

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 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 Merton C. Clark, Truth Revealed Ministries.
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
	Cheryl Palmer	Vice Mayor, District 5
	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: Grace Walker Council Member, District 4 (ill)

4. PROCLAMATIONS AND PRESENTATIONS

Mr. Hill reported that the city was selected to receive the Central Florida Safety Council 2000 "Excellence in Safety" award, which is a symbol of the city's achievement in safety during the year 2000. The Mayor presented the award to Ken Gray and Roosevelt Solomon, Risk Management Division.

5. APPROVAL OF MINUTES - January 16, 2001 special meeting between City Council and the Babcock Street Community Redevelopment Agency Advisory Committee; January 16, 2001 special meeting (relating to the HCVAS litigation); and the January 23, 2001 regular meeting

Moved by E. Palmer/Contreras for approval of the minutes. Motion carried unanimously.

6. CITY MANAGER'S REPORT

No additions/discussion.

7. PUBLIC COMMENTS

None.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

UNFINISHED BUSINESS

8. COUNCIL ACTION RE: Discussion of Trailer Haven ad valorem taxation. (Continued from 1/9/2001 meeting)

From the Agenda Report: At the January 9 Council meeting, Mayor Buckley asked that this item be returned to this agenda for further discussion. At that meeting, Council Member Ed Palmer made a proposal to assess each of the 759 sites a \$2 per month service fee for police and fire services. His proposal was based on the valuation of neighboring Land Yacht Port-O-Call and the city's current millage rate. The service fee would be in lieu of ad valorem taxation. The City Attorney 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.

The City Attorney has advised that the city is essentially precluded from assessing a fee of the type Council Member Palmer proposed. If Council believes Trailer Haven residents should contribute to the revenues of the city, the most direct means would be for the property to no longer be considered exempt from ad valorem taxation. That decision would be made by the Brevard County Property Appraiser. The Property Appraiser has stated that he would need a finding by the City Council that the property is not being used for a municipal or public purpose. In 1997 Council considered the matter and concluded that the property was meeting a low income housing need. Consequently, a letter was not sent to the Property Appraiser requesting a change. Recent information from the Airport Authority, based on Post Office records, shows that of the 759 units, 408 had their mail service discontinued for portions of the year.

If Council believes that the Trailer Haven property is not being used for a public or municipal purpose and the Property Appraiser should be asked to consider whether the Trailer Haven property is subject to ad valorem taxes, a motion to approve the draft letter to the Property Appraiser (included in the agenda package) should be made.

Judith Wargo, 722 Manston Drive, Trailer Haven Homeowners' Secretary, stated that Trailer Haven is a 55-plus community; they received certification through HUD. She added that there are mobile and manufactured homes in the community and the population is estimated to be 1,400. Using precinct information, she has estimated that 60.3% of the homes have registered voters.

Continuing, Ms. Wargo said it is her understanding that the ad valorem tax was primarily used by the Department of State, Secretary of State, and the Revenue Department to tax only non-residents. She said this needs to be investigated because some of the people may not qualify to have the ad valorem tax levied. If we eliminated all the Florida residents, we would have about 300 homes that would be taxable.

Ms. Wargo stated that Trailer Haven provides a public service to the community. She referenced the 1997 letter which indicates that Trailer Haven provides low rent housing for senior citizens. She concluded by distributing a handout, which lists the volunteer work performed by the residents of Trailer Haven.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Janet Kerul, 671 Fleet Street, Trailer Haven Recreation Treasurer, discussed the activities that occur in Trailer Haven. She displayed pictures of Trailer Haven and pointed out the memorial areas dedicated to past residents.

Earl W. Harper, Trailer Haven resident and President of the AARP Chapter 219, commented that any action taken to increase the valuation in Trailer Haven will affect seniors; most residents in the park are age 65 or older. He noted that the property was originally deeded to the city from the Department of Defense with the idea that spaces would be available for military retirees to reside and have a reasonable lifestyle. He said there are not many military retirees in Trailer Haven; however, he is one and he is on a limited income – any kind of tax change will have an affect on him. Mr. Harper pointed out that the residents who travel here each year spend a lot of money on hidden taxes, including gasoline taxes, etc. Therefore, taxes are being paid by out of state visitors. He stressed that the elderly should not be singled out for taxation. Mr. Harper concluded by saying he believes it is okay to collect taxes from those with the wherewithal to pay.

Frank Burzynski, 655 Hackney Road, asked Council to remember and consider what Trailer Haven has evolved into. He said it is apparent that the government wished to establish a haven for the elderly; those over the age of 55 with a fixed income or those who have lost their original earning power. He said his understanding is that the Airport Authority is receiving a substantial income from Trailer Haven. Also, he thought Trailer Haven was a non-profit, government endeavor. Mr. Burzynski reported that a \$10 per month increase will go into effect in April in Trailer Haven and now the City of Melbourne wishes to increase the financial burden. He said if the city is in such dire straits, the Airport Authority should be approached for help.

Continuing, Mr. Burzynski said the residents should be treated better. There is a constant flow of oratory from the government about the need to look after the elderly, yet the increases continue. He concluded by asking the City Council to not make a decision that will destroy what has been built.

That concluded comments from the audience.

Mr. Palmer said the issue is about the proposed taxation of property, which is being utilized by the Airport Authority as a profit making venture. This involves the City of Melbourne, the Airport Authority, and the Brevard County Property Appraiser. Mr. Palmer stressed that he understands what has been said by the residents and he has empathy. He noted that the Airport Authority is an economic engine for the city and is a tremendous asset – the same as Trailer Haven. That is not the issue. The issue is that there has been a change; there is a Supreme Court decision that says if you are making a profit from real estate or any kind of venture, even though the property is owned by a non-profit agency, it is subject to taxation. The city has nothing to do with that decision. The property is owned by the city and is being used by the Airport Authority as a profit making venture. It is not being used for a public or municipal purpose.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Mr. Palmer said Trailer Haven is one of two parks operated by the Airport Authority. Port-O-Call, leased by the authority to another party, pays ad valorem taxes. Whether Trailer Haven should be taxable is not a discretionary matter for Council; it is an income producing property and it should be on the tax rolls like any other property in the city that makes a profit. Trailer Haven is not related to flight operations, passenger service, etc. It is a real estate venture.

Continuing, Mr. Palmer pointed out that the Airport realized a net profit in 2000 of \$591,588 from Trailer Haven. He added that Trailer Haven is a winter residence for many people who return to their primary residence during the summer. According to postal records, over 50% of the residents close their account and move.

Additionally, Mr. Palmer addressed the issue of Trailer Haven being low income housing. He said it is not low income housing, nor can it be considered public housing; it is not subsidized by federal or state funds, nor are there any income restrictions on the residents. He added that he is sure the residents can understand and agree that people should pay their own way.

Regarding the issue of whether Trailer Haven serves a municipal or public service, Mr. Palmer read from Attorney Gougelman's letter, which indicates that a municipal or public service is one that specifically and peculiarly promotes the comfort, convenience, safety and happiness of the citizens of the city. He asked the attorney to comment on whether Trailer Haven meets this definition.

Attorney Gougelman said Council has heard evidence from citizens and from Council Member Palmer, who is a member of the Airport Authority. Based on what has been presented, there is basis to reach a conclusion that Trailer Haven property is not used for a municipal or public purpose. However, he stressed that is a decision for Council to reach based on the evidence presented.

Mr. Palmer stated that when the time is right, he would like to make a motion to approve the draft letter in the package to the Property Appraiser requesting a determination be made on whether or not Trailer Haven should be placed on the tax rolls.

Mrs. Palmer said in reviewing the information, she has yet to see a change since this Council declared that Trailer Haven is a provider of low income housing. She has not seen any proof that the situation has changed or that a change in designation is needed. Additionally, she has not seen the facts to back up the statement that this is a second home for many snowbirds. She commented that the only thing she has heard stated about this subject is that the Airport Authority is making a large profit and should be paying the taxes. The entire discussion leads her to wonder whether Council should be keeping an eye on the profit making endeavor of the Airport Authority.

Continuing, Mrs. Palmer referenced Mr. Harper's comments that the property was deeded to the city for military retirees. If that was the original purpose, she asked how this became a profit making parcel. If the Airport Authority sees the need to continue making a profit and the city sees the need to collect ad valorem taxes, then we need to

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

be up front and not take new residents and let the residents of Trailer Haven know that time is running out. This will allow them to make other arrangements rather than the designation being changed over a period of several meetings. She concluded by saying she will not support this item until she sees proof that the situation has changed and we are not providing low income housing at Trailer Haven.

Mrs. Hand stated that she is also a member of the Airport Authority. She understands Mr. Palmer's comments because it is true that the property needs to be used for the highest and best use. However, all these years Trailer Haven has been home to many senior citizens and at this point, she can't see changing the designation. She added that she believes we are providing low income housing. Mrs. Hand said there may be a problem that snowbirds are living here at a relatively low cost and using our infrastructure; however, she cannot support taking anything away from our residents who live here full time.

Mr. Contreras referenced the two cases cited by Mr. Gougelman in the agenda package and asked if the city could find itself in similar litigation. Attorney Gougelman replied yes. Mr. Contreras asked about the comment that the government deeded the property for use by military retirees. Attorney Gougelman said that may be, but it would have no affect on the taxation questions. There are probably millions of military retirees in the state who own homes, whether residents or not, and pay taxes.

Mrs. Poole referenced the Charter and the City Code and said it is the "City of Melbourne Airport Authority." Therefore, Trailer Haven belongs to the City of Melbourne and is administered by the City of Melbourne Airport Authority. She said she spoke with the attorney who created the document, which constituted the Airport Authority and he confirmed this. Mrs. Poole referenced the 1997 Council meeting when Council adopted a motion, which declared that Trailer Haven is considered low rent housing and should be considered tax exempt. That was accepted as a valid reason at that time.

Referencing the draft letter to the Property Appraiser in the package, Mrs. Poole stated that the first paragraph is incorrect. Trailer Haven is owned by the City of Melbourne; there is no third party involved. The two cases cited have a third party.

Continuing, Mrs. Poole said Trailer Haven serves an economically disadvantaged or low income segment of our society. Additionally, the park is part of the history of the city. She asked the attorney if housing for low income or economically disadvantaged can be tax exempt. Attorney Gougelman replied in the affirmative and cited case law.

Mrs. Poole said as an historical resource, Trailer Haven should be preserved. Placing the park on the tax rolls will start us down the trail of getting rid of Trailer Haven and she is opposed to that. The property is part of what makes Melbourne different from other communities. She concluded by saying she hopes this Council will not forsake the elderly and widows of Trailer Haven who need this low cost facility.

Mayor Buckley said a fee, which would apply to city services only (police and fire) was discussed at the January 9 meeting. As noted, that is not possible. If Council sends the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

letter to the Property Appraiser, there would be county and city taxes. Instead of a monthly bill of \$2, the bill would be closer to \$7. The Mayor added that in his opinion, Trailer Haven continues to meet a low income housing need and he is opposed to forwarding the letter to the Property Appraiser. He clarified that if the Airport pays the taxes, the Airport will simply say that the FAA rules require that the cost be passed on to the residents.

Moved by E. Palmer/Poole to “forget this item on the agenda.” Motion carried unanimously.

A brief discussion followed on the definition of low income versus median income.

9. ORDINANCE NO. 2001-05 (LDR-2000-04): (Public Hearing/Second 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) (First Reading 1/23/2001)

Attorney Gougelman read Ordinance No. 2001-05 by title.

Kent Lovejoy, 1764 Clover Circle, speaking on behalf of the Meadow Cove Homeowners' Association, reported that this process first began in November 1999. That is when residents first started talking about speeders in the area. He noted that it is now 16 months later and his community still has no relief from speeding. He described the situation in the neighborhood and noted that Clover Circle is still a racetrack. Mr. Lovejoy said the current proposal provides no provision for the City Council to take action. Everyone is required to go through the bureaucratic process. He said he understands there needs to be a process; however, they need relief now.

Moved by Poole/Hand for approval of Ordinance No. 2001-05.

Mrs. Palmer said in situations where neighborhoods have been waiting for some time, the city may need to expedite the process. Regarding the proposed change to Chapter 29, she said she has a problem with the language, which provides “When in the opinion of the traffic engineer the design of the street system within a subdivision could likely create the potential...” She believes this is subjective and should contain more objective criteria than one person’s opinion. There needs to be an appeals process if this remains.

(Note: Section 29-9 provides for interpretation and an appeals process for the entire Chapter.)

Mr. Hill said there are a variety of instances in the Code where something is the opinion of the staff person or professional reviewing that triggers additional effort or requirement. The City Engineer would have to follow approved standards in carrying out this section of the Code. Some of the designs that would trigger this requirement would include a right turn off of an arterial roadway near a crowded intersection, a long straightaway, etc. We are trying to give ourselves the flexibility of making it a requirement of the developer to put these devices in up front.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Attorney Gougelman said these requirements would be placed on preliminary and final plats, both of which appear before City Council for approval. He noted that Council is delegating authority to the Traffic Engineer to develop procedures.

Mr. Contreras asked if some of the subdivisions that have been waiting for this ordinance could be fast tracked. Mr. Hill said yes and noted that the intent is not to create a burdensome review process. That was the purpose of providing for an administrative procedure rather than making the process part of the Code. He stressed that in cases where we are retrofitting a street, it is important to have some degree of criteria.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Recessed: 8:52 p.m.

Reconvened: 9:02 p.m.

10. ORDINANCE NOS. 2001-06, 2001-07 AND 2001-08 (AR-2000-132/CPA-2000-10/Z-2000-906): (Public Hearings/Second 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/Applicant – Frank Lacko) (First Reading 1/23/2001)

Attorney Gougelman read the ordinances by title. There were no public comments.

Moved by Hand/C. Palmer for approval of Ordinance No. 2001-06. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2001-07. The roll call vote was:

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

Nay: None

Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Moved by Poole/E. Palmer for approval of Ordinance No. 2001-08. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

11. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/E. Palmer for approval of 11 (a) – (f) as recommended.

Mr. Hill responded to questions. No items were removed from the consent agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1672: A resolution authorizing application to the Department of Justice's bulletproof Vest Partnership Grant program.
 - b. Purchase of 7 Ericsson 500M 800Mhz mobile radios (Communications International, Vero Beach, FL - \$9,625.00) and 12 (Data911, Alameda, CA - \$60,344.40) SunView Mobile Data Systems, for the Police Department - \$69,969.40.
 - c. Contract to remove existing air conditioning unit and install a 60 ton air conditioning unit at the Melbourne Auditorium, Mechanical Air Service, Orlando, FL - \$53,000.00.
 - d. Purchase of 33 hand-held radios and accessories for the Police Department, Communications International, Vero Beach, FL - \$33,851.25.
 - e. Annual purchase of Anhydrous Ammonia for the Surface Water Treatment Plant (unit cost \$500), estimated annual usage 70 tons, estimated annual cost \$35,000.00.
 - f. Purchase of one vehicle and accessories and one piece of equipment for the Fleet Management Division, various vendors - \$174,230.00
12. COUNCIL ACTION RE: A presentation by Barbara Meyer, Brevard County Metropolitan Planning Organization Bicycle Pedestrian Coordinator, regarding the Greenways and Trails Draft Master Plan for the community.

From the agenda report: The County's Greenways and Trails Draft Master Plan for Melbourne is a compilation of existing greenway projects and extensive public

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

involvement workshops held throughout Brevard County this past year. This is an opportunity to participate further in developing the future greenways and trails network in Brevard County.

Barbara Meyer reviewed the draft Greenways and Trails Master Plan. She noted that following extensive public involvement and interagency coordination, they have identified several potential corridors, which define the “spine system” for the greenways and trails network. The spine system is the key element in maintaining a countywide and regional perspective to ensure connectivity. The spine system also addresses the public’s concerns on providing a variety and balanced network of transportation, conservation, and recreation trails.

Ms. Meyer discussed the regional spine system and the attributes that warrant the inclusion of a greenway facility into the spine system. Additionally, she explained typical trail sections and pointed out the types of facilities that can be included in the spine system.

Ms. Meyer concluded her presentation by responding to general questions about the plan.

13. ORDINANCE NO. 2001-09 (A&V #238): (First Reading/Public Hearing) A proposed ordinance to abandon and vacate a 60-foot wide right-of-way known as Devonshire Drive between Babcock Street and Bryan Street. (Requested by Cliff Singleton)

Attorney Gougelman read Ordinance No. 2001-09 by title. Mrs. Poole disclosed that she spoke with the property owner (Fred Boozer) closest to this request.

Mr. Hill reported that Devonshire is a dirt street that provides access to Bryan Street from Babcock Street. There are two recent actions that have some bearing on this request. The first is the closure of Devonshire Drive between Bryan Street and Pennwood Drive. This action was part of the Bignonia Street/Pennwood Drive construction project. In that project, a cul-de-sac was constructed at the northern end of Pennwood Drive where it intersected Devonshire Drive, and the section of Devonshire Drive between Pennwood and Bryan Streets was closed to traffic. This neighborhood is no longer accessed from Devonshire Drive. The abandon and vacate request would have no impact on that area.

The second action is Council’s approval of the Crane Creek Senior Apartment ACLF. The ordinance requires the developer pave this section of Devonshire as well as Bryan Street unless the streets are vacated. If the request is approved, there will be no street to pave. Staff does not think that the vacation will have a negative impact on ingress and egress to the ACLF because the site will remain accessible from Babcock and Bryan.

Another consideration related to the proposed request is whether or not it will have an impact on the abutting and neighboring properties. The owner of the property abutting the north side of Devonshire and the entire length of Bryan Street is opposed to the request because he thinks it will limit access to his property. That owner was not a petitioner.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

City departments and utility companies reviewed the request and had no objections as long as a dedicated utility easement is provided over the 60-foot right-of-way. The staff recommendation is for denial because of the objection from the property owner to the north. However, if Council wishes to approve the ordinance, the following stipulations should be considered:

- a. Dedication by the abutting property owners of a public utility easement over the 60-foot width of the present right-of-way.
- b. Closure by the petitioner of the intersection per FDOT standards and construction of sidewalk across the width of Devonshire Drive where none presently exists.
- c. If the dirt street is not paved, the petitioner/developer should pay the equivalent cost to pave dirt streets elsewhere. That amount is estimated to be \$35,000.

Mr. Palmer asked if the following stipulation from Ordinance No. 98-61, which provided for the conditional use for the ACLF, was still in effect:

“Pave all of Devonshire Drive to city standards east of Babcock Street to Bryan Street and pave Bryan Street to city standards from Devonshire Drive to Melbourne Avenue, unless these streets are vacated.”

Mr. Hill replied yes.

Cliff Singleton, applicant, displayed an aerial photograph and discussed the area. He said the abandon and vacate request was made based on conversations he had with city staff. The feeling was that it would be better to close the street as opposed to allowing a cut through for people to avoid the light at Melbourne Avenue. Regarding the cost, Mr. Singleton reported that the cost of closing the driveway, landscaping 300,000 s.f. of property, and providing maintenance and irrigation would be as much as paving the street one time and turning it over to the city. He noted that it is not a big issue to him whether the street is closed or not; however, the issue needs to be resolved.

Mr. Singleton said he spoke with Mr. Boozer (abutting property owner); however, he could not get a definitive answer on the request. Based on Mr. Singleton’s ownership of more than 50% of the property, it was determined that he could make application. Mr. Singleton concluded by saying he would comply with whatever Council wants; however, he added that he believes the landscaping would be preferred over the asphalt.

Mrs. Poole asked Mr. Singleton if he agreed with stipulation “c” noted above. Mr. Singleton said no because that would not be fair. The abandon and vacate request would not be a cost savings to him because of the cost of landscaping, irrigating, and maintaining the area.

Mrs. Poole noted that this section of Devonshire, whether paved or not, is used as a cut through. She noted that Mr. Boozer has complained that he would not have access to his

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

property along Devonshire or Bryan. Mr. Singleton said Mr. Boozer's access is from Bryan and this action would not deny him that use.

John Ryan, 2220 South Pennwood Drive, distributed a map and noted that his house is at the end of the cul-de-sac. He noted that he is glad Devonshire Drive does not go straight through to the cul-de-sac; however, it was supposed to have grass pavers installed. He reported that people are still driving through the grass area to access the cul-de-sac and asked if something can be done to stop this. Regarding the request on the agenda, he said he would like to see Devonshire closed; it would limit people accessing the cul-de-sac.

Marcus Fertig, property owner, asked for clarification on the portion of Devonshire covered by this request.

The Mayor replied that it is the portion of Devonshire Drive between Babcock Street and Bryan Street.

Moved by E. Palmer/C. Palmer for denial of Ordinance No. 2001-09.

Mrs. Poole noted that city departments and utility companies had no objections to the request. If approved, traffic would no longer be able to use this as a by-pass. She added that she cannot understand the objection from the other property owner (Mr. Boozer) because he already has three accesses to his property. The cut through is dangerous and the short street serves no purpose. Additionally, she noted that if approved, Mr. Boozer could use the portion that would revert to him to provide additional parking so that cars will no longer park along the right-of-way.

Mrs. Palmer said she recalls that Mr. Boozer's objection was based on concern over losing access to his property. She noted that the city should not take that option away.

Mrs. Poole said that is wrong. Mr. Boozer does not currently have access to his property from Devonshire. His access is from Bryan.

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

14. ORDINANCE NO. 2001-10: (First Reading) A proposed ordinance to adopt the changes to Chapter 8, Buildings and Building Regulations, as recommended by the City Code Review Committee, Section 1.

Mr. Gougelman read Ordinance No. 2001-10 by title.

This is a proposed ordinance to adopt the changes to Chapter 8, Buildings and Building Regulations, as recommended by the City Code Review Committee, Section 1. The changes are relatively minor. The committee completed its review last year and the draft document was forwarded to Council in August 2000 for review and comment.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Additionally, when the draft chapter was forwarded to Council for review, Council Member Ed Palmer expressed concern that the current Code does not require block structures to be painted. Staff agreed with Mr. Palmer's comments and drafted proposed language. The language has been added as a new article entitled "Community Aesthetics" in Chapter 10. It was not included in Chapter 8 because it does not revise a specific section of the Standard Building Code. Additionally, staff expects the building codes to be completely overhauled in the next 1 - 2 years. The changes are expected to repeal all local changes to the Standard Building Code. Our additional requirement for block structures to be painted would be preserved as a part of Chapter 10.

Moved by Poole/E. Palmer for approval of Ordinance No. 2001-10. Motion carried unanimously.

Council commended the Code Review Committee for its effort on this item and the next item.

15. ORDINANCE NO. 2001-11: (First Reading) A proposed ordinance to adopt the changes to Chapter 10, Community Planning and Development, as recommended by the City Code Review Committee, Section 1.

Attorney Gougelman read Ordinance No. 2001-11 by title.

This is a proposed ordinance to adopt the changes to Chapter 10, Community Planning and Development, as recommended by the City Code Review Committee, Section 1. The changes are relatively minor. The committee completed its review last year and the draft document was forwarded to Council in August 2000 for review and comment.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2001-11. Motion carried unanimously.

16. COUNCIL ACTION RE: A request for award of \$55,175 in SHIP Rental Rehabilitation Program funds to be made to Trinity Towers, Inc., for the rehabilitation of rental property located at 615 East New Haven Avenue known as Trinity Towers South and authorization for the City Manager to execute an agreement for implement the project.

From the agenda report: State Housing Initiatives Partnership (SHIP) Rental Rehabilitation Program funds are being requested by Trinity Towers, Inc. for the purpose of providing air conditioning to the hallways of Trinity Towers South, a HUD-assisted and HUD financed low-income elderly housing development.

When the structure was built in 1982, all housing units were air conditioned. Hallway heating (gas) was provided, but hallway air conditioning was not, leaving the hallways oppressively hot during most of the year. The condition is exacerbated by laundry facilities that are located in open areas off the hallways. The condition of the hallways has been a hardship on the elderly residents (whose average age is 80.4 years), especially on those with respiratory conditions.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Staff evaluated the feasibility of this project and its eligibility for SHIP funding and concluded that it is a suitable project. The estimated cost of the proposed improvements is \$110,350. If approved for SHIP assistance, the owner will be providing the required match of SHIP funds from Trinity Towers' sources of funds. The policies of the SHIP Rental Rehabilitation Program per the maximum assistance to \$5,000 per unit. The actual SHIP funding per unit as requested is \$340.59. Sources of funding for this project will be as follows:

Sources of Funds

• City SHIP Funds (FY 1999-2000; 2000-2001)	\$55,175
• Trinity Towers South Reserve for Replacement Fund (maintained by Trinity Tower South)	<u>55,175</u>
Total:	\$110,350

The projected distribution and use of the resources shown above will be as follows:

Use of Funds

• Furnish and install three (3) 100% outside make-up air units with electric heat	<u>\$110,350</u>
Total:	\$110,350

Staff verified the reasonableness of the owner's estimate by developing an in-house cost estimate and reviewing subcontractor proposals submitted by the owner. Staff's in-house estimate was approximately \$107,250.

Arland Adams, MD, Trinity Towers Board of Directors, discussed the problem with the hallways not being air conditioned. He noted that the problem is magnified by the fact that the residents' average age is 81. Thirty seven residents require assistance in walking and nine are in wheelchairs. Trinity Towers South was developed for people who don't have the ability to ambulate. He asked Council for consideration of the request.

Mrs. Poole asked about the ownership of Trinity Towers.

James White, Director of Trinity Towers East, West, and South, said there has been no change in the designation of Trinity Towers South since its inception in 1980. Holy Trinity Church is the sponsor; however, they do not provide financial assistance. He agreed with Mrs. Poole that it is a separate entity from the church and is a not-for-profit corporation. They have 10 – 12 board members who serve without compensation.

Moved by Hand/E. Palmer for approval of an award of \$55,175 in SHIP Rental Rehabilitation Program funds to Trinity Towers, Inc. for the rehabilitation of rental property located at 615 East New Haven Avenue known as Trinity Towers South and authorization for the City Manager to execute an agreement with Trinity Towers, Inc. for the implementation of the project.

In response to Mr. Palmer, Mr. Hill said Council will be provided a copy of the summary provided to staff by Mr. White showing the status of the corporation, number of residents,

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

average rent, etc.

The question was called. Motion carried unanimously.

17. COUNCIL ACTION RE: A request for award of \$60,000 in SHIP funds to the South Brevard Sharing Center, Inc. for implementation of the Tenant Assistance Program and authorization for the City Manager to execute an agreement with the Sharing Center for SHIP funds.

On August 28, 2000, staff advertised availability of the 2000-2001 State Housing Initiatives Partnership (SHIP) Program funds, including funding for the Tenant Assistance Program strategy. The advertisement solicited proposals from suitably qualified local non-profits for administration of the program. In response to the public notice, the Housing and Community Development Department received a request from the South Brevard Sharing Center, Inc., a local non-profit with offices in Melbourne and Palm Bay, to continue administering the program on behalf of the city. The center is currently administering a Melbourne SHIP award of \$65,000 funded from the 1999-2000 SHIP grant, and is requesting \$60,000 (the maximum available) to continue providing this assistance. With a little more than \$13,000 remaining, the center anticipates exhausting its current Tenant Assistance Program funding within two to three months.

The Tenant Assistance Program provides financial assistance to very low-income tenants (with incomes at or below 50% of median income) for initial utility and security deposits. A maximum grant of \$750 (including a \$65/household project delivery fee to cover the costs of operating the program) is allocated per household, and tenants are required to rent eligible units (units which meet the Standard Housing Code requirements) within Melbourne city limits for at least one year. No tenant can be assisted more often than once every five years.

As no other non-profit submitted a proposal and as the center has demonstrated an excellent record of administration and stewardship of previous Tenant Assistance Program funds, staff is recommending that the center be awarded a SHIP grant of \$60,000 in FY 2000-2001 funds for continuation of the Tenant Assistance Program.

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

In response to Mrs. Poole, Mrs. Thomas confirmed that staff conducts inspections to confirm that units meet the Standard Building Code. Additionally, trailers are prohibited by SHIP regulations.

Mrs. Palmer said organizations that help the homeless in the county recently met at Viera to identify needs and this program was identified as a top priority. She added that this is a wonderful program and she is glad the city can provide support in this way.

The question was called. Motion carried unanimously.

18. RESOLUTION NO. 1674: A resolution to change the date of the City Council meeting from

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

March 27, 2001 to March 26, 2001. (Requested by Mayor Buckley)

Attorney Gougelman read the resolution by title.

From the agenda report: At the January 23, 2001 meeting, Council approved Mayor Buckley's request 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. This resolution calls for moving the City Council meeting date to accommodate Mayor Buckley's travel.

If Council approves, the meeting would be conducted on Monday, March 26 at 7:30 p.m. in the Council Chamber. There is adequate time for the Zoning Board of Adjustment (which regularly meets on the last Monday of the month) to be rescheduled to March 27.

Moved by Poole/E. Palmer for approval of Resolution No. 1674.

Mrs. Hand asked if there was a reason the Vice Mayor could not handle this meeting. Vice Mayor Palmer questioned if Council has changed a meeting date in the past for this reason. Mayor Buckley said it would be okay with him if the Vice Mayor conducted the meeting.

The question was called. Motion carried unanimously.

Mayor Buckley reported that he and Council Member Ed Palmer will be attending an airport conference in September; they will not be present for the September 11 meeting. He suggested Council move the meeting date to September 18.

Mrs. Palmer said if the feeling is that she is not qualified and the meeting date is going to be changed every time she would officiate as Vice Mayor, then the title should be taken away from her. Mayor Buckley replied that is absolutely not the case.

For the record, Mr. Contreras stated that he will be out of town on March 26.

19. COUNCIL ACTION RE: Board Appointments

- a. Beautification and Environmental Advisory Committee – one member-at-large

Moved by Poole/E. Palmer to appoint Patty Goffinet as a member-at-large to the Beautification and Environmental Advisory Committee. Motion carried unanimously. (2/13/2001 – 11/9/2002, unexpired three-year term)

- b. Citizens' Advisory Board – one alternate member

Moved by E. Palmer/Poole to appoint Marjorie Beckett. Motion carried unanimously. (2/13/2001 – 11/11/2004, unexpired term plus full three-year term)

- c. Code Enforcement Board – one alternate member

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Vice Mayor Cheryl Palmer nominated Bobby Bowen.

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

Moved by Hand/Poole to appoint Bobby Bowen as an alternate member to the Code Enforcement Board. Motion carried unanimously. (2/13/2001 – 7/8/2002, unexpired three year term)

d. Downtown Redevelopment Committee – one regular member

Moved by Poole/E. Palmer to reappoint Jack Ryals. Motion carried unanimously. (2/23/2001 – 2/22/2004, three-year term)

e. Police Pension Board – fifth member

Moved by Hand/E. Palmer to appoint Melinda Maddox as the fifth member. Motion carried unanimously. (2/13/2001 – 10/31/2002, unexpired three year term)

Moved by Contreras/E. Palmer to recess as the City Council and convene as the Babcock Street Community Redevelopment Agency. Motion carried unanimously.

BABCOCK STREET COMMUNITY REDEVELOPMENT AGENCY BUSINESS

20. COMMUNITY REDEVELOPMENT AGENCY ACTION RE: Consideration of options regarding property located at 351 Laurie Street, formerly occupied by the Palms 8 Theater.

a. Discussion of options regarding the property located at 351 Laurie Street.

b. Possible contract for the purchase of property located at 351 Laurie Street.

c. Resolution No. 1675: A resolution providing for a loan not to exceed \$850,000 from the Water and Sewer System Fund to the Babcock Street Community Redevelopment Agency to provide interim financing for the purchase of real property.

d. Resolution No. 1676: A resolution of the Babcock Street Community Redevelopment Agency expressing its intention for purposes of compliance with Treasury Regulation Section 1.150-2 to reimburse expenditures which may be made with respect to the acquisition of property for the Babcock Street Community Redevelopment Agency.

a. **Discussion:**

Mr. Hill reviewed the agenda report. At the January 23 meeting, Council directed staff to investigate options regarding the former Palms 8 Theater property located at 351 Laurie Street at the north end of Babcock Street. This was a follow-on to the extended discussion which occurred at the January 16 special meeting.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

The city's potential interest in the property is essentially two-fold. First, the existing alignment of Babcock Street makes transportation in and through the area cumbersome. It is strongly felt that correction of the roadway would be a benefit to the area businesses and redevelopment of the street. Second, there is the issue of whether the city should play a more significant role in the ultimate redevelopment of the site. Ownership of the property would allow the city to direct the use of the property to achieve the best result for economic development.

The listed price of the property is \$950,000. The assessed value of the property is \$974,280. The property owners will need to close on the property by February 19 due to the expiration of insurance coverage on the property. They are unable to renew the insurance due to the vacancy of the building. Due to the way the property is mortgaged, the property owners stated they are unwilling to sell only a portion of the property to the city for the realignment.

Apparently, there have been several recent inquiries about the property including a serious extended negotiation with a private school. If the city wishes to pursue the acquisition of the property, time will be of the essence. Given that, staff has taken a number of steps to investigate the property and to be prepared should Council decide to move forward.

A site inspection of the property was conducted. The building is not in a condition to allow occupancy; further, it would need to be secured to prevent future entry into the building. An appraisal and a Phase 1 Environmental Study of the property are underway. Also, a title search, survey, and appraisal are being completed. These will be provided as soon as they are available.

We have also had direct discussion about the terms of sale. Following negotiations, the owners agreed that if the city were interested, they would sell the property to us for \$800,000, assuming a closing by February 19. The city would obtain the land and buildings (less theater related equipment inside the structures – projectors, sound equipment, seats, and food service items).

There are essentially three options at this point:

Option 1 - Purchase the entire 13.3 acres for \$800,000. Remove the existing structure on the property and realign the roadway as shown in the diagram included in the package. This would include partitioning the parcel into an eastern 1.3 acres and a western 10.7 acres. Sell the remaining acreage after meeting the realignment and retention requirements and direct the use of the property towards an economically beneficial use.

Demolition is estimated at \$75,000. Some of this cost could be offset by salvage value of items within the building (air conditioning equipment, wiring, plumbing, scrap, etc.). Roadwork is estimated at \$800,000. This could be funded from available Transportation Impact Fees funds. Future costs may be incurred in the preparation of the site. (For example a substantial amount of asphalt exists on the property configured as a drive-in

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

theater with elevated rows.)

Key benefits of this option:

- The city would be able to realign the roadway and improve a major north/south corridor in the city.
- The city would guide development of this site in a manner that would enhance and sustain the success that has already begun on Babcock Street.
- It would also allow the new development on the property to improve the aesthetic appearance of the northern entrance of the district.

Important disadvantages to consider:

- The possibility the property would not resell as quickly as anticipated and that the city may end up owning the property longer than desired.
- Cost of holding the property.
- Purchase of private property on such a scale for redevelopment purposes is a new and significant endeavor for the city to undertake.

Option 2 - Do not purchase the property. Expect that a future property owner will work with the city to allow the city to purchase enough property to align the roadway.

Potential advantages:

- This option would not cost the city funds at this time for property acquisition. May be possible to obtain the right-of-way for minimal cost.
- Road realignment coordinated with new owner.

Potential disadvantages:

- Leaves roadway in its current configuration and dependent on cooperative ownership.
- Cost could be great for right-of way.
- Limited ability to guide the development of the property.

A crucial risk is that future property owner will want to utilize the existing building and will be unwilling to allow the city to purchase a portion of the land to resolve the alignment problem. It would then be practically impossible to acquire the needed right-of-way. Another risk is that the ownership will not go to the best use economically for the district.

We have had discussions with the private school interested in the property. They have expressed a willingness to work with the city to address the roadway needs. They would be willing to sell back to the city the area for the road. The school's initial plans included using the building, which must be eliminated to improve the road.

Option 3 - Do not purchase the property. Allow the private sector to determine the use the property. Do not fix roadway.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Advantages:

- No cost to the city any money for property acquisition.
- No cost for road realignment.

Disadvantages:

- Leaves roadway in its current configuration.
- No ability to guide the future development of the property.

Should the property remain unsold, the city could always reconsider a purchase at a future date.

Northern Extension - Questions were raised about the possibility of another route to fix the road. Discussed at the workshop was continuing Babcock Street northward, across Laurie Street and creating a new intersection at U. S. 1.

It appears that a minimum of three occupied businesses would be displaced by this alignment. Right-of-way acquisition would be substantial because of the need to compensate for the properties and the businesses. The assessed value of the three properties is \$1,205,000. Estimated cost of the roadway construction is \$500,000.

Further, a new intersection at U. S. 1 would be too close to the existing traffic signal at Ballard Drive to allow a new traffic signal to be installed. The traffic signal at Ballard Drive is utilized by the subdivision to the east and Ballard Park and not very likely to be moved. If an additional signal were allowed, it would cost approximately \$250,000.

Contract for Purchase - Should Council decide to pursue the property purchase, we have included a contract for sale in the amount of \$800,000. This is a standard contract for the purchase of property. The City Attorney's Office has prepared the documents.

Financing - Immediate financing can be provided through a loan from the Water and Sewer Fund investments. This allows the city to request proposals from the financial institutions to determine if a better rate of interest could be obtained.

Included in the package is a proposed resolution providing for a loan from the Water and Sewer System Fund to the Babcock Street Community Redevelopment Agency to provide the interim financing. An interfund loan is proposed at an interest rate equal to the rate paid by the State Board of Administration on funds invested in the Local Government Surplus Funds Trust Fund. The current rate is 5.85 %.

Based on the purchase price, the loan would not exceed \$850,000. This would cover potential closing costs. The loan would be drawn down just prior to closing on the property. The interest rate on the loan would be paid by the Babcock Street Community Redevelopment Agency monthly at the monthly average rate paid by the State Board of Administration. The monthly interest would be \$4,144. Sufficient funds exist in the reserve for future projects to allow the district to pay the debt service.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

A request for proposal will be issued to local banks seeking bids for the sale of bonds to provide permanent financing for the property purchase. It is estimated that the bond interest rate would be in the 5% range.

Additionally, the U. S. Department of Treasury requires that the city adopt a reimbursement resolution declaring the projects to be financed by bonds and identifying the expected total amount of the bond issue. This is required to establish that the costs currently being paid and which will be paid prior to the issuance of the bonds to finance the construction and acquisition of the projects may be reimbursed from the bond proceeds.

Should Council decide to proceed with purchase of the property, then the following additional actions are required:

- b. **Approval of Contract for Sale of the property at a price of \$800,000**
- c. **Approval of Resolution No. 1675 providing for an interfund loan from the Water and Sewer System Fund to the Babcock Street Community Redevelopment Agency in an amount not to exceed \$850,000.**
- d. **Approval of Resolution No. 1676 as required by the U. S. Department of Treasury.**

Redevelopment Coordinator Cindy Dittmer reviewed slides of the area. Mr. Hill noted that this is a philosophical question for Council – whether or not to engage in this type of redevelopment effort.

Mr. Palmer stated that the purchase of the entire 13 acres would be a fantastic buy for the city; the property has tremendous potential. Additionally, it will allow us to have influence over development on the northern portion of the redevelopment area. He recommended the city proceed with purchasing the entire acreage for the price indicated.

Moved by E. Palmer/Hand to accept Option 1 (outlined above).

Mr. Contreras asked if staff has computed our liability for taxes from February 19 through the end of the year. Mr. Hill said no, however, he noted the amount would be pro-rated.

Regarding Option 2, Mr. Contreras asked if we know the school's plans for the building. Mr. Hill said he had a couple of discussions with representatives from the school and their plans were to use the site for a school. They were relying on using the buildings. Based on the information we received, plus our review of the site, we don't know how realistic that plan is. A substantial amount of work would be required before the buildings would be in shape for use.

Mr. Contreras said he has received calls from residents in support of Option 1. They have commented that the area has degraded and if further degradation occurs, there will be

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

potential problems. Additionally, the redevelopment effort and the realignment of Babcock Street will be good for area businesses.

Mrs. Hand asked if the city has considered keeping the property for its own use. Mr. Hill said we would seek the advice of the Babcock Redevelopment Advisory Committee; however, the appraisal indicates that the highest and best use of the property would be an industrial facility, similar to DRS Optronics. The city will have the opportunity to use the eastern piece to accommodate retention and perhaps a small park. This would provide a nice entrance feature to the District.

Mrs. Hand asked if this would be a good location for a new City Hall. Mr. Hill said he is not sure that would provide the economic development benefit along with the highest and best use of the property. He agreed that the property is large enough.

Mrs. Poole said she has been opposed to this purchase. However, since the city is interested in straightening the roadway, it would not be in the best interest of all to have a school located on the site. She also supports the idea of issuing a request for proposal so the city can have control over what eventually locates on the property.

Mrs. Palmer said if the school had a solid contract on the property, she would not be able to support the proposal. However, as the situation exists and as it has been reported, she is able to support the motion.

B. B. Nelson, listing agent, stated that there was a contract; however, terms were never agreed to. At this point, there is no contract, except the city's. He added that he stepped out of the negotiations and let the City Manager negotiate directly with the seller. He stressed that he would have never been able to quote this price; the appraisal indicates that the property is worth considerably more.

The question was called. Motion carried unanimously.

Attorney Gougelman read Resolution No. 1675 by title.

Moved by Contreras/Hand for approval of Resolution No. 1675. Motion carried unanimously.

Attorney Gougelman read Resolution No. 1676 by title.

Moved by Poole/E. Palmer for approval of Resolution No. 1676. Motion carried unanimously.

Moved by Poole/Contreras to adjourn as the Community Redevelopment Agency and reconvene the meeting as the City Council. Motion carried unanimously.

21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Hand asked the status of the traffic signal at the intersection of Wickham Road and the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2001

Dog Track entrance. Mr. Hill said the city is attempting to get another warrant study approved and conducted. Additionally, staff is investigating the cross access agreement between Wal Mart and the Dog Track.

Mrs. Poole said she is disappointed about the landscaping that has been provided at Charlie Tharrington Park. Mr. Hill said he will direct the Leisure Services staff to finish this project.

Vice Mayor Palmer referenced the information from the Citizens' Advisory Board requesting a statement of support for the organization called HEART (Help Early Addicts Receive Treatment). HEART is lobbying to provide drug treatment for first time drug offenders as opposed to jail time. Mrs. Palmer asked Council to review the information and then revisit this issue.

Council Member Ed Palmer referenced the recent Space Coast League of Cities meeting where the issue of the relationship between the School Board and the cities was discussed. It appears as if the new Superintendent, Mr. DiPatri, is favorable to allowing use of school facilities after school hours. The School Board has asked for the cities to comment.

Mayor Buckley referenced the information distributed on the County Commission's consideration of a South Brevard courthouse facility. One possible site is the former Wal Mart building located at Babcock Street/Eber Road. The Commission will consider this matter on February 27. Following a brief discussion, by consensus Council authorized the Mayor to send a letter to the County Commission expressing support for the Wal Mart site and to represent the city at the County Commission's February 27 meeting.

22. ADJOURNMENT

Moved by E. Palmer/Contreras to adjourn. Motion carried unanimously.

The meeting adjourned at 11:05 p.m.

City Clerk – 2/23/2001

Approved by Council: February 27, 2001