

KARL N. FLAGG
MAYOR - COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR - COMMISSIONER

ALLEGRA KITCHENS
COMMISSIONER

VERNON MYERS
COMMISSIONER

JAMES NORWOOD, JR.
COMMISSIONER



Regular meeting 2nd and 4th Thursdays each month at 6:00 p.m.

ELWIN C. "WOODY" BOYNTON, JR.
CITY MANAGER

BETSY JORDAN DRIGGERS
CITY CLERK

RUBY M. WILLIAMS
FINANCE DIRECTOR

GARY S. GETCHELL
CHIEF OF POLICE

MICHAEL LAMBERT
CHIEF FIRE DEPT.

DONALD E. HOLMES
CITY ATTORNEY

MINUTES CITY OF PALATKA October 9, 2008

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 9th day of October, 2008.

PRESENT: Mayor Karl N. Flagg
Commissioner Mary Lawson Brown
Commissioner Allegra Kitchens
Commissioner Vernon Myers
Commissioner James Norwood, Jr.

Also Present: City Manager Elwin C. Boynton, Jr.; City Attorney Donald E. Holmes; City Clerk Betsy Jordan Driggers; Police Chief Gary Getchell; Fire Chief Mike Lambert; Planning Director Jim Lee; Assistant Planning Director Debbie Banks

CALL TO ORDER – 6:00 p.m.

INVOCATION – The Reverend Brian Oswald, Pastor; Victory Christian Fellowship

PLEDGE OF ALLEGIANCE – Commissioner James Norwood, Jr.

APPROVAL OF MINUTES – 9-25-08 – Commissioner Kitchens moved to adopt the minutes as read. Commissioner Myers seconded the motion, which passed unopposed. Commissioner Brown asked that her absence be noted as “excused.”

1. PUBLIC RECOGNITION

PROCLAMATION – Domestic Violence Awareness Month – October, 2008 – Mayor Flagg presented a proclamation designating October, 2009 as Domestic Violence Awareness Month to Beth O’Grady, Executive Director of the Lee Conlee House Domestic Violence Shelter Program, and those Board of Directors members present.

PROCLAMATION – Breast Cancer Awareness Month – October, 2008 – Mayor Flagg presented a proclamation designating October, 2009 as Breast Cancer Awareness Month and October 17 as Mammography Day to Dr. Kuruvella with the Putnam County Cancer Center. Dr. Kuruvella said Putnam County has one of the highest instances of cancer deaths in the State of Florida. They have an excellent cancer treatment center here in Palatka. They are promoting a countywide cancer prevention program, which they are in the beginning stages of planning. This will be an annual program.

2. **PUBLIC COMMENTS** – There were none.

3. **CONSENT AGENDA:**

- a. **Award bid for Bronson House Renovations to Riverside Builders** in the amount of \$58,900.00 per results of RFP – Parks Supt. And Project Manager
- b. **Award bids for equipment for Child Safety Grant** from Florida Dept. of Transportation as follows:
 1. **Futch's Tractor Supply** for Concession Trailer - \$6,430.00
 2. **Palatka Super Wal-Mart** for Children's Car Seats - \$43.74 each
- c. **Authorize execution of Contract Change Order #4 in the amount of \$12,566.55 to CST Environmental, Inc.** to remove fence and for electrical related expenses, for a total contract amount of \$563,921.27 for the Frank George Apartments/Audio Shop Demolition Project – City Manager and Project Manager
- d. **Reappoint John Lyon to the Palatka Code Enforcement Board** as Alternate Member for a term to expire 9/30/2010 (sole applicant – incumbent board member)
- e. **Appoint Ken Venables to the Citizens Advisory Task Force** for 2008-09 CDBG Grant Cycle, per Staff recommendation (sole applicant)
- f. **Revise Personnel Rules & Regulations, Section 06.0, Holidays**, to add Veterans Day as a designated official City holiday – City Manager
- g. **Amend Employee Holiday Schedule for 2008 and Set Christmas Holidays** for December 25 & 26, 2008 – City Manager
- h. **Issue meeting call to revise the Time and Place** of the October 23, 2008 City Commission meeting to Price-Martin Community Center to begin at 6:30 p.m.

Commissioner Kitchens asked to pull Items 3(a) and 3(c) for discussion. Commissioner Norwood moved to pass Items 3 b, d, e, f, g and h on the Consent Agenda as proposed. Commissioner Brown seconded the motion, which passed unopposed.

- 3a. **Award bid for Bronson House Renovations to Riverside Builders** in the amount of \$58,900.00 per results of RFP – Mr. Boynton said this is an exterior renovation project, to include removal and replacement of deficient wood and installation of handrails. This does not include shutters, which was a bid additive. Once this has been done, the entire exterior will be re-painted. Commissioner Kitchens moved to pass Consent Agenda Item 3(a) as proposed. Commissioner Myers seconded the motion, which passed unopposed.

- 3c. **Authorize execution of Contract Change Order #4 in the amount of \$12,566.55 to CST Environmental, Inc.** for fencing and electrical related expenses, for a total contract amount of \$563,921.27 for the Frank George Apartments/Audio Shop Demolition Project – Mr. Boynton said \$8,000 of this is for the security fence surrounding the facility, and they believe that fencing can be utilized on other projects. This cost is significantly below the cost on the open market. The remainder is for the additional electrical expenses incurred by the contractor, as well as a transformer that was not detected in the initial walk-through. Commissioner Kitchens moved to pass Consent Agenda Item 3(c) as presented. Commissioner Brown seconded the motion, which passed unopposed.

4. **REQUEST TO APPEAL** lien for costs of prosecution in the amount of \$415.85 – 120 S. 6th Street, CEB Case No. 07-01 – Linda Miller, agent for William Andrew Couver Life Estate – The Clerk read a letter submitted by Ms. Miller stating her position into the record (filed). In the letter, Ms. Miller wrote, in summary, that seven of the twelve inspections she is being charged for cannot be verified by either a letter written to them or pictures taken. Of the five remaining inspections, two were the result of Code Enforcement hearings, which leaves three verifiable inspections before this case went before the Code Enforcement Board. She contends documented inspections should be mandatory if the City is going to collect money for them. She also contends that a memorandum presented at the June 26, 2008 Code Enforcement Board meeting was full of erroneous information.

Jim Lee, Planning Director, read his memorandum dated October 7, 2008 into the record (filed). Mr. Lee said Ms. Miller's request is to dismiss the costs of prosecution of \$415.85 on 120 S. 6th Street – CEB Case #07-01. He noted the purpose of his memorandum was to respond to Ms. Miller's request. He said that, in the City's continuous practice of working with property owners, Ms. Miller was given numerous extensions of time to bring the site in to compliance. After 14 months, this case was taken to the CEB on March 28, 2008; it is only when cases are taken to the CEB that the cost of prosecution is levied. Twelve (12) inspections were made, but not all costs of inspections were included in the levy. Attorney fees were not included. It is staff's intent to minimize the costs to the property owner and maximize compliance.

Mr. Lee said the core of the issue before the Commission is whether or not the required work complied with the Historic District Property Maintenance Code, and if the work was completed during the 14-month time frame between the opening of the initial code case in January of 2007, and the CEB meeting on March 28. Staff worked for 14 months with Ms. Miller to get this property into compliance. Had she brought the property into compliance between January 2007 and March 28, 2008, she would not have had to appear before the Code Enforcement Board and be charged the cost of prosecution. There has been no effort by Staff to treat her unfairly, unnecessarily, excessively or falsely. As to Code Enforcement procedures, they are continuing to improve their existing procedures. Mayor Flagg said neither the Couver family nor the Planning Department are on trial; this is an issue of perception. They are not opening up a case. The issues brought to their attention could not have been handled administratively.

Linda Miller, 114 Lone Oak Trail, Palatka, said she received Mr. Lee's memorandum just before this meeting. She noted the prior case had been closed on a different date (06/07). She made two plans of action during the year and went to see the Code Enforcement Board, and wrote out a plan of action. This memo notes they did an inspection on March 17 and states only when cases are taken before the CEB that costs are levied. It is her contention that had they actually inspected the property, this would not have been before the Code Enforcement Board. She said Mr. Lee's memo states, "had they been able to get the house in order between the 17th and 28th they wouldn't have gone before the Board." Also, they only had a seven-day notice to appear on March 28. They spent in excess of \$65,000 on the porch, store and house. As to the part about her not meeting with the Code Enforcement staff in person, Mr. Downs set up the meeting in question in his office; this was done at his suggestion. She would not be here now if Code Enforcement personnel had done the inspection they claim to have done. Work had been done during that time frame. She knows they didn't inspect on March 17. She was charged for that inspection. Since that inspection was not done, she questions whether or not the other inspections were made. She appreciates and is grateful that she has this opportunity to come before them tonight to plead her case.

Mayor Flagg asked her upon what she bases her statements when she claims that the March 17 inspection was not done. Ms. Miller said it is noted in the file that "past violations have not been corrected, no work being done since last year." There was work done during the months prior to the inspection. Commissioner Kitchens said the usual procedure is for the Code Enforcement Board to reduce or eliminate the fine, but leave costs of prosecution in order to recoup the administrative costs. Appearing before the Code Enforcement Board incurs cost to the city. The City doesn't want to make money off code violations, but costs of prosecution aren't waived. They do allow citizens to set up a payment schedule if those costs are a hardship. There is some question about whether an inspection was made; she looked at all the evidence and can't determine whether an inspection was or was not made, but there were inspections made and a lot of work was done by staff on this case. If the Commission waives this, they will set a precedent. She suggested Ms. Miller get with Mr. Lee and set up a payment schedule to pay this off. Commissioner Brown said she'd like to see Ms. Miller get a schedule to Building & Zoning regarding the work that still needs to be done on one of the houses. She

also does not want to set a precedent. She knows how hard it is to get money to get your property fixed up, but the City needs to recoup its costs. They are just seeking compliance.

Commissioner Myers noted the CEB waived the fines and penalties. Mr. Lee said there were no daily fines assessed by the CEB. Ms. Miller came before the Board and received a 90-day extension. On June 28 the house was in compliance. The costs being assessed are due to actual costs incurred for liens, inspections, etc. The idea is to recoup some of the costs associated with staff action. They take a very liberal perspective from the standpoint of charging these costs, based upon the computer record. They do combine inspections. These facts were presented to the CEB and they voted to assess costs of prosecution.

Commissioner Norwood said the Commission has a responsibility to insure that the City doesn't incur costs when making sure citizens have an opportunity to correct problems. They always like voluntary compliance. It appears that Staff spent 14 to 16 months on this case, and Ms. Miller was given many opportunities to bring these properties into compliance. They have to be consistent and not set new precedence. This could have a snowball effect. They have a responsibility to respond to calls when they receive them. Regarding procedure, Building & Zoning should put a log in place, wherein when calls are received, they are logged in, so they can go back to the logbook for documentation. This will eliminate inconsistency in documentation. Commissioner Brown recommended taking pictures on inspection dates for the record. She noted code enforcement is expensive when it is done correctly. They aren't picking on folks, but this was set up so Code Enforcement could function. There was no daily fine levied. This is to reimburse the taxpayers for the cost incurred to work on this case.

Mayor Flagg said staff denies the accusation of unfairness and excessive prosecution; they did not select her for persecution. This is a learning experience for all parties. Perception is reality; they want to minimize any perception by a citizen thinking they are being singled out. There must be a chronological sequence of occurrences from day one in the form of a log, especially when multiple cases are involved.

Ms. Miller said when they say they inspected this property and saw no work done, there is something wrong with that; they would have been finished with all the work shortly, even without going before the Board. On March 17, the CE staff claims they inspected the property and saw "no progress" made, and that is simply not true. They proceeded to send her a notice to appear based on that. On March 28th she told the CEB there was work being done, and they told her to talk to the City Manager. She tried to explain the entire timeline to them, and told them that they were financially strapped. If they hadn't received a notice to appear, they'd have finished the houses.

Commissioner Kitchens moved to support and uphold the Code Enforcement Board's assessment of costs of prosecution in the amount of \$415.85 on CEB Case No. 07-01, 120 S. 6th Street. Commissioner Brown seconded the motion, which passed unopposed.

5. **RESOLUTION** requesting a waiver in permit fees from SJRWMD for F/Y 2008-09 – Adopt – The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, REQUESTING A WAIVER IN PERMITS FEES FROM ST. JOHNS RIVER WATER MANAGEMENT DISTRICT. Commissioner Kitchens moved to pass the resolution as read. Commissioner Brown seconded the motion. A roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. The resolution was declared adopted.

6. ADMINISTRATIVE REPORTS

Police Chief Gary Getchell – Update on revisions to laws governing metal recycling centers – Chief Getchell said recently an article appeared in the newspaper regarding theft of metal from air conditioners. The Florida Statutes were changed effective October 1 to place more stringent requirements on metal recycling businesses in order to curtail such thefts. Metals theft has existed for decades, but today there is widespread theft of functional, in-use metal, which costs business in excess of \$1 billion per year. This is a worldwide issue. Just today they arrested people for steeling the metal caps from the dock pilings at the City Dock. Anything of value metal thieves see, they will take. The driving factor is supply & demand and inflation. As population increases, so does the demand for raw materials, while supplies decrease. Metal recycling has become a multi-million dollar business. There have been many public, highly-publicized thefts of city infrastructure, such as bridge guard rails, manhole covers, streets signs, etc. City property is not exempt. He can go into detail as to what changes need to be made to create less opportunity for those types of things to be stolen. All metal has a value. To combat metal theft, the State passed a bill to make it more difficult for metal recyclers to accept certain metals. Sellers have to have a photo ID, phone number and street address, and recyclers must keep a written description of the seller on a required form that has to be filled out; there also has to be a legible thumbprint taken. A photo and/or a video of the seller must be made. They cannot walk up or ride up on a bicycle; they have to come in a vehicle. The tag and description of the vehicle and/or trailer is also to be recorded. If there has been metal stolen, this makes it more likely to apprehend the individual. It also gives them the ability to inspect recyclers during business hours. They've made several apprehensions based upon that information. They can also place a hold on suspicious property until an investigation can be completed and an arrest made. It also enhances or makes more severe penalties for those found guilty of violating statutes. They have already started these inspections.

Chief Getchell distributed a graph showing escalating metal theft reports (filed). He said there was 1 theft reported in 2004, and have been 29 reported to date this year. People should be more aware of their property. They've done reverse stings and have apprehended thieves in this manner. People have actually stolen roll fencing and drug it down the road to make it look older and more used. They believe the Statute does not address certain things, so he will be coming back with an ordinance to address other matters with recyclers, such as property they should not take, like anything obviously publicly owned, such as guard rails, manhole covers, etc. There was a case where a recycler purchased a manhole cover with the name of the City right on it. They will work with the City Attorney on this.

Mayor Flagg asked if there is a need for dialogue with the State Attorney's office on the municipality's perspective on how aggravating these crimes are for everyone, and to urge them to step up prosecution of these crimes. Chief Getchell said they have had those conversations, but there was no "teeth" in the statutes prior to now. It is hard to catch recyclers; these legislative changes make it much easier to make and prosecute a case. They are waiting for the change of administration at the State Attorney's office, and they will have those conversations with the new administration. Per Commissioner Myers' question, Chief Getchell said there is one legitimate metals dealer in the City. There are probably others throughout the County; he knows of at least one just north of the City.

Commissioner Brown said citizens are very concerned with the recycling center at 19th & Madison, specifically with the toxic substances that may be going into the ground. She asked if there any way to be sure those toxins are not going into the ground? Jim Lee, Planning Director, read a memorandum from Debbie Banks to Vice Mayor Brown dated today, regarding 1819 Madison Street code violations. The owner was warned to make fence repairs. Unfortunately, they are properly zoned for what they do. In her memorandum, Mrs. Banks noted she has been told by state and federal agencies that they either don't have money to do these inspections, or she must fax their complaints in so they can send them a warning. Commissioner Brown said

they don't want a business to harm the health and welfare of their citizens. Businesses have had to fold up and leave due to Brownfield properties. She gets complaints related to this business all the time. She asked Staff to pursue this. Mayor Flagg said the City Manager should draft a letter to all state and federal legislators regarding this issue. It is not acceptable that State regulatory agencies won't even conduct an inspection. Someone needs to recognize there are environmental and health issues in this area. These problems need to be addressed appropriately. Mr. Holmes said the letter Mrs. Banks referred to said they didn't have the money for soil sampling and analysis, not inspections. Mayor Flagg noted they never came for an inspection, either. Mr. Lee asked that this letter also be copied to these regulatory agencies. Mayor Flagg said he would like to know if they are not coming to Palatka to inspect for the benefit of the health and welfare of the citizens, and why. There have been enough complaints generated to warrant this.

Mr. Holmes said he hasn't looked into all the aspects of this; he doesn't believe there is anything that prohibits an inspection. Soil sampling is a different subject. The people that make these decisions would have the most knowledge for an opinion of probable cause are the State agency people. The question is who can get on site, and who has the authority to make an inspection and take a soil sample? The DEP probably has broad authority to do this. If they see a car being dismantled and there are no precautions being taken to keep the fluids from draining into the ground, they may be able to do a soil analysis. They may need to make a cooperative agreement with them to get this done. Commissioner Norwood said you could go out and take a soil sample. DEP personnel have this training. DEP will act upon that data. If the City licenses them for their operation, can't that license be revoked? Mayor Flagg said the issue is regulatory. The areas out of compliance need to fall on the right ears, and the proper persons in authority need to know that these violations exist. The Police Department can deal with their issues. Commissioner Myers said the issue is groundwater contamination. This can be handled in phased testing; phase 1 testing may lead to phase 2 testing; it's not that expensive. Mr. Holmes said he doesn't know whether there is contamination there, or if they are committing illegal practices. Before they assume violations and single them out as a target, they need a reason for the investigation. There is nothing to stop the City from requesting the opportunity to perform soil sampling. This is not a police power; they are asking for permission. He understands there are complaints of unsightliness, but not specific environmental complaints. Commissioner Brown said the people that live in that area don't want health issues. She doesn't want to put them out of business, they just want to reassure the citizens that they are safe, or if there are problems, that they will be corrected.

Commissioner Kitchens asked if the Commission could direct the City Manager to contact the Health Department to request an inspection for violations, like rats or the like. Mayor Flagg said they need to do the right thing for the right reasons. They don't want this to look selective. They need to determine if there are infractions. They just want compliance and to alleviate citizens' fears. Commissioner Norwood said the only way to determine if there are groundwater issues is through testing. The business must have to have some type of permitting through DEA to operate there. Mayor Flagg said they also need to regulate any recycling centers that may want to come into the City in the future. Commissioner Norwood said these folks just happen to be the only business of its type in the City. That is why the focus is on them. Everyone needs to know if there are water quality problems. Mayor Flagg said none of them have any knowledge of any infractions.

6. **STAFF REPORTS**

City Attorney Don Holmes said in the Code Enforcement process, at this time costs of prosecution are triggered by taking a case to the CEB. This is a discretionary decision made by code enforcement officers, who generally try to work with property owners to come into compliance. When they make a decision to take a case to the CEB, they are targets for accusations of persecution. The situation they had tonight is an example. There are many

open cases that staff works on for a long time. Some cases are open for a year or longer and many costs may be incurred. If the case never gets to the CEB, there are no costs levied. For others, they are in front of the CE board in one month, after one inspection or visit. This is an issue that has both good and bad connotations. The good is that staff can work with folks for a long time; the bad is when something causes them to take someone to the CEB it is at their discretion, and opens them up to criticism. He believes that staff members act in good faith. This puts them in the line of fire when someone questions why their case went to the CEB and someone else's didn't. Also, there may be many cases that go on that involve a lot of staff time and city costs. There are options; as with anything else, when they try to fix a problem they create others. They need to consider setting a time to work with property owners before cases go before the CEB. At the end of the time period, if full compliance hasn't been achieved, the Case should go to the CEB. This doesn't mean a fine has to be assessed, but the costs are on the record. They either have achieved compliance or they haven't. He is not advocating this as the only solution, but is one for them to think about. They need flexible procedures they can follow without having to penalize people. There was another recent case with a "notice" issue. They tried to cooperate with the landowner by sending the notice to the landowner at another address at his request, but had to throw the case out because the notice wasn't sent to the taxing address. Building & Zoning is in the process of putting a written policy and procedure manual together. He suggested the Commission speak to them individually regarding these policies.

7. COMMISSIONER COMMENTS

Commissioner Brown said Commissioner Norwood has been appointed vice-chair of the Florida League of Cities' Urban Administration Committee. She noted Mayor Flagg as been appointed to the State Conference of Mayors. Representatives from Palatka are impacting decisions made statewide. They all work very hard on issues that affect not only Palatkans, but also the entire state. They make the tough decisions, and they don't make everyone happy all the time. The City has an excellent staff that spends hours researching things and sitting down with them on various issues. They do things for the good of the many, and want results that will benefit the City in the long run.

Commissioner Brown said she has been listening to financial analysts regarding the economic outlook. People don't know the impact of houses going into foreclosure; these houses are sitting vacant with no owners. People that were taxpayers are no longer there. There are new grants available to help people stay out of foreclosure. The City should look into hiring a grants person that is paid based upon a percentage of grants being acquired. She'd like the Commission to take this up at the October 23 meeting.

City Manager Boynton said as they look for other grant opportunities, he'd like the commission to consider priorities for grant funds. If he has no project or initiative to pursue, he has no direction in which to look. It's time to start looking down the road and in what direction the City wants to go. They also need to consider what and when they want certain things accomplished. He will look at urban service boundaries next year.

Mr. Boynton said Mr. Ham with CDP will be here on October 23 to present his business plan for the Riverfront Development. Developers contact him regarding this property every day. People see things moving, but are looking for the vision. He'd like the commission to provide him with their vision.

Regarding the Code Enforcement case they heard earlier tonight, Commissioner Brown said Ms. Miller didn't realize the fine was started by having to go before the Code Enforcement Board. She'd like a "did you know" section on the public education channel to bring people up to date on changes that are being made or laws that are in place, or information for new residents for utilities, etc. She didn't realize that the fine was triggered by having to go before

the Code Enforcement Board. If people knew that, they would avoid having to go before that Board. She'd like the City Manager to contact the Cable provider about getting time on the station.

Commissioner Kitchens asked that they get with the PDN to do a question and answer column in the newspaper. She's been asking for a brochure to go out to residents to address utilities, trash cans, leash laws, sidewalk violations and the like. Also, regarding direction for grants, last year the Commission reached a consensus to upgrade the community's housing.

Mayor Flagg asked to Mr. Boynton to work in a 45-60 day window for a visioning session on the 2009 calendar, to create a vision plan.

Mayor Flagg noted tomorrow is Palatka and Crescent City's homecoming. There is a homecoming parade tomorrow at 3:30 down town.

8. **ADJOURN** – There being no further business to discussion, the meeting was adjourned at 7:40 upon a motion by Commissioner Brown.

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. FS 286.105