

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JANUARY 23, 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 A. Buckley.

1. The invocation was given by Pastor Edith Martinez, New Beginning Worship Center.
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
	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
	Paul Gougelman	City Attorney
	Cathleen A. Wysor	City Clerk
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Zoning Administrator

Absent: Cheryl Palmer Vice Mayor, District 5 (ill)

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley announced that Joe Wickham has been named as “Great Floridian 2000.” A plaque recognizing this honor will be installed at the Eau Gallie Civic Center.

5. APPROVAL OF MINUTES – January 9, 2001 Regular Meeting

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

6. CITY MANAGER’S REPORT

Mr. Hill updated Council on a meeting conducted with Amtrak and the Florida East Coast Railway. Amtrak and the FEC expect to reach an agreement by the end of February to provide for passenger service on the FEC line. A capital expenditure of \$60 million will be necessary along the stretch from West Palm Beach to Jacksonville; local communities are being asked to support the appropriation by communicating with legislators. If a station were to be built, it would be located on Airport property adjacent to the FEC line along Apollo Boulevard. An official announcement from Amtrak and the FEC will be made following execution of the agreement.

7. PUBLIC COMMENTS

None.

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UNFINISHED BUSINESS

8. COUNCIL ACTION RE: Discussion of rezoning property on Lincoln Avenue. (Requested by Council 1/9/2001)

Ms. Braz briefed Council. At the January 9, 2001 Council meeting, Jeanne Sauerland, 816 East Lincoln Avenue, asked that the city rezone her property so her residence would be considered a conforming use. Her property is zoned C-2 (General Commercial). The city permits residential development in the C-1 (Neighborhood Commercial) zoning district under certain conditions. Residences, other than those considered an accessory use to a commercial development, are not permitted in the C-2 zoning district.

In 1999-2000, staff proposed several changes in the Downtown Redevelopment District, including a change of zoning on this property from C-2 to C-1, to better fit the land use and policies of the Comprehensive Plan. City staff, the Downtown Redevelopment Committee and the Planning and Zoning Board recommended the proposed changes after a series of meetings. Council considered the recommendations and, after two meetings, voted 3-3 (one Council Member was absent) to not adopt the changes.

There were three areas proposed for a change in zoning. One area closer to U. S. 1 was proposed for a change from C-2 to C-3 (Central Business District) and two others, including the area where Ms. Sauerland's property is located, from C-2 to C-1. If Council believes that the blocks west of the railroad tracks should be considered for C-1 zoning, staff can prepare an administrative Code amendment. This area would encompass blocks located east of Livingston Street, west of the FEC Railway, south of Fee Avenue and north of Palmetto Avenue. The site of the Daily Bread and the adjacent mini-storage warehouse are not included in the area, which addresses Ms. Sauerland's concerns.

Mayor Buckley proposed that this issue return as an action item. Mrs. Braz asked if Council wished for the three areas to return as three separate ordinances. Mayor Buckley replied yes.

Moved by Buckley/Poole to direct Planning and Zoning to consider the three rezonings. Motion carried unanimously.

Mr. Hill clarified that the items will be forwarded to the Planning and Zoning Board prior to returning to Council's agenda.

9. ORDINANCE NO. 2001-01 (CU-2000-09): (Public Hearing/Second Reading) A request for a conditional use for a small mini-storage facility (Strawbridge Mini-Storage) on a 0.2840-acre site located on the south side of New Haven Avenue, east of Pennwood Avenue. (Owner, applicant and representative: Sam Boozer, Vaheed Teimouri, Teimouri and Associates.) (First Reading 1/9/2001)

Attorney Gougelman read Ordinance No. 2001-01 by title. There were no comments from the public.

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Moved by Poole/Contreras for approval of Ordinance No. 2001-01. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2001-02 (Z-2000-905): (Public Hearing/Second 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 and representative: Mike Williams, Eau Gallie Mosswood L.L.P.) (First Reading 1/9/2001)

Attorney Gougelman read Ordinance No. 2001-02 by title. There were no comments from the public.

Moved by E. Palmer/Hand for approval of Ordinance No. 2001-02. The roll call vote was:

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

Nay: None

Motion carried unanimously.

11. ORDINANCE NO. 2001-03 (CU-2000-10): (Public Hearing/Second 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 side of Line Street. (Owner, applicant and representative: Cliff Pearson, Pearson Design Group) (First Reading 1/9/2001)

Mr. Gougelman read Ordinance No. 2001-03 by title. There were no comments from the audience.

Moved by Hand/Poole for approval of Ordinance No. 2001-03. The roll call vote was:

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

Nay: None

Motion carried unanimously.

12. ORDINANCE NO. 2001-04): (Public Hearing/Second Reading) A proposed ordinance to extend the voice, video and data communication franchise ordinance with KMC Telecom. (First Reading 1/9/2001)

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The Attorney read Ordinance No. 2001-04 by title. There were no comments from the public.

Moved by Poole/Walker for approval of Ordinance No. 2001-04. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

13. COUNCIL ACTION RE: Award of contract for Pineapple Park seawall and sidewalk repair, Santa Cruz Construction, Merit Island, FL - \$91,696.

Mr. Hill briefed Council. This is a project to restore the shoreline and sidewalks that were damaged by Hurricane Irene. Restoration will consist of driving PVC sheet piling several feet landward of the mean high water line; this is the line that defines wetlands and waters of the state. The sheet piling will provide a permanent barrier to erosion. New sidewalk will be constructed landward of the piling. Concrete riprap will be placed along the waterline. The area between the sidewalk and riprap will be backfilled including cover over the piling cap. Then, this backfilled area will be planted with wetland plants required by the St. Johns River Water Management District.

Six bids were received and the low bidder at \$91,696 is Santa Cruz Construction, located in Merritt Island. The city's standard contract conditions will apply to the project. The contractor will have 60 calendar days to complete the work. Santa Cruz Construction performed well on two recent city projects.

There are several funding sources for this project. The city has been successful in getting FEMA to provide \$163,500 reimbursement for hurricane damage, FIND approved a \$22,125 grant, and a \$25,000 SJRWMD grant is pending. FEMA funds will be used first. Staff will evaluate other park needs that could be funded with the FIND grant.

The recommendation is for approval of the contract with Santa Cruz Construction in the amount of \$91,696.

Moved by Walker/Poole for approval as recommended.

Mr. Palmer asked why the construction contingency was so high – almost 20%. Mr. Hill said because of the permitting issues related to the shoreline. Mr. Ralls added that there are possible unknowns with this project; however, any additional costs would have to be approved by Council.

The question was called. Motion carried unanimously.

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14. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/Contreras for approval of 14 “a – g” as recommended. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1669: A resolution requesting authorization to apply to the Department of Health Emergency Medical Services Matching Grant Program to provide funding for projects to increase existing levels of emergency medical services.
  - b. Renewal of Mutual Aid Agreement between the Melbourne Police Department, the Brevard County Sheriff’s Department, the School Board, the Airport Authority, and each participating municipality of Brevard County.
  - c. Forty-eight month rental agreement for a Computerized Meter Resetting System (CMRS) for the Utility Billing & Collection Division as required by the U.S. Postal Service, Pitney Bowes, \$27,408.00 (less \$2,883.98 credit).
  - d. Purchase of seven vehicles and accessories and five pieces of equipment from various vendors for the Fleet Management Division, \$267,730.90.
  - e. Purchase/Installation of three, 11-foot heavy-duty flatbed bodies and three Auto Crane 5005HPE Telescopic Service Cranes, for various divisions, Transtat Equipment, Inc., Orlando, FL - \$40,050.50.
  - f. Resolution No. 1670: Conveyance of city property on Line Street to Epik Communications Incorporated.
  - g. Contract for the Urban Infill and Downtown Redevelopment for Olde Eau Gallie area, Brad Smith & Associates, \$60,000.00.
15. ORDINANCE NO. 2001-05 (LDR-2000-04): (Public Hearing/First Reading): A proposed ordinance to amend Chapter 29, Subdivisions, and Chapter 31, Traffic and Motor Vehicles, to permit the construction of traffic calming measures on local publicly maintained City streets. (Requested by City of Melbourne) (P&Z 1/11/2001)

Attorney Gougelman read Ordinance No. 2001-05 by title. Ms. Braz briefed Council (reference the December 12, 2000 Council minutes). Several persons spoke in favor of the proposed ordinance at the Planning and Zoning Board’s January 11 public hearing. The Board found the proposed ordinance consistent with the Comprehensive Plan. The Planning and Zoning Board and staff recommended approval.

Mrs. Hand asked why the application fee had been established at \$385. Additionally, she questioned who would pay the fee.

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Mrs. Braz replied that this is the same application fee as the conditional use. Mr. Hill added that the idea behind the fee is not to cover all costs, but to make sure there is a serious effort on the part of the neighbors. Additionally, the phrasing in the ordinance is permissive, "...application fee may be required..." Since ultimately a traffic calming device would involve the entire neighborhood, staff felt that payment of a fee would indicate a serious effort and allow for the preparation work.

Mrs. Poole agreed with the application fee and noted that a lot of work will be required by the Engineering Department. She added that if there is not a homeowners' association, then everyone in the subdivision could contribute a certain amount; it will show that there is interest.

Mr. Palmer asked the procedure that would be followed if staff wanted to initiate a traffic calming device. Mrs. Braz said we would follow the process outlined and would ensure that the residents in the impacted area were aware of the proposal. Mr. Palmer asked about implementing a device on a county road that runs through the city. Mrs. Braz said we could recommend; however, the decision would ultimately have to be made by the county.

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

Moved by Contreras/E. Palmer for approval of Ordinance 2001-05. Motion carried unanimously.

16. SITE PLAN APPROVAL (SP-2000-11): (Public Hearing) A request for site plan approval on a single lot in the Downtown Redevelopment Area (Vernon Place Office Building) consisting of .18 acres, located on the west side of Vernon Place between New Haven Avenue and Melbourne Avenue. (Owner, applicant and representative: John Barker, Steve Morgan, Morgan & Associates) (P&Z 1/11/2001)

Ms. Braz briefed Council. The property is part of the Powell & Henley re-subdivision of Block 46 of Camp's Plat of Melbourne Plat. The property is zoned C-3 (Central Business District) and contains a single-family house constructed in 1918. The residence is set back about 75 feet from Vernon Place. The building is in very poor condition and will be demolished. The land use designation is mixed-use Commercial/High Density Residential. The property to the west contains an office building, the property to the north consists of a parking lot, and the property to the south is a residential structure.

The City Code requires that all site plans in the Downtown Redevelopment Area be approved by the City Council. The Downtown Architectural Review Board must approve the building design. An office building is proposed for the site. The site plan consists of a two-story building containing 4,800 gross square feet, five parking spaces, and a brick paved courtyard. The top floor will be used for a residence. The bottom portion will contain 2,400 gross square feet of office space. Vehicular access will be from the alley at the rear of the property. The two-story building will be located two feet from the front lot line along Vernon Place. Retention will be provided under the parking area. Most of the trees along the edge (side yards) of the site will remain.

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The site will be constructed in accordance with the land development regulations except that additional parking is required for the combined uses. Based on the proposed uses, 10 parking spaces will be required. The developer has the option of paying into the Downtown Redevelopment District Parking Fund to supplement the provided parking in order to meet Code.

The Planning and Zoning Board and staff recommended approval of SP-2000-11, consisting of a two-page plan prepared by Steve Morgan, Morgan & Associates, Melbourne Florida, Project No. 2000-37, dated December 20, 2000, with the findings listed in the agenda package and the following conditions:

- a. Prior to construction plan approval the applicant shall obtain plan approval from the Downtown Architectural Review Board.
- b. Provide the Code required number of parking spaces on site or make payment to the Downtown Redevelopment District Parking Fund.

Mrs. Poole disclosed that she viewed the site.

Steve Morgan, engineer of record, agreed with the stipulations. He noted that the plan provides for 21 trees being saved and one being removed (palm tree). In response to Mrs. Poole, he said most likely the palm tree could be relocated.

There were no comments from the audience.

Moved by Walker/Poole for approval of SP-2000-11 subject to the stipulations. Motion carried unanimously.

17. ORDINANCE NOS. 2001-06, 2001-07 AND 2001-08: (Public Hearings/First Readings) Ordinances providing for the annexation, establishment of a mixed-use Commercial/Industrial land use, and establishment of M-1 (Light Industrial) zoning on a 2.0-acre parcel and adjacent .34-acre Northgate Boulevard right-of-way, located on the south side of Dusa Drive (Smith Road) and west of Wickham Road. (Owner and applicant: Frank Lacko) (P&Z 1/11/2001)
  - a. Ordinance No. 2001-06: A proposed ordinance to annex the property (AR-2000-132).
  - b. Ordinance No. 2001-07: A proposed ordinance to establish a mixed use Commercial/Industrial land use on the property (CPA-2000-10).
  - c. Ordinance No. 2001-08: A proposed ordinance to establish M-1 (Light Industrial) zoning on the property (Z-2000-906)

Attorney Gougelman read Ordinance Nos. 2001-06, 2001-07, and 2001-08 by title. Mrs. Braz reviewed the agenda report. The property is part of the Indian River Groves and

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Gardens plat. The property is vacant and is zoned BU-2 (Retail, Warehousing and Wholesale Commercial) by Brevard County. The property to the west was recently annexed into the city and contains an office/warehouse building. The property to the north consists of a warehouse zoned M-1. The property to the east is the site of Brevard Movers. Northgate Boulevard and the Northgate Plaza (zoned C-1) form the south boundary of the parcel.

The property owner is seeking the annexation in order to receive city services. A warehouse/office complex is proposed for the site. Sewer service will be provided to the site. The adjacent unincorporated Brevard Movers parcel is served with a septic tank. The city will approach this property owner about annexing. Other property owners in the area also are being contacted to inquire of their interest to annex.

The proposed land use is consistent and identical with the established city land use of properties in the immediate vicinity of the site. The proposed zoning will match the zoning on the properties to the north and west of the site. This is similar to the zoning maintained by the county. The applicant has provided a site plan that is being reviewed by the Engineering Department. The site will be constructed in accordance with the city's land development regulations.

The Planning and Zoning Board and staff recommended approval of each ordinance with the findings listed in the agenda package.

Steve Morgan, engineer of record, stated that there are very few trees on site – just a few Brazilian Peppers.

Moved by Hand/E. Palmer for approval of Ordinance No. 2001-06. Motion carried unanimously.

Moved by Poole/Walker for approval of Ordinance No. 2001-07. Motion carried unanimously.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2001-08. Motion carried unanimously.

18. COUNCIL ACTION RE: Discussion of potential Code revisions regarding garage requirements for residences) (P&Z 1/11/2001)

Mrs. Braz reviewed the agenda report. The South Brevard Habitat for Humanity has asked the city to consider eliminating the garage requirement for homes that are constructed for low-income families by low-income providers. The city currently requires garages for all single-family homes, duplexes and townhouses. Staff is concerned that all such residential structures should have homes that meet the minimum requirements for all housing regardless of the income of the occupants. Additionally, staff believes that providing storage in a garage, not only for a motor vehicle, but for every day household items, will enhance the appearance of the neighborhood. Habitat for Humanity has received a number of variances from this requirement. As a condition of the variance, the

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Board of Adjustment has required a storage shed on the lot. The appearance of a storage shed after several years is marginal. They usually rust and often become a distraction.

Garages were not required until 1983 when the Zoning Code had its last major update. It was determined that the city would require garages for future construction. The Code also requires that each dwelling unit have two paved parking spaces. Habitat is not proposing the elimination of two parking spaces.

From Habitat's point of view, there is a cost factor involved. Additional costs incurred by the garage requirement can eliminate certain applicants from the market. There is also an additional cost because the homes will need to be redesigned. Both the city and the Habitat Board have been trying to deal with this problem for some time and the Habitat Board has decided to request the change in the Code.

Another complication results in situations where homes are constructed without a garage. Even though these homes contain mortgages held by Habitat for Humanity or similar organizations exempting by income, it does imply that the home will be forever occupied by a qualified individual/family. Whenever the home becomes one owned without a mortgage, under the proposed qualifying language the structure/property immediately becomes nonconforming and thus very difficult to track.

We do have the option to create overlay districts in the city that set a standard more in line with the development pattern prevalent in the neighborhood. This could identify portions of neighborhoods where garages would not be required because of lot size, access, or a predominate tradition of not constructing garages, especially before 1984. It could also address areas where rear alleys are provided or where parking for the residence is provided in the rear of the structure. Other overlay design standards could also be applied to these unique areas. The existing Zoning Code overlay deals with setbacks for structures along a portion of U.S. 1 and along Pineapple Avenue.

Council could also place conditions on the garage exemption, such as requiring a sizable storage shed in lieu of providing a garage. Any overlay district created should not result in a substandard neighborhood or design standard.

Habitat prepared a survey of other cities in Florida as to what their Codes require. According to Habitat the Melbourne Code is unique in that it requires garages to be constructed as part of a single-family residence.

The Planning and Zoning Board did not recommend a specific change to the ordinance but believes that this issue is a policy matter that should be decided by Council. The Planning & Zoning Board does recommend that options should be investigated, to create an overlay district, rescind the existing Code, require sheds in lieu of garages, or some other alternative.

Staff believes that it is beneficial to have a positive relationship with Habitat and hopes that it will continue in our community. The Code could be modified to waive the garage

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requirement as an “affordable” housing incentive. We certainly do not recommend rescinding the garage requirement for the entire community. An overlay district could be considered for the Booker T. Washington area, but that would not cover odd lots throughout the city. If Council wished to waive the garage requirements, staff recommends a substantial shed in lieu of the garage.

Contract negotiations with Habitat for the \$150,000 SHIP award approved by City Council in October are at a standstill pending resolution of Habitat's request for Council action on the city's garage requirements for single-family homes. The draft agreement presented and discussed with Habitat in November contains a provision which Habitat strongly objects. The provision reads as follows:

*"The Eligible Sponsor further agrees that, whenever practical, it will not seek variances on garages in cases where the lot is more than or equal to, sixty (60) feet wide. The Eligible Sponsor acknowledges that City staff will no longer support variances on garages where the lot is more than, or equal to, sixty (60) feet wide."*

In the best interest of all concerned - Habitat, the city, and most of all the residents of the Booker T. Washington (BTW) neighborhood - staff is recommending that this section be deleted from the proposed contract so that the draft agreement can be finalized and executed. This action will make it possible to assist the five homes already built in the BTW neighborhood and clear the way for Habitat to proceed through the variance process on the other seven homes that are planned (six in the BTW neighborhood and one in South Melbourne).

The recommendation is for Council to take whatever action may be necessary to facilitate the continuation of this 12-home Habitat project and fulfillment of the terms of the \$150,000 proposed agreement while the city works through possible alternatives to address Habitat's request.

Kim Gabriel, President/CEO, South Brevard Habitat for Humanity, noted that they are seeking a change in the Code in order to comply with State Statutes. Habitat is assisting the state in meeting the goal recommended by the Affordable Housing Study Commission by complying with Florida Statute 420.0003(2), which provides that by the year 2010, the state will insure that decent and affordable housing is available for all its residents.

Ms. Gabriel elaborated on how affordable housing goals can be accomplished and what the result will be. Substandard and inadequate housing will be eliminated; neighborhood appearance will be enhanced; neighborhoods revitalized, etc. She covered the following points behind the rationale for no garages: houses are built for people, not cars; creeping affluence; not lottery for humanity; the cost of the garage will increase the cost by 10%; the ownership cost would increase by \$30 per month placing home ownership out of the reach of the very low income; adding a \$5,000 garage would increase the appraised value by only \$2,000; and garages are non-essential to simple, decent homes. Additionally, she pointed out that at \$5,000 per garage, nine garages would equal one home that would not be built.

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Continuing, Ms. Gabriel listed what many other cities do and pointed out that Melbourne's requirement is unique. She concluded by saying the recommendations of Habitat are:

- Continue the on-going partnership with the city. Temporarily waive the garage requirement to permit Habitat to construct six homes in the BTW neighborhood, plus one additional in South Melbourne as previously committed.
- Direct the Planning and Zoning Department, in collaboration with Habitat, to create overlay districts where garages would not be a requirement.

Mr. Contreras referenced the recommendation by Habitat (in the Council package) to change the Code versus the recommendation presented at this meeting by Ms. Gabriel. Ms. Gabriel explained that the two recommendations (outlined above) are the result of the last Planning and Zoning Board meeting.

In response to Mr. Contreras, Ms. Gabriel said the shed placed on each lot is 10' x 10', which is 10% of the size of the home and, in their opinion, sizable.

Mr. Contreras said he would support overlay districts; however, he cannot support an overall change in the City Code.

Mrs. Hand asked for additional information about the shed. Ms. Gabriel explained that the material is aluminum siding and would not rust.

Mr. Palmer discussed the cooperation between Habitat and the city. He noted that we have donated land for houses, yet now the \$150,000 grant is in limbo because of the garage issue. He stressed that there is no question that Habitat's efforts have improved neighborhoods. Habitat builds nice, respectable houses. He added that he understands the rationale not to build garages; however, the City Code has an impact on our entire city. He said there has to be a way to allow affordable housing exceptions as opposed to changing the Code.

Mrs. Poole disagreed with comparing our Code to other cities in the state. Regarding the sheds, she said that aluminum can corrode. Mrs. Poole reported that she attended the Planning and Zoning Board meeting on this item. She noted that the board felt strongly about having garages and added that we want a quality city. Also, homes can look nice without a garage; however, they can quickly deteriorate as people begin to store their possessions outside. Potentially, Habitat homes could be built in neighborhoods where there are garages; this could devalue the neighborhood.

Mrs. Walker asked the size of the homes and Ms. Gabriel responded 1,100 s.f. Mrs. Walker asked if the floor plan could be changed in order to accommodate a storage room. This would make the house look nice and would eliminate the problem of a deteriorating shed. Ms. Gabriel explained that they got away from utility rooms because it was hazardous for people to store gasoline, mowers, etc. inside the home.

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Brad Nimmo, Director of Operations for South Brevard Habitat for Humanity, stated that his job is to deal with the clients in need of homes. He reported that in January, they received over 50 calls and took 18 applications. He stressed that there is a real need for people who want to move up and out of rental units. He commented that Habitat has made an impact on the BTW neighborhood. Mr. Nimmo begged Council to come up with a solution so that they can continue with the next six houses.

Mrs. Poole asked the city's costs involved in getting liens, etc. cleared on the lots that were donated in the BTW neighborhood. Mr. Hill said probably a couple of thousand dollars per lot. Attorney Gougelman added that he doesn't recall the exact amount, but it was fairly significant. Mrs. Poole stated that at times we have to stand firm and say these are our rules and regulations.

Mrs. Hand said she feels strongly about waiving the garage requirement for the BTW area homes. She noted that these people need homes and Habitat and staff have been working hard to revitalize the BTW area. This is a site-specific location and Council should work with Habitat to grant the waiver.

Roland Cook, Vice Chairman of the Board of Directors, Habitat for Humanity, reported that Habitat's partnership with the city goes back over 15 years; Habitat is seeking to continue that partnership. He reported that the Planning and Zoning Board has been flexible and workable and they are grateful for that support; however, the Planning and Zoning Board has stated that it will no longer grant variances. (Note: Mr. Cook's reference should have been to the "Board of Adjustment.")

Regarding the storage shed, Mr. Cook said it is a wood frame structure with asphalt shingles, galvanized aluminum siding, steel doors and tie downs – it is a quality structure. He noted that the garage issue is driven by philosophy and cost. Every garage costs about 11% of the total purchase price, or \$5,000. For every four homes built with a garage, this means that one family won't be accommodated.

Mr. Cook stated that Habitat is not recommending the elimination of garages citywide. That was never their recommendation. He repeated the recommendations made at this meeting and noted that the second part of that asks the Planning and Zoning Board to work with Habitat to arrive at overlay districts.

Mrs. Poole said the Planning and Zoning Board left the decision up to City Council. She referenced the grant agreement with the provision regarding garages, which Habitat will not sign. Mr. Cook said Habitat never agreed with that provision. Mrs. Poole noted that a 60' wide lot will accommodate a garage. Mr. Roland said he would argue that a garage could be accommodated on a 60' wide lot. He added that to show the firmness of Habitat's view, they are prepared to walk away from the \$150,000 if that clause remains in the agreement.

Melton Broom, Habitat for Humanity Board Member, said he fully supports the recommendation made (by Ms. Gabriel). He added that he cannot agree that garages

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are an enhancement to a community and added that often garages are used for repair shops. He urged Council to support Habitat's position.

Agnes Brogan, Fountainhead Subdivision, disagreed with the request of Habitat. She stated that garages should be required and commented that they keep a neighborhood nice and neat.

That concluded the comments from the public. Mayor Buckley asked Council to address the first recommendation outlined by Ms. Gabriel (to temporarily waive the garage requirement to allow the construction of the six homes in the BTW neighborhood and one in South Melbourne).

Moved by Hand/Walker that we accept this recommendation to continue the ongoing partnership with Habitat for Humanity and temporarily waive the garage requirement to permit the construction of six homes in the BTW neighborhood, plus one additional in South Melbourne.

Mr. Hill clarified that the motion (if passed) will eliminate the garage requirement clause in the SHIP grant funding agreement. Further, he explained that since garages are a requirement of Code, Habitat would still have to seek variances from the Board of Adjustment.

Mrs. Hand agreed with the clarification and said we need to do whatever it takes to waive the (garage) requirement. The homes have been committed and people are looking forward to having a home.

Mrs. Walker asked if Council can change the Code to give blanket approval to Habitat. Attorney Gougelman explained that a change could be made that would affect everyone; however, a change can't be made for one specific person or organization. The reason is that zoning regulates use – not ownership. Council can't make special dispensations because a particular person/group wants to build a house in a particular way. He offered that one possible solution is the overlay concept.

Mayor Buckley restated the motion and said it deletes the paragraph in the grant agreement, which requires garages; however, Habitat would still have to obtain variances.

Mr. Hill recalled that in November, Council approved granting \$150,000 to Habitat with the intention to see homes built and with the emphasis on the Booker T. Washington neighborhood. Habitat agreed. But, we also recommended in November, based on Board of Adjustment and staff concerns about garages, that if we were going to put up \$150,000, we ought to get a commitment from Habitat that they would not seek variances on lots at least 60' wide. For information, Mr. Hill said we have 40' wide lots in our community that have garages.

Continuing, Mr. Hill said Habitat objected to this provision and as a result, it has been on hold. He emphasized that it is Council's grant and the grant was an inducement to see

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houses built. That, along with providing lots, will help offset the cost of garages. Habitat does not see it that way and we are at an impasse.

Mrs. Poole objected to the request to change our rules and regulations. She agreed that the grant should be used to offset the cost of garages. Also, she noted that she received a call from the Chairman of the Board of Adjustment who feels the board can no longer grant a hardship when there is a lot big enough to accommodate a garage. She asked Melinda Thomas to address Council and repeat her comments that were made at the Planning and Zoning Board meeting.

Mrs. Hand said garages do make the neighborhood nice; however, at a cost of \$5,000, those funds could be used to build more houses.

Mr. Hill said that is why staff has addressed this issue in this manner. The tradeoff is to try and meet as many goals as we have all set out as possible. The city has the overall goal of improving the housing stock in the community. Our feeling was to work to a point to get housing built by Habitat to conform to a minimum standard in Melbourne, which includes a garage. Habitat says this runs counter to their philosophy – we offered to offset the cost. Also, staff felt that allowing the houses that are in the works to slip away would not further any goals. The dilemma is that we can't make a change specific to one organization or developer. If the change is made citywide, it will thwart other city goals. An overlay will help a specific area, but in the long term, Council will have to decide if this is part of the minimum standard we want in our community.

Mrs. Poole said that at one time Habitat did not allow air conditioners; however, they have changed their position on that. She added that if Habitat wants to build in our community, they should have to follow our standards.

Mr. Palmer said he can't support changing the Code because of its effect on the entire city; however, he can support making exceptions. The waiver of a garage could be used as an incentive to affordable housing. At a later date, Council can finalize how to address this on a long-term basis. At this meeting, we need to solve how to build the houses in the BTW area.

Melinda Thomas said at one point a recommendation was before the Planning and Zoning Board to change the City Code so that, citywide, affordable homes for low income persons by low income providers would be exempt from the garage requirements. She noted that at the P&Z Board meeting, one of her concerns adopting that posture is that it would disproportionately impact low income neighbors in North and South Melbourne. Ms. Thomas added that she did not want to see these communities become stigmatized; poor persons could be identified by driving through a neighborhood. She noted that the recommendation at this meeting has changed and Habitat is requesting a smaller level of change.

In response to Mrs. Poole, Mrs. Thomas said she would like to see the work continue in the BTW area; that area has not seen new construction in a long time. She would like this round of building to continue and then look closer at the options, other than citywide.

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Mr. Hill said bottom line, Council heard from Mr. Cook that Habitat's position is take it or leave it. If we do not remove that provision, they will not build in the community. He noted that Council has an immediate issue; there is time to work through the larger issue of whether this should be allowed on a larger scale.

A brief discussion followed on the variances that would need to be granted.

The question was called. The roll call vote was:

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

Nay: Poole

Motion carried. (Mrs. Poole voted nay and stated Habitat is capable of building a garage on a 60' wide lot; however, they are refusing.)

Recessed: 9:18 p.m.

Reconvened: 9:28 p.m.

Mayor Buckley asked Attorney Gougelman to address the issue of the variances. Attorney Gougelman said Council might want to indicate to the Board of Adjustment its feelings on this issue. The board is being asked to look at a different type of variance. Normally a variance is granted because of setback issues, topography, lot size, peculiar shape of lot, etc. With this issue, we are saying that it should be considered based on the fact it is going to promote a fairly important goal of the Comprehensive Plan. He added that it is his opinion that the board can grant a variance if it will truly be an affordable housing unit and if assurances are made that the unit will remain in the low-income housing stock.

Mayor Buckley asked Mr. Gougelman, based on the 5-1 vote of Council, to prepare a letter to the Board of Adjustment for his signature regarding Council's position on the seven homes.

Mayor Buckley said the second part of Habitat's recommendation relates to overlay districts. A brief discussion followed.

Moved by E. Palmer/Hand to table the issue of overlay districts until the February 27 meeting. Motion carried unanimously.

19. COUNCIL ACTION RE: Enhanced noise control and regulation efforts and contract for services with Harding ESE, Inc., Orlando, FL - \$18,958.65

From the agenda report: The City Attorney's Office, along with other departments, has been working on improvements to the city's noise regulations. Council will recall that difficulties have been experienced in enforcement of sound amplification prohibitions.

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Recent problems have included special events like Cyberfest; the city's regulations are inadequate to address these problems.

An "anti-rave" ordinance has been drafted by the City Attorney's Office, but the one portion of the ordinance that needs to be completed deals with perhaps the most central issue - noise control and regulation. The city's current noise ordinance merely regulates volume by relying on decibel readings. The ordinance does not regulate frequency or address background noise or bass tones.

Comprehensive noise standards need to be developed. In developing these standards, Council should be able to hear and know what they are specifically being asked to regulate. Additionally, the Code Enforcement staff will need training in the use of meters that measure noise (frequency and volume), as well as assuring that any meters utilized are properly calibrated to ensure accuracy. Additional investment in more sophisticated meters may be necessary.

To insure the validity of any changes made to the noise ordinance, it is advisable that an expert be used to develop the standards. Joseph L. Tessitore, P.E., Harding ESE, Inc., of Orlando, specializes in audio engineering for measurement and control of noise pollution.

Mr. Tessitore's proposal to accomplish these tasks totals \$18,958.65. Funding from the City Attorney budget for litigation and outside counsel can be utilized. Should additional need develop for litigation assistance or outside counsel a future budget adjustment from the Council may be necessary.

Moved by Poole/E. Palmer for approval of the contract with Harding ESE, Inc., of Orlando, for the purpose of developing a noise pollution and regulation ordinance in the amount of \$18,958.65.

Mr. Palmer said he still receives complaints from residents regarding the outside music from several restaurants in the Pineapple Avenue area. He asked if the new regulations will address this issue. Mrs. Walker asked about the regulations regarding a neighbor mowing a lawn at 7:00 a.m. or boom boxes. Mr. Gougelman said these will be some of the harder decisions Council will have to eventually make. They will have to be addressed when the final ordinance is drafted.

The question was called. Motion carried unanimously.

20. RESOLUTION NO. 1671 Highway Beautification Grant Application to Florida Department of Transportation for improvements in U.S. Highway 192 right-of-way.

Attorney Gougelman read Resolution No. 1671 by title.

Moved by Poole/Walker for approval of Resolution No. 1671. Motion carried unanimously.

21. COUNCIL ACTION RE: Approval of Travel to "Satellite 2001" in Washington, D.C. with the

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EDC (Requested by Mayor Buckley)

From the agenda report: Mayor Buckley has been asked to attend and participate in the trade mission, "Satellite 2001," with the Economic Development Commission. The conference and exhibition will be held in Washington, D.C. March 27-30, 2001. The Mayor attended the trade mission last year and the effort was deemed very successful by the EDC.

We do not have set rates, however, the estimated cost based on last year's trip is \$900. Funding is available from Mayor and Council's training and education account. This trip was not budgeted, consequently the account will have to be supplemented at second or third quarter budget review depending on other Council travel.

Moved by E. Palmer/Contreras for approval.

Mayor Buckley said the meeting starts on March 27. He attended this last year at the request of EDC and Brevard County profited from the trip. He asked Council to consider moving the regular Council meeting of March 27 to March 26. Mr. Contreras said he will be out of town on March 26. Mr. Hill said he will place this (moving the regular meeting date) on the February 13 agenda for consideration.

The question was called. Motion carried unanimously.

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mayor Buckley reported that he met with representatives of Wuesthoff. They indicated that they would like to hear from Council on what we expect of Wuesthoff Health System. The Mayor asked Council to consider a citizen committee and noted that he will bring this issue up at a later meeting.

Mr. Palmer referenced the January 16 special meeting with the Babcock Redevelopment Committee. He said he does not believe that Council, at that meeting, fully addressed the concerns of the committee dealing with the real estate purchase on North Babcock Street. He asked for Council to continue the discussion and reach some conclusion.

Mrs. Hand agreed and said Council should look into the purchase.

Mrs. Poole said she believes it was clearly understood that the city is not in the real estate business. She noted that B. B. Nelson (who is handling the sale of the property) told her that he has a buyer and doesn't care (whether the city purchases the property).

Mayor Buckley said Mr. Nelson has said that he would consider selling a piece of the property required to straighten the curve. He added that Mr. Hill has asked Frazier Engineering to determine what would be needed. Mr. Hill added that we will try to get an idea of how much property is necessary. However, at this point staff does not feel we have direction from Council to be aggressive in talking to developers. At some point, Council will need to provide staff that direction and determine if the options should be explored.

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Mr. Palmer said the curve is detrimental and Council ought to look at all options. It was engineered wrong in the first place and we need to explore options to straighten it, which will improve the Babcock Redevelopment Area.

Mrs. Poole said the curve should be considered a traffic-calming device. She asked if we are talking about issuing bonds in order to buy the property. She noted that first the committee was considering landscaping and beautifying, now they are talking about promoting and buying property.

Mr. Hill said the landscaping and beautification efforts were planned to attract people into the area to fill the major spaces. That mission may no longer be necessary given the fact that the major spaces in the redevelopment area have been filled. Those efforts will still be addressed, but in light of what has happened recently within the area, the focus may need to be shifted to transportation.

Mrs. Poole said the statement was made that the south end of the District is the most compacted and has the worst problem. She said we really need to look into the property that is for sale in that area.

Mr. Hill said both are needed – it is a question of what is available. The problem with the south end is the re-design effort underway for Babcock Street. Until that is done, it is unclear what is needed and whether we would be reimbursed. The appeal of the north end is that a piece of property is available that would allow for a re-design of the roadway. But, again, staff needs direction.

Mr. Contreras agreed that this is unfinished business from the January 16 meeting. He said staff should look into options even to the point of financing for the north and south parcels. However, he recommended staff obtain all the facts before a decision is made.

Mrs. Poole asked Mr. Contreras if he was recommending bonds. Mr. Contreras replied whatever it takes.

Mayor Buckley recommended staff determine how much property is needed on the north end, talk to the agent, and actively pursue that.

Mrs. Poole made a motion to adjourn; however, there was no second.

Mrs. Poole left the Council Chamber at 10:03 p.m.

Moved by Buckley/E. Palmer to direct staff to determine the amount of property required, along with associated costs, for purchasing property at the north end of Babcock Street to align the roadway with U. S. 1. Motion carried unanimously. (Five votes)

23. ADJOURNMENT

Moved by Contreras/Walker to adjourn. Motion carried unanimously. (Five votes)

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The meeting adjourned at 10:06 p.m.

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City Clerk – 2/5/00

Approved by Council: February 13, 2001