

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
SEPTEMBER 25, 2001

A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 7:30 p.m. by Mayor John A. Buckley.

1. The invocation was given by Father Bill Hanley, Our Lady of Lourdes Catholic Church.
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
	Bud Emerson	Acting City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Peggy Braz	Planning and Zoning Administrator

Absent: Henry J. Hill City Manager (out of town conference)

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented a proclamation recognizing Jackie Lepper, a retired Florida Air Academy teacher, who routinely attended Council meetings with her American Government class.

Mayor Buckley presented a proclamation for "Fire Prevention Week", October 7-13, 2001, to Jim Carey, Deputy Fire Official, City of Melbourne.

5. APPROVAL OF MINUTES - September 4, 2001 Special Meeting
September 11, 2001 Regular Meeting

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

6. CITY MANAGER'S REPORT

No additions/no discussion.

7. PUBLIC COMMENTS

None.

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UNFINISHED BUSINESS

8. COUNCIL ACTION RE: Discussion of additional benefits for previously retired Melbourne Police Officers.

Mr. Emerson reviewed the agenda report. Retired Melbourne Police Officer, Darrell L. Parsons, has asked Council for consideration of benefit increases for certain retired Melbourne Police Officers.

Following the appearance of Mr. Parsons and a number of retired officers at the June 12 Council meeting, Council directed staff to request that the Police Pension Board provide an actuarial analysis to define the cost to the city of the pension improvements sought by Mr. Parsons. Mr. Parsons has cited the actions of the Florida Retirement System in providing certain benefit improvements as the rationale for the appeal to Council. It must be remembered that the Florida Retirement System is an entirely different plan with a different set of retirement costs and parameters.

The state granted a one time, 12% increase beginning January 1, 2002 for certain Florida Retirement System High Risk employees who retired prior to July 1, 2000 and who had creditable years of service between October 1, 1978 and December 31, 1992. Special Risk Class members of the FRS received a blended retirement benefit composed of specific multipliers for specific years of creditable service during that period. This differs from Melbourne's retirement provision where the retirement benefit is based on the multiplier rate in effect on the date of retirement applied to all years of credited service.

To calculate the cost of providing an increased retirement benefit to those officers who retired at the 2.0% and 2.5% rates, we requested the Police Pension Board actuary, Foster & Foster, Inc., calculate the cost of increasing the benefit multiplier to 3.0%, (Option A) and the cost of providing a 12% increase in the retirement benefit, Option B, to those officers who retired prior to October 1, 1993, when the current benefit multiplier became effective. Unfortunately their Option B calculation included all retirees including those at the 3% level. A correction was requested.

Foster and Foster, Inc. has reported that the actuarial cost to provide the 3.0% benefit to all existing retirees is \$85,406 annually or 1.2% of total annual police officer payroll. The actuarial cost to increase the retirement benefit to those retired prior to October 1, 1993 (a corrected Option B) is \$122,129 annually or 1.6% of total annual police officer payroll.

Mr. Parsons also mentioned a cost of living adjustment for new retirees. The city is still in negotiations with the PBA. The union seeks to gain a cost of living increase to the plan. Such increase components are very expensive, usually 5-10% of payroll. The city's past practice in such negotiations has been for similar economic benefits to be weighed together and for the officers to bear most, if not all, of the cost of the improved benefit. The city has indicated to the PBA that the expectation would be that the officers would need to contribute to any benefit improvement.

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The direct cost and potential impact of a Council decision to improve the retirement multiplier should be carefully reviewed. Aside from the 26 police retirees included in Mr. Parsons' request, there are an additional 22 fire retirees who have less than a 3% multiplier. It is likely that, if granted to the police retirees, the fire retirees would seek the same benefit improvement and that cost would be equivalent to the amounts calculated for the police retirees. Further, such grants could have an impact on present and future negotiations with the unions regarding pension benefits. Given these costs and consequences, staff cannot recommend the benefit improvement sought by Mr. Parsons.

Darrell Parsons, retired Melbourne Police Officer, stated that Option A would clear the discrimination. He added that he hopes the city will do what the legislature did and grant a one time increase.

Mrs. Poole stated that if the PBA was negotiating for retirement benefits, it should have been understood that the benefits were for all police retirees. The retirees should not be left out simply because they were not in attendance during the negotiations. Continuing, she cited a 1993 memorandum from the retired officers to the Police Pension Board. The memorandum indicates that officers who became members prior to October 1975 contributed 5% of their salary to the retirement plan. Those who became members after 1975 did not contribute to the plan until 1991. The retirement members have asked why members who contributed nothing or very little receive 3% per year for past service while those who contributed 5% of their salary to the plan only receive 2.5% per year for past service. She noted that this covers a 16-year period.

Mayor Buckley said based on the information received, number of people involved, and the cost he does not believe the city can grant the adjustment. The city is not in a position to make a magnanimous donation to the pension fund. Additionally, such action could affect the fire retirees.

Mrs. Walker reported that she receives the same amount of retirement benefit that she received immediately after retirement. She does not receive a cost of living adjustment. She added that she cannot support the request.

Moved by Walker/Buckley to not approve the request for benefit increase for retired Melbourne Police Officers.

Mrs. Palmer pointed out that the increase to 3% in the multiplier came at a cost to the officers in the plan. Some who are now paying at a higher rate and who gave up benefits for the increased multiplier would probably feel that any increased benefit for retired officers would be unfair. She noted that it is difficult to turn the request down.

Mrs. Hand stressed that the state plan is different from the city plan. The cost is significant and approval could impact the fire retirees. She noted that Council is trying to keep the tax rate down and a change like this could cause the millage to increase.

Mr. Palmer said the cost is more than what was originally anticipated. Additionally, any change could affect the fire retirees. The overall cost to the city would be astronomical.

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He asked that the issue not be closed completely and said we will look at other ways that compensation may be possible.

Mr. Contreras said negotiations are the forum for increased benefits and the PBA did not include the retirees in negotiations. Additionally, using the state as an example is like comparing apples and oranges. One plan is contributory and the other is non-contributory. He confirmed that he is not able to support the request.

Mrs. Poole stated that retirement benefits should not be negotiated. She added that there should be a way to provide a cost of living increase.

Mr. Emerson clarified that during the past two negotiations that he has been involved with the PBA has always come forward with specific proposals for current officers. During discussions, staff has always asked if they wished to cover retirees and the union members have always opposed it. It is a negotiated item. He added that if the decision was made strictly from the heart, there is no question that this should be passed without objection.

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

9. ORDINANCE NO. 2001-42 (Z-2001-908AD(C)): (Public Hearing/Second Reading) A proposed ordinance to rezone a nine block area from C-2 (General Commercial) to C-1 (Neighborhood Commercial), located in a portion of Downtown Melbourne, west of Riverview Drive, north of Strawbridge Avenue and east of Tangerine Street. (Requested by City of Melbourne) (First Reading 8/14/2001) (Postponed by Council 8/28/2001)

Attorney Gougelman read Ordinance No. 2001-42 by title.

From the agenda report: At the August 28 meeting, Council postponed action to allow time for members to review the additional information distributed.

The city received a valid petition of protest. City Code requires that at least 20 percent of such property owned by affected property owners sign a petition in order to invoke the 6/7 rule. As calculated by the Planning and Zoning staff, since 25.27% of the properties within the area represented signed the petition, the 6/7 vote will be required.

Mayor Buckley briefed the audience. There were no disclosures. Mayor Buckley opened the public hearing.

David Dyer, attorney representing Lee and Sondra Austin, property owners in the proposed rezoning area, stated that the petition of objection indicates that this is not a popular change. Lack of consensus should convince Council this is not a wise move.

Mrs. Poole reviewed a memorandum distributed to Council (from her) regarding the rezoning item. She pointed out that Section 10-101, City Code (relating to Downtown Redevelopment), provides for a pledge, which is a promise, for the site specific policy for the Downtown area to carry out the plan. The August 14 minutes indicate that the policy

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provides that the area can accommodate mixed use development; development of commercial office and residential uses.

Additionally, Mrs. Poole said the map indicates that 10.08% of the property owners within a 500' radius object. She stated that this is a small percentage of the owners and should not control Council's vote. If the area remains C-2, the old historic homes could not be rebuilt if destroyed by fire or storms. A zoning classification of C-1 would allow mixed use residential and commercial; C-2 zoning does not allow for residential. She asked Council to vote for the rezoning, which is consistent with the Comprehensive Plan and the Downtown Redevelopment Plan.

Mayor Buckley said he still believes the area should be rezoned to C-3. The concern about tall buildings is unfounded because other areas in Downtown Melbourne are zoned C-3 and another tall building has yet to be constructed. Regarding the petition, he pointed out that 10.08% opposed is based on the 500' radius standard. He stressed that of the affected area, 35.36% are opposed.

Mrs. Palmer said that in reviewing some of the impact to the different properties, it looks as if the C-3 zoning provides the least negative impact. She noted that she cannot in good conscience arbitrarily change the zoning on property that people have had in the family business for years. If they experienced a loss due to fire or hurricane, they would lose the right to continue that business.

Mr. Palmer said he will support C-1 zoning. He pointed out that C-3 zoning would allow 80' tall buildings and that is the reason Council adamantly opposed this classification. The C-2 category lends itself more to business; however, C-1 does almost the same thing. Additionally, C-2 does not allow residential uses and this leaves C-1 as the best zoning. C-1 allows for business and residents and would eliminate 11 of the non-conforming businesses that currently exist.

Mrs. Palmer said perhaps the rezoning should involve the residential properties and not the commercial properties. The zoning should not be changed for businesses that have existed and contributed to the area for years.

Mrs. Poole said that the historic homes have been in the area longer. She added that the businesses that have been here will stay and C-1 zoning can accommodate both.

Moved by Walker/Contreras for approval of Ordinance No. 2001-42. The roll call vote was:

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

Nay: C. Palmer and Buckley

Motion failed (6/7 vote required).

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10. COUNCIL ACTION RE: Discussion of nuisance abatement strategies. (Postponed by Council 8/28/2001)

From the agenda report: Council Member Ed Palmer requested discussion about establishment of a Nuisance Abatement Board in accordance with the provisions of Florida Statutes, Section 893.138. Nuisance Abatement Boards are tasked with considering abatement of drug-related or prostitution-related public nuisances, along with any youth and street gang activities.

A Nuisance Abatement Board may take the following actions:

- Declare places or premises to be “public nuisances.”
- Establish orders requiring the owners of the property to adopt any procedures the board deems appropriate under the circumstances to abate the nuisance. This could include the closure of part or all of the place or premise.
- Seek other sanctions to produce the desired abatement, including fines or forfeiture.

In 1994 the City Council considered establishment of a Nuisance Abatement Board. Council passed the creation of a board on first reading; however, it was withdrawn following subsequent objection (some believing the board would have too much authority and some believing it would not have enough).

Mr. Palmer stated that a Nuisance Abatement Board would allow the city to deal with properties where drug, prostitution, and gang problems exist. He pointed out that such a board can order property owners to take specific action. A Nuisance Abatement Board would provide the Police Department with another tool to deal with these activities. He referenced the success of the vehicle impound ordinance, which was a tool provided to combat drugs and prostitution. Mr. Palmer stressed that there are areas where absentee landlords could care less.

Continuing, Mr. Palmer said that international terrorism is supported by the sale of drugs. He added that he firmly believes Council should encourage and support establishment of a Nuisance Abatement Board.

Mr. Contreras agreed that such a board would be a good tool for our Police Department to use in the protection of our citizens. He said as long as criteria was well established and this would not be a renegade board trying to illegally close down establishments, then he would support its creation.

Mrs. Palmer stated that a Nuisance Abatement Board would aid in clearing problems in the city before they grow to proportions where we can't do much about it. She agreed that the establishment of the board needs to contain good criteria and she would like the ordinance crafted in such a way that the property owner would be protected if they were also a victim. She stressed that some property owners are victims; they do not condone the activity that is occurring. She asked what happens in the case of public housing or government owned property.

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Mr. Palmer said drug activities result in an automatic eviction from public housing (for tenants). Mr. Gougelman added that he is not aware of any public housing that has been prosecuted before a Nuisance Abatement Board. Government has elected not to prosecute itself.

Mr. Palmer said there are built in safeguards for protecting landlords. Landlords must be made aware of the situation and a board would not act in isolation. Property owners would be given an opportunity to correct problems before any action is taken.

Mrs. Palmer said, again, her concern is for the property owner who is cooperative with police and has done everything they can do to correct problems.

Mrs. Hand asked who the board would report their findings to. Attorney Gougelman explained that it would be similar to the Code Enforcement Board. The board would deal with the property owner and if an owner is aggrieved by a decision, recourse would be through the court system.

Mayor Buckley said he is concerned about lawsuits. He referenced the court ruling in the St. Petersburg case (outlined in the agenda package) where the city has to make restitution to the property owner.

Mrs. Poole said she supports the creation of a Nuisance Abatement Board and agreed that it is another tool to help the police. She stated the city should not worry about lawsuits.

Mayor Buckley referenced the vehicle impoundment ordinance and said that cases are heard by a special master/judge. He explained that the Nuisance Abatement Board would be made up of a group of citizens who would be placed in a position of closing businesses.

Mr. Palmer said the ordinance can be written like our vehicle impoundment ordinance – with enough restrictions in place that there won't be any problems.

Moved by E. Palmer/Poole to have the City Attorney draft an ordinance establishing a Nuisance Abatement Board.

Mrs. Hand said she is concerned for the safety of the members who serve on this board. Their names will be public. Mr. Palmer said the members would not be asked to do anything that is not legal under the statutes.

A brief discussion followed about the process the board would follow. Mr. Palmer asked if a stipulation could be added requiring the board to appear before Council prior to taking drastic action. Attorney Gougelman said probably; however, members may feel like they are being second guessed. Mrs. Palmer said Council would be providing oversight.

Mrs. Hand and Mr. Palmer said they would favor the ordinance containing a provision where Council would be involved. Mrs. Palmer said there has to be stringent parameters

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for the board to follow so they are not trying to decide how to proceed. She cautioned that if the ordinance looks unconstitutional, she will not support its adoption. Mrs. Poole said the ordinance needs to indicate that there must be continuous violations/problems so that any action would hold up in court.

Mrs. Walker said she is in favor of doing what we can to control drugs and prostitution; however, she believes that establishment of a board would open the door to many problems.

Mayor Buckley clarified that he is also opposed to drugs and prostitution. He added that establishment of a Nuisance Abatement Board is a serious matter and the ordinance must contain carefully laid out guidelines. The board should be comprised of people who are superior quality.

The question was called. Motion carried. (Council Member Walker and Mayor Buckley voted nay.)

Recessed: 9:04 p.m.
Reconvened: 9:15 p.m.

NEW BUSINESS

11. COUNCIL ACTION RE: Consent Agenda

Mayor Buckley referenced the memorandum from staff requesting item “h” be removed from the agenda.

Moved by Walker/C. Palmer to remove item “h” from the agenda. Motion carried unanimously.

Moved by E. Palmer/Hand for approval of the consent agenda, items “a – g” and “i” – “j.”

Staff responded to Mrs. Poole’s questions; however, no additional items were removed from the agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1718: A resolution authorizing an agreement with the Florida Department of Transportation for maintenance of landscaped areas on certain state highways in the city and cleanup, removal and disposal of all debris from FDOT rights-of-way following events such as hurricanes and tornadoes.
- b. Resolution No. 1719: A resolution authorizing application to the Florida Department of Environment Protection, Florida Recreation Development

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Assistance Program, for funding to construct a new storage/restroom building at the Southwest Recreation Complex in the amount of \$154,000.

- c. Resolution No. 1720: A resolution authorizing application to the Florida Department of Environmental Protection, Florida Recreation Development Assistance Program, for funding to replace the bridges at the fifth and eleventh holes of the Harbor City Golf Course at an estimated total cost of \$50,000.
 - d. Resolution No. 1721: A resolution authorizing application to the Florida Coastal Management Program, Coastal Partnership Initiative, in the working waterfronts category, for funding to create a master plan for the Eau Gallie riverfront area in the amount of \$50,000
 - e. Resolution No. 1722: A resolution authorizing application to the Florida Coastal Management Program, Coastal Partnership Initiative, in the access to coastal places category to refurbish the existing fishing pier at Pineapple Park to provide access to land by the boating community in the amount of \$100,000.
 - f. Resolution No. 1723: A proposed resolution to authorize the City Manager to execute Florida Department of Transportation utility work agreements in the Eau Gallie area.
 - g. Blanket purchase of gasoline and diesel fuel at various unit prices per gallon based on cost elements for the period October 1, 2001 through January 31, 2002, Glover Oil, Melbourne, and Petroleum Traders Corporation, Fort Wayne, Indiana - \$177,918 (estimated).
 - h. Purchase of sodium hydroxide for the Water Production Division, at unit price of \$1.35 per gallon, for the period October 1, 2001 through March 31, 2002, Jones Chemical, Inc., Jacksonville, Florida- \$685,422 (estimated). (Note: This item was removed from the agenda.)
 - i. Annual contract for maintenance and repair of city-owned air conditioning and refrigeration equipment at various unit prices as detailed on bid tabulation sheets, ConServ Building Services, Inc., Cocoa, Florida - \$35,000-\$40,000.
 - j. Contract for materials and installation of 130 linear feet of 30-inch corrugated storm drain at 2824 Hereford Road, Azurix North America Underground Infrastructure, Inc., Longwood, Florida - \$17,368.
12. ORDINANCE NO. 2001-52 (A&V #243): (Public Hearing/First Reading) A proposed ordinance to abandon and vacate an unimproved 30-foot wide right-of-way known as College Avenue, located on the west side of Forest Drive in the Fairway Park Subdivision. (Requested by Suzanne Henderson and the First United Methodist Church of Melbourne)

Attorney Gougelman read the ordinance by title.

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From the agenda report: College Avenue is an unimproved right-of-way at this location. It has been maintained by the abutting property owners as part of their yards. City Departments and public utilities had no objections to the request provided that a public utility easement be obtained over the width of the right-of-way. BellSouth and Time Warner Communications have facilities in the right of way.

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

Moved by Walker/Contreras for approval of Ordinance No. 2001-52. Motion carried unanimously.

13. PRELIMINARY PLAT APPROVAL (SD-2001-01): (Public Hearing) A request for preliminary plat approval for a 304-unit townhouse subdivision (Sunny Lakes Village) on a 54.85-acre parcel, located at the southeast corner of Dairy Road and Range Road. (Owner/applicant, Primo DiFelice; representative, Richard Kern) (P&Z 8/30/2001)

Mrs. Braz reviewed the agenda report. The property is vacant and is part of property within the Southwest Melbourne infrastructure improvement area. In the mid 1980's, properties within this area paid an assessment for public improvements to be provided to serve largely vacant properties in this portion of the city. This included the extension of water, sewer, drainage canals and roads in the area. The property has had this same land use and zoning designation since 1988. Prior to being zoned R-2 (Cap 6) the property was zoned R-A (Residential Agricultural Holding). The zoning was approved with the condition that right-of-way for a canal be provided. This is the canal at the northeast and east sides of the property.

The 54.85-acre parcel has an adopted land use of Low Density Residential and is zoned R-2 (Cap 6) (One-, Two-, and Multiple-Family Residential with a cap of six units per acre).

The property to the north consists of a partially developed right-of-way (40' wide) known as Range Road and north of this right-of-way is the Dairy Road Driving Range and a vacant parcel. Both of these properties are zoned R-2 (Cap 6). The property to the east located across a canal drainage right-of-way is the developed Lake-in-the-Woods Condominiums, also zoned R-2 (Cap 6). The properties to the south - Tradewinds Apartments and Harvard Apartments – are zoned R-2. The Brevard Bowling Center is zoned C-1. The property located to the west across Dairy Road is zoned C-1. The only vacant properties adjacent to the site are the R-2 (Cap 6) zoned properties located to the north and east of the driving range.

The applicant proposes to develop a 304-unit townhouse subdivision in four phases with 51 Blocks, most with six lots each. The City Code permits the platting of townhouse units. Townhouse lots must be at least 1,800 square feet in area, with minimum lot dimensions of 18' wide by 80' deep. The maximum height permitted is 40 feet with a minimum unit size of 1,000 square feet. The proposed lots will exceed the minimum

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required lot size. The townhouses will consist of up to six units attached along common side lot lines. The maximum length of the townhouse is permitted up to 200 feet. The two, eight-unit attached townhouses will be 196.66 feet long. The proposed six-unit attached structures will be 150 feet in length. Townhouse lots will be approximately 2,880 square feet and each unit will be over 1,000 square feet on the first floor. Due to the lot size, no swimming pools could be constructed on the townhouse lots. Accessory structures, such as storage sheds, could be constructed and still comply with setbacks. The townhouse subdivision parcel and the townhouse unit setbacks comply with the requirements of Code.

The proposed plan also provides for the preservation of a large (9.5-acre) wetland located along the west side of the parcel adjacent to Dairy Road. Two stormwater ponds provide retention with outfall into the drainage canal to the east. A total of 40 tracts (A-OO) provide 25.855 acres of open space on the plat representing 47% of the subject plat property. This includes Tract C, which will contain recreation facilities (pool, club house, tennis courts, etc.). The developer or residents will be eligible for recreation impact fee credits. The Planning and Zoning Board asked that the potential future uses for Tracts NN and OO be clarified to indicate that these tracts may be used for future development.

The project includes four public streets with two loops and a proposed single access to Range Road. As part of the plat the developer will be conveying to the city a 10-foot wide strip of land along the south right-of-way of Range Road for additional right-of-way necessary to meet street standards for a local street. Range Road is not currently classified as a collector street. For the foreseeable future, all trips are assigned to Dairy Road. It is the intention of the city to provide for the extension of Range Road through the development review process toward vacant parcels to the east and north, which will eventually allow for the extension of Range Road to Stack Boulevard and east to Babcock Street via Lake-In-the-Woods Drive. This is indicated on the preliminary study being evaluated by the Brevard Metropolitan Planning Organization. Range Road would be a minor collector street similar to Stack Boulevard. The county staff is reviewing the proposed plat since it falls within the area recently approved by a joint planning agreement with the county. The county's comments primarily concern traffic generation and the need to provide turn lanes to/from Dairy Road to Range Road. As presented, all trip assignments will be made to Dairy Road until such time Range Road is extended. A 304-unit townhouse project will generate 1,871 daily trips.

The interior subdivision street system may need to include traffic calming provisions to ensure that speed within the development on the long blocks does not become a problem. The plan proposed provides blocks longer than the 1,500 foot maximum length that Code permits. The applicant is requesting a variance from this provision. This variance seems reasonable since all but one of the properties abutting the site is now developed. The applicant is also requesting a variance to eliminate the requirement to provide a connection to the vacant parcel north of this project site and across the canal. This may be acceptable if a second Code complying street connection is provided to/from Range Road, east of the proposed subdivision street connection to Range Road. This could be accomplished by providing a street extension/connection in the area of Tract E.

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There is a public utility easement along the south 25 feet of the property. This easement contains water and sewer lines. The preliminary plat indicates that this easement will not be fenced. This is necessary so that public utility agencies can easily access these lines.

The applicant provided an Environmental Impact Assessment Report. Staff walked much of the site and verified the report and supplemented the findings of the report. Evidence of the presence of gopher tortoises exists on the property and at least one active gopher tortoise burrow was found on the site. It is most likely that the gopher tortoises inhabit the east one-third of the property. This is also the location of many mature live oak trees and a more mature pine forest. No other endangered or threaten species were identified. A permit will be required to mitigate for the loss of gopher tortoises or to relocate the tortoises.

Much of the western portion of the site is a wetland with sawgrass, willow and some invasive species such a Brazilian pepper and malleluca. This area should be cleared of invasive species, and properly managed and preserved by creating a conservation easement. The large wetland will also provide some stormwater treatment. Two small isolated wetlands are located in the central portion of the property and a wet swale exists on the site on the north side of the property. Mitigation may be necessary to offset the impacts to these wetland areas. The two small wetlands will be filled as will a small portion of the larger wetland on the west side of the site. Most Brazilian pepper is located along the periphery of the site, including along spoil mounds used to deposit material when the canals were dug east and north of the site. The central portion of the site is primarily composed of a scattering of 8 to 16 year old pines intermixed with palmetto, gallberry, and an occasional scrub oak. The mature oaks are located in the northeastern corner of the site. These trees are now located in the area shown on the plat as by proposed Blocks F, G, H, and Block GG and the streets. The development portion of the site will require substantial fill dirt from between 2.5 to 4.5 feet in depth. Based on this design, the entire development site with the exception of some outside corners will need to be filled and completely cleared of vegetation in order to accommodate the design. This would probably occur with any subdivision design permitted within this area. The site partially overlaps an identified recharge area. The site design will not create a situation where the recharge potential of this site will be adversely affected.

The proposed preliminary plat complies with the Comprehensive Plan, Future Land Use Maps and numerous policies pertaining to land development. The proposed lot sizes, dimensions, proposed living areas, and proposed townhouse setbacks comply with the zoning regulations. The plat complies with the subdivision regulations, with the exception of requiring a connection to vacant adjacent tracts and the section relating to block lengths. The applicant is seeking a variance on these two items.

The Planning and Zoning Board and staff recommended approval of SD-2001-01, consisting of a three-sheet plan prepared by R. K. Engineering, Inc. of Melbourne, Florida, with two sheets dated August 24, 2001 and with the third sheet dated August 28, 2001. The recommendation is based on the findings outlined in the agenda package and the following conditions:

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- a. Prior to development of the property, the owner/applicant shall obtain and provide to the city, an approved mitigation plan to relocate or take the gopher tortoises found on the property. If any other threatened or endangered or protected species for which a permit has not been granted are found on site after plat approval and prior to completion of construction, construction shall be suspended until adequate permits are acquired or appropriate jurisdictional agencies provide approval to proceed with development.
- b. All structures, streets, rights-of-way, easements, tracts or lots lines shall be shifted whenever possible to save hardwood trees located generally in the northeast portion of the plat. Only clearing of areas within a single development phase shall be permitted and subsequent phase construction portions of the plat shall be left undisturbed until ready for construction. Project construction shall not permit the accumulation of surface water or flooding of upland portions of the property.
- c. The applicant is granted a variance from having to provide a second street connection to Range Road and meets the requirement for a variance under the terms required by City Code, Chapter 29, Section 29-8, in order to not have to provide a street connection to vacant properties across the canal to the north as required by City Code, Chapter 29, Section 29-6 (b)(1) b and c.
- d. The applicant is granted a variance to construct a street system with block lengths extending over 1500 feet in length and meets the requirements under the terms required by City Code, Chapter 29, Section 29-8, in order to provide block lengths of greater than 1500 feet as required by City Code, Chapter 29, Section 29-6 (b)(4) m.
- e. The owner/applicant shall extend Range Road east of the proposed street connection to an area adjacent to the jog in the north line of the plat west of the public drainage canal or as considered appropriate to accommodate a future alignment of the street to the east and coordinate with Brevard County to make modifications to the Range Road and Dairy Road intersection.
- f. Remove invasive exotics from Tract I and provide a conservation easement which identifies that the property is to be maintained by the homeowners association.
- g. A change to the preliminary plat will require review by the City Engineering and Planning and Zoning Departments. Any substantial change to the preliminary plat will require review and approval by the Planning and Zoning Board/Local Planning Agency and City Council. A substantial change includes, but is not limited to: a) a decrease of 10 percent of the amount of open space or vegetative areas on site unless necessary to comply with a code provision; b) an increase in the total number of units shown on the preliminary plat; or c) any additional impact to the large wetland within Tract I.

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Mr. Palmer referenced the agenda report, which indicates that the area “should be” cleared of invasive species. Mrs. Braz confirmed that the removal is mandatory and is included in the stipulations.

Mrs. Walker noted that the canal has also been referred to as a ditch. Mrs. Braz replied that it is a canal, although it is not navigable. It is part of the drainage system and is owned and maintained by the city.

Mrs. Walker asked if a tree survey was provided. Additionally, she expressed concern about the removal/destruction of all the pine trees. Mrs. Braz said most will be lost because of the amount of fill required on the property, with the exception of the northeast corner. That is why one of the stipulations indicates that if the project is phased, only the portion being worked on can be cleared. She confirmed that a tree survey was provided and noted that most of the oak trees are located in the northeast corner of the site.

Mrs. Poole asked if the Range Road construction will be in effect with the first phase. Mrs. Braz said yes and noted that they can’t do anything until they have access from Range Road. Access will be from Dairy to Range Road to this project.

Mrs. Palmer pointed out that the report indicates that the site may need to include traffic calming measures. She asked why this wasn’t included as a stipulation. Mrs. Braz said that is a good point; it should be a stipulation.

Mrs. Braz confirmed for Mrs. Palmer that the applicant will have to meet the minimum landscaping requirements in the City code.

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

Rick Kern, representing the developer, stated that he concurs with staff’s comments and stipulations, including the provision of traffic calming measures.

In response to Mr. Palmer, Mr. Kern indicated that a buyer will have the option of a one or two car garage; all the lots are considered zero lot line; the upstairs floor will be about half the size of the first floor in most cases; an amenity area in the northwest corner will include a clubhouse, pool, and tennis courts; the northeast, southeast, and southwest corners will contain small landscape tracts; and a large tract on the west side of the project will be preserved.

Mr. Kern confirmed for Mrs. Hand that they will build one community swimming pool. Mrs. Hand stated that one pool does not seem like enough for a project of this size.

Mrs. Palmer asked how much property will remain between the buildings and the edge of the water around the two lakes. Mr. Kern said there will be 20’ from the rear of the building to the rear property line and approximately 25’ of common area from the property line to the lake.

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In response to Mrs. Walker, Mr. Kern said in the two car garage configuration, there would be about 9' between structures or groups of buildings. Additionally, the garage will be accessible from the unit.

Mr. Contreras said that Tract D is listed as an amenity. Mr. Kern said that tract would most likely be a landscaped area. He added that they may add a small playground. They are not contemplating any physical improvements in Tracts F, G, and H.

Mr. Contreras said it appears there are not enough playgrounds or recreation areas. Perhaps there needs to be another pool. He noted that this is a lot of housing with very little recreation. He added that there are opportunities in some of the corner tracts to add amenities.

In response to Mrs. Poole, Mr. Kern said he is the civil engineer on the project, he designed the layout; the maximum height will be two stories; the pool has not been sized yet, but it will be large; the clubhouse will be designed by a licensed architect; they are contemplating two tennis courts; a 100% environmental study is being done; if there is enough land on the west side, they would like to use that to relocate gopher tortoises; if that is not acceptable to the state, they would seek an off-site relocation area; Tracts OO and NN are not wetlands and could be used for gopher tortoise preservation area; they will clear all invasive species; approximately 2-3% of the wetland area will be filled; the lakes are stormwater retention ponds but are being called lakes for the appearance of the project; the lakes probably would not meet the water quality standards for swimming; small boats would be allowed on the lakes; and only the oaks in Tract F, approximately 20, can be preserved.

Mayor Buckley said for that many units, there should be more recreational facilities. Mr. Kern said Tracts G and H may provide opportunities for additional recreation areas. There is ample room to provide that.

Mrs. Poole referenced the two variances (from the subdivision regulations) that are being requested and asked for an explanation of the hardship. Attorney Gougelman read the standards in the Code for granting variances to the subdivision regulations and noted that there is no requirement for a hardship. He added that according to the Florida Supreme Court, if the plan meets the requirements of our Code, then it must be approved. This is a question that should be reserved for staff.

Continuing, Mr. Gougelman said Council could approve the plat but deny the variances. If the variances are denied, the applicant can receive approval of the preliminary plat but would have to redesign part of the plan to satisfy our subdivision regulations.

Mr. Palmer said he has a problem with the design. There should be at least two pools and maybe three. The location of all playgrounds should be identified. He recommended the applicant consider Council's comments and add to the amenities.

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Attorney Gougelman asked if a surveyor will be present when the slabs are poured and the party walls constructed to ensure construction conforms to the legal description on the plat. Mr. Kern replied yes.

Following a brief discussion, the following motion was made:

Moved by Buckley/C. Palmer to postpone this item until the applicant returns with a resolution of some of the items. Motion carried unanimously.

14. ORDINANCE NO. 2001-53 (Z-2001-911): (Public Hearing/First Reading) A proposed ordinance to change the maximum permitted density on the 6.09-acre portion of the Foxwood Apartments from R-2 (Cap 4) (One-, Two-, and Multiple-Family Residential with a cap of four units per acre) to R-2 (Cap 5.25) (One-, Two- and Multiple-Family Residential with a cap of 5.25 units per acre), located along Foxwood Drive, east of Croton Road, south of Lake Washington Road and north of Johnson Junior High School. (Owners/applicants, K. R. Welsh, David B. Robertson, Roger Lewis and Ronald Rummel; representatives, Ken Welsh and David Robertson) (P&Z 9/13/2001)

Attorney Gougelman read Ordinance No. 2001-53 by title.

Mrs. Braz reviewed the agenda report. The property was originally annexed into the city in 1977 as part of the Tallwood Subdivision annexation. The Foxwood site was zoned R-2 (Cap 4) with Ordinance No. 83-3 on February 8, 1983. This zoning was approved with a specific site plan, which included six buildings on the total 6.09-acre site. The first two buildings (eight units) were constructed in 1986. The remaining 16 units were constructed in 2000 bringing the total number of units within Foxwood to 24 units. The property has been sold since originally being developed.

The adopted Future Land Use is Low Density Residential. This land use limits densities to no more than six units per acre. The property has been divided into four different ownerships. Two of the applicants own 2.21 acres each and two owners own .83 and .84 acres. Since the division, the owners of the two larger properties requesting the rezoning have created a density of 3.62 units per acre per parcel, where the two owners of the smaller properties have a density of 4.98 and 5.04 units per acre based on the parceling. The 24 total units on the Foxwood project results in a total combined density of 3.94 units per acre. If all of the properties (6.09 acres) were approved for six units per acre a total of 36 units could be constructed on the site.

Two applicants originally requested rezoning for the two east parcels. Staff was not comfortable with dividing the development into two different zoning densities and due to the way the property had been divided the west parcels are non-conforming due to the density (.84 acres x 4 units per acre = 3.36 units; there are 4 units on the site making it non-conforming). In order to ensure that all the properties within the development area remain conforming, the development should be treated as one project and the zoning should remain the same on the whole of the project which includes all of parcels 503, 508, 509, and 510. For purposes of future development any new units should be

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developed on the easterly portions of the site and all setbacks shall be considered from the original boundaries of the Foxwood development.

The retention area for Foxwood is constructed on the easterly one-quarter of the development site on parcels 503 and 510. This places all the retention on Parcels 503 and 510. Now that the original site plan has been parceled into four separate owners, an easement is needed to accommodate the retention requirements for the complete Foxwood site and for each owner to retain an interest in the easement and retention rights. According to the survey, easement rights for drainage do not appear to have been created when the parcels were carved from the original 6.09-acre site. An ingress/egress easement does exist for the private street.

This property should have been platted per the city's subdivision regulations. This would have averted these apparent problems related to retention and density. Should Council consider approval of the rezoning, it should be tied to providing an easement for stormwater treatment/management and addressing how much of the permitted density is to be distributed to each of the four parcels. If the applicants are successful in changing the zoning, the buildings that could be added on site most likely would be constructed in an area north and south of the cul-de-sac on parcels 503 and 510. This could mean that parcels 508 and 509 would not be assigned any future density and could be limited to the four units now on each of these parcels.

Drainage in the westerly most parking area of the two smaller parcels is not working properly. This drainage needs to be rectified before future development is permitted on the whole Foxwood development.

The applicants purport to need the change so that they can develop additional units on the property and realize the full development potential of the site as permitted under the Comprehensive Plan Future Land Use Element. The proposed change will not necessarily have an adverse impact on adjacent properties since only up to 12 new units, generating an average of 84 additional daily trips, could be constructed on this site. The section of Croton Road to the west is programmed to be widened to four lanes by Brevard County in the near future. Rezoning this land will not create an inordinate amount of land with an R-2 (Cap 5.25) zoning designation. If the Council considers changing the density of the zoning it should clearly include conditions related to future development on the whole Foxwood properties and approving the change should be closely scrutinized.

There appears to be no environmental issues on the property or on adjacent properties that would hinder the requested density change. Other area properties include densities of greater than six units per acre including developments to the northeast of the site. Adjacent zoning to the south (I-1) would permit higher density than six units per acre and now contains a higher intensity use. Tallwood Subdivision to the north is a single-family residential development with a density of approximately 3.7 units to the acre. Concurrency review for this request will not be needed until a plan for development is submitted for review.

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The City has received one letter of opposition to the request. A number of residents of Tallwood Subdivision appeared at the Planning and Zoning Board Meeting and objected to the rezoning. They cited problems with drainage, litter, and density and also indicated that they were opposed to two-story structures. It was stated that an intent to file a petition of objection would be forthcoming.

The Planning and Zoning Board recommended denial of Z-2001-911 based on the following:

“The current property doesn’t conform to subdivision regulations and there are development problems associated with the subdivision. Zoning has worked for this site for 18 years. It is not the city’s responsibility to rectify an issue not created by the city.”

Should Council wish to grant the request and rectify the problems on the site with density, stormwater and drainage, and to increase the density to allow for four additional units on each of the east parcels, the Planning and Zoning Department suggests the following conditions:

- a. The applicants shall provide necessary easements to ensure that stormwater conveyance and treatment is available to all the development properties and the stormwater systems shall be maintained to prevent standing water and provide for proper drainage to their retention system designed for the complete Foxwood development.
- b. A maximum of 32 units (8 additional units) shall be permitted on the 6.09 acre Foxwood development site. No more than four units each shall be permitted on tax parcels 508 and 509 and no more than 12 units each shall be permitted on parcels 503 and 510 with a density of 5.25 units per acre.

Mrs. Braz reviewed the following information from a memorandum distributed to Council from her:

In order to eliminate all the non-conformities on a parcel by parcel basis, the density would need to be 5.45 units per acre. The density of 5.45 would allow for the eight additional units and allow for each parcel to stand on its own and meet the density for the number of units existing or proposed.

Mayor Buckley called for disclosures. Mrs. Hand said about two weeks ago, she spoke to Mrs. McMillan who objected to the increased density and the drainage problem. She also questioned why the retention pond was not fenced. Mrs. Poole stated that she drove to the site and noticed that the parking area was filled with water and looked like a retention pond.

Mayor Buckley opened the public hearing.

Ken Welsh, 3415 Shady Run Road, Melbourne, stated that he and Mr. Robertson purchased their property in 1999. The property was overgrown and full of junked cars.

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The retention area was overgrown and not functioning properly. The system is now functioning per St. John's River Water Management District requirements. The parking areas fill during a storm event because of lack of maintenance. He noted that he would work with the other property owners to ensure this is corrected. Mr. Welsh said that the change in density will allow them to construct eight additional residential units in lieu of the originally planned storage units. He added that he agrees with the findings and recommendations of staff.

Mr. Welsh displayed an official zoning map and said the surrounding area has a considerable amount of property zoned R-2 with a higher density. He reported that he was surprised by the unsubstantiated comments in opposition made at the Planning and Zoning Board meeting. The comments related more to site plan issues than zoning. He added that a board member indicated after the meeting that they could not support the request because of lack of evidence.

Doug Robertson, Land Planner, Merritt Island, submitted his resume for the record and discussed his background and credentials. He said that he was tasked with reviewing the request to determine if it is consistent with the Comprehensive Plan, compatible with the surrounding area, and meets concurrency. He stated that he reviewed the request, the Planning and Zoning Board minutes, talked with staff, visited the site, and reviewed the Comprehensive Plan and staff report. He said in his opinion, the request is consistent with the Comprehensive Plan, including all objectives and policies. The request provides an opportunity to develop a vacant piece of property within developed property. He commented that the city's in-fill policy is a good policy to abide by.

Mr. Robertson pointed out that there is no criteria established in the Comprehensive Plan that gives guidance as to how/when density caps should be established. The danger is that decisions are not based on good planning principles. In the absence of criteria, he suggested that the main planning issues driving the decision include a determination of whether urban services are available, whether there are environmental concerns, and whether the request is compatible with the surrounding densities. He stressed that it always comes down to compatibility.

In this respect, Mr. Robertson said it is his opinion that the request is compatible with the surrounding area as far as use and compatibility. The character of the area has been established. Six four-plexes are already located in the area along with the Tallwood Subdivision. He emphasized that the proposed additional units would be single story and would complete the project. The surrounding densities are compatible and adding eight units would bring the density to 5.25 UPA, which is only 1.24 UPA more than Tallwood. From his perspective, this is not a significant increase and does not reflect an incompatible situation. Additionally, approval of the request would result in elimination of storage units and in his opinion, the storage units represent more of an incompatibility than the residential units.

Regarding discussion at the Planning and Zoning Board meeting about drainage, Mr. Robertson said the drainage should not be made a part of the zoning decision. He

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concluded by restating that he feels the request is compatible, consistent, and meets concurrency.

Mrs. Poole disagreed that there is only 1.24 UPA difference between the proposed development and Tallwood Subdivision. Mr. Robertson said he did his own calculations. Mrs. Poole asked Mr. Robertson if he would consider it a problem for a retention pond to overflow. Mr. Robertson said that should be considered as a site planning problem – not a zoning or land use consideration. He added that any new development is required to maintain its own stormwater on site and not affect adjacent properties.

Mr. Palmer referenced the statement that the applicants want to “complete” the project. Mr. Robertson replied that there is no question that the original site plan is complete; however, he made the observation that the area does not appear to be complete after his site visit.

Mr. Contreras asked Mr. Robertson if he traveled Croton Road and Lake Washington Road. Mr. Robertson said on rare occasions. He added that if traffic is the issue, the impact of eight additional units would be insignificant. Mr. Contreras questioned adding to the traffic without thought. Mr. Robertson said the point is that the traffic should not be a reason for denial. Eighty four additional trips per day will not breach the current level of service.

Jake Wise, Construction Engineering Group, 1751 Sarno Road, Civil Engineer representing the applicant, explained the process followed to correct the drainage/retention on the site. He explained that puddling still occurs in one area because of maintenance problems. Their intent is to establish maintenance easements and correct the problem. Once the ditches in the area are cleaned, the flooding will be alleviated. He added that they will fence the retention area now that development is moving closer to the pond. The pond will have to be expanded to provide for the new development and pre versus post development discharge requirements would have to be met. He stressed that their development would not worsen any of the flood conditions off site.

Mr. Welsh concluded the presentation and encouraged Council to approve the request. He commented that he feels this will provide much needed affordable housing. The tenants will be glad to have a clean, affordable home. Additionally, he said he does not think adding eight residential units would affect the area any more than 24 storage units.

Mrs. Palmer asked if the 24 storage units are on the site. Mr. Welsh said no and added they have not been constructed.

Craig McMillan, 1871 Tallpine Road, stated that his property backs up to this subdivision. He stated that his opposition relates to nuisance and noise concerns. Additionally, two-story units (as originally proposed) would not be consistent with the area. The plan keeps changing and the proposal just doesn't sound right.

In response to Mr. McMillan, the Mayor explained the request for a density cap of 5.25

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units per acre. Responding to Mr. Palmer, Mr. McMillan said he is opposed to two-story units and an increased density.

Paul Hayduk, 695 Rocking Horse Road, Melbourne, submitted a petition (containing 27 signatures) opposed to the request. He stated that the current density established should remain unchanged. Mr. Hayduk submitted pictures, which show the parking area filled with water.

Norman Kruse, 1861 Tallpine Road, asked if the density cap was also an indication of how high the structures would be.

The Mayor replied no and further explained the density issue.

Mr. Kruse said he has no problem with one-story units. He added that he is opposed to two-story structures.

Mr. Welsh asked that the following items be entered into the record for this item: Staff report, Comprehensive Plan, and two exhibits used during the presentation. Mr. Gougelman added the Zoning and other City Codes, exhibits presented by speakers, and the Planning and Zoning Department file.

Mrs. Poole discussed the history of the zoning on this property. She noted that the property contains 24 units – the density provided for in the initial ordinance. Since that time, the property has been sold to four different owners; however, only two were present at the Planning and Zoning Board. She questioned if the other two owners were participating in the request.

Continuing, Mrs. Poole expressed concern that the Planning and Zoning Department has indicated that a total of 36 units could be constructed on the 6.09-acre site. And, the property could qualify for affordable housing, allowing a density increase. She added that she is sure the residents of Tallwood would not appreciate affordable housing units located next door at six units per acre. Mrs. Poole stressed that the original zoning ordinance should remain in effect, otherwise, stipulations would have no meaning.

Moved by Poole/Hand to deny (Ordinance No. 2001-53) in accordance with the Planning and Zoning Board action. Motion carried unanimously.

Recessed: 11:10 p.m.
Reconvened: 11:15 p.m.

15. COUNCIL ACTION RE: Requests for approval of Agreements with the St. John's River Water Management District (SJRWMD) for two projects related to stormwater management.
 - a. A proposed Agreement with SJRWMD for installation of two baffle boxes, on Young Street and on a canal running southward from Eau Gallie Boulevard near Stewart Road – city share \$45,000.

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- b. A proposed Agreement with SJRWMD for stabilization of a 700-foot section along the banks of the Hickory Ditch – city share \$98,000.

These items are two interlocal grant agreements with the St. John's River Water Management District for stormwater improvement projects. As part of the administrative services they provide for the stormwater utility, Brevard County Surface Water staff has been working with District staff to finalize the grant efforts for these projects. The District requires that the agreements be executed before October 1 because the grants are related to their fiscal year funding cycle.

The first project involves the construction of two baffle boxes. These boxes will capture sediment and other debris before it is discharged into the Eau Gallie River. One box will be located on Young Street upstream of a discharge at the Eau Gallie Yacht Basin. The other will be located on a canal south of Eau Gallie Boulevard near Stewart Road. The canal discharges to the Eau Gallie River.

The project amount is \$85,000 with \$40,000 be funded by the District. The city's share is \$45,000. Design and permitting, at \$10,000, are direct costs that are budgeted in the county's surface water administration contract. County staff is providing these services. The \$35,000 balance of the city's share is available from line item savings in the FY 00/01 Stormwater Utility budget.

The second project is to stabilize the banks of the Hickory Ditch. This is the outfall of the Southwest Melbourne canal system. The banks are badly eroded and have no stabilization for the 700 feet upstream of the ditch's discharge point into Crane Creek. The project amount is \$148,000 with \$50,000 being funded by the District. The city's share will be \$98,000. \$40,000 of this amount can be identified in the FY 01/02 budget as reserved for future projects. The balance will have to come from project savings or reprioritization of projects. Several capital projects are currently underway and some savings are anticipated. We believe that funding sources for the balance can be identified at first quarter budget review.

- a. Recommend approval of the agreement with the District for baffle boxes and authorize the City Manager to execute the document. Recommend that the capital project be established with a budget of \$85,000. Recommend that Council approve the city's share of construction costs to be funded from line item savings in the FY 00/01 Stormwater Utility Fund.
- b. Recommend that Council approve the agreement with the District for the channel stabilization project and authorize the City Manager to execute the document. Recommend that the capital project be established with a budget of \$148,000. Recommend that \$40,000 in FY 01/02 reserve funds be applied to this project with the balance of the city's \$98,000 share to be identified after savings on current capital projects can be defined.

Moved by E. Palmer/Walker for approval of the agreements.

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Responding to Mrs. Poole, Mr. Ralls discussed the baffle boxes that have already been installed. Mrs. Poole commented that we need to be doing more.

The question was called. Motion carried unanimously.

16. RESOLUTION NO. 1724: A proposed resolution to implement FY 2000-2001 third quarter budget review recommendations.

Attorney Gougelman read Resolution No. 1724 by title.

Moved by E. Palmer/Poole for approval of Resolution No. 1724. Motion carried unanimously.

17. COUNCIL ACTION RE: Pay and benefit adjustments for non-union employees for Fiscal Year 2001-2002.

Funding is provided in the city's FY 2001-2002 budget for pay and benefit improvements for non-union employees. The following adjustments are proposed:

- a. Increase salaries and wages by 2.5% across-the-board for permanent part-time and full-time employees at steps A-T effective October 1, 2001.

All non-union employees who have worked with the city for at least six full months will be eligible to participate in the city's step pay plan. Step raises will be processed on October 1 for those employees who meet performance standards and have worked at the city for six full months.

- b. Increase the special pay positions of Maintenance Worker I (part-time), Custodian (part-time), and Equipment Operator I (part-time) to equal the pay of their counterpart full-time position found in the Laborers' International Union pay schedule.

- c. Increase the temporary Golf Course Attendant rate from \$6.10 per hour to \$6.22 per hour which is approximately a 2% increase. The pay rate for this position has been at \$6.10 per hour since 1999.

The proposed increases are comparable to those being granted by other area jurisdictions. In addition, the 2.5% across-the-board increase is equal to that provided to the Firefighters by existing contract and to the Laborers in the proposed content. The estimated annual cost for these pay improvements is \$350,000.

Moved by Hand/Contreras for approval of the pay and benefit improvements for non-union employees for FY 2001-2002. Motion carried unanimously.

18. COUNCIL ACTION RE: Request for approval of contracts for property and casualty insurance renewals from various vendors at a total cost of \$840,536.

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Mr. Emerson reviewed the agenda report. This is the proposed renewal of the city's property and casualty insurance. Each year the Risk Manager analyzes insurance offerings to recommend the best, most cost effective protection for the city. The insurance industry has hardened over the last year and it was expected in the budget for 2001-2002 that we would see a fairly dramatic price increase. In addition, the recent crisis circumstances are contributing to increasing costs for coverage.

The renewal proposal has increased 24.57% over last year to \$840,536. The city's exposures have increased approximately 5% over last year with additional property values, vehicles, employees, payroll, population, revenue, gross operating expense, etc. Therefore, the city's insurance costs would have increased approximately 5% even if the insurance rates had remained constant. Risk Management budgeted \$865,147 or a 28.22% increase in the 2001-2002 budget. Therefore, \$24,611 savings will be realized in the projected budget.

A detailed explanation of the city's insurance program showing how the layered coverage rates and providing details about the specific coverage amounts was included in the agenda package.

The recommendation is for approval of renewal of insurance premiums as follows:

Line of Coverage	2001-2002 Premium	Insurance Company
Premier Public Entity Package	\$411,000.00	United National Insurance Co.
Excess Property Coverage	300,504.00	Hartford, Westchester London & Royal Insurance Company
Excess Work Comp	54,521.00	Clarendon Insurance Company
Claims Third Party Administrator	61,000.00	Professional/Johns Eastern
Police/Fire Fighters AD&D	6,755.00	Hartford Insurance Company
Boiler & Machinery	<u>6,756.00</u>	Travelers Insurance Company
 Total Premium/TPA Cost	 \$840,536.00	

Mrs. Poole asked if the city received these prices before the disaster. Mr. Emerson said the Risk Manager had the foresight to lock the prices in.

Moved by Hand/E. Palmer for approval of the renewal insurance premiums as recommended.

Mr. Palmer commended the Risk Manager for a job well done. Mr. Conteras asked about projections for next year. Ken Gray, Risk Manager, replied that it is too early to tell; however, it does not look good. Mr. Contreras asked for a projection report in six months so it will not be a total shock to council next year.

The question was called. Motion carried unanimously.

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19. COUNCIL ACTION RE: Proposed collective bargaining agreement with the Laborers International Union (LIU), Local #678, for the period October 1, 2001 through September 30, 2004.

From the agenda report: This is a proposed contract with the Laborers' International Union (LIU), Local 678, for a three-year period October 1, 2001 through September 30, 2004. The LIU represents the blue-collar workers. This contract was ratified on September 20, 2001.

The proposed three-year agreement will establish pay adjustments for the next three fiscal years. This contract also incorporates an increased basic life insurance benefit provided by the city to all full-time employees last year including those employees covered by a bargaining unit. Other benefits negotiated into this contract include an increase in the vacation formula for all employees hired on or after October 1, 1987 and added family members (brother and sister-in-law, son and daughter-in-law) to the bereavement leave policy. These changes were negotiated in an effort align the benefits for non-union and blue-collar employees.

The estimated cost of the across-the-board increase for the first year is \$336,867; the cost for the second year of the contract will range from \$315,503 to \$353,058; and the cost of the third year will range from \$329,053 to \$370,027. The most that this contract will cost the city in across-the-board increases for the three-year period is \$1,059,952. The cost to the city for increasing the vacation leave benefit is estimated at \$9,600 for one year. The cost of other negotiated items such as the bereavement leave enhancement and the shift payment increase can not be determined, but they help to keep the city competitive with other agencies and have a positive impact on our workforce.

Moved by C. Palmer/E. Palmer to approve adoption of the proposed collective bargaining agreement with the Laborers' International Union Local 678 for a three-year period, October 1, 2001 to September 30, 2004, and authorization for the City Manager to execute a contract with the union including those items detailed in the ratified Memorandum of Agreement. Motion carried unanimously.

20. COUNCIL ACTION RE: A request by Council Member Poole to attend the 41st Annual Legislative Conference, November 15-16, 2001, in Orlando.

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

21. COUNCIL ACTION RE: Appointment of two regular members and one alternate member to the Downtown Architectural Review Board.

Mr. Palmer nominated Tim Loomer. Council commended Mr. Loomer for not missing any of the 43 meetings conducted during his last term.

Moved by Hand/E. Palmer to reappoint Tim Loomer. Motion carried unanimously.

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Moved by C. Palmer/Poole to reappoint George Wheeler. Motion carried unanimously.

Moved by Hand/C. Palmer to reappoint Joyce Miller. Motion carried unanimously.

(Terms: 10/1/2001 through 9/30/2004)

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Palmer discussed the following drainage issues and asked what role the city plays after a project has been permitted or constructed:

- Condominium complex on Wickham Road (possibly Regency Place) with four – five inches of standing water in the parking area after a not-too-heavy rain.
- Project started by Mr. Boozer on Wickham Road near the Fountainhead Subdivision. Before construction stopped, the property had been filled and elevated. Water is running onto Wickham Road.

The City Manager will follow up with the City Engineer and provide a report.

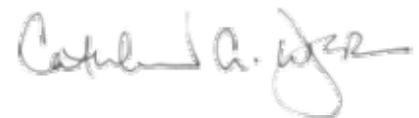
Mrs. Poole asked for a future agenda item regarding the church encroaching on city property (site of the former Sharing Center). Mr. Palmer said the encroachment will not affect the memorial gardens planned by Honor America. Additionally, he said the City Manager has indicated that the encroachment will be rectified. Mrs. Poole asked for a follow up report.

Council Member Palmer reported that Honor America will be coordinating the Veterans' Day Parade on November 10.

23. ADJOURNMENT

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

The meeting adjourned at 11:43 p.m.



City Clerk – 10/4/2001

Approved by Council: _____