

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 13, 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 Buckley.

1. Reverend Dale Haynes, Scott Chapel United Methodist Church of Melbourne, 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
	Suzanne Novak	Assistant City Attorney
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Assistant City Manager
	Peggy Braz	Planning and Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented the following proclamations:

“2002 Brevard Stealers Blue Ten and Under Softball Team;” accepted by Manager Mike Coffey and Coaches Russell Reese, Timothy Doerr and Dave Sharp. “2002 Eau Gallie Little League 9/10 Year Old All-Star Softball Team;” accepted by Manager Karen Craft and Coaches Todd Acquafredda and Sherri Bradley. “2002 Eau Gallie Blue Junior League All-Star Baseball Team;” accepted by Manager Mike Whittington and Coaches Tom Scott, Tom Flamm, and Todd Givens. “2002 Eau Gallie Little League All-Star Softball Team;” accepted by Manager Steve Veibl and Coaches Steve Bailey and Susan Rodriguez.

5. APPROVAL OF MINUTES – Regular Meeting – July 23, 2002

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

6. CITY MANAGER’S REPORT

Mr. Hill suggested Council meet on August 20 to discuss budget matters prior to the September public hearings.

Moved by C. Palmer/Poole to conduct a special meeting on August 20 at 7:30 p.m. Motion carried unanimously.

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7. PUBLIC COMMENTS

Eric Ellebracht, 1948 Tyler Avenue, stated that a city employee driving a city vehicle almost crashed into his vehicle while talking on a cellular phone. He recommended that the city establish a policy, which prohibits the use of cellular phones by employees driving city vehicles.

Additionally, Mr. Ellebracht suggested that the city designate a portion of Jimmy Moore Park as a “dog park.”

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-47 (CU-2002-05/SP-2002-10/PRINCETON MINI-STORAGE): (First Reading/Public Hearing) An ordinance granting a conditional use to allow a mini-storage facility on a 4.123-acre portion of a lot on a commercial development site in a 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 7/9/2002)

Attorney Novak read Ordinance No. 2002-47 by title.

Mr. Hill reviewed the agenda report. This item was postponed so additional information could be obtained about the fill used in the retention pond. Contact was made with Bobby Bowen, Brevard County Code Enforcement, who followed up further with FDEP. The allegation that debris from demolished barns was buried on the site cannot be substantiated. The developer who demolished the barns has receipts for recycling the steel and a burn permit for the remainder of the material. This happened prior to construction of the Princeton Apartments. The city was permitted to do soil borings on the property; staff selected six locations. The borings reveal that only mulch was buried on the site, which was confirmed by the contractor at the City Council meeting.

A memo from City Engineer Howard Ralls is included in the agenda package, which describes the actions that have been taken.

The Planning and Zoning Board recommended approval of the request with the findings listed 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.

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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.

The conditions have been included in the ordinance.

Bobby Bowen, Brevard County Code Enforcement, discussed the actions he took to determine whether or not illegal materials were dumped in the retention pond. He noted that the contractor, Doug Connor, acknowledged that 300 truck loads of clean fill were brought in from another location in Brevard County. Mr. Bowen added that Mr. Connor has stated that he has a state license to operate throughout the state.

Continuing, Mr. Bowen confirmed that the soil borings show that no unsuitable fill was used in the retention or common areas. Additionally, he noted that he does not have any sworn testimony from eyewitnesses that construction debris was buried on site. He stated that there is not any probable cause to warrant excavating the site. Mr. Bowen stressed that the intent of the county code is to prevent illegal dump sites; this does not appear to be an illegal dump site. And, it appears that clean fill was used on the project.

Mr. Bowen said the admission by Mr. Connor regarding fill being brought in from off site is a violation of the county code. Therefore, the city has the following options to consider: 1) the county will defer to the City of Melbourne, and the city can exercise prosecutorial discretion; 2) if the city wishes to obtain a findings of fact from the county, the county will set a date for the case to be heard; or 3) the city can seek a fine before the county special master.

Mayor Buckley recommended the City Manager return with a recommendation regarding the options at the next meeting.

Mrs. Poole said she is concerned that if we don't take any action, this type of activity will continue. Mr. Bowen confirmed that it is routine for contractors to bring in fill from other locations to complete a job. He repeated that clean fill is okay as long as it is from the site. Mrs. Poole stated that she hopes the city adopts an ordinance similar to the county's.

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Mrs. Palmer said she would like to know where the fill came from that was trucked in.

Mr. Contreras referenced the photographs that were anonymously submitted and said it looks as if asphalt was dumped. Mr. Bowen said he reviewed the photographs and, in fact, had to use a magnifying glass to read Mr. Connor's name on the side of the truck. Mr. Bowen stressed that the person who took the photographs would have to testify under oath regarding the materials that were dumped.

Doug Connor, Doug Connor, Inc., stated that the clean fill came from a site around the corner off of a dirt road called Madison. The mulch came from grinding materials on the construction site. He added that anything that needed to go to the landfill went to the landfill. Regarding the question about asphalt being buried, he said he recycles asphalt. It is made of oil and he would never bury asphalt on a site.

A brief discussion followed regarding the clearing of the site.

Mr. Connor said this (the anonymous complainant) sounds like a disgruntled contractor. He concluded by saying he is proud to be located in Melbourne. He does a lot for the community and would never do anything to harm the community.

Following a brief discussion, Mr. Connor said he believes he has a right to know the identity of the anonymous complainants.

Moved by E. Palmer/Walker for approval of Ordinance No. 2002-47.

Mrs. Poole said she is going to vote no because fill was brought in from off-site and that is not legal.

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

Mr. Hill asked Council to keep in mind that this is a regular and routine practice; it is business practice for a contractor to maneuver fill between sites. Mr. Palmer added that common sense indicates that fill is brought in from off-site.

9. ORDINANCE NO. 2002-55: (Second Reading/Public Hearing) An ordinance amending Chapter 9, Civil Emergencies, as recommended by the City Code Review Committee, Section 3. (First Reading 7/23/2002)

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

Moved by Poole/Hand for approval of Ordinance No. 2002-55. The roll call vote was:

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

Nay: None

Motion carried unanimously.

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10. COUNCIL ACTION RE: Airport Authority Board Appointments (Requested by Council Member Poole) (Postponed by Council 7/2/2002)

From the agenda report: At the July 2 meeting, Council approved a motion to provide that a title search be conducted on specific boundaries of the airport (with the cost to be paid by the airport). By consensus, Council agreed to address the membership issue after the title search is complete.

If Council wishes to proceed with a Charter amendment, the Supervisor of Elections must have the ballot information by September 5.

In response to Mrs. Poole, Ms. Novak read Mrs. Poole's memorandum regarding proposed changes in the membership of the airport governing board. The changes include: ballot proposal providing that the City Council will appoint all members of the Airport Authority governing board; seven members serving two year terms with no term limits; no residency requirement; seven members could be seven Council Members; no existing member would be automatically removed by adoption of this proposal; and as individual terms expire, Council will appoint successors. Mrs. Poole's memorandum states that her proposal is not a proposal to abolish the existing Airport Authority.

Donald Nohrr, Chairman, Melbourne Authority, reported that 35 years ago the City of Melbourne created the Airport Authority. The authority took over the operation at the airport, which was in debt and in trouble with the FAA. Mr. Nohrr elaborated on the transformation of the airport, which is now an ultra-modern operation with a world class industrial park. The unique blend of members has taken the politics out of the operation. Airport tenants today pay close to \$300,000 per year in taxes to the city. The airport has created over 10,000 jobs, with 6,000 located directly on the airport. The Melbourne International Airport contributes \$1.3 billion annually to the local economy. Because of the professional management, the airport is financially sound, receives millions in grants, and has not cost the taxpayers one dime.

Mr. Nohrr concluded by saying that the authority works hand in hand with the city to improve operations. He added that it is in the best interest of everyone to leave the winning team intact.

Mrs. Poole referenced a newspaper article where Mr. Nohrr was quoted as saying that the Airport Authority is accountable to the City Council and certain authority expenses are paid for and authorized by the City Finance Department. She noted that this statement is incorrect. The City Finance Department audits what the airport submits in order to ensure that regulations are being complied with; however, it does not put Council in control.

Mr. Nohrr replied that the city audits all the expenses; the city has control of Airport Authority money; the city appoints three members and those three members, along with two other members, appoint the sixth and seven members. Therefore, the city has a majority vote with the appointments.

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Mr. Nohrr indicated that the City Council also approves the Airport Authority budget every year. Mrs. Poole questioned the timing of when the airport budget is submitted to Council.

Gary Altpeter, 335 Paradise Boulevard, stated that the citizens do not control their own airport. He commented that Mrs. Poole is simply trying to let the voters decide if the citizens should control their airport; this is not a proposal to abolish the Melbourne Airport Authority.

Ronald Newkirk, 232 Cinnamon Lake Circle, said he believes this issue should go before the voters; the city should have control over the Airport Authority and the members should be selected by the City Council. He added that he does not know how the airport is making money. They operate with no direction. Mr. Newkirk pointed out that he is a frequent flyer and it is a hassle coming out of the Melbourne Airport. That is why MIA is losing thousands of commuters to Orlando.

Mr. Newkirk added that the cost of the lease (city lease from airport for D. B. Lee Wastewater Treatment Plant) is one reason water and sewer rates are constantly increasing.

Mrs. Palmer asked Mr. Newkirk how changing the makeup of the Airport Authority will help with the problems he mentioned. Mr. Newkirk said the airport needs new life and direction; all boards get stale in time.

Jim Johnson, Executive Director of Aviation, Melbourne International Airport, stated that Mrs. Poole is proposing to take away the rights of the largest tax contributor in the city (one member appointed by the industrial air tenants) and the Chamber of Commerce (one member appointed by the Chamber of Commerce). He added that Mrs. Poole does not want the airport to operate as a business. He questioned what would happen if Mrs. Poole's proposal goes through and airlines don't flood into the airport. He added that MIA is no different than hundreds of other airports.

Mr. Johnson commented that he works closely with the city, including several Council Members, the Mayor, the Planning and Economic Development Department, etc. Additionally, he pointed out that the Airport Authority has the highest caliber of board members. And, 521,000 people who flew MIA last year may object to this discussion. He requested Council deny any motion to change the existing Airport Authority and recommended the successful operation remain in place.

Continuing, Mr. Johnson said that the taxes paid by airport properties ensure that our homeowners' taxes remain at a minimum while city services are at a maximum. He listed the many successes of the airport and stated that it operates like a business; last year they had a net profit of \$3.9 million.

Mrs. Poole discussed the history of the Melbourne Airport and noted that there have been no changes to the City Charter since the cities merged (1969). She discussed her

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concerns with the airport, which include: request by airport to FAA to relax the criteria established so that the airport can impose a \$3 per passenger charge to fund the remaining debt for the terminal; a resolution by the airport attached to the letter to the FAA which indicates that the Airport Authority is the owner and operator of the Melbourne International Airport; the Airport Authority taking action in February to send only two representatives to a conference in Salt Lake City, and then returning on a later agenda requesting approval to send additional delegates; action taken by the airport to pursue a grant to construct a parking garage; request by the airport for a passenger charge to pay off debt service, yet the parking garage will result in additional debt; the airport's decision to not apply for a community grant; and the airport's decision to purchase property adjacent to Fountainhead Subdivision results in property being removed from the tax rolls.

Mr. Johnson responded to several of the concerns as follows: the airport reduced its budget because of unfunded mandates from the federal government following September 11; the federal government eventually decided to return the money and pay for the unfunded mandates; the parking garage is through a "50/50" grant with FDOT and as parking needs grow, the authority will continue to consider construction of a garage; the airport would never take on new debt (parking garage) that it could not pay; regarding the community grant, Daytona already had partners – MIA did not so the decision was made to not apply; and property was purchased south of Fountainhead for wetland and animal mitigation.

Mr. Palmer referenced the billion dollar-plus impact that the airport has on the local economy. He asked what would be accomplished by changing the Airport Authority.

Mr. Johnson replied that a speaker is prepared to say that the opportunity exists for a three-way partnership between his (the speaker's) company, the MIA, and a major airline. That project has been placed on hold until the issue about the composition of the Airport Authority has been resolved.

Following a brief discussion, Mr. Johnson assured Mrs. Walker that he will provide City Council with the results of the "bleed off" study (number of customers MIA loses to Orlando).

Mr. Johnson confirmed for Mr. Contreras that during the period that he has been Director of Aviation – six years – the Melbourne City Council has been receiving Melbourne Airport Authority minutes. Mr. Contreras added that the City Council also approves the annual budget for the Airport Authority and the D. B. Lee Wastewater Treatment Plant property lease.

Gene McCarthy, 1901 Harbor City Boulevard, reported that he recently completed two terms as the at-large member on the Airport Authority. He added that the Airport Authority has a combination of members that satisfies the public/private sector; it is not a strictly political board. He discussed the successes of the airport and its economic impact to the local economy. He concluded by saying that change for the sake of change makes no sense.

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Eric Ellebracht, 1948 Tyler Avenue, said he has no objections to the technical operation of the airport – the runways are good and there has been a lot of advancement. He noted that changing the makeup of the board would result in a board that is more representative of the people. The current composition includes rich businessmen and politicians that have a certain amount of institutional arrogance. He added that this whole issue was brought about by the arrogance of the board in “booting out a bunch of old people” (reference to termination of the Land Yacht Port O’Call lease in 2004). He asked Council to allow the voters to decide.

Mrs. Palmer asked Mr. Ellebracht if he can give any concrete reason why the Airport Authority should be changed, other than class envy and other outlandish reasons. Mr. Ellebracht said we live in a democracy and if a group objects to the way the people in power are doing business, then a decision can be made through an election. Mrs. Palmer said that Council looks at numerous questions every year, which don’t go on the ballot.

Jim Franzen, representing ICS, a consortium of large corporations, reported that they were looking into developing a maintenance facility to bring in a large profitable airline to the MIA. The operation would be a central maintenance hub. They have people ready to move in and do business, but waiting until after November for a referendum would be the end of the deal. They need assurance that the airport will be under a stable management base.

Lee Bohlmann, President, Melbourne Palm Bay Area Chamber of Commerce, spoke in support of the current composition of the Airport Authority. She referenced the economic impact the airport has on the region. Ms. Bohlmann said communication can always be improved; that is a two way process. She noted that a cursory look at the news tells you the air industry is under strife; the MIA has no control over those things.

Continuing, Ms. Bohlmann said she is concerned about ballot box measures. Voters are not always informed on the issues and only 28% of the people vote. This year alone there are 12 referenda from the state on the ballot. Voters are normally turned off by the wording of referendum; therefore, the common vote is “no.” She encouraged Council to deny any motion to change the Airport Authority and asked that change not be based on personalities.

Mr. Contreras asked Ms. Bohlmann to comment on Mr. Franzen’s discussion. Ms. Bohlmann said business people generally don’t like dealing with unknown timeframes and results. For any businessperson, time is money.

Bennie Hopkins, 624 Williams Street, said he considers himself to be a frequent flyer. Based on size, he commented that the MIA is one of the best in the country. Mr. Hopkins stated that this issue is nothing but a smokescreen. This issue relates to Land Yacht Port O’Call. If that lease had not been terminated, this issue would not be on the agenda. He concluded by saying it will be a lose/lose situation if the makeup of the Airport Authority is changed.

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A brief discussion followed.

Recessed: 9:58 p.m.  
Reconvened: 10:09 p.m.

Bill Potter, Melbourne Airport Authority Attorney, clarified that we are a republic; therefore, not every issue is submitted to the voters.

Continuing, Mr. Potter referenced the current configuration of the Authority, which was created in 1967. The new configuration was the result of the former City of Melbourne being blacklisted by FAA due to the manner in which it operated the airport. The current composition of the Airport Authority resulted in order to be removed from the blacklist. The solution was to create a semi-autonomous authority with representation from the business community. This struck a rational balance with public input being provided by the City Council members and the business viewpoint provided by the Chamber of Commerce and the industrial air tenants.

Mr. Potter commented that this is a dependent authority and the City of Melbourne has direct control over many of its aspects. Council approves the budget; three of the five members are Council Members; and those five members select the two at-large members. Airport personnel matters are covered by the city personnel rules and purchasing is done in accordance with the policies and procedures imposed by City Council.

Mr. Potter pointed out that the airport is a state of the art facility that is financially sound and no longer has violations of FAA regulations. Compared to other communities our size, we have an admirable enviable air service. The current composition has worked well; there is a good balance. He suggested that Council not tamper with it thereby risking the success we have enjoyed.

Mrs. Poole responded that the City Council should receive the airport budget at the same time it receives the city budget. Mr. Potter replied that it is reasonable to ask that the budget be delivered in a timely manner. He noted that this could be accomplished under the existing composition.

Mrs. Hand stated that she has enjoyed serving on the Airport Authority and witnessing the progress in our community. She added that she thinks it is unwise to make any changes to the makeup of the board. She listed the expertise of each board member and stated that they all work in concert with the Director and staff. The airport is a modern, state of the art facility with a much-envied industrial park. More than 10,000 jobs are provided as a result of the airport and over \$1 billion is pumped into the local economy. The airport has given our citizens a bonus through property taxes remaining low.

Mrs. Hand reported that the Airport Authority continues to have a vision for developing a convention center and hotel. These things will attract airlines and the airport will continue

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to market the airport nationally and internationally. Mrs. Hand concluded by saying it would be a disservice to change the way members are appointed.

Mr. Contreras made a motion to keep the Melbourne Airport Authority board as it is and not place this on a November 2002 ballot. Mayor Buckley said this is Mrs. Poole's item; therefore, he would like her to have the option of making the first motion.

Moved by Poole/Walker that the City Council direct the City Attorney to prepare a resolution to be adopted by City Council. The resolution will place on the November 2002 ballot a proposal that will provide that the City Council will appoint all members of the Airport Authority governing board and that the Charter amendment for the Airport Authority include giving the City of Melbourne control of the Melbourne International Airport with a seven member authority to be appointed by the City Council.

Mrs. Walker said she appreciates all the work that Mrs. Poole has done researching this item.

Mrs. Poole stated that the Airport Authority appoints some of its own members; it has no one to answer to. The airport has grown and prospered just as the surrounding area has grown and prospered. The Airport Authority has dedicated members, such as our City Council Members. However, as years have passed, the authority has assumed arrogance of total authority without concern for the people it is supposed to serve. The authority has the attitude that making the most profit is the goal.

Continuing, Mrs. Poole said it doesn't take a \$55,000 study to show that this area has "bled off" to Orlando. Additionally, the inequities that the airport has burdened the city with are ludicrous. She referenced the various lease agreements and lease payments between the city and the airport.

And, on July 25 the city was told to expect to pay fair market value for property occupied by the D. B. Lee Waste Water Treatment Plant in order for the FAA deed restrictions to be removed. She agreed with a previous speaker that not paying this lease amount would make a difference on the water/sewer rates.

Mrs. Poole referenced the eviction notice given to Land Yacht Port O'Call in order to accommodate a developer from Vero. Additionally, Trailer Haven continues to be hit with more fees. Those residents fear that they will be evicted, too. Citizens want to have this item placed on the ballot so that they have a right to choose. She concluded by saying that it is unfair that the three Council Members who sit on the Airport Authority will also be voting on this item.

Mr. Contreras pointed out that the Airport Authority is a business whether we like it or not. Regarding Port O'Call – that decision was made years in advance. He agreed that this is simply a smokescreen because of a business decision that was made to benefit the airport. He added that he has received no calls regarding this item. Further, the Airport Authority is knowledgeable and familiar with the complex issues. That is why the airport has \$38 million in its coffers today.

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Mr. Palmer said this issue has brought forward a healthy exchange of ideas. Some of the issues that have surfaced will ultimately be beneficial to the Airport Authority and the City of Melbourne. He referenced the contact with FAA to pursue release of the restrictions on the D. B. Lee property and noted that in-kind services will be counted towards payment of the fair market value. Other issues that have been helpful include discussion about the boundaries and the budget. The outcome will be better coordination between the airport and the city.

Continuing, Mr. Palmer said most of the people he has talked with don't have the faintest idea about how the Airport Authority is organized or how it operates. He stressed that the federal government or the city can't mandate that airlines be brought in. There has to be opportunity for profit before an airline will enter a market. A convention center will bring conventioners and families to our area. It is a good decision for the airport and will ultimately bring in millions of dollars to the city. He concluded by saying there are things that need to be changed; however, the composition of the authority is not one of them.

Mrs. Walker agreed with Mr. Palmer's comments and said if she could make all the appointments to the Airport Authority, the membership would probably remain the same.

Mrs. Palmer said the public outcry following the non-renewal of the Port O'Call lease caused her to take a closer look at the operation of the airport, makeup of the Airport Authority, and how decisions are made. She added that one of the problems she saw was lack of communication between citizens and the airport. This issue has resulted in the Airport Authority becoming more sensitive to the issues and the residents. Additionally, she noted that it is the responsibility of the Council Members who serve on the board to represent the people who elected them and to make decisions that reflect the best interest of the people in the city. If they don't do that, we can replace them.

Mrs. Palmer agreed that Council does have a majority on the Airport Authority. If the Council Members choose to sit, be quiet, and be led, that is their decision. However, the attitude needs to be that we are here to represent the citizens – not to sit, listen, and be docile.

Mrs. Palmer concluded by saying she would like to see more information brought before Council from Airport Authority meetings. She has enjoyed receiving the minutes and was excited to learn about the economic impact the airport has on the area. The airport is financially solvent and if we lose that stability, we will never gain air carriers. She recommended the current composition of the authority remain and that communication increase with City Council.

Mayor Buckley said the Airport Authority has a good blend of professional people plus elected officials. He agreed that the real reason for this item may be the Port O'Call lease. And, he noted that the lease was a sound business decision made by the board. Twenty years ago Port O'Call was told the lease would not be extended. Additionally, Trailer Haven residents have been assured that there is no attempt being made to remove them. The Mayor pointed out that presently the airport is in discussions with four

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different airlines about providing new service to the airport. Any attempt to change the board may result in a loss of potential new carriers because of the uncertainty. Therefore, he stated that he is opposed to changing the composition of the authority.

The question was called. The roll call vote was:

Aye: Poole

Nay: Contreras, E. Palmer, Walker, C. Palmer, Hand, and Buckley

Motion failed.

NEW BUSINESS

11. COUNCIL ACTION RE: Award of Contract for Timberline Estates Waterline Extension to Underground Solutions, Haines City, FL, Project No. C01312 - \$127,955.76.

Mr. Hill reviewed the agenda report.

Moved by Walker/Hand for approval of the contract with Underground Solutions in the amount of \$127,955.76 and the transfer of \$80,160 from the Non-Departmental Water/Sewer Interest Fund and \$10,653 from the Non-Departmental Water/Sewer Contingency Fund to this project. Motion carried unanimously.

12. COUNCIL ACTION RE: Task Order No. 5 to CH2M Hill's Contract to perform a vulnerability assessment for the city's Water System – not to exceed \$125,000 (\$115,000 to be funded from Environmental Protection Agency approved grant funding).

Mr. Hill briefed Council and reviewed the agenda report.

Mr. Palmer said staff needs to investigate ways to bring the water plant into the city limits or under city jurisdiction.

Moved by Poole/E. Palmer to establish a capital improvement project and approve Task Order Number 5 to CH2M Hill's contract in an amount not to exceed \$125,000 to perform the EPA-required vulnerability assessment. Motion carried unanimously.

13. COUNCIL ACTION RE: Fee Avenue Ballfield Lighting Project No. 0207, Musco Sports Lighting, Groveland, Florida - \$57,437.00.

Mr. Hill reviewed the agenda report.

Mrs. Hand left the Council Chamber at 11:03 p.m.

Moved by Poole/Walker for approval of the contract with Musco Sports Lighting in the amount of \$57,437 and the transfer of \$20,000 from the Miscellaneous 311 Projects Fund

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to this project budget. Motion carried unanimously. (Six votes – Mrs. Hand was absent from the Chamber.)

14. COUNCIL ACTION RE: Purchase of property on Lorraine Drive for Stormwater Improvements at a cost of \$57,000.

From the agenda report: Mr. Jim Fulcher has agreed to sell the city five vacant lots on Lorraine Drive in the Almar Subdivision. The lots are beneficial for stormwater improvement projects.

Mr. Fulcher is asking \$57,000 for the five lots. In June 2000, the city had the property appraised and the market value at that time was \$47,000. Two years have passed since that appraisal. Staff believes the property is uniquely sited to achieve stormwater-related improvements and that it should be acquired.

Mrs. Hand returned to the Chamber at 11:05 p.m.

Mrs. Walker asked if staff attempted to negotiate. She added that the \$10,000 difference is significant. Mr. Hill replied that at one point Mr. Fulcher was seeking \$200,000. Staff has had quite a bit of discussion and negotiation with Mr. Fulcher. He added that he believes the asking price is in line with the appraisal and will allow us to accomplish work in that area of the city.

Moved by E. Palmer/Contreras for approval of staff proceeding with steps necessary to acquire the five lots from Mr. Fulcher at a cost not to exceed \$57,000. Motion carried unanimously.

15. COUNCIL ACTION RE: Consent Agenda

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

The consent agenda was approved as follows:

- a. Change Order No. 2 to Community Asphalt Corporation contract for Street Resurfacing FY01/02, Project No. 026000 - \$35,000.
- b. Change Order No. 1 to ABC Landclearing and Development, Inc. contract for paving Franklin Street and Myles Drive, Project No. 0021 - \$2,760.
- c. Change Order No. 1 to ABC Landclearing and Development, Inc. contract for paving Dunham, Branch and Sea Grape Streets, Project No. 0121 - \$17,406.
- d. Change Order No. 2 to Santa Cruz Construction, Inc. contract for Pineapple Avenue Sidewalk Improvements, Project No. 00201 – time extension of 60 days.
- e. Award of contract to Waters Risk Management for Consulting Services for Employee Benefits - \$13,000.

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f. Resolution No. 1773: Designating those persons authorized to sign checks on behalf of the City of Melbourne

16. ORDINANCE NO. 2002-56 (Z-2002-930): (First Reading/Public Hearing) An ordinance to change the zoning from R-2 (One-, Two- and Multiple-Family Residential) to C-1A (Professional Offices and Services) on the north 200' of a 4.97-acre portion of a 21.74-acre parcel, located on the south side of Eau Gallie Boulevard, east of Wickham Road, and west of Croton Road. (Owner – Beverly Anne Rouede, Trustee) (Applicant – Diamond Bay Builders, Inc., by Jake Wise, Representative)

Ms. Novak read Ordinance No. 2002-56 by title.

Ms. Braz briefed Council. The property is vacant and unplatted and has been zoned R-2 since adoption of the original Zoning Code in 1972. The land use and a site-specific policy limiting the mixed-use area to professional office uses were approved as part of the original Comprehensive Plan in 1988. In 1988 the property to the east was rezoned from R-P (Residential Professional).

The adopted Future Land Use is mixed use Commercial/Medium Density Residential. This land use limits densities to no more than 15 units per acre. The proposed C-1A zoning is consistent with the adopted Commercial/Medium Density Residential Land Use. The north 225 feet of the property has a mixed-use land use designation and the remainder is Medium Density Residential. The applicant is requesting the zoning change to eventually develop an office park similar to what has been constructed on the south side of Eau Gallie Boulevard east of the site. The applicant has indicated that he plans to subdivide the property so that the offices can be constructed and developed by separate owners.

The Breeze Ridge Subdivision to the west is zoned R-1A (Single Family Residential). The property to the south (balance of the site) would remain zoned R-2. The property to the east across an FDOT retention pond and drainage ditch is zoned C-1A and consists of a developed office building complex. The properties located across Eau Gallie Boulevard, the street on the north side of the site, are zoned R-1A and platted as part of the Leewood Forest Subdivision.

Under the proposed zoning only professional offices could occur on the north 225 feet. The proposed rezoning will have no adverse affect on adjacent properties. The Planning and Zoning Board recommended approval with the findings outlined in the package.

On the portion that will remain R-2, Mr. Palmer asked if there is a plan for housing. Mrs. Braz said that anything zoned C-1A won't have housing and the R-2 portion will undoubtedly have residential development. Mrs. Poole expressed concern that they could request a rezoning to R-1B.

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Moved by C. Palmer/Hand for approval of Ordinance No. 2002-56. Motion carried unanimously.

17. COUNCIL ACTION RE: Request for approval of Sharing Center, Inc. to administer FY 2002-2003 and FY 2003-2004 Tenant Assistance Program.

From the agenda report: Housing and Community development advertised the availability of 2002-2004 State Housing Initiatives Partnership (SHIP) Program funds, including funding for the Tenant Assistance Program strategy. The city received a request from the South Brevard Sharing Center, Inc. to continue administering the program on behalf of the city. The Sharing Center is currently administering a SHIP award of \$60,000 funded from the 2001-2002 SHIP grant and is requesting \$120,000 (the maximum available) to continue providing this assistance for the 2002-2003 and 2003-2004 program years. The Center has committed its current Tenant Assistance Program balance of \$9,102 to income-eligible clients.

The Sharing Center has requested a program delivery fee increase from \$65/household to \$70/household. The estimated cost per household to administer the program, based on a yearly average of 100 assisted households, would be \$133. For the first three years, the Sharing Center operated the program at no cost to the city and absorbed 100% of the expense associated with administering the program.

Moved by E. Palmer/Contreras for approval of a \$120,000 SHIP award to the South Brevard Sharing Center, Inc. for implementation of the Tenant Assistance Program in the FY 2002-2003 and FY 2003-2004 program years, and authorization for the City Manager to execute an agreement with the Sharing Center for SHIP funds. Motion carried unanimously.

18. COUNCIL ACTION RE: Request for budget adjustment to fund the SHIP Homeowner Housing Replacement Assistance Program.

From the agenda report: The 2001-2004 SHIP Housing Assistance Plan (HAP) includes a Housing Replacement strategy that provides \$45,000 of SHIP assistance to cover the cost of temporary relocation, demolition and construction of a dwelling for homeowners whose homes are substandard and not suitable for rehabilitation.

Staff is recommending that funds be budgeted for three projects that have the highest likelihood to proceed in the near future. The owners that will be assisted if the funding is approved are Daisy Pittman (2904 Rollins Street 32901), Dave L. Jackson (605 Walker Street 32901) and Trelly Gore (1903 Southland Avenue 32935). It is not feasible to rehabilitate any of these homes due to the high cost of rehabilitation in two instances and the advanced dilapidation in the case of the Jackson house. The city's investment in these projects will result in decent, safe housing for three Melbourne families, increase the city's tax base, improve the appearance of the neighborhoods in which the new homes will be built and hopefully encourage surrounding property owners to improve their properties.

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These projects can be funded through a budget adjustment as outlined in the agenda report.

Moved by Hand/E. Palmer for approval of the proposed budget adjustments to provide \$135,000 in funding for the implementation of the SHIP Homeowner Housing Replacement Assistance Program in accordance with the city's approved 2001-2004 SHIP Housing Assistance Plan. Motion carried unanimously.

19. COUNCIL ACTION RE: Proposed revisions to existing policies for the City of Melbourne Homeownership/Homebuyer Programs.

From the agenda report: Staff is experiencing a surge in requests for subordination of city assistance liens to new first mortgage holders. Each of the homeownership/homebuyer programs has a written policy regarding subordination requests. The process of processing each request takes a tremendous amount of staff time. Often, a customer will change his/her mind at the last minute. Staff would like to charge a \$100 fee (refundable if the subordination is approved and carried out) for this service as a means to discourage frivolous requests. Staff is also requesting that the policy provide for a specific review time of 30 days. This would allow for appropriate and thorough review of each request.

If the policy revisions are approved, staff is also seeking authorization to make the necessary technical amendments to the 2001-2004 State Housing Initiatives Partnership (SHIP) Housing Assistance Plan to make the Plan consistent with the revised policies.

Staff recommends approval of the following:

- a. Revisions to Owner-occupied Housing Rehabilitation Program Policies.
- b. Revisions to Homeowner Housing Replacement Assistance Program Policies.
- c. Revisions to Purchase Assistance Program Policies.
- d. Revisions to Impact Fee Assistance Policies.
- e. Authorization for staff to make technical revisions as necessary to bring the City's 2001-2004 SHIP Housing Assistance Plan into compliance with approved policy revisions and notify the Florida Housing Finance Corporation of same.

Moved by E. Palmer/Hand for approval as outlined in the agenda package. Motion carried unanimously.

20. COUNCIL ACTION RE: Discussion of construction of crosswalks at the intersections of Eau Gallie Boulevard at Pineapple Avenue and Highland Avenue.

Mr. Hill reviewed the agenda report. Specially treated asphalt which looks like brick is proposed for the crosswalks at the intersection of Eau Gallie Boulevard (westbound) and Highland Avenue and Eau Gallie Boulevard (westbound) and Pineapple Avenue. A logo is also proposed at the Highland Avenue intersection.

The money to implement some elements of the Olde Eau Gallie Riverfront Improvement Plan was included in this year's Planning and Economic Development budget in order to

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move forward with a visible improvement. It is estimated that the cost will be \$8,200 for the crosswalks for each intersection, and \$5,000 for the logo. The total cost will be approximately \$23,400.

An agreement will have to be reached with FDOT to complete the work. At this point, staff is only seeking Council approval of the concept of providing the crosswalk treatment. The actual agreement with FDOT will return for Council approval.

Mrs. Poole said she agrees with the project; however, she has a problem with the source of the funds. Work is being done in the redevelopment area and the funding should not come from the Planning and Economic Development Department budget. The redevelopment area has already borrowed money from the city to purchase the Highland property with a payback period of 17 years. Yet, the redevelopment committee is not promoting the redevelopment area with special activities like Friday Fest, etc.

The Mayor pointed out that this is for approval of a concept; the city still has to seek approval from FDOT.

Moved by Hand/E. Palmer for approval of the concept for crosswalk improvements on Eau Gallie Boulevard. Motion carried unanimously.

21. ORDINANCE NO. 2002-57 (LDR-2002-05/FOC-2002-05): (First Reading/Public Hearing) An ordinance amending Chapter 25, Signs, relating to maintenance of signs, size of neighborhood identification signs, and prohibiting electronically changed signs in residential neighborhoods.

Attorney Novak read Ordinance No. 2002-57 by title. There were no comments from the public.

Moved by Poole/E. Palmer for approval of Ordinance No 2002-57. Motion carried unanimously.

22. ORDINANCE NO. 2002-58: (First Reading) Amending Chapter 21, Police and Law Enforcement, as recommended by the City Code Review Committee, Section 4.

Ms. Novak read Ordinance No. 2002-58 by title.

Moved by Hand/Poole for approval of Ordinance No. 2002-58. Motion carried unanimously.

23. RESOLUTION NO. 1774: A resolution authorizing the issuance of Water and Sewer Refunding Revenue Bonds, Series 2002C.

Ms. Novak read the resolution by title.

The resolution authorizes the issuance of the bonds; authorizes the City Manager to approve certain documents necessary for the issuance of the bonds, particularly the

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Bond Purchase Contract; authorizes The Bank of New York to serve as escrow agent, authenticating agent, paying agent and registrar; makes certain covenants with FGIC; and authorizes the Mayor, City Manager, and staff to take the necessary steps to complete the sale and delivery of the bonds.

Once the resolution is approved the Preliminary Official Statement will be printed and distributed. It will be in substantially the same form as the Preliminary Official Statements for the Series 2002A and Series 2002B Bonds. We expect to price the 2002C Bonds in late August. Once the pricing is complete and the city accepts the offers by executing the Bond Purchase Contract, the closing and delivery of the 2002C Bonds will occur during mid-September.

Based on the estimated bond issue size of \$8,425,000 we estimate the consultant fees as follows:

Bond Counsel	\$17,500
Disclosure Counsel	\$14,000
Underwriters	\$67,400
Financial Advisor	\$ 8,425

Additionally, Bond Counsel, Disclosure Counsel, and the Financial Advisor are to be reimbursed for out of pocket expenses not to exceed the maximums identified in their contracts. Due to the sudden decision to proceed with this refunding, we have not had an opportunity to obtain fee quotes for other services needed for the bond issue. These fees will be provided at the next Council meeting.

Moved by E. Palmer/Poole for approval of Resolution No. 1774. Motion carried unanimously.

24. COUNCIL ACTION RE: Transfer of Funds for Sidewalks in Melbourne Military Memorial Park

From the agenda report: This is a request to transfer funds to the project budget so the sidewalk construction in the park can be completed. Unit price bids were received from two firms and the estimated cost for 4,700 s.f. is \$12,455.

The City Manager may approve awards in this dollar amount based on competitive bids. However, there are no funds for the work. These funds are needed now so that completion of basic walkways for the park will not be delayed during the continued fund raising efforts.

Moved by E. Palmer/Contreras for approval of the transfer of \$15,000 to the project budget from General Fund Miscellaneous Projects. Motion carried unanimously.

25. COUNCIL ACTION RE: Letter of support for proposed construction of a beltway west of I-95 from U.S. 192 to Malabar Road. (Requested by the City of Palm Bay)

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From the agenda report: The City of Palm Bay has requested support from the other Brevard cities for moving forward with the beltway project. They would like a letter from the Melbourne City Council to be addressed to the Brevard County Metropolitan Planning Organization (MPO).

The City of Palm Bay believes that too much time has been spent looking at alternatives. They would like the MPO to move forward with a two-lane roadway that could allow for future expansion.

The MPO met on August 8 to discuss the beltway; however, the proposed letter of support could still be sent should Council wish to do so.

Moved by E. Palmer/C. Palmer for approval.

Mrs. Poole said she objects because Palm Bay is calling this the “Palm Bay Parkway” project. Mr. Palmer said the letter of support will indicate that the City of Melbourne goes along with the idea.

The question was called. Motion carried. Council Members Poole and Walker and Vice Mayor Hand voted nay.

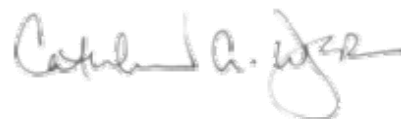
26. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Council briefly discussed the new adult “toy store” on Sarno Road.

27. ADJOURNMENT

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

The meeting adjourned at 11:45 p.m.



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City Clerk – 8/23/2002

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