

VERNON MYERS
MAYOR - COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR - COMMISSIONER

ALLEGRA KITCHENS
COMMISSIONER

PHIL LEARY
COMMISSIONER

JAMES NORWOOD, JR.
COMMISSIONER



MICHAEL J. CZYMBOR
CITY MANAGER

BETSY JORDAN DRIGGERS
CITY CLERK

MATTHEW D. REYNOLDS
FINANCE DIRECTOR

GARY S. GETCHELL
CHIEF OF POLICE

MICHAEL LAMBERT
CHIEF FIRE DEPT.

DONALD E. HOLMES
CITY ATTORNEY

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

MINUTES

CITY OF PALATKA

July 12, 2012

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 12th day of July, 2012.

PRESENT:

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

Also Present: City Attorney Donald E. Holmes; City Clerk Betsy Jordan Driggers; Finance Director Matt Reynolds; Planning Director Thad Crowe, Police Chief Gary Getchell; Fire Chief Mike Lambert

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

INVOCATION – The Reverend Bob Scott, Pastor, First Presbyterian Church

PLEDGE OF ALLEGIANCE - Led by Police Chief Getchell

APPROVAL OF MINUTES – 6/28/12 Regular Meeting; 7/3/12 Called Meeting – Commissioner Brown moved to adopt the minutes as read. Commissioner Kitchens seconded the motion, which passed unopposed.

1. **PUBLIC RECOGNITION/PRESENTATIONS:**

EMPLOYEE RECOGNITION – Briana Ozor, B&Z Intern, Service Above Self Award -- Mayor Myers presented Ms. Ozor with a certificate recognizing her performance. Thad Crowe, Planning Director, said Ms. Ozor is a student from St. Petersburg, is getting her Masters Degree in Planning, and has done a lot of work in the time she has been here. She modified the historic preservation ordinance, completed the downtown inventory, and cleaned up the GIS mapping inventory, among other things. She's done a lot of work and worked very hard while she's been here. She has also assisted Engineers without Borders in designing restroom facilities for Cambodian villages.

2. **PUBLIC COMMENTS** – There were none.

3. **CONSENT AGENDA:**

- a. **Authorize execution of Agreement with Rudd Jones, PE & Assoc. in the amount of \$16,000.00** for engineering design and permitting services for parking & stormwater improvements at the City Dock vicinity of the Riverfront Park, per results of solicitation for quotations/staff recommendation
- b. **Authorize execution of Change Order #6 to Masci Corp. Contract in the amount of \$22,115.42,** for a new total contract amount of \$1,041,023.62 to amend the scope of work and extend the contract completion date for the WWTP Reuse System Improvements, per staff recommendation
- c. **Authorize execution of Interlocal Agreement with Putnam County BOCC** to assume maintenance of three traffic signals for the installation of red light cameras at intersections, per Police Chief's recommendation
- d. **Reappoint Blanch Rogers, Cleveland Hobbs and Eddie Collins to the Palatka Board of Zoning Appeals** for five year terms to expire July, 2017 (incumbents – sole applicants)
- e. **Recommend the appointment of Alice F. Adams to the Putnam County Library Board** for a three-year term to expire June 30, 2015 (sole applicant)
- f. **Accept resignation of Sharon Buck from the Palatka Planning Board effective immediately**
- g. **Make the following appointments to the Palatka Planning Board:**
 1. **Appoint Judith A. Gooding to the Palatka Planning Board** for the remainder of an unexpired term to expire 12/31/14, and
 2. **Appoint Lavinia Moody to the Palatka Planning Board** for the remainder of a three-year term to expire 12/31/12, and an additional three-year term to expire 12/31/15 (sole applicant)
- h. **Appoint Gary G. Graffweg to the Palatka Historic Preservation Board** as member with Contractor experience for a 3-year term to expire June, 2015
- i. **Introduce Form 8B, Memorandum of Voting Conflict** into the record filed by Commissioner James Norwood, Jr. on vote taken 6/28/12.
- j. **Amend the City Commission Summer Meeting Schedule** to set the Budget Workshop on July 26, 2012 at 2:00 p.m. and special called meeting immediately following, per TRIM Calendar F/Y 2012-13

Commissioner Leary moved to approve all items on Consent as presented. Commissioner Norwood seconded the motion, which passed unopposed.

4. **CODE ENFORCEMENT BOARD RECOMMENDATION:** Reduce the daily fine of \$2,350.00 (\$25/day) on 412 S. 13th Street to \$1,000.00 plus cost of prosecution of \$245.59 if recording is not required, or \$281.34 if recording is required - William Berry, Agent for Casabuona, LLC, Petitioner – Thad Crowe said the Code Enforcement Board recommended the reduction. The property is now in compliance. Commissioner Brown moved to approve reduction. Commissioner Kitchens seconded the motion, which passed unopposed.
5. **RESOLUTION** authorizing the Mayor and City Clerk to Execute and Attest a Supplemental Joint Participation Agreement with FDOT for the design and upgrade of Building B-2, Project Management & Administration at Palatka Municipal Airport (REDI funded @ 100% FDOT participation) – The Clerk read a resolution entitled A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST A 'SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT' WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND UPGRADE BUILDING B-2, PROJECT MANAGEMENT AND ADMINISTRATION AT PALATKA'S KAY LARKIN MUNICIPAL AIRPORT. Commissioner Brown moved to adopt the resolution as read. Commissioner Kitchens seconded the motion. A roll call vote was taken with the following results: Commissioners

Brown, Kitchens, Leary, Norwood and Mayor Myers; yes. Nays; none. The resolution was declared adopted.

6. **RESOLUTION** authorizing the Mayor and City Clerk to Execute and Attest a Memorandum of Agreement with FDOT for landscaping & irrigation (Crepe Myrtles) on SR19 from SR100 to SR15/US17 – Adopt – The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST A “CONSTRUCTION & MAINTENANCE AGREEMENT AMENDMENT” WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR LANDSCAPING AND IRRIGATION (CREPE MYRTLES) ON SR19 FROM NORTH OF SR100 TO SR15/US17. Commissioner Norwood moved to adopt the resolution as read. Commissioner Kitchens seconded the motion. A roll call vote was taken with the following results: Commissioners Brown, Kitchens, Leary, Norwood, and Mayor Myers; yes. Nays; none. The Resolution was declared adopted.
7. **RESOLUTION** authorizing the submittal of a Florida Fish & Wildlife Commission Boating Improvement Grant application for the construction of dockage, mooring slips and launch parking facilities at the Palatka Riverfront Park – Adopt – The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE FISH AND WILDLIFE CONSERVATION COMMISSION, FLORIDA BOATING IMPROVEMENT FUND GRANT PROGRAM REQUESTING ASSISTANCE FOR CONSTRUCTION OF CITY PIER ADA COMPLIANT BOAT LAUNCH, MOORING & DOCKING FACILITIES AND PARKING LOT IMPROVEMENTS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE. Commissioner Norwood moved to adopt the resolution as read. Commissioner Leary seconded the motion. Commissioner Leary said this is the grant the City applied for last year; he believes this application will be received favorably and the City should be successful in this application. There being no further discussion a roll call vote was taken with the following results: Commissioners Brown, Kitchens, Leary, Norwood, and Mayor Myers; yes. Nays; none. The Resolution was declared adopted.
8. **ORDINANCE** amending Section 94-151 of the Palatka Municipal Code to limit sales items in outdoor promotional, temporary goods and commodities sales – 1st Reading – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA AMENDING SECTION 94-151 TO LIMIT SALES ITEMS IN OUTDOOR PROMOTIONAL SALES AND TEMPORARY GOODS AND COMMODITIES SALES TO THOSE ITEMS THAT ARE CUSTOMARILY OFFERED FOR SALE BY THE PRINCIPAL USE OCCUPYING THE PROPERTY, REQUIRING THAT SUCH SALES BE ASSOCIATED WITH THE BUSINESS OCCUPYING THE PROPERTY; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. Thad Crowe, Planner, said the City regulates outdoor sales in various categories. One of those is car sales held in parking lots of store establishments. At this time, this is wide open. This change in regulation ties the sales of the goods to the store and whatever is customarily sold there. It requires that the store on the premises runs the sale. The only exemptions are financial institutions that periodically run used car sales. Mayor Myers said the issue here is out of town dealers coming into town and competing against local businesses. Commissioner Norwood moved to adopt the ordinance on first reading. Commissioner Kitchens seconded the motion. A roll call vote was taken with the following results: Commissioners Brown, Kitchens, Leary, Norwood and Mayor Myers; yes. Nays; none. The ordinance passed on first reading.
9. **ORDINANCE** – Historic Preservation Board recommendation to revise Chapter 54, Article III (Planning, Historic Districts) Historic Preservation regulations with the intent of meeting minimum standards for Certified Local Government as designated by the federal and state governments – 2nd Reading, Adopt – The Clerk read an ordinance entitled AN ORDINANCE

OF THE CITY OF PALATKA, FLORIDA, AMENDING CHAPTER 54 OF THE MUNICIPAL CODE (PLANNING, HISTORIC PRESERVATION) OF THE CITY OF PALATKA, FLORIDA PERTAINING TO INVENTORY OF HISTORIC PROPERTIES, PUBLIC PARTICIPATION, RULES OF PROCEDURE, AND REPORTING ACTIVITIES TO THE STATE HISTORIC PRESERVATION BOARD, WITH THE INTENT OF MEETING MINIMUM STANDARDS FOR A CERTIFIED LOCAL GOVERNMENT AS DESIGNATED BY THE FEDERAL AND STATE GOVERNMENTS, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. Commissioner Kitchens moved to adopt the ordinance as read. Commissioner Leary seconded the motion. A roll call vote was taken with the following results: Commissioners Brown, Kitchens, Leary, Norwood and Mayor Myers; yes. Nays; none. The Ordinance was declared adopted.

10. **RESULTS OF CITY MANAGER SELECTION PROCESS AND NEGOTIATION** of City Manager Contract for Michael Czymbor, effective July 23, 2012 – Mayor Myers said he and Attorney Holmes were authorized to negotiate a contract with City Manager Designee Michael J. Czymbor. The contract was finalized yesterday. Mr. Czymbor is in agreement with this contract.

Commissioner Kitchens said she met with Mr. Holmes and went over this contract, and compared it against Mr. Boynton's. She has three issues. First, under disability, health, dental and life insurance, it says the City agrees to pay the entire cost of these benefits. She understands that under retirement, he is paying into his own retirement plan and the cost is less, at 12% of his salary. No other city employee, nor any member of the Commission gets their insurance premiums paid entirely. It's bad for morale. He needs to pay the same amount the other department heads pay. It is not fair to City employees. As to Section 6, he will be driving home on weekends to Fernandina until he moves here, and because he's on 24/7 call, she does not object to him having a car or paying for the gas, but thinks it should be changed to a car not less than 6 yrs old. As to paying for his relocation costs, it states the City shall pay up to \$5,000 for his relocation costs. She has no objection to this, but there are no safeguards on this amount. He should remit his actual bills and those should be reimbursed.

Mayor Myers said Mr. Czymbor is the only employee on contract with the City and it is not unusual for the CEO of any organization to receive a paid benefits package. Commissioner Brown asked if the City can afford it. Mr. Holmes said for the public's information, the City pays 75% of the cost for employees now. This is an additional 25% of that cost. Commissioner Kitchens said they have not done it for any prior City Manager and she believes it is not good for morale. Commissioner Leary said the head of any corporation is compensated differently. 25% is not even worth the debate. Mayor Myers said he believes it would be agreeable for everyone to get one more year out of the car. Also, all relocation fees will be paid upon receipt of invoices. Commissioner Norwood said under the severance clause, the agreement says they will pay his benefits up to six months. He has no problem with paying the salary for five months, but does have a problem with paying benefits for six months. Mayor Myers said this is standard in the Industry. Commissioner Brown asked if there is any impact by him not being in the City's pension plan? Mayor Myers said the City will save money.

Michael Czymbor, 841 Parkview Place, Fernandina Beach FL, thanked the City for selecting him as the City Manager. He appreciates the Mayor and City Attorney negotiating this contract with him. They began with Mr. Boynton's contract and made some modifications. If the City is only going to pay him 12% of his salary in retirement per year instead of 26%, that's a \$14,000 per year savings to the City. Commissioner Kitchens noted she's discussed this with him before the meeting. Mr. Czymbor said he has no problem with a "late model vehicle." If they want to put some clarification on the moving expenses, he has no problem with that. Mr.

Holmes clarified the modification would be to place a period after "late model vehicle" and to strike the remainder of that sentence, or "that is less than 3 years old."

Mr. Czymbor said he looks forward to a long, positive relationship with the City. He expects to be here prior to July 26.

Commissioner Leary moved to approve Michael J. Czymbor's employment contract as City Manager with the change to Section 7, Automobile and Cellular Phone, placing a period after "late model vehicle" and striking the words, "that is less than three years old". Commissioner Norwood seconded the motion, which passed 4 in favor, opposed by Commissioner Kitchens.

12. **REQUEST TO APPROVE PURCHASE OF MITIGATION CREDITS** for Airport Improvement Project Permitting - \$300,000.00 – Kim Allerton, Consultant for Andrew Holesko, Airport Engr. – Commissioner Norwood moved to approve purchase of mitigation credits. Commissioner Brown seconded the motion.

Andrew Holesko, Airport Engineer, Passero Associates, introduced Kim Allerton, a sub-consultant on the mitigation assignment. He provided a brief summary of the project. The mitigation credits being offered are something they have been working on for the past 18 months. A portion of this permitting was required prior to Passero's coming on as airport engineer/consultant in 2004. They have held numerous meetings with SJRWMD and the former City Manager on this. These credits will take care of the current Airport project and the next.

Kim Allerton, 1597 The Greens Way, Jacksonville Beach, said she's been an environmental consultant for 22 years. She's been working on this project for less than 2 years. This project has a lot of environmental impact on these wetlands. These are very long-standing permitting issues at the Airport. There was an unauthorized haul road construction that impacted some wetlands. They were brought on to resolve that, and to assist with permitting issues for some safety issues and establish protocol on this. Safety needs to be at the forefront of all decisions made regarding the Airport. This regards a 100% impact of 9.42 acres of wetlands. There's another 14.58 acres required to be cleared down to the ground for airport runway clear space. Commissioner Leary asked why SJRWMD is requiring this mitigation ratio for this land when it is going to be cleared? It is agricultural use now. Ms. Allerton said it is a regulated activity by SJRWMD. Mr. Holesko said this area is inside the Runway Protection Zone. Commissioner Kitchens asked who authorized the cut on the haul road? Mr. Holesko said that project pre-dates Passero's involvement. In the late 1990's a temporary haul road was constructed off CR 309; it was intended to be removed, but it was not removed. The contractor on that job built the haul road. The current project will not continue if the mitigation credits are not received.

Mr. Holmes asked if she stands by the information and statements she made in her e-mail to Jonathan Griffith, dated 7/2/12, which has been distributed to the Commission and is part of the record (filed); she said she does. Mr. Holmes asked that the email dated July 2, 2012 be made part of tonight's minutes. Commissioner Norwood moved to include the email from Ms. Allerton in the record of tonight's meeting and minutes. Commissioner Kitchens seconded the motion.

Mr. Holmes noted in the email Ms. Allerton lays out options that exist for the City. She offers the opinion to go with the purchase of credits with the Sundew Mitigation Bank. If he understands correctly, the mitigation bank credits need to be purchased from a mitigation bank that is in the same sector as the project. Ms. Allerton said it is referred to as a Regulatory Basin; there are boundaries. The airport is in Regulatory Basin 8, so the mitigation must occur in the same basin. Mr. Holmes asked if Sundew Mitigation Bank was the only bank in that Basin? Ms. Allerton said this is the only bank with mitigation credits available in this Basin. Mr. Holmes said he wanted to make the point that this is a sole-source provider and there is no need to go to bid

on this; otherwise, they would have to go out for some sort of selection process on this. Ms. Allerton said if there were more than one mitigation banker available, part of her job is to solicit prices on those.

Commissioner Kitchens asked if the grant will cover the purchase of these mitigation credits; Ms. Allerton said the grant will cover the cost. The mitigation ratios they've negotiated with the Water Management District are the lowest she's ever negotiated in her career. They negotiated ½ to 1, and 1 to 1, instead of 1.5 up to 5.5 to 1. They are sub-rule in their negotiation.

Mr. Holmes said he understands there would have been a different option to offset the mitigation impact by actually acquiring land. Ms. Allerton said purchasing preservation land is common. Her goal is to satisfy both Agencies. She doesn't believe it is cost-effective to purchase property. They were made aware of Mr. Tilton's property, as well as other property. Mr. Tilton is not the only one who offered land for this mitigation. That land would not satisfy this need. The rule outlines the hierarchy of preference on the Federal side. The number one choice is mitigation bank credits. The second choice is an in-lieu fee program where you pay money into a project someone else had developed. The third option is permittee-responsibility mitigation, which involves an individual property owner that may have land available for purchase. This is not desirable. To even have this as an option, a property has to meet 12 fundamental components which are listed in her e-mail (filed); these are the same components a banker has to meet. She spoke to Mr. Tilton's consultant, and he agreed with her professional opinion that this property won't meet the specifications needed to make his property eligible for this option. The owner of the mitigation bank reduced his price on the mitigation credits due to the financial constraints in the project.

Ben Tilton, 101 Turner Road, E. Palatka, said his consultant could not be here due to the short notice on this meeting. He does not believe Ms. Allerton can quote his consultant without his being here. This purchase does not constitute 'ownership' of the property; it is an easement the Water Management will have. The haul road does not need Army Corps of Engineers approval and the City will not own the property. Water Management has approved this purchase, and it has been signed off on by Water Management. He has a letter to that affect, but does not have it with him.

As to time constraints, Mr. Holmes said there is a contract; it was signed in May and the City is technically in default. The owner of the mitigation credits was going to declare default and withdraw his offer. The City is beyond the time for closing this. It appeared that it was wise to move forward with this rather than delaying it and risking the loss of the reduced price. He has not seen a contract. Commissioner Kitchens said if they sign contracts, they need to provide a copy to the City Attorney. She does not like being pressured on these things. They were only provided this today. Mr. Holmes said the consultant's recommendation is that the mitigation bank credit purchase is the only viable option. If they are going to purchase property, they need to determine there is only one property in the Basin that is eligible. The offset has to be in this Basin. If they switch over to the concept of buying property, they need to have someone offer information as to whether or not there is other property available in the Basin. Then they would have to give others the opportunity to offer a bid. Ms. Allerton has stated this is not the only property available. If the City does go through a selection process, maybe Mr. Tilton will win in that selection process, and maybe he will not. Mr. Tilton clarified for the record that the city will not own the property; it is an easement.

Jonathan Griffith, City Manager's office, said this is a purchase option agreement; this does not obligate the City to purchase these credits. The City has 180 days to purchase these credits, should the purchase be approved. It was sent to the Mayor and he signed it. It doesn't obligate the City in any way.

Ernest Sale, Jacksonville, General Partner, Sundew Mitigation, said he negotiated with Ms. Allerton to provide these credits to the City at a reduced price. This is the lowest price he's sold these credits at; he's sold none in the past six years for less than \$40,000 per credit. What they have is not an obligation to make this purchase. The City can walk away from this contract with no recourse at all, and then they will have to begin negotiations anew.

A vote was taken on the motion to place communications from Ms. Allerton into the record; the motion passed unopposed. Commissioner Norwood called for the question on the motion to approve the purchase of mitigation credits from Sundew Mitigation Bank. There being no further discussion, the motion passed unopposed. Commissioner Kitchens reiterated her request that going forward, copies of all contracts go to the City Attorney.

11. ADMINISTRATIVE REPORTS

Red Light Camera Program Update – Police Chief Getchell said this project is moving forward. They've overcome some permitting issues and they've worked out arrangements with the County to take over maintenance of traffic lights at certain intersections; the City took action on this earlier in the meeting. Construction will begin before August 16th and the project will be complete by the end of August. He will call them individually to go over the project details. The first camera will be located at Crill & Palm westbound. There is a statutory requirement that they issue only warning tickets during the first 30 days, or they can do a public relations campaign. He believes they should do a public relations campaign. There will be warning signs and public spots on media. Commissioner Brown asked why they can't do both; Chief Getchell said there is an addition cost on doing both. The public relations campaign costs less. Commissioner Kitchens said they will reach more citizens through a media campaign. Chief Getchell said the intersections will be clearly marked. Newer GPS's now come with a warning that you are approaching an intersection with a red light camera. Their goal is to get the word out to as many people as possible. They don't have a firm start date on construction. The signs will be out 45 days before "going live" and issuing tickets. Other cameras will be located at St. Johns & 19 eastbound, SR 17 or 100 & Reid and 9th Street eastbound and westbound, and Reid & 19 westbound. Once they are installed there will be a continuing assessment. They will all be installed within three to six months. If the City feels there are other intersections that need to be added, they can add intersections going forward. This project is cost-neutral. There is no cost to the City up front. When violations begin to occur, the City will start making contractual payments for those services.

Mayor Myers asked if the County was receptive to transferring maintenance of those lights; Chief Getchell said they were. Commissioner Norwood asked for a report every six months on the program. Chief Getchell said they intend to report every 30 days; they are required to provide yearly reports to FDOT. They intend to do monthly, quarterly, semi-annual and annual updates. Commissioner Brown said she wants to be sure people know how to appeal a ticket when someone else is driving their car. Chief Getchell said there will be a kiosk in the PD where people can pull their violation up and look at it. Mayor Myers said this issue will take care of itself if people will stop running red lights.

Christy Sanford, 312 Dodge Street, asked if the City has "smart lights." Sometimes lights are red so long, they seem to be broken. Chief Getchell said most traffic lights at intersections are controlled electronically by sensors in the road. If not, there's a magnetic trigger. Some intersections are so old they aren't triggered, but timed.

F/Y 2012-13 Budget Process Update – Finance Director Matt Reynolds and Mayor Myers – Mr. Reynolds reported the budget workshop has rescheduled to July 26 at 2:00 p.m. He's put

together some options for the Commission to look at; he's asked the department heads to put together other options to further reduce the budget.

Commissioner Kitchens said it's bad for moral to tell department heads they have to come up with a 7% budget reduction. That means they have to cut people. Mr. Reynolds said that's one option he presented at the budget workshop. There are other options. One option is a 7% cut to each department; that's just one option and he wanted to have that option available for the Commission's information, along with other options. Commissioner Kitchens said they have other options and they need to look at other options before they start cutting people. It's bad for morale; some departments may be able to cut more, some less, but they want to continue their current level of service. Commissioner Leary said for whatever reason, the Commission didn't give Mr. Reynolds the direction he needed at the last budget workshop. They have two choices; they either cut expenses or generate revenue. He agrees they don't need to cut staff. They are going to have to start thinking outside the box. Mayor Myers said everything is on the table; if you only tell them to 'cut where you can' you won't get many cuts. Commissioner Norwood said he will miss this budget workshop on the 26th, because he has other obligations. Mayor Myers said the City's income over the last 3 – 4 years has gone down 25%.

Mayor Myers said, in looking at everything available, he had some discussions with the Palatka Gas Authority, which he'd like to disclose. He noted Mr. Holmes, the City Attorney, is also the attorney for Palatka Gas Authority, so will recuse himself from representing the City in this matter. In 2011, he and Mr. Boynton approached the Gas Authority to ask for an additional payment. The Gas Authority is an independent department of the City but is not regulated by the City. As a result of the 10/11/11 meeting, they asked for substantially more than the normal payment last year. At that time the Gas Authority agreed to make an additional \$100,000.00 per year payment. This year, in looking at the Gas Authority's financial statements, he thought it would be appropriate if he approached them about increasing that payment this year. He discussed the issue with Jud Neufeld, Chairman of the Gas Authority Board, about his intent to make a request of \$1 million. Mr. Neufeld asked for a formal request, which he provided. He read his letter to Palatka Gas Authority Board of Directors into the record, dated July 5, 2012, asking for a transfer of \$1 million to the General Fund. He received a letter on July 9 in response advising that the Board considered the request, and acknowledging discrepancies between the operating resolution and ordinance. The letter states they have shared profits of over \$4.5 million over the past 50 years, and have operated relatively autonomously from the City. They have operated in the past under the assumption that the Board was serving the City and citizens, but without knowledge it was violating ordinance. The Board has decided that its operations that are in conflict with the enabling ordinance, as cited, should be addressed. It is the belief of the Board it would not be appropriate for the Board to address a request from one member of the Commission, but needs direction from the Commission. It will not challenge the City to "take" the money, but cannot continue to function without some certainty on how it will continue to operate. In years past the Authority has transferred ½ of its profits and other amounts over and above at request. It will be the intent of the Board for the City to amend the ordinance to allow the Board a degree of autonomy. If this compromise cannot be achieved, they do not believe they can continue to operate the Authority under the constant threat the City will take funds from the Authority without regard to the Board's plans. They'd like a resolution in order to continue volunteering their time, labor and talents towards managing this asset.

Mayor Myers suggested the City hold a workshop meeting next week, and invite the Gas Authority Board of Directors to sit down and talk about this. In the meantime he will provide commissioners with a copy of Subpart B of the City Charter, which addresses Palatka Gas Authority, which he distributed (filed). It specifically states that net profits are to be transferred to the City. He has a lot of respect for the Gas Authority board members. They have done a

good job. The City is over a million in the hole on the budget, and they need to look at this option. He's located an attorney in St. Augustine, Mr. Dobson, that can take this case.

Commissioners Kitchens and Norwood concurred on the workshop; Commissioner Leary concurred to a degree, saying they are running out of time and need to set a tentative millage rate. Commissioner Leary moved to give the Mayor the authority to retain Mr. Dobson to represent the Commission in this matter. The motion died for lack of a second. Commissioner Kitchens moved to retain Jay Asbury, Esquire, to represent the City in this matter. Commissioner Leary seconded the motion, which passed, 4 in favor, opposed by Commissioner Norwood. Commissioner Kitchens thanked the Mayor for his leadership in this matter. Mayor Myers asked for and received concurrence to set a workshop meeting with the Palatka Gas Authority for Thursday, July 19 at 4:00 p.m. at City Hall.

Mayor Myers distributed copies of his letter to the Palatka Gas Authority dated July 5, 2012, a copy of a presentation made to the Gas Authority Board on September 1, 2011, and a copy of the Palatka Gas Authority response to his 7/5/12 letter, dated 7/9/12 (filed).

Clay Electric Franchise Agreement – Finance Director Matt Reynolds said he distributed a memorandum on this (filed). This franchise agreement ran out last October. They began negotiations with Clay Electric on a renewal franchise agreement. Their attorney didn't feel comfortable negotiating any numbers. They did say they'd like to have a study done. Since that time, Mr. Holmes has spoken to their attorney, and they have offered 3% of gross profits, instead of 6% of profits. He is looking for direction. Do they begin drafting the 3% contract, or do they order their own study? This is on gross revenue, not profit. Mr. Holmes said the franchise agreement assures Clay Electric that the City will not compete for electric service, and that the City will allow Clay Electric to use City right-of-way for their lines. Clay electric has sought to terminate franchise agreements district-wide; they have entered into agreements with two cities that have the capability to sell electricity. They want to pay for running lines on the property, but don't want to pay the City for the right not to compete. They are under the opinion that most of their transmission lines run through private property, and not City property. If they went to a percentage rate, they talk about 1 to 1.5 percent of gross receipts. The attorney called him and said it was feasible to talk about a 3% across-the-board rate. They are not worried about the City competing with them to distribute power. They've made inquiries and done some research. They don't have to have a franchise with the City. The last one had a 30-year term and it expired. When it expired they just stopped paying the City, with no notice. There is case law there that suggests that when a franchise expires, they have to continue to pay something for the use of that property. He brought this up at the meeting. They have been using the property and paying nothing for it. They can't take the stand that they need to remove their lines unless they re-enter a 6% agreement with them. The City would like as much as they can get. Total revenues were around \$270,000 for the year at 6%. If they went down to 4%, it would be a good thing for the City, and the City would not have to get into the issue of surveys and linear square foot formulas. There are industry standards as to how much to pay for that property. If they get into a scientific assessment of this, the number won't be an approximation, and the City may or may not be happy with that. He believes Clay Electric is more right than wrong in speaking of percentages.

Commissioner Leary spoke of his conversation with the Clay Electric Board member that represents this area. Commissioner Leary moved to offer them 4% on a 10 year term, to be reviewed upon expiration. Commissioner Brown seconded the motion.

Commissioner Kitchens asked if they've seen any easement agreements with the City. Mr. Holmes said the franchise agreement said they can come "over and across the streets, bridges, etc." of the City of Palatka. They did not have to get permission to put lines on certain

properties. The City does have a buy-out option in the agreement. The City can enter into negotiations to buy the equipment on their property. He doesn't advocate that. They don't have the option of saying 'get your lines out.' They do have an option of buying the equipment, and at that point the City would be in the power business. Commissioner Kitchens asked if they can purchase the lines and give them to FP&L? Mr. Holmes said the PSC dictates territory; he doesn't believe FPL wants to get into this. As a negotiation lever, they can offer to waive the money they haven't paid over the past 8 months in exchange for 4%. Original motion by Commissioner Leary was clarified to offer to Clay Electric a 4% franchise rate over a 10 year period and not pursue payment for the past 10 months, which was seconded by Commissioner Brown. There being no further discussion, the motion passed unopposed.

13. **COMMISSIONER COMMENTS** – There were none.
14. **ADJOURN** – There being no further business to discuss, the meeting was adjourned at 7:55 p.m. upon a motion by Commissioner Brown.

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