

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida held on the 13<sup>th</sup> day of September, 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 Donald E. Holmes, City Clerk Betsy Jordan Driggers, Finance Director Ruby Williams, Planning Director Adam Mengel, Police Chief Gary Getchell, Fire Chief Rudy Howard, Parks Supt. Jeff Norton, Main Street Manager Debbie Banks.

INVOCATION – The Reverend Leroy Lewis

PLEDGE OF ALLEGIANCE – Sam Taylor

APPROVAL OF MINUTES – 6/28/01 workshop – Commissioner Azula moved to approve the minutes as read. Commissioner Brown seconded the motion, which passed unopposed.

PUBLIC COMMENTS – There were none.

Mayor Flagg said he opens this meaning with heartfelt sentiments concerning the issues related to the Sept. 11 destruction at the World Trade Center and Pentagon. The Community will join together with the rest of the nation in meeting the needs that arise in the days to come. City departments will be responding to local recovery efforts.

PUBLIC HEARING – TRIM CALENDAR – Tentative Budget and Proposed Millage Rate (7.3) – Mayor Flagg opened the public hearing. Mr. Bush noted that the budget presented reflects the changes recommended by the Commission during its budget workshop and contains no further changes. The budget has been on display for the public during the interim leading up to this meeting. The proposed millage rate is 7.3, which is 8.6% above the rolled-back rate. Mayor Flagg noted the Commission held a public workshop on the budget on 7/10/01, and then asked for public input. There being no public comments, Mayor Flagg closed the public hearing.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE LEVYING TAXES FOR THE YEAR 2001 TO RAISE THE NECESSARY REVENUE TO DEFRAY THE EXPENSES OF THE CITY OF PALATKA FOR THE FISCAL YEAR 2001/2002 in its entirety. Commissioner Norwood moved to pass the ordinance on first reading. Commissioner Edwards seconded the motion. There being no discussion, a roll-call vote was taken with the following results – Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was passed on 1<sup>st</sup> Reading.

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. 2001-2002. Commissioner Azula moved to pass the ordinance on first reading. Commissioner Brown seconded the motion. There being no discussion, a roll-call vote was taken with the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was passed on first reading.

Mayor Flagg suspended the regular meeting and convened the Community Redevelopment Agency, whose members consist of the elected members of the City Commission.

COMMUNITY REDEVELOPMENT AGENCY – REQUEST FOR ALLOCATION OF TAX INCREMENT FUNDS – Southside Historic Neighborhood Association – Nancy Henderschott, 628 Emmett Street, said they are using their tax increment money to purchase and restore the old Kirby Street Laundry, and are ready to begin another phase. There is money left in their fund, and they are requesting Commission approval to allot \$5,624.73 for building improvements, and for \$1,000 to replace two signs at the entrance to their neighborhood. They have obtained quotes from DeSigns for replacement of those signs. Mr. Bush said per the memorandum from the Finance Director (filed) there is adequate money in the fund to cover this request. Commissioner Azula moved to approve the allotment of \$5,624.73 improvements to the old Kirby Street Laundry Building, and \$1,000 for the replacement to two signs at the entrances to the Southside Historic Neighborhood. Commissioner Norwood seconded the motion. Commissioner Brown reminded them that if they use up all their tax money now, they don't get any more until December. Per the question, Mrs. Henderschott said David Church submitted the lowest bid for the work on the building. Mrs. Williams has a copy of those bids. There being no further discussion, the motion passed unopposed.

FUNDING – PUTNAM BEHAVIORAL HEALTH CARE CENTER – Katherine Walburn, Administrator, 330 Kay Larkin Drive, said they are here to ask for continued funding of their mental health and substance abuse treatment facilities and have made a request for funding in the amount of \$5,000. They have provided information about their services and programs (filed). Mr. Bush said due to lower state and federal revenues this year, he had to reduce his recommendation for their funding to \$3,500. Mrs. Walburn said the State has them under a “continuation budget” and they will take a loss of \$25,000 in state funds. They very much need \$5,000. Commissioner Norwood moved to grant funding in the amount of \$3,500 to Putnam Behavioral Health Care Center. Commissioner Edwards seconded the motion. Commissioner Brown said if they find that they have extra budget funds, the City should grant them an extra \$1,500, but that will be much later in the year. Mrs. Walburn asked them to use any influence they might have with any of the state's lawmakers to urge them to provide funding for mental health services. This year the State is closing the G. Pearce Wood State Mental Hospital, and 350 mental patients will be put out into the communities. There is a very large adult living facility in Palatka. She does not know how they are going to take care of these patients as they come into this community, while the State continues to take money away from them. Mayor Flagg informed her there is a legislative delegation meeting in Palatka next week, and advised her she should attend that meeting and make her needs known. There being no further discussion, the motion passed unopposed.

FUNDING REQUEST – PALATKA RIVERBOAT, INC. – John Henley, 510 Cedar Creek Road, Bostwick, asked for funding on behalf of Palatka Riverboat in the amount of \$1,000. Their organization shares the vision of bringing a community-owned riverboat to the City of Palatka, and they have been working on this for some time. He named the members of the organization, and said a riverboat will have a profound social, cultural, educational and economic impact on the communities up and down the river. Putnam County's early prosperity was closely linked to the St. Johns River. They have never sought to discourage any private riverboat owner from operating in this area. Most people recognize that a riverboat would be good for this community. They have a good website. They have representation on the St. Johns River Heritage Eco-Trail. They were able to provide City officials with a \$1 million grant for sewage pump-out facilities. City officials have applied for grant funds in the amount of \$2 million for the construction of a boat. They are asking for \$1,000 to offset administrative costs. Most of their cash flow centers around calendar sales and advertising. They need to establish themselves as a 501c3 status corporation. Commissioner Azula moved to fund Palatka Riverboat, Inc. in the amount of \$1,000. Commissioner Edwards seconded the motion. Commissioner Brown stated her intention to abstain from the vote, as she sits on its Board, but recognizes no monetary gain from her position. There being no further discussion, the motion passed, four in favor, one abstention. Commissioner Brown said she purchased a \$100 ad space for the City in the new calendar, and if the other commissioners want to pay their share, she would appreciate it, but it is not necessary.

AZALEA CITY CRUISERS – Sponsorship request – This item was tabled as there was no one from Azalea City Cruisers to address this.

EDGAR JOHNSON SENIOR CENTER ITEMS – pulled & rescheduled for 9/27/01.

BASEBALL FIELDS' USE RECOMMENDATION – Mr. Norton said the City met with various organizations to get input on the use of Forrester, Fred Green and Shaw Buck,

baseball fields. They worked out an agreement between Palatka Babe Ruth Association and Palatka Baseball Club, the two baseball organizations that have expressed an interest in using the field. The clubs will use Shaw Buck and Fred Green Fields for practice and Forrester Fred Green for scheduled games. Babe Ruth will be responsible for the lights and will hold the key to Forrester. If any other organization wants to use the lights, they will pick up a key from City Hall and pay a pro-rated fee. This also applies to Fred Green Field. Shaw Buck will be used for scheduled practices, and the utilities will be provided by Palatka Baseball Club, who will hold a key to its lighting system. Any other organization that wishes to use the lights will also pick up a key at City Hall and pay a fee according to its use. Public access will continue when not scheduled for use. Scheduling will be done through a permitting process at City Hall. The City will charge for the use of lights and concessions. The City will maintain the fields according to the maintenance schedule. All infields will be maintained by those organizations scheduling events. This includes preparations prior to games such as dragging and striping. This is meant to be a temporary solution to satisfy an immediate need. A final recommendation will be made at a later date, based upon talks at future committee meetings. Commissioner Azula moved to approve the recommendation as presented for the use of Forrester, Fred Green and Shaw Buck Fields. Commissioner Brown seconded the motion, which passed unopposed.

TRAIN DEPOT TOUR – Mr. Norton said a tour of the train depot has been scheduled with Amtrak officials and other interested organizations for Thursday 9/20. After discussion, it was the consensus to reschedule the tour for Wednesday, Sept. 19 at 12:00 noon. The purpose of the tour is to hear a presentation from Bob Taylor, Project Architect, on planned renovations.

ADULT USE ORDINANCE – Presentation by agents for the Adult Supercenter located at intersection of Hwys 19 and 100; Palatka - Bruce McLaughlin, McLaughlin Consulting Services. Mayor Flagg noted he would like to hear staff's recommendation before hearing from Mr. McLaughlin and Mr. Edinger. Attorney Holmes said the Commission has scheduled on its agenda the second reading of an adult entertainment ordinance which was passed on first reading on 8/16, and their only option on this ordinance is to either pass it on 2<sup>nd</sup> reading or not pass it on 2<sup>nd</sup> reading. That ordinance contains an amortization clause which means that any existing adult entertainment establishment that can't meet the distance requirements contained in that ordinance would be given one year to operate, and then would have to cease operations at the end of the year. This clause was added by amendment to the draft ordinance that was presented to the Commission at the 8/16 meeting. Since that clause was added, an issue has arisen as to whether or not the Commission wishes to reconsider that clause. If they should reconsider it, they can eliminate the amortization clause altogether, which would grandfather in the existing business to the extent that they would not have to comply with distance, or set-back requirements, but they would still have to comply with all other stipulations. The business in existence already meets the locational standard, but not the distance requirements. A second option is to adopt a clause that accords a longer period of time for the business to operate before it has to relocate. It will still only have the option of either relocating or shutting down within the specified period of time. The last option would be to adopt a more flexible clause, which would include a provision that would require them to comply within a set period of time, but the BZAO would be vested with the ability to grant a variance to the business as to the distance setback requirements, the same as they would for any other business. He and Mr. Bonnell have prepared language to assist the Commission to decide which option they would like to take. With regards to the procedures involved, the ordinance already passed on first reading contains the one-year amortization, and he does not believe it is appropriate to make substantial changes at this point. If they are going to change a one-year amortization clause to any other form, he recommends they do that via voting down the ordinance up for passage on 2<sup>nd</sup> reading tonight, and passing a new ordinance on first reading that contains whatever clause the Commission decides upon. His office has tried to give the Commission as much latitude as possible in the choices they have before them, by placing a second ordinance on the agenda which, as drafted, contains no amortization clause, and does contain grandfather language. Depending on what the Commission chooses to do, rather than amending Ordinance 10-A, they should vote to deny passage and adopt on 1<sup>st</sup> reading what amounts to the same ordinance without the amortization clause as presented on 10-b. If they decide to stay with 10-a, he will have an insignificant change to that ordinance, which he will discuss with them later, depending upon what course the Commission takes. It is not a substantial change. Mr. Bush said he provided the Commission with his recommendation, and wishes to state that there are a lot of cases currently in the courts that are testing whether or not an amortization clause will be upheld. There is nothing

that grandfathers any business in permanently, and nothing will forestall a future commission from coming back and re-addressing an amortization clause. Mr. Holmes agreed, saying anytime you pass an ordinance it brings new terms and conditions to bear upon existing circumstances. If they pass an ordinance with no amortization clause, and a year from now the issue of amortization becomes well-defined via a court case, then if the Commission decides that definition is one that will permit the City to come back with a strong amortization clause, or cessation of non-conforming use clause, then it is his opinion that the Commission would be able to bring new terms to the table by amending their ordinance, which is essentially what they are doing now. He attempted to provide the Commission some insight into this in a memorandum he presented at the 8/16 meeting, which he has re-submitted to the Commission (filed). The first five pages gives them an overview of the amortization issue. Mr. Bush's memo sets forth staff's position. Per Mayor Flagg's question, Mr. Holmes said the amortization seems to be the main point of contention in the proposed ordinance; he can't speak for the owners' representatives of the existing business. They may have a number of points they do not agree with, but this is the one point that would probably result in litigation for the City. There is another issue he has spoken with Mr. Edinger about which involves multiple uses being prohibited on the same site, but he does not believe that issue will put the City in court at this time as that issue is now pending before the Supreme Court, and whatever they decide will serve as a deciding point as to whether or not this provision will stand.

Bruce McLaughlin, McLaughlin Consulting Services, Inc., 900 Gulf Blvd., Indian Rocks Beach, Florida, said he represents Shadowlawn, Inc., the owner of the only adult-use business in the City, to anyone's knowledge. He reviewed his credentials at the last meeting on this topic, and they are contained in Volume I of his submittal. By appearing here, neither Mr. Edinger nor he waives any procedural challenges that may exist on behalf of his client. He provided the Clerk with copies of three volumes of reviews on the "studies" that Mr. Holmes incorporated into the record at the 8/16 meeting, as part of the Commission's foundation. He provided a final handout, which completes his written submission. As to Phoenix 1979, like most of these studies it was a post-hoc justification for a decision that had already been made, i.e. the City of Phoenix wanted an adult use ordinance. Via a deposition taken by the author, they determined that the City had made no effort to control confounding variables. A textbook example is where Connecticut passed a seat-belt law, and the next year the number of highway deaths diminished greatly, and everyone attributed it to the seatbelt law. What they did not consider was the confounding variables, i.e. were there more cars on the road, or less? Were they sturdier cars, was the weather better? This and the rest of these studies have not considered the confounding variables. There are other explanations for the observed phenomena. When the Phoenix crime rate went up they did not look to see if unemployment went up, also, or if anything else explained it. Phoenix also neglected to consider other problematic uses, like an adult use next door to a biker bar, next door to a pool hall, next door to a temporary labor facility, etc. Whatever effect you measure should be the effect of all four uses, not just the one. Garden Grove was also a post-hoc effort to justify a previously-made decision. If you read the study, you see time and again that the City has already adopted the ordinance and is now trying to justify it. They failed to control the confounding variables and failed to consider alternative explanations. Contrary to professional protocols, they did not use empirical data. They did a survey of folks with respect to the perceived impact of adult uses, and to make matters worse, the survey was carried out by police cadets who were not trained interviewers and new what responses the sponsor of the ordinance wanted, and completely violated all protocols for the conduct of a survey. In Volume II he provided them with a document entitled "City of Lansing Survey". When you contrast that survey, where only 18% of the respondents found problem with adult uses, to the survey from Garden Grove and the rest of these which rely on surveys, they will see what a huge difference it makes when the survey is carried out in accordance with the legal and professional protocols, as opposed to uninformed police cadets, in uniform, who know what the Mayor and Council members want to do, knocking on doors and leading people through a questionnaire. In Indianapolis the same problem arose; they relied primarily on a survey for the real estate information, and they must remember that the study specifically said there was no evidence of a causal relationship between adult uses and crime rates. There is a correlation, and his favorite way of distinguishing the difference between a correlation and a causal relationship is that up north, when you hear Bing Crosby sing "White Christmas", there is usually snow on the ground, but that does not mean Bing Crosby caused it to snow. The study acknowledges that, but people don't usually pick up on it. Cleveland used census tracts, which is a relatively large area, and you certainly can't isolate the impact of a single business or single residence in a census tract. Again, there was no control for confounding variables or bias. Oklahoma City, again only a survey

with the same problems as Garden Grove and Indianapolis, and in fact using the same instrument as Indianapolis. Austin was also post-hoc justification, and in fact Austin had already lost their first ordinance because they hadn't justified it. Per Mayor Flagg's question, Mr. McLaughlin said that the point he is making is that these studies are not worth the paper they are written on. He urged them to look at the Lansing survey located in Volume II of the study to see what happens when a survey is properly conducted. Beaumont is one of two documents in the City's study that refer to a Detroit study. There is no Detroit study; this is a myth. He has spoken with a retired Michigan appellate judge who was a litigator for the City of Detroit in *Young vs. American Minitheaters* who confirmed they never did a study. This study came from thin air. There was a task force report, which he mentions in his materials, which was a 'how-to', not a 'whether we need to' report. Beaumont also missed an opportunity to study the effect of the closure of the three adult uses to which the study refers; again, it misses the confounding variables and alternative explanations. There is an extraneous page attached to the Beaumont study, which actually comes from the Las Vegas study, but no one has ever pointed that out. Seattle relied primarily on other studies, and it misrepresents those. It totally omits the Los Angeles empirical property value analysis, which found no causal relationship between adult uses and secondary effects. It misrepresents the Kent Washington study, which says that John Mills, an appraiser selected for the survey due to his location in the Greenwood area of Seattle, where the Ridgemont Theater, subject of *North End Cinema vs. City of Seattle* in 1978, is located, stated that he observed no demonstrated impact on the value of property around the theater area during the years when the Ridgemont showed adult movies. He stated that sales near the Ridgemont were no different per square foot than comparable properties several blocks away. He agreed that under certain conditions values could descend as a result of adult uses locating nearby, especially in the case of residential property; however, such was not the case in the Greenwood area. People rely on Seattle 1989, but they don't tell you that Seattle misrepresents the studies upon which it relied. As to the Times Square study, Palatka is a wonderful city, but it does not have 1.5 million pedestrians walking through it every day. To rely on that study is problematic for a city the size of Palatka. In spite of very badly gerrymandered study areas and being intellectually dishonest in their selection of study areas, a largely residential area with ground-floor commercial, compared to an area suffering condemnation blight as part of the 42<sup>nd</sup> Street redevelopment project, which was high-intensity, high-impact commercial, with respect to property values, the Times Square study says it may well be that the concentration of adult use establishments has a generally depressive effect on adjoining properties. As a statistical matter they do not have sufficient data to prove or disprove this thesis. It may also be simply that the presence of adult use establishments is subjectively viewed by assessors as a factor that necessarily reduces the value of a property. In short, assumptions may influence assessments. There is no reflection of such a reduction, but they couldn't even find it when they were looking for it. One cannot assert that there is a direct correlation between these statistics and the concentration of adult-use establishments on 42<sup>nd</sup> Street between 7<sup>th</sup> and 8<sup>th</sup> Avenues, or along 8<sup>th</sup> Avenue between 45<sup>th</sup> and 48<sup>th</sup> Streets, but there is very definitely a pointed difference in the number of crime complaints between the study blocks and their controls – again, badly gerrymandered. Their next statement says this increase may be related to the presence of adult use establishments along 8<sup>th</sup> Avenue, but may also be related to traffic and pedestrian patterns and proximity to the port authority bus terminal, and we all know what bus terminals are like. The bus terminal is a confounding variable. Dallas 1994 or 1997 relies on Phoenix 1994, and that Phoenix 1994 was an 'hours of operation' study and it found no harm in allowing adult uses to be open 24 hours a day. Mr. Maillon (sp), whose deposition he attended in part, conducted a series of interviews giving this back to the same problems of the surveys. In Texas, like Florida, although you don't record the price of a sale of property in Texas, obviously it is adjusted very quickly if it is over-reported, because if someone is assessed \$1 million for a piece of property they only paid \$500,000 for, that person will contact the assessment board immediately trying to get the assessment back down to what he paid for it. Mr. Maillon (sp) had empirical data that he failed to use, and the surveys are flawed. Tucson is dealing entirely with primary effects. The Supreme Court distinguished the difference between primary and secondary effects in *Lynmark Holdings vs. the Borough of Willingsborough*. Willingsborough passed an ordinance that stated you could not erect a real estate sign on your front lawn, and the reason was they did not want African Americans driving through and seeing property for sale. They tried to argue that they were protecting the City from the secondary effects from the clutter of real estate signs, when their true motive was the primary effect of welcoming minorities into the community. Manatee County offers no first-hand studies, but relies on things such as *St. Paul 1978*, which states they are not talking about sexually oriented businesses. *Houston 1997*, same problems – post hoc, no quantitative pre-ordained result. They could have

given us some decent statistics in there, but they didn't. Oklahoma 1992 did not control for confounding variables. During that period of time there were busts and booms, several of them in the oil industry, the population of the city would have risen and fallen, they had a change in prosecutors, and all of the things they have attributed to the closure of some adult uses could have had some other basis. Based on these studies, there is no rational basis for the ordinance that is proposed. It does not advance any governmental interest, let alone a substantial interest. He said he made a public records request, and the Clerk has provided some of those documents. He is hoping to abate the rest of the request and not have to go forward with it. It is clear from the documents he was provided that the City has not conducted a critical analysis of these studies. They haven't looked at whether the studies have any merit. The City apparently also has not looked at whether the cases that the pro-ordinance folks have presented to them are still good law. Some of them are being questioned. Another item that came from the public records request was information on how the City calculates impact fees. This is one of the best analysis of impact fees basis that he has seen throughout Florida; The Staff has done a superb job. Under the law on impact fees, there only has to be a rough proportionality between the impact of the business and the fee that is charged. When comparing the superb work that went into the City's impact fee ordinance, with the shoddy work that went into these studies, you can't even begin to approach the rough proportionality in the studies. He handed out his last document, the first part of which is the articles that he referred to in his presentation of 8/16/01. Mel Ravitz was a 1973 member of the Common Council of the City of Detroit, and his affidavit, which was legally insufficient, was a key document in the record of *Young vs. American Minitheaters*. It is interesting to note that the so-called secondary effects, which Mr. Ravitz asserts are unique to sexually oriented adult uses, he also found 11 years earlier with respect to pool halls, taxi-dance studios, flop houses, etc. He used very similar language in 1955 with respect to racial integration. These aren't secondary effects, its people. This clearly belies the value of any of the studies. Also in the package, because they have been dealing with the issue of the will of the people, which was their reason for the imposition of the amortization period, they will find a draft ordinance based on the City's adult use ordinance treating churches the same way. It cites better authority than the studies that the City has for the adult use ordinance. Christians may well be a minority 10 years from now. What if the will of the people changes, and 10 years from now, 1,000 patrons of the adult book store, wherever it locates, come in and ask the City to pass an ordinance against churches? The City wouldn't, and they would be perfectly right in not doing so, or at least in grandfathering in the existing church uses. He read from the Supreme Court decision in *Planned Parenthood vs. Casey*, "Our obligation is to define the liberty of all, not to mandate our own moral code." Those who are supporting this ordinance are absolutely entitled to their own moral code, and are entitled to stay out of the store, to picket the store as long as they do so peacefully, and are entitled to do anything they want to advance their own moral code, but they can't impose it on other folks. The question is, are they really representing the will of the people?

Mr. McLaughlin said in his final submission he included an article from the New York Times May 20 edition entitled "Naked Capitalists – There's No Business Like Porn Business" which will show how great the demand is for this form of protected speech. On the topic of amortization, they will see an e-mail from one of the pro-family or anti-pornography groups about amortization, and he presumes Mr. Bonnell was the person who wrote, "Does Florida's constitution allow for amortization? Or do I need to research this? Please answer these two questions for me." There is obviously an open question in the City Attorney's office as to whether or not amortization is permissible under the Florida Constitution. Last month he mentioned the Pennsylvania Supreme Court decision and described how the Florida Constitution seems to offer more protection. It is an open question. Does Palatka want to be the first one to litigate it? Even if Palatka succeeds, and even if the Florida Supreme Court decides that retroactive zoning is permissible form of zoning under the Florida Constitution, Mr. Bert Harris says 'if you've adopted an ordinance that affects the value of someone's property, you have to pay them.' One claim on an adult use is for \$800,000. The key points of the Bert Harris Act are included in their package. They can litigate this all the way through the Supreme Court of Florida, and Palatka could win on amortization being constitutionally permissible, but they will be facing a Bert Harris claim. To summarize, this ordinance advances no governmental interest, there is no basis for it, and at the very least he is certain the City will still want to pass it, but should grandfather in the existing use. He verified that his submission, Volumes I, II, III, III-A, III-B and IV are part of the official record of these proceedings.

Gary Edinger, 305 NE 1<sup>st</sup> Street, Gainesville, said he has been retained to represent Shadowlawn of Tampa, which owns the only adult business currently located in Palatka.

He was retained primarily for litigation purposes; his particular area of expertise is in first amendment and free speech issues. He represents a lot of adult businesses and has had occasion to represent many political activists and one church. First amendment rights are not just important to our society, but are also the bedrock of it. A commission such as Palatka's is the very grass-roots element of American democracy, and he wants to remind them just how important free speech rights are. He understands that listening to a speech like Mr. McLaughlin's, which contains phrases like "confounding variables", is difficult to sit through, but they do this not only to educate, but to lay the predicate in the event they have to litigate. Mr. McLaughlin's challenges to these studies, and to some extent their review of these studies, would certainly come out in federal court as one of the things he does. It is his opinion that Palatka has a very good City Attorney, and he knows that he has done his homework. Through their public records requests, they have some idea of what he has looked at; he has asked the right questions and has looked in the right places. They have had an active dialogue about the ordinance the Commission are considering tonight. His job is to act as an advocate for his client, Shadowlawn of Tampa, and his job is to keep him open and to keep his brand of free speech, whether popular or not, available in this community. His secondary purpose, both for his client and because of his responsibility as an attorney, is to uphold the constitution and to try to get the ordinance in a circumstance where he thinks it can survive a constitutional attack. He wants to help them create something that perhaps meets the needs of the community and yet is constitutional under our system of laws. They are fairly close with what they have now; there are some flaws. He has discussed these with Mr. Holmes, and frankly there are some flaws he has discovered that he has not discussed with Mr. Holmes, but he certainly would with a federal judge, if need be. He does not want to litigate, and he assures the City his client has no interest in litigating with the community. There is one and only one section of this ordinance, as currently drafted, and is on second reading, that would wind them all up in federal court, and that is the amortization clause. He can tell them completely frankly that if this Commission passes the ordinance containing the amortization clause that they will be in federal court, and his client will not accept variations on the theme, such as Mr. Holmes has presented, like having a longer period to comply, or to ask permission from a Board to continue operating. Those are not acceptable to his client and would involve litigation. On the other hand, if they accept the recommendation of their Staff and the recommendation of their Planning Board, which is specifically set up to consider these as more of an 'expert body' to give advice to this board. They have recommended that the Commission grandfather-in this existing business, and that means they are not required to go out of business over a law that was not in existence when it opened. With a grandfather provision, which means simply deleting the amortization clause, they have no dispute with this community and they will not be in court. They do have some argument about other parts of the Code, one of which he will address, but those arguments they will work out, and they will not wind the City up in court. The amortization provision will. The other concern that Mr. Holmes addressed is a matter of concern to his client, and he accurately reflects his client's position, which is that they have a very good faith dispute with this Commission as to the inclusion, or more accurately a prohibition against multiple uses. The present format of this business is that it contains magazines, videos, dvds, that sort of thing, which could classify it as a bookstore under Palatka's current code. The business also has preview booths, where patrons can view a video or dvd before buying it. A good argument could be made that this use, which is currently in the business, would be a multiple use and not allowed. As Mr. Homes correctly noted, there is a Supreme Court case called Alameda Books, that some colleagues and friends of his are bringing before the Supreme Court, which arises out of California's Ninth Circuit, and in that case the Ninth Circuit decided that it was unconstitutional to prohibit multiple uses. Basically, that rationale is pretty understandable. If they accept the idea of secondary effects, there really is no reason to believe that having multiple uses in one building is going to make that store any better or any worse than not having the multiple uses. The present law of the land, from the highest court in the Ninth Circuit, is that the prohibition against multiple uses is unconstitutional. It is presently before the Supreme Court and is going to be argued in November; they can expect a decision in February. This is a dispute that won't wind them up in court simply because they know the Supreme Court will decide on this issue quite literally in a few months. They are undecided on just exactly how they are going to deal with this if they leave this provision in the ordinance. They may simply ignore it and engage in civil disobedience on the assumption that the Commission will be patient and await the ruling of the Supreme Court, and then they will have absolute guidance and will know what to do. His client is not interested in disputes with this community. Where there is a threat to its very existence, to put it out of business, there would be no place to turn but to federal court. There is a misconception as to what amortization does. Although it would require his client to move his business, it doesn't necessarily mean it

would disappear from the community. Theoretically, there will be some sites available for adult uses, and if someone buys the property or meets the terms of the lease, they will go in there and operate, and that could well be his client. This desire to get rid of a lawful business that pre-dates the City's ordinance may not solve the problem. As to the Bert Harris Act, he is very familiar with this because his client is bringing this very action against Cocoa Beach. Cocoa Beach has adopted a somewhat more liberal ordinance than what the City has, and he is doing the first amendment litigation against it in federal court. They feel pretty good about their prospects in that case. He has not lost an adult case in five or six years. They are likely to prevail, and if they do, that would be a good thing for Cocoa Beach, because there is also moving through the system a claim for compensation under the Bert Harris Act. This is somewhat like condemnation, or when government seizes property for public purposes. Bert Harris does not require a seizure of the land, but rather when a new regulation passes which deprives a business owner of a use, this Act allows the business owner to claim compensation. In Cocoa Beach, the claim that was initially presented was presented in two ways. One is as a market analysis, and the claim was for \$870,000. The other is on a sales price basis based on what an adult use is worth, and he suspects that claim is \$1.5 million. Adult businesses may be looked upon unfavorably by a majority of the community, but they are well attended and well supported, and are valuable. To the extent the government tries to eliminate that use, there is reason to believe the government will compensate the business owner. In conclusion, they don't want to litigate this issue, and there is only one section of this ordinance that is before them on second reading that would result in a federal suite, and that is the amortization provision.

Mr. Holmes said the City Attorney's position is as set forth in his memorandum. They found a variety of cases on amortization clauses, but they are not confident that the cases lend themselves to an application to the City's factual setting. Many of these cases are determined based on the facts that were peculiar to the cases themselves. Sometimes that does not make for the type of law that can be applied universally to every other factual setting. He has not limited his practice to first amendment law, and he cannot tell them that he is 100% certain that every aspect of this ordinance will pass muster in the federal courts. They think they have done a thorough job, but ordinances are overturned every day and it's hard to be perfect in this arena. His office believes that the most controversial aspect of this ordinance, and the aspect that will most likely be vulnerable or leave the ordinance open to challenges, and will lead to a challenge of its validity, is the amortization issue. They did not put it in without some support, and did find cases that they relied upon in putting the amortization clause in, but on the other hand there are other cases that have caused them much concern over whether or not it will be upheld. He knows it is difficult for parties to understand how attorneys on opposite sides can speak. There is a feeling that if you talk to someone who is the 'enemy' then you are somehow polluting the process. When you litigate against an attorney in court, and then you both shake hands on a lunch break, it sometimes angers your client. Most of the time you will find that attorneys do try to keep these things professional, and try to litigate and conduct their business on a business level rather than a personal one. His office tends to agree with the dilemma that Mr. Edinger mentioned, that there are pitfalls associated with the amortization issue, even if it is deemed to be valid. If it is deemed valid, and you do make them cease operation at that one location, you still have to provide other locations that the business could locate, and they may locate there. If you do force them to shut down, there will be an issue as to whether or not you have taken something from them without compensating them, as in the Bert Harris Act mentioned by Mr. Edinger. He does not know what the answer to that is, and there are many legitimate questions they could spend a lot of money in court getting answers to. It is the Commission's decision to make. The original ordinance he presented them at the 8/16 meeting did not include an amortization clause. He is not afraid of a fight; in his 24 years he has spent almost all his time in the courtroom, but sometimes fighting is not the most practical resolution to an issue. When his office proposed the ordinance without the amortization clause, their thinking was that the City could put an ordinance on the books that is a good ordinance. His office made a good-faith effort to draft an ordinance that is not just a simplistic knee-jerk reaction to a problem, and he seeks to avoid the constitutional challenge and litigation the City will face if it tries to make this one existing business terminate its operation. By putting this ordinance on the books, they eliminate the grandfather issue with regards to anyone else who tries to come and locate here; they will either have to comply with the ordinance or challenge it from the outset. He can't promise that someone won't, but the odds are less that someone will pick this area to come into knowing that they will have to challenge the City's ordinance, especially if the ordinance on face value is not a joke, and they don't think theirs is. As Mr. Bush indicates, if in the future they get a supreme court case or a Woods case where the supreme court of this

land issues some definitive ruling on amortization, like it apparently is going to on the issue of multiple uses, it won't take a brain surgeon to react, depending on the way the Supreme Court goes. If they say you can't do it, the City saved itself money. If they say you can, and these are the exact things you have to do to get yourself there, then they can amend the ordinance and incorporate those provisions. Let someone else invent the wheel. They are also being mindful of the substantial cost of first amendment litigation.

Mayor Flagg asked Mr. McLaughlin what attracted his client to Palatka. Mr. McLaughlin answered it was a business decision based on an analysis of the market for adult entertainment for this vicinity, which was clearly underserved. There was an existing business relationship between the principals of Shadowlawn and the principals of Sierra Farms, the property owner; and the fact that the City had no ordinance. Mr. Holmes is absolutely correct; he has done a lot of site-selection work for adult-use clients, and in 300 jurisdictions he has looked at, only once did a client pick a fight for a new location. Oddly enough, that fight was one-sided and on their side. The odds of litigation of someone else coming in and finding a location that does not meet the criteria set forth in the ordinance and suing for it are infinitesimally small. Mayor Flagg said in a larger city, you have certain problems referred to as NIMBY's, or Not In My Back Yard. There are people all around saying, "anywhere but here." In this case there is a cross sector of an entire community saying there is no appropriate site. He asked if that is in the equation at all as far as the business analysis is concerned. Mr. McLaughlin said not really, because as Mr. Edinger sort of conceded, although that cross-sector may be a majority, there are a number of referenda on adult uses, and they are all over the place. One ordinance was defeated because the adult use's attorney said, "please adopt this, I need the attorney fees." The citizens took that admonition to heart and did not approve the ordinance on referendum after adoption. In Aspen, CO an ordinance was put to a vote, and it was adopted with a 25-vote majority out of 5,000 votes after the business closed and made no effort to campaign for it. When there has been a legitimate effort to analyze whether there is a majority or minority supporting adult entertainment, the results are all over the place. It is, to some people, a NIMBY, but group homes for retarded children are also, let alone group homes for released convicts or retarded adults. So much of this is the management of the business. This is true of a fast-food restaurant, a yacht club, and the adult entertainment industry. The principals of Shadowlawn have a long and very good track record in Manhattan, Long Island, Brooklyn, Tampa, Hillsborough County and Pinellas County of running very good, clean, safe operations. Wendy's Restaurant could be well-managed today and have a change in management tomorrow that allows kids hanging out, trash everywhere, boom boxes blaring in the parking lot. That can't be legislated; you must deal with that via nuisance actions. His client looked at this, said Palatka has no ordinance, and there are no other adult uses in the vicinity. There has got to be a market for this product. He has been in the store twice since it opened and they are busy. Although his client is charitable, they are not a charity, and if there is truly no market here, they will close. Mayor Flagg asked if the citizens of the community choose not to patronize this business, will his client make that kind of decision if there is no demand for his merchandise? Mr. McLaughlin answered his client is a businessman, and although his bottom line is tempered by a profound belief in the first amendment, he is not going to bleed 'red ink' for years. It will be a good measure of the true nature of the community. If the business succeeds, they will know that there is a significantly large silent element that supports them, and if it closes in six months because there are no patrons, then they will know that clientele doesn't exist in Palatka/Putnam County.

Rev. Ray Willis, Pastor, Abundant Life Ministries, 102 Belmont Drive, said he is making his final statement before the Commission. He is speaking tonight as a preacher. There is a scripture in Psalm 20:7 that says, "Some men trust in chariots and some men trust in horses, but we will trust in the name of our Lord." This scripture does not say that you don't need a good horse and chariot, but it does say he's not going to put his trust in it. He applauds the Commission for everything they tried to do, and he believes that they are on his side in this matter. He believes they need a good horse and good chariot, so he wants them to pass the best, most defensible law they can. He personally wants them to know that he understands Mr. Holmes' position. These people are protected by the constitution. After the Commission passes the best, most defensible law it can, they will put their trust in the Lord. He believes in good laws, and the law of the land. God has spoken to him and told him this business will not survive; it will go out of business and leave. They will pray it out of business. God will have the final word in this matter. It is an evil, and people may not agree or understand his position, and that's o.k., as he doesn't believe in or agree with some of the principles he has heard tonight, and that is every American's right. They need to put a good law on the books, and they will ride on that as

long as they can, but they will put their trust in the Lord. He declares in this meeting that this business will not survive, and any other like it that tries to come into this community will eventually go other places, because the citizens of this community who believe in the power of prayer and God, and who find this kind of product and service evil and ungodly and unrighteous and anti-family, believe that God is on their side. He releases them to do what they feel is the best they can defend in court, and to listen to Mr. Holmes and heed his advice. They will trust in God to do what man cannot do.

Allegra Kitchens, citizen, said she attended the BZOA meeting during which Carl Stuart brought up the issue of whether the business will leave if it is not profitable, and said even if they are grandfathered in, they have no clients, and if they are not making any money, they will leave and no new business will come in. During the course of his presentation, Mr. Edinger remarked that Mr. Stuart should not always assume that a business comes to a community to make money. She wonders if they will really leave if they don't make money. She read the ordinance Mr. McLaughlin drew up concerning Christians. She is a Christian, which makes her one of the "undesirable attendees" that churches draw. Mr. McLaughlin's presentation reminds her of the tobacco companies who for many years kept presenting evidence to the US government that their product does not cause cancer, when he maintains that adult entertainment establishments don't cause an increase in crime in a community. Inasmuch as he disputes the cases that Mr. Holmes presented, she presented two cases that he did not. Former Chief of Police and deputy Sheriff Dick Schauland said one of the first cases he worked as a deputy was a rape case in which a man committed a rape after he left the adult theater that was located in E. Palatka, after viewing a pornographic movie. State's Attorney John Tanner interviewed the serial killer Ted Bundy on death row in Florida. Mr. Bundy said pornography started him on his life of crime and killing. Those two cases can't be disputed. She wants the Commission to pass the strongest ordinance it can, and does not want this business grandfathered in. It will cause harm to the community. She is trained to defend herself, but many other females aren't. If the Commission grandfathers these businesses in, they are saying they don't believe they cause harm. If the Commission does not believe they cause harm, they have no legal right to pass any ordinance. They should leave the amortization in at some level and not grandfather this business in.

Rev. L.P. Heuer, Pastor, Tabernacle Baptist Church, said this will be his final address to the Commission on this issue. Mr. McLaughlin brought up a point about how records and documents lied, but he hasn't seen any documentation saying that a survey was made in Palatka that showed that people wanted this business here. Instead, he has seen petitions signed by 6,500 citizens of Palatka saying they don't want this garbage in their town. Last night Ted Koppell, on ABC's Nightline, said that the terrorist groups that were used in the destruction of the WTC in New York, are using pornographic internet services via scrambled messages to relay their messages and orders of destruction. He knows the Commission has prayerfully considered this ordinance, and with God's leadership they will do the right thing. He asked Mr. McLaughlin and Mr. Edinger to check into the business they are in, because it may involve terrorism as well. He thanked the Commission for their patience and work, saying they are behind them 110%.

Rev. Ted Rodda, Pastor, Living Faith Church, 2017 Oak Street, said as to Mr. McLaughlin's evaluation of the validity of the studies, they are all aware that you can get experts to document the validity or lack thereof on any particular study you want to do. Causal and correlation studies are used to justify all kinds of actions. The fact that the negative secondary effect connection is only from a correlational standpoint, it does not negate the truth. When you have hundreds of crime statistics that show this apparent correlation, these situations seem to take care of all the varying causal effects such as biker bars, etc. He would expect that a biker bar would want to be as close to a porn shop as it could get. This is one of the reasons he is opposed to porn shops. He is not saying he has to leave, he is saying that he chose a spot that is extremely inappropriate, and believes he knew it was inappropriate when he chose it. He scrambled to open in order to beat a state ordinance that would have prevented him from being there. He's after the money. The first amendment is what he uses to get the money, but it all boils down to big money and the promise of a lawsuit if he doesn't get what he wants, which we all pay for in our insurance costs among other things. He reminded them that the community will pay for having a porn shop in its midst, and he prays that they don't pay for it being close to a school. They will pay for it in increased crime, increased police personnel needs, increased prosecution costs, and things of that nature. He is a preacher, but is speaking as a citizen. He is vehemently opposed to grandfathering. It appears that amortization is acceptable, but he is not sure that one year is adequate. If they do not adopt an amortization schedule tonight, he will be watching what happens, and will

expect it be done eventually. If they do adopt an amortization clause, he will support them any way he can, and will end up paying, since he is a resident of Palatka, unlike the owner of the business or his employees.

Jena Porter, 602 Fern Street, Palatka, asked if this business goes out of business, will another business be able to come into that location, or does the grandfathering only apply to this particular business? Mr. Bush answered that the grandfathering will only apply for this business and no other business at that location.

Commissioner Brown said this business is all they have talked about for the last few months. She wants them to know that the surveys they get from other places is fine, but the members of this Commission get survey results every day from the citizens of this community via their opinions. They want good businesses in their town. She has lived in Palatka all her life, and the people here are not afraid of a good fight, but they are also here to take care of the citizens. She does not want Mr. Edinger to think they are scared, but they also know the power of the dollar. They have to take care of other things, and need money for better causes such as parks, which make for crime prevention. She does not like where this porno business is. When he sees the stores in the newspaper about prostitution stings, it is because the City has asked the press to publicize it. Cowpen Lake is not in Palatka. Some of Mr. McLaughlin's information is not correct. The residents of this town love it very much, and they plan to do the right thing. If they need to make a decision tonight that they may change in a few months to get where they need to get go, so be it. She can't believe his business is making much money, because she rides by there every day just to count cars, and unless people are parking off-premises and walking, she doesn't see any customers. She also gets by there at night. To the people in the community, she says if they don't want this business, they have to show them, and not patronize the store.

Commissioner Norwood said based on staff's recommendation, he does not believe the City could support this type of litigation, and they are charged with seeing to it the City stays solvent. He is a part of the Christian Community, and is torn by this. When he reads something, he either believes it or not, and he believes what he read. Based on his duties as a commissioner, he needs to make sure the City can fight not only this battle, but other battles, and sometimes has to go against what he believes. He believes God will sustain them, but also believes the community has a large part to play in this. In Matthew 28, beginning around verse 19 or 20, it lays out their responsibilities. The churches in this community have been shown a ministry, whether it is alcohol, prostitution, or whatever. They need to make sure the community is fulfilling its obligation to the Bible. He is very opposed to any pornographic business coming to this community, but he recognizes free enterprise and constitutional rights. He knows they have to allow it, but the power is in their hands to make it go away, and not keep it in business. They must fight the good fight that Paul talks about, and the day will come that this business, as well as all unwelcome businesses in the community, will no longer be here. Mayor Flagg said the Commission is charged with weighing all the comments they have heard tonight with staff's recommendation in considering the two versions of the ordinance they have before them. Although the only ordinance the attorney could draw up is for the City of Palatka, there is a sovereign ordinance that may not be written, but things will come together.

**ORDINANCE - The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, ESTABLISHING A REASONABLE AND UNIFORM CONTENT NEUTRAL REGULATION THAT WILL REDUCE THE ADVERSE SECONDARY EFFECTS THAT ADULT ENTERTAINMENT ESTABLISHMENTS HAVE UPON THE CITY THEREBY PROTECTING THE HEALTH, SAFETY AND WELFARE OF THE CITIZENRY, TO BE KNOWN AS THE ADULT ENTERTAINMENT ESTABLISHMENT ORDINANCE; STATING THE INTENT OF THE ORDINANCE; PROVIDING DEFINITIONS AND FINDINGS OF FACT; REGULATING THE LICENSING AND LOCATION OF ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, ESCORT SERVICES AND PHYSICAL CONTACT PARLORS; PROVIDING GENERAL PROVISIONS; PROVIDING FOR LICENSING OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR THE INVESTIGATION OF APPLICATIONS FOR LICENSING; PROVIDING FOR THE ISSUANCE AND DENIAL OF LICENSES; PROVIDING FOR APPLICATION FEES; PROVIDING FOR MAINTENANCE OF RECORDS AND REPORTS; PROVIDING FOR THE TRANSFER, SUSPENSION, REVOCATION AND APPEAL OF APPLICATIONS; PROVIDING FOR IMMUNITY FROM PROSECUTION; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR DISTANCE AND ZONING**

RESTRICTIONS OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR AMORTIZATION PERIOD OF NON-CONFORMING USES; PROVIDING FOR OPERATIONAL RULES OF ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, ESCORT SERVICES AND PHYSICAL CONTACT PARLORS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING PROHIBITED ACTS BY CUSTOMERS, WORKERS, OPERATORS AND ESCORTS; PROVIDING FOR CRIMINAL PROVISIONS PROHIBITING SPECIFIED SEXUAL ACTS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING ADVERTIZING AND SOLICITATION; PROVIDING FOR CRIMINAL PROVISIONS REGARDING FALSE AND MISLEADING STATEMENTS AND FAILURE TO MAINTAIN, PRODUCE AND DISPLAY RECORDS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING OPERATION AND EMPLOYMENT BY UNLICENSED ESTABLISHMENTS; PROVIDING FOR CRIMINAL PROVISIONS PROHIBITING MINORS; PROVIDING FOR REGULATIONS RESTRICTING HOURS OF OPERATIONS AND USES OF RESTROOMS AND DRESSING ROOMS; AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown moved to deny passage of the ordinance, as read, on 2<sup>nd</sup> reading for adoption. Commissioner Azula seconded the motion. Commissioner Edwards noted that he will be abstaining from the vote tonight, as he was not present at the 8/16/01 meeting for the presentation and vote. Commissioner Azula said he asked for this amortization schedule at the last meeting. He is a firm believer of the Constitution, He chose 35 years ago to come to this country. He knows how the law works. He wanted to see how far the City could go with this, but he also has a fiscal responsibility to the citizens. The City is in no position to bear the expense of litigation. They have already had to raise the millage this year due do to rising insurance costs. The citizens will come together and resolve this on their own. They are a close-knit and friendly community, and most are just average citizens making a living and raising children. He appreciates the support the community has given the Commission. There being no further discussion, a roll call vote was taken with the following results: Commissioners Azula, Brown, Norwood, and Mayor Flagg, Yes, Nays, none, one abstention by Commissioner Edwards. The ordinance was denied passage on second reading. Mayor Flagg said inasmuch as this ordinance has failed, the Commission should now consider the next ordinance listed on the Orders of the Day.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, ESTABLISHING A REASONABLE AND UNIFORM CONTENT NEUTRAL REGULATION THAT WILL REDUCE THE ADVERSE SECONDARY EFFECTS THAT ADULT ENTERTAINMENT ESTABLISHMENTS HAVE UPON THE CITY THEREBY PROTECTING THE HEALTH, SAFETY AND WELFARE OF THE CITIZENRY, TO BE KNOWN AS THE ADULT ENTERTAINMENT ESTABLISHMENT ORDINANCE; STATING THE INTENT OF THE ORDINANCE; PROVIDING DEFINITIONS AND FINDINGS OF FACT; REGULATING THE LICENSING AND LOCATION OF ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, ESCORT SERVICES AND PHYSICAL CONTACT PARLORS; PROVIDING GENERAL PROVISIONS; PROVIDING FOR LICENSING OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR THE INVESTIGATION OF APPLICATIONS FOR LICENSING; PROVIDING FOR THE ISSUANCE AND DENIAL OF LICENSES; PROVIDING FOR APPLICATION FEES; PROVIDING FOR MAINTENANCE OF RECORDS AND REPORTS; PROVIDING FOR THE TRANSFER, SUSPENSION, REVOCATION AND APPEAL OF APPLICATIONS; PROVIDING FOR IMMUNITY FROM PROSECUTION; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR DISTANCE AND ZONING RESTRICTIONS OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR OPERATIONAL RULES OF ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, ESCORT SERVICES AND PHYSICAL CONTACT PARLORS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING PROHIBITED ACTS BY CUSTOMERS, WORKERS, OPERATORS AND ESCORTS; PROVIDING FOR CRIMINAL PROVISIONS PROHIBITING SPECIFIED SEXUAL ACTS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING ADVERTIZING AND SOLICITATION; PROVIDING FOR CRIMINAL PROVISIONS REGARDING FALSE AND MISLEADING STATEMENTS AND FAILURE TO MAINTAIN, PRODUCE AND DISPLAY RECORDS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING OPERATION AND EMPLOYMENT BY UNLICENSED ESTABLISHMENTS; PROVIDING FOR CRIMINAL PROVISIONS PROHIBITING MINORS; PROVIDING FOR REGULATIONS RESTRICTING HOURS OF OPERATIONS AND USES OF

RESTROOMS AND DRESSING ROOMS; AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown moved to place the ordinance on first reading as presented. Commissioner Azula seconded the motion. Mayor Flagg said he would like the record to reflect that although this particular ordinance contains no amortization clause, people could be under the impression that this ordinance does not apply to an existing business. That is not true. The majority of the ordinance does apply to any existing business. Mr. Holmes said the key language appears in Section 78 of the ordinance, entitled "Non-Conforming Establishments and Distance Requirements." The Language reads "Any adult entertainment establishments existing and operating as of the effective date of this section, which do not conform to the distance requirements set fore herein, shall be deemed to be non-conforming. The distance requirements set forth herein shall not apply to those establishments." Mr. Holmes said this also speaks to the question regarding termination of use. The provision states that "If any such non-conforming adult entertainment establishment voluntarily ceases to do business for a period of 15 consecutive days, then it shall be deemed abandoned and thereafter shall not reopen except in conformance with all requirements of the municipal code of the City of Palatka." He noted that it is a voluntary closure, and something like a hurricane or other such Act of God would not trigger that. The one aspect of this ordinance that the business located at Hwys 19 & 100 can't possibly meet is the distance setback requirements in Section 76, which they discussed at some length before. It is already properly zoned, so the location requirement is not an issue. Section 78 eliminates, from their concern, the one section of this ordinance they cannot meet. Technically, all of the studies, the Planning Commission Recommendation, the Land Use Studies that were presented at the 8/16/01 meeting dealt with the ordinance that was just defeated under Item 10 with the exception being the clause he just read; however, this ordinance is identical to the ordinance he presented at the 8/16/01 meeting and asked them to pass on first reading at that time. He asked the Commission to consider this ordinance under Item 10b in light of and upon the basis of the studies he presented to them at the 8/16/01 meeting, including the Planning Board Recommendation which was made to them prior to tonight, and all the comments they received on this subject at the 8/16/01 meeting. Commissioner Edwards noted he will abstain from the vote on this item, as he was not present at the 8/16/01 meeting when the evidence was presented and discussions were held. There being no further discussion, the question was called a roll-call vote was taken, which yielded the following results: Commissioners Azula, Brown, Norwood, and Mayor Flagg, Yes; Nays, none; one abstention by Commissioner Edwards. The ordinance was declared passed on first reading. Mayor Flagg announced that the second reading is scheduled for September 27, 2001 at 6:00 p.m. As a matter of record Mr. Holmes clarified that any change made prior to that meeting would have to be an insignificant change.. Mayor Flagg then announced a five minutes recess.

PUBLIC HEARING – 2101 Husson Avenue – Annex, Amend future land use map to commercial from county commercial, and rezone to City C-1A from County C-1 – Kenneth Quigley, owner – Mayor Flagg opened the public hearing, and there being no comments, closed the hearing and directed the reading of the ordinances.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, ANNEXING IN TO THE CORPORATE LIMITS OF THE CITY OF PALATKA, FLORIDA, CERTAIN ADJACENT TERRITORY IN SECTION 13, TOWNSHIP 10 SOUTH, RANGE 26 EAST, PUBLIC RECORDS OF PUTNAM COUNTY, FLORIDA CONTIGUOUS TO THE BOUNDARIES OF THE CITY OF PALATKA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown moved to adopt Ordinance 01-20 as presented. Commissioner Azula seconded the motion. There being no discussion a roll-call vote was taken which yielded the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. Ordinance No. 01-20 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 Norwood moved to adopt Ordinance 01-21 as presented. Commissioner Edwards seconded the motion. There being no discussion a roll-call vote was taken which yielded the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. Ordinance No. 01-21 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 THAT CERTAIN PROPERTY IN SECTION 13, TOWNSHIP 10 SOUTH, RANGE 26 EAST; AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to adopt Ordinance 01-22 as presented. Commissioner Edwards seconded the motion. There being no discussion a roll-call vote was taken which yielded the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. Ordinance No. 01-22 was declared adopted.

ORDINANCE – 2505 St. Johns Avenue – Robert Blauer, owner - 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 12, TOWNSHIP 10 SOUTH, RANGE 26 EAST; AND PROVIDING AN EFFECTIVE DATE. Commissioner Edwards moved to adopt Ordinance 01-23 as presented. Commissioner Azula seconded the motion. Commissioner Brown asked if this change means a convenience store can go in there now. Mr. Mengel said no, it is more for office use, and it would not meet the distance requirement from the Church for alcohol sales. Commissioner Brown asked Mr. Mengel to have the Planning Board look at recommending a change to the ordinance to have distances apply from property line to property line, instead of portal to portal, and cited a case involving the Bethel church. They measured from the front door of that church and did not count any other entrance, and their back door butts against the property line of the restaurant. Mayor Flagg asked Mr. Mengel to research the statute on that. Any entrance going into the church should be used. Mr. Mengel clarified that the distance requirements do not go both ways. Mayor Flagg said this should apply both ways, and churches should not be able to locate within that distance from a place selling alcohol. A roll-call vote was taken which yielded the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. Ordinance No. 01-23 was declared adopted.

ORDINANCE – the Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, CLOSING, VACATING, AND ABANDONING THAT PORTION OF THE SOUTH ½ OF DUNHAM STREET LOCATED BETWEEN 13<sup>TH</sup> STREET AND 15<sup>TH</sup> STREET WITHIN THE CITY OF PALATKA AS SHOWN ON DICK'S MAP OF PALATKA, MAP BOOK 2, PAGE 46 OF THE OFFICIAL RECORDS OF PUTNAM COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood declared a conflict and filed Form 8B, Memorandum of voting conflict with the Clerk. Commissioner Azula moved to adopt the ordinance on 2<sup>nd</sup> reading. Commissioner Brown seconded the motion. There being no discussion a roll call vote was taken which yielded the following results: Commissioners Azula, Brown, Edwards, and Mayor Flagg, Yes; Nays, none. The ordinance was declared adopted.

ORDINANCE – the Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, CLOSING, VACATING, AND ABANDONING THAT PORTION OF 14<sup>th</sup> STREET LOCATED BETWEEN BRONSON STREET AND DUNHAM STREET WITHIN THE CITY OF PALATKA AS SHOWN ON DICK'S MAP OF PALATKA, MAP BOOK 2, PAGE 46 OF THE OFFICIAL RECORDS OF PUTNAM COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood declared a conflict and filed Form 8B, Memorandum of voting conflict with the Clerk. Commissioner Azula moved to adopt the ordinance on 2<sup>nd</sup> reading. Commissioner Edwards seconded the motion. There being no discussion, a roll call vote was taken which yielded the following results: Commissioners Azula, Brown, Edwards, and Mayor Flagg, 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, AMENDING THE GENERAL EMPLOYEES' PENSION PLAN BY REVISING THE DEFINITION OF FINAL AVERAGE COMPENSATION; SECTION 2-164(c) , REINSTATEMENT OF FORFEITED CREDITED SERVICES; SECTION 2-166(b)(2), PURCHASE COST OF NON-INTERVENING MILITARY SERVICE; 2-170(b), BENEFIT GROUP GENERAL PENSION AMOUNT FORMULA; AND SECTION 2-182, RATE OF MEMBER CONTRIBUTIONS, AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to pass the ordinance on 2<sup>nd</sup> reading for adoption. Commissioner Azula seconded the motion. There being no discussion, 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.

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, 2001, BOTH WITHIN AND OUTSIDE THE CITY LIMITS; AND PROVIDING AN EFFECTIVE DATE. Per the question, Mr. Bush said this reflects a 2% increase, and is the third of four rate increases per the Sewer Sliplining Bond Issue of 1998. Commissioner Norwood moved to pass the ordinance on first reading as presented. Commissioner Edwards seconded the motion. There being no discussion, a roll-call vote was taken with the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was passed on 1<sup>st</sup> reading.

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, 2001, BOTH INSIDE AND OUTSIDE THE CITY LIMITS RESPECTIVELY; AND PROVIDING AN EFFECTIVE DATE. Per the question, Mr. Bush said this amounts to a 2% increase, and is the third of four rate increases per the Sewer Sliplining Bond Issue of 1998. The minimum sewer bill will increase 17 cents. Commissioner Azula moved to pass the ordinance on first reading as presented. Commissioner Edwards seconded the motion. There being no discussion, a roll-call vote was taken with the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was passed on 1<sup>st</sup> reading.

ORDINANCE – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING SECTION 2-32 TO THE CODE OF ORDINANCES SETTING AND ESTABLISHING COMPENSATION TO BE PAID TO THE MAYOR AND COMMISSIONERS OF THE CITY OF PALATKA, FLORIDA BY SETTING THE SALARY OF THE MAYOR AT \$1,333.00 PER MONTH AND THE SALARY OF THE REMAINING COMMISSIONERS AT \$1,000.00 PER MONTH; AND PROVIDING FOR AN EFFECTIVE DATE. Commissioner Edwards moved to pass the ordinance on first reading as presented. Commissioner Norwood seconded the motion. Commissioner Brown and Mayor Flagg said they should give the commission a cost of living increase every year, like the County and State do, so they don’t have to change it every year. Mr. Bush said the State is set by population and adjusted accordingly. Commissioner Brown said she has been on the Commission for 18 years and people do not work for that long and not get raises. She wants to plug in a cost of living increase every year. Some of them have taken on a lot of extra work. Mr. Bush said the ordinance can be changed every year. Mayor Flagg said it is a difficult subject because you don’t know how people are going to respond. This is not a large increase, but similar to a raise like employees get and will be dealt with at budget time. Commissioner Brown said commissioners should also receive a step in grade. She is not overpaid. Commissioner Norwood said he is grateful to be able to serve the citizens of Palatka, and he works hard for the City. He is grateful for whatever compensation the citizens of Palatka afford him. It is very rewarding and humbling just to be a leader in the community, and he appreciates all that the citizens do for the Commission. There being no further discussion, a roll-call vote was taken, which yielded the following results: Commissioners Azula, Brown, Edwards, Norwood and Mayor Flagg, Yes; Nays, none. The ordinance was passed on 1<sup>st</sup> reading.

APPOINTMENTS – CODE ENFORCEMENT BOARD – Commissioner Brown moved to reappoint Marylou Mendoza-Johnson, Ken Campbell and T. H. Jacoway to additional 3-year terms to the Code Enforcement Board, terms expiring September, 2004. Commissioner Azula seconded the motion, which passed unopposed. Commissioner Brown said they dropped the ball on the Historic Preservation Board appointments, and asked if they had come to a conclusion on Mr. Alexander’s behalf. He is the only person not reappointed to a board, who expressed a desire to remain on a board. They recently appointed an architect to that position, but Mr. Alexander had served in that position previously and they failed to reappoint him. At a later meeting the Commission appointed him to serve as the Southside Historic Neighborhood representative, but it turns out he does not live in the Southside Historic District, and asked if they can switch

the architect to the Southside district representative and reappoint Mr. Alexander to the architect's position. The Clerk said Ms. Pickens does not live in the Southside District. Commissioner Brown asked that it be agenda for discussion at the next meeting.

CONFLICT OF INTEREST – The Clerk noted that Commissioner Norwood has filed with her Form 8B, Memorandum of Conflict of Interest, in reference to the votes taken at the 8/16 01 meeting on ordinances closing of portions of Dunham and N. 14<sup>th</sup> Streets.

#### ADMINISTRATIVE REPORTS:

Planning Director Adam Mengel said they have acquired another vehicle and are moving forward with putting a new code enforcement officer in place.

Fire Chief Rudy Howard read a letter dated August 22 notifying the Commission of his intent to retire on January 30, 2001. He will stay on longer, if needed, until his replacement has been hired. He recalled as a young boy watching the riverfront feed store burn down, and watched the exhausted firefighters laying on the sidewalk partaking of a beverage together, and thought that was good. He began his firefighting career in high school as a volunteer at the Southwest Volunteer Fire Dept., and in 1968 began his career with the City of Palatka as a volunteer firefighter. His first major fire was the One-Hour Martinizing fire, under Chief Daugherty. The brick wall on 5<sup>th</sup> Street collapsed on top of the old 1954 truck, and his water went down. He moved into the paid ranks when there were four people per shift working fire and rescue. His first fire as acting engineer was Monnie's Café, and he got to drive the truck. He was a Captain under Chief Crawford when the HRS building burned. He narrowly escaped the 2<sup>nd</sup> floor of the building before the roof caved in. When the Woodall building burned down, his department was able to save Wattles Office Supply. When Seminole Electric experienced a major fire, his department provided mutual aid. In December of 1991 he was appointed acting Fire Chief during Chief Crawford's leave of absence, and seven days later an Amtrak train derailed just behind the Depot when the train took a 20 mph curve at 72 mph. Since then there have been numerous fires, including several large fires at Florida Furniture. His 43-person department was cut to 17 people when the county took back the rescue services due to a dispute, but they have overcome that. They now run five people per shift, almost 35 years later. The City will need to look at increasing the shifts with all the new growth and industry, and will need to find a competent person to fill his position. Commissioner Azula said the Commission appreciates his service to the City, and they all recognize the dangers of his profession. Per the question, Chief Howard said the two-in/two-out rules takes effect April 1, 2002. In a rescue situation, the rule goes away and you can go in and make the rescue. If it is a regular fire with an immediate danger to life, you cannot enter a building until two people come on the scene and remain outside the building. The fire chief and marshall qualify to be outside. The standard states that if the City cannot comply, you will get a six month extension, and if you still cannot comply, you will receive a waiver that will be re-evaluated on an annual basis. They will have to hire two people to man the Kay Larkin station and be there at all times while the airport is open, while the other crew goes to structure fires. Those are FAA and Florida Fire Association standards. Commissioner Brown said Chief Howard lost all his clothes off the back of a new fire truck, which he had to go out of state to pick up, during the trip home, which shows that he loves Palatka enough to give up everything for it. They will all miss him. Mr. Bush said he has enjoyed working with him, and they will be working together closely prior to his leaving. He has always done his best for the City, and he would like to have him on the team to consider his replacement. Mayor Flagg said on behalf on the citizens it is an honor to have a working chief in the department, and he has served the City well. Chief Howard said the Lord has made arrangements for him to leave with a pretty good retirement, so he is going to work for Him in the ministry, whatever that may be. Mayor Flagg said precedent has been set on the selection process for a replacement, and they will look to hear from Mr. Bush on that,

Chief Howard said he will be bringing a resolution at the next meeting for Fire Prevention Week in October. Starting next week they are going door-to-door check for smoke detectors and 911 addressing. They will warn citizens that they will have 30 days to comply and after that they will receive a \$57.00 fine. Mayor Flagg said he believes they can mail those tickets. Per the question, Mr. Bush said the Fire Chief will be getting a new vehicle this year and his old vehicle will go to the new code enforcement officer.

Police Chief Getchell said they raised \$451 for the American Cancer Society in the Police/Fire department baseball game fund-raiser. Everyone had a good time and they would like to do it again. One team won by a little and the other team won by a lot, according to the umpire. Mr. Bush said he has heard a lot of good comments about the

work the police department is doing. Per the question, Chief Getchell said the project to clean up 11<sup>th</sup> & Madison was a project involving the Fire, Police, Building & Zoning, Sanitation, property owners, CSX, and many other folks. There were a lot of people involved and it came together very quickly. Some officers in his department have become very community-oriented police officers. Commissioner Norwood said he has heard many good comments about the work his department is doing, and he sees the progress they have made.

Chief Getchell said many of his officers have concerns over the increased cost of medical insurance, and he told them he would present those concerns to the Commission. He explained to them that health care costs have risen, and the City absorbed all it could. Per the question, Mr. Bush said the Commission dealt with this by structuring the 50% cost increase; employees making over \$30,000 per year pay 25% of their premium, and the percentage gets smaller as the pay scale goes down; some employees had no increase at all. It is impossible to absorb it all. Unless the government steps in and does something to curb the cost of medical care, there is nothing they can do to stop these increases except have fewer claims. Everyone has experienced huge increases in both government and private sectors. In the past they have cut benefits, but did not feel they could cut them any more. If the employees want higher deductibles and lower benefits, they may be able to save a few dollars. Commissioner Brown said she sits on the Insurance Trust for the Florida League and it is happening all over. The cost of prescription drugs and hospitalizations have skyrocketed, not to mention the cost of lawsuits.

Finance Director Ruby Williams had nothing to report.

City Clerk Betsy Driggers said she has made reservations for everyone for the FLC Legislative Conference in November. If they are unable to attend, please let her know so she can cancel reservations and get refunds on fees.

The City is hosting the NEFLC dinner on Sept. 20 at the Golf Course. She is looking for door prizes, if anyone has any ideas. Commissioner Brown said KPB has trees they give away, and people might like to get those.

They are working with Green Thumb, Inc. on hiring three part time employees. Two employees will combine to create a full-time receptionist for City Hall and one will go to Building and Zoning for counter and telephone help. The goal of Green Thumb is to re-train workers 55 and older and get them ready to re-enter the workforce, with the eventual goal of permanent employment for their workers. They will come in at a later date and make a presentation to the Commission when they feel they are ready to expand into other departments.

Per Mayor Flagg's question, Ms. Driggers said Mr. McLaughlin told her he would send her a fax tomorrow notifying the City he intends to abate much of his public record request, with a few exceptions. As soon as she receives it, she will distribute it to the Commission for their information.

City Attorney Don Holmes had nothing to report. Mayor Flagg said he has worked diligently to pull the adult ordinance together, and the 'other side' was highly complimentary of his work. He kept the Commission "inside the box" when they needed to be there. He is now free to work on other issues such as code enforcement, etc.

Mr. Bush said there is around \$27,000 left in the street paving fund, and he has listed the three streets and some patching that remain at the top of the paving list (filed). He received a proposal from Statewide Paving, and if there are no change orders, they will have between three to four thousand dollars for some additional work. Commissioner Brown said since she has come on the Commission they have done a lot of paving work and try to do some each year. Mr. Bush said the streets are greatly improved but there are still some unpaved streets and some needing improvements. Mayor Flagg said there needs to be catch basin or drainage ditch installed at 19<sup>th</sup> & Madison. People drive around the standing water and will break up the sidewalk. There is no drainage there at all. Mr. Bush said he turned that issue over to the Streets Department, and will check with Mr. Williams on his progress. Mayor Flagg said some sidewalks on St. Johns Avenue do not have handicapped curb cuts, and do not comply with ADA requirements. Also, during festivals the existing curb cuts are being blocked. Mr. Bush noted there are a lot of broken up places along there, also, and said he will notify Mr. Williams. He only has 8 people to work the entire city's storm drains and streets, but he may be able to pull some people from Sanitation to help with that work. Commissioner Brown moved to

authorize the remaining funds be applied to Madison Street from 4<sup>th</sup> to 5<sup>th</sup> Streets, 15<sup>th</sup> Street from Madison to Olive and 16<sup>th</sup> Street from Madison to Olive, and patching on Oak Street at 5<sup>th</sup> Street. Commissioner Azula seconded the motion, which passed unopposed.

Mr. Bush said they met with Jim Young and were able to come to a buy-out agreement with him. They have someone awaiting that hangar, and the difference between Mr. Young's rent and the rent for the new occupant during the rest of Mr. Young's lease time will take care of the \$5,700 they agreed to pay Mr. Young for his improvements. At the end of that time, the City will be free to negotiate whatever rent it wants. The buy-out satisfies the relationship between Mr. Young the City, and Mr. Holmes has prepared an agreement for each party to sign to that affect. Commissioner Norwood moved to authorize the execution of the Lease Termination Agreement between Jim Young Aviation and the City of Palatka. Commissioner Edwards seconded the motion, which passed unopposed.

#### COMMISSIONER COMMENTS:

Commissioner Brown:

- Said she received a call from the new director of Greenways and Trails notifying her they will be visiting Palatka for a dedication. She will notify the Commission of the date via a note in their boxes. Lake Butler wants to get together with them for tours of each other's Greenways and Trails facilities.
- Said she has a League Insurance Trust and Board of Directors meeting on Sept. 20 in the Florida Keys and will be unable to make the meeting, and asked the Commission to express her regrets for being unable to attend the NEFLC dinner. She appreciates Commissioner Norwood backing her up in getting the district seat on the Board of Directors.

Commissioner Norwood:

- Said the events that happened on Sept. 11 are the most heinous type of crimes and that was certainly the darkest day of his life. He applauds the men and women of this country for not allowing that type of activity to tear it apart. It seems to have brought the Country together. Even the City of Palatka has been affected. He has found it personally difficult to deal with. They all need to keep praying and donating blood, and he wants to urge everyone to support the President through the tough decisions he will have to make.

Mayor Flagg:

- Expressed his gratitude to the Commission for being a team working for the betterment of the community and its citizens.

There being no further business to discuss, the meeting was adjourned upon a motion by Commissioner Edwards, seconded by Commissioner Brown, at 9:45 p.m.

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CITY CLERK

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MAYOR