

Palmetto City Council
February 16, 2004 7:00 PM

Elected Officials Present:

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

Elected Officials Absent:

Mary Lancaster, Council Member

Staff and others present:

Attorney Alan Prather
J. E. Free, Jr., City Clerk
Lt. Craig Himes, Police Department
Chris Lukowiak, Public Works Director
Jessica McCann, Planner
Diane Ponder, Administrative Assistant

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

Rev. James T. Golden, City of Bradenton Council Member, gave the invocation followed by the Pledge of Allegiance to the United States Flag.

Mayor Bustle read a proclamation proclaiming February 16 through February 20, 2004, as FFA Week. Accepting the proclamation was Jenna Adams, president of the FFA Chapter at Palmetto High School.

1. APPROVAL OF AGENDA

MOTION: Mr. Williams moved, Mr. Grace seconded and motion carried 5-0 to approve the February 16, 2004, 7:00 pm agenda.

2. CONSENT AGENDA

- A) Minutes: January 26, 2004 Workshop and Council Meeting
February 2, 2004 Workshop and Council Meeting
- B) January Check Register
- C) Special Function Permit: Southeast Guide Dogs Walk-a-Thon

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

3. 2004 APPOINTMENTS

MOTION: Ms. Bryant moved, Ms. Cornwell seconded and motion carried 5-0 to approve the appointment of Bob Rickey to the Code Enforcement Board for a term ending January 2007.

MOTION: Ms. Bryant moved, Ms. Cornwell seconded and motion carried 5-0 to approve the appointment of Ray Dielman to the General Employees' Pension Plan Board of Trustees for a term ending January 2005.

4. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-796

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING ORDINANCE NO. 665 AND RENDERING A DEVELOPMENT ORDER PURSUANT TO SECTION 380.06, FLORIDA STATUTES, FOR RIVIERA DUNES, A DEVELOPMENT OF REGIONAL INMPACT, DRI #236; PROVIDING FOR DEVELOPMENT RIGHTS, CONDITIONS AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 04-796 for advertising and to schedule a public hearing for March 1, 2004.

5. 1ST READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-797

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; REPEALING CHAPTER 15, GARBAGE, REFUSE AND TRASH, OF THE CITY CODE OF ORDINANCES IN ITS ENTIRETY; AMENDING THE CITY CODE OF ORDINANCES BY ADDING CHAPTER 15, SOLID WASTE; PROVIDING DEFINITIONS; PROVIDING REQUIREMENTS RELATING TO THE COLLECTION OF SOLID WASTE FROM RESIDENTIAL AND COMMERCIAL PROPERTIES; PROVIDING A SCHEDULE OF FEES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried 5-0 to approve Ordinance No. 04-797 for advertising and to schedule a public hearing for March 1, 2004.

6. CONDITIONAL USE PERMIT - 314 8TH Ave. W.

Planner Jessica McCann stated the original conditional use permit was applied for in 1993 for the sale of cars. In 1997 a conditional use permit was applied for to sell boats. Conditional Use Permits allow only one use, to be in compliance with the city's Code of Ordinances, Car Smart must apply for a permit allowing the sale of automobiles.

Mayor Bustle opened the public hearing. There was no public comment. Mayor Bustle closed the public hearing.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve the Conditional Use Permit for 314 8th Avenue, West.

7. CONDITIONAL USE PERMIT - 1816 10th Street, West

Planner Jessica McCann discussed the Conditional Use Permit submitted by Pastor Tabor for Tenth Street Baptist Church and stipulations that had been included in the Conditional Use Permit to protect the city. She informed Council of her understanding there was a recent change in administration of the proposed day-care. stating the church was the applicant. not the previous director of administration. She further stated that

until all required credentials and accreditations are received by the city the day-care could not open for business.

Mayor Bustle opened the public hearing.

Tim Lewis, 1611 21st St. W., Palmetto, stated the previous director Katrina Parson was on her way to the meeting and asked Council to table the item until her arrival. He stated he was a major backer of an accredited Christian day care school in Palmetto and stated they are currently talking to United Methodist Church. He referred to one of the stipulations in zoning being the accreditation from Florida League of Christian Schools. Mrs. McCann replied a stipulation was the school be accredited and FLOC was an accrediting agency.

Pastor Tabor, Tenth Street Baptist Church, stated the church planned on continuing working for an accredited Christian school day care.

Attorney Prather summarized the discussion by inquiring if staff's position was that the Conditional Use Permit would be given to Tenth Street Baptist Church, as a legal entity, and either the church, if appropriate or someone on staff must be accredited by the Florida League of Christian Schools or the State of Florida's accrediting agency. Mrs. McCann replied in the affirmative.

Katrina Parson, 1112 37th St. W., Bradenton, discussed her past efforts to begin the accrediting process for the day care, her discussion with Mrs. McCann regarding zoning, paperwork provided to the city regarding FLOC's requirements, inspections performed by FLOC's. Ms. Parson stated she had spoken with both City Council and Planning & Zoning regarding the school.

Mayor Bustle closed the public hearing.

Attorney Prather opined the application was by Tenth Street Baptist Church and testimony provided did not indicate otherwise. He further stated that unless and until Tenth Street Baptist or whoever is operating the day care is accredited, the school will not open to children.

Discussion ensued on the information gleaned at the workshop meeting regarding the sewer line in the city's easement, under the school's playground area. Public Works acknowledged the gravity sewer line needs repair work. Mr. Lukowiak referred to the grassy area where the playground equipment is located, stating there is settling in the area and sewer gases are present. Mr. Williams suggested tabling the item until the repair work can be completed; Mr. Lukowiak anticipated he could better address the issue by the end of March.

Pastor Tabor stated that if Council delayed action until the end of March Tenth Street Baptist Church would loose, because the individuals involved (Mr. Lewis and Ms. Parson) would take the school to United Methodist Church. When the suggestion was made to rope off the area under discussion for safety, until such time the city can correct the area, Ms. Parson stated an area has to be fenced for the children before accreditation will be granted.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried 5-0 to approve the Conditional Use Permit for Tenth Street Baptist Church with the permitted conditions and including an additional condition of staff's determination of potential hazardous areas being identified and marked off by Public Works and not used by the church until such time the city can effect the repair.

8. RESOLUTION NO. 04-09

Proposed Bank of America loan.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,000,000 TO PROVIDE FUNDS TO REFINANCE THE CITY'S CAPITAL IMPROVEMENT REVENUE BOND, SERIES 1998, AND TO FINANCE IMPROVEMENTS TO THE CITY'S WATER, WASTEWATER, WASTEWATER REUSE AND STORMWATER SYSTEMS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A PROMISSORY NOTE, A LOAN AGREEMENT AND AN AMENDMENT TO AN ISDA MASTER AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Mr. Free referred to the spreadsheets meant to augment the CIP presentation. The spreadsheets present the source of revenues to be utilized for estimated costs the city will incur in completing the CIP projects from FY04 through FY08. Mr. Free emphasized the figures will change.

Mr. Free informed Council the proposed resolution gives the authority to issue a note up to \$6,000,000; his recommendation is the city fund approximately \$4,250,000, which will fund projects the city expects to begin in FY04 as well as pay off an existing loan with Bank of America. The recommended loan amount will bring the FY04 projects to fruition with the commitment of approximately \$2,000,000 of existing city funds:

- \$417,000 from the General Fund (FY04 budget contains \$350,000, so \$67,000 will be taken from the existing General Fund fund balance that is in excess of the projected \$2,000,000);
- \$476,000 from Water Fund fund balance will finance primarily the 5th and 7th Street projects;
- \$900,000 from the Street Fund fund balance can fund proposed projects;
- \$300,000 to \$400,000 will be provided for in the proposed loan for streets projects;
- \$615,000 for reuse (includes funds for the ASR even though it has been put on hold)
- \$4,250,000 million is the estimated total debt for new projects

Mr. Free reviewed how he anticipates the loan will be paid. \$325,000 is currently budgeted for loans on the books. With financing of \$4,250,000 the current debt service will be reduced by \$50,000 (refinancing of existing loan for a longer term at a blended rate between 4-4.5%) and \$275,000 of debt service added. The city's debt service is an

allowable use of the proposed sales tax revenue, but if the sales tax is not passed, the city should look to its utility rates to support the projects.

The loan closing is scheduled March 17, 2004, so the utility rates and sales tax can be considered in structuring the debt structure. Mr. Free also advised Council that the reason he's recommending approximately \$4,250,000 is to allow for an SRF loan from the State of approximately \$3.5 million, if the ASR comes to fruition.

Attorney Prather discussed the loan documents, noting items of which Council should be aware. Mr. Free advised the following modifications have been made to the documents subsequent to Attorney Prather's review:

- The City may issue parity debt upon demonstration of ability to show 1.15 coverage included proposed new debt.
- The city will complete a rate study by September 30, 2004
- Judgments rendered against the issuer for the payment of money not covered by insurance has been modified to \$500,000.

Mr. Prather spoke to the Loan Agreement venue being the State of Florida; however, in the ISDA Master Agreement it speaks to the laws of New York will apply on any items occurring to it. He stated he could not say which documents would supercede to applicable law. He informed Council the Loan Agreement states the city waives any jury trial and accepts arbitration to solve disputes. Mr. Free stated the Master Agreement is a standard agreement used in swap deals typically would only govern the master document and swap arrangement.

Attorney Prather further discussed the documents, stating he had concerns because the Resolution purports to approve all the accompanying documents, some of which he could not opine upon because neither he, nor anyone in his firm could offer bond counsel. Mr. Free stated he has had discussions with a bond counsel and to retain bond counsel will cost between \$2,500 and \$4,000; Council concurred it was a necessary expense. Mr. Free proposed retaining Frank Fleischer of Gray|Robinson, stating he had dealt with him on many issues.

MOTION: Mrs. Lancaster moved, Ms. Bryant seconded and motion carried 5-0 to authorize the Clerk and Mayor to obtain bond counsel to review the documentation for Resolution No. 04-09 and have it ready for the March 1, 2004 Council meeting.

9. RESOLUTION NO. 04-10

Oakridge - Final payment to McLeod Construction for Oakridge project.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 03-22, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2003-2004, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Cornwell moved, Ms. Bryant seconded and motion carried 5-0 to approve Resolution No. 04-10.

Responding to Mrs. Lancaster's inquiry regarding damage McLeod caused with the power outage. Mr. Lukowiak stated he will review the matter and respond.

10. DISCUSSION - CITY WIDE SPECIAL ELECTION DATE

Mr. Free informed a special election to fill the vacant Council seat could not be conducted by the Supervisor of Elections until May 18, 2004. He recommended the city hold the special election on the scheduled primary election of August 31, 2004, election to avoid additional expense. Discussion ensued on amending the Charter to reflect an appointment to a vacant seat within a one-year term. The city attorney will advise whether the person running to fill the vacant seat must run again in November. The city attorney was also requested to opine if the seat can be left vacant until July and then a Council appointment to the seat be made.

11. DEPARTMENT HEADS' COMMENTS

Mr. Free

The Range Rider meeting is scheduled for Monday, February 23, 2004, at 7:00 pm.

Mr. Lukowiak

A meeting with the Palmetto Historic Commission regarding the Carnegie Library roof repair, at which time a decision will be made whether or not the Commission will contribute to the initial expense.

Mrs. McCann

The city now has a GIS system. Data has been received from the county and the Zoning and Future Land Use maps are being reviewed and updated.

12. MAYOR'S REPORT

Mayor Bustle discussed the CIP Plan presented at the 4:00 workshop meeting, stating the need to approve the proposed list if Council concurred. Mayor Bustle recommended leaving the Vulnerability Assessment project in the Plan.

MOTION: Ms. Bryant moved, Mr. Grace seconded and motion carried 5-0 to approve the CIP Plan presented at the 4:00 workshop, with the planned funding as presented at the 4:00 workshop, and leaving in the Vulnerability Assessment project.

Council previously approved a Special Function Permit for the Crop Walk, wherein the city changed the Walk's route. The organizers have requested the city allow the original route down Riverside Dr., which Public Works and the Police Department have approved.

MOTION: Ms. Bryant moved, Mr. Grace seconded and motion carried 5-0 to change the Crop Walk route back to the original route as proposed.

Regarding the Submerged Land Lease, it appears the State will revise the lease back to its original form and the City can request a 25-year extension. Mayor Bustle stated he had received a proposal from an investor who would like Council's opinion on placing

condominiums on the site of the restaurant. Discussion ensued with no commitment from Council.

Council's meetings regarding the proposed sales tax are going well, but they are not reaching many voters. Mayor Bustle commented on the email from the Republican Party regarding the sales tax. Mr. Free informed Council the city has had an offer from a group willing to donate \$500 to spend for promotional materials regarding the proposed sales tax. The city attorney has opined the city may accept the donation if its sole purpose will be used for public education on the sales tax campaign

MOTION: Ms. Bryant moved, Mr. Grace seconded and motion carried 5-0 to authorize the Mayor to accept and spend funds on behalf of the sales tax campaign.

13. MAYOR'S REPORT

Mrs. Lancaster

Discussed a new car lot on 10th and whether or not it complies with current codes. The owner has been to DRC and received its stipulations. Mrs. Lancaster expressed her opinion the car lot was not compatible with the surrounding property, to which Mrs. McCann agreed, but with the by right uses it meets the land use uses in the district. Mrs. McCann stated an RFP is being developed for updating the Land Development Code that will address such issues. Mr. Titus will review the situation and provide an opinion.

Ms. Cornwell

Commented on illegal parking in residents' yards during the Fair. Lt. Himes discussed the Police Department's inability to ticket an automobile illegally parked on private property. The property owner may have the car towed; the expense would typically be paid by the owner of the car.

As required by the NPDES permit, the city routinely inspects and performs maintenance on silt boxes.

Public Works advised that when electrical power is interrupted, the city places its gas pumps on a generator.

Suggested the city begin educating the mobile home parks regarding the new 64 gallon cans Waste Management will provide before residents leave for the summer. Mr. Lukowiak stated it would be approximately six months before the residential service is automated.

The Police Department is working on a pamphlet for the mobile home parks regarding how to leave the homes secure when leaving for the summer.

The March 22, 2004 Town Hall Meeting at City Hall was rescheduled for March 2, 2004, at 7:00 pm.

Mr. Williams

Thanked Mr. Grace for the time he spent on Council.

The house that burned on 5th Street has been demolished and the site cleared.

Discussed the street lights he previously reported. Lt. Himes stated the Police Department would again survey the lights at night, compile a report and send it to Public Works.

Discussed the code enforcement letter sent to the property owners surrounding the pond located on 14th Avenue, stating the letter should have included an appeal process and he believes the cost to clean the pond was not properly assessed. Mr. Lukowiak stated he would review the assessment to ensure it is properly divided among the property owners.

Discussed his opinion Public Works should be included in the approval process for a CO or TCO. Discussed the incident where the Public Works had issued a letter regarding completion of infrastructure on a project and the TCO was issued in spite of the letter. Attorney Prather informed Council the Florida Building Code provides for a CO or TCO, and the Building Official is the only city employee who may issue either document. Mr. Williams suggested the Building Department and Planning and Zoning should be under the direction of the Public Works Director so as to alleviate any future miscommunication and to ensure requirements of permits are being met by individuals and developers.

Mr. Williams offered to serve as liaison to Public Works. Shirley Bryant will fill the position.

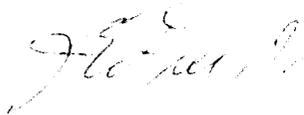
Mr. Grace

Read a statement concerning his resignation from Council, offering an official goodbye.

Mayor Bustle thanked city staff for the time spent on the CIP Plan presentation.

Meeting adjourned at 11:00 pm.

Minutes approved: March 1, 2004



J. E. Free, Jr.
City Clerk