

KARL N. FLAGG  
MAYOR - COMMISSIONER

MARY LAWSON BROWN  
VICE MAYOR - COMMISSIONER

ALLEGRA KITCHENS  
COMMISSIONER

VERNON MYERS  
COMMISSIONER

JAMES NORWOOD, JR.  
COMMISSIONER



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

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

BETSY JORDAN DRIGGERS  
CITY CLERK

RUBY M. WILLIAMS  
FINANCE DIRECTOR

GARY S. GETCHELL  
CHIEF OF POLICE

MICHAEL LAMBERT  
CHIEF FIRE DEPT.

DONALD E. HOLMES  
CITY ATTORNEY

## MINUTES CITY OF PALATKA July 22, 2010

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 22<sup>nd</sup> day of July, 2010.

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

Also Present: City Manager Elwin C. Boynton, Jr.; City Attorney Donald E. Holmes; Acting City Attorney Jay Asbury; City Clerk Betsy Jordan Driggers; Finance Director Matt Reynolds; Police Chief Gary Getchell; Fire Chief Mike Lambert; Planning & Zoning Administrator Debbie Banks; Airport Manager John Youell, WTP Superintendent Melvin Register

**CALL TO ORDER:** - Mayor Flagg called the meeting to order at 6:10 p.m.

**INVOCATION** – The Reverend Dennis Childers, Chaplain, Hospice of the Nature Coast

**PLEDGE OF ALLEGIANCE** – As a Group

**APPROVAL OF MINUTES** – 6/24/10 – Commissioner Myers moved to adopt the minutes as read. Commissioner Brown seconded the motion, which passed unopposed.

### **PUBLIC RECOGNITION/PRESENTATIONS:**

**RETIREMENT** – Fire Lt. Bill Dixon Service dates: 11/28/79 through July 16, 2010 – 30 yrs 8 mos. – Members of the Palatka Fire Department joined Fire Chief Mike Lambert and Mayor Flagg in honoring Lt. Dixon for his years of service. Chief Lambert and Capt. Randy Porter presented Lt. Dixon with a plaque commemorating his years of service and said Lt. Dixon will stay on in the Fire Reserves. Chief Lambert noted some of the most interesting memories of his career involve Lt. Dixon. Battalion Fire Chief Randy Porter said he could call on Lt. Dixon any time of day or night and whatever he asked him to do would be done. He is the older guy on the shift and has helped younger guys get acclimated to service. Mayor Flagg said Lt. Dixon helped train him as a volunteer firefighter. He noted his longevity represents time and loyalty. Lt. Dixon received a standing ovation from the audience.

Lt. Dixon said he was honored by the recognition and is proud and fortunate to be of service to the City. He will still be serving the public through volunteer service. It was tough for him to sign the fire log book for the last time on Saturday morning. He couldn't have provided the service he provided without the camaraderie and support of the men of the Palatka Fire

Department. He said he hopes he has their respect, as they have his, and thanked all for allowing him to be of service. He introduced his wife.

**4<sup>TH</sup> OF JULY CELEBRATION RECOGNITION:** - The Clerk read a list of contributors (Filed).

**SPONSORSHIP** - Jimmy & Tori Ashcraft, Ashcraft Marine – 4<sup>th</sup> of July Fireworks - Mayor Flagg said many have remarked about the superior quality of the fireworks presentation. Jeff Norton, Parks Superintendent, and Mayor Flagg presented Mr. Ashcraft with a plaque in recognition of his contribution of the barge from which the fireworks were staged and launched. This was a donation equaling around \$16,000. They also presented Mr. Ashcraft with a stipend of \$1,500 and a City lapel pin.

**FIREWORKS DISPLAY:** Gary Delia, Santori & Sons, Inc. – Mayor Flagg presented Mr. Delia with a certificate recognizing his distinguished community service in absentia as he could not attend tonight.

**PARADE:** Sam Deputy, President, Downtown Palatka, Inc. – Mayor Flagg presented Mr. Deputy with a certificate noting his distinguished community service in organizing the first annual Downtown Palatka 4<sup>th</sup> of July parade.

**ENTERTAINMENT:** Denise Aiken, Executive Director, Larimer Arts Center – Mayor Flagg presented Mrs. Aiken with a certificate recognizing her distinguished community service in arranging musical entertainment for the Riverfront Fireworks Event.

Mayor Flagg expressed the City's gratitude to Jeff Norton, Parks Director and other departments in working with these individuals on pulling together these various events.

## 2. PUBLIC COMMENTS

Sam Deputy, 917 Carr Street, speaking on behalf of the Putnam County Historical Society, invited all to a program Saturday, July 24 at 2 p.m. at the Larimer Arts Center to view a presentation on the History of Palatka and Putnam County through Capt. Larry Beaton's postcard collection. Also open to the public are Historical Society day trips; the next one is scheduled for August 28, where they will gather at the Bronson House, visit abandoned cemeteries, and have lunch at 3 Bananas Restaurant.

Mr. Deputy said the Historical Society realizes the Bronson-Mulholland House is underutilized and under-visited; therefore, they have commissioned three television commercials and a 7-10 minute video introduction on the House, which they will fund from their budget.

## 3. CONSENT AGENDA:

- \*a. **Authorize execution of Water Tank Lease Agreement with American Messaging Services** per recommendation of Water Plant Superintendent (\$500/month – 3-yr. lease)
- \*b. **Authorize execution of Memorandum of Agreement with St. Johns County Sheriff's Dept.** to store equipment and vehicles at Palatka Municipal Airport during storm surges per Airport Manager's recommendation
- \*c. **ITEM PULLED FROM AGENDA**
- \*d. **Appoint Elizabeth L. Virnstein to the Palatka Tree Committee** (no set term – serves at the pleasure of the City Commission)
- \*e. **Appoint David Franke to Palatka Code Enforcement Board** as member with Engineering Experience to fill the remainder of a three-year term expiring Sept., 2010 and an additional 3-year term to expire Sept., 2013
- \*f. **Acknowledge issuance of Joint Workshop meeting calls** as follows:
  1. Airport Advisory Board – 3:00 p.m. Airport tour and 4:30 p.m. Workshop
  2. Downtown Merchants - Sidewalk Sales – 6:00 p.m.

Commissioner Kitchens asked to pull Item 3 (a) for discussion. Commissioner Myers moved to pass items 3 (b), (d), (e) and (f) on consent as presented. Commissioner Norwood seconded the motion, which passed unopposed.

**Authorize execution of Water Tank Lease Agreement with American Messaging Services** per recommendation of Water Plant Superintendent (\$500/month – three-year lease) - Commissioner Kitchens said she e-mailed several legal questions to the City Attorney this afternoon; as a result, he has suggested some changes to the agreement to address her issues. A written copy of her concerns was provided (filed). She said on Page 2, Section 1, paragraph (c), Access, it states Lessee shall have the right and non-exclusive access to the equipment room space 24/7 and asked if this access needs to be granted under the City's knowledge and supervision? As to Section 3, Survey, it states the Lessee has the right to survey the land/leased premises, which survey shall then replace Exhibits A and B, which are copies of the deed and a map/drawing. Exhibits A and B were not attached, but they received these yesterday. Surveys are opinions that are subjective to boundaries and can't replace a legal description contained in a Deed of Record unless by legal action. If there is an overlap problem, sometimes property owners get together and exchange deeds to clear up the problems. If they replace the legal description with a survey, they may be giving the lessee permission to enter property not owned by the City. This is not an option. Assuming these are the legal descriptions on the deed, paragraph 3 needs to be stricken entirely or strike the entire paragraph after the first sentence. Page 5, Section 9, Interference, seems to prohibit the City from leasing out any more space on this tower. She said on Page 7, a continuation of Section 12, Assignment, talks about the Lessee mortgaging their facility or equipment, and asked if this would place a lien on City Property? She asked if Page 8, Section 18, which says the City warrants that it owns the fee simple title to the land and tower free and clear, can be included if the City has never had a title search done on the property. She believes everything after the first sentence in that paragraph needs to be stricken. She asked what page 9, Section 28, Parties to be Responsible, means.

Mr. Holmes said he's prepared suggested modifications to the lease which cites paragraphs and provisions that should be amended (filed). These take into account the concerns raised by Commissioner Kitchens and some other changes he's proposed. The City can approve the lease conditioned upon the other party accepting the modifications he's proposed, or send it back to the drawing board for renegotiations. Regarding time constraints, Mayor Flagg asked if there is time for the City Manger to modify the agreement and send it back to them.

Melvin Register, WTP Superintendent, said this company takes care of the hospital's pagers. It is critical they complete this transaction. The hospital has indicated they've already lost their antenna. They are diligently looking for a new location. The doctors and hospital employees need this done quickly. Mayor Flagg noted the lease terms may set a new precedent with the three-year term. Mr. Boynton said he has no concerns with this; most leases have an opt-out clause. He is comfortable with the term. The amount is comparable to other leases on file.

Commissioner Norwood moved to ask the City Manager to negotiate changes to the lease with American Messaging Systems and bring it back to the Commission for consideration. Commissioner Kitchens seconded the motion. Mr. Holmes said this is a 12-year agreement; it is one three-year term with four extensions. There is no provision for the City to opt out of this; American Messaging can opt out of it. The compensation is specified with a 3% increase in rent in each year of a given 3-year term. In each extension term the first year of that term is set in paragraph 5(b). Compensation is established for each year. The extensions are only optional for American Messaging. He changed a term in Paragraph 12, which provides now that the lessee can assign a mortgage or otherwise encumber the lease, or sublease any part of the premises. He's eliminated the part about subleasing without the

City's consent. He didn't outright object to the encumbering or assignment part. Except for the provisions he's changed, that would conclude his suggestions. There were other issues, but not objectionable enough that he didn't feel comfortable with them in a lease agreement. Mayor Flagg said the action will table this to a time certain. Per the question, the Clerk noted the next meeting is scheduled for August 26. After discussion, there was a consensus of the Commission that this action will table this Item to August 26. Commissioner Myers suggested adding renewal options also being at the discretion of the City. Mr. Holmes said if the lessee has a significant capital investment in locating this equipment, a three-year term to get a pay-out on their investment may not be substantial enough to recap their investment and justify the expense of installing the equipment. Mayor Flagg said they need to have some parallel drawn to a standard contract of five-year terms with four 5-year renewals. Regarding the lease price, Mr. Boynton said there are other lessees paying the same, and some pay more. Mr. Holmes said there is a 3% increase in the lease premium each year. There being no further discussion, the question was called and the motion passed unopposed.

Mayor Flagg acknowledged David Franke, Code Enforcement Board Appointee. Mr. Franke said it is a privilege to serve on this Board. He takes pride and interest in the City.

4. **TRIM CALENDAR** – Set Tentative Millage Rate for 2010/11 Budget Year – 8.65 mills proposed - Mr. Boynton said his recommendation is to maintain the millage at 8.65 mills. The proposed millage rate of 8.65 represents a decrease of –1.44% below the actual rolled-back rate of 8.7762 mills. Mayor Flagg noted after tonight the millage can't be raised, but can be lowered once the tentative rate is set. Commissioner Kitchens asked why they can't increase it to the rolled-back amount which would provide some help with the budget. This is an increase of about 25 cents per thousand dollars of value. Commissioner Myers noted it will only result in revenues of around \$45,000. This is not that much revenue. Mr. Boynton said the budget based upon the 8.65 rate contemplated a contingency of around \$200,000; the contingency will remain around \$190,000 with adding the K-9 Unit back into the budget. Coupled with other taxing authorities, taxing rates will be over 16 mills per citizen. The City doesn't need to increase the millage rate in order to survive. Everyone out there is cutting and making necessary changes to their budgets, and he did the same. The rolled-back rate is approximately 8.77 as of this morning, which would put them near one of the top tax rates in the State. It would generate around \$48,000 in additional revenue. Commissioner Myers moved to set the tentative millage rate at 8.65 mills, a decrease of – 1.44% below the actual rolled-back rate of 8.7762 mills. Commissioner Norwood seconded the motion. Commissioner Kitchens said she wasn't suggesting they raise taxes, she just wanted discussion on this. If you are under the homestead exemption, you don't pay taxes. It is a way to pay for an assistant planning director. She has no objection to setting the tentative millage rate at 8.65 mills. There being no further discussion, a roll-call vote was requested and taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. The motion was declared passed.
5. **RESOLUTION #8-74** authorizing the negotiation of a loan for an aggregate amount not to exceed \$8.5 million; approving the form, execution and delivery of the Loan Agreement with the Florida Municipal Loan Council; and approving the execution and delivery of a Bond Purchase Contract and Continuing Disclosure Agreement, in order to refinance certain bonds and other indebtedness for water and sewer projects – Adopt – The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING THE NEGOTIATION OF A LOAN IN AN AGGREGATE AMOUNT NOT TO EXCEED \$8,500,000 FROM THE FLORIDA MUNICIPAL LOAN COUNCIL; APPROVING THE FORM OF AND THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE FLORIDA MUNICIPAL LOAN COUNCIL; APPROVING THE EXECUTION AND DELIVERY OF A BOND PURCHASE CONTRACT; APPROVING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; PROVIDING CERTAIN OTHER MATTERS IN

CONNECTION WITH THE MAKING OF SUCH LOAN, AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown moved to adopt the resolution as read. Commissioner Kitchens seconded the motion. There being no further discussion a roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. Resolution 8-74 was declared adopted.

6. **RESOLUTION #8-75** authorizing the issuance of a \$2,570,070.75 Revenue Note and authorizing the award, form, execution and delivery of a Loan Agreement with SunTrust Bank and other actions to deliver the Note to provide funds to repay a portion of the Water Plant Construction Loan – Adopt – The Clerk read a resolution entitled A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALATKA, FLORIDA; AUTHORIZING THE ISSUANCE OF A \$2,570,070.75 REVENUE NOTE TO PROVIDE FUNDS TO REPAY A PORTION OF THE INTERIM CONSTRUCTION LOAN FROM THE FLORIDA RURAL UTILITY FINANCING COMMISSION DUE ON AUGUST 1, 2010; APPROVING A FORM OF LOAN AGREEMENT AND AUTHORIZING EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND OTHER ACTION IN CONNECTION WITH THE DELIVERY OF THE NOTE; AUTHORIZING AWARD OF THE NOTE TO SUNTRUST BANK; PROVIDING FOR PAYMENT FROM CERTAIN SPECIFIED NON-AD VALOREM REVENUES AS SET FORTH IN THE LOAN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to adopt the resolution as written. Commissioner Kitchens seconded the motion. There being no further discussion, a roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. Resolution 8-75 was declared adopted.

**ORDERS OF THE DAY** – Mayor Flagg requested the Commission take action to amend the Orders of the Day to move Item 8 to the front of the remaining Orders of the Day. Commissioner Norwood moved to amend the Orders of the Day to move Agenda Item 8, an Ordinance amending Chapter 30, Noise Control, to the front of the Orders ahead of Agenda Item 7, an Ordinance closing a portion of 16<sup>th</sup> Street. Commissioner Kitchens seconded the motion, which passed unopposed.

8. **ORDINANCE** amending the Palatka Municipal Code, Chapter 30, to add a deadline to make application to exceed allowable noise levels – 1<sup>st</sup> reading – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING CHAPTER 30, ENTITLED ENVIRONMENT, BY AMENDING ARTICLE IV, NOISE CONTROL, SECTION 30-109, SPECIAL PERMIT TO EXCEED NOISE LEVELS, TO PROVIDE FOR A DEADLINE TO MAKE APPLICATION FOR A PERMIT TO EXCEED ALLOWABLE NOISE LEVELS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to pass the ordinance on first reading. Commissioner Kitchens seconded the motion. Mr. Holmes suggested an amendment to Section 1, line 8, to strike “being held prior to the first day of the event” or put a time frame in. They can do one of two things there. They can put a period after “City Commission” or amend the rest of the sentence to “to be held not less than (x amount of) days prior to the first day of the event.” This ordinance wouldn’t govern special events as described in Chapter 50. This is anything other than special events. Commissioner Norwood moved to amend the ordinance to strike “being held prior to the first day of the event.” from Section 1, line 8. Commissioner Myers seconded the motion, which passed unopposed. There being no further discussion on the main motion to pass the ordinance on first reading as amended, a roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. The ordinance was declared passed on first reading.

**RECUSAL** - City Attorney Don Holmes recused himself from participation, advice and/or discussion on Agenda Item #7, the next item on the Orders of the Day. He stated Jay Asbury, Esquire, is present and will act as the City’s counsel on this item. Mr. Holmes exited the dais

and Mr. Asbury took his seat at the dais. The Commission then continued with the Orders of the Day.

7. **ORDINANCE** - Planning Board Case #PB 08-29/10-26 -- Request to close N.16<sup>th</sup> Street between St. Johns Avenue and Reid Street - St. Johns Automotive Real Estate, LLC; Juli Holmes Young, Agent; 1<sup>st</sup> Reading – The Clerk read an ordinance entitled AN ORDINANCE VACATING ALL OF THAT PORTION OF 16<sup>TH</sup> STREET WHICH LIES BETWEEN ST. JOHNS AVENUE AND REID STREET (HIGHWAY 17) IN PALATKA, FLORIDA; PROVIDING FOR REVERTER TO THE CITY OF PALATKA; AUTHORIZING EXECUTION OF DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE. Commissioner Norwood moved to pass the ordinance on first reading as read. Commissioner Brown seconded the motion. Mayor Flagg stated this is a public hearing, and opened the floor for public comment.

Jeremiah Mulligan, Esquire, representing St. Johns Auto Body, was called to speak. Mr. Mulligan deferred to the petitioner to speak first.

Ellen Avery-Smith, Rogers Towers, P.A., 7 Waldo Street, St. Augustine, FL said she is here with Breck Sloan and Juli Holmes Young, who are officially agents of the property owner of record, which is St. Johns Chevrolet-Buick-Pontiac-Oldsmobile-GMC, LLC and St. Johns Automotive Real Estate, LLC, the owners of the respective adjacent parcels that are commonly known as the Beck Chevrolet property, which straddles the 16<sup>th</sup> Street right of way at issue and subject of the petition before them tonight. On Nov. 12, 2009 the Commission approved the vacation of the right-of-way at issue by a vote of 4 in favor, 1 opposed. There were some procedural issues with that ordinance, particularly with respect to the restrictive covenant and reverter that accompanied that ordinance. They are back today to request vacation of the 16<sup>th</sup> Street right of way between US Hwy 17/Reid Street and St. Johns Avenue. They will get the reverter clause executed between now and the next meeting, which will be held on August 26, so as not to have those complications again. Mrs. Smith referred to her map of the area, pointing out the area of 16<sup>th</sup> Street in question, and said her client is seeking to vacate that portion of 16<sup>th</sup> Street because General Motors, the parent company or franchisee of Mr. Sloan's automobile dealership, requires 3.7 contiguous acres of land for this dealership. The City right of way bifurcates this land. While the Dealership may own the land within the two blocks as described in tonight's Ordinance as Exhibit C, it is not contiguous as it is divided by public right-of-way. In order to achieve "contiguous," they need the City to vacate this right-of-way. By operation of law, the right of way is divided along the center line, half and half, and half will revert to the property owner to the east and the other half will revert to the property owner on the west. She appreciates Mr. Asbury's bringing to her attention there are a couple of parcels included in the legal description attached to the ordinance and reverter that are not included in the dealership. One is a daycare center and one is a house someone lives in. They were erroneously included in the original reverter. Those properties are not operated as part of the new car sales center. The new property description in the reverter will correct that error. The intent is that all properties owned and used as part of the car sales center are subject to the reverter. She also wanted to point out for the record that the City of Palatka has vacated right of Way for 16<sup>th</sup> Street north of Reid Street in the past, and that the right of way for 16<sup>th</sup> Street is only a few blocks long south of Reid Street. Also, 15<sup>th</sup> Street and 17<sup>th</sup> Street are both route collectors. She understands objections have been raised by the property owner behind, St. Johns Auto Body, about the turning radius for their large tow truck. It is her understanding that a test was run with an equal-sized tow truck towing a semi trailer and that tow truck, going in from any direction, could make the turn to get to St. Johns Auto Body from either 15<sup>th</sup> Street or 17<sup>th</sup> Street. Also, as to how many cars parked along this section of N. 16<sup>th</sup> Street belong to customers or employees, versus people who are passing through, there are very few pass through trips. Most of the trips going through that roadway are made by people going to the Dealership for one reason or another. In October of 2009, the Commission asked Mr. Sloan and representatives of his dealership to have a meeting with St. Johns Auto Body regarding a

compromise. No solution was reached, so they had to come back on November, 2009 to ask for this action. There is also no problem with granting the City with any easement they require for whatever purpose it has. She also wants to point out there is Florida case law that allows ordinances to place conditions on vacation of rights-of-way, and Florida Statute, Chapters 166 and 163, state cities are allowed to vacate rights-of-way for economic development. They are talking about keeping a dealership open that at one time employed 70 plus employees, but now employs approx. 50 employees as some jobs were eliminated due to economic times. It is necessary to keep this dealership open in Downtown Palatka and to have this right of way vacated in order to provide the contiguous 3.7 acres required for this dealership. She directed attention to Florida Statutes, Section 163.370(m), which states "A city has the right to close, vacate, plan or re-plan streets, roads, sidewalks, ways or other places and to plan or re-plan any part of the county or municipality for economic development." It is very important for the City to understand that from Beck's perspective they really need this right-of-way vacation to occur for the vitality and viability of this Dealership into the future. She said the Commission has seen documents provided by GM which states a dealership of this size is required to have 3.7 contiguous acres of land. That is what they are talking about today. She requests they consider the ordinance and restrictive covenant before them tonight, and noted an amended version of the ordinance has been submitted for the record. She asks the ordinance read tonight be approved on first reading as modified in lieu of the ordinances approved on November 12, 2009. She stated she also wants to reserve some rebuttal time prior to the end of the hearing.

Jerimiah Mulligan, Esquire, 200 Malaga Street, Suite 2, St. Augustine, stated he represents St. Johns Auto Body, located at 1609 St. Johns Avenue, directly behind the portion of the roadway that is being proposed for closing tonight. He said they have already been to court on this when they filed a lawsuit seeking an injunction, and won on procedural grounds, but he doesn't believe those were the only grounds they could have won on. The action being asked of the Commission tonight isn't being done for public purposes. This needs to be done for a public purpose. Their position is that this is being done for a private purpose; this is a private corporation asking for this road closure. The community is not behind this. They presented a petition at the November meeting containing some 30 signatures. If it was not included in the package presented this evening, he can provide it. His feeling, from the people he has spoken to, is that the community is not supportive of this and it doesn't set a good precedent for the community. At a past meeting there was a church asking for a road closure so they could expand the church, which was denied based upon setting precedent. The action of the Commission has to be for a public purpose. To that extent, the petitioner has cited GM's requirements of having 3.7 contiguous acres, but nothing is in the record indicating that to be true. At the last Planning Board meeting there was reference that a copy of the dealer agreement may have been provided to Commissioners but not included in the record that might have been relied upon. They don't know this to be true, but it is their position that this information should be shown to the public. No one in the public has seen the actual contract or the language in the contract Beck Chevrolet has with GM. He's not seen it, and he's made efforts to get a copy of that dealer agreement but has been unsuccessful in doing so. If the Commission does have that information or was presented with that, it needs to be made public record. This doesn't serve a public purpose. The community is not behind it. In their view and according to the information they have it's not being done for economic development but for private use and development of a company that isn't going to be leaving town, isn't showing it will be adding jobs or that there will be an added economic benefit for the community. As such, they ask this petition to close a portion of N. 16<sup>th</sup> Street be denied. His client runs an auto body shop/wrecker company from 1609 St. Johns Avenue. They have a large truck that tows semi tractors. They towed the semi tractor involved in the incident at the East Palatka Fruit Market and brought that truck to their property. It's been mentioned that this can still take place on 15<sup>th</sup> and/or 17<sup>th</sup> Street. He asked the Commission to come out and watch a demonstration of this taking place at both locations to show the Commission what would actually occur when trying to do this. It's not

feasible. This will economically impact his client and his client's ability to run their business. This is two private companies that are squabbling over this road. Anyway you look at it, closing this road is not for the public benefit.

Ms. Smith stated she'd like to make a few clarifications for the record. They are not here today about two private companies squabbling; they are here for legitimate business reasons. Beck Chevrolet needs The City to vacate this property for the economic sustainability of this business. Mr. Sloan corrected her regarding the number of employees at this location and stated he has a roster of 72 names of people employed at this dealership today. If keeping 72 jobs is not the definition of economic development or economic sustainability for this City, she doesn't know what is. They are not talking about private interest vs. public interest; they are talking about for the public good. It was stated earlier that a lawsuit was "won;" she went to the courthouse last week to try to review this file, which is in the judge's office. The Clerk told her there was no order on the motion for temporary injunction; that is why the file is in the judge's office. Nobody has won this case yet. There is no evidence of any objection to this right of way vacation that she has seen, except for that of St. Johns Auto Body. People have not seen the GM dealer contract because it is a confidential document. If he hasn't been able to get it from GM, this obviously proves that the GM contract is a confidential document and they want their dealers to operate within a confidential mode. They appreciate the Commission's understanding this is confidential and a proprietary business document. They have provided the matrix which shows they need the 3.7 contiguous acres, and can provide that again this evening if required. She hopes they will consider approving the ordinance with restrictive covenant as modified.

Commissioner Kitchens said she needed to speak to the Acting City Attorney concerning the legal description. She said they omitted Lot 4 on Schedule C. Also there is an error in the legal description under parcel 2 describing where Lots 9 and 10 in Block 295 are located. She has a copy of the property appraiser's map, and said they omitted Lot 4 totally from the legal description possibly because it was purchased at a later date. Mr. Asbury said Commissioner Kitchens called him today expressing her concerns regarding the legal description on what they were considering tonight. He immediately called Warren Wilhite at Palatka Abstract and requested an accurate legal description of what the Beck operations and/or entities owns in that block except for the portions containing the day care and home. It is described as all of Block 295 except for lots 8, 9, 10 and 11, and all of Block 303 except the south 100 feet of Block 2, which takes out the house. That would be his proposal instead of the elongated legal description. Commissioner Kitchens pointed out Lot 8 is not owned by the petitioners. Mrs. Smith said as they stated earlier, she appreciates the notification of the errors in the legal description. Commissioner Kitchens said as the reverter was written, they'd have nullified themselves at the outset. Commissioner Kitchens said when this came before the Commission in 2009 there was a petition presented to them with 33 signatures, and she has received seven phone calls from citizens requesting the City not close the street. She was stopped by many people on the street and at church thanking her for voting against this street closure. She was informed by a former Commissioner, who used to live in the area but no longer lives in the area, that during flooding the only access to Reid Street was through 16<sup>th</sup> Street because the underpass and all the streets in that area were flooded. He was very concerned as he is moving back to the area. Thirty-three plus seven is forty plus five people from her church, and many more people in the community have spoken to her on the street against this closure. It is her feeling that a large majority of the citizens do not want to see this closure. She has not seen the confidential dealership agreement, and has seen nothing from the head GM office in Detroit stating this is required of their dealerships. She has seen an e-mail of a vague document from one of the local sales managers. There is a large majority of citizens against the street closing. This could also present a safety issue during flooding.

Commissioner Brown said she feels a little betrayed; she spoke with both entities and asked

them to please get together and come to a compromise. She spoke with both entities before the final vote on this in 2009. The only person who said they weren't completely happy with this was Mrs. Scroggins' son. She was given the impression and had the understanding that they'd sat down and discussed this, and they'd ironed most of this out. People have also talked to her about closing this street. They've looked at the number of jobs that would go away. They do have to take care of everybody. She can't go anywhere or even stand in her yard without someone approaching her about what they do up here. A number of jobs may go away if this doesn't happen.

Sheri Scroggins, 115 Orange Drive, E. Palatka; St. Johns Auto Body, Inc., said she was never asked personally if an agreement was reached. The only one who came to the podium that night was her son Jason. During the meeting in question, she asked Mr. Sloan to buy their wrecker since they would no longer be able to use their wrecker. Mr. Sloan said he couldn't purchase it, and that's when negotiations ended.

Commissioner Myers said they discussed this in depth the first time they considered this closure. They need to do what it is in the best interest of the community on a broader scale. Considering the economic ramifications, it's important to support business. St. Johns Auto Body has eloquently presented their position, but the economic sustainability ramifications are paramount.

Commissioner Norwood asked if any dealership in NE Florida has been adversely affected by this new GM acreage requirement since it has been put in place.

Breck Sloan, 2601 Fairway Drive, Palatka, clarified the question is whether any dealerships in NE Florida have closed because of the new GM land area requirements. Mr. Sloan said between Chrysler and GM there are 15 or 16 dealerships affected in NE Florida alone for a variety of reasons. Some were classified and some were not. Some dealerships were given a chance to remedy the problem; some just received a letter informing them they no longer qualified to hold a franchise, and were not given an option. His dealership was given a chance to meet the new requirements. There are two dealerships in Jacksonville that couldn't meet the requirements, some facility-related, and are now closed. Commissioner Norwood said this is about economic stability. They just held a budget workshop wherein they talked about ad valorem taxes. When he drives through Green Cove Springs he sees the adverse impact that losing automobile dealerships has on the community. He's in favor of this street closing because of economic sustainability. There are 72 employees involved. He can't begin to imagine the impact on the community if they lost this Dealership.

Jay Asbury, Acting City Attorney, said the ordinance adopted last year provided for a reversion of the street to the City if the operation on the two blocks that were being used as a car sales center is not continued within reason. At the time there was a concern on behalf of the petitioners, rightly so, that it may take a while longer than 30 days to get these documents signed, so he built in 120 days for signatures and recording. For an unknown reason, the recording did not happen, which was not his function. It is his function to tell them what this is about. The ordinance is the same ordinance in concept as what was adopted the first time around in November, 2009. It vacates 16<sup>th</sup> Street between Reid Street and St. Johns Avenue. What puts them back at the table tonight is the compliance provision in the first ordinance. He has taken out the compliance provision time frames and the City Manager's approval of documents before they go on record. He has spoken with Counsel for the petitioner, who has stated they feel comfortable that they can get the reversionary document executed and in the City's hands on or before the August 26<sup>th</sup> meeting. In reading the new ordinance, it closes the Street and provides if they do not continue to operate a new car sales center there, which has been defined in the ordinance, then the street will revert back to the City of Palatka. Counsel for the petitioner and her clients have agreed to have a document in his hands that is signed prior to the August 26 meeting. If this Commission votes to pass this

ordinance on August 26, by 10:00 the next day the documents should be on record. There won't be any excuse for a lag. The legal description, shown as Exhibit C, which describes all the property in question, has been amended and he will provide the new legal description, or Exhibit C, to the Clerk, which excludes the day care center and house, as brought to his attention by Commissioner Kitchens. He also has a copy of the proposed restrictive covenant, which will be signed along with consent from the bank that has a lien on the property. This should take care of all points. He appreciates the help Commissioner Kitchens and Clerk Driggers have provided to him in this matter.

Commissioner Myers moved to amend Schedule "C" to include the revised legal description presented this evening by Mr. Asbury, describing only property used for purposes of an automobile dealership. Commissioner Brown seconded the motion, which passed unopposed.

Commissioner Kitchens said she doesn't believe for one second that the Beck Dealership will close up this dealership and leave Palatka if this is not passed. She spoke with Mr. Beck personally and he didn't indicate he would fire his employees and close his business if this doesn't pass. This is a profitable business and one of the good ones GM has. There being no further discussion a roll-call vote on the motion to pass the ordinance as amended on first reading was taken, with the following results: Commissioners Brown, Myers, Norwood and Mayor Flagg, Yes; Commissioner Kitchens, No. The ordinance was declared passed on first reading as amended by a margin of four in favor, one opposed.

Commissioner Brown reminded St. Johns Auto Body that they came to the City with a problem with the surrounding neighborhood that would greatly impact their business, and the City went to great lengths to do the right thing on their behalf. They try to do what is fair for everyone. She has a small business and wouldn't want it to close. The City has been fair to them just as they are trying to be fair to all.

9. **ADMINISTRATIVE REPORTS** – There were none.

10. **COMMISSIONER COMMENTS**

Commissioner Brown said she has been wanting a grocery store for Downtown. When Mr. Venables left they had started contacting people looking for a grocery store. They contacted a company that was interested. She's located a parcel of land she'd like the City Manger to look into as a possible location for a grocery store. She'd like him to look at that location to determine if it's a viable place for nice grocery store in the downtown area. Mayor Flagg noted Mr. Boynton has indicated he would do so.

Commissioner Kitchens said at the corner of 7<sup>th</sup> & St. Johns, there are three green dumpsters, which are blocking the sidewalk and a portion of the murals. They've been there for three days. They had the same problem with the prior owners similarly blocking the sidewalk. They need to be moved.

Commissioner Kitchens said she goes down River Street every day. Many times each month there are multiple boats docked at the City Dock for longer than the allowable time. There are fines on the books and there should be a fine placed on those boats. There are several boats there now. They are missing opportunities to collect revenues. The law is not being upheld. Their Code Enforcement officer is strapped. Right after their last meeting, when they discussed sidewalk sales violations, a merchant held a sidewalk sale and had three large desks in the sidewalks. The problem with the boats has been on-going for some time. Mayor Flagg said they want all citizens to voluntarily comply with ordinances.

11. **ADJOURN** – There being no further business to conduct, the meeting was adjourned at 8:00 p.m. upon a motion by Commissioner Kitchens.

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