

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 22, 2000

A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 7:30 p.m. by Mayor John A. Buckley.

1. Minister Richard Page, Truth Revealed Ministries, gave the invocation.
2. All present gave the Pledge of Allegiance to the Flag of the United States of America.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Ed Palmer	Vice Mayor – Dist. #2
	Steven Beltz	Council Member – Dist. #1
	Priscilla M. Poole	Council Member – Dist. #3
	Grace Walker	Council Member – Dist. #4
	Loretta Isenberg-Hand	Council Member – Dist. #6
	Henry J. Hill	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Zoning Administrator

Absent: Cheryl Palmer Council Member – Dist. #5 (III)

4. PROCLAMATIONS AND PRESENTATIONS

“Florida Student Nursing Week” and “Student Nursing Day”, February 20-26, 2000 and February 23, 2000; accepted by Janice Darby, Treasurer, BCC Student Nursing Association.

Mayor Buckley presented the February Beautification Award to Ed Morrison, Facilities and Maintenance Manager, on behalf of Rockwell Collins.

Additionally, the Mayor presented a plaque to Noreda McKemy in recognition of outstanding public service. Ms. McKemy served on the Code Enforcement Board from August 1984 through January 2000.

5. APPROVAL OF MINUTES - Regular Meeting – February 8, 2000

Moved by Beltz/Hand for approval. Motion carried unanimously.

6. CITY MANAGER’S REPORT

Mr. Hill informed Council about the city’s automated e-mail delivery system, which has recently been implemented.

Council Member Poole referenced the City Manager’s efforts in recommending the County

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Commission re-establish the suspended commercial and industrial impact fees.

7. PUBLIC COMMENTS

Donna Low and Jennifer Wolfe, representing Palm Bay Academy, asked City Council to waive the occupational license fee for the Spring Fest Carnival (March 9 – 11) fundraiser. Ms. Low and Ms. Wolfe discussed the history and needs of the school and the importance of fundraisers.

Mayor Buckley commented on the history of the fee. Prior to 1994, the fee was \$1,250. In 1994, Council reduced the fee to \$250 for carnivals for fundraising events and charitable organizations. In 1996, the Equity Study Commission established the fee of \$300 for circuses and carnivals regardless of non-profit status. This is because the same inspections are required.

Mr. Palmer asked the cost for Police services. Mr. Hill said Police services are billed at \$30 per hour; this is the direct cost to the city. Based on the hours of operation, the carnival would cost approximately \$1,200. Mr. Beltz asked about officers volunteering their time. Mr. Hill said it is possible; however, we cannot compel them. Under the Fair Labor Standards Act, an employee cannot volunteer to do a job that they normally do as part of a labor or other employment contract. In this case, they would be performing as Police Officers in a sworn capacity.

Mrs. Poole noted that this is not a scheduled agenda item. She expressed concern about the city making an exception and recommended the school approach Palm Bay since the school is located in Palm Bay.

Mrs. Walker referenced the new Council policy requiring a group requesting assistance to present their request in writing. She added that she would need time to review this item before taking any action.

Mr. Palmer said that is his position also. He stated that this is probably a worthwhile endeavor, but on such short notice he doesn't have all the facts.

Mr. Hill reported that the school made the request today. Since the next Council Meeting will be held after the event, staff informed the school that they could speak under public comments.

A brief discussion followed.

Moved by Poole/Walker that Council not take any action on this item tonight. Motion carried unanimously.

UNFINISHED BUSINESS

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8. ORDINANCE NO. 99-66 (Brockerman Property): (Public Hearing/Second Reading) A request for zoning of C-2 (General Commercial), C-1 (Low Intensity Commercial) and R-2 (cap 10) (One-, Two-, and Multiple-Family Residential with a cap of 10 units per acre) on property located on the west side of Dairy Road and the north side of Palm Bay Road. (Owner/Applicant – F. Brockerman, B. Benson) (First Reading 11/30/99) (Postponed by Council 12/14/99 and 1/25/00)

Attorney Gougelman read Ordinance No. 99-66 by title. There were no comments from the audience.

Moved by Hand/Walker for approval of Ordinance No. 99-66. The roll call vote was:

Aye: Beltz, Poole, Walker, Hand, E. Palmer, and Buckley

Nay: None

Motion carried unanimously.

NEW BUSINESS

9. COUNCIL ACTION RE: Contracts for construction of Lake Washington Surface Water Treatment Plant Improvements, Project No. 97371.
- a. Contract for construction services, The Poole & Kent Company, Miami, FL - \$17,560,000.00.
 - b. Contract for the Services During Construction (SDCs) Task Order No. 2. CH2MHill, Orlando, FL - \$1,740,122.00.
 - c. Contract for Actiflo Clarification System and Associated Equipment, Kruger, Inc., Cary, NC - \$1,449,800.00.
 - d. Contract for Filter Underdrain System and Associated Equipment, The F. B. Leopold Company, Inc., Zelienople, PA - \$456,295.00.
 - e. Contract for Emergency Generators for the Main Plant and the South Raw Water Pump Station, Ringhaver Equipment Company, Orlando, FL - \$314,165.00.

Mr. Hill reported that five contract awards associated with the surface water treatment plant project are recommended in this agenda item. Bids for construction of the plant improvements designed by CH2M Hill were received and opened on January 31. The consultants have negotiated the terms, conditions, and costs of three agreements for the city's direct purchase of treatment equipment. Staff has also completed negotiating an amendment to the consultant's contract providing for engineering services during the construction phase.

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The following is from the agenda report:

Item A. Construction of Water Plant Improvements

The three bids received and publicly opened on January 31, 2000 are as follows:

The Poole & Kent Company – Miami	\$17,560,000
Milmir Construction – Jacksonville	\$17,900,000
Wharton-Smith – Lake Monroe	\$18,672,000

The Poole & Kent Company is the low bidder. The firm recently completed the construction of a surface water treatment plant for the City of Cocoa. The contractor will be subject to standard contractual requirements including performance and payment bonds, and maintenance bonds. Due to the complexity of constructing the new treatment systems while maintaining operation of the existing plant, there are three milestones for completion and each has its own penalty for failure to comply with the schedule.

Substantial completion of the new treatment components:

- ◆ Substantial completion means the improvements are operational.
- ◆ The work must be completed by August 31, 2001.
- ◆ The date is based on meeting regulatory deadlines.
- ◆ The penalty is liquidated damages in the amount of \$3,000 per day.

Substantial completion of the complete project:

- ◆ Additional time is provided for the contract to rehab existing filters because the new filters must be completed and operational before this rehab can begin.
- ◆ This effort must be completed within 620 days from original notice to proceed.
- ◆ The penalty is liquidated damages in the amount of \$1,000 per day.

Final completion of the project:

- ◆ All construction and other contract requirements must be 100% complete.
- ◆ Must be completed within 680 calendar days from original notice to proceed.
- ◆ The penalty is liquidated damages in the amount of \$1,000 per day.

The recommendation is for approval of the contract with The Poole & Kent Company in the amount of \$17,560,000.

Item B. Contract Amendment for Engineering Services During Construction

This is a proposed amendment to the consultant's contract that provides for engineering services during the construction phase. The scope of work is defined as Task Order No. 2. The original document defined the conditions of the contract. Task Order No. 1 defined the specific work of the engineers from preliminary design through the bidding phase. This Task Order defines the next phase of their work.

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Services during construction consist of:

- ◆ Standard construction contract administration, which includes shop drawing review, response to construction issues, review of pay requests, general project management, visits to the site, evaluation of change orders, etc.
- ◆ Coordination of pre-purchased equipment includes shop drawing review and coordination of its installation under the construction contract.
- ◆ Field services involves providing a full-time, on-site, construction manager to observe the construction activities for compliance with the terms of the construction contract.
- ◆ Start-up and testing services includes instruction and assistance to plant staff for operation of the new plant equipment.
- ◆ The amendment includes an allowance for construction testing, e.g. compaction, concrete strength. This allowance for actual costs at unit prices is often included in the construction contract. In this case, CH2M Hill's full-time representative will coordinate the testing.
- ◆ Staff's review of the consultant's proposal has resulted in a reduction of approximately \$300,000 from the initial submittal.
- ◆ This fee proposal is consistent with the original cost estimate in the context of the planned two-phase \$34 million plant improvement program. Some Phase 2 improvements were prioritized to Phase 1 due to regulatory issues. Consequently, Phase 1 construction costs are higher (and Phase 2 costs will be lower) with engineering costs being proportionate. We can also note that CH2M Hill's fees for both design and this engineering phase effort are at a lower percentage of construction costs than they were for the City of Cocoa's recent \$24 million plant project. Staff believes this is a good proposal.

The recommendation is for approval of Task Order No. 2 to CH2M Hill's engineering contract for the amount of \$1,740,122.

Item C. Purchase Agreement for ACTIFLO Clarification Equipment

This is a proposed agreement for the city's direct purchase of the ACTIFLO clarification unit and related equipment. CH2M Hill was tasked with defining the equipment specifications and then negotiating the terms, conditions, and cost of purchasing this treatment equipment. The reason for the direct purchase is to save sales tax and contractor mark-up, and to expedite fabrication and delivery of the equipment.

The ACTIFLO clarification system far outperformed other treatment systems in the pilot study conducted by CH2M Hill. This is a sole source supplier.

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The recommendation is for approval of the purchase agreement with Kruger, Inc. (Cary, NC) in the amount of \$1,449,800.

Item D. Purchase Agreement for Filter Underdrain System

This is a proposed agreement for the city's direct purchase of the filter underdrain system and related equipment. CH2M Hill was tasked with defining the equipment specifications and then negotiating the terms, conditions, and cost of purchasing this treatment equipment. This direct purchase will save the city money and expedite the fabrication of the equipment and its delivery.

Filter performance was also evaluated in the pilot plant study conducted by CH2M Hill. Deep bed filters were found to provide the best water quality as well as improved treatment for taste and odor reduction.

The recommendation is for approval of the purchase agreement with the F.B. Leopold Company, Inc. (Zelienople, PA) in the amount of \$456,295.

Item E. Purchase Agreement for Emergency Generators

This is a proposed agreement for the city's direct purchase of two emergency generators. CH2M Hill was tasked with defining the equipment specifications and then negotiating the terms, conditions, and cost of purchasing the generators.

Two emergency generators will be provided in this package. One will serve the main plant. The other will serve the south raw water pumping station.

Caterpillar equipment has been standardized by the city based on its performance history, reliable maintenance service, availability of parts, and cost savings in maintaining common equipment for multiple installations.

The recommendation is for approval of the purchase agreement with Ringhaver Equipment Company (Orlando, FL) in the amount of \$314,165.

Project Funding:

In addition to the above awards, one additional contract remains to be negotiated. The consultants submitted a proposal to provide the plant control system software programming. This is often provided by the construction contract. However, experience with the City of Cocoa's recent surface water plant construction led staff to consider a different approach. In fact, Cocoa Utility administrators recommended this.

The City of Cocoa ran into problems with its programming needs due to differences between a subcontractor's interpretation of what was to be provided and the needs of the plant. We understand there were several requests for large change orders. Logically,

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the plant design engineer would best understand the needs and should provide a better product than a subcontractor to the plant contractor.

This effort involves a complex scope of work that is currently being reviewed by the city's staff engineers, plant supervisors and operators, and the data processing manager. Staff hopes to have a recommendation on this work for a March agenda.

For total project cost estimating, we will include the initially proposed fee of \$983,040.

Summary of Total Estimated Costs:

Plant construction contract	\$17,560,000
Construction contingency	878,000
Engineer's services during construction	1,740,122
Direct purchase of equipment	2,220,260
Estimate of engineer's programming fees	<u>983,040</u>
 Total Estimated Project Cost	 \$23,381,422

This figure is significantly higher than the Phase 1 figure used in the rate study. We have also seen a reprioritization of other projects such as the U. S. 1 utility relocation project; it requires an unplanned cash deposit of over one million dollars in this fiscal year. Staff has previously noted an anticipated cost increase for the WWTP Phase III project planned to be advertised for bids in August 2000. Commitments to these projects will have an impact on rates unless other project priorities can be shifted. Staff will be evaluating the water/sewer CIP program for the purpose of identifying those projects. We will have a report on this subject before the FY 00/01 budget process is initiated.

Bob Bailey, Matt Alvarez, and Ed Davis, CH2M Hill, provided a summary of the above and noted that overall, the project is within the total budget established a year ago and it is on schedule.

Mr. Hill pointed out that we are within budget even though numbers have been shifted from one phase to another. He pointed out that staff has to ensure that we are within the approved rate structure.

Mr. Palmer referenced the cost of the project (\$23.3 million) and asked if the improvements will result in the construction of a new water plant after the December 2001 completion date. Mr. Ralls replied yes and noted that these improvements will increase our surface water capacity from 16 ½ mgd to 20 mgd. With the RO plant capacity of 5 mgd, our total capacity will be 25 mgd.

Mr. Palmer asked if the plant would have emergency capacity. Mr. Alvarez said the ACTIFLO process will allow for production at 150% of its design capacity; therefore, there is some emergency contingency.

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In response to questions, Mr. Ralls elaborated on staff's field trips to Wyoming and Colorado to tour operating ACTIFLO plants. He noted that they learned a lot and the trips helped in the planning of this project. He added that they also toured other plants, including Cocoa's, because there is more to this new plant than the ACTIFLO process.

Mr. Beltz asked if other cities have started using the ACTIFLO process. Mr. Ralls said yes and Mr. Bailey reported that ACTIFLO is catching on quickly. Tampa, partially based on some of the work Melbourne has done, elected to go with ACTIFLO. The Tampa Bay Water Authority is going with ACTIFLO. Within the next few years, there will probably be 20 operational facilities in the United States. Mr. Bailey confirmed that Cocoa did not go with ACTIFLO because their design was done before ACTIFLO was ready. In the past few years, a lot of bio work has been done, facilities have gone on line, and confidence has built in the system. The regulatory agencies also had to be brought along and the pilot study done in Melbourne resulted in the successful permitting of this process.

Moved by Poole/E. Palmer for approval of Item A. Motion carried unanimously.

Moved by Walker/Hand for approval of Item B. Motion carried unanimously.

Moved by Poole/Hand for approval of Item C. Motion carried unanimously.

Moved by Hand/Beltz for approval of Item D. Motion carried unanimously.

Moved by E. Palmer/Poole for approval of Item E.

Mr. Beltz asked if the generators would be used to generate power and charge back to FPL for credit. Following a brief discussion, Mr. Alvarez confirmed that the complexity would be more than the savings; therefore, it is not planned at this time.

The question was called. Motion carried unanimously.

10. COUNCIL ACTION RE: Change Order No. 1, Joint Project Agreement with Florida Department of Transportation for utility relocations associated with the U. S. 1 Widening from Aurora Road to Post Road, Project No. 99325 - \$160,597.40.

Mr. Hill briefed Council. This is a proposed amendment to the Joint Project Agreement (JPA) with the Florida Department of Transportation (FDOT) to include city utility work in FDOT's U. S. 1 road widening project.

On December 14, 1999 Council approved a JPA for this project with the provision that the city deposit its share of costs estimated to be \$993,371.12 by March 1, 2000. In the interim, the consultants have had to make some adjustments in their design and refine their estimate of quantities and FDOT has updated its unit prices. There has been a large increase in the unit price for ductile iron pipe.

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As a result, the estimated cost has increased to \$1,153,968.82. The increase of \$160,597.40 includes the additional construction item costs, a 10% construction contingency, and a 2% FDOT administration fee. This amendment addresses the revised cost figure and the requirement to deposit the increased amount.

Cash for this deposit is available by shifting funds from other cash-funded projects that are not ready to proceed at this time. Funding for those projects can be included in a future bond issue. Staff believes the JPA method is the most cost-effective means of accomplishing the work.

The recommendation is for approval of Amendment No. 1 to the FDOT agreement with the revised amount of \$1,153,968.82.

Mrs. Poole expressed concern over the tremendous increase and the requirement that it be paid up front. She noted that FDOT would receive interest from our money while they move slowly with the project.

Mr. Hill replied that this is not an unusual arrangement. The alternative is to do the project on our own. The savings realized by going with FDOT might possibly equal the interest earnings.

Mr. Palmer asked if we would be required to do this again when the portion to Pineda is widened. Further, he asked if the county would share in those costs. Mr. Hill said in terms of utility relocations, that is our responsibility. Mr. Ralls confirmed that everything south of the Pineda belongs to Melbourne's utility. Discussion followed regarding the location of utility lines.

Mr. Ralls pointed out that there is at least a 25% savings by doing the project this way. Also, we avoid the conflict between two competing contracts in the same area. He added that the city would get money back along with interest on any portion of our funds not used.

Mrs. Walker asked if we have attempted to negotiate a partial payment with FDOT. Mr. Hill explained that is FDOT's policy throughout the district; however, he would ask them if this is possible. He commented that the purpose of providing the money up front is to assure FDOT that we are committed to the project.

Moved by Hand/E. Palmer for approval of Amendment No. 1 to the FDOT agreement with the revised amount of \$1,153,968.82. Motion carried unanimously.

11. COUNCIL ACTION RE: Amendment No. 6 to Gee & Jenson's contract for additional construction administration services and construction observation services, Phase IIB Wastewater Treatment Plant Improvements, Project No. 96357- \$85,596.00.

Mr. Hill reviewed the agenda report. This is a proposed amendment to Gee & Jenson's engineering contract for the Phase IIB Wastewater Treatment Plant Improvement Project.

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This amendment addresses three areas of work that were not included in the original contract:

Extension of the contract time – a recent change order to the construction contract provided for additional work necessitated by the proposed replacement of half the treatment capacity in the upcoming Phase III project. Phase III is in the design stage with consultants Hazen & Sawyer who defined the needs.

This involves additional administration effort by the engineers and the additional inspection services for a period of 190 days. The administrative costs are proportionate to the original contract. The inspection costs are based on the per-month cost specified in the contract.

Problems with New Construction – the construction contract includes a large, pre-stressed concrete clarifier structure and a large reuse storage tank. This is construction in which the reinforcing is set up around an interior form, then concrete is shot against the form. The concrete work of the subcontractor doing this structure appeared to have problems and it was necessary to call on Gee & Jenson's structural engineers to test and evaluate the problems. The problems were unusual so the testing and evaluation by the engineers were an extra effort.

Unforeseen Problems with Existing Structure – the pre-treatment structure at the Grant Street plant was to be rehabilitated. After the concrete was sandblasted, significant deterioration of the concrete (by hydrogen sulfide in the raw sewage) could be observed. The concrete was tested and the engineers developed an alternative plan that involved replacing some concrete walls rather than re-working the concrete. This was an unforeseen condition so the consultant's work was an extra effort.

The recommendation is for approval of Amendment No. 6 to Gee & Jenson's contract in the amount of \$85,596.00.

Mrs. Poole referenced the "unforeseen problem" with the existing structure (deterioration of the concrete by hydrogen sulfide) and asked if we will experience the same problem again.

Harold Nantz, Utility Engineer, explained that the existing structure, because of the design, could not be taken out of service to evaluate the extent of the corrosion. They discovered that it was more deteriorated than anticipated. A certain amount of the problem resulted from the odor control system that was installed. It kept the odors down, but trapped the gases. Marine structural engineers were consulted and the result will be the use of marine concrete, which is tougher and heartier. Additionally, they are considering using a different type of grate to stop the buildup of gases and the new design will allow for the structure to be taken down for preventive maintenance.

Mr. Palmer asked the anticipated lifespan. Mr. Nantz said a minimum of 10-20 years.

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Mrs. Poole asked if we have to have the construction observation services every day. Mr. Nantz said yes and noted the current observer is the one who recommended the new design. Mr. Nantz pointed out that if the contract is finished early, the entire amount will not be necessary.

Moved by E. Palmer/Hand for approval of the recommendation. Motion carried unanimously.

12. COUNCIL ACTION RE: Consent Agenda

Moved by Beltz/Hand for approval of the consent agenda, items “a – j”.

Mrs. Poole asked if Holland & Knight (item “j”) provides all of our bond counsel. Mr. Hill said they are the same firm that provided services for the 1991 Gas Tax Revenue Bonds and the 1992 Water and Sewer Improvement Bonds. Their fee schedule has not changed since then.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1624: A resolution relating to future disaster preparedness, providing a commitment to continue our participation in the Space Coast Local Mitigation Strategy, providing for the mitigation initiatives when resources become available.
- b. Blanket purchase of Goodyear tires, Mike Gatto, Inc., Melbourne, FL – estimated amount of \$90,000.00 per year for a two year total amount not to exceed \$180,000.00.
- c. Annual hardware maintenance agreement for the IBM mainframe and peripherals located at City Hall, IBM Corporation, Atlanta, GA – \$39,036.00.
- d. Purchase of fire engine equipment from Ten-8 Fire Equipment, Inc, Bradenton, FL – \$29,420.00.
- e. Purchase of equipment for golf courses, Wesco Turf Supply, Inc., Lake Mary, FL - \$87,002.17.
- f. Annual contract for purchase of liquid chlorine at the unit price of \$310 for 1-ton cylinders and \$37.50 for 150-pound cylinders, B&S Chemical Company, Inc., Orlando, FL – at an annual cost to exceed \$10,000 (estimated cost \$184,605.00).
- g. Purchase of a Bauer breathing air system for the Fire Department, Breathing Air Systems, Reynoldsburg, OH - \$33,066.00.

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- h. Change Order No. 1 to contract for Paving Columbus Avenue – William Turnbaugh Construction, Project No. CD9918 - \$13,555,00.
- i. Resolution No. 1625: A proposed resolution to submit application for \$34,748 to the Florida Department of Health Emergency Medical Services (EMS) Matching Grant Program for the upgrade of five Life-pak 12 model three-lead ECG monitor/defibrillators to 12-lead ECG monitor/defibrillators with internal fax modems.
- j. Approval of bond counsel fees plus out-of-pocket expenses, for Water & Sewer Improvement Revenue Bonds, Series 2000, Holland & Knight, LLP.

Recessed: 8:53 p.m.

Reconvened: 9:04 p.m.

13. COUNCIL ACTION RE: A presentation by the Section 3 Code Review Committee.

From the agenda report: This is the first of a series of presentations that will be coming from the four Code Review Committees. The committees have been diligently reviewing codes with the assistance of the City Clerk and other affected staff. Council has been receiving minutes and drafts based on the committees' efforts. The process is proving to be very productive.

At this time, the committee is seeking direction as to whether Council wants one or two chapters included on future agendas for action or if they would prefer to schedule workshop meetings to act on the recommendations. Once Council has acted on these chapters at future meetings, the draft first reading ordinances will be prepared.

Ed Bradford, Chairman, City Code Review Committee, Section 3, reviewed the following:

Chapter 1 – General Provisions:

- Definition of board member added.
- The word “shall” was defined so that it will be applied equally throughout the Code.

Chapter 2 – Administration:

- Provide for a review and update of the Mayor and Council salary.
- Revise fingerprinting and bonding requirements for employees to reflect the current practice.
- Revise the section on boards by describing how vacancies occur. Clarify that a board member can be removed for reasons in addition to non-attendance.
- Clean up of the “term” language.

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- Update travel section to reflect current practice; repeal outdated language.
- Complete re-write of the purchasing section. Recognize the existence of a purchasing manual and re-title the Purchasing Agent to Purchasing Manager. Increase of the threshold amounts.
- Add a new section to recognize and codify the special activity permitting process.

Chapter 11 – Elections:

- Recognize that elections are conducted by the Brevard County Supervisor of Elections.
- Reflect that the Brevard County Canvassing Board (as opposed to the City Council) supervises the counting of votes and prepares a certificate for the city.

Chapter 15 – Health and Sanitation:

- Revised to reflect current State Statute references.
- Update of the “notice” section to provide that property in violation will be posted simultaneous with the notice being mailed.

Chapter 23 – Retirement and Pensions:

- No changes recommended. (This Chapter is updated periodically to comply with federal and state laws.)

Mrs. Poole disagreed with the update of Mayor and Council’s salary. She noted that for many years members were not paid and in her opinion, as salaries increase, the dedication is lost.

Mr. Bradford said the committee’s recommendation was made in light of the current salary not having been reviewed since 1973.

Mr. Beltz recommended Council hold off on opinions until a meeting or workshop is held; he is not sure this is the right forum to debate the issue. Mayor Buckley agreed.

Mr. Palmer commended the committee for a job well done; he believes a lot of good recommendations have been made. With regard to the recommendation to increase the purchasing thresholds, he asked if the rationale was due to the increased costs of goods and services. Mr. Bradford replied yes.

Mr. Palmer asked about the newspaper advertisements required for bids. Mr. Bradford stated that he had asked staff to investigate adopting one legal organ for the city. Staff

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has not yet returned with a recommendation; therefore, the committee left that section as is. Mr. Palmer said he believes the city should use the Florida Today; many people do not receive or read the Orlando Sentinel.

Mr. Hill noted that the city uses the Florida Today for legal notices and the Orlando Sentinel for purchasing notices. There is a pricing difference and with the Sentinel, we get a broader market for contracts and bids. The local vendors are always advised through the use of mailing lists. Staff ensures that local vendors are aware of bidding opportunities.

Mr. Palmer questioned the language in the purchasing section regarding the disposition of property. He believes the language should be that the purchasing manager shall have the authority to sell surplus equipment as opposed to supplies.

Mr. Hill stated that section restates the existing language in the Code. He added that there have been a number of instances where authorizing supplies has been appropriate. Additionally, the Assistant City Manager or the City Manager ultimately reviews the actions of the Purchasing Manager. Mr. Hill confirmed that staff would review the language.

Mr. Palmer asked about the Hometown Labor Law. Mr. Hill reported that section was adopted in mid-1980. The committee reviewed that section and discussed whether it was applicable or made sense. The committee agreed to leave the language, but move it from the purchasing section to its own article. Mr. Palmer said if it is indeed allowable, he would like for the Hometown Labor Law to remain.

Mr. Beltz congratulated the committee for meeting faithfully to complete this review. He asked if the committee is finished. Mr. Bradford said the group has a long way to go. They will move on; however, they would be happy to meet with Council to conduct a review. Mr. Bradford referred Council to the committee's minutes and pointed out that some items were adopted unanimously, some by consensus, and others through compromise.

Mrs. Poole thanked the committee members for their time and effort. She stated that she believes Council should wait until all the Chapters are finished before conducting a workshop.

Mrs. Walker thanked Mr. Bradford and the committee for their work

Mayor Buckley asked staff to print out the Chapters in their entirety. From there, Council will decide whether to start review or conduct workshop meetings.

14. COUNCIL ACTION RE: (Public Hearing) A request for preliminary approval and permission to advertise for public comment the draft 2000-2005 Consolidated Plan.

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Melinda Thomas, Housing and Community Development Coordinator, briefed Council. Last month, the housing staff presented Council with the draft Consolidated Plan, 2000-2005. The document has since been reviewed and approved by the Citizens' Advisory Board and is now ready for resubmission to Council for its formal consideration. This document, which is mandated by the U. S. Department of Housing and Urban Development, provides directives for staff and City Council in the allocation of funding for the city's Community Development Block Grant and HOME Investment Partnership Program for the next five years. It does so by identifying and prioritizing the housing needs and the non-housing community development needs of Melbourne's low- and moderate-income persons and neighborhoods.

Future projects and programs, beginning with city fiscal year 10/1/2000 to 9/30/2001, must be selected and/or designed in such a way as to meet those identified needs. In crafting the document, staff has endeavored to state the priority needs in a way that is broad enough to invite creativity and to be able to adapt to a changing environment over the next five years. At the same time, the priority needs, and the objectives designed to meet those needs, are specific enough to provide focused guidance on the solicitation and selection of projects and programs.

The housing needs identified include:

- I. Affordable Housing. Preservation of existing housing stock. Opportunities for affordable housing.
- II. Homelessness. Additional services for the homeless and those threatened with homelessness. Additional emergency shelter beds and transitional housing units.
- III. Other Special Needs. Affordable supportive housing opportunities for persons with special needs.

A final public hearing will be held in the Council Chamber on April 11, 2000. The recommendation is for preliminary Council approval of the Draft 2000-2005 Consolidated Plan and permission to advertise the Consolidated Plan for public comment.

Mr. Palmer commented that he liked our approach where affordable housing is staged from the point of homelessness and that housing is included for those with different needs. He commended staff for a well thought out plan.

Moved by E. Palmer/Hand for approval of the recommendation. Motion carried unanimously.

15. COUNCIL ACTION RE: (Public Hearing) A request for approval of and permission to advertise for public comment the proposed list of projects and activities for inclusion in the 2000-2001 CDBG Action Plan.

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Mrs. Thomas reviewed the agenda report. The U. S. Department of Housing and Urban Development (HUD) has advised the city that it will receive \$716,000 in FY 2000 CDBG entitlement funds, \$1,000 less than the FY 1999 CDBG grant. In addition, the city has approximately \$20,000 in CDBG funds available for reprogramming, representing savings from prior year projects and programs. The total CDBG funding available for FY 2000 is as follows:

FY 2000-2001 CDBG Entitlement Grant	\$716,000.00
CDBG Funds Available for Reprogramming	
Unappropriated funds (CDBG project & activity savings as of 9/30/99)	<u>20,000.00</u>
TOTAL	\$736,000.00

At that funding level, the statutory limits on Public Services and Administration/Planning spending in the CDBG program for 2000-2001 are:

Public Services	\$107,400	(15%)
Administration/Planning	\$143,200	(20%)

The Housing and Community Development Department received proposals from 17 different non-profit agencies seeking a total of \$526,189.40 in CDBG funds for the fiscal year starting October 1, 2000. Also, several city departments submitted proposals for CDBG funding. All the proposals for consideration total \$1,595,859.40.

The Citizens' Advisory Board has reviewed the proposals and made the following recommendations for funding.

Public Services:

Boys & Girls Club – Melbourne Unit	
Youth programs	\$17,400
Brevard Alzheimer's Foundation, Inc.	
Scholarships for day care program	\$ 7,500
Child Care Association	
Subsidized child care for children from low income households	\$15,000
City of Melbourne Leisure Services	
Summer camp scholarships for very low-income youth attending summer camps	\$2,500
City of Melbourne Leisure Services	
Transportation for youth & senior programs @ Carver, Brothers & Lipscomb Parks	\$5,000
ComeUNITY, Inc.	
Youth entrepreneurship program	\$5,000

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Family Counseling Center of Brevard	
Counseling services to children & their families	\$10,000
Greater Melbourne Police Athletic League	
Youth basketball leadership program	\$12,500
PREVENT! Of Brevard/Robin's Nest	
Transitional housing and supportive services for women recovering from substance abuse	\$12,500
The Salvation Army, Inc.	
Transitional housing and supportive services for homeless families	\$5,000
Vietnam Veterans of Brevard	
Housing & supportive services for homeless veterans	<u>\$15,000</u>
Subtotal Public Services	<u>\$107,400</u>

Public Facilities and Improvements:

Fee Avenue Park	
Toddlers' play area	\$15,000
Carver Park	
Reconstruction of basketball court	\$15,000
Lipscomb Park	
New restrooms for baseball field	\$35,000
Grant Street Community Center	
Replacement A/C unit; building addition feasibility study	\$20,000
Scattered Site Paving Projects	
Unimproved right-of-way paving to sections of the following streets: <i>Seagrape Drive, Branch Street, and Dunham Street.</i>	<u>\$264,250</u>
Subtotal Public Facilities & Improvements	<u>\$349,250</u>

Administration

Program Administration	\$140,700
General program administration	
Fair Housing Continuum, Inc.	
Fair Housing Education & Outreach	<u>\$2,500</u>
Subtotal Administration	<u>\$143,200</u>

Other:

Code Enforcement	\$65,000
Demolition and Clearance	\$25,000
Housing Services	
Activity delivery for HOME-funded Tenant Based Rental Assistance Program	\$18,000
Melbourne Housing Authority	
Replace front doors @ Temple Terrace	<u>\$28,150</u>
Subtotal Other	<u>\$136,150</u>

GRAND TOTAL \$736,000

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The recommendation is for preliminary Council approval of the proposed list of projects and activities for inclusion in the 2000-2001 CDBG Action Plan and permission to advertise the Action Plan for public comment upon completion.

Mr. Hill noted that we received almost twice as much in requests than we have available funding. It is a very difficult process to review and determine what items are consistent with our plan. He commended Ms. Thomas's staff for the amount of time spent on this issue. Additionally, he noted that Council previously received a full package of the proposals.

Bobbie Davidson, Child Care Association of Brevard County, Inc., stated that the need for child care for low and median income parents is great. A number of parents work at minimum wage and they need assistance. She noted that any funding granted would be used to assist these parents and they would appreciate if additional funds could be identified.

Mr. Beltz stated that he is impressed with their 11:1 leverage (for every \$1 of CDBG funding received from the city, the association will receive \$11 from state and federal sources). He asked how many children are currently in the program. Ms. Davidson replied that there are more than 1,500 children county-wide and 200 are served in the City of Melbourne.

Responding to Mrs. Poole, Ms. Davidson said she would report on the increase in children since last year in the city.

Sandy Teuber, PREVENT! of Brevard, Inc. and Robin's Nest Recovery Home, introduced Ivory Brooks, a resident of Robin's Nest. Ms. Brooks noted that this is her second time at Robin's Nest. She had a relapse and Robin's Nest permitted her to return. She discussed the programs offered and said if it weren't for Robin's Nest, she would not be able to reunite with her children. There are not many places available to help a woman who has a mental illness and an addiction.

Captain John D. Fuller, Salvation Army, thanked the city for the recommendation of \$5,000. He pointed out that they requested \$8,000. Captain Fuller discussed the program, which provides seven housing units to low/moderate income families who are homeless. He explained that they asked for an additional \$3,000 to provide child care so the women in the program can attend life management training, education, and job search.

Mrs. Walker asked the number that share each apartment. Captain Fuller explained that each unit serves one family. The Housing Authority has guidelines on how many children of the opposite sex may share a bedroom.

Mrs. Poole pointed out that seven families would be assisted with the \$5,000. Additionally, the Brevard County Housing Authority, Section 8 Program, subsidizes lease

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and utility expenses for the units and additional funding comes from the program fees and the United Way. She said she believes the recommendation for \$5,000 is great.

Earthy Spaulding, ComeUNITY, Inc., explained that they are a not-for-profit community based organization that would like to bring to the north area an entrepreneurship program to prepare young people for economic success. The project teaches youth (ages 8 – 18) about economics and how money works. The course improves academic skills as well.

Mrs. Poole asked if 100 youth are enrolled. Ms. Spaulding replied that she is not sure of the number. The program, “Jump Start/Y2Biz” started in August.

Mrs. Poole asked why they are proposing to do this in just the north target area. Ms. Spaulding said they would like to provide this program to all elementary, junior high, and high school youth throughout the county. However, staff recommended that they focus their first program in the north target area.

Mr. Hill said there is a substantial effort underway to pull together resources to address a number of problems in the north area. Staff feels that there is a long history of programs offered in the south and it is not easy to provide transportation from one area to another. This is a good way to test the program.

Mrs. Poole said she has a problem confining the program to just one area.

Mayor Buckley pointed out that they are being recommended for one-fifth of the amount they requested. With that amount of funding, he does not see how they can expand the project.

Mrs. Poole asked if the businesses (Charles Schwab, Home Depot, and NationsBank) have agreed to partner with the program. Ms. Spaulding said they do not have commitments at this time; however, they did get a certified investment specialist to speak.

Mr. Beltz referenced the Family Counseling Center and expressed disappointment that they did not have a representative present. He stated that it looks as if they are asking for a little over \$16,000 for 275 hours of service. That equates to \$60/hour and that concerns him. He asked if the recommended funding (\$10,000) would be better used for the Salvation Army, Child Care Association, and Robin’s Nest unless they are doing some extraordinary glorious work. The numbers they are counseling seem inflated.

Mrs. Thomas said the center works with children who face unspeakable situations, including molestation and incest. The counselors go to the child’s home; very few agencies will do that. They also work with the children at school. She assured Mr. Beltz that the counselors do not receive \$60/hour. That figure comes mostly from overhead. Additionally, long after the CDBG dollars are gone, they continue to work with the children. She concluded by saying it is awkward for her to be the “advocate” for an agency and the agency should answer these questions.

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Mr. Palmer stated that the Family Counseling Center does a great job and its services are needed.

Mrs. Poole asked if we know the number of children served in Melbourne, what schools provide space, if the counselors are certified, and if special rooms are provided at the schools for counseling.

Mrs. Thomas said she would provide additional information on the agency.

Mr. Beltz said if they are providing more services than listed, they should list the hours. Also, he noted that it does not appear they are using volunteers, trainees, or college students.

Mayor Buckley recommended a representative from Family Counseling Center be present the next time this item comes before Council. He pointed out that the Family Counseling Center has been funded for at least the last five years and based on staff's recommendation, he feels they have done an admirable job of taking care of young children. He also recommended that no changes be made tonight since staff has reviewed the proposals in great detail.

Mrs. Poole asked if the Police Athletic League program is just for boys. Mrs. Thomas replied no; however, predominantly boys participate.

Moved by E. Palmer/Hand for approval of the recommendation.

Mr. Beltz stated that he would vote for this; however, if the Family Counseling Center is not able to justify the \$60/hour, he will move to de-fund them when this returns to Council.

The question was called. Motion carried unanimously.

16. COUNCIL ACTION RE: (Public Hearing) A request for approval of the proposed activities for FY 2000 HOME funds and authorization for their inclusion in the Brevard County HOME Consortium's Action Plan for 2000-2001.

Mrs. Thomas briefed Council. Brevard County has advised the city that the Brevard County HOME Consortium will receive \$1,343,000 in FY 2000 HOME funds from the U.S. Department of Housing and Urban Development. Melbourne's share of the FY 2000 HOME funds is \$248,601.

No requests specific to HOME were received this year. However, South Brevard Habitat for Humanity, Inc. requested \$33,000 in CDBG funds for the purchase of 10 lots in the North Melbourne target area. Habitat plans to build homes with, and sell homes to, very low-income families. The homes are sold at no interest for approximately \$40,000 each. Due to limited CDBG funding, staff recommends that this project be funded with HOME Program dollars.

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Staff is recommending that \$103,451 of FY 2000 HOME funds be used for the city's tenant based rental assistance (TBRA) program. Combined with current funding available for the program, approximately 24 households can receive this assistance for up to two years.

So that Housing and Community Development can continue to provide uninterrupted services to owner occupants under the Owner-occupied Housing Rehabilitation Program, staff is recommending that a portion of the FY 2000 HOME funds be allocated to the city's Owner-occupied Housing Rehabilitation Program. The following is the recommendation for FY 2000 HOME funds:

Owner-occupied Housing Rehabilitation Program	\$ 50,000
Tenant Based Rental Assistance Program	103,451
CHDO Set-Aside (15% Minimum)	37,290
South Brevard Habitat for Humanity – Land Acquisition for Affordable Housing Administration (10% Maximum)	33,000
	<u>24,860</u>
TOTAL	\$248,601

The recommendation is for approval of the proposed activities for FY 2000 HOME funds and Council authorization for inclusion in the Brevard County HOME Consortium's Action Plan for FY 2000-2001.

Kim Gabriel, President, South Brevard Habitat for Humanity, explained their request. She noted that substandard housing is unacceptable and this will provide an opportunity to eliminate unacceptable housing from our community. She added that their goal is to construct simple, decent homes by June 30, 2001.

Moved by Hand/E. Palmer for approval of the recommendation. Motion carried unanimously.

17. PRELIMINARY PLAT APPROVAL (SD-2000-01/Canary Isles Subdivision): A request for preliminary plat approval for Canary Isles Subdivision on an 8.08-acre portion of the existing Club Manor Subdivision located south of Edgewood Drive, west of Country Club Road and east of Dairy Road. (Owner – Gary and Barbara Nelson) (Applicant – Gary Nelson) (Representative – G. E. Cantelou, III) (P&Z 2/10/00)

Ms. Braz briefed Council. The property is part of the existing Club Manor Subdivision that the owner hopes to re-plat as a separate subdivision. The Club Manor Subdivision was recorded in 1925. It is presently used as a nursery. The adopted Future Land Use is Low Density Residential. The property is now used as a non-conforming plant nursery. Last year Council granted a use agreement for the unpaved portion of the Golf View Manor right-of-way to the Nelsons.

The existing subdivision was platted with 45-foot wide lots that do not meet the minimum lot size for the existing Single-Family Residential Zoning District. Therefore, the

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proposed re-plat will create lots that meet or exceed the minimum required by the existing subdivision regulations. The plat could be constructed as platted. However, to comply with the density restrictions and stormwater retention requirements, lots would have to be deeded together and combined into single 85- or 90-foot wide lots. This is permitted by the Comprehensive Plan, Future Land Use Element, Objective 6, Policy d., which reads as follows:

Single-family homes may be constructed on any substandard, vacant platted lot of record, platted prior to November 1983, as long as density on the affected platted lot does not exceed the land use density designated on the Future Land Use Map by more than twenty-five percent. However, all other requirements set forth in this Comprehensive Plan or in the city's Land Development Code, including but not limited to lot coverage and yard requirements must be met, unless as permitted by the Land Development Code, a variance is granted by the Zoning Board of Adjustment.

The minimum lot size in the R-1AA zoning district is 85' x 110' with a minimum lot size of 10,000 square feet. Under the proposed plat, the average lot size would be 85' x 127' for a total of 10,795 square feet. The proposed subdivision consists of a 24-lot re-plat creating a single private street ending in a cul-de-sac. The street would provide a connection only to Edgewood Drive with an easement to the existing Golfview Avenue that could be utilized if the street should ever be made public. The Comprehensive Plan Transportation Element requires street interconnections. Chapter 29 of the Code requires that street connections be made to property compatible to adjacent property or to other streets that abut the parcel being considered for subdivision approval. Since the street is proposed to be private, a fence or a wall may be constructed to prohibit through traffic but must be available for through traffic if the subdivision decides to dedicate the street.

The properties surrounding this proposed re-plat are developed with single-family homes and are zoned the same as the project subject to this request. The street connection can easily be made by constructing the streets with this subdivision similar to the system originally planned and platted. This pattern of development has been successfully implemented in the other plats in this area including all platted properties abutting this property and the existing platted subdivision. This requirement has been used in numerous places in the city and was most recently upheld by Council when the Pine Creek plat was required to provide a connection to an adjacent property. Tee Street, west of this property was recently resurfaced. The easterly 135' stub of Tee Street from Reed Street is scheduled to be resurfaced by the city this year.

There appears to be no hardship, as identified in the Subdivision Regulations, that would warrant granting a variance from the Code. The applicant is also requesting a variance to permit a cul-de-sac greater than 1,000 feet. If approved as requested, the cul-de-sac would be 1,032 feet. This variance is not needed if the subdivision is designed in accordance with Code. Part of the applicant's argument for the variance is that they want to create a subdivision "...to maintain its own identity as a separate neighborhood..."

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An Environmental Impact Assessment report has been provided with the application. The site is now used as a non-conforming plant nursery. An aerial tree survey was provided. Some trees could be preserved depending on the specific design of a home on the lots. No endangered or threatened species were observed on the site. The existing pond on the site is manmade and used for irrigation of the nursery stock and is not a jurisdictional wetland.

The Planning and Zoning Board held two hearings on this proposed development. After the first hearing, the item was postponed for additional information. Between the hearings the applicant was able to rectify the drainage concerns that had been identified by the Engineering Department. However, the applicant did not modify the plan to make the required street connections, but instead applied for three variances, provided a private street and added an easement to connect to the south if the street would ever become public. A fourth variance, to connect to the current Golfview Drive (which dead ends south of the site), has been addressed by the combination of the private street proposal and a proposed access easement.

After a lengthy discussion, the Planning and Zoning Board decided that the variance requests were not justified and recommended denial of the Plat.

While the proposed subdivision would remove a non-conforming use and provide in-fill housing, the proposed preliminary plat does not fully comply with the Land Development Code. This includes Chapter 29, Subdivision Regulations, Section 29-6 (b)(1) b. and Section 29-6 (b)(4) k. and does not meet the standards for a variance per Section 29-8.

The Planning and Zoning Board and the Planning and Zoning Department recommended denial of SD-2000-01, Preliminary Plat for Canary Isles Subdivision, based on the findings outlined in the agenda package.

Mayor and Council made the following disclosures: Mrs. Poole spoke with Gary Nelson last week about the project and looked at the property. Mr. Palmer spoke with Mr. Nelson and his builder about the project. Mrs. Walker said Gary Nelson came by her house and left a message. She called him and talked briefly about the project. Mayor Buckley said Mr. Nelson and Mr. Petroni stopped by his office and discussed the proposed plan.

Referring to the length of the cul-de-sac, Mrs. Poole asked if we have granted variances in the past where the length was longer. Mrs. Braz recalled that a variance has been granted for a cul-de-sac that is 1,500'.

Responding to Mrs. Walker, Mrs. Braz stated that they are proposing a cul-de-sac that will be a private street. They will have an easement in case the street ever goes public. Mrs. Walker noted that this is currently a through street. Mrs. Braz said houses are planned for the end of the street and it will be closed off.

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Mr. Beltz asked if the street is deeded to the city in the future, then wouldn't it be relatively expensive to construct the stubs versus just resurfacing. Mrs. Braz said the city would have the option of opening it up. However, Melbourne does not resurface private streets in a gated community.

Mrs. Braz confirmed for Mrs. Poole that the area between the end of the cul-de-sac and Golfview that would require paving is about 50'.

Mr. Beltz referenced the letters of support in the package. He asked if there are any residents opposed to closing Golfview Drive. Mrs. Braz said not to her knowledge; she has not personally received any feedback from the neighbors.

Mr. Palmer said that in lieu of a nursery on the site, 24 upscale homes would be constructed in a gated community. Mrs. Poole added that it would eliminate a non-conforming use. Mrs. Braz said it would also provide in-fill housing.

David Larkin, attorney representing the applicant, displayed a larger view of the site plan proposed for approval. He pointed out that Golfview Avenue is currently dirt. His client came up with the proposed easement to make it convenient and more accessible for the city to consider the plan. His client has also offered to convey an easement at the entranceway along Edgewood Drive to construct a sidewalk that was proposed by the city.

Continuing, Mr. Larkin added that the road would be constructed and maintained by the proposed developer, Mr. Petroni. The homes will be in the \$150,000 - \$200,000 range.

Mr. Larkin outlined the issues involved and stated the following: 1) The public interest is clearly for not connecting the roads. The residents in the area enjoy the safety of the dead-end roads. 2) Strict compliance with the Code would accomplish nothing; however, it would impose a severe hardship in that his client would lose two lots. 3) A clear precedent has been established by City Council with regard to this specific variance. Since the requirement for connection was created in 1995, Council has approved 14 plats in the city, six of which requested and received variances. 4) Requiring new communities to connect to old communities and old roads is not a reasonable expectation for new developers. When people move into a new community, they expect to be part of a unique community. Connections result in lost ability to sell lots and the expected price. That raises concerns with regards to the highest and best use of the property.

Mr. Larkin concluded by saying the city should strongly consider granting the variances requested.

Mr. Beltz commented that Council's record on this issue indicates a willingness for Council to consider a hardship for that particular part of the Code, but he does not believe it is automatic that we consider that portion of the Code to be out of date or unnecessary.

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Staff has made comments at various points about the value of having interconnections when it makes sense.

Mrs. Walker said she reviewed the Planning and Zoning Board minutes and the agenda package. The information she is hearing now is new to her. She does not object to the area being developed. She lives in the neighborhood and nice houses appeal to her. She noted that she is surprised there are so many things that need to be justified and she has yet to see the justification. She noted that although Golfview is not paved, it does go all the way through; she has driven it many times.

Gary Nelson, 617 W. Edgewood Drive, stated that it is a dirt road that can only be driven from morning to evening because he closes the gate every night.

Mrs. Walker asked if all of the findings have been met, if the plan meets the Comprehensive Plan, and if the Code is being met.

Mr. Larkin referenced the packet of information he distributed to Council, which addresses all of those issues. He noted that Council needs to consider what would be accomplished by a strict compliance with the Code. In this instance, the road would still be blocked and there would be no additional access provided. It is his opinion there is strong evidence that a strict application of the Code is unreasonable in this instance.

Mrs. Walker asked Mr. Gougelman if he feels these questions have been addressed adequately. Mrs. Poole asked if Mrs. Walker had a conflict because her property abuts Tee Street. Mayor Buckley asked the City Attorney to respond to Mrs. Walker's question.

Attorney Gougelman said his memorandum in the package lays out the legal considerations. The key is whether or not sufficient evidence has been presented to meet the criteria for a variance to be granted for each of the different variances they are seeking. Council must make that determination in the fact-finding capacity.

Mayor Buckley said the Planning and Zoning Board minutes do not reveal that this is a gated community. Since that time he has been advised that this is a gated community with only one access. He asked if that changes the Planning and Zoning Board's findings.

Following a discussion, it was determined that the proposal to make the community gated was presented to P&Z at their second meeting. Therefore, it appears there is no change in the circumstances.

Continuing, Attorney Gougelman noted that the Code requires the stub out to Tee Street on the east and west. The applicant is saying that serves no purpose and benefit; therefore, a variance should be granted. The other point is the length of the cul-de-sac. The Code says the length can be no longer than 1,000' and they are requesting 1,032'.

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Kent Broome, 700 Dartmouth Drive, behind the proposed development, stated that he does not want to see Golfview connected for safety reasons. He discussed the children who play in the area and the amount of traffic that cuts down Watkins. He pointed out that the development would increase the value of his property.

Jerry Toomey, 2601 Watkins Drive, said the opening of Tee Street is his concern; it makes no sense. He purchased his lot for safety reasons and never thought a street would come through. It is safe and secure and he would prefer that it remain that way.

Mr. Larkin referenced the letters in the package from residents who support the approval of this plan as submitted.

Mrs. Walker asked if the vacating of Tee Street means that the city is giving these lots to the development. Mr. Hill said no, and explained that a right-of-way is merely a right of use. If the city determines it is not going to be used, then we should entertain abandoning and vacating the property. When that happens, it goes back to the abutting property owners. In this case, the abutting property owners are the Nelsons. It is not our land to use.

Mr. Gougelman explained that if the variances are granted for Tee Street east and west along with this plat, then in essence, Council has abandoned and vacated them.

Moved by E. Palmer/Poole to approve the Preliminary Plat for Canary Isles Subdivision with the following variances: removal of the requirement that Tee Street on the east and west be constructed to the existing rights-of-way and allowing Golfview Avenue to be a private roadway and cul-de-sac extending 1,032'.

Mr. Palmer stated that an upscale housing project at this location would benefit the entire neighborhood and the City of Melbourne. He believes it is a grand idea.

Mayor Buckley said based on the fact that this will be a gated community, he can agree with this.

Mrs. Poole asked if Mrs. Walker had a conflict of interest. Mrs. Walker said no; the issue has been researched for her. Mrs. Poole stated that she wants to hear Mr. Gougelman state that Mrs. Walker does not have a conflict. Attorney Gougelman said he does not make determinations whether a person has a conflict or not – he simply provides assistance and legal advice. He has discussed this issue with Mrs. Walker.

The question was called. Motion carried unanimously.

Recessed: 11:23 p.m.

Reconvened: 11:29 p.m.

18. ORDINANCE NO. 2000-18 (Conditional Use CU-1999-09/Shiloh Christian Center): (Public Hearing/First Reading) A request for a conditional use for a church and church

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related facilities on a parcel zoned R-1A (Single-Family Residential) and C-1 (Neighborhood Commercial) located at the intersection of Main Street and University Boulevard, north of University Boulevard and on both sides of Main Street. (Owner – Shiloh Christian Center) (Applicant – Jacqueline D. Gordon, Pastor) (Representative – M. F. Sofarelli, Jr.) (P&Z 2/10/00)

Attorney Gougelman read the ordinance by title. Ms. Braz briefed Council. The site is 3.32 acres. The church has been at the Main Street location for more than three years and has prospered. A new sanctuary and related parking is proposed, as well as other possible future uses (day care, school, counseling, etc.).

The church is now part of the community it serves in this area. The increased traffic will be focused on Main Street, and it will not be disruptive to the adjoining residential areas. The presence of viable churches in a neighborhood supports the economic and moral health of the community. The church is not injurious to the neighborhood or otherwise detrimental to the community. Churches are a permitted conditional use within the R-2 (One- Two- and Multi-Family Residential) Zoning District. The existing church is permitted in the C-1, Neighborhood Commercial District, without a conditional use.

The Planning and Zoning Board and staff recommended approval of the request with the findings listed in the Council package and the following stipulations:

- a. The development shall be substantially in compliance with the one-page site plan by M. F. Sofarelli dated February 2, 2000. Changes of more than 5% in building square footage will require additional review by the Planning and Zoning Board, Local Planning Agency and City Council.
- b. All grass parking areas are to be curbed.
- c. Vacant, open structures on the site shall be removed within six months of site plan approval.
- d. Approval of this site plan is not approval of required engineering, which includes drainage, fire flow, sanitary sewer, potable water, grading, paving, or any other required infrastructure.

John Marshall, 2880 Pomello Road, representing the church, discussed the request and stated they want to expand and build a new facility. He noted that they are going to have the land cleared and the existing structures will be removed. They have also purchased additional land for parking. He concluded by saying the plan is comprehensive and will help the look of the neighborhood. Also, he agreed with the stipulations.

Moved by Walker/E. Palmer for approval of Ordinance No. 2000-18. Motion carried unanimously.

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19. ORDINANCE NO. 2000-19 (Zoning Request/Z-2000-892): (Public Hearing/First Reading). A request for C-1A (Professional Offices and Service District) zoning for a parcel zoned R-1AA (Single-Family Residential) located on the southwest corner of Babcock Street and Edgewood Drive. (Owner/Applicant – Shawn Parker) (P&Z 2/10/00)

Attorney Gougelman read Ordinance No. 2000-19 by title.

From the agenda report: Mr. Parker asked that this item be postponed until March 14, 2000 so that his attorney can be present for the meeting. A conflict will prevent him from attending on February 22.

Mrs. Poole stated that she is getting disgusted with items having to be postponed because of attorneys.

Moved by Walker/Beltz to postpone action until the March 14, 2000 Council meeting. Motion carried. (Mrs. Poole voted nay.)

20. PRELIMINARY PLAT APPROVAL (SD-2000-02/Whisper Lake Subdivision): A request for preliminary plat approval on an approximate 10-acre parcel located west of Croton Road and north of Royal Poinciana Boulevard. (Owner/Applicant – Eastwood Park Investments, Inc.) (Representative – Glen or Beville Outlaw) (P&Z 2/10/00)

Mrs. Braz briefed Council. The City Council originally approved the preliminary plat for Poinciana Cove Subdivision (later renamed Whisper Lake) on May 12, 1998. The applicants proceeded with design of this 30-lot plat and received final plat approval with six conditions of approval on June 24, 1999.

The property has an adopted future land use designation of Low Density Residential and is zoned R-1B (Single-Family Residential). The applicants have had difficulty satisfying the conditions of approval of the final plat and have redesigned the plat in order to minimize conflicts with the Florida Power & Light (FPL) power line easement on the property and have redesigned the retention system serving the proposed plat.

The proposed redesigned preliminary plat consists of a 44-lot development with a loop street providing two connections to Royal Poinciana Boulevard. Sidewalks will be constructed on both sides of the street and connect to an existing sidewalk along Royal Poinciana Boulevard. All lots comply with the minimum lot requirements in the R-1B zoning district. There are nine tracts totaling 2.3 acres of the proposed plat. Tract A is for an existing stormwater retention basin serving Royal Poinciana Boulevard. The city will maintain Tract "A". Tract "B" and Tract "C" will be used as stormwater retention basins serving the subdivision. The pond in Tract "B" will be a dry retention basin treating stormwater from the westerly portion of the plat. According to the City Engineer this design should not adversely affect the FPL easement, including access to the easement. Tract "C" will be a wet retention pond treating stormwater for the remainder of the proposed plat. This is different than the previously approved plat in that the wetland area in the central portion of the plat is to be completely modified. Off-site wetland mitigation

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will be provided on property to be acquired for this purpose in southern Brevard County off Grant Road. As part of the mitigation, the creation/enhancement of wetlands in this area results in almost a 5:1 creation of wetlands as well as enhancing wetlands in the area where the mitigation would occur. This is acceptable to the St. Johns River Water Management District.

Tracts "D", "E", "F", "G", "H" and "I" will be used as narrow landscape strips along the side lot lines adjacent to streets. The homeowners association will maintain these tracts and the improvements constructed/planted within. A stormwater easement in favor of the apartment complex to the west will slightly impact the westerly portions of Lots 1-5 based on the design of the existing pond encroachment on these future lots.

A few hardwood trees are located on the property. The maples are located in the area of lots 32-34 and will be impacted by fill. The hickories are concentrated in the area of lots 19 and 20. Most of these hardwoods are small enough to be relocated and some could possibly be retained on the lots. The applicant has indicated that they are willing to relocate trees.

The Planning and Zoning Board and staff recommended approval of the Preliminary Plat for Whisper Lake Subdivision, consisting of a two-sheet plan, prepared by Outlaw, Rice and Sweeney of Melbourne, Florida, with Job Number S-7233-40A dated January 31, 2000, with the findings as listed in the Council package and the following conditions:

- a. A change to the preliminary plat will require reevaluation of the plat by the City Engineering Department and the Planning and Zoning Department. Any substantial change to the preliminary plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: 1) a decrease by 5% in the amount of open space or vegetative areas on site; 2) an increase in the total number of units shown on the preliminary plat; and 3) any decrease in the number of vehicular or pedestrian access points to/from the subdivision.
- b. All hardwood trees shall be relocated on tracts or in the yard areas of lots outside the building setback lines.
- c. Approval of this plat is not approval of required engineering which includes drainage, fire flow, sewer, potable water, grading, paving or any other required infrastructure.

Mrs. Poole asked if the city could stipulate that relocated trees that die have to be replaced with four other trees. Mrs. Braz said that is Council's decision.

Mrs. Poole referenced the mitigation and said she can't believe we would consider mitigating to Grant Road, which is not even in our watershed area. Mrs. Braz stated that SJRWMD decides where the mitigation is appropriate, not the City of Melbourne.

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Beville Outlaw, Melbourne Beach, applicant, agreed with the presentation.

Mrs. Poole said she went out and looked at this property and asked why he would fill in the area and turn a wet area into a dry retention area.

Mr. Outlaw discussed the issues with the first plat, which led to this plat. Regarding the history of the property, it is not a natural wetland, it is a manmade wetland that was developed when the apartments to the west were developed.

Bill Kerr, Melbourne Beach, discussed the environmental issues on the property. He stated that he reviewed aerial surveys with the county dating back to 1942. While there are wetland soils in this area, the historic type of wetland that was there as best as he can determine from aerial surveys is an herbaceous marsh. It was really a wet weather pond that retained some small amount of water at one time. Somebody went in there and excavated the soil adjacent to the original wetland and put all the stock piled spoil in the original wetland. They came back a few years later and then excavated the north end where the wetland is larger in surface area. While there is some wildlife, there is not a complete system there to support the habitat.

He noted that he would feel stronger about this if it was originally a wet weather pond or lake. He discussed the area identified by the county south of the Valkaria Airport. It offers an opportunity to save entire eco-systems. Also, the area in Valkaria is in the same master drainage basin boundary that SJRWMD has identified.

Mrs. Hand asked if there would be a screen between this development and the apartments. Mr. Outlaw said a retention area is located there that is at least 100' – 150' in width. It provides a good buffer.

Mr. Outlaw concluded by agreeing with the stipulations. Regarding the hardwood trees, he submitted a map showing the location of the trees and noted they are located on lots; therefore, they might be preserved where they are. The impact would be possibly from fill. They will look at this issue and hope to leave them in place and allow the homebuilder to build around them. Mrs. Poole agreed and stated that is better than moving them.

Moved by E. Palmer/Beltz for approval of the Preliminary Plat for Whisper Lake Subdivision subject to the stipulations. Motion carried. (Mrs. Poole voted nay.)

21. ORDINANCE NO. 2000-20: A proposed ordinance implementing a Water Franchise Agreement with the City of Satellite Beach.

Attorney Gougelman read Ordinance No. 2000-20 by title.

Moved by Hand/Poole for approval of Ordinance No. 2000-20. Motion carried unanimously.

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22. COUNCIL ACTION RE: A request for Council Member Poole to attend the Florida League of Cities' 2000 Legislative Action Day scheduled for April 4-5 in Tallahassee.

Moved by E. Palmer/Hand for approval. Motion carried unanimously.

23. COUNCIL ACTION RE: Board Appointments (Postponed by Council 2/8/00)

- a. Downtown Redevelopment Committee – one regular and one alternate member

Mayor Buckley called for nominations for the regular member seat. Mrs. Poole nominated Rita LoPresti.

Moved by Hand/E. Palmer to close the nominations. Motion carried unanimously.

Moved by Hand/Poole to appoint Rita LoPresti. Motion carried unanimously. (3-year term through 2/22/03)

Mayor Buckley called for nominations for the alternate member seat. Mrs. Poole asked that this be postponed until the next meeting to allow for more applicants. Mayor Buckley noted that we have received applications. The Mayor nominated Christine Marcelle. Mrs. Poole said she had information about Ms. Marcelle. Mrs. Poole nominated Randal Beale.

Moved by Beltz/E. Palmer to close the nominations. Motion carried unanimously.

The roll call vote was:

Marcelle: Beltz, Walker, Hand, E. Palmer and Buckley

Beale: Poole

Appointed: Christine Marcelle (Unexpired term through 2/22/03)

Mrs. Poole stated that Ms. Marcelle is unhappy with the Downtown Architectural Review Board. Ms. Marcelle had asked the Downtown Redevelopment Committee to take a position. The same day she met with the Downtown Redevelopment Committee, she submitted her application to serve on the board. Mrs. Poole concluded by saying this is not a good relationship and that is why she has a problem with the appointment.

24. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

None.

25. ADJOURNMENT

Moved by Walker/E. Palmer for adjournment. Motion carried unanimously.

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The meeting adjourned at 12:05 a.m.

City Clerk – 3/3/00

Approved by Council: _____