

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held at the Price Martin Center on May 10, 2001.

PRESENT:	Mayor	Karl N. Flagg
	Commissioner	Mary Lawson Brown
	Commissioner	Hernan Azula
	Commissioner	Ish Edwards
	Commissioner	James Norwood, Jr.

Also Present: City Manager Allen R. Bush, City Attorney Don Holmes, City Clerk Betsy Jordan Driggers, Finance Director Ruby Williams, Police Chief Dick Schauland, Fire Chief Rudy Howard, Planning Director Adam Mengel, Police Lt. James Griffith

INVOCATION – Reverend Amos Price, Pastor; Christ Independent Methodist Church

APPROVAL OF MINUTES – 4/26/01 – Commissioner Azula moved to adopt the minutes as read. Commissioner Edwards seconded the motion, which passed unopposed.

STUDENT OF THE MONTH – May, 2001 – Mayor Smith asked Vice Mayor Brown to join him in awarding certificates to the following students for academic excellence, leadership, citizenship and attendance at their respective schools:

Marissa Distasio	Beasley Middle School
Christina Prevatt	Browning Pearce Elementary School
Sy'Rhonda Leonard	E. H. Miller School
Jana Williams	James A. Long Elementary School
JaTanya Jackson	Jenkins Middle School
Emily Baker	Kelley Smith Elementary School
Kortney M. Misamore	Mellon Elementary School
Ka'Dee Cunningham	Moseley Elementary
La'Farrah Davis	Palatka High School
Willie McGahey	Peniel Baptist Academy

PUBLIC COMMENTS – There were none.

SEXUALLY ORIENTED BUSINESS REGULATIONS – concerning the proposed “adult supercenter” pornography business moving into the old Clock Restaurant at the intersection of Hwy 19 & 100. (This item was limited to ten speakers who signed up prior to the meeting) – Mayor Flagg said there are certain issues the local government has authority over, and some they do not. The citizens here have made a statement based on their presence. He agrees with their message, as do most of them. The only requirement for this pornography business to come into this community is to make application for an occupational license. This procedure does not require anyone to come before the Commission or other board for an approval. You simply fill out an application and pay the fee. There are entities that exist that are not in tune with what the community stands for, but they need to let the record reflect that what is undesirable may not be unconstitutional. They have a right to make it known what they want versus what they don't want. Every elected official in the county can stand together and put in place regulations that would cause them to have more authority over these types of issues. Based on the application received, these individuals are simply applying for an occupational license; under normal circumstances, they would not be discussing any other business doing the same. This issue has arisen due to the nature of the business. Their voices are being heard, and the majority of the people here would not patronize that type of business. He is committed to the standards of the community as well as the higher power and authority that is almighty God. There is nothing for this Commission to vote on tonight; this is a discussion forum for the participants to let everyone know that Palatka and Putnam County are not interested in this type of business. They have all been caught by surprise. The law of “supply & demand” is what makes these businesses succeed or fail. It is within the Commission's power to create specially zoned districts for this type of business and regulate the outside appearance of these businesses, and any business that sells obscene materials, by definition of the US Supreme Court, can be prohibited. The Commission intends to take a stand and uphold those laws. Mayor Flagg then opened the floor and asked each speaker to observe the three-minute time limit.

Reverend Ray Willis, Abundant Life Ministries, 890 N. Hwy 19, said this adult supercenter is going in across the street from his church. (A copy of his speech is attached to and made a part of these minutes.) They do not want this store to open. He asked the Commission and City Attorney to explore every possible option to stop this store from opening as community standards dictate against it. He asked the Commission to consider adopting an ordinance similar to Green Cove Springs' ordinance in order to stop this business and others like it from opening. They want the Commission to communicate to Mr. Rosenheck and his agent that the citizens will oppose his business. He and his congregation plan to demonstrate against this business every day. He asked the Commission to instruct the City Attorney to draft a comprehensive adult use ordinance that includes provisions for zoning, licensing and operational activities. They have over 4,500 signatures on a petition (filed), which he turned over to the Commission, and asked that they be included in the record. They want something done tonight. They will not accept anything less. They are all praying for the Commission to pursue morality and decency, and believe God will support them.

The following individuals spoke (see sign-up sheet attached to these minutes):

Neal Chancey, Jeff Emerson, Rev. L. P. Heuer, Rev. Jimmy Stallard, Rev. Leroy Lewis, Dr. Wayne Wright, Rev. Dr. Scott Downing, Rev. Jimmy Williams, and Rev. Ted Rodda, Jr. whose letter is made a part of the record (filed).

They voiced opposition to this and other businesses like it coming into Putnam County. They breed crime and violence against women and children. They do not want their families subjected to pornography. They asked the Commission to pass some type of ordinance to stop this and any future pornography business from locating in Palatka and Putnam County. The County Commission previously backed away from this type of ordinance. There are other smaller businesses in the County that deal in pornographic items. They are the San Mateo Bait Shop, Secret Delights in Satsuma, and Front Row Video at Dunns Creek. Pornography is more addicting than alcohol or drugs, and constantly drags the user into lower and lower levels of degradation. Eventually the user is totally consumed with committing acts that satisfy this need. Their targets are young people. Many mass murderers admit their deviance came about because of being introduced to pornography at a very early age. Putnam County has 147 registered sex offenders already; they don't need to invite new ones. The location is on the busiest intersection in town, next to churches and schools.

Rep. Joe Pickens, Putnam County's State Representative, 3841 Reid Street, said he took an oath to uphold and defend the Florida & U.S. Constitution, which is also the same constitution that keeps prayer out of schools and protects the rights of the few against the wishes of the many. He supports all the petition signers. As an attorney, he understands that the Commission cannot take any action tonight. He opposes this and other businesses like it locating in Putnam County. The owners say they propose the use as not only an adult book, DVD & video store, but also as an adult "mini-theater" with preview booths, and ultimately an adult theater, which will permit on-premises viewing of "adult" movies. This is C-2 zoning, and he believes this adult bookstore is also a theater. There is no definition of an adult book store in the Palatka Code, so he used the Green Cove Springs definition, and when you have an absence of language you can look to what is the common custom elsewhere. He read, "Adult arcade means an establishment where one or more motion picture projectors, slide projectors or similar machines are used for viewing by five or fewer persons. For the purpose of this ordinance, 'adult arcade' is included in the definition of 'adult motion picture theaters'. They are theaters. 'Adult motion picture booth' means an enclosed area designed or used for the viewing by one or more persons of motion pictures, films, videocassettes, slides, illustrations, or other photographic reproductions, etc. For the purpose of this ordinance, an adult motion picture booth is included within the definition of 'adult picture theaters'." According to the letter, this adult store is also going to include a theater. Under Palatka's C-2 zoning, a theater is a "conditional use", which is required to be reviewed by another body and ultimately the City Commission. Conditional uses include "indoor recreational facilities such as motion picture theaters." A conditional use is a "use that would not be appropriate, generally or without restrictions, throughout a zoning district, but which, if

controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare, such conditional uses may be permissible in a zoning district.” They would be required to consider the plans for screening and buffering, with reference to type, dimensions, and character, and proposed signs and lighting, including type, dimensions and character, and finally, “before any conditional use shall be approved, the Planning Board shall make a written finding that the granting of the conditional use will not adversely affect the public interest, and certifying that the specific requirements governing the individual conditional use, if any, have been met by the petitioner.” He believes that these folks plan to put a theater at the ‘Boardwalk & Park Place’ of Palatka, Florida. In reviewing this use, the Planning or Zoning Board “must consider the general compatibility with adjacent properties and other property within the district, as well as signs, if any, and proposed exterior lighting . . . and compatibility and harmony with other properties within the district.” He does not believe that an adult theater and bookstore at that location is compatible with him eating at a family restaurant or going to church. He recently passed an economic development law that will bring good businesses to Putnam County. He does not want legitimate businesspeople coming to look at Palatka and seeing this business in a prominent intersection. There is no amount of signage that is compatible with this location. The City’s attorney, Don Holmes, is a good attorney whom is the only person he would want giving him legal advice. He will not take the City down a “primrose path” of litigation just because they all insist on it. He hopes he has given them a plausible idea that is legal and will protect the citizens of Palatka. Money in the City budget will not be a problem; they raised \$285,000 to get him elected to the House of Representatives, and they can sure raise enough money to defend or prosecute a reasonable lawsuit brought against or by the City of Palatka. If it is the Commission’s good judgement that the City has no defense, after having looked at every option, then they should also have the courage to say that, and not lull them into thinking they have a cause of action that is not there. He leaves the matter to their judgement and in God’s hands.

Mayor Flagg thanked everyone for the comments and sentiments expressed. It is very important for them to recognize that Putnam County has five municipalities and they should all work in tandem with each other. Commissioner Brown said this Commission can stand the heat. She is a mother and grandmother and a life-long resident of Palatka and this is her home by choice. She is disturbed by all the things people think they can bring into this town. As they look at pornography, they should also look at tattoo parlors and drinking establishments near churches and schools. They need to set an example for their children by bringing in good businesses. She encouraged people to come to commission meetings. They have been looking at ways to stop all the drinking at festivals and the like. They have their City Attorney and Planner looking at all these issues. Commissioner Azula said he came to this town 36 years ago and has lived here ever since. He came from a lawless place. It is refreshing to know that they all want the right thing. He is proud to have raised two daughters and a son here. He learned his English here. His background enables him to appreciate where he is now, that they are all able to be here and speak out, and he wants to do the right thing because they are all on the same side. He hopes they will come to more meetings, or at least call the Clerk and ask for copies of the minutes to find out what is going on. Commissioner Edwards said he is very impressed with the crowd; there are tons of people with their families standing outside. He will do everything in his power to support them. Commissioner Norwood said this process has shown him they do know how to honor God, and they know what their purpose is. They don’t want businesses that are going to come in and destroy the community. They all recognize the problem, which is not necessarily an individual, but a spirit. Too many times they attack the person and not the sin. He is 100% behind the community and wants to protect their way of life. Mayor Flagg said this Commission is not prepared to roll over and play dead.

ROCHESTER IMPORTS, 2000 Reid Street – Request to fence a portion of Main Street – Adam Mengel said these are the new owners of the former PicN’Save building. On January 14, 1970, PicN’Save requested a non-exclusive license to improve the unimproved portion of Main Street between 19th & 21st Streets, which they were granted. They improved that area and used it for parking until they closed. Instead of closing the right of way, Rochester Imports, an imported tool company, is requesting another non-

exclusive license that would enable them to fence off a portion of Main Street roughly from their property line just inside the 19th Street r/w, westward to a point before the 21st Street r/w. Commissioner Brown said PicN'Save left the street open and people could still go through there. Mr. Mengel said the fencing would permit access to the area during business hours, but would prevent after-hours access to non-authorized people. There is a lot of foot traffic through there and this will prevent that after hours.

Wynn Kenyon, 133 Esperanza Road, East Palatka, said he represents Kenneth Rochester, the owner of Rochester Imports. They are operating a high-volume merchandise & tool store. They need to secure these premises as they feel threatened by existing conditions, which includes armed robbery, high incidence of shoplifting, and vandalism. Just this past weekend a large party took place in the parking lot and it was littered with broken bottles, beer cans, food containers, etc. This is the third time they have had to clean up after something like this has taken place. He passed out photos of the debris. They started the process to vacate Main Street, but discovered that would split the r/w, which is not their goal. They would like permission to install a 6' fence, which would limit access to the area. He passed out a survey showing the location of the fence, along the east property line starting at Mr. Beckwith's business, across Main Street, along the north edge of the pavement along Main Street, to 21st Street, terminating it at the driveway going into the adjacent property (formerly John L's). The fence will have 24' gated access to the west and east ends of the property. This will also discourage shoplifting. There is a drainage ditch running along the north side of Main Street which people are using as a dump site, and trees and weeds have grown up so badly that once someone gets past that area, they can no longer be seen. There are also people parking their big rigs in the parking lot, leaving oil, fuel, and debris behind. They want to operate a respectable business and they hope to protect their employees, property and business by limiting access to vandals, burglars and shoplifters. Mayor Flagg asked if a precedent is being set due to this not going before the Planning Board. Mr. Mengel said the precedent was set in 1970 when this was previously granted. They are not asking for a road closure or abandonment, but a non-exclusive license. This right of way will remain with the City. Per the question, the fencing will be closed off each day, which PicN'Save did not do. Commissioner Brown said she does not mind them using it, but she does not want to give the street away as they may need it in the future. Mayor Flagg confirmed they are asking to close off the portion that PicN'Save already paved. Mr. Mengel said this does not look like any other street in the City, because it isn't. PicN'Save paved it and put in curb cuts for parking because they were given a non-exclusive license to use it for their own purposes. Per the question, Mr. Mengel said he believes the railroad retains title to their easement, so if the road is closed, the railroad would get the north half of the right of way, which is the improved half, and the south half would go to Rochester Imports. Mayor Flagg said he would like to know if the RR has abandoned it. Commissioner Brown concurred, and said she understands the concern with shoplifters getting away because of the wooded area. Mayor Flagg said the closing of the street is the issue, and he does not know that they can close it off to public traffic. They are also limiting ingress and egress for public safety vehicles and may be creating a hazard. Commissioner Norwood asked why they couldn't refer it back to the Planning Board, because they are doing a street closure. Mr. Bush said they are not actually talking about closing a street and dividing property, but are talking about a non-exclusive right to construct a fence and control access. Mr. Mengel agreed, saying this is similar to the grant made by the 1970 commission. It maintains the integrity of the site plan for the original building. Mayor Flagg said fences do not stop people who want to get in. He is concerned about response from public safety vehicles who will need to respond in a timely manner. He suggested they allow the fence along the north side and hold off on the rest of the fence until they get more information. Mr. Holmes asked if the boundary line for the fence along the northern boundary is the boundary between the fence and the City's r/w? If so, they would only be giving the applicant permission to erect a fence along the City's right of way. That can be done with no problem. He does not know that they can allow a private individual to erect a fence across a public road to restrict access. They can always ask to close the road. Commissioner Brown moved to allow Rochester Imports, Inc. to run a fence along the north side of the property, but not put up fences across the roads. Commissioner Edwards seconded the motion, which passed unopposed. Mayor Flagg directed the closing request go through the Planning Board. Mr. Mengel said he does not know that the owner would want to pursue a road closing.

REPORTS:

a. Old Water Works Project Site Restoration – Change Order #1 – Mittauer & Associates – Mr. Bush said the City has a grant from SJRWMD to clean the ponds and the areas around the ponds as part of the restoration project. The original scope of work was reduced due to lack of funds. Additional money was raised to cover this change order in the amount of \$2,550.00, bringing the total contract price to \$16,600.00. The money came from a local contribution. Commissioner Brown moved to execute Change Order #1 for Mittauer & Associates on the Old Water Works Project Site Restoration in the amount of \$2,550. Commissioner Azula seconded the motion, which passed unopposed.

b. Loose Boards at Amphitheater – Jeff Norton said at the last commission meeting concern was raised about loose boards at the amphitheater. He has inspected this and found that nearly half the planks need replacement, along with some of the side rails and seating. He passed out a report outlining his findings. During the budget workshop he intends to ask for funds to replace all these planks. The recycled lumber that was used should be replaced with pressure-treated lumber, which will improve the appearance and stability. Mayor Flagg asked if the boards have been secured, however temporary. Mr. Norton said they secured the loose boards. Commissioner Brown said if they can shift some funds they need to go ahead and take care of this item. Mayor Flagg said they need an estimate for this work before the budget workshop begins, and they may be able to get some community support for the project. Mr. Bush said they can have it priced next week. Per the question, all the wooden bleachers will also be looked at. Commissioner Brown suggested looking at some grant money. Mr. Norton said there are Heritage River grants and FRDAP grants available. Commissioner Azula congratulated Mr. Norton on the great work he does for the City. He receives a lot of compliments on his work, and he leads his staff by example. He and Fred Lumpkin make a good team. Mayor Flagg asked Mr. Norton to submit a follow-up report.

PUBLIC HEARING – 702 N. 19th Street – Planning Board recommendation to amend the Future Land Use Map from Medium-Density Residential to Commercial, and Rezone from C-1A (Neighborhood Commercial) to C-1 (General Commercial) – Frank Mattea, owner. Mayor Flagg opened the public hearing. Mr. Mengel said this is owned by Central Outlets and is known as the Martin Luther King Center. This will increase the uses that are available at that center. It allows appliance sales and more intensive uses than the C-1A classification. Commissioner Brown said whatever goes in, she does not want it to be noise intensive, as that neighborhood already has a problem with noise. Commissioner Norwood said he does intend to add a day care center. Mr. Mengel read a list of allowed uses for the C-1 classification. Mayor Flagg closed the public hearing.

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 moved to place the ordinance on 2nd reading for adoption. Commissioner Edwards seconded the motion. A roll call vote was taken with the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was 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 THAT CERTAIN PROPERTY IN SECTION 37, TOWNSHIP 10 SOUTH, RANGE 26 EAST; AND PROVIDING AN EFFECTIVE DATE. Commissioner Edwards moved to place the ordinance on 2nd reading for adoption. Commissioner Azula seconded the motion. A roll call vote was taken with the following results: Commissioners Azula, Brown, Edwards, Norwood, and Mayor Flagg, Yes; Nays, none. The ordinance was declared adopted.

APPOINTMENTS:

a. Code Enforcement Board – appointment to fill the unexpired term of Ben Bates, to expire September, 2001. Mayor Flagg asked if they could make this appointment for not only the remainder of Mr. Bates' term, but also the three-year term from 9/01 to 9/04.

Mr. Holmes said it is more appropriate to fill only the remaining term and deal with the successive term in September. He explained that Mr. Bates has served in a very distinguished fashion on the Code Enforcement Board, but has since moved out of the city limits, and any decisions that board has made since then may be subject to challenge since he is no longer qualified to serve. His resignation in no way reflects his service. Mayor Flagg noted a realtor is preferred. Commissioner Azula moved to appoint Ken Campbell to fill the unexpired term on the Code Enforcement Board, to expire September, 2001. Commissioner Brown seconded the motion. Mayor Flagg said he has a difficult time with applications being received after the deadline. There was only one applicant who met the deadline. He suggested they table the decision. The motion and second were withdrawn. Ms. Driggers said two applications were turned in after the May 4th deadline. One was from Mr. Campbell, who had expressed a desire to apply for the position prior to the deadline, but went on vacation and was out-of-town on the deadline. She called him on May 4 and left a message, and on Tuesday he got word to her he still wanted to apply, so she pulled a prior Board application and submitted it. The other individual was sent in by Commissioner Edwards to apply on Wednesday. Commissioner Brown said it is hard to find people who want to participate on these boards. These boards and committees are very important. If they can't get this appointment made tonight, how much easier is it going to be to get a stack of applications for another meeting? Some of these committee designations are geared for people with specific knowledge, and some people don't like to serve due to the financial disclosure laws. They need to help people understand what happens on these boards and encourage people to put in applications in a timely manner. Commissioner Norwood said one of the late applications for Housing Authority Board was dated May 4 but was not included in their packets, and he would like to know why. Ms. Driggers said the applicant did not turn it in to her until May 9. She did inform all those who submitted applications after the deadline that the deadline had already passed. Commissioner Norwood said they really only have one applicant who met the deadline. They have deadlines for a reason. Mayor Flagg said the appointed individuals do a service for the community, and it is important to have to have integrity in the process. He wants all the applications prior to the meeting. On this appointment he does not favor one over the other. Commissioner Azula moved to table this item until the May 24 meeting. Commissioner Edwards seconded the motion. Commissioner Brown asked if it would create a problem with meeting quorum at their next meeting. Commissioner Norwood reiterated that Mr. Haengel submitted his application on time, and meets the criteria as far as meeting the deadline. He does not know what qualifications the Board is actually looking for. They said it needs to be a realtor but does not have to be one. He has a problem with tabling this only to be convenient. He does not want to set that precedence. Commissioner Azula said they have two other names now, and if they hadn't been presented to them at all there would be no problem. He has spoken to Mr. Campbell about this and he had shown an interest in this several weeks ago. This is just a matter of his having overlooked turning in the application before he left town. They will all have an opportunity to look at these three applications before the next meeting, which is why he made the motion to table. There being no further discussion, the question was called and the motion passed 4 - 1, opposed by Commissioner Norwood.

b. Housing Authority Board appointment - four-year term - Mayor Flagg said there are two applicants. The third applicant did not meet the deadline. This differs from the Code Enforcement issue as there was only one applicant there, and he would have gotten the appointment by default. Commissioner Brown moved to appoint Rev. James Vickers to the Palatka Housing Authority Board for a 3-year term to expire April 12, 2004. Commissioner Azula seconded the motion. Commissioner Norwood asked if this is contingent upon his resignation from the Gas Authority. Commissioner Brown said he is willing to resign from the Gas Authority if it is necessary. Commissioner Norwood asked the Clerk if it is necessary for him to resign from one board to serve on another. Ms. Driggers said she did inform Mr. Vickers that it may be necessary for him to resign from the Gas Authority Board in order to serve on the Housing Authority Board due to the statute which addresses dual officeholding, and that she needed to check with Mr. Holmes as to whether it applies in this case. Mr. Holmes said he was not familiar with that statute, but would research it and advise at a later time. Mayor Flagg said this appointment should be contingent upon that response. There being no further discussion, the question was called and the motion passed unopposed.

FORMS OF GOVERNMENT: Mayor Flagg said a packet was delivered to the Commission under separate cover, and 1993 – 94 minutes from the adoption of the current form of government is included in both packets. Commissioner Brown said she wanted to discuss this because she feels like the method of choosing appointed officials has changed in the time she has sat on this Commission. She noticed in the minutes from 1993-94 that she brought these same concerns up to the Commission. One thing that was changed is that the City Manager makes a recommendation on who is hired for these positions and the Commission concurs by a majority vote. She believes one of their jobs as commissioners is to oversee the hiring process for the Fire Chief, Police Chief, Finance Director, City Clerk, City Attorney, City Planning Director and City Manager. The administrative staff needs to be hired by the Commission. There may be other positions the Commission may need to hire. In the minutes from 1993-94, she made those same statements. She said Commissioner Conlee also made some comments. Per the question, Mr. Holmes said a ‘freeholder’ is a property owner, and the new ordinance deleted that requirement to hold office. Commissioner Brown said people look to the City Commission to give guidance to the City Manager, and she wants this issue examined. Her concern is with the authority of both the Commission and the City Manager. They have hired a police chief several ways since she has been sitting on the Commission. The Commission sat down and listened to the interviews and graded the candidates when Police Thies was hired. The next time, they hired Chief Dolinski through a recommendation. The Commission needs to be in on the interviews and résumé’s. The way they did it this time was a much better process. She is held responsible for what goes on, and if the ex-police chief had realized he also had to answer to the Commission, things would have been different. If the majority of them had not been satisfied with his work he could have been let go. She did not realize that some of these changes were made, and she is not sure why. Mr. Bush said the City’s ordinance was almost antiquated from the 1950’s. The City’s charter says it is a council-manager form of government. They received a model ordinance from the League that corrected all the inadequacies and contradictions, and passed it. It called for the Fire & Police Chief, Finance Director, City Attorney to be selected, hired and fired by the City Manager with the concurrence of the City Commission. The way this police chief selection was handled would not require changing the ordinance. Eventually, the same thing will be accomplished. They sit through the interviews, and will concur on the top choice. The Commission knows as much as the Committee that made the selection. Commissioner Azula said at one time the ordinance read that when the Police Department has promotions to captains, lieutenants & sergeants, the Chief recommends those to the City Manager, who gets approval from the Commission. This was deleted in the new ordinance. This took away the Commission’s overview of who gets promoted. They should have a say in that. They are not even told who is promoted, or demoted, or who gets hired or leaves. That wording should not have been deleted. Mr. Bush said that goes a step beyond the appointed Department Heads, where they are actually going in and selecting the types of officers. As far as having the Commission select the slots for these positions, that was done away with. Commissioner Azula said it was a concurrence. Commissioner Brown said when the Chief selected an assistant chief, they had to come to the Commission for concurrence. They went through the selection process when Assistant Chief Hess was hired. Mr. Bush said they were still operating under the old ordinance, and there was no position of assistant chief at the time. The Commission had to create the opening. There was only a captain and a chief. Commissioner Brown said her constituents scolded her about letting the former Chief get away with what he got away with, because they were elected to oversee everything and see that everyone keeps on task. The wording needs to be changed so the citizens and commissioners understand what their role is. She does not get enough input. Sometimes she only gets things on a need-to-know basis, and she needs to know more. She has asked that they be allowed to do evaluations, and he needs to do evaluations on his staff, also, and they needs copies of his evaluations in case they need to pass along information to them to help them do their job better. That is what they are supposed to do. Mayor Flagg said under the City Charter, Section 36, it reads “the City Commission, by a majority vote of its total membership, shall appoint a City Manager for an indefinite term and fix the Manager’s compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. The City Manager shall be the administrative head of each department of City Government.” Under the old charter, Section 36 read, “The City Commissioner shall appoint a City Manager who shall be the administrative head of each

department of the city government. He shall hold office at the pleasure of the City Commission, shall be responsible to and under the direction and supervision of the City Commission at all times, under such rules and regulations as shall be prescribed by ordinance.” Mr. Bush answers to the City commission both ways. Commissioner Brown said Citizens aren’t always sure what their role is, and until it is made clear, they need some clarification. None of them can move alone to do anything. They have to have the concurrence of the majority of them. This has not always been understood. They changed the language, and what works for one city may not suit this city’s needs. It needs to be tweaked. Folks are very concerned over things that the Commission may not have known about or had enough input on. Mayor Flagg said Mr. Bush is the administrative leader of the City, and Mr. Bush knows that he answers to this Commission, under Article 2. Mr. Bush said the ordinance clearly states that the City Manager serves at the behest of the Commission. Commissioner Norwood asked what Commissioner Brown would like to see put in that is not already there. Commissioner Brown said she wants to make sure that when they hire the top six or seven people to help run the City, the commission has input into the hiring of these people. She understands that he makes the recommendation, but she wants those people hired similar to the process they used with the new police chief. The commissioners should be allowed to interview the applicants. Commissioner Norwood asked Mr. Bush and Mr. Holmes what it would take to put this procedure in place. Mr. Bush said it would require no change in the ordinance, but they can make it a procedure. Commissioner Brown said she really pushed for this procedure because it would not have been done this way otherwise. It is a good process. Mr. Bush said there was no violation of the current ordinance in that procedure, and he enjoyed the process. It was a team effort, and if something goes wrong down the road, everyone takes the blame. Commissioner Brown said she would like that in writing. She does not mind letting Mr. Bush hire the other department heads. These main people are responsible for everything that happens in this town. They should know whom they are getting and who is being considered. They should not just take someone’s word for it. Also, every January, they used to reappoint the officials. Although it was only ceremonial, they should have the opportunity to let them know they are being reappointed because they have done a good job. She would also like to be able to evaluate them, along with the City Manager, so they can put their feelings in writing. Commissioner Norwood said the committee process was a good process and he applauds Commissioner Brown for that. It gave the public a chance to be involved as well. She seems to be looking for some assurance that this process will be followed each time. The City just needs to add a policy. Mr. Bush said they could spell this out and add it to the City’s policy and procedure manual, and let the Commission adopt it. Commissioner Norwood moved to instruct Mr. Bush to put the procedure for selection in writing and bring it back before the Commission for adoption as a policy. Commissioner Edwards seconded the motion. Mayor Flagg read the portion of the ordinance as it pertains to the fire and police chief selection, and asked if it is their intent to let these department heads know that they have an obligation to the City Commission, not that the Commission has any right to administer over their departments or them, but to make it clear that the individuals who are not elected are responsible to those who are elected. Mr. Holmes said the ordinance does not prohibit the procedure followed in interviewing applicants for Chief, and he had suggested that procedure as a compromise in the discussion that took place last month. Whether or not they want to put it in writing as a policy, or simply trust that the City Manager does not violate the Commission’s wishes, really makes no difference. If they put it in an ordinance and make it inconsistent with the present ordinance, they would be repealing the ordinance that is already in place, and they also can’t make it inconsistent with the Charter. From a legal standpoint, it can be implemented whether in writing or not. Commissioner Brown said it does not matter where it goes, but she would like to have it in writing. None of them will be here forever, but the people who replace them may have the same feelings. Mr. Bush said when the ordinance changes were being made they were concerned with keeping the politics out of personnel decisions, because when it got political, there were some bad appointments made and the City had some of the worst department heads in the history of the City. When they finally got rid of those people, they wanted to avoid getting back into that position. The procedure they following during the police chief selection this week worked very well and he has no problem with following that. The question was called and the motion passed unopposed.

ADMINISTRATIVE REPORTS:

Adam Mengel distributed a proposed fee schedule that was approved by the Code Enforcement Board at their last meeting. This is so the City can recover some of the fees in cases that are pending. Mr. Holmes said the Code Enforcement Board is now imposing fees for each case they close. So that the fees would not be deemed arbitrary, he advised they should arrive at a schedule of fees and consider those fees at a meeting for approval. This is being provided to the Commission for their input, objections or concerns. These are the fees they approved, based on actual costs for inspections, mailing, etc. This does not require the Commission's approval, but they want the Commission to have knowledge of this. They are a statutory board and the statute gives them the ability to impose administrative fees. Per the question, Mr. Mengel said the intent is that these fees will be imposed at the discretion of the Code Enforcement Board, and those complying with code enforcement directives without having to have cases filed against them for hearing should not be affected; this is for cases requiring many inspections and mailings.

Mr. Mengel distributed an ordinance that addresses parking lot sales for the Commission's information. The attorney has not yet approved it. He would like them to review that ordinance and get back to him with any questions by the next meeting

Chief Schauland said during the police chief interviews Commissioner Azula brought up questions about where the City stood on UCR stats versus the County, and he would like to expound on this. During the years 1997, 98, 99 & 2000, the UCR stats were his responsibility, and sheriffs take those stats very seriously, so he was very conscientious of those. They were doing the same reporting at the police department; however, the problem is with the reporting and the computer system. Sgt. Sharp & Lt. Griffith have been working on that, and they have been doing a better job of reporting. Yesterday they pulled the stats and the PD is right at around 50% on the clearance rate since January 1.

Chief Schauland said the PD continues to work on increasing their presence on the northside. They have reactivated the northside sub station with the help of the PHA, and now all of the shifts, as well as the PHA detail officers, brief there, take break there, write reports there. They are trying to keep their people in and around there as much as possible. They have not achieved 24-hour status, but have improved their presence.

Ms. Driggers passed out a memorandum reminding the Commission of the upcoming Festival workshop on May 15, and the NEFLC dinner at the Golf Course on May 17. There are two housekeeping ordinances coming from the General Pension Board, which she will get to them as soon as they are finalized.

Mr. Bush said he was instructed to bring a recommendation to the Commission tonight on the police chief selection committee's top selection. The committee met and ranked the applicants, and Gary Getchell received the top score. He has been in touch with Mr. Getchell by telephone and explained the terms of employment to him and he has accepted those terms. He has not spoken to Mr. Getchell since he left the message that the terms were acceptable to him, in order to find out when he might be able to report for duty. He is now asking for concurrence on the appointment of Gary S. Getchell as Chief of Police. Commissioner Brown said she thought they would have to give their concurrence before he was contacted about coming to work. Mayor Flagg said they would have to contact him to at least find out if he would accept the terms of employment. If you publicly said you had selected someone, and they turn down your offer, it would not be good. Commissioner Norwood moved to concur with the City Manager on the appointment of Gary S. Getchell as Chief of Police. Commissioner Edwards seconded the motion. Commissioner Azula said the process was a good one, but hundreds of local people were at today's meeting. He has had many calls from local people requesting that the City hire a local candidate. Mr. Getchell is very well qualified, but they have to give more weight and consideration to local applicants. The last time they hired an out-of-town person it did not work out well. They are a unique community and have local talent that is able and willing to take the position. When his son comes back from college he wants him to have hometown opportunities. He cannot concur with that appointment. There being no further discussion, a roll-call vote was taken with the following results: Commissioners Edwards, Norwood and Mayor Flagg, Yes; Commissioners Azula and Brown, Nay. The motion carried upon a majority vote, 3 for and 2 against.

COMMISSIONER COMMENTS:**Commissioner Brown:**

- Said she would like to have seen a local applicant chosen for this position. Most of the candidates were excellent, but it would have been good for morale to choose a local applicant. They know the people and the area. If you don't give an individual a chance, they don't get the experience.

Commissioner Azula:

- Said he believes in the local law enforcement people, and he regrets that the majority of the Commission does not feel the way and appointed the new chief by just one vote.

Commissioner Edwards:

- Said the chief selection process went very well, and the local candidates made a great showing. He also would like to see a local person in that position, but the Commission appointed a committee and charged that committee with ranking the candidates. They witnessed the entire process. The committee chose the candidate they felt the strongest about, and he feels it is right to concur with their choice.

Commissioner Norwood:

- Said the chief selection process was a good one and it was carried out exactly as they had called for it to be carried out. He would also have liked to have seen a local candidate chosen, but when the recommendation came back, it was not to be. He was sitting there during the interviews, also. That is where he stands. There is no sense in making this process a policy if they are not going to follow it.
- He would like Mr. Holmes to take a look at the Green Cove ordinance on sexually oriented businesses and come back with some type of ordinance at the next meeting, if it can be done that quickly. They need to do whatever it takes to prevent this type of business coming into the community. If there is a better ordinance out there, they need to find it and look at it, also. He would like it ready as soon as possible. Mr. Holmes said he understands that the emotions are running high on this issue, and there are both practical and legal reasons for wanting to place whatever restrictions and limitations the City can on this type of activity. It is not a matter of being afraid of a fight, but a matter of recognizing the Commission's charge not to spend taxpayer funds in a wasteful fashion by passing an ordinance they know will not hold up to a challenge. The City of Jacksonville has just gone through this process of having their ordinances litigated, and much of it was gutted. What is left has specifically withstood challenges, and he would like to get with their legal division and find out about their experience. They have spent a lot of money on these challenges and perhaps the City of Palatka can benefit from their recent expense and experience. The Green Cove ordinance is a 1987 ordinance that has never been challenged. It would not pass the test. There are many people who would think twice about challenging Clay County because they have more resources to fight a challenge, but they wouldn't think twice about challenging the same ordinance in Palatka due to their perception that we don't have the resources to hire a firm specializing in first amendment practice and pay them a \$50,000 retainer up-front just to begin with the challenge process. He will take a look at all the options, speak with as many county and city attorneys as possible, and get the Commission as much information as possible as quickly as possible to effectively address these concerns. Commissioner Brown said the League might have some pertinent information on that issue. She said the City has a provision setting out distances of establishments selling alcohol from churches and schools that runs from door to door. It may be possible to do it from property line to property line. She would like Mr. Holmes to look into this.

Mayor Flagg:

- Said as a result of the hard work and effort of the chief selection committee who was empowered to bring back a recommendation for concurrence, they were given the top choice and it was voted on. Each commissioner has had the opportunity to express his or her feelings. His concurrence does not mean he is against choosing a local candidate, but if they had had that strong a feeling concerning the choice of a local candidate, they should not have advertised on the internet or even outside of the local

area, if that is what they wanted. Commissioner Azula said it was advertised before the Commission was even aware of it or had a chance to talk about it. This is the problem that he has with Mr. Bush not communicating with the commissioners. Mayor Flagg said it is evident that the Commission is divided on this issue. The process was followed, and they were asked to either concur or not. The top candidate was the committee's first choice, and Mr. Bush acted as the liaison for the committee when he brought the name to the Commission. They have knowledge of the 3 – 2 vote on concurrence, and soon the candidate will have knowledge of that vote. There is a possibility that the candidate may not even want to accept the job with such a vote, even though it passed. Right now the authority rests with the person who has been recommended as the individual chosen for the position, so there are issues to be dealt with. Mr. Bush was not instructed to bring a list of all the rankings, just the highest ranked. All the commissioners' individual concerns and issues were addressed throughout this process, and this was rehashed over and over. He specifically asked for a name in 48 hours. There were concerns over favoritism shown to local applicants, and the committee was directed to weigh each candidate equally based on their qualifications and leadership abilities. This did not cast a shadow against any candidate that applied. They never even had the chance to interview two of the candidates, as they had already accepted other positions. He hopes that even in light of the vote, they are all professional enough to accept what was done, and await the response from Mr. Getchell. They may need to have a special session in the event he is uncomfortable with the vote. They may need to go back to the drawing board, which does not necessarily mean the committee is reactivated, but Mr. Bush would then submit the next highest scoring applicant for concurrence. That may or may not be a local candidate. Mr. Bush said none of these concerns came up prior to tonight, and there was plenty of opportunity for the commissioners to say they only wanted to select from local candidates. Commissioner Azula expressed to him there seemed to be a lot of 'baggage' with the local candidates, and he was very pleased with the out-of-town candidates. He does not know why he has had a change of heart. Commissioner Azula said he did not use the term "baggage". Mr. Bush said the Committee did what they were directed to do, looked at each candidate based on the merits, and ranked them accordingly. He called Mr. Getchell and gave him the terms of employment, and when he accepted those terms, he brought this candidate to the Commission tonight. Everyone agreed to this process and he is a little shocked that he did not receive a unanimous vote.

There being no further business to discuss, the meeting was adjourned on a motion by Commissioner Brown, seconded by Commissioner Azula.

CITY CLERK

MAYOR

