

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
NOVEMBER 12, 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. Council Member Grace Walker gave the invocation.
2. Pledge of Allegiance.
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
	Amy W. Elliott	Assistant City Manager
	Peggy Braz	Planning & Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley recognized students in the audience from Florida Air Academy.

5. APPROVAL OF MINUTES – October 8, 2002 Regular Meeting, October 22, 2002 Regular Meeting and October 24, 2002 Special Meeting

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

6. CITY MANAGER'S REPORT

Mr. Hill pointed out that the 2002-2003 final budget document has been placed at each Council Member's place.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-75 (A&V #257): (Public Hearing/Second Reading) An ordinance abandoning and vacating a 25-foot wide right-of-way located south of a 50-foot wide FDOT drainage right-of-way in the Northwest ¼ of Township 27 South, Range 37 East, Section 23, Brevard County, Florida being part of Indian River Groves and Gardens Subdivision as recorded in Brevard County Florida. (First Reading October 22, 2002)

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Attorney Gougelman read Ordinance No. 2002-75 by title. There were no comments from the public.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2002-75. The roll call vote was:

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

Nay: None

Motion carried unanimously.

9. a. ORDINANCE NO. 2002-76 (A&V #261): (Public Hearing/First Reading) A proposed ordinance vacating a portion of a 12-foot wide alley right-of-way which abuts Lots 7, 9, 10, 12, 13, 15, 16, 17, and 18, as shown on the Plat of Subdivision of Block 18 of Melbourne, Florida, known as Grove Block (Strawbridge Subdivision)
- b. ORDINANCE NO. 2002-63 (CU-2002-15): (Public Hearing/Second Reading) An ordinance repealing Ordinance No. 2001-62 and granting a conditional use to allow a building height of greater than 80 feet and site plan approval for a condominium/office/retail building on nine platted lots and portions of two lots consisting of approximately 2.13 acres, located on the north side of New Haven Avenue and the south side of Strawbridge Avenue, east of U.S. 1 (Harbor City Boulevard. (Owner/Applicant – Hynes Properties, L.L.C.) (Representative – David T. Menzel) (First Reading September 10, 2002)
- c. RESOLUTION NO. 1789: Providing for an Easement & License Agreement between Hynes Properties, LLC, a Florida Limited Liability Company, and the City of Melbourne.

ORDINANCE NO. 2002-76:

Attorney Gougelman read Ordinance No. 2002-76 by title.

The following items were distributed to Mayor & Council prior to the meeting: letter dated November 5 from Dr. Richard Hynes in support of the Causeway Center; e-mail dated November 5 from Gary Altpeter opposed to the development; e-mail dated November 6 from Pat Stewart opposed to the development; e-mail dated November 6 from Don Ginter opposed to the development; e-mail from Ted Moorhead dated November 6 opposed to the development; e-mail dated November 6 from Nedra Sekera opposed to the development; e-mail dated November 6 from Judy McGinty opposed to the development; e-mail dated November 7 from Tom Wuchte opposed to the development; letter dated November 8 from Bob Brown opposed to the vacation of the alleyway; e-mail dated November 8 from Laura Curtin opposed to the development; e-mail dated November 8 from Kathy Harned Durtschi opposed to the development; e-mail dated November 8 from

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Robert Curtin opposed to the development; memorandum dated November 8 from City Manager Henry Hill, which transmits a memo from the City Engineer regarding additional information on the abandon and vacate request; letter dated November 9 from Travis MacClendon opposed to the development; e-mail dated November 10 from Judy Dryja opposed to the development; e-mail dated November 12 from Diane Sheffield opposed to the development; message from city staff dated November 12 reporting that Gabrielle Gilley stopped by City Hall to express opposition to the development; and memorandum dated November 12 from the City Clerk transmitting a letter from Kimberly Bonder-Rezanka, attorney representing the Strawberry Mansion.

Mayor and Council made the following disclosures:

Council Member Contreras – On November 1 he received an invitation from Bob Brown to meet him at the site. On November 7 he and Mr. Brown left each other telephone messages regarding the same. On November 11 he met with Mr. Brown who discussed his concerns regarding the Causeway Center; also walked the site. Today he received two telephone calls – one from Dorothy Gaunce who is in favor and one from Phyllis Mansfield who is opposed.

Council Member Ed Palmer – On November 11 he spoke with Bob Brown and Ted Moorhead, visited the site and walked the alleyway. He looked at the possibilities, pro and con, and said that Messrs. Brown and Moorhead are opposed to the project. Telephone call from Vernon Dicks who recommended Council vote for the project. Telephone call from Phyllis Mansfield who is opposed to the development.

Council Member Poole – On November 5 she spoke with Bob Brown and viewed a picture of how the wall will look (next to the Strawberry Mansion). She and Mr. Brown spoke again on November 9. Received a telephone call from Phyllis Mansfield who is opposed and received several phone calls from individuals who are all opposed.

Council Member Walker – She received one telephone call from a lady in favor of the development and numerous calls from people who are opposed. She talked with Bob Brown by telephone and she has driven through the area.

Council Member Cheryl Palmer – She received two telephone calls from people who are opposed to the project. She met with Mr. Brown and Mr. & Mrs. Moorhead at the Strawberry Mansion and walked the alley. She viewed the artist rendering of the proposed project (as depicted by Bob Brown) from the Mansion property. Noted that the Browns and Moorheads spoke in opposition to the abandon and vacate request and the project as a whole.

Vice Mayor Loretta Hand – Received a call from Mrs. James Luce who is opposed and Mrs. Gaunce who spoke in support. She received a call from Phyllis Mansfield who is opposed and Paula Sheffield who is opposed. On November 11 she met with Mr. Moorhead and Bob Brown and walked the alley. Noted that Mr. Brown and Mr. Moorhead explained the abandon and vacate request to her.

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Mayor John Buckley – Received a call from Dorothy Gaunce who is in favor of the project. On November 8 he talked with Bob Brown and Ted and Ann Moorhead and walked the alley. Noted that they are opposed to granting the abandon and vacate request. On November 12 he received a call from radio station WMMB and he summarized the project for the radio audience.

Mrs. Braz reviewed the agenda report. The applicant, Dr. Richard Hynes, Hynes Properties, LLC, is the owner of abutting Lots 12, 13, 17 and 18. The only other owner of abutting property is Mr. Bob Brown, Nannie Lee's Strawberry Mansion, Inc., owner of Lots 7, 9, 10, 11, 14, and 15. The request is to vacate a portion of a 12-foot wide alley right-of-way that is related to the Causeway Center project.

The subdivision between Strawbridge Avenue and New Haven Avenue east of Harbor City Boulevard was platted in 1892. A 12-foot wide alley right-of-way ran from Strawbridge southward, then westward, then southward again to New Haven Avenue. The southern leg ending at New Haven was vacated in 1978. This is a request to vacate the rest of the alley except the first 50 feet off Strawbridge Avenue.

The applicant wishes to construct a parking building on his property and over what is presently the northern leg of the subject alley. He will relocate all impacted utility lines and provide necessary easements to the satisfaction of the utility companies.

The only concern staff has with vacating the alley is protecting the rights of abutting property owners. Other than abutting owner objections, staff sees no reason not to vacate the alley.

The applicant has pointed out that this request is similar to one approved on a portion of the same alley in 1978. That vacation benefited only Mr. Brown at the southern end of the alley and effectively made the alley one-way for all other abutting property owners and for the general public. In this case, the applicant believes the other owner could still access his property from the New Haven end and the applicant will be able to access the rear of his property from the New Haven end of the previously vacated alley.

The easement and license agreement (item "c") provides an alternative – granting of an airspace license – that would allow construction of the parking garage with an overpass above the public alley right-of-way.

Dave Menzel, MAI Architects, representing the applicant, addressed the abandon and vacate (A&V) request. Mr. Menzel distributed pictures of the alley and displayed a rendering of the entire block. He identified each parcel on the rendering.

Mr. Menzel said the proposal is to vacate the north/south 12' and the east/west 12' of the alley and have a continuation of the pedestrian walkway. This would eliminate vehicle traffic that would cause conflict with pedestrians. Also, he said it doesn't make sense to create a 90-degree turn against the wall because the A&V request would not create a hardship for the Strawberry Mansion (Mansion).

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Referencing the pictures, Mr. Menzel said they show how deliveries were made to the Mansion prior to the fence being installed (by Hynes). Delivery vehicles would drive up, back, unload, and dolly the items to the Mansion. The photographs show vehicles making deliveries over a three-day period. He stressed that that is what existed prior to the fence being installed. Continuing, Mr. Menzel said the fence was installed to show how difficult it will be to maneuver in the driveway. Trucks enter the alley and have to make a 90-degree turn. The photos show that over the past two months, trucks have basically destroyed the fence. A wall would make this maneuver impossible.

Mr. Menzel noted that by eliminating the alley, the Mansion would be able to receive deliveries like it did in the past (drive up, back, unload and dolly) but on the opposite end of the property. Delivery by one method is trespassing and delivery by the other method requires use of his (Bob Brown's) property.

Mr. Menzel concluded by saying there is no functional use of the alley; it is 12' wide and too narrow. He noted that he believes direct access to the alley will cause problems with traffic on a regular day and serious problems on an "event" day. He repeated that there is no hardship (for the Mansion); access currently exists by way of the Mansion property.

Gary Frese, attorney representing the applicant, distributed the following letters: 1) dated November 9, 2002 from Dr. Victoria Vitale-Lewis indicating support for vacating the alley; 2) dated October 1, 2002 from Darrell Barnes, Harris Sanitation, indicating that the Harris trucks would not be able to access dumpsters via the alley because it is too narrow; and 3) dated September 25, 2002 from Mike Powell, stating that he has lived at 1225 East Strawbridge Avenue for approximately 11 years and during that time he has observed Bob Brown's vehicle parked daily for hours in the alley. The letter further indicates that delivery and refuse trucks cannot access the alley because of its width and delivery trucks attempting to back into the alley have frequently collided with the fence.

Mrs. Palmer referred to the last letter (delivery trucks cannot access the alley) and asked how deliveries have been made. Mr. Menzel replied that he believes the larger trucks are parking on the driveway and the smaller vehicles are trying to navigate the alley. The smaller vehicles have destroyed the fence; it is trampled at ground level.

Mr. Menzel confirmed for Mr. Palmer that garbage trucks are not using the alley. He indicated on the rendering where the dumpsters are located.

Mr. Frese added that vehicles are using private (Dr. Hynes) property in order to use the alley.

Mr. Frese stated that the alley is a public right-of-way, which the city has a duty to make safe and usable. The city must make a determination of what is in the best interest of the public. Mr. Frese said the law says that private rights are not what must be considered; Council must consider the general welfare of the public. The alley is 12' wide and has a 90-degree turn. It is one-way, unpaved, unlighted and has no signage. When the Hynes project is built, the use of the alley will increase significantly and he believes we are going to have major problems in the alley. At this point, the alley is used very little. He

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referenced the Powell affidavit, which indicates that Mr. Brown uses the alley for his parking space.

Mr. Frese asked Council to imagine, after the building is constructed, a vehicle entering from New Haven and a vehicle entering from Strawbridge. He said he does not believe people will be able to navigate the 12' wide right-of-way with a wall located on the corner.

Mr. Frese continued and said that the alley serves the interest of one user (Mr. Brown) and that is about as close to private as you can get. Mr. Brown has frontage on New Haven Avenue and his deliveries have almost ceased by way of the alley. Mr. Frese asked Council to consider the interest of the public and that this is a dangerous street; it cannot be traversed within its boundaries and should be vacated.

Mayor Buckley asked Mr. Menzel to clarify which portion of the alley is part of the abandon and vacate request. Mr. Menzel said the north/south alley is critical; however, they are also asking for the east/west portion to be vacated.

Mr. Menzel said they would create a pedestrian walkway that would eliminate vehicles. This would still allow Mr. Brown to bring deliveries down the walkway into the building. The walkway would connect Strawbridge Avenue to New Haven Avenue.

Mr. Contreras referenced the November 11 letter from Attorney Rezanka, which indicates that it does not appear as if the issue regarding the city sewer main in the alley has been addressed. Mr. Menzel used the rendering to explain how that conflict will be resolved. He reported that he met with all utilities on the site and none objected as long as the applicant was paying for the relocation.

Responding to Mr. Palmer, Mr. Menzel explained that they would create a five-foot easement for the utilities. He repeated that the utility companies saw the plan and none objected. Mrs. Palmer asked how a building could be located on the edge where the fence is currently located if there is going to be a five-foot easement. Mr. Menzel replied that the garage structure can't be within five feet; however, the wall can sit on the property line.

Mrs. Palmer asked if Council vacates these segments if there would be any legal reason why Hynes could not fill in the north/south alley with structure and bring the wall to the new lot line, which would be the center of the east/west alley. Mr. Menzel said yes, he could (legally) do that. Following a brief discussion, Mr. Menzel said that is not their intention.

Mr. Frese said if the east/west portion is a concern, Council could just vacate the north/south portion. He repeated, however, that they still believe the alley is not usable by the public. Mr. Menzel elaborated, in response to Mrs. Palmer, how the airspace rights would work if the alley is not vacated.

Mr. Palmer asked how many accidents have occurred in the alley in the past 10 years. Mr. Menzel said none to his knowledge. Mr. Palmer asked how it was determined that

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the alley is unsafe. Mr. Menzel said (following construction) there will be a lot of cars entering the alley; drivers will not be able to make the turn. He confirmed that the fence pole is in the right location; it was surveyed and a permit was issued.

Mr. Palmer said if the alley is not vacated, the applicant would lose the east/west ingress and egress. Mr. Menzel said no, they would simply drive over the alley. Mr. Menzel repeated that there will be more traffic and that is the point they are trying to make about safety.

Mrs. Poole asked the City Attorney to read the City Engineer's November 7 memorandum into the record. The memo, in part, states, "...we found a document that indicates the subject alley is a through alley and not a dead end. The document defines a 13-foot wide right-of-way easement conveyed to the city. The easement grants a right-of-way across the property for public road purposes. The easement is parallel to the original alley right-of-way...the new alley right-of-way was conveyed so that a section of the original alley could be vacated. Conveyance of the new easement provided a means to retain a through alley from Strawbridge to New Haven."

(Note: Bob Brown's November 8 letter indicates that the city alleyway was not abandoned and vacated in 1978. The city moved the alleyway approximately 20 feet west of its previous location. The city requested and received from the Mansion a 25-foot easement through the Mansion property in return for the relocation.)

Mr. Contreras asked if there has been any communication between Mr. Brown and Dr. Hynes relative to purchasing of the properties. Mr. Frese said both parties negotiated without success. Mr. Contreras asked if a dollar figure was discussed. Mr. Frese said both parties were far apart on the value.

Mrs. Palmer referenced the rendering provided by Mr. Brown, which shows what the Mansion would look like with the Hynes structure behind it. It depicts solid walls with no breaks.

Mr. Menzel submitted photographs to show that Mr. Brown's depiction is not to scale. He noted that One Harbor Place can't be seen in the photograph of the Mansion taken from the sidewalk across the street. He elaborated on the photos and noted that the view from the Mansion site will be of beautiful old oak trees – not of a wall as depicted by Mr. Brown. Mr. Menzel confirmed for Mrs. Poole that the oak trees are located on the Mansion property.

Mrs. Poole said evidently the city felt that the 12' alley was proper for use as a through alley. However, a big development is now saying that the alley is not wide enough. Mr. Menzel replied that he is sure that the original alley was put in to accommodate a buggy.

Kimberly Bonder Rezanka, attorney representing the Strawberry Mansion and Spanish Trace, Inc., asked Mr. Menzel several questions. Mr. Menzel responded as follows: the photographs showing deliveries to the Mansion were taken on July 11 and 12; the fence

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was installed in August; there was a permit for the fence; and to his knowledge, there is no Code violation (with the fence).

Ms. Rezanka stated that Dr. Hynes wants to abandon and vacate the alley so he can construct a garage on top of the alley and not over the alley. They will gain additional land with the A&V; they are asking for free property from the city. The difference between this request and Mr. Brown's request in 1978 is that the city retained a permanent easement. Mr. Brown gave back 24' for a public road right-of-way (not 13' as indicated in Mr. Ralls' memo). The city must have intended to keep this as a through alley when it required a 24' easement.

The two corporations she represents – Mansion and Spanish Trace – use the alley. She noted that it is her understanding that the alley was platted in the 1890's. The delivery vehicles use the east/west portion and pictures taken over a two-day period do not represent the years of use by the Mansion and Spanish Trace.

Regarding the City Engineer's memorandum, Ms. Rezanka said the easement was recorded and has been in existence for years. The statement made by Mr. Ralls in his memorandum that only Mr. Brown uses the alley is speculative. Planning and Zoning did not advocate the abandonment of the alleyway and there has been no buy-in of the A&V by neighbors that use the alley. Additionally, she noted that she could not find where the Downtown Redevelopment Agency approved the abandon and vacate request.

Ms. Rezanka said the two corporations she represents have vested rights. They assert that they have easements of use, access, light and air from the alley and unreasonable interference may constitute a taking. The "traffic problems" referenced are speculative; there has been no traffic engineering study. The applicant should have anticipated this prior to requesting site plan approval. Further, the alley is a public property right. The public uses it and the city holds it in trust for use by the public. The abandon and vacate request would only benefit Dr. Hynes.

Ms. Rezanka concluded by asking Council to deny the request.

Mr. Contreras asked Ms. Rezanka if she was a party to the discussion about sale of the property. Ms. Rezanka said she made an offer to sell to Dr. Hynes. She confirmed for Mr. Contreras that the price was greater than \$3 million.

Bob Brown, representing the Strawberry Mansion and Spanish Trace, Inc., explained that the installer from the fence company did not know where the lot lines were. Mr. Brown said that Dave Garretson (Code Compliance Division) confirmed that no fence permit had been issued. As to the use of the alley, he said it has been in constant use since 1974. The service trucks have adapted to the fence that was installed illegally.

Mr. Brown discussed the amount of foot traffic that uses the alley. He noted that it is a short cut. Mr. Brown referenced Dr. Hynes' letter and said everything in the letter is mistaken. He discussed the vacation of the 10' alley in return for a 24' easement next to

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it. He stressed that it was never a dead end and it has been open for as long as he can remember.

Mr. Brown confirmed that he may have parked in the alley on occasions; however, it would have been just about on Mansion property. He repeated that one of the big issues with vacating the alley is that they would lose rear access to their property and they consider that to be the lifeblood for the property. Additionally, they would lose all light and breeze. He stated that the Mansion and Spanish Trace would be worth a lot less if they don't have access to the alleyway. Bringing deliveries into the main entrance is not what they want to do. He added that he is not aware of a single accident that has occurred in the alley. Finally, he stated that the alley serves a public good; it is used by local people for safe passage from Strawbridge Avenue to New Haven Avenue.

Mr. Contreras asked if it would be safe to say that during the negotiations he would be willing to sell out for greater than \$3 million. Mr. Brown said he doesn't really have a feel for that. He said his concern is to stop the project from making his property worthless. He added that Hynes approached him (regarding the sale); however, that is not relative to this issue. What is relevant is that he stands to lose a great deal. Hynes made an offer substantially less than what the property is worth to him.

Mr. Contreras asked if the counter offer from him (Brown) was in excess of \$3 million. Mr. Brown said he does not know exactly the price. Mr. Frese, on cross-examination, asked Mr. Brown if he was aware that Ms. Rezanka made an offer to sell his property for \$4.2 million. Mr. Brown said he is not aware; the only offer he remembers is a written offer from Mr. Hynes. Mr. Frese questioned how his attorney made an offer without his knowledge. Mr. Brown said his attorney made a counter offer. Following continued discussion, Mr. Brown stated that he does not find this to be relevant. At this point, Ms. Rezanka stated that she made a verbal offer to Hynes for \$4.2 million. It was not a counter offer, rather it was the original offer, and Mr. Brown had given her a range.

Luke Miorelli, engineer representing Bob Brown, agreed that if the alleyways are vacated, Hynes can build across the alleyways at all levels. It will reduce the setback for parking and gain setback for the building. The change would result in the Hynes building moving 6' closer to his client's property.

Mr. Miorelli discussed the utilities and said that FP&L won't approve a five-foot easement. This is because the space won't allow for access by equipment. Additionally, he questioned how the easement will be landscaped; large trees can't be planted in a public utility easement.

Regarding the access to the alley, Mr. Miorelli explained that Mr. Brown allows access onto his property (by vehicles negotiating) the turn. This is an acceptable situation that Mr. Brown has lived with for years.

Mr. Miorelli pointed out that the site plan he reviewed indicates that the alleyway is being used for access to dumpsters by the Causeway Center.

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Mr. Contreras asked Mr. Menzel to comment on the utility easement. Mr. Menzel said they are proposing a concrete duct bank as opposed to direct burial. He repeated that none of the utilities had a problem with this.

Recessed: 9:14 p.m.
Reconvened: 9:25 p.m.

Bill Van Riper, 1219 East Strawbridge Avenue (Spanish Trace), stated that the alleyway is used constantly. He has lived at this location for over five years and he has seen the alley used every day.

Joe Glover, 3 Sinclair Circle, Indialantic, stated that in 1974 he was the President of the Chamber of Commerce in Melbourne. He explained that with regard to the value of property, Bob Brown laid the bricks in the pavement when he started his project; the property is worth a great deal to Mr. Brown. Mr. Glover stated that growth should be handled in a proper manner; therefore, he would support denial of the request.

Diane Barile, 1809 Riverview Drive, said she is a neighbor to the project. She reported that she and her neighbors use the alley. She noted that she has previously discussed the importance of bikeways and pedestrian routes in the Downtown area. These small roads and alleyways are a main feature of the character and charm of the area. She added that if access by cars presents a problem, then the alley should be preserved as a bikeway or pedestrian way. Ms. Barile concluded by saying that the alley provides access for her to go from Riverview Drive to New Haven Avenue.

Mr. Contreras asked what the structure will look like if the request is not granted. Mr. Menzel said exactly as submitted at the last meeting. They will work with air rights. He explained how the driveway will come over and slope; it would be high enough to be over the alleyway.

Attorney Gougelman noted that the following items are made a part of the record: all exhibits submitted by people appearing before Council, including the three poster board placards by Mr. Menzel, the drawing by Mr. Brown showing the Mansion, the seven-page composite photo exhibit submitted by Dave Menzel, three letters submitted by Attorney Frese, three photographs submitted by Dave Menzel of the Mansion, the Council package, Planning & Economic Development Department file, Engineering Department file, the Comprehensive Plan and the City Code.

Richard Hynes, applicant, commented on the following: Mr. Brown has indicated that he didn't recall the offer for the property although he (Mr. Brown) offered his property for \$4.2 million in the hallway of City Hall; this indicates a credibility issue. Pictures have been displayed showing Mr. Brown's vehicle parked in the alley; Mr. Powell has submitted an affidavit about Mr. Brown parking almost daily for hours in the alley; Brown testified that he occasionally or seldom parked in the alley. The city has asked for public parking in the garage – increased foot traffic by public in the alley does not need to encounter cars in the alley. What affects the project is a ridiculous alley that doesn't go

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anywhere and is used by Bob Brown for parking. Keeping the alley will create a disastrous public hazard, but it won't stop the project.

Dr. Hynes said that he is trying to create safe ingress/egress. He referenced the four articles in the newspaper and asked that they not be used to persuade Council from the truth. He noted that no one can make the turn in the alley. If they could, they would not need to use Brown's property to make the turn.

Dr. Hynes said that Mr. Brown is important and he needs to have his business intact. He noted that Mr. Brown is not losing his property value. Last year the Mansion property was worth about one million and now it is worth \$4.2 million. Therefore, this project is good for the Mansion. Mr. Brown can access the back of his property from the existing Mansion property.

Dr. Hynes referenced the scale of the rendering provided by Bob Brown. He noted that a person would have to be in an airplane 35' in the air in order to see the view depicted by Mr. Brown in the drawing. Dr. Hynes asked if the purpose of the drawing, which has been posted on the Internet, is to convince the public and Council. He added that the building he is proposing is commensurate with what has existed for years (One Harbor Place).

Continuing, Dr. Hynes confirmed that the fence was installed to make a point. He added that if he benefits from the request, then so do 400 people who will be parking in the garage.

Dr. Hynes concluded by saying the articles in the newspaper have not been fair to him. He added that he doesn't mind being hung; however, he would like to be heard first. He referenced the support from Dorothy Gaunce who is a patient of his and said he has not talked to her. She wrote because this project will benefit her. Dr. Hynes suggested that those who wrote in opposition were probably asked or stimulated to and that is not appropriate.

Mrs. Walker stated that what Dr. Hynes wants to do has value; however, there are other considerations.

A brief discussion followed between Mrs. Poole and Dr. Hynes. Mrs. Poole said that Mr. Brown did not do anything different than Mr. Menzel. Both sides have invited Council Members to view the site.

That concluded discussion by the public.

Moved by Poole/Walker for denial of the ordinance (Ordinance No. 2002-76).

Mrs. Palmer said her main problem with the abandon and vacate request is the possibility of bringing the Causeway Center closer to Mr. Brown's property line. She asked if both parties would be agreeable to vacating the north/south portion of the alley to Dr. Hynes and the east/west portion to Mr. Brown or his corporate entities.

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Mr. Brown replied that this does not need to be a dead-end alleyway; he would like access to Strawbridge and New Haven.

Mayor Buckley said Mrs. Palmer's concerns could be addressed with a stipulation that the property not be built any farther than currently proposed on the site plan.

Mrs. Walker stated that would not make a difference. This is public property and it needs to remain public property.

Mr. Palmer stated that the alley has been used for over 100 years by the public and he has not heard anything at this meeting that would make him think that it is in the best interest of the city to vacate the alley.

Mrs. Hand said she walked the property and she believes it would be a mistake to vacate the alley.

Mrs. Palmer asked Dr. Hynes to understand that she met with Mr. Brown, but there was no collusion. Mr. Brown did not have any influence with her. She added that she was taken aback that Mr. Brown made an offer to sell the property that he believes is such a part of history in Melbourne.

Mrs. Poole said she thinks the city would be remiss for the sake of money to give away 20' of property that belongs to the City of Melbourne.

The question was called. The roll call vote was:

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

Nay: Contreras and Buckley

Motion carried.

ORDINANCE NO. 2002-63:

The City Attorney read the ordinance by title.

This is the second reading of the ordinance. Council approved first reading of the ordinance at its September 10 meeting. At that time, Mayor Buckley requested that the ordinance be revised to include the condition about the 13 parking spaces for One Harbor Place and Vice Mayor Hand requested that the stipulation regarding the handicapped accessible walkway also include a provision for stair steps (The owner's representative, David Menzel, agreed with this request). The ordinance has been revised to accommodate the requests.

Additionally, Council Member Cheryl Palmer requested staff to report at second reading if the Strawberry Mansion would still have access to the rear of the property if the alleyway

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is abandoned and vacated. Access *would* still be available. This issue is addressed in Items 9 “a” and 9 “c.” Also included in the agenda package is a report by Planning and Zoning Administrator Bill McCord on the various issues raised at the September 10 meeting.

Attorney Gougelman confirmed for Mrs. Poole that if this ordinance is approved, the first site plan would be repealed. If this ordinance is denied, the original site plan and conditional use would remain in effect.

Mayor & Council agreed that their disclosures were made under item 9 “a.” Mayor Buckley opened the public hearing.

Dave Menzel, representing the applicant, referenced Luke Miorelli’s comments made during the last Council meeting about slopes. Mr. Menzel presented data from the Precast Parking Institute, which shows that the slopes in the garage are well within the guidelines. Additionally, he noted that a traffic impact analysis has been done and given to Bill McCord (Planning & Economic Development) for review. He noted that the traffic counts presented by those in opposition are based on the worst case – the traffic counts for this project will be half of that number.

Mr. Menzel referenced the renderings that have been displayed and discussed the aesthetics of the façade. He said that what is pictured is what they intend to build. It is not their intent to build something as indicated in Mr. Brown’s rendering. He reported that they will return to the Architectural Review Board with a proposed façade that will be aesthetically pleasing.

Mrs. Poole asked if a model exists for the new design. Mr. Menzel said he would be happy to provide a model if this is approved. Mrs. Poole asked if they still plan to plant ivy on the outside of the wall. Mr. Menzel said that is an option; however, they believe they can create 10% openings that will allow for light and breeze. They have to determine if ivy will stick to the façade and how it will be maintained.

Mr. Palmer asked if the wall parallel to the alley will no longer be a solid wall. Mr. Menzel said the wall can have a certain percentage of openings. Their intent is to put windows at the lower levels and add features to the remainder of the wall that represent windows.

Mr. Palmer asked if more additions have been made to the site plan since its last approval. Mr. Menzel said no, the plan being discussed has not changed since the last meeting.

Mrs. Hand asked why the decision was made to add condominiums when the original use was for a spine center. Mr. Menzel said C-2 is a mixed use designed to promote urban living. The mix is critical. Additionally, as baby boomers get older, the condominium market becomes valuable. They are taking the ultimate advantage of a piece of property; it is an excellent use of the property.

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Mrs. Walker asked if this is what the Downtown Redevelopment Area really wants. Mr. Menzel said if he were a retailer, he would want this project.

William Broussard, 502 E New Haven Avenue, stated that he has no economic interest either way. He stated that he feels this project would change the character of Downtown Melbourne. He noted that we can't stop development – but we don't have to encourage it. He commented that he does not see where this development would improve the quality of life, rather he believes that it would hinder it.

Dennis Meehan, representing the Downtown Redevelopment Committee, stated that he has spent 23 years on that committee. He displayed a brochure entitled “Melbourne Downtown Village” and said that the city partially funded the research for the brochure. This was part of the work, which led to the redevelopment program. Mr. Meehan said that the brochure indicates two office buildings located on the subject property. The project would do what the redevelopment committee has been trying since the inception of Downtown Redevelopment – tie the waterfront to Downtown. Mr. Meehan recommended Council vote for this project and said it would be a welcome addition to the area.

Mrs. Poole noted that she was Vice Chairman of the Downtown Redevelopment Committee when the brochure was prepared. She added that 80' buildings were not intended for this site.

Edward Slaney, 2981 Nova Scotia Lane, Melbourne, stated that most of the residents in the area settled from elsewhere. He added that we must remember to preserve the past, which sustains the fabric of our community. Too often we confuse growth with progress. Mr. Slaney recommended that the applicant return with a project that will enhance, not overwhelm, the area.

Bob Serody, 3406 Mazur Drive, stated that the proposed development would be out of character with the area. He added that he hopes Council will retard the creeping population from the Miami area.

Bob Brown, representing the Strawberry Mansion and Spanish Trace, submitted a drawing of what the development will look like. He said that it was drawn from what the applicant submitted and shows the size, complexity and density of the project. The picture depicts the Mansion as shrubbery. Additionally, he said he does not know how he will survive the impact of construction. To have something like this built within 15' of where they will be serving customers is not going to work. Mr. Brown added that Dr. Hynes has previously indicated that construction could last 2 – 3 years.

Continuing, Mr. Brown said one wall of the development will rise 110' feet and completely block the Mansion's east view. They figure it will be about 2:00 p.m. before they see the sun. Additionally, the east breeze will be gone. From a common sense standpoint, he said the project does not fit in. He believes this is too much and the applicant should be asked to return with something more compatible.

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Luke Miorelli, engineer representing Bob Brown, discussed the stormwater system and said that since outfall will be to FDOT right-of-way, the state will require a 100-year stormwater permit for the site. He discussed the elevation of the property, soil, etc. and said he believes the stormwater will be problematic as proposed. Mr. Miorelli discussed his concerns with the parking requirements and said another (similar) project being permitted through the city requires one space for every 175 s.f. of facility. The parking calculations for the Causeway Center don't make sense and he can't follow the logic.

Mr. Miorelli stated that the project pushes everything to its absolute limit – parking, drainage, setbacks, etc. He added that it is too dense for this property.

Mr. Palmer said when he first looked at this project, it was supposed to be a surgery unit. Now it has mushroomed into all kinds of activities. He referenced the July 15 date on his copy of the plan and asked how many changes have been made since that time. Mr. Palmer questioned whether the applicant should provide another site plan with the current date.

Mr. Miorelli agreed and stated that while he was preparing for this meeting, he could not tell one plan from another.

Ms. Rezanka, representing Bob Brown, Nannie Lees Strawberry Mansion and Spanish Trace, Inc., said this development is detrimental to the public welfare and not harmonious in the area where it is proposed. Ms. Rezanka pointed out that the brochure submitted by Dennis Meehan is dated 1981; however, the Downtown Redevelopment Plan is dated 1982. She submitted the 1982 plan along with the 1989 and 1991 amendments. Ms. Rezanka pointed out that the adopted plan indicates a faulty lot layout and parking in the Downtown area. Further, in 1989 an amendment provided for improvements to the trysting steps. She said apparently Council at that time felt that the steps were worth improving.

Ms. Rezanka said she has no idea what site plan Council is examining. Past plans have indicated 98,000 s.f., 89,000 s.f. etc. It has been very confusing. Ms. Rezanka submitted the Environmental Assessment prepared by Ardaman & Associates for Dr. Hynes. She stated that it is woefully inadequate and does not address the requirements of the Code.

Continuing, she elaborated on the parking calculations and said this should be treated as medical space. She noted that she hasn't seen the traffic study and that the traffic report from Planning did not include the restaurant and was based on a 74,000 s.f. building. She repeated that Council needs to know what it is reviewing and addressing.

Ms. Rezanka said the project will be detrimental to her clients. The courtyard of Beau Jeans (part of the Mansion) enjoys trees, air and light. Beau Jeans is a viable entity and the construction of Causeway Center 15' from the property line will result in a horrible hardship. The project is not compatible or harmonious with Downtown. She concluded by saying competent substantial evidence has been presented to justify denial of the ordinance.

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Mrs. Walker referenced the brochure submitted by Mr. Meehan and said that it indicates medium density housing would fit well into the area.

Mrs. Poole said she had previously requested the Environmental Impact Assessment. She referenced a comment made by Planning and Economic Development, which indicates that the requirement for an EIA is not necessary and can be waived. Ms. Rezanka added that apparently staff has a lot of discretion.

Mayor Buckley read a letter from Dorothy Gaunce, 721 Walnut Drive, in support of the development. Mrs. Poole clarified that Mrs. Gaunce is a patient of Dr. Hynes.

Mr. Menzel responded to the comments made during the public hearing. He noted that the height is the same as the height in the last ordinance; he explained how it is measured and noted that the Powell property has a different elevation. The conditional use is for 13.2' and that has not changed. He noted that he does not control the drawings as they move through the city; 89,000 s.f. was the revised figure after initial comments from the city; they will have to obtain an FDOT permit for drainage, or they won't be able to build; they are going to reduce flooding; the setbacks as proposed are permitted; the parking ratios used are the same ones used on the previously approved plan; the parking considers that there is diversity on the site. He noted that they are not going to build a \$25 million facility and not provide parking. Regarding the comments made about traffic, he pointed out that no one who spoke at this meeting is a traffic engineer, yet the person who prepared the report is.

In response to Mrs. Poole, Mr. Menzel said the concerns of the Planning and Zoning Administrator were incorporated into the plan. He said the letter (from Planning) should be included if Council is not comfortable that the changes were made.

Regarding the Environmental Impact Assessment, Mr. Menzel pointed out that the site is developed; therefore, he is not sure of the intent of the EIA. Mrs. Poole discussed that the original intent was to save trees, then the plan changed to provide that trees would be moved, now the plan shows the removal of trees. Mr. Menzel said the plan clearly shows that trees will be relocated on the east side. Mrs. Poole added that trees of that size do not move well.

Attorney Gougelman noted that the additional items submitted during the public hearing will be made a part of the record. He referenced Section 2 of the ordinance, which describes the site plan and asked Mrs. Braz to look at her file to determine if that is the plan being considered. Mrs. Braz confirmed that the plan listed in the ordinance is the plan being considered.

Moved by Contreras/Buckley for approval of Ordinance No. 2002-62.

Mrs. Poole stated that the bluff walk, trysting steps and two historical homes on Strawbridge Avenue will be destroyed in order to put up a parking garage that looks like a tombstone behind the preserved Strawberry Mansion and Beau Jeans. The Planning Department has manipulated the information so that the development complies with the

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Comprehensive Plan and Zoning Code. She said that this development conflicts with the pledge cited in Chapter 10 of the City Code; the structure will increase the intensity of traffic congestion and the buildings will depend entirely on automobile access.

Mrs. Poole said that this is not the answer to having a sustainable community. She asked if we sell our city to the highest bidders and noted that Council's decision must be made for all the people in Melbourne – not just business in the Redevelopment Area.

Mayor Buckley said he views this area as “the other side of U. S. 1.” He noted that the feel is different on the east side of the highway with the Strawberry Mansion, One Harbor Place, and condominiums on Front Street. He added that he believes this building will be a good addition to the city. The new site plan provides a better plan for the trysting steps and he is in favor of the ordinance.

Mrs. Palmer pointed out that there is already an approved project for this site. This site had been neglected for years; it was a haven for derelicts and strewn with beer cans and trash. Dr. Hynes is willing to make an investment in Downtown Melbourne that will have a regional medical benefit. The addition of condominiums has enhanced the project. People living in the area will walk to shops and restaurants in Downtown Melbourne. She noted that the addition of restaurants in Downtown Melbourne has improved the area.

Continuing, Mrs. Palmer said that Trinity Towers and One Harbor Place did not destroy Melbourne. The City Council and staff have worked hard to enhance, improve and preserve Downtown Melbourne. The Causeway Center will provide an economic boon to the area. The Architectural Review Board and Planning and Zoning Board have approved the plan. One of the founding members of the redevelopment movement supports the plan. The stipulations and conditions that have been placed on the development will keep this from being unattractive.

Mrs. Palmer said that there will be a heavy impact on Mr. Brown during the construction phase. She hopes bygones will be bygones and that Mr. Brown will see the advantages of this project. She said she will vote for it – not for political or financial gain – but because it is a good project.

Mrs. Palmer asked that condition “b” in Section 2 of the ordinance be revised to provide a new #5 as follows: “any increase in the square footage.” (Change that would trigger review and approval by Planning and Zoning and staff.) From the audience, the applicant agreed with this change.

A brief discussion followed between Mayor Buckley and Council Member Poole regarding the amount of time each member was allotted to discuss this item.

Mr. Palmer explained that he previously voted for this project because he thought it would be a valuable addition to redevelopment and an asset to the city. However, he said that somehow it has mushroomed and expanded to the point where it overshadows the plans we had for redevelopment. He said that he believes this will be the first and only

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development people will see when they come over the causeway. He added that he believes it will be an eyesore; the size is preposterous.

Mr. Palmer explained that the conditional use requirements for C-3 are the same as under R-2. The intensity of use should not adversely impact or change the character of the area. He said that he believes the proposed development will impact the area and change the character of downtown redevelopment. Based on these reasons, he said he won't support the request.

Mrs. Walker said Mr. Palmer has expressed her opinion and she shares the same position.

Mayor Buckley pointed out that if this plan is not approved, we will end up with the "box" that was previously approved. Mr. Palmer said at least the previous plan provided for a smaller "box."

The maker/seconded agreed to amend the ordinance to provide for a new #5 in Section 2 "b" of the ordinance (as requested by Council Member Cheryl Palmer).

Mrs. Hand said she is very excited about having a new spine center in the community. She commented that she has talked to Mr. Brown about the Strawberry Mansion and the impact this will have on his property. With regard to the wall, Mrs. Hand asked if it is possible to add mirrors to the wall, similar to One Harbor Place and the Reflections Building. She added that she knows this will be more costly, but would help with aesthetics and light.

Continuing, Mrs. Hand said she knows that this is going to benefit the citizens; it will increase the tax base in Downtown Melbourne. She said that although she did not feel that the alley needed to be vacated because of the impact on Mr. Brown, she intends to support the ordinance.

In response to Mrs. Hand, Dr. Hynes said there is no interest on his part to acquire or tear down Dr. Vitale's property. Regarding mirrors, he said that they are almost three times as expensive; however, they could provide a formula to incorporate some glass into the structure. If it makes a difference and helps Mr. Brown, he said he wants his neighbors to be successful.

Discussion followed regarding the wording of the stipulation to add mirrors and the location of the mirrors.

Mrs. Poole's motion to postpone the item until the next meeting so that Council knows what it is voting on did not receive a second.

Mr. Hill said that adding an architectural stipulation is difficult. He recommended Council consider language that generically states "the developer will endeavor to use architectural features, including mirrored glass where appropriate, to enhance the historical features of the surrounding properties."

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The maker/seconded agreed with the language provided by Mr. Hill as being a new stipulation “k.” The roll call vote on the amendment (to add new stipulation “k”) was:

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

Nay: Poole

Motion carried.

The question was called on the main motion, as amended, (revision to stipulation “b” and addition of stipulation “k”). The roll call vote was:

Aye: Contreras, C. Palmer, Hand and Buckley

Nay: E. Palmer, Poole and Walker

Motion carried.

Mrs. Poole’s motion to adjourn did not receive a second.

RESOLUTION NO. 1789:

Attorney Gougelman read the resolution by title.

This is a proposed resolution and Easement and License Agreement for the Causeway Center. The Agreement is a requirement of approval (see Ordinance No. 2002-63, Section 2, stipulation “h”). The proposed agreement included in the agenda package has been revised to mirror the requirement of Ordinance No. 2002-63.

By consensus, Council agreed to authorize the City Attorney to review the agreement one more time to ensure that it is in synch with the action taken at this meeting and to make non-material changes.

Moved by Contreras/Hand for approval of Resolution No. 1789.

Attorney Gougelman confirmed for Mrs. Palmer that the body of the resolution lists the actual parcels covered by the agreement.

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

By consensus, Council agreed to continue for another 30 minutes to allow the newly elected Council Members to be sworn in.

10. COUNCIL ACTION RE: A request by Mr. Theodore H. Willing to return to Council regarding the Melbourne Housing Authority. (Postponed October 22, 2002)

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From the agenda report: Mr. Willing has appeared before Council on previous occasions to discuss the Melbourne Housing Authority and to request the removal of the members of the Melbourne Housing Authority and termination of the Director of the Housing Authority, Frank Chavers.

Mr. Willing contacted Mayor Buckley the first of October asking to again appear before Council. At that time, Mayor Buckley prepared a survey that was distributed to all of the residents of Ramshur Towers to ascertain their opinions about Mr. Willing's requests. At the request of Mr. Willing, Council postponed action on this item to allow time for the residents of Ramshur Towers to complete and return the survey. The results of the survey are outlined in the agenda report.

Theodore H. Willing, 1279 Houston Street, said no one has countered the information he has presented regarding the inefficiency of the Melbourne Housing Authority. He asked for the Mayor, with Council's concurrence, to begin the process of removing the Melbourne Housing Authority members.

Mayor Buckley said based on the results of the survey, he cannot do that. The Mayor summarized the survey and said 78% of the people thought the Housing Authority was doing a decent job.

Mr. Willing said that this is not a popularity contest. Either the board did or did not do certain things over the past four years, which shows they are inefficient. He noted that the new Executive Director has failed to provide him with information requested under the Public Records Law – this is more inefficiency.

Following a brief discussion, Mayor Buckley said he does not intend to take any further action on this item.

NEW BUSINESS

11. RESOLUTION NO. 1790: A resolution reporting the outcome of the general municipal election conducted November 5, 2002, and setting forth the terms of three Council Members elected.

Attorney Gougelman noted that a revised resolution has been distributed indicating the number of votes for the candidates (agenda package distributed prior to the election). He read revised Resolution No. 1790 by title.

Moved by E. Palmer/Walker for approval of Resolution No. 1790. Motion carried unanimously.

12. OATH OF OFFICE AND SEATING OF:
- a. Council Member Ed Palmer, District 2
 - b. Council Member Grace Walker, District 4
 - c. Council Member Loretta Isenberg-Hand, District 6

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Attorney Gougelman administered the oath of office to each member. (The oath of office for each member is attached to the official minutes.)

13. COUNCIL ACTION RE: Appointment of Vice-Mayor.

Council Member Walker nominated Council Member Contreras and Council Member Poole nominated Council Member Ed Palmer.

Moved by Walker/C. Palmer to close the nominations. Motion carried unanimously. The vote was:

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

E. Palmer: E. Palmer and Poole

Appointed: Richard Contreras (November 2002 – November 2003)

14. CONSENT AGENDA:

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

The consent agenda was approved as follows:

- a. Annual purchase of approximately 910 dry tons of Rayon Grade Caustic Soda, Jones Chemicals, Inc., Jacksonville, FL – (\$450/dry ton delivered) estimated annual cost is \$409,500 (Cooperative Bid No. 2001-69).
- b. Annual maintenance and repair of City-owned air conditioning and refrigeration equipment, Able Air, Inc., Melbourne, FL, estimated annual cost \$95,000.
- c. Annual Computer Software Maintenance Contract for the Police Department, Tiburon, Inc., Pasadena, CA - \$74,300 annually.
- d. Purchase of 20-2-20 mini-fertilizer with Ronstar, Lesco, Inc., Strongsville, OH - \$1,088 per ton delivered, total annual purchase cost \$71,808.
- e. 2,080 hours of victim advocate services, Exchange Club/Yellow Umbrella, Inc., Melbourne, FL - \$34,999.95.
- f. Annual display and legal advertisements, Florida Today, Melbourne, FL - \$16,570.
- g. Purchase of Lot 27 for Dove Street Retention Ponds, Project No. 01902, \$4,000.
- h. Change Order No. 1 to Certified General Contractors, Inc. contract for Lipscomb Park Restrooms, Project No. 9803 - \$2,489.12.

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- i. Resolution No. 1791: Authorizing the City Manager to apply to the St. Johns River Water Management District for a grant to pave and provide stormwater enhancements to Hoag Avenue.
15. RESOLUTION NO. 1792: Option and Lease Agreement with Brevard Youth Education Broadcasting Corporation for a portion of the Water Tower site in Indialantic.

Attorney Gougelman read Resolution No. 1792 by title.

This is a resolution providing for approval of an Option and Lease Agreement with Brevard Youth Education Broadcasting Corporation. The agreement permits Brevard Youth Education Broadcasting Corporation to lease space on the city's water tower in Indialantic for an antenna; a 20' x 30' space of land for construction of a small building for placement of a transmitter; and a 20-foot wide right of ingress/egress.

Recently, the Federal Communications Commission (FCC) allocated a number of frequencies throughout the nation for very low power broadcasts. Brevard Youth Education Broadcasting Corporation is the local radio broadcasting company that was allocated a frequency for broadcasting in the Indialantic/Melbourne area. The amount of power output by the station is only permitted to be such that the radio signal will be heard in the Indialantic/Melbourne area.

Moved by Walker/E. Palmer for approval of Resolution No. 1792.

Randy Bennett, applicant, confirmed for Mrs. Palmer that the broadcasts will not interfere with any other type of electronic devices. He explained the wavelength that will be used and said it is a low power frequency.

Attorney Gougelman asked Mr. Bennett if his station has been licensed and assigned a frequency by the FCC. Mr. Bennett replied yes.

The question was called. Motion carried unanimously.

City Council, by consensus, agreed to postpone Items 16 through 18 until the November 26 meeting.

16. ORDINANCE NO. 2002-77: (First Reading) An ordinance amending Chapter 10, Community Planning and Development, amending Article III, changing the name of the Downtown Architectural Review Board to the Architectural Review Board; amending definitions; amending the composition of the board; amending the establishment of boundaries to add the Babcock Street Community Redevelopment Area; providing for adoption of the Downtown District Architectural Guidelines and the Babcock Street District Architectural Guidelines; and amending appeal procedures.
17. COMMUNITY REDEVELOPMENT AGENCY ACTION RE: Proposal from the Babcock Street Community Redevelopment Agency Advisory Committee to have the CRA

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consider moving forward with discussions to acquire property on South Babcock Street in conjunction with Brevard County and the proposed FDOT widening project.

18. COUNCIL ACTION RE: Board Appointments

- a. Building and Construction Advisory Committee - appointment of one member (Postponed 10/22/2002)
- b. Library Board – appointment of one regular member
- c. Melbourne Housing Authority – confirmation by City Council of Mayor’s reappointment of Robert McKemy
- d. Planning and Zoning Board – appointment of two regular members
- e. Zoning Board of Adjustment – appointment of three regular members

19. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Council reviewed and approved the City Manager search schedule (previously distributed to Council). Council will conduct a special meeting on December 5 in order to receive the finalist information from Tom Freijo, The Mercer Group. Council expressed a desire to conduct this meeting at 5:00 or 5:30 p.m.

On December 8 an evening reception will be conducted with the candidates. This will provide an opportunity for Council, employees and the public to mingle less formally with the candidates.

On December 9 Council will conduct a special meeting from 8:00 a.m. – 4:45 p.m. to meet each individual candidate. On December 10 each Council Member will conduct a one on one interview with each candidate. Following those individual interviews, Council will conduct a special meeting at 5:00 p.m. to deliberate and make the selection of a new City Manager.

To accommodate this meeting schedule, Council agreed to reschedule the December 10 regular meeting to December 17. A resolution will appear on the November 26 agenda to take formal action on the rescheduling.

Mrs. Poole asked if it is proper for a Council Member to call the Melbourne Police Department and use his/her title in order to have a police officer respond to a situation that does not involve violence. Mr. Hill replied that the Charter is very clear – Council should not be directing employees in any manner. If a member is attempting to direct a city employee, it should be routed through the City Manager.

Attorney Gougelman added that it would be okay to say, “This is Council Member Poole and I am reporting...” However, it would not be okay to say, “This is Council Member Poole and I am directing you to...”

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20. ADJOURNMENT

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

The meeting adjourned at 12:38 a.m.

City Clerk – 11/21/2002

Approved by Council: 11/26/2002

Attachment to original minutes: Oath of Office for Ed Palmer, Grace Walker and Loretta Isenberg-Hand (reference Item #12)