

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 8th day of March, 2001.

PRESENT:	Mayor	Karl N. Flagg
	Commissioner	Mary Lawson Brown
	Commissioner	Hernan Azula
	Commissioner	Ish Edwards
	Commissioner	James Norwood, Jr.

Also Present: City Manager Allen R. Bush, City Attorney Donald Holmes, City Clerk Betsy Jordan Driggers, Finance Director Ruby Williams, Police Chief Dick Schauland, Fire Chief Rudy Howard, Planning Director Adam Mengel, Water & Sewer Supt. Sam Willis, Main Street Manager Debbie Banks.

INVOCATION – The Reverend Jimmy Stallard, Pastor; Faith Baptist Church

PLEDGE OF ALLEGIANCE – Marc Spaulding

APPROVAL OF MINUTES – 2/22/01 – Commissioner Edwards moved to approve the minutes as read. Commissioner Norwood seconded the motion, which passed unopposed.

COMMISSIONER COMMENTS:

Adam Mengel, Planning Director, asked for a clarification on the signage directive. They are close to sending out notices to offenders. The list is very diverse, and they need to know if there will be any exemptions. This includes all un-permitted signs. It will affect some churches and non-profit organizations. These signs cannot be permitted because they are illegal. Informational signs are permitted, and some directional signs, which are open to debate. These include city, county and state signs. Commissioner Brown asked if they are giving consideration to churches. Mr. Mengel said the Code does not allow for them period. They can only be permitted if they are placed on the property they are serving. Off-site signs are not permitted unless they are billboards. Commissioner Brown said they should look at permitting directional signs for churches. Mayor Flagg said they need to decide why they want as well as don't want. They should not start making exceptions before the ordinance made clearer. Commissioner Norwood asked if they can exclude churches. Mr. Holmes said they can, but may be accused of being selective in the enforcement. They need to take a comprehensive look at signs in the r/w. Right now they are prohibited, but people do it anyway. If they try to enforce it for some but not others, it will not work. They should enforce it against all offenders if the ordinance stays as it is. He does not feel comfortable making churches a protected class. They could put together a specific class that would be allowed to put signs in the r/w without losing the prohibition altogether. They could prohibit signs for commercial gain and allow signs for non-profits or information. Mr. Mengel said they have already done a comprehensive study. Mayor Flagg said they need to determine if they want to comply with the existing law or up grade it and allow conforming signs. Commissioner Norwood said they notice some people for their signs and not others, and this is not fair. They should cease enforcing unless they are prepared to enforce it for all. Mr. Mengel said the only ones they have been enforcing up to now are the temporary signs that show up in the r/w, and it is clearly something they don't want. Some of the church signs are tastefully and professionally done. Off-site signs are not permitted. Mayor Flagg said they should agenda this item for review, identify the portion of the code under review, and determine if there can be legal exceptions that will not jeopardize the integrity of the ordinance. A memorandum should go out a week before the meeting. Commissioner Norwood said they just need to be consistent. They have commissioners calling in saying to enforce the ordinance, and other commissioners calling in saying not to. They are sending mixed signals to their departments. Commissioner Brown said people also need to understand what constitutes the right of way and what constitutes their yard.

Mr. Mengel said Mr. Huntsberger is obtaining proposals for renovation work on the interior of City Hall, and will be coming back with proposals by the next meeting.

Mayor Flagg said he asked that Commissioner Comments be moved to the beginning of the meeting so they do not feel rushed at the end of the meeting. Also, if there are issues they can speak to a department head or city manager about individually, they do not need to air them here unless it is something they all need to know about. If it is something that requires action, it should be an agenda item. Also, there is more of the public present at the beginning of the meeting than the end. Commissioner Brown said she would still prefer having comments at the end of the meeting.

Commissioner Norwood:

- Asked when the paving will be completed. Mr. Bush said they are 95% complete. Commissioner Norwood said now that their infrastructure is upgraded, they need to protect it. The Planning Board is dealing with tractor-trailers in residential areas. The Streets Department did a good job.
- The citywide clean ups are going well and they are beginning to reap some of the rewards. He thanked the various city departments for the help with the 19th Street clean up, which is tomorrow. He encouraged all citizens to also help with the 18-block Northside clean up scheduled for the 17th.

Commissioner Azula:

- Said he called the County and asked them to clean up Peters Street and Weaver Road, and they were very cooperative.

Commissioner Edwards:

- Asked for status on the Clock Tower. Mr. Bush said Mr. Turner advised he will be in a position to begin work to complete it in two weeks.
- Asked for status on the Police Chief search. Mr. Bush said they are taking applications until March 31. They will then start screening them and present a list to the Commission for their review.

Commissioner Brown:

- Vans are parking at the corners of the streets, specifically 10th & St. Johns, and blocking the view for people who are trying to cross that intersection. Mr. Bush said that corner is particularly dangerous. There are two vans parked there all the time. He is going to put 30 minute parking signs there in hopes it will take care of it. If not, they will have to take out those parking spaces. Commissioner Brown said they could put up a sign saying no van parking. Sometimes they park on the other side of the street. Mayor Flagg asked who enforces the 30-minute parking. Chief Schauland said they have not actively been enforcing 30 minute parking, but will begin enforcing as of now. Commissioner Brown said she does not think that will fix it; they need to put up a sign saying compact cars only.
- She is worried about safety of employees who do water cut-offs and code enforcement; they need telephones for the field so they can call for help if needed. Mr. Bush said they are negotiating with a cell-phone company with on a telephone/radio combination and are looking at a trade-in program. Mr. Mengel said the legislature is considering allowing city employees to carry concealed weapons. Mr. Bush said they should move forward with the radio/phones, and keep the car radio system for the unlimited radio time. Mr. Mengel said they can fix their radio base unit for \$350, but the radios are in the cars and not on the individual. Mayor Flagg said Mr. Mengel and Mr. Bush should meet, make a decision and advise what that is at the next meeting. They can get the unlimited radio time with Nextel for \$20.00/month and if they need to wait until next year to add the phones, they can. Mr. Bush said they agreed upon a cost for these units at their meetings a week ago. Mayor Flagg said they should also research obtaining a sufficient base station.
- Handed out an update on a grant the Riverboat Committee is trying to get to build a ferryboat. She will see that the press gets a copy.

CONSENT AGENDA:

- a. Accept Commissioner Azula's resignation as City of Palatka's representative on the Northeast Florida Regional Planning Council.
- b. Recommend to Putnam County BOCC the Appointment of Adam Mengel to NEFRPC.

Commissioner Azula said he regrets having to resign, but it is important for the City to appoint a representative who can be active on this council. Due to the nature of his work, it is hard for him to make these meetings. He is not being helpful to the City by remaining on this board. Mayor Flagg thanked him for his consideration, and said they should have their Planning Director in this loop to get first-hand information and input. Commissioner Brown said she would appreciate it that when these openings come up they all be polled as to whether or not they would like to serve on these committees. If they need to take some staff members with them to these meetings, they can. Commissioner Norwood moved to adopt the consent agenda as presented. Commissioner Edwards seconded the motion, which passed unopposed.

REPORTS:

a. Status on 1977 Oren Fire Truck – Mayor Flagg noted a memorandum in the agenda from Fire Chief Howard advising the 1977 truck failed to pass inspection on several points, and he has found a replacement truck for \$45,780 after trade-in. Commissioner Azula said he is satisfied that the Chief has made the best choice of vehicle. Commissioner Edwards asked if they have to go out for bid. Mr. Bush said they have done this in the past. They shopped for this vehicle; in situations like this, when a truck turns up, it comes before the Commission for approval. They have never been questioned on this procedure. Mr. Holmes asked if the ordinance has a stipulation on how much you can spend before going out for bids; Mrs. Williams said in the Personnel Rules & Regs the cap is \$5,000. Mr. Holmes said this could qualify as a ‘unique purchase’, and his only concern is if they are violating their ordinance. Mrs. Driggers said they do not have an ordinance; it is a policy. Per the question, Chief Howard passed out a list of trucks he had priced while shopping around. He recommends purchasing a 1989 FMC Fire Truck from Ten-8 Fire Equipment, Inc. It was traded in by the Alachua County Fire Rescue, has been repainted and is in very good shape. It has a 1500-gallon pump. The price is extremely good. Their mechanic has test-driven and listened to it. It has new brakes and drums. Alachua County said it would still be a first-out truck if they still owned it. Mr. Bush said the funds will come from the Fire Impact Fees. There is \$44,000 in that account now. The Commission must approve use of those fees. Per the question, Chief Howard said Fleet Services has done the fleet maintenance for the last three years. They do an oil analysis during service. Commissioner Norwood said they should be looking at this type of purchase during budget discussions. Chief Howard said they have a lot of payments to get out of the way. He needs to get this vehicle replaced now. This is actually an advantage for the City. Commissioner Brown moved to authorize the purchase of the 1989 FMS Fire Truck with the funds from the Fire Impact Fees. Commissioner Norwood seconded the motion. Per the question, Mr. Bush said once the funds are depleted, they will begin building again through new construction fees. The Commission spends these fees where they are needed most. Mayor Flagg asked if there is a warranty. One cannot take a salesman’s word that this truck will last 12 years. He does not like having to make knee-jerk decisions. Procedurally they are missing the mark. He can only trust Chief Howard’s judgement. Chief Howard said he would rather purchase a brand-new vehicle, but he is charged to do the best he can with what he has to work with. After talking to the original owners of the truck and the sales people, he is satisfied this will meet the City’s needs until they are finished paying off prior loans on other equipment, and can look at purchasing a new vehicle. The \$100 million dollar fire grant that congress passed this year is available, but it must be spread out over the entire US, and they would only be eligible for \$75,000. The President has removed next year’s \$300 million from his budget proposal. Mr. Bush said they discuss the condition of the vehicles each budget year. This is not a knee-jerk reaction. With the purchase of the last truck two years ago, the Fire Department felt they would be fixed with good, serviceable trucks for the next 10 years, unless the unforeseen happens. They did not anticipate this. Mayor Flagg said he is not being critical of the report, but each apparatus needs an anticipated date of retirement so that can be considered during the budget process, whether that truck is still in operation or not. There being no further discussion, the motion passed unopposed.

c. St. Johns Harbor Water Association Agreement to Provide Water – Mr. Bush said they are still negotiating with the Association on several points. They are under no time deadline with this. Commissioner Norwood moved to table this item until the next regular meeting. Commissioner Azula seconded the motion. Per the Question, Mr. Bush

said there is no bulk water rate. By statute, they are allowed to charge 50% more for water outside the city limits. Mayor Flagg said they need to record a service territory based on the geographic information. Mr. Bush said this is a platted subdivision so it can be set according to that. There being no further discussion, the motion passed unopposed.

RESOLUTION – The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, DECLARING AN EMERGENCY ORDER REGARDING OPEN BURNING DURING THE 2001 FOREST AND BRUSH FIRE DECLARED EMERGENCY. Commissioner Brown moved to adopt the resolution as read. Commissioner Edwards seconded the motion. Per discussion, Item 5 was amended to read “This order shall remain in effect until the emergency is deemed to no longer exist in the opinion of the City Manager” per advice of the City Attorney. Commissioner Norwood moved to adopt the resolution as amended. Commissioner Brown seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The resolution was declared adopted as amended.

RESOLUTION – the Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING THE PURCHASE OF A BUILDING LOCATED AT 429 KIRBY STREET IN THE CITY OF PALATKA, FLORIDA. Commissioner Azula moved to approve the resolution as read. Commissioner Edwards seconded the motion. Commissioner Norwood asked whether the issue of renting this building to one particular entity without going out for bid was addressed satisfactorily. Mr. Holmes said he did not raise that issue on this building because the building is being purchased with tax increment funds earmarked for the South Historic District, and there is only one South Historic District Homeowner’s Association. As to the washers and dryers remaining in the building, Mr. Holmes said the seller has a lease agreement with a vendor on this equipment, and according to the lease the seller cannot cease operation of the business as a Laundromat. At the request of the seller, he has asked the vendor to remove the equipment but has not gotten a response back. She does not have the resources to pull the equipment out. He has spoken with the bank about whether the proceeds from the sale will cover the outstanding mortgage and this has been resolved. There being no further discussion, a roll-call vote was taken with the following results. Commissioner Azula, Brown, Edwards, Norwood, and Mayor Flagg, Yes, Nays, none. The resolution was declared adopted.

ORDINANCE – the Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY OF PALATKA, FLORIDA BE AMENDED AS TO THAT CERTAIN PROPERTY IN SECTION 2, TOWNSHIP 10 SOUTH, RANGE 26 EAST; AND PROVIDING AN EFFECTIVE DATE. Mayor Flagg noted the Planning Board has recommended to deny this rezoning. Commissioner Norwood moved to place the motion on first reading. Commissioner Edwards seconded the motion. The results of a roll-call vote are as follows: Commissioner Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes, Nays, none. The ordinance was placed on first reading. Mr. Bush asked for a clarification on the motion. Commissioner Brown asked if this ties in with their discussion on allowing tractor trailers in neighborhoods. Mayor Flagg said this pertains to working on large trucks in a residential area. Commissioner Brown said someone needs to explain to the petitioner the feelings of the Commission on big trucks in residential areas, out of courtesy. Mayor Flagg said he has concerns on why the Commission has to go through a first reading of an ordinance that they plan to deny. Ms. Driggers said according to the previous city attorney, in order to effectively kill the ordinance you have to take it through to the Public Hearing and then deny it on 2nd reading. Mr. Mengel said this is the process according to the Code, and the only way it can be effectively “killed” otherwise is for the petitioner to withdraw the petition. It has to follow its course. Otherwise you are denying the petitioner benefit of a public hearing. Mr. Holmes said it is his understanding that both first and second readings are public hearings, and ordinances can only be amended on the first reading, so that the second reading is only an “up or down” vote. He believes that a no vote on a first reading would kill the ordinance. The second reading is a final version. Mr. Mengel said the public hearing happens at the second reading. It seems a moot point, and he and the Clerk have

discussed this, but the theory is that the Planning Board can only recommend an action, but the Commission takes the action at the public hearing. Mrs. Driggers said this question comes up each time they have this particular issue, and prior counsel advised it can only be killed at the public hearing, which is traditionally advertised for the second reading. She and Mr. Mengel have spoken about what a waste of time it seems, but they were advised this is how they had to do it. Mayor Flagg said this process lets the public out of the loop. Mr. Holmes said the first reading is procedural and the second reading dictates whether or not it will be passed. He knows no reason why they couldn't have the public hearing on the first reading. Case law says you can't amend on second reading. He will get with Mr. Mengel, Mr. Bush and Ms. Driggers and look at a procedure. He suggests having the public hearing on the first reading. It makes no sense to him to approve it on the first reading and deny it on the second. Mr. Mengel said the county boards function on a similar basis. Mayor Flagg said they can follow precedence on these two rezoning issues, but counsel will need to come up with a procedure for future ordinances. Mr. Holmes said they should hold the public hearing on the first reading, but there could be a reason the City follows this procedure. He will research it and come back with a recommendation at the next meeting. Commissioner Brown said they do not always take the action the Boards recommend. Mayor Flagg said they have a hearing in front of the Board, and asked if the Commission can hear new testimony if a hearing has already been held. Mr. Holmes said in this instance the Planning Board is making a recommendation. In order to approve the petition, you must change the zoning code, which means passing an ordinance, and the only body that can do that is the Commission. The Planning Board has a hearing to decide what to recommend. Then the Commission holds a hearing to decide whether or not to amend the ordinance, which is a legislative function. Sometimes the Commission hears appeals on decisions that Boards have the authority to make, and in that instance, they cannot hear new testimony as they are then acting in an appellate capacity. Mayor Flagg said perhaps the motion to advertise should have been to have the public hearing on the first reading, and not the second.

Marc Spaulding, Westover Drive, said he is the Chairman of the Board of Zoning Appeals, and today they voted to advertise a hearing on a driveway variance. He understands they need to vote to advertise these things, but today five people met for three minutes to take this vote. It seems like a waste of time. He asked if they can vote via telephone instead of calling a full meeting to take one vote. Mr. Holmes asked why you need to vote to advertise if you have to advertise it anyway. Mr. Mengel said he looked at this when he first came on. It is a matter of whether the request fits into what the code permits. If it is a variance that is permitted, he should be able to advertise the application administratively. If he denies the request, one can take that to the board and appeal his administrative decision. He is not prohibited by code from doing this, but it is a long-established procedure to hold two separate meetings, the first to make a motion to advertise. None have ever been denied at that point. Mayor Flagg said they will address this issue when they address the issue of when to hold a public hearing.

ORDINANCE – the Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY OF PALATKA, FLORIDA BE AMENDED AS TO THAT CERTAIN PROPERTY IN SECTION 11, TOWNSHIP 10 SOUTH, RANGE 26 EAST; AND PROVIDING AN EFFECTIVE DATE. Commissioner Edwards moved to place the ordinance on first reading as presented. Commissioner Azula seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was passed on first reading.

ORDINANCE – the Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, REVISING THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA, BY REVISING SECTION 2-182(1), RATE OF MEMBER CONTRIBUTIONS; SECTION 2-250.10, FIREFIGHTER MEMBER CONTRIBUTION AMOUNTS; AND SECTION 2-250.245, POLICE OFFICER MEMBER CONTRIBUTION AMOUNTS; AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown moved to pass the ordinance on 2nd reading for adoption. Commissioner Edwards seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Norwood, and Mayor Flagg, Yes, Nays, none. The ordinance was declared adopted.

Mrs. Driggers reminded everyone that the Azalea Festival Mayor's Reception will be held tomorrow from 5:30 – 6:30 at the Bronson Mulholland House. The monthly NEFLC meeting will be held on March 17 at the Gypsy Cab Company in St. Augustine, and anyone wishing to attend should confirm with her by Monday.

There being no further business to discuss, the meeting was adjourned upon a motion by Commissioner Brown, seconded by Commissioner Edwards.

CITY CLERK

MAYOR