

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
OCTOBER 9, 2001

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

1. The invocation was given by Pastor Edie Martinez, New Beginnings 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
	Henry J. Hill	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Peggy Braz	Planning and Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented a proclamation for “Florida City Government Week”, October 21-27, 2001, to City Manager Henry Hill.

5. APPROVAL OF MINUTES - September 18, 2001 Special Meeting  
September 18, 2001 Postponed Regular Meeting  
September 25, 2001 Regular Meeting

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

6. CITY MANAGER’S REPORT

Mr. Hill updated Council on the activities that are taking place in the city to address our concerns with general security. The Police Department has assembled a threat assessment team and is working with city departments to further bolster our security measures. The city receives large quantities of mail each day and our concern relates not so much to terrorist activities, but to copycats and hoaxes. The city’s goal is to strike a balance between accessibility and safety of employees/visitors.

7. PUBLIC COMMENTS

None.

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UNFINISHED BUSINESS

8. ORDINANCE NO. 2001-47 (Z-2001-912): (Public Hearing/First Reading) A proposed ordinance to rezone a 7.0445-acre parcel from C-P (Commercial Parkway) to C-2 (General Commercial) located at the northeast corner of Airport and NASA Boulevards and to rezone a 7.28-acre parcel from M-1 (Light Industrial) to C-2 (General Commercial) located at the southeast and northeast corners of Airport and NASA Boulevards. (Owner, City of Melbourne/Melbourne Airport Authority; applicant/representative, Mike Jaffe, Global Technology Center) (Postponed by Council 8/28/2001)

The item was postponed on August 28 to allow the conditional use application, which is pending before the Planning and Zoning Board, to be processed. The conditional use is still pending; therefore, the recommendation is to further postpone this item.

Moved by Poole/C. Palmer to further postpone this item until the conditional use application is forwarded from the Planning and Zoning Board. Motion carried unanimously.

9. ORDINANCE NO. 2001-49: (Public Hearing/Second 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. (First Reading 9/18/2001)

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

Moved by Contreras/C. Palmer for approval of Ordinance No. 2001-49.

Mr. Hill responded to a question relating to billing from Council Member Ed Palmer.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2001-50: (Public Hearing/Second Reading) A proposed ordinance to amend Chapter 7, entitled Boats, Bulkheads, Marinas, and Waterways, as approved by the City Code Review Committee, Section 4. (First Reading 9/18/2001)

The City Attorney read the ordinance by title. There were no comments from the public.

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

Mrs. Palmer said she is opposed to the revision in Section 7-3. She added that she believes the change will cause us to have to add more watercraft and police officers to enforce laws on the water. Additionally, regarding Section 7-19 (Live-aboard watercraft

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prohibited except in marinas with sewage pump-out facilities) Mrs. Palmer said she was informed that there are only a couple of these facilities in the state. She noted that there are live-aboard vessels at Melbourne Harbor.

The question was called. The roll call vote was:

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

Nay: C. Palmer

Motion carried.

11. ORDINANCE NO. 2001-51: (Public Hearing/Second Reading) A proposed ordinance to amend Chapter 8.5, entitled Cemeteries, as recommended by the Code Review Committee Section 4. (First Reading 9/18/2001)

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

Moved by Poole/Hand for approval of Ordinance No. 2001-51.

Mr. Palmer referenced the additional information distributed to Council regarding the placement of a columbarium (vault with niches for cremains) at each cemetery. Following a brief discussion, Mr. Hill confirmed that placement of a columbarium at each cemetery would not impact the ordinance on the agenda. A future agenda item will return to Council regarding the need to add cremains spaces at the cemeteries.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

12. ORDINANCE NO. 2001-52 (A&V #243): (Public Hearing/Second 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) (First Reading 9/25/2001)

City Attorney Gougelman read the ordinance by title. There were no comments from the audience and there were no disclosures from Council.

Moved by C. Palmer/Walker for approval of Ordinance No. 2001-52. The roll call vote was:

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

Nay: None

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) (Postponed by Council 9/25/2001)

From the agenda report: The preliminary plat was postponed at the September 25 meeting to allow the applicant time to resolve Council's questions regarding the recreation areas. The applicant has requested the item return for consideration.

Under the City Code, there is no requirement to have any recreation improvements for a residential development. The developer must pay recreation impact fees, which are reduced if the developer provides certain recreation amenities. The suggestion for traffic calming design has been included in the stipulations. The revised plat increases the size of recreation amenities and provides for the entrance road to be shifted to the east. The number of lots and the general layout remain the same.

The Planning and Zoning Board and staff recommended approval of the preliminary plat, 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, with findings outlined in the agenda package and the following conditions:

- 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, 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 lot 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

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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. As a condition of this variance, the streets shall be designed with traffic calming to reduce speed. All traffic calming designs must be included on the construction plans and approved by the Engineering Department.
- 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 Diary 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.

The following disclosures were made: Mrs. Palmer stated that Mr. Kern phoned her to arrange a meeting; however, they never met. Mayor Buckley said Mr. Kern visited him on October 8 and reviewed the changes made to the plat. Council Members Walker, Hand and E. Palmer noted that Mr. Kern phoned; however, they did not meet with him.

Mrs. Poole indicated that she thought Council Members were not allowed to meet and discuss quasi judicial items. Attorney Gougelman explained that the Florida Legislature passed a bill (1995 Access to Government Bill) allowing local governments to adopt a procedure providing for ex parte communications. The city's process is outlined in Appendix D of the City Code. Council Members need to disclose site visits or oral communications, along with the substantive nature of the conversation. Members may not get involved in the process or support/oppose an item prior to the open public hearing.

Attorney Gougelman agreed with Mrs. Poole that referring generally to a conversation does not allow anyone for or against the issue to test the conversation. He concluded by saying a member has a right to meet and participate in ex parte communication; however, it is probably not the best thing to do.

Richard Kern, applicant, stated that they have tried to incorporate most of the suggestions

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made at the last meeting. He referenced the revised preliminary plat and stated they have greatly enhanced the amenity package. The changes include moving the front entrance farther east to provide better access; enlarging the clubhouse from 3,000 s.f. to 4,620 s.f.; moving the clubhouse to the east side of the entrance; adding a nature trail near the wetlands and a half mile of hiking trails along the edge of the wetlands; providing elevated boardwalks; adding a basketball court; increasing the size of the pool from 20' x 40' to 42' x 50'; moving the tennis courts; adding a shuffleboard court; adding a gazebo and park; adding another picnic area/park; and adding picnic areas throughout.

Mr. Kern reported that they seriously considered adding more pools; however, because of safety concerns for unsupervised children, they thought it would be best for the pool to be located at the main clubhouse.

Mr. Kern discussed the two variances and said they have provided for the installation of traffic calming devices. He concluded by saying they have provided good recreation facilities and are seeking approval as submitted.

Mr. Palmer referenced homes being located on a portion of the wetland area. Mr. Kern said that a small portion of the existing wetland will be impacted on the southwest portion of the project. There is a finger of the wetland that protrudes. They are seeking a permit from St. Johns River Water Management District. The area would be filled and six units would be constructed.

Mr. Contreras thanked Mr. Kern for adding additional recreation facilities. He noted that the changes are extensive.

Mrs. Poole said she appreciates the changes; however, she still has many concerns. She noted that the clubhouse will not be large enough for all the homeowners to conduct a meeting; the clubhouse has few parking spaces; and the development has one access, which could be dangerous during a hurricane, fire, storm, etc.

Mr. Kern said the clubhouse will hold approximately 200 – that would be a large turnout for a homeowners' association meeting. Additionally, providing another entrance from Range Road would not provide much benefit because traffic would still have to access Dairy Road.

In response to Mrs. Poole, Mr. Kern said they are working out the mitigation details with SJRWMD. Mrs. Poole asked if Tracts NN and OO will be used for gopher tortoise relocation. Mr. Kern said if they receive a permit from the state, these are the likely tracts. That won't be decided until they have gone through the permitting process. If the tracts are not used for gopher tortoise habitat, they could be used for commercial; however, the tracts are shallow and would have a limited purpose.

Mrs. Poole asked Mr. Kern if he has thought about using (donating) one of the tracts for a fire station. Mr. Kern said they would be open to something of that nature.

In response to Mrs. Poole, Mr. Kern indicated the following: The trees on the plan are for graphical purposes only; the City Code will mandate significantly more landscaping than

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what is shown; the northeast corner where the oaks are being preserved won't be filled; the raised areas will drain to the public streets, which will be conveyed to a pond; the conservation/wetlands easement will be a 9.46-acre tract because they are preserving some of the uplands along with the wetlands; the boardwalk will stop at the park area and then turn into a sidewalk; and they would prefer to keep the six units that are proposed for the small wetland area that will be filled.

Mrs. Poole stated she has a terrible feeling about this development. It wasn't meant to be developed because of all the fill that is required.

Mr. Kern explained that one unique feature about the land is that the wetlands on the site are higher than the remainder of the site. Due to the unique nature of the land, SJRWMD is requiring the remainder of the project to be the same elevation as the wetlands.

Mrs. Walker said she has a problem with constructing units into the wetland area; providing only one entrance; the size of the clubhouse; the amount of fill that is required; and the length of the streets.

Mr. Kern stated that in most homeowners' association meetings, the attendance is significantly less than the entire population. Regarding the length of the roadway, he said there is no opportunity for external connections and an internal road would destroy the ponds. He added that he feels the request they are making is slightly above the length allowed by Code.

Mrs. Hand stated that most of her questions have been addressed. She thanked Mr. Kern for enlarging the pool and clubhouse and adding additional recreation areas. She pointed out that many homeowners' associations do not have a clubhouse. Additionally, not all of the residents attend the meetings. She concluded by saying she can support the project.

Mrs. Poole asked why we have the 1,500' length requirements for roadways in the Code. Mrs. Braz said it is an arbitrary number. The idea is for the roadway not to go on forever without a break. Because it is not feasible with the applicant's design to build a bridge across the lakes, staff recommended approval of that variance.

Mr. Contreras asked if this plan requires two entrances. Mrs. Braz replied that our Code requires only one access point.

Mrs. Palmer said the applicant has revised the plan and done everything and more asked by Council.

Moved by C. Palmer/Hand for approval of the preliminary plat with the noted stipulations and approval of the two variances.

Mr. Palmer asked how the city can be assured that the wetlands area will be mitigated. Mayor Buckley said the applicant is negotiating with SJRWMD, and they will make the determination.

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

Mrs. Poole stated that she will not vote for a project that provides for the removal of this many trees.

NEW BUSINESS

14. COUNCIL ACTION RE: Change Order No. 4, Lake Washington Surface Water Treatment Plant Improvements, Phase 1, Project No. C97371, Poole and Kent Company, Miami, Florida - \$71,840.

Mr. Hill briefed Council. This is a proposed change order to the Poole & Kent Company's construction contract for Lake Washington Water Treatment Plant. The change order defines changes to 23 items in the contract. Some of the items delete work, which results in a deduction to the contract amount, and some of the items add work, which results in an addition to the contract amount.

The consultants with CH2M Hill have provided an explanation of each item. Many changes are based on value engineering decisions, some items are a result of unforeseen conditions, several of the items will improve the operation of the plant, and some are defined as clarifications. These result from the difference between what the engineer defines on plans and specifications and what the contractor has to actually do to build that component.

The total amount of change orders will be \$309,980 with approval of this change order. This figure is 1.5% of the total construction cost of the project. The balance of the construction contingency for this project will be \$568,000.

The recommendation is for approval of Change Order No. 4 to the Poole & Kent Company contract in the amount of \$71,840.

Mayor Buckley stated that he appreciates the detail provided by CH2M Hill.

Matt Alvarez and Ed Davis, CH2M Hill, were present.

Mrs. Poole thanked Mr. Alvarez and Mr. Davis for the detailed explanation.

Following a brief discussion, Mr. Davis confirmed for Mr. Palmer that the new total period of the contract will be 725 days. This includes the original contract, previous change orders and this change order.

Moved by Poole/E. Palmer to approve Change Order No. 4 to the Poole and Kent Company contract in the amount of \$71,840. Motion carried unanimously.

15. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/E. Palmer for approval of the consent agenda, items "a – d," as

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recommended.

Mr. Hill responded to several questions; however, no items were removed from the agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. HOME Program rehabilitation of residence at 1435 Stanley Lane, Kramer Building, Inc., Melbourne, Florida - \$23,650.
- b. Contract for 800 MHz equipment regular routine maintenance, Communications International, Inc., Vero Beach, Florida - \$38,832.
- c. Award of Sarno Service Road Waterline Replacement, Project No. C02300, Canaveral Construction, Titusville, Florida - \$39,000.
- d. Change Order No. 1, Pave Lincoln Avenue and Grove Lane, Project No. CD0021, Turnbaugh Construction, West Melbourne, Florida - \$1,718.

Recessed: 8:48 p.m.

Reconvened: 8:58 p.m.

16. COUNCIL ACTION RE: A request for city co-sponsorship of the Strawbridge Art League Artworks 2001 event to be conducted November 17 and 18, 2001 in Downtown Eau Gallie.

From the agenda report: The Strawbridge Art League is presenting Artworks 2001, November 17-18. This event is conducted on Highland Avenue from Eau Gallie Boulevard to Creel Street, and St. Clair Street from Highland Avenue to Guava Street. The Art League expects about 60 artists this year.

Link Johnsten and Richard Ott, event coordinators, are requesting the city co-sponsor the event by providing police, barricades, and fire/code inspections. This event has been conducted for the past two years; however, this is the first year the league requested funding. The estimated cost for services is \$1,100 - \$1,300. This request is similar to the request made (and approved by Council) for the Fall Arts and Crafts Festival in Downtown Melbourne.

The Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee considered the request and discussed use of redevelopment funds at its October 2 meeting. The committee recommended the entire amount be provided by the General Fund. Additionally, the committee recommended a contribution of \$650 be made from redevelopment funds to support the Student Artist Recognition Program.

Link Johnsten, applicant, explained that the event is a sidewalk art show with working artists. He noted that their expenses exceed their income. He clarified that this is their fifth

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year and they are seeking sponsorship.

Mrs. Poole asked if the city has provided assistance in the past. Mr. Johnsten confirmed that during the first and second year they worked with Leisure Services. He added that police and barricades were provided the first two years.

Continuing, Mr. Johnsten expanded on the student artist program. He explained that they provide space to area high school students to exhibit their work and perhaps sell, as well. The redevelopment advisory committee recommended that a portion of the sponsorship be provided from redevelopment funds. The money will be used to cover the cost of tents, tables and chairs.

Mrs. Walker asked how many students participate. Mr. Johnsten said last year they had about 25. They have appealed to all Brevard County schools.

Moved by E. Palmer/Contreras for city co-sponsorship (from the General Fund) of the Artworks 2001 event, not to exceed \$1,300, and approval of a \$650 contribution (from the Olde Eau Gallie Community Redevelopment Trust Fund) for the student artist recognition program. Motion carried unanimously.

17. COUNCIL ACTION RE: Requests for Council approval of the HOME Investment Partnership Program Agreement with Brevard County for FY 2000 and FY 2001 HOME funds.

Mr. Hill reviewed the agenda report. The proposed agreements establish a mechanism for the implementation of the HOME Program and detail the conditions under which HOME funds will be released by Brevard County to the city. By federal regulations, HOME Consortia are required to name a "lead entity" to take full responsibility for compliance with all applicable laws and regulations in carrying out the HOME Program. Brevard County is the lead entity for our consortium (which includes Titusville, Cocoa, Melbourne, Palm Bay and Brevard County).

In accordance with the Consolidated Plan previously submitted to HUD and the budget adopted by the City Council, Melbourne intends to use FY 2000 and FY 2001 HOME funds for housing assistance for low and moderate income residents. The statutory matching funds requirements will be met through use of SHIP funds.

A minimum of 15% of HOME funds must be passed through to a Community Housing Development Organization (CHDO), a not-for-profit organization meeting special HUD requirements.

Moved by Hand/Walker for approval of the HOME Investment Partnership Program Agreement between Brevard County and the City of Melbourne for FY 2000 HOME funds and authorization for the City Manager to execute the agreement. Motion carried unanimously.

Moved by E. Palmer/C. Palmer for approval of the HOME Investment Partnership Program

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Agreement between Brevard County and the City of Melbourne for FY 2001 HOME funds and authorization for the City Manager to execute the agreement. Motion carried unanimously.

18. COUNCIL ACTION RE: A request from Brisben Companies, Inc. for city commitment to provide local cash match of \$200,000 for a housing credit elderly housing development to be located on north Wickham Road.

Mr. Hill briefed Council. This is a request for Council consideration of two conceptual scenarios proposed by Brisben Companies, Inc. Staff is engaged in discussions with Brisben representative, David Petroni, about the likelihood of city contribution of HOME Program funding for a proposed 148-unit elderly housing development on north Wickham Road in order to meet state requirements for a local match under the Housing Credit Program (formerly known as the Low Income Housing Tax Credit Program). Brisben Companies, Inc. is a national housing developer.

It has not been the city's practice to support requests for such cash matches. However, in this instance, it is worth Council's consideration. Brisben is amenable to working with the city to meet rental housing needs identified in our Consolidated Plan and to help meet the objectives of our SHIP Housing Assistance Plan if the city provides a local cash match. If the city is willing to provide such a match, it would assist the developer in securing a higher score in the very competitive Housing Credit Program.

Mr. Petroni said he met with the Association of Retarded Citizens' (ARC) President/CEO, John Schweinsberg, who was enthusiastic about the idea of a special set-aside for persons with developmental disabilities. Mr. Petroni has offered to make 10 of the 148 units affordable to persons with incomes below 25 percent of median with rents of \$155 and \$188 for one-bedroom and two-bedroom apartments.

Mr. Petroni is also considering a 2.27-acre parcel owned by the city in the Booker T. Washington neighborhood as a possible site for a small (10 units or less) townhouse development. He is seeking clarification from the state as to whether his proposed Wickham Road development and the Booker T. Washington site would fall within the state's definition of "scattered sites" in the upcoming housing credit application cycle.

The scenarios are:

	<u>Scenario 1</u>	<u>Scenario 2</u>
Project Location:	Wickham Road	Scattered Sites - Wickham Road and Masterson Street
Number of Units:	148	148
Estimated Cost:	\$12,800,000	\$12,800,000
Requested Local Match:	\$200,000	\$200,000
Maximum Tenant Income:	60% of median income	60% of median income
Set-Asides	30 units for persons at	30 units for persons at 35% of

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	35% of median income with 10 of these 30 units set-aside for persons at 25% of median income and below	median income with 10 of these 30 units set-aside for persons at 25% of median income and below
Affordability Period:	40 Years	40 Years

The Brisben proposal may provide a unique opportunity to increase the total number of affordable units available and to help revitalize the Booker T. Washington Neighborhood.

If Council believes the concept has merit, it should indicate a preliminary commitment to provide the financial support requested for either of the scenarios. If the preliminary commitment is granted, a final proposal would come before Council in February.

David Petroni, applicant, reported that the state has made it clear that if a community is interested in addressing a need, then the community will need to provide some resources. He stated that he is requesting the city provide a local match in order to help his company compete in the Florida Housing Finance Corporation's funding cycle. He will learn in December whether the item would appear in February, March, or April.

Mr. Petroni discussed the background of the Brisben Companies and said their goal is to address affordable housing for senior and families throughout 16 states. It is a family owned business that has a strong mindset in guiding and investing in projects, building high quality construction, and providing management/operation. He noted that the affordable component would be maintained in excess of 40 years.

Mr. Petroni discussed the rents. He added that they are attempting to clarify through the state if both locations would qualify as a scattered sites development. If the state does not allow this, they would like to proceed with the full 148 units on Wickham Road. He discussed the small subset of units (4 – 5) that will be provided for developmentally disabled. They have met with ARC; however, nothing has been formalized.

Mr. Petroni said they have had the land (Wickham site) under contract for a while and need to begin. He concluded by asking Council to recognize that we have an aging population and this will provide an opportunity to meet long term needs.

Mrs. Hand said she likes the idea of partnering in this endeavor. She referenced management of the facilities and said her concern is that repairs be made promptly. Mr. Petroni stressed that they having staffing and budget for maintenance/replacement items. He added that Bill Brisben owns the management company because of his interest as a long term owner.

Mrs. Palmer asked if both developments would be townhomes. Mr. Petroni said the development on Wickham Road would be a three-story structure with interior corridors. The Booker T. Washington site would be townhomes. If the two are allowed (by the state) to be classified as one development, 80% of the community must be 55 or older.

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In response to Mrs. Palmer, Mr. Petroni said he would provide her additional information about a Brisben development that is in operation in Ft. Pierce.

Mrs. Palmer referenced the number of units that will not be for those 55 and older. She said she needs to talk to the residents in the Booker T. Washington area to see if this is the direction they want to go. In revitalizing the area, multi-family may or may not have a place.

Mr. Petroni said their main goal will be to target 100% at 55 and older. In Florida, however, the law allows flexibility. That is how the Booker T. Washington development comes into play.

In response to Mrs. Walker, Mr. Petroni said the rents will be binding by land use restriction.

Mr. Palmer listed the rents and noted that only 10 units will be for the very low income. Mr. Petroni pointed out that 30 units will be for incomes at or below 35% of the median income. Mr. Palmer asked if he would consider increasing the number of units for the very low income from 10 to 20. Mr. Petroni said he would need more subsidy.

Mr. Palmer asked about the state approval of the Booker T. Washington site. Mr. Petroni said the rules are in flux and the state has not clarified the definition of scattered sites. Mr. Palmer asked if the scattered sites concept is approved, if 140 units would be at Wickham and 8 at Booker T. Washington. Mr. Petroni replied yes. He added that the percentages would be constant whether the units are at the Wickham or the BTW site.

Mr. Palmer stated that the project has merit; however, there are too many items that are not certain. He added that if Mr. Petroni expects \$200,000, more units should be added for the very low income. Mr. Petroni said if he could have Council's commitment now, he would seriously consider this. He is looking for the green light in order to finalize the application. He would like to return to his company and be able to say the city has shown extreme interest.

Mr. Palmer discussed the units that would be provided for the mentally disabled. Mr. Petroni said they would accommodate four – five residents and would utilize John Schweinsberg's expertise. It would be up to ARC to determine whether the units would be single or if residents could room together.

Mr. Contreras said this type of "out of box thinking" is good. The proposal would address a need for senior housing as well as address a need of ARC.

In response to Mrs. Walker, Mr. Petroni discussed the square footage of the units and the median income for Brevard County. Mrs. Walker said she is concerned about the timeframe. She would like more time to digest the material.

Mrs. Poole said she likes everything she has seen so far and she has a good feeling about the company. She asked the funding source of the \$200,000. Additionally, Mrs. Poole said the development will be guaranteed for a number of years. And, there is a strong need,

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especially in the Booker T. Washington area, for this type of development. She agreed with the state requiring the city to provide a level of support.

Mr. Hill stated there are several items that would need to be clearly fleshed out before final approval is given. He noted that Council is being asked for approval of the concept. The project could still be turned down.

Housing and Community Development Director Melinda Thomas explained that mixing the funding sources becomes tricky. HOME would be the better source because SHIP has tight percentages on rental development. HOME funds are more flexible in that regard. Mrs. Thomas added that the proposal is consistent with the SHIP and Consolidated Plan. Staff felt Mr. Petroni was offering a good investment with a long term guarantee. The special set aside rates are worth considering and will provide balance to the city's program.

Regarding the BTW proposal, Mrs. Thomas said the residents have indicated they need senior housing; however, she is not convinced. Most of the seniors own and occupy their own homes in the area. Eight – ten units is probably the maximum the neighborhood could handle.

Mr. Palmer said he believes the project is worthwhile if the number of lower income units is raised from 30 to 40.

Mrs. Palmer questioned how the townhomes planned for the BTW area could be for the elderly when they have staircases. Mr. Petroni said they would not necessarily target all those units for seniors. There would be one-bedroom flats. Mrs. Palmer stated that the Wickham Road project is a wonderful concept; however, she does not fully understand the proposal for townhomes for the BTW area.

Mrs. Thomas said she is also not convinced that the BTW area needs housing for the elderly. However, the developer has the flexibility to determine if all of the non-elderly units go into the BTW site or the Wickham site.

Discussion followed regarding the effort toward single family ownership in the BTW area.

Moved by Contreras/Hand for preliminary approval of Scenario 2 (scattered sites option).

In response to Mr. Palmer, Mr. Petroni said he thinks 40 units for very low income is attainable as long as he has flexibility on the rent figures for the additional 10.

The question was called. Motion carried unanimously.

19. COUNCIL ACTION RE: A request for Council approval of funding the 2002 Water Conservation Campaign of the St. Johns River Water Management District in the amount of \$7,000.

Mayor Buckley briefed Council. The St. Johns River Water Management District is requesting the city's participation in funding the 2002 Water Conservation Campaign. The

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District has allocated \$1 million in their next fiscal year proposed budget to fund 50% of the campaign. They are asking water utilities to partner with them to fund the other 50%. The original request was for the local funding to be based on customer base population. Under that scenario, the city would be required to contribute over \$48,000. City staff discussed the matter on several occasions with the District staff and indicated such a large contribution could not be justified. A figure of \$7,000 was subsequently determined to be more appropriate.

The SJRWMD has hired a Jacksonville advertising agency to implement the campaign. The campaign will use radio, television, outdoor advertising and some newspaper advertising as the campaign's primary vehicle. Major sponsors such as the city will be identified in the advertising. This includes our logo as part of the message on television and in newspaper and outdoor advertising. Radio messages would carry verbal recognition of our sponsorship.

Mr. Hill said this should be viewed as a goodwill gesture. SJRWMD has identified this as a priority and they would like the city to participate. He noted that we do not have to approve this; the city has a good conservation effort of its own.

Mrs. Palmer asked the annual budget for our own program. Mr. Hill said at least \$50,000 per year and probably closer to \$65,000.

Moved by Poole/E. Palmer for the city to partnership with the SJRWMD in the 2002 Water Conservation Campaign in the amount of \$7,000. Motion carried unanimously.

20. RESOLUTION NO. 1725: A proposed resolution supporting the Manatee Protection Plan developed by the Florida Fish and Wildlife Conservation Commission. (Requested by Council Member Poole)

Attorney Gougelman read Resolution No. 1725 by title.

From the agenda report: Discussion with the Florida Fish & Wildlife Conservation Commission (FWC) revealed that initially there were three petitions against the Brevard Manatee Protection Zones. Sea Ray Boats was one of the three; however, apparently their concerns are resolved. There are two remaining as follows: Five Brevard County residents and Standing Watch, a boating advocate organization. The group is made up of the organization itself along with five other individuals including the president of the organization.

Hearings were conducted September 24-28, 2001 in Viera regarding the two petitioners. The hearings will continue during the week of October 22-26, 2001.

Cocoa Beach and Titusville attended these hearings in support of the two petitioners; however, they do not have petitions of their own. Cocoa Beach's main complaint related to a specific zone that is currently 35 mph and is being reduced to slow speed. Titusville is there for reasons relating only to the zones in their area.

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The FWC representative said he has not received any resolutions or letters in support of the protection zone from the cities.

Mayor Buckley referenced the correspondence from Ron Pritchard, President, Citizens for Florida's Waterways, dated October 9. Mrs. Palmer read the letter into the record. Mr. Pritchard notes that support of the resolution is ill advised. The proposed plan has been challenged and is currently in litigation. The plan does not address numerous other factors that contribute to manatee deaths.

Mrs. Poole referenced the number of different groups, along with the Governor, who support the plan. She commented that Mr. Pritchard is just one person and these are his personal reasons. She noted that there is scientific information to support all of the material.

Moved by Poole/E. Palmer for approval of Resolution No. 1725.

Mrs. Palmer said the plan calls for "safe havens" that range to no entry or limited entry. Brevard County has a large industry involved in boating, fishing, and recreational use of the Indian River Lagoon. Our area has the highest manatee deaths because of the large number of manatees due to the manatee protection plan. She concluded by saying the proposal is in litigation and action would be premature.

Mrs. Poole replied that it is minor litigation. She said when looking at the list of groups who support the plan, it is clear that we need to adopt it. We are building and polluting and gradually wiping out the population of manatees, birds and wildlife. The issue has been studied for 10 years and we need to proceed.

At the request of Mr. Palmer, Attorney Gougelman read the resolution in its entirety.

Attorney Gougelman confirmed that this is the same issue that came before the Space Coast League of Cities Board of Directors. Titusville and Cocoa Beach intervened because they are concerned with the effect the settlement agreement will have on their area of the county. One mayor is afraid the plan will end water skiing in the community.

Continuing, Mr. Gougelman said this needs to be analyzed as to how it affects our area and Brevard County as a whole. The boaters are concerned about recreation and use of the waterways. The environmentalists are worried about endangered species.

Mrs. Poole stressed that people representing all groups worked on this plan.

Mrs. Palmer added that this is not the boaters versus the environmentalists. This will impact people other than boaters. She noted that FWC has indicated that it has not received any resolutions or letters of support from other cities. She concluded by saying the city does not have to take a position.

Mrs. Walker asked what action the Space Coast League of Cities Board of Directors took. Mr. Gougelman said the item was somewhat contentious. A motion was passed to take no action and allow the individual cities to look at the issue.

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Mayor Buckley said he has a problem taking action until the hearings are concluded (on October 26).

Moved by Poole/Buckley to postpone action on the resolution until after the hearings are concluded. Motion carried. Mrs. Palmer voted nay.

Mrs. Palmer stated that Council should make a decision at this meeting.

21. RESOLUTION NO. 1726: A proposed resolution supporting the request of the Martin Luther King Coalition to name the loop road to be built west of Palm Bay as the Martin Luther King Parkway (Requested by Mayor Buckley)

The City Attorney read the resolution by title.

Mayor Buckley briefed Council and stated that he is responding to a letter recently distributed to Council by the Coalition for the Achievement of the Martin Luther King, Jr. Dream requesting support for the naming of the loop road to be built west of Palm Bay connecting into U.S. 192 and possibly Ellis Road as the Martin Luther King Parkway.

Mrs. Hand said she can support the resolution. She added that this was discussed at the last Metropolitan Planning Organization meeting. Mrs. Hand recalled that some time ago the city was challenged to name a roadway after Martin Luther King, Jr. It was decided that it would be best to try and find a new road.

Mayor Buckley said the Coalition previously recommended roads like Babcock or New Haven to be named in honor of Dr. King. He added that when the issue was discussed, they were informed that it would be difficult because people would have to change stationery, check books, driver licenses, etc. The Mayor stressed that the roadway isn't located in the City of Palm Bay – it is located in the county. He agreed that this is the best thing to do.

Mrs. Walker stated that she supports the resolution. Mr. Palmer agreed and said naming a new roadway won't cost a thing.

Mrs. Poole said she has problems with the resolution because the roadway is not located in Melbourne. DOT is calling the roadway the Palm Bay Parkway. Additionally, West Melbourne feels strongly that the road should be named in honor of Lawton Chiles. She recommended that we move away from naming things after people. She recommended the new roadway be named the South Brevard Parkway.

Mr. Contreras said the resolution is an outstanding recommendation.

Moved by Hand/Walker for approval of Resolution No. 1726.

Mrs. Palmer pointed out that the resolution doesn't select the name – it supports the name.

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

22. COUNCIL ACTION RE: A request for Council Member E. Palmer to attend the 41<sup>st</sup> Annual Legislative Conference , November 15-16, 2001, in Orlando.

Moved by Poole/C. Palmer for approval. Motion carried unanimously.

23. COUNCIL ACTION RE: Appointment of two resident members to the General Employees' Pension Plan Board of Trustees.

Moved by E. Palmer/C. Palmer to reappoint John Kerekes. Motion carried unanimously.  
(10/22/2001 – 10/21/2003)

Moved by Poole/E. Palmer to reappoint Christopher R. Steele. Motion carried unanimously.  
(10/22/2001 – 10/21/2003)

24. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Hill referenced the letter he sent to Habitat for Humanity in response to their request for the city to waive outstanding liens on a number of properties. He informed Habitat that he would recommend approval to Council if Habitat was willing to construct according to City Code.

Following a brief discussion, Council decided to discuss the design on the north end of Babcock Street and the landscape design project with the Babcock Redevelopment Committee at the regular Council meeting on October 23.

Additionally, Council decided to conduct the City Manager and City Attorney evaluations at the November 13 Council meeting.

Mr. Contreras referenced the information Council received on the military leave policy. He noted that we have identified 20 reservists and three of those have been called to active duty. The Executive Order issued by the President indicates that the reserves could be called up for a maximum of 24 months. Our policy provides for supplemental pay/benefits not to exceed six months.

Mr. Contreras explained that he is concerned that our employees/reservists will be serving not knowing the certainty of their supplemental pay after six months. He would like to offer peace of mind to the employees and their families by extending the policy to a period "not to exceed 24 months."

Mrs. Poole said this is an honorable suggestion; however, in the past people in the military have had to make sacrifices. She added that we need to look and consider our budget. Some employees will have to be hired to take the place of our reservist employees and this will have a financial impact.

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Mr. Palmer said he agrees with providing a protection for the people who are serving our nation. He recommended Council address this on a case by case basis and not provide a new policy.

Mayor Buckley noted that we currently have six months of coverage.

Mrs. Palmer said she agrees that we need to provide our employees and their families assurance that they will be taken care of for a period up to 24 months. If they return sooner, they'll be back on the job. She questioned the equity in making case by case decisions.

Mayor Buckley said he viewed the "case by case" recommendation as considering an extension of the current policy if at the end of the six months we find that employees are still out.

Moved by Poole/Buckley that we wait the six months and see how it goes before adopting a revised resolution.

Mr. Contreras asked if we know the term of the call up on the three who have been called. Mr. Hill said he does not know if they have been given a term.

Mr. Palmer said we are all in agreement that we need to protect our employees; however, Council does not know enough facts at this time to make a determination.

Vice Mayor Palmer and Council Member Contreras stressed that the recommendation is for a period of "up to 24 months."

The question was called. The roll call vote was:

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

Nay: Contreras, Walker, and C. Palmer

Motion carried.

Mayor Buckley said if we start getting people locked in for a 24 month period, that will be the time to review the policy.

Mr. Hill said in the meantime he will try to determine what orders our people have received. He added that he senses that whatever the period is, Council feels it ought to provide the supplement. The question is whether Council wants to offer the peace of mind now that the employees would be covered. That would be the benefit of taking action now.

Mayor Buckley said he would like to know the timeframes that people will be serving.

A brief discussion continued. Mr. Hill confirmed for Mrs. Poole that if Mr. Contreras is

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called up, the city would supplement his Council Member salary.

25. ADJOURNMENT

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

The meeting adjourned at 11:10 p.m.

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City Clerk – 10/17/2001

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