

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 17, 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 Seongsik Yoon, Korean Congregation, Palmdale Presbyterian Church, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Ed Palmer	Council Member, District 2
	Pat Poole	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Loretta Isenberg-Hand	Council Member, District 6
	Henry J. Hill	City Manager
	Paul R. Gougelman, III	City Attorney
	Suzanne Novak	Assistant City Attorney
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Assistant City Manager
	Peggy Braz	Planning & Economic Development Director

Absent: Richard Contreras Vice Mayor, District 1 (out of town)

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented Council Member Grace Walker with her 15-year service pin.

5. APPROVAL OF MINUTES – November 26, 2002 Regular Meeting, December 5, 2002 Special Meeting and December 9 Special Meeting

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

6. CITY MANAGER’S REPORT

Mayor Buckley referenced the memoranda requesting two items be added to the agenda.

Moved by C. Palmer/Hand to add items 16 (l) and 27.1 to the agenda. Motion carried unanimously.

Mayor Buckley announced that the applicant has withdrawn item 13.

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

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The Mayor announced that the applicants for items 19 and 20 have asked for postponement until the January 28, 2003 meeting.

Moved by Hand/Poole to postpone items 19 and 20 until January 28, 2003. Motion carried unanimously.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2002-77: (Second Reading/Public Hearing) An ordinance amending Chapter 10, Community Planning and Development, 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. (First Reading November 26, 2002)

Attorney Novak read Ordinance No. 2002-77 by title. There were no comments from the public.

Moved by Walker/E. Palmer for approval of Ordinance No. 2002-77. The roll call vote was:

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

Nay: None

Motion carried unanimously.

- a. Resolution No. 1796: Providing for the adoption of the Babcock Street District Architectural Guidelines
- b. Resolution No. 1797: Providing for the adoption of the Downtown District Architectural Guidelines

Attorney Novak read each resolution by title.

Moved by Hand/E. Palmer for approval of Resolution No. 1796 and Resolution No. 1797. Motion carried unanimously.

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9. ORDINANCE NO. 2002-81 (CPA-2002-11) AND ORDINANCE NO. 2002-82 (Z-2002-941 (NORTHWEST CORNER OF FEE AVENUE/APOLLO BOULEVARD)): (Second Readings/Public Hearings) An ordinance amending the Future Land Use Map by changing the land 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) (First Reading November 26, 2002)

Attorney Novak read Ordinance No. 2002-81 and Ordinance No. 2002-82 by title. There were no comments from the audience. Mayor Buckley announced that a Comprehensive Plan sign-up sheet is available for the public.

Moved by Hand/Walker for approval of Ordinance No. 2002-81.

Mrs. Poole stated that she cannot vote for this item. This is an old historic area with stucco homes built during the land boom. She cautioned against continuously changing the Comprehensive Plan to allow for rezoning of residential areas.

The question was called. The roll call vote was:

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

Nay: Poole

Motion carried.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 2002-82. The roll call vote was:

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

Nay: Poole

Motion carried.

Mrs. Poole said she voted nay for the same reasons expressed on Ordinance No. 2002-81.

10. ORDINANCE NO. 2002-83: (Second Reading/Public Hearing) 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. (First Reading November 26, 2002)

Ms. Novak read the ordinance by title. There were no comments from the audience.

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Moved by Poole/E. Palmer for approval of Ordinance No. 2002-83. The roll call vote was:

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

Nay: None

Motion carried unanimously.

11. ORDINANCE NO. 2002-84: (Second Reading/Public Hearing) An ordinance amending Chapter 23, Retirement and Pensions, Article VI, Police Officers' Pension Plan in accordance with federal law and to provide for clarification. (First Reading November 26, 2002)

The Assistant City Attorney read Ordinance No. 2002-84 by title. There were no public comments.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 2002-84. The roll call vote was:

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

Nay: None

Motion carried unanimously.

12. ORDINANCE NO. 2002-85: (*Second Reading/Public Hearing) 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. (First Reading November 26, 2002)

Ms. Novak referenced the memorandum distributed, which outlines significant changes made to the ordinance. She reported that the attorney representing NUI objected to the way the ordinance was written; the ordinance did not include release language regarding past franchise payments. The attorney requested that language be inserted along with revisions to the date the franchise fee would be payable and due. *Ms. Novak added that because of the extent of the revisions, Council would be considering this as a first reading ordinance.

Attorney Novak read the revised ordinance by title.

Moved by Hand/E. Palmer for approval of Ordinance No. 2002-85 (on first reading) as amended. Motion carried unanimously.

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13. 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 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) (Postponed November 26, 2002)

This item was postponed indefinitely; see item 7 for action.

NEW BUSINESS

14. COUNCIL ACTION RE: License Agreement with Florida East Coast Railway for Creel Street and funding of \$83,276 for crossing replacements at Creel Street and Hibiscus Boulevard.

Mr. Hill reviewed the agenda report.

Moved by C. Palmer/Hand to approve the FECR License Agreement for the Creel Street crossing and authorize the City Manager to execute the document.

A brief discussion followed regarding the railroad's requirements and lack of notification.

The question was called. Motion carried unanimously.

Moved by E. Palmer/Hand for approval of funding for the two crossing replacements in the amount of \$83,276 from Local Option Gas Tax 316 funds. Motion carried unanimously.

15. COUNCIL ACTION RE: Amendment No. 1 to Task Order No. 4 (WTP Phase 2 Design) of CH2M Hill's Contract, Project No. C02303, \$61,500.

Mr. Hill reviewed the agenda report.

Moved by Poole/E. Palmer for approval of Amendment No. 1 to Task Order No. 4 of CH2M Hill's contract to design the Phase 2 WTP Project in the lump sum amount of \$61,500 and the transfer of \$61,500 from the Post Road Water Storage Tank Replacement Project (C0305) to this project's budget.

Matt Alvarez, CH2M Hill, and Howard Ralls responded to questions regarding Cogburn Brothers Electric. Mr. Alvarez confirmed that CH2M Hill receives preferred pricing from this contractor. Additionally, Cogburn Brothers was selected because the amendment relates to a lifesafety issue at the plant and they needed a quick turnaround time.

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The question was called. Motion carried unanimously.

16. CONSENT AGENDA:

Moved by C. Palmer/Hand for approval of 16 “a” through “l” as recommended.

Mr. Palmer discussed item “a” and referenced the additional information distributed. He said there is a problem regarding cost. General Electric has indicated that it can install a roof (foam roof) on the Auditorium and guarantee it for 20 years for about \$100,000 less than the conventional roof. Mr. Palmer stated that he would like to investigate the details of the GE information.

The maker/seconded agreed to remove item “a.”

Mr. Hill responded to questions regarding “f” and “k”; however, the items were not removed from the consent agenda. Mrs. Poole asked that a proper ceremony be conducted (regarding item “k”) when the plaque is installed on the property.

The question was called on the motion to approve the consent agenda, items “b” through “l.”
Motion carried unanimously.

Mr. Ralls explained that a \$400,000 cost has been approved by FEMA. FEMA will contribute \$300,000, the state will contribute \$50,000 and the city will fund \$50,000. The city hired a team of consultants to look at the structure of the building. In the end, the consultants determined that there are structural requirements, which would apply to any type of roof, totaling about \$185,000. The deck is very deteriorated and the walls of the penthouse need replacement.

Different roof alternatives were explored. One is the modified bitumen system that the city has been using for the past several years and the other is the foam system. GE manufactures the foam system that was reviewed. The consultants feel that both types are good. The only problem is the cost of the foam roof. The estimated cost for the foam system is \$278,087 and the estimated cost for the modified bitumen system is \$220,337 – a \$58,000 difference.

The consultants have recommended that the city proceed with the roof that is within the budget. Regarding warranty, it can be any amount specified. It depends on what the city is willing to pay.

Continuing, Mr. Ralls said the only way the city would know for sure which system was the better deal would be design and bid both. An additional \$5,000 would be needed to have two sets of plans.

Mrs. Poole asked about extending the warranty. Mr. Ralls said that a warranty beyond 15 or 20 years becomes vague. Additionally, many businesses/manufacturers go out of business during that time. Another consideration is that many warranties are considered a

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“declining value” warranty.

Mr. Palmer said the city should investigate both roof types. GE has indicated that it could put a roof on for a little over \$300,000 and guarantee it for 20 years. The other system has a 14 year guarantee. Regarding the total cost, it is supposition that repairs are required.

A brief discussion continued.

Moved by E. Palmer/C. Palmer to supplement item “a” for a total cost of \$29,250 (to allow for both roof types to be specified and bid). Motion carried unanimously.

The consent agenda was approved as follows:

- a. Supplement No. 130 to Continuing Consultant Contract for Melbourne Auditorium Roof Design and Construction Administration, Project No. C02104 - *\$24,250.

*See motion. Total revised to \$29,250.

- b. Supplement No. 131 to Continuing Consultant Contract for Hoag Avenue Paving, Project No. E02602 - \$13,250.
- c. Supplement No. 132 to Continuing Consultant Contract for Waterline Upgrades in Trailer Haven, Project No. C03309 - \$29,250.
- d. Change Order No. 3 to Wharton-Smith, Inc. for D. B. Lee Wastewater Treatment Plant, Phase III, Project No. 96373 - \$12,384.
- e. Change Order No. 1 to Jobear/Warden Construction, Inc. for Yacht Basin and Eau Gallie Baffle Boxes (Young Street and Stewart Road), Project No. C02904 - \$2,975.
- f. Lift Station Agreement with East Bay Plantation Homeowners’ Association, giving ownership and maintenance to the City of Melbourne.
- g. Purchase of Radio Equipment and Accessories (Local Law Enforcement Block Grant Phase VII), Communications International, Inc., Vero Beach, FL - \$144,696.52.
- h. Award of annual contracts for heavy equipment rental from seven contractors, annual estimated cost of \$40,000.
- i. Award of Annual Contract for Lot Mowing, Trimming and Clearing, Williams Brothers Landscaping, Palm Bay, FL - \$23,000.
- j. Fire Training Agreement between the City of Melbourne and the City of Rockledge.

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- k. RESOLUTION NO. 1798: Accepting property from Mr. David Moallem, located on Strawbridge Avenue/Pine Street.

Added to the agenda:

- l. Appointment of the new City Manager to the Economic Development Commission (EDC) Board of Directors and Executive Board.
17. COUNCIL ACTION RE: Request by the Downtown Melbourne Association for co-sponsorship of the 2003 Friday Fest events conducted in Downtown Melbourne.

From the agenda report: Ms. Betsy Vosburgh, on behalf of the Downtown Melbourne Association, is asking the city to co-sponsor the 2003 Friday Fest events by providing electrical connection and delivery of barricades. The cost per month is estimated to be \$200 - \$210.

Moved by E. Palmer/C. Palmer to provide funding as requested from the Downtown Redevelopment Fund. Motion carried unanimously.

18. COUNCIL ACTION RE: Presentation of the Brevard Tomorrow Initiative by Kristin Bakke, President/CEO, Leadership Brevard/Brevard Tomorrow.

Kristin Bakke, President/CEO, Leadership Brevard/Brevard Tomorrow, and Randy Harris, Co-Chair, Brevard Tomorrow, distributed information to Council about Brevard Tomorrow.

Mr. Harris discussed the history of the Brevard Tomorrow process and explained how the "Preferred Future" Strategic Plan was developed. He read the "Preferred Future" statement, which is:

"Through effective and collaborative public/private relationships, Brevard County is a visionary community with a vibrant economy and unparalleled quality of life. Our values include educational excellence, entrepreneurship, resource conservation, managed growth, cultural diversity, and space heritage that frames and sustains who we are today and into the future. An open and inclusive community, Brevard County values all of its citizens and welcomes newcomers and businesses alike."

Ms. Bakke elaborated on the key issues/goals and the year one deliverables. She reported that five work groups have been established and charged with developing an action plan. Through fundraising, they hope to maintain an earlier goal of 53% private funding.

Ms. Bakke said that they are asking for Melbourne's continued support and involvement through public sector contributions. (The Leadership Brevard letter in the agenda package indicates that the city is willing to make an investment of \$6,000 for year one.)

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Mr. Palmer clarified that the \$6,000 in funding from Melbourne is based on population. Ms. Bakke agreed and noted that a population formula has been proposed.

Ms. Bakke, in response to Mrs. Poole, answered detailed questions about Leadership Brevard.

Mrs. Poole asked if all the cities have agreed to contribute. Ms. Bakke said that this meeting represents the beginning of their campaign. Ultimately, they are seeking \$25,000 - \$40,000. Mrs. Poole expressed concern that the information in the package indicates that Melbourne already agreed to provide funding. Mr. Hill said that amount came from a discussion months ago and was based on the population of the cities. He added that he does not know which cities have agreed to contribute.

Mr. Palmer said that in order for Brevard Tomorrow to be successful, all the municipalities and the county need to be involved. Melbourne contributed \$5,000 during the initial stage. The county, for the next phase, agreed to contribute \$50,000 and the Port contributed \$20,000. He added that he believes the Melbourne International Airport has concurred with an amount of \$20,000.

Mrs. Poole discussed the city's current budget situation and noted that the Tourist Development Council should be taking on the tourist-related activities associated with Brevard Tomorrow. Mrs. Palmer added that there are already organizations in place doing the work proposed by Brevard Tomorrow. Additionally, the goals are generalized and nebulous. She questioned why power should be given to the Brevard County Commission to "improve the quality of life for our citizens." She stressed that the city is doing everything it can to improve the quality of life. A vocal few are name-dropping and taking control where they have no business taking control. She concluded by saying she won't support giving taxpayer money to further this cause.

Mayor Buckley said that he serves on the Governance Board of Brevard Tomorrow. He referenced various agreements the city has with other jurisdictions and clarified that the intent is to streamline information and services. He agreed that at one time, it looked as if the county was trying to do everything associated with Brevard Tomorrow; however, that is no longer the case. The operation has been turned over to Leadership Brevard.

Mrs. Palmer pointed out that the city already has cooperative agreements with other jurisdictions to streamline information and services. She stressed that we don't need an outside entity comprised of non-elected officials stepping into any of these roles. The vision for Brevard Tomorrow contains a lot of "feel good" things. However, cities, private organizations, and civic organizations have already been working on these issues. We don't need another bureaucracy whose first year goal is to raise \$350,000 and provide "first year deliverables" of establishing five work groups.

Mrs. Poole said she would like to see every city pledge funding before Melbourne commits to funding. Mayor Buckley repeated that this is not about the county trying to take over. This is about trying to make the area better for our children. The youth are

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leaving the area after finishing school, people aren't voting, etc. And, there aren't any cities or groups working on these issues. Brevard Tomorrow is a collective group working among all the cities.

Mr. Palmer agreed and said that this presents a chance for the City of Melbourne to become a leader; to show that we are looking beyond the end of our nose into the future. Brevard Tomorrow is trying to create an environment where people will enjoy life in Brevard County. He concluded by saying when the county moves forward, the city moves forward.

Mrs. Hand said that she is concerned about the availability of funds in the budget. Mayor Buckley pointed out that we have money left over from the last fiscal year budget. Plus, Council voted to not increase the millage when it should have – yet added 15 new positions to the budget.

Mrs. Walker said that the city has many unfunded needs and budget constraints; therefore, she is not able to support this at this time.

The Mayor informed Ms. Bakke and Mr. Harris that it appears by a 4-2 consensus that there is no money available right now.

Note: See action under item 6. Items 19 and 20 postponed until the January 28, 2003 Council meeting.

19. COUNCIL ACTION RE: Request of Richard G. Mebus asking Council to remove the stipulation requiring construction of a pedway from Post Road Cascades Development to Longleaf Elementary School (Council will take action on Preserve at Longleaf Apartments under Item #20).

20. SITE PLAN APPROVAL (SP-2002-22/THE PRESERVE AT LONGLEAF APARTMENTS): (Public Hearing) A request for site plan approval for 298 units on an 88.63±-acre parcel zoned R-2 (Cap 6) (One-, Two- and Multiple-Family Residential with a cap of six units per acre) located west of Wickham Road and north of Post Road. (Owner – The Preserve at Melbourne, LLC) (Applicant – Altman Development Corporation) (Representative - Philip Nohrr) (Planning and Zoning Board – November 21, 2002)

Recessed: 9:05 P.M.

Reconvened: 9:15 P.M.

(Mrs. Palmer was not feeling well and left the meeting during recess.)

21. SITE PLAN APPROVAL (SP-2002-24/FLORIDA TECH PHYSICAL SCIENCES BUILDING): (Public Hearing) A request for site plan approval on a 6.79-acre portion of the existing FIT campus zoned I-1 (Institutional) located west of South Babcock Street, south of University Boulevard and east of Country Club Road. (Owner/Applicant - Florida

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Institute of Technology) (Representative - Brian Stall, Baskerville Donovan, Inc.)
(Planning and Zoning Board – November 21, 2002)

Mrs. Braz reviewed the agenda report. The Planning and Zoning Board recommended approval of the site plan, consisting of a one-page plan prepared by Baskerville Donovan, Inc., of Titusville, Florida, with Project No. 67101.01, dated October 30, 2002, with the findings outlined in the agenda package and the following conditions:

- a. Any change to the site plan will require reevaluation by the Planning and Economic Development Department. Any substantial change to the site plan will require review and approval by the Planning and Zoning Board and City Council.

A substantial change in the site plan includes, but is not limited to: 1) a decrease of 5% or more of the open space or vegetative areas (which are not part of a stormwater retention area) on the property, including landscaped islands in the parking lots; 2) a 10% or more increase in the gross square footage in the floor area of structures; or 3) a decrease in the number of parking spaces provided.

- b. Provide a substantial vegetative buffer with fast growing trees, shrubs, and/or other vegetation along the west side of the parking lot adjacent to Country Club Road and/or a fence designed to block vehicle headlights.
- c. Vehicular access shall be prohibited from Country Club Road. This shall not apply to Florida Tech service vehicles.
- d. All construction access shall be provided from the east and south sides of the building site and no construction access shall be provided to/from Country Club Road.

In response to Mrs. Poole, Ms. Braz said that the soccer fields are on the property now. A line of trees divides the fields. Mrs. Walker asked about access. Ms. Braz said access would be from Babcock Street or University Boulevard; service vehicles are the only vehicles that will have access from Country Club Road.

Mayor Buckley read a letter from John Wilt, 3108 Country Club Road, in support of the site plan.

The Mayor disclosed that while he was at Florida Tech last week, Dr. Catanese pointed out where the building will be located.

Carey Gleason, Director of Community and Governmental Relations, Florida Tech, spoke in support of the site plan and stated that the physical sciences building will be an important addition to the campus. She agreed with the proposed conditions.

Moved by E. Palmer/Hand for approval of the site plan subject to the proposed conditions. Motion carried unanimously.

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22. COUNCIL ACTION RE: Request by staff to pursue acquisition of seven triplexes (21 units) known as the Kennedy Street Apartments in the Booker T. Washington Neighborhood area.

Mr. Hill briefed Council. This is a request to authorize city staff to pursue purchase of the seven boarded-up triplexes (21 units) in the Booker T. Washington area. The buildings are a blight on the neighborhood visually and socially. If successful in the purchase, all or most of the buildings would be removed. The property could then be marketed or used for a public purpose.

Funding to purchase the property could be provided from the Booker T. Washington Neighborhood Revitalization Account, which was funded with CDBG money. First, the City would get an appraisal of the property, contact the owner and try to negotiate the purchase. If that is not possible staff would ask City Council to use its power of eminent domain to “take” the property.

Moved by Hand/E. Palmer to authorize staff to pursue acquisition of the property.

Mrs. Poole disagreed with the proposal. She asked what the plans are for the property and said that eliminating the structures won't remove the drug problem; the problem will just move down the road. She stated that she objects to the city buying this property but most of all, she objects to eminent domain. She added that she feels someone could do something with the property without the city paying for it.

Mrs. Hand said that the citizens in the area have taken great pride and are doing everything they can to upgrade the area. Therefore, she feels that the city should do anything it can to upgrade the community and provide a better quality of life.

Mrs. Poole replied that she is not sure that tearing down the units will help. She repeated that she wants to know what is proposed for the property.

Mr. Palmer said that he supports pursuing acquisition. He agreed that the units are a blight on the neighborhood and the community and should come down.

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

Attorney Gougelman arrived at 9:35 p.m. Attorney Novak left the meeting.

23. COUNCIL ACTION RE: Budget Adjustment to increase funding for the SHIP Homeowner Housing Replacement Assistance Program

Mr. Hill reviewed the agenda report.

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Moved by E. Palmer/Hand for approval of the proposal budget adjustment to provide \$45,000 in funding to the 2002-2003 SHIP Homeowner Housing Replacement Assistance Program.

Mr. Hill confirmed for Mrs. Poole that the program is available on a citywide basis in accordance with Council's approved guidelines. He pointed out that this is only the fifth time we have done this. Staff spends a considerable effort and the preference is to rehabilitate the homes; however, sometimes that is not possible.

The question was called. Motion carried unanimously.

24. COUNCIL ACTION RE: Request from Brevard Neighborhood Development Coalition for Conveyance of city-owned parcel located west of Eau Gallie Cemetery and city funds to subsidize a single-family housing development and a child care center on the site.

From the agenda report: Brevard Neighborhood Development Coalition (BNDC) has submitted a proposal to the city requesting the following:

- Conveyance of the city-owned property (approximately 2.4 acres) located adjacent to and west of the Eau Gallie Cemetery between Coleman and Masterson Streets for development of single-family housing and a child care center; and city funds totaling \$180,855 to subsidize construction of the proposed single-family housing development (\$110,055) and child care center (\$70,800).

BNDC is a faith based not-for-profit community development corporation whose primary focus in the last two years has been redevelopment of the Booker T. Washington neighborhood. In addition to its overall revitalization and economic impact, the implementation of BNDC's proposal would fulfill key elements of the BTW revitalization plan adopted by City Council and approved by the U. S. Department of Housing and Urban Development in May 2001. The seven single-family homes and the child care center BNDC is proposing will help meet affordable housing and child care priorities identified in the Plan.

Preliminary approval of the conveyance is critical to BNDC as it will enable the organization to secure firm commitments from builders willing to build homes at cost. Conceptual approval of BNDC's proposal will allow time for staff to work with BNDC and other partners on the details of each project element.

Staff has identified the CDBG and HOME Investment Partnership programs as the most suitable funding sources for the child care center and housing development. A total of \$283,870 is available in 2001-2002 and 2002-2003 CDBG program years to advance the objectives of the BTW revitalization plan. City Council could allocate a portion of these funds to BNDC to pay for the infrastructure for the child care center. The city's 2002-2003 HOME Program could be amended to reallocate the \$163,337 currently budgeted for rental housing to a broader scope activity that would include new construction of ownership or rental housing units.

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Brad Smith, President, Brevard Neighborhood Development Coalition, stated that this is an exciting opportunity for the city and the neighborhood. He said that they selected the Booker T. Washington area because of its potential and are seeking conceptual approval of the mixed-use project. He noted that they are asking for significant input from the city, which will allow BNDC to leverage significant contributions from the private sector.

Mr. Smith displayed a site plan showing the homes and the child care facility. He explained that Masterson Street will be the main gateway. The homes will be built by local homebuilders. Builders are being asked to donate a generous portion; therefore, the price of a \$90,000 home will be \$50,000. Mr. Smith pointed out that currently there is one private home under construction in the area. This is the only new construction other than Habitat for Humanity homes. BNDC wants to complement the housing in the area and go one notch up from what Habitat has been doing.

Mr. Smith pointed out that resident leaders identified the child care center as a need in the area. He outlined the benefits to the neighborhood, including diversity of housing, new neighbors with a stake in revitalization, increase in surrounding home values, quality child care, subsidized child care, an additional \$630,000 in value added to Melbourne's housing market, and increased tax revenues.

Mr. Smith stated that time is of the essence; they do not want to lose the builders' enthusiasm. He asked Council to conceptually approve the project. And, he said that they pledge to be good stewards and leverage the city's input with private sector contributions.

Mr. Hill noted that the property was deeded by the Gleason family to the City of Eau Gallie with a reversionary clause. If the property is no longer used for a public purpose, it will revert to the heirs. Years ago, there was an effort to expand the cemetery; however, the community said that they did not want that to occur. He noted that he is not sure the city has a need for the property as park space. Therefore, the question is how the public will best be served by use of the property.

Attorney Gougelman explained that the reversionary clause was discovered after the Council package was prepared. Ten different members of the Gleason family signed the deed, which is significant because most have died. Multiply that times two – three possible heirs involved with the reverter clause. Additionally, he noted that there is no way he can guarantee that the project would meet the definition of public purpose. There are two ways to get out of the reverter – have the 20 – 30 heirs sign a release or go to circuit court and obtain a judicial declaration that this project meets the definition of public purpose. He commented that the possible solutions are not easy.

Mr. Palmer recommended that Council postpone this item until the legal issues are investigated.

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Mrs. Poole added that she would object to using our legal staff to locate heirs or take the time to clear the reverter clause. Additionally, she said she is opposed to circumventing the reverter clause by saying that the project will serve a public purpose. She noted that Brevard County has a long standing, well funded child care program and she is sure one could be started in this area.

Discussion continued. Mr. Smith stressed that he is aware there are issues; however, he asked Council to determine if this is a viable use for the property.

Bill Kerr, BNDC, spoke in support of the request and asked Council to consider proceeding. He noted that there are several possible solutions and there is no better way to spend public money than to help people and give them a hand up.

Moved by Buckley/Hand to conceptually approve the project.

Mrs. Poole discussed her concerns with providing property and funding to a “faith based organization.”

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

Discussion followed. Mr. Palmer confirmed that he voted aye; however, he has serious reservations.

25. COUNCIL ACTION RE: Direction on seeking a Deed of Release from the Federal Aviation Administration for certain City of Melbourne/Airport properties.

Mr. Hill reviewed the agenda report and noted that Council needs to provide direction regarding the property it wishes to see released from the Federal Aviation Administration. At the May 28, 2002 Council meeting, the following information was provided regarding the amount the city has paid to the Airport Authority for various uses of property:

1997 D. B. Lee WWTP Ground Lease – This is a 40-year lease beginning October 1, 1998 for 12 acres used for the new WWTP facilities. Total payments are estimated to be \$108,350 to date. The annual lease payment is \$29,550.

Percolation Pond – Dating back into the 1970's, there were several agreements for use of land for percolation ponds at “fair market value” of apparently about \$100,000 per year. In 1990, this was revised to require payment of \$134,138 (28.54 acres at \$4,700 per acre). The 1991 lease required payment of \$160,430 (28.54 acres at \$5621.23 per acre). The 1992 and 1993 leases required payment of \$160,430 per year. Thereafter, the city stopped using the ponds and restored the property.

The properties superintended by the Airport, which are leased to the Water and Sewer System for support of the D. B. Lee Wastewater Treatment Plant are good candidates to seek release on. The city has continually utilized these properties dating back to the merger of Melbourne and Eau Gallie for wastewater treatment. Moreover, the city has

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paid considerable funds over the years for use of the property. Finally, the property is leased to the city for a future 40-year term. Clearly it is the intent of the community to continue the active use for the provision of a basic public service. That public service benefits the Airport and the properties that the Airport leases to raise revenues.

In establishing the boundaries of the Airport, Council should direct that an ordinance be drawn by the City Attorney to define the area subject to Airport Authority jurisdiction. This should include all areas subject to federal deed restrictions and additionally, all areas actually used by the Airport Authority for flight related functions. The City Attorney has prepared a map (included in the package) that encompasses the various Airport parcels.

Jim Johnson, Executive Director, Melbourne International Airport, said that during the last conversation he had with the City Manager, the city indicated that it was desirous of acquiring all of the property east of Apollo Boulevard. He distributed a drawing for Council's review. Mr. Johnson said, as agreed, he facilitated a meeting with the FAA for release of the 12.5-acre D. B. Lee property. He listed the following eight reasons that the remainder of the property east of Apollo Boulevard should remain under control of the Melbourne Airport Authority:

1) the city owns the property; there is no question of ownership; 2) the Airport Authority is a city creation; 3) the monies of the Melbourne International Airport belong to the city; 4) use of Airport monies is clearly restricted by FAA – not by the Airport Authority; 5) the Airport property is master planned (at this point, he reviewed the map distributed to Council); 6) the Airport can and will develop these properties, just as it develops other properties; 7) the Airport Authority has the ability to obtain state and federal grants; if property is removed from Airport Authority control, we will no longer have that opportunity; and 8) the potential of lost intermodal opportunities.

Mayor Buckley said the 12.5 acres, if allowed by the FAA, should be transferred to the city. Mr. Johnson agreed.

Mrs. Walker asked Mr. Johnson to submit information regarding the eight reasons he outlined. Mr. Johnson said that he would be happy to write and submit a position paper to the city.

Discussion followed regarding the property being discussed. Mr. Johnson repeated that he supports release of the 12.5 acres. However, before he can submit a request to the FAA, he needs to know exactly what property the city is seeking (since the city previously indicated it was interested in a release of all the property east of Apollo Boulevard).

Mr. Hill suggested that if everyone is in agreement, that we proceed with release of the 12.5 acres. There should be an open-ended process on the remainder of the properties.

Mrs. Poole said during the initial meeting regarding release of the property, it was indicated that the city would have to obtain an appraisal of the property. She stated that

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this is the most ridiculous thing she has ever heard of – having to obtain an appraisal for our own property. She added that the direction should be to simply release the property.

Moved by Buckley/Hand to proceed with obtaining a deed of release from the FAA for the 12.5 acres.

Mayor Buckley said that this is the most logical position to take. The city should try to obtain the property for as little as possible, if not for free. Mr. Hill pointed out that if the city can't obtain this property, then we have no hope of getting the others released.

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

Recessed: 10:34 p.m.
Reconvened: 10:39 p.m.

At this point, Council authorized the City Attorney to prepare an ordinance that establishes the boundaries of the Airport Authority.

26. RESOLUTION NO. 1799: Fourth quarter budget review

Attorney Gougelman read Resolution No. 1799 by title.

Moved by Poole/Hand for approval of Resolution No. 1799. Motion carried unanimously.

27. COUNCIL ACTION RE: Request by Rossetter Trust/Florida Historical Society for exchange of city owned property in Eau Gallie (Rossetter Park) for Rossetter Trust property located on Strawbridge Avenue in Downtown Melbourne.

From the agenda report: The Florida Historical Society has asked the city to consider an exchange of property owned by the society in Downtown Melbourne for the city owned Rossetter Park property in Eau Gallie.

The city has leased approximately 0.17 acres along U. S. 192 across the Florida East Coast Railway tracks for City Hall parking from the Rossetter family. With the inheritance of the property by the Florida Historical Society, Council authorized staff to negotiate the acquisition of the parking parcel. The price sought by the estate was \$50,000. In subsequent discussions, it was learned that the Florida Historical Society planned significant improvements to the Rossetter homestead in the Eau Gallie area. The Rossetter Park parcel is 0.22 acres.

Nick Wynne, Florida Historical Society, spoke in support of the exchange and said that this will be a win/win situation for both parties.

Moved by Poole/Walker to support the exchange of property. Motion carried unanimously.

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Added to the agenda:

- 27.1 RESOLUTION NO. 1800: Expressing appreciation for outstanding public service and dedication provided by City Manager Henry J. Hill, III

Mayor Buckley read the resolution in its entirety.

Moved by Poole/Walker for approval of Resolution No. 1800. Motion carried unanimously.

28. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mayor Buckley referenced the e-mail sent to Council from Vice Mayor Contreras regarding the number of sick hours that Mr. Hill has accumulated but won't be compensated for. The Mayor said that when someone retires from the city, they are normally paid half of their sick hours. Mr. Hill has the maximum accrued, which is 720 hours (and if he retired, would be paid 360 hours). The Mayor proposed that Mr. Hill be compensated for 180 hours of sick leave.

Moved by Buckley/Poole to compensate Mr. Hill for 180 hours of accrued sick leave.

Mrs. Hand's amendment to compensate Mr. Hill for the full amount (360 hours) did not receive a second.

The question was called. Motion carried unanimously.

29. ADJOURNMENT

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

The meeting adjourned at 10:55 p.m.

City Clerk – 12/31/2002

Approved by Council: 1/14/2003