

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

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

1. Reverend Pastor Peter Inman, Lighthouse Assembly of God, gave the invocation.
2. All present gave the Pledge of Allegiance to the Flag of the United States of America.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Loretta Isenberg-Hand	Vice Mayor, District 6
	Richard Contreras	Council Member, District 1
	Ed Palmer	Council Member, District 2
	Pat Poole	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	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 the following proclamations:

Recognizing Lt. Jim Tolley, Melbourne Fire Department, for receiving the Florida Professional Firefighter of the Year award from Governor Jeb Bush and members of the Florida Cabinet.

“National Volunteer Month”, April 2002; accepted by Helen Saller, President, Melbourne Woman’s Club.

Judy Good, President, Melbourne Municipal Band, thanked the city for its years of support and presented a check for \$2,703.41 (from collections taken during last two concerts in March) to help with refurbishment of the Melbourne Auditorium.

5. APPROVAL OF MINUTES – March 26, 2002 Regular Meeting

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

6. CITY MANAGER’S REPORT

Mr. Hill reported on the following items:

- A budget workshop meeting will be conducted April 16 at 7:30 p.m. Packages were distributed to Mayor and Council today.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

- The city received notification from FEMA that we will receive \$400,000 towards replacement of the Auditorium roof.
- The Clerk of Circuit Court notified the city that we have been overpaid approximately \$400,000 in traffic fines and court costs over the past few years. The court has been making estimated payments while experiencing computer problems. A repayment plan will be established.
- The Economic Resources Council quarterly breakfast meeting (Melbourne-Palm Bay Area Chamber of Commerce) will be conducted at the surface water treatment plant on May 21.

7. PUBLIC COMMENTS

Judith Wargo, 722 Manston Drive, resident of Trailer Haven, asked for an update on the Trailer Haven water main replacement project.

Mr. Hill reported that at this point the project has been pushed to 2003-2004. Staff is in the process of reviewing all CIP projects.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-21 (A&V #250): (Public Hearing/First Reading) A proposed ordinance to abandon and vacate the street right-of-way known as Sheridan Road between Oak Street and Hickory Street for a distance of 550 feet. (Requested by Holmes Regional Medical Center) (Postponed by Council 3/26/2002)

Attorney Gougelman read Ordinance No. 2002-21 by title.

Mrs. Braz reviewed the agenda report. This item was postponed at the March 26 Council meeting to allow the applicant time to contact area property owners who said they had not been advised of the hospital's plans. The postponement also allowed staff to determine if additional stipulations were necessary.

Concerns that were discussed at the March 26 meeting include:

- *Access to the private alley behind (west of) the hospital.* The hospital needs access to the alley for service and access is also needed for emergency services. Dr. Reilova and Attorney Torpy mentioned this concern. Staff has recommended an additional stipulation, which will restrict the effective date of the ordinance until a site plan is approved providing emergency access to the private alley from the north and south.
- *Site plan approval should come before the abandon and vacate request.* The hospital will spend several million dollars to design the new facilities (estimated to cost \$40 to \$60 million). They need to know the feasibility of the proposal to reroute Sheridan Road before committing to the design. The ordinance will not be effective until all conditions

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

are met. These include the relocation and acceptance of the road and all the utilities and the approval of a site plan.

- *Meeting with property owners.* Mr. Mills said that he will meet again with the owners of 1305 Oak St. (Dr. Reilova's office) and review the plan. Mr. Mills indicated that he met with Mrs. Kartsonis (represented by Attorney Torpy) last summer and presented to her the same power point presentation that was presented to Council.
- *City notification.* The notices to property owners within 500 feet were mailed on March 19. The notice to Dr. Kartsonis was mailed to a previous address and had to be forwarded. The notice to Dr. Gadodia was returned to the city. (Addresses were obtained from the Brevard County Property Appraiser's listing.) The city re-notified the property owners within 500 feet on March 27.
- *Traffic study in the area.* A traffic study was conducted last November. Staff has a copy of that report and the traffic counts are included in the agenda package. All the streets are at acceptable levels of service and the new design would not influence the number of trips; however, the expansion of the hospital might increase traffic, but counts would still be within an acceptable level of service.
- *Notification and acceptance by utility companies.* The utility companies have all been notified and none objected as long as their utility is relocated appropriately. Their letters and comments are in the agenda package.
- *Helicopter pad location.* This should be addressed at the time of site plan approval. It has nothing to do with the vacation of Sheridan Road.

The recommendation is for approval of the ordinance with an effective date following the completion of all conditions. The following condition has been added since the last meeting:

- Approval of a site plan and/or conditional use for the hospital expansion with emergency access to the private alley on the west side of the hospital from both the north and the south.

The following letters were received in support of the abandon and vacate request: April 4, James B. Whitaker, President and CEO, Circles of Care; April 5, Allen S. Henry, Chairman, HRMC Board of Directors; April 5, Candy Sayler, Indian Harbour Beach; April 5, Fred Thursfield, Melbourne; April 8, Robert E. Jensen, First Vice President, SunTrust Bank; April 8, Robert Perers, American Business Interiors; and April 8, Jeff R. Cobb, Shamrock Apartments.

Mrs. Palmer asked if it would be reasonable to request a binding developer's agreement to document some of the major items that have been discussed. Mrs. Braz said yes and noted that the site plan will also be considered binding. Mrs. Palmer replied that the site plan needs to merely meet Code; it does not have to have any particular inducements.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mr. Hill stated that if Council felt the magnitude of this project required a developer's agreement, it could be worked out.

Phil Nohrr, attorney representing Holmes Regional Medical Center, agreed that there are issues that will have to be dealt with by the site plan. He explained that this project is designed to upgrade the ability of Holmes to provide the best possible emergency and cardiac care. At this point, they are only asking for approval of the abandon and vacate request. Any further delay would have a significant impact and could kill the project because of time sensitive bond financing. Additionally, he noted that Holmes has hired many expensive consultants and they need to proceed with the knowledge that the road will be vacated.

Continuing, Mr. Nohrr pointed out that one of the conditions in the ordinance requires approval of the site plan. He said that Holmes will attempt to resolve any issues that develop, whether from property owners, staff, etc. He stressed that the hospital has no desire to dictate or demand.

Mr. Nohrr submitted 189 letters in support of the abandon and vacate request. He concluded by recognizing representatives from Holmes, the engineering firm, and several physicians.

Mrs. Palmer expressed support for the expansion of the hospital. She pointed out that a site plan is not binding and could be changed. Because the abandon and vacate request is predicated on approval of the site plan, she stated that she would like to see a developer's agreement incorporating some of the major elements of the plan.

Mr. Nohrr said they have no problem with that. He repeated that Holmes is going to live up to its commitment with this project.

Mrs. Walker endorsed Holmes' plan to expand and said she recognizes the need. She stated that she has a problem with the plan to vacate Sheridan. Mrs. Walker explained that her nephew is an architect and he questioned why the hospital isn't pursuing air rights to provide for a bridge and upward expansion. This could perhaps be done more economically than the abandoning and vacating of Sheridan.

Mr. Nohrr said he has been involved with the air rights discussion and Holmes believes that would be more expensive. Additionally, there are significant operating inefficiencies in that plan. As Holmes develops its campus, it needs to control security. The idea of a plan that would allow for a vehicle to be driven beneath the building raises serious security issues. Mr. Nohrr pointed out that the traffic consultants will also say that the plan to build up creates pedestrian safety issues.

A brief discussion followed regarding security issues.

Mr. Nohrr concluded by saying the staff from Holmes would be happy to provide a diagram, which shows that the proposed layout will result in the best possible treatment for patients who enter the emergency room with chest pains.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mrs. Hand declared a conflict of interest based on her employment with the hospital. She encouraged Council not to put up roadblocks to the expansion and the new emergency room/cardiac care areas.

Mrs. Poole said she does not believe closing Sheridan will be that much of an inconvenience for anyone.

Council made the following disclosures:

Mr. Contreras – met with Attorney Torpy on April 5 and discussed issues with the request; met on April 8 with Jim Johnson and discussed city-wide issues and HRMC was included in that discussion

Mr. Palmer – had an extended meeting with Tom Mills and John Ray regarding the project and the way it would impact the city and the region. He said he indicated to Mr. Mills and Mr. Ray that he believes this is a fantastic idea and that the expansion will have a positive regional impact. Additionally, he spoke with Attorney Torpy who represents several doctors who are opposed to the project because of the road realignment and the impact it may have on their businesses.

Mrs. Poole – met with Tom Mills and Beth Paulson; received a call from a friend of Dr. Lanford's who indicated that Dr. Lanford is interested in selling the building; and spoke with Attorney Torpy at the rear of the Council Chamber prior to the last Council meeting.

Mrs. Walker – met with Mr. Mills and Mr. Ray at the hospital to review the project; met with Mr. Mills in his office along with Beth Paulson from PBS&J; and talked with Attorney Torpy about his client who has problems with the request.

Mrs. Palmer – on April 4 talked with Mr. Mills at length and reviewed the plan. Mr. Mills encouraged her approval. Met with Mr. Torpy at City Hall on April 8 to discuss some of the objections to the vacating of Sheridan and the rerouting of traffic. She said it occurred to her after that meeting that fears could be allayed by the use of a developer's agreement.

Mrs. Hand – met with Mr. Mills and Beth Paulson several weeks ago about the project.

Mr. Buckley – met with Attorney Rick Torpy last Thursday about the concerns of his client. Mr. Torpy was looking for a 30-day delay.

Mrs. Walker asked Attorney Gougelman to provide an opinion on requiring a site plan prior to the abandon and vacate. Attorney Gougelman said the requirement for a binding site plan or developer's agreement is a policy decision for Council. He said he believes a developer's agreement, similar to one used by the county, could be prepared. If that is the wish of Council, he asked that staff be provided with specific items to be included in the agreement. The complexity would determine whether the agreement would be ready by the next meeting.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mayor Buckley opened the public hearing.

Dr. Charles R. Lambert stated that he is on loan to Health First from the University of Florida. He noted that he came to Melbourne six years ago to develop a cardiac program and a lot of work has transpired during that period. The cardiac program at HRMC has doubled in size, yet the size of the facilities has not increased. He stressed that this is an incredible opportunity to transform Holmes to a destiny hospital and concluded by saying there is a short window of time to act.

Michael D. Means, representing Health First, Inc. and Holmes Regional Medical Center, asked Council to support the project. He noted that this project – the addition of a heart institute of this caliber – is extremely important to the community. The location will impact the patient care process; the parking will be enhanced; and the delay translates into dollars and that cost will ultimately be borne by the citizens of the community. He asked Council to move forward quickly and gave his word and commitment that Holmes will do whatever is necessary to provide assurances.

John J. Holmes, 311 Par Avenue (brother of James E. Holmes), agreed that time and money are of the essence. He stated that the project should be put forth as soon as possible so the facility can be built. He added that the city gave the hospital 10 acres to start the hospital and he would like the city to move forward in a fashion that saves money.

Stephen Sockbeson, Director of Human Resources, Harris Corporation, pointed out that Harris is a major employer in the community and it is critical to its growth and success to be able to attract and retain high caliber employees. The quality of health care is always an issue that is brought up during recruitment. He stated that the expansion of the hospital will contribute to the success of Harris.

Dr. O. C. Mendes, HRMC/Cardiac Surgery, stated that he performed the first open-heart surgery at Holmes. Sixteen years ago they performed about 100 such operations a year. This year they will perform between 800 and 900 open-heart operations and 6,000 and 7,000 cardiac catheterizations. Immediate access to patients has become an issue and they need this project to go forward. One footprint for the building will provide the immediate access necessary.

Jeff Cobb, representing the Shamrock Apartments on Oak Street, discussed the location of the helicopter pad and said it is 100 yards from the apartments. The flights have tripled since the trauma center was moved to this location and he has tenants who complain and want to move. Mr. Cobb said he is all for saving lives – but the apartments are his business and priority. The proposed plan provides for the emergency room to be moved (along with the helicopter pad); therefore, he encouraged Council to proceed.

Gene McCarthy, 523 Peregrine Drive, reported that he has been a member of the business community for many years and is the current chairman of the Health First Foundation. He noted that when he speaks with companies interested in locating here,

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

the health care delivery system tops the list of concerns. He asked Council to vote for the abandoning and vacating of Sheridan Road.

Robert Jensen, account officer for Holmes Regional at SunTrust Bank, said he is keenly aware of the need for expansion and how it will benefit the city. He noted that he is also a member of the Babcock Street Community Redevelopment Agency Advisory Committee and he believes the proximity of the hospital project to the redevelopment area will have a positive impact. He encouraged Council to support the ordinance.

Dr. Jose Reilova, 1305 Oak Street, said that Attorney Torpy will speak for him.

Attorney Richard Torpy, 202 North Harbor City Boulevard, representing Dr. and Mrs. Kartsonis, distributed a package of information and noted that he is speaking for Dr. Reilova. Mr. Torpy reported that Dr. Kartsonis and his wife own property in the area; they have a vested interest in this area. He suggested that, if this were any other commercial enterprise, the city's scrutiny would be much more specific.

Mr. Torpy said when the question was asked why the city was not requiring a binding developer's agreement, the answer was that we are dealing with the hospital. He highlighted the following information from the packet that he distributed:

- The relationship between Health First Inc. and Health First Health Plans, Inc. The hospital has indicated that one reason to move forward is the money it is costing for the consultants. He asked about the money this will cost the residents and his clients who live, work and own property near the facility.
- The hospital owes \$9,000 in unpaid occupational license fees. This dates back to 1997.
- At the last Council meeting, Mr. Mills made it very clear to Dr. Reilova that he had already talked to Dr. Lanford about this plan. That is not true – Mr. Mills had not talked with Dr. Lanford prior to that meeting.
- With the exception of Jef Cobb's letter of support, the remainder of the letters is based on a form letter distributed by the hospital. Jeff Cobb is in support because he would like the helicopter moved. However, there is nothing in the plan that requires the helicopter to be moved.
- The engineering firm of PBS&J provided a traffic analysis on March 29. He asked why this information was not provided prior to the last meeting. Additionally, he noted that he does not know what the document means. The hospital's engineer has provided the information and he does not know if the data is accurate. There are unanswered questions about what will happen at the new intersection and the re-routed traffic.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mr. Torpy asked what will happen to his clients' property values. He noted that they own commercial property on a corner lot of a four-way intersection. If this plan is approved, they will be located on a t-intersection, which is usually not good. He pointed out that there has been no expert testimony about the value of real estate in the area. The citizens of Melbourne own this right-of-way; it is there for the benefit of the citizens.

Attorney Torpy referenced the rendering he displayed, which depicts Sheridan Road remaining and the hospital extending over the roadway. He stated that his engineers have said that elevating the building would cost less than vacating and re-routing the roadway.

Mr. Torpy again stressed the need for a binding agreement and cautioned the city that the hospital will spend money in reliance on the vacating of the roadway. If they return with a site plan different than presented – but meets Code – there would be a question about whether the city could deny the new plan without facing a lawsuit.

Continuing, Mr. Torpy addressed the following: questioned the definition of a “heart institute”; referenced a 1937 Florida Supreme Court ruling, which says a public right-of-way can't be vacated for private purposes; the fact that the hospital is a purely private interest; and case law from Alabama that provides action like this results in a taking of property.

Attorney Torpy asked Council to table this issue for 30 days to allow time for the hospital to deal with the landowners.

Mr. Contreras asked if Dr. Lanford or Dr. Reilova own the private alley and Dr. Reilova replied no.

Mrs. Palmer pointed out that Mr. Nohrr said they have no problem with a developer's agreement as long as it doesn't present a delaying tactic. She added that if the landowners are questioning whether the hospital will live up to the expectation of the plan and whether there will be traffic problems, a 30-day delay won't have an impact on that.

Mr. Torpy said his clients are concerned about the value of their property and how traffic will relate to that. Until traffic is addressed, no one can say what will happen with the value of the property.

Mrs. Walker asked Mr. Torpy if he is saying that we will be violating the 1937 Supreme Court ruling if the request is granted. Mr. Torpy replied that will be his legal position based on what he knows about Health First.

A brief discussion followed regarding the route taken to access the emergency room by the doctors who are opposed to this plan. Further discussion followed about the city's past practice of approving abandon and vacate requests with consent by the abutting property owners.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mr. Contreras noted that Health First is a private entity that serves the public. He added that Mr. Torpy's clients are in private practice, yet they serve the public. Mr. Torpy replied that serving the public doesn't make the operation a public entity.

Mr. Contreras said it seems as if the new location of the emergency room will actually benefit the doctors who are opposed. Additionally, he questioned whether a multi-million-dollar complex would be a positive factor on property values. Mr. Torpy asked if that impact on property values would be up or down. He added that impacting traffic flow in front of a commercial establishment will impact value and it is the duty of the application to present information on that issue.

Mr. Contreras asked Mr. Torpy if his argument to postpone was to allow for analysis of the traffic study. Mr. Torpy responded that there are factual issues that have not been addressed. There has been no independent verification of the traffic analysis and there is nothing to guarantee that the site plan will be similar to the one shown to Council.

Mr. Hill said he encouraged Mr. Torpy (when they met on Thursday) to indicate on behalf of his clients any items or proposals that should be included in an agreement.

Mr. Torpy said he would like an independent traffic analysis; a minimum of 30 days to allow his client to review the data; detailed plans from Health First; a commitment to move the emergency room and whether the helicopter pad will be moved; and time to determine if this will negatively impact property values.

In response to Mrs. Poole, Mr. Torpy said by fee arrangement he represents Dr. and Mrs. Kartsonis. He added that Dr. Reilova asked him to speak on his behalf.

Scott Lanford, representing Dr. W. S. Lanford, stated that when Sheridan is vacated it will substantially block his father's building and cause an increase in traffic. He noted that Mr. Cobb may be happy that the helicopter pad is going; however, Dr. Lanford is not happy to see the helipad arrive.

Mr. Lanford continued and said that Mr. Mills previously represented that he spoke to Dr. Lanford about buying the property. On March 28 they (hospital) said an offer was forthcoming, yet as of today, there is no offer. Mr. Lanford suggested that the delay is being caused by the hospital failing to talk to the property owner who is most affected.

Mrs. Poole said it is her understanding that Dr. Lanford is retiring and only works one day per week. Mr. Lanford said the issue is that the value of his property will be diminished by the location of the helicopter and the pad. This plan will also cause an increase in traffic on Oak Street.

Attorney Phil Nohrr said he hopes this issue is not about character assassination and that Council has not been drawn into the occupational license issue. He explained that he is not familiar with the 1937 case discussed by Mr. Torpy; however, he is familiar with a 1981 Florida Supreme Court case which provides that a property owner does not have a vested right to certain and specific traffic flows. If a lawsuit is filed, he said they are

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

prepared and comfortable. They are also comfortable with the road closing serving a public purpose.

Mr. Nohrr said the city is the sovereign and has the right to vacate. If access is diminished to a great point, there could be a compensation issue. Mr. Nohrr displayed the general site plan provided to Council at the last meeting and said they would agree to a binding developer's agreement that, in general, this is what they intend to do. Because of the process and final design criteria, absolute details cannot be provided.

Regarding the credibility issue, Mr. Nohrr said that on March 18 Dr. Foley, not Mr. Mills, spoke to Dr. Lanford. He noted that Dr. Foley is a well-known and respected physician who is a board member of the hospital. So there was discussion. On March 28 Mr. Mills met with Dr. Lanford and at that meeting learned that Dr. Reilova owns 25% of the building. Mr. Mills is prepared to say that the hospital will pay fair market value and offered \$600,000. The counter by Dr. Lanford was for \$1.5 million.

Regarding location of the helicopter and helicopter pad, Attorney Nohrr described the process involved in obtaining FAA and FDOT approval. He noted that it will be a long time before they know whether the new location is approved. Additionally, he discussed the location of the new emergency room and pointed out that it is the hospital's responsibility to serve the citizens of our community and if they think it should be on the north side or south side. It is not up to an individual doctor's office to dictate the location.

Mr. Nohrr said they do not object to the preparation of a binding developer's agreement within the next two weeks with the diagram assigned to it.

Mrs. Walker asked for additional information about the expansion and heart institute. Michael Means elaborated on the plan.

Mrs. Palmer said moving the emergency room next to the cardiac center was presented to her as the reason for the vacation and relocation of Sheridan Road. She said Mr. Mills stressed to her that it was crucial to be set up this way, yet now there is hesitancy by the hospital in placing this plan in writing.

Mrs. Poole said with this large of a plan, there will be changes; however, any large change should require Council approval.

Mr. Nohrr replied that it is a lot more technical than that. He stressed that it is the hospital's intention that the emergency room and helicopter pad be moved as indicated on the diagram. However, they know the difficult process ahead of them. He added that they are going to spend ungodly sums of money to make that happen. And, if they run into issues down the road and it doesn't work out, they will return to Council.

Discussion followed regarding the wording of a developer's agreement. Mrs. Palmer said her intention is not to tie the hospital's hands, but to ensure that the public is well served. She added that if this ends up in court, she wants information showing that Council made a good decision.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mr. Palmer said the FAA is going to determine the fate of the helicopter pad. The hospital has a grandiose plan; however, it may change because of something out of its jurisdiction.

Mr. Contreras asked Mr. Nohrr if his client would agree, based on favorable results of multiple factors as stated, that the helicopter pad would be located by the emergency room. Mr. Nohrr replied that they would agree to that.

In response to Mr. Contreras, Mr. Nohrr said they would be happy to review the site plan and planned activities with Mr. Torpy's clients.

Mr. Hill said a concern has been raised about the possibility of a takings claim being made against the city. He asked if Health First is willing to indemnify the city for the value of any takings claim as a result of this action. Mr. Nohrr replied yes.

In response to Mr. Contreras, Mr. Hill said that Mr. Ralls has looked at the traffic study and is prepared to offer comments.

City Engineer Howard Ralls said that he looked at the traffic study. He discussed the realignment and noted that the consultants performed turn movement counts at the existing intersection and applied the same data to the proposed realigned or perimeter road. They added to that and projected traffic from the hospital addition, which would be another 3,200 trips per day. They determined that the new intersection met the warrants for a signal. Continuing, Mr. Ralls pointed out that the new roadway would result in a 700' detour. He concluded by saying that the worst case impact resulted in a determination that the roads would be at an acceptable level of service.

Mr. Ralls responded to questions regarding the analysis.

Moved by Poole/C. Palmer for approval of Ordinance No. 2002-21 with a binding developer's agreement.

Mrs. Palmer said she would like the following included in the agreement: access to the private alley on the west side of the hospital from the north and south; the emergency room location and location of entrance; the location and definition of cardiac center or heart institute; the helicopter pad location; off-site parking areas, including number of spaces and timeframe for paving; and landscape plan for Hickory Street.

Mayor Buckley added the indemnification agreement to the agreement.

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

Recessed: 10:10 p.m.
Reconvened: 10:21 p.m.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

9. ORDINANCE NO. 2002-22 (CU-2002-02/SP-2002-04/SPARKLE CAR WASH): (Public Hearing/Second Reading) An ordinance granting a conditional use for a car wash in a C-P (Commercial Parkway) zoning district, located on the west side of Wickham Road, south of the driveway to the dog track, on a 1.183-acre parcel. (Owner – John R. Prickett) (Applicant - Stephenson Anderson) (Representative – Vaheed Teimouri). (First Reading 3/26/2002)

Mr. Gougelman read Ordinance No. 2002-22 by title.

Mr. Contreras disclosed that on April 3 he spoke with Mike Adesso about vegetation as it relates to the conditional use.

There were no comments from the audience.

Moved by E. Palmer/Poole for approval of Ordinance No. 2002-22. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2002-23: (Public Hearing/Second Reading) A proposed ordinance to amend Chapter 12, Fire Prevention and Protection, as recommended by the Code Review Committee, Section 4. (First Reading 3/26/2002)

The attorney read Ordinance No. 2002-23 by title. There were no public comments.

From the agenda report: At the March 26 meeting a question was raised about the revised Section 12-1, which empowers the Fire Chief to make fire prevention regulations in addition to the regulations set forth in this chapter. The concern was that the delegation of authority was too broad.

The Fire Chief and Building Official reviewed this section with the City Attorney. The purpose of that section is to address rare occasions when regulations need to be stricter than what the Florida Fire Prevention Code provides. Such regulations would have to be adopted by Council; therefore, the following revision has been included in the ordinance:

Section 12-1. *Chief's power to make regulations.* The Fire Chief is hereby empowered to make recommendations to the City Council for amendments to the Fire Prevention Regulations, in addition to the regulations set forth in this chapter.

Moved by Poole/Hand for approval of Ordinance No. 2002-23 as revised. The roll call vote was:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

11. COUNCIL ACTION RE: Consent Agenda

Moved by E. Palmer/C. Palmer for approval of the consent agenda. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Purchase of one backhoe loader and one replacement tractor for the Fleet Management Division, various vendors - \$82,924.
- b. Change Order No. 1 to contract for Harbor City Golf Course Greens Renovations, Total Golf Construction, Inc., Vero Beach, FL - \$41,745.
- c. Purchase of Manhole Lining Services for Croton Road Widening, Project No. 98310, PIM Corporation, South Piscataway, NJ - \$20,000.

12. COUNCIL ACTION RE: A legislative update presented by Representative Mike Haridopolos, Florida House of Representatives.

Mayor Buckley reported that Representative Haridopolos had to leave and will return at a future meeting.

13. RESOLUTION NO. 1757: A proposed resolution for approval of a quit-claim deed to Holmes Regional Medical Center, Inc., for release of reversionary interest in the Circles of Care property.

City Attorney Gougelman read the resolution by title.

From the agenda report: Holmes Regional Medical Center, Inc. asked the city to release a reversionary interest in property currently owned by Circles of Care, Inc. The property is located on the west side of Hickory Street, north of Sheridan Road. The hospital plans to purchase the property as part of its expansion for the new heart institute.

A newly realigned Sheridan Road is proposed over most of the Circles of Care property and a good portion will be transferred back to the city for the roadway. The reverter clause restricts the use of the property to health and welfare purpose. Effectively this is what the property will be used for by the hospital.

Mrs. Hand declared a conflict of interest and stated that she is employed by the hospital.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Moved by Poole/C. Palmer for approval of Resolution No. 1757.

Mrs. Palmer said she would like to add a condition requiring the hospital to pay the fees (occupational license tax) owed to the city.

Attorney Gougelman explained that Mr. Mathias and Mr. Potter met with him yesterday regarding this issue. They plan to meet with the City Manager to work out a methodology for payment.

Moved by C. Palmer/Contreras to amend the motion by requiring the hospital to pay the fees that they owe the city. (See change below.)

Mrs. Poole disagreed with adding a stipulation to this resolution.

Attorney Nohrr asked if Council would consider as alternative language “or make other arrangements satisfactory to the City Attorney and staff.” He said with this flexibility, he believes he can guarantee that before second reading of the abandon and vacate ordinance, this issue will be resolved.

Mr. Hill said as he understands it, the hospital is concerned over the phrasing of the fee as a tax. It relates to their non-profit status. Language would be appropriate that the release of the reverter would not be effective until such time as funds due to the city are paid.

The following substitute amendment was made:

Moved by C. Palmer/Contreras to revise the amendment to require the hospital to provide funds to satisfy the money owed to the city.

The question was called on the amended amendment. Motion carried. Mrs. Poole voted nay and Mrs. Hand abstained from voting.

Mrs. Poole referenced the stand she has previously taken on reverter clauses. She explained that the county sold this property to Circles of Care without notifying the city (the city had a reverter clause). The property will never return to the city; therefore, she wants the hospital to have it.

Mr. Hill said the interesting part with this release is that a good portion, if not all, will return to the city in the form of a roadway.

The question was called on the main motion, as amended. Motion carried unanimously. Mrs. Hand abstained from voting.

14. ORDINANCE NO. 2002-24 (A&V #252): (First Reading/Public Hearing) A proposed ordinance to abandon and vacate the unimproved 30-foot right-of-way known as College Avenue. (Requested by Ronald J. and Dorothy L. Hall)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Attorney Gougelman read the ordinance by title. There were no comments from the public. Mr. Ralls reviewed the agenda report.

Moved by Hand/Walker for approval of Ordinance No. 2002-24. Motion carried unanimously.

15. ORDINANCE NOS. 2002-25, 2002-26 AND 2002-27 (AR-2002-137/CPA-2002-01/Z-2002-922): (Public Hearings/First Readings) Requests for annexation of a portion of a lot and adjacent right-of-way totaling 0.88 acres, establishment of mixed Commercial/Low Density Residential land use, and establishment of C-2 (General Commercial) zoning on a 0.61-acre parcel, located at the southwest corner of Wickham Road and Trimble Road. (Owner/Applicant – Robert L. Goldsmith) (Representative – Rey Campbell). (P&Z 3/21/2002)
- a. Ordinance No. 2002-25: A proposed ordinance to annex the property (AR-2002-137).
 - b. Ordinance No. 2002-26: A proposed ordinance to establish mixed Commercial/Low Density Residential Land Use on the property (CPA-2002-01).
 - c. Ordinance No. 2002-27: A proposed ordinance to establish C-2 (General Commercial) zoning on the property (Z-2002-922).

Attorney Gougelman read each ordinance by title.

Mrs. Braz reviewed the agenda report, noted that the property is occupied by a single-family home, and is zoned single-family residential by the county. She discussed the land use designation and surrounding zoning.

The property owner is seeking the annexation in order to receive city services. An insurance office is proposed for the existing residential site. Sewer service is not available to the property under the standards established by Appendix D of the City Code. The existing house is served with a septic tank and the proposed insurance business to be operated in the structure will continue to use this septic tank. Sewer connection should be made when it is available to the site. The annexation will generate approximately \$450 per year in revenue to the city and even more when developed as an office use. The annexation includes the 0.61-acre lot and the adjacent Trimble Road right-of-way of .88 acres.

The land use requested is mixed use Commercial/Low Density Residential. Commercial/Low Density Residential land use will closely match the advisory land use (Commercial) established for this property in the Comprehensive Plan. The existing Brevard County designated land use is Residential with up to 12 units per acre. This is different than the city's advisory land use. However, the county has no plans to extend utility services to the property and the lot fronts on Wickham Road, a major arterial street and the land uses to the north and south of the lot are Commercial. The major reason for the proposed mixed use land use is that the property to the west is zoned and used for residential use and

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

establishing strictly commercial land use with the proposed C-2 zoning would create a greater possibility to allow higher intensity commercial uses on the property which would likely be less compatible with the residential uses to the west. Since an office is proposed on the site a low intensity commercial use will be provided.

The proposed C-2 zoning is consistent with the established city zonings along the Wickham Road corridor including the zoning on the property to the north and other properties in the immediate vicinity of the site. The proposed zoning will match the zoning on the properties to the north and south of the site and across Wickham Road. County RU-1-13 zoning will remain on the residence to the west. Creating a C-2 zoning classification is necessary because the property is not large enough to be considered for a separate zoning classification under the requirements of City Code, Appendix B, Article XXVI (7). The proposed insurance office will provide a good buffer between the residential properties to the west and the higher intensity commercial uses along the Wickham Road corridor. The proposed C-2 zoning is slightly more restrictive than the County BU-1 zoning.

The Planning and Zoning Board recommended approval with the findings outlined in the agenda package and the following condition:

- a. The applicant/owner shall enter into an agreement with the city providing for connection to the city's central sewer once sewer service becomes available to the site under the requirements of City Code, Appendix D, Chapter 5, Article V, Section 5.03. Said agreement shall be in form and substance acceptable to the City Manager and City Attorney.

Rey Campbell, representing the applicant, agreed with the (zoning) condition.

Moved by E. Palmer/Poole for approval of Ordinance No. 2002-25. Motion carried unanimously.

Moved by Contreras/Hand for approval of Ordinance No. 2002-26. Motion carried unanimously.

Moved by Poole/Walker for approval of Ordinance No. 2002-27. Motion carried unanimously.

16. SITE PLAN APPROVAL AND REQUEST FOR HOME FUNDING (SP-2002-05/SUNSET LANDING APARTMENTS): (Public Hearing) A request for site plan approval and HOME funding for an affordable housing apartment building on a vacant 8.015-acre parcel zoned R-2 (One-, Two-, and Multiple-Family Residential) located on the southeast corner of Wickham Road and Weston Drive. (Owner – Doubloren Finanz-Und Anlagegesellschaft Est.) (Applicant – Brisben Companies, Inc) (Representative – Mr. John Peker, Stottler Stagg & Associates, Inc.) (P&Z 3/21/2002)

Mrs. Palmer disclosed that she looked at the site today. Mayor Buckley said he spoke with David Petroni this week who called to ask if there were any problems with this item.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

The Mayor said he told Mr. Petroni that he spoke to the applicant for (Item 24 on this agenda) and learned that they are going to withdraw their application. Mr. Contreras disclosed that he drives by this site every day.

Site Plan:

Ms. Braz briefed Council and discussed the history of the site. The property has a mixed use Commercial/Medium Density Residential land use and is zoned R-2. The property to the north is zoned R-A (Residential Holding) and has an adopted land use of mixed use Commercial/Medium Density Residential while the parcel to the south is zoned R-2 and is the site of the Harbor One Condominiums and Sun N' Green Condominiums. Weston Village Subdivision, zoned R-2 (6), with a Low-Density Residential land use, is located to the east.

The site plan for Sunset Landing Apartments identifies the location, type and size of the single building proposed for the property. A total of 140 units are proposed with this plan. This project is being developed as an affordable housing project under the guidelines of the City Code and as defined in the Comprehensive Plan. The plan also provides for two retention basins, an interior loop drive with one driveway connection to Weston Drive, and one to Wickham Road.

Only 169 parking spaces are indicated on the plan for 140 units. This is less than required by Code. The applicant proposes to apply through the Board of Adjustment because they propose to market the apartment units to the elderly. As part of the variance process, the applicant must provide assurances that the type of housing would not change from the housing type to facilitate the users identified in the variance request. The site plan identifies eight handicapped parking spaces. Per Code, a parking lot with 169 parking spaces must contain a minimum of six handicapped parking spaces. If a variance is granted the need for additional handicapped parking should be considered, particularly if the development is likely to house a higher than average number of handicapped drivers.

Based on the three-story, 38-foot building height, a 45-foot building setback is required from the east property line. The structure will setback over 133 feet from the east property line and 105 feet from the south property line. The 38-foot tall building is less than the maximum height permitted by Code. The three-story building will cover 140,274 square feet representing an average of over 1,000 square feet per unit. A swimming pool will be provided so the development will be entitled to a partial recreation impact fee credit.

Trash shoots will provide trash collection/recycling facilities. These trash shoots will be collected and rolled out to the drive aisles. These rollouts will need to be designed to eliminate interference with parking and be able to accommodate equipment used by the City's contracted collection/disposal contractor.

As indicated in the title report provided with the application, the City will need to formally obtain an easement for a utility line on the southerly portion of the property. The

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

easement did not show up on the survey but is identified on the Property Appraiser's map. The 15-foot wide easement is recorded in ORB 1506, Page 1023 Public Records of Brevard County, Florida.

A 140-unit development would generate an estimated average of 905 daily trips but a 140-unit development for the elderly will generate 357 trips daily. Approximately 28,000 gallons per day in water and sewer treatment capacity will be needed to supply/service the use.

An Environmental Impact Assessment Report (EIA) was submitted with the application and a previous EIA was submitted with a previously considered site plan for the site. All of the surveyed trees are pines. These range in size from 2" in diameter to 20" in diameter. Since pines are highly sensitive to land disturbing activities it is highly unlikely that they could be saved under this plan. A complete re-landscaping of the property would occur with the new development. Several years ago there was one gopher tortoise burrow observed on site. If tortoises are found on site the applicant shall obtain a permit to remove or take the species. A very small wetland depression is located at the northeast corner of the parcel.

The proposed plan complies with the site plan review requirements of City Code, Appendix B, Article XX, and in particular complies with lot size requirements, lot coverage, building heights, yard requirements, environmental impact assessment, with the exception that insufficient parking is provided for a 140 unit apartment building, and is consistent with the Comprehensive Plan policies pertaining to affordable housing. The use is harmonious with other uses in the area including the condominiums located to the south and apartment complex located to the west across Wickham Road. The Council previously has approved three other plans of a similar use and design on the same property.

The Planning and Zoning Board recommended approval of SP-2002-05, site plan for Sunset Landing Apartments, as prepared by Stottler, Stagg and Associates, Inc., of Cape Canaveral, Florida, consisting of a one-sheet plan with SSA Job Number 02-0007, dated January 31, 2002 and with a revision dated March 8, 2002, with the findings outlined in the agenda package and the following conditions:

- a. Any change to the site plan will require reevaluation of the site plan by the Engineering Department and Planning and Economic Development Department. Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes but is not limited to: 1) a decrease of 5% of the open space or vegetative areas on site; 2) any change to the currently proposed use which limits the project to elderly housing; or 3) an addition of a vehicle access point not shown on the site plan.
- b. All trees shall be preserved unless located in a driveway, paved parking lot, building pad, or retention area. All structures, driveways, parking spaces and aisles, and retention areas shall be shifted whenever possible to preserve trees.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Initially, trees shall only be removed for driveways, drainage facilities, and paved parking spaces and aisles. Trees in a footprint of the structure shall be removed only in conjunction with a building permit. All trees to be removed shall be identified by Code Enforcement personnel and an evaluation shall be made to determine the possibility of saving trees. Trees to be preserved must be protected by barricades during construction.

- c. Prior to development of the property, the owner/applicant shall provide to the city a recent gopher tortoise assessment and, if gopher tortoises or active burrows are found on the site, provide an approved mitigation plan and permits from the Florida Game and Freshwater Fish Commission to relocate any gopher tortoises found on the property.

Should the developer discover that other endangered or threatened species for which a permit has not been granted are found on site after plan 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.

- d. All solid waste receptacles and locations, including dumpsters, shall be approved by the City of Melbourne Solid Waste Management Division.
- e. Provide a correct and legally transferable easement for any city utilities located on the property unless such utilities can be relocated to the satisfaction of the City of Melbourne Utility Department.
- f. The plan is subject to approval of a variance of 111 parking spaces permitting less than the Code required 280 parking spaces for the 140-unit development, based on the development being operated as a Community for Older Persons, in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-19, or of the Florida Fair Housing Act, §§ 760.20 - 760.37, Florida Statutes.

Staff believes that one additional stipulation should be added:

- g. The developer and/or successors or assigns will not seek an ad valorem tax exemption on this property.

Mrs. Poole said stipulation “b” gives the impression that trees will be saved. She said she objects because the trees can’t be saved. Mrs. Braz agreed that it is highly unlikely that trees will be saved; however, if there is a chance to save a few trees, the stipulation should remain.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mrs. Palmer asked the duration the property will be operated as an elderly community. Mrs. Braz said it is binding for 40 years. She added that the language in stipulation “f” ties the variance to the elderly community.

Mr. Palmer said he is having difficulty with the variance for 111 parking spaces. Mrs. Braz pointed out the trips that will be generated by a development for the elderly (see agenda report) and said that is the reason.

Mr. Palmer asked if the number of units for low-income people has changed. Mrs. Braz said the development would include 27 units affordable to senior households with incomes at or below 30% of the median income. The remaining would be restricted to households with incomes at or below 60% of the median.

Mrs. Braz confirmed for Mrs. Poole that the Florida Game and Freshwater Fish Commission will provide the city with a copy of the permit (regarding the gopher tortoises).

David Petroni, Vice President, Brisben Companies, referenced his October 9 appearance before Council. He noted that the state required the scattered sites to be contiguous; therefore, the Booker T. Washington proposal was not approved as part of this plan. He stated that the BTW area will now be eligible for funding through the Florida Housing Finance Agency. Mr. Petroni accepted the staff recommendation and agreed with the stipulations.

Continuing, Mr. Petroni reported that 80% of the housing must be restricted to persons 55 and older. The remaining 20% allows for flexibility; however, the entire design will be for seniors. The 20% flexibility will allow for Brisben to work with ARC.

Regarding the variance request, he stressed that the trip count will be lower. Although seniors have cars, they do not have two cars. He pointed out several examples of senior housing in the Melbourne area. Mr. Petroni said too many parking spaces will take away green space. He added that they can lay more asphalt, but they believe what has been proposed is adequate.

In response to questions, Mr. Petroni discussed the units, the relationship with ARC, the maintenance person/resident manager position, and the 40-year land use restriction.

Moved by Walker/Hand for approval of the site plan subject to conditions “a – g.”

Mrs. Palmer referenced the agenda report and asked if the additional handicapped parking spaces should be considered. Mrs. Braz said it has been suggested by staff; however, we don’t think it should be a stipulation. They will provide the required number.

Mr. Palmer repeated his concern about the variance request for 111 parking spaces. Mr. Petroni said based on other senior developments, the lower trip count supports their request. He reported that they have room to add another 30-40 spaces if they had to; however, they are trying to create more of a green environment.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mr. Palmer asked if stipulation “g” is enforceable. Attorney Gougelman replied if the applicant agrees to it. Mr. Petroni repeated that he agrees with the stipulations.

The question was called. Motion carried. Mr. Palmer and Mrs. Palmer voted nay.

Request for HOME funding:

From the agenda report: At its regular meeting on October 9, 2001, City Council gave preliminary approval to a request from Brisben Companies, Inc. for a \$200,000 local match from the city for the developer’s Housing Credit application to the Florida Housing Finance Corporation (FHFC).

The project as preliminarily approved was to be a senior development at the corner of Wickham Road/Weston Drive with several units set-aside for persons with developmental disabilities. Also included was a smaller development in the Booker T. Washington (BTW) Neighborhood on a city-owned parcel for a 10-unit or less townhouse development. Unfortunately, the definition of scattered site development prohibits the two sites from being considered as a single development. The Brisben Company states that it is not feasible for the company to build the 10 units in the BTW Neighborhood as a stand-alone development. Therefore, the proposed project for which the local match contribution is sought includes the Wickham Road/Weston Drive site.

Brisben Companies, Inc. has revised its request to a \$150,000 local match contribution from the city for Sunset Landing. As proposed, the 140-unit project would include 27 units affordable to senior households with incomes at or below 30% of the median, with 10 of those units further set-aside for households with incomes at or below 25% of the median. The remaining 113 units would be restricted to households with incomes at or below 60% of the median.

The Brisben Companies, Inc. has been successful in forming a partnership with the Association of Retarded Citizens (ARC). A maximum of four units will be set aside for rental to adults, preferably over the age of 62, who self-identify that they have been diagnosed with a developmental disability. ARC will be responsible for providing supportive services to persons with developmental disabilities residing at Sunset Landing.

In the highly competitive Housing Credit application process, \$150,000 in local match contribution is the minimum required for FHFC consideration of an application. The balance of the funding for the \$11,800,000 project would come from a variety of other sources, including housing credits. Staff is proposing that the city’s match contribution be funded from the federal HOME Investment Partnership Program. Program year 2001 contains a rental housing activity that is designed to give priority to projects serving special needs households. Sunset Landing provides housing to two special needs groups, the elderly and persons with developmental disabilities. The city’s contribution would be used towards the construction of 10 HOME-assisted units and would be in the form of a 20-year deferred payment 0% loan.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Moved by Contreras/Hand for approval of a \$150,000 award in federal HOME funds to Brisben Companies, Inc. contingent on the developer's successful application to the FHFC for housing credits and authorization for the City Manager to execute all necessary documents pertaining thereto. Motion carried. Mr. Palmer and Mrs. Palmer voted nay.

Council convened as the Babcock Street Community Redevelopment Agency for the next item.

17. ORDINANCE NO. 2002-28: (First Reading) A proposed ordinance to implement Resolution No. 1734 which amended the boundaries of the Babcock Street Redevelopment District and the Babcock Redevelopment Plan to expand the district to the north and west of the existing boundaries.

The City Attorney read Ordinance No. 2002-28 by title.

From the agenda report: The proposal is to implement Resolution No. 1734, approved on January 3, 2002, which made findings of blight in areas surrounding the Babcock Street Redevelopment Area. As a result of those findings this proposed ordinance will amend the boundaries of the Babcock Redevelopment District and the Babcock Redevelopment Plan to expand the district to the north and west of the existing boundaries.

The Babcock District was established in 1997 and a redevelopment plan was approved in June 1998. The base year for the calculation of tax increment funds will remain the same for the existing district boundaries. The base year for the expansion areas will be 2001, as long as the redevelopment plan amendment is completed prior to June 30, 2002. This will be calculated separately each year but all of the funds will be distributed into the one Babcock redevelopment budget, to be used throughout the district.

The Babcock District Redevelopment Plan was completed in June of 1998 but funding and an advisory committee were not established until September of 1999. The district has made great improvements since that time and nearly 90% of the vacant building square footage has been filled with new businesses. New construction of buildings has also added to the viability of the district. The expansion of the district will allow this success to filter over to these areas in need.

The Planning and Zoning Board and the Babcock Street Redevelopment Committee recommended approval of Ordinance 2002-28.

Mrs. Poole referenced the amendment to the redevelopment plan in the package, which indicates that "Port O' Call has been in existence for a number of years and individual units have begun to deteriorate...The lease for this property will expire...and leave an odd lot and street layout that will not be usable for future business development..." She stated that Port O' Call has not deteriorated and questioned the statement that the property will not be usable for future development in view of the fact that Global Technologies is waiting to develop the property.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Mayor Buckley said he interprets this as indicating that the street layout, as it exists today, is not suitable for future development. Mr. Hill said it is intended to express that the streets are not standard because they are used as access for trailers.

Mrs. Palmer asked how much of the expanded area is airport property. Mr. Hill said that all of "Area B" is airport property, which is ultimately superintended by the city. It is the Port O' Call area and the area in front of the terminal.

Mrs. Palmer asked if the funding would pay for realignment of the road and road improvements. Mr. Hill said it could be used as a match. The idea was to seek funding from FDOT for the project.

Mrs. Palmer asked if this action would allow the tax increment financing to enhance publicly owned property. Mr. Hill said yes and added that funds captured from the expanded (airport) area could be used anywhere in the Babcock Redevelopment Area. The property would be operated by the airport and leased.

Mrs. Poole questioned how the terminal area can be called blighted. Mr. Hill explained that the definition under the State Statutes relates to street layout, inadequate transportation, etc. Attorney Gougelman agreed and said the traditional meaning of blight or slum is defined quite differently in the statutes.

A brief discussion followed regarding the Port O' Call lease. Staff will investigate Mrs. Poole's question prior to second reading regarding the closure of a mobile home park and whether the manager of the property (airport) would have to provide alternative housing.

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

Moved by Buckley/E. Palmer for approval of Ordinance 2002-28. Motion carried. Mrs. Poole voted nay.

Council convened as the Olde Eau Gallie Riverfront Community Redevelopment Agency for the next item.

18. COUNCIL ACTION RE: Consideration of purchase of property in the Eau Gallie Redevelopment District on the northeast corner of Highland Avenue and Eau Gallie Boulevard.

From the agenda report: This .56-acre property has been vacant for some time. The Gleason family owned it for many years prior to its sale to Joseph Flammio in January 2000. Since Mr. Flammio purchased the property he has allowed parking on the property for the payment of the taxes. The first year the taxes were to be paid by Dr. Joe's Intercoastal but that failed to materialize even though the agreement was made. As a result the city took over the lease which was approved March 12. At about the same time the lease was approved the owner decided to put the property on the market. The asking price is \$265,000.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

The Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee unanimously recommended the property be purchased, even though it would take much of the tax increment income for several years. The most viable financing option would be to borrow from the General Fund with a loan that is structured for increasing payments as the CRA tax increment revenue increases. The loan period would not exceed 10 years and would be similar to the loan that was recently approved for the Golf Courses. The property owner has indicated that he would not be willing to hold a mortgage on the property.

The city should first obtain an appraisal with authorization for the City Manager to negotiate a price. Once a price has been determined, the item would return for Council consideration of the purchase and financing.

In response to Mrs. Poole, Mayor Buckley read Jacie Stivers' (member of the advisory committee) voting conflict form from the advisory committee's March 14 meeting. The form indicates that Ms. Stivers is the exclusive listing agent for the property and she would earn a commission from the sale of the land.

Mayor Buckley referenced the following correspondence received in support of the purchase of the property: April 5 from Kay Elliott Burk, President/CEO, Brevard Cultural Alliance; April 5 from Ralph Sanders, advisory board member and owner of Art Supply of Melbourne; and April 8 from Fredrick L. and Nancy B. Dillen, Pineapple Avenue.

Dennis Walker, 1296 Houston Street, vice chairman of the advisory committee, stated that the committee unanimously recommended approval of purchase of the property. He added that the purchase fully supports the vision of the steering committee and master plan. The property would identify the Olde Eau Gallie area and act as a community focal point; provide a gathering place for Eau Gallie; be essential in uniting the north and south sides of Highland Avenue; promote pedestrian traffic and a sense of community; serve as an ideal location for local and cultural events; and the acquisition is supported by local citizens and community organizations.

Mr. Walker concluded by saying that this action would move the redevelopment area in the right direction and would enhance the community for years.

Mrs. Poole stated that she has a problem with the conflict of interest by Jacie Stivers who will derive a commission and who practically monopolized the committee meeting when this item was discussed. Continuing, Mrs. Poole said she is in favor of the purchase and would like to see "park" in the name of the property. If designated as a park, it cannot be sold without a referendum.

Mayor Buckley pointed out that this action is authorization for an appraisal of the property – not its name or purpose.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

In response to Mrs. Poole, Mr. Hill elaborated on the financing option of borrowing funds from the investments of the General Fund. Mrs. Poole stated that this makes sense; however, she is opposed to a 10-year payment plan.

Moved by E. Palmer/Hand for approval to proceed with an appraisal of the property on the corner of Highland Avenue and Eau Gallie Boulevard and authorization for the City Manager to negotiate a price with the seller.

Mrs. Palmer asked who we will use as the appraiser. Mr. Hill said the most recent one we used is W. H. Benson. Attorney Gougelman added that the city would use an MAI appraiser.

Based on the conflict of interest on the advisory committee, Mrs. Palmer asked if the city should obtain two appraisals. She added that we don't want to be put over a barrel. Mayor Buckley said if the City Manager feels the first appraisal is inadequate, he can obtain another one. Mr. Hill said Mrs. Palmer has raised significant concerns; however, the cost is about \$2,500 for a commercial appraisal.

Mr. Dennis Walker pointed out that regardless of who purchases that land, Ms. Stivers would receive the commission. He said he understands the concerns that have been raised; however, the committee wants to secure this property as a cornerstone in the redevelopment area.

The question was called. Motion carried unanimously.

Council convened as the City Council to finish the agenda.

19. COUNCIL ACTION RE: Consideration of a proposed Brevard County ordinance pertaining to septic tanks and wells.

From the agenda report: Brevard County is proposing some changes to its ordinance that permits septic tanks and wells. All local government will have the opportunity to opt-out. The proposed changes would have very little impact on the City of Melbourne because we have few septic tanks and limited well drilling for potable water. County staff made a presentation of the ordinance to Planning and Economic Development, Engineering, Code Compliance, Utilities, and the City Attorney. The consensus was that what impact it would have, such as larger setbacks for septic tanks, will be beneficial and the city should not opt-out. Further if we did opt-out we would need to develop our own standards which did not seem reasonable.

Moved by Poole/Hand to notify the county that the city will take no action to opt-out of the proposed ordinance. Motion carried unanimously.

20. COUNCIL ACTION RE: Discussion of Oak Street Water Tank Design.

At the March 12 Council meeting, Mr. Kelley Alfonso, 1290 Sunwood Drive, requested an American flag be painted on the Oak Street water tower during its renovation. Staff

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

reviewed the possibilities. Council was provided pictures of flag and logo designs for the water tank. If a flag design is chosen, it is estimated the cost increase would be about \$1,500 to \$2,000 due to the additional color and detail work for a flag.

Mayor Buckley reported that Honor America plans to sell tiles in order to add a flag to the side of its building. If successful, they will add a flag to the other side of the building, too. Mrs. Poole cautioned that we could overdo the number of flags on the property. The Mayor added that the design on the city water tanks should be consistent.

Moved by E. Palmer/Poole to use design “C” listed in the agenda package for the Oak Street water tank (script with no flag). Motion carried unanimously.

Regarding Items 21, 22, and 23, the Mayor asked Mr. Hill if the items are listed as previously proposed to Council. Mr. Hill replied yes.

Mrs. Hand left the Council Chamber at 11:51 p.m.

21. COUNCIL ACTION RE: (Public Hearing) A request for approval of a proposed amendment to the 2001-2002 CDBG Action Plan to add a new activity, “Sharing Center Public Facility Improvements,” in the amount of \$50,000 and authorization to submit the amendment to the U.S. Department of Housing and Urban Development and to Brevard County for inclusion in the Brevard County 2001-2002 HOME Consortium’s Consolidated Action Plan.

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

Moved by E. Palmer/Contreras for approval of the proposed amendment to the 2001-2002 CDBG Action Plan to add a new activity, “Sharing Center Public Facility Improvements” in the amount of \$50,000 and authorization for the City Manager to submit the amendment to the U.S. Department of Housing & Urban Development (with a copy to Brevard County for inclusion in the Brevard County 2001-2002 Brevard County HOME Consortium’s Consolidated Action Plan). Motion carried. Mrs. Poole voted nay and Mrs. Hand was absent from the Council Chamber.

22. COUNCIL ACTION RE: (Public Hearing) A request for approval of projects and activities for FY 2002 CDBG funding and the 2002-2003 CDBG Action Plan and authorization to submit the Plan for inclusion in the Brevard County HOME consortium’s Consolidated Action Plan for 2002-2003.

Programs and projects proposed for inclusion in the final 2002-2003 CDBG Action Plan to be submitted to HUD are:

PROPOSED CDBG PROJECTS AND ACTIVITIES FOR PROGRAM YEAR 2002-2003

PUBLIC SERVICES

Child Care Association of Brevard County, Inc.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Subsidized child care	\$18,000
City of Melbourne Housing & Community Development Department Booker T. Washington Youth Initiative	\$30,100
City of Melbourne Leisure Services Summer camp scholarships	\$8,700
Greater Melbourne Police Athletic League, Inc. Youth leadership and peer mentoring program	\$12,000
Holmes Regional Medical Center d.b.a. H.O.P.E. Clinical Services Subsidized prescriptions/H.O.P.E. Clinical Services	\$10,000
PREVENT! of Brevard, Inc. Transitional housing and supportive services/Robin's Nest	\$12,500
The Salvation Army Transitional housing and supportive services	\$ 5,000
Vietnam Veterans of Brevard, Inc. Transitional housing and supportive services	<u>\$12,450</u>
<i>Subtotal Public Services:</i>	<u>\$108,750</u>
 <u>PUBLIC FACILITIES & IMPROVEMENTS</u>	
Booker T. Washington Revitalization Project Set-aside funding for Phase II	\$84,312
Carol Williams Glanton Park Improvements Playground equipment, fencing, picnic tables, trees, and a pavilion	\$30,000
Masterson Park Improvements Refurbishment of Masterson Park	<u>\$20,000</u>
<i>Subtotal Public Facilities & Improvements:</i>	<u>\$ 134,312</u>
 <u>ADMINISTRATION</u>	
Program Administration General program administration	\$142,500
Fair Housing Outreach and Education Fair housing outreach and education program	<u>\$2,500</u>
<i>Subtotal Administration:</i>	<u>\$145,000</u>
 <u>OTHER</u>	
Code Enforcement Proactive code enforcement in north and south target areas	\$65,000
Housing Services HOME-funded Tenant Based Rental Assistance Program	\$15,000
Space Coast Center for Independent Living Handicap accessibility program	\$15,000
Technological Research & Development Authority Business incubator in South Melbourne	<u>\$250,000</u>
<i>Subtotal Other:</i>	<u>\$345,000</u>
GRAND TOTAL:	<u>\$733,062</u>

Mrs. Hand returned to the Council Chamber at 11:53 p.m.

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

Moved by Walker/E. Palmer for approval of the proposed projects and activities for the FY 2002 CDBG funding, and the 2002-2003 CDBG Action Plan, and authorization for the City Manager to submit the Plan for inclusion in the Brevard County HOME Consortium's Consolidated Action Plan for 2002-2003 and execute all necessary documents pertaining thereto. Motion carried unanimously.

23. COUNCIL ACTION RE: (Public Hearing) A request for approval of the proposed activities for FY 2002 HOME funds and authorization to submit them for inclusion in the Brevard County HOME consortium's consolidated Action Plan for 2002-2003.

Staff recommendation for FY 2002 HOME funds:

Owner-occupied Housing Rehabilitation Program	\$ 35,000
Tenant Based Rental Assistance Program	10,000
Rental Acquisition and Rehabilitation	163,337
CHDO Set-Aside (15%)	41,668
Administration (10%)	<u>27,778</u>
TOTAL	\$277,783

All recommendations are made in compliance with the priority needs and objectives cited in the City's 2000-2005 Consolidated Plan.

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

Moved by Walker/Hand for approval of the proposed activities for FY 2002 HOME funds and authorization for the City Manager to submit them for inclusion in the Brevard County HOME Consortium's Consolidated Action Plan for 2002-2003 and to execute all necessary documents pertaining thereto. Motion carried unanimously.

24. COUNCIL ACTION RE: A request for approval of HOME funding in the amount of \$150,000 for the developer's application to the Florida Housing Finance Corporation (FHFC) for Housing Credits for the Oak Trails Senior Apartments (deaf senior housing). (Requested by Regency Development Associates, Inc.)

Mayor Buckley reported that this item was withdrawn by the applicant.

25. COUNCIL ACTION RE: Discussion of City Manager and City Attorney salaries (Requested by Council Member Richard Contreras).

Mrs. Poole referenced the time and said this item cannot be completed by 12:00 a.m.

Moved by Contreras/Poole to postpone this item until the next meeting. Motion carried.
Mayor Buckley voted nay.

26. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 9, 2002

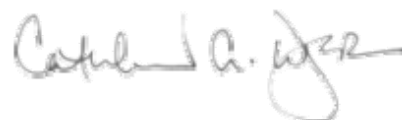
Mrs. Palmer requested an item be placed on the next agenda regarding the grant for the proposed park on airport property behind Fountainhead Subdivision.

Mr. Hill said there may still be a need to conduct a closed meeting to discuss litigation on April 16 or April 23. He will keep Council apprised.

27. ADJOURNMENT

Moved by Hand/Contreras to adjourn. Motion carried unanimously.

The meeting adjourned at 11:59 p.m.



City Clerk – 4/17/2002

Approved by Council: _____

Attachment to original minutes:

Memorandum of Voting Conflict Form for Loretta Isenberg-Hand – Item #8
Memorandum of Voting Conflict Form for Loretta Isenberg-Hand – Item #13