

**Palmetto City Council  
December 10, 2001 4:00 PM**

**Elected Officials Present:**

**Pat Whitesel, Mayor  
Shirley Bryant, Vice-Mayor  
Tamara Cornwell, Council Member  
Donna Keefer, Council Member  
Mary Lancaster, Council Member  
Brian Williams, Council Member**

**Staff and others present:**

**Attorney Alan Prather  
Attorney Dick Groff  
Interim Chief Garry Lowe, Palmetto Police Department  
Mike Hickey, Public Works Department  
Karen Conlon, City Clerk  
Diane Ponder, Administrative Assistant**

**Mayor Whitesel called the meeting to order at 4:00 p.m.**

**Mayor Whitesel advised Council the Manatee County Radio Controllers presentation will occur at the December 17, 2001, meeting.**

**Mayor Whitesel read into the record a memo from Chief Kenny Bright dated December 6, 2001, requesting a demotion to the rank of captain. She also read her memo dated December 6, 2001, accepting Chief Bright's request, instructing him to report to Interim Chief Garry Lowe on Friday, December 7, 2001. A copy of each memo is attached hereto and made a part of these minutes.**

**Mayor Whitesel stated she had made a commitment to Garry Lowe to nominate him as the chief of the Palmetto Police Department, thereby offering to Council her appointment.**

**Mayor Whitesel stated she did not place Mr. Bright in a position upon his return to work, as it would be the interim chief who would make the appointment to captain. Discussion ensued on the position Mr. Bright would fill. Mrs. Lancaster asked how Mr. Bright could be allowed to return to work when the investigation was not complete. Attorney Prather explained the investigation was not of Kenny Bright, it was an investigation of the operation of the Palmetto Police Department. Mr. Bright's action to remove himself as chief eliminated the need for him to remain away from work. Therefore, he could return to work in whatever capacity Interim Chief Lowe assigned.**

**Mrs. Keefer entered the meeting at 4:10 pm.**

**Referencing the memos read by Mayor Whitesel, discussion ensued on the captain's position being the only open position in the department, and the fact Interim Chief Lowe has not relinquished the title of captain. Attorney Prather explained that under the City's code, the Mayor, as the immediate superior of the appointed officers, has the authority to accept and agree to the demotion and order Mr. Bright to return to duty, reporting to Interim Chief Lowe.**

**Interim Chief Lowe stated he appointed Mr. Bright, temporarily, as interim captain until a decision is made about him being appointed to the position of chief. Mr. Williams questioned how vacancies in the City are filled, and whether or not Interim Captain Bright would have to apply for a vacant position, assuming Interim Chief Lowe went back to the rank of captain. Attorney Groff stated notice of a vacancy must be posted, applications taken and a decision made.**

**Ms. Cornwell entered the meeting at 4:20 p.m.**

**Discussion ensued on whether two captain's positions had been created with the appointment of Interim Captain Bright. Also discussed were Mr. Bright's current salary and the fact he is requesting the same amount in the interim captain position. Mr. Prather stated the organization of the department belongs to the chief and Council administers the budget to fund the positions within the department.**

**Ms. Bryant commented on Chief Bright's memo, stating Council took no action because they had no authority to take action. Ms. Bryant commented on the occasions when the mayor invited all city employees to attend a public meeting and voice any concerns they may have. Ms. Bryant also stated that anyone signed up at a public meeting is entitled to be heard and material distributed to Council becomes public. Ms. Bryant expressed her opinion Council should take no action until they have had the opportunity to review the investigation report that was distributed before the meeting, as Mr. Bright has returned to work, Interim Chief Lowe is handling the situation and the mayor-elect has an opportunity to make the appointment.**

**Discussion ensued on property rights. Mr. Groff stated there was no cause, today, to take any employment prerogatives away from Mr. Bright, his property right is a reasonable expectation of continued employment. Mr. Groff discussed the difference between reasonable expectations of continued employment vs. the reasonable expectation of holding a title. Mr. Groff further stated property rights in an employment are dependent on the facts of each individual case. When asked if the city is now required to have two captain positions, because of Mr. Bright being named an interim captain, Mr. Groff stated he would make that determination when a decision is required.**

**Discussion ensued on the timeliness of the Mayor's appointments. The charter does not have a time certain when nominations for appointed positions must occur. Appointments are made on the anniversary date of appointments. The Mayor also**

**has the latitude to appoint a position for longer than a one-year term if the appointment is nearing completion.**

**Discussion ensued on the question of whether or not the City Council could deal with findings of unprofessional or unethical behavior as chief in another position. Mr. Prather advised the City Council does not have the ability to take action on an employee of the city. The employee's immediate superior determines disciplinary action; Council does not hire or fire employees. Council has a voice only in the case of appointed officers of the City.**

**Mrs. Lancaster and Mrs. Keefer voiced their opinion that Mr. Bright should not be paid his current salary in the interim position. Mayor Whitesel stated precedence was set with the demotion of Mr. Tusing. Mr. Williams stated Mr. Tusing's circumstance was a negotiated situation between him, the Council and the Mayor. The step and grade plan was discussed for the captain's salary. Mrs. Conlon discussed Council's instruction that everything stayed at the same level, employees could not be moved up or down without Council approval. Mr. Prather and Mr. Groff will look at the salary level for the captain's position vs. the salary Mr. Bright is currently making, as this is a property interest salary. Council asked the attorneys to respond by December 11, 2001.**

**Interim Chief Lowe discussed his responsibilities for the past eight weeks, explaining Mr. Bright was placed in a temporary position. Attorney Groff explained he and Interim Chief Lowe had discussed this issue. Attorney Groff further stated Interim Chief Lowe has the sole responsibility to structure his department.**

**Mr. Bright addressed Council, stating part of his reason for asking for the demotion was to get the City of Palmetto moving forward, as it has been difficult to sit and watch the department start to fall apart. He stated there has been accusations made by Council and threats by one Council Member. He stated he was not getting any co-operation from the Council and saw it was a dead end. Mr. Bright spoke of the years he had to give to the City, his association with the City, his belief he had done nothing wrong, and his actions as a boss. Mr. Bright stated he was disappointed in Council's actions this year, because less than six months ago he was gold. He spoke of the character disassemblment he had faced the last six months. Mr. Bright stated, "I stepped down, thank you Mayor for appointing me, by that I do have rights now as an employee and I would like to remind Council I do have rights, pay rights also, because it was setting precedent when Mr. Tusing was demoted to second in command. If you'll look at your salary thing, he is the highest paid person in the City and that was because he stepped down to the number two position from the department head." Mr. Bright stated he planned to be effective. He stated he really came to the meeting to support Chief Lowe, expressing his belief he would make an excellent Chief. Mr. Bright finished by stating that if Council did not treat Chief Lowe as they had treated him, the City could go forward and they could do great things for the City.**

Mayor Whitesel asked Mr. Bright which Council Member had threatened him and in what way he was threatened. Mr. Bright declined to answer based on advice from his attorney. He further stated, "I've never been one to want to sue anybody, but if this City takes and destroys my name and tries to destroy my life then my attorney and I will be represented."

Walter L. "Mickey" Preshea spoke to Council about separating the issues and depersonalizing the feelings, stating the problem at hand is resolvable. He encouraged Council to support the appointment of Garry Lowe, as he has done an excellent job.

Mayor Whitesel recessed the meeting for five minutes.

**2. EXPENSES OVER \$500**

- A) City Clerk  
A.J.W. Enterprises for \$932.75  
Ben's Auto Body, Inc. for \$2,803.28

MOTION: Mrs. Keefer moved, Mrs. Lancaster seconded and motion carried 4 to 1 to approve the Expenses Over \$500 as presented. Ms. Bryant was absent for the vote.

**3. SPECIAL FUNCTION PERMIT – DESOTO GRAND PARADE**

MOTION: Ms. Cornwell moved, Mrs. Keefer seconded and motion carried 4 to 1 to approve the Special Function Permit for the DeSoto Historical Society.

**4. DEPARTMENT HEAD REPORT**

**Interim Chief Lowe**

Council has the report on one investigation; one is to follow. Result of the criminal investigation is that all charges have been declined to file.

**Mrs. Conlon**

Requested the building code ordinance be placed on the December 17, 2001 agenda.

**5. MAYOR'S REPORT**

There was no report from Mayor Whitesel.

**6. INDIVIDUAL COMMENTS**

**Ms. Cornwell**

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**Council needs to be notified when items are added to the agenda. Staff was instructed to research Council's policy concerning the topic.**

**Commented on the letters from Mrs. Kaddatz and Mr. Coleman, suggesting a meeting be scheduled with the individuals in the area.**

**Requested Ms. Ewing make a presentation to Council on January 28, 2002 concerning the city hall furniture issue.**

**Regarding the PSG Contract, discussed the fact the city does not know how many feet there will be to a stipulated cost or how many feet of reuse remains to be installed in the city. Mr. Williams explained the budget contained \$100,000 for materials, which the City provides, and \$300,000 for labor. The reuse committee is preparing a report that will be finished by January 31, 2002. The item was placed on the January 14, 2002 agenda.**

**Discussed the sign rebate checks and they way they should be deposited.**

**Mrs. Keefer**

**Stated she has been inundated with phone calls on the police department topic and would appreciate Council being notified before the press.**

**Mrs. Lancaster**

**Wanted to confirm the Sunshine Law had not been violated regarding Mrs. Keefer questioning her if the attorney had been asked a question.**

**Commended Interim Chief Lowe on his performance, stating nothing was personal.**

**Mr. Williams**

**Echoed Mrs. Keefer about the way things have been handled. Inquired if Council is being copied information. Mrs. Conlon stated they were if she was in possession of the information.**

**Thanked Sheriff Wells and his department for a thorough and fine job. Requested a thank you letter be sent.**

**People are running the stop signs at I Street in Palmetto Mobile Home Park.**

**Ms. Bryant**

**Commented on the Celebration of Lights. Mr. Tusing, Mr. Seger and City staff was commended for a job well done during the event.**

**7. CITIZEN COMMENT**

**Jan Coleman advised Council she was having a problem getting the Kaddatz file relating to the recent right-of-way vacation, stating files were missing or lost. Mrs.**

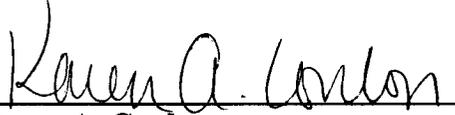
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**Coleman asked Council how they made their decision without the proper records.  
Mrs. Conlon stated staff is still looking for the file.**

**Mrs. Keefer moved, Ms. Bryant seconded and motion carried unanimously to  
approve the December 17, 2001 with amendments.**

**Meeting adjourned at 6:30 p.m.**

**Minutes approved: January 7, 2002**

  
**Karen A. Conlon**