

Palmetto City Council  
March 3, 2003 7:00 PM

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:

Attorney Alan Prather  
Mary Jean Forrester, Interim City Clerk  
Chief Garry Lowe  
Mike Hickey, Public Works Director  
Diane Ponder, Administrative Assistant

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

Pastor Bradley, Providence Missionary Baptist Church, gave the invocation followed by the Pledge of Allegiance to the United States Flag.

Mayor Bustle presented the initial Mayor's I Care Award to city employees John Williamson and Frank Perry for their involvement in reporting a hazard at the fair that helped prevent a potentially serious incident.

Mayor Bustle presented the FAN Club with a plaque to recognize its contributions to the city, including co-sponsoring Christmas in the Park and the donation of bleachers at the 14th Avenue soccer field. The plaque will be permanently set between the bleachers and will also serve as a memorial to Edna Miller.

Public Comment:

Charles B. Smith spoke on behalf of a group of citizens from Jackson Park. Mr. Smith asked the Mayor and City Council to find a solution to the flooding on 11th, 12th and 13th streets in Jackson Park, by seeking grant funding solely for the area. Mr. Smith also requested documentation approving the CRA's \$6,000 expenditure for Challenge Day held at Palmetto High School, stating the funds were spent outside the boundary of the CRA. Mr. Smith encouraged the Mayor and Council to participate in a walk-through of the neighborhood to identify the needs of the community. He stated the group would be attending Council meetings and CRA meetings.

Mr. Williams spoke of the projects the city has undertaken to correct the flooding in the area, such as Carr Drain and Oakridge, as well as the city's plan to replace culverts on 10th Street and 17th Street that have been identified as improvements that will further correct the problems. Mayor Bustle confirmed conversations with county staff affirming their willingness to partnership with the city regarding the culvert replacement. Mayor Bustle also voiced his opinion there will be weather situations the city can never prepare for, such as the storm on New Year's Eve.

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Mrs. Lancaster discussed her attendance at the CRA meeting when the \$6,000 expenditure was approved, and the documentation from the State allowing the expenditure.

Cynthia Fobbs also spoke on behalf of the citizens. She requested the city apply for grant funding to be used solely for drainage improvements in Jackson Park. She asked Council to make Jackson Park its number one priority. Mrs. Fobbs also stated the City had received FEMA funds for Jackson Park flooding but the area never received the money.

Ms. Fobbs stated, as a former CRA Board Member, she understood its politics. She stated all the funding that has been utilized out of the agency, improperly, needs to be evaluated - not just a particular project. She stated knowledge of funding that should not have funded.

Mr. Williams and Mayor Bustle asked Mrs. Fobbs if she had voted for the educational spending. Mrs. Fobbs stated she voted for the educational concept for the CRA. She confirmed she had voted for the funding for Challenge Day, based its presentation as an education program. It was later that CRA Attorney Chulock advised he didn't think CRA was supposed to be funding in that manner.

Mr. Williams questioned Mrs. Fobbs about the FEMA funds the city was supposed to have received. Mrs. Fobbs informed Council she had submitted a list of individuals who had signed a petition and application, along with pictures of the flooding, to then city clerk Karen Conlon. Staff will research to determine if funds have been received from FEMA. Mr. Williams also stated Oakridge was never intended to improve drainage in Jackson Park; Carr Drain is the project that will alleviate some of the flooding and the two new culverts will further correct the problem.

Robert Jones spoke about the debris in Carr Drain and culverts that are too small. Mr. Hickey reported the city and county work together to keep the drains in the vicinity of Jackson Park clean.

Ronald Smith, Jr. asked the Council to work with the group of citizens.

Council asked for time to gather information pertaining to the topic and placed it on the March 10, 2003 agenda.

1. APPROVAL OF AGENDA

Mayor Bustle asked the agenda be amended by adding the appointment of the city clerk.

MOTION: Ms. Cornwell moved and Mrs. Lancaster seconded to approve the March 3, 2003 agenda.

Mr. Williams and Ms. Bryant asked for additional time to speak with the candidate prior to the appointment. Mayor Bustle withdrew his request.

Motion on the floor carried 5-0.

2. CONSENT AGENDA

- A) Minutes: February 3, 10 and 17, 2003 Council Meetings
- B) Special Function Permit: Spring Classic  
Cinco de Mayo

Mr. Williams removed item 2A, requesting it be moved to become item 4A.

Council requested Palmetto Mobile Home Club is notified of the Cinco de Mayo celebration. Staff was also instructed to advise the association holding the Spring Classic it would be responsible for expense related to security for the event.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to approve the Consent Agenda, with the change moving 2A to item 4A.

3. PUBLIC HEARING - ORDINANCE NO. 03-771

Ordinance No. 03-771 was read by title.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMETTO, AMENDING ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, BY CHANGING THE ZONING OF THE PROPERTY DESCRIBED IN SECTION ONE OF THIS ORDINANCE FROM RM-6 TO CHI (COMMERCIAL HEAVY/INDUSTRIAL); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z0301/McClure Properties, LTD, approximately 0.29 acres/a portion of 502, 504 and 518 6th Ave. W.)

Mayor Bustle opened the public hearing.

Charlie Ugarte, architect for the project, reviewed the reasons for the rezoning request. He discussed the site plan, the placement of the office building, and the effort that would be made to save the existing trees on the property. He stated the project had been unanimously approved by the Planning and Zoning Board, subject to staff's conditions, and had received favorable comments from CRA when presented to that board.

Building Official Roger Titus recommended approval subject to the installation of a landscape buffer.

Mayor Bustle closed the public hearing.

Mr. Williams stated concern regarding traffic on 6th Avenue and suggested moving the building further north on the property and allow for access off of 5th Street. Mr. Ugarte assured Council the suggestion would be considered.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 5-0 to adopt Ordinance No. 03-771, subject to staff's conditions.

4. PUBLIC HEARING - ORDINANCE NO. 03-772

Ordinance No. 03-772 was read by title

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMETTO, AMENDING ORDINANCE NO. 387, THE ZONING ORDINANCE OF THE CITY OF PALMETTO,

FLORIDA, BY CHANGING THE ZONING OF THE PROPERTY DESCRIBED IN SECTION ONE OF THIS ORDINANCE FROM RM-6 TO GO (GENERAL OFFICE); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE (Z0302/McClure Properties, LTD approximately 1.03 acres/a portion of 502, 504 and 518 6th Ave. W.)

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

The records will reflect the comments for Ordinance No. 03-771 also pertain to Ordinance No. 03-772.

MOTION: Mr. Williams moved, Mrs. Lancaster seconded and motion carried 5-0 to adopt Ordinance No. 03-772, subject to staff's conditions.

Mayor Bustle introduced Mr. Bob Schmitt who will provide interim planning services to the city. Mr. Schmitt will have office hours on Wednesdays from 9:00 am to 3:00 pm.

4A. APPROVAL OF CITY COUNCIL MEETING MINUTES: FEBRUARY 3, 10, 17, 2003

MOTION: Mr. Williams moved, Ms. Cornwell seconded to approve the City Council meeting minutes for February 3, 10, and 17, 2003.

Mr. Williams called for discussion of the minutes pertaining to the selection of the engineer as recorded in the February 17, 2003 minutes. Mr. Williams stated that because of the sheet provided to Council, with him using the handwritten notation to the right, he did not accurately record his intended vote. Mr. Williams also questioned if the statement, "Mr. Williams and Mrs. Lancaster stated they would accept the selection committee's ranking." was a contradiction to the verbal poll recorded in the minutes. Mr. Williams stated to change his vote would not affect the outcome but, he would like it to be accurately recorded. Mrs. Lancaster stated she remembered making the statement but then voted as it was recorded.

Mr. Williams expressed his desire to change his vote. Attorney Prather advised minutes could not be changed, they can only reflect what transpired. Attorney Prather further advised Council a motion to reconsider the vote could be made by a party who was in the affirmative position.

MOTION: Mr. Williams moved, Ms. Cornwell seconded and motion carried 4-1 to reconsider the ranking order for the engineer voted on at last week's meeting. Mr. Grace voted no.

	Grace	Williams	Cornwell	Bryant	Lancaster	TOTAL
ZNS	1	1	1	3	1	7
JEA	2	3	2	2	2	11
CH2M	3	2	3	1	3	12

The result of the vote showed the same ranking as determined at the prior City Council meeting.

Mayor Bustle asked for a motion ratifying the ranking of ZNS as #1, JEA #2, and CH2M as #3 for the purpose of negotiation.

MOTION: Mr. Williams moved, Mr. Grace seconded and motion carried 4-1 to ratify Council ranking ZNS as #1, JEA #2 and CH2M as #3 and the appropriate negotiations and contracts can be made with the companies. Ms. Bryant voted no.

The motion on the floor to approve the February 3, 10 and 17, 2003 minutes carried 5-0.

#### 5. PRIMARY ENGINEERING FIRM CONTRACT APPROVAL

MOTION: Ms. Cornwell moved and Mr. Williams seconded to approve and authorize the Mayor to sign the Zoller, Najjar & Shroyer, L.C. Professional Engineering Consulting Services for General Engineering Projects contract, subject to corrections as noted in Attorney Prather's comments and changes made during the meeting.

Ms. Bryant voiced her concern for the conflicts noted and the future conflicts that may arise with private clients in the city.

Mr. Williams noted the following concerns with the contract:

Page 3 - Scope of the Agreement - Mr. Williams recommended changing Public Works projects to "City projects".

Page 4 - Unit Fee Rates - Mr. Williams requested a more explicit breakdown of general administrative expenses, overhead expenses, etc. Attorney Prather's evaluation of items in item C is that they are included in gross of hourly rates. The other items are traditional out-of-pocket expenses subject to reimbursement. Attorney Prather stated he did not find a contradiction.

Page 7 - Work Assignment - Recommended that each project be assigned a work assignment number.

Page 8 - Paragraph I - Attorney Prather also identified this as a concern. Attorney Prather referenced page 9, Article 8A, stating his opinion the City Contract Manager should be identified by title. He suggested replacing City and Office Director with "Mayor or his designee."

Page 10 - Paragraph F - Mr. Williams expressed his opinion the clause was in direct conflict with paragraph E on page 9. The issue of conflict of interest was discussed. Discussion of JEA's rates vs. ZNS' rates ensued. Mr. Williams stated ZNS should pay any difference in engineering review costs if the city had to engage the alternate engineer at a higher rate to review work submitted by a private client of ZNS.

Mr. Williams questioned Leonard J. Najjar being appointed as the Consultant's Agent when Mike Drapala had said at the presentation he would be the city's agent.

Page 12 - Article 11 - Mr. Williams questioned the dollars that could be involved.

Page 17 - Article 20 - Voiced his opinion notices should be mailed to City Hall. The majority of Council voted to leave the place of notice as the Public Works Department.

Mr. Williams discussed his questions regarding the remainder of the contract but Council did not alter any of the points. Mr. Hickey was instructed to research the cost of materials contained in Exhibit B, as Mr. Williams felt two of the items were overpriced.

Attorney Prather reviewed the items of the contract that require revision:

Page 1: The removal of Public Works and insertion of City

Page 7: Work assignments must be numbered

Page 9: Mayor or his designee will replace City and Office Directors

Page 10: Mr. Prather will inquire about Mr. Drapala vs. Mr. Najjar

Mayor Bustle called for a vote to the motion on the floor. Motion carried 4-1. Ms. Bryant voted no.

#### 6. ALTERNATE ENGINEERING FIRM CONTRACT APPROVAL

Attorney Prather informed Council the document in front of them for review had been received prior to the meeting and replaced the contract in their agenda packet. He advised he spoke with the attorney and Mr. Tankersly, who sent the revised agreement explaining B1-Compensation. Attorney Prather explained how a multiplier was figured. He further stated paragraph 6 will be deleted and paragraph 7 will have a revised indemnification. Attorney Prather discussed the "open ended" nature of the agreement, stating the city can at any time give a 30-day notice to terminate.

Attorney Prather discussed the existing agreement with JEA regarding wastewater and stormwater projects, which he recalled being excluded from the advertised specifications. Mr. Hickey stated his belief the city would address wastewater and stormwater projects on this new contract's rates vs. the existing contract. Mayor Bustle submitted any desire by JEA to renegotiate the rates for wastewater and stormwater projects is an item separate from the issue being considered. Attorney Prather reviewed the documents and concurred with Mayor Bustle's statement.

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 3-2 to approve and authorize the Mayor to sign the Jones, Edmunds & Associates, Inc. Professional Service Agreement subject to corrections as noted in Attorney Prather's comments and the changes made at this meeting. Ms. Bryant and Mr. Williams voted no.

#### 7. BEACH NOURISHMENT FUNDING

MOTION: Ms. Bryant moved, Mr. Grace seconded and motion carried 4-1 to authorize the Mayor to sign a letter similar to the draft prepared by ManaSota League of Cities, Inc., urging the Florida Legislature to fully fund the DEP's beach erosion control project priority list for FY03-04. Mr. Williams voted no.

#### 8. DEPARTMEN HEADS' COMMENTS

##### Mr. Hickey

Tropic Isles waterline replacement is complete; roads will be repaved this week.

##### Mrs. Forrester

City Hall hours are 8-5. The Building Department hours are 7:30 to 4:00. Phone lines, with the exception of the dedicated Building Department line, will be on from 8-5.

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Chief Lowe

The written audit report of the police department's property room has been received; all items are in place.

9. MAYOR'S REPORT

Discussed the change in the sewer ordinance eliminating the cap on sewer in excess of 10,000 gallons, advising Council the city has not been charging for the excess amount. Mr. Williams discussed giving the city clerk and/or water department supervisor the ability to adjust accounts when they felt it appropriate. It was consensus of Council to eliminate any sewer caps and bill the utility according to the code.

Demolition of the Love property is underway.

The Law Enforcement Academy is going well.

The interlocal agreements to establish the ACCORD and JPC, the noise and sanitation ordinances and appointment of the city clerk will be on the March 10, 2003 agenda.

The unit count issue at Terra Ceia is still under study. Attorney Prather and Mr. Schmitt will meet to discuss the topic and bring a recommendation to Council in the near future.

No response from Manatee School for the Arts has been received regarding the additional funding for the SRO.

There is a very old agreement regarding the School Board's use of a very small part of Sutton Park. The agreement does not accurately reflect the amount of the part being used. Mayor Bustle has suggested to the School Board the need to renegotiate the agreement.

10. COUNCIL MEMBERS' COMMENTS

Mrs. Lancaster

Quite a few citizens have contacted Mrs. Lancaster concerning the litter on the property on 14th Street. She stated the property owners need to be responsible for their property. Mrs. Lancaster requested Code Enforcement contact the owner regarding the situation.

Ms. Bryant

Asked for confirmation that the City has done everything it legally can do in the code enforcement issue at Tropic Isles. Code Enforcement will be consulted and Council will be notified if anything else can be done.

Thanked Public Works for quickly replacing the downed street sign.

Thanked the Police Department for quickly responding to an accident on 8th Avenue on Sunday.

Heritage Day is March 8, 2003, from 10:00 am. to 3:00 pm. The Historic Commission is looking for attendants in Heritage Park. The Park is now conducting school tours.

Ms. Cornwell

Requested Mr. Hickey update Council on the maintenance of the drains and silt boxes.

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Requested the air ducts in City Hall be cleaned.

She and Mr. Grace will meet with Jet Park on March 8, Rainbow Trailer Mark on March 11 and Tropic Isles on March 22, 2003. She requested the department heads provide points of dialogue for the visits.

Discussing the city clerk appointment, Ms. Cornwell stated it was her opinion ten months is sufficient to determine reappointment. Mayor Bustle stated he would like to offer 22 months to the candidate. Mayor Bustle argued the longer term would offer stability for both the candidate and City Hall. Mr. Williams stated ten months was sufficient but, Mr. Grace stated his belief the term for department heads should be a three year term.

Mr. Williams

Thanked Mr. Enos for taking care of the street sign on 7th Street.

Will convey information to Marian Smith on reuse.

Inquired about the Enterprise Funds and CIP Team meetings. Mayor Bustle stated he has spoken to Mr. Schmitt and CPA Associates about participating in the CIP meetings and will speak to the engineer as soon as the contract is secured, as well as involving the city clerk when appointed. Nothing has yet been done on the Enterprise Funds. Mr. Hickey reviewed Public Works is building a data base on all potential projects.

Manatee School for the Arts has not responded to Mayor Bustle's correspondence regarding the School Resource Officer. Mr. Williams recommended pulling the officer if the school is not willing to pay for the service. The school will be given a date certain when the officer will be removed.

Questioning the data on the Suspense Log, Attorney Prather reviewed the items that have been completed.

Mr. Grace

Complimented Chief Lowe on the Law Enforcement Academy.

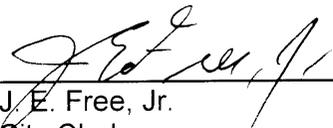
Spoke of the need to shorten the City Council meetings.

11. PUBLIC COMMENT

Joe McGriff, Tropic Isles, stated the meetings are too lengthy. He also spoke of Palmetto being a beautiful city.

Meeting adjourned at 10:55 pm.

Minutes approved: March 17, 2003

  
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J. E. Free, Jr.  
City Clerk