

KARL N. FLAGG  
MAYOR-COMMISSIONER

MARY LAWSON BROWN  
VICE MAYOR - COMMISSIONER

JAMES NORWOOD, JR.  
COMMISSIONER

ALLEGRA KITCHENS  
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 March 27, 2008

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 27<sup>th</sup> day of March, 2008.

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

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

**CALL TO ORDER:** by Mayor Flagg at 6:00 P.M.

**INVOCATION** – Reverend Jason Carter, Youth Pastor, Victory Christian Fellowship

**PLEDGE OF ALLEGIANCE** – As a group

**APPROVAL OF MINUTES** – 3-13-08 Regular meeting – Commissioner Brown moved to adopt the minutes as read. Commissioner Kitchens seconded the motion, which passed unopposed.

1. **PUBLIC RECOGNITION:**

**PROCLAMATION** – Sexual Assault Awareness Month and Day – Mayor Flagg read and presented a proclamation declaring April 3, 2008 as Sexual Assault Awareness Day and April 2008 as Sexual Assault Awareness Month to representatives of the Putnam County Health Department.

**PROCLAMATION** – Relay For Life Week – Wilbur Driggers, Chairman, President, Putnam County Relay for Life, American Cancer Society, was present to receive a proclamation from Mayor Flagg declaring April 14 – 19, 2008 as Relay for Life Week. Mr. Driggers noted they will host the Relay for Life event beginning the evening of April 18 at the River Breeze Track.

**PROCLAMATION** – Putnam County Teacher of the Year – Maeghan Revels Morris was present to receive a proclamation declaring March 28, 2008 as Maeghan Revels Morris Day in honor of her designation as Putnam County Teacher of the Year.

**PROCLAMATION** – Putnam County School Support Person of the Year – Julia McCoy was present to receive a proclamation declaring March 31, 2008 as Julia McCoy Day in the City of Palatka in honor of her designation as Putnam County School Related Employee of the Year.

**EMPLOYEE RECOGNITION: Mayor Flagg presented Certificates of Recognition to the following employees:**

**1. For Service Above and Beyond the Call of Duty:**

- a. Palatka Fire Department – Firefighting at 127 Azalea Circle on 1/13/08:
- |                              |                        |
|------------------------------|------------------------|
| Battalion Chief Randy Porter | Lt. Bill Dixon         |
| Firefighter Ben Kent         | Lt. Greg Munroe        |
| Firefighter Chris Taylor     | Firefighter Mike Keane |
| Fire Marshall Mark Lynady    |                        |

**2. For Heroic Measures:** Palatka Firefighter Ben Kent, for courage and valor  
Fire Rescue at 127 Azalea Circle on 1/13/08

Fire Chief Mark Lambert noted all departments and entities that responded to the fire on Azalea Circle performed heroically. The first truck arrived within 3 minutes of the fire call, which came in late in the evening. Upon arrival the house was 50% in flames; heavy smoke and heat were throughout the house. An infant had been removed from the house, but two small children remained. Firefighter Kent entered through the bedroom window and located one child, who he handed out the window. The child survived. As the heat was too great, he had to abandon the search for the third child and exited the house. Firefighter Dixon entered the house from another location to search for the third child, but by the time they found this child, it was too late. Everyone worked very hard at this fire.

**STUDENT OF THE MONTH – March, 2008** – Vice Mayor Brown joined Mayor Flagg in recognizing the following students for academic excellence, leadership, citizenship and attendance at their respective schools:

Vivian Carter	Beasley Middle School
Lauren Futch	Browning Pearce Elementary School
Hunter Mundy	Childrens' Reading Center Charter School
Charles Kemp	E.H. Miller School
Samantha Alleger	James A. Long Elementary School (March)
Joshua Wheeler	James A. Long Elementary School (February)
Hunter Hars	Jenkins Middle School
Randa Gibson	Kelley Smith Elementary School
Brianna Bostick	Mellon Elementary School
Eric Hill	Moseley Elementary School
Tyrea Mitchell	Palatka High School
Destin Manderville	Peniel Baptist Academy
Joshua Williams	River Breeze Elementary School

**2. PUBLIC COMMENTS - (Speakers limited to three minutes – no action taken on items)**

Daniel R. Ziem, Sr., 401 Olive Street, said he'd received a copy of the ordinance that went on the ballot when the Better Place Plan was adopted. Nowhere does it state that the City would be allowed to purchase the Highrise and tear it down with Better Place funds. He objects to the use of Better Place funds for this purpose.

DeDe Sharples, Palatka, address refused, said she also objects to the use of either Better Place or TIF funds for this purchase. She does not believe the City can use TIF funds for this. Commissioner Kitchens apologized to Mrs. Sharples, as she was not able to return her call this afternoon.

3. **CONSENT AGENDA:**

- a. **Authorize execution of Contract with Santore & Son** in the amount of \$18,000 for 4<sup>th</sup> of July fireworks Display (budgeted item – partially financed through public donations)
- b. **Award Airport Hangar Door Maintenance Contract to Frank Crabtree** in the amount of \$13,500, per results of Requests for Proposals
- c. **Authorize execution of Contract with Robert E. Taylor, AIA**, for architectural services on the Bronson House Renovations, for \$5,975.00 plus costs for additional services, if needed, at scheduled rates, per City Manager's recommendation
- d. **Authorize execution of contract with Florida Pest Control in the amount of \$3,347.00** for termite treatment at Willard E. Cooper Center/Palatka Duplicate Bridge Club building
- e. **Amend Atlantic Coast Asphalt Contract in an amount not to exceed \$40,150** to add resurfacing of US Hwy 17 in the east bound lane on the west side of the Memorial Bridge
- f. **Introduce and Adopt into Record the 3/10&11/08 and 3/14/08 Report of the Canvassing Board** for the 3/11/08 City of Palatka Commissioner Group 4 Special Primary Election.
- g. **Issue Notice of Called Inaugural City Commission Meeting** to be held April 17, 2008 at 12:00 noon and amend 2008 Commission Calendar accordingly
- h. **Grant permission to seek proposals to finance \$2,000,000 for airport improvements** per recommendation of City Manager and Finance Director
- i. **Airport Advisory Board Appointments:**
  1. **Add an 8<sup>th</sup> position for an at-large member of the Airport Advisory Board**
  2. **Appoint Chamber of Commerce Executive Director to the Airport Advisory Board** to serve at the pleasure of the Commission, per request of the Airport Advisory Board

Commissioner Brown moved to adopt all items on consent as presented. Commissioner Norwood seconded the motion, which passed unopposed.

DeDe Sharples, address refused, said she has served on a board before, and when they had an agenda, they didn't just take a "laundry list" of consent items and approve them all at once. They discussed them. She said she hadn't had an opportunity to read and digest the items on the agenda. Mayor Flagg said this is a consent agenda. If the public or a member of the Commission wants to discuss any item on it, it is customary to pull that item for discussion. All the elected officials received information regarding these items in advance. Administrative staff makes recommendations on these matters. She just received the agenda when she came into the room. She asked when the citizens have an opportunity to speak on these items. Mayor Flagg asked the Clerk to speak to that issue. The Clerk said the agenda is in draft form as of Thursday 8 days prior to the meeting. The agenda is usually published on the Friday or Monday in advance of the Thursday meeting, and sent to the media upon publication. The entire agenda package is posted on the City's website by the Tuesday morning prior to the Thursday night meeting. Everything the Commission sees receives, the public sees. If the public wants a copy of something in the agenda packet and cannot print it off the website, she or her staff can provide that. Once the agenda is ready, copies are placed on the public information table in the City Commission room for the public to pick up at their convenience.

- \* 4. **PUBLIC HEARING – RESOLUTION** authorizing the transmittal of Comprehensive Plan Text Amendment TA-08-001, to include a Public Schools Facility Element, to the Department of Community Affairs – Adopt – Jim Lee, Planning Director, said this public hearing will consider the transmittal of the public schools facilities element of Palatka's Comprehensive Plan to the State Dept. of Community Affairs (DCA) for their review. This is required by the State via a 2005 change in law requiring counties and cities add a School Concurrency element to its Comprehensive Plan. They've been working with Guy Parola of the Regional Planning Council and Mike Pegg of the Putnam County School Board in the development of this element. This item was heard by the Planning Board on March 4; there were no public comments. The Board's recommendation was for approval of the attached resolution to transmit the document to DCA. DCA will review the document for consistency with other elements, and will return it with their comments, which should be addressed before the City can adopt it. They are working to make

sure this element is consistent with other elements. Mayor Flagg said this document establishes a level of service for Putnam County schools and will ensure that level of service is maintained when growth happens in the City; Mr. Lee concurred.

Mike Pegg, Putnam County School Board, concurred on the document.

Guy Parola, Northeast Florida Regional Council, concurred on the document.

**Public Comment:**

Daniel R. Ziem Sr., 401 Olive Street, asked if this means the City will start annexing schools into the City Limits. Mayor Flagg said this document will ensure that as the population grows, school capacity will meet the needs associated with that growth as well, and the adopted level of service will not diminish. Mr. Ziem said Kelly Smith School is on Hwy 20 and not adjacent to any property; he asked how it was annexed. Mayor Flagg said he can speak with the Planner on that matter after the meeting. There are properties in proximity to the School that are inside the city limits of Palatka.

The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, APPROVING PROPOSED AMENDMENT TA-08-001 TO THE CITY OF PALATKA'S COMPREHENSIVE PLAN TO INCLUDE A PUBLIC SCHOOLS FACILITIES ELEMENT AND AMEND THE CAPITAL IMPROVEMENTS ELEMENT AND AMEND THE INTERGOVERNMENTAL COORDINATION ELEMENT FOR TRANSMITTAL TO THE STATE OF FLORIDA'S DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to adopt the resolution as read. Commissioner Brown seconded the motion. A roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Norwood and Mayor Flagg, Yes; Nays, none. Resolution No. 8-32 was declared adopted.

5. **PUBLIC HEARING #2** – 2007-08 Economic Development CDBG Application for Putnam Lanes - Fred Fox, Fred Fox & Associates, said this is the 2<sup>nd</sup> public hearing in conjunction with this application to provide water & sewer utilities under Hwy 100 to serve Putnam Lanes. The owner has owned this business since its inception in 1982. He closed it in 2005 due to the sewer plant's inability to service the building. The grant for just under \$350,000 will extend the City's water and sewer lines underneath Hwy 100 and provide engineering for same. Engineering costs is estimated at \$60,000 and administration is estimated at \$27,900. \$69,900 is allotted for water lines and associated work, \$192,400 is allotted for the sewer lift station & force main. Once an inter-local agreement is adopted by both the City and County, the application will be submitted.

Mr. Boynton said several years ago they extended the water and sewer lines from the Airport down Hwy 100 and connected to the line at Hwy 19. Last year they extended the line and installed a force main at NEFEC on Hwy 100. Now they have the ability to tie water & sewer utilities to the entire quarter. They have been making incremental steps to enhance commercial growth and opportunities along the Hwy 100 corridor. The owner, Samy Bisha, wanted to be here this evening, but had business out of town.

Commissioners Norwood and Kitchens said this is a good and worthwhile project, which will provide recreation and jobs. Commissioner Brown concurred and said it will enable expansion to the west. Mr. Fox said this will create a minimum of the equivalent of 10 new full-time jobs, and he will put \$400,000 back into the facility. He also wants to annex.

DeDe Sharples, address refused, asked Mr. Fox where the grant money will come from. Mr. Fox said it is HUD money coming through the Dept. of Community Affairs; it is a Community Development Block Grant for economic development.

**RESOLUTION** Authorizing the Submission of a Community Development Revitalization CDBG Application for the Federal Fiscal Year 2007-08 – the Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR THE SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS FOR FEDERAL FISCAL YEAR 2007-08. Commissioner Norwood moved to adopt the resolution as read. Commissioner Brown seconded the motion. A roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Norwood and Mayor Flagg, Yes; Nays, none. Resolution No. 8-33 was declared adopted.

**RESOLUTION** Adopting a Community Development Plan and establishing Long and Short Term Objectives – Mr. Fox noted these resolutions will be submitted with the applications. The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, ADOPTING LONG TERM AND SHORT TERM OBJECTIVES OF THE COMMUNITY DEVELOPMENT PLAN FOR THE CITY OF PALATKA, FLORIDA in its entirety. Commissioner Brown moved to adopt the resolution as read. Commissioner Kitchens seconded the motion. A roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Norwood and Mayor Flagg, Yes; Nays, none. Resolution No. 8-34 was declared adopted.

6. **RESOLUTION** authorizing the loan agreement and solicitation of bids for the purchase and demolition of the Frank George Apartments for a loan amount not to exceed \$3,200,000, and authorizing the City Manager to award the bid to the most responsive bidder - Mr. Boynton said in 2007 the Commission adopted a resolution authorizing a loan in the amount of \$2.8 million. The City was unable to close on that loan. He and the Finance Director concurred on moving forward with soliciting bids for a taxable loan for \$2.8 million. At the 3/13/08 City Commission meeting he was directed to increase the loan amount to \$3.2 million in order to cover any inflation of the cost of demolition. They went out for bids on demolition and received responses with very competitive rates. They'd like to award the bid for the loan to Hancock Bank for \$3.2 million at a rate of 5.19% with no fees. He distributed an amortization table for both a \$2.8 million and \$3.2 million loan amount. By utilizing the entire \$3.2 million, the loan payment will be \$364,000, with an interest payment of \$166,000 due in the first year. By the end of this fiscal year, one interest payment of \$83,000 will be due, which will be funded with the money procured from the TIF fund, which is substantially less than the \$100,000 that was approved. The rest would be procured from Better Place Funds in the following fiscal year. The bids for the demolition came in below projected costs. The bidder has not yet been selected.

Robert Taylor, Demolition Project Architect, reported bids for demolition were received on 3/25 and came in under budget; the price includes removal of building contaminants. He read the list of contaminants found on the property from the Environmental Audit report (filed), and said these are not uncommon for such buildings; these are found in many buildings. Mr. Boynton said the City will complete the purchase and demolition well within the original \$2.8 budget, but they will have a \$400,000 cushion available if needed. Borrowing additional money did not affect the loan; there is no pre-payment clause.

Commissioner Kitchens asked if the contractor will also take care of the gasoline contamination on the grounds. Mr. Boynton said that is a secondary issue and unrelated to the bidding. They will speak more on the environmental study later in the meeting. Commissioner Brown noted there is Brownfield money available to address contamination. Mr. Boynton said there was minimal detection and Brownfield may not be necessary.

Daniel R. Ziem, 401 Olive St., said the City is still paying for the Water & Sewer Bond for the Lundy Road WWTP, and asked how will they replay this loan? Mr. Boynton said the repayment will come from Better Place Funds. Mr. Ziem said they can't use those funds to make this purchase. He doesn't want the City to put the burden of the repayment of this loan on the backs of taxpayers.

DeDe Sharples, address refused, said she doesn't think they can use either Better Place or TIF money for this. If that is so, what funds will they use? Mr. Boynton said they need \$2.8 million, but are borrowing \$3.2 million from Hancock Bank. They were the most responsive bidder. The interest rate is 5.29% for 12 years, with no fees and no pre-payment penalty. Payments will be made bi-annually. The total annual payment for a loan of \$3.2 million is +/- \$364,000. If they borrow \$2.8 million, it will be +/- \$319,000. There will be two payments made per year. The first of those two payments is for interest only; the 2<sup>nd</sup> payment is interest and principal. The first interest payment of \$166,000 will be broken down in two equal installments of \$83,000; the second payment will also include the principal installment of \$196,000. The first interest payment is due October 1, 2007. The next payment is due six months later. They will pay interest every six months. They have not awarded the bid for the demolition yet, but the apparent low bidder is CST Environmental. As to the asbestos abatement, the demolition will be done by conventional demolition possibly with a wrecking ball. An implosion may be considered, but the current proposal does not contain any explosives.

Mr. Taylor said the gas contamination probably comes from a 1924 service station that no longer exists. It is minimal contamination, but it has to be dealt with. There may be an old tank left in the ground. They don't know where the contamination is exactly, but will determine that once the building is gone. The engineers will bring in ground-penetrating radar to try to locate the tank. The contamination is very low; there may not be a tank in the ground. Mrs. Sharples said she understands the asbestos removal should be done in a particular way. Mr. Taylor said there are several different types of asbestos in the building; the majority is in the panels on the outside of the building. They will be carefully removed, wrapped and taken away. Other asbestos in the building will also be carefully removed. Mr. Boynton said the City has retained GLE Associates from Jacksonville, a 3<sup>rd</sup> party consultant, to monitor this procedure. The contact is Jim Elliot.

Mrs. Sharples asked, with the economy as it is, with less sales tax coming in, if something happens and the City cannot repay this loan with the penny sales tax money and defaults on this loan, what would happen? Mr. Boynton said this tax brings in around \$900,000 each year. They don't think the economy will deteriorate to the point that this money won't be there. They are confident they will make this payment and have \$5 – 6 hundred thousand left for other capital improvement projects. This year the City spent around \$343,000 to purchase the Police Annex building, formerly Torode Insurance on Reid Street, for the City. This will be a similar expense.

Commissioner Kitchens said she is also concerned about the repayment of the loan. She believes they will have ample Better Place funds to repay this, but those funds run out in less than 10 years, and won't last as long as the mortgage of 12 years. She knows they will use the money from the sale of the property, but she is concerned that some of this may eventually come from the pockets of the citizens. If the City had to put a service fee or MSBU on the citizens, those go on tax bills, and citizens could lose their property if these fees are not paid. She is concerned about repayment in the long run. She is not concerned with whether the building goes or stays; her concern is that the citizens will somehow be held accountable for repayment of this loan.

Mrs. Sharples said the economy is bad. The City will end up with an empty piece of property they have borrowed several million dollars against. She asked if there is a developer now interested in this property? Mayor Flagg said they do have one; they are not in a position to negotiate with multiple developers at this time. They are negotiating with the one developer that responded to the RFQ. They are all sensitive to the plight of downtown Palatka; they are not putting all their eggs in one basket. They are determined that their Downtown will survive, and firmly believe this is the catalyst. They were elected to make the best decisions they can, and the citizens are free to interrogate them all on those decisions. They are partners with downtown merchants and intend to move this project forward. At this time, this facility brings in zero taxes. Mrs. Sharples asked if the money will go to HUD and not the PHA. Mayor Flagg said HUD owns

the building; the PHA administers the property. There are many variables as to what may happen in the future. They are walking out on faith. They cannot predict what will happen 12 years from now. They are being optimistic about the future. He does not share in the phobias and fears that are being put forth tonight. This project will move the city and county forward, and the day that facility is leveled and the environmental concerns are addressed, there will be no end to what can be accomplished. They are maximizing their resources and moving forward.

Daniel R. Ziem, 401 Olive Street, said they had a future with Mr. Ashdji, who was going to pay \$3 million for the Highrise and \$1 million for the 100 Block. He submitted 3 different drawings, but was subjected to much public criticism. He would have provided jobs. Mayor Flagg said that is history; it was a learning experience and they are all moving on.

Askew Vickers, 207 N. 18<sup>th</sup> Street, said the Mayor previously said they have people interested in purchasing the property after it has been purchased and the building has been demolished by the City. Mayor Flagg said Agenda Item 8 will clarify that item. If the City doesn't purchase this property, the Commission can't control the destiny of the property. If a developer were to purchase it directly, and met the current zoning requirements, they could do whatever they wanted to do with it within the current zoning.

The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$3,200,000 INFRASTRUCTURE SURTAX REVENUE BONDS, SERIES 2008, TO PROVIDE FUNDS FOR THE PURCHASE OF THE FRANK GEORGE BUILDING, ITS DEMOLITION AND SITE PREPARATION FOR RESALE; APPROVING A FORM OF LOAN AGREEMENT AND AUTHORIZING EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND OTHER ACTION IN CONNECTION WITH THE DELIVERY OF SUCH BONDS; AUTHORIZING AWARD OF THE BONDS TO THE SUCCESSFUL BIDDER FOLLOWING SOLICITATION OF COMPETITIVE PROPOSALS; PLEDGING THE CITY'S SHARE OF ONE CENT INFRASTRUCTURE SALES SURTAX REVENUES, SALE PROCEEDS OF THE PROJECT LAND AND NON-AD VALOREM REVENUES TO SECURE PAYMENT OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to adopt the resolution as read. Commissioner Brown seconded the motion. A roll-call vote yielded the following results: Commissioners Brown, Norwood and Mayor Flagg, yes: Commissioner Kitchens, no. Resolution 8-31 was declared adopted.

- \* 7. **REQUEST FOR TEMPORARY VARIANCE OF NOISE ORDINANCE** for Relay for Life Event from 12:00 noon on April 18 through 12:00 noon on April 19, 2008 - Debbie Lipko, American Cancer Society, applicant, was not in attendance. Mayor Flagg said this is the annual Relay for Life event, which will include amplified entertainment as well as fundraising activities. It will be held at the River Breeze Elementary track, as it was in times past. Commissioner Kitchens said this is not a loud event, but noise ordinance abatements have a stopping time; this event will run throughout the night. This is like granting a 24-hour noise variance. After discussion, Commissioner Kitchens moved to grant the noise ordinance variance on April 18 from 6:00 p.m. to midnight, and again on April 19 from 8:00 a.m. to 12:00 noon. Commissioner Brown seconded the motion, which passed unopposed.
8. **DISCUSSION** – Proposed Memorandum of Understanding (MOU) for Development of Reid Street & St. Johns Avenue 100 Blocks – Andrew Ham, Community Development Partnerships – separate attachment - City Manager Woody Boynton said Andrew Ham with CDC is not in attendance tonight. After reviewing the MOU, it contained several components that were not in sync with the City Commission's direction, so he asked Mr. Ham to stay away so they could discuss these points freely and try to determine what would be more acceptable to the Commission.

Mr. Holmes said this is the 2<sup>nd</sup> draft he has been given to review. He understands that there are conflicts with what the City Commission talked about last month. The best way for them to get to a Memorandum of Understanding (MOU) is to receive a guideline from the commission on concepts, and designate a committee of the City Manager, himself and one member of the Commission to work with Mr. Ham and his associates to come to a conclusion. It is not uncommon for one side to submit their idea of what a contract should look like to the other side, and then the other side may return it with wholesale changes. The first submission is usually a "wish list." Whatever they come up with they will bring back to the City Commission for final approval. This MOU is not intended to be the development plan for the downtown riverfront. The City hasn't yet asked for a plan for the Commission to approve or not approve. They asked for experience and qualifications. They will work towards a development plan. The MOU is the first step towards an ultimate plan with the only respondent to the RFQ. For a developer to submit a significant development plan, it will take considerable money. The developer's point is that they don't want to expend that large amount of money if 1) the city is not serious and 2) the City is negotiating with others at the same time. They don't want to just throw their money away.

Mr. Holmes said one the problem he's had with this MOU is with the concept that Mr. Boynton is the Commission's designee and he will negotiate the development plan with the developer, which will ultimately be presented to the Commission under some constraint. Once it is presented, the Commission can't disapprove it unless they can show some real grounds for not approving it. In legal terms, that is "approval not to be unreasonably withheld, delayed or conditioned." This is similar to the mortgage clause that permitted "assignability." If a mortgage assignment is proposed with someone other than the mortgagee repaying the mortgage, and the mortgagor does not accept it, they have to have a valid basis for not accepting the assignment. As he understands it, the Commission wants unbridled discretion to turn a plan down, if they don't like the Plan. They can put language together to change that concept, but he can't say whether that will be acceptable to the developer.

Another concern he has is with paragraph 5, which states that if it is legally permissible, the structure of the plan is that they will enter into a type of limited partnership with the developer, with credit given to the City based upon the value of the land. Then the City will remain a partner as long as the developer can get tax benefits from the development, and after that, the developer can buy the City out. He doesn't know how that will be advantageous to the City. He knows the City is contemplating selling the land to the developer. If the purchase from the City is open-ended, it is hard for the City to count on when they will be able to pay the loan down with the proceeds from the sale. Concept 5 does state they will enter into negotiations for the lease-transfer of the project, and "such additional property as is necessary to complete the project." The city doesn't have any additional property. This is probably "boiler-plate" language, but it doesn't need to remain in the agreement, as it will serve as the basis for a lot of discussion on something like eminent domain, which no one has contemplated. It also provides for assignability of CDP's role for which they have controlling interest. That could mean they could have a full partner on the developer's side, but that partner didn't submit a proposal of qualifications. He needs to know if the Commission is comfortable with that assignment possibility.

Last, on Item 9, where it lists the contact information, they have listed CDP as the primary contact, with a copy going to Gray Robinson, PA, Attn: Steven Zelkowitz, who is the City's development attorney. He questioned whether or not it is appropriate for Mr. Zelkowitz to represent a developer, as it has the appearance of a conflict of interest, which raises a red flag for him. All the language he has concerns with fall under those four categories he just spoke of. It is his recommendation to proceed with the Committee concept. This is not something they can fine-tune tonight. He asked for direction to come up with a MOU they can develop, bring back and have the Commission fine-tune.

Mayor Flagg said this MOU does seem to be full of “boiler-plate” language. Commissioner Norwood said he concurs with Mr. Holmes’ concerns. He agrees this is full of “boiler-plate” language that may not be appropriate. He concurs with the committee concept for development of a MOU to bring back to the Commission. Mayor Flagg said if the City’s agent is CDP’s agent, the City needs to have a new agent, and asked if CDP then also needs a new agent, because of the privileged information they may have shared with this agent. They all need to come to a consensus on this, or at least be close.

Commissioner Kitchens said she met with Mr. Holmes this morning, and has written three pages of concerns, mostly dealing with regulating the City’s powers and Sunshine Law concerns. She concurs with the committee concept, and read her list of concerns into the record (filed). She’d like to see those concerns worked into this MOU. She is concerned with the passage that says the City can’t put out press releases without CDP’s concurrence. She began with concerns with language at the end of paragraph 3, which she believes infringes upon her rights under the U.S. Constitution. To not be able to respond to someone with a proposal, even though they can’t accept any other proposals as the deadline has passed, is rude and unthinkable. She proposed changes as noted in her list of concerns, so that the last sentence of paragraph reads as follows: “In consideration of the performance by CDP of its obligations hereunder, the City agrees not to formally or informally solicit proposals during the term of this agreement.” She noted concerns with the first sentence of paragraph 4, and proposed a change to that language on her list (filed). She objects to the term “sole determination” regarding the decision on keeping the historic buildings on the 100 Block. She’d like U of F specified as a consultant if they decide to keep one or more of the buildings. Mayor Flagg said specifying U of F as a consultant is not part of the RFQ. Commissioner Kitchens said U of F has already studied these buildings. Mr. Holmes said it goes to the heart of whether the City will dictate to the developer as to what they can and can’t do. If they dictate that the developer can’t take down buildings in the 100 Block, they can do that, and should put that in the MOU. Commissioner Kitchens said the MOU states that if the developer finds it economically feasible to keep the buildings, he will keep and rehabilitate the buildings, and she wants to build on that and say if he decides to keep them, she’d like him to consult with U of F at the least, together with anyone else he wants to consult with. Once the City deeds them the property, it will be their discretion as to keep or take down those buildings, but she does not want it to be their “sole determination.” Mayor Flagg said CDP would be spending the money; if CDP and UF agree the buildings are not economically feasible to keep, the decision should then come back to the Commission. If there is a precious building that is economically feasible to save, the MOU needs to deal with that. If the Highrise goes, and if there are buildings in that block that need to go, they should leverage on the demolition contractor and get the best price. Mr. Holmes said the Commission would have ultimate development plan approval. Whether for this or another development, they want to enter into an agreement with the City to both parties’ protection. They need to be able to draw up a plan for a “ship that floats.” If they decide they want to tear them all down, and the Commission disagrees, so be it. CDP needs to be able to make some basic assumptions. They need to have some latitude to make some assumptions. When you ask an architect to build you a house, you need to specify the number of bedrooms. This is similar. If they can’t rehab the buildings, they should be allowed to tear them down. Commissioner Kitchens concurred, but said she’d like the Commission to ask them to consult with UF should they decide they want to keep one or all. If they decide it’s not financially feasible to rehab and keep one or more, they are free to tear them down, per the specification in the RFQ.

Commissioner Kitchens noted CDP added language concerning the discussion they had two weeks ago regarding acceptable enhanced dockage, and referred to the City Manager’s memorandum. The Commission took no official action on his memorandum or schematic. It was a general discussion. CDP is trying to incorporate that discussion; she wants to take that out. Commissioner Brown said they looked at some dockage last week, and Jeff Norton will do a presentation at the next meeting on proposed designs. Commissioner Kitchens said as to the part where CDP begins with providing a preliminary budget, she’d like that portion to end with

“the proposed size and nature contemplated by CDP *pursuant to its understanding with the City*. She knows it is understood, but she’d like it spelled out. Also, in paragraph 4, she’d like the portion on unreasonably withholding approval to read, “CDP shall submit the development plan to the City for their approval, such approval or disapproval not to be unreasonably withheld or delayed.” As to the part that reads “The City shall either provide their written approval or disapproval and/or comments on the development Plan,” she doesn’t believe they have to specify or justify why they turn something down, and that part needs to be dropped. The last sentence of paragraph 4 should be removed as it violates Sunshine and public record law. Mr. Holmes disagreed with her interpretation of that sentence relating to copying charges. CDP is trying to protect its work product. They are just saying the plans shouldn’t be distributed unless it is in compliance with public records laws. Commissioner Brown said if she put thousands of dollars into developing a plan, and then someone came along and made minor changes to her plan and called it their plan, that would not be acceptable. They want the City to agree not to take their plan and give it to someone else. Mayor Flagg said they should let the attorneys work that out.

As to the lease-transfer in paragraph 5, Commissioner Kitchens said they’ve never talked about selling the property. They don’t have additional property and can’t give it to them, and don’t plan to use eminent domain to take anyone’s property and give it to them, so that passage should be stricken. Back on paragraph 4, regarding collateral and collection on loans, she asked who will be responsible for paying their loans, should they default, if the City is a partner? She has no problem with an option to purchase, but believes pre-determined value should be changed to market value, and not set on today’s market prices. It also states CDP can assign their interest without approval from the city, but only with giving the City notice. They need to be able to agree or disagree to any assignment, and need to add “with city consent” to the sentence. They also need to change Allen Bush to Elwin Boynton, Jr. As to the next two passages, she concurs with the City Attorney. Paragraph #10.15 needs to be deleted in its entirety, or at the least, drop the part referring to press releases not being made with out approval by either party. That concludes her concerns.

Commissioner Brown said they laid out their concept as to what they wanted to see there at one time. She will depend upon Mr. Holmes to see that the Commission is covered on this. They won’t put the City into any jeopardy. Mr. Boynton said, as to paragraph 5 and Commissioner Kitchens comments, he asked her to verify her comments; she said she doesn’t approve of any limited partnerships or a partnership of any kind on City property. If that is the case, the City should just go ahead and do the development itself. Mr. Holmes said he is not certain of the tax advantages of limited partnerships, but Mr. Ashdji, the former developer, proposed an outright purchase of those blocks, although there would be a delay in the purchase of the 100 Block as he was building the replacement housing. He wants guidance as to whether the City is interested in being involved in a limited partnership with CDP, or if they only want to see an outright sale of this property to a developer. Commissioner Norwood said he’d like to see what the advantages or disadvantages are to this before he makes a decision. Mayor Flagg concurred and asked for a consensus on that. Mr. Holmes noted he will explore the options and report on the ups and downs at a future meeting.

Commission Brown moved to set up a committee to work out a proposed Memorandum of Understanding (MOU) to Counter CDP’s proposed MOU, consisting of the City Attorney, City Manager and Mayor. Commissioner Norwood seconded the motion, which passed unopposed.

## 9. **ADMINISTRATIVE REPORTS**

Update On Frank George Apartments – City Manager Boynton said they’ve briefly discussed the nominal amount of soil contamination at the Highrise site. He read the report of Matanzas Geosciences into the record (filed.) At this time, the only recommendations they make are 1) to perform ground-penetrating radar in the area of the 1924 gas station on the SW corner of the property, and 2) install monitoring wells to track the concentration. The contamination is random; they believe they need further monitoring before the next course of action is decided upon. He

has already authorized the consultant to proceed with the monitoring wells. As this was a commercial site for most of the 1900's, these minor contaminants were to be expected.

10. **COMMISSIONER COMMENTS**

Commissioner Norwood said he wants citizens to come to the podium and address the commission at the meeting, and wants them to feel free to address agenda items, but believes they should stick with the agenda item under discussion when addressing the Commission.

Commissioner Kitchens addressed Mrs. Sharples' concerns regarding the Consent Agenda, saying they all meet with the City Manager prior to commission meetings. They go through each item on the consent agenda. She asks whatever questions she needs to ask then. If she moves to approve all items on the consent agenda, it is because all her questions have been answered satisfactorily. Also, regarding the Comp Plan Amendment on tonight's agenda, Mr. Lee, the Planner, met with each commissioner separately and he went over all requirements related to the Comp Plan amendment prior to the meeting. They have all discussed these items in great detail with department heads or administration. Commissioner Brown said if she is unfamiliar with a location they are making a decision regarding, or if it has to do with downtown Palatka issues, she goes to those locations or speaks to Downtown Palatka people on those. Mr. Boynton said many of these items are pre-approved budgeted items, and this is just the formal process for pre-approved items.

Commissioner Brown said for those citizens who have had their civil rights removed, there is a clemency form people can fill out to request their voter rights be restored. She has such a form, and will leave it here so copies can be made for the public to pick up.

Commissioner Brown said they recently went to Tallahassee, got up at 5:30 a.m. to catch a bus to the Capitol Building, and spent the day lobbying at the Capital. Most of them returned to Palatka after 6:00 p.m. They worked hard for the benefit of the City.

Commissioner Brown asked Sam Deputy to explain their latest Downtown Palatka project.

Sam Deputy, President, Downtown Palatka, said they are making a series of four historic placemats for Downtown restaurants; of 88 sponsorships, all but two were sold in two days. The first will be historic postcards dating back to the early 1900's, the next will be historic churches; then 10 of the most restive and relaxing places in Putnam County. The last is historic caricatures of political people and historic trivia.

Mr. Deputy also noted that American Cruise Lines has booked two more cruises today, for a total of 10 cruises this year.

11. **ADJOURN at 9:10 p.m.** upon a motion by Commissioner Brown, seconded by Commissioner Kitchens.

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