

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.

October 31, 2013

**TO COMMISSIONERS: MARY LAWSON BROWN, ALLEGRA KITCHENS,
PHIL LEARY AND JAMES NORWOOD, Jr.:**

You are hereby notified that a Workshop Meeting of the Palatka City Commission is called to be held on Tuesday, November 5, 2013, at the regular meeting place of the Palatka City Commission, Palatka City Hall, 201 N. 2nd Street, Palatka, Florida, to commence at 6:00 p.m.

The purpose of the meeting is to discuss proposed changes to the Palatka Municipal Code, Chapter 2, Article V, Division 1, Code Enforcement Board, to allow for the utilization of a uniform method to impose and collect costs associated with the abatement of nuisance properties through non-ad valorem tax liens.

Is/ Vernon Myers
Vernon Myers, MAYOR

We acknowledge receipt of a copy of the foregoing notice of a special meeting on the 31st day of October, 2013.

Is/ Mary Lawson Brown
COMMISSIONER

Is/ Phil Leary
COMMISSIONER

Is/ James Norwood, Jr.
COMMISSIONER

Is/ Allegra Kitchens
COMMISSIONER

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT 329-0100 AT LEAST 24 HOURS IN ADVANCE TO REQUEST ACCOMMODATIONS.



**CITY COMMISSION WORKSHOP
AGENDA ITEM**

SUBJECT:

ORDINANCE amending the City of Palatka Code of Ordinances revising Chapter 2, Article V, Division I, entitled Code Enforcement Board, to allow for the utilization of a uniform method to impose and collect costs associated with the abatement of nuisance properties

SUMMARY:

Under the City's current ordinance, collection of abatement costs is placed against real property as a lien and can only be enforced up to (20) years. Additionally, the City's current ordinances do not allow for liens against properties that enjoy the "Homestead Exemption" status.

In order to collect the costs and expenses associated with nuisance abatement in a more effective manner, Chapter 197 of the Florida Statutes allows municipalities to utilize a uniform method to impose and collect costs associated with nuisance abatement through the non-ad valorem tax assessments, which would be levied as part of the City's taxing authority.

RECOMMENDED ACTION:

Pass on first reading an ordinance amending the City of Palatka Code of Ordinances to revise Chapter 2, Article V, Division 1, Code Enforcement, to allow for the imposition and collection of cost associated with abatement of property nuisances through non-ad valorem tax liens. First reading will be on November 14, 2013.

ORDINANCE NO 13 –

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA TO REVISE CHAPTER 2, ARTICLE V, DIVISION 1, CODE ENFORCEMENT, BY AMENDING SECTION 2-281, DEFINITIONS; SECTION 2-283, JURISDICTION; 2-285, ENFORCEMENT PROCEDURES; SECTION 2-286, CONDUCT OF HEARINGS; SECTION 2-288, FINES; SECTION 2-289, APPEAL AND OTHER ENFORCEMENT METHODS; ADDING PROVISIONS FOR AUTHORIZING THE IMPOSITION AND LEVY OF SPECIAL ASSESSMENTS FOR ADMINISTRATIVE COSTS INCURRED BY THE CITY AND NOT REIMBURSED BY THE PROPERTY OWNER; REQUIRING NOTICES OF ASSESSMENT; ESTABLISHING THE CITY AS A SPECIAL ASSESSMENT DISTRICT; AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS IN CONNECTION WITH VIOLATIONS; INSERTING PROVISIONS FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS; AUTHORIZING AN AGREEMENT WITH THE PUTNAM COUNTY TAX COLLECTOR REGARDING THE CITY'S USE OF THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS; PROVIDING FOR ANNUAL NON-AD VALOREM ASSESSMENT ROLLS; PROVIDING TRANSITION PROVISIONS AND RATIFYING ASSESSMENTS TO RECOVER COSTS INCURRED BY THE CITY TO REMEDY VIOLATIONS PRIOR TO THE ORDINANCE'S ENACTMENT; PROVIDING FOR THE RENUMBERING OF CHAPTER 2, ARTICLE V, DIVISION 1 IF NECESSARY; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, code violations that create conditions which negatively affect the health, safety and welfare of the community as well as the general livability of the community occur at businesses and residences in the City of Palatka; and

WHEREAS, code violations are enforced by the City of Palatka through its Code Enforcement Officer and the Code Enforcement Board; and

WHEREAS, the City of Palatka wishes to utilize the Code Enforcement Board as its Nuisance Abatement Board; and

WHEREAS, the City of Palatka incurs costs for the enforcement of code violations to include fines, fees, prosecution costs and abatement costs that need to be paid to the City of Palatka by the party or parties responsible for the code violations; and

WHEREAS, the City of Palatka wishes to collect fines, fees, prosecution costs and abatement costs owed to the City of Palatka by all legal means; and

WHEREAS, the City of Palatka wishes to use the uniform method to impose and collect non-ad valorem assessments against properties on which violations of City of Palatka Code occur or have occurred as allowed by Florida Statute 197.3631 and prescribed in Florida Statute 197.3632; and

WHEREAS, the City of Palatka in its entirety, as its boundaries exist on the effective date of this adoption of this ordinance and as they may be expanded or contracted from time to time, is declared a special-assessment district for the purpose of collecting unpaid costs and expenses incurred by the City for lot clean-up. A legal description of the City is attached as Attachment A.

WHEREAS, this Ordinance amends the Palatka Municipal Code of Ordinances, Chapter 2, Article V, Code Enforcement Board, Division 1, Generally.

NOW, THEREFORE, BY IT ENACTED BY THE PEOPLE OF THE CITY OF PALATKA, FLORIDA, AS FOLLOWS:

Section I. **Recitals.** The above-listed “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby rendered a specific part of this Ordinance upon adoption and shall serve as its legislative history.

Section II: **That *Sec. 2-281, Definitions*, is hereby amended to read as follows:**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code inspector and Code enforcement officer mean the city manager or his designee means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city, as well as a city law enforcement officer as defined in this section; provided, however, nothing in this definition shall be construed to

authorize any person designated as a code enforcement officer, other than a law enforcement officer, to perform any function or duties of a law enforcement officer other than as specified. A code enforcement officer, other than a law enforcement officer, shall not make physical arrests or take any person into custody and shall be exempt from bonding, and the requirements of the criminal justice standards and training commission, as defined and required by general law.

Commission means the governing body of the city.

Enforcement board means the code enforcement board.

Section III That *Sec. 2-283, Jurisdiction*, shall be amended to read as follows:

The code enforcement board created by this article pursuant to F.S. Ch. 162 shall exist pursuant to the intent of that statute until and unless the city commission shall determine that such intent is not being implemented. The code enforcement board shall enforce and have jurisdiction of the following provisions of this Code:

- (1) Chapter 3, Adult Entertainment Establishments.
- (2) Chapter 6, Advertising.
- (3) Chapter 14, Animals.
- (4) Chapter 18, Buildings and Building Regulations.
- (5) Chapter 30, article II, Nuisances.
- (6) Chapter 30, article III, Junked Automobiles and Abandoned Property.
- (7) Chapter 30, article VI, Minimum Standards for Maintenance.
- (8) Chapter 46, article IV, Nuisances
- (9) Chapter 54, article III, Historic Districts.
- (10) Chapter 62, Signs.
- (11) Chapter 70, Streets, Sidewalks, and Other Public Places.
- (12) Chapter 78, article V, Occupational License Tax.
- (13) Chapter 86, Utilities.
- (14) Chapter 94, Zoning.

Section IV: That *Sec. 2-285, Enforcement procedures*, is hereby amended to read as follows:

- (a) *Initiation of enforcement proceedings.* It shall be the duty of the code enforcement officer ~~inspector~~ to initiate enforcement proceedings of the various codes over which the code enforcement board has jurisdiction pursuant to this ordinance. No board member shall have the power to initiate enforcement proceedings.
- (b) Notice of violation; request for hearing. If a violation of the codes is found, the code enforcement officer ~~inspector~~ shall notify the violator, unless subsection (c)

of this section applies, and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code ~~enforcement officer~~ ~~inspector~~ shall notify the enforcement board and request a hearing pursuant to the procedure in section 2-286. Written notice shall be mailed to the violator as provided in this division.

- (c) Emergencies. If the code ~~enforcement officer~~ ~~inspector~~ has reason to believe a violation presents a serious threat to the public health, safety ~~and or~~ welfare, and the normal procedure for noticing and citing a violation is not feasible, the code enforcement officer may issue a notice to the violator to appear before the code enforcement board at a designated time and place. ~~proceed directly to the procedure in section 2-286 without notifying the violator by the written notice and citation provided in subsection (b) of this section.~~

Section V: That Sec. 2-286, Conduct of hearings, shall be amended to read as follows:

- (a) *Calling of hearings.* The chairperson of the enforcement board may call hearings of the enforcement board, and hearings may also be called by written notice signed by at least three members of the enforcement board. The enforcement board at any hearing may set a future hearing date. The enforcement board should attempt to convene no less frequently than once every two months, but may meet more or less often as the demand necessitates.
- (b) *Minutes; hearings to be open to public; personnel.* Minutes shall be kept of all hearings by the enforcement board and all hearings shall be open to the public. The commission shall provide clerical and administrative personnel as may be reasonably required by the enforcement board for the proper performance of its duties.
- (c) *Presentation of cases.* Each case before the enforcement board shall be presented by the ~~code enforcement officer~~ ~~inspector~~ ~~or the City Attorney~~.
- (d) *Hearing of cases; testimony.* The enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board shall take testimony from the code ~~enforcement officer~~ ~~inspector~~, any other witnesses and alleged violator. Formal rules of evidence shall not apply; however, fundamental due process shall be observed and govern the proceedings.
- (e) *Decision; issuance of order; voting.* At the conclusion of the hearing, the enforcement board shall issue findings of fact and conclusions of law and shall issue an order affording the proper relief consistent with powers granted in this division. The findings shall be by motion approved by a majority of those present and voting, except that at least three members of the enforcement board must vote in favor of the action to be official.

- (f) Once the alleged violator(s) has been properly noticed as to the hearing before the board and if the violator(s) fails to appear, the board may proceed with a hearing on the merits of the alleged violation. Any findings or orders resulting from such hearing are valid and binding upon said violator(s) if a violation is found to exist.
- (g) Once the owner(s) of the property at which the alleged violation has occurred has been properly notified of the hearing before the board or special master and fails to appear, the board may proceed with a hearing on the merits of the alleged violation and any findings or orders are valid and binding against said owner(s).
- (h) If a corporation is either the violator or the owner of the property, notice as outlined herein shall be affected upon the designated registered agent. If the corporation is a foreign corporation that has failed to comply with F.S. § 48.091, notice shall be permitted to be served upon any employee at the corporation's place of business or any agent transacting business for it in this state.

Section VI. That Sec. 2-288, Fines, shall be amended to read as follows:

- (a) The code enforcement board, upon notification by the code enforcement officer ~~inspector~~ that an order of the code enforcement board has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the enforcement board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code ~~inspector~~ enforcement officer. In addition, if the violation is a violation described in F.S. § 162.06(4), the code enforcement board ~~shall notify the city commission, which~~ may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this division, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b) of this section.
- (b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a) of this section. However, if the code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00 per violation. In determining the amount of the fine, if any, the enforcement board shall consider the following factors:
 - (1) The gravity of the violation;

- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

The enforcement board may reduce a fine imposed pursuant to this section.

- (c) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this division shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city commission, and the city commission may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the enforcement board may authorize the city attorney to foreclose on the lien. No lien created pursuant to the provisions of this division may be foreclosed on real property which is a homestead under Section 4, Article X of the state constitution.
- (d) No lien provided under the Local Government Code Enforcement Boards Act (F.S. § 162.01 et seq.) shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The city commission shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Section VII: That Sec. 2-289, *Appeals; other enforcement methods*, shall be amended to read as follows:

- (a) An aggrieved party, including the city, may appeal a final administrative order of the enforcement board to the circuit court of the county. An appeal shall be filed within 30 days of the execution of the order. Regardless of the outcome of the appeal, each party shall pay their own respective costs and attorney's fees as incurred in prosecuting and/or defending the appeal.

- (b) Nothing contained in this article shall prohibit the city from enforcing its codes by any other means. It is the intent of this article to provide an additional or supplemental means of obtaining compliance with city codes.

Section VIII: That a new section entitled Assessments for code violations shall be added to read as follows:

- (a) Establishment of special assessment district.

The City of Palatka in its entirety, as its City boundaries exist on the date of enactment of this section and as they may be expanded or contracted from time to time, is hereby declared a special assessment district for the purposes of abating and remedying violations of City of Palatka Code. Individual properties within the City's boundaries, as they may exist from time to time, may be assessed for the costs incurred by the City in abating and remedying violations of City of Palatka Code

- (b) Levy of non-ad valorem assessments. There is hereby levied, and the City Commission is authorized to levy from time to time, a non-ad valorem assessment against each and every property in the City: on which there occurs or has occurred a violation of City of Palatka Code on which the City undertakes or has undertaken action to abate and/or remedy the violation and, thereby, incurs or has incurred costs; and the property owner of the property fails or refuses, or has failed or refused, for whatever reason, to pay timely the amount owed to the City under this section for the costs incurred by the City in carrying out such abatement and remedy and any associated fines and fees.

- (c) Collection of non-ad valorem assessments.

The City Commission elects to use the uniform method to impose and collect non-ad valorem assessments against properties on which violations of City of Palatka Code occur or have occurred. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice for ad-valorem taxes and non-ad valorem assessments as provided in F.S. § 197.3635. Non-ad valorem assessments collected pursuant to this section are subject to all collection provisions in F.S. § 197.3632, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

- (1) Agreement to reimburse the Putnam County Property Appraiser and the Putnam County Tax Collector.

In order to use the uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the City is authorized to enter into a written agreement with the Putnam County Property Appraiser and the Putnam County Tax Collector providing for the reimbursement of

their costs incurred in the administration and collection of the non-ad valorem assessments levied under this section.

(2) Adoption of a resolution.

The City will comply with all statutory notice prerequisites set forth in F.S. § 197.3632. The City Commission will adopt a resolution at a public hearing prior to January 1, 2014 in accordance with F.S. § 197.3632(3), which resolution shall state the following:

a. The City's intent to use the uniform method of collecting non-ad valorem assessments.

b. The City's need for the imposition of the non-ad valorem assessments.

c. The entire City is declared a special assessment district, with individual properties being subject to the non-ad valorem assessment from time to time if and when violation of City of Palatka Code occur.

(3) Annual non-ad valorem assessment roll.

Each year, the City Commission will approve a non-ad valorem assessment roll at a public hearing between January 1 and September 15. The non-ad valorem assessment roll will be comprised of properties that have had levied against them non-ad valorem assessments under this section, and such assessments have not otherwise been paid in full prior to approval on the roll.

a. The City Manager, or his/her designee, is authorized and directed each year to prepare the notice that must be sent by first class United States mail, as required by F.S. § 197.3632(4)(b).

b. The notice to be sent by first class United States mail will be sent to each person owning property that will be on the non-ad valorem assessment roll and will include the following: (i) the purpose of the assessment; (ii) the total amount to be levied against the parcel, which includes the actual cost incurred by the City; (iii) a statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title; (iv) a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; (v) the date, time, and place of the hearing.

c. Upon its approval by City Commission, the non-ad valorem assessment roll will be certified to the tax collector as required by law.

Section IX. That all other sections or portions of Chapter 2, Article V, Division 1 that are not specifically herein amended shall be and remain the same.

Section X. That all sections and/or subsections of Chapter 2, Article V, Division 1 of the Palatka Municipal Code be renumbered accordingly to accommodate the changes described in this Ordinance, if necessary.

Section XI. That all ordinances or parts of ordinances in conflict therewith are hereby repealed to the extent of such conflict.

Section XII. That if any section or portion of a section or subsection of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or portion of a section, subsection, or part of this ordinance.

Section XIII. That this ordinance shall take effect upon its passage as provided by law.

Section XIX. That a copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

PASSED AND ADOPTED by the City Commission of the City of Palatka on second reading this 14th day of November, 2013.

CITY OF PALATKA

By: _____
Its **MAYOR**

ATTEST:

CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney

MEMORANDUM 2012-09

TO: Mayor Anne E. Sallee
Members of the City Commission

CC: John Stunson, City Manager

FROM: D.J. Doody, City Attorney 

RE: City of Oakland Park ("City") Special Assessment to Collect Funds Expended for Nuisance Abatement

DATE: May 30, 2012

The City Attorney's Office has been asked to examine whether the City has the legal authority to impose a non-ad valorem special assessment on real property to recover any costs which the City may incur as a result of action taken to abate nuisance conditions on private property. Several cities in Broward County have implemented or are currently considering ordinances to implement such an option.

After reviewing the applicable case law and statutory provisions governing special assessments (Ch. 197, F.S.), the City Commission is advised that it may consider utilizing a non-ad valorem special assessment to recover such applicable costs, subject to certain specific conditions and procedures.

Please note that the nuisance abatement process is separate and apart from the City's code enforcement procedures, which are governed by Chapter 162 of the Florida Statutes. There is no specific mechanism under Chapter 162 of the Florida Statutes to recover the fines associated with code violations, imposed pursuant to a final order of the City's Special Magistrate, as a non-ad valorem special assessment.

PROCEDURE FOR IMPOSING NON-AD VALOREM ASSESSMENTS

Section 197.3632 of the Florida Statutes, set forth the specific process which the City must follow in order to use the annual tax bills to collect non-ad valorem special assessments to recover the costs associated with the work that the City may perform in order to abate a nuisance.

The following procedure adheres to the requirements of Section 197.3632, F.S., and further considers the processes which have been utilized by other municipalities for such purposes:

1. An ordinance should be adopted to create a special assessment district within the City limits, and to authorize that special assessments may be assessed against real property that is abated or maintained by the City under the provisions of the City's Code of

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Ordinances, if the owner of real property fails to maintain real property as required by the Code. The ordinance will also provide the process for determining the need to abate a nuisance, and notice and hearing procedures.

2. The City must adopt a resolution at a public hearing stating its intent to use the uniform method of collecting special assessments established by Section 197.3632, F.S. commencing with the next fiscal year.
3. The City must enter into a written agreement with the Broward County Property Appraiser ("BCPA") providing for reimbursement of necessary administrative costs. The BCPA's administrative costs may include, but not be limited to, personnel, forms, supplies and postage.
4. If a violation of the City Code is determined to exist, a notice of violation will be served on the owner, directing the owner to abate the violation within twenty (20) days.
5. Within a specified time, a property owner may appeal the violation to the City Commission. If no appeal is made, and the violation is not remedied, the City may undertake such action as is necessary to remedy the violation. Note that this is distinguishable from the code enforcement process under Chapter 162 of the Florida Statutes.
6. Upon completion of the property maintenance or nuisance abatement action by the City, the City will mail an invoice to the real property owner requesting payment for the actual costs of the completed maintenance or nuisance abatement in addition to administrative charges and fees in effect at the time of the mailing of the invoice. The invoice should include a notice that failure to pay the invoice may result in the imposition of a non-ad valorem special assessment on the property, as well as further collection costs.
7. If the real property owner fails to pay the charges within a designated period of time, the City Commission shall impose a non-ad valorem special assessment in accordance with the uniform method established by Section 197.3632, F.S.

Please be advised that the City generally only takes action to abate those violations on private property which constitute a threat to the health, safety and welfare of the community.

It is important to note that Section 197.3632, Florida Statutes, also requires public hearings and the adoption of a non-ad valorem special assessment roll for all properties which will be subject to the levy. The non-ad valorem special assessment roll will be comprised of those properties that have had levied against them non-ad valorem assessments under these procedures, and such assessments that have not otherwise been paid in full prior to the approval of the roll. The statute

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provides specific timeframes for the adoption of the assessment roll, which must be adopted annually.

FURTHER ANALYSIS

1. Special Assessments

In order for a special assessment to be valid, a two (2) prong test must be met:

1. The services at issue must provide a special benefit to the assessed property; and
2. The assessment must be properly apportioned.

SMM Properties, Inc. v. City of North Lauderdale, 760 So.2d 998 (Fla. 4th DCA 2000).

A special assessment is imposed upon the theory that the portion of the community which is required to bear it receives some special or peculiar benefit in the enhancement of value of the property against which it is imposed as a result of the improvement made with the proceeds of the special assessment. *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).

The test for determining whether a special benefit is conferred to real property by services for which the assessment is imposed, is not whether the services confer a unique benefit or are different in type or degree from the benefit provided to the community as a whole, but rather whether there is a logical relationship between services provided and the benefit to real property. *Lake County v. Water Oak Management Corp.*, 695 So.2d 668 (Fla. 1997). Although nuisance abatement benefits neighboring properties, the direct benefit is to the property upon which the abatement work is performed.

2. Municipal Powers

Section 2(b), Article VIII of the Florida Constitution provides, in part:

"Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law."

The Florida Supreme Court, in *State v. City of Sunrise*, 354 So.2d 1206, 1209 (Fla. 1978), held that the only limitation on the power of municipalities under this constitutional section is that such power must be exercised for a valid municipal purpose. (Emphasis added.)

Pursuant to the Florida Constitution and Florida Statutes, the City is lawfully entitled to enact legislation on any matter upon which the Legislature may act, so long as its ordinance does not prohibit what the Legislature has expressly licensed or authorized, or permit what the

Legislature has expressly forbidden. To date, the Legislature has not preempted or enacted statutory law that would prohibit the City's use of a special assessment for the collection of nuisance abatement costs.

3. Additional Issues

The City Attorney's Office has also evaluated a number of other issues which could be potentially raised in opposition to the use of a special assessment to collect for the actual costs of abatement. Given the fact that this approach has not yet been the subject of a court case, it remains unknown whether a court of jurisdiction would uphold this method of collection.

a. Argument that the Primary Benefit is to the Community rather than the Property Abated

The maintenance and abatement work performed by the City is limited to vacant or abandoned property. It may be asserted that the work performed by the City to maintain blighted properties is involuntary, and the primary benefit is only to neighboring properties. An owner may also assert that the special assessment does not allocate any of the benefit to neighboring properties.

The case of *Lake County v. Water Oak Management Corp.*, provides that the test for determining whether a special benefit is conferred to property by services for which the assessment is imposed, is not whether the services confer a unique benefit or are different in type or degree from the benefit provided to the community as a whole, but rather whether there is a logical relationship between the services provided and the benefit to real property. The work performed by the City to abate a nuisance is performed on a single piece of property, thereby supporting a finding that there is a special benefit to that particular property. Further, a special assessment has a presumption of correctness, and the burden is on the party contesting the assessment to establish its invalidity. *City of Hallandale v. Meekins*, 237 So.2d 318 (Fla. 4th DCA 1970).

b. Argument that Special Assessments for Property Abatement Are in Conflict with Chapter 162, Florida Statutes

Section 162.09, F.S., provides that a Code Enforcement Board may notify the local governing body to make all reasonable repairs which are required to bring the property into compliance, and may charge the violator with the reasonable cost of the repairs along with the fine imposed. The statute provides that these fees and costs shall constitute a lien on real property. As previously noted, Chapter 162 of the Florida Statutes, does not expressly provide a mechanism to collect any costs incurred as a result of this process in the form of a non-ad valorem special assessment.

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c. Homestead Property

The abatement of a nuisance on real property and the costs associated with the process, meet the test for the imposition of a non-ad valorem special assessment. Article X, Section 4 of the Florida Constitution recognizes the imposition of a special assessment on homestead property. If the City complies with the uniform method for the levy, collection and enforcement of special assessments as outlined in Section 197.3632, F.S., then the assessment should be valid and enforceable against all private property, including homestead property.

CONCLUSION

Florida law does not expressly prohibit the recovery of costs associated with abating a nuisance on private property through the use of a non-ad valorem special assessment, subject to certain specific conditions and procedures. The City may seek to avail itself of the procedures to collect ~~non-ad valorem special assessments, as established by the Legislature in Section 197.3632, of the~~ Florida Statutes.

Please contact me if there is any additional information that I can provide to you.

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VERNON MYERS
MAYOR - COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR - COMMISSIONER

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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.

January 10, 2012

**TO MESSRS: MARY LAWSON BROWN, ALLEGRA KITCHENS, PHIL LEARY AND
JAMES NORWOOD, Jr.:**

You are hereby notified that a workshop meeting of the Palatka City Commission is called to be held on January 26, 2012, at the regular meeting place of the Palatka City Commission, Palatka City Hall, 201 N. 2nd Street, Palatka, Florida, to commence at 4:00 p.m.

The purpose of the workshop is to discuss potential and/or proposed amendments to the Municipal Code, Chapter 30, Environment, including but not limited to a new residential rental registration program, standards for chronic nuisance properties, and the application of non-ad valorem assessment to chronic violators.

/s/ Vernon Myers
Vernon Myers, MAYOR

We acknowledge receipt of a copy of the foregoing notice of a special meeting on the 10th day of January, 2012.

/s/ Mary Lawson Brown
COMMISSIONER

/s/ Phil Leary
COMMISSIONER

/s/ James Norwood, Jr.
COMMISSIONER

/s/ Allegra Kitchens
COMMISSIONER

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT 329-0100 AT LEAST 24 HOURS IN ADVANCE TO REQUEST ACCOMMODATIONS.



City of Palatka

Building & Zoning

201 N. 2nd Street

Palatka, Florida 32177

386-329-0103 • Fax 386-329-0172



MEMORANDUM

TO: Mayor, Vice-Mayor, and Commissioners

CC: City Manager

FROM: Thad Crowe, AICP
Planning Director

DATE: January 19, 2012

RE: Chronic Nuisance Properties Program

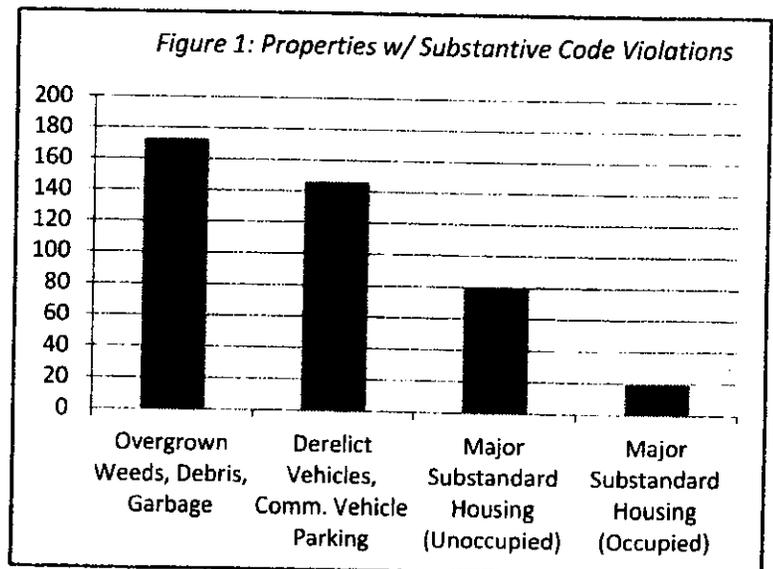
BACKGROUND

On various occasions during the last several years the Commission and staff have discussed how to address problems posed by chronic nuisance properties. Staff has found that the majority of both code violations and police calls for service are tied to a relatively small number of properties. In particular, rental properties generate the bulk of code violations and service calls. The relation of code violations to rental status was confirmed by a citywide of substantive code violations completed this past fall. The four groups of violations surveyed in this effort included major substandard housing (occupied and unoccupied); derelict vehicles and parking of commercial vehicles in residential areas; and overgrown weeds, debris, and garbage on properties. Over 400 properties were found to have such substantive code violations, representing 10% of the City's total housing stock.¹ As shown in the table below the most widespread violations pertained to littered and overgrown yards followed by junk cars and commercial vehicle parking, with both of these categories accounting for around 75% of serious violations. Approximately 20% of the substantive violations were vacant major substandard homes, and a smaller share of around 5% were occupied major substandard homes.

Table 1: Summary of Substantive Code Violation Survey

Code Violation Grouping	No.	%
Overgrown Weeds, Debris, Garbage	173	41.4%
Derelict Vehicles, Comm. Vehicle Parking	146	34.9%
Major Substandard Housing (Unoccupied)	80	19.1%
Major Substandard Housing (Occupied)	19	4.5%

Figure 1: Properties w/ Substantive Code Violations



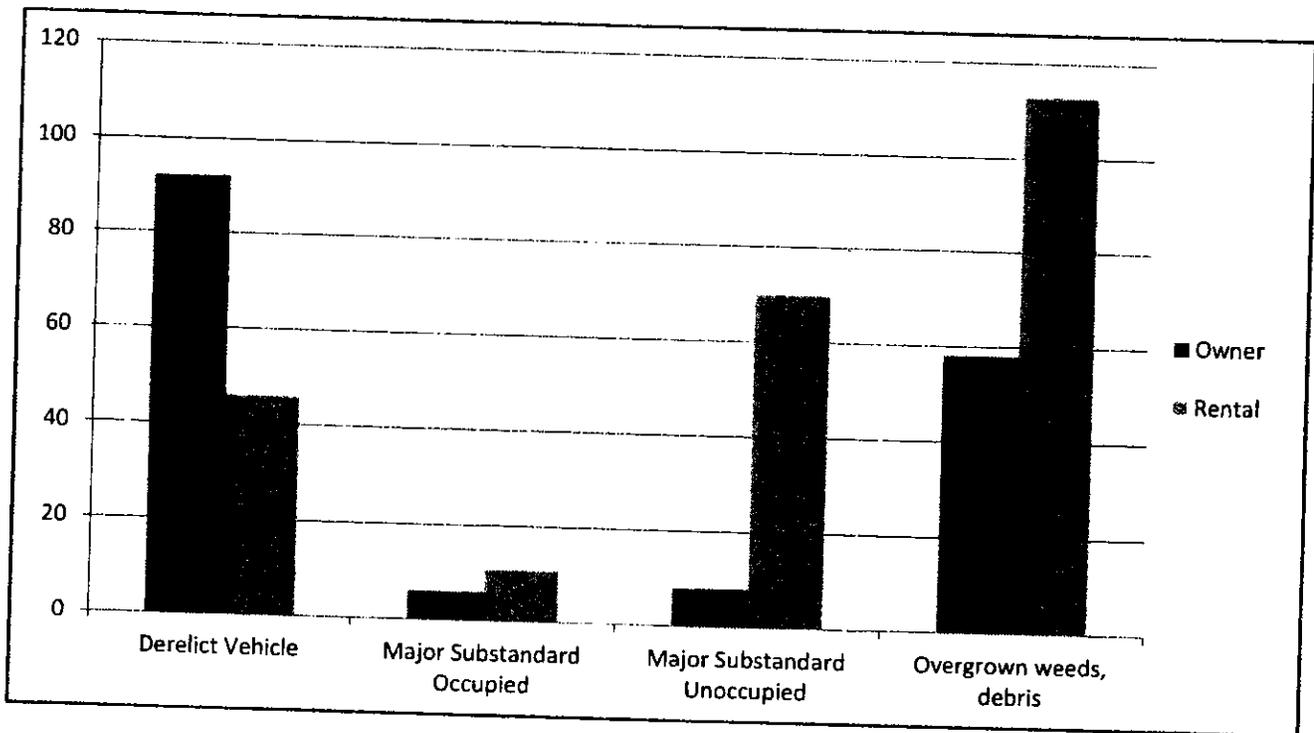
¹ Comprehensive Plan, Housing Element, Table C-2 indicates 4,340 housing units in the City.

Census data as provided in the Housing Element indicates that the City has approximately 1,800 multi-family units, which represents 42% of all housing units. While owner and renter units were somewhat balanced, Table and Figure 2 below show that rental properties comprised 90% of major substandard unoccupied housing, and two-thirds of major substandard occupied housing and overgrown weeds/debris/garbage violations. (Interestingly enough, two-thirds of major derelict vehicle violations occurred on owner-occupied properties.) Police Chief Getchell has also confirmed that residential rental properties generate a disproportionate number of calls-for service compared to owner-occupied addresses.

Table 2: Substantive Code Violations by Tenure

Code Violation Grouping	Owner	% of Total	Rental	% of Total
Major Substandard Housing (Unoccupied)	8	10%	70	90%
Overgrown Weeds, Debris, Garbage	58	34%	113	66%
Major Substandard Housing (Occupied)	6	35%	11	65%
Derelict Vehicles, Comm. Vehicle Parking	92	67%	46	33%

Figure 2: Substantive Code Violations by Tenure



Several characteristics of the City contribute to the ongoing problem in neighborhood appearance. First, the percentage of homeowners according to the US Census was just below 50%, low when compared to the state average of 70%. Homeowners tend to maintain properties in better condition and as previously noted rental properties had a higher level of code violations and police calls for service. Secondly the City's poverty rate as estimated by the Census in 2009 was over 36%, high when compared to the state average of 13%. Poorer households sometimes find it more difficult to maintain their homes. Finally an aging housing stock tends to show more signs of deterioration – over a third of the City's housing units were constructed prior to 1950, compared to a lower 16% for Putnam County.

The impact of chronic nuisance code violations on neighborhoods is an issue that has long been debated, starting with the "broken window theory," put forth by Rutgers University Professor George Kelling in the 1980s. This theory states that monitoring and maintaining neighborhoods in a well-ordered condition may stop vandalism as well as an escalation

into more serious crime. Professor Kelling found that removing graffiti from the New York City subways was followed by a significant reduction in petty crime. While researchers debate the accuracy of this theory, there is agreement among social scientists that the disorder represented by poor property maintenance and litter has a psychological effect on people. The latest conclusive research comes from the Netherlands, where Professor Kees Keizer at the University of Groningen determined that people in an environment with litter and graffiti littered at double the rate of those in a setting that was clean and tended.² The same effect is shown to apply to property maintenance in general.

The increasing trend of home foreclosures has had an impact on neighborhoods in towns and cities throughout the nation. Recent research on the impact of vacant foreclosed homes found that foreclosure rates are positively correlated with violent crime rates,³ and an Urban Institute study reported the following:

When the property is vacant and it is evident that no one is taking care of it, realtors and prospective buyers will take note and see that as a threat of potential decline in neighborhood property values. A modest amount of undermaintenance may not have much effect, but things can get worse. The property may be invaded by squatters or by vandals who gut it (i.e., remove anything of value, including copper piping and hardwood floors as well as appliances). Some unsecured homes may become drug houses. A wider array of criminals sensing the disorder may lead to increased risks of crimes of all types for residents in surrounding homes and apartments.

As the period of vacancy is extended, and no one is paying for heat and electricity or maintenance, the building will begin to deteriorate physically. The likelihood of structural fire goes up, in some cases because indoor fires set by squatters to keep warm get out of control. There are also stories of unscrupulous owners of rental properties in default who to continue to collect rent from tenants for as long as they can, but stop paying for maintenance until they finally lose title (i.e., the property declines physically even though it is still occupied).⁴

It is also important to note that in addition to neighborhood and crime impacts, properties with ongoing major code violations and excessive calls for service create a disproportionate fiscal impact to the City.

Staff has done a preliminary analysis on potential programs to address the problems of neighborhood decline and has identified the following code enforcement-related possible actions:

1. Rental registration/landlord licensing program
2. Foreclosed/bank-owned registration program
3. Concentrated code enforcement
4. Non-ad-valorem assessments

The following discussion provides information on each of these programs.

1. Rental Registration.

This requires registration and licensing of rental properties, with the justification that such uses are businesses and require monitoring to ensure basic code compliance. Table 2 shows highlights of such programs in other Florida jurisdictions. Highlights of rental registration programs include the following:

- Per unit registration fee or flat fee, typically below \$100
- local representation/management required (usually within the County)
- Unit applicability varies between all units and a more narrow range, for example like buildings with two to four units (Coral Springs)

² "Can the Can," The Economist, November 20, 2008

³ "The Impact of Foreclosures on the Housing Market," by Daniel Hartley, Federal Reserve Bank of Cleveland

⁴ "The Impacts of Foreclosures on Families and Communities," by G. Thomas Kingsley, Robin Smith, and David Price, The Urban Institute, May, 2009

- The timing of inspections vary, with some jurisdictions requiring an annual inspection and others with a longer timeframe or with complaint or inspector-driven inspections
- Inspections are done by code enforcement staff, or by an independent house inspector
- Inspection area varies, from a more narrow focus of exterior maintenance, vehicle parking, and garbage can issues to all housing and other codes.

Table 3: Rental Registration Programs in Other Florida Jurisdictions

Jurisdiction	Rental Registration Fee	Local Representation Required?	Type Use	Inspection Timeframe	Applicable Codes
Belleaire	2-5 units: \$20 6-10 units: \$4/unit 10 units +: \$2/unit	No	Not condos	Complaint or inspector-driven	Nuisance, maintenance, sanitary, building codes, external & visible maintenance, occupancy limit
Cocoa	\$74 (annual) \$75 –re-inspection fee	Yes, w/in County or adjoining counties	All types	Initial inspection, then every 5 years, or complaint or inspector-driven By City or independent housing inspector	Housing codes
Collier Co.	Unknown	Yes, w/in County	All types	Not set	Sanitation, life and safety, exterior and interior maintenance
Coral Springs	\$79 (Annual)	Yes (not defined)	Buildings w/ two to four units	Yearly	Exterior bldg. condition, exterior property (parking, landscaping, garbage, litter, overgrown yard, pools, runoff, derelict vehicles)
Destin	\$25/Unit (Annual)	Yes, not defined	All types	Annual	Noise, vehicle parking, garbage container placement, occupancy limit
Palm Coast	\$5 per unit (one-time)	Yes, w/in County	N/A for apartments or owner-occ. duplexes	External every two years, internal every four years, and based on complaints	All codes
Wellington	\$75 (Annual) \$25 Inspection Fee	Yes, w/in County	Buildings with two or more units		Maintenance and appearance, garbage, vehicle parking

2. Foreclosed Property Registration

As previously noted, foreclosed properties can have a profound effect on neighborhoods, which has led various Florida jurisdictions to require registration that is aimed at better maintenance. Cities such as Belleaire, Cocoa, Ft. Myers, Sanford, and Sunrise, along with Pasco County, have instituted this program. Foreclosed homes registration are similar to rental registration, with some key differences, one being that the program is geared toward single-family homes owned by banks. Jurisdictions using this approach require more frequent inspections, usually on a monthly basis, done by an independent inspector hired by the property owner. Annual registration fees range between \$100 and \$200. The focus of applicable codes is limited to exterior appearance and maintenance, overgrown yards, and abandoned pools. The Putnam County property appraiser was not able to provide a count of foreclosed or bank-owned properties, but a search on Trulia.com indicated there were currently 17 bank-owned residential properties in the City for sale – it is probable that there are many more such properties that are not listed for sale.

3. Concentrated Code Enforcement.

The City now practices complaint-based code enforcement. As has been noted by the City Attorney, it is not appropriate to practice selective code enforcement. However it is suitable to concentrate code enforcement resources in identified geographical areas where data indicates there are high levels of code violations. It is also appropriate to focus code enforcement on specific chronic code violation types across the board and throughout the City. Such sweeps are not selective but are in fact applied in a straightforward way in a geographical or topical manner. At the outset these efforts can involve initial courtesy letters and education efforts prior to instituting more punitive measures. While the current complaint-based system has reduced code enforcement activities for Building and Zoning staff, it is clear that concentrated code enforcements would be limited by available staff time.

4. Non-Ad Valorem Assessments.

The City currently utilizes a system of code enforcement that cites owners and in cases of non-compliance assesses fines against property owners, as set by the Code Enforcement Board, that are assessed as liens against the property. Staff has found that around two-thirds of those cited either comply upon receipt of a courtesy letter, or comply after going before the Code Enforcement Board. However the system is not effective for the "hard core" one-third of violators, some of whom have liens dating back over 20 years.

Other Florida jurisdictions utilize non-ad valorem assessments, a tool allowed by statute and requiring ordinance adoption, as a more effective way to bring properties into compliance and collect penalties. In such a program a jurisdiction defines chronic nuisance offences and properties by customized thresholds (for example X number of police calls for a certain offense, or habitually overgrown properties, etc.). The jurisdiction can then use their code enforcement board or special magistrate to notify the offenders and take them through the normal code enforcement process. However instead of assessing liens against the property, the jurisdiction adds administrative and corrective costs to the property owner's tax bill. The arrangement requires a written agreement with the Tax Collector and Property Appraiser and there are prescribed notice procedures.

What makes this program more effective than the current code enforcement procedure is that while the City can place liens on properties, these liens only become payable when properties sell, and the City must line up behind other creditors in such cases. Typically the proceeds from sale of such properties go toward financial institutions and there is little or nothing left to satisfy the City's liens. However it is much more difficult for a property owner to evade paying a tax bill, since delinquent ad valorem and non-ad valorem taxes and accompanying interest convert to a tax certificate that becomes a first lien on the property. Tax Certificates are sold to investors who can then apply for a tax deed within two years of certificate issuance, and if the delinquent owner pays the back taxes and interest, the investor is reimbursed, making this a safe investment.

Other Florida jurisdictions have taken a proactive approach in concern with the non-ad valorem assessment and step in to correct violations, for example mowing very overgrown yards or cleaning up debris. Such costs can also be added to the property owner's tax bill. This approach requires an initial budget outlay for these actions, with a higher probability of cost recovery due to the effectiveness of the non-ad valorem tax assessment approach. It should be noted that the City has a source of funding for such a program – code enforcement penalty proceeds have risen to around \$19,000 according to the City's Finance Director.

Conclusions

The Commission has several policy options, ranging from maintaining status-quo code enforcement, or adopting some or all of the programs described above. The benefits of continuing in the current mode include reduced administrative costs and regulation. Staff will be performing the citywide code survey on a regular basis to monitor conditions and determine trends that may or may not call for stepped-up enforcement. The drawbacks of the status quo is potential neighborhood decline and crime increases attributable to nuisance properties.

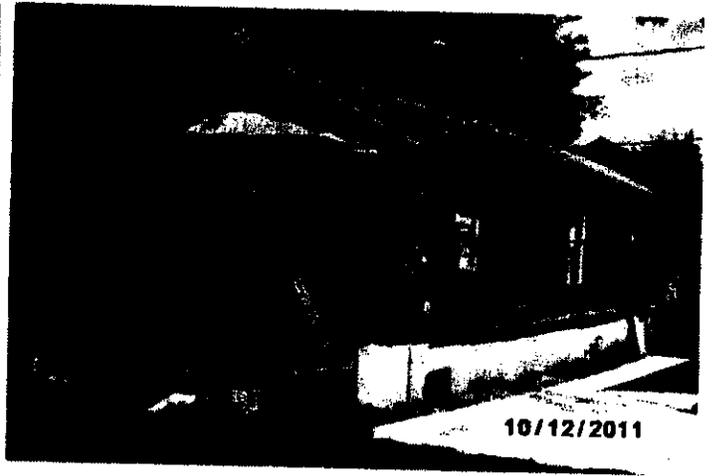
The benefits of adopting rental and/or foreclosure registration include increased education and monitoring that can help to improve properties in a proactive way. The drawbacks of these approaches include the costs of administration, which will to at least some degree be passed on to rental property owners.

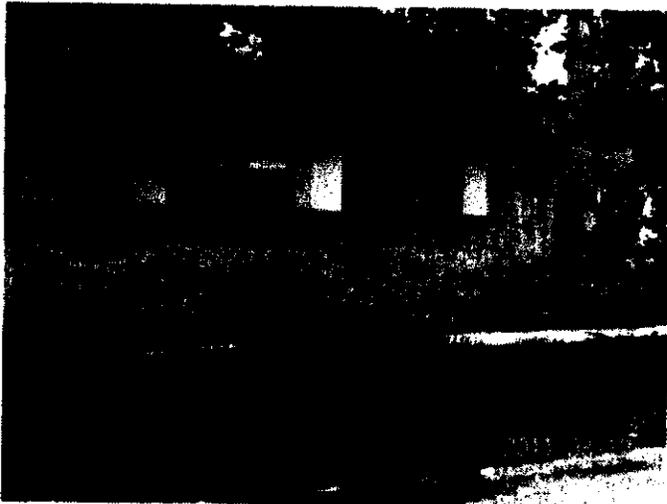
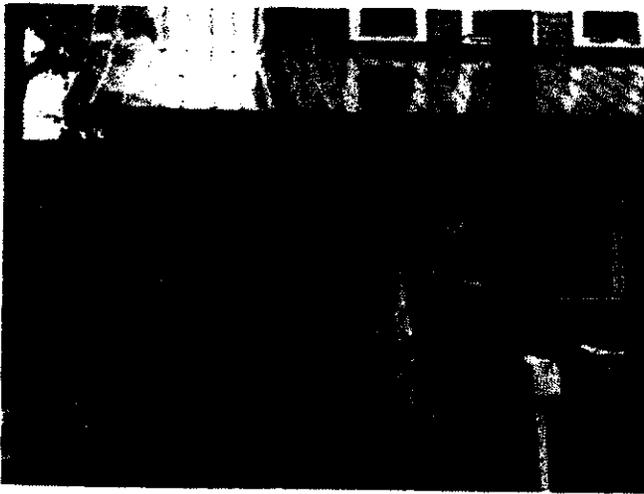
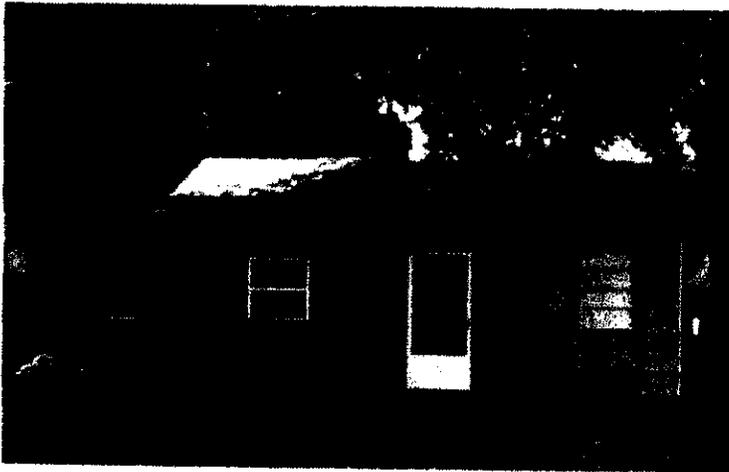
The benefits of the concentrated code enforcement approach include the potential to systematically and effectively target neighborhoods and/or specific code violations citywide. The drawbacks are again the costs of administering the stepped-up code enforcement – with the current staff it is likely just one or two sweeps a year could be accomplished. However it should be noted that the code enforcement line item could help to fund such efforts by bringing on contract inspectors for this type of sweep. In addition, these efforts constitute a high profile and negative action toward property owners, although such action can be justified by the impacts of nuisance properties on neighborhoods, crime, and the City's budget. A positive element could be integrated into such sweeps by utilizing education and courtesy letters at the outset.

Finally, the non-ad valorem assessments offer the positives of a more focused and successful effort to bring chronic nuisance properties back into compliance and regain City expenditures. As with the programs above, the drawbacks of this approach include increased administrative effort and costs, although the tax bill process provides more assurance that the City can recover costs.

Staff is prepared to conduct additional research as is requested by the Commission, or can develop draft ordinances for these programs as instructed.

ATTACHMENT: MAP OF CHRONIC NUISANCE PROPERTIES
PHOTOS OF CHRONIC NUISANCE PROPERTIES





VERNON MYERS
MAYOR - COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR - COMMISSIONER

ALLEGRA KITCHENS
COMMISSIONER

PHIL LEARY
COMMISSIONER

JAMES NORWOOD, JR.
COMMISSIONER



ELWIN C. "WOODY" BOYNTON, JR.
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 CITY COMMISSION WORKSHOP
January 26, 2012

Proceedings of a workshop meeting of the City Commission of the City of Palatka, Florida, held on the 26th day of January, 2012.

PRESENT:

Mayor	Vernon Myers
Commissioner	Mary Lawson Brown
Commissioner	Allegra Kitchens
Commissioner	Phil Leary
Commissioner	James Norwood, Jr.

Also Present: City Manager Elwin C. "Woody" Boynton, Jr.; City Attorney Donald E. Holmes; City Clerk Betsy Jordan Driggers; Finance Director Matthew Reynolds; Planning Director Thad Crowe, Police Chief Gary Getchell; Fire Chief Mike Lambert, and Liz Hearn and Ed.

CALL TO ORDER – Mayor Myers called the workshop to order at 4:00 p.m. and read the following call, dated January 10, 2012:

TO MESSRS: MARY LAWSON BROWN, ALLEGRA KITCHENS, PHIL LEARY AND JAMES NORWOOD, Jr.:

You are hereby notified that a workshop meeting of the Palatka City Commission is called to be held on January 26, 2012, at the regular meeting place of the Palatka City Commission, Palatka City Hall, 201 N. 2nd Street, Palatka, Florida, to commence at 4:00 p.m.

The purpose of the workshop is to discuss potential and/or proposed amendments to the Municipal Code, Chapter 30, Environment, including but not limited to a new residential rental registration program, standards for chronic nuisance properties, and the application of non-ad valorem assessment to chronic violators.

Isl Vernon Myers
Vernon Myers, MAYOR

The following commissioners acknowledged receipt of a copy of the foregoing notice of a special meeting on the 10th day of January, 2012.

/s/ Mary Lawson Brown
COMMISSIONER

/s/ Phil Leary
COMMISSIONER

/s/ James Norwood, Jr.
COMMISSIONER

/s/ Allegra Kitchens
COMMISSIONER

Mr. Crowe said this presentation is meant to be a general discussion of nuisance programs. He presented a brief PowerPoint presentation, per discussion at the August 25, 2011 commission meeting. They did a baseline survey of chronic nuisance violations. These include substandard housing, overgrown weeds/litter/debris, and derelict vehicles & commercial vehicle parking.

The biggest problem is overgrown weeds/unkept yards, followed by derelict vehicles. There are just a handful of commercial vehicle issues. The last two categories could be combined; they looked at substandard housing, both occupied and unoccupied. There are 80 unoccupied and 20 occupied houses that could be considered grossly substandard.

Commissioner Norwood asked if the renter has any recourse to get these glaring things corrected. Ms. Hearne said this was a drive-by survey and looked at every property. They did not look into homesteaded property vs. non-homesteaded property during the drive-by survey.

Mr. Crowe said they then broke these down by homesteaded vs. non-homesteaded properties. The great majority of nuisance housing is non-homesteaded. Most of the derelict vehicles were on homesteaded properties. Chronic nuisance code problems are mostly non-homesteaded properties. Police Chief Gary Getchell noted most of his calls come from non-homesteaded properties. Calls for service are part of this process, both code enforcement and police. A map was included in their packet that shows where the housing is located (filed). Derelict vehicles tend to be spread out, and there are pockets of substandard housing in the north side. The yellow properties indicate non-homesteaded properties. Commissioner Brown said they rehabbed homes with CDBG money in the 1980's. Some of these were older people and they have died, and their children now occupy these homes, but they are now aged. They have taken advantage of weatherization grants, but that money doesn't go far enough. They need to find a way to help some of these people rehab their houses. Youth Build is a program that trains young men on housing construction and helps to accomplish rehabbing houses. Mr. Boynton said 80% of these houses are unoccupied and many are rentals. Commissioner Leary said they need to look at aesthetics vs. structural deficits. Mr. Crowe said they focused on Code Enforcement. 10% of the properties in the City have chronic nuisance problems. The packet also contains a memorandum on how these properties impact surrounding neighborhoods and property owners. They create an impact on City resources.

Ms. Hearne said many nuisance properties have been unoccupied for a long time, sometimes several years, and maintenance has not been done in some time. Nuisance properties are those she receives complaints on, unoccupied properties that are unsecured and could attract nefarious activities. Mr. Crowe said for the purpose of this survey they determined there are serious structural issues. There are many properties

that need work but they are not substandard. Commissioner Norwood said they need to have a nuisance definition that is well defined. Mr. Crowe said eventually the ordinance will contain a definition. An objective standard will be set.

Potential programs to address problems were proposed.

- Rental registration – there are a number of Florida cities that do this and involves people who rent single family, duplex or triplex dwellings. They require properties to be registered with the City and the owners are informed of City Code. There is a period of inspection involved, sometimes done by the City, sometimes done independently. The intent is to identify rental properties and make sure the owners know what the rules are.
- Foreclosed property registration – requires foreclosed and vacant property registration. Many communities are putting programs in place to get a handle on these.
- Concentrated Code Enforcement – right now this Department is complaint driven and many things are falling through the cracks. This takes us out of complaint wards, but they need to do concentrated sweeps in areas which makes it fair and objective.
- Non-ad valorem assessments – right now the City levies liens and penalties on properties to get them into compliance; they tend to stack up and some liens go back 20 years. You can't collect on these until the property turns over, and then the City is last in line. Non-ad valorem assessments allow the City to tack liens onto tax bills. When you don't pay your tax bills you may lose your property and the City will be first in line to collect these liens. This has been very successful in other cities. You have to enter into an agreement with the property appraiser, and you have to be judicious with this, and only apply this to the most serious and chronic abusers.
- Administrative costs and added regulations vs. the issue of neighborhood protection improvements – this is a balancing act. The program must pay for itself and a fee must be charged. They need to balance the needs of the neighborhoods against property rights.

Commissioner Leary said this is a real problem in his neighborhood and others. They are trying to revitalize neighborhoods. This is as close to a "silver bullet" that they can come up with at this time. Mr. Holmes noted the concept results in a fine of some sort being assessed in addition to the ad valorem tax bill and asked if this is going to achieve compliance with Code, or if they don't get increased compliance they will recoup more of the fine cost if and when the property is bought at tax sale? Mr. Crowe said they will have to look into this a little deeper and talk to other communities that have this in place. His feeling is that if the threat of losing the property is there, people will be more responsible. Mayor Myers said this is about cleaning up your property, too; it is more than just fixing up a house. Mr. Crowe said the goal is neighborhood revitalization and positive action towards that. Mayor Myers said some derelict homes results from the financial situation of the owner. Mrs. Hearne said from what she's read and her research, other municipalities and counties throughout the state have been doing this to abate nuisances. They will mow and secure a property, and the cost of that is added to the tax bill. Lien costs are not so much what they want out of this, but the need to at least recoup what it's costing the City. Commissioner Kitchens said they need to do something, but as for the people that own their homes and live in them, the majority of them are poor. They need to exempt homestead properties. They are focusing on the Codes aspect of this, but more serious is the crime issue. Vacant homes or slum landlord situations create drug and crime situations. They create numerous calls for

service. Commissioner Leary said some people just ignore code violation notifications. This will enable the City to recoup its cost on abating these nuisances. With the Governor's housing initiative program, it targets revitalization of homes and existing home purchases. There is a movement in the community to help people that need help and this program will unearth those people and direct them towards getting the help they need.

Mayor Myers said some of this is behavioral and has nothing to do with money. The minor part is the substandard housing. Commissioner Brown said when the SHIP program came into being they all thought SHIP was going to be a cure-all. The County controls SHIP. They can't do enough with SHIP. You have to go to several pots of money to get a house up to Code, including CDBG. She related an instance where the City had condemned a house; the house was vacant because the owner was out staying with a daughter while recuperating from an illness. They don't want to put homeowners out of their homes. The majority of black people, when they buy a home they stay there for life.

Commissioner Norwood noted they are talking about rental properties, according to the Call. He asked why they are putting the registration program together, and asked if they will be inspected when they are registered. When the City has no other recourse but to declare the property a nuisance, that's when the nuisance part will kick in. Mr. Crowe said other cities have a point system and are given grades.

Mr. Holmes said the trend in the country is towards more bureaucracy and more government. When you start imposing programs such as a rental registration that the County doesn't have, there may be some who see that as nothing more than the City putting one more layer of bureaucracy on people and the purpose may be lost. He questions whether they have the staff to inspect every piece of rental property, note the code deficiencies and monitor correction of those problems.

Mr. Holmes asked, if they do note violations, and those aren't fixed, where do you go from there? Do you automatically start that property on the road towards fines and assessments? From where he sits, and has for 10 years, the majority of the people don't understand the difference between something on their tax bill and a lien on the property. To the average person, who has the problem, if a lien on their property doesn't frighten them an assessment on their tax bill doesn't either. A lien is what they understand. Most of these people haven't paid taxes on their properties in seven years or so; no one wants the tax deed. He doesn't see this doing much more for compliance. If you have liens on work you've done, in nuisance abatement costs, you have a chance of recouping that at a tax sale, but this is not going to be a huge silver bullet to fix properties, in his opinion. Commissioner Leary said he did not think they were contemplating a rental inspection program. They need to find a way to address nuisance properties. He thinks this is the next step in abating nuisance properties. They should establish a fund like the city of Detroit has done, they need to demolish the house. Mrs. Hearne said they have been doing that. Finance Director Matt Reynolds said all Code Enforcement fines are earmarked for demolitions. Mr. Holmes said last month they received seven different liens on properties to recoup the costs of abating nuisances and there are two properties up for demolition now.

Commissioner Brown said it is hard to get someone out of a house when they stop paying rent. By the time you get them out of the house, you have to take the house down because the renters have destroyed it. They need a very broad view for everyone. They need to find a way to ask the owners to help the City solve these problems and get

cooperation from the people who have nuisance properties. People are not going to pay liens and fines if they don't have the money to fix up their properties. Mr. Crowe said many programs have that element, the back and forth with the property owners. The City only intervenes on the worst properties and they work out an action plan with the property owners. That can be a positive approach. Commissioner Leary said they can't solve all the social and socio-economic problems out there. Their core responsibility is safety, and this ordinance goes to that. Commissioner Norwood said if they aren't going to be doing inspections, they need to spell that out. Mayor Myers said most of these problems are behavioral problems – overgrown lawns, weeds, trash, and crime.

Chief Getchell said when he came here in 2001 he faced insurmountable issues, some of which have been addressed. Crime rates, child abuse rates, mortality rates are high. His job is public safety. He had to understand how the City got to where it is. He assessed the housing stock. Neighborhoods have life cycles. If there is no reinvestment in a home, the house decays. The broken windows theory said if a house goes into decay, the houses around it will begin to decay. The values of surrounding homes go down because the value of one house goes down. From an enforcement standpoint he's exhausted all his avenues. The hardest thing for them to deal with is a 'bad neighbor;' there aren't a lot of tools out there to address a 'bad neighbor.' What happens when property decays is that people begin to move out, properties are sold and become rentals. Owner-occupied homes are investments and those people are involved in things. When you rent, people don't care what the house really looks like or about fixing it up. In his original study he found that 60% of single family residences in the City are rentals and that number has increased since 2001. They are seeing a lot of formerly owner occupied homes that are now rental properties. When people "abandon" neighborhoods after a disaster, investors come in, buy houses up wholesale and start renting them out. He related the crime statistics after an apartment complex was built in a certain neighborhood. Chief Getchell said the lion's share of operating costs are paid by businesses, but they aren't the ones using the services. The people that aren't paying are using the services. They need to charge for services. They can't be everything to everyone. Somewhere along the line people have to pay for services, or the services go away. He delivers whatever services the budget allows him to deliver or based on policy. There is a break-even point and they need to look at where those services are going. There is one property owner in Palatka that generates over 1/3 of all police calls. One address generates over 1,000 calls per year, and these properties pay almost no taxes. These are major crimes. He has been asked to decrease crime so Palatka can attract business. They are at a 33-yr low in crime, but for a city of Palatka's size, they should have half the crime they have now. They allowed him to put an alarm program in place to address false alarms. After the policy went into place, 60% of their false alarm calls went away because people had to pay for the program. This is a policy decision on the Commission's part. He attended meetings at both historic districts and those neighborhoods asked him to make a presentation on what the City can do to address these problems. Folks want them to do more than they can do based upon the resources they have. If the ordinances aren't in place, he can't address certain things. They aren't going after renters, they are going after owners. Communities are addressing on-site managers for rental properties. They need someone to go to in order to address issues, someone to hold accountable. There is a level of frustration in neighborhoods where they want the City to do something about these nuisance properties. Owners have an investment in the community. Renters do not. Palatka's rental industry is 100% unregulated. They are trying to do an impossible job and need the tools to do the job.

Commissioner Leary said in order to get white-collar workers to invest in the community, they need to make an effort to revitalize communities and make them attractive to live in. This is not "outside the box" and within their scope. Commissioner Kitchens said they put a nuisance abatement ordinance on the books that was supposed to alleviate some of the problems, but it only addresses prostitution and drugs. In looking at the information he distributed on the apartment complex, if his hands weren't tied by the abatement ordinance, he could make some changes in some of these areas. Chief Getchell said there is latitude to change that, but they are limited on changes by statute. They are looking at abating nuisances rather than criminal activity. They have narrowed down criminal nuisances to drugs and prostitution. The alarm ordinance assesses a user fee. He'd never heard of applying it to a tax bill before they started looking into this. A user fee is used more widely. This worked for the alarm ordinance and it worked quite well. When someone allows weeds to grow up, that's a house in decay, and crime comes after a neighborhood decays. People will want to come here when they get the neighborhoods out of decay. People want to live in decent housing in a safe community. This is one of the first things people look at. They can make this better. From a law enforcement standpoint, a nuisance abatement program would be beneficial.

Commissioner Leary said they need to bring a draft ordinance forward to look at.

PUBLIC COMMENT:

Charles Davis, 230 Jasmine Road, St. Augustine, 32086, said he is a developer and there is a lot of land here. The Police Chief said they want new homes. He wants to develop a golf course community. He works with Arnold Palmer. He's tried four times to set up a meeting with the City Manager but has been unsuccessful. He drove over here from St. Augustine because the number to City Hall was busy. His issue is that they can bring jobs here and put a bottling facility in the 50,000 sf facility the City own. Mr. Boynton said he has not received any messages from him. Mr. Davis said as to the nuisance problem, they need to make jobs in the City and then people will have money. They need to create some developments. Mayor Myers noted this is a nuisance code workshop. Mr. Davis said they can't take rights away from citizens through legislation. They need to create more jobs here. Kicking people out of their homes is not the answer.

Ken Schwing, 126 Elderberry Lane, Palatka, said he listened to Mr. Crowe and Chief Getchell, and he heard two different issues. Mr. Crowe's comments were more oriented towards his concerns. They are talking about exempting apartment complexes, and according to Chief Getchell, apartment complexes are the problem. The County has a method of doing code enforcement that doesn't penalize people who want to buy a tax deed property. The County will work with you on the fines and almost completely eliminate them. They want compliance. The City has never done that. Commissioner Kitchens said the City does that all the time. Mr. Schwing said they take code enforcement fines to tear down houses. They should use code enforcement as a revenue source. There is a higher percentage of owner occupied homes vs. apartment complexes. They don't want to penalize renters and owners of rental properties. They pay higher taxes on a rental property and that is passed along to the renter. Registration fees will be passed along to the renter. The problem is there is no money. If they want investors to come in and fix things up, they need encouragement, not penalties.

Commissioner Leary said they are talking today about a potential ordinance and moving forward with something that sets parameters. They aren't talking about penalizing people who rent or hurt people who are hurting. They want to help increase the value of rental

properties. Commissioner Norwood said they want voluntary compliance. The fines come in after they've exhausted all other resources. He tries to comply with code enforcement. They need to look at the County's code enforcement procedure.

Michael Gagnon, 703 Emmett Street, Palatka, said the rental topic is key to their historic neighborhood revitalization. They are an intricate part of the neighborhood providing diversity, but a lack of property management turns them into a nuisance. Many cities have chosen to put rental property ordinances in place to manage these properties. A program that is too aggressive bogs the system down. Registration is essential. This is a good program. They need to know who the owners of these properties are in case of emergency. The city doesn't need to make money on registration, but need to cover costs. This is do-able and critical for emergency and code services.

Bob Baumer, 415 Olive Street, said he moved here from Connecticut and is proud to be a homeowner here. He and eight of his neighbors came before this Commission and spoke in favor of this type of ordinance. They have a property in their neighborhood that has been fined heavily by Code Enforcement. Last night the Code Enforcement Board wrote off over \$60,000 in fines on properties. That will come before the commission shortly. He agrees with recognition of hardship and compassion and helping your neighbor. He received a call yesterday from someone who was ordered to do 100 hours of community service, and volunteered to help with Code Enforcement. He brought this up last night, and the attorney said there is a legitimate concern with liability. This can address some of the hardship cases. Mr. Holmes said \$60,000 in real money did not evaporate; \$40,000 of it was on a property with an assessed value of \$24,000, and the City would never have collected it. They could have gone to foreclosure and sold it, but they'd have put someone out of a house because her grass was overgrown.

Commissioner Leary asked under this scenario, if it goes to a tax sale, would the homeowners be interested in buying the property and bringing it up to compliance? Mr. Baumer said of the subject property, there were two people willing to make an offer on the property.

Commissioner Brown said she has lived here all her life, as have four generations of her family. Four of the members of this Commission are native to Palatka. There are wonderful things going on here. If someone gave her a house in Jacksonville she would not live there. There is crime here, but not near as bad as some surrounding areas. Their rates are based upon 'per capita,' stats, but this is overall a good place to live. She will suggest that more people that come to work for the City look for a home within the City limits. She doesn't mind taking a beating from citizens who pay taxes here.

Commissioner Kitchens spoke in defense of the Codes Enforcement Board, saying the Board is not in the business of putting people out of their homes or making money. They bend over backwards to work with homeowners and give people plenty of breaks. If a property owner makes an effort, the Board works with them. A fine is what gets a property owner's attention; once they bring the property into compliance, they make a recommendation to reduce or eliminate the fine.

Mayor Myers noted this is good information and valid comments, all of them constructive. They have not made enough progress. There are those citizens who were not born here but are equally devoted to the community and chose to live here. They all share Commissioner Brown's view on quality of life. There is no stigma attached to being a non-native. They should consider continuing this workshop and ask the Planning Director to come back with sample or draft ordinance to go through section by

section. Commissioner Norwood said they should define goals and objectives upfront and let the ordinance dictate the programs.

There was consensus to continue the workshop with a draft ordinance.

ADJOURN – There being no further discussion, the workshop was adjourned at 5:30 p.m. by Mayor Myers.

City of Palatka

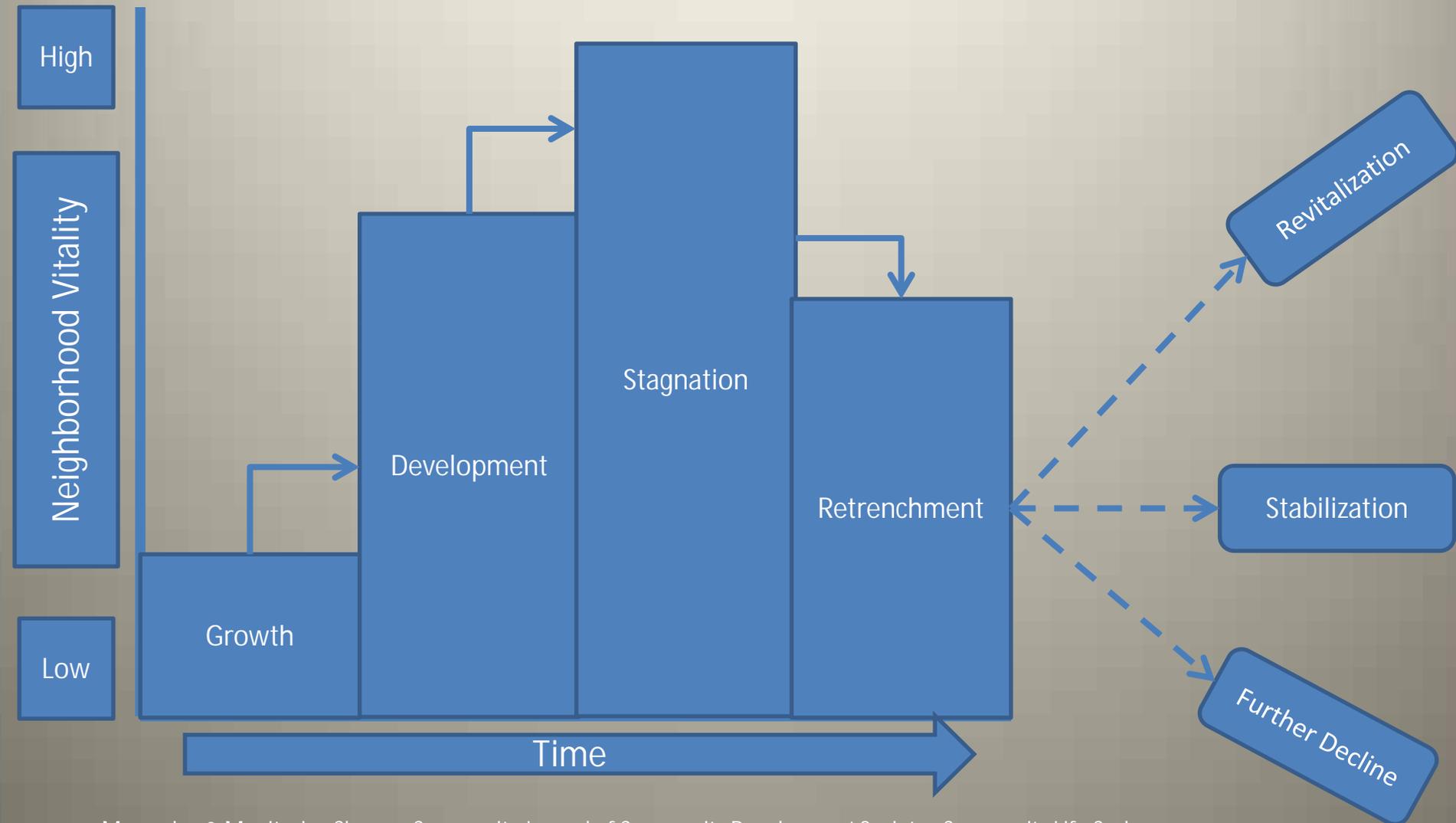
Abatement & Stabilization of Nuisance Properties

- Why are changes to Ordinance(s) needed?
 - Workshop was held on 1/10/12 to present and discuss issues related to chronic nuisance properties and rental properties
 - Staff was directed by City Commission to draft and present draft ordinances that address revisions to Chapter of the Code of Ordinances:
 - Rental Registration
 - Chronic Nuisance Properties
 - Non Ad-Valorem Tax Assessment for chronic violators

Current Issues

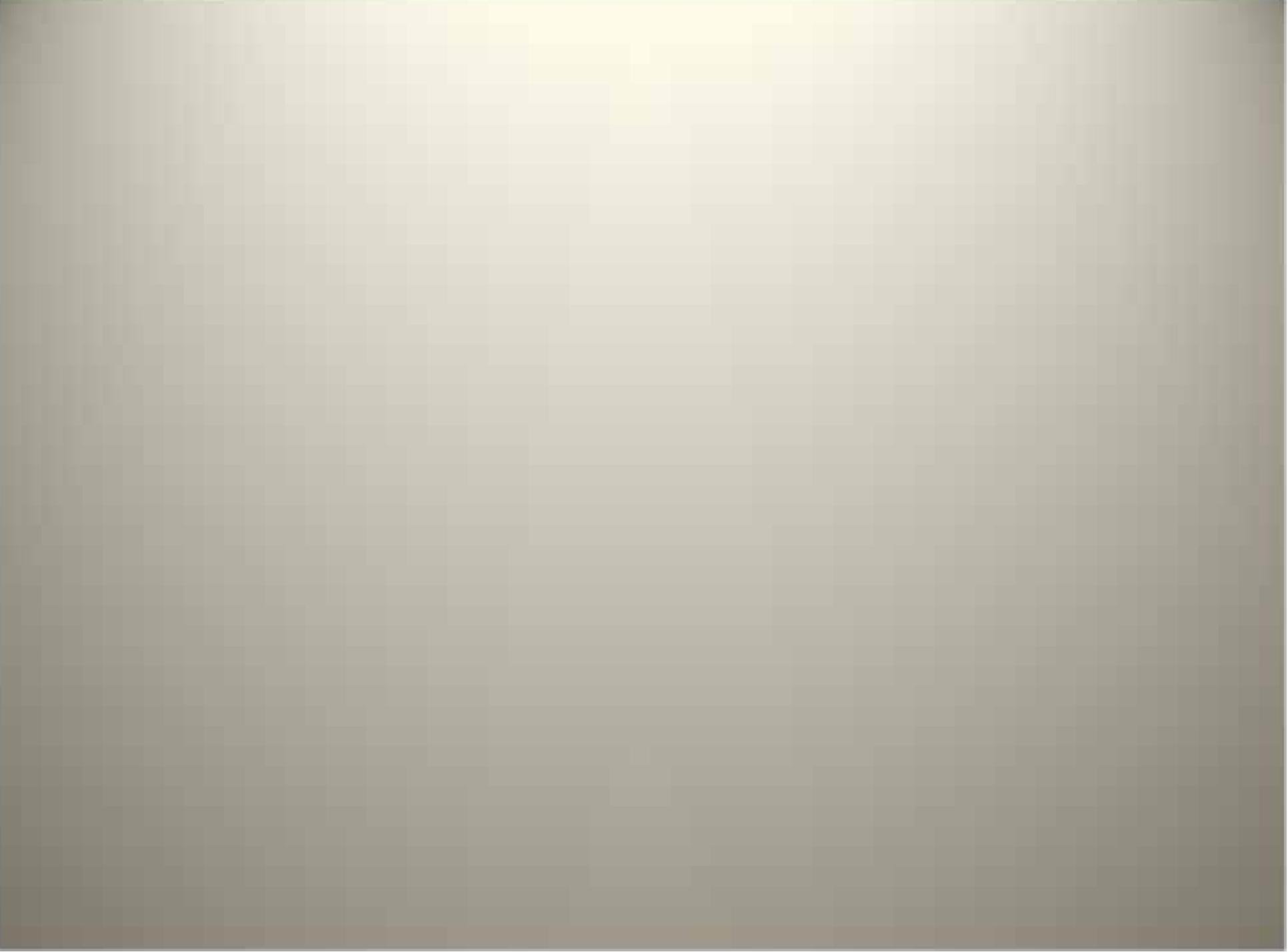
- Review of current City policies pertaining to:
 - Code enforcement purpose and priorities – controlling blight (pro-active or reactive).
 - A need for a more strategic approach to neighborhood revitalization. To break the cycle of decline, stabilize, and revitalize. A plan that connects the City's efforts to revitalize Downtown and the Riverfront Park.
 - There is a sense of urgency from committed property owners to stabilize their neighborhoods and abate chronic nuisances.
 - People will not invest their money to revitalize blighted property, if the City cannot provide assurances of efforts to stabilize a declining neighborhood.
 - Minimum maintenance standards should apply to all properties. Protects investment of adjoining properties owners.
- The City has limited budget to abate nuisance properties and the current policies require liens when payment is not made to City. (Cost Recovery is limited, if any). The proposed changes allows the City to utilize another mechanism to recover cost of abatement; and perhaps utilize the revenue to continue abatement and stabilize neighborhoods in decline.
- Without changes to ordinances, City will need to reprioritize spending of current accrued code enforcement fines; and budget for abatement activities.

Neighborhood Life Cycle



Secondary Effects of Neighborhood Decline

- Net decrease to property values and tax revenues
- Impact to City Services
 - Code Enforcement – complaints increase
 - Legal Staff – work and cost of abatement increases
 - Increase in crime – police CFS and crime increases
 - Arson & accidental fires – FD
- Property owners find it difficult to sell and recapture investment; in many cases, the only incentive is to default and walk away.
- Without deliberate efforts to break the cycle of decline, neighborhood spirals further into decline.
- Buyers find it difficult to impossible to secure traditional financing to buy homes and rehab.

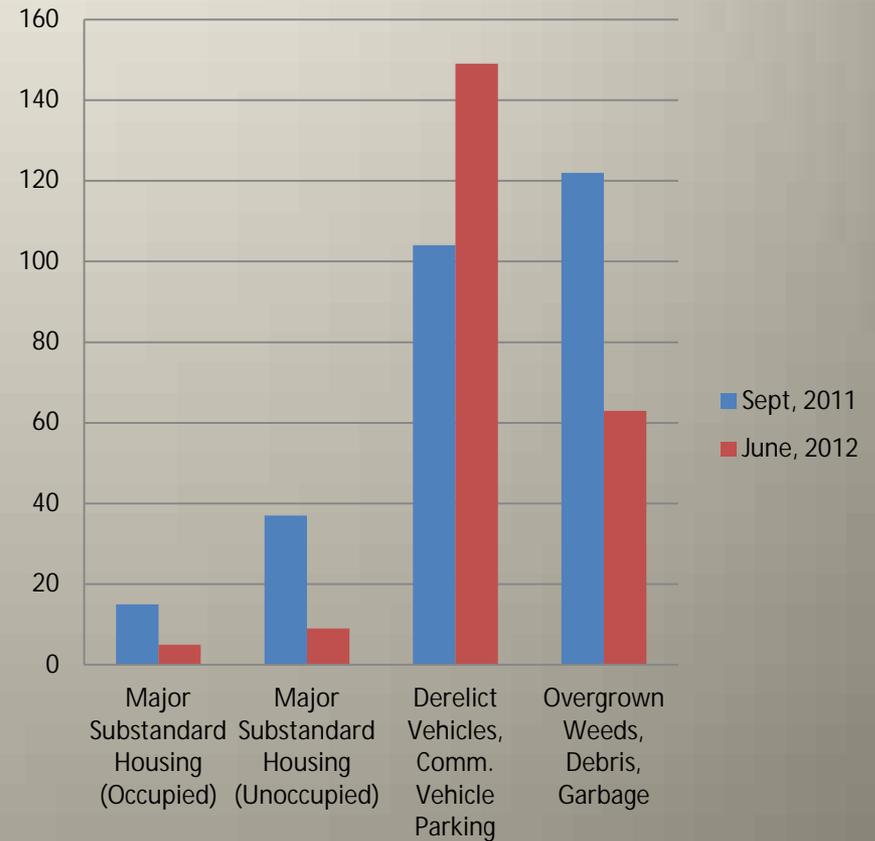


Non Homestead vs Homestead Properties (Code Cases)

Non-Homesteaded Violations



Homesteaded Violations







118





























MAY 1999

Killer's Boot

MAY 1999





1902







NTY
OMPLEX

NOTICE
FOR RENT

FOR
RENT





FOR
RENT

RENTAL
SERVICES
CALL 408-4875



THE HISTORY OF NEW YORK HALL MUSEUM
100 NASSAU ST
NEW YORK, NY 10038

Scamp

ZAXBY'S
Left Hand • On Left • Bites Welcome

19
19

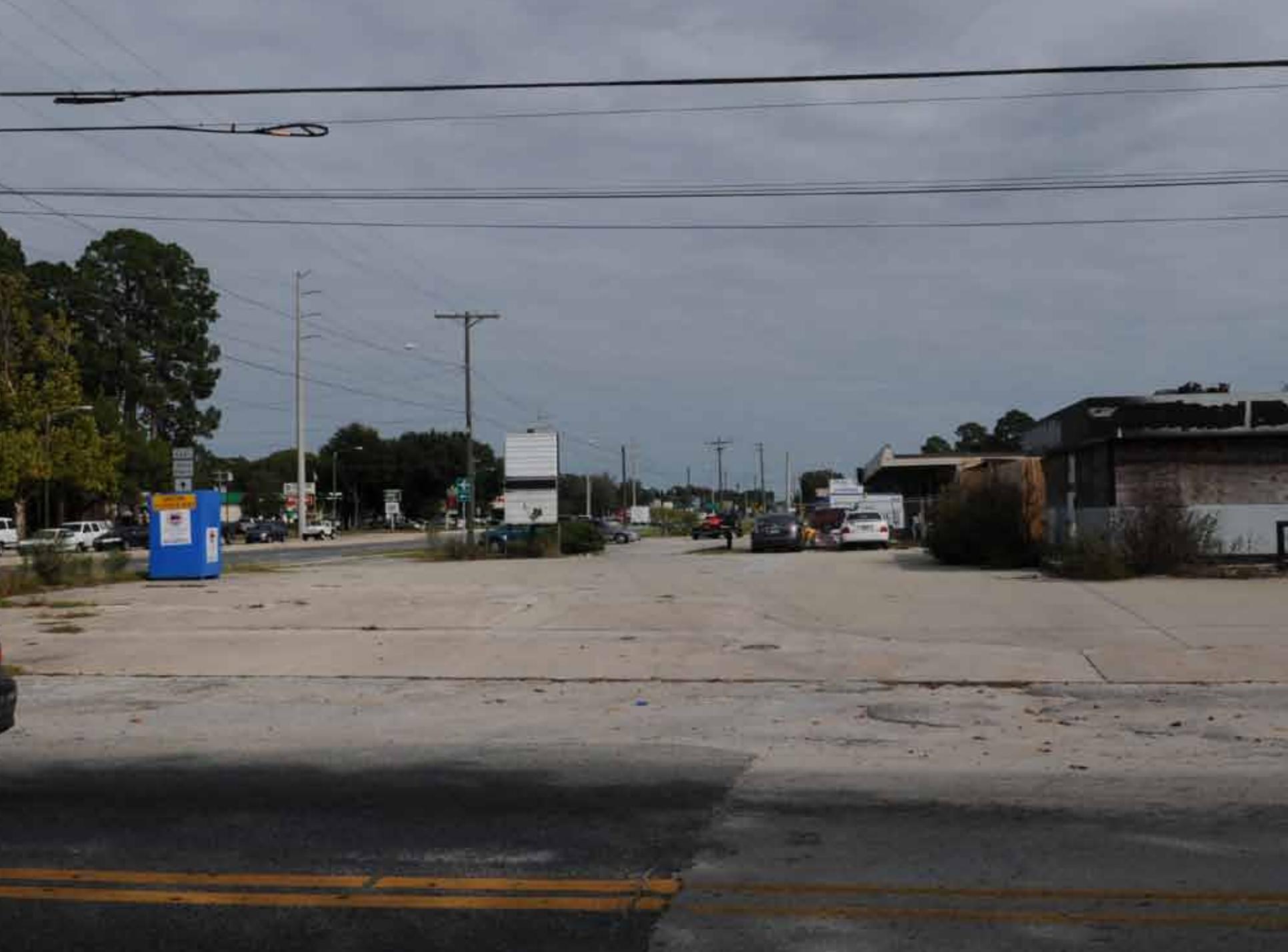
Shell













**HUDDLE
HOUSE**
RESTAURANT

NO
LEFT
TURN

HUDDLE HOUSE

