

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 11, 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. Pastor Janna Hogan, Jesus is the Key, 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
	Cathy L. Baker	Assistant City Clerk
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Economic Development Director

Absent: Cathleen A. Wysor City Clerk

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented Council Member Contreras with a two-year service pin.

5. APPROVAL OF MINUTES – May 28, 2002 regular meeting

Mayor Buckley asked for the following revision to page 6, first paragraph:

“Mayor Buckley said that the City of Melbourne is in control of the Airport. He pointed out that three Council Members serve on the Airport Authority and the Chamber of Commerce and the Airport Tenants each appoint one member. These those five members select the ~~other four~~ two at-large members.”

Moved by Hand/Walker for approval as revised. Motion carried unanimously.

6. CITY MANAGER’S REPORT

Mr. Hill distributed the Revenue Sufficiency Analysis (rate study) and a draft of the Preliminary Official Statement for the Water and Sewer Refunding and Improvement Revenue Bonds, Series 2002A for Council’s review. He advised that Robert Lockridge from Burton & Associates, the rate consultant, will present the Revenue Sufficiency Analysis at the June 25 Council meeting prior to first reading of the water and sewer rate

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ordinance. Mr. Lockridge will be available at City Hall during the day on June 25 to meet individually with Council Members.

Mr. Hill distributed a draft of the noise ordinance. Additionally, materials have been received regarding the audit selection process. Both of these items need to be schedule on a regular or special meeting agenda. (See Item #23 for meeting date.)

Mr. Hill reported that there is a Melbourne Military Memorial Park display in the front foyer at City Hall. Information about the park is also available on the city's web site and in the Melbourne Messenger. Council Member Ed Palmer advised that Gannett has pledged \$5,000 to the park.

Mr. Hill noted that he has been appointed to a committee established by the Florida City County Managers Association to work on a project for the State Legislature regarding annexation issues and cooperation between city and county governments. At the end of 2002 the Florida League of Cities and the Florida Association of Counties are scheduled to give recommendations regarding annexation policies that should be followed.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-35 (A&V #254): (Public Hearing/Second Reading) A proposed ordinance to abandon and vacate the sanitary sewer easement that runs through the proposed Causeway Center site. (First Reading 5/28/02)

Attorney Gougelman read Ordinance No. 2002-35 by title. There were no public comments.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2002-35. The roll call vote was:

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

Nay: None

Motion carried unanimously.

9. ORDINANCE NO. 2002-36 (A&V #255): (Public Hearing/Second Reading) A proposed ordinance to abandon and vacate a 7.5-foot public utility easement along the eastern lot line of Lot 150, Rio Villa Phase IV Subdivision. (Requested by Peter and Sharon Weiss) (First Reading 5/28/02)

Attorney Gougelman read Ordinance No. 2002-36 by title. There were no public comments.

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Moved by Walker/C. Palmer for approval of Ordinance No. 2002-36. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NOS. 2002-37, 2002-38, AND 2002-39 (AR-2002-138, CPA-2002-02, AND CPA2002-03/Z-924 AND Z-925: (Public Hearings/Second Readings) Proposed ordinances for the annexation of a 7.42-acre parcel and 1.9 acres of an adjacent right-of-way easement for a total of 9.32-acres; establishing Low Density Residential land use on the 9.32-acre parcel and changing the land use on an adjacent portion of the parcel (1.14 acres) already in the city from Medium Density Residential to Low Density Residential; and establishing R-1B (Single-Family Residential Zoning) on a 9.32-acre parcel, changing the zoning on a 1.14 acre portion of the parcel from R-2-T (Planned Residential Development for Mobile Home Parks) zoning to R-1B (Single-Family Residential), and changing the zoning on an adjacent 8.92 acre parcel from R-1A (Single-Family residential) to R-1B (Single-Family Residential), located west of John Rodes Boulevard, north of Eau Gallie Boulevard and east I-95. (First reading 5/28/02)

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

Mrs. Poole referenced previous discussions about enclaves, annexations and urban sprawl and questioned at what point urban sprawl is created. She stated we continue to branch out requiring us to provide more services. She added that she objects to the change to R-1B zoning.

Mr. Hill commented that these properties will most likely develop without the city being involved. Council must decide if it is in the best interest of the city to ensure that properties develop with the correct level of service. In the past Council has found it better for properties to develop on the central sewer system.

Mrs. Poole agreed, noting that she has fought installation of septic tanks since she has been on Council. Mr. Hill added that we continue to examine the land uses in the urbanizing area through the Comp Plan process and the joint planning agreement with the county. He pointed out that if Council does not annex this property it does not mean that it won't be developed.

Mrs. Poole expressed her concern with R-1B zoning and 50' lots. She said areas are degraded when developers are allowed to build as many houses as they can.

Discussion followed. Mayor Buckley commented that people want less property to take care of and they are purchasing homes in R-1B subdivisions. He stated there are several

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very nice R-1B subdivisions, noting that at Mrs. Poole's request some of the lots have more than four trees on the property.

Mrs. Palmer disclosed that she had looked at property.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2002-37. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Hand/C. Palmer for approval of Ordinance No. 2002-38. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Walker/E. Palmer for approval of Ordinance No. 2002-39. The roll call vote was:

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

Nay: None

Motion carried unanimously.

11. ORDINANCE NO. 2002-40: (Public Hearing/Second Reading) A proposed ordinance to amend City Code, Chapter 23, Retirement and Pensions, as it relates to the General Employees' and Special Risk Class Employees' Pension Plan. (First Reading 5/25/02)

Mr. Gougelman read Ordinance No. 2002-40 by title. There were no public comments.

Moved by Contreras/Walker for approval of Ordinance No. 2002-40.

Responding to Mr. Palmer, Mr. Hill stated that this brings the General Employees' and Special Risk Class Employees' in line with the Florida Retirement System high risk employees.

The question was called. The roll call vote was:

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

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Nay: None

Motion carried unanimously.

NEW BUSINESS

12. COUNCIL ACTION RE: Change Order No. 1 to Community Asphalt Corporation contract for Street Resurfacing FY2001/2-02, Project No. 02600, \$179,100.

From the agenda report: This is a proposed change order to the resurfacing contract for additional street paving, speed humps, and parking lot paving.

The resurfacing contract was awarded to Community Asphalt, Inc., Vero Beach, on January 22, 2002. The contract work is nearly completed. Staff has identified three additional streets for resurfacing: Highland Avenue from Young Street to Montreal Avenue; Burns Avenue from Paul Street to Truman Street; and Hibiscus Boulevard from Evans Road to Dairy Road.

The estimated cost for resurfacing these streets at contract unit prices is \$137,000. Most of the cost, \$124,000, is to resurface Hibiscus Boulevard. Funding is available from the capital project's contingency and budget balance. However, we propose to fund a portion of the cost to resurface Hibiscus from Transportation Impact Fees because the roadway was altered during several development projects and there was already a need for permanently striping the realigned lanes. Staff estimates that 15% (\$18,600) of the Hibiscus cost should be paid with Transportation Impact Fees.

This proposed change order includes speed humps at unit prices for asphalt tonnage used to construct the humps. This is a negotiated price but it is the same price that Brevard County has in its annual contract. We estimate the cost per hump to be \$750. Forty humps in several neighborhoods will total \$30,000. The striping work and warning sign placement will be by others.

This proposal also includes resurfacing parking lots at three locations as provided for in the approved FY 2001-02 Budget. The sites are the Fire Training Center, Fire Station 71, and CDBG offices. This is also a negotiated price and again the contractor has agreed to honor the same unit prices that Brevard County has in its annual contract. The estimated cost for parking lots is \$12,100.

The total amount of the proposed change order is \$179,100. The change order includes an additional 45 calendar days to complete the resurfacing.

Mrs. Hand asked who is responsible for removal and repair of the streets if a subdivision decides speed humps are no longer wanted. Mr. Hill responded that the subdivision has to agree to have them installed. There is a fairly elaborate procedure to ensure that the residents of the subdivision want the humps and there is a time commitment for maintaining them. A policy would need to be established for removal and who should bear that expense.

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Mrs. Poole stated it should be a stipulation that the speed humps must be in place for a certain length of time. If the residents decide they don't want them they should have to bear the removal expense.

Mr. Hill said he will investigate and return to Council.

Mr. Hill confirmed for Mrs. Poole that CDBG funds can be used for paving of the CDBG parking lot.

Moved by C. Palmer/E. Palmer for approval of Change Order No. 1 to Community Asphalt Corporation's contract in an amount not to exceed \$179,100. Motion carried unanimously.

13. COUNCIL ACTION RE: Consent Agenda

Mrs. Palmer asked that item "j" be removed from the consent agenda. Council agreed.

Moved by Hand/Contreras for approval of 13 "a" through "i". Motion carried unanimously.

Mrs. Palmer stated that because so much tax payer money is going into conservation efforts she does not support the county's grant application.

Moved by E. Palmer/Poole for approval of 13 "j".

Mr. Palmer stated that all of these activities are very necessary.

Mayor Buckley commented that until the county, state and federal government corrects what was done at Port Canaveral, which is causing all of the sand to wash away from the beaches, he will not support this. We are pouring money down the drain by putting sand that will wash away year, after year.

Mrs. Poole said she does not support beach renourishment, storms take the sand in and out. However, she does support beach lighting restrictions, especially during turtle season.

Mr. Palmer added that these beaches are a tremendous asset to Brevard County. We have 72 miles of beaches that bring tourists into our area.

Mrs. Palmer stated that whether or not a grant comes through and these two employees are hired will not decide whether we renourish the beaches.

The question was called. Motion carried. (Walker, C. Palmer and Buckley voted nay.)

- a. Contract for Goff Place Waterline Replacement, Project No. 0313, Wm. Turnbaugh Construction, Inc., West Melbourne, FL - \$33,939.

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- b. Establishment of Capital Improvement Project, No. 902313, Lift Station No. 24 Relocation - \$49,980.
 - c. Supplement No. 107 to Continuing Consultant's Contract for Lift Station No. 24 Design, Project No. 02313, Frazier Engineering, Inc., Melbourne, FL - \$28,980.
 - d. Additional Work (Manhole Lining) on Croton Road Widening, Project No. 98310, PIM Corporation, South Piscataway, NJ - \$10,325.22.
 - e. Annual Contract to provide maintenance, demand services, and contract service for various city-owned communications equipment, Florida Radio, Rockledge, FL – estimated annual cost - \$26,000.
 - f. Concessionaire Agreement for the Auditorium food concession, Murdocks Bistro, Cocoa Village, FL. Concessionaire to pay the city 19% of gross receipts for food sales, plus 15% of net profits on all non-concession related catering in the Auditorium.
 - g. Purchase of an 8.5 cubic yard London Transit Mixer, Series, 80, London Machinery, Inc., Estero, FL - \$23,990.
 - h. Purchase of custom replacement aluminum bleachers for the Leisure Services Department for the Crane Park football field, Outdoor Aluminum, Inc, c/o Dominica Recreation Products, Longwood, FL - \$71,477.
 - i. Purchase of a 2002 Ford F-750 SD truck chassis body with 14-foot dump body, Duval Ford, Jacksonville, FL - \$52,220.
 - j. Request by Brevard County for a letter of support for their grant application to the National Oceanic and Atmospheric Administration for funding for two seasonal evening employees to perform beach surveys and record non-compliant lights county-wide.
14. COUNCIL ACTION RE: A request by Mr. Theodore Willing, Ramshur Towers, for Council consideration of Melbourne Housing Authority matters.

From the agenda report: Mr. Theodore Willing, a resident of Ramshur Towers, has requested Council consideration of matters concerning the Melbourne Housing Authority.

In June 2000, Mr. Willing requested Council remove the Housing Authority Commissioners. At that time the following was included in the Agenda Report:

The Housing Authority Commissioners are appointed by the Mayor with Council's concurrence. The Housing Authority appoints the Executive Director. There is no City Code prescribed method for possible removal of a Housing Authority Member. However, Florida Statutes, Section 421.07 does provide the method which must be followed. It reads:

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“For inefficiency or neglect of duty or misconduct in office, a Commissioner of an authority may be removed by the Mayor with concurrence of the governing body, but a Commissioner shall be removed only after he or she shall have been given a copy of the charges at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by Counsel. In the event of the removal of any Commissioner, a record of the proceedings together with the charges and findings thereon, shall be filed in the office of the Clerk.”

The Melbourne Housing Authority has an agreement which expires in 2009 to participate in the county-wide “family.” Consideration of withdrawal from the Brevard Family of Housing Authorities could have significant financial consequences to the Melbourne Housing Authority. The Melbourne portion of the housing is 261 units (Ramshur Towers is 101 units). The total number of units served by the combined county program is 1,325 units.

Mr. Theodore Willing, 1279 Houston, Apt. 304, stated that two years ago, after he appeared before Council, an agreement was made between the Housing Authority and the tenants association to repair/replace kitchen cabinet doors, exterior apartment doors, and apartment windows. At that time he asked Council to support a grant to provide funding for these projects. The first phase of the agreement was for replacement of the kitchen cabinet doors and the exterior apartment doors. The second phase would be additional grants for replacement of the apartment windows.

Mr. Willing advised that the first phase was completed. At their September 2001 meeting, he reminded the Housing Authority and the Director that it was time to begin the second phase; however, no action has been taken. He asked that Council require the Housing Authority to apply for the grant and fulfill the agreement as originally awarded.

Mr. Willing also discussed the 10% salary increase awarded to the Executive Director by the Housing Authority based on the extra effort of the Director. He stated the Board is not impartial. He asked that an outside examiner be hired to evaluate the Director. If an extra effort cannot be proved, the Director should return to his previous salary.

Additionally, Mr. Willing believes that the Housing Authority is spending general budget funds to mitigate its failure to comply with ADA requirements. He stated this money should not be used to protect the Board from inefficiency.

Mr. Willing commented that matters have gone from bad to worse and have gone on long enough. He asked that Council direct the Housing Authority to tender its resignation and recruit new members and hire a new Director to inaugurate a new beginning.

Mayor Buckley summarized Mr. Willing’s concerns. The Director should have applied for a second grant for windows, an outside examiner should review the Director’s performance, the Board is spending tenant money on legal fees, and he recommends that the board resign by December 31, 2002.

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Responding to Mr. Palmer, Mr. Willing confirmed that the installation of the exterior doors and the kitchen cabinet projects have been completed. Mr. Willing commented on the problems with the exterior doors.

Mr. Willing also noted that the tenants have not met the Director of Tenant Affairs who has been employed for a year and a half. He was introduced at a meeting; however, he made no comments.

Mr. Palmer asked if the windows are being fixed. Mr. Willing stated at least half of the 500 windows leak, depending on the direction of the wind and rain.

Discussion followed regarding the original grant the city made to the Housing Authority. Mr. Palmer asked if that funding was to provide replacement of the windows. Mr. Willing responded the agreement included all three items; however, it was understood that only the doors and cabinets would be replaced with the first phase money.

Mrs. Palmer asked if there was a reason the Housing Authority did not submit a grant request in September 2001. Mr. Willing commented that the Executive Director made an ambiguous remark about roofs being needed first; however, he must have been referring to another location because nothing else has been done at Ramshur Towers and the item was allowed to lapse.

At this time Frank Chavers, Executive Director, Melbourne Housing Authority came forward.

Mrs. Palmer asked Mr. Chavers to respond to Mr. Willing's presentation and the statement that he was to apply for a second grant in September 2001 that would be used for window replacement.

Mr. Chavers stated he did not recall that they were to apply for a grant to replace the windows. He commented that material alone to replace the windows would cost approximately \$150,000. Scaling the high rise and the installation would cost twice that amount. The city's CDBG does not have that type of funding.

He discussed the facilities maintained by the Housing Authority. HUD provides \$300,000 a year in capital funds for maintenance and upkeep of these properties. In the last five years almost \$500,000 has been spent on Ramshur Towers.

Mrs. Palmer asked about the use of funding for legal fees to defend the Housing Authority's violation of a federal law in 1990. Mr. Chavers stated that Mr. Willing is alluding to the fact that Ramshur Towers does not meet the ADA requirements adopted in 1990; however, the code exempts the building. There have been amendments, changes, and reinterpretations and they are now in the process of meeting the new code to the best of their ability.

Mr. Chavers discussed the purchase of the exterior doors and the problems associated with finding doors that have windows in them that meet all code requirements.

Mrs. Palmer again referenced Mr. Willings' claim that capital repair funds were being used

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to pay legal defense fees. Mr. Chavers replied that legal fees would come from the operation funds or from HUD funding.

Mr. Palmer reported he has visited Ramshur Towers several times. He agreed that the exterior doors should have windows and must meet certain specifications.

Discussion continued about the doors. Mr. Palmer questioned how the original doors met code. Mr. Chavers responded it was a 1969 code.

Mr. Palmer stated that the other unresolved issue is the windows. He asked if there was a plan for replacement. Discussion followed regarding the repair process. Mr. Palmer asked that Mr. Chavers investigate the type of replacement windows to be used and to obtain a cost estimate.

Responding to Mrs. Poole, Mr. Chavers stated that he has been with the Housing Authority since February 16, 1971 and was named the Director in August 1972.

Mrs. Poole stated there are 1,325 units county-wide, 261 in Melbourne, and asked how the funds are divided.

Mrs. Chavers replied that each agency is funded independently. The agencies share the cost for staff, management, maintenance and material consumed. He discussed the considerable savings realized by pooling the resources of the agencies.

Mrs. Palmer asked if the Housing Authority is looking for grant funding for window replacement or if they have decided it is too expensive and can't be done.

Mr. Chavers responded they are always looking for grant funding to supplement HUD funding. They have routine communications with the city's CDBG activities. He added that (Housing and Community Development) has indicated \$300,000 is not available to replace the windows.

Mrs. Palmer stated if the windows are still leaking the integrity of the building is in jeopardy.

Mr. Palmer and Mr. Chavers agreed to meet to resolve these issues and determine when a cost estimate for replacement of the windows would be available. Mr. Palmer stated once the costs are obtained funding sources can be investigated and identified.

15. ORDINANCE NO. 2002-41 (A&V #256): (Public Hearing/First Reading) A proposed ordinance to abandon and vacate the northern five feet of an existing public utility and drainage easement adjacent to the north property line, less and except the eastern and western five feet thereof, on Lot 25, Eastwood Park Subdivision. (Requested by Charles and Jill Gioffre)

Attorney Gougelman read Ordinance No. 2002-41 by title. There was no public comments.

From the agenda report: The owners of Lot 25 in Eastwood Park Subdivision, Charles and

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Jill Gioffre, wish to construct a swimming pool. They need more space to accommodate the pool so they are requesting that the city abandon and vacate the northern five feet of a ten-foot wide public utility and drainage easement along the south property line of the lot.

All utility companies and city departments were notified, and there were no objections to the request. There are no future plans to utilize the easement.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 2002-41. Motion carried unanimously.

RECESSED: 8:43 p.m.

RECONVENED: 8:53 p.m.

16. ORDINANCE NO. 2002-42 (CU-2002-13/SP-2002-09/THE REGISTRY OF MELBOURNE APARTMENTS): (Public Hearing/First Reading) A proposed ordinance to develop a 142-unit apartment complex on a 10-acre parcel in the C-1 (Neighborhood Commercial) zoning district, located on the west side of Babcock Street south of Eber Road. (Owner- Jerry Pezzeminti) (Applicant – Central Development and Construction, Inc.) (Representative – Deion Lowery) (P&Z 5/16/02)

NOTE: Earlier in the meeting, Mayor Buckley corrected the agenda to reflect a 10-acre parcel.

Attorney Gougelman read the ordinance by title.

Mr. Contreras reported that on June 7 he received a phone call from Phil Nohrr, which he returned on June 10. Mr. Nohrr mentioned four points; traffic ingress/egress, decrease in number of units, the pool, and height of two stories on southern end.

Mrs. Poole stated she talked with Connie Vadnal who was concerned about this item returning to Council. She advised Ms. Vadnal to attend the Planning and Zoning Board and City Council meetings.

Mrs. Walker advised that she had a call from Mr. Nohrr; however, she did not get involved in a discussion. Mr. Nohrr pointed out the changes made. She also received a call from Mr. Pezzeminti; however, there was no detailed conversation. She received a call from a person who had some questions; however, she directed them to the Planning and Economic Development Department.

Mrs. Palmer, Mrs. Hand, and Mayor Buckley reported speaking with Mr. Nohrr.

Mrs. Braz briefed Council. Council denied the recently submitted plan for a 150-unit complex on the property on January 3, 2002 based on the project being too dense, concerns about crime, the number and distribution of vehicle trips, the impact on privacy of neighboring properties, and the lack of sufficient recreational facilities for residents. There was opposition to multiple-family residential units on this property by residents of the adjacent single-family subdivision (Cinnamon Cove). Council approved a waiver of the six-month waiting period for reevaluation of the conditional use on March 12, 2002.

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There are several changes from the previously submitted site plan that address the concerns voiced regarding the previous application.

- *A second access has been provided.* It will be on Eber Road. This will provide ingress/egress to Eber Road and provide access to a signalized intersection. The project will have access both to Eber Road and Babcock Street.
- *The buildings along the south property line have been reduced to 2 stories.*
- *The number of units has been reduced from 150 to 142.* The Comprehensive Plan and the zoning permit 15 units per acre or 150 units.
- *The clubhouse area has been increased by 600 s.f.* It is now 3,600 s.f.

The 10-acre property is covered with long leaf pines, palmetto scrub, a few oak, wax myrtle, Brazilian pepper and malaleuca trees. The property to the south consists of the Cinnamon Cove Subdivision zoned R-2 (Cap 6) (One-, Two- and Multiple-Family Residential with a cap of six units per acre). The property to the west is a vacant parcel zoned R-A (Residential Holding) and the properties to the north include three large parcels, each with a single-family home, zoned R-2 (Cap 6).

The proposed plan consists of a 142-unit apartment complex with 10 buildings. This represents a reduction of eight units from the previously approved plan. The structures will include six three-story buildings, one two-story building, and three small garage/studio apartment buildings. The structures will include six studio (efficiency) apartments, 28 one-bedroom units, 72 two-bedroom units and 36 three-bedroom units. A total of 292 parking spaces will be provided for the 142 units, eight more than required by code.

City Code requires a conditional use for residential developments to be constructed in the C-1 zoning district when located on property exceeding one acre in area and/or when located adjacent to a four-lane collector or arterial street as designated in the Comprehensive Plan. This site meets both of these conditions. Residential development in the C-1 zoning district must comply with the yard requirements specified in the R-2 zoning district. The buildings will be setback a minimum of 89 feet from the Babcock Street right-of-way, a minimum of 35 feet from the properties to the south, a minimum of 77 feet from the properties to the north, and a minimum of 37.11 feet from the property to the west. This complies with City Code.

The applicants were not required to provide a traffic study because the project will not generate three percent or more of the maximum volume for the adopted level of service. The development will generate approximately 948 daily trips to and from the project. These trips will be split between the two access points. The new driveway to the west should include an easement for public utilities. The east driveway will align with the Crown Boulevard intersection at Babcock Street and a southbound right turn lane and a northbound left turn lane will be provided. The driveway entrance will have a landscaped

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median. The Eber Road driveway will align with the west driveway of the vacant Wal-Mart site.

The maximum building height will be 40 feet for the three-story buildings. A buffer of a minimum of 35 feet wide will be provided between the Cinnamon Cove Subdivision and the closest studio type apartment building. In other areas the buffer will be substantially wider. In addition to this setback, the buffer area will be planted with trees and shrubs and a visual screen wall will be provided along the property boundaries where adjacent to the single-family uses. The three-story buildings are now located no closer than 110 feet from the nearest residential lot boundary within Cinnamon Cove Subdivision. The other three story buildings are located 159 to 252 feet from the nearest lot boundary in Cinnamon Cove. A two-story building will be located no closer than 40 feet from the residential lot lines in Cinnamon Cove. The minimum setback required by Code for two story buildings is 35 feet.

An internal sidewalk system will connect the parking areas and clubhouse/recreation amenities and provide a connection to the public sidewalk along Babcock Street. The parking lot will be gated similar to the Hickory Point complex on University Boulevard. The public will have access to the clubhouse area but the parking area serving the residential units will be gated. The proposed development is located along an existing Space Coast Area Transit route.

The complex will provide on-site recreation features including a 3,600 square foot clubhouse, swimming pool, basketball court and volleyball court. The clubhouse will be 600 square feet larger than the previously considered plan.

The Environmental Impact Assessment report indicates that the site does not contain any endangered or threatened species. The tree survey indicates the site is mostly covered with pines and a few oaks. A wetland exists in the southwest portion of the site. This wetland will be modified and improved by removing invasive exotic trees that have grown on the site since the agricultural use was discontinued. Two retention basins will provide stormwater treatment with discharge into the public drainage system within Babcock Street. Permits from the St. Johns River Water Management District will be required to modify this wetland and incorporate it into the proposed retention system. Comprehensive Plan policies encourage this type of design.

The site will be developed with a less intensive use than what could be constructed on the site under the existing Code, namely a shopping center. This apartment complex use would generate significantly less trips per acre than if built as a shopping center. Under the Comprehensive Plan, Future Land Use Element, the site is designated for mixed use/medium density residential land use, which permits up to 15 units per acre. The development would be similar in scale as other apartment developments located along Babcock Street.

There was considerable opposition at the P&Z Board hearing. The complaints were generally the same as those at the previous public hearing for the earlier plan. It was explained that the Code allows 150 units and that 142 are proposed; Code also allows a

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height of 40 feet which will not be exceeded and that all buildings adjacent to Cinnamon Cove have been reduced to two stories to address the neighbors concerns; the traffic will have access to both Eber Road and Babcock Street and that the traffic generated by the proposed development will not negatively affect the level of service on either roadway.

The Planning and Zoning Board recommended approval of CU-2002-13 with the findings contained in the agenda package and the following conditions:

- a. The conditional use and the proposed plan of development shall be consistent with the one-page site plan (SP-2002-09) for Registry at Melbourne, prepared by Kimley-Horn and Associates, Inc., of Orlando, Florida, with Job Number SUN-CENTRAL, dated April 18, 2002.
- b. Any change to the site plan will require reevaluation of the site plan by the city 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 increase in the number of access points shown on the site plan; or 3) a 10% or more increase in building size, height, or any increase in the number of units.

- c. All hardwood 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.

Initially, trees shall only be removed for driveways, drainage facilities, and paved parking spaces and aisles. Trees in the footprint of the structure shall be removed only in conjunction with a building permit. All trees to be removed shall be identified by Code Compliance personnel and an evaluation shall be made to determine the possibility of saving hardwood trees. Trees to be preserved must be protected by barricades to the drip line during construction. All invasive non-native vegetation shall be removed from the site.

- d. The access easement for the driveway connection to Eber Road shall also include an easement for public utilities.
- e. Improve interior sidewalk network within the complex to connect the buildings.

Mrs. Poole asked how many hardwood trees would be preserved. Mrs. Braz commented that there are not a lot of hardwoods on the site, the tree survey indicates mostly pines with a few oaks. It depends on their location; if they don't fall within a building pad or parking area they can be saved. She noted that when there are only a few trees it is easier to save them, because they can be worked around.

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Mrs. Poole referenced barriers to protect trees during construction and stated she would like the barriers placed prior to the start of any development. Mrs. Braz agreed that the wording can be changed.

Mrs. Poole commented that this development is adjacent to single-family homes and asked if the Planning and Economic Development Department ever suggested to developers that it might be more compatible to go along with the types of homes that are there. Mrs. Braz stated that staff doesn't usually make that suggestion. Staff verifies that it is consistent with the future land use plan.

Phil Nohrr, applicant's representative, 1800 W. Hibiscus Boulevard, stated his client has spent a considerable amount of time and money trying to get this project developed. The project will be good for the community and is not incompatible with the neighborhood.

Mr. Nohrr pointed out four major changes that have been made: reduced height of southern most buildings to two stories; reduced density; increased clubhouse size to 3,600 square feet; and most importantly, they obtained an easement from the church to provide access at the north portion of the project onto Eber Road to travel to Babcock Street where there is signalization.

The developer has agreed to have a separate entrance, gated community, substantial buffering on the south, increased setback on the southern most building to 40', and a six foot masonry wall from the east corner of the southern most parking unit to the west end of lot 34. This has all been done to ensure the privacy and integrity of the Cinnamon Cove residents. They are adding additional landscaping for that same purpose.

Mr. Nohrr stated that the drainage of this project will not adversely impact the Cinnamon Cove drainage. The engineers have informed them it will improve their drainage. The project as proposed is substantially less intensive than what is allowed under C-1 zoning. He stated that the trip generation alone if designed as C-1 is four times what is being proposed. At the time Cinnamon Cove developed, and at the time that many of these residents moved into their homes, the zoning on the property in question was either commercial or multi-family.

Mr. Nohrr advised that his client's compromises are substantial, made in good faith and were made to be more compatible with the neighbors to the south. The secondary access will be a financial asset to the church, allowing them better access/use of their property. He suggested that this is a win/win situation. The project provides less intense development that is more compatible with the neighborhood and will help the church to the north. He stated it brings a quality development into the city limits.

Regarding trees, Mr. Nohrr commented that the project will comply with all city development codes. When the site plan is developed and the construction drawings are completed with the tree locations, the tree issue will be addressed. He pointed out that the wetlands are in a degraded condition and will be improved. The environmental impact will not be adverse.

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In response to Mrs. Palmer, Mr. Nohrr reported that one-bedroom apartments will rent for up to \$700, two-bedrooms in the \$800 range, and three-bedrooms around \$900 per month.

Mrs. Poole noted that a subdivision would be more compatible with the surrounding Crown Heights, South Lakes, Eagle Lakes 1, 2, and 3, and Cinnamon Cove Subdivisions.

Mr. Nohrr replied that the developer must make assumptions and decisions that will provide him the best use. There may be a need for single-family; however, the basic decision has been made that the economy of our community would support an apartment complex.

Mary Jerrell read a written statement from Carmine Laurice, 143 Cinnamon Cove, discussing density. The project will have 550 residents living on a 10-acre parcel and will create serious consequences. Apartment dwellers are transient individuals. The upscale apartment complex will become just another dormitory facility for FIT students. She commended the developer's efforts for access on Eber Road; however, a hazardous condition exists for local residents. She also commended the developer for reducing one, three-story structure; however, the remaining three-story buildings are very visible and obtrusive. The development is not harmonious with the area. She concluded by stating that the developer might consider giving back to the community by reducing all units to two-story and reducing the number of units.

Tom Victory, 238 Cinnamon Lake Circle, expressed concern with the effect of the three-story apartments on his property value. It will be an intrusion on his privacy and change the architecture in the area to more urban than residential. He asked why a two-story site plan could not be used. Noting that he has a two-year degree in construction technology and a four-year degree in architecture, Mr. Victory stated it is a question of money; it is cheaper to go up than out.

Mary Jerrell, 323 Cinnamon Lake Circle, stated that her property abuts the proposed Registry Apartments. She discussed the height of the building, density, and the environmental impact. The reduction of the density and one building to two-stories is a negligible decrease. Ms. Jerrell asked Council to carefully consider the impact this project will have on Cinnamon Cove and the surrounding areas.

Gillian Forte, 137 Cinnamon Lake Circle, 16 year resident, stated she has no objection to the apartments being constructed. Her objection is to the height of the buildings. She asked if the retention pond will be fenced, noting it is rather large.

Ron Newkirk, 232 Cinnamon Cove Circle, referenced the minutes of the Planning and Zoning Board meeting, saying his statement was summarized and misquoted. He asked that Council disregard the summation of his statement. He stated his concern has always been about density. This is a grandiose project on a measly 10 acres of land. He asked Council to give the same result as the felled Florida Tech project, both projects with three-story buildings abutting single-family homes. He stated he spent a month traveling Melbourne and the surrounding areas and he has yet to find any three-story

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building abutting a single-family development. He questioned setting a precedent in their back yards.

Sanda Victory, 238 Cinnamon Lake Circle, stated the changes are minimal and are quite a joke; the number of units is reduced by eight and the density decreased from 15 to 14.2 units per acre. The development will be a disadvantage for Cinnamon Cove residents. She asked about the intentions for landscaping and sidewalks. Regarding the height of the buildings, the new plan provides less privacy than the previous plan because all of the apartment windows face Cinnamon Cove. Ms. Victory discussed the various apartment complexes in the city and noted there are none similar to this development. She concluded by stating this is not a friendly and harmonious development.

Mary Palladino, 337 Cinnamon Lake Circle, stated she is a widow that lives alone where the stone wall is proposed to end. She requested that the dumpster next to her property be removed. She expressed concern for the three-story buildings, they are only 35 feet from her property. This is a privacy issue, all of the apartments face Cinnamon Cove. She also expressed concern for property values.

Karen Strauss, 281 Cinnamon Lake Circle, expressed reservations. She is normally pleased to see residential instead of commercial; however, as with the previous request that Council denied, there are a number of concerns. The main concern is density; the privacy issue is of great importance. She commended the reduction in height of the building closest to Cinnamon Cove; however, there are still six three-story buildings with balconies facing their subdivision. She referenced the lack of leisure areas, noting there is no playground area on the plan. There are no sidewalk improvements on the site plan, only one sidewalk leading to the clubhouse. She questioned how this accommodates young families with strollers. The project is promoted as a gated community; however, there are no fences around the perimeter, so security is an issue.

Ms. Strauss stated this project will have a negative impact on the environment in the area. She submitted photographs of cranes, storks, egrets, etc. that she has seen on a number of occasions. She asked if steps are being taken to alleviate pollution from vehicles. She stated there are no drainage problems on her property at this time, and asked what happens if they arise after the development. She said Council is not here to decide the lesser of two evils, but to determine if this plan meets all City Codes. She urged Council to weigh all factors in considering this request.

William Austin, 305 Cinnamon Lake Circle, stated he is not opposed to the complex itself. However, his concern is that Cinnamon Cove is a very quiet, nice, pleasant neighborhood, with nice scenery, not a lot of traffic, and not a large crime rate. He stated a lot of apartments pack the people in at this density rate, and percentage-wise it increases the crime rate. He also expressed concern with the possibility of flooding, loss of privacy, and the increased traffic. He is also opposed to the parking lot being placed within 10-20' of the Cinnamon Cove homes. He stated that the residents are opposed to having a six foot high masonry wall obstructing their view. There should be some type of natural buffer, either shrubbery or tree line, not a cement wall.

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Keitha Bain, 292 Cinnamon Lake Circle, commented that most of her concerns have been discussed. The residents are not against development, but they are concerned about the density and the environment. She said she spoke with a St. Johns representative and was informed that no permit has been applied for. Ms. Bain wants to see detailed plans for the wetlands. The complex will create a lot of residuals - oils, greases, etc, and she questioned how this will affect the wetlands. She stated that the best option that the residents are willing to accept is to scale down everything and address the environmental issues. She concluded by commenting that pine trees serve the same purpose as hardwood trees.

Hugh Bain, 292 Cinnamon Lake Circle, stated he does not want to repeat all of the points already made; however, he whole-heartedly agrees with them. He is not against development. The safety concerns for pedestrians, cyclists, and motorists have not been satisfactorily addressed. Mr. Bain asked Council to make an intelligent decision.

Connie Vadnal, 149 Cinnamon Lake Circle, asked Council to keep their focus on legitimate concerns. She acknowledged the proposed changes; however, she still has density concerns. She disagreed that the conditional use is not injurious to the neighborhood and does not increase the likelihood of increased traffic. The development is not compatible or in harmony with Cinnamon Cove. She stated this is too many people in too little space.

Tony Hauck, 1098 Walden Boulevard, representing New Covenant Fellowship Church, spoke in support of the project. He appreciates the concerns of the neighbors. This commercially zoned property fronts a major north/south artery in Melbourne and will be developed soon. He prefers residential as opposed to a shopping center. Regarding the wetlands, Mr. Hauck stated that he has been there for 16 years. The church property (10 acres) to the west extends to Cinnamon Cove, and has been used for campfires and games for the church youth. The area has never been designated wetlands, there are none there. It is low land that contains mostly palmetto scrubs that puddles during rain. He stated he regularly sends the church maintenance man to cut weeds and it is never too wet to cut with a lawn mower.

Jacie Stivers, 1120 E. Palmetto Avenue, representing the sellers, stated she is in real estate/real estate development. Basic economics teaches that if you want upscale development you must have density to support the amenities. If you have higher rents you must have amenities. She stated the Cinnamon Cove residents don't want amenities, however, she does not believe they want a lower scale multi-family development. She stated it is important to note that the project meets City Code. The developer met with residents and made changes to the site plan and project based on their concerns. In previous meetings some residents indicated they would rather have a shopping center; however, in her professional opinion, a shopping center is not as harmonious as an apartment complex abutting residential.

Ms. Stivers pointed out that one advantage to promoting development in height, there is less impervious area and more opportunity to save trees. She stated that the developer put a lot of thought into putting together an upscale project.

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Mrs. Poole pointed out that Ms. Stivers handles commercial development and asked if this development has the amenities of an upscale project. Ms. Stivers responded she can't speak for the developers; however, she would be happy to ask them that question.

Mr. Nohrr responded to the various comments. The nearest three-story building is 159' from any Cinnamon Cove property line; the Fountains is a three-story development at the rear of Cinnamon Cove probably within 159', so the notion that this project introduces three-story buildings in the neighborhood is incorrect; if the property is developed single-family there could be two-story houses on the south end and it won't have the minimum 40' set-back; the buffering and setback offered by the developer provides the residents more privacy; the applicant will stipulate to fence the pond and the rear exit; there will be a playground on the property; they will stipulate to remove the dumpster (referred to by Ms. Palladino); they will also stipulate that there will be no parking provided within 20' of residences; the wall was an attempt to alleviate concerns of the residents, it would be more advantageous to the developer not to construct the wall; Rivercrest, Hampton Greens, Savannah, and Hickory Point are existing three-story developments located adjacent to single-family developments; this project meets City Code and is more community friendly. If part of the concern is to have less impervious area, the City Code provides a means to do that. One way is to go up. Mr. Nohrr added if this site were developed commercial it is hard to imagine that there would be less than 292 parking spaces.

Continuing, Mr. Nohrr stated that when they are ready for details they must have the St. Johns River Water Management District approval. If the plan does not meet SJRWMD regulations they won't get the permits. He concluded by asking for favorable consideration.

Mrs. Poole countered that two-story homes are different than apartments. She stated the clubhouse has been expanded and is open to the public; but, there are only six parking spaces. She asked if the clubhouse would be used as an office to lease the apartments.

Mr. Nohrr confirmed that the rental office is located in the clubhouse. He advised that the clubhouse is not open to the public. He also noted that city staff requested an additional stipulation regarding sidewalk improvements, which they have agreed to.

Mrs. Palmer referenced the concern that the site plan shows the maximum building height at 75'. Mr. Nohrr responded that the maximum building height allowed by Code is 40' and they will comply with that.

Attorney Gougelman asked that the Comprehensive Plan, the Zoning and Land Development Code, and the Planning and Zoning file be made part of the record with regard to this matter.

Mrs. Poole read a prepared statement of the history of the property. She stated that the idea that this conditional use is not injurious to the neighborhood or otherwise detrimental to the public welfare since the area is designated as commercial medium density

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residential is misleading. Emphasis was put on commercial instead of neighborhood commercial.

She also stated that changing the entrance to line up with the Crown Heights Subdivision is an attempt to have the traffic light put there as opposed to the intersection at Lake in the Woods and Sun Lakes where it is truly needed. She stated that the planned future development of Range Road extends it east from Dairy Road, through Stack Boulevard, Lake in the Woods, Babcock Street through Sun Lakes Drive past Tarpon Road to Lipscomb Street. This will be used as a cut through from Dairy Road to Lipscomb. A light for the Crown Height Subdivision and the proposed Registry Apartments would not be warranted compared to this. Mrs. Poole noted that one criteria used by FDOT in the warranting for traffic signals is fatalities. There have already been two fatalities at the Sun Lakes and Lake in the Woods intersection.

Mrs. Poole listed the reasons Council denied the request on January 3, 2002. She agreed that some minimal changes have been made, but it is still 142 apartment units, 292 parking spaces, six studio efficiency apartments, 28 one-bedroom units, 72 two-bedroom units, and 36 three-bedroom units. Mrs. Poole read the District and Intent for the Neighborhood Commercial District.

Mayor Buckley advised Mrs. Poole that her ten minutes had expired. Mrs. Poole countered that not every one knows the history and this is a disaster waiting to happen.

Mayor Buckley stated that the recommendation is for approval of Ordinance No. 2002-42 with the conditions proposed by the Planning and Zoning Board. Additionally, the applicant has agreed to fence the retention area, construct a playground, and remove the dumpster.

Mr. Contreras stated that Attorney Nohrr also agreed to gate the front and rear roads, to not provide parking within 20' of any Cinnamon Cove property, delete the reference to 75' building height on the site plan, and construct the wall at the discretion of the Cinnamon Cove residents.

Moved by Contreras/Walker for approval of Ordinance 2002-42 subject to the stipulations proposed by the Planning and Zoning Board and as proposed and agreed to by Mr. Nohrr.

Mayor Buckley noted that an example of a three-story development next to a single-family development is James Landing at the corner of Croton Road and Parkway Drive.

Mrs. Palmer stated that she opposed the request the last time it was before Council; however, many of the problems and her concerns have been rectified. She noted that in many neighborhoods single-family homes back up to two-story homes. She discussed the problems encountered in her neighborhood, and stated most of the problems associated with this apartment complex are not too different than those she faces in her residential community. Her main concern was traffic and the safety of people turning north on Babcock Street. She is pleased with the proposed access to Eber Road. She

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did have concern about crime and the transient population; however, at these rental prices the tenants will have an investment in the community.

Mrs. Hand stated she shares the concerns of the citizens regarding the density and the building heights. She said she is beginning to disagree with City Code; apartment complexes should not be located adjacent to single-family developments. She is willing to review the Code and make a change.

Mr. Palmer stated he reviewed this plan and still has a problem with density. The reduction of six, eight, or ten units isn't enough; the development must be compatible with the neighborhood. He is firmly against three-story buildings. The conditional use is not warranted with this density. The development does not have the amenities of a high rent area and he will not support the request.

Mrs. Poole questioned whether a limit can be put on the number of people who live in an apartment. Mr. Gougelman stated with regard to this particular project the Zoning Code provides a definition of family. It restricts the number of people who are going to be in that unit. However, there are Fair Housing Act amendments and a number of lawsuits around the country where caps on the number of individuals, or the requirement that they must be a member of a family, have been overturned.

Mrs. Walker stated she understands the homeowners' desire to protect their turf. It does not matter where you live, you cannot always guarantee that your neighbors will be who you want. If any one of us owned that piece of property we would want the greatest monetary return and the owners should have that privilege. She will support the request.

Mr. Contreras discussed a three-story subsidized housing development near his home. Originally he had the same concerns about crime, traffic, property value, etc. However, crime has not increased and property values have increased.

The question was called. The roll call vote was:

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

Nay: E. Palmer, Poole, and Hand

Motion carried.

17. SITE PLAN APPROVAL (SP-2002-11/WINDWARD POINT CONDOMINIUMS): (Public Hearing) A request for site plan approval for a condominium building on a portion of the redeveloped Melbourne Harbor Complex, located on the far south extension of Front Street at the end of the peninsula, containing one acre. (Owner – Windward Passage Condominium Association) (Applicant – David T. Menzel, MAI Architects Engineers) (P&Z 5/16/02)

Mayor Buckley referenced the request to postpone.

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

18. FINAL PLAT APPROVAL (SD-2002-01/PEACHTREE LANDING SUBDIVISION): (Public Hearing) A request for final plat approval of Peachtree Landing Subdivision on a 15.3-acre parcel of an existing platted subdivision, located on the east side of John Rodes Boulevard, north of the intersection of Eau Gallie Boulevard. (Owner/Applicant – Peachtree, LLC) (Representative – Massimo Bosso) (P&Z 5/16/02)

From the agenda report: The property is now platted as the Indian River Groves and Gardens Subdivision as were the adjacent Cypress Bend and Magnolia Lakes Subdivisions. The property is zoned R-1B (Single-Family Residential). The adopted Future Land Use is Low Density Residential. The preliminary plat for this subdivision was approved by Council on March 26, 2002.

The property and the proposed subdivision will consist of 65 lots (4.25 units per acre) with three proposed streets, one extending east from John Rodes Boulevard (Decator Circle), one internal cul-de-sac (Stone Mountain Court) and one street stub extension to the Mosley Road right-of-way. A proposed retention pond (Tract C) will be located on the south central portion of the plat. The pond will outfall to the drainage ditch in the John Rodes Boulevard right-of-way to the west. Tracts A, B, and D will be used for landscaping areas and a subdivision entrance sign. All tracts will be owned and maintained by the homeowner's association. The site is now under construction. The applicant will bond the improvement in order to proceed with the final plat.

A stipulation on the preliminary plat allowed Tract "E" to be made into a lot. This has been done and is now Lot 29 on the Final Plat. All other tracts are dedicated to the Homeowners' Association as required by a stipulation on the preliminary plat.

A sidewalk is required along the John Rodes Boulevard frontage. The applicant will pay into the sidewalk/bikeway trust fund for the frontage. The city proposes to construct a pedway along John Rodes Boulevard northward from Eau Gallie Boulevard with cooperation from the county.

A private drainage swale and piped drainage system will be provided along the rear yards of the lots on the north side of Decator Circle. This drainage swale and piping will collect both rear yard and off-site stormwater entering the plat property and convey it to the stormwater pond (Tract C). This should alleviate the potential for flooding or trapping of stormwater between the lots in this subdivision and the adjacent Cypress Bend Subdivision. The westerly one-half of the subdivision is now in a flood zone. Upon completion of construction should all or a portion of the property no longer be located in a special flood hazard area the applicant must file a map amendment with FEMA to accurately reflect the flood zone classification as a result of new construction.

Several documents require review and approval of the city. The include the Title Opinion, Stormwater Maintenance Agreement, Homeowners' Association documents, an acceptable form of security (Performance Bond, Letter of Credit or Tri-party Agreement)

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in an amount of 110% of the construction cost, and a letter from the SJRWMD acknowledging receipt of the Homeowners' Association documents.

As required in the preliminary plat approval, the necessary permits were obtained from the Florida Fish and Wildlife Conservation Commission to take gopher tortoises.

The proposed final plat is consistent with the Land Development Code, City Code, and the approved preliminary plat.

The Planning and Zoning Board recommended approval of SD-2002-01, Final Plat for Peachtree Landing Subdivision, consisting of a one-sheet plan prepared by William Mott Land Surveying, Inc., of Satellite Beach, Florida, with Project Number 2010459, signed and sealed on May 7, 2002, with the findings in the Planning and Zoning Board Memorandum and the following conditions:

- a. Any change to the final plat will require its reevaluation by the city's Planning and Economic Development Department and Engineering Department. Any substantial change to the final plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the final plat includes, but is not limited to: 1) any increase or decrease in the number of access points including public or private streets to or from the subdivision; or 2) an increase of more than two lots.
- b. Upon completion of the subdivision improvements, the applicant/developer shall file a map amendment with the Federal Emergency Management Agency to correctly identify the flood zone designation/elevation of the property as a result of the improvements. Copies of the changes approved by FEMA shall be provided to the City of Melbourne Planning and Economic Development, Building (Code Compliance) and Engineering Departments.
- c. The applicant shall make payment into the city's bikeways/sidewalk trust fund for the length of the subdivision boundary abutting John Rodes Boulevard. Said trust fund payment shall be used to offset the construction costs of a sidewalk/pedway along John Rodes Boulevard, north of Eau Gallie Boulevard.
- d. The applicant shall provide a form of surety equal to 110 percent of the construction cost as required by City Code, Chapter 29, Section 29-5 (c) (4) c. Such surety shall be in form acceptable to the City Manager and City Attorney.
- e. Provide a Stormwater Maintenance Agreement in form and substance acceptable to the City Manager and City Attorney.
- f. Provide a recent title opinion in accordance with City Code.
- g. Provide an executed water and sewer agreement.
- h. Provide warranty deeds conveying the tracts to the homeowners' association.

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- i. Provide a Bill of Sale for the water and sewer lines.
- j. Change the 10-foot easement between Lots 50 and 51 to a separate tract for access to the retention pond and modify note 11 to reflect that change.

Mrs. Poole commented that she visited the area and was devastated. A huge hole has been dug for retention. Mrs. Braz stated that the impervious flow of the soil is regulated by St. Johns River Water Management District. The applicant is providing a drainage pipe on the north property line to avoid any drainage going back into Cypress Bend.

Paul Tucker, ETM, stated he is not sure of the depth of the retention area; however, it is dictated by SJRWMD and they require a maximum depth of 12'. He further noted that SJRWMD does not have any requirements for fencing of the retention area.

Mrs. Poole expressed concern for the safety of children in the area.

Massimo Bosso, 1688 Hibiscus Boulevard, stated that additionally the slopes must meet the retention pond requirements of both the City of Melbourne, which are more restrictive, and the St. Johns River Water Management District.

There was a brief discussion regarding the use of mulch from the site to backfill the side slopes of the retention pond. Mr. Bosso assured Council that as the mulch rots, the slope will remain the same. He offered to take Mrs. Poole on a tour of the site.

Mr. Hill reported he had received some complaints about landfilling that may be occurring on Dairy Road. He noted that DEP allows for side-slope filling as a matter of practice. He has asked the City Engineer to investigate this and see if the city should have a more restrictive practice. This is something Council may want to consider at a later date.

There was a brief discussion regarding the condition of retention ponds bottoms and the responsibility for their upkeep. Mr. Hill advised that in most instances the retention ponds are the responsibility of the homeowners' associations.

Mrs. Poole commented that it is against the law to fill retention ponds with building debris. When this occurs the city needs to act. Mr. Hill commented that it is a violation of state and DEP requirements. Whether the City of Melbourne should have additional Code restrictions is part of what the City Engineer has been asked to investigate.

The applicant agreed with conditions "a" through "j".

Moved by E. Palmer/Hand for approval of the final plat for Peachtree Landing Subdivision subject to the proposed stipulations. Motion carried. (Poole and C. Palmer voted nay.)

- 19. COUNCIL ACTION RE: A request from the Community Housing Initiative, Inc. for award of \$70,000 in HOME funds for the acquisition and rehabilitation of property located at 306 Herring Street, Melbourne.

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From the agenda report: The Housing and Community Development Department has received a request from Community Housing Initiative, Inc. (CHI) for \$70,000 in HOME Investment Partnership Program (HOME) funds for the acquisition and rehabilitation of a single-family housing unit in Melbourne. The proposed use of the home is housing for the homeless or those threatened with homelessness. Acting in its capacity as a Community Housing Development Organization (CHDO), CHI will be the developer of the project and the Coalition for the Hungry and Homeless of Brevard, Inc. will be the owner and manager of the unit located at 306 Herring Street, Melbourne.

The proposed project involves the acquisition and rehabilitation of a three-bedroom, two-bath, concrete block home built in 1957. Once rehabilitation is complete, the unit will provide long term affordable rental housing to clients participating in the WIN Program, a housing and supportive services program benefiting the homeless and those threatened with homelessness. Due to the investment of HOME funds, unit rents must be affordable to very low-income persons.

If approved by Council, CHI expects to purchase the property by the end of July and complete the rehabilitation by the end of August, 2002. HOME funds will be leveraged by up to \$10,670 in funds available to the Coalition for the Hungry and Homeless through a line of credit from Riverside Bank.

Currently there is \$41,475 in uncommitted CHDO funds available from FY 2001. In order to provide sufficient funding, however, it is necessary to make line item adjustments in the FY 1998 HOME grant. Staff would recommend the following budget adjustment to make up the difference:

Account No.	FY 1998 HOME Description	Current Budget	Recommended Increase/(Decrease)	Amended Budget
710398-34755	Tenant Based Rental Assistance	\$110,004	(\$28,525)	\$81,479
710398-34710	CHDO Project	\$ 57,347	\$28,525	\$85,872

Staff analyzed the proposed project and finds it to be an eligible use of HOME funds, including HOME CHDO funds. Both the developer and the owner/manager have considerable experience and have demonstrated the capacity to carry out the project. If Council approves the project, the owner will have to enter into an agreement with the city that will contractually subject the property for a period of fifteen (15) years to tenant income and rent limits affordable to a very low-income household (50% of MFI), as well as annual inspections by the city for continued compliance with City Code. The actual HOME assistance will be in the form of a deferred payment loan.

A question arose over the ad valorem property tax exemption which the property at 1895 Garner is eligible to receive. That property was approved for an exemption even though the city made it a condition of approval that the Coalition not seek such exemption. Apparently, this exemption is on a year to year basis. The Coalition reimbursed the city

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for the value of the property tax. It also agrees for the new property at 306 Herring Street to not seek an exemption for City of Melbourne property taxes.

The Housing and Community Development staff recommends approval of an award of \$70,000 in HOME funds (FY 2001 HOME CHDO funds at \$41,475 and FY 1998 HOME funds at \$28,525) to Community Housing Initiative, Inc. for the acquisition and rehabilitation of 306 Herring Street, Melbourne. Staff further recommends that the City Manager be authorized to approve any necessary budget adjustments and to execute all necessary legal documents. The agreement is contingent on the Coalition not seeking an exemption from ad valorem taxes.

Mrs. Hand questioned the \$71,000 purchase price for that home and Mr. Palmer asked if there was an appraisal on the property.

Nicole Tenpenny, Executive Director, Community Housing Initiative, Inc., stated the house is 1,257 square feet. She also noted that the property appraised at \$73,800.

Mayor Buckley commented that the house is 30 years old, a new house could be purchased for \$70,000. Ms. Tenpenny noted that \$4,000 was spent to repair the flat roof and wood rot around the front door, and to install smoke detectors and exterior lights. Mrs. Palmer asked why less expensive homes were not considered. Ms. Tenpenny responded that they looked at condominiums; however, none fit into the project.

Ginger Ferguson, Executive Director, Coalition for Hungry and Homeless, reported that various options and locations were explored. They are always looking for bargains. This house had substantial renovations made to the property. It is an older home; however, it has a lot of ceramic tile and a new roof on the majority of the building. It is difficult to find a home for sale that the owner will hold during the process. She reported that the family is currently renting from the owner and will be able to stay in their home. Ms. Ferguson stated that the median price of an existing home in Melbourne is \$105,800. That is a 9% increase in the last year. She noted that there are some substandard houses for less than \$60,000; however, they did not want to get into a situation of extensive repairs.

Mrs. Poole stated there are plenty of homes for much less than this. She also referenced the Coalition for the Hungry and Homeless agreement to pay City of Melbourne taxes on properties.

Mrs. Ferguson stated they will be happy to pay City of Melbourne taxes.

Responding to Mr. Palmer, Ms. Ferguson stated that the family consists of a husband and wife and three children, and the home is three bedrooms and 1 ½ bath.

Moved by Hand/Walker for approval. Motion carried. (Contreras, Poole and Buckley voted nay.)

20. ORDINANCE NO. 2002-43 (CHAPTER 32): (First Reading) A proposed ordinance to amend the Melbourne City Code, Chapter 32, Utilities, by allowing individual property

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owners to pay for the extension of service over a period of five years. (Requested by City of Melbourne)

Attorney Gougelman read Ordinance No. 2002-43 by title.

This is a proposed ordinance to amend Chapter 32, Utilities, to allow individual property owners to pay for the extension of water services over a period of five years. Waterline extensions generally range from \$3,000 to \$7,000 per household. Because of the large "lump sum" payment currently required by the Code, on several occasions the property owners have declined the service after staff has incurred considerable expense in analyzing costs.

This proposed change would allow the service extension to be paid for by the property owner over a five year period. The advantage to the city would be from increased water service customer revenue as well as extension of city water lines.

Moved by Poole/E. Palmer for approval of Ordinance No. 2002-43.

Mrs. Hand stated this is a great and asked if something like this can be done regarding extension of sewer services around Pineapple Avenue.

Mr. Hill stated this is being investigated. We are reluctant to extend sewer service outside the city limits, and have done this in a limited capacity. Along Pineapple Avenue we have tried to make arrangements to get them connected; however, there are concerns based on elevation. It can be very cost prohibitive no matter what the time frame is for pay back.

Mrs. Poole commented that Pineapple Avenue is on the Indian River Lagoon. Septic tanks leak and we need to do something to correct that. Mr. Hill commented that we are trying to work with those residents. Mrs. Poole asked if the city could fund this as an improvement project for the city. Mrs. Hand agreed.

The question was called. Motion carried unanimously.

21. ORDINANCE NO. 2002-44 (CHAPTER 4, AMUSEMENTS): (First Reading) A proposed ordinance to amend Chapter 4, Amusements, as recommended by the City Code Review Committee, Section 3.

Attorney Gougelman read Ordinance No. 2002-44 by title.

From the agenda report: This is the first reading of an ordinance to amend Chapter 4, Amusements, as approved by the City Code Review Committee, Section 3. The new article relating to "raves and rave clubs" was adopted by Council last August.

The current chapter relating to bingo was completely revamped in 1994. This was in response to an influx of for-profit bingo halls taking advantage of legitimate charity groups. Businesses were making money on charity groups by overcharging for rental of

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the building, supplies, etc. The current Code is cumbersome; however, the intent is to provide a regulatory framework and make it unprofitable to be a “for profit” bingo hall.

The changes adopted by the committee close several loopholes in the state bingo law. Additionally, the chapter has been revised to assign responsibility for regulation of bingo to the City Manager. The Director of Finance will continue processing applications as the City Manager’s designee.

There was a brief discussion regarding requiring fingerprinting of bingo applicants and the history of the bingo ordinance.

Moved by E. Palmer/Hand for approval of Ordinance No. 2002-44. Motion carried unanimously.

22. COUNCIL ACTION RE: Board Appointments

- a. Citizens’ Advisory Board – two regular members

Mrs. Poole nominated Lynn Margaret Henry.

Moved by Poole/E. Palmer to appoint Lynn Margaret Henry. Motion carried unanimously.
(6/11/2002 – 11/11/2004)

Moved by E. Palmer/Poole to appoint Richard Gowallis. Motion carried unanimously.
(6/11/2002 – 11/11/2005, unexpired term, plus full 3-year term)

Alternate Members:

Mrs. Palmer nominated Yvonne Minus.

Moved by C. Palmer/E. Palmer to close the nominations. Motion carried unanimously.

Moved by Walker/Hand to appoint Yvonne Minus. Motion carried unanimously.
(6/11/2002 – 11/11/2003)

Mrs. Poole nominated Eugene Lathrop.

Moved by Walker/C. Palmer to close the nominations. Motion carried unanimously.

Moved by Walker/Contreras to appoint Eugene Lathrop. Motion carried unanimously.
(6/11/2002 – 11/11/2004)

- b. Olde Eau Gallie Riverfront Community Redevelopment Advisory Committee – three regular members and one alternate member

Mrs. Hand nominated Jacie Stivers.

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Mrs. Poole commented that Ms. Stivers is a developer in this area. It does not look good when we have developers sitting on the board.

Moved by Walker/Contreras to close nominations. Motion carried. (Poole voted nay.)

Moved by Hand/Walker to appoint Jacie Stivers (regular member). Motion carried. (Poole voted nay.) (6/12/2002 – 6/11/2004)

Mr. Palmer nominated Ralph Sanders.

Moved by Hand/Walker to close the nominations. Motion carried unanimously.

Moved by E. Palmer/Hand to appoint Ralph Sanders (regular member). Motion carried unanimously. (6/12/2002 – 6/11/2004)

Moved by C. Palmer/E. Palmer to appoint Dennis Walker (regular member). Motion carried unanimously. (6/12/2002 – 6/11/2004)

Mrs. Palmer nominated Philip Azeredo.

Moved by Walker/Contreras to close the nominations. Motion carried unanimously.

Moved by C. Palmer/Contreras to appoint Philip Azeredo (alternate member). Motion carried unanimously. (6/12/2002 – 6/11/2004)

23. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Council established July 2, 2002 for the workshop meeting for presentation by the audit firms, presentation of noise ordinance, and to discuss airport issues and R-1B zoning.

Council Member Cheryl Palmer referenced the Brevard Tomorrow publication and encouraged other Council Members to look closely at the implications for city government and city services. Mr. Hill will provide Council Members with the report.

Mr. Gougelman referenced his memorandum regarding Brevard Recyclers and updated Council regarding the issue.

24. ADJOURNMENT

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

The meeting adjourned at 12:00 a.m.

Assistant City Clerk - 6/20/2002

Approved by Council _____