

VERNON MYERS
MAYOR - COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR - COMMISSIONER

ALLEGRA KITCHENS
COMMISSIONER

PHIL LEARY
COMMISSIONER

JAMES NORWOOD, JR.
COMMISSIONER



MICHAEL J. CZYMBOR
CITY MANAGER

BETSY JORDAN DRIGGERS
CITY CLERK

MATTHEW D. REYNOLDS
FINANCE DIRECTOR

GARY S. GETCHELL
CHIEF OF POLICE

MICHAEL LAMBERT
CHIEF FIRE DEPT.

DONALD E. HOLMES
CITY ATTORNEY

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

MINUTES
CITY OF PALATKA
COMMUNITY REDEVELOPMENT AGENCY
June 12, 2014 at 5:00 p.m.

Proceedings of a regular meeting of the City of Palatka, Florida Community Redevelopment Agency held on the 12th day of June, 2014

PRESENT:

Vernon Myers	Mayor
Allegra Kitchens	Commissioner
Phil Leary	Commissioner
James Norwood, Jr.	Commissioner
Karl N. Flagg	Commissioner, Putnam County BOCC
Kathy Griffin	DPI, Inc. Board of Director's Representative

ABESENT: Mary Lawson Brown Vice Mayor

Also Present: City Manager Michael J. Czymbor; City Attorney Donald E. Holmes; City Clerk Betsy Jordan Driggers; Assistant City Clerk Vicki Young; Finance Director Matthew Reynolds; Fire Chief Mike Lambert; Planning Director Thad Crowe; Main Street Manager Charles Rudd; and Projects Manager Jonathan Griffith

CALL TO ORDER: Mayor Myers called the meeting to order at 5:00 p.m.

INVOCATION – Commissioner James Norwood, Jr.

PLEDGE OF ALLEGIANCE – City Attorney Donald E. Holmes

APPROVAL OF MINUTES: 04/10/14 Regular Meeting – Commissioner Kitchens made a motion to approve the minutes as presented. Commissioner Flagg seconded the motion, which passed unopposed.

PUBLIC COMMENTS: There were none.

By consensus Mayor Myers moved Item 4(a) to the front of the Orders of the Day at Mrs. Van Rensburg's request as she had to be at another location by 5:30 p.m.

4(a) North Historic District Update – Elizabeth Van Rensburg, Spokesperson, PHNNA – Elizabeth Van Rensburg, 310 North Third Street, Spokesperson for Reid's Garden, North Historic District and recently re-elected Vice President, said everything is wonderful on the Northside. They have a new play at the Larimer and hope that everyone will join

them at the Larimer this weekend. She said the stop sign poles have been ordered and they are moving forward with way finding signs for the walking tour on northside. The mock up has been done and looks great and they will be moving forward with getting the eight signs. As soon as she is through with the play she will be working on the brochure that goes with the tour. They are on track with Occupation of Palatka and with the Christmas Tour of Homes.

Mayor Myers then returned to the Orders of the Day.

1. CBD TAX INCREMENT FUND EXPENDITURES/BUSINESS:

- a. CBD Façade Grant Award - \$18,375 for 109 S. 9th Street – Johnny Maurice Brown, E. W. Lawson & Son Funeral Home – Mr. Griffith, Project Manager, 201 North Second Street, said the applicant originally made application for Façade Grant funds. The review committee reviewed the application and basically did not recommend awarding the grant because the scope did not meet the intent of the Façade Grant program. They met with the applicant to discuss the scope of the program and came to mutual terms; then talked to the contractor about a revised quote which is what they are presenting tonight. It is important to note that this does include the removal of the electrical box on the side of the building. It's not within the scope, but it is a part of the proposal and will be included in the grant agreement.

Commissioner Kitchens asked if that was the City's electrical box. Mr. Griffith replied yes. Commissioner Kitchens then asked about the design of the front porch, why is it sloped at a 30° angle when the original photographs showed more of a flat roof. Mr. Griffith said originally it was a balcony. The applicant proposed to do a cantilever awning that was a fake balcony. By using the Secretary of Interior Design Standards and applying the new design standards, they tried to go back to the original design; however, this building has been through multiple remodels through the past 100+ years. The original openings and the original balcony had been removed, so they tried to go back to the closest thing to the original design. There was a light above the door that is still there and they are exposing that; they do not like to put fake elements on buildings. Mr. Rudd suggested sloping the roof a little less, so the rendering is not accurate; the contractor agreed that there will be no additional cost to change the slope of the roof.

Commissioner Norwood moved to approve the item as presented. Commissioner Kitchens seconded the motion.

Marlene Lagasse, 125 Cypress Point Circle, said she is one of the family members that operates the Boathouse Marina and is also the president of DPI. The president of DPI would typically be on the board of the CRA. She is not a sitting member of the CRA because that would be a conflict of interest should the City use any CRA funds to benefit her business. She believes a conflict of interest exists in this matter. A City Commissioner shares an address with the owner of this building and she is listed as a consultant on the website for the funeral home located there. She isn't aware of any consultant that doesn't get some sort of benefit for their services. You cannot benefit from a CRA grant if you are a voting member of the CRA. It is her position that because Mr. Brown is getting some benefit from it, consequently his mother will be getting some compensation from it. Although she signed an affidavit stating she receives no benefit from the funeral home, she is a director for that funeral home. This is favoritism. Taxes are collected from the general public which are used to renovate other people's property or City property. Part of that tax money goes to this. She spoke in opposition to approval on this item or Item 6(b).

Commissioner Leary noted that the taxes collected for the CRA only benefit properties in the CRA District in which they were collected.

City Attorney Don Holmes stated that the Code of Ethics prohibits a Board Member on the CRA from deriving any benefit, direct or indirect, from any CRA grant. Whether or not that Board Member votes is irrelevant. When the TIF grant issues for this property came up originally he offered an opinion that the property would not be eligible for a grant. At that time Commissioner Brown owned the property. Subsequently the property was transferred out of her name. The information provided to him states that she does not own the property any longer. As to whether or not she receives any benefit, the policy of the board has never been to conduct an investigation other than what was presented in the application. If the Board wants to make a different policy that is up to the Board. Mr. Holmes said he informed the applicant that before the application could be considered under the criteria for granting the application, she would have to sign an affidavit under oath that she receives no benefit, direct or indirect, and she did. It hasn't been the policy of the commission in the past to go behind representations made by the applicants and he did not feel like it was his place to set new policy in that regard. There is an affidavit signed under oath. He advised her that the consequences of a false affidavit would fall on her. If there is a violation, it is a violation of the ethical obligations – that would be something she would have to deal with. She indicated she understood and signed it.

Ms. Lagasse said the application packet contains quotes addressed to Mary Lawson Brown for improvements to the property. If in fact she had nothing to do with it, the quotes should have been addressed to Mr. Brown or the funeral home. She asked this item be tabled for further investigation.

Commissioner Kitchens noted that Commissioner Brown does not live at the funeral home. Commissioner Flagg asked what makes this award unique and different than item 6(b), award of a BIG grant for the same property. Mr. Holmes stated that the BIG grant was not denied based upon eligibility reasons. Based upon the affidavit and the policy the Board has set in the past, the policy hasn't been to deny if there is an appearance of conflict. Mr. Holmes said he understands the appearance of a conflict. He has to go by the strict letter of the Attorney General's opinion; it states, "receives a benefit, direct or indirect," and that is the disqualifying factor. Commissioner Brown signed the affidavit stating that there was no benefit, directly or indirectly. In the past it was mentioned that she didn't get paid by the funeral home, but that her mortgage was paid by the funeral home. At that time, he offered his opinion that that was a benefit. After she signed the affidavit, the funeral home became eligible to apply for the grants. The BIG grant was denied for failure to meet the criteria of that particular grant. It was a consistent ruling – it just didn't meet the criteria. Commissioner Leary said they need to set aside the ownership issue and look at what the CRA is trying to do downtown in the area between Reid and Oak Streets. He stated he just became the real estate agent for the property on the corner, the old gas station/convenience store. He is working with the owners to get the existing building demolished so a new building can be built there. In looking at the traffic count for that intersection that is one of the busiest intersections in downtown due to traffic traveling to/from Gainesville. They have approved a major investment for a mural on the side of the building, which he believes is phenomenal. He looks at this as anything that can be done to upgrade the aesthetics of that area is very legitimate and within the scope of the CRA. He talked with Mr. Holmes about this. Applications are dealt with in a straight forward manner and in the same manner. He supports this decision today.

Commissioner Kitchens concurred with Commissioner Leary. Commissioner Norwood said if the affidavit was signed under oath, and states that she has no interest and derives no benefit from the business, he believes they are obligated to approve the Committee's recommendation. Commissioner Flagg asked as to the current rule and noted he would like to see businesses downtown look as nice as possible.

Mayor Myers asked the applicant if he would like to speak. Mr. Brown declined.

There being no further discussion or comment, the question was called and a vote was taken upon the motion, which passed upon a margin of five in favor, opposed by Commissioner Flagg.

- b. **APPEAL OF DENIAL OF BIG GRANT AWARD FOR 109 S. 9TH STREET** – Johnny Maurice Brown, E.W. Lawson & Son Funeral Home, Applicant, distributed a package of material to the Commission (filed). He stated that he is appealing the denial of his BIG grant application because he feels the interpretation is not adequate. On December 6, 2011 they were awarded the Façade and the BIG grant. Until November 2013 nobody told them they weren't eligible. At that time they were given the Attorney General's opinion and then received a letter from Mr. Czymbor telling them they were not eligible. With regard to the box on the side of the building, he was led to believe that ran the traffic signal at the intersection. Finally, he saw someone from FDOT working on the box and he asked what the box was for. The FDOT representative told him that it ran the street lights. At that time, he asked the City Commission to be compensated for the box being attached to their building. The City Commission directed him to work with the City Manager to get the box off of the building and on the compensation matter. The City Attorney drafted a contract (attachment 4) that states "More than 10 years prior to the signing of this agreement, Brown allowed the City to locate upon her property certain equipment associated with "lighting apparatus" which serve the area surrounding and in the vicinity of Brown's property". In this same contract it states that both parties have benefitted from the box being on the side of the building. He asked the City Manager at that time, what their benefit was? The City Manager said he didn't write the contract. Mr. Brown said he was led to believe that he could take the grant and repair their building with the box on the side of the building. Attachment 5 is a letter from Mr. Holmes talking about both grants and their eligibility. It states what they had to do to be eligible. Attachment 6 is the affidavit signed by Commissioner Brown. Following that is a copy of the minutes from the October 19th, 2013 CRA meeting, which state, "Under Grant Criteria, they've inserted the words "retail or restaurant only" to encourage retail and restaurant businesses, as the downtown corridor is "office space heavy." Mr. Brown said anyone who sells goods and services should have access to this grant.

Commissioner Kitchens agreed, noting there are many uses allowed under zoning that are not retail or restaurant. Mr. Brown said he was the only applicant for these funds, so it makes sense to award them the grant instead of just letting the money "sit there." Mr. Brown said Attachment 8 is a letter from Jonathan Griffith stating "per municipal code section 94-162 (b)(2) funeral homes are listed as General Service Establishments and are not listed under 94-162(b)(1) General Retail Establishments. Therefore, your application does not comply with the grant program criteria and cannot be considered for funding, per the grant process as described on page 5 of the program document." Mr. Brown noted the letter also states that architectural plans were not submitted with the application. He said they did submit architectural plans in a binder. They were fold out plans and Mr. Griffith took a picture of the seal. Next was documentation from all

lending institutions verifying all mortgage payments. They don't have a mortgage. Permitting fees are listed on both quotes. Mr. Griffith called Badcock's and had their permitting fees stripped out; Mr. Griffith could have also called him. He noted the BIG grant is meant to encourage the opening of more retail and restaurant venues.

Mr. Brown said Exhibit 9 is a copy of the zoning codes for Downtown Business Districts. General Retail Establishments, General Service Establishments, Professional Establishments, Houses of Worship, and Residential uses. The funeral home business has changed. Sixty-five percent (65%) of their business is selling merchandise. They have a room for just for merchandise – they sell hats, shirts, blankets, and other items you can buy from them without having a funeral. Under General Services Establishments there are 23 types listed and funeral homes are one of them.

In closing, he stated he asked an employee what a bar is classified as, and was told it was "general services." He asked another employee about the James Hotel about putting rooms on the upper floor and a restaurant on the bottom floor – he was told yes since there was a restaurant on the bottom floor. The funeral home should be eligible as retail.

Mr. Holmes stated that the contract he referenced had nothing to do with the grant and that he wasn't sure where Mr. Brown got that understanding from. The language he referenced is standard language in a contract. The difference between a contract and nonbinding promise is the exchange of consideration. The language "in exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged. . ." is standard language in every contract that he prepares. Further down in the contract where it states ". . . in exchange for benefits which each has received from the other, which parties agree to be good and sufficient, Brown and the City have . . . agreed . . ." This has nothing to do with the BIG grant – it is for rent for the box being on the side of the building. He has made the demand on several occasions for payment of thirty something years for the City's utility box being on the side of his building. Regardless of the statute of limitations, he could not receive any more than 5 years' compensation and he wasn't saying he was entitled to that. Mr. Holmes said the City Manager told him that Mr. Brown wanted a release in case something happened to the building while they removed the switching box so he could be compensated. The Big grant had nothing to do with this. At no time did he ever tell Mr. Brown that he would get a BIG grant for signing this document. He doesn't believe Mr. Brown ever signed the agreement. Mr. Holmes said he prepared the affidavit and Ms. Brown came to his office. He instructed her to read it, and if it wasn't true, not to sign it because there would be consequences if she did. He wanted to make that clarification.

Mr. Griffith clarified the purpose as listed in the building improvement grant program and the grant criteria. As noted on page 3 of the building improvement grant, the criteria that staff uses to evaluate the applications, the third bullet addresses whether it is an appropriate business (retail or restaurant only). Mr. Griffith noted that this is in the City Commission package, not the CRA package. Commissioner Norwood asked why the grant was denied. Mr. Griffith said it was denied specifically based upon that criteria not being met. The other items as listed in the letter are done as a courtesy because it states that staff will review the application thoroughly and they basically stated those other deficiencies which he said he addressed. You cannot address that deficiency.

Commissioner Leary asked for Mr. Griffith to explain the difference between this application and the grant that was given to Ruth Burk for the fitness center in the McCroy's building. Mr. Griffith said that grant was made through the recruitment program. The intent of that was to recruit business and that fell through. He would like to mention that it was partially a success because they were able to get the restrooms and a/c units in there. Commissioner Leary asked if that was a BIG grant. Mr. Griffith said no, it was a Business Recruitment Grant. Mr. Leary said he doesn't disagree that the focus should be retail and restaurants, but he also has some concerns about denying the grant from that standpoint. Using as an example his own father's funeral, he said 70% of the costs of the funeral were retail items and sales tax had to be paid on all of it. This denial troubles him. In the future they need to be more focused on the criteria. It's the only application and the money is sitting there. It's a viable business and may be more viable if they were able to do the improvements.

Charles Rudd, Main Street Manager, stated last year when revising the grant they focused on getting vacant space tenant-ready, and wanted tenants to be either retail or restaurant. They asked the Commission to give them a year to make these modifications to target vacancies. When this application came forward, it was not a vacancy nor was the business in there either retail or restaurant. When they didn't get other applications they hoped to re-advertise the grant and subsequently would have an applicant. They are trying to get vacancies ready to occupy and then occupied with restaurant or retail. If this was a vacant building and the funeral home was applying then the "retail" question could be debated. The funeral home has been occupied for 100 years and, in his view, is not retail. He is not going shopping at a funeral home when on a shopping spree. It's not the type of retail they are talking about.

Commissioner Leary asked if they are still within that timeframe. Mr. Rudd said yes they are. Commissioner Leary asked if there was an applicant now. Mr. Rudd said yes they have an applicant that did not meet the previous deadline, so they re-advertised both grants just prior to the appeal. There was money left over so they set a new timeframe. Commissioner Leary asked if, in his opinion, that he believes this does not meet the BIG grant criteria. Commissioner Kitchens said according to the minutes, the CRA was very concerned that it would exclude existing businesses. The CRA was assured that this would not be the case. She believes there is a conflict with wording. If she was a business owner downtown, who pays taxes into the TIF fund, she would have a problem with this wording. Mr. Rudd said all existing businesses were excluded for this year. He said it depends on the results that you want. They asked to be allowed one year to try this to see if it works or helps to fill vacancies.

Mr. Czymbor said the whole basis of this was to get those vacant spaces filled with specific targeted activities – this was this year's goal, next year it could be something else. In the past, it was to fix up a place, which resulted in no employment and no commerce or no activity. Improvements were made, which maybe didn't meet the criteria or the measuring stick of that application. This particular year the CRA focused on those types of industries and that was the criteria they judged applications against. Next year if the CRA wants to focus on something different, that can be done.

Commissioner Kitchens concurred with Commissioner Leary, saying when she buried her mother; the majority of the cost was retail. She can see where they are doing retail.

Commissioner Norwood said that they need to clearly state the purpose of the grant, and align the language with the intent, and remove all of the ambiguity. They need to be sure the language captures the intent.

Mr. Griffith stated that the CRA funded over \$700,000.00 in Building Improvement (BIG) and façade grants from 2009 to 2011. They assessed the programs and the success. It did not have the intended results. There was very limited employment created, and very limited filled vacant space. They retooled the programs to get a better intended result. Per the criteria, grant funds are limited and will be awarded subject to the degree in which the application supports the CRA Plans and Goals. The goal is revitalization. They need new redevelopment. This has a direct and indirect benefit to existing property owners.

Commissioner Leary said the CRA agreed to one year, and they need to see the year through. At the end of the year they can re-evaluate the program and make sure that the committee articulates the grant criteria so that everyone understands the grant, even the people that don't deal with grants.

Commissioner Kitchens moved to grant the appeal and award the BIG grant to Johnny Maurice Brown on behalf of E. W. Lawson & Sons Funeral Home, 109 S. 9th Street. The motion died for lack of a second to the motion. There was no further motion made, nor further discussion on the matter.

- c. **BUDGET AMENDMENT - Southern Riverfront Improvements Project** – Jonathan Griffith, Projects Manager, said \$150,000.00 in revenue was generated from the sale of the 100 Block. Staff recommends this amount be transferred to the Better Place Fund to assist in the funding of Phase I of the Southern Riverfront Improvements. Commissioner Leary moved to recommend the transfer of \$150,000 from revenue from the sale of the 100 Block to Better Place Funds. Ms. Griffin seconded the motion. Commissioner Norwood asked if the City had obligated itself to fund any financial issues that might arise from this project. Mr. Griffith said the City has the ability to buy back certain portions of the property if the developer defaults within a certain timeframe. They are asking that this transfer be made to accomplish the Southern Riverfront Improvements. They have focused efforts on the riverfront for the past 10+ years. They are beginning to see the “Multiplier Effect” with the sale of the 100 Block, the Hampton Inn and commercial outparcels. It's essential to complete this project to help with the success of the other redevelopment areas. Commissioner Kitchens asked if it was proper to put this money into the Better Place Plan rather than just putting it on the project. Mayor Myers said the City needs the money to complete the project. Mr. Reynolds said the project is funded with Better Place Funds. There being no further discussion, the motion was voted upon and passed unopposed.

3. VERBAL UPDATES:

- a. **Hampton Inn, Riverfront Square and River Center Update** – Jonathan Griffith said due to the limited time he would pass on the update.
- b. **Potential TRIP Application SHNA - 300 South 9th Street** – Jonathan Griffith said they are asking the City Commission to declare this property as surplus tonight; this is on the City Commission agenda. They have two prospective buyers – one is looking at it as a single family residence and the other is the PHA. Staff will contact both should the property be declared surplus.

4. **OTHER BUSINESS/REPORTS**

- b. South **Historic District Update** – Michael Gagnon, 703 Emmett Street, President, SHNA, said they have worked with Matt Reynolds and have drafted a budget, which will be presented soon. The only change may be the transfer of a significant amount of money to the TRIP Program. Due to the amount of homes they have improved through the TIF-HIP program, the demand for those funds has diminished and is still budgeted. They now want to focus attention on vacant properties, specifically getting them filled.

- 5. **ADJOURN** – There being no further business to discuss, the meeting was adjourned at 6:05 p.m. by Mayor Myers.

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE COMMUNITY REDEVELOPMENT AGENCY 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