

Proceedings of a regular meeting of the City Commission of the City of Palatka held on the 23rd day of September, 1999.

PRESENT: Mayor Tim Smith
 Commissioner Mary Lawson Brown
 Commissioner George Sanders
 Commissioner Hernan Azula**
 Commissioner Ish Edwards

*Commissioner Azula notified the Clerk that he would be arriving late.

Also Present: City Manager Allen R. Bush, City Attorney Edward E. Hedstrom, City Clerk Betsy Jordan Driggers, Finance Director Ruby M. Williams, Planning Director Adam Mengel, Police Chief Bill Dolinski, Fire Chief Rudy Howard, Parks Supervisor Jeff Norton, Acting Water, Sewer & Streets Supervisor Sam Willis.

INVOCATION – The Reverend Lester Jenkins, Peniel Baptist Church

PLEDGE OF ALLEGIANCE – Janice Pounds

APPROVAL OF MINUTES – 9/9/99 – Commissioner Brown made a motion to approve the minutes as submitted. Commissioner Edwards seconded the motion, which passed.

STUDENT RECOGNITION AND PRESENTATION OF SCHOOL PLAQUES – September, 1999 – Mayor Smith asked Commissioner Brown to join him in recognizing the following students for academic excellence, achievement, citizenship and attendance:

Brittany A. Battles	Mellon Elementary School
Brandi Gilliam	Moseley Elementary School
Candy Ryan	James A. Long Elementary School
Zachary Fishburn	E. H. Miller School
Ashleigh Dowling	Browning-Pearce Elementary School
Tara Waters	Kelley Smith Elementary School
Heather Odom	Jenkins Middle School
Ashley Cox	Beasley Middle School
Charlie Douglas	Palatka High School
Quincy Masters	Peniel Baptist Academy & High School
Dalton King	Putnam Academy

PUBLIC HEARING – Adopt Final Millage Rate and Budget (7.042 mills) – Mayor Smith opened the public hearing.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE LEVYING TAXES FOR THE YEAR 1999 TO RAISE THE NECESSARY REVENUE TO DEFRAID THE EXPENSES OF THE CITY OF PALATKA FOR THE FISCAL YEAR 1999-2000 in its entirety. Commissioner Sanders made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Edwards seconded the motion. Mr. Bush said there are no changes in the budget since the first reading of the ordinance. The millage rate is set at 0% above the rolled-back rate. There being no further discussion, a roll call vote was taken with the following results: Commissioners Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE MAKING AN APPROPRIATION OF MONIES FOR THE OPERATING EXPENSES OF THE CITY OF PALATKA FOR GENERAL ADMINISTRATION OF THE SEVERAL GOVERNMENTAL DEPARTMENTS OF THE CITY, AND FOR CONTRIBUTING TO THE SEVERAL SINKING FUNDS OF THE CITY TO PAY INTEREST ON AND PROVIDE FOR THE RETIREMENT OF THE OUTSTANDING BONDS AND OTHER FIXED OBLIGATIONS OF THE CITY, AND FOR PALATKA GAS AUTHORITY, FOR AND DURING THE FISCAL YEAR A.D. 1999-2000. Commissioner Brown made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Sanders seconded the motion. The results of a roll-call vote are as follows: Commissioners Brown, Edwards, Sanders and Azula, Yes; Nays, none. The ordinance was declared adopted.

EMPLOYEES OF THE MONTH: Mr. Bush said Planning Director Adam Mengel is being recognized for his efforts on behalf of the City during the recent Hurricane Floyd warning/watch. Adam remained at the EMS center during the night the storm was scheduled to pass, and assisted the center with various tasks. His dedication reflected admirably upon the City of Palatka. Mayor Smith presented Planning Director Adam Mengel a certificate, city lapel pin and a check for \$25.00 in recognition of this honor, and said Adam had been working when most of us were home preparing for the storm, remaining at his post for 36 hours.

Mr. Bush said Parks Supervisor Jeff Norton is being recognized for his part in obtaining grants for the City's parks and historic structures over the last two years. These include grants for the Bronson House, R.R. Depot, two riverfront grants and a Hank Bryan Park grant. Mayor Smith presented Jeff with a certificate, lapel pin and check for \$25.00 in recognition of this honor, and said Jeff and his crew are serving the needs of the community, and Jeff has brought considerable dollars into the community.

PUBLIC COMMENTS – Jill Jester, 418 Emmett Street, said she had requested this be put on the Agenda. She is once again representing the owner of the house at 418 Emmett Street, Ms. Sherri K. Dickey, in a request for a refund of water charges. She said she had previously provided documents for the Commission, which they retained, supporting her contention that she has been overcharged \$2,683.62, and she requests a full refund at this time. Mr. Bush said Ms. Jester came to see him prior to the last meeting about taking her billing from a 3x multiplier to a 1x multiplier, indicating hers was a single-family home, had one meter, and was entitled to a single-family water bill. After listening to her statements, he changed her multiplier from 3x to 1x to reflect a single-family dwelling rate. Previously, this house was a 5-apartment unit building. When Ms. Dickey bought the home and came in to turn on her water, the billing was negotiated from a multiplier of 5x to a multiplier of 3x, due to their statements to the effect there would be two apartments upstairs and one downstairs, in which they would live. Taking Ms. Jester at her word that there were no rental units in the house, he reduced her meter multiplier to 1x a couple of weeks ago. He sent Ms. Dickey a statement to sign acknowledging the home at 418 Emmett Street is and has been a single-family home since the time of her purchase, and she intends to remain single family in the future, meaning no apartment and or rooms have been rented over this period and will not be rented in the future. He stated if she would sign and return a copy of this statement, he would be in a position to review her utility bills. At the last meeting, Ms. Jester brought in a number of what she called 'comparables' to Ms. Dickey's property. When they met today, Ms. Jester took exception to the statement, saying it is not their intent be single-family; she would like to run a boarding house at 418 Emmett. This was somewhat different from her original statements. In the meantime, staff took the comparables she offered, which she said are homes in the same situation she is in who only pay one water bill, and investigated them. At 528 Kirby Street, the main structure is one-family with two additional units – 524 Kirby Street and 308 Dodge. Both of those additional units have their own separate meters and are billed separately, as is 528 Kirby Street. There are a total of 3 water meters at that location. At 409 Emmett Street, Mr. Robert Knott at one time had his brother (who was unable to care for himself) living with him in that home. Mr. Fillion went by and spoke with Mrs. Knott, who said the brother is no longer there; Mr. Knott and his wife are the only people living in the house. This house is also listed as multi-family designation, but pays a single family rate, as it is just the two of them. He has sent Mr. Knott the same acknowledgement that he sent Ms. Jester and Ms. Dickey to sign, so his designation with the County can be changed, also. The last was Mr. Henry Chastain's home at 622 Emmett Street; this is listed with the County as a single-family dwelling. As far as the City knows, he does not rent out apartments there. A test as to whether this is multi family is whether you are renting out rooms for profit. If you invite a guest to stay with you and no money changes hands, is not multi-family. There are many cases where a parent will move in one of their children, etc. He has to follow the ordinance, which states if it is multi-family and has only one meter on the house, the City has to charge a multiplier determined by the number of apartments in the home. If you have two apartments in addition to your own living space, you will have a multiplier of 3x. At 528 Kirby, each apartment has its own meter. Unless the ordinance is changed, that is what the City of Palatka must enforce. He has made inquiries among employees, and they say Ms. Jester has had renters in that home. He has had reports of actual tenants coming in to

City Hall and arguing with Ms. Jester about how much they were being charged for their share of the water bill. Mr. Bush asked Pam Sprouse to come forward and tell the Commission her recollections about a dispute involving Ms. Jester and one of her tenants.

Pam Sprouse, a City employee who worked the Utility Dept. customer service desk from August, 1997 through January, 1998, said she recalled a dispute between Ms. Jester and a person who said she was a tenant of Ms. Jester's at 418 Emmett Street, and recalls printing out a report giving her information about the water consumption at that location. Ms. Jester had renters at the time, and evidently the water consumption was included with the rent payments, and the tenant wanted that information.

Jill Jester said she did not recall speaking with Mrs. Sprouse. She disagrees that she came in and said she had tenants. Mrs. Sprouse said she did. Ms. Jester said she recalls a person who she had a personal problem with that was trying to create problems for her back in 1996. That person came into City Hall and claimed to be a tenant and claimed to get water bills, and she did come see Mr. Bush about it as she was very upset about the City giving out her private records. She found out later these are public records and they were released to this person because this person was going around town collecting information on her private life to try and use it against her. This person had no way of identifying themselves as being her tenant, and she has expressed her concerns to Mr. Bush that anyone can walk in and say they are anyone and get records. This person had no proof of who they were or where they came from; this was an adversarial issue going on in her life at that time. Mr. Bush asked Mrs. Sprouse if it was clear at that time that this was a renter; Mrs. Sprouse said that was her understanding. Ms. Jester asked if there was any documentation or receipts provided to Mrs. Sprouse that showed this person was a renter. Mrs. Sprouse said no, but the gist was this person had taken issue with the amount of money Ms. Jester was charging her for water consumption, which was to be included in the rent, and they believed it was an unfair amount and wanted to see what the bill was for themselves. Ms. Jester asked if it was possible the person could have been lying to her, and possessed no documentation to support their statements. Mrs. Sprouse said anything is possible.

Mr. Bush asked Ruby Williams to relate the recollections of Holly Harris, a City employee who also worked the customer service counter at the time Ms. Dickey's water was turned on, as to why the 5x multiplier was taken down to 3x. Ms. Williams said Ms. Harris recalled they revised the multiplier based on their statements there would be two apartments upstairs in addition to their home downstairs. Mr. Bush said in a case like this, where it appears and she acknowledges that this is not a single-family home, but in fact a rooming or apartment house, according to the ordinance the City has to charge by the number of rooms available. At some point, it was determined that number was three units. He drafted the letter because she indicated originally to him it was a single-family home, and said the same to the Commission at the 9/9/99 meeting. If the letter is executed, it can remain a single-family home. If she is not able to sign it, he has to assume by her own words it is a rooming house and the City has to go back to the three units they were charging, unless she can demonstrate she only has two units. Although it is not necessarily an indication of the number of apartments units, she still has five electric meters, even though it was determined there are three apartments there.

Ms. Jester said she has never said this was a single-family home. She and Mr. Bush have gone to rounds about this; they will pull the minutes from the last meeting if they need to. She stood here and said no, she is not legally single family, as they can never legally be single family because they do not and can never share the same last name, and are not blood related. She does not understand where the grandfathered-in multi-family non-conforming status comes in. It is not relevant to this issue at all. Mr. Bush has shown the Commission that there are other houses in the area that are currently grandfathered-in multi-family non-conforming, and they do not pay multiple water bills, according to him and his report, and according to the documents she provided at the last Commission meeting. He has continued to say no, the City can charge you for three meters because you are multi-family. They are not multi-family, they are grandfathered-in multi-family non-conforming, but there are only two people living in the house now. They have never had tenants. There is no business they run out of the house. There is no business license. There is no advertising. Running a boarding house is a dream she has, as she has told

many people. One day, hopefully, they can convert this into a rooming house to support tourism in Palatka. They are not at that point yet. It is their homesteaded property; it is their home. They should not be penalized for having goals for their house. She did not tell Mr. Bush today it is a boarding house, and is getting tired of him saying she has said things she has not said. She does not appreciate him producing a letter saying she represents herself as an agent saying the home is single-family, because she never did that. Mr. Bush said she claimed, loud enough for many people to hear it, including the rest of City Hall, that she has always been a single family home and she intended to remain that way, she could not legally be married, but they were as a single family. Ms. Jester said he has continued to insist that, but she has never argued this was a single family home. She said Mr. Bush has said there are multiple reasons he felt justified in overcharging them. One reason is their zoning, and she has proved to him there are at least four other houses that are zoned the same as hers that are being charged for one meter, so that argument is negated and proves he is charging them differently. Then he says it's not that, it's because she has five FP&L meters. Henry Chastain has two FP&L meters, but is only charged for one water meter. Then he says no, it's because they are going to be a rooming house. Pauline Pellicer intends to open a Bed & Breakfast, and she has only one meter. Azalea House Bed & Breakfast is truly an active business and pays only one meter. He says it is determined by the number of units in the house, and they have no units in the house. There is a Commissioner here that has been in her house and knows there are no units. That whole argument has no validity, either. Mr. Bush asked Mrs. Driggers if she has overheard conversations wherein Ms. Jester claimed this was a single-family home and would remain a single-family home. Mrs. Driggers said she called it a residential home, she called it single-family; she said they don't have any apartment units and it is their home. She said they had never rented to anyone and didn't intend to rent apartments. Ms. Jester said when they registered for their water, Ms. Dickey checked off residential, not commercial. They didn't stand in front of Ms. Williams and say there were three apartments. They were given the options of either paying five meters, three meters or getting no water at all. There was no other option. Mayor Smith asked if they are asking to pay only a single-family water bill now, yet allow them to stay multi-family non-conforming use for future use in the event they want to become a boarding home. Ms. Jester answered yes; every other house in that neighborhood has that exact same privilege. Mayor Smith and Mr. Hedstrom said she couldn't have it both ways. Mayor Smith said when a home is not used as a multi-family structure after six months, they revert to the higher zoning classification. Ms. Jester said that is not the case with Robert Knott or 412 Emmett Street. She has documented this with their own records. These places have been single-family for many years and still retain their status. Mayor Smith said the City should call it a single family home, determined to be so by her statements. Ms. Jester said she will not call it a single-family home and is opposed to the City's rezoning her home by coercion, as it is not a relevant issued. Mayor Smith said she says it has been a single family home for longer than six months, and the City's ordinance says if that is so it automatically reverts to the higher zoning classification. Mr. Hedstrom agreed with this. Mayor Smith said he is not rezoning it; it is rezoned by its use. Ms. Jester said she is not rezoning the house. The Commission needs to understand they are legally not a single-family because they do not share the same last name. Mayor Smith said if that is the case, they have a multiple water bill. Ms. Jester said if that is the case, then every other multiple family home in that area should go up to multiple meters, also. She just wants to be treated fairly and equitably. She does not want special treatment. Mayor Smith said the City should go to these people, inquire as to whether they are single or multi family or have rented in the last six months, and if not, change their classification; if so, then charge them higher meters. Ms. Jester said the City is forcing rezoning on them. Mr. Hedstrom said the property has already been rezoned; the use of the property was grandfathered, and if that use ceases for more than 6 months, you cannot revert to that use. The property was rezoned years ago, even before she bought it. Ms. Jester said back in the 1980's the whole neighborhood was rezoned to single family, but her house was grandfathered in multi-family non-conforming. Mayor Smith said he does not intend to sound flippant or mean, but when you buy property part of your responsibility is to know what the zoning is and what all the consequences are. Ms. Jester said she was told by the sellers that it was grandfathered in multi-family non-conforming, meaning it would retain the status and would not be changed back to single family. Mayor Smith said it did until she made the statement that it had not been rented in over six months. Ms. Jester said Ted MacGibbon, who was a

City Commissioner at the time, told her the property would lose its zoning if it were vacated for more than six months. He said that on multiple occasions. She did not misunderstand him. They did not intend to lose their zoning; they always had the intent to open a rooming house, and that is why they purchased the property. Mr. Hedstrom said that is not what the law says. Commissioner Brown asked if they could give Ms. Jester a copy of that ordinance. Ms. Jester said she requested a copy of the ordinance that says multi-family is charged for multiple meters. Mr. Bush said they have researched that area pretty thoroughly. If, in fact, she turns up a house out there that is a multi-family home with active rentals that is paying a single water bill, according to the ordinance the City should increase that home's bill accordingly, rather than reducing her bill. Ms. Jester asked why an active B&B is being charged for only one meter, but they insist on keeping her to three meters. Mayor Smith said they pay a commercial rate. Ms. Jester asked why they couldn't pay a commercial fee of only \$45.00. Mayor Smith said typically in a home that is rented as apartments, they are rented by the month, not by the night. Ms. Jester said they told City Staff from the very beginning this is not an apartment house, and has been told by City Staff that they don't believe them. Commissioner Brown asked her if she wants now to be treated as a single family residence; Ms. Jester said she wants to be treated fairly. Commissioner Brown asked again if she wants to be treated as a single family residence. Ms. Jester said no; she wants to be treated like every other house in her neighborhood, which is to retain her grandfathered multi-family non-conforming status and pay only one water bill. They are not single family. Commissioner Brown said they are single family. Mayor Smith said they should go by what the ordinance and Mr. Hedstrom say; if it is a single family home, then that is what their bill should reflect. Commissioner Edwards asked if he could pull these ordinances, meet with Ms. Jester and Mr. Hedstrom, and work this out away from the meeting tonight. He will bring a report back to the next meeting. Commissioner Brown said they can make a determination at the next meeting on the disposition of this issue. She rode out and looked at the houses from the outside; she knows they have had problems in the past with people who have rented rooms and not reported it or paid their fair share. She also knows that after six months, you lose your grandfathered zoning status if the home is not being used for that purpose. Ms. Jester said twice now she has requested, on time, to be put on the agenda, and Mr. Bush has refused both times. It is not her fault they are just now getting this information and were not made aware of this. Two weeks ago they pushed it off. Mr. Bush asked Ms. Driggers if she requested to be put on the agenda. Ms. Driggers said the day before the last meeting, she spoke with Ms. Jester about putting her on the agenda for the MMS item; she did put her on for that item, even though the request was made after the agenda had closed out the day before at 10:00 a.m. She did not mention that she had another item. The next morning Mr. Bush came in and said he had met with her and she had told him she wanted be on the agenda about her water meter, but the agenda was already closed and published. He said he had told her it was probably too late, but she could still speak to the item at the meeting. Just prior to making out this agenda, they spoke about putting her item on, but Mr. Bush said he had a letter she needed to sign before they could discuss giving her a refund. This morning Ms. Jester called her to ask about being on the agenda and was told she was not; Mr. Bush had written her a letter, which she said she hadn't received. She told Ms. Jester to come in and speak with Mr. Bush that morning about it. Mr. Bush said if they couldn't get things ironed out, she could still come in and talk to the Commission. Ms. Jester said Mr. Bush can't stop her from coming in and speaking at a public hearing, and she is well aware of that. That is why she is here. Mr. Bush took the full two weeks to mail her a letter, which she would not get in time, to get on the agenda. She feels very manipulated. Every time she has said she wanted to get on the agenda, it has been too late. Maybe it has been accidental, but is it getting repetitive. Ms. Driggers said in defense of Mr. Bush, he has done a lot of research on this issue, right down to researching her construction permit, which has taken some time. Ms. Jester said he has not bothered to come to her home; she extended an open invitation to each Commissioner to visit her home and see for themselves. She has been on the tour of homes for the last three years and only Commissioner Edwards has seen her home. Now that there is a definite issue that needs to be resolved, and they need to know she is telling the truth, that they don't have units and have never had units, Mr. Bush doesn't show up, but he sends her out a letter less than 24 hours before the scheduled meeting. Mayor Smith said Commissioner Edwards can make a report at the next meeting, and ended the discussion

PUBLIC HEARING – 2223 & 2229 Reid Street – Request to Rezone from R-1A to C-2 – Mayor Smith opened the public hearing.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY OF PALATKA, FLORIDA BE AMENDED AS TO LOTS 20 – 26 OF FOREST PARK SUBDIVISION FROM R-1a TO C-2; AND PROVIDING AN EFFECTIVE DATE. Commissioner Edwards made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Sanders seconded the motion. Mayor Smith opened the floor for discussion.

John Sproull, Attorney for Mr. Steve DeLuca, applicant and agent for owners, said Mr. DeLuca could not attend due to a schedule conflict. Mr. DeLuca seeks to rezone six lots in Forest Park Subdivision, four of which abut on SR 15 & 100, or Reid Street. He passed out a map to the Commission showing the lots. Lots 20, 21 and 22 now contain a Jiffy Lube business. The business use has been in existence longer than the zoning ordinance of the City of Palatka. The other three lots are under lease to National Car Rentals, and in years past have been used for used car sales. That use was also in existence prior to the zoning ordinance of the City of Palatka. As you go east toward the River, there is what appears to be a single-family residence next to the Village Lounge. There are two other single-family residences on either side of the location of WPLK radio. Commissioner Brown said someone does live in the house next to Wendy's, but the lot on Reid Street is vacant. He produced the City's most recent zoning map, effective 7/29 of this year, showing another residence to the west of the Auto Parts store. There is another residence across from Century 21, and one on 10th Street that actually faces 10th; its side is on Reid Street. The distance from the intersection of Hwys 19 & 100 to the foot of the Memorial Bridge is over 2-1/2 miles; on both sides, for a total of around 5 miles, there are only five single-family residences on that stretch of road. This property has been used and is used today for commercial purposes. The future land use designation is commercial; if something happened to the building, the owners could not use it for anything, because it is zoned residential according the future land use map; one could not build a home there. It can only be used in its existing state, so long as they continue to find some tenant to use it and the use doesn't lapse for six months. The present use is non-conforming. He doesn't want to discuss whether the zoning makes good sense; it was done a number of years ago. If the Commission denies this request, it can't be sustained if the zoning is unreasonable and it has no substantial relationship to the public health, safety or general welfare. Denial may also be unlawful when it is a deprivation of the owner's property or if it becomes arbitrary or discriminatory. The object of use zoning is to put the land to the uses for which is it best adapted. The public welfare which the zoning authorities and courts must be concerned with is the welfare of the whole community, and in this case, not Forest Park Subdivision. The application for the zoning plan must not be unreasonable or arbitrary, and any excessive restriction on the use of private property that does not contribute substantially to the public health, morals, safety and welfare is unreasonable and thus unconstitutional. Where there is no basis for a zoning limitation on the use of land, the restriction is arbitrary and unreasonable, and a court has often been justified in overturning that order. In changes in the nature of a neighborhood, an owner's property make take its character from the commercial or industrial uses so that a residential classification, as applied to that property, is invalid. Reverse spot zoning occurs when a zoning ordinance prevents a property owner from utilizing their property in a certain way, when virtually all of the adjoining neighbors are not subject to such a restriction, creating in effect a veritable zoning island, or a zoning peninsula, in a surrounding sea of contrary zoning classification. Reverse spot zoning is invalid and is confiscatory. Changed conditions may create a situation where the zoning of one's property is so unreasonable as to constitute a taking of that property, in which courts are not prone to refuse to strike down that zoning ordinance. (Mr. Sproull gave a case instance wherein zoning was originally residential, but was changed to intense commercial due to highway expansion and the owner's intent to build service stations to the north, west, and northwest.) Mr. Sproull said this neighborhood has changed; Reid Street is one of the major thoroughfares of this town; it does not make rational sense to have a piece of property zoned residential on Reid Street in the City of Palatka. Mr. Sproull gave some more demographics of the surrounding area and other businesses located next to the property in both directions. He

said denial of this request is a denial of the owner's right to enjoy their property, because of the particular nature and circumstances that are involved. To not grant the request constitutes reverse spot zoning. In an attempt to accommodate the neighbors, Mr. DeLuca has authorized him to offer some concessions. Mr. DeLuca has put up a very nice station in East Palatka and would like to do the same in Palatka. This station will close at 11:00 p.m. Mr. Sproull handed out a copy of the survey of the entire plot, saying the site plan only dealt with a portion of the property. The existing wall is shown beginning at Lot 20, going behind the building and towards the National Car Rental building. Mr. DeLuca has no use for or interest in the property behind that wall. There is a 6-foot barbed wired chain link fence south behind the car rental building; possibly spanning lots 24, 25 & 26. The fence was put up without benefit of a boundary line survey. Mr. DeLuca is limiting his request to the property in front of the wall and will not increase the size of the building. He is willing to grant an unlimited easement to anyone who wants it over the remainder of the property behind these existing fences so they can build a fence as big and as wide as allowed. Mr. DeLuca does not run a juke joint; it is convenience store. He is looking for sales off of Reid Street, not attracting traffic from Forest Park. Mr. Sproull asked the Court Reporter, Judy Elliott, to note applicant's exhibits #one, two & three into record. By his scale, from the s/w corner of the main building to Forest Park Drive is 30 feet. The concrete pad is 22.6 feet. The closest distance from the back of the building and the slab is 13 or 14 feet to the line of Forest Park Drive as surveyed. He has no objection to that portion remaining residentially zoned. Mayor Smith asked him to draw a line on one of his maps noting where he wishes the zoning to remain residential. Mr. Sproull said he does not have an exact location on the chain link fence, but said he can have a surveyor place the fence lines on a similar drawing. There was discussion on the approximate location of the fence, which essentially encloses the flat portion of the three lots.

Bill Townsend, an Attorney representing Marcia Lane, Bill Payne and Leonard Freeman, all landowners in Forest Park S/D, urged the expenditure of taxpayer money towards the purchase of a podium for the meeting room. He handed out a smaller version of the map he was using to make his presentation. They made a formal request to the Planning Board that they visit the site at both sides; they did not make the same request to the Commission, but he hopes they have seen it. Unless you view it from both sides, you cannot fully appreciate the property. This is one of the oldest residential neighborhoods in Palatka. U.S. 17 was cut through, making a 10 or 12 foot drop to the road. Pointing to things located up and down the highway is irrelevant. The roadway from Scruggs up to and past the Y is essentially the same. The small building that is now the Jiffy Lube has been various business, all open only during the day, and the level of the roof is below the ground level of Forest Park S/D because of the hill. The owner of the property, in the days before zoning, excavated a cutout where the small building exists. This is easy to see if you drive by or stand up above and look down. This is a very small piece of land; if you stand on sidewalk on Forest Park, you are standing on the edge of the drop that goes off the building, only a few feet. There is thick growth, and because your eye level is at that growth and you are way above Reid Street, there is an effective 'eye-buffer' so that you are not conscious of the building. Unfortunately, when you look at the type of business that is given as the model for the proposed business, you have the canopy, all the lighting and the night-time effects that will now be up above the ground level of all these residential homes. He appreciates the compromise gesture, but he reminded the Mayor of his own words, that one is responsible for knowing what the zoning is when you buy a piece of property, which is exactly what they have tonight. Only the little cut-out, that has physically been altered, is such that you can say it has been altered and changed; the rest of it keeps its residential character right out to Reid Street, because it is isolated from Reid Street due to the elevation. The elevation is the overwhelming factor that goes along. It comes up from the backside as well as the sides. He looked at the fence and is fairly certain a piece of the used car lot has gotten on to one of the lots, but he does not know how large it is. This came to the Commission via a unanimous vote by the Planning Board to deny the request because of the alteration to the type of neighborhood. Intent to make concessions is well and good, but you no longer have to have attendants to purchase gasoline with the advent of credit card operated pumps; there is no reason to close a station, economically, at any time. The intentions may be good, but the pressure will be go stay open. Even at 11:00 pm, dealing with the huge lighted canopy, all the buffer effect disappears and you have a huge glowing business in your face at this very

close range. There are particular considerations the Planning Board and the Commission are supposed to make when changing zoning. One is the possible creation of an isolated district unrelated to an adjacent, nearby district, which this will do to the people who live at the end of the subdivision. Another is whether the proposed change will adversely influence living conditions in the neighborhood, and he suggests you simply can't transport the station in E. Palatka to this location at this height without making that change. Another is whether the proposed change will adversely effect property values in the adjacent area; he believes the Commission can easily make the judgement that the sudden loss of that buffer will dramatically impact the value of the residents above it. Forest Park is not a commercial district; it has no future as an industrial park above. It is completely and dramatically separated from Reid Street by the elevation alone. This type of usage will destroy that type of elevation and will inject a commercial business into a neighborhood that is now separated from every commercial business that is close to it on the basis of that elevation. On behalf of his clients, he urged the Commission to accept the Planning Board's recommendation and to vote against this ordinance. Mr. Townsend introduced respondent's exhibits one and two into evidence. Mayor Smith then opened the floor for public comment.

Bobby Payne, 2002 Cherry Lane, said he is here on behalf of his parents, Bill and Myrtle Payne, and other residents of Forest Park Drive. Primarily the destabilization and erosion of the soil under Forest Park Drive is a concern. Even though Mr. Sproull offered a fence as a compromise, if this convenience store is built, people will come from all over, as they are notorious for having foot traffic. The fear is that traffic will come through Forest Park Drive. Fences do not keep people back if they want cigarettes and Budweiser. The fence would probably be torn down and rebuilt. Noise and foot traffic is his primary concern; most of the residents are elderly people. They are concerned about crime. The devaluation of property is also a concern. The area could pose a safety hazard because of the adjacent roads in the area along Reid Street. The current power and telephone service would have to be upgraded, which is currently fed from the Forest Park side. Trees may be removed for this. He hopes they will consider this in their decision.

Marcia Lane, 210 E. Forest Park Drive, passed out a photo collage of three scenes: the first from the Forest Park side looking down at the area under discussion; the second set from Reid Street looking at the same area; and the third set, taken in East Palatka at night, of the station that is similar to what the applicants propose to build at the area in question. She has been reminded of how important zoning is. This issue effects other areas besides Forest Park. Although there are few houses located along Reid Street, they should look at what has become of the neighborhoods behind the businesses along Reid Street; they are not the thriving neighborhoods they used to be. Their problem stems from the fact there was no zoning in Palatka until 1974, and people did what they wanted. That hill used to be level; if it hadn't been dug out by Mr. Oliver there would be houses there, and none of this would be happening. The neighborhood has been platted for 74 years. The Dowda house is there. She has lived there most of her life. There are young couples moving in. It is a nice, quite neighborhood. If the rezoning is allowed, it will be a peninsula of residential zoning right at the apex of a residential neighborhood. The commercial zoning exists in an entirely differently subdivision. This is almost a sheer drop off; the hill was collapsing and has finally been stabilized somewhat, but additional foot traffic and vibration from cars and trucks will increase the problem. The applicants intend to put in a convenience store. There is no residential area around the E. Palatka station. She asked if the Commission would like to have a 40-foot lighted structure in their yard. This is light pollution. Even though Mr. DeLuca intends to only improve that small piece of property and to close at 11:00 PM, there is no guarantee this will continue. When she took the pictures of the E. Palatka station, it was July 23 at 9:00 p.m.; there was heavy traffic, glaring lights and a lot of noise from boom boxes, cars, loud conversation, etc. This is a preview of what they can expect. Once you change this zoning to C-2, anything can go in. Most of these other businesses are 'mom and pop' 8:00 am – 5:00 p.m. businesses. The smell of fish does not keep them awake at night. They also worry about crime; they had problems when Pic N Save was open and all sorts of folks were coming up and down that hill. The trees on the slope are a buffer; they are holding up the hill. They don't need another filling station/convenience store; there are others located within a few hundred feet. There are other locations they can find to put in a station. Also, there will be fuel and dumpster odors; this will be in their side yards.

There is also a safety consideration due to 23rd street. Cars will be in and out all day; it is already dangerous on that street. DOT intends to widen Reid Street; they already had to ask for a variance to put up their canopies. The city had to put in a large storm sewer drain due to the erosion problem; they had to put up a buffer, also. The erosion is starting on the circle at the end. This will have an adverse effect on the residents; it is their home. Mr. Townsend entered Mrs. Lane's pictures as Respondent's exhibits #three and four.

William Payne, 212 E. Forest Park Drive, asked the Commission to deny the rezoning due to the fumes and noise from the road, foot traffic, and the vibrations, which are already bad due to the traffic on Reid Street. This will set a precedence all over the City.

Christy Payne Lee, 212 E. Forest Park Drive, speaking on behalf of her parents, said she hopes the Commission will give as much consideration to their 'historic' neighborhood as the neighborhoods bearing official historical designation. When John L's opened up, the noise was extremely bad. If the buffer is gone, it will kill the neighborhood. Even though Mr. DeLuca says he will close at 11:00, this may change.

Rev. Bob Bronkema, 117 E. Forest Park Drive, said he just moved in less than a year ago. He has two small daughters. He wants to go on record as opposing the zoning change.

George Preston, 113 E. Forest Park Drive, said he wants to go on record as opposing this zoning change. Every morning he is awoken by the emptying of the dumpsters at the motel; with this store, there will be more noise from emptying dumpsters. The store itself may be closed at 5:00 am, but there will still be noise related to this store.

Myrtle Payne, 212 E. Forest Park Drive, said she has lived here for 50 years. The late Butler Dowda, who was a local attorney, helped them settle the purchase of their property. At that time he said this would all remain residential, and it would have if the owners of that property hadn't whittled all the dirt away and gotten greedy when they cut the highway through, leaving them sitting up on a hill. It should all remain residential property. She is opposed to the rezoning of this property.

Valda Massey, W. Forest Park Drive, said she is opposed to this rezoning.

Adam Mengel, Planning Director, said the Commission should disclose any ex parte communication they may have had relative to the issue at hand. Commissioners Brown and Sanders were both present at the Planning Board hearing, but did not contribute any discussion to the record. He is not aware of any other ex parte communication. Mayor Smith said he has received several post cards asking for a vote against the rezoning, but there was no direct discussion. Commissioner Brown said they all have received post cards. Adam Mengel asked if they have ever spoken about a vote or how they would proceed during their discussions; the Commission said they hadn't. He provided a case summary of the report. He did amend the previous report; he had stated there was no curb cut on Hwy 17 across from the property that would permit northbound traffic on Reid Street to enter this property. As shown on a photo, there is one on the far north where the rental car sign is located; however, there is no de-acceleration lane on that side and he does not believe it is DOT's intent to have people turning there. There is a de-acceleration lane on the southbound lane. There are some improvements needed at that curb cut in order for this use to be placed there; this would be part of the DOT permit. Beyond that, he did review the 17 criteria and he provided the Commission with the same recommendation he provided to the Planning Board; this request meets those criteria including the consideration of the comprehensive plan and policies mentioned in the report. The staff recommendation was for approval of the request. The last item in the package, on the last page, are the minutes from the Planning Board's August 3 hearing, which states the Planning Board made a motion to deny this request on the basis of Item 7, whether the proposed change will adversely influence living conditions in the neighborhood, and Item 11, whether the proposed change will adversely effect property values in the adjacent area. The vote on that motion was unanimous; 8 – 0 in favor of denial. At this point, there are three possible options. The first is to follow the Planning Board's recommendation and deny the request, taking no action on the rezoning ordinance before the Commission. The second is to overturn the Planning Board's recommendation and adopt the rezoning ordinance; this would require a super majority of

four affirmative votes. The third is to remand the issue back to the Planning Board for some procedural error found in the minutes, or if one of the parties feel they were aggrieved at the Planning Board discussion. There being no questions on the procedure, Mayor Smith offered both attorneys an opportunity for final comments.

John Sproull, Attorney for Applicant, said neither at the Planning Board meeting, nor at this meeting, has there been presented any substantial evidence by the opposition to this motion to overrule the recommendation of the City's own Planning Department. The mere statement of people's fears does not constitute substantial competent evidence. As to the diminution of the value of the neighborhood, the increased traffic, the increased crime, the increased noise; those are things that obviously people can come and speak their fears of, but they are only fears and concerns. There is no competent, substantial evidence presented by the opposition to this motion to overcome the recommendations of the City's own Planning Department. The Comprehensive Plan, which the Commission has enacted, controls the zoning. Zoning doesn't control or drive the Comprehensive Plan. If any change is to be made, it should be made and is required to be made to come into compliance with the Comprehensive Plan, which in this case is commercial zoning.

Mr. Bill Townsend, Attorney for Respondents, said every single judgement that anyone makes on any zoning matter is always a judgement about the future, and no one knows the future. When you get to the issue of how it affects value, whether you have an M.A.I. testifying before you or a Realtor or someone who deals in property, or someone buying a home for the first time, each one of those people is making a judgement about the future, based on common sense. You do know that people do not buy homes, common sense wise, next to a filling station if they can avoid it. He hopes the familiarity of the site, the actual, physical topography of this site, is considered, which he can't bring in here and present into evidence, but it is perfectly valid for each elected official to bring his or her own familiarity into these proceedings. If Forest Park sat on the same level as Reid Street, you would have a totally different picture. You would not have the isolation you have when you drive through Forest Park; you would not have that separation from the Reid Street developments. That very steep hill separates it completely; however, the distance is a very short one. There is a tremendous difference to stand in Forest Park S/D and look out right now, because the roof of the non-conforming use building, which has been there since way before zoning, is far below eye level. You see nothing but trees and brush. When you introduce a 40-foot lighted canopy podium, all that will be drastically changed as far as the eye and ear of the beholder. With reference to people speaking their fears, each of the sections he quoted the Commission from the ordinance for consideration, the Commission must make a judgement on as to the future impact. It has been presented that they should use the Texaco station in E. Palatka as the model. It exists and they can see it. In their own minds, they should transport that station into that same location (on Reid Street in Forest Park S/D) and put themselves on the street, and picture in their minds what that does to the values and the isolation of the neighborhood.

Commissioner Edwards said he noticed the Planning Board denied this due to Item #'s 7 and 11. One of the items was whether it would adversely influence the living conditions in the neighborhood. He drove out there and walked around the area; right now, there is already a 'cow trail' at the corner where there is foot traffic going down the hill. If you look at the convenience stores in the area, what hangs out there, parked in the parking lot, are people hanging out, playing loud music, using profanity when you walk by and things like that. He himself had some trouble one night at the Suwanee Swifty there on the corner of Moseley and Reid Street. He can see where building a Texaco/convenience store will adversely effect the values and living conditions in the neighborhood. If there is a trail now, with no convenience store, you can imagine the increased traffic coming down that hill trying to get to the convenience store. People will go around or tear down a fence if they want to get there bad enough. As to Item #11 and #12, the staff recommendations say the proposed development will have minimal new impacts on adjacent properties, and property values and development of adjacent properties should not be adversely affected by the proposed use. In his own experience, he owned some property in West Putnam Co. on a lake. It was zoned homes only, no mobile homes. Someone came in across the street and built a Quonset hut, which is considered a home, and not a trailer. When he sold his property, the appraisal showed the property value had decreased; specific mention was made of the Quonset hut in the devaluation of the

property. Today he lives next door to the Azalea House B & B, which recently sold for a very large amount of money; the next year his property value increased because of that. At this time, you cannot see the commercial businesses from the top of that hill looking out; if you look down, you can see it. If a new facility with the high canopy and lights is built there, you will be able to see it, and it has to adversely affect the property values and the improvement or development in that area. It will stand out like a sore thumb at night.

Commissioner Sanders said he also sees problems there, particularly in the embankment. He has looked at this three separate times. There are trees growing out almost at a 45-degree angle. When those trees come down, they will bring a lot of dirt with them, which will weaken that bank. He agrees that the tall lights and increased noise will definitely affect the neighborhood. He recommends the Commission accept the Planning Board's recommendation to reject the rezoning request.

Mr. Hedstrom read a quote from the 1993 Supreme Court case of Bd. Of Co. Commissioners of Brevard Co. vs. Snyder, saying this would give the Commission some idea on how to approach this. The Supreme Court said, "We hold that a land-owner seeking to rezone property has the burden of proving that the proposal is consistent with the Comprehensive Plan and complies with all procedural requirements of the zoning ordinance. At this point, the burden shifts to the government Board (in this case, the City Commission), to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose. The Board will now have the burden of showing that the refusal to rezone the property is not arbitrary, discriminatory or unreasonable. If the Board carries this burden, the application should be denied." He added parenthetically, and believes both attorneys will agree with him, that that statement implies to the reverse, also; if the burden is not carried, the rezoning application should be granted. The Supreme Court further says, "In order to sustain the Board's action upon review in Circuit Court, it must be shown that there was competent substantial evidence presented to the Board to support its ruling." In a 1957 case the Supreme Court, in defining 'competent substantial evidence', said "Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. The evidence relied upon to sustain the ultimate findings should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent, the substantial evidence should also be competent." Mayor Smith said there is a motion on the floor to place the ordinance rezoning 2223 & 2229 Reid Street from R-1A to C-2 on 2nd reading for adoption. In a situation like this, where you have elected officials who are not experts in a particular field that relates to this, they have to use their judgement as their competent substantiating factor. As the discussion has progressed, he has pictured the station in E. Palatka, which he believes is a nice-looking station. He is also an individual who grew up playing in the Forest Park area. As he pictures the station in the Forest Park area, he is reminded of the movie "Close Encounters of the Third Kind", where that big light comes up, and you don't at first realize what it is. He can picture such a light sitting there at the end of that subdivision. With the elevation he knows to be there, both at Reid Street and the subdivision, he can use as his competent substantial evidence his interpretation of what is going to be there. He believes this would also uphold the Planning Board's recommendation for denial based on Item #'s 7 and 11; therefore he intends to vote no to the rezoning. There being no further discussion, a roll call vote was taken with the following results: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, No; there were no affirmative votes. The motion failed; the ordinance was not adopted.

PUBLIC HEARING – 1210 Old Jacksonville Hwy – Request to annex, amend future land use map to PBG from County US, and rezone to PBG-1 from County R-2 – Joe Pickens, agent for owners. Mayor Smith opened the public hearing.

ORDINANCE – the Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA, ANNEXING INTO THE CORPORATE LIMITS OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA, CERTAIN ADJACENT TERRITORY IN THE NE ¼ OF SECTION 1, TOWNSHIP 10 SOUTH, RANGE 26 EAST, CONTIGUOUS TO THE BOUNDARIES

OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Edwards made a motion to place the ordinance on its single reading for adoption. Commissioner Brown seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND FUTURE LAND USE ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN WITH RESPECT TO ONE PARCEL OF LAND (LESS THAN 10 ACRES IN SIZE) AS DESCRIBED HEREINAFTER, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. Commissioner Azula made a motion to place the ordinance on its single reading for adoption. Commissioner Sanders seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY OF PALATKA, FLORIDA BE AMENDED AS TO CERTAIN PROPERTIES IN THE NE ¼ OF SECTION 1, TOWNSHIP 10 SOUTH, RANGE 26 EAST, FROM COUNTY R-2 TO CITY PBG-1; AND PROVIDING AN EFFECTIVE DATE. Commissioner Edwards made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Azula seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

BETHEL AME CHURCH HISTORIC GRANT MATCH - Queen Esther Polite, Church Clerk, said they had applied for a historic matching grant. This is the small cycle so all they can get is the roof fixed, which will cost \$47,000. They can get half of it from grant funds, but they need to get the other \$23,500 in a cash match. In answer to Mayor Smith's question, they won't know if they received a grant until November. They actually need \$349,000 in order to complete the renovations. In answer to Mr. Bush's question, they can accept in-kind, donated services and cash. Commissioner Brown volunteered to meet with Mrs. Polite to find out what type of in-kind or donated services the City may be able to provide them. Mayor Smith said they can transport material, donate use of equipment, etc. To be fair to all the churches in the community, they all have their needs, and the City cannot offer cash to each one. The role of the City tends to be to offer in-kind services, which can be quite substantial to the value of what is needed, and can be counted towards the matching part. Ms. Polite said all the matching has to be connected to the roof. She needed the information last week, but Hurricane Floyd slowed everything down. Mayor Smith said the City Manager can put a dollar value on the services and give them a letter to that effect. Mr. Bush said she and Commissioner Brown should come by City Hall with a copy of the application in the morning.

Lillian Polite Haines, a parishioner, said they were not informed the item would be on the agenda, and asked Commissioner Brown if she had intended to look out for the Church since it was her church, too. Commissioner Brown said she did; her grandfather was a member of the Church, and she attended that church as a child.

OFFER OF PROPERTY FOR SALE – 412 S. 10th Street – Mr. Bush said the owner of the property, Desiree Wallace, has written to the City offering the property at \$7,500. If the City has an identified need for a piece of property, they will contact the owner and negotiate a price. Simply buying property without intent has not been done. Commissioner Sanders asked Mr. Bush to write Ms. Wallace a letter stating the City's property acquisition policy, and suggest she contact a local realtor. Mayor Smith said the Commission's taking no action is a statement they are not interested in the property.

REPORTS: Update on C-3 zoned property – Adam Mengel said he has two items he hopes to get to the Commissioners by tomorrow afternoon. The Planning Board requested their C-3 workshop hearing information be presented in a different format, which they are preparing. The changes are mostly taking out references in the Code to seeing other permitted uses in the code.

Mayor Smith asked Mr. Mengel, in reference to ex parte communication, if the Commissioners will be in a better position to hear discussion on items if they don't attend Planning Board meetings and hear discussion, or if they just don't participate in discussion. Mr. Hedstrom said anytime the Commission decides on the application of the zoning ordinance to a specific piece of property, they are acting in a quasi-judicial capacity. The recommendation is they remain independent of what is going on and detach from it so they can make a fair and impartial decision when the issue comes before them. They should not participate in talking with the various people involved in order to be independent, fair and impartial. In answer to Commissioner Brown's question, it is fine to go look at property and investigate as long as it is done individually; they should not meet the applicant nor any opposing parties there and discuss the pros and cons, since they are the ones making the ultimate decision. You cannot be fair and impartial if you have already sided. Commissioner Brown said you get it from both sides. Mr. Hedstrom said it has been that way for many years, but the courts are repeatedly reinforcing that it should not be that way. Mayor Smith said the Commission needs to understand what they are looking at today. He hears this a lot when dealing with Alachua County situations; they are very picky on that issue. If they know this today, then when someone calls to talk about a zoning issue, they need to tell them they are not in a position to discuss it. That person can come to the public meeting and discuss it during the public hearing; otherwise, they cannot legally discuss it prior to the meeting. If the Commission adopts that procedure, there should be no problem. Commissioner Sanders asked if they can listen to the Boards. Mayor Smith said if you want to protect the ex parte position, don't even go to the Board meetings; just get your report. Mr. Hedstrom said they have to base their decision on what they hear in a duly constituted meeting, not on what someone has told them or what they heard somewhere else. You tend to lose your ability to be impartial and fair if you put yourself in that position. Commissioner Brown said they are not experts on everything; how do they get information on things they are not supposed to know about so they can make informed decisions? Mr. Hedstrom said if it involves the legal aspect, it is his function to inform them. If it involves the Planning aspect, it is Mr. Mengel's function. Commissioner Brown said for example, she rode over and looked at Jill Jester's house to see what the house looked like and if it looked like more than one person was living in it. She was not on the agenda so she did not go in. Mr. Hedstrom said there is nothing wrong with that. Mayor Smith said, to paraphrase, don't go up to the door and sit on the front porch talking about the rezoning issue, as it relates to rezoning, not other issues. Commissioner Azula said people call him all the time about issues and want to show him things. Mr. Hedstrom said if it pertains to rezoning, conditional uses or variances, or an appeal of a case or other action, they should remain detached. Mr. Mengel said even if they do have these conversations, they should not give any indication on how they intend to vote. It is best to stay out of these situations entirely, but sometimes it cannot be helped.

PUBLIC HEARING – 1205 Old Jacksonville Highway – Request to annex, amend future land use map to low-density residential from County US, and rezone to R-1 from County R-2 – Florrie Mae Gamble, owner. Mayor Smith opened the public hearing.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA, ANNEXING INTO THE CORPORATE LIMITS OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA, CERTAIN ADJACENT TERRITORY IN SECTION 1, TOWNSHIP 10 SOUTH, RANGE 26 EAST, CONTIGUOUS TO THE BOUNDARIES OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown made a motion to place the ordinance on its single reading for adoption. Commissioner Azula seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND FUTURE LAND USE ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN WITH RESPECT TO ONE PARCEL OF LAND (LESS THAN 10 ACRES IN SIZE) AS DESCRIBED HEREINAFTER, PROVIDING FOR SEVERABILITY AND

PROVIDING AN EFFECTIVE DATE. Commissioner Azula made a motion to place the ordinance on its single reading for adoption. Commissioner Brown seconded the motion. The results of a roll call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY OF PALATKA, FLORIDA BE AMENDED AS TO CERTAIN PROPERTY IN SECTION 1, TOWNSHIP 10 SOUTH, RANGE 26 EAST, FROM COUNTY R-2 TO CITY R-1; AND PROVIDING AN EFFECTIVE DATE. Commissioner Azula made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Brown seconded the motion. The results of a roll call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

OLD PALATKA WATER WORKS – Award of Bid for Architectural Services – Mr. Bush said the City sent out RFQ's for architectural services to design working drawings for the restoration of the old water plant, as part of the on-going project. They received a single bid from Bob Taylor. He has already contacted the State and they have approved it, subject to their receipt of a copy of the advertisement for bids, Mr. Taylor's proposal and contract. It is within the specified grant amount. The recommendation of the Committee is to accept Mr. Taylor's proposal. Commissioner Brown made a motion to award the bid for architectural services for the Old Palatka Water Works restoration to Robert E. Taylor, AIA Architects. Commissioner Azula seconded the motion. Commissioner Brown asked where they are going to find the pressed ceiling/roofing panels to replace the roof. Mr. Bush said you can buy it, it is just a little more expensive. Mayor Smith said next Thursday there is a public meeting at the Ravines starting at 6:00, if you would like to take a tour; 7:00 if you just want to attend the meeting. They are going to discuss this project and take citizen input. On October 5 in Tallahassee at the Gray Building, there is a meeting on a grant application they have in to the State for \$270,000 +/- for the actual construction of the renovations. He, David Buckles, Margaret Spontak, Doug Valenti, Wes Larson and some others are going to the meeting to lobby for the grant; if anyone else would like to come and lobby for the grant, they are welcome. There being no further discussion, the motion passed unopposed.

1998-99 BUDGET AMENDMENTS – Mr. Bush said the amendments are listed on a separate attachment. Mrs. Williams has listed additional charges and appropriation changes from the original budget; this is the final change for the year. Commissioner Brown made a motion to accept the 1998-99 budget amendments as submitted by the Finance Director. Commissioner Sanders seconded the motion, which passed unopposed.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA BE AMENDED BY REVISING APPENDIX "A" TO SECTION 86-314 AND APPENDIX "A" TO SECTION 86-315 THEREOF, PROVIDING NEW WATER RATE SCHEDULES EFFECTIVE OCTOBER 1, 1999, BOTH WITHIN AND OUTSIDE THE CITY LIMITS; AND PROVIDING AN EFFECTIVE DATE. Commissioner Azula made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Edwards seconded the motion. The results of a roll call vote are as follows: Commissioners Azula, Edwards, Brown, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA BE AMENDED BY REVISING APPENDIX "A" TO SECTION 86-344 AND APPENDIX "A" TO SECTION 86-345 THEREOF, PROVIDING NEW SEWER CHARGES EFFECTIVE OCTOBER 1, 1999, INSIDE AND OUTSIDE THE CITY LIMITS RESPECTIVELY, AND PROVIDING AN EFFECTIVE DATE. Commissioner Azula made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Edwards seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

PUBLIC HEARING – 350 Hwy 19 North – Request to annex, amend the Future Land Use Map to Commercial from County US and rezone to C-2 from County IL – Putnam Partners, Ltd. Mayor Smith opened the public hearing.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA, ANNEXING INTO THE CORPORATE LIMITS OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA, CERTAIN ADJACENT TERRITORY IN SECTION 2, TOWNSHIP 10 SOUTH, RANGE 26 EAST, CONTIGUOUS TO THE BOUNDARIES OF THE CITY OF PALATKA, PUTNAM COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Azula made a motion to place the ordinance on its single reading for adoption. Commissioner Brown seconded the motion. The results of a roll call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The motion was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY PALATKA, FLORIDA, AMENDING THE FUTURE LAND USE MAP AND FUTURE LAND USE ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN WITH RESPECT TO ONE PARCEL OF LAND (LESS THAN 10 ACRES IN SIZE) AS DESCRIBED HEREINAFTER, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown made a motion to place the ordinance on its single reading for adoption. Commissioner Edwards seconded the motion. The results of a roll call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders & Mayor Smith, yes; nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA PROVIDING THAT THE OFFICIAL ZONING MAP OF THE CITY OF PALATKA, FLORIDA BE AMENDED AS TO CERTAIN PROPERTY IN SECTION 2, TOWNSHIP 10 SOUTH, RANGE 26 EAST, FROM COUNTY IL TO CITY C-2; AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Edwards seconded the motion. The results of a roll-call vote are as follows: Commissioners Azula, Brown Edwards, Sanders and Mayor Smith, Yes, Nays, none. The ordinance was declared adopted.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA REVISING THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA BY REVISING SECTION 2-162; AND PROVIDING FOR AN EFFECTIVE DATE. Commissioner Edwards made a motion to place the ordinance on its 2nd reading for adoption. Commissioner Sanders seconded the motion. The results of a roll call vote are as follows: Commissioners Azula, Brown, Edwards, Sanders and Mayor Smith, Yes; Nays, none. The ordinance was declared adopted.

CODE ENFORCEMENT BOARD REAPPOINTMENT: Commissioner Edwards made a motion to reappoint Bob Beacham to the Code Enforcement Board for a 3-year term to expire Sept. 2002. Commissioner Brown seconded the motion, which passed unopposed.

COMMISSIONER REPORTS:

While attending the 1999 Florida League of Cities Convention, Commissioner Brown was nominated for and appointed to the Florida League of Cities Board of Directors, which is quite an honor.

Commissioner Sanders said a large number of people are cutting their grass in their yards, but not between the sidewalk and curb. This looks very bad. He suggests educating people on the ordinance regarding this, as the home occupant should maintain it. Also, some people sweep their grass clippings into the storm drains. He has also seen people throwing grass clipping into the river.

Commissioner Sanders said he noticed a dumpster has been placed at the house at 415 Crill Avenue he spoke about a few meetings ago. Mr. Mengel said during the Coastal

Clean-up the Southside Group concentrated most of their efforts on that property, which unfortunately resulted in an injury.

Commissioner Sanders said the house they spoke of on Main Street with all the junk on the porch and open doors belongs to Mr. Smart, who informed him an ex-tenant had dumped the garbage on the porch. He has cleaned it up. Mayor Smith asked if there was a report on the house Mrs. Gallaher had referred to at the last meeting which fronts on Third Street; he went by there and the doors were standing open. Commissioner Sanders said they are closed now; he believes that house also belongs to Mr. Smart.

Commissioner Brown said there are 2 vacant lots on Main & 10th Street adjacent to a house occupied by an elderly woman, Mrs. Gray. They have been trying to find a way to get the property owners to clean off the lots. Someone has tried to break into Mrs. Gray's house. People hide in there with drugs, and the kids get off the school bus there. She asked if there is anything the Building Department can do to get the owners to clean it up. Mr. Hedstrom said he believes this property has been before the Codes Board; there is a process for getting the lot cleaned up and he will get it started.

Commissioner Sanders said the Blue Room is down and he has received many phone calls thanking the City for getting it down. He thanked everyone who helped in the process. Mr. Bush said no one is more elated than those people who live behind it.

Mr. Hedstrom said in 1996 the City tore down a house at 904 Madison Street on a nuisance action. The total cost was around \$2,300. He received a call from a woman in New York who wants to pay that lien off. With interest it will generate around \$3,200.

Commissioner Azula said it seems that yard-cleaning people are using wider and wider trailers to haul their equipment in. They park them on the street, and people have to drive over the curbs to get around them. He is concerned with lawn damages, not to mention accessibility for emergency vehicles. He asked if there are any regulations on limiting the width of the vehicles that park on the roadway. Mr. Bush said he would review this; there are laws that apply to wide-width vehicles. Mayor Smith said they can at least be required to park where they are not blocking traffic. The City should hold a meeting and invite those people with lawn services to attend and have someone address them about dumping grass clippings in the streets and storm drains, as well as blocking roads with their vehicles. Commissioner Edwards can bring someone in from SJRWMD's education program, and pass out literature on why you shouldn't dump clippings into storm drains.

Commissioner Edwards said SJRWMD is sponsoring a local government day tomorrow at 8:30 a.m. in the Board Room. On September 30 he will be meeting with Barbara Elkus, the River Navigator, about ideas for area programs. If anyone has any ideas on programs they would like to see implemented, please let him know. Commissioner Brown said she would like him to tell her about the Riverboat project.

Commissioner Edwards said bamboo is growing on a vacant lot beside Torode Insurance. It is spreading, and Mr. Torode is having a problem with mice and rats running from the bamboo into his building. When Carl Honig was Planning Director he sent someone to check out the bamboo growth, and they determined it wasn't a nuisance. If mice and rats are running out of the growth, it is a nuisance. It looks like a jungle. Commissioner Sanders said he and Joff Fillion went out and looked at it some time ago. The person that lived next door was cutting the grass. When bamboo gets started, it is hard to stop.

Commissioner Brown said Commissioner Edwards did a terrific job with the Bike Races this past weekend. He represented the City well. He and Edison Lambana need to be thanked for their efforts in the form of a letter. She is happy with his attitude change toward the City. Commissioner Edwards said there was good City and County representation at the banquet and thanked Daily News reporter Jay Schlichter for coming.

Mayor Smith said the budget shows a contingency fund of \$18,000 at the end of the budget year. The Chamber of Commerce is raising funds to help pay for their new building, and one can sponsor certain rooms. He'd like to see the City donate \$5,000 to the Chamber to sponsor the visitor's center. Commissioner Sanders made a motion to

donate \$5,000 to the Putnam County Chamber of Commerce Building Fund to sponsor the Visitor's Center room. Commissioner Brown said Palatka Riverboat has just signed a contract on their feasibility study; she would like to have that money for the Riverboat. Mayor Smith said when the Riverboat came in and asked for money, the City gave it to them. Commissioner Brown said they asked for \$1,000 and were happy to get it. If there is money left in the contingency, she would like to get more money for the boat. They have a logo and are on the Internet. They have vowed that their profits will go towards the development of the waterfront and economic development for the town. In answer to Mayor Smith's questions, she said the feasibility study will cost \$9,500 plus travel expenses not to exceed \$1,500. Mr. Bush said they gave them \$3,500; Commissioner Brown said that was last year. The City has already given the Chamber \$5,000 this year. Commissioner Edwards seconded Commissioner Sander's motion, which passed 3 – 1; opposed by Commissioner Azula; Commissioner Brown abstained from the vote.

Mayor Smith said a playground facility like the one in St. Augustine is being developed for the Triangle Park complex. They are raising funds for the equipment. There are specific items you can sponsor; one of those is a riverboat. He suggested the City donate \$3,000 to go towards that. Commissioner Sanders said that would represent the Riverboat project. Commissioner Azula said he did not know there was any surplus, and they all have other projects. The Triangle Park belongs to the County. There are City parks that need more things which they are doing nothing with. Why can't they build a boat in one of the City parks? Commissioner Brown suggested either Hank Bryan or Booker Park. Commissioner Azula said everything they have for the kids is the County's. There are no decent basketball courts, no place to rollerskate, rollerblade or skateboard. Mayor Smith said that is not accurate; there is a massive on-going renovation of Lefty Turner Park. Commissioner Brown said that is due to a grant from somewhere else. Mayor Smith said Mr. Willis and his crews have spent an inordinate amount of time working on that renovation; he is not arguing that there are not other parks, but this is a community effort being built with local funds. Commissioner Brown said they gave the County all the parks for \$1.00 each year, and gave them \$50,000 the 1st year, \$30,000 the 2nd year, and \$20,000 the 3rd year. People tell her they have kids that are having problems playing sports because of the charges for insurance and other fees with leagues like Babe Ruth and others. They defeat the purpose if the kids that need to go to them don't get the chance. People in the city fuss about it. When the City had its own parks, almost every kid got a chance to play, as they absorbed the extra cost for insurance. They should make sure the City kids get full use of the parks. There is no place for them to practice basketball. The County has a responsibility to take care of the City, but they don't. Every time they give away something, they get shafted. The County moved the library out of town. Mayor Smith said it is a nice library, open at night and weekends when the City didn't open it, in a brand-new facility, and inside the City limits. In the Babe Ruth league, there is a mechanism wherein part of the funds generated from people who do pay is set aside to pay for those who can't afford to pay. He knows this as he was heavily involved in that league when his son was growing up. Commissioner Brown said they are not letting folks know that. Mayor Smith said it is very easy to say they can't go do things because they just don't go do it, and the City is made to look like the bad guys and that is not the case. Sometimes you have to take your own initiative and do things. It is easy to say 'they aren't playing in my back yard, so I can't take advantage of it', but they can go do everything else they want to do. Commissioner Brown said her son coached three little league teams last year, and she saw where they had to practice. She wants to jolt the Commission into realizing they need to take care of the City. Commissioner Sanders said he goes to the library 2 – 3 times a week. They have computers out there that children work with. Commissioner Brown said that is great; they also have them at Ragsdale and other places, but don't have them in town. Commissioner Sanders said they have one of the finest libraries in the whole area. Commissioner Brown said there is nothing wrong with the library, but they are trying to bring people back downtown.

Mayor Smith said the County is looking at moving some of its offices to the Mall; he was appointed to a committee that will be looking at the feasibility, not the cost, of such a move. If anyone has specific thoughts, please let him know. Commissioner Brown said to remind them of what they are removing from the tax rolls. Mayor Smith said that is a concern; they may need to have a 'payment in lieu of taxes' to make up for it.

Allegra Kitchens, Palatka Riverboat, Inc., said they just paid \$3,800 as the 1st one-third of a feasibility study fee. She is requesting the City donate the remaining balance of \$7,200; if they cannot do that, then the request is for the 2nd payment of \$3,800, due in 90 days.

Allegra Kitchens said the Wilson Cypress Company property, owned by John Turner, is for sale. The asking price is \$1.2 million, but this is negotiable. She would like the City to look into purchasing the property. Mayor Smith said the City had received a grant from the Florida Communities Trust to buy the property, which they appraised at \$150,000. Mr. Turner would not come down from his price, and there was no point in negotiating any further. That is the City's only funding source for conservation properties. Ms. Kitchens suggested they borrow the money from the Gas Authority. Mayor Smith said no one is going to pay more than the appraised value. Ms. Kitchens said the appraised value on the tax rolls has increased tremendously over what it had been. Mayor Smith said if his home was appraised at \$50,000 and he said he would not sell for less than \$1 million, no one is going to pay anything but the appraised price. The City would love to have that property as part of the Greenways & Trails project, but he is frustrated that they are so far apart from his asking price and the appraised price.

Allegra Kitchens said, on a personal level, she works in the County Property Appraiser's Office and she does not want to move out to the Mall. The parking lot floods and a big sink hole opens up in front of Goody's every year. There are constant muggings in the parking lot. It is not a good idea for certain county offices to move there. It would be better for the City if the Appraiser, Tax Collector and recording offices stay downtown.

Commissioner Brown said she would like to give Palatka Riverboat, Inc. \$3,800 for the 2nd payment on the feasibility study. Mayor Smith said this is like the Chamber's efforts – you expect them to raise some of their own money, too. Commissioner Brown said they are working hard to do that. Commissioner Brown made a motion to donate \$3,800 to Palatka Riverboat, Inc. for the 2nd payment on their feasibility study. Commissioner Azula seconded the motion, which passed unopposed.

Mr. Bush said \$18,000 is very little contingency; they run over on certain items and the budget is not exact each year. They amend the budget occasionally, like they did tonight. If they get to the end of the year and try to run out and spend everything that is left, you will never have the excess you need to have for those years that your expenses outrun your revenues. The Commission should not set a precedent of doing this at the end of the year, even though these are all worthwhile projects.

Chief Howard invited everyone to his daughter's wedding on October 9, 3:00, at Tabernacle Baptist Church, concluding a 5-year engagement. He is a licensed minister and will be performing the ceremony. A reception will follow at the Best Western Inn.

Ms. Driggers said they are still looking for applicants to fill seats on the Zoning Appeals Board and Code Enforcement Board. Code Enforcement Board applicants are required to live within the City Limits; Zoning Appeals Board applicants are not. Code Enforcement lost its attorney and it is preferred that applicants have legal experience.

Sam Willis passed around pictures of local officials who participated in some aspect of the Criterion bicycle race; he asked the Palatka Daily News to publish one of them. Commissioner Brown said she and Marcia Lane are putting together a book and she would like one of them.

There being no further business to discuss, the meeting was adjourned.

CITY CLERK

MAYOR