

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
OCTOBER 23, 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 Reverend Lynda Dicandio, Lighthouse Assembly of God.
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

Mayor Buckley announced that the Florida Tech Site Plan (item 12) will be postponed until the first meeting in November. The residents' attorney made the request, which was agreed to by Florida Tech's attorney.

4. PROCLAMATIONS AND PRESENTATIONS

The Mayor presented a proclamation to Julius Wolfe in recognition of his 35 years of employment.

Mayor Buckley recognized Boy Scout Troop 323. Additionally, the students from Florida Air Academy attended the meeting with Assistant Principal Anthony White.

5. APPROVAL OF MINUTES - October 2, 2001 Special Meeting
October 9, 2001 Regular Meeting

Moved by E. Palmer/Poole for approval of the October 2 special meeting minutes.
Motion carried unanimously.

Moved by Hand/Contreras for approval of the October 9 regular meeting minutes. Motion carried unanimously.

6. CITY MANAGER'S REPORT

Mr. Hill referenced the memorandum distributed regarding updated revenue projections for the General Fund and the Water and Sewer Fund. The city expected to see a decline

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in revenue due to the economy and the effect of the September 11 terrorist attack. The General Fund is off by about 2%; however, staff had already discounted revenues in several areas during preparation of the budget. The Water and Sewer Fund is a concern – it could be off by as much as 5%. To maintain flexibility, we are taking steps to defer expenditures and capital outlay items. Additionally, positions will be scrutinized as they become vacant.

7. PUBLIC COMMENTS

James Minus, 3111 Swift Street, discussed drainage problems in his area and asked if any projects are planned.

Mr. Hill explained that there is a current project in the budget to develop a retention area and improve drainage in the neighborhood. The engineering will be done in the near future.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2001-54: (First Reading) A proposed ordinance to implement an additional homestead exemption for low income senior citizens. (Authorized by Council 8/28/2001)

Attorney Gougelman read Ordinance No. 2001-54 by title.

Mr. Hill reviewed the agenda report. This is a proposed ordinance to implement the additional homestead exemption for low income senior citizens (authorized by Chapter 196.075, Florida Statutes). State law authorizes cities to grant an additional exemption to property owners age 65 and older whose household income does not exceed \$20,000 per year as adjusted for changes in the consumer price index. This additional homestead exemption only applies to property taxes levied for the City of Melbourne.

The proposed ordinance is modeled on the ordinance adopted by Brevard County. As discussed by Council, it provides for a phase-in of the exemption over a three-year period. Staff previously estimated that if the full exemption was granted to the 830 Melbourne applicants who qualified for the county's additional homestead exemption program, there would be a reduction in the city's assessed valuation of \$20,750,000. This would have the effect of causing the millage rate to increase by .0365 mills or .8% above the current millage rate.

Brevard County cities that have provided the additional homestead exemption are Cocoa, Malabar, Satellite Beach and Titusville. They implemented the entire \$25,000 exemption in the first year. No other jurisdictions are considering providing the additional homestead exemption.

Titusville provided for a two-year "sunset" of this additional exemption and also provided an "express reservation of repeal," to make it clear that the exemption could be repealed

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at any time and that it is not a vested right. The agenda package provides recommended language if Council wishes to add either provision.

Concerns raised by other cities based on their experience include, reservations about the definition of earned income. Although the senior homestead exemption was intended to apply to low income senior citizens, very wealthy senior citizens could also meet the requirements if they have investments that do not generate taxable income, which exceeds the taxable income threshold. Also, the additional exemption may be perceived to be an unfair tax on younger people because they effectively subsidize the additional homestead exemption through increased millage rates.

Vice Mayor Cheryl Palmer said if phasing in the exemption over a period of three years is going to cause problems with implementation, then she would support providing the entire exemption the first year. She added that the reservation of repeal is necessary. We do not know what the city's financial situation will be like in upcoming years and Council needs to reserve that right.

Council Member Hand asked how wealthy seniors would qualify. Mr. Hill said the state statute refers to "taxable income" and there are people who are able to shelter their income. A number of people could qualify because of the way taxable income is defined.

Council Member Contreras referenced the perception that this will result in the unfair taxation of younger people. Based on that and the information distributed about budget shortfalls, he stated that he is not able to support the ordinance.

Council Member Poole pointed out that only four cities out of the 15 in Brevard County have adopted the additional exemption. She noted that implementing this would probably increase our millage rate by .8%, which is quite a bit. Additionally, she noted that many of the developments under construction will attract older, retired people to our area. They could move in and immediately qualify.

Council Member Ed Palmer agreed that this may need to be delayed because of changes in the city's economic situation. He noted that we should not raise taxes in order to proceed with the exemption.

Mr. Hill clarified that implementation won't automatically cause a rise in millage. The effect was based on the information that we have been provided. Because of the changes in valuation that occur, it will be difficult to pull that component out and make a determination.

Council Member Walker stated that she initially favored this; however, based on the information presented and the discussion, she cannot support the ordinance.

Mrs. Palmer said the intent is that the exemption be for low income citizens. She asked if there is a way to amend the language to ensure that only low income senior citizens would qualify. Attorney Gougelman explained that the state statutes refer to taxable

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income; that is the yardstick the legislature has chosen to use. If we adopted another definition, it would be contrary to state law.

Mr. Hill offered to ask the Property Appraiser's office if more detailed information can be obtained about the applicants' household income.

Mrs. Walker recommended that the item be revisited at a later time. Mr. Hill said if Council wishes to adopt this for next year, it must be adopted by December 1.

Mayor Buckley said this is not the time to be proceeding with this item in view of our potential budget shortfall. Plus, under the current statute, applicants have the ability to hold thousands of dollars in tax exempt bonds and still collect the additional homestead exemption.

Moved by Contreras/Poole to deny Ordinance No. 2001-54.

Several members discussed a desire to revisit this item next year after the economic situation improves. Mr. Hill noted that he will determine if additional information can be obtained from the Property Appraiser.

The question was called. Motion carried. Vice Mayor Palmer and Council Member Hand voted nay.

Mrs. Palmer recommended the cities work with the legislature next year for a clarification in the definition of income.

9. ORDINANCE NO. 2001-55: (First Reading) A proposed ordinance related to an increased retirement benefit for municipal elected officials. (Authorized by Council 8/28/2001)

Attorney Gougelman read Ordinance No. 2001-55 by title. Mr. Hill reviewed the agenda report.

Moved by Hand/Walker for approval of Ordinance No. 2001-55.

Mr. Hill confirmed that an ordinance will return amending the General Employees' Pension Plan to provide the same benefit after the actuarial analysis has been completed.

The question was called. Motion carried unanimously.

10. RESOLUTION NO. 1727: Discussion of policy revisions for distribution of funding to non-profit organizations. (Requested by Vice-Mayor Cheryl Palmer 8/14/2001)

Attorney Gougelman read Resolution No. 1727 by title.

From the agenda report. Council indicated it wished to consider tightening the parameters and requirements for distribution of grant funds to non-profit organizations.

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This would help insure the grant process is as fair and objective as possible and free of undue pressure or favoritism. Mayor Buckley, Vice Mayor Palmer and staff recommended policy revisions (included in the draft) to tighten the parameters. The main elements of the proposed policy revisions include:

1. An annual cap of \$100,000 is recommended rather than established. (Mayor Buckley)
2. Organizations must have been successfully operating for at least two years. (Vice-Mayor Palmer)
3. Organizations should have sufficient private funding support to meet on-going costs and obligations. Only in an emergency would grant funds be used for normal operations. (Vice-Mayor Palmer)
4. No single organization may receive funds for more than two consecutive years. (Vice-Mayor Palmer)
5. No single organization may receive more than \$10,000 per budget year. (Vice-Mayor Palmer)
6. Organizations must not be receiving other City funds. (Vice-Mayor Palmer)
7. Require explanation about what funds were received in prior years and which services were provided to city residents in exchange for the funds (Mayor Buckley)

Mr. Palmer said he can agree with items 1, 2, 3 and 7. He does not agree with 4, 5, and 6. He added that limiting funding to no more than two years would be detrimental; it would not be advantageous to cut someone off who is doing a good job. Regarding 6, he noted that so many factors could affect this, including an organization receiving SHIP or HOME funds.

Regarding item 7, Mr. Hill clarified that organizations are currently required to indicate what the funds will be used for. The additional language requires an organization to indicate what it did with funds received in the past.

Mrs. Poole referenced item 4 and asked if an exception would be made for Honor America. She pointed out that Honor America receives funds every year.

Mrs. Palmer said she made suggestions with the idea that these are not organizations the city will permanently subsidize. The organizations being considered are not normally organizations that would be considered for any other kind of city funding (SHIP, HOME, etc.). Continuing, Mrs. Palmer stated that Council received unfavorable attention from a couple of organizations that felt they were treated unfairly. She noted that she would like to make this a more objective process. There is a perception that certain organizations are favored by the city and rewarded year after year. This is due to Council Members' or

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former Council Members' participation, family members' participation in the organizations, etc.

Continuing, Mrs. Palmer said the idea for the cap came as a result of one or two organizations receiving the lions share of the funds. An upper amount should be set. She concluded by saying the organizations that have received funding have done a good job of using the funds to enhance the community. And, if Council wishes to subsidize an organization on an ongoing basis, that should be considered in the budget outside of this process.

Mrs. Walker pointed out that the needs of each organization vary. Some may need more funding than others. She referenced the revisions and said she concurs with 1 and 2; has a problem with 3, 4, and 5; and 6 and 7 are okay.

Mr. Contreras said he has no issues with 1, 2, 3, 5, 6 and 7. He noted that he understands the intent of item 4; however, he has concerns. He added that certain organizations depend on this avenue of funding.

Mrs. Palmer clarified her earlier statement and said she is not suggesting certain organizations be cut off. Rather, she is recommending they be considered (in the budget) separate from this fund.

Mrs. Poole stated that she agrees with \$10,000 as being the limit for each organization. She noted that when the funds were distributed, she did not vote to give more than that amount to any organization. Mrs. Poole said she does not like item 4; however, she does not have a problem with the remainder of the items.

Mayor Buckley said he could live with 1, 2, 3 and 7. He pointed out that item 4 would effectively cut off the Band, Orchestra, and Honor America; two of those organizations received more than \$10,000 last year. Regarding 6, he said he is not sure what that means.

Mrs. Hand said she has a problem with 4 and 5. She commented that some organizations would qualify for more than \$10,000; therefore, the limit should be set at \$15,000.

Mrs. Palmer asked if there is any place in the budget to draw from for the Band and Honor America if the intent is for those organizations to receive funds every year. She agreed that they should be looked at separate from the funding provided by this resolution.

Mr. Hill said it is up to Council to determine if some organizations are removed from the annual funding (and placed separately in the budget).

Mrs. Poole said certain groups should not be included; therefore, the \$100,000 needs to be reduced. Mayor Buckley recommended the resolution amount be reduced to \$60,000.

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Mr. Hill said he will review the budget document to determine the total approved by Council for 2001-2002.

While Mr. Hill obtained budget information, Council proceeded with item 11.

When Council returned to this item, Mr. Hill reported that \$88,995 was awarded in the current budget year. He distributed a summary sheet to each member.

Mayor Buckley pointed out that AARP, Community Services Council, Honor America, Melbourne Community Orchestra, and Melbourne Municipal Band receive funding every year.

Mrs. Hand stated that the Henegar Center should be added to that list. Mrs. Poole agreed.

Mr. Hill reported that the budget amount for AARP, Community Services, Honor America, MCO, and MMB is \$41,895.

Discussion followed regarding the amount the resolution should be set at, whether the Henegar Center should be funded each year, and the city's current economic situation. Consensus could not be reached. Mrs. Palmer pointed out that the discussion indicates the need for better parameters. Everyone has a pet project or organization and Council needs an objective way to make decisions.

Moved by Buckley/Poole to postpone this item until the first meeting in December (December 11). Motion carried. (Council Member Contreras and Vice Mayor Cheryl Palmer voted nay.)

NEW BUSINESS

11. COUNCIL ACTION RE: Consent Agenda

Moved by E. Palmer/Poole for approval of the consent agenda.

Mrs. Hand declared a conflict of interest on item "a" because she is employed by Health First.

Mr. Hill responded to Mr. Contreras's questions about the replacement vehicles; however, the item was not removed from the agenda.

The question was called. Motion carried unanimously. Mrs. Hand abstained from voting.

The consent agenda was approved as follows:

- a. Annual contract to perform pre-employment and annual physicals and other medical services for city employees, Health First Occupational Medicine, Melbourne, Florida -

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estimated annual cost range - \$28,000 - \$35,200.

- b. Purchase of 31 replacement vehicles for Fleet Management Division, various vendors, \$634,336.

12. SITE PLAN APPROVAL (SP-2001-04/FLORIDA TECH STUDENT HOUSING): (Public Hearing) A request for site plan approval on an approximate 10.2-acre portion of the Florida Tech campus in the I-1 (Institutional) zoning district, located on the west side of Babcock Street, south of Vida Way and Ruffner Road and east of Country Club Road. (Owner, Florida Institute of Technology; applicant, John Milbourne; and representative, Mike Hambleton, University Housing Services, Inc.) (P&Z 10/11/2001)

Mayor Buckley referenced the request by the Hickory Hills Subdivision residents requesting this item be postponed until November 13 to allow Representative Mitch Needelman to be present at the meeting, the memo from the City Attorney requesting that Council postpone the item until November 13, and the letter from the applicant's attorney stating they do not object to the postponement.

Moved by C. Palmer/Walker to postpone SP-2001-04 until the November 13 Council meeting. Motion carried unanimously.

13. SITE PLAN APPROVAL (SP-2001-07/STRAWBRIDGE MINI-STORAGE): (Public Hearing) A request for site plan approval for a mini-storage facility consistent with the approved conditional use (CU-2001-09), located on the south side of New Haven Avenue east of Pennwood Drive on three lots of the Palm Gardens of Goode Park Subdivision, totaling 0.45 acres. (Owner, Sam Boozer; representative, Vaheed Teimouri, Teimouri and Associates, Inc.) (P&Z 10/11/2001)

This item was considered after item 14.

Mayor Buckley called for disclosures. Mrs. Poole stated that she talked to Mr. Teimouri at the Planning and Zoning Board meeting about the dimensions and location of the driveway.

Ms. Braz briefed Council. The applicant is requesting approval of a revised site plan for a mini-storage facility consistent with the approved conditional use (CU-2001-09). Approval of the site for mini-storage has already been approved. This request is to review the new site plan.

The site currently contains a two-story residence and a detached garage with driveway access onto Pennwood Avenue and New Haven Avenue. Council approved the conditional use allowing for mini-warehouses on the property on January 23, 2001.

The north two lots on the property are zoned C-1 (Neighborhood Commercial) with commercial land use. The third lot is zoned R-1A (Single-Family Residential) with a low density residential land use classification. The site abuts a single-family residential subdivision (zoned R-1A) to the south. The properties to the east and west of the site

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along New Haven Avenue have a commercial future land use designation and are zoned C-1 (Neighborhood Commercial). The Downtown Redevelopment Area begins two blocks east.

The Planning and Economic Development Department and the Planning and Zoning Board recommended denial of the original conditional use request; however, Council approved the use with conditions and approved a site plan as part of the ordinance.

At the time of the original site plan review submitted with the conditional use, the staff report did not accurately describe the existing conditions of the property. The site contains a number of sizeable hardwood trees. This comment was made by the Code Enforcement Officer at the time of initial plan review but was not clearly conveyed to the applicant so that a design could be prepared taking into consideration the trees on site. Therefore, the item went to the board and City Council without accurately describing the site plan limitations. Once the engineering drawings were submitted for review, the Code Enforcement Officer noticed that his earlier comments weren't satisfactorily addressed and rejected the plans since they did not conform with Chapter 33 of the City Code relating to tree preservation. Since the Code Enforcement Officer has authority over this section of the land development code the plan could not be approved without compliance with this standard.

The new site plan identifies the location, type and size of trees on the property as derived from a tree survey. The applicant has provided a plan which considers tree preservation in the location of buildings and other improvements. The revised plan results in the preservation of 14 of the 17 trees on the site. Under the previously approved plan, 10 of the 17 trees would have been removed. The redesigned project provides for a total of 12 leaseable mini-warehouse units with 4,275 square feet. The previously approved plan provided for 12 units with 4,556 square feet, which results in a net loss of 281 square feet of leaseable mini-warehouse space. The revised plan also provides for a retention basin and paved driveway including three parking spaces. This project will improve the quality of stormwater being discharged from the site, reduce erosion and provide for a code complying landscape design.

The Planning and Zoning Board and staff recommended approval of SP-2001-07, site plan for Strawbridge Storage as prepared by Teimouri & Associates, Inc., of Melbourne, Florida, consisting of a one-sheet plan with Job Number 2000-123, dated November 8, 2000, with a signed and sealed revision date of October 3, 2001, based on the findings listed in the agenda package.

Mayor Buckley opened the public hearing.

Robert Josuas, 2006 Bignonia Street, stated that he and his neighbors do not want this development. They consider the area to be a corridor into Downtown Melbourne and they believe a mini-storage facility is a bad idea.

Vaheed Teimouri, applicant, was present.

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Mrs. Palmer asked Mr. Teimouri if he plans to start the project and work straight through to completion. Mr. Teimouri said he is not the owner and does not have control over what happens after approval. He added that the owner intends to complete the project.

Mrs. Poole asked Mr. Teimouri if he would agree to the city removing the trees located in the driveway for use elsewhere in the city. Mr. Teimouri replied absolutely.

Dwight Ottinger, owner of Minuteman Printery located immediately west of the subject property, explained that he attended the Planning and Zoning Board meeting (December 2000) when the item was denied. He stated that he assumed that was the end of the project; therefore, he did not attend the City Council meeting.

Continuing, Mr. Ottinger said he does not believe a mini storage facility should be allowed on a main artery leading into Melbourne. He discussed the layout of the site, noted that the proposed mini storage facility will be within three feet of his building, and questioned how he will be able to maintain that side of his building. He pointed out that there is potential for traffic problems based on the size of moving trucks and the layout of the parking area. The plan when originally approved provided for 400 s.f. or less units; however, the plan he recently reviewed indicates the units are over 600 s.f. Mr. Ottinger asked how the stipulation that provides for no toxic or hazardous materials will be enforced/verified. He concluded by saying his recommendation is that the request be denied.

Seth Ottinger, Minuteman Printery, displayed pictures of the area and noted that the property is visible to the person driving west towards the mall. He questioned whether landscaping would cause blind spots and cautioned that the drainage area will attract mosquitoes, which could be a health problem. Mr. Ottinger pointed out that a church is located directly across from the property. He concluded by saying the drainage and wastewater from the site will have to be filtered so they don't directly enter the Indian River Lagoon. Additionally, one entrance in/out will be a safety problem.

Luke Ottinger stated that the storage unit will be a stones throw away from City Hall. He added that the two uses do not seem to go together. He pointed out that the First United Methodist Church is located directly across the street. He does not believe newly married couples will appreciate having the storage units in the background of their wedding photographs. Additionally, he noted that since the United States is at war, storage units have become a safety concern. He added that he is also concerned that the development will bring a bad element to the area and provide a safety concern for the neighbors and those attending church. The development will establish a precedent and if storage units can be developed blocks from historical Downtown Melbourne, then no vacant lot is safe. He concluded by saying the only positive aspect of the development is the owner's bottom line, and he (Mr. Ottinger) will not see any of that.

Robert Tankersley, 109 E. New Haven Avenue, stated that he has serious issues about traffic. He noted that there is a blind curve when pulling into the driveway and he is concerned about his safety when construction begins. Mr. Tankersley said there have been news reports that people live in these units and abandon their children in these

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units during the day while they work. Additionally, the storage of toxic chemicals is a concern.

Mr. Teimouri addressed the setback issue and discussed how the units will be constructed in order to provide for drainage and access. He pointed out that a storage unit generates the least amount of traffic; therefore, the traffic concerns are not founded. He added that they are improving the site; all drainage will be retained on site. Also, they are saving as many trees as possible.

Mr. Teimouri confirmed for Mr. Palmer that the storage units will be 400 s.f. or less.

Mrs. Poole reviewed the history of the request, beginning with the Planning and Zoning Board meeting in December 2000. Over seven months lapsed between Council approval and notification by staff that the development would have to go through site plan approval again. She noted that the storage units will complement the area and it is incredible what the applicant had to go through to get to this point.

Moved by E. Palmer/Poole for approval of SP-2001-07 as recommended.

Mrs. Palmer said it is unfortunate that the neighbors were not at the Council Meeting when this item was originally considered. She noted that there have been many changes made to the plan, which will make the development more attractive.

Mrs. Poole discussed the confusion with the item originally being denied by the Planning and Zoning Board and the public believing that was the end of it. She recommended that the Planning and Zoning Board announce, whether an item is approved or denied, that it will appear before City Council for consideration.

The question was called. Motion carried unanimously.

Item 14 was considered before item 13.

14. ORDINANCE NO. 2001-56: (First Reading) A proposed amendment to Section 32-49 of the City Code to define the reimbursement area in which properties served by a new 16-inch water main on Dairy Road will pay a proportionate share of the cost for its construction.

Attorney Gougelman read Ordinance No. 2001-56 by title.

Mr. Hill reviewed the agenda report. This is a proposed amendment to Section 32-49 of the City Code. This amendment will define the reimbursement area in which properties served by a new 16-inch water main on Dairy Road will pay a proportionate share of the cost for its construction.

Council will recall approving site plans for new developments in the area of Palm Bay Road and Dairy Road - BJ's Wholesale Club and Princeton Apartments. In the early planning stages of these projects, staff determined that the single, 10-inch waterline in

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that area would be inadequate to meet domestic and fire flow needs for the area. Realizing that a large water main extension was needed, staff proposed a project to design and construct a 16-inch water main from Eber Road south to a point near Palm Bay Road.

Frazier Engineering was contracted to prepare plans and bidding documents for the project. In previous memoranda staff had proposed that the cost of the waterline be recouped by creating a reimbursement, or pro rata, area as provided by City Code. That is the purpose of this proposed Code amendment which defines this special reinvestment area.

The cost to construct the waterline was \$323,661.55. The recommended pro rata costs will be based on meeting the needs of development in the area. Those needs are for both domestic metered services and fire flow protection. The ability to meet these flow requirements is a function of the pipe sizes that would carry water into the developments. Staff has projected the needs of existing and future development in the area. The cost of the main divided by the sizes and number of anticipated connections is the basis for staff's calculation the pro rata costs.

Staff is recommending that a parcel owned by the original developer of this area be exempt because he extended the existing 10-inch line and also constructed regional sewerage facilities.

Staff also recommends that property where no easements were given to construct the water main be subject to a \$21.60 per linear foot pro rata charge for removing and replacing the sidewalk in order to install the water main in the public road right-of-way.

Mr. Ralls responded to general questions about the size of the lines and the connection charges.

Moved by Poole/E. Palmer for approval of Ordinance No. 2001-56. Motion carried unanimously.

Council convened as the Babcock Street Community Redevelopment Agency (CRA) to address the following:

15. COUNCIL ACTION RE: Discussion of Babcock Street Redevelopment District projects.
 - a. Discussion of North Babcock Street realignment.
 - b. Discussion of landscape design project (Hibiscus Boulevard to NASA Boulevard).
 - c. Discussion of South Babcock Street (Fee Avenue to U.S. 192)

a. Discussion of North Babcock Street alignment. This is a request for CRA approval of the preliminary design of the realignment and permission to proceed to

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the final design phase of the project. The preliminary estimate of cost for the project from Alma Drive to Laurie Street is \$482,350.

Consultants John Frazier and Mike Sweeney were present. Mr. Frazier reported that Council authorized a preliminary design study for the realignment of North Babcock Street from Alma Drive to Laurie Street. He noted that the alignment was fairly simple; they have indicated a four lane roadway with a divided median. This is the most efficient layout and will reflect the character of improvements being made to the south. Mr. Frazier described the typical section of the proposed roadway.

Continuing, Mr. Frazier said more analysis was required to determine what to do with the existing roads, how to maintain access, and how to handle stormwater retention. After considering several alternatives, they decided that the best way would be to provide a retention area in the small piece of property that will remain after the alignment. This will not block visibility. Mr. Frazier recommended a dry retention area because the site is located on the ridge and the water table is too deep. The facility will be gradual and unobtrusive. The landscaping, sidewalks, etc. will be deferred until final design.

Mr. Frazier stressed that the focus has been on access and maintaining that access. He explained that Laurie Street will remain a two lane roadway. "Old Babcock Street" will turn into a two lane frontage road and give access to the appliance and mini-storage businesses. One business will have a driveway connection to the "New Babcock Street." He added that most of the businesses have access from other roadways.

Mr. Frazier reported on a public meeting held with business owners, residents, and the redevelopment committee. The meeting was crowded and the speakers discussed visibility, access, and whether the Laurie/Babcock intersection could be signalized. He noted that currently it does not meet the warrants for signalization; however, they will monitor the traffic flow after the roadway has been constructed to determine the effect. If there is a potential in the future, the Alma Drive area would be recommended. He stressed that at this point, they are not recommending signalization.

Mr. Frazier responded to general questions about the design, right-of-way, and retention area.

Mrs. Poole recommended a fountain (fed by a pipe) be included in the retention area and include benches and pathways. Mr. Hill said that could be investigated with the landscape considerations.

Mrs. Palmer asked about plans for Ballard Drive. Mr. Frazier noted that this discussion relates to Phase 1, which will stop at Laurie Street. Ballard Drive has a lot of issues, including current businesses using the right-of-way for parking.

Mrs. Palmer asked about the placement of median cuts. Mr. Frazier replied that they are trying to force the opening at Circle Avenue, away from Laurie Street.

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By consensus, the Community Redevelopment Agency agreed with proceeding with item "a."

b. Discussion of landscape design project (Hibiscus Boulevard to NASA Boulevard). This is a request for CRA approval of the final design of the median project and permission to proceed with bidding the project for construction. The advisory committee has requested the addition of side street-scaping to the project which will increase the project cost by \$100,000 to approximately \$412,000.

Mr. Frazier reported that this item relates to the construction of medians from Hibiscus Boulevard to NASA Boulevard. He noted that they have been negotiating with the high school to line up that entrance with Rialto Place. The county has also had quite a bit of input. The plans include landscaping. The pedestrian crosswalks will be stamped with a brick pattern. They are pending one county permit and are ready to bid.

Mrs. Walker recommended staff investigate using a color for the stamped brick pattern in order to enhance safety.

Mayor Buckley said he has problems with losing the Wendy's entrance. He understands that they can use the Rialto Place entrance, but there is a small business located on the other side of Wendy's that doesn't have access from Rialto. The site won't have access to vehicles traveling north.

Mr. Frazier agreed that when medians are constructed, someone loses a little. He pointed out that drivers will have to make u-turns. The medians will introduce safety. The restaurant owners have said that the majority of their customers make an instantaneous decision to turn in. If there is no access, they may lose business. However, if the opening is made for Wendy's, that entire segment of the median will be lost. He added that a crosswalk will be added to Wendy's from the high school.

Mrs. Palmer commented that this is an extremely busy area and as the Babcock corridor continues to develop, the problem will increase. She stated that she is concerned that, although the landscaped medians will be attractive, pedestrians will not be visible through the landscaping and will step into traffic. She added that she believes it would be safer for drivers to be able to see the entire roadway, including the median area.

Mr. Frazier said the introduction of medians will provide a safer situation and reduce the conflicts of oncoming traffic. Mr. Sweeney added that in order to meet design standards, a clear area from 24" to a height of 7' must remain clear. Mr. Frazier clarified that it will not be transparent and may contain the branches of the various plantings.

Mrs. Poole said the landscaped medians will be very important. In addition to increasing safety, they will produce oxygen and help reduce carbon monoxide.

Mrs. Walker asked if a caution or blinking light will be placed at the high school crosswalk (leading to Wendy's). Mr. Sweeney replied that it will contain signage that meets or exceeds FDOT requirements.

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Mayor Buckley asked for clarification of “side street-scaping.” Mrs. Dittmer explained that the committee had an original design budget of \$312,000. It concentrated on the medians knowing the budget constraints. Last month the fund gained additional funding from the Property Appraiser’s office, which increased the budget by approximately \$100,000. The committee decided to use that to mirror the median landscaping on the edge of the right-of-way abutting Babcock Street. Another component of that would be to fill in the missing sidewalk gaps in the area.

Mrs. Poole asked if the funding for the sidewalks can come from a different fund. Mr. Hill said the sidewalk funds have been committed to various projects that are underway. He recommended that if Council wished to entertain the addition of sidewalks, that it be bid as an alternative. That would allow the cost to be evaluated.

Mrs. Poole asked if the county would contribute since it is a county roadway. Mr. Hill said the county would be happy to turn over the entire road to the city. Later in the discussion, he added that half of the redevelopment funds come from the county.

Mrs. Walker asked who will be responsible for maintenance of the landscaped medians. Mr. Hill said it will be the city’s responsibility. Council will have to consider whether the funding for maintenance will come from the General Fund or the Redevelopment Fund.

Mr. Contreras asked if reuse water will be used for irrigation. Mr. Frazier said the cost to bring reuse to this project would be substantial. For the time being, they decided to put in a well. Pipes will be installed under the roadway so when reuse is available in the area, the switch will be relatively easy.

Mrs. Poole stated that the maintenance for the landscaping needs to come from the redevelopment fund.

Mayor Buckley said he will reluctantly go along with the medians. By consensus, the CRA agreed to proceed with item “b” with the side street-scaping being bid as an alternative.

c. Discussion of South Babcock Street (Fee Avenue to U.S. 192). City staff has met with county staff to discuss the findings of the firm Kimley-Horn which analyzed what would be necessary to proceed with a widening project. This segment is county roadway. The city and county could agree to pursue some or all of the right-of-way from local resources, or wait until the Florida Department of Transportation provided funding for the whole of Babcock Street through the FDOT project that is underway.

Mr. Hill reported that FDOT is going through an effort to widen/improve Babcock Street from 192 south to Valkaria Road. Through the Metropolitan Planning Organization, we have kept the possibility of linking that segment with the segment north of 192. The most recent funding recommendation doesn’t put any money into the project until 2007, and

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then it starts at the south (Valkaria Road) end. Staff is arguing to include the segment north of 192. Ultimately, FDOT will have to decide.

In the meantime, the city has talked with the county about proceeding on our own since an FDOT project may be years away. The county undertook a special project to determine what could be done in the short term. The project will be very expensive. A substantial amount of property will need to be acquired for right-of-way as well as \$1.2 million for road work. It is beyond the resources of the county and the city to take on this project. Therefore, we are forced back into the mode of working towards using FDOT funds to see this project happen.

Currently, there are opportunities available; Council will need to determine to what extent it wishes to work with the county to acquire properties. The county has put aside \$300,000 of their Local Option Gas Tax funds towards work to be done on this segment. We have suggested that the county consider using some of those funds to acquire properties that are for sale now. Several properties are on the market with willing sellers. This would start the process of assembling pieces necessary if/when any effort is undertaken. If we follow the guidelines in acquiring the property, we could qualify for FDOT participation and be reimbursed.

Continuing, Mr. Hill said the city needs to be able to indicate to the county that if they spend their money, we will match. He added that he believes that is the best approach to take for now. If we don't tackle this project, it will never get done and it cannot be done without acquiring property. He stressed that there are no guarantees.

Mr. Palmer asked about the right-of-way that would be required. Mrs. Dittmer said about 60' exists; however, we are trying to get a total of 102'. She added that the advisory committee discussed purchasing all the way to Bryan Street. Purchasing two lots in would leave a developable lot, zoned commercial, after the right-of-way has been acquired.

Mrs. Palmer said we have no guarantee that we would be reimbursed by FDOT. Mr. Hill said that is correct. However, if we follow the procedures established for use of federal funds, the county believes that whatever is spent on right-of-way could be reimbursed.

Mrs. Palmer asked the advantage of proceeding. Mr. Hill said the county has agreed to expend funds and the city needs to demonstrate some interest and commitment to improve this portion of the roadway. Once the county starts to acquire property, they will have a real, active project. Finally, regardless of how/when the project gets done, we have to deal with the right-of-way issue. This is one of the most constrained traffic areas in South Brevard. Unless we demonstrate some interest, nothing will get accomplished.

Mayor Buckley pointed out that unless we get moving, nothing will begin on the roadway, whether they start at the north end or the south end, until 2007. The city needs to start working now and show interest. Mrs. Walker agreed and added that she brought this up at an MPO meeting. Mrs. Poole agreed that working with the county will give us an edge.

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Mr. Palmer said it is cheaper to begin buying the property now. Once FDOT starts a project, the price of land escalates. The county and city working together will grease the skids for an eventual project.

By consensus, the CRA agreed to proceed with item “c” as presented.

Council reconvened as the Melbourne City Council.

Recessed: 10:54 p.m.

Reconvened: 10:59 p.m.

Item 16 was heard after item 17.

16. COUNCIL ACTION RE: Discussion of Planning and Economic Development Department staff making recommendations on Planning and Zoning Board items. (Requested by Council Member Poole)

From the agenda report: Council Member Poole indicated she wished to discuss the practice the city has followed regarding recommendations made by the Planning and Economic Development Department staff regarding matters before the Planning and Zoning Board and City Council.

Mrs. Poole stated that City Council, Planning and Zoning, and Zoning Board of Adjustment packages contain in-depth information from the Planning Department. The staff members are professionals and have a great deal of expertise; however, their position is always pro-development. She added that she would like reasons included as to why a request could be denied. There are two sides to every issue; however, only one side is presented. As judges, Council Members should be able to weigh all aspects. Staff picks and chooses sections of the Comprehensive Plan and City Code.

Continuing, Mrs. Poole said often it is not until the public hearing that Council hears facts from the property owners contrary to the staff recommendation. Residents cannot afford to hire an attorney in order to respond with reasons for denial. Additionally, in the past attorneys have used the Planning Department recommendation in cases against the city.

Mrs. Poole reported that the Planning and Zoning Board members are often coerced into approving a plan after they have been asked to list reasons for denial. The member who provided a second to a motion usually withdraws and the item is eventually approved. They do not have the advantage of having a Comprehensive Plan or Code Book at the meeting in order to list reasons for denial.

Mrs. Poole concluded by saying the County Commission does not receive a recommendation from staff. Her point is that Council is being made to think that there is only one way to vote; however, there are always just as many reasons otherwise.

Mayor Buckley stated the Planning Department presents its best estimate of how an item should be handled. To continually accuse staff of being pro-development is a derogatory

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remark. He noted that the county process is political; staff talks to each commissioner ahead of time.

Mrs. Walker said she has a problem with the ways things occur. She noted that she has felt forced to vote for items that she did not think were in the best interest of the surrounding neighborhood.

Mrs. Poole said she is not being derogatory. She noted that all the information can be provided in the package; however, a recommendation should not be included and both sides should be included.

Mr. Hill clarified that the Planning Department is not pro-development – the City Code is pro-development. The Code says that if you meet certain requirements, then you are entitled to receive your request. Regarding the comment about the county, staff handles all site plans. The County Commission does not review site plans. The bottom line is that if the Planning and Zoning Board makes a recommendation, it does not have to be accepted.

Continuing, Mr. Hill said there would be difficulty listing reasons why something complies with the Code and why it doesn't comply with the Code. We will always run the risk that a developer or attorney will use the staff recommendation against the city; however, the risk is small. Without professional guidance, Council will have to pick and choose the rationale that may not be consistent. At that point, it becomes a political process.

Mrs. Palmer said the problem is that there is so little time to review the package. More time would allow Council Members to meet with Mrs. Braz to point out concerns. She added that many times she feels Council is reviewing a serious matter without all the facts.

Mrs. Hand said when she has a question about an item, she calls the City Manager or City Attorney. She doesn't have a problem with the way things are handled.

Mrs. Walker said perhaps the City Code needs to be reviewed. Mrs. Poole stated that she spoke to Mr. McCord who agreed that the Code needs to be tightened.

Mr. Hill stated that he has discussed with the various departments how to move the schedule in order to get the agenda package out earlier. A change in the Planning and Zoning Board schedule would help accomplish this. He noted that 95% of the items are straightforward; however, the difficult items tend to be extremely difficult. They usually involve a new development abutting a developed subdivision.

Mr. Hill concluded by saying there are so many recommendations for approval because the plans meet Code. The plans that do not meet Code do not come forward. Developers have met with staff and staff has indicated what changes are necessary. Many of the plans that can't be approved have already been selected out of the process. In some instances, developers persist (without making changes) and those are the instances where staff recommends denial.

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That concluded the discussion. No action was taken.

Item 17 was heard before item 16

17. COUNCIL ACTION RE: Board Appointments

- a. Citizens' Advisory Board – three regular members

Moved by C. Palmer/Contreras to reappoint Arthur Derico, Cleave Frink, and E. Rhodie Humbert. Motion carried unanimously. (Term: November 12, 2001 – November 11, 2004)

- b. Code Enforcement Board – one regular member

Moved by Contreras/C. Palmer to reappoint Bennie J. Hopkins. Motion carried unanimously. (Term: November 12, 2001 – November 11, 2004)

- c. Golf Courses Advisory Board – two members

Moved by E. Palmer/Contreras to reappoint Rin Troast. Motion carried unanimously.

Moved by Hand/C. Palmer to reappoint Mario DeGuglielmo. Motion carried unanimously.

(Term: November 9, 2001 - November 8, 2004)

18. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Contreras reported that he attended Macedonia Baptist Church's 110th Anniversary celebration. He noted that during the program, the church commended various staff members for their guidance and assistance.

Mrs. Palmer reported that she attended the October 16 County Commission meeting to address the Sarno landfill issue. She elaborated on her discussion and noted that the county has called for an investigation into the land sale.

Mrs. Poole thanked Council Member Palmer for his work in securing an historical marker for the former Naval Air Station (Melbourne Airport).

Mr. Hill reported that Nancy Glass, Executive Secretary, Space Coast League of Cities, has asked if Melbourne would be willing to contribute \$75 towards the purchase of a new computer for use by the league.

Mrs. Palmer questioned the request and pointed out the high amount paid for league dinners.

Moved by E. Palmer/Poole to donate \$75 to the Space Coast League of Cities to be used towards the purchase of a new computer. Motion carried. (Mrs. Palmer voted nay.)

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Mr. Hill mentioned that he is moving forward with a review committee regarding police procedures. The following have been contacted and have agreed to serve: Eugene Johnson, Joe Davis, Bobby Bechtel, Sharon Jones, and Charles Colletta. The committee's first meeting will be held on October 30.

Mr. Contreras asked how many city employee reservists have been called to date. Mr. Hill replied five.

Mayor Buckley reported that Council is set to provide the City Manager and City Attorney evaluations on November 13. He noted that there will be two major planning items on that agenda.

Moved by E. Palmer/Poole to conduct the City Manager and City Attorney evaluations at the November 27 meeting. Motion carried unanimously.

Mrs. Palmer asked why the evaluations are conducted publicly. She noted that by conducting them publicly, members are less likely to provide any criticism.

Mayor Buckley asked for a Council action agenda item to determine whether Council should conduct the evaluations in public or complete the evaluations and submit to the City Manager and City Attorney.

19. ADJOURNMENT

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

The meeting adjourned at 11:57 p.m.

City Clerk – 11/1/2001

Approved by Council: _____

Attachment to original minutes: Memorandum of Voting Conflict Form (reference Item 11)