

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 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 Bruno Malara, 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
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

None.

5. APPROVAL OF MINUTES – June 25, 2002 Regular Meeting

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

6. CITY MANAGER'S REPORT

Mayor Buckley referenced the memorandum from the City Manager requesting that Item 11.1 be added to the agenda.

Moved by C. Palmer/Hand to add Item 11.1 to the agenda. Motion carried unanimously.

Mr. Hill reported that the 2002-2003 preliminary budget is being distributed to Mayor & Council at this meeting. He asked Council to establish budget workshop meeting dates prior to adjournment.

Council Member Ed Palmer asked the City Manager to provide an update on the relocation of Fire Station #4. Mr. Hill said that staff expects to place an item on the next agenda for approval of the engineering design concept.

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

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-45: (Public Hearing/Second Reading) An ordinance authorizing issuance of Water and Sewer Refunding and Improvement Revenue Bonds, Series 2002A, and Water and Sewer Refunding Revenue Bonds, Series 2002B. (First Reading 6/25/2002)

Attorney Gougelman read Ordinance No. 2002-45 by title.

Mr. Hill reported that the subject bonds have received an A+ rating by Fitch Ratings. This is an excellent rating and should provide for good marketing of the bonds.

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

Moved by Contreras/Hand for approval of Ordinance No. 2002-45. The roll call vote was:

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

Nay: None

Motion carried unanimously.

9. ORDINANCE NO. 2002-46: (Public Hearing/Second Reading) An ordinance amending Chapter 32, Utilities, adjusting water and sewer rates. (First Reading 6/25/2002)

Attorney Gougelman read Ordinance No. 2002-46 by title. Mr. Hill referenced the additional material distributed on this item: comparison of the water and sewer rates by other utilities, graph of water usage projections, and a comparison of the assumptions that formed the basis of the 1998 rate proposals compared to the actual results.

Robert Lockridge, representing Burton and Associates (firm that provided the revenue sufficiency analysis), provided an overview of the report.

Mr. Palmer referenced the comment made by Mr. Lockridge about the \$65 million in capital improvement projects. Mr. Hill listed for the audience several of the projects from the budget, which touch all aspects of the water and sewer system. Additionally, Mr. Hill noted that approximately 1% of the additional 5% rate increase is due to the capital improvement component.

Mayor Buckley referenced the comparison of water and sewer rates from other cities. He reported that in the 1,000 gallon per month category, Melbourne has the lowest rates in the county; at 3,000 gallons per month, one other utility is lower than Melbourne; and at

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

5,000 gallons per month, one other utility is lower and two are almost identical to Melbourne.

Mrs. Palmer asked how many cities buy water from Melbourne. Mayor Buckley responded West Melbourne. Mr. Hill added that Palm Bay previously bought as much as one million gallons per day; however, that has dropped to almost nothing. That is one of the items that affected consumption.

Mrs. Palmer asked how much of the increase has been impacted by expansion of water lines in anticipation of development, which has not yet occurred. She referenced Brandywine as an example.

Mr. Hill said there has been some effect in the \$30 million in capital that has already been appropriated. Some of those items are in the process of engineering or construction. The Simon Road expansion west of I-95 took away capital funds that might have been available for other projects. The city spent about \$350,000 extending lines in that area.

Mrs. Palmer asked if we had projected consumption from new development along those lines. Mr. Hill said yes and no. Part of our projections were based on solid historical data about new growth, new lines being added, and expansion of the system. While that was going on, we had a drop in the per capita rate. The expansion west of I-95 was not anticipated – rather it was a reaction to action taken by another utility. Those lines are in and customers are connecting.

Mrs. Palmer asked how much of the increase is due to mandates regarding water quality standards. Mr. Hill said a good portion is devoted to regulatory compliance. Virtually all of the expansion of the surface water treatment plant and a variety of the phased work for the sewer plant improvements are regulatory related.

Mayor Buckley pointed out that the Brevard County Water Board previously said that Melbourne needed additional capacity based on their projections. He added that the surface water treatment plant had to be refurbished and updated to meet government standards, in addition to the plant being 50 years old. The sewage treatment plants had to be renovated because of aging equipment and a need to increase capacity.

Utilities Director Bob Klaproth added that a lot of the distribution work is regulatory driven; it's based on the standards for chlorine residual. He estimated that the water and sewer plant upgrades are 90% regulatory and the distribution system projects are 30% regulatory.

Mayor Buckley opened the public hearing.

John Kiernan, 645 Law Street, questioned throwing money at a system and burdening the rate payers when consumption is steadily going down and industry is leaving the area.

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

Mayor Buckley said we still have to meet the government standards, regardless of consumption.

Mr. Hill said it has been frustrating for the city. He asked what other business, besides the tobacco industry, is compelled to tell people not to use its product. He noted that we are obligated under the conditions of our consumptive use permit to have an active water conservation effort.

Charles Barger, 810 Glenmore Circle, stated that the report from Burton and Associates cost the city \$10,000. Additionally, he referenced the cost involved in distributing the public hearing notice and the water quality report.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2002-46.

Moved by E. Palmer/Hand to amend the motion by adding a stipulation that due to market changes, market forces, construction schedules, rise and fall of interest rates, and changing factors in the cost of operations, Council ought to visit this issue every year for the total five-year period to determine if the proposed rates are necessary and, if they are not, lower the rates or cancel the increase if deemed not appropriate.

Mrs. Palmer expressed concern that the rates will never go down, they will only go higher. Mrs. Poole asked if the amendment would require the city to hire a rate consultant every year. Mr. Palmer said no. Mrs. Palmer asked how the city could arrive at the rates. Mr. Palmer said staff can make that determination.

Mr. Hill said, in part, the rates are reviewed now. He added that we could establish a regular program for review, probably in March of each year. It would include a staff review and, if necessary, a professional review.

The question was called on the amendment. Motion carried unanimously.

Mrs. Palmer stated that as much as she respects Burton and Associates and everyone on staff who worked on this, the residents are telling her that this is too much of an increase. The same economic influences are impacting our citizens and they are not receiving a 5% a year pay increase. She added that if this is voted against, we could sit at the table to determine what could be cut from the capital improvement program.

The question was called on the main motion, as amended. The roll call vote was:

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

Nay: C. Palmer

Motion carried.

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

10. COUNCIL ACTION RE: A request for Council approval of funding the 2003 Water Conservation Campaign of the St. Johns River Water Management District in the amount of \$7,000. (Postponed 6/25/2002)

From the agenda report: Several members indicated that they wish to discuss whether the city should participate in this effort along with the water conservation activities funded in the Water and Sewer Fund. The effect of water conservation on consumption has factored into the proposal for rate increases (Ordinance No. 2002-46).

Marguerita Engel, representing the SJRWMD, discussed the importance of Melbourne continuing its water conservation effort. She noted that the steps taken by the city have resulted in the city securing a 20-year consumptive use permit. She added that she understands the concern that the water conservation effort has resulted in a rate increase; however, she said she believes that is a simplistic explanation of a much more complex issue. There are many factors that have contributed to the rate increase.

Continuing, Ms. Engel said Melbourne's contribution to the SJRWMD campaign fulfills the TV/radio requirements of the consumptive use permit. If the city does not contribute to this campaign, it will have to provide its own public service announcements for radio and television. The district has one message that reaches a broader base.

Mr. Palmer agreed that water conservation is really not the culprit. Water conservation is necessary; however, the timing of the request is bad.

Mrs. Hand agreed that this is a good program and that we need to encourage everyone to conserve our resources.

Mrs. Palmer asked about the city's conservation effort. Mr. Hill said the city has an excellent water conservation program. He added that he believes our program would fulfill the requirements of our consumptive use permit. One component relates to public service announcements via broadcast media. The various utilities had the notion that it would be cheaper to pool our money through the SJRWMD; however, the city can submit announcements of its own.

Moved by C. Palmer/Contreras for denial of the request.

Mrs. Palmer stated that the City of Melbourne is doing an excellent job; we are expending funds on our own. She added that this amounts to extortion by the district to keep returning to the city with more and more requests.

In response to Mr. Contreras, Mr. Klaproth said city staff is capable of performing and meeting the requirements of the consumptive use permit. He pointed out that this is a million dollar effort by the district and the city's share is a cheap way to get the message out.

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

Mr. Palmer agreed that \$7,000 is a miniscule amount. He commented that water conservation has a regional impact. Mrs. Palmer stated that the city's in-house program is a regional program and reaches all our water customers.

Mrs. Poole stated that she is disappointed in the SJRWMD for allowing wetlands to be mitigated outside our area when they are needed to recharge the aquifer. For that reason, she said she will vote against the request.

A brief discussion continued.

The question was called. The roll call vote was:

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

Nay: E. Palmer, Hand, and Buckley

Motion carried.

11. ORDINANCE NO. 2002-47 (CU-2002-05/SP-2002-10/PRINCETON MINI-STORAGE):
(Public Hearing/First Reading) An ordinance granting a conditional use for a mini-storage facility on a 4.123-acre portion of a lot on a commercial development site in the C-1 (Neighborhood Commercial) zoning district, located on the west side of Dairy Road, north of Palm Bay Road and south of Madison Road. (Owner/Applicant – Princeton Florida Associates, L.L.C.) (Representative – Robert Lee, Lee Engineering, Inc.) (Postponed 6/28/2002)

Attorney Gougelman read the ordinance by title.

From the agenda report: This item was postponed to allow time for additional information to be provided regarding the fill in the retention area at the Princeton Apartments. The conditional use request for the mini-storage is under the same ownership, and both projects are utilizing a joint retention pond.

The applicant has indicated that some of the fill, which included broken concrete, was placed in the pond at the request of a city employee. About six weeks ago, an anonymous source indicated that many truck loads of fill were brought in from off site. The anonymous source also provided pictures, which were forwarded to the Florida Department of Environmental Protection (FDEP) for investigation.

The anonymous person indicated that there were many loads of mulch and rubble from other development sites in the county. The FDEP agent who inspected the site indicated that he saw no violations and therefore is not pursuing the issue. The city also contacted SJRWMD, which stated it has no regulations regarding off-site fill. Although there may be a violation of the county code, the county has decided not to enforce it in the city. The city does not have a regulating code.

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

Staff has determined that about one-third of the concrete around the lift station on Dairy Road was damaged during the installation of the 16-inch water main (city CIP project). The other two-thirds of the concrete was damaged when Princeton Apartments installed its sanitary sewer line. The damage in both cases was expected and was not malicious. Derrico Construction, the contractor that installed the 16-inch water line, paid Princeton Apartments its share of the cost to reconstruct the damaged concrete. The concrete rubble from the lift station damage was on city lift station property. When Princeton Apartments asked the inspector what to do with it, the inspector said that it was their problem. They then put it in the retention area. We have not been able to identify if there was other concrete debris.

According to the FDEP agent, it is not a violation to use debris, such as clean concrete, in a retention area as long as it is from the construction site or adjacent site and was created as part of the construction project. The city inspector has estimated that one truck load of concrete fill was used.

Staff does not believe it would be acceptable to use fill, other than dirt, from off site. Therefore, the City Engineer will be proposing revisions to the City Code to prohibit such practice.

The Planning and Zoning Board recommended approval of CU-2002-05 with the findings contained in the 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-2002-10) for Princeton Mini-Storage, prepared by Lee Engineering, Inc., of Indialantic, Florida, dated April 4, 2002, and with a revision date of May 24, 2002.
- b. 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 increase in the number of access points to Dairy Road shown on the site plan; 3) a change which would reduce the landscape buffers along the boundaries of the site; or 4) any increase in the size, height or dimensions of the storage unit buildings.

- c. Storage units only shall be accessible from either a central interior building corridor or interior driveways and no rental unit shall contain roll-up doors facing a public street or the apartment buildings located to the west.
- d. The vegetative buffer along the total length of the west property line shall be at least six feet in height or capable of growing to a height of six feet within two years.

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

Mr. Hill said he believes the city should tighten its regulations, especially since the FDEP regulations seem to be loosely enforced.

Mrs. Hand disclosed that she drove by the site today.

Mrs. Poole referenced stipulations that were part of the Princeton Apartments development. She asked what happened to the trees that were supposed to be saved. Mayor Buckley stated that this agenda item relates to the mini-storage, not the apartments. A brief discussion followed.

Rob Lee, Lee Engineering, civil engineer for the project, stated that he believes the mini-storage complex will have a fairly small impact on the area. The development will generate minimal traffic, they have a nice landscaping plan, and this should be a nice project for the city.

Mrs. Poole asked if this property is connected with Princeton Development in New Jersey. Mr. Lee stated that the developer's representative, David Kipper, is present.

David Kipper, representing the developer, stated that they purchased the property from Brockerman. He has no affiliation with the present ownership.

Mr. Contreras referenced the photographs, which allege a violation of a county code. Mr. Kipper said he has not seen the photographs; however, he has heard them mentioned and has heard about anonymous letters, which accuse him of doing certain things improperly. He stated that he has always tried to develop as a responsible, corporate citizen and referenced the additional landscaping that was added to the Harvard development.

In response to the Mayor, Mr. Kipper said he agrees with the stipulations.

Mrs. Palmer asked how much fill was brought in from off site. Mr. Kipper asked that the representative from the site contractor answer that question.

Mick Portlock, Williams Avenue, Malabar, responded to several Council Members' questions as follows: approximately 300 loads of fill were brought in from various sites; the fill that was brought in contained mulch and soil; none of the fill came from the Sarno Road mulch site; none of the fill came from beyond the city limits; none of the material brought in should have been deposited in the county landfill; and no construction debris was brought in.

Mr. Kipper referenced the photographs (provided to him during this item) and said it appears to be his site. He emphasized that they act as their own general contractor and are always present on the site. He added that the magnitude of the fill is insignificant and they would not do anything so foolish as to put an improper substance in the retention pond.

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

Following a brief discussion, Mr. Kipper clarified that they over excavated the retention area to use on the site and then filled that as opposed to importing fill. The 300 loads were brought in for building pad areas.

Gary Tolman, 1512 Harvard Circle, Project Manager at Princeton Apartments, referenced Mrs. Poole's concern about removal of trees on the apartment's site. He stated that with the approval of Dan Porsi (Code Compliance), they eliminated the trees around the buildings because of the amount of fill that had to be brought in. However, they added more landscaping than the city requires.

Mrs. Poole stated that this should have been mentioned at the beginning of the project. Mr. Tolman agreed.

Mrs. Poole referenced the photographs, which show dense woods that were located on the site. Another picture shows the barren land with trees ripped out. She said a criminal injustice has taken place that will affect future generations. However, no one seems to care or wants to get involved.

Continuing, she said the FDEP agent has taken the easy way out. The material brought in from off site – demolition material from Osceola County and material from the Sarno Road mulch site – was witnessed by two contractors who provided vivid pictures.

Mrs. Poole referenced the lack of regulations and the county regulation, which the county does not want to enforce. She asked if the city should ignore what has happened or if the item should be postponed until further investigation is made, such as excavating the retention area.

Moved by Poole/Contreras to postpone this until further investigation can be made (regarding whether improper materials were dumped in the retention area).

Mrs. Poole said she is sure the county can be convinced that they should enforce their code in the city.

Mrs. Palmer said it sounds like a lot of things were done inappropriately; however, it stopped just short of breaking the law. She added that she is never happy with anonymous tips when there is no evidence. The pictures show trucks dumping mulch. She said the city may need to make a Code revision. And, when the item returns there needs to be evidence.

Mayor Buckley asked Mrs. Poole to clarify the postponement period. Mrs. Poole said the City Manager can determine if the retention pond needs to be excavated.

The question was called. The roll call vote was:

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

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

Nay: Buckley

Motion carried.

Recessed: 9:28 p.m.
Reconvened: 9:39 p.m.

At this point, Council agreed to hear Item 23 because of an application deadline. Council proceeded with Item 11.1 immediately after Item 23.

11.1 COUNCIL ACTION RE: Discussion of R-1B Zoning (Postponed 7/2/2002) (Added to the Agenda 7/9/2002)

Mrs. Braz reviewed the agenda report. The R-1B Zoning District was established in 1994. The intent was to fulfill a market need for smaller, affordable, flexible lots and to eliminate the development of “detached townhouses” in the R-2 District. The provision for “detached townhouses” has been eliminated from the Code. The R-1B District has been used to create extra units rather than to design flexible lots. By not allowing the small lots in the R-2 District, we have substantially increased the zoning requests from R-2 to R-1B. In an R-2 District, duplexes and multi-family can be developed, but a single-family subdivision requires 75-foot lots.

An open space requirement can be added to the R-1B District. A draft of an ordinance proposing this is included in the agenda package. It would require any new R-1B subdivision provide 10% or three acres of useable open space, whichever is less, and that the parcels where the open space is provided be a minimum one-third acre. It allows developers to receive credit for preserving natural features such as wetlands by making them useable. It does not allow retention ponds, with or without a dock, to count towards open space.

Mrs. Hand stated that two- and three-story developments backing up to single-family developments is a big issue. Mrs. Braz said that is different than the R-1B issue. Mrs. Hand and Mrs. Poole asked that this be addressed (in the future).

Mrs. Poole said that previously Melbourne required at least 75’ lots. Fifty-foot lots do not allow enough room for children to play. As a retirement community, it is fine; however, the R-1B needs to be changed to 75’ lots.

Mayor Buckley disagreed and noted that every lot in Monaco Estates is filled. People don’t want the responsibility of taking care of a larger lot. Seventy-five foot lots are available in other zoning classifications.

Mr. Palmer asked how the proposal would affect a 10-acre site with R-1B zoning and 50’ lots. Mrs. Braz said one acre of open space would be mandatory. It can be broken up

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

into three areas with none of the areas being smaller than one-third of an acre. Mr. Palmer said this makes sense and would allow a place for children to play.

A brief discussion followed regarding the PUD classification. Mrs. Braz pointed out that the PUD ordinance needs to be overhauled.

Moved by E. Palmer/Buckley to consider the draft ordinance in the package, which amends the R-1B District. Motion carried. Mrs. Poole voted nay.

NEW BUSINESS

12. COUNCIL ACTION RE: Amendment to Design Contract with CH2MHill (Task Order No. 4) for Phase 2 of Surface Water Treatment Plant Improvements, Project No. 02303, \$669,000.

Mr. Hill reviewed the agenda report. This proposal is defined as Task Order No. 4 and is an amendment to CH2MHill's original contract for the water plant design. The second phase of the Lake Washington Surface Water Treatment Plant project was anticipated to be constructed next fiscal year.

CH2MHill defined the original capital program to upgrade the treatment plant. That was the \$34 million project that was broken into two phases. Construction of the first phase is nearly complete with the basic treatment components, including the Actiflo treatment system, already in operation.

Task Order No. 4 provides for the design of the balance of the programmed improvements. However, the construction of these improvements will actually take place over time in two projects. The first project is budgeted in FY 2002/2003, and the second project is budgeted in FY 2005/2006. The projects were phased in order to minimize the rate impact.

CH2MHill will complete the design of all the programmed improvements. One package, for the higher priority improvements, will include plans, specifications, bidding and contract documents ready to be advertised for bids. The balance of the plant work will be defined by complete plans and specifications held for construction in FY 2005/2006.

Staff and the engineers believe it is preferable to complete the design of all the plant work even though the actual construction will be phased. This is more efficient from an engineering and financial perspective.

The proposed fee for Task Order No. 4 is \$669,000. The final documents will be completed in 300 days. Permitting efforts followed by the bidding and construction contract award period will mean the project will be ready for construction by October 2003, the beginning of the fiscal year in which it is funded.

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

Moved by Hand/Walker for approval of Task Order No. 4 to CH2MHill's contract for the lump sum amount of \$669,000.

Matt Alvarez, project manager for CH2MHill, provided an overview.

The question was called. Motion carried unanimously.

Moved by E. Palmer/Contreras for approval of a Transfer of \$27,000 from the Miscellaneous Water/Sewer Projects Fund to this capital project. Motion carried unanimously.

13. COUNCIL ACTION RE: Construction of new public works covered storage building and painting of existing building at the Public Works Complex (City Projects 02106 and 00120). Construction contract with Don Facciobene, Inc. in the amount of \$102,500.

Mr. Hill briefed Council. This is the proposed contract award for constructing a new steel storage building and for painting an existing steel building. Both are at the public works complex on Harper Road. Four bids were received and the low bidder at \$102,500 is Don Facciobene, Inc.

The standard construction contract and requirements will be used for this project. The contractor must complete the work within 120 calendar days from notice to proceed.

Moved by Walker/E. Palmer for approval of the construction contract with Don Facciobene, Inc. in the amount of \$102,500. Motion carried unanimously.

14. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/Contreras for approval of the consent agenda, items "a – e."

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

The question was called. Motion carried unanimously.

- a. A request for approval of an FDOT Traffic Signal Maintenance and Compensation Agreement.
- b. A request for approval of a right-of-way use agreement with George and Rebecca Wagaman, MD, for communication lines under Pine Street.
- c. Purchase of a replacement lubrication system for the Fleet Management facility, Affordable Automotive Equipment, Inc., Orlando, FL - \$47,740.61.
- d. Purchase of a Lifepak 12 Biphasic Defibrillator/Monitor for the Melbourne Fire Department, Medtronic Physio-Control, Redmond, WA - \$18,574.25.

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

- e. A request for approval of payment of Invoice #1004 for Police Department usage of the 800 MHz radio system backbone, Brevard County Sheriff's Office - \$16,330.88.

15. COUNCIL ACTION RE: Proposed issuance of Water and Sewer Refunding and Improvement Revenue Bonds, Series 2002A, and Water and Sewer Refunding Revenue Bonds, Series 2002B.

- a. A request for approval of fee proposals for services related to the 2002A and 2002B Water and Sewer Bonds.

From the agenda report: At the June 25 Council meeting, several fees were approved for services to be provided in connection with the upcoming water and sewer bond issues. We have recently received fee quotes for additional services, which will be necessary to complete the sale of the bonds.

The fees include:

	<u>2002A</u>	<u>2002B</u>
Authorized depositary services	\$ 750	\$ 750
Escrow securities acquisition services	3,500	11,000
Escrow verification services	<u>1,495</u>	<u>1,495</u>
 Total	 \$5,745	 \$13,245

- b. RESOLUTION NO. 1768: A resolution authorizing the issuance of Water and Sewer Refunding and Improvement Revenue Bonds, Series 2002A, and Water and Sewer Refunding Revenue Bonds, Series 2002B.

Attorney Gougelman read the resolution by title.

From the agenda report: This is a resolution authorizing the issuance of the Water and Sewer Refunding and Improvement Revenue Bonds, Series 2002A, and Water and Sewer Refunding Revenue Bonds, Series 2002B, in the aggregate principal amount not to exceed \$55,000,000. These bonds are proposed to be issued to refund all the 1992A Bonds and portions of the 1992C and 2000 Bonds to achieve debt service savings. This action will generate \$4.7 million of bond proceeds to finance certain capital improvements scheduled for next fiscal year and will release the city from burdensome and restrictive covenants in Ordinance No. 84-45.

Moved by Poole/E. Palmer for approval of Resolution No. 1768.

Ms. Elliott confirmed for Mr. Palmer that the annual depositary fee will continue for the life of the bond issue. She listed the work that will be done in exchange for this fee.

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

Ms. Elliott provided an overview of the bond issue.

The question was called. Motion carried unanimously.

Moved by E. Palmer/Contreras for approval of the fees. Motion carried unanimously.

16. ORDINANCE NOS. 2002-53 AND 2002-54 (Z-2002-928/CU-2002-07/SP-2002-13/CONVENIENCE STORE): (Public Hearings/First Readings) Ordinances to rezone the .432-acre westerly portion of the property and establish a conditional use for an automobile service station on the total 1.2-acre parcel located at the southwest corner of Post Road and U. S. 1. (Owner/Applicant – PostUS1 L.L.C., c/o Corporate Property Group, Inc.) (Representative – Gary B. Frese) (P&Z 6/20/2002)
- a. Ordinance No. 2002-53: An ordinance to rezone property from C-1 (Neighborhood Commercial) to C-P (Commercial Parkway) (Z-2002-928)
 - b. Ordinance No. 2002-54: An ordinance granting a conditional use for an automotive service station (CU-2002-07).

The City Attorney read each ordinance by title. Mrs. Braz briefed Council, discussed the history of the property, and the surrounding zoning and land use. She noted that the property is now developed as the West Shore Apartments.

Automobile service stations are not permitted in the C-1 zoning district but are permitted in the C-P district with a conditional use; this is the primary reason for the zoning change request. The property is now split between the zoning lines with roughly the westerly one-third of the property being zoned C-1 and the remainder being zoned C-P. The applicant is requesting that the C-1 zoned portion be changed to C-P to provide a uniform zoning designation on the property to reduce confusion in the land development/redevelopment process and specifically to provide for a zoning that would allow for the submission of a conditional use permit for an automotive service station. The adopted land use is Commercial and contains no mixed-use land use designation.

There are no endangered species within the area proposed for the zoning change and conditional use. Since the site is developed, the applicant has been granted an exemption from having to provide an Environmental Impact Assessment Report. The soil report indicates that the site is not within a recharge area. A tree survey has been provided with the plan.

The proposed site plan consists of a 2,960 square foot building located in the southwest portion of the property. A total of 12 fueling positions will be provided along with an accessory vacuum and air hose. A car wash is not proposed. Twenty parking spaces will be provided (12 are required).

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

Access will be permitted from limited use driveways on Post Road and U. S. 1. The limited use driveways will be right-in and right-out use only. The westbound Post Road traffic will have the opportunity to turn left into the site, but since this is a major intersection approach, this movement could occasionally cause traffic congestion and in particular for westbound vehicles in the left through lane. Given this condition it is suggested that no left turn in or out of the site be permitted from Post Road. Post Road will not have a center turn lane or turn bays but will have dual left turns eastbound approaching U. S. 1. The driveway design and signing details can be resolved at the time of construction plan review. The property has 227 feet of frontage on Post Road and 85 feet of frontage on U. S. 1. This could result in left turn prohibitions from the site.

A retention basin will be provided within the required landscape areas on the west and south portions of the lot. Drainage outfall has not been determined as of the date of this report, but the applicant is exploring the possibility of discharging treated stormwater into the city owned drainage pond located to the south of and adjacent to the site. The details of drainage discharge location will be determined at the time of construction plan review.

Since the site will be zoned C-P extraordinary landscape areas will be provided. This includes a 20-foot landscape strip along roadway frontages and a 15-foot wide landscape strip along side yards. In addition a wall will be constructed, as required by Code, 10 feet east of the west property line adjacent to the trailer park. Landscaping materials will be planted on the outside (west side) of the wall. Additional landscaping will be provided to comply with scenic corridor requirements. Lighting on the site cannot spill over to adjacent uses per the lighting and glare ordinance.

This property forms the gateway to the city; U. S. 1 is a designated scenic corridor and providing a development that enhances this gateway will benefit the city and the surrounding area. The current use is non-conforming and landscaping, retention, and parking are also non-conforming. The city has received funding from the state for a landscape enhancement project along U. S. 1. This landscape project is now under design and will be constructed when the roadway project is nearing completion or shortly after completion. This will also provide a facelift to the area and better define the gateway to the city. The city may wish to consider architectural controls to ensure that the site provides a positive image to the city. Even though the site is not within a redevelopment area applying such controls to properties along scenic corridors can go a long way to improving the image of the city.

Staff has received a petition of opposition (slightly over 5%) to the requested zoning. The petition is applied to the proposed rezoning even though it is likely that the opposition is to the requested conditional use. At the Planning and Zoning Board no one spoke in opposition.

The Planning and Zoning Board recommended approval of Z-2002-928 with the findings listed in the agenda package. Additionally, the Planning and Economic Development Department recommended approval of CU-2002-07 with the findings listed in the package and the following conditions (which have been included in the ordinance):

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

- a. The conditional use shall be consistent with the one-page site plan titled "Convenience Store with Gas Post Road and U.S. 1," (SP-2002-13) prepared by Droor and Associates Inc., of Melbourne, Florida, with project number 2001-63, dated April 29, 2002.

Any change to the site plan will require reevaluation of the site plan by the Engineering and Planning and Economic Development Departments. Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency and City Council. A substantial change includes, but is not limited to: 1) a decrease of 5% or more of open space or vegetative areas on the site; 2) any increase in the number of access points as shown on the site plan; or 3) a 10% or more increase in the building size or any increase in the number of pump islands.

- b. Provide a building design and architectural style that will fit the general architectural styles prevalent in the Melbourne area including the use of stucco or columned facades, cantilevered and/or tin roofs, front wooden railings, etc. No metal buildings or large open glass facades shall be permitted. General design standards for the building shall comply with the standards established in City Code, Chapter 10, Article III, Section 10-87.
- c. Participate with the city to redevelop the FDOT parcel, adjacent to and east of this parcel, for an entrance feature.
- d. Provide landscape screening along the Post Road frontage and supplement the Code-required landscaping with extensive ground cover and a concentration of Code-required trees within this area so as to create a nearly opaque vegetative screen between the street (Post Road) and the parking lot and building of the site in order to protect the residential development on the north side of Post Road from visual, noise and light intrusion. [Such landscape area shall comply with City Code, Appendix B, Article XVIII (7)].

Gary Frese, attorney representing the applicant, said that this request will make the zoning uniform. He added that the C-P zoning allows friendlier neighborhood uses and provides for more trees and setbacks.

Moved by Walker/C. Palmer for approval of Ordinance No. 2002-53. Motion carried unanimously.

Moved by Hand/Poole for approval of Ordinance No. 2002-54. Motion carried unanimously.

17. SITE PLAN APPROVAL (SP-2002-15/MIMA): (Public Hearing) A request for site plan approval on an approximate 5.738-acre site in the C-1 (Neighborhood Commercial) zoning district, located on the west side of Hickory Street, north of Sheridan Road and

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

south of NASA Boulevard. (Owner/Applicant – MIMA Real Estate, L.L.C.) (Representative – M.E. Construction, Inc.) (P&Z 6/20/2002)

Mrs. Braz briefed Council, discussed the history and the adjacent zoning. The property was developed as the Association of Retarded Citizens (ARC) center in 1981. ARC recently moved out of the site and the structure was demolished. The site is completely cleared with the exception of many large trees, primarily pines and oaks.

The project would be built in two phases. The first phase includes a 40,200 square foot two story (27 feet high) medical office building on the east portion of the property. The second phase consists of a 5,625 square foot building addition to the west side of the phase one building. A total of 248 parking spaces are proposed.

Two retention basins will provide for stormwater treatment. These ponds will discharge into the drainage ditch right-of-way at the west boundary of the site and eventually into the drainage system that serves other developments in the hospital area. The proposed plan provides cross-access with an adjacent and existing MIMA building to the west, which will allow for vehicular access to Apollo Boulevard. Other driveways will be provided to Hickory Street and to the proposed realignment of Sheridan Road/Oak Street that is part of the proposed hospital expansion. This will provide for improved traffic circulation in the area, more than if just one driveway were provided to/from Hickory Street. The applicant should align the Hickory Street driveway with the hospital parking lot entrance on the east side of Hickory Street. This will require a slight modification of the proposed driveway and cause the intersection to be less than a 90-degree angle. The driveway intersection angle should be no less than a 60-degree angle.

The applicant has been granted an exemption from having to provide an Environmental Impact Assessment (EIA) report since the site is developed. A tree survey was provided with the application. A total of 111 large pines, 13 oaks and several other palms and exotic trees are now located on the property. The pines would be removed as a result of the parking lot and building construction. Most of the oaks would be removed and/or relocated. Some of the smaller oaks (less than 8" in diameter) should be relocated on site. The larger oaks should be replaced at 2:1 ratio (two new 65-gallon oaks for each existing tree greater than 8" removed). Many of the pines are very large – some are over 24" in diameter. With grade changes and disruptions to the root system as a result of construction it is unlikely that these trees would survive construction. As a result of the Code required parking for this use over 65% of the property will be asphalt or covered with impervious surfaces. Currently 19% is covered with impervious surfaces.

The 45,000 square foot medical office building will generate an average of 1,565 daily trips, 204 occurring in the p.m. peak hour. Trips will be distributed to Hickory Street, Sheridan Road and Apollo Boulevard with secondary impacts to Hibiscus Boulevard, NASA Boulevard and Babcock Street. Each of these streets has adequate capacity to accommodate the traffic.

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

The property was previously an untaxed parcel. It will go on the tax rolls and generate at a minimum, \$6,493; more after the new building is constructed.

The Planning and Zoning Board recommended approval of SP-2002-15, site plan for MIMA Medical Building, consisting of a one-page plan prepared by M.E. Construction of West Melbourne, Florida, with Project No. 30218, final revision date of June 25, 2002, with the findings listed in the agenda package and the following conditions.

- a. A change to the site plan will require reevaluation of the site plan by the Engineering Department and the 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 a decrease by ten percent in the amount of open space or vegetative areas on site or an increase by more than ten percent in the size of the buildings as part of this plan approval.
- b. Coordinate with the city to ensure that drainage does not become a problem in the Hickory Street right-of-way. This may include the need to construct a swale curb in the right-of-way to direct stormwater to drainage inlets.
- c. Relocate all oak trees eight inches or less in diameter on the site and provide an additional oak tree at a 2:1 ratio for every oak tree over eight inches in diameter removed from the site. Provide an additional hardwood for every two pines removed, or two pines for each pine removed from the site. These requirements shall be in addition to the minimum tree planting requirements of the Code.
- d. Relocate the dumpster from a required front yard.

Responding to Mrs. Poole, Mr. Hill said he will have the Parks Division investigate whether the city can remove and use some of the oak trees from the site.

Luke Miorelli, engineer for the project, agreed with the stipulations. Regarding the drainage, he noted that the entire site has a five-foot slope between the adjoining MIMA property and Hickory Street. They will have to raise the eastern portion of the property in order to get the stormwater back to the retention pond.

Mr. Miorelli said he is amenable to the city taking some of the oak trees. He added that they are trying to save trees at the entrance and will have a stand of pines along Hickory.

Moved by E. Palmer/Hand for approval of Site Plan 2002-15/MIMA subject to the stipulations. Motion carried unanimously.

18. SITE PLAN APPROVAL (SP-2002-16/MELBOURNE CENTRAL CATHOLIC HIGH SCHOOL): (Public Hearing) A request for site plan approval on the 36.68-acre site in the C-R-A (Residential Holding zoning district with a conditional use for a school), located on the north side of Florida Avenue and east side of Babcock Street. (Owner – Norbert

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

M. Dorsey as Bishop of the Diocese of Orlando) (Applicant – Joe Mancini, Melbourne Central Catholic High School) (Representative - Randy Thron and Dave Tom, BRPH Architects and Engineers, Inc.) (P&Z 6/20/2002)

Mrs. Braz reviewed the agenda report, discussed the history of the property and the land use. The site is mostly developed. The master plan for the campus includes the existing structures (33,000 square feet) and removing, relocating, and constructing new buildings (additional 72,400 square feet) and athletic facilities on the 38.5-acre campus. The existing portables would be removed and replaced in stages with four new buildings (two classroom buildings, an administrative/classroom building, and a dining multi-purpose building). The athletic fields would also be repositioned and enhanced by moving the fields farther to the east side of the campus. A total of 395 parking spaces will be provided. A parking lot relocation consistent with the proposed plan is under review by the Engineering Department as an informal plan.

Two retention basins will provide for stormwater treatment. These ponds will discharge into the drainage ditch at the easterly boundary of the site, which eventually outfalls into Crane Creek.

The proposed plan provides driveways to Florida Avenue and to Babcock Street. Other driveways will be provided to Florida Avenue serving parking lots and the athletic fields. A total of two driveways will connect to Florida Avenue and one driveway will be provided to/from Babcock Street compliant with the access guidelines of the Comprehensive Plan. This will provide for improved traffic circulation in the area. Turn lanes will be needed for the main Florida Avenue driveway. These turn lanes should be constructed when the first new building is constructed.

The applicant has been granted an exemption from having to provide an Environmental Impact Assessment (EIA) report since the site is developed. The applicant previously provided a report that indicates gopher tortoises and scrub jays inhabit the far eastern portion of the site. The applicant has provided a gopher tortoise permit but not a permit to take or modify scrub jay habitat. A number of large pine trees exist on the northwesterly portion of the site. Many of these trees will be preserved.

The 72,400 square foot additions for a 1,000-student campus will generate an average of 1,380 daily trips, with 300 occurring in the a.m. peak hour. Many of these trips are occurring to/from the site with the existing campus enrollment. Trips will be distributed to Florida Avenue and Babcock Street.

The Planning and Zoning Board recommended approval of SP-2002-16, site plan for Melbourne Central Catholic School, consisting of a one-page plan prepared by BRPH of Melbourne, Florida, with Project No. 5204.01, dated June 12, 2002, with the findings in the agenda package and the following conditions:

- a. A change to the site plan will require reevaluation of the site plan by the Engineering Department and the Planning and Economic Development

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

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 by five percent in the amount of open space or vegetative areas on site; or 2) any addition of a motor vehicle access point to/from Florida Avenue or Babcock Street not shown on the site plan.

- b. All trees shall be preserved unless located in a driveway, paved parking lot, building pad, recreation area, 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 Enforcement personnel and an evaluation shall be made to determine the possibility of saving trees. Trees to be preserved must be protected by barricades at the drip line during construction.

- c. Prior to development of the property, the owner/applicant shall obtain an approved mitigation plan and/or permits from the U. S. Fish and Wildlife Service to take scrub jay habitat now being used by scrub jays. 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. The owner/applicant shall make improvements to Florida Avenue by constructing turn lanes for the main driveway (center parking lot) on Florida Avenue. Such improvements will be required upon construction of the first future classroom building shown on the plan or construction of the main stadium.
- e. Note the handicapped parking spaces on the site plan.

Mrs. Poole asked for additional information about the gopher tortoises.

Joe Mancini, Principal, Melbourne Central Catholic High School, stated that this plan will provide for eye appeal from the street; the buildings are being directed more into the campus. They are providing for green space and trees are being preserved. The entrance on Florida Avenue is being moved so that stacking won't occur. They are eliminating the portable classrooms.

Mr. Mancini agreed with the stipulations and said that they have a "take permit" for the gopher tortoises. He added that he is not sure what that means; however, that was the recommendation of the environmental study.

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

Mrs. Palmer asked how they arrived at 395 parking spaces. Mr. Mancini said that was based on the student population, the maximum vehicles per day, and the fact that there are van services that drop students off. He added that Planning and Zoning agreed with the figure.

Mrs. Walker asked about the scrub jays. Mr. Mancini said that issue is still under study and they haven't made a decision.

Moved by E. Palmer/Walker for approval of Site Plan SP-2002-16/Melbourne Central Catholic High School subject to the stipulations. Motion carried unanimously.

19. COUNCIL ACTION RE: A request for use of SHIP Rental Rehabilitation Funds from the Melbourne Housing Authority in the amount of \$69,740 for code-related improvements to Tucker Heights, a 41-unit scattered site public housing rental development.

Mr. Hill reviewed the agenda report. This is a request by the Melbourne Housing Authority (MHA) for State Housing Initiatives Partnership (SHIP) Rental Rehabilitation Program funds. The purpose of the request is to make Code-related improvements to Tucker Heights, a 41-unit scattered site public housing rental development, at the following addresses:

1511 Mitchell Street (10 units)	1101 and 1103 Mathers Street (15 units)
905 and 909 Hickory Street (10 units)	1780 Steele Street (6 units)

This request was received on October 1, 2001. Staff delayed forwarding it until the current contract with the MHA for Ramshur Towers was closed-out.

The MHA would like to use the funds for roof replacements. The units were constructed in 1984 and have their original roofs. These roofs have surpassed, or will very shortly surpass, their design life expectancy. SHIP funds are available from the 2001-2002 budget where \$70,000 was set-aside for the Rental Rehabilitation Program. The MHA is requesting \$69,740 for this project. Staff's in-house cost estimate, with a 10% contingency, is \$80,025.

Staff evaluated the feasibility of this project and its eligibility for SHIP funding and concluded that it is a suitable project under the Rental Rehabilitation Program.

Because the MHA has no matching funds available, staff is recommending that Council approve an exception to its 50:50 matching requirement as is permitted on a case-by-case basis for public housing agency projects in accordance with the Rental Rehabilitation Program Policies approved by Council.

Moved by Hand/E. Palmer for approval of the award of \$69,740 in SHIP Rental Rehabilitation Program funds to be made to the Melbourne Housing Authority for the

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

rehabilitation of rental property known as Tucker Heights and rental property on Mitchell Street and Hickory Street (PHA Project N FL56-5) for roof replacement.

Responding to Mrs. Poole, Frank Chavers, Executive Director, Housing Authority, stated that these are townhouses or row houses. He elaborated on the layout.

The question was called. Motion carried unanimously.

Moved by Contreras/E. Palmer for authorization for the City Manager to execute an agreement with the Melbourne Housing Authority for the implementation of the project. Motion carried unanimously.

20. COUNCIL ACTION RE: A request for withdrawal of HOME CHDO funds in the amount of \$37,290 pledged to Brevard County for the CHI-ARC Palm Bay Group Home Project and restructuring of funding in the amount of \$70,000 (approved by Council 6/11/2002) for acquisition of a single-family dwelling at 306 Herring Street in Melbourne for affordable rental housing.

Mr. Hill reviewed the agenda report. In August 2001, City Council approved a request from Community Housing Initiative, Inc. (CHI) for \$37,290 in Community Housing Development Organization (CHDO) funds to build a group home in Palm Bay to benefit developmentally disabled adults.

Six months after CHI acquired a vacant lot in west Palm Bay (Unit 9) for the group home, the City of Palm Bay was notified by the Fish and Wildlife Commission that there were 20 families of scrub jays in Unit 9. The City of Palm Bay submitted the required Habitat Conservation Plan on May 24, 2002 to the Fish and Wildlife Commission. There is a six – eight month review period by the Commission, after which the City of Palm Bay must fund the acquisition of suitable habitat for the relocation of the scrub jays.

This situation has the potential to cause the city to miss the September 30, 2002 statutory deadline for committing the \$37,290 in FY 2000 HOME CHDO funds pledged to Brevard County for this CHI-ARC joint venture project.

The recommendation is to approve withdrawal of Melbourne's pledge of \$37,290 in HOME CHDO funds to Brevard County for the CHI-ARC Palm Bay Group Home Project and restructuring of the funding for the 306 Herring Street Project so that the \$70,000 award approved by City Council on June 11, 2002 would be funded out of FY 1998 HOME (\$32,710) and FY 2000 HOME (\$37,290).

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

21. RESOLUTION NO. 1767: A resolution authorizing application to the Florida Forever Program through the Florida Communities Trust to purchase three parcels in proximity to

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

Melbourne Harbor to support the proposal outlined in the Melbourne Harbor conceptual plan prepared by Florida Tech.

Attorney Gougelman read Resolution No. 1767 by title.

Moved by Poole/Hand for approval of Resolution No. 1767. Motion carried unanimously.

22. COUNCIL ACTION RE: A request for preliminary approval of the proposed purchase price in the amount of \$136,124 for acquisition of land for the Eber Road Stormwater Retention Pond.

Mr. Hill briefed Council. The Courtelis Company, represented by Elias Vassilaros, is willing to sell the city 4.5 acres of land in a location appropriate for the retention for Eber Road widening. A fire station could also be sited on the property, which is needed in the southwest area of the city. The cost of the land is \$30,250 per acre or \$136,124. The price of the land is 10% over the appraised price. Mr. Vassilaros believes that the appraisal is low and has a contract for the remainder of the land at this time; the city needs the land to proceed with the widening of Eber Road.

Additionally, the owner would like the density that has been reserved for the property. When the zoning on the property to the east, now Pine Creek Subdivision, and the commercial zoning on the corner of Eber and Dairy was established in 1999, the ordinance stated that 385 units could be constructed on the residential land. Pine Creek was developed with 189 units and Mr. Vassilaros is requesting that the remaining 196 units be permitted on the remaining property after the sale of 4.5 acres.

Staff has been negotiating the exact location of the 4.5 acres since it has to be in a configuration that allows adequate volume for stormwater storage. We now have a location that will work and need City Council approval to proceed. The sales agreement will return for final approval.

The recommendation is for Council approval for staff to proceed with steps necessary to acquire the retention site parcel with the terms as outlined.

Mrs. Poole asked if another location is available for the stormwater. Mr. Hill said practically, no. The retention area has to be situated to have sufficient capacity and in such a way that it doesn't require elaborate construction or over-piping.

Mrs. Palmer asked what makes this property so valuable. Mr. Hill replied that it is based on the appraisal.

Mr. Hill confirmed for Mrs. Poole that the retention area for Pine Creek will be built separate from the roadway retention. It would be unworkable and unfeasible to provide a combined retention area; it would lead to disputes on maintenance.

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

Mr. Palmer said that this action will give the city a location for a fire station and will maintain a density of six units per acre.

Moved by E. Palmer/Contreras to authorize staff to proceed with the steps necessary to acquire this property. Motion carried. Mrs. Poole voted nay.

Mr. Hill pointed out that this is well below the original budgeted amount. He added that staff will return with the specifics regarding density now that Council has given an indication to proceed.

At this point, Council convened as the Melbourne Downtown Community Redevelopment Agency for the following item:

Note: This item was considered prior to Item 11.1.

23. COUNCIL ACTION RE: A request for authorization for funding for the Main Street Coordinator position to be funded from the Downtown Redevelopment Fund in the amount of \$50,000.

From the agenda report: The Downtown Merchants Association and the Melbourne-Palm Bay Chamber of Commerce are seeking to apply for a “Main Street” designation. They would like support of City Council (as the Community Redevelopment Agency) in their efforts. At its June 6 meeting, the Downtown Redevelopment Advisory Committee recommended funding for the tax increment funds in the amount of \$50,000 a year for three years to a nonprofit agency that will be formed if the “Main Street” designation is approved. If they fail to receive the designation the funds would not be expended.

Mrs. Poole asked if the person will be hired for three years if they don’t receive the designation the first year.

Michael Melhado, property owner/business owner in Downtown Melbourne and member of the redevelopment advisory committee, said if they do not receive the designation, they will not hire a manager and the money will stay in the redevelopment fund. He added that officials at the state level said they have a good chance of being accepted the first year.

Mr. Melhado discussed the process and the benefits of being designated as a Main Street community. He asked Council to commit funds for this project.

Responding to Mrs. Poole, Mr. Melhado said they will first focus on the basic preservation of historical assets and general organization.

Mrs. Poole referenced the number of businesses that have left recently and said there needs to be a concerted effort to fill the vacant properties.

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

Lee Bohlmann, Melbourne Palm Bay Area Chamber of Commerce, stated that a healthy downtown area is an indicator to others about the entire community. She added that the Chamber of Commerce keeps a roster of available properties and provides that to people who come in and want to start a business. She encouraged Council to support the request.

Moved by C. Palmer/E. Palmer to provide \$50,000 per year for three years from the tax increment funds to a non-profit agency that will be formed if the “Main Street” designation is approved. Motion carried unanimously.

City Council reconvened for the remaining items.

24. COUNCIL ACTION RE: Confirmation of Mayor’s appointment of public housing tenant to the Melbourne Housing Authority.

Moved by E. Palmer/Contreras to confirm the Mayor’s appointment of Betty Jean Terrell to the Melbourne Housing Authority. Motion carried unanimously.

25. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Attorney Gougelman updated Council on a lawsuit filed by Florida Recyclers, Inc. They are appealing the decision of the Code Enforcement Board. Since the board found they were not operating the facility in violation of the site plan, then there was no need to file an amendment to the site plan. Attorney Gougelman requested Council authorization to file a cross appeal.

Moved by Poole/Walker to authorize the City Attorney to proceed with filing a cross appeal. Motion carried unanimously.

Following a brief discussion, Council established July 29, 30 and, if necessary, July 31, as the budget workshop dates.

Mr. Palmer distributed information regarding the window replacement project at Ramshur Towers to Council for review.

Council authorized the Mayor to send a letter of objection to the county regarding its intent to create a special water and sewer district.

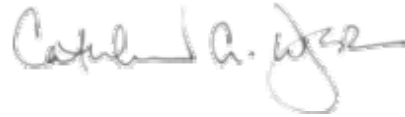
Moved by C. Palmer/Hand to authorize the Mayor to send the letter. Motion carried unanimously.

26. ADJOURNMENT

Moved by E. Palmer/Contreras for adjournment. Motion carried unanimously.

The meeting adjourned at 11:26 p.m.

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



City Clerk – 7/17/2002

Approved by Council: July 23, 2002 w/noted revision on page 22