

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 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. Council Member Cheryl Palmer 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
	Loretta Isenberg-Hand	Council Member, District 6
	Jack M. Schluckebier	City Manager
	Paul R. Gougelman, III	City Attorney
	Amy W. Elliott	Assistant City Manager
	Cathy L. Baker	Assistant City Clerk
	Peggy Braz	Planning & Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

None.

5. APPROVAL OF MINUTES - Regular Meeting February 11, 2003

Moved by Contreras/E. Palmer for approval of the February 11, 2003 regular meeting minutes. Motion carried unanimously.

6. CITY MANAGER'S REPORT

Mr. Schluckebier stated he had nothing to add to the City Manager's Report; however, he would like to discuss some housekeeping items during Item 23 (Petitions, Remonstrances, and Communications).

Mayor Buckley referenced the memorandum requesting that Item 22.1 be added to the agenda.

Moved by Hand/Walker to add Item 22.1 to the agenda. Motion carried unanimously.

7. PUBLIC COMMENTS

None.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

UNFINISHED BUSINESS

8. SITE PLAN APPROVAL (SP-2002-22/PRESERVE AT LONGLEAF): 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) (Postponed by Council January 28, 2003)

From the agenda report: At the January 28 meeting, Council denied the request of Mr. Richard Mebus to remove the stipulation requiring construction of a pedway from Post Road Cascades Development to Longleaf Elementary School.

At that meeting Council concluded the public hearing on the site plan approval request; however, Council action was postponed to allow for a full Council to be present.

The Planning and Zoning Board recommended approval of SP-2002-22, Site Plan for The Preserve at Longleaf, consisting of eight pages prepared by Miller, Einhouse, Rymer and Associates, Inc., of Kissimmee, Florida, with Project No. 58.41, dated October 17, 2002, with final revision date of November 14, 2002 (Sheets S-2, S-3, and S-4) and by B. S. E. Consultants of Melbourne, Florida, with Project No. 10303.05, with final revision date of 10/29/02 (Sheets S-1, S-5, S-6, S-7, and S-8) with the findings in the Planning and Zoning Board memorandum 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; 3) a decrease in the number of parking spaces provided below the Code required parking spaces; 4) any additional impacts to wetlands not shown on the site plan; or 5) an increase in the number of units.

- b. Prior to development of the property, the owner and/or applicant shall obtain a clearance letter or approval of a mitigation plan from the U. S. Fish and Wildlife Agency to develop any portion of the property identified on the official scrub jay habitat maps, or for any other endangered or protected species or species of special concern. Should the developer discover that endangered or threatened species, for which a permit has not been granted, are found on site after plan approval and prior to the completion of construction, construction shall be suspended until adequate permits are acquired or the appropriate jurisdictional agency provides approval to proceed with development. "Development" shall be defined as set forth in Section 380.04, of the Florida Statutes.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

- c. Provide a substantial vegetative buffer with fast growing trees and other vegetation within the 25-foot wide buffer in the southwest area of the plan adjacent to single-family lots.
- d. The applicant shall participate in creating a public access easement for bicycle and pedestrian use, extending from the east right-of-way line of Huntleigh Way, thence extending along the east side of the site adjacent to the east shore of the existing lake and mitigation area, where permitted, to the south line of the four lane access road. Said easement shall be no less than 12 feet in width and shall be in a form acceptable to the City Manager and City Attorney. This shall require the owner/developer to participate in negotiations with affected parties including Lennar Homes, the Post Road-Cascades Homeowners' Association, the St. Johns River Water Management District and other parties or successors with ownership interest in the proposed easement property. No construction shall occur in the easement until the design for the pedway is reviewed by all the affected parties.
- e. The applicant shall provide a minimum of a 12-foot wide public pedestrian and bicycle access easement from the north boundary of the Longleaf Elementary school site north of the school retention site or other area approved by the City to the easterly line of Windover Farms Subdivision and to the Heartwood Drive/Canard Drive intersection, per the Development Agreement as recorded in ORB 3673, Page 2960, Public Records of Brevard County, Florida. Said pedway shall be constructed by the applicant as described in the said development agreement prior to the final Certificate of Occupancy being issued by the City on the subject (site plan) property *or March 2004, which ever shall occur first*. Should a situation arise where the School Board no longer is able to provide access to the Windover Farms development for pedestrian use, the applicant shall not be required to construct said pedway, but shall retain the 12-foot wide easement for such use in the event that this pedway, or a similar pedway, is constructed at a future date serving Windover Farms and other residential areas north and west of the apartment complex site. If necessary, a bond equal to 110 percent of pedway construction costs shall be provided if the pedway construction cannot be constructed after completion of the project. (This condition shall have no affect on any private agreements between the applicant and the School Board.)
- f. The applicant shall provide to the City an acceptable cross drainage easement or recorded agreement with the School Board providing for storage and conveyance of stormwater for the School site development and the apartment complex site development.
- g. The applicant and/or applicant's agent, including Lennar Homes or successors, shall modify the temporary drainage access easement (ORB 3615, Page 2543-2566), which provides stormwater conveyance for the retention pond easement for Post Road-Cascades Subdivision.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

\*Primary access shall be provided from the north access driveway. All construction traffic must be through the north access ~~unless the developer reaches an agreement with the school Board to use the south access road with a separation between the construction access and the school access.~~ Egress from the project may be permitted from the south access road as a secondary for the project, but no ingress to the project shall be permitted through the south access road.

\*Revised by Council during discussion.

- i. The developer will, at his own expense and without impact fee credits, provide a signalized intersection at Pebble Creek Drive, if warranted, based on build-out and approval by Brevard County. If warranted, the signal shall be installed or funding for the signal shall be deposited with the City Engineer before the Certificate of Occupancy is issued on the 15<sup>th</sup> building.
- j. The required transportation impact fees and eligible impact fee credits may be used to satisfy or partially satisfy the cost of intersection improvements (other than the signal) which are necessary at the Pebble Creek Street/Wickham Road intersection or at other locations, as determined by the City and the Brevard County Traffic Engineering Department.
- k. The applicant shall provide Code required dumpster placement unless a variance is granted as provided by Code.

Mayor Buckley reported that the public hearing was completed and closed on January 28. Council Members C. Palmer and Hand confirmed for the record that they had each listened to the January 28 Council meeting tape of this item. Mr. Gougelman advised that these two members are up to speed and are able to participate/vote on this quasi-judicial matter.

Mayor Buckley referenced two memoranda; one distributing a letter and petition from the homeowners of Post Road Cascades Subdivision, and another containing a request for postponement from Harold Bistline, School Board of Brevard County, and a letter of support for pedways from Barbara Meyer, MPO.

Mrs. Braz briefed Council. She noted that she received a letter from John Guliani indicating he had concerns that Cascades homeowners would be responsible for the pedway. She reported that the School Board maintenance staff would have responsibility for maintaining the walkway.

Ms. Braz referenced a letter from Attorney David Shields indicating that the pedway was not planned when the subdivision was built. She commented that the school was not even in the planning stages when Cascades Subdivision was built.

Mrs. Braz noted that she was not at the last meeting; however, she did listen to the tape of the meeting and has provided a memo regarding some of the concerns discussed.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Regarding busing of children, Ms. Braz was informed by the School Board's Director of Transportation that Post Road Cascades students were bused to school because the sidewalk was not completed or was torn up and there was no place for children to walk. These students were included in the busing of students from Greystone, East Bay Plantation, and Windover. If the pedway is not built, other alternatives must be reviewed. This is not just an issue involving parents and children in Post Road Cascades. This involves several subdivisions and how these children are going to get to school.

There was a brief discussion regarding the County's comments, Brevard Community College's request that a traffic study be conducted about the impact generated by a 300-unit apartment development, and the capacity of Longleaf Elementary, Johnson Junior High School and Eau Gallie High School.

Mrs. Braz stated there are school capacity issues with this development. She reported that another school is being considered in this area and it should be on-line by the time these units are constructed and children are living there.

Moved by Contreras/Walker to remove stipulation "d" from the request.

Mayor Buckley confirmed that removal of stipulation "d" would delete the construction of the pedway. The children would have to be bused or driven, or walk on Wickham Road.

Mrs. Palmer stated that she lives within two blocks of Roy Allen Elementary School. She has never been negatively impacted by people driving kids or children walking to school through her neighborhood.

Vice Mayor Contreras made three disclosures: January 30, 2003 he discussed the issue (neither yea or nay) with Attorney Nohrr; January 31 received a letter from John and Paula Orzech, 4227 Montreaux Avenue, in opposition to the pedway; and February 25 received a letter from Margaret Burgeson in opposition to the pedway.

Mrs. Hand stated she is concerned that this is a public street and we should not deny parents and children access to public streets. In her neighborhood people from Johnson Junior High School drive through and sometimes park along the side of the street to pick up children, this is not a problem. She is concerned with removing the pedway stipulation.

Mayor Buckley stated, speaking as a member of the MPO (Brevard Metropolitan Planning Organization), bikeways and pedways are needed.

Mr. Palmer stated safety of children is a concern, as well as the economics of unnecessarily busing children to schools in close proximity. It makes sense to put the children in a positive posture where they can walk or ride their bikes to school; it makes for a better community effort. He does not support any elimination of the pedway.

Mrs. Poole stated that the pedway has not been designed and the final location is not known. She asked who is responsible for bicycle accidents or a child hit by a car. The

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

area is a marshland with extremely dense vegetation that provides considerable cover for sex predators, she noted that several sexual predators reside in the same zip code as the subdivision. Mrs. Poole added that indemnification for the City is not possible and the City should not be involved in such a development.

Mayor Buckley stated that stipulation “d” was revised to add wording that no construction could take place until all parties reviewed the design of the pedway.

Mrs. Palmer expressed concern about the alligators; we don’t want students attacked by wild animals. Everything that Mrs. Poole said about sidewalks could be applied to any sidewalk in the City. It is up to the parents to watch their children. The City is responsible for enforcing traffic laws. She understands the homeowners’ fears that people will drive in and clog the streets while waiting for the school children. If this pedway turns out to be something dangerous or problematic it can be closed.

Mrs. Walker stated she has concerns about the safety aspect of whatever is done; whether children walk on the sidewalk or the pedway. The area is swampy and she believes there is a danger there; however, there is a danger with Wickham Road traffic. It is a toss up as to which is less dangerous and can be controlled more easily.

The question was called. The roll call vote was:

Aye: Poole, Walker and Contreras

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

Motion failed.

Moved by Buckley/Hand to use only the north road as entrance into the project.

Mrs. Braz explained the north entrance alignment and noted that it is the developer’s responsibility to obtain a County permit to develop the north road.

Phil Nohrr, applicant’s representative, asked for clarification. He stated that to move the project forward, his client agrees to only use the north entrance during construction. There will be no attempt to use the south entrance during construction. However, if the motion is to completely abandon the south entrance, then they do have a problem.

Mayor Buckley clarified his motion. The south entrance would be used for emergencies only once the project is built. Mrs. Poole questioned enforcement. Mr. Nohrr stated that the City has, and he suspects will use, enforcement opportunities. His client is trying to avoid a quagmire and is working with the School Board. He would like the project just as it was presented and approved by the Planning and Zoning Board. If an agreement is reached with the School Board regarding the south entrance, the applicant will return to Council. Mr. Nohrr stated his client is trying to avoid controversy and get to the issue of site plan approval based on compliance with City Code.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Mrs. Palmer stated she is still unclear and asked for clarification. The School Board asked that the item be postponed while they negotiate with the applicant for temporary use of the Longleaf Elementary School access road for construction vehicles. In exchange the applicant would deed the road to the School Board and cease use of the road for vehicular access once the site is developed.

Mr. Nohrr stated there are a number of issues with the School Board, one being the road and how it was constructed. They are trying to come to some accord. The applicant is getting dragged into a separate process and is being detained time wise. They want approval of the original site plan. They have agreed to construct a north access road (constructed in the County). This will create two accesses, north and south. That is the way the project has always been presented; and it includes the south entranceway. He stated he hopes this clears up the confusion. At this point there has been no agreement with the School Board regarding the south access. If an agreement is reached they will return and meet with the City.

Mayor Buckley again stated that his motion is to make the north entrance the primary entrance and the school entrance would be for emergencies only.

Mr. Nohrr stated the applicant has the right to use the north and south entrance after construction for ingress/egress.

Mr. Gougelman offered clarification. Stipulation “g”, the second paragraph provides that primary access will be provided from the north access driveway, and that all construction traffic must use the north access unless an agreement is reached with the School Board for use of the south access road. The Mayor is proposes to change that wording.

Mayor Buckley stated his motion is for primary access from the north driveway, period. Mr. Nohrr stated that the main entrance to this project will be the north access. This will also take care of Phase II development, envisioned as a single-family development. However, the south area will serve as a point of ingress and egress. At some point if an agreement is reached with the School Board to cut off that access, they will return to Council. He pointed out that part of the School Board’s development is in the applicant’s development.

Mrs. Poole commented that people coming from Melbourne will not go to the north entrance to get into the apartments when the south entrance is closer.

Bruce C. Francis, Vice President, Altman Development Corporation, reported that there will be a controlled gate at the south access point. The gate will be set up for use for City emergency vehicles.

Mrs. Poole referenced changes from the P&Z Board recommendations based on changes posed by the developer and the School Board.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Mrs. Braz advised that there is a slight change based on her belief that the developer and School Board had reached an agreement. It has always been a stipulation that there should be no construction vehicles in front of the school. Mrs. Braz added the access issue began because this property cannot be developed without a different driveway even if it is only a construction access that is closed after development. The developer decided to make the north access a main access aligned with the Pebble Creek entrance.

Mr. Gougelman stated as a point of clarification that the primary access will be through the north access and all construction traffic will be through the north access, period.

Mr. Nohrr stated that the developer agrees with that.

Mr. Palmer pointed out that the north access is through the County. He asked if the property was privately owned or County land. Mr. Nohrr responded that it has been confirmed that the developer has rights to the property.

Mrs. Poole stated that the apartments will come back to Council later. Mayor responded that Council will vote on that after they act on the motion on the floor. Mrs. Poole agreed that this is better than what was originally proposed; however, it leaves a lot to be desired.

Mrs. Palmer asked if the developer intended to use the Longleaf driveway as a primary access to this subdivision, separate from the issue of construction.

Mr. Nohrr stated that Longleaf Drive will not be a primary entrance. He just learned about the intention to put a gate at the south entrance to further restrict ingress/egress; however, there will be some use. Mrs. Palmer commented it is important to have that in writing. Mrs. Poole asked who would control the gate.

Mr. Francis reported that the electronically controlled gate is actually on the plans that have been submitted. If the site is developed as proposed, the gate will be used as an exit only. He does not think that residents will use that access during school hours.

Mrs. Poole expressed concern with children using the playground during off school hours.

Mr. Francis stated this is a public street and this is the original access point for the development.

Mr. Gougelman stated the language as written doesn't get Council where they want to be. The primary access is from the north access driveway. There is a secondary access point and some language is needed to tighten that up. The south gate would be a secondary point for exiting the project. Mr. Francis agreed.

Mr. Gougelman recommended the second paragraph in stipulation "g" read "Primary access shall be provided from the north access driveway. All construction traffic must be

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

through the north access. *Egress from the project may be permitted from the south access road as a secondary for the project, but no ingress to the project shall be permitted through the south access road.*"

Mr. Nohrr agreed with the revision. Mr. Francis commented that he is not happy. He has gone to a great expense to accommodate the community, spending over \$500,000 for the north access. More and more restrictions are being placed on him. He noted that the school access is on his property. Responding to Mrs. Poole, Mr. Francis reported that he did not own the property when the school was built.

Mrs. Palmer supports property rights; however, she has to consider the safety of the children.

The maker/seconder agreed to amend the motion to provide that the south access road would be used for emergencies only. The roll call vote was:

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

Nay: Poole

Motion carried.

Mayor Buckley stated that Council needs to now act on the entire project.

Mrs. Poole asked if the applicant has applied for the variance referenced in stipulation "k." Mrs. Braz responded yes.

Moved by Hand/E. Palmer for approval of Site Plan SP-2002-22 subject to the stipulations as revised. The roll call vote was:

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

Nay: Poole and Contreras

9. ORDINANCE NO. 2003-04 (Z-2002-943): (Public Hearing/Second 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) (First Reading – February 11, 2003)

Attorney Gougelman read Ordinance No. 2003-04 by title. There were no comments from the public.

Moved by Poole/C. Palmer for approval of Ordinance No. 2003-04. The roll call vote was:

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

10. COUNCIL ACTION RE: Change Order No. 7 to the Poole and Kent Company, Miami, Florida, \$158,500; Amendment No. 5 to CH2M Hill, Gainesville, Florida, for \$30,600; and Final Accounting and Retainage Agreement with the Poole and Kent Company to closeout the Lake Washington Surface Water Treatment Plant Improvements, Project No. 97371.

Howard Ralls, City Engineer, summarized this item. He also pointed out that CH2M Hill representatives are available to respond to any Council questions.

Moved by E. Palmer/Hand for approval of Change Order No. 7 to the Poole and Kent contract in the amount of \$158,500. Motion carried unanimously.

Moved by Poole/E. Palmer for approval of Amendment No. 5 to CH2M Hill's contract in the amount of \$30,600. Motion carried unanimously.

Moved by Contreras/E. Palmer for approval of the Final Accounting and Retainage Agreement and authorization for the City Manager to execute the document. Motion carried unanimously.

11. CONSENT AGENDA:

Moved by E. Palmer/Contreras for approval of 11 "a" through "h" as recommended.

There was discussion regarding item "a"; however, it was not removed from the Consent Agenda.

Council discussed with Matt Alvarez, CH2M Hill, its dissatisfaction with the "sole source" and the fact that CH2M Hill is looking for another source, ferric sulfate performing better than other chemicals in this process, increased acid prices, iron organic sludge being taken back (at no cost) and used to make fertilizer, the possibility of the City making a profit from the sale of sludge for use as fertilizer, and the fact that staff has directed CH2M Hill to investigate other manufacturers.

Mrs. Palmer suggested that City staff investigate other manufacturers of ferric sulfate and disposal of the sludge for the City to make a profit.

The question was called. Motion carried unanimously

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

- a. One-year sole-source contract to purchase 3,886 dry tons of ferric sulfate, Kemiron Companies, Inc., Bartow, Florida - \$773,314.
- b. Annual contract for liquid chlorine, DPC Enterprises, LP, Mobile, Alabama, at a unit price of \$268.60 for 1-ton cylinders and \$48 for 150-pound cylinders – total estimated annual cost is \$109,666.
- c. Purchase of a 2003 GMC Workhorse 16-foot step van for Facilities Maintenance, Garber Buick Pontiac, Green Cove Springs, Florida - \$40,336.
- d. Supplement No. 137 to Frazier Engineering, Melbourne, Florida, Continuing Consultant Contract for Sarno/Bell Drainage Improvements, Project No. 01900 - \$19,750.
- e. Change Order No. 2 to Jobear/Warden Construction, Inc., Palm Bay, Florida, for Lift Station 15 Replacement, Project No. C00320 - \$5,150.
- f. Budget transfers within the Stormwater Utility Fund and the Water and Sewer System Fund for work associated with the National Pollutant Discharge Elimination System (NPDES) permit.
- g. RESOLUTION NO. 1809: Designating those persons authorized to sign checks on behalf of the City of Melbourne
- h. RESOLUTION NO. 1810: Urging the Florida Legislature to maintain the state and local government housing trust funds, and urging the Brevard County Legislative Delegation to support funding at the full appropriation levels for state and local government housing trust funds.

Recessed: 8:50 p.m.

Reconvened: 9:01 p.m.

12. RESOLUTION NO. 1811: A resolution adopting an interlocal agreement with the Brevard County School Board establishing a procedure for the sharing of information about development that could affect school enrollment, the establishment/changing of school assignment zones, and a process whereby the City and the School Board will provide school site selection and land development review of site plans.

Attorney Gougelman read Resolution No. 1811 by title.

Moved by E. Palmer/Contreras for approval of Resolution No. 1811.

At the request of Mrs. Poole, Ms. Braz briefed Council on the item. She stated it is helpful for the County, municipalities and the School Board to work together on this issue.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

The Planning and Zoning Board found that the Interlocal Agreement for Public School Facility Planning, dated November 20, 2002 (FOC-2002-06), was consistent with the City of Melbourne Comprehensive Plan and recommended approval.

Mrs. Poole stated that County Commissioner Nancy Higgs has said that the County will control development that impacts schools.

Mayor Buckley referenced Viera, Suntree, Merritt Island and Port St. John and stated the County is the biggest offender.

Mrs. Palmer commented that she read the information and it sounded really good; however, she believes the Capital Outlay Committee is another layer of government. These are non-elected people who will look at school sites and submit recommendations to the Superintendent. The committee includes representatives of affected cities and at least one County staff member. This appears to be an attempt by the County not only to take power from the City's elected officials, but also from the School Board elected body. Another standing committee is not needed to make decisions that should be made by elected officials. She does not support this based on Sections 4.1 and 4.2 of the agreement.

Mrs. Braz commented that this is not a new committee and pointed out that she served on the Capital Outlay Committee for a number of years. Mayor Buckley stated this agreement ensures that the City has a representative on the committee. Mrs. Palmer commented that County staff seems to direct recommendations when serving on a committee. Mrs. Braz advised that the School Board will make the final decision.

The question was called. Motion carried. (Council Member C. Palmer voted nay.)

13. COUNCIL ACTION RE: Salary adjustment for seasonal summer employees in Leisure Services.

Mary Ann Kise, Leisure Services Director, briefed Council. This includes pay adjustments for summer personnel at the camps and pool facilities. She discussed difficulty experienced last summer in recruiting qualified staff. The Personnel Division conducted a survey and found that the City's wages were lower than the surrounding areas. The City has to be competitive with surrounding cities to have qualified employees supervising our children.

Moved by E. Palmer/Walker for approval of the proposed recommended rates for seasonal employees in Leisure Services. Motion carried unanimously.

14. COUNCIL ACTION RE: Request by Mr. Robert M. Patton for waiver of Housing and Community Development Home Repair Program guidelines pertaining to Subordination of Liens on property located at 1987 Nixon Avenue.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

From the agenda report: Robert Patton requests a waiver from the City's subordination of lien policy to enable him to get a new first mortgage on his home located at 1987 Nixon Avenue. Housing and Community Development staff does not recommend the subordination of lien because this is not a refinancing strictly to reduce the interest rate.

Mr. Patton received \$14,890 in SHIP rehabilitation assistance in 2002 and 2003. As a requirement of receiving this assistance, Mr. Patton signed a mortgage security agreement and note. No repayment is required as long as the Pattons occupy the home for five years.

Robert Patton, 1987 Nixon Avenue, informed Council that since he was laid off in December he has changed careers and obtained a license to sell insurance. He is attempting to refinance his home to pay off several bills. He is currently involved with the Housing and Community Development rehab program for his home and the City's current guidelines regarding subordination of liens prevents him from achieving this goal.

Melinda Thomas, Housing and Community Development Director, reported that the City receives numerous requests for waiver of the subordination of lien. Staff has always stuck to the policy, it is in the best interest of the City. Mr. Patton is bringing a tremendous amount of consumer debt into this, with higher monthly payments. At this time, if Mr. Patton's other debts are not paid, he can keep his home. Refinancing could put his home in jeopardy. If Council grants this request, the City's policy should be changed so others receive the same benefit. Mr. Patton received County assistance in the purchase, and City assistance with refurbishment, of his home. The loan that Mr. Patton has been approved for is an adjustable rate mortgage.

Mr. Patton responded that the rate is fixed for two years and then is adjustable. He believes he should be able to improve his credit standing in that two years.

Mr. Palmer commented that Mr. Patton is going from a \$43,400 mortgage to \$71,200. The monthly payments will jump \$160. Mr. Patton advised that his current mortgage payment of \$512 will increase to \$572. However, this eliminates a \$289 car payment and \$140 in credit card payments.

Mr. Palmer stated that Mr. Patton was loaned SHIP funds for repairs to his home. The City's concern is whether this is a safe/secure investment. Mr. Patton said this will put him in a better financial position. He is starting a new business as a self-employed health insurance broker. He explained he has been licensed for four weeks and is confident that he will be successful; however, it will take several months.

Mr. Palmer stated he appreciates Mr. Patton's efforts to improve his financial situation. However, he has yet to hear any reason to change the City's policy. Mr. Patton stated that if he stays in the house for five years the lien is released. He has satisfied three of the five years of the County's program while successfully maintaining his residence and he will do the same with the City's program.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Mr. Patton stated his payment will be higher, but the net expense will be less. He can't get the best credit rate based on his credit history. However, after two years he will be able to refinance and his credit-status will improve in that time. He commented that he has been denied by several banks because of his credit score. This is a last resort situation. The alternative would be to continue to struggle. His Plan B is FHA refinancing at 7%; however, this provides no cash and no debt consolidation.

Moved by E. Palmer/Contreras for denial of exemption from the City's subordination policy. Motion carried. (Council Member Walker voted nay.)

15. COUNCIL ACTION RE: (Public Hearing) Preliminary funding recommendations for projects to be included in the 2003-2004 CDBG Action Plan.

Mrs. Thomas briefed Council on this item. The U.S. Department of HUD has advised that the City will receive \$693,000 in federal FY 2003 CDBG entitlement funds. In addition, the City has available \$8,507.75 in savings from prior years projects. The total CDBG funding available for City Fiscal Year 2004 (10/1/03 – 9/30/04) is \$701,507.75.

Proposals totaling \$510,498 were received from 19 different non-profit agencies and community organizations seeking CDBG funds for the fiscal year starting 10/1/2003. These agencies and their requests are included in the 2003-2004 Action Plan Notebook. Also, two City departments submitted proposals for CDBG funding (Leisure Services - \$167,660 and Housing & Community Development - \$592,557). The proposals for consideration total \$1,270,715.

The Citizens' Advisory Board recommendations are included in the agenda package.

Projects receiving preliminary approval will be included in the 2003-2004 proposed CDBG Action Plan and the County's consortium plan. Council will conduct a final public hearing and act on final approval at the April 8 Council meeting.

There was a brief discussion regarding the Senior Program provided by the Leisure Services Department, the Tenant Based Rental Assistance (TBRA) program, and the Space Coast Center for Independent Living.

Lee George, Child Care Association, expressed appreciation for consideration of their request. They provide child care assistance to low-income families in Melbourne and also provide health screenings. The focus is on parents who are working or are in job training programs, with an emphasis on helping families improve their financial situation. As of December 2002 there were 343 documented children in the City of Melbourne on their waiting list. Slots are available; however, they need financial assistance provided by this grant.

Mrs. Poole asked if City funding is matched by the County and State. Ms. George responded that every \$1 generates \$16 in federal funds. In response to Mrs. Walker, Ms. George reported that the families are low to moderate-income homes.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Terry Ables, Booker T. Washington Neighborhood Association President, thanked Council for having the vision to revitalize and build healthy neighborhoods. She discussed the improvements and accomplishments of the Booker T. Washington area since organizing in 1996, including work programs and summer programs for youth, new gateway sign, Make a Difference Day, etc. The transformation has begun and they are committed to its progress. They need the City's continued support to continue their effort. She added that together we can build a healthy neighborhood and a strong community.

Mr. Palmer offered congratulations on the great job being done by the Booker T. Washington Neighborhood Association.

Eddie Taylor, 3200 Woodlake Drive, Palm Bay, thanked Council for support of Lipscomb Park over the last 25+ years that he has been associated with the park. Tremendous improvements have been made. He thanked Melinda Thomas for the presentation she made and for getting some funding for the senior transportation program. This includes seniors from all over the City.

Mr. Taylor suggested that the Community Development Program complete projects quicker, noting that some projects take 5 - 6 years.

Moved by Walker/Hand for preliminary approval of the proposed list of projects and activities for inclusion in the 2003-2004 proposed CDBG Action Plan and authorization to advertise the Action Plan for public comment upon completion. Motion carried unanimously.

16. COUNCIL ACTION RE: (Public Hearing) Recommendations for 2003-2004 HOME Program.

From the agenda report: HOME allocations for federal FY 2003 are currently unavailable. In the absence of a firm number and for planning purposes staff is using the FY 2002 HOME allocation amount of \$277,783. The amount will be adjusted upon receipt of the final allocation figure from Brevard County.

Due to the substantial amount of uncommitted funds currently available (\$396,351 in HOME funds including \$82,143 in CHDO set-aside and \$120,000 in SHIP funds) staff believes the proposals and requests in the pipeline can be considered for funding from existing funds. Recommendations will be made in light of the overall housing needs of the City and the funding sources and amounts available. Staff plans to review and analyze each new proposal or updated proposal as it is submitted and make recommendations to Council at a later time for funding on a case-by-case basis. Consequently, staff recommendations for 2003-2004 are not for specific properties or projects but for broadly defined activities, most likely to be undertaken as described below.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

So that Housing & Community Development can continue to provide uninterrupted services to owner occupants under the Owner-occupied Housing Rehabilitation Program, staff is recommending that a portion of the FY 2003 HOME funds be allocated to the City's Owner-occupied Housing Rehabilitation Program.

Staff is recommending that \$20,000 of FY 2003 HOME funds be used for the City's Tenant Based Rental Assistance (TBRA) program. Combined with current funding available for the program, staff anticipates being able to serve all eligible applicants who apply.

Additionally, staff would like to create an opportunity for rental housing projects that can be utilized in conjunction with or instead of the City's SHIP-funded rental strategies. This would provide staff flexibility when determining the most suitable funding source for a proposed rental project. Council would need to approve all projects.

Minimum CHDO and maximum administrative set-asides are prescribed by statute. Following is the breakdown that staff is recommending for FY 2003 HOME funds:

Owner-occupied Housing Rehabilitation Program	\$100,000
Tenant Based Rental Assistance Program (monthly rental assistance to very low-income households)	20,000
Rental Housing	88,337
CHDO Set-Aside (15% minimum required)	41,668
Program Administration (10% maximum allowed)	<u>27,778</u>
<b>Total HOME Requests:</b>	<b>\$277,783</b>

Moved by Hand/E. Palmer for preliminary approval of the proposed activities for FY 2003 HOME funds and authorization for their inclusion in the Brevard County HOME Consortium Action Plan for 2003-2004.

Mr. Palmer asked whether staff anticipated moving any CHDO set aside funds to the County. Melinda Thomas, Community Development Director, responded that there has been some discussion at the County level about a project that would meet joint funding requirements. She stated she would consider this.

Mr. Palmer referenced a County RFP that was distributed. Mrs. Thomas stated the HOPE properties submitted for a homeless housing project in Palm Bay, and there is some State funding available for that. There has been some preliminary discussion with County staff on how to jointly fund this project.

The question was called. Motion carried unanimously.

17. ORDINANCE NO. 2003-05: (First Reading) An ordinance amending Chapter 2, of the Code of Ordinances, entitled Administration; reducing the rates of subsistence allowance for City employees and authorized persons traveling on business in accordance with a recent Attorney General Opinion.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Attorney Gougelman read Ordinance No. 2003-05 by title.

From the agenda report: This is an ordinance amending Chapter 2 of the City Code reducing the subsistence allowance for City employees and authorized persons traveling on City business to comply with a recent Attorney General Opinion (AGO 2003-01). The ordinance reduces the allowance for breakfast to \$3.00 and lunch to \$6.00.

Moved by Walker/E. Palmer for approval of Ordinance No. 2003-05. Motion carried unanimously.

18. ORDINANCE NO. 2003-06: (First Reading) A proposed ordinance to adopt the new boundaries of the Babcock Street Redevelopment District and amend the Babcock Redevelopment Plan. (P&Z Board – 2/06/2003)

Attorney Gougelman read Ordinance No. 2003-06 by title.

Mayor Buckley advised that Council previously approved Resolution No. 1805 relating to the new boundaries.

This is an ordinance to amend the boundaries of the Babcock Street Redevelopment District and the Babcock Redevelopment Plan to expand the district to the east of Babcock Street from Highway 192 to Fee Avenue, along the west side of Bryan Street. The plan amendment will include a project addition to assist in the widening of Babcock Street by acquiring properties located east of Babcock Street, south of Fee Avenue, north of Highway 192, and west of Bryan Street.

The Planning and Zoning Board recommended approval of LDR-2003-01, amending City Code, Chapter 10, Section 10-153 and 10-161 as proposed in the draft ordinance with the findings in the Planning and Zoning memorandum.

Moved by Hand/E. Palmer for approval of Ordinance No. 2003-06.

Mr. Gougelman confirmed that this would tie in with the County money the City should be receiving.

The question was called. Motion carried unanimously.

19. ORDINANCE NOS. 2003-07, 2003-08, AND 2003-09 (AR-2002-140/CPA-2002-06/Z-2002-933): (Public Hearings/First Readings) Ordinances providing for the annexation of a 17.779-acre parcel, establishing a Commercial land use, and establishing C-2 (General Commercial) zoning on the same property, located east of Wickham Road, south of Business Center Boulevard. (Owners – Majesty Florida Limited Partnership) (Applicant/Representative – Philip F. Nohrr) (P&Z Board – 8/15/2002)

- a. Ordinance No. 2003-07: An ordinance providing for the annexation of the property

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

(AR-2002-140).

- b. Ordinance No. 2003-08: An ordinance establishing Commercial land use on the property (CPA-2002-06).
- c. Ordinance No. 2003-09: An ordinance establishing C-2 (General Commercial) zoning on the property (Z-2002-933)

Attorney Gougelman read the ordinances by title.

Ms. Braz briefed Council on the requests.

The Planning and Zoning Board recommended approval of AR-2002-140, CPA-2002-06 and Z-2002-933, as described in Ordinance Nos. 2003-07, 2003-08 and 2003-09 with the specific findings as listed in the agenda package.

Mrs. Braz confirmed for Mrs. Poole that the City will provide police and fire services.

Responding to Mr. Palmer, Mrs. Braz responded that the current BU-1 County zoning is almost identical to the proposed C-2. She pointed out that the City's zoning is a little more restrictive. She added that this is merely annexation, land use designation and zoning.

Mrs. Braz reported that a Department of Community Affairs (DCA) sign-in sheet is available for anyone interested in receiving additional information from DCA about this comprehensive plan amendment.

There were no Council disclosures. Mayor Buckley opened the public hearing.

Phil Nohrr, applicant's representative, stated there are no development plans; they are just starting. The applicant wants to come into the City. The applicant is not receiving anything he doesn't already have in the way of land use or zoning. The property is all zoned industrial by the County. The southern boundary is a 100' wide drainage ditch. There are good buffers all the way around the property. He stated there will be some environmental challenges when development occurs.

Responding to Mrs. Walker, Mr. Nohrr stated that Ray Schacht and Peggy J. Schacht, from Missouri, are principals in the Majesty Florida Limited Partnership.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2003-07. Motion carried unanimously.

Moved by Hand/C. Palmer for approval of Ordinance No. 2003-08. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Moved by Walker/Contreras for approval of Ordinance No. 2003-09. Motion carried unanimously.

20. ORDINANCE NOS. 2003-10, 2003-11, AND 2003-12 (AR-2002-141/CPA-2002-07/Z-2002-934): (Public Hearings/First Readings) Ordinances providing for the annexation of 19.714± acres, establishing a mixed use Commercial/Industrial land use on a 16.874-acre parcel and Commercial land use on a 2.84-acre parcel, and establishing C-2 (General Commercial) zoning on a 2.84-acre parcel and M-1 (Light Industrial) zoning on a 16.874-acre parcel, located west of Wickham Road, south of Lake Washington Road and north of Aurora Road. (Owner/Applicant/Representative – Spiegel Lease Corporation) (Owner – MIMA Real Estate, LLC) (Dr. Joseph A. McClure – Applicant) (Al O'Connell – Representative) (P&Z Board – 9/5/2002)
- a. Ordinance No. 2003-10: An ordinance providing for the annexation of the property (AR-2002-141).
  - b. Ordinance No. 2003-11: An ordinance establishing Commercial and mixed use Commercial Industrial land use on the property (CPA-2002-07).
  - c. Ordinance No. 2003-12: An ordinance establishing C-2 (General Commercial) and M-1 (Light Industrial) zoning on the property (Z-2002-934)

Attorney Gougelman read the ordinances by title.

Mrs. Braz briefed Council on the requests.

The Planning and Zoning Board recommended approval of AR-2002-141, CPA-2002-07, Z-2002-934 as described Ordinance Nos. 2003-10, 2003-11 and 2003-12 with the specific findings listed in the agenda package.

Mrs. Braz reported that a Department of Community Affairs (DCA) sign-in sheet is available for anyone interested in receiving additional information from DCA about this comprehensive plan amendment.

There was a brief discussion about the Fairchild Drive right-of-way. Mrs. Braz stated that the Fairchild Drive right-of-way was vacated by the County and is privately owned land that is part of this annexation.

There were no Council disclosures. Mayor Buckley opened the public hearing.

Fred Spigle, 21 Palm Avenue, Miami, advised he was available for any Council questions and noted that he followed the suggestions and requests of the City.

Responding to Mrs. Palmer, Mr. Spigle stated that he wanted to annex into the City because the City provides better services and his property will be more valuable. He noted that he has annexed and developed other properties in the City.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Moved by E. Palmer/Hand for approval of Ordinance No. 2003-10. Motion carried unanimously.

Moved by Hand/Walker for approval of Ordinance No. 2003-11. Motion carried unanimously.

Moved by Walker/Contreras for approval of Ordinance No. 2003-12. Motion carried unanimously.

21. ORDINANCE NOS. 2003-13, 2003-14, 2003-15, AND 2003-16 (AR-2002-142(A)/AR-2002-142(B)/CPA-2002-08/Z-2002-942): (Public Hearings/First Readings) Ordinances providing for the annexation of an 8.61±-acre parcel and a 70.94±-acre parcel, establishing Industrial land use and Low Density Residential land use, and establishing M-1 (Light Industrial) zoning and R-1B (Single-Family Residential) zoning on the same two parcels, located on the south side of Dow Road, west of West Drive, and east of John Rodes Boulevard. (Owners – M.S. Halpern, Peter and Maria Link, and Arthur W. Sitrin, Trustee) (Applicant/Representative – R.J.P. Development, Inc.) (P&Z Board – 2/06/2003)
- a. Ordinance No. 2003-13: An ordinance providing for the annexation of the 8.61±-acre property (AR-2002-142A).
  - b. Ordinance No. 2003-14: An ordinance providing for the annexation of the 70.94±-acre property. (AR-2002-142B).
  - c. Ordinance No. 2003-15: An ordinance establishing Industrial land use and Low-Density Residential land use on the property (CPA-2002-08).
  - d. Ordinance No. 2003-16: An ordinance establishing M-1 (Light Industrial) zoning and R-1B (Single-Family Residential) zoning on the property (Z-2002-942)

Attorney Gougelman read the ordinances by title.

Ms. Braz briefed Council on the request.

The Planning and Zoning Board recommended approval of AR-2002-142(A), AR-2002-142(B), CPA-2002-08 and Z-2002-942, annexations, designation of future land use and zoning as described in Ordinance Nos. 2003-13, 2003-14, 2003-15 and 2003-16 with the specific findings in the Planning and Zoning Board memorandums included in the agenda package.

Mrs. Braz reported that a Department of Community Affairs (DCA) sign-in sheet is available for anyone interested in receiving additional information from DCA about this comprehensive plan amendment.

There were no Council disclosures. Mayor Buckley opened the public hearing.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Roy Pence, 300 E. New Haven Avenue, discussed the properties in question and reported that his property is vacant and Mr. Halpren has an existing business that imports and assembles hydraulic closure products. It is a very nice building.

Mrs. Poole referenced the R-1B zoning and asked what would be saved besides the wetlands. Mr. Pence responded that is his property and he would save as much as possible. He will return to Council with a plan.

Moved by Contreras/C. Palmer for approval of Ordinance No. 2003-13. Motion carried unanimously.

Moved by Hand/Walker for approval of Ordinance No. 2003-14. Motion carried unanimously.

Moved by Walker/E. Palmer for approval of Ordinance No. 2003-15. Motion carried unanimously.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2003-16. Motion carried unanimously.

22. ORDINANCE NO. 2003-17 (Z-2002-932AD): (Public Hearing/First Reading) Amending Appendix B, City Code of Melbourne, Article XI, Non-conforming uses, and Article XII, Section 4.1 and Section 5, as they apply to R-1B and R-2 Zoning (Applicant – City of Melbourne) (P&Z Board – 2/06/2003)

Attorney Gougelman read Ordinance No. 2003-17. There were no public comments.

Ms. Braz briefed Council and discussed the history and problems with R-1B zoning.

The Planning and Zoning Board recommended that a developer should have the option of maintaining no more than four units per acre or providing 10% usable open space. They determined that open space would include but not be limited to improved play areas and wetlands or other natural features, which are made accessible to the residents of the subdivision. Retention areas, required buffers, rights-of-way, and other Code required tracts would not be included while calculating open space. The P&Z Board also proposed to increase the minimum square footage of a home from 800 to 1,000 s.f. A proposed change to the nonconforming section of the Code (Article XI) would “grandfather” any existing R-1B subdivisions that do not meet the proposed criteria.

In the R-2 district the P&Z Board recommended keeping the minimum lot size of 7,500 s.f. but reducing the width from 75’ to 50’ and reducing the side setbacks from 7.5’ to 5’ for single-family homes. Additionally, building coverage was increased from 40% to 50%. This would allow for flexibility without reducing the total lot size.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

The ordinance includes one additional change to clean-up the R-2 section of the Code. Currently there are two different standards for duplex development. By removing the reference to R-4, there will only be one standard. Three changes are proposed at the beginning of Article XII (2534.9 of the Zoning Code) to correct the reference to the R-1AA zoning district, add the reference to the R-1B zoning district and revise C-1 to reflect Neighborhood Commercial (as opposed to Low Intensity Commercial).

Mrs. Poole stated that Council does not have a choice since the ordinance is already written. Mrs. Braz responded that it is Council's policy and they can direct both. The changes are in ordinance form; however, Council can make changes.

Mrs. Poole said this is a way for developers to cram as much on the lot as possible. R-1B Zoning was not flexible and not what Council had hoped it would be. She is also opposed to decreasing the side setback to 5'; this is worse. She noted that the P&Z Board had this issue for seven months and a lot of R-1B zoning came in while Council waited for the Board's recommendation. She wants the ordinance to be as strict as possible and suggested 3.5 units per acre and 15% open space to save some of the environment.

Mrs. Walker stated that Council can make recommendations. Mayor Buckley suggested that there be no more than four units per acre and 10% open space instead of either/or.

Mr. Palmer referenced the previous agenda item annexing 70+ acres and asked if this ordinance would apply to that property. Mrs. Braz responded yes, if Council approves R-1B zoning with restrictions – the developer would have to follow the guidelines in effect when he develops. Mr. Palmer agreed with a density of four units per acre with 10% open space.

Mrs. Poole asked why the density can't be 3.5 units per acre with 15% open space. Mrs. Braz responded that is a decision for Council.

Responding to Mrs. Palmer, Mrs. Braz stated that there are some changes to the R-2 District. There is no change to the lot size, 7,500 s.f.; however, the use of the lot is more flexible. The house can be moved to one side, there is an opportunity to meander the lot. She stated this is a reasonable request.

Mr. Palmer said that the side setback needs to remain 7.5 feet, five feet is too close.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2003-17 with a revision to provide a density of four units per acre and 10% minimum open space, and side setbacks remain 7.5 feet in the R-2 district. Motion carried unanimously.

Added to the agenda:

22.1 COUNCIL DISCUSSION RE: The disappearance of two signs in the Downtown Melbourne area.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

- a. “Welcome to Melbourne” sign, south U.S. 1
- b. “Downtown Melbourne” sign, south end of Municipal Lane

Mrs. Poole discussed the removal of the Welcome to Melbourne sign on U.S. 1 for the DOT road construction and stated she hopes it will be reinstalled soon.

Mrs. Poole also discussed the removal of the Downtown Melbourne sign and asked why Council was not advised of the removal. She discussed the history of the sign and the agreement between the City and the Downtown Melbourne Association for the sign.

Mr. Palmer asked why the sign was removed if there is an agreement that states it can't be moved without approval. He asked if the agreement was violated by moving the sign. Mrs. Poole responded that in reading the agreement, they wouldn't move the sign if they abided by the stipulations.

Vice Mayor Contreras suggested that the organization that removed the sign be invited to attend the next Council meeting and explain the situation.

Mrs. Braz stated that the sign had not been maintained. There had to be an agreement because the sign was placed on City right-of-way.

By consensus, Council asked that a representative from the Downtown Melbourne Association attend the next meeting to discuss this issue.

23. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

There was a brief discussion regarding a newspaper article about Dolly, the first cloned sheep.

Council Member Cheryl Palmer discussed alligators in the lake at Jimmy Moore Park. There are signs warning about the alligators; however, a first time visitor to the park may not see the signs. She questioned why the City can't remove the alligators from City parks.

Mayor Buckley reported there is an alligator in the lake at the Melbourne Auditorium; however, if the alligator is small, the wildlife people won't do anything about it. Mr. Palmer confirmed that if the alligator is three feet or smaller they won't remove it.

Mrs. Palmer stated she is concerned for the safety of the children at the park and asked that Mary Ann Kise (Leisure Services Director) be directed to have the alligator removed. Mr. Palmer suggested contacting the Police Department who will contact the property authorities to have the alligator removed.

Mr. Schluckebier reported that a tentative agreement has been negotiated with the IAFF (International Association of Fire Fighters Union). Ratification by the membership and a formal signing should take place within the next few weeks.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

He also reported on the City/County Summit held February 21. Melbourne was represented by the Mayor and Council Members E. Palmer, Poole and C. Palmer, the City Manager, City Attorney and Assistant City Manager. This was a good investment of time in an event that allowed the County and the fifteen municipalities to discuss issues. The meeting is available on tape and the City can obtain a copy should anyone like to view it.

Mr. Schluckebier discussed the agenda preparation process. The agenda package contains a lot of information, some of which is redundant. He discussed the current deadline for submission of agenda items, noting that the deadline for March 11 Council meeting items was today. The process is a little schizophrenic and causes some confusion for staff. Staff is in the process of revising the agenda process. He asked that Council provide staff one additional day for preparation. Council would receive their package the Wednesday prior to the Tuesday meeting.

Moved by Poole/E. Palmer to give staff two additional days for the agenda preparation. Motion carried unanimously. (Note: Agenda packages will be distributed on the Thursday prior to the Tuesday meeting.)

Mr. Schluckebier discussed the distribution of a letter inviting people to participate in one part of the selection process for a new Police Chief. He explained the assessment center exercise which includes an interview with the City Manager, an interview with a technical assessment committee, a staff exercise (subcommittee of assessment committee), and an interview with a community group. The community group, one-fourth of the four-part assessment exercise, will provide input to the assessment committee. Paul Rumbley, Palm Bay Police Chief (who is currently 1<sup>st</sup> Vice President, Florida Police Chief Association and should be appointed President of the Association in June); Sheriff Phil Williams; Lionel Cote, Satellite Beach Police Chief; and Walt Chamberlin, Melbourne Fire Chief have agreed to serve on the assessment committee. This process is a merit oriented, conclusive review. Advertisements for applications have been placed with the International Association of Police Chiefs, Florida Association of Police Chiefs and the Florida League of Cities.

Mrs. Poole stated the City Manager is the one that will make the ultimate decision and work closest with the Police Chief. She cautioned Mr. Schluckebier against being influenced by other influential people.

Mr. Gougelman updated Council on the proposed Brevard County Water and Sewer District. The County Commission is scheduled to hear the ordinance on Tuesday (March 4). The ordinance defines a service area for the City of Melbourne, provides an actual permit or consent to the City that would be irrevocable and unamendable, and finds that the City has a vested right. Legally, the City will be in good shape if this ordinance passes.

Mr. Palmer stated that the City spent a lot of money on its water plant; however, its location is still in the County. It needs to be in the City for security reasons. Mr. Schluckebier responded as the City meets with the County to discuss our growth intentions, we will raise that issue and the issue of enclaves. If they can't help us solve the problem, the Legislative

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 25, 2003

Delegation will have to step in. Mr. Palmer commented that it might be wise to ask the Legislative Delegation for assistance before meeting with the County, and suggested this should be done as expeditiously as possible. Mr. Gougelman advised that it is too late to seek a Special Act from the Legislative Delegation. Mr. Schluckebier agreed that it is worth our time to make this issue as vibrant as we can.

24. ADJOURNMENT

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

The meeting adjourned at 11:15 p.m.



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Assistant City Clerk – 3/6/2003

Approved by Council 3/11/2003