

Palmetto City Council
June 21, 2004 7:00 PM

Elected Officials present:

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

Staff and others present:

Attorney Michele Hall
J. E. Free, Jr., City Clerk
Captain Clyde Hedrick
Chris Lukowiak, Public Works Director
Diane Ponder, Administrative Assistant

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

Council Member Shirley Bryant gave the invocation, followed by the Pledge of Allegiance to the United States Flag.

1. APPROVAL OF AGENDA

MOTION: Mr. Ball moved to approve the agenda, subject to moving items 24 and 25 to item number 3 and 4 following the Consent Agenda. The motion was seconded by Ms. Cornwell and carried unanimously.

Attorney Hall informed Council there are three Comprehensive Plan amendment transmittal hearings on the agenda, each ending on a vote on a resolution authorizing the amendments transmittal to the Department of Community Affairs. Attached to each resolution is an ordinance with the supporting documents. Ms. Hall stated it was permissible at the meeting to have the ordinance read for the first time and Council approve its advertising. Attorney Hall suggested adding the first reading of Ordinance 04-811 as item number 8A; the first reading of Ordinance No. 04-813 as item 9A; and the first reading of Ordinance No. 04-815 as item 25A.

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried unanimously to amend the agenda with the additions suggested by Attorney Hall.

2. CONSENT AGENDA

- A) Minutes: June 7, 2004 Workshop and Council Meeting
- B) City Attorney billing through April 30, 2004
Professional-\$26,190.73; Litigation-\$2,848
- C) May Check Register
- D) Special Function Permit: 4th of July Celebration
July 4th Block Party
Celebrate Jesus Block Party

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

3. CONSENT TO ASSIGNMENT OF INTEREST TO PARTIAL ASSIGNMENT OF AGREEMENT OF SUBLEASE (RESTAURANT PARCEL)

Attorney Scott McKay informed Council Harry Van der Noord and Ed Vogler are proposed purchasers of 995 Riverside Dr. Existing agreements require City Council approval to transfer

the City's interest in the property. Attorney McKay asked Council's approval so the contract could be brought to final closing.

Mr. Free advised Council the initial term of the lease expires January 2007 with a subsequent 25-year renewal period, at the option of 600 Corp.; there is no provision to allow the City to amend the contract in 2007.

Ms. Cornwell inquired about the waterfront plan Roberts, Wallace and Todd are going to develop for the City and how the use of the property may be affected. Mayor Bustle discussed the City's belief the only approved use of the facility is for a restaurant; any other use will have to be approved by City Council. He stated he would like that opinion formalized, and once in effect, coordination with Roberts Wallace and Todd could occur in factoring the property into their study.

Ms. Cornwell inquired who would control the contract after the 25 year extension. Mayor Bustle discussed the City's efforts to get the lease between the City and the State of Florida back to the original wording initially approved by the City. Attorney Hall advised the lease between the State and the City gives the City the sole option to renew for 25 years; the lease between the City and the sublessee grants them the right to renew. Attorney Hall further explained the City does not lease the restaurant parcel from the State, just the related pier and submerged lands. She stated, "If the leasehold is transferred, whoever has the interest does not have any right greater than the 600 Corp, the original sublessee. The Mayor is correct that the right is to develop a restaurant or the things listed that go with the idea of a restaurant and public marina." The DRI states there must be a restaurant on the island and whoever takes the leasehold will be subject to its stipulations and provisions created by the waterfront plan.

Discussion ensued on the City's ability to increase fees received from the rental property in 2007. Mr. Free and Attorney Hall concurred that the City may readdress rental fees in 2032 not 2007, the sublessee will have an automatic renewal under current terms.

Attorney McKay reminded Council a resolution recently adopted extended the lease to 2032. He reiterated the assignment of the sublease transfers only the rights to the property. Mr. Ball discussed understanding that any change in the lease, i.e. a change in use, has to be approved by City Council. Mr. Vogler concurred with Mr. Ball's comment, stating any change in the use of property would be brought to City Council for approval. Mr. Vogler discussed his interest in Palmetto and the Riverwalk connection to Bradenton, stating if the use of the property is changed to something better than what currently exists, City Council would have to participate in defining any proposed use, preservation of public access and making the venture work for Palmetto.

Attorney Hall referred to the qualifying language in the lease "which consent will not be unreasonably withheld", suggesting language could be added to the consent quoting the exact provision of use. Ms. Bryant asked Mr. Vogler to bring their plan for the property to Council as a courtesy so the people in the surrounding community would be aware of the intended use of the property.

MOTION: Ms. Bryant moved, Mr. Williams seconded and motion carried 5-0 to transfer the leasehold with the stipulation that as a courtesy, the plan for the property be brought to City Council.

4. RESOLUTION NO. 04-52

Resolution No. 04-52 was read by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, TRANSMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS PROPOSED COMPREHENSIVE PLAN AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN; MAKING CERTAIN FINDINGS OF FACT; AUTHORIZING TRANSMITTAL OF COMPREHENSIVE PLAN

AMENDMENT PA 04-02 SUBMITTED BY MANATEE FRUIT COMPANY, AMENDING THE FUTURE LAND USE ELEMENT (FUTURE LAND USE MAP); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bustle opened the public hearing.

Attorney Caleb Grimes, representing Manatee Fruit Company, addressed Council, explaining the action being requested was the application of a Planned Development land use designation for the property.

Mayor Bustle closed the public hearing.

MOTION: Ms. Bryant moved, Mr. Williams seconded and motion carried 5-0 to adopt Resolution No. 04-52.

Ms. McCann confirmed the allowable density of the project is 1,533 units. City Council will review and approve the actual density during the rezoning process. Mr. Williams requested that future agenda packets also contain density maps of surrounding properties.

4A. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-815

Ordinance No. 04-815 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 624, AS AMENDED BY ORDINANCE 01-702; MAKING CERTAIN FINDINGS OF FACT; AMENDING THE FUTURE LAND USE ELEMENT, INCLUDING THE FUTURE LAND USE MAP; PROVIDING DATA AND ANALYSIS; PROVIDING FOR APPLICABILITY AND EFFECT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Manatee Fruit Company PA-0402, PID #23863.0000/4; 23868.0000/3; 24233.0012/9, apprx. 323.9 acres)

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 04-815 for advertising.

5. PUBLIC HEARING - ORDINANCE NO. 04-809

Ordinance No. 04-809 was read by title.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO, TO CHANGE THE ZONING OF THE PROPERTY DESCRIBED HEREIN FROM LM (Light Manufacturing-County) TO CHI (Heavy Commercial Light Industrial-City); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z0407 Forristall Enterprises, Inc., PID #257570006, approximately 9.99 acres).

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

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried 5-0 to adopt Ordinance No. 04-809.

6. PUBLIC HEARING - ORDINANCE NO. 04-810

Ordinance No. 04-810 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING SUBMISSION OF AN AMENDMENT OF THE CITY CHARTER TO THE VOTERS AT THE AUGUST 31, 2004, PRIMARY ELECTION; PROVIDING FOR THE FOLLOWING AMENDMENTS TO THE CITY CHARTER; AMENDMENT OF SECTION 2, BOUNDARIES; CREATION OF NEW SECTION 2. GENDER; HEADINGS; AMENDMENT OF SECTION 3. OFFICERS GENERALLY; CREATION OF NEW SECTION 3. DEFINITIONS; AMENDMENT OF SECTION 4. TERMS OF OFFICE; CREATION OF NEW SECTION 4. FORM OF GOVERNMENT, TWO BRANCHES; AMENDMENT OF SECTION 5. COUNCIL MEMBERS; CREATION OF NEW SECTION 5. BOUNDARIES; AMENDMENT OF SECTION 6. COUNCIL MEETINGS; CREATION OF NEW SECTION 6. WARDS; AMENDMENT OF SECTION 7. VACANCY OF MAYOR; CREATION OF NEW SECTION 7. LEGISLATIVE POWER; AMENDMENT OF SECTION 8. COUNCIL MEMBERS-VACANCIES; CREATION OF NEW SECTION 8. COMMISSIONERS; AMENDMENT OF SECTION 9. MAYOR-PRESIDENT OF COUNCIL; CREATION OF NEW SECTION 9. COMMISSIONER QUALIFICATIONS; ASSUMING OFFICE; AMENDMENT OF SECTION 10. MAYOR-GENERAL SUPERVISION; CREATION OF NEW SECTION 10. VICE-MAYOR; AMENDMENT OF SECTION 11. APPOINTED OFFICERS--APPOINTMENT AND REMOVAL; CREATION OF NEW SECTION 11. COMMISSION MEETINGS; QUORUM; MAJORITY VOTE; AMENDMENT OF SECTION 12. WARDS; CREATION OF NEW SECTION 12. COMMISSION MEMBERS; VACANCIES; REPLACEMENT; AMENDMENT OF SECTION 13. ORDINANCES; CREATION OF NEW SECTION 13. MAYOR-CHAIRMAN OF COMMISSION; AMENDMENT OF SECTION 14. OFFICIAL BOND; CREATION OF NEW SECTION 14. ORDINANCES; MAYOR VETO; AMENDMENT OF SECTION 15. ELECTIONS; CREATION OF NEW SECTION 15. EXECUTIVE POWER; AMENDMENT OF SECTION 16. REFERENDUM; CREATION OF NEW SECTION 16. MAYOR--POWERS AND DUTIES; AMENDMENT OF SECTION 17. PRESERVATION OF RIGHTS, ORDINANCES, PENDING MATTERS; REPEALER; CREATION OF NEW SECTION 17. APPOINTED OFFICERS-APPOINTMENT AND REMOVAL; AMENDMENT OF SECTION 18. TRANSITIONAL PERIOD; CREATION OF NEW SECTION 18. MAYOR QUALIFICATIONS; AMENDMENT OF SECTION 19. INTERPRETATION; CREATION OF NEW SECTION 19. VACANCY OF MAYOR; AMENDMENT OF SECTION 20. DELETION OF OBSOLETE ITEMS SCHEDULE; CREATION OF NEW SECTION 20. ELECTIONS; AMENDMENT OF SECTION 21. EFFECTIVE DATE; CREATION OF NEW SECTION 21. TERMS OF OFFICE; ELECTIONS; OATH OF OFFICE; CREATION OF NEW SECTION 22. RECALL; CREATION OF NEW SECTION 23. REFERENDUM; CREATION OF NEW SECTION 24. PRESERVATION OF RIGHTS, ORDINANCES, PENDING MATTERS; REPEALER; CREATION OF NEW SECTION 25. TRANSITIONAL PERIOD; CREATION OF NEW SECTION 26. TRANSITIONAL ELECTIONS; CREATION OF NEW SECTION 27. INTERPRETATION; CREATION OF NEW SECTION 28. DELETION OF OBSOLETE ITEMS SCHEDULE; CREATION OF NEW SECTION 29. CHARTER REVIEW; CREATION OF NEW SECTION 30. EFFECTIVE DATE; PROVIDING FOR APPROVAL OF BALLOT QUESTION; PROVIDING FOR APPROVAL OF BALLOT QUESTION TITLE; PROVIDING FOR PUBLICATION; PROVIDING FOR COORDINATION WITH SUPERVISOR OF ELECTIONS; PROVIDING FOR ELECTION DATE; 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: Mr. Williams moved, Ms. Cornwell seconded to adopt Ordinance No. 04-810.

Mr. Ball proposed to modify the Charter, Section 12 vacancies and replacements by deleting the notification language relating to absences.

MOTION: Mr. Ball moved to amend (b) of Section 12 Commission Members; Vacancies; Replacement; from the last line of the page put a period after Commission meetings, striking out "without having notified the Commission. In the absence of such notification" and begin a new sentence; "The Commission shall inquire into the absence of the member prior to considering any motion on forfeiture of office"

Mr. Ball stated the proposed amendment as printed in the ordinance would allow a member to take an extended absence from meetings with proper notification; Council would be precluded from taking action on the absence.

Ms. Bryant seconded the motion.

Mr. Williams inquired if the change is significant enough to require re-noticing of the ordinance. Mr. Ball stated if the change is significant enough to require re-noticing he would withdraw his motion. Attorney Groff recalled the original discussions on the topic being extensive. Council debated the issue of whether Council or constituents should be able to remove an absent council member. Attorney Hall interjected her opinion the amendment could not be considered a clarification and opined the proposed ordinance should be re-noticed or continued to a date certain.

Mr. Ball withdrew his motion and Ms. Bryant withdrew her second, stating she did not disagree with Mr. Ball's recommendation, but she did not want the City to have to absorb the cost of a special election if the ordinance is not adopted in time to be placed on the August 31, 2004 primary election. Mr. Williams suggested the item should be archived so that it could be brought forward at a future Charter review.

The motion on the floor carried 5-0.

7. INTERLOCAL AGREEMENT WITH MANATEE COUNTY RE PALMETTO II ANNEXATION

Mayor Bustle discussed the impact of the Palmetto Business Park II annexation and the fact it is not in the best interest of the City or Manatee County to litigate the fact the annexation may or may not create an enclave. He informed Council the agreement was discussed in a joint meeting of representatives of the City and Manatee County, where each side stated what would be necessary to approve the document.

MOTION: Mrs. Lancaster moved and Mr. Ball seconded to approve and authorize the Mayor to execute the Interlocal Agreement with Manatee County regarding the Palmetto II annexation.

Attorney Hall explained item 4, stating the only way the enclave issue could be settled would be by legislation or by litigation. Attorney Hall confirmed the agreement could not be used against the City in future annexation proceedings. Attorney Hall further advised Council that Florida Statutes only allowed for attorney's fees recovery on the side of the complainant.

Mr. Free inquired if Section 11 of the document would preclude voluntary annexation. Attorney Hall advised Council "involuntarily" should appear before or after the word annex in Section 11. Attorney Hall will email Manatee County's attorney of the change, as that was the intent of the statement. She further suggested Mayor Bustle should comment on the amendment at the County Commissioner's meeting June 22, 2004, when they would act upon the document.

The motion on the floor carried 5-0.

8. AUGUST 31, 2004 ELECTION

MOTION: Ms. Cornwell moved, Ms. Bryant seconded and motion carried 5-0 to call a special election for August 31, 2004, to fill the vacant Ward 2 Council seat and place the Charter referendum on the ballot; that City Council determines it serves a public service to direct City staff to promote the pending Charter referendum during work hours and to provide copies of the proposed Charter to the public at no cost; to declare the qualifying period for the August 31, 2004 Ward 2 Council seat and the November 2, 2004 Mayor and At-Large Council seats from noon, July 12, 2004 until noon, July 16, 2004.

9. RESOLUTION NO. 04-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, ESTABLISHING AND APPROVING POLLING PLACES; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Ms. Bryant seconded and motion carried 5-0 to adopt Resolution No. 04-50.

10. TRANSMITTAL PUBLIC HEARING - RESOLUTION NO. 04-48 (J. McCann)

Resolution No. 04-48 was read by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, TRANSMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS PROPOSED COMPREHENSIVE PLAN AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN; MAKING CERTAIN FINDINGS OF FACT; AUTHORIZING TRANSMITTAL OF COMPREHENSIVE PLAN AMENDMENT PA 04-01 SUBMITTED BY PALMETTO II, L.P., AMENDING THE FUTURE LAND USE ELEMENT (FUTURE LAND USE MAP); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bustle opened the public hearing.

Steven Thompson, attorney representing the applicant, informed Council he and independent planner Bob Schmidt were in agreement with the staff report and requested approval of the transmittal to the Department of Community Affairs.

Mayor Bustle closed the public hearing.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried 5-0 to adopt Resolution No. 04-48.

10A. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-811

Ordinance No. 04-811 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 624, AS AMENDED BY ORDINANCE 01-702; MAKING CERTAIN FINDINGS OF FACT; AMENDING THE FUTURE LAND USE ELEMENT, INCLUDING THE FUTURE LAND USE MAP; PROVIDING DATA AND ANALYSIS; PROVIDING FOR APPLICABILITY AND EFFECT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (PA 04-01 Palmetto II, L.P., PID #1015725059, 1015710059, approx. 211 acres)

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 5-0 to approve Ordinance No. 04-811 for advertising.

11. TRANSMITTAL PUBLIC HEARING - RESOLUTION NO. 04-49

Resolution No. 04-49 was read by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, TRANSMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS PROPOSED COMPREHENSIVE PLAN AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN; MAKING CERTAIN FINDINGS OF FACT; AUTHORIZING TRANSMITTAL OF COMPREHENSIVE PLAN AMENDMENT INITIATED BY THE CITY (PA04-06 WATER SUPPLY WORK PLAN), AMENDING THE POTABLE WATER ELEMENT; AMENDING THE CONSERVATION ELEMENT; AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT; 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: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 04-49.

11A. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-813

Ordinance No. 04-813 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 624, AS AMENDED BY ORDINANCE 01-702; MAKING CERTAIN FINDINGS OF FACT; AMENDING THE POTABLE WATER ELEMENT, AMENDING THE CONSERVATION ELEMENT; AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT; PROVIDING DATA AND ANALYSIS; PROVIDING FOR APPLICABILITY AND EFFECT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

MOTION: Ms. Bryant moved, Mr. Williams seconded and motion carried 5-0 to approve Ordinance No. 04-813 for advertising.

12. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-812

Ordinance No. 04-812 was read by title.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, READOPTING ORDINANCE NO. 04-796 CONCERNING RIVIERA DUNES, A DEVELOPMENT OF REGIONAL IMPACT, DRI NO. 236; PROVIDING FOR FINDINGS OF FACT; RESTATING AND CLARIFYING ORDINANCE NO. 04-796 BY IDENTIFYING EXHIBIT "A", THE MASTER DEVELOPMENT PLAN WITH A MASTER DEVELOPMENT PLAN MAP, AND BY ATTACHING AS EXHIBIT "B" A LEGAL DESCRIPTION REFERENCED IN ORDINANCE NO. 04-796; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 04-812 for advertising and schedule a public hearing for August 2, 2004.

13. 1st READING & ADVERTISING APPROVAL - ORDINANCE NO. 04-814

Ordinance No. 04-814 was read by title.

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, CONSENTING TO THE ESTABLISHMENT OF MUNICIPAL SERVICE BENEFIT UNITS BY MANATEE COUNTY; PROVIDING THAT SUCH CONSENT SHALL EXTEND FOR A TERM OF THREE (3) YEARS WITH RESPECT TO THE INITIAL ESTABLISHMENT OF SPECIAL ASSESSMENTS; LIMITING

THE FACILITIES AND SERVICES THAT MAY BE PROVIDED BY THE MUNICIPAL SERVICE BENEFIT UNIT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried 5-0 to approve Ordinance No. 04-814 for advertising and schedule a public hearing for August 2, 2004.

Public Works Director Chris Lukowiak was asked to determine the cost of placing the City's utility infrastructure during the paving project. Mr. Lukowiak advised Council the City will have no responsibility for maintaining the paved street when completed.

14. RESOLUTION NO. 04-44 (Jim Free)

Resolution No. 04-44 was read by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY TO ISSUE ITS PROMISSORY NOTE, SERIES 2004A, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$1,500,000; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Mrs. Lancaster moved, Ms. Bryant seconded to adopt Resolution No. 04-44.

CRA Executive Director Tanya Lukowiak informed Council the proposed loan is for the Ward 1 infrastructure project and TIF funds will fund the eight year loan. Mrs. Lukowiak assured Council the project is a redevelopment project and is not part of the City's Capital Improvement Plan.

The motion on the floor carried 5-0.

15. BOARDWALKS AT ESTUARY PARK

Grants Coordinator Tanya Lukowiak informed Council the increase in cost is due to DEP standards the City had to incorporate in the final design as represented in the grant application. Land and Water Conservation approved a \$220,000 grant matching \$95,000 of Public Works funds contained in the last several years' budget. The entire amount of the project will be reimbursed.

MOTION: Mrs. Lancaster moved, Ms. Cornwell seconded and motion carried 4-1 to approve an increase to the bid awarded to Bayshore Construction, Inc. for construction of the boardwalks at Estuary Park by an amount not to exceed \$11,907. Mr. Williams voted no.

16. HERITAGE CHAPEL ACCESSIBILITY

MOTION: Ms. Cornwell moved, Ms. Bryant seconded and motion carried 5-0 to approve the installation of a handicapped accessibility ramp at Heritage Chapel not to exceed \$674.25.

17. AGRICULTURE MUSEUM TERMITE TENTING

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the termite tenting at the Agriculture Museum not to exceed \$2,240.

18. RESOLUTION NO. 04-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING THE EXECUTION OF A LOCAL AGENCY PROGRAM AGREEMENT TO PROVIDED FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PARTICIPATION IN THE CITY OF PALMETTO'S 20.205 HIGHWAY PLANNING AND CONSTRUCTION PROJECT.

MOTION: Ms. Bryant moved, Mr. Williams seconded and motion carried 5-0 to adopt Resolution No. 04-51.

19. APPOINTMENT APPROVAL TO MPO CITIZEN ADVISORY COMMITTEE

MOTION: Ms. Bryant moved, Mrs. Lancaster seconded and motion carried 5-0 to approve the appointment of Mickey Hopkins to the MPO's Citizen Advisory Committee for a three year term ending January 2007.

20. NOVEMBER 2004 ELECTION SERVICES AGREEMENT

MOTION: Mrs. Lancaster moved, Mr. Williams seconded and motion carried 5-0 to approve and authorize the City Clerk to execute the November 2004 Election Services Agreement.

21. FLORIDA LEAGUE OF CITIES, INC. VOTING DELEGATE NOMINATION

MOTION: Ms. Cornwell moved, Ms. Bryant seconded and motion carried 5-0 to nominate Mayor Bustle as the voting delegate to the Florida League of Cities 78th Annual Conference.

22. ASSIGNMENT OF ELECTION WARDS

MOTION: Mr. Williams moved, Ms. Bryant seconded to designate ward numbers for the Manatee Fruit, Palmetto II and Thornton annexed properties.

Staff requested that Council designate the actual ward number for each annexation. Discussion ensued on the topic, with Council concurring Palmetto II would be assigned to Ward 3 and the Thornton property would be assigned to Ward 2. Council chose to defer the Manatee Fruit property until such time a site plan for the development is reviewed and approved by Council.

Mr. Williams and Ms. Bryant withdrew their motion and second, respectively.

MOTION: Mr. Williams moved, Ms. Cornwell seconded and motion carried 5-0 to designate Ward 3 for Palmetto II and Ward 2 for the Thornton property.

23. RESOLUTION NO. 04-45

Budget resolution establishing a budget for printing of Palmetto Estuary Preserve pamphlets.

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, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 04-45.

24. RESOLUTION NO. 04-46

Budget resolution to provide funding for the May 18, 2004 special election

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, Mrs. Lancaster seconded and motion carried 5-0 to adopt Resolution No. 04-46.

25. RESOLUTION NO. 04-47

Budget resolution providing funding for JEA's assistance in developing the WWTP renewal contract with Veolia Water, N.A.

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: Mrs. Lancaster moved, Ms. Bryant seconded and motion carried 4-1 to adopt Resolution No. 04-47. Mr. Williams voted no.

26. DEPARTMENT HEAD'S COMMENTS

Captain Hedrick, Police Department
Chief Lowe is on vacation.

The department's Explorer Post is at state competition.

The department has asked for public comment as part of the accreditation process. There is a four hour window for the comments; phone lines have been set up for the assessors and anyone may comment, including other law enforcement departments.

Jim Free, City Clerk

Because the size of the agendas has substantially grown, the complimentary hard copies provided to the media will be discontinued. The entire agenda is available on the web site and the media and individuals may print a copy of any topic.

The 2003 audit is in the completion stages. The management letter is similar to last year's. Staff problems in the finance area are still being dealt with.

He informed Council he is anticipating making changes in City Hall's staff, which will be reviewed when the budget is presented. He requested Council approve a \$16,000 expenditure for the three remaining months of the year to fill a position in the finance area. He informed Council he is anticipating the deputy city clerk retiring before the next fiscal year and this position would be a replacement of that position and would be the finance officer of the city. He advised Council there is not enough depth in the finance staff to accomplish what the City needs to get done. Mr. Free confirmed the new employee would not receive an increase in pay at the beginning of the fiscal year beyond the range of \$51,000, the salary range of the deputy city clerk.

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to authorize the clerk to proceed to hire a person in the finance position not to exceed \$16,000 for FYE 03.

Mr. Free will update the Mayor and Council on the current funding of projects underway.

Chris Lukowiak, Public Works Director

Advised Council three of the four claims resulting from the power outage during the Oakridge project will be paid. Attempts are still being made to contact the fourth individual.

The Riverside Drive cleaning had to be extended to three days, thus an increase in the project's cost. Equitas does not cover bypassing, which has been in place three weeks. Mr. Lukowiak

informed Council he is negotiating the cost, but he expects it to be near \$10,000. Complete information will be provided to Council at a subsequent meeting.

The 7th Street project is progressing. Reclaimed water installation will begin at 21st Ave. Street surfacing has begun; the sidewalks project has been completed. The audio and video project is being negotiated. Of the thirteen projects slated this year, eight are underway.

The wood pilings at Estuary Park will be encased in plastic. Discussing the materials used in project vs. recycled materials, Mr. Lukowiak informed Council the Army Corp of Engineers dictated that wood pilings be used in the project.

27. MAYOR'S REPORT

Mayor Bustle proposed Eric Ball as the liaison to Public Works, Council concurred.

Referring to the Macort vs. City litigation regarding ADA compliance, Attorney Swartz has advised the City his client is satisfied with the report regarding the city's efforts to bring Riverside Park into compliance. The only caveat is that when reopened, the restrooms must be made accessible.

Mayor Bustle welcomed Council's support at the County Commissioner's meeting Tuesday when they will review the interlocal agreement approved by Council earlier in the meeting.

28. COUNCIL MEMBER'S COMMENTS

Mrs. Lancaster

Thanked everyone for the flowers and cards.

Commended the police officer who handled the problem with the four-wheeler.

Spoke about the residents whose normal solid waste pickup is Monday and Thursday, and the fact they would lose Monday pickups because of holidays. Mr. Lukowiak referred to the code that stipulates the City has to provide pickup only once per week. He further informed Council he is still speaking with Waste Management regarding the Monday holidays; they have added back the Thanksgiving, Christmas and New Year's holiday pickups. He also advised Council the new cans are beginning to arrive and will be supplied to the public in the near future.

Ms. Cornwell

Requested that the attorney develop an ordinance that would prevent the installation of offensive art in the city. Discussion ensued on the topic with Attorney Hall advising the matter could be handled through the zoning code rather than developing an ordinance that would involve individual's free speech.

Ms. Bryant

Thanked Mayor Bustle for his letter to Manatee County regarding Blackstone Park.

Thanked Public Works for removing the carrotwood tree at Heritage Park.

Stated she hoped the minimum standards and the fill ordinances would not be forgotten. Mr. Lukowiak stated the fill ordinance has been discussed at the DRC and it will be held until the stormwater rate study is completed.

Mr. Williams

Inquired if comp plan amendments created by annexations could be combined, or a master copy of the information be placed in an area accessible to Council. Attorney Hall replied that each amendment is separate, but the information could be referenced.

Suggested that a procedure should be established for how the agenda is distributed, i.e., distribution time line, revisions, etc.

Suggested the public be notified regarding the permitted use of fireworks. Captain Hedrick discussed how the police department plans to address fireworks and alcohol violations during the 4th of July celebration.

Mr. Ball

Inquired if Public Works was striping a right turn only marker at Riverside Drive and 8th Avenue. Mr. Williams discussed the no left turn onto 8th Avenue, both east and west bound, decision that was made during the Riverside Plaza development review, and the fact Riverside Plaza would help develop the island. Mr. Lukowiak will determine who is striping Riverside Drive.

Commented on the fact TK O'Sheas is vacant and the pedestrian traffic expected onto the island during the 4th of July celebration. Discussion ensued on the need to limit access to the building. Mr. Ball reported his understanding the marina plans to hire security to keep public off the causeway to the island. According to the submerged land lease, the causeway is a public access and the marina cannot restrict access. Mr. Ball volunteered to relay the information to the marina.

Ms. Bryant reported she has received several inquiries regarding the status of the burned building that housed Sawgudus Joe. Mayor Bustle reported Fire Chief Johnson has said there is still active discussion between his department and law enforcement; the building has not yet been declared a safety hazard.

Mayor Bustle reported he is going to launch the media campaign regarding the passage of the Charter. He inquired how Council felt about a televised panel discussion with Jim Stansbury, Ron Witt, Mr. Williams himself and any other Council Member that wished to participate. Mr. Stansbury will participate at no cost to the City. Council agreed to hold the panel discussion.

Meeting adjourned at 10:00 pm.

Minutes approved: August 2, 2004



J. E. Free, Jr.
City Clerk

SCHWARTZ
ZWEBEN &
ASSOCIATES

June 15, 2004

Via Facsimile

Richard G. Groff, Esquire
Dye, Deitrich, Prather, Petruff & St. Paul, P.L.
The Riverview Center, Suite 300
1111 Third Avenue West
Bradenton, FL 34205

Re: Macort & Access Now v. City of Palmetto (Riverside Park)

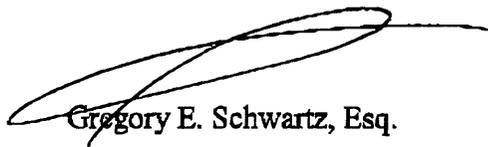
Dear Richard:

I have finally had the opportunity to discuss the above-referenced matter with my client and expert, both of whom who have reviewed your expert report. My clients and expert are quite satisfied with the work performed at the park to bring it into compliance. The only caveat would be that to the extent that the toilet rooms are ever again open to the public, they would need to be modified for accessibility. So long as we are in agreement with respect to that issue, I believe that we should be in a position to finalize and resolve this matter.

Upon receipt of this letter, please contact me to discuss the issues contained herein.

I look forward to speaking to you soon.

Sincerely,



Gregory E. Schwartz, Esq.

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