

**Minutes
Regular Meeting before City Council
January 9, 2001**

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 Buckley.

1. The invocation was given by Richard C. Beyer, Zion Christian Church.
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

Cheryl Palmer Vice Mayor, District 5

Richard Contreras Council Member, District 1

Ed Palmer Council Member, District 2

Pat Poole Council Member, District 3

Grace Walker Council Member, District 4

Loretta Isenberg-Hand Council Member, District 6

Henry J. Hill, City Manager

Cathleen A. Wysor, City Clerk

Suzanne Novak, Assistant City Attorney

Bud Emerson, Assistant City Manager

Peggy Braz Planning and Zoning Administrator

4. **PROCLAMATIONS AND PRESENTATIONS**

None.

5. **APPROVAL OF MINUTES** – December 12, 2000 Regular Meeting

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

6. **CITY MANAGER'S REPORT**

Mr. Hill reminded Council that City Hall will be closed Monday, January 15, in observance of the Martin Luther King, Jr. Holiday. Additionally, Mr. Hill reminded Council that a special Council meeting will be conducted on January 16 with the Babcock Redevelopment Committee.

7. PUBLIC COMMENTS

Jeanne Sauerland, 816 E. Lincoln Avenue, asked that the area from her home to Livingston Street be rezoned from C-2 to C-1. She said that she did not realize in the C-2 zone that a home cannot be rebuilt if it has been destroyed by more than 50%.

Mayor Buckley asked Mr. Hill to investigate and report to Council at the next meeting.

UNFINISHED BUSINESS

8. SITE PLAN APPROVAL (SP-2000-07): (Public Hearing) A request for site plan approval for a scale house, a 67-foot high transfer building, an administration building, and a hauler convenience on a 29.48 acre parcel located west of Wickham Road on the south side of Sarno Road (Melbourne Transfer Station). (Owner – Brevard County Board of Commissioners/Applicant – Brevard County Solid Waste Management District) (Postponed by Council 11/28/2000)

Mr. Hill referenced the information distributed from Vice Mayor Cheryl Palmer regarding her concerns about the site plan approval. Additionally, the county's response to the concerns presented by the Fountainhead Homeowners' Association was distributed.

Mrs. Braz reviewed the item. This was postponed at the November 28 meeting to allow time for an inspection trip. On December 13, the Mayor, three Council members, and city and county staff visited the current transfer station facility, the county landfill west of Cocoa, and a transfer station in Seminole County.

The Seminole County facility is similar to the proposed facility and looks much like an office building. The structure is set in a commercial area and is within 300 feet of a mobile home park. The Seminole County facility is located on an 18.7-acre site, 36% smaller than the proposed Melbourne site. The building will be 280' x 195'. The Seminole Transfer building is 283' x 143'.

The President of the Fountainhead Homeowners' Association (Steve O'Neill) also participated in the tour. He subsequently met with Fountainhead residents and they submitted several stipulations, which they would like included with Council's approval. The requested stipulations are as follows:

- To only approve the transfer station at this time.
- No servicing or parking of trash trucks outside the transfer station.
- No overnight or weekend storage of unprocessed trash on-site.
- Deodorizing system must be operational at all times the transfer station is accepting refuse.
- Landscape the east perimeter of the property with trees that would grow high and full for a natural windbreak for potential odors.
- Alter the transfer station hours so that no Harris Sanitation truck parking is necessary in the early morning hours.

The agenda package contains a detailed explanation of the residents' concerns. Staff concurs that the county should accommodate the neighbors' concerns. They have been provided with the stipulations and plan to address them at the meeting.

The Planning and Zoning Board and staff recommended approval of the request with the findings contained in the agenda package and the following conditions:

a. Any change to the site plan will require reevaluation of the site plan by the City Engineering and Planning and Zoning Departments. Any substantial change to the site plan 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: a) a decrease of 10% of the open space or vegetative areas on site; or b) any addition of a driveway connection to Sarno Road not shown on the plan.

b. All trees shall be preserved unless located in a roadway, parking area, the drainage facility, or a building pad. Further, all structures, retention basins, parking spaces and drive aisles shall be shifted, whenever possible, to preserve trees. Initially, trees shall only be removed for driveways, drainage facilities, buildings, and parking spaces. Trees in the footprint of proposed improvements shall be removed only in conjunction with a building permit. All trees to be preserved must be protected by barricades during construction. All palm trees shall be relocated on site.

c. The applicants shall obtain approval and permits from the FDOT to construct turn lane improvements on Sarno Road approaching the proposed driveway intersection and from FDEP for wetland mitigation.

The Planning and Zoning Board added the following condition. Although staff does not believe that there is a problem, this is an existing condition and the approval is for the construction of a new transfer station, not for a change in use. The landfill and household hazardous waste collection area already exist.

d. Approval is subject to verification by the City Attorney that the temporary storage and transfer of "household hazardous waste" is not prohibited in an M-1 zoning district since such waste is not included within the definition of "hazardous waste" as that term is defined by the EPA in 40 CFR Ch. 1.

At the November 28 Council meeting, the applicant indicated that the facility would meet the performance standards that would be required if this facility were developed in an industrial district in the unincorporated area. Performance standards include smoke, dust, odor (measured along lot lines), lighting, vibration, electrical radiation, fire and explosion hazards, radiation waste disposal, airborne emissions, water quality, water consumption, hazardous materials and access. This should be stipulated as follows:

e. Development of the facility shall meet all the performance standards designated by the county in Brevard County Ordinance No. 2000-07.

Staff's recommendation is for approval of SP-2000-07 subject to conditions a, b, c and e.

Mrs. Palmer asked who would enforce the county's performance standards. Mrs. Braz said if there was a violation, our Code Enforcement Division would notify the county of the problem. If the problem was not corrected, the county would be brought before our Code Enforcement Board. Mrs. Palmer asked if the current operation falls under those same standards. Mrs. Braz replied no and added that the current site was built before the city/county had performance standards. The county recently passed their ordinance.

Continuing, Mrs. Braz said the city cannot take action if it is not aware of complaints. She noted that our Code Enforcement Division received one complaint in the past two years; staff was not able to identify the source (of the odor).

Mr. Contreras asked if the performance standards would enhance the facility and the surrounding area. Mrs. Braz said the standards would protect rather than enhance.

The following members disclosed that they went on the December 13 inspection trip: Mayor Buckley, Vice Mayor Palmer, and Council Members E. Palmer and Poole. Mrs. Palmer added that she spoke with Steve O'Neill regarding the Fountainhead residents' concerns and she spoke with Marilyn Gardenour, 2640 Hopi Drive, who encouraged the city to take the time to investigate the issue, and suggested the facility be moved farther from the population.

Mayor Buckley opened the public hearing.

Euripides Rodriguez, Director, Brevard County Solid Waste Management, introduced Lisa Toland, Brevard County, and Kevin Delange, HDR Engineering.

Mayor Buckley listed each of the Fountainhead Homeowners' Association concerns and asked Mr. Rodriguez to comment:

- To only approve the transfer station at this time.

Mr. Rodriguez said the county would defer its request for approval of the truck wash facility and truck fueling facility. They would seek approval of the transfer station, scalehouse, and drivers' convenience center on Site A and the household hazardous waste facility on Site B.

- No servicing or parking of trash trucks outside the transfer station.

Mr. Rodriguez said the county would like an exception for emergency, temporary circumstances, such as a tire changing (or a hurricane).

- No overnight or weekend storage of unprocessed trash on-site.

According to Mr. Rodriguez, Environmental Protection Agency rules prohibit the storage of waste for more than 24 hours.

- Deodorizing system must be operational at all times the transfer station is accepting refuse.

The county requested that a change be made to indicate "operational while the transfer station is in operation" as opposed to "while the transfer station is accepting refuse."

- Landscape the east perimeter of the property with trees that would grow high and full for a natural windbreak for potential odors.

Mr. Rodriguez agreed.

- Transfer station hours would be changed so no Harris Sanitation truck parking is necessary in the early morning hours.

Mr. Rodriguez indicated that Harris Sanitation has said that the trucks are not supposed to be lined up at 5:30 a.m. He has made operational changes within the current facility in order to address this concern.

Mr. Contreras asked several questions regarding the stipulations. Mr. Rodriguez replied that the deodorizing system will be operational; there will be an override system so that it could be activated if a particularly smelly load is dumped. Regarding the landscaping, Mr. Delange indicated that there will be a mix of mature and smaller trees; they intend to meet the city's landscaping requirements.

Mr. Contreras asked the plan of action if the performance standards are violated. Ms. Toland said they would have the ability to go through multiple engineering steps if odor becomes a problem. The new facility will be flexible enough to come into compliance with current codes as well as future codes. She added that she does not think they would continue to use the facility in a non-compliance state.

Mr. Rodriguez elaborated on the schedule change for Mr. Palmer. He added that the new facility will have about a six minute turnaround time.

Mrs. Poole commented on the field trip to Seminole County and said that she saw three and four trucks dumping at one time. She added that she could not smell anything. She reported that the current county facility is not very pleasant and concluded by saying she is looking forward to the new facility.

Mr. Rodriguez and Ms. Toland explained the route scheduling in response to Mrs. Walker.

Mrs. Palmer asked the area served by the facility. Mr. Rodriguez replied from the south end of the county to Viera Boulevard, including the beachside. Currently 700 – 800 tons are handled per day and the new facility will handle about 1,500 tons per day. He added that they are also looking at land in Palm Bay for another transfer station.

Mrs. Palmer said the county information indicates that the building design anticipates holding trailers overnight. She asked if the building will be sealed at night. Mr. Delange said the facility will have a venting system similar to the Seminole County facility (sides of building vented for flow

through). It is designed so that the ventilation goes through the open doors and the underside of the building through the tunnels. When the doors are closed, 90% of the flow in the facility is reduced. Additionally, a loaded truck would be tarped and, therefore, not expected to produce odor.

Mrs. Palmer asked for additional information about the wash down process. Mr. Delange explained that they will discuss with city staff whether wastewater pre-treatment will be required. They don't intend to wash down every night. The facility is designed to be a dry sweep facility and will be washed down once per week. It will be dry swept every night.

Mrs. Palmer asked where the liquid from the trash would go and Mr. Rodriguez said the drainage/sewer system. Mrs. Palmer asked if the water would be (pre) treated in some type of open facility. She is concerned that there will be a standing vat of noxious liquid. Mr. Delange said in most facilities the water does not require pre-treatment; however, he stressed that they intend to discuss this with city staff. He noted that if staff requires pre-treatment, it would be very unusual to have an open treatment method.

Mrs. Palmer stated that the homeowners asked for a landscape buffer. She asked what trees would be able to buffer a 67' high facility. Mr. Delange said it depends on the definition of buffer. He added that he does not think odor will be an issue with the enclosed facility; therefore, it is difficult to provide a control for something that they don't think will be a problem.

Mrs. Palmer asked if there is another site available for the transfer station. Mr. Delange said this plan was previously approved by Council and meets the intent of the Code. He added that he feels this is a good plan.

Mrs. Hand said she is concerned about the location of the facility. She asked why the Palm Bay site was not given more consideration. Ms. Toland explained that they are trying to acquire property and get the Palm Bay facility in the planning process before it is needed. She noted that with the Melbourne site, it is an efficiency issue. It is located with the landfill, will be co-located with the scale facility, near I-95, close to the center of waste, and the environmental impact is low. She concluded by saying the Palm Bay site will have to come on line in the future regardless of what is done at this facility.

Mrs. Palmer asked about the county's land located west of I-95. Ms. Toland said the county has a 650-acre wetland mitigation area west of the animal control facility. It contains a conservation easement and can only be used for passive recreation. She is not aware if other county departments own land west of I-95.

Mrs. Palmer recommended that the members of the County Commission go on the field trip to Seminole County. Ms. Toland said she could extend that offer.

Mrs. Poole said at this point, it would be almost impossible to build a facility on a different site. The cost would be exorbitant and taxes would go up in order to pay for it. Ms. Toland said that the difficulty is trying to find suitable property in developed areas. She added that it would be difficult to site a facility with this type of access and minimal amount of residential impact.

Tom Porcella, 1696 PGA Boulevard, expressed concern about the chemicals that will be used in the deodorizing process. He noted that Council should address this issue further.

Steve O'Neill, 538 Dijon Drive, President of the Fountainhead Homeowners' Association, referenced the stipulations proposed by the homeowners. He added that, based on the county's comment about selection of a site in Palm Bay, one site west of I-95 should be selected and built.

Mr. O'Neill pointed out that the new facility will be located approximately 500 – 700 feet closer to Wickham Road. Regarding the field trip to Seminole County, he reported that he visited surrounding neighbors and learned that there are constant complaints related to odor; the deodorizing system is constantly breaking down, yet garbage continues to be processed; and at times 10 – 15 trucks are parked and waiting. One business has to occasionally close its doors because of the odor and its property is located 450 – 1,000 feet (property line to property line) from the transfer station.

Mr. O'Neill said he is concerned that this situation will occur in Melbourne. Regarding the current site, he noted that there is an odor problem. He added that he has been directing his complaints to the County Commission. He also noted that the odor changes depending on the direction of the wind.

Mayor Buckley pointed out that the county has agreed to the stipulations. Mrs. Palmer disagreed and the Mayor noted that they answered each and every one.

Mrs. Walker said she was interested in learning more about the chemicals used in the odor control. Ms. Toland said it is a combination deodorizer/fragrance. It has to meet OSHA standards, is not a hazardous chemical, and will not wind up in the groundwater.

Responding to Mrs. Palmer, Ms. Toland recapped the county's position on each stipulation proposed by the Fountainhead Homeowners' Association.

Moved by E. Palmer/Poole for approval of SP-2000-07 for the Melbourne Transfer Station, subject to stipulations a, b, c, e, and the stipulations as restated (by the county) proposed by the Fountainhead Homeowners' Association.

Mrs. Palmer read into the record a letter dated January 9 from Marilyn Gardenour, 2640 Hopi Drive. Ms. Gardenour describes the current odor problem and notes that creation of a new facility will be a disservice to the citizens of Melbourne. She asked for the City Council to take its time investigating the issue.

Mayor Buckley reported that during the field trip to the Seminole County facility, he did not smell anything. He stated that if this is denied, the existing facility, which people complain about now, will continue its operation. He is in favor of proceeding with a new facility and approving the site plan.

Mr. Palmer said the current facility uses hydraulics, which compresses the garbage and creates juice. The new facility will eliminate the compression; it will be a dry facility. He looked at the Seminole facility and did not see a problem of liquid on the floor. He added that he believes the new technology is much better – it will be an improvement over the existing facility.

Mrs. Walker agreed that the proposed facility will be an improvement over what exists now. She added that the site plan needs to be approved.

Mrs. Palmer said the present transfer station causes odor and dust problems for the adjacent residents; the garbage does smell. The current site processes up to 640 tons per day and the new station is expected to process over double that amount. She noted that with a new facility, trucks will still be lined up in the mornings waiting to dump. The odors will not be contained and with the increased capacity, there will be increased loads that do not leave the site at the end of the day. She related the current problems in the neighborhood with dust and odor and noted that the Seminole facility was covered with a thick layer of brown dust and dirt.

Continuing, Mrs. Palmer said that although the county is working to provide the best and most efficient service, they are not able to eliminate the inevitable odor problem associated with a garbage transfer facility. As demonstrated by her observation of the Seminole facility, an enclosed, raised facility does not eliminate or control dust and odor. Additionally, the issue of wastewater has not been adequately addressed, especially whether it will be treated on site. This has a high potential for causing more problems.

Mrs. Palmer recommended consideration be given to the health, quality of life, and property values of the citizens of Melbourne and a site farther from residential areas be selected. She also encouraged the Brevard County Commissioners to tour the Seminole facility and then with input from the various cities, select a more appropriate site.

The question was called. The roll call vote was:

Aye: Contreras, E. Palmer, Poole, Walker, and Buckley

Nay: Hand and C. Palmer

Motion carried.

For the benefit of the audience, Attorney Novak read the restated Fountainhead Homeowners' Association stipulations:

- Approve all facilities shown on Site A (including the transfer station, scale house, and drivers convenience center) and the household hazardous waste facility shown on Site B.
- No servicing or parking of trash trucks outside the transfer station, except for routine maintenance, such as tire changing, and except for emergency situations, such as a hurricane or strike.
- No waste may be stored on-site for more than 24 hours, in accordance with EPA rules.
- The deodorizing system must be operational at all times that the transfer station is in operation.
- The east perimeter of the property shall be landscaped with trees, in compliance with the city's requirements for landscape buffers, which would grow high and full for a natural windbreak for potential odors.

- The transfer station hours would be changed so that no truck parking is necessary outside of the facility 30 minutes before opening.

From the audience, Ms. Toland nodded in agreement with these stipulations (plus a, b, c, and e).

Recessed: 8:57 p.m.

Reconvened: 9:08 p.m.

NEW BUSINESS

9. **COUNCIL ACTION RE:** Bid Award Recommendation, Old Eau Gallie Watermain Replacement, Phase I, Segment IV, Project 96311, Maxwell Contracting, Inc., Cocoa, FL - \$357,000 and transfer of \$115,861 from the Water and Sewer miscellaneous account to cover the projected shortfall.

Mr. Hill briefed Council. This is a proposed contract for construction of water lines in the Old Eau Gallie area. The project consists of replacing smaller, deteriorated waterlines with 10-inch PVC pipe. Also included are new fire hydrants and new copper service lines to meters served by the new lines. This project is part of a multi-phased program to upgrade waterlines in the Eau Gallie area. An evaluation of the piping system in the area was conducted by Outlaw & Rice Engineers in 1995. The result of these projects will be improved water pressure and water quality as well as the ability to provide much higher fire flow rates.

The original cost estimates in the consultant's study do not take into account the cost to cross state roads at four locations. Three are jack and bore pipe installations. The other, on Eau Gallie Boulevard, is open trench installation and must be constructed at night per the FDOT permit conditions.

Completion of the project will put us about half way through the program to upgrade the water system in Eau Gallie in phases.

The city's standard contract conditions will apply to this project. The contractor will have 120 calendar days to complete the work. Three bids were received and Maxwell Contracting, Inc. submitted the low bid.

The recommendation is for approval of the contract with Maxwell Contracting, Inc. in the amount of \$357,000.00 and transfer of \$115,861.00 to this project from the Water and Sewer miscellaneous account to fund the contract balance and construction contingency.

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

Mr. Contreras expressed concern that our consultants missed the crossing of state roads at four locations. He asked how that was overlooked. Mr. Ralls explained that there were several factors, including the difference between a 1995 report and the requirements in 2000. The 1995 report contained a basic estimate. He added that their estimate now is very close. Mr. Hill said items are occasionally missed with complex projects.

Mr. Contreras asked that future reports on the award of construction contracts contain information about the vendor's hit/miss rate. He clarified that he does not mean items that require changes because of regulatory issues, etc., rather items that are simply missed.

The question was called. Motion carried unanimously.

10. **COUNCIL ACTION RE:** Award of contract for Lincoln Avenue and Grove Lane Paving Improvements, Project No. CD0021, William Turnbaugh Construction, West Melbourne, FL - \$205,835.00.

Mr. Hill reviewed the agenda report. This is a proposed contract for the construction of street pavement on Lincoln Avenue and Grove Lane. Five bids were received and William Turnbaugh Construction, Inc. submitted the low bid of \$266,205.00. The bid package originally included Myles Drive. Community Development Block Grant funding was not sufficient to fund this street. Myles Drive is a shorter, dead end street with less abutting homes than the other streets so it was eliminated from this award. Bids were defined for each street so the bid for the other two streets could easily be determined. Turnbaugh Construction remained the low bidder for the two streets at \$205,835.00.

This is a CDBG funded project. The project consists of constructing a 24-foot wide asphalt concrete pavement on both streets, a total of 2,300 linear feet of street pavement. Stormwater treatment will be provided through shallow, grassed swales parallel to the street. Concrete driveways to the property line will be constructed where there are existing driveways.

Standard contract conditions will apply, and the contractor will have 120 calendar days to complete the project.

The recommendation is for approval of the contract with William Turnbaugh Construction, Inc. to construct Lincoln Avenue and Grove Lane paving improvements in the amount of \$205,835.00.

Moved by Poole/Contreras for approval of the recommendation. Motion carried unanimously.

11. COUNCIL ACTION RE: Consent Agenda

Moved by C. Palmer/Walker for approval of the consent agenda, items "a – d."

Mr. Hill and Ms. Braz responded to questions from Mrs. Poole on item "d." The item was not removed from the consent agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Purchase of MP2 software for D. B. Lee Wastewater Treatment Plant and Water/Sewer Operations, Datastream Systems, Inc., Greenville, SC - \$59,292.00.
- b. Purchase of four vehicles and one piece of rescue equipment for the Fleet Maintenance Division, various vendors in the amount of \$225,938.00.
- c. Resolution No. 1668: A resolution to adopt names for private streets in Ocean Side Village.
- d. Authorization for contract negotiation for consultant services for the Community Redevelopment and Urban Infill Redevelopment Plan for Olde Eau Gallie Riverfront, Brad Smith Associates, Inc., not to exceed \$60,000.00.

12. COUNCIL ACTION RE: A request from the Andretti Sports Park for extended hours on May 19, 2001 to 5:00 a.m. for Project Graduation and authorization for the City Manager to administratively approve future requests.

From the agenda report: The request is for extension of the park hours on May 19, 2001 until 5:00 a.m. Project Graduation would like to host a lock-in for Eau Gallie High School graduates at the park from 10:00 p.m. to 5:00 a.m. The recommendation is for approval. Additionally, staff is asking Council to grant the City Manager authority to administratively approve similar requests in the future.

Moved by E. Palmer/Poole for approval of this request along with authority for the City Manager to administratively approve similar requests in the future. Motion carried unanimously.

13. COUNCIL ACTION RE: A presentation by Dr. Tianjia Tang of the Florida Department of Transportation regarding the Apollo Boulevard Extension and Widening Preliminary Design and Environmental (PD&E) Study.

Dr. Tianjia Tang, the Project Manager for the FDOT Apollo Boulevard Extension and Widening PD&E Study will present the findings of the study to Council. Dr. Tang has prepared a series of reports as part of the study analyzing the traffic volumes projected to occur on the proposed road segment if the project is constructed and on other roadway segments in the study area if the project is constructed or not constructed.

The presentation will include visual depictions of the proposed and recommended roadway alignment should the extension be constructed, estimated costs to construct the design alternatives, and a schematic oblique view of what the roadway and bridge would look like when viewed from the shoreline (yards) of area houses.

A public workshop will be held by the FDOT staff on January 11, 2001 at Brevard Community College. Council may wish to take public comments and questions about the findings of the study.

Dr. Tang, FDOT, commended the 20 citizens who served on the advisory committee. He noted that the committee's objective was to establish solutions for potential problems associated with the Apollo Boulevard network. Mr. Tang reviewed the traffic data and stressed that U. S. 1, from Sarno Road to Eau Gallie Boulevard, is way over capacity. The possible solutions were: do nothing; construct a 2.2-mile east/west roadway north of the Airport to connect Apollo with Croton; or extend Apollo. He said that it was the committee's opinion that option 2 would not solve the U. S. 1 problem.

Dr. Tang discussed the right-of-way that is available from Apollo Boulevard (north of Hidden Harbor) across the river. He added that the Hidden Harbor stormwater retention facility was designed and built to accommodate a future roadway project. If this roadway is built, there will be no need to add stormwater; it has already been designed and permitted through St. Johns River Water Management District.

Mr. Tang said his number one concern is for the homeowners on the south bank of the Eau Gallie River; he understands their discomfort and anxiety. He informed Council that measures have been taken such as design speed, bridge location and elevation, aesthetics and landscaping, headlight control and noise and air quality.

Dr. Tang discussed the Apollo extension options referred to as "south, middle, and north." He reviewed the particulars of each. Dr. Tang concluded his review and responded to general questions about the options.

Mrs. Poole recalled a proposal that was previously made for a roadway along the north side of the Airport. She stressed that the Council Chamber was packed and everyone in attendance wanted that plan. She added that plan would save a tremendous amount of money as opposed to crossing the river with a bridge.

Mary Lou Hart, 1197 Heather Glen Circle, member of the citizens' committee, said she and another member of the committee were opposed to the Apollo extension option. She said that an alternate plan mentioned in the 20-year plan from the MPO involves the Airport connecting Apollo Boulevard with the southern end of Croton Road; the cost differential between this plan and the bridge is immense. The bridge itself is going to require maintenance. Ms. Hart discussed her concern with the proposed speed limit for the bridge and said a true north/south route should allow for a greater speed of 40 – 45 mph. She added that the lower speed is needed due to the 90-degree turns. She discussed her concern about the environment and encouraged the city and FDOT to look for other ways that will cost less.

David Graham, 1205 Heather Glen Circle, said he is opposed to exchanging a relatively peaceful nature reserve for cars and concrete. He said that the wildlife will be destroyed when the bridge is built and it is one of the few, quality areas remaining in Eau Gallie that has not been overdeveloped. He asked Council to not move forward and suggested that there are other alternatives, which have not been explored.

Joe Mullins, 4112 Knight Avenue, member of the citizens' committee, clarified that there are no 90-degree turns with this plan. He recalled that Hidden Harbor was designed to handle this roadway; the city required deed restrictions. Mr. Mullins stressed that this will solve the huge traffic problem on U. S. 1. He noted that daily there is at least three hours of gridlock. The 2020 plan projects a six – eight hour gridlock. The only other option is west, and Wickham Road is already overloaded. Mr. Mullins stressed that Commodore Boulevard is operating at less than 50% of capacity and can easily stand an increase. He encouraged the city to allow the project to move forward and let FDOT conduct the public hearing.

Mrs. Poole again expressed her objection and said at the County Commission hearing, only three people were in favor of this plan. Everyone else wanted to cross the Airport property.

Discussion continued.

Mr. Hill said the next step from here is a decision to proceed with the actual engineering; the city would be in a position of contributing 12 ½% of the cost of that work. Assuming that proceeds, an additional 12 ½% for the cost of construction would need to be contributed.

In response to Mrs. Poole, the Mayor said Dr. Tang has been appointed by FDOT for this project only. Once another option has been studied, Council will receive a presentation on that.

Jim Brown, 2020 Tallridge Road, member of the citizens' committee, commended FDOT for this project and said it is one of the best efforts to show design and how it should work. He encouraged Council to continue and said the result will enhance life in the city and will not be a detriment.

That concluded the item; no action taken.

14. COUNCIL ACTION RE: A request for conceptual approval of the Booker T. Washington Neighborhood Revitalization Strategy as published in the Booker T. Washington Neighborhood's "Call for Action" Plan.

From the agenda report: On August 22, 2000, Rochelle Lawandales, Lawandales Planning Affiliates, made a presentation to Council regarding a revitalization plan for the Booker T. Washington (BTW) Neighborhood (formerly known as the North Target Area). At that time, the plan was in the final stage of development but had not been recorded in a written planning document. Ms. Lawandales will present the "Call for Action" Plan and its proposed priority strategies and objectives. The written document received the unanimous support of the Citizens' Advisory Board at its December 4, 2000 meeting.

Council action is requested for conceptual approval of the Booker T. Washington Neighborhood's Call for Action Plan. Following that and based on the Citizen Participation Plan, staff will prepare an amendment to the 2000-2005 Consolidated Plan to include the BTW Neighborhood Revitalization Strategy. A public hearing will be held at the February 27 Council meeting; preliminary approval of the amendment will be requested at that time. Following public notice of the proposed amendment and a 30-day public comment period, the amendment will return to

Council for its final consideration at the April 10 meeting. The final step in approving the BTW Neighborhood Revitalization Strategy will be its submission to HUD.

Rochelle Lawandales reviewed the plan and discussed the highlights. She discussed the process undertaken by the residents and said several actions need to occur to demonstrate that the city really does care; the plan being presented is not going to be a dust collector. She recommended that someone be assigned to coordinate the activities in the neighborhood; it needs to be a neighborhood coordinator employed by the city and fully empowered to bring agencies and departments together. She agreed, however, that the money needs to be spent on physical improvements.

Some of the quick strike victories that don't require a lot of dollars include work on street lights, waste management, landscaping, grant and loan programs, gateway improvements, neighborhood watch, additional police in the area, and additional recreation programs at Carver Park. Continuing, she noted that there have been tremendous successes in South Melbourne over the past 25 years because the majority of resources have gone into that area. She asked the city to target more of its CDBG dollars into the North Melbourne area. Additionally, she noted that the area needs new housing, housing rehabilitation, code enforcement efforts, enforcement of parking regulations, and zoning and land use issues need to be resolved.

Ms. Lawandales stressed that the wall (located between Sunwood Park and Booker T. Washington Subdivision) is a symbol of bigotry and separatism and needs to come down. A wall committee needs to be formed comprised of neighbors from both sides in order to forge partnerships and work on the issues that keep people apart.

Ms. Lawandales concluded her presentation and said that the adoption of this plan will put the city in a position to secure leverage and funding. She noted that interdepartmental coordination will be an important key to success.

Mrs. Thomas clarified for Mr. Palmer that if HUD accepts this plan, we do not expect additional funding; however, we do expect flexibility in the use of CDBG funds. We will be allowed to overspend in certain categories where limits have previously been established.

Mrs. Poole asked the status of the Front Porch Florida program. Ms. Thomas said it is still pending and the Mayor added that we expect an answer in January/February.

Mrs. Poole referenced the quick fixes that were discussed and asked where the funding would come from. Mr. Hill said we have attempted to begin the process of prioritization. If Council says this is a priority, it will become part of the CDBG, HOME, etc. budgeting process. He explained that the term quick fix was used to describe items that can be accomplished in relatively short order. He added that if this is approved, Council should be willing to marshal the resources.

Moved by Contreras/Hand for approval of the recommendation.

Colonel Joseph Murray addressed Council and said this plan is long overdue. He said that the residents in the area want a fair share so the neighborhood can be successful and productive. He asked for an opportunity to catch up.

Mrs. Palmer asked if any commercial property owners were brought on board and consulted. Ms. Lawandales said they attended many of the meetings and participated during trash bash days. Some of their letters of support were included in the Front Porch Florida application. Mrs. Palmer said the earlier statement regarding the need for zoning and land use changes prompted her question.

The question was called. Motion carried unanimously.

Recessed: 11:09 p.m.

Reconvened: 11:15 p.m.

15. ORDINANCE NO. 2001-01 (CU-2000-09): (Public Hearing/First Reading) A request for a conditional use for the Strawbridge Mini-Storage Facility on a 0.2840-acre site located on the south side of New Haven Avenue, east of Pennwood Avenue. (Owner/Applicant/Representative Sam Boozer, Vaheed Teimouri, Teimouri and Associates.) (P&Z 12/14/00)

Attorney Novak read the ordinance by title. Ms. Braz briefed Council. The applicant is requesting the approval of a conditional use for a small mini-storage facility at this location. The site currently has a two-story residence and a separate garage, with a driveway to Pennwood Avenue and to New Haven Avenue.

The Planning and Zoning Department recommended denial of this request as originally proposed. Subsequent to the Planning and Zoning Board meeting, the applicant made substantial revisions to the site and the plan, which address the concerns raised. The site was originally partially zoned for residential use but the applicant has eliminated all the residentially zoned land from the request. The only use for that lot will be to provide two parking spaces in an existing garage for

the residential unit on site. That is the current situation and there will be no change to the use on the residential lot. This lot will also provide a buffer to the residential community to the south, zoned R-1A.

All of the property now being considered for this conditional use is zoned C-1 (Neighborhood Commercial) with commercial land use, as are the lots to both the east and west along New Haven Avenue. The Downtown Redevelopment Area begins two blocks to the east.

Mini-storage units are limited in size to 400 square feet. Originally, the proposed units exceeded this size; however, the applicant has reduced the size of each unit to meet the requirements of Code. Access to the mini-storage facility is proposed from New Haven Avenue with an exit to Pennwood. The applicant has indicated that he can eliminate the Pennwood access, but staff believes that the traffic flow would be better if the Pennwood exit remains. Mini-storage facilities are very low traffic generators so there should be very little impact on the neighborhood.

Additionally, the applicant has agreed that the mini-storage facility will be used only for business storage, and that the hours will be limited to regular office hours. The applicant has also agreed to develop with an architectural style that is compatible with the residential area to the south and in keeping with the desire for an appealing front on New Haven Avenue.

The Planning and Zoning Board recommended denial of CU-2000-09, on three lots (2, 3, and 13) of Block 2, Palm Gardens of Goode Park. Staff originally recommended denial but revised the recommendation to approval on two lots (2 and 3), consisting of .284 acres, with the following conditions:

- a. The units will be limited to 400 s.f. or less.
- b. Storage will be used for business storage only. This shall exclude household items, toxic or hazardous materials and automotive parts and accessories.
- c. Hours will be limited to Monday through Saturday, 8:00 a.m. to 6 p.m.
- d. The conditional use shall be consistent with the one-page site plan for Strawbridge Mini-Storage prepared by Teimouri & Associates dated 12/13/2000 for Project No. 2000-123 with all development limited to Lots 2 and 3. Any change to the site plan will require reevaluation of the site plan by the City Engineering and Planning and Zoning Departments. Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency and City Council. A substantial change includes but is not limited to: 1) a decrease of 5% or more of open space or vegetative areas on the site; or 2) any increase in the number of access points shown on the site plan. The development shall also substantially comply with the rendering included in the agenda package.
- e. All required parking shall be provided in the area approved for the conditional use.
- f. No businesses shall be licensed from the mini-storage units.
- g. Units shall be used only for storage. No business operations or other activities shall take place in the units and any work in the units shall be limited to loading and unloading materials to be stored.
- h. Signage shall be limited to one wall sign not to exceed 10% of the wall or 150 s.f., whichever is greater.

Vaheed Teimouri, representing Sam Boozer, discussed the plan and said that more landscaping could be provided without the Pennwood access. They felt that this would be more in tune with the neighborhood. He displayed a rendering, which shows that the structure is not a typical mini storage. He concluded by agreeing with the stipulations.

Mayor Buckley opened the public hearing. There were no comments from the audience.

Moved by Poole/Walker for approval of Ordinance No. 2001-01 subject to the stipulations. Motion carried unanimously.

16. ORDINANCE NO. 2001-02 (Z-2000-905): (Public Hearing/First Reading) A request for rezoning of three lots totaling 0.41 acres from R-1A (Single-Family Residential) to R-P (Residential-Professional), located on the north side of Eau Gallie Boulevard, west of Mosswood Avenue (Eau Gallie Mosswood Professional Park). (Owner/ Applicant/Representative – Mike Williams, Eau Gallie Mosswood L.L. P.) (P&Z 12/14/00)

Ms. Novak read Ordinance No. 2001-02 by title and Ms. Braz reviewed the agenda report. The applicant is requesting the rezoning of three lots from R-1A (Single-Family Residential) to R-P (Residential-Professional). The property is undeveloped and tree-covered at this time - one of the remaining undeveloped parcels on Eau Gallie Boulevard.

The future land use on this site and the remainder of the block west of Mosswood, between Westover and Eau Gallie Boulevard, is mixed use medium density residential/commercial. These three lots abut R-P zoning to the west and south. The property on the north side of Westover

Street is zoned Institutional, and is the site of Crane Park. The applicant has offered a sketch site-plan that portrays the proposed development using the complete 2.2-acre, 16 lot site. The proposal has a retention area adjacent to Westover Street. The applicant has submitted plans, which are currently being reviewed by city departments. The plans cannot be approved until the zoning action is complete.

The change to R-P zoning will provide a more equitable distribution of such zoning. The proposed project will not be injurious to the neighborhood or adjacent uses. The Planning and Zoning Board and staff recommended approval with the findings listed in the package and the following stipulations:

- a. Development on the property shall be similar to the one-page site plan prepared by Morgan and Associates, dated 11/10/2000.
- b. The applicant will need an informal site plan review to build the facility, with related environmental concerns.

Steve Morgan, engineer of record and representing the applicant, stated that they will try to save as many trees as possible. He agreed with the stipulations.

Mayor Buckley opened the public hearing; there were no comments.

Moved by Walker/C. Palmer for approval of Ordinance No. 2001-02 subject to the stipulations.

Motion carried unanimously.

17. ORDINANCE NO. 2001-03 (CU-2000-10): (Public Hearing/First Reading) A request for a conditional use for the consumption of alcoholic beverages on a 0.56-acre parcel containing a 6,524 square foot building (American Legion Post #191) located on the west side of U.S. 1, north of Line Street. (Owner/Applicant/Representative - Cliff Pearson, Pearson Design Group, Representative) (P&Z 12/14/00)

Attorney Novak read the ordinance by title. Ms. Braz briefed Council. The property includes a parking lot located west of Johnny Ellison Drive. The applicant is requesting the granting of a conditional use for the consumption of alcoholic beverages. The property has historically been a bar, although it has been closed for a considerable period of time.

Commercial future land use is on both sides of U.S. 1. The site and the property on both sides of U.S. 1, north and south of this site, is zoned C-2 (General Commercial).

The Zoning Code allows a conditional use in the C-2 zone, if approved by City Council. The post is a private club and only members of the post, their relatives and guests are to be served. The Post is now located on Grant Street and hopes to move to this location. The hours of operation are 11:00 a.m. to 12:00 a.m. weekdays, and 4:00 p.m. to 1:00 a.m. on weekends. The applicant will be adding landscaping to the building site and bringing the parking lot up to code.

The nearby church buildings are more than 450 feet from the conditional use site, as required by the Zoning Code. The proposed conditional use will not be injurious to the neighborhood or adjacent uses. The Planning and Zoning Board and staff recommended approval with the findings listed in the package and the following conditions:

- a. The conditional use shall be consistent with the one-page site plan for American Legion Post #191 prepared by Pearson Design Group, signed, sealed and dated 12/9/2000. Any change to the site plan will require reevaluation of the site plan by the City Engineering and Planning and Zoning Departments. Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency and City Council. A substantial change includes but is not limited to: 1) a decrease of 5% or more of open space or vegetative areas on the site; or 2) any increase in the number of access points shown on the site plan.
- b. Relocate the trees shown on the U.S. 1 right-of-way on the property, on either the south side of the building or in the north planting area by U.S. 1.

Cliff Pearson, corrected a typographical error in the report and confirmed that they intend to stay open until 1:00 a.m. on weekends. He agreed with the stipulations.

Mr. Contreras disclosed that he met with Mr. McNeil, Post member, and drove by the site. Mayor Buckley and Council Member Hand said that Mr. McNeil also phoned.

Moved by Hand/E. Palmer for approval of Ordinance No. 2001-03 subject to the stipulations.

Motion carried unanimously.

18. COUNCIL ACTION RE: A request for an 8.5' high, 1.5 square foot off-premise sign for the First Baptist Church of Melbourne to be placed on the northwest corner of Babcock Street and Florida Avenue.

Mr. Hill reviewed the report. The City Code allows for an off premise sign to be placed with permission of City Council. The property on which the church wishes to place the sign belongs to

a management group for Arch Creek Run. Since Arch Creek Run already has a sign on the site, the church will need a variance to allow a second free-standing sign on the site.

There is a large open corner at this location and if properly landscaped, the sign could be attractive. However, Council should consider that if each church in the city wants an off-premise sign, this could lead to a great proliferation of signs. At one time the city allowed city fabricated nonprofit identification signs but they became unmanageable due to the number requested.

Additionally, FDOT has taken action to remove and/or deny permission for such signs in its rights-of-way. There is an existing pole at the Babcock Street/Florida Avenue intersection with other church directional information. An additional sign could be placed on that pole.

First Baptist Church recently moved from downtown Melbourne to the corner of Dairy Road and Florida Avenue. The church is huge, now located at easily identifiable roadways, and very visible from either Dairy Road or Florida Avenue. It would seem the congregation and most of the residents of the city know the location of the church. It would not appear that the proposed sign would have an impact on attendance or for those trying to locate the church.

Unless there is something significantly different regarding this off-premise sign, approval of the request would result in a precedent leading to a substantial number of such signage requests. Therefore, the recommendation is for denial.

Moved by Poole/Buckley for denial of the request, as recommended by staff.

Mayor Buckley said his concern is that we could have these types of signs all over the city. Mrs. Poole added that the site already contains a sign for Arch Creek Run, plus the church has a monstrous sign in front of its facility.

Mr. Hill referenced the old style (smaller) church directional signs and said if Council would like to reach some accommodation, it would be possible to add another sign to the existing pole (Babcock Street/Florida Avenue). Mrs. Hand said the small sign should be given consideration.

The question was called. Motion carried. (Mrs. Hand voted nay.)

Moved by E. Palmer/Hand for approval of the church to place a smaller sign on the existing pole at Babcock Street/Florida Avenue. Motion carried unanimously.

19. ORDINANCE NO. 2001-04: (First Reading) A proposed ordinance to extend the voice, video and data communication franchise ordinance with KMC Telecom.

Ms. Novak read the ordinance by title. This is a proposed ordinance to extend the recently expired voice, video, and data communication franchise ordinance with KMC Telecom. The franchise expired in November. City staff and KMC staff have been working on a new franchise agreement, but the process is rather awkward because they are also trying to be sure the agreement conforms to the new *Communications Services Tax Simplification* law, when certain parts of that law become effective. Despite the title of the law, it's not simple at all. It is described by the Florida League of Cities as the "most comprehensive fiscal reform effort by the Legislature in the past 15 years".

To expedite the franchise renewal process, both parties recommended an extension of the last agreement with one major change, which is to reduce the franchise fee from 5% to 1% of gross receipts on recurring local service revenues. This is because a 1% franchise fee is now the maximum allowed by State law on this type of service. The only other changes from the previous agreement are the addition of definitions pertaining to telecommunication services and franchise fees. No budget impact is expected in this fiscal year as the amount originally anticipated for the year has already been received. However, the reduction of rate could result in an annual loss of approximately \$36,000. It is difficult to fully assess the impact due to the other revisions in the Communications Services Tax Simplification. That law is not supposed to result in net loss of revenue to the municipalities.

Because the new tax simplification law requires a master ordinance for all telecommunication providers to be adopted next year, the recommendation is for a six-month extension of the franchise agreement to ensure that both parties are protected during the interim.

Moved by Poole/Walker for approval of Ordinance No. 2001-04. Motion carried unanimously.

20. COUNCIL ACTION RE: Discussion of Trailer Haven ad valorem taxation.

From the report: At the December 12 Council meeting, Council Member Ed Palmer requested a discussion item regarding the Trailer Haven ad valorem taxation. City Attorney Paul Gougelman has addressed several questions related to ad valorem taxation of property owned by a local government and leased to a non-governmental third party that uses the property for a non-governmental purpose.

Mr. Gougelman has advised that before examining whether to place this property on the tax rolls, the Property Appraiser would need a finding by the City of Melbourne that the property is not

being used for a municipal or public purpose. This determination would need to be made by City Council. In 1997 Council considered the matter and concluded the property was meeting a low-income housing need. Consequently, no letter was sent to the Property Appraiser requesting a change. In light of the most recent Court ruling, it would appear that the "public purpose" of any continued exemption should be clearly evident.

Mr. Palmer explained the following: Trailer Haven has been in operation since the 1950's. It consists of 94.725 acres and has 759 trailer sites, which are occupied 99% of the time. The average rent paid is \$109. Annually, the Airport realizes a net profit of \$591,588.

Land Yacht Port-O-Call consists of 29 acres, has 657 units, and is leased to a private party until 2004. It has been in lease since 1978. The lease paid to the Airport is \$76,554.24 per year. It also pays ad valorem taxes. In 1999 the tax bill was \$69,743 for 29 acres. The city's portion of the taxes equates to about \$14,000.

Continuing, Mr. Palmer said there is an opportunity for the city to receive a public safety services fee, as opposed to placing the property on the county tax rolls. The fee would be based on the city's millage rate and the rate paid by the neighboring property, Port-O-Call. The fee would amount to about \$18,000 per year, or \$2 per month per resident.

Mr. Palmer asked for Council to consider this in lieu of ad valorem taxes and stressed that the city should receive income for services rendered.

Mrs. Palmer said when this was brought up at the last meeting, the issue of placing the property on the tax rolls was discussed. She asked the difference between proposals. Mr. Palmer said he is proposing a fee based on the land value using the city's millage rate. The total would be divided among all the trailers.

Mrs. Palmer asked if this would come from the Property Appraiser's Office. Mr. Hill said no and added that Mr. Palmer is suggesting that the city receive a fee equal to an amount that it would otherwise receive if the property were taxed. Mrs. Palmer asked if this move could precipitate action by the Property Appraiser to place Trailer Haven on the tax rolls. Mr. Hill said he believes the Property Appraiser's position is that if he is not specifically directed, then he will not look at that issue.

Mrs. Poole said she is appalled by the proposal. Trailer Haven has always been a low rent housing and accommodation for people who can't drive; the majority of residents are widows. She stated that the property serves a public purpose. She concluded by saying she did not realize that the city was in such a bad financial state that we needed to collect \$2 per month from each Trailer Haven resident.

Mr. Palmer said this issue relates to a change in the law. Trailer Haven has nothing to do with the operation of the Airport; it is a money making venture and the law says that venture should be taxed. He noted that he is trying to help the residents, not gouge them.

Judith Wargo, 722 Manston Drive, Secretary of the Homeowners' Association, stated that many of the residents are elderly, infirm, disabled, widowed, and on social security. Many of the residents cannot make ends meet now. She reported that some residents donate anonymously to a fund in the park, which is used to help those in need. She asked if Mr. Palmer's plan would mean \$2 now, \$4 next year, etc.

Mayor Buckley said this is the first discussion Council has had about the fee. Under Mr. Palmer's plan, the fee would be based on the valuation of the property; therefore, it could go up, down, or remain the same. Ms. Wargo explained that the residents do pay an intangible tax now to the city. This is in addition to utility taxes, etc.

A brief discussion followed regarding the tax bill displayed by Ms. Wargo. Mr. Hill clarified that if there are improvements to the mobile home, the Property Appraiser makes an assessment. It is different than a property tax, but it is a revenue that comes to the city.

Discussion continued. The Mayor asked for Mr. Palmer's suggestion to appear on the February 13 agenda. No action was taken.

21. COUNCIL ACTION RE: Appointment of fifth member to the Board of Trustees of the Municipal Firefighters' Pension Trust Fund

Moved by E. Palmer/Poole to appoint Robert Coulter as the fifth member to the board. Motion carried unanimously. (January 9, 2001 through June 9, 2001, unexpired two-year term)

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Poole encouraged Council Members to contact the members of the Airport Authority regarding additional funding for the Trailer Haven Post Office. Mayor Buckley also encouraged members to write to the Memphis Post Office regarding this issue.

Mr. Hill reported that the Harbor City Volunteer Ambulance Squad has made an offer to pay the city \$300,000 in return for dropping the lawsuit and releasing our reversionary clause. This is based on the premise that they would sell the property to an undisclosed buyer; they have an offer for \$600,000 for the property.

A lengthy discussion followed. Mayor Buckley recommended Council take this under consideration and place the item on the January 16 special meeting agenda.

23. ADJOURNMENT

Moved by Walker/Hand for adjournment. Motion carried unanimously.

The meeting adjourned at 12:34 a.m.

Approved by Council: January 23, 2001