the draft Charter does not contain residency requirements for Mayoral candidates. After discussing the residency requirements for at-large candidates, ward candidates and Mayoral candidates, it was consensus of Council that candidates for Mayor and at-large offices must have resided in the City six months prior to qualifying and ward candidates must have resided in the ward for which they are running six months prior to qualifying.

#### Section 10 Commission Members-Vacancies

Mrs. Lancaster discussed her concerns with the language regarding forfeiture of a Council member's office, stating there could be unforeseen circumstances that prohibited a Council member from notifying anyone of his absence, thereby resulting in removal.

Mayor Bustle stated he felt sure someone would try to find the reason a Council member was not at a meeting if notification was not given. He further discussed the fact that if a reason for an absence could not be determined for three consecutive meetings then something had to be done to replace the member so the City could continue its business. Mrs. Lancaster stated she had no objection to the Mayor's opinion, but the Charter should contain verbiage to that effect rather than just saying that if meetings are missed a member can be removed.

Attorney Groff suggested a possible solution would be to include language such as, "A Council member may be removed on showing reasonable cause by a vote of three of the remaining four Council members." He explained the language would force an inquiry into the missing person or any other moral or illegal activities. He explained the other activities were not specified, but would be implied under qualifications of office. He also advised Council that as an elected body it may regulate itself, within limitations, but only the people who elected the Mayor can remove him. He also clarified that any elected officer can be removed by recall.

Discussion ensued on resignations during a term, with a short period of time remaining. Under the new charter, appointment would continue to the end of the current term.

Referring back to the forfeiture of office issue, and after debate of whether the Council should have the power to remove a member, it was consensus of Council to add language such as "in the absence of notification, the Council will make every effort to determine the cause of the absence before removal."

#### Section 11. Mayor-Chairman of Commission

It was consensus of Council to amend the language to read "The Mayor shall have the authority to veto any ordinance or resolution of the Commission, subject to the veto provision set forth elsewhere herein." The amendment deleted the word "enactment".

#### Section 12. Ordinances; Mayor Veto

Council discussed the veto power. Mrs. Lancaster questioned why a Mayor should be able to veto an item when he has participated in all the discussions of an item at Council meetings. Mayor Bustle opined the veto is a very important balance of power between the two branches of government. It was his opinion that a veto can only be overturned by four out of five Council members, with all five members in attendance. Mayor Bustle stated the section should contain language stating vetoes must be acted on by a full Council. Attorney Groff explained the language implied a full Council with "...approval of the Commission by majority vote." Attorney Groff stated the full Council issue for voting is also included in the appointment section and removal of officers. He explained a majority or super majority could be of the full Council or it could be of members in attendance at a meeting. He requested Council come to consensus of where either of the terms should apply.

Mayor Bustle discussed super majority losing its meaning if there is not a full Council. Attorney Groff gave an example of four members being present and an issue passing with three votes as a super majority of the four present, or 75%. Mayor Bustle disagreed, citing four out of four being a super majority. Attorney Groff agreed with the statement because Council is comprised of five members. He asked for clarification of

how Council wants to resolve the issue and what measures require a vote of the full Council. Ms. Cornwell stated that using the number four in the language ties a Council's hands in unforeseen situations. She felt a super majority of three out of four remaining members would be enough for passing. She also suggested a caveat could be placed in the Charter for emergency situations.

Mayor Bustle opined the veto should require four out of five votes; if five members are not present the veto can not pass. He suggested tabling action on the veto until five members are present. He also discussed the scenario where four members are present and all four approve the veto, stating it should pass; if four members are present and it is a split vote the action should be tabled until such time all members are in attendance. Council concurred with Mayor Bustle's suggestion.

Mayor Bustle suggested the same definition should apply to appointments for greater than one year; four votes of a full Council present for the vote or four out of four Council members present for the vote to approve the action.

Discussion ensued on one year appointment approval. Attorney Groff asked for confirmation that approval of a one year appointment can be approved by a majority of those present; two people can approve a one year appointment, a multi-year appointment requires the approval of full Council by a vote of four to one. Ms. Cornwell disagreed, stating it should take three votes. Mrs. Lancaster referred to a quorum being able to conduct business, with Ms. Cornwell commenting again that when using a number of votes required approving an action, a Council may not be able to conduct City business. She stated that all the language needs to be the same throughout the Charter; when tying approval to four votes and there are not four members of Council, Council can not proceed with City business.

Mayor Bustle reminded Council that under the new Charter Council will have the ability to immediately appoint in the case of a vacancy. Ms. Cornwell stated, "Not with the veto." Attorney Groff interjected a Mayor can not veto an appointment to the Council; only ordinances and resolutions. Ms. Cornwell opined that with three Council members present, two should not be able to approve an appointment. Mr. Williams inquired why two people should be able to approve an appointment when Council was concerned about two people being able to remove an appointment.

It was consensus of Council that a one year appointment must be approved by three votes; any other term must be approved by four votes.

It was consensus of Council that removal of an officer by the Mayor shall require three votes of the Council and removal of an officer by the Council shall require four votes of the Council. Mrs. Lancaster stated it should only take three votes and referred to wards not being properly serviced. Mr. Williams asked why, if a Mayor asks for removal of a department head, it can be accomplished with three votes vs. Council's desire to remove a department head taking four votes. Attorney Groff stated it is separation of power; it is the Mayor's prerogative to appoint and remove a department head.

Ms. Cornwell commented on appointments extending beyond a Mayor's term. Attorney Groff stated the appointments are not contracts and carry no property rights. Attorney Groff stated a new Mayor has to accept all enactments of a prior Mayor and Council.

Mayor Bustle recessed the meeting for ten minutes.

#### Section 18. Terms of Office

Attorney Groff reviewed how he had developed the new, four year term. Council concurred with the following terms of office, subject to passage of the proposed Charter:

November 2, 2004 - General Election:

- Mayor: Term from January 3, 2005 - November 17, 2008; thereafter, term to conform to this Section.
- At Large 1: Term from January 3, 2005 - November 17, 2008; thereafter, term to conform to this Section.
- At Large 2: Term from January 3, 2005 - November 17, 2008; thereafter, term to conform to this Section.

November 8, 2005 - General Election:

- Ward 1: Term from January 2, 2006 - November 15, 2010; thereafter, term to conform to this Section.
- Ward 2: Term from January 2, 2006 - November 15, 2010; thereafter term to conform to this Section.
- Ward 3: Term from January 2, 2006 - November 15, 2010, thereafter term to conform to this Section.

#### Section 20. Referendum

Attorney Groff stated that he and Ron Witt questioned if Council wished such a small minority of citizens (15% of the registered voters of the City who voted in the last general election) to trigger a Charter revision or ordinance revision proposal to appear on the ballot in an election. State Statute is 10% up to 25,000 voters. Discussion ensued on the topic. It was consensus of Council to amend the language by deleting "who voted", thereby requiring 15% of the registered voters of the City in the last general election to accomplish a referendum.

Attorney Groff confirmed that the people have the right to place an item on the ballot. provided all criteria have been met.

#### Section 25. Charter Review

Council discussed the ability to review the Charter sooner than five years, which is provided Council through the adoption of a Resolution. The "petition of registered voters" shall be clarified by reference to Section 20.

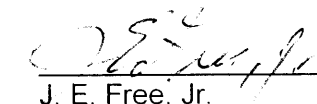
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Attorney Groff will provide each Council member and Charter Review Committee member with the new draft for comments. The first reading of the ordinance will occur June 1, 2004.

Mayor Bustle reiterated the need to keep the referendum as simple as possible, hopefully by one question on the ballot.

Meeting adjourned at 7:30 pm.

Minutes approved: June 7, 2004

  
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J. E. Free, Jr.  
City Clerk