

CITY OF MELBOURNE, FLORIDA  
MINUTES – POSTPONED REGULAR MEETING BEFORE CITY COUNCIL  
SEPTEMBER 18, 2001

1. A postponed regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 8:45 p.m. by Mayor John A. Buckley.
2. Council Member Loretta Hand gave the invocation.
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
	Peggy Braz	Planning and Zoning Administrator

Items 4 through 7 were heard at the September 11, 2001 Council meeting.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2001-44: (Public Hearing/Second Reading) A proposed ordinance to amend 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 8/28/2001)

Attorney Gougelman read Ordinance No. 2001-44 by title. There were no comments from the public.

Moved by E. Palmer/Poole for approval of Ordinance No. 2001-44. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Mrs. Palmer stated that she voted for this because it is the best regulation that we have at the moment.

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9. ORDINANCE NO. 2001-37: (Public Hearing/Second Reading) A proposed ordinance to amend Chapter 19, Licenses, as recommended by the City Code Review Committee, Section 1. (First Reading 8/28/2001)

From the agenda report: At the August 28 meeting, Council approved the ordinance on first reading with a revision to eliminate the change recommended by the committee to the professional category. The ordinance has been revised per Council's direction.

Attorney Gougelman read Ordinance No. 2001-37 by title. There were no comments from the audience.

Moved by Poole/E. Palmer for approval of Ordinance No. 2001-37. The roll call vote was:

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

Nay: C. Palmer

Motion carried.

10. ORDINANCE NO. 2001-46 (CU-2001-09): (Public Hearing/Second Reading) A proposed ordinance granting a conditional use to allow for the consumption of alcohol on the premises located on the north side of Sarno Road, approximately one-quarter mile east of Wickham Road. (Owner, Leonard Lewis; applicant, Wid's Place, Inc., and representative, Wid T. Bell) (First Reading 8/28/2001)

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

Moved by Poole/Contreras for approval of Ordinance No. 2001-46. The roll call vote was:

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

Nay: None

Motion carried unanimously.

11. ORDINANCE NO. 2001-48 (DR-2001-03): (Public Hearing/Second Reading) A proposed ordinance to de-annex a .77-acre parcel from the corporate boundary of the city located on the north side of East Eau Gallie Boulevard, west of SR A1A and east of South Patrick Drive. (Requested by Eau Gallie Development, LLC) (First Reading 8/28/2001)

The attorney read Ordinance No. 2001-48 by title. Mr. Palmer disclosed that he drove by the property. There were no comments from the public.

Moved by Walker/E. Palmer for approval of Ordinance No. 2001-48. The roll call vote was:

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

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Nay: Poole

Motion carried.

Mrs. Poole stated that she voted nay because she does not believe in giving away city property. The assessed value of the property is \$520,000 and it generates approximately \$2,352 annually in ad valorem tax revenues.

NEW BUSINESS

12. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/E. Palmer for approval of the consent agenda, items “a – e”, as recommended.

Mr. Hill responded to Mrs. Poole’s questions regarding item “c”. The item was not removed from the agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1714: A resolution to apply to the Department of Agriculture and Consumer Services, Division of Forestry, for the Urban and Community Forestry grant to fund improvements to Babcock Street Park.
- b. Approval of Highway Maintenance Agreement with the Florida Department of Transportation (FDOT) to maintain a sidewalk to be constructed along the west side of U. S. 1 from Syracuse Avenue to Laurie Street.
- c. Purchase of two replacement Evinrude 250 HP V6 outboard motors for the Fire Department boat, Bombardier, Inc., Waukegan, Illinois - \$18,535.
- d. Annual contract for Data Processing continuing maintenance and support services, KPMG Peat Marwick, Washington, D.C. - \$74,950.
- e. Storm sewer line slip lining rehabilitation of 1,200 linear feet on Dawn Drive by the Streets Division, Azurix North America, Longwood, Florida - \$109,650.

13. COUNCIL ACTION RE: A request for an increase of \$12,055 to the Community Housing Initiative’s April 2001 award for the Purchase Assistance Program and authorization for the City Manager to execute the amendment to the 2000-2001 SHIP Budget.

Mr. Hill briefed Council. For the state fiscal year ended June 30, 2001, projected SHIP disbursements from the Florida Housing Finance Corporation and SHIP recaptured funds

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and interest income exceeded the budgeted amounts. As a result, there is a total of \$16,572.14 in additional SHIP revenues available for appropriation by Council.

Based on their performance under successive contracts with the city and the priorities of the SHIP Program, staff is recommending that the majority of the additional funds be awarded to Community Housing Initiative, Inc. to assist more homebuyers through the agency's administration of the Purchase Assistance Program. It is recommended their agreement be augmented by \$12,055. The remaining \$4,517 is recommended to be allocated to homeownership counseling and to administrative expense as outlined in the agenda package.

Moved by C. Palmer/E. Palmer for approval of a \$12,055 increase to CHI's April 2001 award for the Purchase Assistance Program budget adjustments as listed in the package, and authorization for the City Manager to execute the amendment documents and amend the 2000-2001 SHIP budget. Motion carried unanimously.

14. COUNCIL ACTION RE: A request for consideration of possible purchase of property adjacent to Lift Station #15 located on the south side of Sarno Road, west of Croton Road.

Mr. Hill reviewed the agenda report. There is a current Capital Improvement Project to rebuild Lift Station #15 located on the south side of Sarno Road west of Croton Road. The station is located in the Sarno Road right-of-way and a drainage easement between an occupied single-family residence and a house that has been converted into a professional office. The cramped area makes access difficult. To rebuild the station in the current location would require continuous 24-hour bypass pumping, a large sheeted excavation, and numerous conflicts with existing drainage pipes.

An appraisal valued the single-family residence property at \$43,000. The occupant's son is willing to sell the property for \$55,000 due to the costs associated with relocating. The asking price is consistent with the property the city acquired on Garfield Street this past year to correct a drainage problem.

If the new station could be built on the property where the house is now located, the construction would be much easier, less disruptive to the surrounding neighbors, and less expensive.

Mrs. Poole said she does not believe the property is worth the \$55,000. Mayor Buckley said some homes in the area are selling for \$65,000. Mrs. Palmer said she has seen city trucks working all hours of the night with bright spot lights. She noted that she can foresee a lot of problems in the future because of disruptions to the household. She recommended Council proceed with the purchase.

Mr. Palmer asked the cost of moving the lift station. Mr. Hill said probably between \$150,000 and \$200,000. Mr. Hill added that it is cheaper to acquire the property and build rather than rebuild on the present site.

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Moved by Hand/C. Palmer for authorization to purchase property located at 2313 Sarno Road for \$55,000. Motion carried unanimously.

Item 15 was heard at the September 11 Council meeting.

16. COUNCIL ACTION RE: Request by Harris Sanitation, Inc. for an increase in solid waste collection rates.
- a. Ordinance No. 2001-49: (First Reading) A proposed ordinance amending Chapter 14 of the Code of Ordinances entitled Garbage and Refuse; providing rates for the collection of garbage and trash.
  - b. Proposed contract modification agreement with Harris Sanitation, Inc.

The City Attorney read the ordinance by title.

From the agenda report: Harris Sanitation has requested a rate increase in commercial and residential sanitation collection services as allowed in their franchise agreement with the city. The Consumer Price Index (CPI) for June 2001 is 3.2 percent for “all consumers.” This is the figure required by contract. According to their contract, Harris is entitled to a commercial rate increase in that amount and a residential increase based on 80% of the CPI and 100% of the CPI for commercial solid waste collection service rates. That equates to 2.5% for the residential increase.

The total amount charged Melbourne residents and businesses by Harris Sanitation, Inc. will continue to be the lowest in the area.

Mr. Hill reported that because action on this item was postponed until this meeting, second reading will not occur until October 9. He reported that he discussed the issue with Harris Sanitation and Harris indicated it is willing to have the effective date be October 10. Council also has the option of making the increase effective with the October 1 billings.

Mayor Buckley recommended Council make the effective date October 10.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2001-49 with an effective date of October 10.

Mrs. Poole asked for information regarding the current rates and a table of comparative rates.

The question was called. Motion carried unanimously.

Moved by E. Palmer/Walker for approval of the proposed contract modification agreement with Harris Sanitation, Inc. Motion carried unanimously.

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17. ORDINANCE NO. 2001-50: (First Reading) A proposed ordinance to amend Chapter 7, Boats, Bulkheads, Marinas, and Waterways, as approved by the City Code Review Committee, Section 4.

Attorney Gougelman read Ordinance No. 2001-50 by title.

Moved by E. Palmer/Poole for approval of Ordinance No. 2001-50.

Mr. Palmer asked the City Attorney to confirm that the changes will not place us in conflict with the State Statutes. Attorney Gougelman replied that is correct. Mr. Hill said that was exactly the point of the review. In the mid 1980's there was an effort to write and re-write a number of ordinances. State Statutes were paraphrased and, in some instances, the re-write gave the Code a completely different meaning.

Mrs. Palmer said she has problems with the proposed ordinance. She stated that it appears the ordinance expands the enforcement powers of the Melbourne Police Department on the water.

Attorney Gougelman said he does not believe that it does. He explained that during the 1999 session, the legislature took a number of provisions in the state law regarding waterways and cleaned them up somewhat and renumbered. That is where some confusion may have come in. A lot of the provisions in our Code were either paraphrased provisions of the state law or worded in a different fashion – it was poor draftsmanship. The effect was that, in some cases, a single offense became a violation of state law and municipal ordinance. He added that there is no reason to have a dual structure.

Mrs. Palmer asked if we are now adding the Municipal Code to cover the water. Attorney Gougelman said we have always had some jurisdiction on the water. Mrs. Palmer said the ordinance will result in the Police Department having more to enforce. She asked what the result would be if we made no change. Mr. Gougelman said essentially nothing; however, the Code would still be confusing and some offenses would be a violation of state law and municipal ordinance.

Following a brief discussion, Mrs. Palmer said most of her concern relates to Sections 7-1 and 7-3. Attorney Gougelman assured her that the changes won't make the city's authority any greater. The Police Department won't have more jurisdiction than what it currently has.

Discussion continued. The Mayor asked Mrs. Palmer to submit her proposed changes to the City Manager so they can be included with the next package.

The question was called. Motion carried unanimously.

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18. ORDINANCE NO. 2001-51: (First Reading) A proposed ordinance to amend Chapter 8.5, Cemeteries, as recommended by the Code Review Committee Section 4.

Mr. Gougelman read Ordinance No. 2001-51 by title.

Moved by Hand/E. Palmer for approval of Ordinance No. 2001-51. Motion carried unanimously.

Item 18.1 was heard at the September 11 Council meeting.

19. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mayor Buckley reported that State Representative Bob Allen has asked our community to participate in the Brevard County POW/MIA ceremony on Friday, September 21, 7:00 p.m., Veterans Memorial Center, Merritt Island.

Mr. Hill noted that he will be out of the city from September 21 through September 26 attending an ICMA conference. Assistant City Manager Bud Emerson will serve as Acting City Manager during this period.

Mr. Hill referenced the memorandum distributed regarding the NAACP response to a Complaint Review Board (regarding the suicide of Officer Larry Simpson). The NAACP does not wish to proceed with such a board; however, it wishes to proceed with a citizen review committee to consider ways to avoid such a situation in the future.

Council Member Contreras inquired as to the status of city employees who are also reservists. Following a brief discussion, Mr. Hill said he will provide a report to Council when he has definite information.

20. ADJOURNMENT

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

The meeting adjourned at 9:28 p.m.

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City Clerk – 9/26/2001

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