

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 SPECIAL CALLED MEETING

August 29, 2013

Proceedings of a special called meeting of the City Commission of the City of Palatka, Florida, held on the 29th day of August, 2013.

PRESENT:

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

Also Present: City Manager Michael J. Czymbor; City Attorney Donald E. Holmes; City Clerk Betsy Jordan Driggers; Police Chief Gary Getchell; Fire Chief Mike Lambert; Planning Director Thad Crowe, Grants/Projects Manager Jonathan Griffith and Main Street Manager Charles Rudd

CALL TO ORDER: Mayor Myers called the meeting to order at 5:35 p.m. and read the following meeting call, dated August 14, 2013:

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

You are hereby notified that a special meeting of the Palatka City Commission is called to be held on Thursday, August 29, 2013 at the regular meeting place of the Palatka City Commission at 201 N. 2nd Street, Palatka, Florida, to begin at 5:30 p.m. or as soon as possible following the 4:00 p.m. Budget Workshop, whichever is later.

The purpose of the meeting is to consider the following items:

- Hear an appeal of the Palatka Zoning Board of Appeals denial of the City of Palatka's application to grant a parking space width & depth variance at 100 Memorial Parkway.
- Consider a Contract for Purchase and Sale of 100 Memorial Parkway to SHP Hospitality, LLC
- Consider an Interlocal Agreement with Putnam County School District regarding public safety/law enforcement services on School District properties
- Consider a Supplemental Contract in the amount of \$38,849.90 with LeHuu Partners for curriculum/exhibit design and construction coordination for the G-P Wetlands Education Center
- Consider the selection of the health insurance carrier for employee benefits

Is/ Vernon Myers

Vernon Myers, MAYOR

The following Commissioners acknowledged receipt of a copy of the foregoing notice of a special meeting on the 14th day of August, 2013.

Isl Mary Lawson Brown
COMMISSIONER

Isl Phil Leary
COMMISSIONER

Isl James Norwood, Jr.
COMMISSIONER

Isl Allegra Kitchens
COMMISSIONER

INVOCATION – Police Chief Gary Getchell

PLEDGE OF ALLEGIANCE – Fire Chief Mike Lambert

1. PUBLIC RECOGNITION/PRESENTATIONS

2. PUBLIC COMMENTS

Alex Sharp, President, Downtown Palatka, Inc., 900 St. Johns Avenue, said DPI will be coming before the Commission on September 12 to request the City allow DPI to place a low-power FM antenna on the City's tower at the Downtown Fire Station. DPI will be applying for a license for operation of a station; they are not asking for money, but would like to place the antenna on the tower. He will give the Commission a presentation on the 12th. They are excited about this opportunity. Mayor Myers said they appreciate his work with Downtown Palatka.

3. CONSENT AGENDA:

Adopt Resolution No. 2013-9-152 authorizing the execution of LeHuu Partners, PA Supplemental W.O. #2 for design review and coordination services related to the proposed GP Wetlands Center – The Clerk read a Resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, AUTHORIZING THE EXECUTION OF LEHUU PARTNERS, P.A. SUPPLEMENTAL WORK ORDER #2 FOR DESIGN REVIEW AND COORDINATION SERVICES RELATED TO THE PROPOSED GP WETLANDS CENTER. Commissioner Norwood recused himself from voting on this item, citing his employment with Georgia-Pacific Corporation (G-P). Commissioner Leary moved to adopt the Resolution as read. Commissioner Brown seconded the motion. Commissioner Kitchens asked Mr. Griffith, regarding the preliminary cost estimate, if when the City received the storm water permit on the south side of the park, did this not also include the G-P permit? Mr. Griffith said this is for the cost to administer the permit. They did include this site in the estimate. Commissioner Kitchens said when they talked about the original contract, GP said they would be doing the curriculum as well as the interior design. Mr. LeHuu was under the impression he was doing it. This has been clarified. Mr. LeHuu is now asking for an additional \$38,000 to review G-P's curriculum design and review. They should not be increasing this contract further. GP is doing the work and LeHuu is not doing this work.

Mr. Czymbor said they initially sent out a comprehensive proposal for the work. The aim was to hire one consultant that would hire sub-consultants under their guidance and direction. This is to design the building, the curriculum and fabrication. They signed the letter of intent with GP and that was the intent. When they signed the contract, GP reconsidered and on their own did their own evaluation. They looked at consultants and architectural firms, and decided then to hire another consultant to do this work. They have been working with GP for the last few months on this. LeHuu is now being asked to coordinate work with outside consultants they have no control over. Now, in addition to design of the building, there will be additional work to meet with these consultants and go over their plans. This is different from what was initially bid. Discussion ensued regarding pricing of the work order. Mr. Czymbor said the \$800,000 GP has pledged for this project covers all contracted work, including this Supplemental purchase order.

Commissioner Kitchens said GP made it clear from the beginning with the memorandum of understanding and the contract that they would be doing this. Mayor Myers said G-P is paying for this. Commissioner Leary said he was on the selection committee and he does not recall that G-P wanted more than one contractor. After a change in G-P staff, they took a different stance. This is not Mr. LeHuu's fault and this is a legitimate cost. Commissioner Kitchens said she is still concerned with a trend in the City; a contractor agrees to do the work for a certain amount, and then begins coming back with changes. Mayor Myers said GP is paying for this building and this is how they want it done. The City will own the building in the end.

There being no further discussion or comment, a roll call vote was taken, with the following results: Commissioners Brown, Leary and Mayor Myers, Yes; Commissioner Kitchens, No; Commissioner Norwood, recused. The Resolution was declared adopted by a vote of 3 in favor, opposed by Commissioner Kitchens, with one recusal by Commissioner Norwood.

Mr. Czymbor noted they provided a new schedule of construction.

Mr. LeHuu, Project Architect, 4401 N. Orange Blossom Trail, Orlando, said it is not their intention to come back and ask for more, but as their work gets "bigger" they must come back and ask for more money. They received the Notice to Proceed from the City and it has taken four to five weeks to receive the drawings from the new contractor. They have two weeks to review these drawings, then six weeks to refine the drawings, and so forth. They have to stay on schedule. None of these engineers/architects drawing up these plans are licensed in Florida, so they are required to review these documents as they are received.

Commissioner Kitchens said in the Downtown Zoning there is a requirement that all new construction be compatible with historic design.

Thad Crowe, Planning Director, said there is an introductory clause in the downtown zoning district that states the intent is to provide a pedestrian oriented retail/entertainment district that has historically been downtown. They cannot safely enforce. Commissioner Kitchens said this is in the Code and not only the preamble; she will show him where else it exists. The intent is that this will prevent another Frank George Apartments-type building.

4. **REQUEST TO APPEAL** the Palatka Board of Zoning Appeal's August 13, 2013 denial of an application to vary from parking space width and depth for the development of a Hampton Inn at 100 Memorial Parkway – Jonathan Griffith, Agent for the City of Palatka, Applicant/Appellant – Mr. Czymbor said the Commission will be considering a denial of a variance request. He asked Mr. Holmes to distribute a brief memo on this process on the constraints and guidelines (filed).

Mr. Holmes said a memorandum was prepared and distributed reviewing the decision of the Board of Zoning Appeals. They should limit their consideration to the facts and comments that were considered by the BZOA. They cannot take new information. The Commission is an appellate body. They sit in a different position than normal; when looking at zoning application, they are considering the record below as a recommendation. The BZOA is a quasi-judiciary board and the Commission acts in an appellate capacity. They cannot take new information or evidence. The meeting ended in a tie vote. This is a decision; it would have required an affirmative vote to approve the appeal. This constitutes a rejection or denial.

Commissioner Leary said he had ex-parte communication with a member of the BZOA and asked if this is improper. Commissioner Kitchens said she did also. Mr. Holmes said it is not improper, they should just disclose it.

Mr. Griffith said they have the original submittal in front of them. This piece of property is subject to a request for proposals with SHP Hospitality being the respondent. Staff negotiated certain things in the site plan that would make it conform to the "vision." This includes increased density. The hotel operator needs 70 rooms to meet Hilton franchise requirements and consequently need 70 parking spaces. They needed to reduce the parking size to do this. They require one space per room. Commissioner Kitchens said the City put the onus on the developer to provide a restaurant facility. If the City had reduced its requirements they would not have required new parking. Mr. Griffith said that is an option for a future restaurant. Commissioner Norwood said according to the minutes, one of the BZOA members asked repeatedly for other options. Mr. Griffith said only the final site plan was submitted in the package. Commissioner Norwood asked if that could have been made available to the Board. Mr. Griffith said he did not have those documents in his possession during the meeting. Mr. Czymbor said the BZOA does not do site plan review. As any citizen they can ask for any public record, but their scope is very narrow. Asking for that information is outside of their scope. Commissioner Kitchens said they only wanted to know if there were other options that had been considered. They turned down the same request from Walmart, flat. She drives a medium to large size car and recently parked at Walmart, and with the doors closed, she was inside the white lines, but when she opened her doors, she was 8 inches into the next space. She noted the quote from Mr. Crowe, who stated local people won't be using this lot, and mostly out of town people will be using it and they will drive smaller cars. She has not seen any out of state cars that are smaller cars. She noted they had done reduced sized spots for Dollar General Stores, but these reductions are granted on a case-by-case basis. As to conflict with other sections of the Code regarding depriving an owner of property rights of rights enjoyed by other owners, there are no per-room parking requirements for Downtown Palatka. The Hilton Corporation has those parking requirements. The argument that people from out of town drive smaller cars does not hold water.

Commissioner Brown said they are building smaller cars. They get smaller with each model year. They need to look at economic development for the City and ways to bring jobs in. There is more at stake here than just parking. They need to do what needs to be done to bring development and tourism in. Mr. Czymbor said Commissioner Brown is correct. The 10 x 20 requirement in Palatka's Code is no longer the industry standard in most communities in the US. In this case, there many adjacent parking spots that are the larger parking spots. The City's strong recommendation is to approve the variance request. Commissioner Brown said in February she paid valet parking for her car in Downtown Washington DC. Valet parking was in a parking space on the street.

Commissioner Leary said this is acceptable from a planning standpoint. Commissioner Norwood said they want to make sure everyone who comes to Palatka has a positive experience. He asked if a study has been done locally to determine the need to revise parking space size requirements. Mr. Holmes said there was no study in the record so they cannot consider this. Commissioner Norwood said they need to look for an opportunity to do the project, not for an opportunity not to do the project. He asked if they went back to the developer to ask if he could change the design to meet parking requirements. Mr. Griffith said they did multiple site plan redesigns; this is the highest and best design.

Regarding public comments, Mr. Holmes said they cannot present new information, so if the members of the public wishing present comments tonight also made these comments at the BZOA, they can be made there.

Marcia Lane, 210 E. Forest Park Drive, Member BZOA, said, referring to the map, throughout they talked about out poor the quality of the map they were given was. They talked about this the first time they took the vote. They then talked about it further and parts of the map were clarified. Some parts they thought were grass were actually impervious. She noted the map the

Commission was given looks different than the map she was given. They tried to compromise and work this out. One of the arguments presented was that they needed to look at this in the overall view. They were never given an "overall view." They did determine there would be a fence around it. They were told the reason they shouldn't worry about reduced parking is because local people won't be parking there with their big trucks or cars. Out of town people would be parking there with their smaller cars. Twice they were told that the City wanted this variance granted. People serve on boards to make decisions. If they are told the City wants the decision to be a certain way, there is no reason for citizens to serve on boards. They spent a lot of time trying to figure a way to make this work. Mr. Griffith was representing the developer and they were given an unclear map. There is a conference room included in this development, and they wanted to know where those people would park. They tried and they did ask questions, and they may have been able to work this out, but were not given enough information to do so.

Alex Sharp, 905 St. Johns Avenue, said he and his wife own four buildings and facilitate occupancy of nine buildings. He was not here for the BZOA meeting. He does not see this as an appeal, but a split vote, with the Commission as a tie breaker. They need this infusion of jobs and activity. He believes if downtown is to prosper, downtown needs to move forward.

Pam Garris, 602 Emmett Street, said she concurs with Mr. Norwood that people need to come here to have a wonderful experience. The BZOA was thoughtful about their deliberations. She has a concern about a Hampton Inn. The parking is important to this issue. This project needs adequate parking.

Commissioner Kitchens said she is not necessarily for or against the hotel but is concerned about parking spaces. Within two years the developer has to do a restaurant and retail space while he's trying to get his hotel up and running. If the City hadn't put that in the contract, he could have had regular sized parking spaces. It's true that there is on-street parking, but when people staying in the hotel are parking on the street, where are downtown patrons going to park? They can reduce the required restaurant and commercial space they are requiring from the developer. There is a restaurant planned for across the street. He has not seen the developer at any meeting. He asked how many local people will work in this development? She suggests they reduce the amount of restaurant and retail space they are requiring. Commissioner Leary said the restaurant and retail are not tied to the hotel. Commissioner Leary moved to overturn the Board of Zoning Appeals decision and grant a variance of parking width and depth to SHP Hospitality, LLC, for the Hampton Inn Project. The motion was seconded by Commissioner Norwood, which passed upon a vote of four in favor, opposed by Commissioner Kitchens.

5. **RESOLUTION No. 2013-9-153** authorizing execution of a Contract for Purchase and Sale of Downtown Redevelopment Area 3, consisting of 1.63 acres at 100 Memorial Parkway, to SHP Hospitality, LLC for redevelopment per the terms and conditions of the response to City of Palatka RFP #13-002 – Adopt – The Clerk read a resolution entitled A RESOLUTION OF THE CITY OF PALATKA, FLORIDA, ACCEPTING AND ADOPTING A CONTRACT FOR PURCHASE AND SALE FOR CITY-OWNED PROPERTY IDENTIFIED AS AREA 3 CONTAINED IN RFP 13-002, COMMONLY KNOWN AS THE FRANK GEORGE APARTMENTS SITE AT 100 MEMORIAL DRIVE, TO SHP HOSPITALITY, LLC, AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT ON BEHALF OF THE CITY OF PALATKA. Mr. Griffith presented a presentation on the Contract Agreement. He stated Mr. Patel's Brother-in-Law and his wife are here to represent Mr. Patel.

Mr. Griffith said the agreement is for SHP to purchase a portion of Area 3 consisting of 1.63 acres for \$163,000. The City is retaining a 20 foot strip adjacent to the First Presbyterian Church and will eventually deed that over to the church. SHP Hospitality proposes to construct a 70-room, four-story hotel generally compatible with downtown architecture. They used inspiration

for architecture from the buildings that were actually demolished to make way for the Frank George Apartments. A slide was shown of the proposed building façade.

Mr. Holmes said the contract was provided to the Commission last Friday. As a result of additional conversations with Mr. Patel and his attorney, they made some minor changes today. At paragraph 1.20 they modified the "permissible title companies" to allow the selection of a local title company; Mr. Patel will pay for this. At paragraph 5.1 Mr. Patel's attorney requested a change to the investigatory period. The net affect was negligible. The changes were semantic in nature. The end result is what they suggested to begin with. At paragraph 5.4 they provided a window for them to notify the City with their desire to move forward with the window, but they took the window out. They requested the City amend the closing cost to require the City to pay for the closing costs, but Mr. Patel conceded in paying all closing costs, as described in the original Letter of Agreement. Mr. Patel asked the contract be assignable to an entity as long as the owners or principal are the same. The entire contract would be assigned. An entity is a limited liability company or corporation. The principals would be the same as the SHP Hospitality, LLC principals. They'd requested they change the storm water permit parking & sections as proposed; after discussion they withdrew their request. They wanted to change the above first floor exterior to be stucco; this was modified at paragraph 5.1. These are not substantial changes in his opinion.

Doris Satterwhite, P.O. Box 1707, Palatka, said she loves Hampton Inns and is in favor it them coming to Putnam County, but not in this location. This is a mistake.

Pam Garris asked that her prior comments stated under the previous item be included with this item. She is not in favor of this development.

Marcia Lane 210 Forest Park Drive asked questions regarding the Contract concerning the buy-back provisions. Mr. Holmes said if the developer doesn't complete the project within the time frame given, the City has the option to buy back the development at the sales price. Mr. Holmes noted paragraph 25.1, etc for development restrictions. They've provided for buy back provisions and limitations on design. The term regarding buyer's approval will survive closing; the terms of City approval are enforceable past closing and deed restrictions will be put in place. After four years from the date of closing those restrictions are in place forever. He will still have to comply with all government regulations. Discussion ensued on what could possibly be built there if he does not build the restaurant there, and selling price vs. the City's purchase price. Ms. Lane urged the City to reconsider this sale.

Pam Garris, 603 Emmett Street, concurred with Ms Satterwhite's and Lane's comments. She said this needs to progress in a well thought-out manner. There has not been enough public input or information. People are not looking at this realistically.

Commissioner Kitchens said she was reminded today that if the hotel is not kept up to Hilton standards, they will lose that "flagship" and it will no longer be a Hilton. This has happened before and has resulted in a run-down building. She is concerned about this contract being assigned to another entity. There has been no credit check done on Mr. Patel. There is nothing in the contract about this being kept as a Hampton Inn. She asked how many local people will work at this business. When the kitchen was redone at Quality Inn, they did not rehire the local staff. She provided other examples of jobs being created specifically to be filled by people living outside of Putnam County. She asked the Commission to take more time on this issue. She does objects to receiving changes to a contract a few hours before voting on it. She wants to be able to read this contract all the way through. She trusts Mr. Holmes and she has no problem with his changes, but doesn't want them coming at the last minute.

Commissioner Kitchens asked what entity is going to buy the development, and asked questions regarding a pedestrian crossing across the Church's 20 foot easement. Mr. Griffith said there will be a 25-foot wide strip of land a pedestrian easement will go through. The Church wanted the 20 feet deed to them to be sure nothing would be built there. Commissioner Norwood said Commissioner Kitchens has valid points regarding hiring people from Palatka.

Hidden Patel, 250 Outlet Mall Way, St. Augustine, said all individuals hired for this development will be local people. They won't be looking for personnel out of town. Regarding flagship status, this is a 20-year agreement. Every five years they have inspections. They have to meet standards. If you don't meet those standards, they receive a default letter, and that is very expensive. The largest Hampton Inn is on a river. This is on a river. Regarding the transfer entity, Mr. Holmes said Mr. Sweet (the attorney) specifically required the language to transfer this to another entity as long as the other entity had the same owners. He doesn't find this to be a huge deal. An entity is a corporate body. The principals will be the same.

Commissioner Norwood said any venture the City enters into has some risk involved. None are risk-free. They've heard from people who are for and against this development. They have thought about this hotel concept for quite some time. They will never mitigate all risks. They need to look at what's good for the entire City. Mr. Holmes said he is not saying there is no risk with this contract; there is risk with any contract for sale of property. There is only a four-year limit on what can be built there. That's the risk the City is taking and the tolerance of the risk is what they'll have to consider. They had a 50-year risk limit with Mr. Diamond's contract.

Commissioner Leary said they have been having these discussions for some time. He noted a Hampton Inn development in Chattanooga with a river running through it that is doing quite well. Nothing is risk-free. Moving forward with this project will bring a whole different dynamic to that area. The Frank George Apartments were low-rent apartments.

Mayor Myers said they have been trying to develop this property for some 10 years. When Mr. Czymbor came aboard he was instructed to put out a RFP with no pre-determined stipulations or conditions. There was one proposal received for this block. They have got to get human traffic downtown to help the downtown merchants. He'd love to have a Hyatt or Hilton, but those are not coming here. The City had to pursue this. Things are happening now. This is a viable alternative that will improve the life of citizens and will provide economic development.

Commissioner Norwood said a few weeks ago a FLC Conference speaker highlighted Palatka as the only "dying" city in Florida. This is an opportunity to put these properties back on the tax rolls and build the tax base. They are putting a GP building on the riverfront; it will generate no taxes. They have to increase the tax base to pay for services that every citizen in Palatka deserves and wants. This is not the absolute best project, and they all have risk. They've lost a great deal of revenue by holding these properties off the tax rolls. Commissioner Brown said this hotel will bring small conventions here. They need to leave something here for their young people. They want to see bricks on the ground. Commissioner Kitchens said she takes issue with people who say Palatka is dying. She's been hearing this for many years. Seventeen new businesses have opened up in the City over the past year. Palatka is not dying. She knows they take on risk whenever they enter contracts. They need to cover themselves better. She is not sure this is the best location for a Hampton Inn.

Commissioner Leary moved to adopt the proposed Resolution as read. Commissioner Brown seconded the motion. There being no further discussion or comment, a roll-call vote was taken, with the following results: Commissioners Brown, Leary, Norwood and Mayor Myers, yes. Commissioner Kitchens, No. The Resolution was declared adopted by a vote of four in favor, opposed by Commissioner Kitchens.

6. **RESOLUTION No. 2013-9-154** authorizing execution of an Interlocal Agreement with the Putnam County School District (PCSD) regarding public safety/law enforcement service responsibilities on PCSD properties – Adopt – Mayor Myers said there have been discussions with the School District concerning the City's role in law enforcement on school property. He met with PCSD Superintendent Criswell last week on this and there was consensus between them to hold a workshop on a mutually beneficial Interlocal Agreement that would be acceptable to all parties. Commissioner Brown said more than one person should be present to put forth solutions, and she'd like to have the commission sit down and look at this issue. Mayor Myers said two or more of them can't meet on something coming before the Commission without meeting sunshine requirements.

Commissioner Kitchens read the letters in the Agenda Package from Ms. Criswell to the PCSO telling them to respond to all calls on school properties. She noted if the Mayor meets with them next week, they could make a decision on the 12th, or hold a joint meeting with the School Board in an advertised meeting. She suggested tabling this until September 12. Mayor Myers concurred and said they need to open lines of communication. Commissioner Leary concurred. He hopes they make the point to the School Board and Superintendent Criswell that city tax payers pay school board taxes and for the Schools to contract with the SO to provide police services that the City provides is ridiculous. Commissioner Norwood move to table the item until a resolution is reached. Commissioner Brown seconded the motion. There was consensus to address this in a timely manner and resolve this as quickly as possible. There being no further discussion, the motion was voted upon and passed unopposed.

7. **RESOLUTION No. 2013-9-155** selecting a health insurance provider for employee benefits effective 10/1/13 - Adopt – Commissioner Kitchens moved to table this item to September 12 per Staff's recommendation and request. Commissioner Brown seconded the motion, which passed unopposed.
8. **CITY MANAGER & ADMINISTRATIVE REPORTS** – Mr. Czymbor said they want to hold an attorney client executive session on September 12 to discuss the lawsuit with Poseidon LLC and the insurance company on the insurance bond. This will be called to be held prior to the regular meeting. Mr. Holmes said he requires guidance from the City Commission on this matter.

9. **COMMISSIONER COMMENTS**

Commissioner Kitchens introduced a letter from Susan Player regarding her questions and opposition to the SHP Hospitality Project, and asked that it be entered into the meeting minutes.

Commissioner Kitchens went over the sequence of meetings and chain of events concerning SHP Hospitality, LLC's development Agreements and Contracts, noting tonight's meeting was called for this reason. She stated the public was not given enough advance notice on these issues to attend these meetings.

Commissioner Norwood said the Commission shouldn't ask staff not to bring things before the Commission that have not been reviewed prior to the meeting. The commission needs to set a standard. They can't pick and choose which items they hear and which ones they don't. The Commission and Staff need to understand what the policy is.

10. **ADJOURN** – There being no further business to discuss, the special meeting was adjourned at 7:35 p.m. upon a motion by Commission Kitchens.