

Palmetto City Commission
December 6, 2004 7:00 PM

Elected Officials present:

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

Elected Officials absent:

Mary Lancaster, 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 4:00 pm. Pastor Rayford Harper, Bible Baptist Church of Palmetto gave the invocation, followed by the Pledge of Allegiance to the United States Flag.

1. AGENDA APPROVAL

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 4-0 to approve the December 6, 2004 7:00 pm agenda.

2. CONSENT AGENDA

- A) Minutes: November 15, 2004 Workshop and Commission meetings
- B) Attorney October 31, 2004 billing; Professional - \$16,331.45; Litigation - \$3,363.92
- C) Special Function Permits: DeSoto Heritage Grand Parade
DeSoto Heritage Children's Parade
MLK Parade

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 4-0 to approve the Consent Agenda.

Mr. Williams requested Chief Lowe to coordinate with the Bradenton Police Department to ensure the bridge is closed for the least amount of time necessary.

3. ORDINANCE NO. 04-819 (J. McCann)

(TAB 6)

Applicants Samuel and John Fogarty are petitioning the City to vacate an alley right-of-way in the 1800 block between 11th and 12th Streets, West.

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 announced Ordinance No. 04-819 was tabled November 15, 2004 pending approval of a policy governing the vacation of public properties.

MOTION: Mr. Cornwell moved, Ms. Varnadore seconded and motion carried 4-0 to remove Ordinance No. 04-819 from the table to resume its consideration.

In reference to the Commission's decision at the 4:00 workshop meeting regarding enforcement of the City's Comp Plan Policy 2.10.3 which states, "The City shall not vacate public right-of-way until it has been determined that the right-of-way is not required for future mobility, utility infrastructure, or storm water needs.", Mr. Williams voiced concern the applicant had paid a \$500 fee for a vacation the City's code would not allow, and which staff was recommending Commission deny. He stated he would like to see the \$500 be applied toward the application for a variance, which was the reason Mr. Fogarty applied for the vacation. Mayor Bustle stated it was within the Commission's purview to refund the \$500.

MOTION: Mr. Williams moved, Mr. Ball seconded and motion carried 4-0 to deny Ordinance No. 04-819.

Mr. Fogarty was informed at the meeting he could erect a fence, with the understanding it was in a City right-of-way. Mr. Lukowiak was instructed to meet with Mr. Fogarty to discuss with him his options regarding the installation of a fence and the application for a set back variance. The Commission assured Mr. Fogarty they were working to resolve the issue of his desire to expand his home.

4. PUBLIC HEARING - ORDINANCE NO. 04-828 (J. McCann)
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.

Mayor Bustle opened the public hearing. After no public comment, Mayor Bustle closed the public hearing.

MOTION: Ms. Cornwell moved, Ms. Varnadore seconded and motion carried 4-0 to adopt Ordinance No. 04-828.

Members of the Board of Adjustment will be notified of the Board's dissolution and will be advised of other City board vacancies to determine their interest in serving the City in a different capacity.

5. PUBLIC HEARING - ORDINANCE NO. 04-829 (J. McCann)
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 RM-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).

Mayor Bustle opened the public hearing. A scrivener's error, RS-6, printed in the title on the agenda was corrected to RM-6.

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

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 4-0 to adopt Ordinance No. 04-829.

6. PUBLIC HEARING - ORDINANCE NO. 04-830 (J. McCann)

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.

Mayor Bustle opened the public hearing.

Ann Pollock, representing the applicant for the NOPC, advised the Commission time extensions on DRI's of less than five years were approved as a matter of course and this amendment was not considered a substantial deviation under Florida Statutes by DCA and TBRPC.

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

Ms. McCann confirmed that the total density and intensity of the project has not changed, nor would it be able to be changed without Commission approval. Ms. McCann explained the proposed ordinance was, in fact, the developer's effort to confirm that the City has made no changes in density and intensity to the original Development Order. Mr. Free confirmed there remains one donation of property, which should be finalized in January. Ms. McCann assured the Commission that stipulations in the Development Order remain in effect.

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 4-0 to adopt Ordinance No. 04-830.

7. PUBLIC HEARING - ORDINANCE NO. 04-831 (J. McCann)

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).

Mayor Bustle opened the public hearing.

Representing the applicant, Mr. Whiting Preston discussed the development to be named Fairway Estates, informing the Commission it will be an eight lot subdivision bordering Terra Ceia Golf Club on 21st Street, West, and will contain a permanent greenway along the entire back side of the subdivision. Mr. Carlos Escalante stated homes would be required to be a minimum of 2,000 square feet. Mike Drapalla, representing the development's engineering firm ZNS, informed the Commission SWFWMD had permitted the development to drain stormwater to the two lakes located on the golf course and the subdivision will assume the maintenance of the lakes. He further stated the easements to the greenway would be done outside the plat to the Homeowner's Association; the final plat will be part of the Homeowner's Association and will be included in the notice to buyer.

Allen Tusing, 1401 21st St W., spoke in favor of the proposed development.

After no further comment, Mayor Bustle closed the public hearing.

Staff informed the Commission the developer had been allowed to remove invasive species trees without a permit and that the installation of trees would be as set forth in the landscaping code.

MOTION: Mr. Williams moved, Mr. Ball seconded and motion carried 4-0 to adopt Ordinance No. 04-831.

8. VILLAS AT OAK BEND FINAL PLAT APPROVAL

Ms. McCann informed the Commission the preliminary plat was approved March 17, 1997. Since 1997, a minor modification to the size of the pond has been approved. Ms. McCann stated the plat meets all aspects of the City's codes and Comp Plan and has been certified by the surveyor and engineer.

MOTION: Ms. Cornwell moved and Mr. Ball seconded to approve the Villas at Oak Bend Final Plat, accept the defect security and authorize the Mayor to execute the agreement in conjunction with the defect security.

Ms. McCann confirmed the modification of the pond's size did not affect the square footage of the lots. The ponds will be "dry" and will not be landscaped.

The motion on the floor carried 4-0.

9. SIGLOCH SETTLEMENT

Mr. Free informed the Commission the cost to the City to repair the damaged pipe was approximately \$15,000. It was determined \$2,000 was attributable to the current property owner, Mr. Sigloch. In addition to the repair costs of \$15,000, additional expenses sustained by the City as a result of sewer backups immediately east of the property amounts to approximately \$15,000, and the City is seeking the balance from the prior property owner, Mr. Thornton. Mr. Groff's point paper recommended approval of the settlement vs. the cost of litigation.

MOTION: Ms. Varnadore moved, Ms. Cornwell seconded and motion carried 4-0 to approve the \$1,000 settlement offered by Lee Sigloch.

10. RESOLUTION NO. 04-80

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.

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 4-0 to adopt Resolution No. 04-80.

11. APPROVAL-BUILDING DEPARTMENT AND PLANNING TECH JOB DESCRIPTIONS

A scrivener's error will be corrected in the Plans Reviewer/Multi-Inspector job description to state the physical requirement of being able to lift up to 25 pounds.

The Planning Tech description will be amended to show the responsibility of completing filed inspections, not surveys. As this is a new job description, the review dates prior to approval will be deleted.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 3-1 to approve the Planning Tech and Plans Reviewer/Multi-Inspector job descriptions.
Ms. Cornwell voted no.

12. 1ST READING & ADVERTISING APPROVAL ORDINANCE NO. 04-833(J Free)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; AMENDING THE CITY CODE OF ORDINANCES BY ADDING SUBSECTION 15-20(I) TO CHAPTER 15, SOLID WASTE; PROVIDING THAT INCREASES IN RATES, FEES AND CHARGES FOR THE DISPOSAL OF SOLID WASTE AT THE COUNTY LANDFILL SHALL BE PASSED DIRECTLY THROUGH TO CUSTOMERS OF THE CITY'S SOLID WASTE COLLECTION SERVICE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The ordinance will be amended to reflect the decision of Commission made at the 4:00 workshop meeting to provide Commission the discretion of automatically passing through any Manatee County fee increases.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 4-0 to approve Ordinance No. 04-833 for advertising and schedule a public hearing December 20, 2004.

13. CITY NEWSLETTER

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 4-0 to authorize the creation and distribution of a quarterly newsletter, not to exceed \$4,000 per year.

14. PARKS AND RECREATION SURVEY

Commission amended and corrected the language of the survey as follows:

Re-title the survey to Parks and Recreation Needs Assessment
Please circle one or more in each section.
Add "other" as a choice in each category
Needed Facilities: Add the question, "Do you feel we have enough parks? Yes or No
Add a number 5 to the final choice under the last question of the survey.

Commission discussed the question pertaining to citizens' willingness to pay to use City facilities. Parks Director Geoff Seger explained the question was intended to provide direction as to whether or not paid instructors could be provided when establishing recreational programs such as swimming lessons or exercise programs.

MOTION: Mr. Williams moved, Ms. Cornwell seconded and motion carried 4-0 to approve and authorize the distribution of the Parks and Recreation Needs Assessment Survey with suggested changes.

15. WESTRA CONTRACT EXTENSION FOR 5TH STREET, 6TH STREET AND FIBER OPTIC PROJECTS

Mr. Lukowiak informed the Commission the original piggyback contract with Westra Construction was only for 7th Street; it would suffice for the 5th and 6th Street revitalization, but did not contain a scope of service for the fiber optic ring project. The extension contract will piggyback off existing contracts with Pinellas County and the City of Clearwater and provide for the installation of the fiber optic ring. All three projects were approved as part of the Capital Improvement Program.

MOTION: Ms. Varnadore moved, Mr. Ball seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Westra Construction Corporation contract for the 5th Street, 6th Street and fiber optic ring projects in an amount not to exceed \$2,726,000.

16. VIOLIA WATER NORTH AMERICA OPERATING SERVICES, INC. CONTRACT EXTENSION

Mr. Lukowiak requested the topic be moved to December 20, 2004 to enable staff to resolve outstanding issues. Commission concurred.

17. ASR ENGINEERING CONTRACT

Mr. Lukowiak requested Commission's authorization to enter into a piggy-back agreement with Post, Buckley, Schuh & Jernigan, Inc. to perform an aquifer storage recovery well feasibility study and exploratory well construction, advising the City has received a grant for one-half the cost of the project. The item is budgeted through the Capital Improvement Plan.

MOTION: Ms. Cornwell moved, Ms. Varnadore seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Agreement for Professional Engineering Services with Post, Buckley, Schuh & Jernigan, Inc. in an amount not to exceed \$52,383.

18. 2005 HOLIDAY SCHEDULE

Friday	December 31, 2004	New Year's Day
Monday	January 17	Martin Luther King, Jr.
Friday	March 25	Good Friday
Monday	May 30	Memorial Day
Monday	July 4	Independence Day
Monday	September 5	Labor Day
Friday	November 11	Veteran's Day
Thursday	November 24	Thanksgiving Day
Friday	November 25	Thanksgiving Friday
Monday	December 26, 2005	Christmas Holiday
Tuesday	December 27, 2005	Christmas Holiday

MOTION: Ms. Cornwell moved, Ms. Varnadore seconded and motion carried 4-0 to approve the 2005 Holiday Schedule as presented.

19. 2005 CITY COMMISSION MEETING SCHEDULE

The proposed Commission meeting was amended by adding two meetings in July, as required by the Charter. It was noted it may be necessary to adjust the schedule in September to allow for TRIM requirements. The proposed 4:00 and 7:00 Commission meeting schedule, including amendments, is as follows:

January 10 and January 24
February 7 and February 21
March 7 and March 21
April 4 and April 18
May 2 and May 16
June 6 and June 20
July 18 and July 25
August 1, August 15 and August 29
September 12 and September 26
October 10 and October 24
November 7 and November 21
December 5 and December 19

MOTION: Ms. Cornwell moved, Mr. Ball seconded and motion carried 4-0 to approve the 2005 Commission meeting schedule as amended.

20. DEPARTMENT HEADS' COMMENTS

Attorney Hall

Informed the Commission Attorney Dye would be attending the December 20, 2004 meeting in her place.

Mr. Free

Mr. Free updated the Commission on the City's health insurance through Manatee County which expires December 31, 2004. Mr. Free explained he has had issues with the County system this past year and has advised them any proposed renewal rates would be shopped. He stated he does not believe there is sufficient time to bid the health insurance. Mr. Free explained he has received a better proposal from an alternative network and is seeking Commission's approval to pursue a different system so an alternative could be seriously considered.

Mr. Free explained the current coverage is a 12/12 basis, which means the specific and aggregate coverage for which we buy reinsurance is for a 12 month incurred and paid basis; the City will be responsible for claims incurred but not paid after December. The new proposal is a 12/15 basis, providing three months additional coverage in the event insurance providers are changed, at the same cost the City is currently paying. He stated he would also like to look at modifying coverages, which may result in savings to the City.

Mr. Free informed the Commission he has dealt with an agent in Palmetto in an attempt to remain in the County's plan. He has also dealt with an agent outside the County plan. The agent trying to keep the City in the County's plan has acknowledged the competitor's rates are superior to what the County can provide the City. He stated he has made it abundantly clear that regardless of what the City does at this point, the insurance should be bid next year.

Mr. Free further stated his opinion it is unlikely the City can extend the insurance for less than one run-out year with the County. Mr. Free estimated it would cost the City close to \$120,000 to settle current claims if the City remained with the County and the 12/12 coverage. 12/15 coverage under the County's plan will cost an additional \$170,000. The current gross cost of the insurance plan is approximately \$970,000 annually, covering 125 employees, 28 of whom pay for dependent coverage.

The proposal keeps the rates and benefits about the same; prescription coverage is slightly better than the current plan; the co-pay will change from \$20 to \$25; and dependent coverage could be retained at current or slightly lower levels. Changes that will be considered could save the City up to \$120,000.

Mr. Free requested Commission approve his negotiation with an agent outside the County plan without putting the insurance out to bid, which, under Section 2-59 of the City code, requires the Commission declare the issue an emergency. Attorney Hall advised the Commission that if they authorized Mr. Free's negotiation of new health insurance coverage without bidding it, they should "first find that it is an emergency, because it would be extremely detrimental to City staff to have a lapse in coverage and it is economically not practical to go forward with current coverage at the proposed rates for next year." Mr. Free informed the Commission he had requested reinsurance rates from the County in August and received them Thursday, December 2, 2004.

Attorney Hall advised the Commission a consensus vote to allow Mr. Free to negotiate is all that is necessary at this time; official action will occur when the Mayor is authorized to execute a contract. Mayor Bustle inquired if Commission shouldn't proceed in declaring an emergency, knowing the situation exists.

Mr. Free advised the Commission the City has reserve monies that have been particularly set aside for medical insurance expenses.

MOTION: Mr. Williams moved, Ms. Cornwell seconded to declare an emergency as there is a threat to public health, welfare, or safety by virtue of the mentioned facts and Commission declares a Section 2-59 emergency for the approval of such purchases Mr. Free has described on our employee insurance program.

Mayor Bustle commented on the findings; the current system seems to be inadequate for the needs of the City employees; there is a time constraint under which the current policy must be renewed; the additional cost; the fact necessary information was not provided by the County in a timely manner; and the due diligence performed by the City Clerk show equal or better coverage can be obtained from another source at a price equal to or less than the current price. Attorney Hall also referred to Mr. Free's recommendation that the insurance be bid in one year.

Motion on the floor carried 4-0.

Mr. Lukowiak

Informed the Commission JEA is recommending to DEP that the Police Department's ground wells be by on a monitoring only program.

21. MAYOR'S COMMENTS

Informed the Commission Mr. Burkhardt is working with the contractor updating Commission chambers with new audio/visual equipment.

22. COMMISSIONER'S COMMENTS

Mr. Ball

Mr. Ball reported on the Enterprise Zone meeting; a mobile job training will held in the City in January or February.

Mr. Ball commended the Public Works Department and Palmetto Historical Society for their roles in preparing for and hosting the annual Family Festival of Lights event.

In celebration of the Carnegie Library's 90th birthday, the Palmetto Historical Society will hold its January 18, 2005 meeting in the library, beginning at 10:00 am.

Mr. Williams

Mr. Williams inquired about the status of the impact fee study. Mayor Bustle advised the Commission a committee will review the proposals and make a recommendation to Commission. Attorney Hall advised the committee's meeting should be posted.

Mr. Williams referred to a letter regarding John Brooke vs. the City. Mayor Bustle advised the Commission the Waiters case is under appeal and Mr. Brooke is a trustee for the Waiters estate. Attorney Groff will be contacted to schedule a shade meeting regarding the litigation.

Mr. Lukowiak confirmed the phone system for the WWTP was in the budget.

Mr. Williams reported on his visit to Mt. Raymond Church, where he delivered a proclamation honoring the church's 106th anniversary. Mr. Williams has invited Pastor Pollard to deliver the invocation and the church's choir to perform at the December 20, 2004 Commission meeting.

Ms. Varnadore

Ms. Varnadore inquired about the striping at Riverside Dr. and 8th Avenue. Mr. Tusing reported he is working with a contractor to coordinate a schedule when the location with several other locations in the City can be completed at the same time.

Ms. Varnadore reported 7th Street is almost paved.

Ms. Cornwell

Ms. Cornwell requested signage for the fair be in place prior to its opening date. She also suggested the speed cart could be utilized for the fair and the DeSoto Parade to aid traffic coming into the City.

Ms. Cornwell commented on the TBRPC meeting; a lot is occurring with traffic studies.

Ms. Cornwell suggested that while construction is occurring, potholes could be filled in anticipation of increased traffic in the City during the fair. Mr. Williams also suggested storm drain covers should also be checked.

Mr. Tusing confirmed the City had not budgeted for all new curbage on 6th or 7th Street. Commission discussed 20th Avenue having no curbs from 4th Street to 10th Street, and it being a major thoroughfare. Mr. Lukowiak stated Public Works will inspect the area and submit a proposal for curbing 20th Avenue.

Chief Lowe reported Officer Carnegie is patrolling the high school traffic. Ms. Cornwell discussed other cities installing metered parking close to schools. Chief Lowe will speak with Palmetto High School administration to determine if there is adequate student parking and if not, will the parking issue be rectified with the expansion.

Meeting adjourned at 9:30 pm.

Minutes approved: December 20, 2004


J. E. Free, Jr.
City Clerk