

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 11, 2003

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. Pastor Larry Bazer, First Baptist Church of Melbourne 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
	Amy W. Elliott	Acting City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Peggy Braz	Planning & Economic Development Director

Absent: Loretta Isenberg-Hand Council Member, District 6 (Illness in family)

4. PROCLAMATIONS AND PRESENTATIONS

None.

5. APPROVAL OF MINUTES - Regular Meeting January 28, 2003

Moved by Contreras/E. Palmer for approval of the January 28 regular meeting minutes.
Motion carried unanimously.

6. CITY MANAGER'S REPORT

Mrs. Elliott informed Council that the leak on Wickham Road has been repaired. The additional leak ended up being groundwater; that matter has been referred to the county.

Mrs. Elliott referenced the memorandum requesting that Item 10 "k" be added to the agenda.

Moved by Walker/E. Palmer to add item 10 "k" to the agenda. Motion carried unanimously.

Mr. Palmer referenced the City Manager's Report and asked what prompted the aerial survey of the Public Works complex on Harper Road. Mrs. Elliott explained that the

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city is in the process of developing a master plan for the Public Works complex to support the stormwater treatment effort, which is a requirement of our National Pollution Discharge Elimination System (NPDES) permit.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2003-03: (Second Reading/Public Hearing) An ordinance amending Chapter 34, Vehicles for Hire, in accordance with the City Code Review Committee, Section 4, recommendations. (First Reading – January 28, 2003)

Attorney Gougelman read Ordinance No. 2003-03 by title.

Mayor Buckley referenced the agenda report and said that several changes were made to the ordinance following comments made during the public hearing on January 28. The changes are included in the ordinance being considered by Council.

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

Moved by Contreras/C. Palmer for approval of Ordinance No. 2003-03.

Mrs. Palmer commended staff for addressing the issues that were brought up at the last meeting.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

9. COUNCIL ACTION RE: Blower Repairs and Replacement for D. B. Lee Wastewater Treatment Plant, Phase III, Project No. 96373, TSC-Jacobs, Tampa, Florida - \$66,515.

Mrs. Elliott reviewed the agenda report.

Moved by E. Palmer/Poole to approve the purchase of a blower and blower refurbishment services from TSC-Jacobs in the amount not to exceed \$66,515.
Motion carried unanimously.

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10. CONSENT AGENDA:

Moved by E. Palmer/Poole for approval of items 10 “a” through “k” as recommended.

Mrs. Elliott responded to several questions from Council; however, no items were removed from the consent agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Purchase of seven vehicles (Police Operations) and one tractor (Parks Division) from three dealers (as listed in the agenda package), total purchase amount - \$153,728.
- b. Novell Software License and Maintenance for the period July 1, 2001 – September 30, 2003, Softchoice Corporation, Canada - \$58,005.04 and transfer of \$8,338 from Account No. 140014-12010 (Regular Salaries) to Account No. 140014-46580 (Computer Software).
- c. Annual Contract for rental of Work Uniforms SICOP Cooperative (City of Orlando), Bid No. B1-1710-0-2003, Unifirst Corporation, Orlando, FL - \$52,727.50.
- d. Amendment No. 4 to the Agreement with Outlaw & Jones Engineers, Inc., Melbourne, Florida, for waterline improvements in Old Eau Gallie area, Project No. 03308 - \$17,500.
- e. Change Order No. 2 to ABC Landclearing & Development, Inc., Merritt Island, Florida, for demolition of Front Street Shuffleboard Courts, Project No. CD0121 - \$5,400.
- f. Change Order No. 1 to L.A. Construction Services, Inc. for Garfield Street Detention Ponds, Project No. 00901 - \$4,717.30.
- g. Change Order No. 3 to Jobear/Warden Construction, Inc., Palm Bay, Florida, for Yacht Basin and Eau Gallie Baffle Boxes (Young Street and Stewart Road), Project No. 02904 - \$3,000 and transfer of \$3,000 from the Stormwater Utility Project Reserve to fund this change order.
- h. Interlocal Agreement with Brevard County for MSBU-financed Woodlands of Lake Washington Subdivision waterline extension.
- i. RESOLUTION NO. 1807: A resolution to implement FY 2002-2003 First Quarter Budget Review recommendations.

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- j. RESOLUTION NO. 1808: A resolution authorizing the City Manager to submit a grant application to the State of Florida Victims of Crimes Act Program Funding for FY 2003-2004, to continue the Victim Services Program by partially funding the Melbourne Police Department Victim Advocate position.

Added to the agenda:

- k. Approval of Terrorism Insurance Coverage Premiums: Primary layer of property and liability coverage (\$1,000,000), \$11,100; and excess liability coverage (\$1,000,000 to \$5,000,000), \$2,823 – United National Insurance Company - \$13,923.
11. COUNCIL ACTION RE: Discussion regarding repairs/alternatives for Fee Avenue Park swimming pool.

Mrs. Elliott reviewed the agenda report. When the Fee Avenue Park swimming pool was drained for pressure washing and painting in December, it popped up and cracked. The pool is not operable at this time and will require significant and costly repairs.

The estimated cost for repair is high - \$350,000. Therefore, the Leisure Services Director was asked to provide alternatives. Funding sources for any of the alternatives would have to be explored due to the considerable amount of money they would require. Alternatives include: repair the existing pool - \$350,000; build a new pool - \$800,000 - \$1,000,000; replace the existing pool with an interactive spray feature - \$200,000; or close the existing pool and operate three swimming pools instead of four.

Mrs. Palmer asked why the contractor performing the pressure washing and painting did not realize beforehand that the pool would pop up and crack. Leisure Services Director Mary Ann Kise said the pool was not completely drained. She added that the main drain has been failing for the past five – seven years and various other parts of the pool have been cracking. Mrs. Palmer recommended that future maintenance contractors with expertise pump out the groundwater so we don't experience this problem again.

Following a brief discussion, Ms. Kise confirmed that the attendance figures outlined in the package do not include the high school swim teams.

Mr. Palmer asked the anticipated lifespan if the city opts for repair. Ms. Kise replied that the consultant did not provide that information. She added that the repair would not include replacing the outdoor restrooms or decking, which are not in good shape.

Mr. Palmer asked if the interactive spray feature has been done by other cities. Ms. Kise said Palm Bay plans to have a smaller spray feature as part of its facility, and there is a smaller version in the Vero Beach/Ft. Pierce area.

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Mr. Palmer questioned the figures for constructing a new pool. City Engineer Howard Ralls said the Sherwood pool was in the \$750,000 range and that did not include demolition costs. He noted that there has been a significant increase in construction costs.

Mayor Buckley asked if the \$200,000 for the spray feature includes filling in the existing pool. Ms. Kise replied no. Mr. Ralls said that demolition for the Fee Park pool would probably be \$20,000 - \$25,000.

Mrs. Poole said that Fee Avenue pool was the first pool; others have been built since. She added that we have patched and repaired this pool and it is time to build a new one.

Following a brief discussion on repair, Mr. Palmer said that the cost indicates that the 40-year old structure should not be repaired.

Mrs. Elliott said that is exactly on point. She asked Council to keep in mind that Crane pool is almost 40 years old and will be experiencing these same maintenance problems soon.

Mr. Palmer stated that he believes a new pool would be appropriate for this area. He asked if usage would increase with construction of a new pool. Ms. Kise said if Council proceeds with a new pool, the recommendation would be for a family/leisure type pool with a zero depth area for children, water slides and no diving wells. She confirmed for Mrs. Poole that a family/leisure pool could still have lanes for use by the high schools.

Mrs. Palmer asked if we would have increased usage, which would make up for the costs. Ms. Kise said no and added that we would experience a small increase because of the water slides and zero depth. However, the increase would not cover the operating costs.

Mrs. Palmer asked how much of the cost comes from adding features like the zero depth, water slides, etc. Mr. Ralls said he believes we could stay within the estimated cost by changing the configuration of the pool.

Mr. Contreras pointed out that an increase in use won't happen with the new pool. He referenced the population guidelines for pools, which calls for one pool for every 25,000 people (median). He noted that Melbourne is fortunate because if the pool were not rebuilt, we would still be below the median based on our population. He questioned where \$800,000 - \$1,000,000 is going to come from and added certainly not in this year's budget and probably not in next year's.

Regarding the alternatives, Mr. Contreras asked Ms. Kise what she would choose. Ms. Kise said that based on the economy and the current budget, she would go with the interactive spray feature. She added that if the city had the money, she would opt

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for the pool because she thinks there is a need for it. The pool is used heavily by families.

Mrs. Palmer said the repair option seems to have been discounted. She referenced the agenda material and said the repair would include deck, filter system, etc., which would bring the pool up to Code. Repair is only \$150,000 more than the interactive spray feature, and demolition would be incurred with either option. Ms. Kise clarified that only the portion of the deck that would be dug up would be brought up to Code; the entire deck would not be replaced.

Mrs. Palmer said \$200,000 plus demolition costs for the interactive spray would give a feature that would be similar to playing in the water from a hydrant or garden hose. Ms. Kise said that the consultants have indicated that this is extremely popular – with small children only – and once built, we would probably build more.

Mrs. Poole repeated that Fee Avenue Park needs a new pool. She added that she is opposed to patching or constructing a feature that children can splash in.

Moved by E. Palmer/Poole to move towards rebuilding a new pool.

Mr. Contreras asked where the money would come from. Mrs. Poole said we have already told everyone that we are going to raise taxes. Mr. Palmer added that taxes haven't been raised in six years. Mayor Buckley suggested Council authorize design. The source of funding would still have to be determined.

Mrs. Palmer asked about the use of CDBG funds. Mrs. Elliott replied that is a possibility; however, it is very limited depending on the census tract information. Mrs. Elliott added that whatever alternative selected, staff would need to return with cost information.

Mr. Contreras said that in his opinion there are more pressing issues relative to police, fire, equipment, etc. Therefore, he said that he cannot support this.

Mr. Palmer said that just because there are other commitments, the city does not have to do away with requests by citizens for recreation. That relates to quality of life, which is just as important as providing a firefighter.

Mayor Buckley said that repair would be a waste of money. And, since the attendance figures would not be reduced (because they did not include the high schools) he would support a new pool. However, he cautioned that all the city can do at this time is design the pool.

Mrs. Palmer said she brought up the repair issue because she thought Council was going in the direction of a spray feature. She stated that she would prefer a repaired pool rather than a spray feature.

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Mrs. Walker asked if there was a way to add an item to the property taxes for recreation. Mrs. Elliott said that would require voter referendum.

The question was called. The roll call vote was:

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

Nay: Contreras

Motion carried.

Mrs. Elliott confirmed for Council that staff will obtain a fee proposal for the design work.

12. COUNCIL ACTION RE: Olde Eau Gallie Riverfront Redevelopment Master Plan (Presentation by EDAW, Inc., Miami, Florida).

Leo Alvarez, EDAW, Inc., reviewed the master plan (briefly highlighted in the agenda report). He reported that the three workshop meetings were well attended and added that they had consensus on the physical design of the project.

Mr. Alvarez concluded by saying that this is a guide for the future. They are not proposing funding at this point.

A brief discussion followed regarding the number of participants in the workshop meetings. Mr. Alvarez replied that 30-plus people participated.

Mr. Alvarez answered general questions regarding the master plan. Mrs. Poole noted that the items outlined in the plan are not what people in the area indicated they wanted to see when she attended redevelopment workshop meetings. She noted that historical sites should be cataloged and preserved.

Mr. Alvarez clarified that the plan does not call for the destruction of any buildings. They are proposing two – three stories maximum in the area so the scale does not get out of synch.

Based on the area having C-3 Zoning, Mrs. Poole said the buildings can be 80'. Developers will view this as an ideal place for high-rise buildings.

Mayor Buckley noted that he feels this is a good plan for the area. Mr. Palmer said it has tremendous potential.

Moved by C. Palmer/E. Palmer for approval of the proposed master plan.

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Mrs. Poole asked about the potential for high-rise buildings. Mrs. Braz informed Council that a draft proposal is ready to go to the Planning and Zoning Board at the end of March to provide for an overlay district to address the height issue.

Mrs. Palmer noted that the plan respects the ecological and cultural resources. It will ensure that we preserve historical structures and enhance the riverfront area rather than allowing it to be taken over by private enterprise.

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

Recessed: 8:52 p.m.
Reconvened: 9:03 p.m.

13. COUNCIL ACTION RE: Request by Regency Development Associates, Inc. for local contribution of HOME Funds for the Developer's Jordan's Landing application to the Florida Housing Finance Corporation (FHFC) for Housing Credits.

Note: The city provided a certified American Sign Language interpreter for the hearing impaired interested in this item.

Mrs. Elliott reviewed the agenda report.

Mason Blake, Attorney representing Regency Development, discussed Regency's background and said that the Florida operation has its headquarters in Melbourne. He discussed the project and stated that they need the local match in order to make successful application to the state.

Mr. Blake reported that this project will be marketed to the elderly and will serve the unique needs of the hearing impaired in our community. He distributed a brochure, which highlights Regency Development.

Ben Jackson, representing the applicant, discussed his background and explained how this development will provide tremendous opportunities for the deaf.

Mr. Blake and Mr. Jackson confirmed for Mrs. Palmer that in this development, no primary head of household will be under 62.

Renee Sandell, Regency Development, explained that many senior couples prefer the two- and three-bedroom units to accommodate visiting children and grandchildren and to provide space for the possessions they have acquired over the years.

Mrs. Poole stated that this is a great project and she would like to see it go forward. Mayor Buckley added that this project is a bonus in that it will favor the hearing impaired and provide affordable housing.

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Moved by Poole/Walker for approval of a \$150,000 award in federal HOME funds to Regency Development Associates, Inc. contingent on the developer's successful application to the FHFC for Housing Credits and Council authorization for the City Manager to execute all necessary documents pertaining thereto. Motion carried unanimously.

14. FINAL PLAT APPROVAL (SD-2002-04): A request for final plat approval for Faith Landings, resulting in the replatting of an undeveloped 8.822-acre portion of the Sunny Pines Subdivision, located on the north side of Florida Avenue, west of Lipscomb Street, and south of University Boulevard. (Owner – Reverend Stephen Holmes) (Applicant – South Brevard Habitat for Humanity) (P&Z Board – January 23, 2003)

Mrs. Braz briefed Council on the item and reviewed the agenda report. The Planning and Zoning Board recommended approval of SD-2002-04, Final Plat for Faith Landings Subdivision on 8.822 acres, consisting of a two-sheet plan prepared by William Mott Land Surveying, of Satellite Beach, Florida, with Project Number 2020287, with the findings in the Planning and Zoning Board memorandum and the following conditions:

- a. Any change to the final 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 final plat includes, but is not limited to: 1) an increase of more than two lots.
- b. The applicant shall not be entitled to record the final plat until all subdivision improvements are constructed to the satisfaction of the city.
- c. Provide necessary documents for recording the plat including Articles of Incorporation; covenants and restrictions (deed restrictions); a recent Title Opinion; deeds conveying Tract C to the homeowners' association, Tract D to Habitat for Humanity, and Tract A to the City of Melbourne for public right-of-way; and a Stormwater Maintenance Agreement.
- d. Final plat cannot be recorded until construction plans are approved by the Engineering Department.

There were no disclosures from Council.

Kim Gabriel, Habitat for Humanity, agreed with the stipulations and encouraged Council to approve the plan.

Moved by E. Palmer/Contreras for approval subject to the proposed conditions. Motion carried unanimously.

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15. PRELIMINARY PLAT APPROVAL (SD-2002-03): A request for preliminary plat approval for Oak Forest Subdivision, on a 22.6-acre parcel, located on the west side of John Rodes Boulevard, north of the intersection of Eau Gallie Boulevard and south of the intersection of Aurora Road. (Owner/Applicant/Representative – John Rice, Coastal Construction of Brevard, Inc.) (P&Z Board – January 23, 2003).

Mrs. Braz reviewed the agenda report. The Planning and Zoning Board recommended approval of SD-2002-03, preliminary plat for Oak Forest Subdivision, consisting of a one-sheet plan prepared by John Rice of Melbourne, Florida, with Project Number E-221, dated 1/14/03, with a stamped and sealed date of 1/15/03, with the findings in the Planning and Zoning memorandum and the following conditions:

- a. Any change to the preliminary plat will require its reevaluation 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 or decrease in the number of access points including public or private streets to or from the subdivision or 2) an increase of more than two lots.
- 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 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. Upon completion of the subdivision improvements, the applicant/developer shall file a map amendment with the Federal Emergency Management Agency to correctly identify the flood zone designation/elevation of the property as a result of the improvements. Copies of the changes approved by FEMA shall be provided to the City of Melbourne Planning and Economic Development and Engineering Departments and Code Compliance Division.
- d. The applicant shall make payment into the city's bikeways/sidewalk trust fund for the length of the subdivision boundary abutting John Rodes Boulevard and Aurora Road.
- e. Modify grades on the rear of lots and/or provide for a drainage easement to be maintained by the homeowners' association along the north and east boundaries of Lots 22-26 and Lots 57-62.
- f. The lift station shall be included within a tract with ownership partially by the city or with an easement in favor of the city. The tract maintenance (landscaping) shall be the responsibility of the homeowners' association.

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- g. Provide turn lanes on John Rodes Boulevard if deemed necessary and required by Brevard County Traffic Engineering.

Approval of the preliminary plat by Council would result in the granting of a variance from the City Code, Chapter 29, Section 29-6 (b). The applicant would not be required to provide a connection to the 25-foot wide right-of-way adjacent to the south boundary of the plat, but shall provide a tract or plat note indicating that no motor vehicular access is permitted from Lots 6–16 to the right-of-way.

There were no disclosures.

John Rice, applicant, pointed out the wetlands on the property and said that he will have to buy credit from SJRWMD. He explained that the existing oaks on the property are what will eventually sell the property. They have re-routed roads in order to save as many trees as possible. Regarding the gopher tortoises, he said they will also have to buy credit for the tortoises; there is habitat for 23, but they have only seen four or five.

Mrs. Poole discussed the number and size of trees on the property. She noted that this is a heavily wooded area, which is considered a forest. Referring to additional development, Mrs. Poole said that the schools in the area are already filled to capacity.

Mr. Palmer commended Mr. Rice for having a density of less than three units per acre.

Mr. Rice reported that these are not the final engineering plans; they are preliminary plans that meet the city's criteria. He added that he is going to be asking for consideration with regard to the Code in order to allow trees to be preserved during development.

Mr. Rice agreed with the stipulations.

Moved by E. Palmer/Walker for approval subject to the stipulations.

Mrs. Poole said that even though the applicant did a tremendous job saving trees, she cannot vote for something that will take so many trees.

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

16. ORDINANCE NO. 2003-04 (Z-2002-943): (First Reading) An ordinance changing the zoning from C-2 (General Commercial) and R-2 (Cap 6) (One-, Two-, and Multiple-Family Residential with a cap of six units per acre) to R-2 (Cap 4) (One-, Two-, and Multiple-Family Residential with a cap of four units per acre) on a .383-acre portion of Lot 3, Houston's Addition Subdivision, located on the south side of Young Street, east of U.S. 1. (Owner/Applicant – Patrick and Danna Barbary) (P&Z Board – January 23, 2003)

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Mr. Gougelman read Ordinance No. 2003-04 by title. Mrs. Braz briefed Council. The Planning and Zoning Board recommended approval of Z-2002-943 with the findings in the Planning and Zoning memorandum and the following condition:

- a. The zoning is based on the condition that the property subject to this rezoning shall be used for a single-family residence. A guesthouse may also be included with the home, but it shall be accessory to the main structure and shall not be rented or sold separately from the main house.

Mrs. Braz referenced the valid petition against the rezoning. She explained that the petitioners are only opposed if the property isn't zoned R-2 (Cap 4) with the condition.

Mrs. Poole said she talked to Leisia Barwick, 559 Young Street, who is concerned about the property changing to commercial.

Mayor Buckley opened the public hearing.

Leisia Barwick, 559 Young Street, said she wants the property to be limited to single-family housing.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2003-04. Motion carried unanimously.

17. COUNCIL ACTION RE: Request by Council Members Ed Palmer and Pat Poole to attend the Florida League of Cities Legislative Action Day, April 1-2, 2003, Tallahassee, Florida.

Mayor Buckley said he would also like to attend.

Moved by E. Palmer/C. Palmer to authorize travel for Mayor Buckley and Council Members E. Palmer and Poole. Motion carried unanimously.

18. COUNCIL ACTION RE: Board Appointments

Melbourne Downtown Redevelopment Agency Advisory Committee - three members

Moved by E. Palmer/Contreras to reappoint Wendy Brandon, Rita LoPresti and Mike Melhado. Motion carried unanimously. (Terms: February 23, 2003 – February 22, 2006)

19. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

At the request of Council Member Ed Palmer, staff will investigate the status of moving Fire Station No. 4.

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Council received the 2003 benefits open enrollment information and was briefed regarding the importance of attending an open enrollment meeting.

Council was advised that the Mayor, Amy Elliott, Paul Gougelman and Bob Klapproth will represent the city's interests at the February 12 Brevard County Water Supply Board meeting.

In response to Mrs. Poole, Mrs. Elliott will follow up on whether the Goldfield Company has submitted an application to the city for construction of a high-rise building near the Eau Gallie Causeway.

The "ban on anti-cloning" resolution adopted by Council on January 28 was briefly discussed.

Mr. Palmer asked staff to consider reimplementing the requirement for reuse.

20. ADJOURNMENT

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

The meeting adjourned at 9:55 p.m.

City Clerk – 2/19/2003

Approved by Council _____