

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 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 Gordon Strongitharm, Tabernacle 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, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Bud Emerson	Assistant City Manager
	Bill McCord	Assistant Planning and Zoning Administrator

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented a proclamation proclaiming August 27 through September 2 as Melbourne Fire Fighters Appreciation; accepted by Jessica Yeatts, Program Coordinator, Muscular Dystrophy Association, and Frank Avilla, Melbourne Fire Department.

Mayor Buckley presented the July Beautification Award to Timothy Dwight on behalf of Green Turtle Market located on the Eau Gallie Causeway.

5. APPROVAL OF MINUTES - July 19, 2001 Special Meeting and July 24, 2001 Regular Meeting

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

6. CITY MANAGER'S REPORT

Mr. Hill mentioned that he along with the managers of Palm Bay, Cocoa, and Titusville are going to meet with the Brevard County Manager regarding tax abatements in redevelopment areas. The county is concerned that in certain areas it has to pay more than what is being collected.

Mayor Buckley referenced the memorandum from the City Manager asking that a change order for the Downtown Melbourne street lighting project be added to the agenda.

Moved by Walker/C. Palmer to add Item 26.1 to the agenda. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

7. PUBLIC COMMENTS

Deliece White, D. L. White & Associates, followed up on the company's request made to Council at the July 24 meeting for reimbursement of costs associated with relocating as a result of a sewer backup. She noted that they have not received reimbursement. She stated that the company is experiencing financial difficulty as a result of relocation expenses and requested immediate reimbursement of \$6,017.49. She submitted a packet of information, which outlines their expenses.

Mr. Hill stated that after the July 24 Council meeting, the Risk Manager traveled to Orlando to personally expedite the claim. There are still a couple of issues that need to be resolved and we have to work through the insurance carrier and the claims adjustment process. Mr. Hill stated that he will have the Risk Manager and Assistant City Manager determine if there is some way to provide immediate relief.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2001-30: (Public Hearing/Second Reading) A proposed ordinance to amend Chapter 27 to clarify that government-owned parcels leased for non-governmental purposes are subject to the stormwater utility fee assessment. (First Reading 6/12/2001)

Attorney Gougelman read Ordinance No. 2001-30 by title. There were no comments from the public.

Mr. Hill pointed out that Item 20 on the agenda relates to this item. It provides for adoption of the assessment roll. He stated that staff is concerned about the calculation on several parcels the city leases to charitable enterprises. Additional information distributed to Council elaborates on this issue. He added that we are working with the county to resolve the issue. Mr. Hill recommended that Council proceed with adoption because any changes would result in amounts being adjusted down, not up.

Moved by Hand/Walker for approval of Ordinance No. 2001-30. The roll call vote was:

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

Nay: None

Motion carried unanimously.

9. ORDINANCE NO. 2001-42 (Z-2001-908AD(C)/DOWNTOWN REZONING): (Public Hearing/First Reading) A proposed ordinance to rezone a nine block area of Downtown Melbourne C-2 (General Commercial) to C-1 (Neighborhood Commercial District), located west of Riverview Drive, north of Strawbridge Avenue and east of Tangerine Street. (Requested by City of Melbourne) (Directed by Council 6/12/2001) (P&Z 7/26/2001)

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Attorney Gougelman read Ordinance No. 2001-42 by title. Mrs. Poole disclosed that she spoke with Mrs. Ruth Thornton, 1008 ½ Strawbridge Avenue, regarding this issue. Additionally, she noted that Mrs. Thornton submitted a letter clarifying that the renter who spoke on her behalf at the last meeting on this issue misconstrued her beliefs. Mrs. Poole stressed that Mrs. Thornton has stated that she is in support of C-1 zoning.

Assistant Planning and Zoning Administrator Bill McCord reviewed the agenda report. Staff initially proposed zoning changes to the Downtown area in 1999. They were rejected by Council. In late 2000, a resident in the area requested that the zoning be changed to better accommodate residential uses. At that point, staff was directed to return with the changes originally proposed. The changes were divided into three parts. Council subsequently adopted two parts including zoning changes to properties on the east side of Riverview Drive and to a mostly residential/office use area west of the FEC Railway.

Council denied the third part of the rezoning, which proposed a change from C-2 to C-3 (Central Business District), because of concerns about building heights. Staff presented additional options including the provision of an overlay district. On June 12, Council could not agree on the proposed C-3 zoning and voted 4-3 to implement C-1 zoning. Since this was substantially different from what was previously advertised, the process was started over.

The adopted future land use on the properties is mixed-use Commercial/High Density Residential. The area has been zoned C-2 since at least 1972 when the zoning ordinance for the combined City of Melbourne and City of Eau Gallie was adopted. This was well before adoption of the Comprehensive Plan. However, the Comprehensive Plan has precedence over the existing or previous zoning regulations.

This area of Downtown is especially under utilized and has few prospects for reaching its potential to become an integral and fully functional part of the Downtown area. Downtown Melbourne should be able to present citizens and visitors with a favorable impression of the core of the city. Design flexibility will ensure that the area is an economically viable asset and will create a positive image. The type of growth that has occurred in the city in recent years is almost strictly automobile oriented. Incentives must be provided to bring people Downtown on a permanent basis in order for the area to become successful beyond business hours. This includes providing for a healthy mix of retail, office, and residential uses. That mix is consistent with the Commercial/High Density Residential mixed use.

The proposed rezoning is from C-2 to C-1. As in the existing C-2 zoning, building height in the C-1 district is limited to 40 feet. C-1 zoning has the same front and side setbacks; however, C-1 zoning permits a 15-foot rear setback. C-2 zoning requires a 20-foot rear setback. Many of the structures in this area do not conform to the C-2 Code required setbacks or parking requirements and would not conform with the setbacks in the C-1 zone. With regard to this area, the major difference in uses is that C-1 prohibits car sales lots, wholesaling from sample stocks, large appliance repair, electronic assembly and optical instrumentation assembly, and provides the ability to seek a conditional use for

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

auto repair/service and car washes, passenger transportation terminals, auto impounding yards, veterinary hospitals, homeless shelters and soup kitchens. One major benefit of C-1 zoning for these properties is that it permits residential uses as a principal use and in certain cases a conditional use. This provides a better fit with the adopted mixed use land use. The agenda package includes an inventory of existing uses and structures and identifies the impact each of the previously presented zoning options.

The Planning and Zoning Board recommended approval of C-1 zoning with the findings contained in the package. (The July 12 Planning and Zoning Board minutes incorrectly note that Council recommended C-3 zoning. The correct recommendation was for C-1 zoning. The minutes will be corrected at the board's next meeting.) Since the Planning and Zoning Board meeting, several letters of objection were received (copies in the agenda package).

Mr. McCord added that a valid petition of objection has been submitted by owners of property representing 25% of the property proposed for rezoning. This will require a 6/7 vote of Council for approval. (The agenda package indicates that 7.3% of the property owners within 500 feet object; therefore, the 6/7 vote will not be required.)

Based on Council's direction, the Planning and Zoning Board recommended approval based on the findings outlined in the agenda package.

Mrs. Poole asked for clarification on the petition, if the 6/7 vote would be required, and if Council received a copy of the petition. Mr. McCord stated that he believes the Austins initiated the petition. Mr. Hill added that it was his understanding that the people who signed the petition were the same ones who wrote letters and the letters are in the package. He added that the petition does not trigger the 6/7 vote. Mr. McCord clarified that the 6/7 vote is required when 20% of property owners within 500 feet of the request submit a petition or owners representing 20% or more of the property subject to the rezoning submit a petition. He said that in this case, a petition has been submitted by property owners, which represents 25% of the total property in the area. Therefore, a 6/7 vote would be required at second reading.

Mrs. Poole expressed concern that Council was not provided with the information.

Mayor Buckley opened the public hearing.

David W. Dyer, attorney representing Lee and Sondra Austin, property owners in the area (Miyako's Restaurant), questioned the 6/7 vote requirement. He reported that after speaking to a city employee, it was his understanding that the 6/7 vote requirement would be required at this meeting – not just at second reading. He would have been prepared to address that issue if he had known.

Continuing, Mr. Dyer stated that his clients' property is zoned C-2. They are opposed to the proposed C-1 zoning because it is more restrictive; C-2 provides more flexibility. He stressed that his clients wish to preserve the property rights that they have now. He added that they wish for the zoning to remain as is. Additionally, he pointed out that

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

there is no consensus among Council, staff, and the property owners. Given that, charging ahead with this rezoning is not prudent.

A brief discussion followed between Mrs. Poole and Mr. Dyer regarding the petition. Mr. Dyer noted that they followed the Code and submitted the petition on time. Mrs. Poole agreed.

Mr. Hill noted for the record that it was his decision not to include the petition in the package. He stated that it was his understanding that the petition did not contain enough signatures to trigger the 6/7 vote.

Mrs. Poole referenced the agenda report and stated that the Downtown area is viable. It is self supporting and through tax increment financing, contributes to the development and maintenance of parks, provides security, pays for parking lot leases, etc. She noted that many of these items were previously paid for from the General Fund.

Mrs. Poole reported that C-2 zoning needs to be changed in order to provide what was originally planned for the Downtown area. She read a site specific policy for the Downtown Area, which reads, "The general business area can accommodate mixed use development. Design standards will be used to allow for development of commercial office and residential mixed uses in keeping with the established aesthetic appeal of the area." Continuing, Mrs. Poole referenced the City Code, Section 10-101, which provides a pledge to carry out the plan. She stated that these findings support reducing the automobile oriented commercial intensity in the Downtown area in favor of the development of mixed use neighborhood development/redevelopment, which is less dependent on automobile access.

Mrs. Poole stressed that the C-3 zoning, which the planning staff proposed and vigorously pursued, was denied by the Planning and Zoning Board. C-3 zoning is not what the site specific policy or the pledge from the Code provides for. C-3 zoning permits intensive development with residential uses as accessory. Development can exceed 80' in height with a conditional use from the City Council.

She noted that C-1 provides for mixed use residential and commercial. This is what is in the area now and is compatible. Mrs. Poole stated that she believes the chart was used to continue the promotion of C-3 zoning (by staff). She said it was pointed out that there are 14 non-conforming structures in the C-1 zone due to setbacks; however, the structures conformed to the City Code when they were built. This is the old, historical section of Melbourne.

Moved by Poole/Contreras for approval of Ordinance No. 2001-42 as recommended by the City Council and the Planning and Zoning Board.

Mr. Palmer referenced the conforming/non-conforming chart in the package and noted that rezoning to C-1 will eliminate 11 non-conforming uses in the area. Therefore, it is a move in the right direction.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Mayor Buckley referenced the same chart to show that C-3 zoning would result in the non-conforming uses being reduced to five from 16 and the non-conforming structures being reduced to zero from 14. He said that C-3 is how the area should be zoned.

Mr. Palmer replied that C-3 is unacceptable because of building height. There is no way the city could preclude high-rise buildings with C-3 zoning. Mayor Buckley said the City Attorney has previously stated that the height could be held to 40'. Attorney Gougelman said the height could be limited with a true overlay district. Mrs. Poole stated that the overlay district ordinance previously proposed indicated that the height could be increased with a conditional use approved by Council.

A brief discussion followed regarding non-conforming properties.

The question was called. The roll call vote was:

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

Nay: C. Palmer and Buckley

Motion carried.

10. COUNCIL ACTION RE: Discussion of marketing the Babcock Street former Palms 8 Theater site. (Postponed by Council 7/10/2001)

Mayor Buckley proposed a workshop meeting for this item and item 11. Mrs. Poole objected and stated that she has spent hours on a presentation.

Moved by Hand/E. Palmer to conduct a workshop meeting (on items 10 and 11).

Following discussion regarding the date of the workshop meeting, by consensus Council agreed on October 2.

Mayor Buckley restated the motion, which is to conduct a workshop meeting on items 10 and 11 on October 2. Motion carried. (Mrs. Poole voted nay.)

11. COUNCIL ACTION RE: Discussion of the City Hall study. (Postponed by Council 7/24/2001)

See previous item. A workshop meeting will be conducted on October 2 to discuss this item.

12. ORDINANCE NO. 2001-38: (Public Hearing/Second Reading) A proposed ordinance amending City Code Chapter 4, Amusements, by creating a new Article relating to "rave clubs." (First Reading 7/24/2001)

Attorney Gougelman read Ordinance No. 2001-38 by title. Mr. Hill stated that because of the nature of this regulation, it would be appropriate for the city to include background for

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

the record.

Assistant City Attorney Suzanne Novak provided a brief history of the ordinance. She reported that Melbourne got its first dose of rave activity during the Cyberfest 2000 event. That event spurred numerous complaints from residents, especially noise complaints. Staff began working on a rave ordinance and regulations from Tampa and Gainesville were reviewed. Additionally, the city is in the process of reviewing its noise ordinance in an effort to address frequency (in addition to the decibel level). We hope that these changes will address the concerns raised by residents during Cyberfest.

Continuing, Ms. Novak noted that the rave ordinance provides procedures, which govern the operation of rave clubs. Also, there is a distinction made between adult clubs and juvenile clubs. Ms. Novak reminded Council about the action taken at a previous meeting to opt out of Brevard County's regulations. She concluded by discussing the permitting process.

Deputy Police Chief Wayne Torpy stated that the proposed ordinance is very comprehensive. It covers issues that surfaced during preparation for the Cyberfest event. He reported that during Cyberfest the city had no regulations in place, which allowed us to permit the event as thoroughly as we did. Because of the diligence of staff, the Cyberfest applicant agreed to certain conditions, which ultimately provided for the event to be as safe as possible. Mr. Torpy played a video depicting a typical rave.

Following the video, Mr. Torpy said that similar scenes were witnessed during Cyberfest. He stressed that the greatest problem experienced during Cyberfest is that there were no ordinances that allowed us to control the hours of operation. We had no way to force the applicant to provide security and adequate medical. There were 51 arrests made and 43 of those were narcotics related. He elaborated on some of the regulations in the ordinance that will assist the Police Department, especially with regard to security.

Regarding security, Mr. Torpy stated that using an off-duty Melbourne Police Officer does not mean that the officer is outside the control of the Police Department. It means that the applicant is contracting with the Police Department and paying for police services.

Mrs. Palmer asked Mr. Torpy to explain the difference between a rave club and the other nightclubs currently operating in the city. Mr. Torpy said most nightclubs serve alcoholic beverages; therefore, they are regulated by state statutes for hours of operation, etc. Once the alcohol is removed, it no longer falls under the state statutes and simply makes it another business. He stressed that this is not just another business. It is a business that thrives on and draws people who want to party. This ordinance will give us the opportunity to close the gap.

Mrs. Palmer asked if Club Energy sponsored Cyberfest. Mr. Torpy said not the way the event was presented to city staff. Discussion followed regarding the time period during Cyberfest that participants were accessing Club Energy for alcohol.

Mrs. Palmer asked if the city requires any other clubs to provide police officers. Mr. Torpy

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

said no; however, we do require other events to have officers, including Oktoberfest, Art Festival, etc. Security is provided (for a cost) to any business that feels it has a heightened need for an officer; if it is a need above and beyond the normal services provided by the Police Department

Regarding rave clubs, Mrs. Palmer asked if the requirement for an off duty police officer is based on the business not being regulated under state statutes. Mr. Torpy said yes, plus the problems experienced with raves. He noted that Cocoa Beach has a rave club and they have the same problems experienced with Cyberfest, but on a smaller scale. With rave clubs, adults can arrive intoxicated, juveniles have a tendency to fight, there are drugs, problems in the parking lot, etc. Parents should have some expectation of the proprietor to make the event safe; however, the business owners are in it for the profit and are less likely to legislate themselves. He noted that the ordinance would allow for a licensed security guard – it does not have to be a Melbourne Police Officer.

Mrs. Palmer asked if officers from Palm Bay would be acceptable under our ordinance. Attorney Novak and Mr. Hill replied that the ordinance provides for any sworn law enforcement officer.

Mrs. Palmer reported that prior to Cyberfest, it was brought to her attention that Melbourne Police Officers were allowing a drug club. The activities described as occurring during a rave were happening in Club Energy. The owner of the club spoke about the “good relationship” he had with the Melbourne Police Department. She stated that her concern is that we not compromise our Police Officers by making them a joint participant with rave club owners. She suggested that the ordinance be amended to prohibit off duty Melbourne Police Officers from being used as security. She noted that clubs could still use sworn officers from other jurisdictions or contract with private security officers. Other than that, she noted that she is in support of the ordinance.

Deputy Chief Torpy stated that action would prohibit the city from managing the event. Regarding the comments made about Club Energy, he said without knowing specifics, he believes they are an exaggeration.

Mrs. Poole asked if the city would be in charge if officers from other areas, like Palm Bay, worked an event. Mr. Torpy said through mutual aid, they have the authority to assist; however, it would not be effective to entirely exclude Melbourne Officers.

Mr. Palmer stated that the Cyberfest event was a coordinated effort between Melbourne, officers from other cities, Brevard County Sheriff, and the Highway Patrol. The police presence prevented something more dangerous from occurring and that same thought can carry through with rave clubs. Law enforcement is a preventive measure and the proposed regulation is mandatory; the city needs this ordinance.

Mrs. Palmer said she has no argument that we need police presence; however, she is concerned about any situation that would compromise the integrity of our Police Officers. She said that instead of preventing Melbourne Officers entirely, perhaps we could provide for one officer among the number required.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Mayor Buckley disagreed and stated that the regulations have to be under control of the Melbourne Police Department. If we have problems with the officers working, they can be addressed by the Police Department. The officers work for the city, not the club; the payment is made to the city.

Mrs. Palmer repeated that she has been told that all the activity that occurred at Cyberfest also occurred at Club Energy, including drug use. And, an off duty Melbourne Police Officer was dancing and fraternizing in the club.

Mayor Buckley said there are no restrictions on officers from going to a bar. Mrs. Palmer said she wants to ensure they are not the ones who later work at the club. Mrs. Poole asked if the Police Department can take action if an officer's actions result in something the Police Department does not approve of. Mr. Torpy replied yes.

Mr. Hill asked if the officer was completely off duty or off duty, but assigned to the club and functioning in a Police Officer role. Mrs. Palmer said that the owner of Club Energy previously stood before Council and said that Chief Chandler always comes into the club, officers gather in the parking lot, etc. She is concerned about this relationship.

Mrs. Walker said she is sure the city has guidelines for the conduct of Police Officers, whether on duty or off duty. She added that there needs to be some caution given to officers who work in places of this type. Mrs. Hand said this is a good ordinance. She added that she would hate to see our officers' hands tied to the point where they can't do their job. Mr. Palmer said the concerns may relate to perception, not reality. Mrs. Poole said she is in support of the ordinance. She added that the ordinance is comprehensive and it is one of the best ones she has seen.

A brief discussion followed regarding the status of the noise regulations.

Mr. Contreras said that he heard GHB, LSD and cocaine were present at Cyberfest. He asked if there were any others. Sgt. Dennis Nichols, Melbourne Police Department, said that ecstasy was prevalent and some GHB was recovered. He described the numerous ways GHB is concealed, including eye drop bottles and water bottles.

A brief discussion followed regarding the use of glow sticks by people using ecstasy. Sgt. Nichols informed Council that they heighten the euphoria experienced after taking the drug.

Mayor Buckley opened the public hearing.

Frank Louiselle, 612 Palmetto Avenue, reported that he attended Cyberfest out of curiosity. He described the temporary jail that the Melbourne Police Department set up at Melbourne High School, the loud music, and the large crowd. He stated that some of the people seemed to be zoning out and he is sure there was plenty of drug use. He stated that he believes the police did an excellent job and he agreed that he would not want the integrity of the Police Department compromised. He cited an incident that occurred at an event in Downtown Melbourne as an example.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Annette Stimpson, 612 Palmetto Avenue, stated that she also attended Cyberfest. She added that she was impressed with the way the crowd was kept under control - the police presence was a gigantic factor. Ms. Stimpson also referenced the incident that she experienced at an event in Downtown Melbourne. She concluded by saying if the police are hired for (rave club) purposes, then it must be made very clear who the police are working for.

Moved by E. Palmer/Poole for approval of Ordinance No. 2001-38. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Recessed: 9:45 p.m.  
Reconvened: 9:56 p.m.

13. ORDINANCE NO. 2001-39: (Public Hearing/Second Reading) A proposed ordinance amending Chapter 31, Traffic and Vehicles, relating to the solicitation of employment, business or charitable contributions from the occupants of vehicles on the streets of the City. (First Reading 7/24/2001)

Mr. Gougelman read Ordinance No. 2001-39. Mr. Hill stated that staff has prepared a presentation highlighting some of the issues related to this ordinance.

Ms. Novak reported that at the request of Council, staff researched the issue regarding the subject of bucket drops. Most of the research was based on a First Amendment analysis. She noted that the courts have upheld ordinances prohibiting roadway solicitations as a reasonable time, place and manner restriction provided that they are content neutral, are narrowly tailored to serve a significant governmental interest, and they leave open ample alternative channels of communication.

Continuing, Ms. Novak said concern was raised at the last meeting as to whether this ordinance would prohibit the distribution of fliers at intersections. She stated that the distribution of fliers is governed by Florida Statutes, Section 316.2066. That statute provides that, "It is unlawful for any person on a public street...to throw into, or attempt to throw into, any motor vehicle, or offer, or attempt to offer, to any occupant of any motor vehicle...advertising or soliciting materials..." She explained that the distribution of fliers is addressed by statutes and is not encompassed by this ordinance. This ordinance is narrowly tailored and addresses traffic safety and the danger presented by solicitation activity.

Officer John Porter, City of Melbourne Traffic Coordinator, stated that he has been involved with traffic safety for approximately 15 years with the city. He added that previously, he was a motorcycle officer and is familiar with what happens when pedestrians mix with traffic. He

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

explained that this ordinance does not prohibit someone from standing on a sidewalk, median, or off of a traveled portion of the roadway. He stressed that the practice of standing in the roadway is hazardous. He pointed out that during his research he could not find a particular example of traffic injuries as a direct result of solicitors; however, the accidents are not tracked in that manner. He added that we have a minor pedestrian traffic problem in the city and have experienced 57 pedestrian accidents (since January 2000). This ordinance will eliminate a conflict point.

Mrs. Poole asked Mr. Porter if he supported the ordinance and Mr. Porter replied yes.

Bennie Hopkins, Sr., 624 Williams Street, representing the Pride of Melbourne Masonic Lodge, said he is not in disagreement with the concern regarding safety of our young folks in the roadway. He said he is concerned about the number of organizations that exist and do good in our community based on roadway solicitations. He stated that he hopes there is room for compromise. Mr. Hopkins reported that the lodge provides scholarships, community dinners, sponsorship of Lipscomb Park Little League, etc. If solicitations are prohibited, the lodge will not be able to continue sponsoring the number of activities as in the past. He recommended Council tighten the restrictions and consider an age limit.

Mrs. Walker asked what percentage of the lodge's income comes from solicitations. Mr. Hopkins said 60%. He added that 20-30% of that is from roadway solicitations and the remainder from private property (Winn Dixie, Wal Mart, etc.).

Mrs. Poole said organizations can have car washes. She added that solicitors running in the roadways with posters and signs is very dangerous. Plus, people come from (other areas) to solicit at Babcock Street and NASA Boulevard.

Mr. Hopkins said they also have car washes; however, he is hoping Council will compromise.

Mr. Hill clarified that the ordinance only prohibits bucket drops in the roadway; it does not prohibit private property (shopping centers) solicitation.

Jimmie Franklin, 2820 Grant Street, representing Lipscomb Park Little League, provided a brief history of the league. He reported that before they had baseball in the area, kids rode their bicycles to Fee Avenue. About 14 years ago, they decided to start a league at Lipscomb Park and the Pride of Melbourne Lodge is one of their sponsors. There are now close to 300 kids in the program. He explained the costs associated with uniforms, equipment, and travel. Mr. Franklin stressed that the solicitation at University Boulevard and Lipscomb Street helps fund the league. They need bucket drops to survive. He added that they are also concerned with safety; however, in the eight years he has been participating in solicitations, he has not seen one child injured.

Mayor Buckley said he is opposed to the ordinance. He added that he feels under certain conditions and controls, the activity should be allowed. People from outside the city should be prohibited and there should be a requirement for adult supervision.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Mrs. Poole's motion for approval of Ordinance No. 2001-39 did not receive a second. Therefore, the ordinance was denied.

Mrs. Palmer recommended staff propose a different ordinance – one that would exclude groups from outside the city and require adult supervision. Mr. Gougelman stated that restricting certain groups would more likely than not be fraught with constitutional rights problems. Mrs. Palmer said we need to err on the side of freedom.

Moved by Poole/E. Palmer to postpone further discussion on this item until the next meeting to allow staff time to investigate Council's suggestions.

Following a brief discussion, Council agreed that the attorney should review whether bucket drops can be limited to Melbourne groups only and if restrictions can be added requiring adult supervision, specifying a minimum age for participants, and limiting the frequency of solicitation by any one group.

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

Attorney Gougelman confirmed that the ordinance on this agenda is defeated because there was no second to the motion for approval.

Mrs. Palmer said she hates the idea of bucket drops; however, organizations are soliciting for their own funds and not asking for tax payer money. People who are approached are free to say yes or no.

14. COUNCIL ACTION RE: A Development Order relative to denial of SP-2001-03 for an apartment complex (student housing) and a parking garage/lot on a 10.22-acre portion of the Florida Tech campus, zoned I-1 (Institutional), located west of Babcock Street, south of Ruffner Road and east of Country Club Road. (Council Action 7/24/2001)

Attorney Gougelman reviewed the agenda report. On July 24, the City Council denied Florida Tech's Site Plan for dormitory apartments. The City Attorney was directed to prepare a final order containing findings of fact and conclusions of law.

The reasons for denial stated and/or presented by the Council Members who voted for denial, have been grouped into two categories: lack of compatibility with the adjacent area and environmental concerns (particularly relating to drainage, stormwater engineering, flooding, and soil erosion). The final order recounts much of the testimony adverse to FIT and finds certain witnesses to be "expert" witnesses.

The final order also contains findings and conclusions that the project is not consistent with the Comprehensive Plan and particularly provisions in the Conservation Element relating to stormwater and flooding, and that the project fails the test for compatibility as set forth in Article XX, Appendix B, Melbourne City Code (site planning requirements).

Attorney Gougelman added that FIT has filed a revised site plan, which includes the engineering and stormwater drainage but without any drainage calculations and

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

specifications. He noted that he contacted the attorney for FIT about the revised plan to determine the applicant's intentions. Mr. Gougelman said it is his understanding that regardless of action on the Development Order, it is the applicant's desire that the revised site plan go through the usual process.

Mayor Buckley announced that the item on this agenda is not a public hearing (several people asked to speak).

Moved by Poole/Hand for approval of the Final Order of denial for SP-2001-03. The roll call vote was:

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

Nay: Contreras and Buckley

Motion carried.

NEW BUSINESS

15. COUNCIL ACTION RE: Contract for Pineapple Avenue Sidewalk Improvements, Project No. E00201, Santa Cruz Construction, Merritt Island, Florida - \$313,906.41.

Mr. Hill briefed Council. This is a proposed contract award for construction of a sidewalk on Pineapple Avenue. This project consists of constructing nearly 6,000 feet of six-foot wide sidewalk from Mathers Street to about 100 feet north of Hiawatha Street. As part of this project, existing driveways intersected by the sidewalk will be reconstructed at proper cross slopes to meet handicapped accessibility standards. Accessible ramps will also be constructed at street intersections.

Bids were opened on July 26, 2001. Four bids were received ranging from \$313,906.41 to \$453,954.79. The low bid was submitted by Santa Cruz Construction of Merritt Island, Florida.

Two bid alternates are not being recommended. The first is a bridge over Cliff Creek. This was designed because there is not enough room to construct the sidewalk between edge of road and end of culvert because there is also a sewer lift station at that location. The alternate bid was \$81,665.15. Staff will investigate other options for this 200-foot segment. The second alternate was to extend the sidewalk another 600 feet north to Ascension housing at a cost of \$75,861.52. The high cost is because a culvert crossing and drainage work would be required. The figures exceed available funds.

The standard contract conditions will apply and the contractor will have 180 calendar days to complete the project.

Moved by E. Palmer/C. Palmer to award the sidewalk construction contract to Santa Cruz Construction in the amount of \$313,906.41.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Mrs. Poole asked how this is being funded. Mr. Hill said the budget was established last year and the project will be funded from the Bikeways Trust Fund.

The question was called. Motion carried unanimously.

16. COUNCIL ACTION RE: Consent Agenda

Mr. Hill noted that item “c” should reflect Jimmy Moore Park only. Magnolia Park was previously awarded; however, the bid title remained the same. Also, Item “d” should be corrected to reflect \$152,000.

Moved by Hand/E. Palmer for approval of the consent agenda with corrections to items “c” and “d” as noted. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Renewal agreement between the city and Space Coast Area Transit to provide for an east-west route (#21) and a north-south route (#29) through the city at an annual cost of \$26,083.00.
- b. Interlocal Agreement with Brevard County for an MSBU-funded water system extension to serve part of Lakemont Road.
- c. Purchase of Game Time playground equipment for Jimmy Moore Park, Dominica Recreation Products, Longwood, Florida - \$24,339.76.
- d. Annual contract for sewer structure refurbishment, PIM Corporation, South Piscataway, New Jersey - \$152,000.00.
- e. Purchase of 1,200 ¾” x 1” Watts 7-10-U3 Dual Check Regulator Valves (@\$13.50 each), Ferguson Underground, Orlando, Florida - \$16,200.00.
- f. Purchase of two 12-lead ECG monitoring defibrillators from Medtronic Physio-Control, Redmond, Washington - \$23,448.80.
- g. Purchase of 240 liquid tons of Ferric Sulfate for the Water Production Division, Kemiron Companies, Inc., Bartow, Florida - \$28,320.00.
- h. Twenty-four month lease of seven 2002 Harley Davidson FLHPI Police motorcycles, Space Coast Harley-Davidson, Melbourne, Florida - \$29,400.00.
- i. Annual contract for Payroll and Human Resources software continuing maintenance and support services, Cyborg Systems, Chicago, Illinois - \$24,517.33.
- j. Contract for basic software/maintenance for the Police Department, Tiburon, Inc., Fremont, California - \$56,186.00

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

17. ORDINANCE NO. 2001-40 (A&V #242): (First Reading) A proposed ordinance to abandon and vacate the western one-foot of an existing 10-foot public utility and drainage easement located on Lot 11, Block 1, Ixora Park, Plat No. 2. (Requested by Jose and Lissette Valcort)

Attorney Gougelman read Ordinance No. 2001-40 by title.

Mr. Hill briefed Council and explained that although there are utilities situated within the easement, upon inspection it was determined that the vacation will not have an adverse effect on the utilities' ability to maintain facilities. There were no objections from local utility companies or city departments.

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

Moved by Walker/Hand for approval of Ordinance No. 2001-40. Motion carried unanimously.

18. ORDINANCE NO. 2001-41 (A&V #245): (First Reading) A proposed ordinance to abandon and vacate a 130-foot wide drainage easement over a retention pond on both sides of the common property line between Lot 3, Block A, North Drive Industrial Plaza Subdivision and Lot 2, Plaza North Subdivision.

Mr. Gougelman read the ordinance by title.

Mr. Hill reviewed the agenda report. This is a dedicated easement over a stormwater treatment pond that was constructed as a requirement for development of the subdivision in 1987. The original owner/developer is responsible for operation of the pond per St. Johns River Water Management District (SJRWMD) permit and per city stormwater maintenance agreement. The pond treats run-off from North Drive only.

As related to recent development activities on several lots in the subdivision, SJRWMD determined that the pond was not functioning properly and caused the current developer to reconstruct the pond. The developer asked that the city consider taking responsibility for the pond because it serves only North Drive and not the parcels within the subdivision. Each parcel must construct its own stormwater treatment system when the parcel is developed.

We believe it is proper for the city to assume responsibility for this pond because it treats run-off from North Drive, a collector road. We have no subdivisions in which the homeowners' or property owners' associations maintain the stormwater treatment system for a collector road.

The owner/developer will deed the 90-foot wide property on which the pond is located to the city. The pond is newly reconstructed and fenced. The SJRWMD permit will also be transferred to the city. The 130-foot wide easement will no longer be needed, and the remaining 40 feet of easement width can be utilized by the property owner. This conveyance of land for road purposes and the related pond construction costs are eligible

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

for road impact fee credit up to the amount of fees due or paid. This will allow the developer to recoup a part of his costs for improving this site.

In summary, the city will own the pond site so the easement is no longer required.

Mr. Hill and Mr. Ralls responded to questions regarding the location of the property, effect of the vacation, and refund of the impact fees.

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

Moved by C. Palmer/Walker for approval of Ordinance No. 2001-41. Motion carried unanimously.

19. ORDINANCE NO. 2001-43: (First Reading) A proposed ordinance to amend the City Charter and Chapter 11, Elections, related to the qualifying period for City Council candidates.

The attorney read Ordinance No. 2001-43 by title.

From the agenda report: This is a proposed ordinance to amend the City Charter and Chapter 11, Elections, as they relate to the qualifying period for City Council candidates.

The Florida Legislature this year passed several election items in a single bill, Chapter 2001-40. The act is entitled the "Florida Election Reform Act of 2001." The act covers a range of items including voting systems, voter registration information and absentee voting. One portion of the act will cause a conflict with the city's qualifying period. Section 46 of the act will change the dates of the first primary and general election in 2002 and eliminate the second primary for that year only. While the act does not specifically require municipalities to change the candidate qualifying period, that is an action that will be required in order for the Brevard County Supervisor of Elections to meet the intent of the law (which is to mail absentee ballots earlier).

The Supervisor of Elections has informed us that in order for Melbourne to have its election on the same day as the County's general election and to have our ballot information included on the County's absentee ballots, the County will need to receive our ballot information by September 10. As the City Code is currently written, the last day of qualifying would not occur until September 20 in 2002. Therefore, the city's qualifying period needs to be amended in the Charter and in the Code.

The State Statutes allow a municipality to amend, by ordinance, its dates for qualifying. Therefore, a referendum is not required.

The City Attorney and City Clerk reviewed the Election Reform Act and the applicable sections of the City Code. Their recommendation is to remove the qualifying period from the Charter. Additionally, the qualifying period in Chapter 11 should be revised to not less than 61 days (previously it was 45) nor more than 75 days (previously it was 60) prior to the date of the election.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

For information, a candidate may file at any time by completing the appropriate form and filing it with the City Clerk, which designates the campaign treasurer and bank. Filing allows a candidate to begin actively campaigning – accepting contributions and making expenditures. The change in the qualifying period will not affect this.

Moved by Poole/C. Palmer for approval of Ordinance No. 2001-43. Motion carried unanimously.

20. RESOLUTION NO. 1707: A proposed resolution adopting a stormwater utility assessment roll for government land used for non-government purposes.

Attorney Gougelman read Resolution No. 1707 by title. Mayor Buckley announced that this item is also a public hearing.

Mr. Hill briefed Council. This is a proposed resolution to adopt a stormwater utility assessment roll for government-owned land used for non-government purposes. These parcels would no longer be exempt from the fees if Council approves the second reading of Ordinance No. 2001-30.

The lessee and city agency owning each parcel have been notified by mail of the public hearing on adoption of the proposed non-ad valorem assessment as required by F.S. 197.3632.

The new parcels to be assessed and the assessment are listed in Exhibit 'A' attached to the resolution. Most of the parcels are leased by the Airport. Some are leased directly by the city. Of the latter, three appear to be incorrect. We think that the tax rolls reflect the entire parcel rather than the portion actually leased. These are the band building at Wells Park, Girl Scouts at Front Street, and the parking lot leased at the Police Annex for Submit Order.Com.

An issue to consider is that several lessees of the city are charitable organizations. Council will recall previous discussion concerning non-profit and charitable organizations. They are not otherwise exempt. As owner, the city would need to work with the lessees to establish payment to the Stormwater Utility Fund. A review of each lease will be undertaken.

With regard to the charitable/non-profit organizations, Mrs. Poole asked if the city will end up paying the fee. Mr. Hill said the lease agreements need to be reviewed.

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

Moved by Contreras/Hand for approval Resolution No. 1707. Motion carried unanimously.

21. COUNCIL ACTION RE: A request by the Florida Cannabis Action Network, Inc. for waiver of insurance requirements for the "Our Voice Street Festival," September 8, 2001.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

From the agenda report: This is a request from Jodi James, Florida Cannabis Action Network, Inc., for waiver of the city's liability insurance requirements for an event held on a public street. Ms. James has applied for a special activity permit and permission to barricade a one block portion of New Haven Avenue, between Waverly Place and Livingston Street. The Florida Cannabis Action Network recently set up an office at 703 E. New Haven Avenue.

The special activity permitting procedures provide that an applicant for an event held on a public right-of-way must provide a general liability insurance policy in the amount of \$1,000,000 with the city named as additional insured. The requirement for the policy and the amount were established a number of years ago by the Risk Management Division.

The provision of liability insurance is considered an important part of the permitting process. It offers protection for the city as well as the event participants. For example, the city recently received a claim from a person injured at the July 13 Downtown Melbourne Association Friday Fest event. The DMA provides liability insurance as a condition of the permit and the claim has been forwarded to their insurance carrier.

Kevin Aplin, 2613 Larry Court, President, Florida Cannabis Action Network, explained that they have conducted dozens of similar events throughout the Southeast and have never been required by any city to pay for insurance. He noted that many jurisdictions have regulations in place; however, waivers are made for groups that are indigent. Mr. Aplin noted that he called several insurance companies and the lowest quote he received was \$400. He stated that is a burden to a small organization. He asked Council to consider waiver of the requirement.

Continuing, he noted that they have litigated these issues in other cities. However, they are willing to sit down. He added that they do not intend to sell alcohol at their event. The event is small and will not have a stage and electrical cords. They have worked with the owners of the Greenhouse Café for use of facilities in an effort to minimize the impact.

Mayor Buckley said Council has no basis to waive the liability insurance. Anything can happen during an event and the city has to be protected.

Mrs. Poole questioned the statement that their organization is indigent, yet they have litigated against other jurisdictions. Mr. Aplin replied that indigent does not mean that they have zero dollars.

Mrs. Wysor confirmed for Mr. Contreras that the applicant has submitted the required petition signed by a majority of the businesses/residents who will be affected by the road closure.

Mr. Contreras said we live in a litigious society; therefore, it would not be acceptable to waive the insurance requirements. Mr. Aplin said some cities have companies that provide special rates. Mr. Hill said staff would investigate. In the meantime, he

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

recommended Mr. Aplin contact the Greenhouse Café to determine if insurance can be purchased through their carrier.

Moved by E. Palmer/Poole to not waive the requirement for liability insurance.

Mrs. Poole said that although alcohol is not part of the event, there are several places within the event area where alcohol can be obtained.

Mrs. Walker asked the purpose of the Florida Cannabis Action Network. Mr. Aplin said the organization's goal is to reform the country's drug laws, promote voter registration, sponsor civics workshops, etc. They want young people to become more involved in the process.

Mr. Contreras asked how or why the organization is involved in lawsuits with other municipalities. Mr. Aplin said they become involved in a lawsuit when a city denies a permit or requires insurance or the payment for police services. Mr. Contreras asked if it is their intention to sue. Mr. Aplin said no and added litigation is their last resort. They want to work things out. That is why he is taking the time to explain the event and ask for a waiver.

Mr. Hill stated that the requirement for the insurance was triggered by the street being barricaded. He added that if the event were being conducted in a park, a special activity permit would not be required.

A brief discussion continued.

The question was called. Motion carried unanimously.

22. COUNCIL ACTION RE: A proposed right-of-way use agreement for a parking area located on the corner of Avocado Avenue and McClendon Street; subject to correction of Code violations and obtaining a variance for back-out parking. (Requested by Mr. Larry Gann)

Mr. Hill reviewed the agenda report. This is a proposed right-of-way use agreement with Larry Gann, owner of Lots 1 and 2, Block 30, Village Plat of Eau Gallie. This is the location of the Backstreet Bar & Grill, 1841 Avocado Avenue and All Temp Rite at 1851 Avocado Avenue.

The right-of-way use permit is for parking in the public right-of-way. Mr. Gann constructed a concrete-paved parking area in the right-of-way and on his immediately abutting property. This is along both the Avocado frontage and McClendon frontage.

The pavement is an improvement to the area. Previously, this was just loose dirt and sand. However, the subject use agreement is required, and several aspects of the construction are in violation of City Code standards.

The recommendation is for approval of the agreement subject to correction of Code violations and Mr. Gann obtaining a variance for back-out parking.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Moved by C. Palmer/E. Palmer for approval of the right-of-way use agreement with Larry Gann for Lots 1 and 2, Block 30, Village Plat of Eau Gallie subject to the stipulations. Motion carried unanimously.

23. COUNCIL ACTION RE: A proposed Legislative Position Paper to be presented to the Brevard Legislative Delegation for action during the 2002 legislative session.

Mr. Hill briefed Council. This is the proposed Legislative Position Paper which will be presented to the Brevard Legislative Delegation September 18, 2001 for action during the 2002 Legislative Session. The delegation provided short notice and this is the first Council meeting at which we could present the proposed priorities to Council.

The proposed legislative needs statement requests the Delegation to assist the city by sponsoring and supporting legislation to:

1. Authorize municipalities to annex all unincorporated enclaves by ordinance or interlocal agreement, without approval of the property owners within the enclave.
2. Provide funding for establishing Amtrak service on the Florida East Coast Railway line.
3. Provide funding for FDOT recommended improvements to Apollo Boulevard and Babcock Street
4. Provide funding for widening of I-95 through Brevard County.
5. Provide funding to align roads to provide for more direct traffic flow between I-95 and the Airport.
6. Provide funding for an alternate east-west corridor to relieve traffic congestion on U.S. 192 (specifically widening of Eber Road or Florida Avenue from two lanes to four lanes).
7. Require an actuarial study clearly stating the financial impact of the proposed changes to state pension plans to be completed at least 90 days prior to formal consideration by the Legislature and providing a state revenue source to fund all mandated benefit improvements.
8. Repeal the exemption of fuel adjustments from utility taxes.
9. Revise the homestead exemption to exempt 50% of the first \$50,000 of assessed value instead of exempting the first \$25,000 of assessed value.
10. Exempt personal information of all local government employees from the Florida Public Records Act (not just Police, Fire, and Code Enforcement personnel).

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

11. Amend Ch.180, F.S. to prohibit the creation of water and sewer reserve areas which would force private property owners to obtain service from one municipality over another.
12. Remove reverse osmosis concentrate from the industrial wastewater classification under FDEP rules.
13. Enable municipalities to implement alternative penalties for violations of municipal ordinances and increasing the cap to \$2,000 per day for violation of municipal ordinances which carry out federally mandated programs.
14. Require School Boards to obtain local government development approval for new school facilities to ameliorate the impact on local government infrastructure and service levels.
15. Require a representative from Florida Department of Community Affairs to meet with local planners to jointly determine the best plan between the ORC Report and adoption process.
16. Require the registered surveyor employed by the developers to state that the plat is in conformance with Ch. 177, F.S.

Mrs. Poole pointed out that items 1 and 15 are a duplication. (Note: Item 15 was deleted above and the remainder of the items were renumbered.)

Moved by Hand/E. Palmer for approval of the proposed legislative priorities and transmission to the Brevard Legislative Delegation with a revision to combine items 1 and 15. Motion carried unanimously.

24. COUNCIL ACTION RE: A request for continued assistance to Grace Maldonado and Valerie Ann Tenorio Bowman in the event that permanently subsidized housing does not materialize for these persons prior to the expiration of their tenant-Based Rental Assistance.

From the agenda report: HOME Program rental assistance is scheduled to end for the following persons with disabilities and/or who are elderly during the 2001 calendar year: Ferraro, James 9/30/01; Maldonado, Grace 11/30/01; Manso, Josephine 8/31/01; Spiller, Glenda 8/31/01; and Tenorio Bowman, Valerie Ann 12/31/01.

As provided for in the recently revised Tenant Based Rental Assistance (TBRA) Policies, these persons, at Council's discretion, may be considered for a two-year extension of their TBRA subsidies, in one-year increments.

Only two of these persons will have met their primary TBRA obligation (to seek permanently subsidized housing) during the 24-month assistance period - Ms. Maldonado and Ms. Tenorio Bowman. The remaining three have refused to seek out such housing or have rejected offers of permanently subsidized units for a variety of personal reasons.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Consequently, staff would not recommend or support continuation of TBRA subsidies to tenants Ferraro, Manso and Spiller.

Mr. Palmer questioned whether the other three recipients have the physical or mental capacity to meet their obligation. He noted that it would not make sense to arbitrarily take away the TBRA. Mrs. Hand agreed. Mr. Contreras said he is concerned that some of the folks have the means and capability; however, they have turned down units.

Joy Williford, Assistant Housing and Community Development Director, stated that the goal is not to permanently subsidize housing. Council made an exception to tack on an extra four years as long as the client is going along with the goals of the program. When clients come on board, they are asked to sign a form indicating that they pledge to work towards the goal. They are also provided all kinds of assistance. She discussed the specifics of some of the clients and stated that she believes they understand the conditions.

Mrs. Poole agreed with Ms. Williford.

Mr. Palmer said there is a segment of our society that needs our help because of physical and/or mental limitations. Without TBRA they would be out on the streets. Council agreed to four years and he sees no reason to deviate.

Mrs. Palmer pointed out that Ms. Williford works with these clients on a regular basis. She asked if they are not able, because of age, mental deterioration, or depression, to comply. Ms. Williford replied that two are elderly and she believes they simply like where they are currently living.

Mrs. Palmer stated that she does not want to see people faced with homelessness. She asked if keeping all five in the program would stop other people from signing on. Mr. Hill replied no.

Moved by Poole/Contreras for continued assistance to Grace Maldonado and Valerie Ann Tenorio Bowman in the event that permanently subsidized housing does not materialize for these persons prior to the expiration of their TBRA for one year.

Mrs. Hand and Mr. Palmer stated that they wanted all the names included in the motion.

Moved by E. Palmer/Hand to amend the motion to include all five recipients.

The question was called on the amendment. Motion carried. Council Members Contreras and Poole and Mayor Buckley voted nay.

The question was called on the main motion as amended. The roll call vote was:

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

Nay: Contreras, Poole, and Buckley

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Motion carried.

25. COUNCIL ACTION RE: A request for approval of a \$37,290 award from Melbourne's FY 2000 CHDO set-aside for ARC's Palm Bay group home project and authorization to execute all necessary documents to transfer Melbourne's FY 2000 CHDO funds to Brevard County to facilitate project financing, administration and monitoring.

From the agenda report: Community Housing Initiative (CHI) has submitted a written request for HOME Investment Partnership funds to finance the construction of a new group home for the Association of Retarded Citizens (ARC) in Palm Bay.

The initial budget provided by Brevard County for the project for which funding is now being requested is substantially below what the project requires and CHI is approaching other members of the Brevard County HOME Consortium for supplemental funding. Cooperatively funded HOME projects are not new to the Consortium. Several projects have been funded in this manner, with all or some members of the Consortium surrendering their HOME funds to other Consortium members to finance eligible projects that are of mutual benefit.

The preferred mechanism for making the funds available to CHI is a reduction in Melbourne's HOME allocation via an amendment to the City's interlocal agreement with Brevard County.

Moved by Poole/C. Palmer for approval of a \$37,290 award from Melbourne's FY 2000 CHDO set-aside for ARC's Palm Bay group home project and authorization for the City Manager to execute all necessary documents and take all necessary steps, including budget adjustments, to effect the transfer of Melbourne's FY 2000 CHDO funds to Brevard County to facilitate project financing, administration and monitoring.

In response to Mr. Contreras, Nicole Tenpenny with CHI stated that she asked all the cities for additional CHDO funds. Some of the other cities have not denied the request; however, they have not yet provided an answer.

The question was called. Motion carried unanimously.

26. COUNCIL ACTION RE: A request for approval of the submittal of State of Florida NationsBank Purchasing Card Application for use of the State of Florida Purchasing Card Program by City employees.

Mr. Hill confirmed for Council that the program will be through Bank of America.

Mr. Contreras said from a military perspective, the credit card program is a shambles. Mr. Hill said that is what caused the city to be cautious. Each employee will have to agree to be terminated for misuse. He added that there are procedures in place that will make the risk relatively small. It is called a credit card; however, it is a purchasing card program.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 14, 2001

Mayor Buckley asked the dollar limit. Mr. Hill said that has not yet been established. Mrs. Poole said at first she was not in favor of this; however, it appears as if safeguards have been put in place. Mrs. Palmer said she is eager to see the evaluation in February 2002.

Moved by E. Palmer/Walker for approval for the application to the State/Nations Bank (Bank of America) for participation in the Purchase Card Program, implementation of a pilot program and final city-wide implementation. Motion carried unanimously.

- 26.1. COUNCIL ACTION RE: Change Order No. 1 to the contract with Clear Direction Signs & Signals, Inc. of Sanford, Florida in the amount of \$23,003 for Downtown Street Lights.

Mr. Hill reviewed the memorandum distributed to Council.

Moved by E. Palmer/Poole for approval of Change Order No. 1 to the Clear Direction Signs & Signals, Inc., in the amount of \$23,003. Motion carried unanimously.

27. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Poole expressed concern that the building dedication plaque for the Melbourne Auditorium had been removed. She requested it be returned.

Mrs. Hand referenced the memorandum regarding the benefit option for municipal elected officials. (During the 2001 Legislative session, a bill was passed, which included an option for cities to increase retirement benefits for council Members.) Council asked that this item appear on the next agenda for discussion.

Mrs. Palmer asked the members to consider tightening the parameters and requirements for distribution of funding to non-profit organizations. She would like to consider restrictions such as limiting the number of consecutive years, etc. Following a brief discussion, Council agreed to review the policy regarding this item at the first meeting in October.

28. ADJOURNMENT

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

The meeting adjourned at 11:54 p.m.

---

City Clerk – 8/24/2001

Approved by Council: \_\_\_\_\_