

Palmetto City Council
April 14, 2003 4:00 p.m.

Elected Officials Present

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

Staff and Others Present:

Jim Free, City Clerk
Chief Garry Lowe, Palmetto Police Department
Mike Hickey, Public Works Director
Deanna Roberts, Administrative Assistant

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

The invocation was delivered by Pastor Lawrence Livingston of the Eternity Temple, followed by the Pledge of Allegiance to the Flag of the United States of America.

PUBLIC COMMENT:

Clyde Boltz, Board Chairman of the Palms of Terra Ceia Community Development District, addressed council with his concerns regarding the building density issue at Terra Ceia. The unit count at the three acre parcel is in dispute. The residents of Terra Ceia feel that a public hearing on April 7 was prejudicial to Terra Ceia property owners who feel the unit count density should stand at fifty and not ninety-three as owners Jerry Snyder and Barrie Romkey contend. He said residents may seek legal counsel if more than fifty units are built. The developers still have to go to Planning and Zoning and to the Development Review Committee. Councilman Williams advised Mr. Boltz that the City will notify him when these meetings are scheduled. A letter from Mr. Boltz to Mayor Bustle expressing his board's concerns is attached.

1. AGENDA APPROVAL - Mayor Bustle called for a motion to approve the agenda with a change in the order of agenda items.

MOTION: Mr. Williams moved to approve the agenda after switching items 2 and 3. Mrs. Lancaster seconded and the motion carried 5-0 to approve the April 14, 2003, agenda and begin with the Sanitation Ordinance first, followed by the Noise Ordinance.

2. SANITATION ORDINANCE - A proposed amendment to the ordinance was reviewed. Mr. Free explained that underlined items are additions to the ordinance, bolded items are from the City Attorney's office, italicized items are suggestions from staff and struck through items are deletions, all for consideration by Council.

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Ms. Cornwell suggested that after "junk", the word "white goods" be inserted to describe refrigerators, stoves, washing machines, etc. and that this terminology be used consistently throughout the ordinance.

Mayor Bustle suggested writing into the ordinance that the landlord is responsible for the bill if a tenant moves out and leaves trash to pick up which would require a new billing. Currently, those fees are uncollectible because the last pick up charges can't be added to an account which is no longer active. The responsibility must revert back to the landlord.

The Mayor said when dumpsters get in bad condition, and not up to city standards, owners should be made to replace them or use city dumpsters.

Mrs. Lancaster would like to see that dumpsters next to the road are enclosed for aesthetics and sanitation. An enclosed structure with a swinging gate would contain the garbage and block it from the view of the road. Mr. Grace directed Council's attention to Section 15-16: Location and Design of Dumpsters. Mr. Hickey said if there is overflow the city can put in a larger dumpster and charge for it. If a dumpster is unsightly, the city could require it to be enclosed. The Mayor suggested taking another look at this section. Mr. Free said he would follow up on this.

Mr. Williams asked if Section 15-4 would prohibit a resident from putting out a single plastic bag of garbage. Mr. Grace and Mrs. Lancaster expressed concern over this practice as animals can scatter the garbage. Mrs. Bryant recommended leaving ... "being placed in garbage cans for collection." in the ordinance.

Mrs. Bryant requested that Mr. Free clarify Section 15-4b and bring it back to Council.

In Section 15-5a, Mrs. Cornwell suggested deleting ... "but no later than 7:00 a.m. of the scheduled pick up day" ... The point in this section is to say it's ok to set the garbage out the night before. Mayor Bustle said people need to know that if it's not out by 7:00 a.m. they run the risk of missing the pickup. Mrs. Cornwell suggested "cans may be placed at curbside/right of way the evening prior to scheduled pickup which begins at 7:00 a.m. of the scheduled pick up day." Mrs. Bryant said this section just needs clarification. Mr. Williams suggested adding a later time for removal of the cans in the case of people who may work late.

Mr. Williams sees a need for stricter guidelines for Section 15-5b. Mrs. Cornwell asked that podiatrist be struck from this section as a podiatrist is a physician and this is redundant. Mr. Hickey feels that to date, no one has taken advantage of this service for those physically unable to set the garbage out by the road. This section is still at the discretion of the supervisor.

Mr. Williams asked for fines for illegal dumping in Section 15-10b. Mayor Bustle said Code Enforcement would follow through and once a citation is issued, if people don't comply, the City can take them to court. Mr. Free said there is a general penalty provided for in the ordinance.

With respect to Section 15-13d, Miscellaneous Waste, Mr. Williams sees a conflict with people using the City to haul off materials from a do-it-yourself home improvement, up to five garbage cans twice a week. If there is a building permit, a hauler is supposed to haul it off. If people just cut up the lumber and put it in cans for the city to pick up, they don't need to pay someone to do it. This section is in conflict. Mr. Free will add something about a building permit to this section.

Mr. Williams asked that Section 15-14c be reworded and Mr. Free will take care of it.

In Section 15-16, Mr. Williams asked if this applies to temporary dumpsters. Do drain holes affect the groundwater? Does the City want all dumpsters to have washing and drainage facilities? Mr. Free will look into this.

3. NOISE ORDINANCE- Chief Lowe said the City has a decibel meter it borrowed from the Fair Board. The decibel meters range in cost from \$49.00-\$1,000.00. Users have to be certified. Mrs. Cornwell asked how a ticket issued using the meter would stand up in court. Chief Lowe said it probably wouldn't hold up in court. He passed out a copy of Florida State Statute 316.3045 (attached) which the City uses to write citations; it refers to noise from motor vehicles which is plainly audible from a distance of 100 ft. Mrs. Cornwell suggested incorporating language from the state statute into the City of Palmetto Noise Ordinance since the state ordinance must be enforceable. The state ordinance uses distance as a gauge for noise impact. The Mayor said the decibel meter is a useful tool to monitor noise in different situations. The officers can use them to ask people to tone down noises.

Mr. Williams asked Mr. Free to come back to Council with the proposed ordinance, with strike outs, deletions, etc, and the existing ordinance, for comparison.

Mrs. Cornwell stated that officers will need to be certified if the City decides to go with the decibel meters. Mrs. Bryant agreed with Mrs. Cornwell that decibel meter and distance be incorporated into the ordinance to give the officers some guidance. The decibel meter requires certification and periodic inspections to make sure it is gauging the noise level correctly, and that's why it has been challenged. Mrs. Cornwell said that by including both distance and meters in the ordinance, it would have more teeth.

4. DEPARTMENT HEADS' COMMENTS-

Garry Lowe, Chief of Police

The missing children's computer is up and running. He and Tanya Lukowiak will meet to discuss cost sharing grants that are available in Manatee Co. between Bradenton and Palmetto.

Jim Free, City Clerk

He will get an estimate from a specialty contractor to replace the soffit at City Hall with thicker paneling of vinyl. It can be repaired without any structural changes.

Mike Hickey, Director of Public Works

Last week the Peace Manasota Regional Water Supply Authority introduced Public Works to a consultant who is doing a comprehensive water study on a four county area. Mr. Hickey reported that he met today, April 14, with the county and the City on reuse interconnect options. This will be brought to Council on May 12th. The collapsed clay pipes on 6th Street and 20th Avenue have been repaired. Potholes are being repaired. The power is on to the bathrooms at the Estuary and they will be in operation this week. The Emergency Operations Committee is looking into a \$50,000 grant for a generator. Approximately two hundred students came by the City's display at the Palmetto High School Career Day last week.

5. MAYOR'S REPORT

The Mayor reported that last week he and Jim Free, Sharon Jones, and Bob Schmitt conducted two telephone interviews, and one in person interview, for the City Planner position. One of the candidates agreed to come to Palmetto for a second interview. They were encouraged by the qualifications of all three candidates.

He advised Council that he will be responding to a Legislative Alert from the Florida League of Cities. The State Senate is proposing to divert funds from the half cent sales tax, which should go to the cities, to funding the state court systems. He will copy Council on any written reply.

In regards to the Keep Manatee Beautiful project this year, he apologized that adequate notice was not given to council members so that they could prepare for ward participation. Next year special notice will be given.

The Mayor asked Council's interest in a city complex. He would like to look into selling the existing property and combining City Hall and the Police Department. Discussion ensued and there being no objection, the Mayor will investigate the possibility of purchasing land for a future city complex.

Illegal boat trailer parking at Regatta Pointe continues to be a problem. It affects parking for the marina and restaurants. The Mayor proposed posting signs at each entrance that spell out what constitutes illegal parking and what the consequences are. Mrs. Cornwell suggested asking CRA to go ahead and look into funding for a parking garage of several stories to help alleviate the problem.

He invited Council to the Habitat for Humanity Habitation Celebration cook out at 6:00 p.m. this evening and to the dedication of the Longboat Key Town Hall on April 22, at 4:30 p.m.

6. COUNCIL MEMBERS' COMMENTS

Mrs. Lancaster

Thanked Chief Lowe for the Citizens Academy.

On April 1, the CRA Board and Jackson Park residents did a walk through of the flooding area. Mr. Zirkelbach brought his engineer. Would Council like them to come and report their observations? Gwen Brown will be at the next CRA meeting to discuss 17th Street. That meeting is posted so that Council can attend.

Shirley Bryant

Asked Mr. Hickey to remind Mr. Koper not to schedule EOC meetings on Mondays, as they conflict with City Council meetings.

Mrs. Bryant feels that Council deserves an explanation of the findings of the Personnel Board in the Greer Hearing. The labor attorney guided Chief Lowe through the entire process. Her intent is not to criticize the Board, but to gain constructive criticism of the city's preparation process. The Mayor said he would look into this and get back to Council with his finding.

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Tamara Cornwell

Mrs. Cornwell disagrees with the stop signs that were recommended for 4th Street West at 11th Avenue West and 7th Street West at 12th Avenue West, as stop signs should not be used to control speeding. The Mayor agreed and will get back to Council. Mr. Williams feels this is really a police department issue and they need to ticket the speeders.

She asked Mr. Hickey to have the railroad tracks repaired again. The asphalt is chunking up again. She has had complaints.

Parking in the streets is out of hand. It is hard to get around the parked cars. She asked what other cities do.

She asked if there will there be a volunteer luncheon in May. The Mayor said nothing is planned but he will look into certificates for the volunteers.

Brian Williams

Mr. Williams asked if speed carts were in the budget. He would like to see the police department purchase one or two.

He asked where the City stands on the ASR? The Mayor said it will be considered as part of the reuse networking with the City of Bradenton and it is also part of the CIP Team work.

Regarding the memo from Roger Titus about Mr. Gatton's property, Mr. Free said the trailer will be moved as soon as he gets a gate out of the property, but under existing codes if he wanted to leave it there, he could as long as he put it under shelter. Mrs. Cornwell asked about other non-conforming trailers. Mr. Free said they will be dealt with also.

Mr. Williams asked for a time frame for the forty homes that Habitat for Humanity is building. He is concerned about the raw land that will remain during the building phases. Mud will wash out onto the streets. He suggests that Council may want to require them to landscape the vacant property.

Charlie Grace

The mobile home park visits are winding down now. Most questions have been answered.

He went to the Tampa Bay Regional Planning Council meeting for the Mayor today. He reports that we should be proud of this region as it has a water supply plan to provide us with water through the year 2009. We are getting more water supply sources all the time. The legislature proposed a "no" vote on the Byrd Amendment which will be voted on April 23. This would reinstate the home veto rule which allows people to vote against projects and brings things to a standstill. It makes it hard to get grants. The Tampa Bay Regional Planning Council had no input, but is now informing the legislature that it doesn't want anything voted on dealing with water without first informing their organization.


He reported that he graduated from the Citizen's Academy.

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Mrs. Bryant asked about citizens who speak before council being sworn in as is required at the county meetings. The Mayor said if this is of interest to the Council, he will look into it.

The meeting adjourned at 6:19 p.m.

Minutes Approved: May 5, 2003



J.E. Free, Jr., City Clerk

**PALMS OF TERRA CEIA BAY
COMMUNITY DEVELOPMENT DISTRICT
POST OFFICE BOX 1383
PALMETTO, FLORIDA 34221**

April 14, 2003

Honorable Larry Bustle,
Mayor City of Palmetto
516 – 8th Avenue West
Palmetto, Florida 34221

Dear Mayor Bustle,

We have watched with no small concern the current debate that is presently ensuing over the building density issues at Terra Ceia, more specifically the issue of fifty versus ninety-three units on three (+/-) acres owned by Mr. Snyder et al.

The City has heard from various competing developmental influences surrounding this issue, however, mention has yet to be made of the interest of the existing property owners within the Greater Terra Ceia Community and, more specifically, those directly adjacent property owners located in 10 Downing Condominium.

As has been pointed out in the various discussions, all zoning and community plat plans have “ear-marked” this particular parcel for a maximum of 50 units. This data is and has been well documented and supported in the public record. Buyers of property in the community have relied on and accepted this information as factual. The District Board of Supervisors has on a number of occasions gone on record with the community that fifty units was a “hard rock” figure for that parcel. This information being substantiated by what appeared on the public record and verbally reiterated by representatives of the city’s planning and zoning department. We have to ask you, our elected representatives, if a buyer of property cannot rely on what appears on the public record before making a decision to buy, if he cannot rely on the word of assurances by city officials, what property deed, what property rights within the confines of the City is sacrosanct?

Conversely, we have to wonder about and question the interest and motives of the current property owner, Mr. Snyder. The public record extending back to at least the 1996 time frame reflects a planned density of 50 units. This was a fact of life and well documented when Mr. Snyder acquired the property in August 2000. The mere fact that the previous owner(s) may or may not have indicated other facts to him at time of sale, or later, would not alter or change the concepts that appeared on the public record. If he wishes to question the validity of the 93 vs. 50 build able units decision such questions should have been raised by him prior to the actual purchase of the property. The long and short of the issue is that if any party has been harmed by the zoning reallocation decision it was the previous owner, not Mr. Snyder!

Consequently the decision on the part of the City to sponsor and support another public hearing to reexamine the building density at Terra Ceia is unwarranted and contrary to the quiet enjoyment of the property rights of existing Terra Ceia residents. Should the City submit to a public hearing with the objective of changing the Terra Ceia Density from 800 to 843 units in this instance, what is to prevent other parties owning developable parcels in the community to ask for a rehearing on their particular parcel of interest? One prospective developer has verbally indicated that they do not plan to raise such issues. Does this same assurance exist, if for whatever reason, the property and building rights are transferred?

Notwithstanding any of the above questions and issues, it is the opinion of the District Board of Supervisors as representatives of 476 home owners at Terra Ceia, that 93 units in this particular location far away exceeds reasonable, acceptable, and density considerations for our area. Access is restricted to one narrow poorly designed street that traverses through parking facilities of the 10 Downing Condominiums. The addition of 93 additional homes, people and traffic created by the possible addition of 186 automobiles is unreasonable, unwarranted and unfair to the persons who own homes and reside in this condominium.

It is our opinion that the rights of Mr. Snyder have not in any fashion been jeopardized by the City, but the direction that the City appears to be heading certainly jeopardizes the rights and privileges of 38 home owners living at 10 Downing Condominium and to a lesser degree all the property owners at Terra Ceia.



Clyde M. Boltz
Board Chairman

Copy to:

1. CDD Board Members
2. Members Palmetto City Council
3. Gazebo Gazette
4. President 10 Downing Condominium
5. North River News
6. Bradenton Herald
7. The District's Attorney, Mr. Herb Brock, Becker & Poliakoff

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a non-moving violation as provided in chapter 318.

316.304 Wearing of headsets.-

(1) No person shall operate a vehicle while wearing a headset, headphone, or other listening device, other than a hearing aid or instrument for the improvement of defective human hearing.

(2) This section does not apply to:

(a) Any law enforcement officer equipped with any communication device necessary in performing his or her assigned duties or to any emergency vehicle operator equipped with any ear protection device.

(b) Any applicant for a license to operate a motorcycle while taking the examination required by §322.12(5).

(c) Any person operating a motorcycle who is using a headset that is installed in a helmet and worn so as to prevent the speakers from making direct contact with the user's ears so that the user can hear surrounding sounds.

(d) Any person using a headset in conjunction with a cellular telephone that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.

(e) Any person using a headset in conjunction with communicating with the central base operation that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.

(3) The Department of Highway Safety and Motor Vehicles shall promulgate, by administrative rule, standards and specifications for headset equipment the use of which is permitted under this section. The department shall inspect and review all such devices submitted to it and shall publish a list by name and type of approved equipment.

(4) A violation of this section is a noncriminal traffic infraction, punishable as a non-moving violation as provided in chapter 318.

316.3045 Operation of radios or other mechanical soundmaking devices or instruments in vehicles, exemptions.-

(1) It is unlawful for any person operating or occupying a motor vehicle on a street

or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

(a) Plainly audible at a distance of 100 feet or more from the motor vehicle; or

(b) Is louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

(2) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communications device necessary in the performance of law enforcement duties to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

(3) The provisions of this section do not apply to motor vehicles used for business or political purposes, which in the normal course of conducting such business use soundmaking devices. The provisions of this subsection shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.

(4) The provisions of this section do not apply to the noise made by a horn or other warning device required or permitted by §316.271. The Department of Highway Safety and Motor Vehicles shall promulgate rules defining "plainly audible" and establish standards regarding how sound should be measured by law enforcement personnel who enforce the provisions of this section.

(5) A violation of this section is a noncriminal traffic infraction, punishable as a non-moving violation as provided in chapter 318.

316.400 Head lamps.-

(1) Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this chapter.

(2) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in §316.217(3).