

KARL N. FLAGG  
MAYOR - COMMISSIONER

MARY LAWSON BROWN  
VICE MAYOR - COMMISSIONER

ALLEGRA KITCHENS  
COMMISSIONER

VERNON MYERS  
COMMISSIONER

JAMES NORWOOD, JR.  
COMMISSIONER



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

ELWIN C. "WOODY" BOYNTON, JR.  
CITY MANAGER

BETSY JORDAN DRIGGERS  
CITY CLERK

RUBY M. WILLIAMS  
FINANCE DIRECTOR

GARY S. GETCHELL  
CHIEF OF POLICE

MICHAEL LAMBERT  
CHIEF FIRE DEPT.

DONALD E. HOLMES  
CITY ATTORNEY

## MINUTES CITY OF PALATKA October 22, 2009

Proceedings of a regular meeting of the City Commission of the City of Palatka, Florida, held on the 22<sup>nd</sup> day of October, 2009.

PRESENT: Mayor Karl N. Flagg  
Commissioner Mary Lawson Brown  
Commissioner Allegra Kitchens  
Commissioner Vernon Myers, Jr.  
Commissioner James Norwood, Jr.

Also present: City Manager Elwin C. "Woody" Boynton, Jr.; City Clerk Betsy Jordan Driggers; Finance Director Matthew Reynolds; Police Chief Gary Getchell; Fire Battalion Chief Randy Porter; Building & Zoning Administrator Debbie Banks; Parks Supt. Jeff Norton; Assistant City Clerk Karen Venables

### **SPECIAL AGENDA: STUDENTS IN GOVERNMENT – CITY GOVERNMENT WEEK 2009**

**CALL TO ORDER:** Student Mayor Cadet Olyvia English called the 2009 Students in Government Special Meeting to Order at 6:00 p.m. Colonel Charles Coxwell administered the Civility Pledge to the Cadet Officials

**INVOCATION** - JROTC Cadet Olyvia English, Honorary Mayor

**PLEDGE OF ALLEGIANCE** – JROTC Cadet Payton Stoudt, Honorary Vice Mayor

### **ROLL CALL - Roll Call: Presentation of Honorary "Cadets in Government" City Officials**

Commission:	Appointed Officials:
Mayor Olyvia English	City Manager Heather Richey
Vice Mayor Payton Stoudt	City Attorney Danielle Kirby
Commissioner Austin Edwards	Finance Director Jamie Taylor
Commissioner Cecilia Wilson	Chief of Police Justin Cole
Commissioner Michael Hibbs	

### **PUBLIC RECOGNITION:**

**PROCLAMATION** - PHS Junior ROTC Cadet Corps Day – October 30, 2009 – Honorary Vice Mayor Stoudt joined Honorary Mayor English in presenting ROTC Colonel Charles Coxwell with a proclamation designating Friday, October 30, 2009 as PHS JROTC Cadet Corps Day in the City of Palatka. Colonel Coxwell said 36 years ago he entered ROTC as a freshman in high school and it became the rock upon which he built his career and it gave

him direction in life. He is now passing the knowledge he received from great heroes on to future generations. Palatka High School has had a JROTC program for 34 years. These students give him great faith that his future is not in jeopardy

### **SPECIAL BUSINESS:**

Commissioner Stoudt moved to gate the community of Crystal Cove Subdivision due to the criminal mischief occurring in the neighborhood. Commissioner Hibbs seconded the motion. Following discussion regarding feasibility, access and cost, the question was called and the motion failed, two in favor, three opposed.

Commissioner Edwards moved to change half days at PHS from Wednesdays to Fridays. Commissioner Wilson seconded the motion. After much thoughtful discussion regarding the pros and cons, the question was called and the motion passed unopposed.

3. **ADJOURN SPECIAL MEETING:** Honorary Mayor English announced that this concluded the items on the Special Agenda, and returned the gavel to Mayor Flagg at 6:15 p.m.

**CALL TO ORDER** – Mayor Flagg called the regular 10-22-09 Palatka City Commission meeting to order at 6:17 p.m. and noted he is more impressed than ever with the caliber of students participating in City Government Week, who “ran” this city tonight and is thankful for this quality of leadership.

**APPROVAL OF MINUTES** – 10-8-09 – Commissioner Myers moved to adopt the minute as read. Commissioner Brown seconded the motion, which passed unopposed.

1. **PUBLIC RECOGNITION**

**PROCLAMATION** – City Government Week – October 18 – 24, 2009 – Issued by Mayor Flagg

**PROCLAMATION** – Make A Difference Day – October 24, 2009 – Sheila McCoy was presented to receive the proclamation issued by Mayor Flagg

**CITY OF PALATKA VETERANS OF ARMED FORCES PERSONNEL RECOGNITION** - Mayor Flagg was joined by Commissioners Myers and Norwood in recognizing City of Palatka personnel who are Veterans of Armed Services.

**STUDENTS IN GOVERNMENT** - Mayor Flagg presented Good Citizenship Awards to “Cadets in Government” Student City Commission members recognizing their participation in City Government Week activities.

**STUDENT OF THE MONTH – September, 2009 – Vice Mayor Brown joined** Mayor Flagg in presenting the following students with certificates in recognition of their academic excellence, leadership, citizenship and attendance at their respective schools:

Kalin Reynolds	Beasley Middle School
Anthony Kemp	Browning Pearce Elementary School
Evan Guy	Children’s Reading Center Charter School
Jesse Carter	E.H. Miller School
Erika Altman	James A. Long Elementary School (October Honoree)
Ty’Kierria Session	James A. Long Elementary School (Sept. Honoree)
Madeline Kennedy	Jenkins Middle School
Mit Bedenbaugh	Kelley Smith Elementary School
Ian Watt	Mellon Elementary School
Jalisa Dupont	Moseley Elementary School (October Honoree)

Cheyenne Wheatley  
Jordan Brown  
Wesley MacCuish  
Dylan Jackson

Moseley Elementary School (September Honoree)  
Palatka High School  
Peniel Baptist Academy (October Honoree)  
Peniel Baptist Academy (September Honoree)

## 2. PUBLIC COMMENTS

Linda Myers, 1419 Reid Street, Palatka, said she is here to talk about a program that sends WWII veterans to their memorial monument in Washington DC. This memorial wasn't built until 60 years after the war, when most veterans were in their 70's or older. The Palatka Sunrise Rotary Club has taken on as a project to send as many WWII veterans as possible on Honor Air, a flight designed to transport veterans to Washington DC to their monument. They are accepting donations for this cause. \$1,000 will sponsor a trip for two (2) WWII veterans with an accompanying guardian for each. Besides financing, they need to locate Putnam County's WWII veterans so that they can offer this service to them. There is an urgency to their mission, as these veterans are aged and they won't be with us much longer. As a fundraiser they are selling ribs on October 30 at the riverfront near the Clock Tower. Commissioner Kitchens said all of her father's brothers and mother's cousins are WWII veterans. She will pledge a check for \$50 and challenged the commission to meet or exceed that amount.

Sam Deputy, 917 Carr Street, Palatka, said the Christmas Parade will be held on Friday after Thanksgiving. He distributed posters advertising the event. He asked for 100% commission participation. If they need transportation, please contact him. The theme is the 12 Days of Christmas, which will be acted out by the children from the Charter Reading School. Next year Kelley Smith will take the lead on the theme. At the next meeting he'd like to talk about a parking ordinance along St. John Avenue to prevent parking on St. John Avenue during parades. Vehicles block the view of the parade.

Mr. Deputy said there will be a children's costume parade on Oct. 31 beginning on 11<sup>th</sup> Street, going to 5<sup>th</sup> Street, and then to First Baptist Church. In conjunction, the Humane Society is sponsoring Animal Party at the courthouse and there will be a pet parade. He distributed posters on those events.

Roxanne Weeks, resident, said she appeared before the Commission during Public Comments on Sept. 10<sup>th</sup> to request a review board to look at actions of the PPD and stated her intent to sue the City. Mr. Holmes noted her request and her attorney advised to file her complaint with state authorities. There is no need to meet privately with City representatives with or without attorneys. She is free to request this. This is based upon Officer Ashley's actions and she has documented evidence. She has been contacted by over 100 citizens that agree that this needs to be done. The lack of action on the part of the City Attorney is indicative of this need. Law Enforcement Officers are governed by state statutes and cannot do as they please, and must be held accountable. Citizens should be able to voice complaints without having to hire an attorney. An independent third party is necessary. She sees no reason why this review board can't be implemented. It will save the City money. Something should be done.

Mayo Flagg thanked her for the request. Mrs. Weeks said she has received no response to her request. She's written a criminal justice expert, ACLU and other parties on their recommendations on structuring such a board. When she receives those responses she will return with them.

Calvin Smith, 910 Beech Street, Palatka, said he had asked the Commission why they had installed all the stop signs on Washington Street. The response is that it was done for safety. College Arms and Ragsdale Apartments have no back doors. This is not safe. Bronson Street going into Sugar Hill Apts. is blocked off. He asked as to the reason. Mayor Flagg said that was by request of the PHA due to issues happening at James A. Long Apts. not related to tenants. Residents should not be punished for the actions of those that do not live there. Studies show that fewer ways of ingress/egress lowers possibilities of these incidents. There are two ways to enter and exit remaining off Madison Street. It was requested and done lawfully.

Mr. Smith asked what the City had decided to do about the street signs on Washington. Mayor Flagg said neither the City Manger nor the Police Chief has recommended removing those signs. Mr. Smith said the City removed a stop sign on River Street. Mayor Flagg asked if someone that lives on Washington Street is coming to ask for this. The City will consider similar action when a resident of Washington Street makes that request.

Askew Vickers, 207 N. 18<sup>th</sup> Street, Palatka, addressed Mr. Boynton regarding the apron he requested on 16<sup>th</sup> & Ocean. The response he received, that the City would get to it when doing work in the area, is not acceptable. This is something the City neglected to do when they were in the area and he is being punished for this. He can't drive across the sidewalk to egress/ingress his property. Mr. Boynton said they did not neglect this; there was no apron there to begin with. The other aprons they replaced already existed. Mr. Vickers asked if it will be done this year. Mr. Boynton said they will be back in four to five weeks. He cannot give him a specific date.

Mr. Vickers said he spoke to Commissioner Norwood regarding Calvary Baptist Church's retention pond. He suggested he come to a Calvary Baptist Church board meeting. It is his contention that Commissioner Norwood can relate this concern to his board. He shouldn't have to go. Commissioner Norwood said he asked him to address the Board as he can better articulate his request. He has been invited to address Calvary Baptist church's board on November 2. Mr. Vickers said this is a safety issue. Some child could drown. Safety of the citizens should be his top concern.

Mayor Flagg requested Mr. Vickers get on the agenda for whatever specific item he needs to speak about. He has exceeded his three minutes. Mayor Flagg aid Commissioner Norwood has made it plain that this retention pond is not a city issue and is not owned by the City. He has been invited to speak to his board. He has exceeded his three minutes. Mr. Vickers said he is exercising freedom of speech. Mayor Flagg said he can, as long as he doesn't exceed his three minutes allowed under Public Comments.

3. **CONSENT AGENDA:**

- a. **Award bid to Curt's Construction Inc. in the amount of \$428,815.50** and authorize execution of contract document for the WWTP Reuse Extension Project Phase IV Construction, per Engineer's recommendation and results of RFP
- b. **Authorize renewal of the following Nominal Leases** for three-year terms beginning January 1, 2010:
  1. **Palatka Duplicate Bridge Club Lease** on a portion of the Cooper Building
  2. **Keep Putnam Beautiful Lease** on office space at 205 N. 2<sup>nd</sup> Street (City Hall Annex)
  3. **Palatka Art League Lease** on the Tilghman House
- c. **Award Bid to Anglin Construction Co. in the amount of \$37,300.00** (base bid only) for the Larimer Arts Center Handicapped Access Project Construction, per results of RFP and Project Architect's recommendation

Commissioner Kitchens moved to pass all items on consent as recommended. Commissioner Brown seconded the motion, which passed unopposed.

4. **REQUEST to Issue Permission** to exceed noise levels established by Chapter 30, Palatka Code of Ordinances to John Lyon, owner, Steamboat Willies, for the following dates: October 30, November 13, November 27, November 28, December 25, December 31, 2009 – John Lyons, owner, Steamboat Willie's, was present. Upon Mayor Flagg's request, the Clerk read Mr. Lyon's letter of request into the record (filed). Mr. Boynton said he took no exception to the request.

Police Chief Getchell said he didn't receive a package regarding this request, however he did see a memo from Mr. Lyons last week. With the absence of any additional information, his recommendation is to be consistent with other special events regarding times of events. Mayor Flagg asked if this is a special event. Chief Getchell said he has no way of reviewing this with the absence of any information other than that memo. Mr. Lyons said this is no different than what he's done in the past. His reason for coming to the Commission is to request permission. This is his normal business operation. There is no need for the PD to waste their time on noise complaints should permission to exceed the noise ordinance be granted.

George Beret, Member, Sky High Band, 1601 St. Johns Ave #13, said he is here to speak in favor of the request. They are a hip-hop band and perform at Steamboat Willie's. Their families come to support them. It is motivating. He was accompanied by his bass player and singer.

Willie DeBary, Sky High Band Member, 607 S. Moody Road, spoke in favor of this request. There wasn't much offered here when he came three years ago. It is always exciting to go to Steamboat's. This is their entertainment. There aren't many places to go here. Steamboat's provides a needed service.

Francisco Federo, Sky High Band Member, St. Augustine, said he appreciates the management at Steamboat's for letting them perform. Customers are respectful. It is a nice place for people to go and have respectful fun.

Mr. Lyons said the entertainment usually goes until 2:00 a.m. Most people don't come out until around 11:00 p.m. Production companies have to perform for a certain number of hours. People pay a \$5 fee to get in and three to four hours is a nominal amount of time for this.

Commissioner Kitchens said she has had a problem with noise generated by festivals, as have her neighbors. She can no longer hear festivals due to action taken on complaints made by her when she was a citizen. She has tried to call Steamboats at night when the noise is too loud. All they hear is the banging and drumming. They have sick and old people in her neighborhood. She is not against entertainment, but is trying to sleep when her windows are rattling and her neighbors are calling her complaining. She will call the PD to complain. It is not fair to the citizens. Dec. 31 is New Year's Eve and many downtown churches have watch night services during that time. Festivals stop their noise at 11:00. She noted the Code states that such permits are not granted over 15 days and are renewable by the Commission, but in absence of the City Attorney, she will defer that question. Many people, including her, suffer from severe migraine headaches. When people are home and trying to rest, they should turn down the bass so they don't hear the pounding. You can't even hear the TV. It causes medical problems.

Commissioner Brown said change is coming. She'd like to suggest they try granting this for October 30. If it works without noise complaints, they can move on to the next date. If the volume of noise is too much, they can ask them to turn it down. No one likes to have their windows vibrate. They want to utilize their waterfront, which will create noise. They need to do this in moderation or look at ways to dampen and minimize the sound.

Commissioner Myers asked if this is any different from what he's done in the Past. Mr. Lyons said no. Commissioner Myers said Steamboat's has had entertainment in the back in the past. Mr. Lyons said he had a band there last Thursday night and got no complaints. They played until 12:30 a.m. Commissioner Myers said he has no problems supporting this request. It is important for the viability of the downtown district. He does have a concern that if it is too loud it should be turned down, especially the base. Mr. Lyon said they try to deal with complaints by doing just that. They are looking at ways to adjust the direction of the travel of the sound, but until FP&L moves the light poles they can't. They are looking at possibly moving the stage. They get few complaints.

Commissioner Kitchens said if they are going to do what they've always done, why do they have the variance? Mr. Lyons said he gets a few complaints. The police come and have to stand there with the noise meter to record the sound; if a car drives by they have to start over. It is a waste of time.

Commissioner Norwood thanked Mr. Lyons for seeking the variance. Anything they do they must do in moderation. They cannot just turn up the volume. He has no problem supporting this if they act in a responsible manner. The three young men who spoke said they were interested in making Palatka their permanent residence and spoke of the positive influence their performing has had over them. He does not want citizens calling a 1 or 2 a.m. saying there is an issue with noise. He knows there are services on Dec. 31 at area churches that have gone on for many years. This is in conflict with accepted standards. Mr. Lyon said he will speak with the area churches and will bring those results to the Commission. Commissioner Norwood said they will not know the impact until the evening arrives. He wants to make certain the churches are not hindered from doing what they have always done.

Mayor Flagg asked the Commission to consider all the information, and asked Mr. Lyon to work with the Commission on this issue. He asked they vote to grant permission on Oct 30 and Nov 13 tonight and deal with the other four dates on Nov. 12. They want this to work out for all. They are not conducting a witch hunt. He hopes they will try to stay in compliance. If the PD shows up with complaints, he does not want them to claim variance and not cooperate. They want to keep neighborhood tranquility intact. Commissioner Norwood moved to exclude Nov 27, 28, Dec 25 and 31 from this discussion. Seconded by Myers and passed.

Commissioner Norwood moved to approve granting permission to Steamboat Willie's to exceed allowable noise levels on Oct 30 and Nov 13. Commissioner Myers seconded the motion. The motion passed, opposed by Commissioner Kitchens. Commissioner Brown said she wants to use his establishment's compliance as an example for other similar establishments.

5. **PUBLIC HEARING - ORDINANCE** - Planning Board Case #PB 08-29 - Request to close N.16<sup>th</sup> Street between St. Johns Avenue and Reid Street - St. Johns Automotive Real Estate, LLC; Juli Holmes, Agent; 1<sup>st</sup> Reading – Planning Board Recommendation to Deny – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, CLOSING, VACATING AND ABANDONING THAT PORTION OF NORTH 16<sup>TH</sup>

STREET LOCATED IN MERWIN'S SUBDIVISION LYING WEST OF BLOCK 295 AND EAST OF BLOCK 303 AND RESERVING REQUIRED UTILITY EASEMENTS, WITHIN THE CITY OF PALATKA, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. Commissioner Norwood moved to pass the ordinance on first reading as read. Commissioner Myers seconded the motion. Mayor Flagg opened the public hearing.

Mr. Boynton read a memo from Don Holmes, City Attorney, into the record stating this matter is not an appeal of the recommendation made by the Planning Board. The City's code does not delegate final permission to the Planning Board to close a street. Any street closure should be treated in the same fashion as a zoning request. The Commission is free to consider the recommendation of the Planning Board along with any new evidence presented to the Commission.

Juli Holmes, Agent, 256 Hwy 17 North, Palatka, said they are here seeking to close this road as part of a redevelopment of the Beck Chevrolet site in order to meet manufacturer guidelines and modernize their size. She shared information with the Commission, part of which was shared with the Planning Board, and distributed that package (filed). She said the top page is a letter from General Motors. There is a lot of information in the package. GM has a new facility requirement requiring dealerships to operate on one parcel with a minimum acreage requirement in order to maintain a license to operate as a dealer. Beck has to satisfy both requirements. They want to keep their dealer license. She read the letter into the record, and referenced the source. She pointed out that the letter states if Beck does not meet these requirements they will be in breach of their dealer agreement.

Janis Fleet, Architect/Planning Consultant, said this street closure will have a major impact on the future of the City. This is being required of Beck in order to retain licensure by GM. This dealership was one of the GM dealerships that was selected to remain open in the face of nationwide dealer closures of 41%. The requirement is Beck continues to upgrade and renovate the dealership. She produced a drawing of the proposed dealership site upgrades (filed), stating new dealerships have a totally different look than old dealerships. GM's philosophy is that, as people are making a major investment in a car, they should do so in a nice, secure location. This is for an important \$1.5 million dollar improvement to the existing site and will aesthetically improve the parcel. It will have a significant impact. Thirty four percent (34%) of the people in Putnam County own a GM product. This is the only GM dealership in Putnam County. Those owners will have to go out of the county to service their vehicle or spend money. This is significant. The assessed property taxes are substantial and this dealership employes 73 people with an annual payroll of \$2.5 million per year. She is also the planning consultant for Green Cove Springs and knows what happens when people leave. She knows what happens when dealerships close. She worked with the GCS council on a visioning session; the #1 goal was redevelopment of the vacant former auto dealership sites, which remain vacant. She showed photographs of three of those sites, stating there are no plans in the near future to redevelop those vacant sites. They don't want that to happen in Palatka. This would promote redevelopment in this area.

Regarding traffic patterns and impact to neighbors, they are talking about closing one block of 16th Street. It only goes for three blocks, merging with Hwy 17, and is a very short street. The street north of Reid Street is closed. The collector is 15<sup>th</sup> Street. Anyone traveling North on 16<sup>th</sup> Street has to turn right or left on Reid Street. You cannot go straight. This will make that intersection safer. This will have minimal impact. Cars that travel that street do so to access the dealership. As to impact opinions gathered from various Agencies, none have a specific problem with this closure. This closure will have major benefits. It will provide an improved look to the City and the construction will create jobs. Beck is willing to expand in this down economy. This will generate \$1.6 million in new construction and will

increase the value of the property. It will increase safety of customers. The Beck dealership has offered various conditions as part of this. They are willing to provide a utility easement and have agreed that no structures will be constructed on the area of the closed street. They are also willing to take a reverter clause that if Beck sells the dealership the r/w will be given back to the City and brought back to pre-closure conditions. The Beck dealership is willing to pay the assessed value of the land. They don't want this for free, as is generally the case when roads are closed.

Ms. Fleet said they know they have had resistance from St. Johns Auto Body. They would be willing to allow access through the property. They want to be able to use it for turning for their tractors. There is a lock box that would allow them use of the area and they can add this to the conditions. It is important to the local economy to maintain this dealership. The consequences of doing nothing will be grave.

Jason Brown, St. Johns Auto Body, 1609 St. Johns Avenue, said he is concerned that the City Attorney deals with Beck LLC and is their attorney. This item started off tonight with a memo that was read into the record regarding Mr. Holmes' opinion how to deal with the issue. This is a conflict of interest. He is Beck's acting attorney over his daughter. He recused himself from this issue as it relates to giving advice during the Planning Board hearings. Mayor Flagg said it is his job to interpret the law. The information shared by the City Manager is so that the Commission is not guessing as to what the procedure would be. They are limited to transcripts if this is an appeal process, but it is not. Mr. Brown said he owns and operates St. Johns Auto Body Towing. His company is growing in a down economy. He is prospering and is continually buying new trucks. He hires people locally. These are large trucks. In order to turn these trucks he needs public right of way. These roads are heavily used. On any given day people are parked up and down 17<sup>th</sup> Street. The day Beck showed a photo taken of a large semi being towed by a large wrecker/tractor, those roads were clear. He requires a large radius to operate his truck. When they towed the truck that hit the Fruit Market, they had to navigate 16<sup>th</sup> Street as the other roads had cars lined up and down both sides. He drives that road every day. They bring business into town. St. Johns Auto Body is his family's business and they will suffer a loss. Beck will plant trees around the perimeter of this closed street which will block the view of his business. They just spent money on a new large sign advertising their business. Every corner around 15<sup>th</sup> and 17<sup>th</sup> Street has established businesses. They have their family-owned business for 33 years. Beck has only had this business for a year. The prior owners had it for 50 years and never requested a road closure or gates.

Mr. Brown asked Mr. Boynton if he travels 16<sup>th</sup> Street; he said he doesn't. Mr. Brown said when it rains the water travels down St. Johns Avenue and turns either way on 16<sup>th</sup> Street. Seven manholes are located on 16<sup>th</sup> Street. Rain floods into his yard. He asked what the City plans to do about that. If they close the road, it shouldn't be the City's responsibility to pay for that.

When discussing a road closure requested by a local church, the question was asked as to whether or not it was good for the community. Another church was denied a request to close a road. He asked what gives a dealership more precedence than a church. Regarding GM's threat to the dealership about pulling out, during Planning Board hearings Mr. Beck has made the statement that this is not really a concern for them, as they own the Beck Nissan site, which does have the acreage. There is a lot of seasonal entertainment here; they should make the current Beck Chevrolet building into a skate park. There are other things that can be done with that building. He is sorry for the business loss but there are many alternatives for that location.

Kent Scroggins, owner, St. Johns Auto Body, 115 Orange Dr., E. Palatka, said they've been back there on St. Johns Avenue since 1978. Over that period of time they would walk across St. Johns Avenue with not much traffic. Today there is a lot more traffic and that will only increase in the future. If they close the street and build this big dealership, will that help the City? There is a dealership on Hwy 100 that used to be the Chrysler store. Being a small building, it promoted turning it into something else. Those properties in Green Cove Springs were huge properties. These smaller properties can be utilized as something else. He's heard Mr. Sloan state if Beck doesn't get a street closure they will go somewhere else and open a dealership. He believed a dealership required 5 acres; city blocks are 2 acres. These are two city blocks. They stated at the last meeting they were going to turn the building at 15th & Reid into a day care. They would be better off to leave well enough alone. He doesn't think this is good for the City.

Askew Vickers, 207 N. 18<sup>th</sup> Street, said he opposes the closing of 16<sup>th</sup> Street. If they give a street to this business, they have to give streets to other businesses. This property belongs to the City. They shouldn't give away property to benefit a business. The Planning Board refused this. Mr. Holmes is Beck's attorney. He has a conflict of interest. Mr. Vickers said Mr. Holmes can't be here representing two people. They are setting precedence here.

Juli Holmes, Beck Agent, said, to clarify, she understands the dealership has been there for 50 years. The business today has been in existence since June. Old franchise agreements protected both the dealer and manufacturer; new agreements do not. These are not suggestions. They are not taking out infrastructure or restricting access regarding drainage. Water problems can be solved. It was stated they can just move their facility. They cannot just move a facility. GM has assigned a team of architects to each dealer that they have given a temporary license to. GM has to approve the new buildings. They will spend \$4 to \$5 million on this. She appreciates this is an inconvenience to St. Johns Auto Body. They've offered the City a reverter clause and to compensate the City for the property at just value. They've offered 24/7 access to come through that property. Beck simply needs to close the road in order to maintain their business.

Mr. Brown referred to Ms. Fleet's diagram, asking her to point out where they plan to offload vehicles. Ms. Fleet said this is a conceptual plan and is not a final plan. They haven't worked out those details yet. This is a general diagram and premature. They can't even start working towards that because the road is not yet closed. Mr. Brown said, in other words, this can all change and buildings may be located elsewhere. He understands the owner of the house on that lot has stated the house is not for sale until she dies. There is a house in the middle of the parking lot shown. Apparently this is all conceptual. Mayor Flagg said if this moves forward there would have to be an approved site plan; they understand this is conceptual. Mr. Brown said there are seven drains on this roadway, and asked whether or not Beck plans to install drains. Mayor Flagg said the city would address all utility issues before final approval. Everything is very preliminary right now. If there is a next step there are a lot of logistics that need to be developed; St. Johns Auto Body will be part of that process. Mr. Brown asked if he as a taxpayer will be paying to move the drainage facilities. Mayor Flagg said they don't approve any plans that would cause the citizens to pay any money for someone else's benefit. People can apply for grants to address these issues.

Mr. Brown referred to the Family Life Center's street closure request and said that was a good investment. It was a church. This issue is not an investment in the City; it directly benefits a business owner who puts his money into his other businesses.

Kent Scroggins said this is the main entrance to his business. He asked what type of monetary reward he can expect from the City, as he will be damaged when they take away the main entrance to his business. When it gets to that point, he gets triple the amount of damages if he can prove collusion, and he will have been damaged if the City cuts off the main entrance to his business.

Commissioner Norwood said he hates to see any road closed, and hates to see businesses close. He is concerned when 73 employees lose their jobs and does not want to become Green Cove Springs. He doesn't like giving city property away, but they have granted road closures for different reasons. This has an economic impact upon the city and those employees. Regarding tree heights, they can regulate that. Flooding can be addressed as they have done in the past. The owner of the house situated in the proposed parking lot has passed away; she was his aunt. Her grandson now lives there.

Commissioner Myers said the letter from GM speaks volumes and states their position explicitly. This is a difficult choice. The Beck Group's issue is more pressing. The positives outweigh the negatives. An improved tax base and aesthetics will benefit the City. They need to preserve jobs. The Beck group has been a good corporate citizen.

Commissioner Brown said it makes her angry to know the taxpayers bailed out GM, and now they are putting these conditions upon local business and government. She didn't sleep over this issue last night. They shouldn't be having to close through streets. This street is paved and used. She received more information on this today, but they have not closed a paved street in the past. If she wants to go to the Northside, she has to traverse 11<sup>th</sup> or 19<sup>th</sup> street to do so. They apparently never took the time to open the streets in between. Traffic is increasing. She asked if the Jefferson house has been sold. Ms. Holmes said they have communicated with that family and are negotiating the purchase of their property. Commissioner Brown said this puts a business in jeopardy, and asked if there is any way to reach a compromise. Ms. Holmes said they can provide them with an option for a more direct route if that will promote a win/win situation. Commissioner Brown asked if they can sit down together to work out the details.

Sherri Scroggins, 115 Orange Drive, E. Palatka, co-owner, St. Johns Auto Body, asked if one business is more important than another? She said this road has been open the entire time they have owned their business. If it is closed, they will be harmed. When she came here in 1994 Mr. Williams owned the business and he opened their gates to them. 16<sup>th</sup> Street is their major access; almost all their business comes from 16<sup>th</sup> Street. They have a large truck and gain access to their property through 16<sup>th</sup> Street. She doesn't know why GM requires the closure of this street; this is the first they've heard of this condition. If cars are in the lot, are they going to have enough room to get their large wrecker through? Are they going to be liable if their truck hits one of Beck's cars? 16<sup>th</sup> Street has been paved, there and in use for many years. Their customers utilize this street. Her business is just as important as Beck's. She pays her taxes also. They give to the community, also. Mayor Flagg said they are not talking about wealth, but this Commission has an important decision to make. They don't want to lose focus on that.

Commissioner Brown said she has received calls from people who live in this area regarding this issue. They need to grow Palatka. They will be making changes. She understands family-owned businesses and their issues. The parties need to talk this out.

Commissioner Kitchens asked Ms. Holmes what the minimum acreage needed by GM is. Ms. Holmes said 3.7 acres. Commissioner Kitchens said in an earlier meeting she had expressed concern about having a legal question when the City attorney is not present.

This is just such an instance. Regarding the reverter clause, she said that is all well and fine, but if the federal government forecloses, would the federal government's agreement trump their reverter clause? If the dealership files bankruptcy, would a judgment trump the City's reverter clause? Ms. Fleet said the only thing she can tell her is that would cloud the title of the property, as the easement or reverter would be recorded. Anyone purchasing the property would have to clear the title. It is part of the condition of the road closure and it would have to be honored.

Commissioner Kitchens asked Mr. Sloan, who was present, if he plans to move the dealership out of the city or let employees go if this road is not closed?

Breck Sloan, Beck Auto Group, said they have looked at new construction costs, which would be "around \$4.5 million. Even as "rich: as the Beck Dealership is, it would be difficult to get financing for any auto dealership. It would not succeed. Commissioner Kitchens asked if they can relocate to the Nissan dealership. Mr. Sloan said they own three properties, which are currently leased out. This is a time constraint issue.

Commissioner Kitchens asked Mr. Boynton if the City will require those seven storm drains to remain open. Mr. Boynton said the infrastructure can be re-evaluated and better maintained. The pipe underneath that road is in poor condition. It would be his recommendation to replace that pipe and increase the capacity. They would then put a storm drain at the head of the system, on St. Johns Avenue, which would alleviate some of the problems. The system would be improved.

Commissioner Kitchens said to Mr. Brown that she spoke with Mr. Sloan regarding the issue of his trucks having to come straight into his property. Apparently when the government took over GM they laid down some very stringent guidelines. The government laid down these acreage and parcel requirements. Mr. Sloan either gets this space or loses this dealership. He has to have title of the road. Commissioner Kitchens said she asked Mr. Sloan if he would be willing to grant an easement to St. Johns Auto Body granting them ingress/egress. Ms. Holmes has stated tonight that they would be willing to do that tonight. This would be a 60-foot easement, which is the same size as the road. She asked if that would suffice, and noted nothing has fallen off his large wrecker truck yet. She believes this would solve the visibility issue, also. She asked Mr. Brown if Beck Chrysler would give him a 60' easement and make sure trees don't block the way, if that would solve the problem. Mr. Brown said he won't answer as he will likely have to get a lawyer on this issue. Mr. Brown asked as to the acreage required for a dealership. Ms. Holmes said GM requires them to have 3.7 acres. Mr. Brown said Beck Nissan sits on 10 acres. He has an open lot to the rear that is not being used. He also owns another adjacent fenced-in parcel of property that is adjacent to the school. He said FHP record show the two business he leases adjacent property to now are two separate towing/wrecker business – Johnson's Towing and Johnson Brother's Wrecker Services, both owned by Mr. Beck, which he leases to himself, and asked if those are the businesses he noted the property was leased to?. Mr. Sloan said that is one of them. Commissioner Kitchens noted it is a sad state of affairs that the Federal government has taken over GM and has put local government in the middle of this.

Commissioner Kitchens said recently a church wanted to close a paved street, and requested to close it for safety reasons. The City did not close that street because it was a through street. Generally they close roads that are not much used. Regarding the trip count for this case, in their package it was noted the trips were counted on March 16. It looks like there was a max of 438 trips in a four-hour period. If 73 of those are employees of Beck Chevrolet, it is apparently a heavily traveled street. Putting that traffic onto 15<sup>th</sup> & 17<sup>th</sup> Street may overburden those streets. She is concerned about the other businesses. She has

received citizen complaints and there is petition signed with 23 signatures. She tries to go with a majority of citizens. She is also concerned about the 73 employees. They generally don't close roads that are well-traveled. St. Johns Auto Body and the dealership need to come together and strike a compromise.

Mayor Flagg said it seems to him that the option of closing without vacating seems to have some merit. Mr. Boynton said if the road is vacated it would make it difficult to take a reverter clause. If they add "without vacating" to the title and ordinance they would be able to work with it. This will give them more flexibility. Commissioner Kitchens said if they close the street without abandoning it, the City doesn't give up the title. Beck's problem will not be solved. This may need to be tabled until they can get a legal opinion. They may not be able to convey title without vacating it. There was discussion on the possibility of tabling the item to a time certain.

Commissioner Norwood said the title would be subject to the reverter clause as long as it is recorded. Commissioner Kitchens said she is 98% certain that the City would retain title if the property is not vacated. Commissioner Brown asked if the two businesses can sit down and work something out so that no one is punished. They don't want either business to go away. Commissioner Kitchens concurred with tabling this until they receive a legal opinion and the two parties can mediate

Sherri Scroggins said this letter Ms. Holmes has distributed is tantamount to only hearing one side of a telephone conversation. It doesn't state the number of acres required. She concurred with tabling the matter.

Ms. Holmes produced Beck's dealer agreement (no copy provided or filed), which states their minimum acreage requirement is 3.7 acres; this is based on volume of business. They have to have everything implemented and commenced by January 1, including the building architecture. This is their last and only pending issue. Commissioner Kitchens said she understands from Mr. Sloan they haven't received approval from SJRWMD as they have no plans to submit to them. Ms. Fleet said much of the land is impervious or already paved. SJRWMD is part of the permitting and design process. It is a plus that this land is already paved. Mr. Boynton said, as to closing without vacating, he asked for that opinion and was told that if the city vacates the street, the property goes back to the adjacent property owners, but if the city closes it without vacating it, they can convey title to St. Johns Chevrolet with language included within the deed that the property would revert back to the City at such time the property ceases to be used as a auto dealership. Commissioner Kitchens asked if anyone else can bid on the property if it is declared surplus. Mr. Boynton said it would be surplussed with the intent to quit-claim the property to Beck Chevrolet. Mr. Brown said he would put a bid on it if the City surpluses it.

DeDe Sharples, 125 Nellie Street, Palatka, said she is glad they are considering tabling this until next month. She has lived here for 40 years and has seen a lot of growing pains including making St. Johns Avenue one-way before turning it back into a two-way street. This issue is complicated and needs more discussion. If there is some way to reach a compromise that would be the best solution. She suggested that before they close this street they put up barricades to see how closing this street affects others. She did not know anything about this meeting until she read about it today. She said the City and County's meetings are not well advertised.

Mayor Flagg asked Ms. Banks as to what advertising requirements should be met if the Commission tables this.

Debbie Banks, Building & Zoning Administrator, said if they table the issue to a time certain the advertising stays current. The Clerk said if they do not table to a time certain the issue is considered disposed of and they would need to re-advertise. If they table to a time certain it continues this public hearing and the advertising stays current. Discussion ensued as to a date to table to in order to keep the 2<sup>nd</sup> reading on November 12. Mrs. Banks noted the City cannot barricade 16<sup>th</sup> Street.

Mr. Sloan said the city was not able to certify the traffic count discussed prior, because a traffic count done by counters doesn't take into consideration that Beck was the largest generator of that traffic. Most of those trips were employees or customers. They have 60 - 70 repair orders per day and 73 employees. Most people dropping their car off leave in a courtesy van, plus they drive customer vehicles to diagnose and again to confirm repair of problems. Much of this traffic is self generated and constitutes multiple trips by one vehicle.

Mayor Flagg closed the public comment portion of the public hearing and noted there is a motion on the table to pass this ordinance on first reading, made by Commissioner Norwood and seconded by Commissioner Myers.

Commissioner Brown moved to continue the public hearing on the proposed ordinance to close a portion of 16<sup>th</sup> Street between St. Johns Avenue and Reid Street, St. Johns Automotive Real Estate, applicant, to October 29, 2009 at 6:00 p.m. The motion was seconded by Commissioner Kitchens. There being no further discussion, a roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. The public hearing was declared tabled to a time certain, and continued to October 29, 2009 at 6:00 p.m.

- \* 6. **ORDINANCE** amending the Municipal Code to amend the Palatka General Employees Retirement Plan Investment Policy – 2<sup>nd</sup> Reading – The Clerk read an ordinance entitled AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, REVISING THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA, BY AMENDING THE INVESTMENT POLICY STATEMENT OF THE CITY OF PALATKA GENERAL EMPLOYEES RETIREMENT PLAN; AMENDING SEC. 2-204, INVESTMENT PERFORMANCE OBJECTIVES; AMENDING SEC. 2-205, INVESTMENT GUIDELINES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. Commissioner Brown moved to pass the ordinance on 2<sup>nd</sup> reading for adoption as read. Commissioner Myers seconded the motion. A roll-call vote was taken, with the following results: Commissioners Brown, Kitchens, Myers, Norwood and Mayor Flagg, yes; Nays, none. The ordinance was declared adopted.
- 7. **ADMINISTRATIVE REPORTS** - There were none.
- 8. **COMMISSIONER COMMENTS** – There were none.
- 9. **ADJOURN** – There being no further business to discuss, the meeting was adjourned at 9:35 p.m. upon a motion by Commissioner Myers, seconded by Commissioner Norwood.