Elected Officials Present:
Pat Whitesel, Mayor
Tamara Cornwell, Vice-Mayor
Shirley Groover Bryant, Council Member
Donna Keefer, Council Member
Mary Lancaster, Council Member
Brian Williams, Council Member

Staff and other present:
Patricia Petruff, Attorney
Chief Ken Bright, Palmetto Police Department
Mary Jean Forrester, Acting City Clerk
Margaret Tusing, Planning & Zoning Director
Mike Hickey, Public Works Director
Diane Ponder, Administrative Assistant

Mayor Whitesel called the meeting to order at 4:25 p.m.

Mr. Williams requested that item number four be moved to number one because of another meeting Jeffrey Siewert, Smith & Gillespie, had to attend. Council voiced no objection to the alteration.

1. HIDDEN LAKES FLOOD PROTECTION

Mr. Siewert presented Council with the revised plan for Hidden Lakes, to include a Miami type curb & gutter and the elimination of the swales. Mr. Siewert asked for authorization to provide Woodruff & Sons, Inc. with the plan so he could provide the City with a cost estimate of the modifications.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried unanimously to allow Mr. Siewert to obtain an approximate cost of what the project will cost.

2. RIVIERA DUNES P2000 PROPERTY OPTIONS

Mike Hickey, Public Works Department, presented two maps of proposed options to the Riviera Dunes P2000 property.

1) Scenario A covers what is in the DRI and City Ordinance, which has 4.5 acres being donated to the City for a park and the balance being commercial. Drawing
one shows a scenario where 2.5 acres is commercial and the balance of approximately 7.5 acres would go to the City, including the water. The City would develop the property into open space, while implementing the existing plan. One thing to consider if the signal and what options are available to facilitate traffic getting into the City. If there were a connecting road with Scenario A, it would go through the commercial property. Discussion was held on the signal at 7th Street and Hwy 301. It has not been determined if FDOT will approve the light. Mr. Williams stated the street extension and the donation of the 4.5 acres was in the DRI. Mrs. Keefer expressed concern of making the 7th Street extension connect with Haben Boulevard where it is now.

2) Scenario B depicts an Estuary Park extension. Palmetto will have control of the street, which will hug the north and east sides of the front of the commercial property. The interconnecting road is approximately 1.6 acres, leaving approximately 8 acres for developing the expansion of the Estuary Park.

Mr. Hickey reported he spoke with Mr. Henningson and Mr. McHaven. The property has been appraised with no road and SWIM is essentially ready to work a deal with the developer with the understanding the City will take the balance and it will all be available for the Park.

To select Scenario A the City has to do nothing; however, if Scenario B is selected staff will have to be directed to proceed to gather together all involved parties. The property will have to re-appraised, minus the 1.6 acres to see if the balance will support the same kind of estimate.

Mayor Whitesel read a memo from Tonya Lukowiak concerning the Estuary Park. A copy of the memo is attached hereto and made a part of these minutes.

Ms. Cornwell discussed the one piece of property that can still be developed. She questioned where this piece of property was located and how it would effect where the road is constructed. Mr. Hickey stated SWIM would buy the most expensive piece of property, with the City owning the balance, and everyone would agree the balance of the land would be developed into an estuary with no road. SWIM would allow the road if it hugged the north and east sides of the property. Mr. Williams corrected Mr. Hickey, stating that if the City would forego the 4.5 acre requirement in the DRI, SWIM will purchase the entire 9.64 acres and give us the 1.69 acres for the roadway. Mr. Hickey had stated SWIM was only buying the uplands and they are not, the City is still retaining all of the land. SWIM is paying for it and we are retaining all of the land. Mr. Hickey disagreed. To make Scenario B work the City has a number of parties to pull together. SWFWMD has indicated they have no interest in having a property with an easement for a road.

Mr. Williams stated he has problems with the project; #1, City Planner is not in attendance to answer questions. Ms. Cornwell added the absence of the Grant Writer. #2 Haben was in the DRI, so that has to be taken into consideration.
#3 By the City or SWIM purchasing all the land, the City is eliminating considerable potential tax revenue. A discussion was held on if the property is buildable. Mr. Williams suggested letting the developer sell the property.

#4 If SWIM is going to spend $500,000 to buy the land, why wouldn’t they help the City stabilize a road going through the area. Ms. Cornwell discussed ground permeation and the fact there would runoff of oil and car debris into the wetlands.

Mayor Whitesel stated that in the meeting with Mr. Henningson and SWFWMD’s representative Mike, they are not in favor of a road going down the middle of the estuary. However, they are amenable to the road as shown in Scenario B. It is the Council’s decision on how to proceed.

Mr. Williams discussed the presentation that was made by Caleb Grimes in November.

Mrs. Keefer discussed the 4.5 acres that was supposed to be given to the City in the DRI and the $500,000 price. Mr. Hickey explained how the property would be identified and sold.

Ms. Cornwell confirmed SWIM was interested in a road as long as it is close to the existing highway. She discussed the future zoning of commercial property abutting a wetland park, suggesting the City should seriously look at the zoning as far as not having it developed unless it was cooperative with the park.

MOTION: Mr. Williams moved and Ms. Bryant seconded to table the topic until all of staff is available to discuss the project and answer questions.

Mrs. Keefer questioned the commercial property next to the estuary. Ms. Petruff advised Council parcels 16 and 17 are limited to 11,000 square feet, termed specialty retail.

Ms. Cornwell questioned if Council had ever received documentation on the wetland location. Mr. Tusing advised the jurisdictional lines for wetlands has been determined, as depicted on the Scenario A map by the blue lines, and has been received by the City, but he doesn’t know if they have been approved. Mr. Tusing also stated Riviera Dunes did not want a road in front of the commercial businesses.

Mr. Hickey is to provide two dates within the next 30 days on a Thursday afternoon for a workshop where all involved staff and parties can be in attendance.

3. JOHN ZIMMERMAN, WATER DIVISION MANAGER MANATEE COUNTY PUBLIC WORKS DEPARTMENT
Mr. Zimmerman reported on current drought conditions, the fact that current watering restrictions are not reducing potable water consumption and the proposed Community Water Budget Program Manatee County is anticipating implementing. Mr. Zimmerman was seeking authorization from City Council to allow the City’s participation in seeking approval from SWFWMD for a variance from District Restrictions in order to implement the Community Water Budget Program. Council discussed the City’s reuse program and how it would be difficult for the City to participate and enforce the restrictions. City Council will look at this topic at a future workshop.

4. MANATEE COUNTY MOSQUITO CONTROL DISTRICT

MOTION: Mr. Williams moved, Mrs. Keefer seconded and motion carried unanimously to authorize the Mayor to continue aerial operations of the Manatee County Mosquito Control District over the City of Palmetto.

5. JOINT MEETING – CRA

Director Karen Hartman, Board Members Scott Maloney, Alan Langford and Cynthia Fobbs and Attorney Larry Chulock were in attendance.

Ms. Cornwell inquired if the Grant Writer is also working for the CRA and if the CRA is paying for her services. Mr. Maloney stated the only grants he was aware of were being applied for through the City. He also stated the CRA valued Ms. Lukowiak’s opinion and would be at any CRA meetings in an advisory capacity. Ms. Lukowiak has attended a CRA meeting to assist them in the summation of recommendations as to how they should move forward in the residential grant. Mrs. Tusing also attended the meeting to discuss a specific issue.

Ms. Hartman stated the residential application of the CRA has been postponed until the Infill Grant information comes forward. Over a two-year period there is the possibility of accumulating $600,000, which allows for a more significant project. There was also discussion at the CRA meeting to pursue other residential grants and those will have to come back to City Council individually for approval.

DIAZ PROPERTY

Mr. Chulock summarized the history of the Diaz project as follows. The project began in 1999 when the CRA Board passed a resolution to go forward with the Diaz condemnation. Mr. Diaz had been seeking approximately $295,000 for the property. CRA sent a notice of intent to condemn December 29, 1999. A decision in early spring of 2000 was made that it would be more cost effective to purchase the property. An appraisal was ordered and came in at $128,000. Mr. Diaz’ attorney provided an appraisal of $235,000. A third appraisal was ordered because of the discrepancy in the value, and it came in at $160,600. It became apparent CRA would be spending as much if not more as what Mr. Diaz was asking if it had to go
to trial. Concerns were voiced over displacement. Ms. Hartman stated $6,900 has been spent on the project to date. CRA is seeking direction on how to proceed with the project.

Ms. Hartman discussed the mediation process and jury trial and who assumed responsibility for the expenses involved in the case.

Mrs. Lancaster asked the reason for the condemnation. Mr. Langford and Mr. Maloney discussed how the project started with a vacant lot that Mr. Diaz split into two, with plans to build more very dense rental units. The notice of condemnation was issued, so from that point forward any further building would be at his expense. CRA inquired into purchasing the vacant property but Mr. Diaz would not sell unless a buyer purchased the entire property. Mr. Williams stated the property was not zoned to build duplexes on the property and questioned why the CRA had not purchased the lot for $38,000 prior to Mr. Diaz purchasing it. Mr. Maloney also discussed surrounding properties that could be purchased, that made up a City block.

Mrs. Keefer questioned how the split of the lot had occurred. Discussion was held on the process.

The City purchasing the property was discussed and the liabilities that would occur with the City becoming the property owner, i.e. leases, collecting rents, repairs, displacement, property insurance, code violations. Mrs. Keefer recommended if Mrs. Diaz is willing, to allow the leases to run out and then immediately purchase the property. Mr. Langford discussed why this recommendation would not be satisfactory, as the process being undertaken now could be used in the future in other areas of the City.

Mr. Williams stated his belief this was not something the City should pursue. Mr. Williams further stated that when the leases expire within, and if Mr. Diaz would be interested in removing them, then fine. And, Mr. Diaz should look to the revitalization program to improve the property.

Ms. Bryant voiced a concern that the CRA didn’t have any option but to move forward with the condemnation because, at this point CRA would probably end up with damages that would go toward the purchase of the property because the process has been stopped, i.e. an inverse condemnation suit by virtue the notice of condemnation has been issued. Ms. Bryant also asked that if the City was going to negotiate a price in good faith, if the City could inquire about the existing leases. Mr. Maloney suggested that if the City elects to move forward with condemnation, that Mr. Diaz deal with the displacement rather than the City.

Mrs. Lancaster asked what plan CRA has discussed for rebuilding the Taylor units. Mrs. Hartman discussed the space behind the Overpass Apartments. Also discussed was the density in this area.
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The total amount budgeted for the Diaz project was set at $325,000 as a line item in the 2000-2001 budget. The money will be borrowed and then the property will be sold at the same amount. There have been inquiries on the property and certain conditions will have to be accepted by the purchaser.

Mrs. Fobbs discussed the large number of vacant properties that can be developed into single-family affordable housing.

Ms. Hartman discussed the SHIP funds that are needed on renovations. Mrs. Lancaster stated CRA was established for different reasons than SHIP. Mrs. Lancaster also stated that if you are displacing families you must have places for them to go.

Ms. Cornwell suggested that CRA look into the corridor around Lincoln Middle as it also part of the Enterprise Zone. Mr. Maloney stated CRA was going to pool together their funds with the new grant being applied for and they were willing to work in any area of the City within the CRA.

Mr. Chulock stated the Diaz situation should come to a head within the next 30 days. Mr. Williams commented on the fact the City does not have an established Anti-Displacement Policy and could take longer than 30 days to develop one.

Mr. Maloney proposed CRA make an offer to Mr. Diaz for a reasonable amount of money the City Council agrees on, let him deal with any displacement issues and any established conditions. Mr. Williams agreed, if it didn’t involve the City with displacement, and asked CRA to make sure if existing duplexes are demolished that the two lots are buildable lots.

MOTION: Ms. Bryant moved, Mr. Williams seconded and motion carried unanimously for the CRA to proceed with a friendly negotiation contingent upon all responsibility for displacement being on the current owner.

BUDGET
CRA questioned a $3,000 discrepancy in the residential line item appropriation between what was presented to Council and what was adopted by City Council. Mr. Williams stated the approved budget showed a line item total of $127,846.

Ms. Hartman next addressed the shortage of $8,415 in TIFT revenue allocation. She further stated the CRA has never appropriated earned interest. Finance Director Karen Simpson stated the interest to date is $3,763.99, which has not been carried forward from previous years. When annualized, the interest funds will make up the shortfall.
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Ms. Hartman addressed several minor expenditures, which she had provided to Council. Ms. Hartman asked that the administration fee CRA pays the City annually is updated before the next budget.

Mrs. Lancaster asked about the $8,285 that was left in the 99/00 budget. The funds were unencumbered and $6,000 was paid to Salter. A discussion on these funds was held pertaining to the residential revitalization line item. The remaining $2,000 is unencumbered in the 2000-2001 budget. All funds in the revitalization program will remain as is, as the revitalization program has been put on hold.

FDOT/8TH AVENUE
Mr. Maloney discussed the light with FDOT, requesting a copy of the report. The light at Riverside and 8th Avenue will not be granted because of the lack of traffic on adjacent streets. Mr. Maloney stated he felt the City should be proactive in requesting a light at Riverside Dr. as well as other intersections in the City.

Ms. Cornwell discussed the lights at 5th St. and 7th Street and the fact the lights should be switched based on traffic and Palmetto Elementary School.

WEIGH SCALES
Ms. Hartman asked permission to negotiate with South Trust Bank about donating property to the City for relocation of the weigh scales. As the City will have to rebuild the scales, the Grants Writer will be utilized to try to locate the funds.

MOTION: Mr. Williams moved, Ms. Bryant seconded and motion carried unanimously to authorize the CRA to move forward with the donation of the land for the weigh scales.

Mrs. Fobbs requested that Council include in this decision the development of the current location of the scales into a park. Mr. Langford stated there might be conditions with South Trust donating the land.

Mayor Whitesel thanked CRA for their time.

6. DEPARTMENT HEAD REPORT

City Attorney Petruff addressed Council concerning the proposed Agreement amending the US Filter Wastewater Treatment Plan Contract. After her review she asked for minutes of the meeting in which the amendment was discussed. Based upon the minutes, the Council was told it was a continuation of the existing contract as a scope change and therefore the City would not have to go out for an RFP. Ms. Petruff stated she has great concerns, that when looking at the types of issues in the current agreement it does not appear it can be amended to this substantial level. The current contract with US Filter, formerly PSG does not prohibit any type of amendment, but you must look at the original RFP, which was for a sewage treatment plant. Because the City is allowed to amend the agreement if there was a
mandate of other agencies or change in regulations that would require some type of amendment, Ms. Petruff stated she then reviewed the Consent Order to see if there was language that could be determined to be a mandate to install reuse lines. After reading from Paragraph 12 of the Consent Order, she stated that in her judgment, that was not clear enough to be a mandate. Next the Purchasing Code was reviewed, and she read Section 2-59 Emergency or Limited Availability Purchases.

Ms. Petruff stated that given her concerns with the RFP issue, she made revisions to the substantive provisions of the amendment, which was faxed to the Mayor in her absence. She advised there were typographical changes made after the agreement had been faxed: Page 1, the words of the agreement were changed to lower case letters; everywhere it said reclaimed water distribution system was changed to reuse system.

The amended agreement provides that the underlying sewage treatment plant agreement will be extended for two years, to coincide with the wastewater treatment agreement, and provides for renewals of this agreement for additional terms.

Mr. Williams inquired if the RFP that was part of the original bid was part of the contract. Mr. Williams read A12 of the RFP, citing the definition of the proposal and asked if by definition of proposal it was fair to assume it was part of the contract. Ms. Petruff stated it was not exactly fair to make that assumption.

Under H of the RFP, as related to exclusions, Mr. Williams cited “the right to negotiate for additional services”, questioning if that was during the RFQ or during the contract. Ms. Petruff stated that is where she disagrees.

Under the RFP’s general contract information for offers – change orders, Mr. Williams stated, in his opinion, it says we can request scope of services changes, further stating it does not eliminate the ability of the City to change the scope of services of the contract, stating what the City shall do in that event.

Ms. Petruff stated she had reviewed in depth the RFP to which Mr. Williams is referring. Ms. Petruff stated the contract the City has entered into with PSG is binding over whatever might have been said in a meeting. She further stated she hasn’t yet seen that the April 7 contract adopts in totality and binds the City to every statement the City may have made or not made within the RFP. Mr. Williams stated it does allow the City, to an extent, to make changes in that contract by virtue of what the RFP says. Ms. Petruff stated that if it were a change to a new type of technology for the sewage plant she would agree, because the contract is for the running of a sewage treatment plant. Ms. Petruff stated the problem was the City did not in the RFP ask for everyone to bid on a reclaimed water distribution system and the City did not price it competitively. Ms. Petruff reiterated she has grave concerns for the City to enter into a $1.4 million contract without competitive bidding.
Mr. Williams argued that when the RFP was put out it said the City could ask them for future change. Ms. Cornwell interjected scope changes were not intended for something totally different. Mr. Williams argued scope of services and changes said the City could do this. Mr. Williams advised Council PSG had already purchased pipe and hired personnel to do something the Council voted on 4 to 1 and based on the fact they already had the contract. Ms. Cornwell argued we had done this in-house and it was not contracted out to them, further stating that what Council needs to do for Palmetto’s citizens is be competitive and go out for RFP, which she assumes is what Ms. Petruff is recommending. And, if US Filter wins the bid, so be it. But, at this point, it is not wise to do that when it doesn’t reflect in the current services.

Mr. Williams stated, based on the RFP, the City can change the scope of services, that we should allow US Filter to put in x number feet of pipe for $350,000 rather than spend the money to do the RFP and delay the installation. Also, PSG hasn’t had the opportunity to review the contract Ms. Petruff has amended. It was suppose to be done by motion of the Council, that the mayor, PSG and the attorney would look at it. Ms. Petruff stated she did not change the original term that was in the agreement as sent to her by US Filter, which was a four year term as approved at the December 18th Council meeting. Ms. Petruff stated she tried to add language that if the City needed to renew it beyond 2004, what’s the procedure for doing so. Mr. Williams stated he is not disagreeing with the amendments, just that the City has the right to do it. Ms. Cornwell stated Ms. Petruff was an attorney by law and Council should follow her opinion.

Mrs. Lancaster asked why our attorney did not recommend that the topic be researched when approved at the December 18th Council meeting. Ms. Petruff read from the minutes where Mr. Prather stated he had not had the chance to review the contract.

As this was a time certain meeting, meeting adjourned at 7:00 p.m., to be reconvened at 9:00 a.m. Tuesday morning.

Mayor Whitesel reconvened the meeting Tuesday, January 30, 2001 at 9:00 a.m.

The item for discussion is the contract with US Filter regarding reuse lines.

The meeting is time certain and will be concluded by 10:00 a.m.

As requested by Mr. Williams Monday, January 29, 2001, Ms. Petruff discussed the contract the city presently has with US Filter, and whether or not it incorporates by reference the qualifications/proposal. Ms. Petruff responded she does not believe it does, referring to paragraph 1.6 of the existing contract. In summary, the proposal submitted by the applicant and the FDEP permit constitutes the entire agreement between the parties and may be modified only by written agreement signed by both parties. When going to the appendices of the contract, Appendices A gives a
definition of what the proposal is. Ms. Petruff stated she did not believe the actual proposal was incorporated by reference into the contract.

Ms. Petruff stated Mr. Hickey had given her information this morning that has to do with the SRF Construction Loan Agreement with the State of Florida, and the fact the funds for the reuse installation are coming from that loan. Article IV under project information states “project change prior to bid opening shall be made by addendum to plan and specifications. Changes after bid opening shall be made by change order.” It goes on to say that “any change order which increases the contract amount by more than $100,000, and which alters the approved project scope or which involves a procurement method that is not consistent with the approved method or involves deletion or substantial modification of any requirement, requires written approval by the DEP.” She stated she was not clear if this impacts this topic under discussion. She stated this was being brought to the attention of Council because Mr. Hickey had brought the document to her with this paragraph highlighted and the city does have a construction loan agreement with the DEP with reference to how you manage the State Revolving Fund. She stated that looking at this one particular paragraph, it gives her the implication that the city needs to go out for bid.

Mr. Williams asked Mr. Hickey if he had received a list from the Finance Director about monies that are available to pay for the reuse, how much of that money, if any, was coming from the SRF – None. Mr. Williams asked why this is an issue if there is no money coming from the SRF. Mr. Hickey stated the information was provided so Council would be aware of the information and could make an informed decision if Council decided to draw from the loan.

Mr. Williams asked Ms. Petruff if the city put out an RFP, and if some other entity found we were correct in assuming we didn’t have to go out to bid on the reuse, what happens then. Ms. Petruff said the only thing that would change her opinion that the city needs to go out to bid would be if there was any information that she doesn’t know, if there is any information that would justifying applying Section 2-59 of the city’s administrative code which indicates the city can make emergency purchases for services. Ms. Petruff stated she didn’t know all the details of this transaction, such as if the funds being used are restrictive, or any emergency that exists. But, as read from the Consent Order last night, the city’s options are 1) bring the facility into compliance with the permit; 2) to obtain a mixing zone; 3) if none of the other options work then the city would need to eliminate discharge to the bay.

Discussion was held on the options available to eliminate the discharge to the bay. Ms. Petruff discussed the deadline of December 2004 to be out of the bay. Based on that deadline, Ms. Petruff stated that from that point of view, for a limited time frame the city could probably move forward. But, by the same token, she stated it was her opinion an emergency does not exist for four years. She further stated, that if the City felt so strongly that it needed to immediately move forward with
installation of reuse lines, that a delay in installation would put the City at a
disadvantage of evaluating its options in how to deal with the sewage treatment
plant, and if Council wanted to make a motion under Section 2-59 to adopt a
contract for some short period of time, she thought it would be supportable. But,
she didn’t think it was supportable under Section 2-59 for four years.

Mr. Williams voice his point that Council had made a motion, it had been voted on
by majority, the company has already purchased pipe, they’ve sent trucks, we’ve
sent letters telling them this is an agreement, we are going forward. This motion has
been made, but Council didn’t initially declare an emergency and at this point the
only thing we can do is say there is an emergency. Mr. Williams asked Ms. Petruff
if Council needs to now declare an emergency, since action has already been taken.
Ms. Petruff stated the fact Council had already taken action is irrelevant to her
issue in terms of the city’s ordinance and codes. According to the minutes, action
was taken based upon on information that was given to Council at the time, which
was not completely accurate. The information in the minutes indicates Council was
told it was within the scope of services and therefore did not have to go out to RFP.
The amendment drafted by US Filter said it was outside the scope of services. Ms.
Petruff stated the action taken in December may be a void action due to the fact it
could have been based upon mistakes, because of the information given at the
December meeting, or may be a void action because of the city’s other codes and
requirements.

Mrs. Keefer stated that she had had an earlier discussion with Ms. Petruff, and
what she recommended during the discussion was that because of the urgency on
getting started with the project we leave the project as is for the year 2001. That
would allow time to go out for an RFP for the remaining three years of the project.
Mrs. Keefer further stated that as the contract sits now, the City might be in
jeopardy of a suit. Ms. Cornwell interjected that there is no contract, the contract
has not been signed. Mrs. Keefer discussed the fact that if the city continues
forward and gives PSG the contract and a contractor cites the inability to even bid
on the contract, the city could be in trouble. But, if the contract is amended for a
12-month period, or for this calendar year, the City could go out to RFP. Ms.
Cornwell stated it would take four weeks at the very most to go out to RFP. Ms.
Cornwell also stated the point of going out to RFP is so you do not create a
monopoly, to avoid looking like you’re in somebody’s pocket and to get a
competitive bid. Ms. Cornwell stated this is not an emergency situation and she will
not vote for it; that’s why she didn’t vote for it in the first place. Mrs. Keefer asked
why the city couldn’t let this part go forward and get the RFP done. Ms. Cornwell
again stated this is not an emergency.

Mrs. Lancaster stated the leaders of the City sent a letter of authorization to
proceed and asked Ms. Petruff of her belief it was not valid. Under that
authorization, that company went out and started to proceed. Mrs. Lancaster
stated that because none of Council knows the law, nor can interpret the law, the
attorney should have recommended Council not take action. After the letter of
authorization was sent, and at this late date, the attorney’s office is now telling Council it is out of order. Ms. Petruff responded she was not involved with the details in December. The letter, which allegedly authorizes PSG to move forward, is dated December 15th. The action Council authorizing the agreement took place at the December 18th meeting.

Mrs. Keefer stated she did not want to wait until November, she wanted to out for an RFP as soon as possible, so that wherever PSG is at the end of the year, the company that wins the RFP can hook right on and continue going. Mrs. Keefer inquired what the cost of an RFP would be. Mrs. Forrester estimated it would cost close to $500.

Mr. Williams stated that before he would vote to spend $500 to go out to RFP he would vote to spend $500 on a second opinion on whether or not the city has the right, based on the contract we currently have, based on the RFP that was sent out and all the information, to do what Council did. Mr. Williams requested a second opinion because he didn’t believe what he is hearing is correct. He further stated he is not an attorney but he believes that Council has the right to take the action that was taken and it was done perfectly legal.

Mrs. Keefer stated that for $500, to look at this, to go out for an RFP and to let PSG continue through this year is a relatively inexpensive way to go when you stop and think what the repercussions could possibly be.

Mayor Whitesel stated that what the attorney is telling Council is exactly what Donna Keefer said. Move forward right now and get the pipes, in the meantime go out for an RFP, only give PSG a contract for a year and the attorney could defend that. Ms. Petruff concurred with Mayor Whitesel.

MOTION: Mrs. Keefer moved that we continue with PSG through December 31, 2001, go out for an RFP this spring and refer this issue to Florida League of Cities for a second opinion to verify that we are going in the right direction.

Mr. Williams stated that do it correctly, there should have been a motion yesterday to reconsider this issue, because Council has already made a vote and a decision.


Mrs. Lancaster suggested the PSG representative should given a chance to comment on the issue.

MOTION: Mrs. Keefer moved that we continue with PSG through December 31, 2001, go out for an RFP by April 1, 2001 and
refer this issue to Florida League of Cities for a seconded opinion to verify that we are going in the right direction. Mrs. Lancaster seconded and called for discussion.

Mr. Williams stated the city would continue this year for $350,000 to make sure everything said would be the same.

Don Patterson, US Filter, stated he didn’t believe US Filter would submit a bid on the project. He also stated he would have to revise the submitted budget because some of the vehicles are not leased for merely a year. He would also have to talk with Mr. Van Nagle and then he would get back with the Mayor.

Ms. Petruff asked Mr. Patterson if these vehicles were already leased by US Filter and were being moved from one facility to another. Mr. Patterson stated that was the case, however, this facility would be charged for the vehicles. Ms. Petruff asked why the charge would be increased if the vehicles were under long-term lease and they were here vs. Pigeon Forge. Mr. Patterson stated even after the project here was over after one year the vehicles would remain here. Ms. Petruff asked why they would not be reassigned to another facility. Mr. Patterson stated they may or may not be reassigned.

Mayor Whitesel asked if the fact US Filter had the contract before to do the I&I and laid reuse lines before had any bearing on this case whatsoever. Ms. Petruff stated no, that contract had expired. The Mayor explained the contract had not been finished because the former Public Works Director chose to use the money elsewhere and midstream PSG wasn’t allowed to finish the contract. Ms. Petruff stated she didn’t know what the answer was as she had not looked at the I&I contract as part of this proceeding. Ms. Cornwell stated it was her memory the City had laid the reuse lines. Mr. Patterson stated they had been contracted to do the I&I but they repaired what was needed when the ground was opened.

Mr. Williams asked if the City had not set a precedent by doing this amendment to their contract. He asked where PSG would stand if they decided to file suit. Ms. Petruff responded in the 1991 contract there was language that provided for greater flexibility in scope changes. That language is no longer in the PSG contract. Ms. Petruff read the 1991 contract, Section 6.2 as follows: “The city has the right to negotiate with PSG for additional services not included in the scope of services of this agreement.” That language is no longer in the 2000 PSG contract. Mr. Williams asked if that excluded the City from doing scope changes. Ms. Petruff stated this is very specific “for additional services not included in the scope of services of this agreement.” Mr. Williams asked if the courts would support, because there is nothing in the contract, and the city made a change the city would be wrong. Ms. Petruff again stated her opinion, that if the city made a change in the wastewater treatment contract for something that is clearly in the scope, there would be no problem making a contract change with US Filter (discussing technology changes). Ms. Petruff stated the difficulty is there is nothing she can see
that indicates that installation of reclaimed lines are within the scope of what the city was contemplating when entering into the agreement for the operation of a wastewater treatment plant. She once again stated her opinion that the reclaimed line is a different type of project than the one contracted for - it is not the construction, operation or maintenance of a wastewater treatment plant. In the request for proposal it states the city operates a reuse distribution system and it didn’t say the city might want to turn it over to someone else.

Ms. Petruff stated the $350,000 was for 12 months of work and was to be paid 1/12th monthly. She requested direction if the city is only going to have 11 months of work asking how it would be paid, 1/12 per month or 1/11 per month. And, if the city is going to pay more per month, will there be a six-man crew instead of a four-man crew.


Mrs. Keefer stated that if by April 1, 2001 we had an answer from the League of Cities and they advise the city needs to go out for an RFP then the RFP should be prepared and be ready to go out at that time.

Ms. Cornwell stated again that the reason all this comes about is the protection of the citizens in the city from monopolies being created by having competitive bids. She cautioned that when looking outside the scope we have to be careful and ask ourselves questions. Mrs. Keefer asked Ms. Cornwell if the League of Cities agreed and the City did not have to go out for an RFP how she would feel. Ms. Cornwell responded she felt the city would need to go out to bid, the motion did not create an emergency situation and this is not what she considers an emergency.

Mr. Patterson stated he felt US Filter would be interested in a one-year contract. The wording in the amendment would have to be changed that satisfies both parties. He stated he felt language should be included in the new contract that allows scope changes, as the language was in the old contract.

Mayor Whitesel called for the vote on the motion and second allowing US Filter to start his project and have it continue through January 31, 2002 at the rate of $350,000. Mrs. Ponder read the motion as follows: “We continue our contract with PSG through January 31, 2002, go out for an RFP by April 1, 2001 and refer this issue to Florida League of Cities for a second opinion.” Vote was called for. Mr. Williams called for discussion.

Mr. Williams stated Ms. Cornwell was correct in the fact an emergency has not been declared. Mr. Williams asked Ms. Petruff if the city had to declare an emergency to do what it wants to do. Ms. Petruff concurred with Mr. Williams, stating she would prefer a reference to Section 2-59.
MOTION: Mrs. Keefer moved to withdraw her original motion. Mrs. Lancaster seconded and motion carried unanimously.

MOTION: Mrs. Keefer stated, pursuant to Section 2-59 of the city’s Administrative Code, I move to find that there exists a potential threat to public health, welfare and safety which requires that we do an emergency purchase of services and, therefore, I move to amend the US Filter contract to provide for an amendment which would allow US Filter to construct and install a reclaimed water distribution system, with the term of that contract being for a one-year period, commencing on February 1, 2001 and terminating on January 31, 2002 not to exceed the amount of $35,000. Mrs. Lancaster seconded and motion carried 4 to 1. Ms. Cornwell voted no.

MOTION: Mrs. Keefer moved that the Florida League of Cities review the original proposal for the reuse lines set with PSG in December 2000 and that they come back to the city with a determination as to whether that was within our scope to do that and have the RFP ready to go by April 1, 2001, sending all backup information to the Mayor. Mrs. Lancaster seconded and motion carried 4 to 1. Ms. Cornwell voted no.

Mrs. Keefer asked Ms. Petruff if it was permissible to amend the April 2000 contract by including the verbiage in the 1991 contract. Ms. Petruff suggested Council think about what the intent is if adding that type of language. Ms. Petruff stated she didn’t have a problem having language added to allow additional services outside the original scope, but there needs to be limits. Mr. Williams, as liaison to Public Works, will work on verbiage for dirty water issues. Ms. Petruff stated she didn’t think it was too late to amend the contract.

7. INDIVIDUAL COMMENTS

Ms. Cornwell
Requested the Grants Writer be at the meetings. The City Planner and Grants Writer will be asked to attend all 4:00 meetings.

Inquired about the date of Mr. Hunt’s recognition.

Advised Council Ms. Bryant in the Hurricane Emergency Liaison.

Inquired about the reuse water situation with Manatee Fruit. A meeting has been held and will be coming forward in a report.

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Inquired about the city clerk position. There have been three new applications.

Advise Code Enforcement about commercial trucks parking in a residential yard at corner of 14th Avenue and 7th Street.

Inquired about the growth management meeting in Orlando. Information will be brought back from Tallahassee.

Mrs. Lancaster
List from Code Enforcement did not include washing machines.

Mr. Williams
Information on DeLesline/Smith & Gillespie has been provided and asked what had been done. Mrs. Keefer requested the attorney receive a copy of the information.

Striping on 10th Avenue needs to be done where the road was realigned as quickly as possible.

The street-resurfacing schedule was discussed. The issue of 7th Street between 10th and 14th Avenues until underground lines are in place. Mr. Hickey was instructed to prepare a notice for publication concerning projects that will begin in February.

Mrs. Lancaster stated Ward 1 needs reuse lines.

February 5, 2001 agenda as approved by motion from Mr. Williams, second by Mrs. Keefer and unanimous vote.

Meeting adjourned at 10:15 a.m.

Minutes approved: February 19, 2001

Mary Jean Ferraster
Acting City Clerk

Audio tapes of the meeting are available in the city clerk's office.