

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
NOVEMBER 26, 2002

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

1. Reverend Bill Hanley, Our Lady of Lourdes Catholic Church, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Richard Contreras	Vice Mayor, 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

Absent:	Loretta Isenberg-Hand	Council Member, District 6 (Illness in family)
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4. PROCLAMATIONS AND PRESENTATIONS

The Mayor noted that a beautification award has been presented to Applebee's Neighborhood Grill and Bar, 3001 West Eau Gallie Boulevard.

Mayor Buckley presented the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association to Amy Elliott, Assistant City Manager, and Michele Ennis, Director of Finance. The Certificate of Achievement is the highest form of recognition for excellence in state and local government financial reporting.

Ms. Elliott stated that the award is the result of the hard work and dedication of the Financial Services staff.

5. APPROVAL OF MINUTES – November 6, 2002 Special Meeting and November 12, 2002 Regular Meeting

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

6. CITY MANAGER'S REPORT

Mr. Hill reminded Council that the Service is Our Business awards lunch will be conducted on December 3, 12:00 p.m., Front Street Civic Center.

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7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-77: (First Reading) An ordinance amending Chapter 10, Community Planning and Development, Article III, by 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. (Postponed November 12, 2002)

Attorney Gougelman read Ordinance No. 2002-77 by title.

From the agenda report: The ordinance modifies the guidelines the Architectural Review Board will use. It also adds the Babcock Redevelopment District and removes the name "Downtown" from the name of the board. The agenda package includes two draft resolutions, which adopt the Downtown guidelines and the Babcock guidelines. The guidelines will be presented to Council for consideration during second reading of the ordinance.

Moved by Contreras/Walker for approval of Ordinance No. 2002-77.

Mrs. Poole referenced the draft Downtown District Architectural Guidelines, Page 8, relating to murals. The guidelines provide that "Larger murals of a public nature will require approval from the Board of Adjustment." She recommended that this section be revised to require City Council approval. Staff did not indicate that this revision would create a problem.

Moved by Poole/C. Palmer (to revise the Downtown District Architectural Guidelines) to require City Council approval for larger murals of a public nature. Motion carried unanimously.

The question was called on the main motion. Motion carried unanimously.

Council convened as the Babcock Street Community Redevelopment Agency for Item No. 9.

9. COMMUNITY REDEVELOPMENT AGENCY ACTION RE: Proposal from the Babcock Street Community Redevelopment Agency Advisory Committee to have the Community Redevelopment Agency (CRA) consider moving forward with discussions to acquire property on South Babcock Street in conjunction with Brevard County and the proposed

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Florida Department of Transportation widening project. (Postponed by Council November 12, 2002)

Mr. Hill briefed Council. The Florida Department of Transportation (FDOT) completed a preliminary study last year for the widening of Babcock Street from NASA Boulevard south to the City of Palm Bay. As a part of the study, a specific right-of-way study was completed for the area between U. S. 192 and Fee Avenue. This area has become the primary focus for the City of Melbourne and Brevard County. This portion of right-of-way is constrained and without a resolution, widening of the roadway to the south will be ineffective. This particular section of Babcock Street is a Brevard County right-of-way since FDOT right-of-way stops at U. S. 192.

FDOT funding for design is scheduled in FY 2003 (\$1,000,000) and funding for right-of-way acquisition or construction has not been identified. If the project is left solely in FDOT's hands to move forward, this section of roadway may not be fixed for another 10 or more years. Part of this project will also include south from U. S. 192 to Melbourne Avenue.

Brevard County has set aside \$500,000 to be used as the local match for the project for either design or right-of-way acquisition. The decline of this area over the last 10 years is a direct result of the constrained corridor and the inability for motorists to access properties adjacent to it. The City Council has previously discussed the need to be proactive to move this project along.

City staff met with Brevard County, the Metropolitan Planning Organization (MPO) and FDOT staff to find a solution for funding this portion of the project first. The Babcock Street Community Redevelopment Agency Advisory Committee has also followed the project since this section is within the district. The committee is concerned with the outcome of a FDOT right-of-way taking that will take approximately 42 to 52 feet from all of the properties on the east side of the street between U. S. 192 and Fee Avenue, affecting several buildings and parking lots. This will leave a frontage property of approximately 50 to 60 feet in depth that will be vacant and undevelopable or contain a building without a parking lot. This will bring the area into further decline.

The committee has had several discussions regarding the need to obtain both the frontage lots on Babcock Street and the rear lots, which front Bryan Street to leave a larger parcel that would have the potential for redevelopment. All of the area between Babcock Street and Bryan Street is zoned C-2 (General Commercial). The Babcock Street Redevelopment District only contains the frontage properties along Babcock Street with the exception of three lots that extend back to Bryan Street. State law does not permit purchasing lots that are not within the district with redevelopment funds.

There are currently two properties listed for sale within this area and one property listed for lease. The former Rick's Oak Tree property is listed for \$249,000 and the property at the corner of Strawbridge Avenue and Babcock Street (State Farm Building) is listed for \$695,000. The property at the corner of Fee Avenue and Babcock Street is for lease and

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it may become available for sale. Several other frontage properties have vacant residential structures that have not been occupied in several years. The purchase of these properties now, as opposed to waiting for FDOT, would allow the properties to be purchased at a lower price, not require the buy-out of businesses and ensure that this roadway project would become a priority project for the area.

If these properties were to be purchased by the city or the CRA, FDOT would then buy back the necessary right-of-way during its acquisition phase, reimbursing the funding source. The remaining property from the realigned Babcock Street to Bryan Street would be approximately 175 feet deep and one block would be approximately 360 feet wide. These would be highly desirable, 1.5-acre lots that could be developed for office/professional/retail uses and perhaps residential. The redevelopment of these parcels would revitalize the area to the east and bring renewed interest to the area.

Purchasing property at this time could be assisted by the \$500,000 available from Brevard County and by the CRA, which could borrow or bond funds to buy initial properties within the district. The properties that are not within the district would need to be purchased with other funds or the redevelopment district boundaries could be modified to include these additional properties. One of the available properties could also be leased until the time of acquisition, bringing in additional income to pay back on any bonds/loans.

The Babcock Street Community Redevelopment Agency Advisory Committee recommended that the CRA authorize staff to move forward with negotiations with Brevard County, the MPO and FDOT to reach an agreement to purchase these available properties to further the redevelopment efforts in the area and to increase the prioritization of the widening of this section of roadway.

At the November 12 meeting, excerpts from the Tentative Five-Year Work Program were distributed. These list items of interest to the Babcock Street Area including the Babcock Street project (NASA to Valkaria) median improvements on Babcock Street from NASA to Apollo. Given that no construction funds are provided for the median project, it may be worthwhile considering borrowing to advance the median project.

Richard Ennis, Chairman, Babcock Street Community Redevelopment Agency Advisory Committee, discussed the request. He noted the importance of taking advantage of the \$500,000 the county has available and the need to purchase some of the properties back to Bryan Street. He added that another step would be to move the district boundaries to Bryan Street so that the properties can be purchased by the CRA. Without these properties, an area approximately 50' in depth would remain sterile and open to collect trash and debris.

Continuing, Mr. Ennis said if the city opts to do nothing, it could be up to 10 years before anything happens in this area. He recommended Council provide the \$500,000 in matching funds and allow the district boundaries to be moved to provide for flexibility.

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Mayor Buckley asked the source of the matching funds. Mr. Ennis said \$500,000 could be borrowed from the General Fund, Water/Sewer Fund, or the Airport Fund. Another way would be through a bond issue. And, he said he believes that through a bond issue, the CRA could get as much as \$1.7 million. He stressed that we need to be aggressive; the district has guaranteed revenue each year.

Mr. Palmer asked what the north/south boundaries would be if the district were expanded to Bryan Street. Mr. Ennis replied Fee Avenue to U. S. 192. Mr. Ennis added that he feels that later FDOT will reimburse the city for purchase of the properties. Mr. Palmer expressed support for expanding the district boundaries to Bryan Street.

Mrs. Poole said she likes the idea of borrowing the money from the Airport Fund. She cautioned, however, that the city is still sitting on the Palms Theater site without a buyer. She commented that she does not like for the city to be in the real estate business. Mr. Ennis said that once the realignment is finished, the city won't have any trouble developing the Palms Theater site.

Mrs. Poole said she is reluctant to take this action. She said she went along with the additional \$125,000 (for the median project); however, she is not sure the city should take this step just because the county has \$500,000. Additionally, she noted that expanding the district before it gets started is not a good idea.

Mr. Ennis stated the importance of purchasing property now. The CRA should not wait until businesses are located so that their revenues will have to be bought.

Mr. Hill clarified that the \$500,000 is from the county's transportation trust funds. This is their roadway and their project. The county is looking to the city, through its CRA, to participate. The CRA has a little more flexibility than the county to acquire and hold property. He noted that the city would need to come to agreement with the county to determine how the money will be spent and who will hold the property. The dilemma is that we are not guaranteed that we will get all the right-of-way. And, this action may not move FDOT along any faster. Meanwhile traffic problems will continue to get worse. Mr. Hill noted that in this instance, if we want something to happen, we will need to step in.

Mayor Buckley said he believes the only way to do this is to expand the district to Bryan Street. Otherwise, we will wind up with a strip of useless property sitting across from an area that we are trying to beautify. He asked what kind of money the city has in gas tax funds. Mr. Hill said our gas tax funds are spoken for.

Mrs. Palmer said that our whole motivation is to correct the bottleneck and do everything possible to expedite widening of the road. She said that nobody wants the city to be in the real estate business; however, if we acquire property, it may inspire FDOT to proceed. She commented that she is concerned about the source of funds and the price of the property for sale. Now that this issue is public, the price will only go up. If we are going to move, now would probably be the time since we have \$500,000 from the county to leverage.

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Mr. Hill elaborated on “borrowing from the city” and said that the committee is proposing to borrow against the revenue stream of the district. Further analysis would need to be done on whether the money is borrowed internally or through commercial borrowing.

Mr. Palmer stated that it is time to take action and give tentative approval to expanding the district and instruct staff to provide recommendations for the source of funding. He added that he is sure the price of the property will increase and it is to our advantage to act now.

In response to Mrs. Poole, Mr. Hill explained how one option could be to refinance the money borrowed to acquire the Palms Theater property and roll the projects together. The CRA would be taking the assets of the revenue stream to acquire and hold the properties.

Moved by E. Palmer/Contreras to expedite expansion of the district to include Bryan Street, north and south, and take efforts necessary to find funds to augment the \$500,000 from the county to start the process of acquiring the properties.

A brief discussion followed regarding the federal procedures that must be followed in order for the purchase of the properties to be eligible for reimbursement from FDOT.

Mrs. Poole asked how long it would take to expand the district to Bryan Street. Mr. Hill said approximately two months; a blight study must be done.

The question was called. Motion carried unanimously.

Brief discussion followed on the status of the retention pond on the north end of district.

Council reconvened for the remainder of the agenda.

NEW BUSINESS

10. COUNCIL ACTION RE: Request to piggy-back the contract to Insituform Technologies, Inc. for Cured-in-Place Pipe Linings and Miscellaneous Pipe Lining, Project No. 03604 - \$56,667.

Mr. Hill reviewed the agenda report.

Moved by Poole/C. Palmer to award a piggy-back contract to Insituform Technologies, Inc. in the amount of \$56,667 and transfer \$10,000 from Project 103603.

Mr. Palmer stated that the agenda material notes that the contract amount is \$56,667.60. Mr. Hill agreed.

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Moved by Poole/C. Palmer to amend the motion to provide a contract in the amount of \$56,667.60. Motion carried unanimously.

The question was called on the main motion, as amended. Motion carried unanimously.

11. CONSENT AGENDA:

Mayor Buckley referenced the memorandum from the City Manager, which corrects a typographical error in “d” (change from \$17,000 to \$7,000).

Moved by E. Palmer/Contreras for approval of items 11 “a” through “g” as recommended with the change to item “d.”

In response to Mr. Palmer, Ms. Elliott said that the Melbourne Auditorium roof should appear on the December 17 Council agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Replacement of six city building roofs, Hamilton Roofing, Inc., Palm Bay, FL - \$141,916.83; and three city building roofs, Robert B. Harrison, Inc., Melbourne, FL - \$21,593.88. Total cost for nine roofs - \$163,510.71.
- b. Purchase of two vehicles from McCotter, Ford, Inc., Titusville, and four vehicles from Duval Ford, Jacksonville, FL (Florida Sheriff’s Association Bid No. 02-10-0826) – total purchase price \$153,222.
- c. Replacement of 140 upholstered chairs, vertical storage caddies, and rubber feet (Melbourne Auditorium), Designer’s West, Melbourne, FL (State of Florida Term Contract No. 420-420-02-1) - \$19,933.88.
- d. Legal and appraisal fees associated with Lift Station No. 24, Project No. 02313 – *\$17,000.

*Corrected at beginning of item to \$7,000.
- e. Utility Work Agreements with FDOT for utility relocations on Eau Gallie Boulevard (SR 518), from Croton Road to U.S. 1 and from John Rodes Boulevard to Croton Road.
- f. Resolution No. 1793: A resolution adopting the name “Babbling Brook Place” for a private street located on the Florida Tech campus at the new residence hall complex.
- g. Resolution No. 1794: A resolution authorizing the transfer of the cable television franchise from Time Warner Entertainment-Advance/Newhouse Partnership to

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TWEAN Subsidiary, LLC.

12. COUNCIL ACTION RE: Request by Wuesthoff Medical Center for exemption from Occupational License Tax.

Mr. Hill reviewed the agenda report. There were no representatives from Wuesthoff present.

Mr. Palmer pointed out that the city requires thrift shops to obtain occupational licenses and he sees no difference.

Moved by E. Palmer/C. Palmer to deny the request. Motion carried. Vice Mayor Contreras voted nay.

13. COUNCIL ACTION RE: Presentation and award of contract for the proposed riverwalk and master development plan for the Olde Eau Gallie Riverfront by EDAW, Miami Beach, FL.

From the agenda report: On September 24, Council authorized staff to negotiate a contract for construction documents for a riverwalk and a master development plan for the Olde Eau Gallie Riverfront. Council requested that the consultant make a presentation prior to approval of a contract.

Staff was not able to negotiate a contract with Kimley-Horn, the first consultant chosen by the selection committee. Kimley-Horn would cost \$79,000 to complete the scope of services. The committee's second choice, EDAW, has agreed to a contract that meets the financial and design needs of the project.

The total proposed contract award for the riverwalk construction documents and master development plan is \$50,000. A Coastal Partnership Initiative Grant in the amount of \$25,000 has been awarded with a \$10,000 cash match and a \$15,000 in-kind services for city staff. An additional \$15,000 from the Planning and Economic Development budget has been included in the contract for a master development plan to incorporate the riverwalk with the adjacent public properties and public spaces. The master development plan portion of the contract is important to do in conjunction with the riverwalk for consistency in linking the riverwalk to the public spaces.

Leo Alvarez, managing principle of EDAW, discussed the history of the firm and introduced the team members present. He provided Council with an overview of the development plan.

Mr. Contreras asked about the parking issue in the Eau Gallie area. Mr. Alvarez said there are in-fill lots available that can be identified for public parking. In the future, parking decks, which can be screened with landscaping, can be considered. He noted that there are many ways to address parking.

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Mr. Palmer said the old Eau Gallie area is noted for coquina rock. He recommended that coquina rock be used – either as barriers or design features.

Mrs. Palmer complimented EDAW on several of its projects. She said that the work in Jacksonville turned the redevelopment area into a community gathering place.

Moved by E. Palmer/Walker for approval of the proposed riverwalk and master plan contract for the Olde Eau Gallie Riverfront in the amount of \$50,000 to EDAW, Inc.

Mrs. Poole discussed the \$15,000 that will come from the Planning and Economic Development budget. She questioned whether Downtown Melbourne would receive the same consideration. Mr. Hill assured Mrs. Poole that General Fund money has been used in the Downtown Melbourne area. He noted that the \$15,000 should be viewed as start up activities. Mrs. Poole said that private funds need to be supporting the various plans in Downtown Eau Gallie.

The question was called. Motion carried unanimously.

Recessed: 8:54 p.m.

Reconvened: 9:08 p.m.

14. PRELIMINARY PLAT APPROVAL SD-2002-05 (PINEAPPLE LANDING SUBDIVISION): Preliminary Plat approval for Pineapple Landing Subdivision located on a 20.18-acre parcel zoned C-1A (Professional Offices and Services) and R-2 (One-, Two-, and Multiple-Family Residential) (Owner – Beverly Anne Rouede, Trustee) (Applicant/Representative – Diamond Bay Builders, Inc.) (P&Z Board – November 7, 2002)

Mrs. Braz reviewed the agenda report.

The Planning and Zoning Board recommended approval of SD-2002-05, Preliminary Plat for Pineapple Landing Subdivision on 20.18 acres, consisting of a one-sheet plan prepared by John W. Walker of Grusenmeyer, Scott & Walker, of Rockledge, Florida, with survey completion date of 5-14-2002, with the findings in the Planning and Zoning memorandum and the following conditions:

- a. Any change to the preliminary plat will require its re-evaluation by the Planning and Economic Development Department and Engineering Department. Any substantial change to the preliminary plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the preliminary plat includes, but is not limited to: 1) any increase of more than four lots, and 2) the relocation of the Holland Avenue right-of-way and retention ponds.
- b. The owner/developer shall provide a permit from the Florida Fish and Wildlife Conservation Commission to mitigate or relocate gopher tortoises found on the property. Should other threatened or endangered species be found on the site

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prior to or after commencement of construction, all construction shall be suspended until adequate permits are acquired or appropriate jurisdictional agencies provide approval to proceed with development.

- c. At the time of construction of the Holland Street extension, turn lanes and/or tapers shall be constructed in the Eau Gallie Boulevard right-of-way or, if necessary, on a portion of the platted properties to accommodate turning vehicles for the anticipated subdivision developments. Such improvements shall be approved by FDOT.
- d. Clearing for the plat shall be limited to the retention area, the proposed road right-of-way for the extension of Holland Street, and the utility easements.
- e. The applicant/developer shall take measures necessary to save as much natural native vegetation as possible. Such evaluation shall occur at the time of individual site plan approval. When possible building, retention and parking spaces shall be placed in locations to permit for the maximum preservation of trees and other native vegetation.
- f. Prior to construction plan approval on Lot 4 the applicant shall evaluate any wetlands and obtain the approval from the St. Johns River Water Management District to permit removal or modification to any wetlands on the property.
- g. Provide cross-access easement agreements between Lots 2 and 3.

Mrs. Poole referenced condition “e” and said that the wording does not make it a requirement to save the natural vegetation. Mrs. Braz said the developer is entitled to construct a building and parking, so staff has to work within those parameters. She added that she feels the stipulation is strongly worded. Additionally, the site won’t need a lot of fill, so many of the trees can be saved.

Craig Suman, representing the applicant, was present.

Mr. Palmer asked the timeframe. Mr. Suman said that the expedience of the project will depend on whether they receive plat approval. The preliminary planning is complete and at this point, they are sketching ideas.

Mayor Buckley asked if they plan to build professional type buildings, like those located farther east. Mr. Suman replied yes. Additionally, he agreed with the stipulations.

Moved by C. Palmer/E. Palmer for approval of the preliminary plat for Pineapple Landing with the stipulations proposed by the Planning and Zoning Board. Motion carried unanimously.

- 15. ORDINANCE NO. 2002-78 (CPA-2002-10) AND ORDINANCE NO. 2002-79 (Z-2002-940 (LAKE WASHINGTON ROAD/AVOCADO AVENUE): (Public Hearing/First Reading) An

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ordinance amending the Future Land Use Map by changing the land use from Low Density Residential to mixed use Commercial/Industrial and an ordinance changing the zoning from R-1A (Single-Family Residential) to M-1 (Light Industrial) on 9.25 acres of a 19-39-acre portion of a 36.17-acre parcel located on the south side of Lake Washington Road, west of Avocado Avenue. (Owner – Slate Land Development, Inc.) (Applicant – McWilliams Corporate Management) (Representative – Jake Wise, Construction Engineering Group) (P&Z Board November 7, 2002)

Note: The applicant requested postponement of this item until the December 17 Council meeting.

Moved by E. Palmer/Poole to postpone this item until the December 17 Council meeting.
Motion carried unanimously.

16. ORDINANCE NO. 2002-80 (A&V #260): (Public Hearing/First Reading) A proposed ordinance to abandon and vacate an unimproved section of Columbus Avenue right-of-way from its intersection with Apollo Boulevard west a distance of 173.1 feet. (Owners/Applicants – David W. Dyer and John N. Hamilton)

Attorney Gougelman read Ordinance No. 2002-80 by title.

From the agenda report: The applicants are David W. Dyer and John N. Hamilton, owners of Lot 5 and the south 50.65 feet of Lot 6, Armstrong's Subdivision. The applicants have indicated that the vacation would allow the adjacent tracts to be contiguous and able to be developed as one site. The owners of the lot that abuts this right-of-way on the south side have a rezoning item (agenda Item #17).

All utility companies and city departments were notified of this request; there were no objections. In 1991 a similar request was denied. At that time there was electrical service to the tennis courts in the right-of-way; however, that service no longer exists. Use of the right-of-way to provide a future entrance to Fee Avenue Park is not likely; the park has access on three sides to public streets.

John Hamilton, applicant, discussed the request and stated that this area is a combination of houses and small businesses. He said that they are interested in marketing their property – possibly with the property to the south. He added that the abandon and vacate request will provide the best use of the property for all involved. It will open the property up for larger offices or doctors' offices. He noted that the right-of-way has not been used/improved and he is amenable to giving the city an easement.

Mrs. Poole stated that this right-of-way could be part of Fee Park. Mr. Hamilton said not realistically. It is not a real road and there is nothing in the park to connect to this right-of-way. In response to Mrs. Poole, Mr. Hamilton showed the flow of the stream on the property.

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Mr. Palmer said that the right-of-way has the potential to be a continuation of a road. Mr. Hamilton said he does not know where the “road” would lead. Mayor Buckley added that a road would go right through the tennis courts. Mrs. Poole disagreed and said it would join with an existing area of the park.

Mr. Hamilton stressed that from what he has seen, there has been no use or attempt to use this as a road by the city.

Mr. Palmer stated that the request involves a lot of property and he is not sure what the advantage to the city would be in approving the request. Mr. Hamilton said that medical offices, office buildings and larger complexes are being constructed in the area. They have tried to market the property; however, the right-of-way gives them concern. Mrs. Poole pointed out that the adjacent area has been residential for years. Mr. Hamilton replied that the neighborhood is turning into light commercial.

Mr. Hill said if the city were to use the right-of-way as an extension of the roadway, a bridge would have to be constructed over the ditch.

Mrs. Palmer agreed that this is a large piece of property. She added that it has potential for pedestrian path/greenway to the park. Additionally, she stated that if the location of the right-of-way stopped the applicant from using the other parcels, she would be more convinced in approving the request. However, she said that this does not prohibit the use of the other parcels – other than as one large development.

Paul Ruffo stated that he represents the owners on the next agenda item and they do not have any objection to the abandon and vacate request. He commented that the park has adequate access and he does not believe that the right-of-way has been maintained by the city. He asked for Council approval.

Moved by Poole/E. Palmer to deny Ordinance No. 2002-80.

Mr. Palmer said he believes the property has a future potential use. Mrs. Poole agreed. Mayor Buckley stated that he does not think the city has done anything to make it look like we intend to use the right-of-way.

The question was called. The roll call vote was:

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

Nay: Buckley

Motion carried.

17. ORDINANCE NO. 2002-81 (CPA-2002-11) AND ORDINANCE NO. 2002-82 (Z-2002-941 (NORTHWEST CORNER OF FEE AVENUE/APOLLO BOULEVARD): (Public Hearing/ First Reading) An ordinance amending the Future Land Use Map by changing the land

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use from Low Density Residential to mixed use Commercial/Low Density Residential and an ordinance changing the zoning from R-1A (Single-Family Residential) to C-1A (Professional Office and Services) on a .88-acre parcel located on the northwest corner of Fee Avenue and Apollo Boulevard. (Owners – Leonard and Anita Schaff) (Applicant/Representative – Paul Ruffo) (P&Z Board November 7, 2002)

Attorney Gougelman read Ordinance Nos. 2002-82 and 2002-82 by title. Ms. Braz briefed Council.

The Planning and Zoning Board recommended approval of CPA-2002-11 and Z-2002-941 changing the land use and zoning on Lot 1 of the Johnson and Rodes Subdivision from Low-Density Residential to mixed use Commercial/Low-Density Residential, consisting of 0.88 acres located at the northwest corner of Fee Avenue and Apollo Boulevard with the findings in the Planning and Zoning Board Memorandum.

Mayor Buckley noted that a Comprehensive Plan Amendment sign-up sheet is available for the public. Mrs. Poole said she would like to add her name to the list.

Mrs. Poole expressed concern with establishing the Comprehensive Plan designation and then changing it. Mrs. Braz replied that areas change. She noted that Apollo is now a collector street.

Paul Ruffo, representing the owners, said that perhaps the original intent by the owners was for a residential use. They have tried to sell the property for several months as residential; however, no one is willing to invest in building a home in that area. The area is not conducive to residential. It is in a transitional pattern because of its proximity to the hospital.

Continuing, Mr. Ruffo said a doctor has the property under contract to build a professional medical office.

A brief discussion followed regarding the drainage ditch on the property.

Moved by Contreras/Walker for approval of Ordinance No. 2002-81. Motion carried.
Mrs. Poole voted nay.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2002-82. Motion carried.
Mrs. Poole voted nay.

18. ORDINANCE NO. 2002-83: An ordinance amending Chapter 23, Retirement and Pensions, Article V, Firefighters' Pension Plan in accordance with federal law to provide clarification, and to provide for the purchase of credited service based on prior military or firefighter service.

Attorney Gougelman read Ordinance No. 2002-83 by title.

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Moved by Poole/E. Palmer for approval of Ordinance 2002-83. Motion carried unanimously.

19. ORDINANCE NO. 2002-84: An ordinance amending Chapter 23, Retirement and Pensions, Article VI, Police Officers' Pension Plan in accordance with federal law and to provide for clarification.

Attorney Gougelman read Ordinance No. 2002-84 by title.

Moved by Walker/E. Palmer for approval of Ordinance 2002-84. Motion carried unanimously.

20. ORDINANCE NO. 2002-85: An ordinance amending the non-exclusive Natural Gas Franchise between the City of Melbourne and NUI Utilities, Inc., operating locally through NUI City Gas Company of Florida, revising the description of revenues to which franchise fees are applied.

Attorney Gougelman read the ordinance by title.

Moved by Walker/Contreras for approval of Ordinance No. 2002-85. Motion carried unanimously.

21. RESOLUTION NO. 1795: A resolution rescheduling the December 10 regular City Council meeting to December 17 and canceling the December 24 regular City Council meeting.

Moved by Poole/E. Palmer for approval of Resolution No. 1795. Motion carried unanimously.

22. COUNCIL ACTION RE: Board Appointments

- a. Building and Construction Advisory Committee - appointment of one member (Postponed 10/22/2002 and 11/12/2002)

Mrs. Palmer nominated Lee Bohlmann.

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

Moved by E. Palmer/Contreras to appoint Lee Bohlmann. Motion carried unanimously. (11/26/2002 – 8/8/2003, unexpired three-year term)

- b. Library Board – appointment of one regular member (Postponed 11/12/2002)

Moved by E. Palmer/Poole to reappoint Janet Sullivan. Motion carried unanimously. (12/3/2002 – 12/2/2007, five-year term)

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- c. Melbourne Housing Authority – confirmation by City Council of Mayor's reappointment of Robert McKemy (Postponed 11/12/2002)

Moved by E. Palmer/Walker to confirm the Mayor's reappointment of Robert McKemy. Motion carried. Mrs. Palmer voted nay. (12/9/2002 – 12/8/2006, four-year term)

- d. Planning and Zoning Board – appointment of two regular members (Postponed 11/12/2002)

Moved by C. Palmer/Walker to reappoint Edward Coruzzi. Motion carried unanimously. (12/3/2002 – 12/2/2005, three-year term)

Regarding Mr. King's seat, Mrs. Poole said many people have called her and complained that Mr. King and Mr. Outlaw control the Planning and Zoning Board meetings. They seem to have an arrangement that if one isn't going to be at the meeting, the other is. She added that having realtors on this board is difficult when dealing with matters of development.

Mayor Buckley stated that Alan King has done an excellent job on the Planning and Zoning Board.

Moved by Buckley/Contreras to reappoint Alan King.

A brief discussion followed regarding the attendance at Planning and Zoning Board meetings by Council Members.

The question was called. Motion carried. Mrs. Poole voted nay. (12/3/2002-12/2/2005, three-year term)

- e. Zoning Board of Adjustment – appointment of three regular members (Postponed 11/12/2002)

Moved by E. Palmer/Walker to reappoint Edward Kasold. Motion carried. Mrs. Poole voted nay. (12/3/2002 – 12/2/2005, three-year term)

Moved by Poole/E. Palmer to reappoint Peter Kostrzewa. Motion carried unanimously. (12/3/2002 – 12/2/2005, three-year term)

Moved by E. Palmer/Poole to reappoint Mike Nowlin. Motion carried unanimously. (12/3/2002 – 12/2/2005, three-year term)

- f. General Employees' Pension Plan Board of Trustees – appointment of fifth member

Moved by E. Palmer/Poole to reappoint Michele Ennis as the fifth member to the board. Motion carried unanimously. (12/3/2002 – 12/2/2004, two-year term)

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23. COUNCIL ACTION RE: City contribution to proposed Brevard City/County Summit in *January 2003.

From the agenda report: This is a request for funding support to conduct a Brevard County City/County Summit. The event would feature participation by the Board of County Commissioners and all Mayors, City Councils and City Managers in Brevard County. *It is now anticipated that the day long summit would occur in February at the Brevard Community College Life Long Learning Center at the Cocoa Campus.

The program includes Dr. Lance DeHaven-Smith of Florida State University who is an acknowledged expert on Florida local government. The program would be televised. The group is seeking support to underwrite the estimated \$10,000 cost of televising the event. Funds have been pledged by BCC, Waste Management and by a financial advisor firm for the City of Palm Bay.

The request is for cities to support the summit based on population. The maximum amount Melbourne would be asked to provide is \$1,172.47. Cape Canaveral, Palm Bay, Palm Shores, Rockledge, Satellite Beach and West Melbourne have committed to the funding formula. The remaining cities are in the process of consideration.

Mr. Hill updated Council and said they have received a verbal indication from CH2M Hill to provide the balance of funding. He added that he does not believe Melbourne will have to pay anything; however, he suggested Council register its willingness to support the program.

Mrs. Poole said she is hesitant to continue since Mr. Hill is not going to be here. She added that several other cities have expressed concern; they believe the summit is “steamrolling” and the costs seem to be rising.

Mr. Palmer and Mayor Buckley pointed out that this probably won’t cost Melbourne anything. The Mayor added that we ought to be able to pay \$1,172 based on population.

Mr. Hill pointed out that even if Melbourne had to pay the maximum amount, the cost would be \$170 per Council Member for a full days’ training activity. He clarified for Mrs. Poole that the City Managers’ Association didn’t provide funding because it doesn’t have any money. The biggest expense involves televising; however, given the nature of the presentation, it will be well worth the cost. There will be a benefit to the public being able to view the summit.

Moved by Buckley/E. Palmer to support participation in an amount, if needed, not to exceed \$1,172.47.

Mr. Palmer stated that the summit is a step in the right direction. He noted that annexation is an issue that could take all day. Mrs. Palmer said she is delighted to see this include all elected officials.

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The question was called. Motion carried unanimously.

24. COUNCIL ACTION RE: Attendance at the Florida League of Cities/Florida Institute of Government “2003 Institute for Elected Municipal Officials,” January 10-12, 2003 in Gainesville, FL. (Requested by Vice Mayor Richard Contreras)

Mayor Buckley referenced the memorandum distributed, which indicates that Council Member Poole would also like to attend.

Moved by C. Palmer/Walker to approve the travel request from Richard Contreras and Pat Poole. Motion carried unanimously.

25. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Hill referenced the material distributed to Council regarding the City Manager search process. Following a brief discussion, Council decided on the following:

December 5: Special meeting will be conducted at 5:00 p.m. to receive the list of candidates from The Mercer Group.

December 8: A reception will be conducted at the Melbourne Airport Hilton beginning at 7:00 p.m.

December 9: Special meeting will begin at 8:00 a.m. to conduct interviews of the candidates.

December 10: Individual meetings beginning at 8:00 a.m. to conduct interviews of the candidates.

December 10: Special meeting will be conducted at 5:00 p.m. to select new City Manager.

Additionally, by consensus, Council agreed to use the Melbourne Airport Hilton.

26. ADJOURNMENT

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

The meeting adjourned at 10:24 p.m.

City Clerk – 12/5/2002

Approved by Council: 12/17/2002