

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 8, 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. Reverend James Bartholomew, Vineyard Christian Church, gave the invocation.
2. All present gave the Pledge of Allegiance to the Flag of the United States of America.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Cheryl Palmer	Vice Mayor, District 5
	Richard Contreras	Council Member, District 1
	Ed Palmer	Council Member, District 2
	Pat Poole	Council Member, District 3
	Grace Walker	Council Member, District 4
	Loretta Isenberg-Hand	Council Member, District 6
	Henry J. Hill	City Manager
	Paul R. Gougelman	City Attorney
	Cathleen A. Wysor	City Clerk
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Zoning Administrator

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented the following proclamations:

“National Safe Boating Week”, May 19–25, 2001; accepted by Jack Kuehne, Flotilla Commander, and Jim Anthony, Public Affairs Officer, U. S. Coast Guard Auxiliary South Brevard Flotilla 42.

“VFW Buddy Poppies Days”, May 25-28, 2001, accepted by Chris Pilger, Senior Vice Commander, VFW Post 3991, West Eau Gallie Post.

Mayor Buckley presented the March of Dimes plaque for participation in the 2001 March of Dimes Walk to Sharon Stonecipher, the city’s walk coordinator.

5. APPROVAL OF MINUTES - April 24, 2001 special meeting and April 24, 2001 regular meeting

Moved by Hand/Walker for approval of the minutes. Motion carried unanimously.

6. CITY MANAGER’S REPORT

Mr. Hill reported that the County Commission will further discuss courthouse options on May 29 at 9:00 a.m.

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Additionally, Mr. Hill updated Council on the status of recent legislation, which affects municipalities

The City Manager referenced his request to add Item 13.1 to the agenda.

Moved by Poole/E. Palmer to add item 13.1 to the agenda. Motion carried unanimously.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. COUNCIL ACTION RE: Change Order No. 2 to contract for 20" aerial crossing on Melbourne Causeway, Project No. C96301, Stormwater & Underground, Inc., Titusville, Florida - \$11,451; and transfer back savings in the same amount from Water and Sewer Miscellaneous Projects. (Postponed by Council 4/24/2001)

From the agenda report: At the April 24 meeting, following questions by Council Member Contreras, Council deferred this item to allow staff time to investigate whether the contractor would split the cost with the city. Staff has not yet completed its efforts to negotiate any reduced cost, and the recommendation is to continue postponement until May 22.

Moved by Contreras/C. Palmer to postpone this item until May 22, 2001. Motion carried unanimously.

9. ORDINANCE NO. 2001-19 (A&V #240): (Public Hearing/Second Reading) A proposed ordinance to abandon and vacate a five-foot wide utility easement along the southern property line of 592 Ixora Drive. (Requested by Donald and Janice Dixon) (First Reading 4/24/2001)

Attorney Gougelman read Ordinance No. 2001-19 by title. There were no comments from the public.

Moved by C. Palmer/Walker for approval of Ordinance No. 2001-19. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2001-20 (CU-2001-05): (Public Hearing/Second Reading) A proposed ordinance for a conditional use to allow an automotive (motorcycle) repair on two platted lots in the C-2 (General Commercial) zoning district, located east of U. S. 1 (North Harbor City Boulevard) between Law Street and Creel Street. (Owner and applicant: Douglas Anthony, J. D. Cycle, Inc.) (First Reading 4/24/2001)

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Attorney Gougelman read Ordinance No. 2001-20 by title.

Mrs. Hand said she spoke to a citizen last week at the Eau Gallie Civic Center who is opposed to the request. Mrs. Palmer disclosed that she viewed the site.

Mrs. Braz reviewed the agenda report. During the past week, residents in the area contacted staff expressing additional concerns about the request. As a result, revised stipulations are being recommended as follows:

- Add a stipulation limiting the hours of operation for the repair facility from 8:00 a.m. until 6:00 p.m.

(The applicant agreed at the April 24 Council meeting that he would operate from 9:30 a.m. until 6:00 p.m.)

- Modify stipulation “f” to read: The alley behind the facility and local residential streets shall not be used for test driving motorcycles for sale or repair.
- Add landscaping material based on CPTED (Crime Prevention Through Environmental Design) principles to the rear of the lot that will reduce the noise.

Mrs. Palmer asked if a revision to stipulation “f” would present a safety problem for the applicant (access to U. S. 1 on a motorcycle not functioning properly versus use of a side street). Mrs. Braz replied that the applicant has indicated that he doesn’t use the alley; therefore, the only choice is to access U. S. 1. She confirmed for Mrs. Palmer that the applicant does not object to this revision.

Mayor Buckley asked if the revisions would require the ordinance to be readvertised. Attorney Gougelman said no and added that they would not be considered material changes.

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

Mr. Palmer expressed his concern with how stipulation “f” would be enforced. Attorney Gougelman noted that he is satisfied with the way the stipulation has been proposed. He noted, however, that it would offer a loophole if someone wanted to force the issue.

Moved by E. Palmer/Hand to add and modify the stipulations (as noted above). Motion carried unanimously.

Moved by C. Palmer/Contreras for approval of Ordinance No. 2001-20 with the stipulations as revised. The roll call vote was:

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

Nay: None

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Motion carried unanimously.

11. ORDINANCE NO. 2001-21 (CU-2001-06): (Public Hearing/Second Reading) A proposed ordinance for a conditional use to operate an animal day care business and veterinary clinic (Tiny Tots Petland and Resort) with on-site boarding of animals on a .24-acre parcel zoned C-P (Commercial Parkway), located on the east side of Apollo Boulevard, north of NASA Boulevard, southeast of Babcock Street and west of the FEC Railway. (Owner: Tiny Tot Petland and Resort, applicant: Michele D. Mailhot, and representative: Terryle Page) (First Reading 4/24/2001)

Attorney Gougelman read Ordinance No. 2001-21 by title. Mayor Buckley opened the public hearing. There were no comments.

Moved by Hand/Walker for approval of Ordinance No. 2001-21.

Mrs. Poole stated her objection to the request and said this is not the appropriate location. She referenced the City Code and asked how City Council will determine whether noises need to be controlled. Mrs. Braz said if complaints are received, they will be investigated by staff. Mrs. Braz added that staff has driven by and visited the site and has not detected odor or noise.

Mrs. Poole asked if someone is on the premises 24 hours a day. Previously Council was informed that the dogs run around and play and Mrs. Poole said she is concerned that they will get into fights in the middle of the night.

Michele Mailhot, applicant, reported that it is not necessary for someone to remain on site 24 hours a day. She explained how the animals are secured at night.

The question was called. The roll call vote was:

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

Nay: Poole and Buckley

Motion carried.

Mrs. Poole said that her nay vote is also based on her concern for the residents in the Tradewinds Subdivision immediately behind this facility.

12. ORDINANCE NO. 2001-22 (Z-2001-909AD/LDR-2001AD): (Public Hearing/First Reading) A proposed ordinance to amend the Zoning Code and Land Development Regulations to include specific provisions for temporary labor agencies and to find the proposed amendment consistent with the Comprehensive Plan, affecting commercial and industrial zoned properties throughout the city. (Approved by Council 4/24/2001)

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Attorney Gougelman read Ordinance No. 2001-22 by title. Mrs. Braz reported that the performance standards have been modified since the last meeting to better define the requirement for the gathering area, requiring the area to be visible for police patrol with adequate lighting; requiring a restroom to be directly available to the gathering area, and requiring adequate trash/cigarette butt clean-up.

Mr. Palmer stated that he feels temporary labor agencies should be prohibited in the C-P zone. Additionally, he said he is not sure about the language regarding sanitary facilities. That condition also references "plumbing fixtures" and he believes it could provide a loophole.

Mrs. Braz replied that she has no problem with that performance standard reflecting "sanitary facilities."

Mrs. Poole said the ordinance provides for labor agencies in the C-P zone because typically those zones have more room. She supports their location in the C-P zone.

Mrs. Palmer referenced the performance standard, which provides that transportation will be provided away from the facility for those not receiving employment. She suggested that this also apply to the end of the day. Attorney Gougelman said he has no problem adding that. Following a brief discussion, Council instructed staff to finalize the wording by second reading.

Moved by E. Palmer/Poole to amend Performance Standard 2 as follows: "Provide sanitary facilities...in addition to the minimum ~~plumbing fixtures~~ sanitary facilities required by the plumbing code..." Motion carried unanimously.

Moved by Poole/Buckley for the ordinance to remain as written by allowing temporary labor agencies in the C-P Zoning District.

Mayor Buckley said it is his opinion that the C-P area should be covered. Vice Mayor Palmer said C-P property is larger with greater setbacks; business conducted on C-P zoned property does not impact adjacent property.

The question was called. Motion carried. (Mr. Palmer voted nay.)

Moved by C. Palmer/Contreras to amend Performance Standard 6 by adding that transportation will be provided away from the agency at the end of the day. Motion carried unanimously.

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

Moved by Poole/Hand for approval of Ordinance No. 2001-22 as amended. Motion carried unanimously.

NEW BUSINESS

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13. COUNCIL ACTION RE: Contracts for D. B. Lee Wastewater Treatment Plant Improvements, Phase III, Project No. 96373.

- a. Construction Contract, Wharton Smith, Inc., Lake Monroe, Florida - \$15,587,000.

This is a proposed contract for construction of wastewater treatment improvements at the D. B. Lee Plant. Three bids were received and opened on April 12, 2001. Wharton-Smith, Inc. from Lake Monroe, Florida, submitted the low bid.

This is a major treatment system improvement. Some of the new treatment units such as the headworks will totally replace existing units. Other new units such as biological treatment and solids removal will replace old existing trains and provide about half of the plant's treatment capacity. Most of the remaining treatment units have been constructed since 1990, so when this project is completed, the plant will essentially be a modern treatment facility. Plant capacity upon completion of this project will be 6.0 mgd.

Wharton-Smith, has completed several projects for the city, including a recently completed \$1.1 million plant project.

A standard contract for treatment plant construction will be used. The contractor will have 730 days to complete the work. Liquidated damages are \$1,000 per day if applicable.

- b. Amendment #3 to Contract for Engineering Services During Construction, Hazen and Sawyer, Inc., Boca Raton, Florida - \$1,760,840.

This is a proposed amendment to Hazen and Sawyer's engineering contract to add construction phase services. Complete construction phase services were not included in the original contract because the construction was originally going to be funded by a bond issue.

Construction phase services will include construction contract administration, full-time construction inspection, a reimbursable allowance for all construction testing, preparation of operation and maintenance manuals.

Hazen and Sawyer's fees are consistent with engineering construction phase fees for the surface water treatment plant.

The recommendation is for approval of the construction contract with Wharton-Smith, Inc. in the amount of \$15,587,000 and approval of the amendment to Hazen and Sawyer's engineering contract in the amount of \$1,760,840.

Gary W. Bors, Vice President, Hazen and Sawyer, provided an overview of the proposed improvements.

In response to Mrs. Poole, Mr. Bors said there will be no change to capacity. Upon completion, the capacity will remain 6 mgd. This is essentially a modernization and

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upgrade project. He noted, however, that there is expansion to the reuse system. Currently, we are at 2 mgd and the improvements will bring that up to 4 mgd. The design also includes future expansion of the reuse.

Mr. Contreras asked the projected maximum capacity of the plan. Mr. Bors replied it is designed as a 6 mgd plant with an ultimate 8 mgd capacity.

Mr. Contreras asked the performance record of Wharton-Smith. Mr. Hill said, as indicated in the agenda package, the firm has completed several projects in the city. Mr. Contreras said he read that and asked whether their record is good, excellent, etc. Mr. Ralls replied that the company has satisfactorily completed projects.

Mr. Palmer asked where the extra reuse water would be stored. Mr. Hill replied that Phase 4 improvements would include extra storage units.

Moved by Hand/E. Palmer for approval of the construction contract with Wharton-Smith, Inc. in the amount of \$15,587,000. Motion carried unanimously.

Moved by E. Palmer/Contreras for approval of Amendment #3 to the contract for engineering services during construction with Hazen and Sawyer, Inc. in the amount of \$1,760,840. Motion carried unanimously.

Added to the agenda:

- 13.1 COUNCIL ACTION RE: Emergency Repair of Apollo Boulevard Sewer line. Replace 12" sanitary sewer line with 184 feet of 12" sewer line and three manholes, Derrico Construction Corporation - \$20,361.

Mr. Hill briefed Council. Last week Derrico Construction, along with city crews, attempted to repair a broken sewer main on Apollo Boulevard in front of the Biggins Furniture Store. A storm drain had broken the sanitary sewer main about 12' below the road. Complicating this work was the 24" transfer main, which carries treated effluent from the D. B. Lee Plant to the Grant Street Injection Well. It was located where the repair work had to be done.

The line was repaired except for one small spot that was inaccessible by digging (it was directly under the 24" transfer main). City crews inserted a point repair device into the clay pipe to repair the spot, but a piece of the clay pipe had broken off and caused the tool to become stuck in the pipe. Several attempts were made to retrieve the tool but it was obvious that to continue that effort would make matters worse and compromise the integrity of the 24" main. We have been able to maintain sewer flows with bypass pumping, but a permanent repair needs to be accomplished quickly.

Derrico has given us a price of \$20,361 to install 184 feet of 12" sewer line and three manholes. This will allow us to abandon the stretch of clay pipe that cannot be repaired. This new pipe is also farther away from the 24" transfer main. The recommendation is for approval. Derrico can begin work on May 14.

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

Mr. Contreras asked the timeframe for completing the work. From the audience, Utilities Director Bob Klapproth said two weeks.

The question was called. Motion carried unanimously.

14. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/E. Palmer for approval of items 14 “a” through “f” as recommended.

Mr. Contreras asked for additional information regarding item “f.” Mr. Klapproth explained that the city’s color scheme has traditionally been buff and blue and that is how this tank was painted. However, the adjacent condominium association, which consists of two-story units, held a homeowners’ association meeting and asked that the bright blue stripe be removed. He noted that in an effort to be a good neighbor, he obtained a price to have the stripe removed.

Discussion followed regarding what our position would be if all other neighbors requested tanks be repainted to match the neighborhood décor; the use of tax payers’ money; and whether this would start a chain reaction.

Mr. Hill explained that the adjacent residents are customers of the utility system. (The cost to remove the stripe will be funded by the system as opposed to tax dollars.) Discussion followed regarding the location of the tank and the height of the condominiums. Mr. Klapproth stressed that the city is not matching the décor of the homeowners’ association. We are simply asking to remove the bright blue band at the top of the structure.

Mayor Buckley agreed that this is a good neighbor policy. Mr. Palmer said this is a relatively minor expense and is good community relations.

Discussion continued.

Moved by C. Palmer/Walker that future ground storage tanks will be painted one color without striping. Motion carried unanimously.

The question was called on the main motion. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Purchase of remote telemetry units (RTU) for Lift Stations #22, #38 and #40, Data Flo Systems, Inc., Melbourne, Florida - \$17,715.00.
- b. Purchase of specialized gear for the Police Department, National Security Associates, Inc., Robins, Georgia - \$15,833.00.

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- c. Purchase of four Flygt submersible pumps for Water Production Division, Ellis K. Phelps & Company, Apopka, Florida - \$24,428.00
- d. Change Order No 2 to contract for Canova Beach Pump Station Ground Storage Tank, Project No. 98311, Indian River Industrial Contractors, Jacksonville, Florida - \$996.00.
- e. Purchase of a Flygt CT3300/644 60hp dry-pit submersible wastewater pump for the Sewage Collection Division, Phelps & Company, Apopka, Florida – \$29,937.00.
- f. Change Order No. 3 to contract for Canova Beach Pump Station Ground Storage Tank, Project No. 98311, Jacksonville Florida - \$992.00.

Recessed: 8:45 p.m.
Reconvened: 8:57 p.m.

Moved by Walker/E. Palmer to recess the City Council meeting. Motion carried unanimously.
Council recessed at 8:57 p.m.

Mayor Buckley convened the meeting as the Olde Eau Gallie Riverfront Community Redevelopment Agency.

15. ORDINANCE NO. 2001-23: (Public Hearing/First Reading) A proposed ordinance to adopt the Community Redevelopment Plan for Olde Eau Gallie Riverfront Redevelopment Area.

From the agenda report: The idea of creating a redevelopment area for the old Downtown Eau Gallie area has been around since early 1980. The Eau Gallie area opted out of the redevelopment plan, which was proposed in 1982. The need to have the downtown area of Eau Gallie included in an improvement or redevelopment area has become more apparent in the last few years. Last year city staff performed a blight study of the area, the first step in establishing a redevelopment district under State Statutes. The blight study identified some disturbing trends in the area prompting the city to hire a consultant to prepare a redevelopment plan. The area has also been designated as an urban infill area.

The consultants began work early this year and have been working with a citizens' advisory committee, the merchants' association, and a technical advisory committee to develop the plan. The plan includes specific proposals to enhance the downtown area and sustain the area as a viable mixed-use urban core for the northern portion of the city. A general overview of the plan was presented at the April 10 meeting.

The Planning and Zoning Board conducted a public hearing on April 26 and found that the proposed plan was consistent with the Comprehensive Plan with the following conditions:

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- Enhance the references to comply with the Comprehensive Plan including objectives from the Housing Element, Transportation Element, Conservation Element, Recreation Element and the Future Land Use Element.
- Revise the description of the Urban Infill Area on Page 13, to block group 5 only.
- Change the resolution number and the date of approval on Pages 41 and 52 to Resolution No. 1657, approved on September 12, 2000.
- Page 39, 3(h) - Re-evaluate the densities for medium and high density since the proposal is lower than the current standard and the proposal is intended to be a bonus; in 5(d), revise statement to encourage all utilities underground rather than all “new” utilities.
- Make necessary changes to reflect the proper Floor Area Ratio specifically on Pages 43 and 44.
- Page 56, 8(d) - After “which at a minimum” delete “includes” and add the words, “provides consideration of”.
- Page 71 - Make #2, 3 and 4 short-term goals.

A number of other comments have been made regarding non-substantive corrections such as map and typographical errors. Following adoption a final copy of the plan will be produced incorporating all the conditions.

Brad Smith, consultant, briefed Council on the plan.

David Wickham, 1770 Highland Avenue, stated that redevelopment is important for this area. He informed Council that he has lived here over 50 years and during that time, the Eau Gallie area has changed very little. The only new development in the area is Conchy Joe’s and Walgreen’s. He added that the city and county have done a wonderful job with the Civic Center, Library, walkway area, etc.

Continuing, Mr. Wickham reported that property values in the area have not risen. The area has a lot of unique problems, including transportation, sidewalks, lighting, and criminal activity. In order for the area to revitalize, it needs a stepping stone. He discussed why he felt Eau Gallie did not get involved 20 years ago and said he doesn’t believe it was handled properly; the word “blighted” offended the old timers in the area and planners may not have gotten enough input from the citizens.

Mr. Wickham commended staff and the consultants for their effort. He stressed that everyone needs to realize that the plan contains ideas. The quaintness and uniqueness of the Eau Gallie area can be retained with the plan; the plan, which is a concept, can be a vehicle to wonderful things occurring in the community.

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George Alexander, President of the Eau Gallie Merchants' Association and owner of Eau Gallie Ace Hardware, stated that people in the area have worked very hard with the city from the conception of this idea. He encouraged adoption of the plan so the increment financing from Walgreen's can be captured. He added that many improvements are needed in the area, including sidewalk repair. He agreed that the plan contains ideas and concluded by saying that Council has the final say.

Mrs. Walker noted that she previously lived in the Eau Gallie area. She and her family moved there in 1956. Mrs. Walker agreed that the area is special and unique.

Mr. Smith stressed that Council retained the authority of the Community Redevelopment Agency; therefore, any projects will require Council approval.

Mr. Contreras referenced the initial concept and the catalyst project and asked if the Director of the Eau Gallie Library and the owner of Conchy Joe's have seen the catalyst project. Mr. Smith said they saw the first version. He added that if this proceeds, all interests would have to participate in the project.

Mrs. Poole stated that she has been for redevelopment of the Eau Gallie area since the beginning. She added that she has a problem with the catalyst project and thinks it could work the other way if not handled in the right manner.

Mrs. Palmer said she is excited to see what is happening in the Eau Gallie area, especially with the residents and businesses cooperating in the effort. She expressed concern about the letter from Mr. Ayers with Conchy Joe's and said his points reflect what many people are saying – they want restaurants, jazz clubs, landscaping, wide sidewalks, etc. However, the discussion about closing the end of Pineapple Avenue and some of those aspects related to the plan frighten some people. She cautioned that the long range plans that will affect businesses, including the rerouting of traffic, need to be looked at carefully. She added that she hopes Mr. Ayers will be heavily involved in the planning.

Mr. Smith assured Council that he and the others will continue to keep all stakeholders involved and informed. He added that the intent is not to hurt business – they want to continue building on success.

Mr. Palmer commended staff and the consultants on this effort. He commented that the plan has vision and it reflects what the people in the area really want. He pointed out that nothing in the plan can be implemented unless approved by Council. The plan is a guide; a concept.

Mayor Buckley discussed the procedural requirements and said that Council has to adopt the plan as the CRA and then reconvene as the City Council to adopt the ordinance (which includes the plan). Attorney Gougelman confirmed that this is a legal requirement.

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Mr. Palmer disclosed that he lives in the Eau Gallie area; however, he is not within the confines of the redevelopment area. He noted that some of the plan will have an affect on his area.

Moved by E. Palmer/Hand to approve the Community Redevelopment Plan for Olde Eau Gallie Riverfront Redevelopment Area.

Mr. Palmer said his motion is based on the fact that the plan is a concept and a guide; it can be changed.

Mrs. Poole stated that she has problems with the plan. She noted that she has no problem voting on a “concept”; however, she needs time to check some information before proceeding.

Mr. Hill replied that the plan was received from the consultants the same day it was delivered to Council. He recommended that Mrs. Poole contact staff or the consultants if she has questions about elements of the plan. He noted that essentially all of the material was presented to Council in April and much of the document contains the blight study, which was approved a year ago.

Mrs. Poole pointed out that Council is now sitting as the Community Redevelopment Agency. She noted that there is no time limit on speaking for the CRA. Mayor Buckley asked Council if it wished to impose a time limit for the CRA.

Moved by Hand/Contreras to allow 10 minutes of discussion per CRA member.

Mrs. Poole objected and stated that this is a 20-year project. She noted that she does not like to see items railroaded. She has spent the entire weekend working on this item and she would like the ability to speak.

Mrs. Palmer said she would like to hear Mrs. Poole’s comments, especially since Council did not have much time to look over the materials as a complete package.

Mayor Buckley pointed out that this is first reading. Council has two more weeks to review and ask staff and the consultant questions. Additionally, most of the material was previously provided to Council.

The question was called. Motion carried. (Council Member Poole and Vice Mayor Palmer voted nay.)

Mrs. Walker noted that if approved, the plan is a concept. Mayor Buckley agreed. Mr. Palmer said the plan represents many hours of study and public meetings. He agreed that it is a concept and implementation of the plan is up to Council. He added that there are many parts of the plan that may never be implemented. If a Council Member doesn’t like something in the plan, then the member should vote against it when it is time to implement.

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Mrs. Hand said the city has had this vision for the past 20 years; it is time to move forward and accept the concept.

Mrs. Poole pointed out that the redevelopment of the Eau Gallie area could have been going on for the past 20 years. She read from the ordinance the powers granted to the Community Redevelopment Agency and stressed that this is not a concept. Additionally, she referenced the catalyst project submitted by Hunter Interests, Inc. and said it does not reflect the things that the people in the area want.

Continuing, Mrs. Poole said the actions of the CRA will depend on who future Council Members are. She concluded by saying she is concerned that there are a few people interested in making money and she doesn't want items put in the plan that the people don't want.

The question was called on the main motion. Motion carried. Mrs. Poole voted nay because the plan is not a concept.

Moved by Contreras/E. Palmer to adjourn as the Community Redevelopment Agency. Motion carried unanimously. The CRA adjourned at 9:44 p.m.

At this point, the City Council reconvened the meeting.

Attorney Gougelman read Ordinance No. 2001-23 by title.

Mrs. Poole asked the City Attorney if the powers granted to the CRA are those listed in Section 10-205 of the ordinance. Attorney Gougelman replied yes. Mr. Palmer asked if those same powers apply to the Melbourne Downtown CRA and Mr. Gougelman replied yes.

Mayor Buckley opened the public hearing.

Sheila Stewart-Leach, Executive Director, Museum of Art and Science, stated that the consultants met with the Board of Trustees and the museum is in full support of the plan. She added that she has concerns with specifics of the plan; however, she realizes that many discussions need to occur. She stressed that the museum views this as a concept and the members are excited and want to be part of the redevelopment.

Mrs. Poole asked if the museum is still interested in moving to Viera. Ms. Leach replied that the goal of the museum is to become accredited in order to attract high quality exhibits. The museum is also faced with the problem of access in the Eau Gallie area and a need to be close to I-95 to serve southern counties. They have funded a feasibility study to determine what is best for the museum. She concluded by saying Eau Gallie is home to the museum and that is where everyone wants the organization to stay.

Robert Davich, 586 Old Oak Street, stated that he was one of the members (Steering Committee) that attended meetings and gave input. He noted that he didn't get everything he wanted, but he is satisfied with the plan. Additionally, his colleagues are in

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full agreement with the plan; the plan is a concept and is subject to change. Regarding the catalyst project, he noted that the hotel and parking garage will be necessary to get people into the area and attract capital. Additionally, scale and density will have to be considered. He recommended Council proceed with the plan.

Jannette Combs, 1603 Queen Terrace, owner of House of Shoes on Cypress Avenue, stated that she has been a merchant in the area for 23 years and she was never told about this project. She noted that a realtor contacted her regarding the sale of the Cypress property. The realtor told her that the city could condemn her property and take it that way (as opposed to Ms. Combs making a decision to list with the realtor).

Mayor Buckley referenced the city's other redevelopment districts and noted that to date the city has not condemned any property. He added that the powers of the Community Redevelopment Agency are broad and that is why Council held those powers for itself.

Mr. Hill expressed concern that a realtor would contact Ms. Combs and state that the city would exercise its eminent domain powers on her property. He added that it must have been very alarming to Ms. Combs. Mr. Hill explained that currently the City Council has all the powers that have been listed, regardless of whether the CRA is created. He assured Ms. Combs that staff will follow up and explain the boundaries of the redevelopment area and the plan.

Attorney Gougelman recommended Ms. Combs file a complaint against the realtor with the Real Estate Commission in Orlando. He added that it was outrageous behavior and highly misleading.

Mrs. Poole said that eminent domain may not happen with the current Council, but you never know what will happen with a future Council.

Moved by Hand/C. Palmer for approval of Ordinance No. 2001-23.

Mrs. Poole referenced the Planning and Zoning Board minutes where the Assistant P&Z Administrator, Bill McCord, pointed out that staff's review revealed a few concerns, including problems with consistency with the Comprehensive Plan. Mrs. Poole questioned how the board could make a finding of consistency without all of the changes incorporated into the plan. Now, Council is being asked to do the same thing. She stated that she objects to voting for a plan that has not been corrected and is not in compliance with the Comprehensive Plan.

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

16. ORDINANCE NO. 2001-24: (Public Hearing/First Reading) A proposed ordinance to adopt the Urban Infill and Eau Gallie Riverfront Urban Infill Plan for the Olde Eau Gallie Riverfront Community Redevelopment Area.

Attorney Gougelman read Ordinance No. 2001-24.

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From the agenda report: The State of Florida provided legislation to encourage communities to improve areas suffering from blight by earmarking money for urban infill planning. The city applied for that planning grant for the Downtown Eau Gallie area, which met the criteria established by the law, and was awarded a grant to plan for improvement of the area. This area is approximately the same as the area designated as the Community Redevelopment Area for Eau Gallie. It follows the census tract block group required by the grant agreement. However, it also includes some planning for the surrounding areas that affect the core downtown.

The consultants began work early this year and have been working with a citizens' advisory committee, the merchants' association, and a technical advisory committee to develop the plan. The plan includes specific proposals to enhance the downtown area and sustain the area as a viable mixed-use urban core for the northern portion of the city. The consultant presented a general overview of the plan at the April 10 meeting.

The Planning and Zoning Board conducted a public hearing on April 26 and found that the proposed plan was consistent with the Comprehensive Plan with the conditions noted in the previous agenda item.

A number of other comments have been made to the consultant regarding non-substantive corrections such as minor map and typographical errors. Following adoption a final copy of the plan will be produced incorporating all the conditions.

The recommendation is for approval of Ordinance No. 2001-24 subject to the conditions adopted by the Planning and Zoning Board.

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

Mrs. Poole referenced funding and asked if SHIP and CDBG money could be used for some of the projects. Attorney Gougelman said they could to the extent that a project meets the guidelines of those programs. Mr. Hill added that staff would work towards maximizing funds from all available sources; however, those decisions would be made by Council on a case by case basis.

Moved by E. Palmer/Walker for approval of Ordinance No. 2001-24 with the conditions adopted by the Planning and Zoning Board. Motion carried unanimously.

Mrs. Poole stated that she voted for this because she supports infill and is opposed to urban sprawl.

Mr. Hill noted that the consultants will attempt to get the plan updated and delivered to City Council by May 17. He stressed that if members have questions, they should follow up with staff and/or the consultants prior to the next Council meeting.

17. ORDINANCE NO. 2001-25: (Public Hearing/First Reading) A proposed ordinance establishing a tax increment financing district for the Olde Eau Gallie Riverfront Community Redevelopment District.

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Attorney Gougelman read Ordinance No. 2001-25 by title. There were no comments from the audience.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2001-25. Motion carried unanimously.

18. COUNCIL ACTION RE: A request for city participation in the Brevard County “Brevard Tomorrow” project. (Requested by County Commission Chairman Sue Carlson)

From the agenda report: On April 25 Mr. Hill and Mayor Buckley attended a kick-off event for “Brevard Tomorrow: A Strategic Plan.” The meeting was spearheaded by County Commission Chairman Sue Carlson for the Board of County Commissioners. Representatives of all the cities, other public agencies, and a variety of businesses and industries were invited.

The goal of the program is to develop a “Preferred Future” – a comprehensive community plan to include strategic goals for the future, identification of stakeholder groups to implement goals, benchmarks, and measures of success. The cost of the planning effort is \$120,000. Commissioner Carlson is asking for community support (\$1,000 - \$2,000) in the form of participation and financial contribution.

The county has attempted strategic planning in the past with little result. However, clearly it would be beneficial for the region to put together a common vision as we attempt to face the problems of this metropolitan area in the upcoming years. If done right, the visioning effort can be helpful to Melbourne in getting the county to have the right focus on quality of life issues.

If Council wishes to participate financially, funding is available from General Fund Contingency.

Mrs. Poole expressed concern that the focus of this will be to promote the Economic Development Commission. She added that if the city contributes, we should be assured of a seat on the committee.

Mayor Buckley said he believes this is a step in the right direction as far as the county working with the cities, school board, etc. He noted that if we don't do anything, we probably won't be asked to participate in anything. He concluded by saying he is in favor of making a \$1,000 donation.

Mrs. Palmer agreed that Melbourne needs a seat at the table. She added that she is glad the EDC will be taken into consideration and she hopes the group includes people with a variety of interests.

Moved by C. Palmer/Hand that the City Council of the City of Melbourne designate \$1,000 from the General Fund Contingency toward “Brevard Tomorrow: A Strategic Plan.”

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Mrs. Poole stated that sitting at the table with the county won't help one bit. She referenced recent issues the city has experienced with the county, including location of a county courthouse, the transfer station, and the Harbor City Volunteer Ambulance Squad.

Mrs. Palmer agreed and said that is why she is supporting being part of this effort.

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

19. COUNCIL ACTION RE: Discussion of a proposal to regulate the use of cellular phones while driving. (Requested by Council Member Contreras)

Mr. Contreras said he wished to address the issue with a proactive approach rather than responding to situations where people have been critically injured or killed. He also referenced the city's liability with employees using cellular phones. Mr. Contreras noted that although he believes in and supports technological advances, he is concerned about a cellular phone in the hands of a person operating a 2,000 pound vehicle. People become distracted and he is concerned about the operator of the vehicle, operators of surrounding vehicles, pedestrians, cyclists, etc. He added that there are cities that have ordinances in place.

Mr. Contreras referenced Attorney Gougelman's memorandum in the package, which provides that "...unless or until a contrary judicial or legislative determination is made...the City Council may not adopt an ordinance restricting the use of cellular telephones by drivers..." Mr. Contreras recommended that the city adopt such an ordinance because a legislative determination has not been made prohibiting us from doing this.

Mr. Palmer said Council can't restrict the activities of people. He added that citizens have a constitutional right to use the telephone; however, it is his opinion that people should pull off the roadway when using a cellular phone.

Mayor Buckley agreed that the practice is dangerous; however, he added that he does not believe that we could enforce such an ordinance. The Police Department would be chasing down people every day.

Mrs. Poole said the Florida League of Cities has indicated that this type of regulation will never pass (state-wide). She referenced the City Attorney's opinion and noted that she believes this effort is a lost cause.

Mrs. Palmer agreed that it is dangerous to talk on a cellular phone, but it is equally dangerous to light a cigarette, apply makeup, or talk to someone in the backseat. Council can't make laws to cover all those things.

Mr. Contreras said the point is being missed – it is a liability issue. He added that we have already had a city employee who was using a cellular phone rear end another vehicle. Mrs. Palmer said then perhaps there needs to be a regulation for employees.

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Mr. Hill confirmed that staff is currently drafting an employee policy to indicate that the primary purpose when driving a city vehicle is for the employee to operate the vehicle.

In response to Mr. Contreras, Mr. Gougelman said Council can choose whether to accept his opinion. He added that if Council has some interest in drafting an ordinance, the question should be addressed to the Attorney General. Mr. Gougelman added that whether use of a cellular phone contributed to an automobile accident should be determined by a jury. This is similar to the history of the seatbelt issue with the Florida Supreme Court.

Attorney Gougelman concluded by saying the telecommunications lobby is one of the strongest in Tallahassee. The lobby would surely oppose any action to inhibit the use of cellular phones.

A brief discussion followed. No action taken.

20. COUNCIL ACTION RE: Council consideration of a Lease Agreement between the City of Melbourne and the National Fire and Safety Education Systems, Inc. for use of the Melbourne Fire Training Center located at 1980 Hughes Road.

Mr. Hill briefed Council. The City of Melbourne and National Fire and Safety Education Systems, Inc. (NFSES) have developed an agreement for a joint training program. This partnership will benefit the Melbourne Fire Department along with other area fire departments for training needs. Council approved, in concept, the establishment of the partnership last fall.

The fire training facility with its major upgrades will not only provide our fire personnel opportunities for advanced training but it will be the only facility in South Brevard County where other departments can receive live burns, as well as high-rise firefighting/rescue and Liquid Propane Gas training.

The proposed lease agreement specifies the city will build a drill tower/burn room. Estimated cost of construction is \$75,000 to \$80,000 to be funded by the city. The city will receive estimated annual revenue of \$45,000 from NFSES. As a result, the cost of the facility will be amortized within two years. Bids are being solicited for construction of the facility contingent on Council approval of the lease and will be presented for Council consideration at a later date.

Moved by Poole/Hand for approval of the proposed lease with National Fire and Safety Education Systems, Inc., Palm Bay, Florida.

Mr. Hill confirmed for Mrs. Palmer that the estimated construction cost includes demolition. He is not aware of any other costs.

Mr. Palmer asked the timeframe of construction. Mr. Hill said three – four months after the construction contract has been awarded.

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The question was called. Motion carried unanimously.

21. ORDINANCE NO. 2001-26: (First Reading) A proposed ordinance to amend Chapter 2 to clarify residency requirements for City Board members.

Attorney Gougelman read Ordinance No. 2001-26 by title.

Moved by Walker/E. Palmer for approval of Ordinance No. 2001-26. Motion carried unanimously.

22. COUNCIL ACTION RE: Board Appointments

- a. Babcock Street Community Redevelopment Agency Advisory Committee – three regular members and one alternate member.

Moved by Hand/Walker to reappoint Ken Allen, Richard Ennis, and Robert Jensen as regular members. Motion carried unanimously. (5/4/2001 – 5/3/2003)

Moved by E. Palmer/C. Palmer to appoint Heidi Hollowell as an alternate member. Motion carried unanimously. (5/8/2001 – 6/7/2003)

- b. Downtown Architectural Review Board – one alternate member.

Council Member Ed Palmer nominated David L. Corbin and Council Member Poole nominated Melissa Burgess Jackson.

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

The roll call vote was:

Corbin: Contreras, E. Palmer, Walker, C. Palmer, and Buckley

Jackson: Poole and Hand

Appointed: David Corbin (5/8/2001 – 9/30/2004)

23. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Hill referenced the memorandum regarding the possibility of a “COPS in School” grant. He noted that he will try to provide lead time on all potential grants in the future.

Mrs. Poole requested information on the requirements for being designated as a Front Porch Florida community.

Mr. Contreras asked when Council would be provided a report about the beachside fire station. Following a brief discussion, Mr. Hill noted that it will be placed on Council’s June 12 agenda for discussion.

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Mrs. Walker asked the City Manager to investigate whether the city can resume recycling office paper at City hall.

24. ADJOURNMENT

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

The meeting adjourned at 11:08 p.m.

City Clerk – 5/18/2001

Approved by Council _____