

**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**

February 10, 2011

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 10<sup>th</sup> day of February, 2011.

**PRESENT:** Mayor Vernon Myers  
Commissioner Allegra Kitchens  
Commissioner Phil Leary  
Commissioner James Norwood, Jr.

**ABSENT:** Commissioner Mary Lawson Brown

Also Present: City Manager Elwin C. Boynton, Jr.; City Attorney Donald E. Holmes; City Clerk Betsy Jordan Driggers; Finance Director Matthew Reynolds; Police Chief Gary Getchell; Fire Marshal Mark Lynady; Building & Zoning Director Debbie Banks; Parks & Cemeteries Supt. Jeff Norton

**CALL TO ORDER** – Mayor Myers called the meeting to order at 6:00 p.m.

**INVOCATION** – Brother Nicol Fecteau, Chaplain, Putnam County Jail

**PLEDGE OF ALLEGIANCE** – Police Chief Gary Getchell

**APPROVAL OF MINUTES** – 01/27/11 – Commissioner Kitchens moved to adopt the minutes as read. Commissioner Leary seconded the motion, which passed unopposed.

**1. PUBLIC RECOGNITION/PRESENTATIONS:**

**PROCLAMATION Recognizing Black History Month** – February, 2011 – Mayor Myers read the proclamation into the record and presented it to Commissioner Norwood. It was noted that Black History Month recognitions will be made at the February 24 meeting.

**TREE CITY USA 20<sup>th</sup> YEAR RECOGNITION** – Jeff Norton & Tree Committee Members – Mr. Norton introduced Keith Valentine, Palatka Tree Committee member. Mr. Valentine congratulated the City on receiving this designation, noting certain criteria must be met before the State confers this designation upon a City. He said the City is fortunate to have professionals and concerned citizens serving on this Committee. Commissioner Kitchens said it was her honor to serve on the Tree Committee before being elected Commissioner, and now

serves as Commission Liaison to this Committee, a working committee full of knowledgeable people. Mayor Myers thanked Jeff Norton for his service as Parks & Cemeteries Director.

2. **PUBLIC COMMENTS -**

Roxanne Weeks, 502 S. 17<sup>th</sup> Street, said it is public knowledge of that a Palatka Police Officer wrecked his patrol car while under the influence of alcohol. Palatka Police Corporal Williams, this officer's brother-in-law, should be commended for reporting his condition that night. Palatka Police Officer Cornell Brown, shift commander, drove this officer home, despite the fact that this officer failed two breathalyzer tests, which is selective treatment. Palatka Police officers handle matters as they see fit, except in a legal matter.

Regarding the City Manager's evaluations, she's read the written evaluations this Commission completed, regarding his performance over the past three years. She was dismayed that the Commission performed the reviews after they voted to renew his contract for three more years. Proper auditing was not done. This was all about personal opinions on how they relate to people and each other. The citizens got lost in this. When she first realized they were going to do this, she called Commissioner Brown, who told her they were going to discuss it at the meeting that night, but were only going to select the form to use for the evaluation. She left after Public Comments, and read in the newspaper the next day that the contract was renewed. This was backwards. Employees are accountable to Mr. Boynton, who is accountable to the Commission, whose members are in turn accountable to the citizens. She is hoping for change. She hopes to see improvement with the Commission's new member and leadership.

3. **CONSENT AGENDA:**

a. **Issue Class A Special Event Permit for 2011 Florida Azalea Festival**

1. **Class 'A' Permit for Riverfront/Festival Area** March 5 & 6, 2011; 8:00 am – 5:00 p.m.
2. **Grant Noise Ordinance Exception during festival hrs** March 4, 2011; 6:00 pm – 8:00 pm  
(no boat races or amplified sound on Sunday, 3/6/11 prior to 12:30 p.m.) March 5, 2011; 9:00 a.m. – 5:00 p.m.  
March 6, 2011; 12:30 p.m. – 5:00 p.m.
3. **Close St. Johns Avenue from Memorial Parkway to 7<sup>th</sup> Street** during festival hours to parking and vehicular traffic.
4. **Grant Control of all vendors and activities** falling between Main Street & Oak Street (north/south) and between the St. Johns River and 19<sup>th</sup> Street (east/west) to Festival organizers.
5. **Grant Permission to use City Hall parking lot** for Handicapped Parking on Saturday and Sunday
6. **Grant permission to close Main Street from 1<sup>st</sup> Street to 11<sup>th</sup> Street** on 3/5/11 from 10:00 a.m. – 11:30 a.m. for Azalea Festival Parade
7. **Festival Permit fee** – per staff recommendation; Amount TBD for police security fees (@ \$23.00/hr.); \$300 Festival Permit Fee (\$150/day for two days); \$375.00 for green roll-outs (25 @ \$15/ea). Applicant pays actual landfill tipping fees. Applicant agrees to pay City of Palatka for the actual FP&L charges for use of their electrical boxes. Total permit fee TBD

**STAFF RECOMMENDS APPROVAL of all request items.**

- b. **Issue Permission** to exceed noise levels established by Chapter 30, Palatka Code of Ordinances to John Lyon, owner, Steamboat Willies, on February 25, 2011 from 10:00 p.m. until 1:00 a.m., for outback patio entertainment
- c. **Authorize execution of contract with Robert Taylor, AIA, in a lump-sum amount not to exceed \$24,500.00** for professional services to retrofit six buildings in conjunction with the 2010 Energy Efficiency & Conservation Block Grant
- d. **Authorize execution of Articles of Dissolution to Florida Div. of Corporations dissolving the Palatka Community Development Corporation** (Corporation has been inactive since 6/28/02)

- e. **Accept Terrill Hill's verbal resignation from the Palatka Code Enforcement Board** effective December 1, 2010, with regrets
- f. **Appoint Leroy Miles III to the Palatka Code Enforcement Board** as Rep. with Legal Experience for the remainder of a three-year term to expire September 30, 2011 (sole applicant)
- g. **Appoint Gilbert Evans, Jr. to the Palatka Historic Preservation Board** for the remainder of a three-year term to expire June, 2011 and an additional three-year term to expire June, 2014 (sole applicant)
- h. **Recommend the appointment of Dr. Richard Perallon to the Putnam County BOCC Better Place Oversight Committee** for a three-year term to commence immediately, and to the City of Palatka Better Place Oversight Committee to serve at the pleasure of the commission (no set term).

Commissioner Kitchens asked to pull consent agenda Item a, and specifically sections 3(a) (2) and 3(a)(4) for a separate vote. Commissioner Norwood moved to pass Consent Agenda Items 3(b) through 3(h) as recommended. Commissioner Leary seconded the motion, which passed unopposed.

Item 3(a) - Azalea Festival Permit – Mr. Holmes said the issue Commissioner Kitchens has raised has to do with a concern she noted regarding the timing of the application for the special event. In reviewing the application, it appears the application was filed outside the window for filing of the application. The Code requires the filing of an application for a Class A event at least 90 days prior to the event. The Code states it won't be considered for approval unless it's filed within that parameter; this particular application was filed in less than the prescribed number of days, and is an untimely application. She has looked into the situation and believes there are some extenuating circumstances as to why the application was filed late, but the matter now becomes to decide what to do with the application. Technically, the ordinance says the Commission can't consider it. Practically speaking, the results would be quite a bit of hardship for the organizers and public in general. The Commission can't waive an ordinance or statute; they can't technically vote to violate their own ordinance. From a practical standpoint, the quandary is that the window was established for the benefit of the City so they don't get surprised with applications for Class A special events without time to properly vet the event. The city is disadvantaged if the window is not observed. Mr. Norton doesn't believe the fact that this was filed less than 90 days before the event will prejudice the City. He can't tell them they can vote to waive the ordinance. If the city chooses not to enforce that provision this time, there isn't anyone in a position to complain, but for purposes of correcting the ordinance they should look at changing the language to establish a time frame that's an absolute deadline, like 45 days, and give the City time to modify the ordinance. If Mr. Norton thinks that the 90 days window is an absolute necessity, then that's a different matter.

Jeff Norton, Special Events Coordinator, said this is a long-running event for the City. The commission should look at it carefully and add no less than 60 days.

Sam Deputy, Azalea Festival Organizer, said the time frame wasn't observed because the Main Street Committee didn't turn loose of this Festival until late in the year. He asked them to approve this permit and look at an ordinance change in March.

The Clerk said one more option would be to table action on the permit tonight, adopt an emergency ordinance at the next meeting which gives them the authority to issue it, and then take the matter up once the ordinance has been changed. Mr. Holmes said they can do that, or just vote to issue the permit and change the ordinance later. If this were a term or condition he perceived was in place to protect the general public, he wouldn't be so casual about it, but the time frame is purely for the benefit of the City, not the general public, so staff would have time to

review the applications. If staff was saying there are things that need to be further explored, that would be different, but this festival has been held for more than 60 years. If Mr. Norton was uncomfortable with it, he'd say not to issue it, but Mr. Norton recommends issuing the permit.

Commissioner Kitchens moved to allow the vote on the permit and to pass Consent Agenda Items 3(a)-(1), -(3), -(5), -(6) and -(7) for the 2011 Azalea Festival Special Events Permit. Commissioner Norwood seconded the motion. Commissioner Norwood asked if this sets a precedent on waiving ordinances. Mr. Holmes said they are ignoring a provision of an ordinance they've passed; he's advised against that in the past. Like everything else, there are exceptions to rules. This time frame benefits the City only. The application was filed 78 days in advance instead of 90 days; more than two months in advance of the festival. This isn't a precedent they'd have to follow in the future. They don't have to ignore a new ordinance just because they've made an exception to this ordinance. He doesn't like consciously not enforcing an ordinance, but this is the lesser of two evils. Commissioner Norwood said he wants to make sure they are not doing anything that creates a public safety issue or gives any one organization an advantage. The ordinance was put in place for the City's benefit, but he still considers this timely. Commissioner Leary concurred and said this isn't a public safety issue, and agrees it is problematic. There being no further discussion, the motion passed unopposed.

Consent Agenda Item 3(a)-(2) – Permission to Exceed Allowable Noise Levels – Commissioner Kitchens said she can go along with this if the noise is in one location, around the 100 block, but not in different locations. They can hear this all day long. It's not a good idea to grant the noise ordinance exception all along St. Johns Avenue. Commissioner Norwood asked what entertainment is on the different locations. Mr. Norton said the Azalea Festival has always had different locations for bands. Last year Downtown Blues put up a stage across the street from the club's location.

Sam Deputy, Azalea Festival, said the festival was reconstituted in 2004 or 05. They wanted more street entertainment to keep people moving down St. Johns Avenue. This has worked very well over the past six years. They all learn from experience. To control noise, the courthouse stage will face east so that it's not facing a residential area. The 6th street entertainment will face west, not facing either neighborhood. None of the stages face a neighborhood, and there are only two speakers per location, not four. They've worked hard to control the noise. The entertainment is varied. They have a "pickers & grinders" band at the courthouse, a hip-hop band from NY at the courthouse gazebo, facing east. The group affecting the neighborhood most is on the 3<sup>rd</sup> street corner, and that will be Christian soloists, and small groups. This is contained and not loud or obtrusive. Some of the entertainment is gymnasts and high school bands. They've cut back on the amplification. They are not a night festival; the noise is over at 5 pm. Commissioner Kitchens said there are many shift workers in town and they sleep in the daytime. If you lift the ordinance, you don't need to hear it a mile away. If it goes up St. Johns Avenue, more of the neighborhoods can hear it. There was a gentleman here a few months ago who was complaining of the noise. She's concerned that it's in more than one location going up St. Johns Avenue. Mr. Deputy said they have moved the stages and speakers in a way to cut down on the noise.

Commissioner Leary moved to grant permission to Azalea Festival to exceed allowable noise levels as requested. Commissioner Norwood seconded the motion, which passed upon majority vote, 3 in favor, opposed by Commissioner Kitchens.

Consent Agenda Item 3(a)(4) – Granting Vendor Control to Festival Organizers - Mr. Deputy said the City does that automatically so the festival can control outside vendors that don't pay fees. They encourage businesses outside the district to do something during the festival to attract people to their businesses to get people to spend money at local businesses. It doesn't bother

them if people come in and set up, as they don't want to police the area. This becomes a City Codes issue. If it's a business doing that, they are all for business. Commissioner Kitchens said last year for Blue Crab Festival the City granted street closures that stopped at 7<sup>th</sup> Street. She had to go to the post office Saturday afternoon. There was a terrible traffic jam; both lanes of Crill Avenue were blocked as far as one could see. Before she turned into the post office she noticed the blockage was at 9<sup>th</sup> & St. Johns Avenue. Another street was closed that was not requested to be closed. One of the merchants said because the festival had "vendor control" they were allowed to close the streets. She was told the Festival promoters thought vendor control gave them permission to close those streets and blamed the problem on the City. She'd like Mr. Holmes to give his opinion as to who can close streets.

Mr. Holmes said permanent closures can be done by the City Commission. Temporary closures can be accomplished by administration, which is the City Manager. The Commission can also do it. This can be done by the Commission on a temporary basis. As the Chief of Police will tell you, several department heads have the authority to close streets on a temporary basis as work or emergencies or infrastructure projects require. Commissioner Norwood noted the City Manager is the also the traffic engineer.

Chief Getchell said he has no issues with the street closure plan. It's the same as last year. They aren't sure if they are going to do the bike race, but they can adjust if they do. Mr. Norton said street closures are noted within the map in their applications. Commissioner Kitchens said she wants to make sure festival organizers can't arbitrarily close streets. Mr. Norton said the plan that is submitted is the one that is to be followed. Mr. Deputy said they will follow the plan they submitted and will close on the street closures shown on the map. Commissioner Leary said he doesn't read this as allowing or granting permission to close streets, and he feels festival organizers should be responsible for vendors. It's more manageable if organizers manage the vendors and assure they are proper and legal. He doesn't know why they are making such a big deal out of this. Commissioner Norwood moved to grant vendor control outside the festival area as specified to Azalea Festival organizers. Commissioner Leary seconded the motion, which passed on majority vote, 3 in favor, opposed by Commissioner Kitchens.

#### 4. **ADMINISTRATIVE REPORTS**

Mr. Boynton said regarding the City's 20<sup>th</sup> year of receiving the Tree City USA Designation, the City received a tree grant to plant 100 trees in the City. They are working with FDOT on a planting program for additional oak, palm trees and others. They are expanding on their reputation as a Tree City USA.

Chief Getchell alerted the Commission that there are a series of counterfeit bills being circulated throughout the county; they are "home grown" twenty-, fifty- and hundred-dollar bills. There have even been cases of banks passing them to people cashing checks; these are very good. As technology improves, even novices can produce these. You can go to Staples and buy a pen to swipe on the bill to make sure the money is real. There's a different in how it feels. This has been diminishing over the last 10 days through public awareness spots; however, this will resurge.

Fire Marshal Mark Lynady asked the Commission to put March 26 on their calendar as this is the date of the 5<sup>th</sup> Annual Lafarge Fire Prevention Golf Tournament. Everyone is invited to come out and play. They have raised over \$30,000 in the past on this tournament.

Mayor Myers recognized the presence of Dr. Richard Perallon, who was appointed tonight to the Better Place Plan Oversight Committee.

5. **COMMISSIONER COMMENTS**

Commissioner Leary said the visioning session is Thursday the 17<sup>th</sup>; this is important for staff to attend. This is sponsored by Northeast Florida Regional Council. He and the City Manger attended the Regional Economic Development Forum last Friday in Jacksonville. There was approval of moving forward of the way they will "label" the region for economic development purposes. This work will be beneficial.

Commissioner Leary said, as to building permit fees, in looking at the fee structure, they may want to take a look at those like they looked at impact fees. He will meet with the City Manager on this

Commissioner Norwood said he has a conflict on the 17<sup>th</sup>. Mayor Myers said he has that same conflict; he can attend for a short time.

Mayor Myers said a regional study commission is made up of representatives from seven counties; he's one of the representatives from Putnam County. They will be having regional meetings in the future; it's good for them all to attend and share input. This will affect regional transportation for the entire region; Putnam County and Palatka should have a seat at the table.

6. **ADJOURN** – There being no further business to discuss, the meeting was adjourned at 6:55 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