

Palmetto City Commission
November 15, 2004 7:00 PM

Elected Officials present:

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

Staff and others present:

Michele S. Hall, Attorney
J. E. Free, Jr., City Clerk
Chief Garry Lowe
Chris Lukowiak, Public Works Director
Jessica McCann, City Planner
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:00 pm.

Commissioner Eric Ball gave the invocation, followed by the Pledge of Allegiance to the United States Flag

Vice Mayor Cornwell read a proclamation declaring November 12 - 20, 2004 as Farm City Week. Shirley Groover Bryant and Alice Myers accepted the proclamation on behalf of the Farm City Week Committee and briefly discussed planned events.

Mayor Bustle read proclamations honoring Miss Florida Teen Aimee Seheult and Miss Kaitlyn Seheult, third runner-up in the Miss Florida Sweetheart competition.

1. AGENDA APPROVAL

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the November 15, 2004 7:00 pm agenda.

2. CONSENT AGENDA

A) Minutes: November 1, 2004 Workshop and Commission Meeting
B) October Check Register
C) Special Function Permit: Family Celebration of Lights

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve the Consent Agenda.

3. PUBLIC HEARING - ORDINANCE NO. 04-819

Ordinance No. 04-819 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, VACATING AN ALLEYWAY RIGHT-OF-WAY IN THE 1800 BLOCK BOUNDED BY 11TH STREET WEST AND 12TH STREET WEST AS MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THIS ORDINANCE AND AS GRAPHICALLY DEPICTED ON EXHIBIT "A" OF THIS ORDINANCE; RETAINING A 20-FOOT WIDE PUBLIC UTILITY EASEMENT AS MORE PARTICULARLY DESCRIBED IN SECTION 2 OF THIS ORDINANCE AND AS GRAPHICALLY DEPICTED ON EXHIBIT 'B'; AND PROVIDING FOR AN EFFECTIVE DATE. (V0401-Samuel and John Fogarty)

Mayor Bustle reopened the public hearing continued from October 18, 2004.

Mr. John Fogarty, 1118 20th Ave. W. explained he was seeking the vacation because of he has maintained the subject property for a number of years and he was experiencing problems with nuisance animals. He stated the City does not maintain the alley and what he does not maintain is overgrown. Mr. Fogarty plans to fence the property and will install gates on both ends so the City can access the utility easement he will grant the City. He also stated he wished to expand his home and would not be able to meet required setbacks without the additional property.

There being no further comment, Mayor Bustle closed the public hearing.

Commission discussed possible ramifications of vacating a portion of the alley which runs behind homes for a two-block area; allowing Mr. Fogarty to fence the subject property; and the possibility of a variance to the required setbacks. Ms. McCann informed the Commission the P&Z Board had recommended approval, but recommended the City develop a policy and procedure to address vacation requests.

Mayor Bustle suggested tabling the item until the City can develop a policy regarding vacations. Ms. Cornwell and Ms. Varnadore stated they did not object to the vacation, Mr. Ball stated the City should maintain or vacate the entire alley, Mrs. Lancaster stressed the importance of handling all vacations the same way, and Mr. Williams agreed a policy is needed. Staff was instructed to research the legality of allowing Mr. Fogarty to fence the property and to bring the information and a policy back to the Commission at the December 6, 2004 meeting.

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 3-2 to table Ordinance No. 04-819 to December 6, 2004. Ms. Cornwell and Ms. Varnadore voted no.

4. PUBLIC HEARING - ORDINANCE NO. 04-828

Ordinance No. 04-828 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENT OF ARTICLE III, SECTION 3.2 OF THE CITY ZONING CODE BY DELETING THE DEFINITION OF "BOARD OF ADJUSTMENT"; PROVIDING FOR AMENDMENT OF ARTICLE XII OF THE CITY ZONING CODE TO COMBINE THE FUNCTIONS OF THE PLANNING AND ZONING BOARD AND BOARD OF ADJUSTMENT INTO A SINGLE, CONSOLIDATED BOARD TO BE CALLED THE "PLANNING AND ZONING BOARD"; PROVIDING FOR ESTABLISHMENT OF SAID CONSOLIDATED BOARD; PROVIDING FOR POWERS AND DUTIES OF SAID BOARD; PROVIDING FOR RULES AND PROCEDURES GOVERNING SAID BOARD; PROVIDING FOR APPEAL OF DECISIONS OF SAID BOARD; PROVIDING FOR REPEAL OF ARTICLE XIII OF THE ZONING CODE PERTAINING TO THE BOARD OF ADJUSTMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, Ms. Varnadore seconded and motion carried 5-0 to continue the public hearing for Ordinance No. 04-828 to December 6, 2004.

5. ACCEPTANCE OF CERTIFICATE OF CITY CANVASSERS

MOTION: Mrs. Lancaster moved, Mr. Ball seconded and motion carried 5-0 to accept the November 2, 2004 Certificate of City Canvassers report and acknowledge the unopposed re-election of Mayor Larry Bustle and Tamara Cornwell for the Commission At-Large 2 seat.

6. CODE ENFORCEMENT BOARD APPOINTMENT

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the appointment of Scott Dougherty to the Code Enforcement Board for a term ending January 1, 2006.

7. APPLICATION TO FLORIDA MUNICIPAL INSURANCE TRUST

MOTION: Mrs. Lancaster moved, Ms. Varnadore seconded and motion carried 5-0 to approve and authorize Mayor Bustle to execute the Application to Florida Municipal Insurance Trust.

8. GRUBBS EMERGENCY SERVICES, LLC

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve and authorize Mayor Bustle to execute the Agreement for Disaster Recovery Services with Grubbs Emergency Services, LLC.

9. EASEMENT AGREEMENT APPROVAL

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve and authorize Mayor Bustle to execute the Easement Agreement with J. D. Marsh, Inc.

10. RESOLUTION NO. 04-79

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 04-64, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2004-2005, AND PROVIDING FOR AN EFFECTIVE DATE.

Grants Coordinator Tanya Lukowiak explained Resolution No. 04-79 will authorize the purchase of additional parcels to expand the Estuary Park. An LWCF acquisition grant for \$200,000 and a land value match from Riviera Dunes of \$200,000 will fund the purchase. Mrs. Lukowiak informed the Commission Riviera Dunes has conveyed all the land they were required to donate to the City. The donations have been done separately to serve as a match for grant applications. The City will control the property from Manatee River to 7th Street, utilizing grant expenditures of \$550,000. All the FCT obligations have been met; installation of the pier/walkway, picnic area, bathroom facilities.

Ms. Varnadore voiced concern regarding the park's location adjacent to a major highway and the fact the park would continue to be an expense to the City. Mr. Williams stated the berm as originally presented was much higher with foliage along the top to act as a sound barrier. He asked staff to research if the berm could be raised.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-1 to adopt Resolution No. 04-79. Ms. Varnadore voted no.

11. RESOLUTION NO. 04-77

A RESOLUTION OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE MAYOR TO MAKE APPLICATION TO THE FLORIDA RECREATIONAL DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) FOR THE CITY OF PALMETTO FOR THE ENHANCEMENT OF THE PALMETTO ESTUARY PARK; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Grants Coordinator Tanya Lukowiak informed the Commission Resolution No. 04-77 would authorize a \$50,000 FRDAP Grant application to purchase playground equipment and trails at the Estuary Park.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 4-1 to adopt Resolution No. 04-77. Ms. Varnadore voted no.

12. RESOLUTION NO. 04-78

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 04-64, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2004-2005, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Free informed the Commission Resolution No. 04-78 will establish a budget for the remodeling of a portable building to house the Building Department. The expense will be funded by Building Department reserve funds.

Mrs. Lancaster referred to information regarding the use of Building Department funds provided by Attorney Hall, reading from an Attorney General's opinion, "... this office cautioned local governments to not impose inspection fees greater than the amount needed to defray the costs of such inspection and enforcement of the building code." Mrs. Lancaster also referred to the fact the opinion had stated fees could not be used to construct a municipal building. Mr. Free suggested the opinion was based on an inquiry regarding a multi-use municipal building, not the refurbishment of a building to exclusively house a building department. Mr. Lukowiak voiced his opinion the fees provided the Building Department personnel, vehicles, housing and other administrative necessities. Attorney Hall advised this is a gray area and the City was vulnerable only if challenged on the use of the funds. Staff will research the permissibility of renting the Building Department offices at the market rate.

Mrs. Lancaster inquired if Building Department funds could be used for demolition expenses, because only the Building Department could condemn a structure. Staff will research the topic.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 4-1 to adopt Resolution No. 04-78. Mrs. Lancaster voted no.

13. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-829

Ordinance No. 04-829 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO, TO CHANGE THE ZONING OF THE PROPERTIES DESCRIBED IN EXHIBIT "A" FROM CG - (GENERAL COMMERCIAL - CITY) TO RS-6 (RESIDENTIAL SINGLE FAMILY - 10 DU/AC - CITY); AMENDING THE ZONING MAP OF THE CITY OF PALMETTO PERTAINING TO THE PROPERTIES DESCRIBED HEREIN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Jessie Clark Z0414 PID # 2643600006, approximately .1584 acres).

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve Ordinance No. 04-829 for advertising and schedule a public hearing December 6, 2004.

14. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-830
Ordinance No. 04-830 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO FLORIDA, APPROVING A THIRD AMENDMENT TO A DEVELOPMENT ORDER RENDERED PURSUANT TO CHAPTER 380, FLORIDA STATUTES, FOR RIVIERA DUNES, A DEVELOPMENT OF REGIONAL IMPACT (DRI # 236); PROVIDING FOR DEVELOPMENT RIGHTS, CONDITIONS AND OBLIGATIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, and Mrs. Lancaster seconded to approve Ordinance No. 04-830 for advertising and schedule a public hearing December 6, 2004.

Attorney Hall advised the Commission Mr. Free and Mr. Williams had inquired about the prohibition of discussion on a first reading. Attorney Hall advised that discussion is not illegal to discuss an ordinance at first reading. For non-land use ordinances the only requirement is public notice ten days prior to the adoption hearing; there is nothing in the statutes that prohibits discussion among Commissioners at a properly noticed sunshine meeting.

Mr. Williams stated his belief the Commission should have a chance to review and discuss the final draft of an ordinance before a public hearing, so long as it is not rezoning or land development issues. Attorney Hall confirmed that if substantial changes are made to an ordinance at a public hearing, the ordinance must be re-noticed before adoption.

The motion on the floor carried 5-0.

15. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-831
Ordinance No. 04-831 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; APPROVING A GENERAL DEVELOPMENT PLAN FOR THE PARCEL ON THE CORNER OF 21ST STREET WEST AND 14TH AVENUE WEST OF THE TERRA CEIA BAY GOLF AND TENNIS CLUB MASTER DEVELOPMENT PLAN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (GDP 0404 Fru-Con Ocean Golf Park Ltd. PID # 2416900005, approx. 7.96 acres).

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 04-831 for advertising and schedule a public hearing December 6, 2004.

16. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-832
Ordinance No. 04-832 was read by title.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR REPEAL OF CHAPTER 29, "UTILITIES", ARTICLE I, "IN GENERAL"; PROVIDING FOR REPEAL OF CHAPTER 29, "UTILITIES", ARTICLE II, "MASTER UTILITY SYSTEM REGULATIONS"; CREATING A NEW CHAPTER 29, "UTILITIES", ARTICLE I, "MASTER UTILITY SYSTEM REGULATIONS", SECTIONS 29-1 THROUGH 29-43; PROVIDING FOR DEFINITIONS; PROVIDING A SCOPE OF APPLICABILITY; PROVIDING FOR A RIGHT OF ENTRY; PROVIDING FOR NON-LIABILITY OF CITY FOR DAMAGE; PROVIDING AUTHORITY TO THE CITY COMMISSION TO ESTABLISH REGULATIONS, STANDARDS, AND SPECIFICATIONS; PROVIDING FOR COMPLIANCE WITH TECHNICAL PROVISIONS; PROVIDING THAT CONNECTION BE REQUIRED FOR CERTAIN BUILDINGS; PROVIDING FOR PAYMENT OF CONNECTION CHARGES PRIOR TO ISSUANCE OF A BUILDING PERMIT; PROVIDING AN APPLICATION

PROCEDURE FOR SERVICE AND ACCOUNTS; PROVIDING FOR ANNEXATION AND INSPECTION OF PREMISES OUTSIDE THE CITY; REQUIRING METERS; PROVIDING THAT THE CITY SHALL DETERMINE AND AUTHORIZE THE APPROPRIATE METER SIZE; PROVIDING RESPONSIBILITY FOR DAMAGE TO METERS; PROHIBITING UNLAWFUL CONNECTIONS; PROHIBITING UNAUTHORIZED CONNECTION, DISCONNECTION, REPAIR OR REPLACEMENT OF EQUIPMENT; PROHIBITING DAMAGE AND TRESPASS OF EQUIPMENT OR PREMISES; PROVIDING THAT USE IS ASSUMED IF PREMISES ARE CONNECTED; REQUIRING AN OWNER SHUTOFF VALVE FOR PREMISES UNDER CONSTRUCTION; PROVIDING FOR MAINTENANCE OF CONNECTIONS AND EQUIPMENT BY CUSTOMER; PROHIBITING THE SALE OF SERVICE BY A CUSTOMER; PROVIDING THE CITY WITH AUTHORITY TO RESTRICT USE; RESERVING TO THE CITY THE RIGHT TO TEMPORARILY INTERRUPT SERVICE; PROHIBITING NON-SANITARY WASTES IN SANITARY SEWERS; PROHIBITING THE UNAUTHORIZED DISCHARGE OF INDUSTRIAL WASTE INTO THE SANITARY SEWAGE SYSTEM; PROVIDING AUTHORITY TO REQUIRE PRETREATMENT FACILITIES; PROVIDING FOR INDIVIDUAL PRIVATE SEWAGE TREATMENT FACILITIES; PROVIDING FOR LIMITED USE OF PRIVATE WELLS; AUTHORIZING TERMINATION OF SERVICE; PROVIDING A SCHEDULE FOR METER DEPOSITS; PROVIDING FOR TRANSFER OF ACCOUNTS AND DEPOSITS; PROVIDING A SCHEDULE OF CONNECTION CHARGES; PROVIDING A SCHEDULE OF FIRE SYSTEM CONNECTION CHARGES; PROVIDING A SCHEDULE OF MONTHLY CHARGES FOR POTABLE WATER; PROVIDING A SCHEDULE OF MONTHLY CHARGES FOR SEWER; PROVIDING A "BASE FACILITY FEE" FOR STRUCTURES NOT CONNECTED TO AVAILABLE WATER AND SEWER SERVICE; MANDATING CONNECTION TO POTABLE WATER, SANITARY SEWER AND REUSE WATER SYSTEMS WHERE AVAILABLE; PROVIDING FOR VOLUNTARY DISCONTINUANCE OF SERVICE; PROVIDING THAT PAYMENT SHALL BE DUE TWENTY (20) DAYS FOLLOWING THE DATE OF A BILL FOR SERVICES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A DELINQUENCY NOTICE FOLLOWING DISCONNECTION; PROVIDING FOR RECONNECTION AFTER DISCONTINUANCE; PROVIDING ADDITIONAL REMEDIES; PROVIDING FOR SPECIAL SERVICE CHARGES; PROVIDING AN EFFECTIVE DATE OF DECEMBER 1, 2004, FOR RATES, CHARGES AND FEES; PROVIDING FOR APPLICABILITY, RATIFICATION, PRESERVATION AND RESERVATION OF RIGHTS AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved and Mrs. Lancaster seconded to approve Ordinance No. 04-832 for advertising and schedule a public hearing December 6, 2004.

Mr. Free stated if Commission wished, the public hearing could be deferred to December 20, 2004, because the ordinance should be revenue neutral and substantial changes were written into the final ordinance as a result of the September workshop. The effective date of December 1 for rate changes will remain; billing for December usage will occur in January.

MOTION: Ms. Cornwell moved and Mrs. Lancaster seconded to change the motion on the floor to approve Ordinance No. 04-832 for advertising and schedule a public hearing December 20, 2004. Motion carried 5-0.

17. DEPARTMENT HEADS' COMMENTS

Mr. Free

Commission agreed that support documentation for items referred from the 4:00 meeting to the 7:00 agenda does not have to be duplicated. Mr. Williams inquired if a policy regarding the referral of 4:00 agenda items to the 7:00 agenda is necessary. Commission did not concur with Mr. Williams' suggestion, as Commission has ability to either refer or delay an item.

18. MAYOR'S REPORT

The Sigloch settlement offer will be on the December 6, 2004 agenda.

The proposed City Commission meeting dates and proposed 2005 holiday schedule will be placed on the December 6, 2004 agenda.

Informed Commission he will attend the FLOC Legislative Conference on Wednesday, November 17, 2004, and will be on vacation November 23 through December 2, 2004.

19. COMMISSIONERS' COMMENTS

Mrs. Lancaster

Reported excessive automobile stereo noise in her area. The Police Department will patrol the area.

Mr. Ball

Expressed his appreciation to staff's response concerning the citizen's suggestion that the Commission agenda topics needed further explanation.

Citizens are complaining about the noise at Jonathan's. Chief Lowe reported Jonathan's has been advised verbal warnings will no longer be issued, they will now receive citations. Chief Lowe also reported El Sombrero has been warned about the noise level and was very cooperative in correcting the problem. The parking problem is being addressed by El Sombrero's management. Mr. Ball referred to Joyland being denied a lease because of parking and inquired how El Sombrero had been approved given the parking problem. Ms. McCann stated El Sombrero has the appropriate parking according to the City's code.

Ms. Cornwell

Inquired the status of the search for a City Clerk. Mayor Bustle informed the Commission the position will be re-advertised. The finalist withdrew because of a prior commitment.

Reported the entry to Lincoln Middle School cannot remain as one way traffic while Second Avenue is under construction, because there is no other convenient entrance to the school. Chief Lowe stated he was aware of the issue.

Referring to a letter from Palms of Terra Ceia regarding aggressive driving, and her recent experience at Palmetto High School when students were departing the campus for the day, she suggested the Police Department should ticket as aggressively as the students are driving.

Mr. Williams

Announced the Tomato Rodeo is this weekend at the fairgrounds.

Requested a schedule of when and where the speed cart would be located.

Commented on the kids on bikes out at night. Chief Lowe stated the Police Department has been issuing tickets to adults on bikes at night. Tickets may be issued to children, but officers try to address the issue with parents first.

Ms. Varnadore

Inquired the status of the 7th Street project. Mr. Lukowiak stated sewer lines are probably being replaced, which accounts for the stench in the area. He stated everything except one intersection should be completed within three weeks.

Announced the luncheon at the Woman's Club on Thursday.

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Mr. Williams informed the Commission he will present a proclamation at Mr. Raymond Church on November 28, 2004 and extended an invitation to the event to the Commission.

Meeting adjourned at 9:15 pm.

Minutes approved: December 6, 2004



J. E. Free, Jr.
City Clerk