

Palmetto City Commission
September 20, 2004 4:00 PM

Elected Officials present:

Larry Bustle, Mayor
Tamara Cornwell, Vice Mayor
Eric Ball, Commissioner
Mary Lancaster, Commissioner
Tambra Varnadore, Commissioner
Brian Williams, Commissioner

Staff and others present:

Attorney Michele Hall
J. E. Free, Jr., City Clerk
Chief Garry Lowe
Chris Lukowiak, Public Works Director
Jessica McCann, Planner
Diane Ponder, Administrative Assistant

Mayor Bustle called the meeting to order at 4:10 pm, followed by the pledge of allegiance to the United States Flag.

1. APPROVAL OF WORKSHOP AGENDA

MOTION: Ms. Cornwell moved, Mrs. Lancaster seconded and motion carried 4-0 to approve the September 20, 2004 agenda.

Mr. Ball entered the meeting at 4:15 pm.

2. DISCUSSION - ORDINANCE NO. 04-822

Mr. Free informed the Commission several items had arisen that mandated a change in the ordinance. The ordinance was prepared by Scott Christiansen, counsel for the General Employees' Pension Plan Board of Trustees. Attorney Hall advised Commission they should be aware there are instances where the interest of the City and the interest of the pension boards may diverge; Mr. Christiansen's job is to represent the Plan.

The background of one change is the Mayor, Chief of Police and a past commissioner sits on the Board of Trustees, which must be provided for in the ordinance. Mayor Bustle stated Mr. Christiansen researched the topic and added language to Section 3(1) allowing Trustee duties to be considered ex officio duties. Attorney Hall reviewed Mr. Christiansen's opinion and did not advise against the amendment.

The Commission was advised the changes encompassed several housekeeping items and addressed employment after retirement. Allen Tusing, Chairman of the General Employees' Pension Plan was recognized.

Mr. Tusing explained the proposed ordinance would allow reemployment after having been in DROP for five years, an option not currently allowed. Mr. Tusing explained how the ordinance would affect a pension if an employee reapplied for a City position and was rehired. He advised the Commission there would be no monetary impact to the pension plan if the change was approved.

Ms. Cornwell inquired if the City planned to change the age of retirement eligibility, following changes made by Social Security. Mr. Ball stated a retirement age of 60 is very generous and may be unaffordable in the future. Allen Tusing, Chairman of the Board of Trustees, encouraged

the Commission to take into consideration that the Plan's retirement age is a tool to recruit and retain employees.

Section 22-82(c) Opt out option was discussed. Mr. Christiansen will be asked to provide an explanation as to why the chief of police is included. He will also be asked to clarify the language "in the event he has elected to participate in another pension program." Mr. Ball stated his opinion that no restriction should be placed on the opt out provision. Mr. Williams inquired as to why the CRA Executive Director was included and if there would be sufficient time to allow her to opt out of the Plan.

Attorney Hall stated she did not review the proposed ordinance. She informed the Commission she had spoken with an attorney at FLOC who recommended an independent attorney review the ordinance if there is going to be a financial impact on the City. When asked for his opinion, Mr. Free stated he was not sure the City's attorney could provide an opinion on an economic impact on the City. He stated there was no economic impact, but he would secure an opinion from the actuary. Mr. Free stated a Trustee's responsibility is to the pensioners of the Plan, not the City.

Mrs. Lancaster stated that it would be beneficial to have the City's attorney review amendments to the Pension Plan, but not necessarily this particular ordinance. Ms. Varnadore stated the changes seemed to be basically reappointment issues and, as such, she would like to see the Commission support the department heads and Trustees. She felt comfortable moving forward with the recommendation.

Mr. Williams questioned the language in Section 22-109(a). Mr. Free gave an explanation, but Attorney Hall recommended that because of the discussion, the sentence should be split before the ordinance's first reading. Mr. Williams withdrew his objection to the language.

Ms. Cornwell referred to the retirement age of 60 for future employees and asked if the issue could be reviewed at a future date by an independent entity. Mayor Bustle stated if the Commission is interested in changing the pension plan and its associated retirement, the Board of Trustees should be asked to consider changes, which would involve an opinion of the financial impact from the actuary.

Mr. Tusing explained how Mr. Christiansen represented the Board; he did not direct what benefits should be considered. He further requested that if the Commission is going to look at the Plan that they not look at just the General Employees' Pension Plan if age limits are going to be changed.

Mr. Williams acknowledged that staff preparing ordinances can save money, but an attorney must review the ordinances. Mr. Williams stated he would not vote for the adoption of the ordinance without the City attorney's review. Mr. Ball stated the actuarial review is needed for the Commission to know what the financial impact will be to the City. The Commission was informed an actuarial study will accompany the proposed ordinance at the public hearing.

Mayor Bustle referred back to Section 22-109(a) stating his understanding was as long as the employee was not employed by the City the first sentence applied. If the employee is employed by the City, the second sentence indicates the remainder of the section would apply. He inquired if the Commission wanted the section rewritten.

Mr. Ball stated his question was if a department head had to withdraw if the individual belonged to another pension plan. Mayor Bustle suggested a department head must participate in the City's pension plan if the individual did not belong to another plan.

Mayor Bustle inquired if the Commission wanted the ordinance reviewed by the City attorney before advertising. Ms. Cornwell stated she felt the Commission could move forward with the ordinance because the changes deal only with housekeeping items; however, the City needs to address future changes that may be made, i.e. retirement at the age of 60. She suggested one of the individuals recommended by Florida League of Cities should review the pension plan for future reference and ramifications to the City. Mr. Ball concurred with Ms. Cornwell.

Mayor Bustle stated he would ask the General Employees' Pension Plan Board of Trustees to explore changes to the retirement age and report back to the Commission. Ms. Cornwell stated it should be an independent review. Mayor Bustle stated the actuary would provide the data regarding any financial impact.

Mr. Tusing stated the actuarial firm employed by the Board of Trustees has been under contract for many years. He explained the attorney, at the Board's direction, drafted ordinances and the actuary, as a separate entity, provided the financial impact information. He further informed the Commission that an actuarial study is performed on an annual basis for both of the City's pension plans.

There was no consensus of the Commission to have the City attorney review the ordinance.

Mr. Tusing said the Board of Trustees would consider any suggestion brought to them.

3. DISCUSSION - MASTER UTILITY ORDINANCE

All underlined changes represent discussions with the Commission through July 2003, the inclusion of the rates recommended by Burton & Associates and changes made by staff prior to the ordinance being distributed August 31, 2004. The most significant amendment is the change from customer to owner.

Mr. Williams voiced concern about changing the definition of customer without public input. Mayor Bustle discussed the financial burden the City is experiencing from delinquent account holders. He suggested that legal language needs to be developed so there is a succession of responsibility beginning with a tenant and ending with the property owner, so the City's interest is protected. Mayor Bustle suggested that if the Commission felt the City has responsibility to provide the service and should pay the accounts left unpaid by tenants, the ordinance should be written that way. Mr. Free stated that if a property owner does not pay a utility bill the City would be able to place a lien against the property.

Attorney Hall stated that a new statute is in effect whereby the City is not allowed to discontinue service to a new tenant taking possession of a property with an outstanding utility bill. Without the owner being responsible, the City has no recourse. Mr. Free stated the current ordinance allows the other users of the system to pay for service provided to abandoned accounts.

Discussion ensued on the topic. Mr. Ball stated it is the City's responsibility to qualify a customer. Mr. Ball suggested a deposit could be raised on a class, i.e. renters. Ms. Varnadore asked to see how much the City loses each year from renters that leave the area with delinquent accounts. She also spoke about owners managing their rental accounts. Mr. Tusing suggested the large apartments should be master metered. Ms. Cornwell also reminded the Commission that water cannot be turned off to renters whose bill goes directly to a property owner who fails to pay the utility bill. Mr. Lukowiak referred to how the problem was handled at his last place of employment; the ordinance provided that if the landlord was in default the tenants could pay their individual utility bills. He stated that currently the City has no avenue to collect on a default account of a tenant.

Ms. Cornwell inquired if the City could deny water service to an individual who left the City with a delinquent account. Mr. Free stated the City had that option. Property without a water service may not be occupied. Mr. Free stated the City uses a collection agency, but it would be cost prohibitive to run a credit report of every potential customer. Mr. Free stated that if the owner of the property is not made responsible the City will continue to write off delinquent accounts, which makes all the system users pay for the abandoned service. Mr. Free confirmed the proposed ordinance will make all water service available through the owner; the tenant can not commit for the property owner.

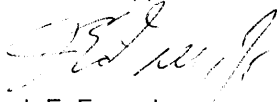
Ms. Cornwell suggested that once a determined threshold is met for delinquencies, then the City could file with a credit bureau. Mr. Free stated that during the last year procedures have been instituted which have helped reduce the City's exposure. He discussed the schedule the City follows before turning off water accounts. Mayor Bustle suggested paying accounts in advance and a shorter grace period for delinquent accounts. Commission will be provided the turn off schedule the City follows and one following a shortened grace period. Staff will also survey like cities to determine how they handle the tenant/owner issue in their utility ordinance.

At the next workshop to discuss the proposed ordinance, information will be provided to the Commission of the legal ramification if the City is not going to allow private wells for landscaping. The City attorney will also research the law regarding turning off water to locations with children or individuals with special needs.

Mr. Williams requested that Customer Service Supervisor Whitney Ewing be at meetings to discuss the proposed ordinance.

Meeting adjourned at 6:00 pm.

Minutes approved: October 4, 2004



J. E. Free, Jr.
City Clerk