

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 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. Council Member Ed 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, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Amy W. Elliott	Assistant City Manager
	Cathleen A. Wysor	City Clerk
	Peggy Braz	Planning & Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented the “Irish-American Heritage Month” (April 2003) proclamation to John Cullinan, National Director, Ancient Order of Hibernians in America, Inc. and St. Patrick’s Day Parade Grand Marshal.

Additionally, the Mayor presented the February 2003 Beautification Award to Bob and Gillian Shearer, Crane Creek Inn.

5. APPROVAL OF MINUTES - Regular Meeting February 25, 2003

Moved by Hand/Walker for approval. Motion carried unanimously.

6. CITY MANAGER’S REPORT

Mayor Buckley reported that there are two items, which need to be added to the agenda:

- Request by City Manager to add item 16 “f”:

Moved by E. Palmer/Contreras to add item 16 “f” to the agenda. Motion carried unanimously.

- Request by the applicant on Item 17 to postpone the item until the March 25 meeting:

Moved by Walker/E. Palmer for approval (to add the request to the agenda). Motion

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carried unanimously.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. COUNCIL ACTION RE: Discussion with Downtown Melbourne Association (DMA) representatives regarding the removal/replacement of the “Downtown Melbourne” sign previously located at the south end of Municipal Lane.

From the agenda report: The sign that was located on the south side of New Haven Avenue across from Municipal Lane was the property of the Downtown Melbourne Association and was placed in the right-of-way in 1986 through an agreement with the city. The purpose of the sign was to provide a directory of shops. The sign has not been functional in many years. Following a number of complaints and considerable discussion with the merchants and the advisory committee, the DMA decided to remove the sign.

The 1986 agreement required the city to approve relocation of the sign on city property or any text change. The agreement did not restrict the owner of the sign from removing it. The city informed the DMA that it did not need a permit to remove their sign.

A DMA member is housing the sign in his garage. It is anticipated that the sign will be refurbished and relocated at either the east or west entrance to Downtown Melbourne.

Jack Ryals, President, Downtown Melbourne Association, confirmed the information outlined in the agenda report and stated that the DMA will seek permission from the city before placing the sign in an alternate location.

In response to Mrs. Walker, Mr. Ryals said he was sorry to see the sign go because he felt it was an asset and attracted people to his business. However, he noted that it is not defensible to allow the sign to remain when it has not been maintained.

Mr. Palmer asked the timeframe for the DMA to restore the sign and return it to the Downtown area. Mr. Ryals replied that the current board members are interested in maintaining the sign and placing it in a conspicuous location; however, they do not have a time estimate. Mr. Palmer recommended that this be done as soon as possible.

Mrs. Poole clarified that the sign is not the property of the DMA. The Downtown Progress Association (DPA) proposed the sign and entered into an agreement with the city. She referenced Section 8 of the September 3, 1986 agreement, which states, “No change shall be made in the size, design, shape, location or message on the sign without the written consent of the city.”

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Continuing, Mrs. Poole said that although the store directory has not been maintained, that side of the sign could be used to post notices. The DMA would have to keep the sign updated. Mrs. Poole stated that the sign has been an attractive focal point depicting old Downtown. She added that surely Mr. Ryals and Mr. Meehan (from the advisory committee) are aware of the agreement.

Mrs. Poole's motion to require the historical sign to be refurbished, if needed, and returned to the heart of Downtown Melbourne was later withdrawn.

Following a brief discussion, Mr. Ryals said he believes the majority of the DMA members liked the sign when it was in proper repair. In response to Mrs. Poole's reference to the 1986 agreement, Mr. Ryals said that the Downtown Progress Association was the predecessor to the Downtown Melbourne Association. He added that the DPA, now known as the DMA, spent approximately \$7,700 to have the sign built.

Mr. Ryals concluded by saying that with establishment of the Main Street Program and hiring of an Executive Director, the members of the DMA have been extremely busy; maintenance of the sign has not been their foremost thought. However, he noted that it is Council's desire that the sign become a high priority.

Responding to Mr. Contreras, Mr. Ryals said his understanding of the motion is that the DMA is being ordered to expend funds to refurbish the sign. Mayor Buckley asked Mrs. Poole to clarify her motion. Mrs. Poole said her motion provided "if the sign needed refurbishing." She added that she could arrange for the sign to be refurbished so the DMA would not have to worry about the cost.

Mrs. Palmer asked Mr. Ryals if the DMA has identified an alternative site. Mr. Ryals said they have discussed this at board meetings and they like the visibility and accessibility of Harry Lawrence Park located at New Haven/Strawbridge Avenues. Mrs. Palmer said she is comfortable asking the DMA to return to Council with a list of alternative sites. Mrs. Hand agreed that Council should not be in a hurry to pass this motion; she encouraged more input from the DMA.

At this point, Mrs. Poole withdrew her motion.

A brief discussion followed. Council asked the DMA to work towards refurbishing the sign. The Mayor asked Mr. Ryals to return to Council with an update, including a list of alternative sites.

9. ORDINANCE NO. 2003-05: (Public Hearing/Second 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. (First Reading – 2/25/2003)

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Attorney Gougelman read Ordinance No. 2003-05 by title. There were no comments from the public.

Moved by E. Palmer/Hand for approval of Ordinance No. 2003-05. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2003-06: (Public Hearing/Second Reading) An Ordinance amending Chapter 10, of the Code of Ordinances, entitled Community Planning and Development, to implement Resolution No. 1805 to adopt the new boundaries of the Babcock Street Redevelopment District and amend the Babcock Street Community Redevelopment Plan. (First Reading – 2/25/2003)

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

Regarding the project for the widening of Babcock Street, Mrs. Hand asked if anything further has developed on the discussions with the county to advance the acquisition of property. Mayor Buckley replied no and added that the process will move slowly.

There were no comments from the public.

Moved by Contreras/Walker for approval of Ordinance No. 2003-06.

Mr. Schluckebier confirmed for Mrs. Palmer that the county still has the money available; it is secure. He added that the city's effort was to determine if there was a way to advance acquisition of the properties to work around the complicated governmental requirements. In response to Mrs. Poole, Mr. Schluckebier agreed that any real estate transaction would return to Council, which sits as the Community Redevelopment Agency.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

11. ORDINANCE NOS. 2003-07, 2003-08, AND 2003-09 (AR-2002-140/CPA-2002-06/Z-2002-933): (Public Hearings/Second 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

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Partnership) (Applicant/Representative – Philip F. Nohrr) (First Readings – 2/25/2003)

- a. Ordinance No. 2003-07: An ordinance providing for the annexation of the property (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 each ordinance by title. There were no comments from the public.

Moved by Hand/C. Palmer for approval of Ordinance No. 2003-07. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by E. Palmer/Hand for approval of Ordinance No. 2003-08. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Walker/E. Palmer for approval of Ordinance No. 2003-09. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Mrs. Poole said that she voted aye on each ordinance because development of the properties could be worse under the county's regulations.

12. ORDINANCE NOS. 2003-10, 2003-11, AND 2003-12 (AR-2002-141/CPA-2002-07/Z-2002-934): (Public Hearings/Second Readings) Ordinances providing for the

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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) (First Readings – 2/25/2003)

- 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 Ordinance Nos. 2003-10, 2003-11 and 2003-12 by title. There were no comments from the public.

Moved by Contreras/Hand for approval of Ordinance No. 2003-10. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Hand/Walker for approval of Ordinance No. 2003-11. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2003-12. The roll call vote was:

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

Nay: None

Motion carried unanimously.

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Mrs. Poole said that she voted aye on each ordinance because development of the properties could be worse under the county's regulations.

13. 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/Second 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.) (First Readings - 2/25/2003)
- 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. There were no comments from the audience.

Moved by C. Palmer/Walker for approval of Ordinance No. 2003-13. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Hand/C. Palmer for approval of Ordinance No. 2003-14. The roll call vote was:

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

Nay: None

Motion carried unanimously.

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Moved by Walker/Contreras for approval of Ordinance No. 2003-15. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Contreras/Hand for approval of Ordinance No. 2003-16. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Mrs. Poole said that she voted aye on each ordinance because development of the properties could be worse under the county's regulations.

14. ORDINANCE NO. 2003-17 (Z-2002-932AD): (Public Hearing/Second 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) (First Reading – 2/25/2003)

Attorney Gougelman read Ordinance No. 2003-17 by title.

From the agenda report: This is the second reading of an ordinance that would apply to all R-1B (Single-Family Residential) zoned properties in the city when they are developed as subdivisions and to properties zoned R-2 (One-, Two- and Multiple-Family District). At the February 25 meeting, Council revised the ordinance to require both a density of four units per acre and a minimum of 10% open space. Council also rejected the proposed reduction of side setbacks to 5' for single-family homes. The side setbacks will remain 7.5'.

Glen Outlaw, 1230 N. Harbor City Boulevard, asked Council to provide for four units per acre or 10% open space – not both. Additionally, in the R-2 zone, he recommended that the requirements of the single-family zone be used. He added that any increase in the cost of development would be passed on to the consumer. And, reducing density does not promote single-family affordable housing.

Mayor Buckley explained that a number of developers took advantage of the R-1B zoning and completely filled each lot. Council thoroughly discussed the issue at the last meeting and the decision was reached to require four units per acre plus 10% open space.

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Following a brief discussion, Mrs. Braz recommended Council leave the ordinance as is. Staff will evaluate and return to Council for a change if necessary.

Moved by E. Palmer/Poole for approval of Ordinance No. 2003-17. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

15. COUNCIL ACTION RE: Change Order No. 4 to the Wharton-Smith, Inc. construction contract for the D. B. Lee Wastewater Treatment Plant Improvements, Phase III, Project No. 96373 - \$189,405.

Mr. Ralls reviewed the agenda report. He and Mr. Franko with Hazen & Sawyer, the consultant engineer, responded to general questions about the change order.

Moved by Contreras/Hand for approval of Change Order No. 4 to the Wharton-Smith, Inc. contract in the amount of \$189,405. Motion carried unanimously.

16. CONSENT AGENDA:

Moved by Hand/E. Palmer for approval of items 16 “a” through “f” as recommended.

Mr. Schluckebier responded to questions; however, no items were removed from the consent agenda.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Large diameter sewer line cleaning of two projects, Equitas Sewer Services, LLC, Orlando, Florida – approximate total cost - \$120,000.
- b. Temporary pay adjustment for Deputy Chief Wayne Torpy.
- c. RESOLUTION NO. 1812: A resolution adopting the names “Preserve Drive” and “Conservation Place” for private streets located in the Longleaf Apartments, located west of Wickham Road and north of Post Road.
- d. RESOLUTION NO. 1813: A resolution authorizing the City Manager to submit an application to the Florida Department of Transportation for Highway Safety Funding for the Aggressive Driving Program.

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- e. RESOLUTION NO. 1814: A resolution amending the FY 2002-2003 Budget to include the Airport Authority First Quarter Budget Review recommendations.

Added to the agenda:

- f. Emergency replacement Reverse Osmosis Concentrate Discharge Pump, Custom Pump and Controls, Inc., Tampa, FL - \$49,765.

17. SITE PLAN APPROVAL SP-2003-03 (PRAIRIE TRACE APARTMENTS): A request for site plan approval to develop a 344-unit apartment complex on a 38.5-acre parcel zoned R-2 (Cap 8) (One-, Two-, and Multiple-Family Residential with a cap of eight units per acre) and R-2 (Cap 13) (One-, Two-, and Multiple-Family Residential with a cap of 13 units per acre), located east of Stewart Road and north of Lake Washington Road. (Owner/Applicant – BreFrank, Inc.) (Representative – Earl H. Masteller) (P&Z Board – 2/20/2003)

Note: The applicant requested this item be postponed until the March 25 City Council meeting.

Moved by C. Palmer/E. Palmer to postpone this item until the March 25 meeting.
Motion carried unanimously.

18. ORDINANCE NO. 2003-18: (First Reading) An ordinance amending Chapter 26 of the Code of Ordinances, entitled “Solicitors, Canvassers and Peddlers” as recommended by the City Code Review Committee.

Attorney Gougelman read Ordinance No. 2003-18 by title.

Moved by E. Palmer/Poole for approval of Ordinance No. 2003-18.

Mrs. Wysor confirmed for Council that a student fundraiser (selling items door to door, including Girl Scout cookies) would not meet the definition of a business operating in Melbourne under Chapter 19, Licenses; therefore, an occupational license would not be required.

The question was called. Motion carried unanimously.

19. ORDINANCE NO. 2003-19: (First Reading) An ordinance amending Chapter 28 of the Code of Ordinances, entitled “Streets, Sidewalks and Other Public Places,” clarifying the public hearing notice requirements for abandon and vacate requests.

Attorney Gougelman read Ordinance No. 2003-19 by title.

Moved by E. Palmer/Poole for approval of Ordinance No. 2003-19. Motion carried unanimously.

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20. ORDINANCE NO. 2003-20: (First Reading) An ordinance amending Chapter 31 of the City Code, entitled "Traffic", as it relates to vending, displaying or advertising goods, services or a place of business in the public right-of-way.

The City Attorney read the ordinance by title.

Moved by Hand/C. Palmer for approval of Ordinance No. 2003-20. Motion carried unanimously.

21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Poole referenced a recent item that appeared on the Architectural Review Board agenda. She expressed concern about plans by the Henegar Center to alter the exterior of the old high school building by adding an awning and elevator. She noted that these actions would prevent the building from being listed on the National Register of Historic Places.

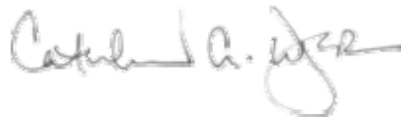
Attorney Gougelman explained that the Henegar Center could take any action as long as it is not inconsistent with our ordinances. Following a brief discussion, Mrs. Poole said we need to move along with the addition of historic preservation in our Comprehensive Plan. Attorney Gougelman noted that Planning & Economic Development is not interested in approaching historic preservation through a Comprehensive Plan amendment. However, the department is working on an ordinance, which will go through the Planning and Zoning Board process.

At Council's request, Mr. Schluckebier said that he would express Council's concerns via a letter to the Henegar Center.

22. ADJOURNMENT

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

The meeting adjourned at 9:08 p.m.



City Clerk – 3/20/2003

Approved by Council 3/25/2003