

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 13, 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. Reverend Bill Handley, Our Lady of Lourdes Catholic Church gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Richard Contreras	Vice Mayor, District 1
	Ed Palmer	Council Member, District 2
	Pat Poole	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Loretta Isenberg-Hand	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathy L. Baker	Acting City Clerk
	Peggy Braz	Planning & Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented the “National Safe Boating Week” proclamation to John McKinley, Flotilla Commander, and Jim McGuinness, Public Affairs Officer, U.S. Coast Guard Auxiliary, South Brevard Flotilla 42.

Mayor Buckley presented Peggy Braz, Planning & Economic Development Director and the City’s mentoring program coordinator, with a plaque from University Park Elementary School recognizing the City’s partnership in its mentoring program.

Shirley Bradshaw and John Saunders, Students Against Violence Everywhere, presented Detective Johnny Lawson, Melbourne Police Department, with a certificate for his work with the investigation of Mr. Saunder’s grandson, Justin Smith.

5. APPROVAL OF MINUTES - Regular Meeting April 22, 2003  
- Special Meeting April 29, 2003

Moved by Hand/E. Palmer for approval of the April 22 and April 29 minutes. Motion carried unanimously.

6. CITY MANAGER’S REPORT

Council Member Ed Palmer discussed concerns regarding the restoration of Lake Hell N’ Blazes and Lake Sawgrass. This is a much needed St. Johns River restoration project that

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will protect the City of Melbourne drinking water supply. The project is in peril due to escalating financial costs.

Moved by Poole/C. Palmer to direct the City Manager to write to Senator Bill Nelson, Senator Bob Graham, and Congressman Dave Weldon expressing concern for the City's drinking water source and support for the restoration project. Motion carried unanimously.

7. PUBLIC COMMENTS

Andrew Randall, 724 Gardenia Drive, discussed Jim Rathmann Chevrolet's alarm system. The neighbors have made numerous complaints about the noise. He urged Council to have the alarm disconnected in accordance with City Code for failure to pay the false alarm fines, file reports on the continual false alarms as required by Code, and to eliminate the problem. Mr. Randall stated this is not a monitored alarm, it is merely to scare people off the lot. He asked Council to declare Jim Rathmann a public nuisance.

Council advised Mr. Randall that staff would investigate. Mrs. Palmer asked that Council be provided a report at the next meeting regarding what will be done about the alarm. She stated the neighbors are upset because they feel that nothing is being done.

Linda Solis Gettings, 991 Thomas Barbour Drive, discussed the appointment of the new Police Chief. She stated that 96 applicants were reduced to five qualified individuals, who were given significant background checks. She said that Don Carey became a candidate at the last minute without this same process and was chosen as the new Police Chief. Ms. Gettings stated Mr. Carey has applied in other Florida cities without success, apparently because of his track record. The Melbourne Police Department is in need of organization. Moral is not at its best. She said the citizens would like to know how Mr. Carey was chosen over the other applicants who seem to have some very good qualifications.

Mayor Buckley advised that Mr. Carey was equally investigated. The Police Benevolent Association in Omaha was contacted and they gave him a clean bill of health. One of the people hired by the City to look into the matter was told that Mr. Carey was doing a good job. Mayor Buckley stated the City Manager has investigated the complaints received from someone at the local PBA. It seems the concern was unwarranted.

Mrs. Poole added that the selection process was a very fair process. She pointed out that the City Manager could have appointed whomever he wanted; however, he went through this process to have the community and police personnel take part. She sat in as an observer and the presentations were great, all five applicants were good candidates. She feels the right choice was made.

Mayor Buckley commented that 14 people from the community were involved in the process and they felt Mr. Carey was the most qualified.

NEW BUSINESS

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8. COUNCIL ACTION RE: Construction Contract Award for the replacement of the Melbourne Auditorium roof, Project No. 02104, C&D Construction, Inc., Cocoa, FL, \$472,956.

Mr. Ralls reviewed the agenda report. Six bids were received, ranging from \$472,956 to \$788,124. The low bid was submitted by C&D Construction, Cocoa, FL.

One bid was delivered one day late by Federal Express and was the subject of a bid protest. Mr. Ralls explained the bid protest procedures as defined by City Code. A Review Board hears the protest of the contractor to resolve the protest. The Review Board met and found that the bid protest was not valid.

The project involves removal and replacement of the old roofing system, the metal roof and lightweight insulating concrete that comprise the roof deck, and the asbestos cement panels on the penthouse. The roofing system sustained damage during Hurricane Irene and continued to deteriorate. The insulation became saturated from the leaks. The metal deck rusted and in some areas was seriously corroded. The corrugated penthouse panels have always contributed to roof leaks at the juncture of the panels and roof.

At the onset of the project, there was debate on which roofing system was the most cost effective. Roofing consultants were contracted by the City to evaluate various systems. They concluded that a foam roofing system manufactured by GE and the modified bitumen system already used on several City buildings were both good systems. They estimated that the foam roofing system would cost approximately \$58,000 more than the modified bitumen roofing system. However, the decision was made to include both roofing systems in the bid package as alternative bids so a true cost could be determined. The low bid was submitted for the modified bitumen roofing system.

The City received a hurricane-related grant from the Federal Emergency Management Agency (FEMA) to replace the roof. FEMA defined the eligible amount as \$400,000 with \$300,000 to be federal funds, \$50,000 to be State funds, and \$50,000 funded by the City. The current budget for the project is \$450,000. Some of this money has been used for engineering. Additional City funding is required because the low construction bid exceeds the total estimated FEMA project costs. Staff recommends transferring \$70,000 from General Fund Miscellaneous Project (Index 761990) to the Auditorium Roof Project (Index 761042).

The City's standard construction contract requirements will apply to this project. The contractor must complete the project within 170 calendar days or be subject to liquidated damages. The bid/contract documents include the dates of scheduled events in the auditorium, which the contractor must work around.

Ronald Legore, Tarheel Roofing/GE Roofing Systems, stated he is here to inform Council that Tarheel roofing filed the bid protest. He acknowledged that the bid arrived one day late through failed delivery attempts of FedEx; however, he felt the late delivery was based on confusing bid documents. He stated that the Engineering Department opened and reviewed Tarheel's bid.

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Mr. Legore explained that Tarheel submitted an alternative proposal, which meets the requirement for a 20-year renewable warranty from GE Systems. That bid is \$93,000 lower than the C&D bid. It is Tarheel's opinion that it is in the best interest of the City for Council not to award this contract until Tarheel's proposal has been considered.

Mayor Buckley stated that the Review Board investigated the protest. The City Manager reviewed the contents of that review and determined that the bid was submitted late and may not be properly considered by the City.

Mr. Palmer asked about the warranty for the roof that staff is proposing. Mr. Ralls responded the warranty is 20 years.

Mrs. Palmer asked if the company recommended for award included the engineering work. Mr. Ralls responded that the City has already paid for the engineering work. That is how staff determined what needed to be done. Staff investigated a lot of roofing alternatives. A team of consultants advised that the foam roof and the modified bitumen roof were good systems. They are comparable, but the modified bitumen roof is \$25,000 cheaper.

Mr. Ralls advised that Tarheel's bid for a comparable system was \$50,000 more than the C&D bid. Not only was the bid received late, Tarheel bid something that was not requested in the bid package. Mr. Ralls stated the bid was not well defined and the proposal is unclear.

Mrs. Palmer asked whether the City would save \$93,000 by going with Tarheel Roofing. Mr. Schluckebier stated that Tarheel did bid on the two options included in the bid package; however, as an addendum Tarheel identified their own "option c", which was their engineering option. The lower figure that Mr. Legore is quoting is not an option the City requested.

Mrs. Poole expressed concern because she does not feel it was Tarheel's fault that the bid arrived late. She asked why staff opened the bid.

Mr. Ralls responded that the accountant opened the envelope the following day. The bid tabulations had already been posted. He added that merely opening an envelope does not validate a bid.

Mr. Gougelman elaborated. The City has a bid that admittedly came in late. There are provisions in the bid specifications that allow the City to waive irregularities or technicalities, however, this does not mean a bidder can rewrite the specifications and standards. He added that if the City were to waive the glaring irregularity of the late submittal and accept the cheaper proposed "option c", the actual low bidder, who bid on what the City requested, would have a legitimate protest.

Mrs. Poole asked if there is a requirement that late bids not be opened. Mr. Gougelman responded no.

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Mr. Palmer stated he has a problem with the entire process. We knew we could get a GE roof for much less money from the beginning. It is guaranteed for 20 years with much less cost. Council was never briefed on the roof systems and they should have been.

Mr. Ralls stated that Council received the design analysis and the related cost. \$11,700 was spent to look at the building, evaluate the options, and determine what was needed. Engineering is not needed because \$20,000+ has been spent for engineering. In order to bid the project and compare the two roof options, Council approved adding \$5,000 to include both options in the bid package for. Tarheel's bid for the foam roof option as defined in the bid package was \$532,000; which is significantly higher than the low bid.

Mr. Palmer stated it is a Council directive that bidders make presentations to Council for bids exceeding a certain cost.

Moved by C. Palmer/Hand to award the construction contract to C&D Construction, Inc. in the amount of \$472,956.00 and transfer of \$70,000 from General Fund Miscellaneous Project to this project budget.

Mr. Palmer stated this project has been extended beyond comprehension. He recommended for any future roofing project that is strictly a maintenance problem, that the City not get all these people involved.

The question was called. Motion carried. (Mr. Contreras and Mr. Palmer voted nay.)

9. COUNCIL ACTION RE: Elevated Storage Tanks Shut-off Valves (Valve Replacement at Beachside Water Storage Tanks), Project No. C02302, Waterline Industries, Inc., Melbourne, Florida in the amount of \$159,777 and transfer \$70,000 from the Elevated Storage Tank Project (C00304) to the Canova Booster Station Project (C02302) to complete the work in one project.

Mr. Ralls reviewed the agenda report. This is a proposed construction contract award for water system improvements at Melbourne's three water storage tank sites located on the beachside. The contract will accomplish two capital improvement projects – Elevated Storage Tanks Shut Off Valves (C02302) and Canova Booster Station Upgrade (C00304).

Because it will be a single contract, staff recommends that the two projects identified above be combined for contract management. This can be done by transferring the \$70,000 budget from the Elevated Storage Tank Project (C00304) to the Canova Booster Station Project (C02302). The combined budget balance is adequate to cover the contract amount and construction contingency.

Moved by Contreras/E. Palmer to award the construction contract to Waterline Industries, Inc. in the amount of \$159,777. Motion carried unanimously.

Moved by Hand/Walker for transfer of the \$70,000 budget from the Elevated Storage Tank Project (C00304) to the Canova Booster Station Project (C02302) and renaming the

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combined project to Valve Replacement at Beachside Water Storage Tanks. Motion carried unanimously.

10. COUNCIL ACTION RE: Amendment No. 2 to Task Order No. 4 of CH2M Hill's Contract for Services for Lake Washington Water Treatment Plant Improvements, Phase 2, Project No. C02303 - \$50,000 and appropriation of 2000 Water and Sewer Bond Interest Proceeds in the amount of \$50,000 to this Project.

Mr. Ralls briefed Council. This is a proposed amendment to CH2M Hill's contract that provides engineering services for Lake Washington Surface Water Treatment Plant improvements. CH2M Hill has nearly completed plans for the Phase 2 plant improvement project. Services required to assist the City in acquiring permits are not part of the original scope of work. The project is at the point where permit applications should be prepared and submitted.

CH2M Hill will attend pre-application meetings and field meetings, prepare permit applications, submit applications, and respond to any comments from the agencies that issue the following permits:

- FDEP plant construction permit
- SJRWMD environmental resources permit
- Brevard County stormwater permit
- USEPA NPDES stormwater pollution prevention plan
- Brevard County Building Department building permit

The method of payment for CH2M Hill's services will be contracted hourly rates and reimbursable expenses with a cap of \$50,000. Funds are available from interest on bond proceeds from the 2000 Water/Sewer Bond Issue.

CH2M Hill will complete the permit applications within 60 days. An additional 60 days is estimated to cover meetings with the various agencies and to respond to their comments. Most permits should be in-hand by September. The exception is the County building permit because the construction contractor must apply.

Mrs. Palmer asked whether this project is on property that is considered part of the wetland on the shores of Lake Washington and if mitigation requirements are involved. Mr. Ralls responded that most of the work is not near the edge of the lake and is not part of the wetland area. Staff does not anticipate any wetland issues at this time.

Mrs. Palmer stated that a large part of this is the permitting process. She asked if the City could apply for permits itself. She stated that CH2M Hill is great, but they are always coming back for more money. Mr. Ralls explained that this amendment is to add permitting to the project. It is difficult to obtain permits.

Mayor Buckley stated that CH2M Hill is doing this as a phased project. The work is advancing and that is why they are asking for money now.

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Mr. Palmer asked if the stormwater pollution plan entails any dealings with the wetlands. Mr. Ralls responded no, the National Pollution Discharge Elimination System (NPDES) permits the projects.

Mrs. Poole asked about the digging on the west side of the plant several months ago. Bob Klaproth, Utilities Administrator advised that to the west of the tank is an old sludge bed where the City stored sludge. St. Johns is hauling that off as part of the Lake Apopka Restoration Project. Mrs. Poole responded that she is glad the sludge is being removed.

Moved by Walker/E. Palmer for approval of Amendment No. 2 to Task Order No. 4 of the CH2M Hill, Inc. contract in the amount not to exceed \$50,000 and appropriation of \$50,000 of Interest on 2000 Water/Sewer Bond Proceeds. Motion carried unanimously.

Recessed: 8:50 p.m.

Reconvened: 9:00 p.m.

11. COUNCIL ACTION RE: Renewal of Continuing Consultant Contract - Engineering Services, Frazier Engineering, Inc.

Mr. Ralls reviewed the agenda report: The current contract was awarded to Frazier Engineering, Inc. (FEI) on June 22, 1999. The term of the contract is four years. The contract may be extended by the City, at its sole discretion, for up to another four years. Since the term of the contract will be up in approximately 45 days, a decision must be made on extending the contract. If the contract is not extended, it will expire on June 29, 2003 and the City will have to initiate the consultant selection process to hire another engineering firm for the continuing consultant contract.

Extending the term of the contract should be based on the performance of the consultant during the first four years and on the City's satisfaction with their work. One measure of performance is the cost of change orders as a percentage of construction cost for projects they design. FEI had designed over ten million dollars worth of construction projects for the City through March 2003. At \$106,357, the total cost of change orders is 1.54% of the total contracted construction cost, which is a low percentage. Additionally, some change order items are requested by the City and do not result from construction conditions. FEI's average design fee was calculated to be 7.07% of the construction contract amount. This is a very economical figure. Most of the capital construction projects are for the City's water, sewer, streets, drainage or parks systems. Department Directors that operate and maintain these systems are satisfied with FEI's product.

FEI has continued to maintain a staff of engineers and support personnel as well as an in-house surveyor. FEI continues to use the same architect on building projects as proposed when they were selected for the contract.

Moved by Poole/Walker to extend the Frazier Engineering, Inc. Continuing Consultant Contract for four years, based on overall satisfaction with FEI's performance. Motion carried unanimously.

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12. COUNCIL ACTION RE: Motorists Design's Report on Downtown Melbourne Traffic Signals.

Mr. Ralls reviewed the agenda report. Staff contracted with a traffic engineer to evaluate the need for multi-way stop control at the intersections of New Haven Avenue at Livingston Street, Waverly Place, and Municipal Lane in the Downtown area.

The results of the study performed by Motorist Design of Merritt Island are addressed in the report "Multi-Way Stop Analysis for New Haven Downtown Intersections." The traffic engineer's conclusions are:

- That traffic signal warrants are not met and there is no reason to maintain the flashing signals at any of the subject intersections.
- That the multi-way stop signs should be retained because of sight distance and visibility concerns at all three intersections.
- That the mid-block crosswalk west of Livingston could cause driver confusion and should be removed.

If Council concurs, staff will proceed with having the signals and poles removed, creating permanent locations for the stop signs, and removing the unsafe crosswalk. The estimated cost is \$20,000. Funds are available in the Downtown Melbourne Redevelopment Fund - Reserve Projects.

Moved by Hand/Contreras to accept Motorist Design's recommendations and direct City staff to implement these recommendations.

There was a brief discussion about traffic in the Downtown area. Mr. Ralls stated it is the consultant's opinion that the flashing lights are creating more confusion.

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

13. CONSENT AGENDA:

Moved by Hand/Contreras for approval of 13 "a" through "n" as recommended.

Referencing Item 13 "f", Mr. Palmer asked about the cost of the reverse osmosis cartridges, stating the reverse osmosis plant is getting more and more expensive. Mr. Buckley stated that the previous cost was \$8.72; the current cost is \$8.45.

Mr. Klapproth elaborated. This is the same manufacturer the City has been using. The technology of the filters has improved and the cost is decreasing. He stated that R/O production costs are cheaper than the surface water plant costs.

Mrs. Poole referenced Item 13 "i". She said the City loaned the CRA \$260,000 to purchase one piece of property and now they are requesting grant funding from Forever Florida. Discussion followed regarding the use of the grant funds. Mrs. Poole stated she is opposed

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to using the funding to enhance the property. She stated that this development area is moving at a fast rate and she is having trouble keeping up. She would like to see what is included in the grant application. Mrs. Braz stated that staff plans to send the application to the State this week for technical review; however, she can provide a copy to Council.

Mayor Buckley stated several people have asked to speak on Item 13 “m”. By consensus Council agreed to allow public comment.

Benjamin Horne, 1965 #C Kennedy Street, stated there is confusion about the sign. The goal is to improve the Booker T. Washington Neighborhood, to influence and motivate people about the project. He volunteered to meet with people to discuss their concerns. He stated this is positive and is an improvement to the neighborhood.

Terry Ables, 1156 Coleman Street, President, Booker T. Washington Neighborhood Association, stated it is heartbreaking that a sign can cause so much chaos. This was done to show people that this neighborhood is changing. The residents are tired of the drugs and prostitution in the area, and they are cleaning it up. The sign was not meant to step on the toes of those with relatives in the Eau Gallie Cemetery. Ms. Ables stated that she held a meeting at her home with Councilman Ed Palmer, CDBG staff, Booker T. Washington Board, City Manager, and neighbors to find a solution to resolve this issue. She encouraged everyone to work together to find a solution. She agreed that a better sign is needed for the cemetery.

Margie Pressley, 1026 Coleman Street, stated they are working hard to make the neighborhood come together. As far as the sign is concerned, she does not understand why people are making such a big issue about the cemetery sign being smaller than the Booker T. Washington (BTW) sign. The cemetery is in, and is part of, the Booker T. Washington Neighborhood. Ms. Pressley stated those who are complaining do not live in the neighborhood. The cemetery sign is great the way it is, but if it makes people happy and will satisfy everyone, the sign can be made larger.

Debbie Simmons Tindall, 5020 White Heron Lane, stated that she was shocked when she saw the sign. Five generations of her family are buried in the cemetery, most recently her mother. The BTW sign makes it appear that you are going into a neighborhood, not a cemetery. She said her mother was buried in a cemetery, not a neighborhood. She recommended moving the BTW sign to the south side of the street or make the Eau Gallie Cemetery sign as large. She stated she is not happy with the situation. She noted that a lot of other Eau Gallie residents don't like it either.

Mayor Buckley stated that the sign can't be moved based on liability problems. Staff is recommending a larger sign to distinguish the cemetery.

Ms. Tindall said the cemetery is a historical site and it should be properly identified.

Mrs. Palmer said she has seen the BTW sign. It is very close to the cemetery driveway. She said you can't tell if you are driving into the cemetery or the neighborhood. The blue cemetery sign is too small. There needs to be some balance to distinguish between the

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entrance to the cemetery and the entrance to the neighborhood. She suggested a wrought iron arch across the entrance to the cemetery.

Ms. Tindall said the neighborhood has improved 100%, she now feels safe – where at one time people did not feel safe in the area. A lot has been done in the community. However, Eau Gallie Cemetery needs some respect. She stated this is a very personal thing to her.

Wally Rowan, 349 Waddell Street, stated the Eau Gallie Cemetery is a beautiful, peaceful cemetery with old oak trees and Spanish moss. There are old headstones full of history. The improvements to the neighborhood are great, the area is coming back to life. When he first noticed the new sign being constructed in front of cemetery he thought it was a new sign for the Eau Gallie Cemetery. He commented that the little blue Eau Gallie Cemetery sign is almost invisible. The BTW sign is misplaced and is a disservice to the people in the area. The cemetery should remain the Eau Gallie Cemetery without this neighborhood sign at the entrance.

Louvanona Simpson, 1037 Swan Street, stated this is the second time discussion about alterations to the sign has taken place. She expressed concern that this item appears on the consent agenda and Council will take action at this meeting. She questioned whether the meeting was properly advertised.

Mayor Buckley responded yes. He explained that concerns have been raised because the sign was put in front of the cemetery. He agreed that the cemetery is not very well identified. It is impossible to move the sign without destroying it. Staff's recommendation is to make identification of the Eau Gallie Cemetery more prominent.

Mr. Palmer added that the public was properly notified and Council is receiving public comment.

Robert Mitchell, 1112 Swan Street, stated that a lot of work was put into the sign. He has been in this area a long time. He is concerned about trash talk that has occurred. He encouraged resolution of the issue, stating the residents have worked hard to better the neighborhood.

Irene Summerford, 1800 Bunche Street, stated she is a long time resident. She read from the U.S. Constitution, stating Council represents all the people. This is their neighborhood and the neighborhood was here before the cemetery. The residents did not complain about a cemetery being placed in the neighborhood. Ms. Summerford stated, "We are here to defend our neighborhood. We may be poor and the neighborhood written off as a high crime area, but we have rights under the constitution." She asked Council to listen to what is being said. She does not see how the sign can be considered offensive. She stated she is sorry the sign offends some people; however, these people weren't offended when they thought it was an Eau Gallie Cemetery sign. They were only offended when they realized it was the BTW sign. She encouraged Council to leave the BTW sign as it is, construct a larger sign for the Eau Gallie Cemetery, and resolve this issue tonight on a happy note.

Kim Gabriel, President, Habitat for Humanity of South Brevard, stated Habitat works hard in

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this neighborhood. She urged Council to accept staff's recommendation to leave the BTW sign and to enhance the Eau Gallie Cemetery sign. The BTW sign stands for over one million volunteer hours in the neighborhood, this is a lot of people making a commitment to that neighborhood. Ms. Gabriel stated that she is very partial to the sign; however, she looked at it objectively. She said the first thing you notice in the area is the railroad tracks and the background of the warehouses. Then you see the cemetery and auto body repair shop. Next is the opening to the cemetery. On one side of the entrance, next to the road, is the BTW sign. On the right side of the gate is the Eau Gallie Cemetery sign. The cemetery sign can be seen from U.S. 1. Ms. Gabriel stated she doesn't want to take anything away from the people who have relatives buried there. The cemetery is part of a neighborhood that has been there for many years. She asked Council to remember where we've been, how hard we've worked to get to where we are today, and how far we still have to go. Please find a peaceful resolve. Be proud of what the BTW sign stands for.

Mrs. Poole read a prepared statement. She said that the monstrous signs proposed for this small area of the City are completely out of line. The signs overpower any sign in the entire City. She said that trying to attract attention in this manner defeats the sign. She said it appears that the Booker T. Washington Neighborhood is more important than anything in the City. The location makes the entrance to the Booker T. Washington Neighborhood look like the entrance to the Eau Gallie Cemetery. The sign is insulting to the small blue and white metal sign on the fence of the Eau Gallie Cemetery. She referenced the proposal to move the cemetery entrance to allow the BTW sign to remain. She asked why Council should keep a sign that has caused so much ill will and discontent. This sign does not belong in front of the cemetery. She added that CDBG funds should not be used for signs, tax money is needed to assist indigent neighborhoods with home rehabilitation and food.

Continuing, Mrs. Poole stated this was City-sponsored, City-financed, and implemented by a newly formed Brevard Neighborhood Development Coalition that has big plans for more development in the area. The total cost for this sign is \$31,065. Mrs. Poole stated that staff has acknowledged that it erred without seeking further instructions and approval from Council prior to proceeding. She said the project was a BNDC project and it is their responsibility to move or build another sign in an appropriate place approved by Council. Council is the one who must answer to the flak – Council is responsible to the citizens. This is a sign that should be removed from in front of the cemetery because it is not an appropriate place.

Mr. Palmer stated that he believes this issue has been blown out of proportion. Placing this sign in its current location was an oversight by a lot of people trying to do a good thing for the neighborhood. Placement of the sign was not intentional for any particular reason. Five other locations were tried; however, because of private property, railroad property, etc., the only place left was City right-of-way. Another issue is that Council was unaware the BTW sign was being erected so it caught Council and others by surprise. Mr. Palmer stated tremendous progress has been made in this neighborhood; the residents aren't living in houses, they are living in homes. He stated that his wife has 30 relatives buried in the Eau Gallie Cemetery and he will be buried there one day. He understands the feelings of the Eau Gallie residents; there is a devotion to those people buried in that cemetery, a sentimental attachment to the cemetery. However, by the same token, the Booker T.

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Washington Neighborhood has tried to make their area a better place. There must be some resolution to this conflict, some compromise must be made. The recommendation is to enlarge the cemetery sign. The people in Eau Gallie and the Booker T. Washington Neighborhood must work together and respect one another's feelings. He stated that emotions drive people and strong emotions guide how you act. He understands the feelings of both groups. The issue needs to be resolved in peace and harmony, doing what is best for the people who live here and for the Eau Gallie Cemetery.

Mrs. Hand agreed with Mr. Palmer. She is proud of the Booker T. Washington area and the people who have worked so hard. This is a beautiful sign. Nothing should be done to move it anywhere else. We need to work together for some resolution in regard to making a better entrance and a larger sign for the cemetery so that everyone can be at peace with this issue.

Mrs. Palmer stated she understands how some people got the wrong impression of what the problem was with the sign. The problem, simply stated, is the placement. If the sign were five feet farther back it wouldn't be a problem. She stated it costs too much to move the sign and we don't want to destroy the sign. She stated that strictly for aesthetics, the cemetery sign needs to be one that is not just a blue sign that is overshadowed by the BTW sign. She pointed out other subdivisions that have large, landscaped signs. The Booker T. Washington Neighborhood should have that same opportunity; however, at the same time the cemetery should be properly identified.

Mrs. Walker stated that she agreed with Mr. Palmer and Mrs. Hand.

Mrs. Poole agreed that the Booker T. Washington Neighborhood has improved. She has no problem with what Habitat for Humanity has done. She stated she has a problem with a sign that was placed improperly. It was put where it would be absolutely overpowering. She said that the solution is not to say it's done, we'll live with it. Another sign cannot be put on the opposite side, it would be too gaudy. She said this is easy for people who don't have loved ones buried in the Eau Gallie Cemetery. This is an historic cemetery. She stated that the location of the BTW sign on Lake Washington Road is fine; however, the placement in front of the Eau Gallie Cemetery is not appropriate.

Mrs. Poole discussed concerns with Item 13 "n". She stated it would be more meaningful if the community worked together instead of expecting everything handed to them.

The question was called on approval of consent agenda 13 "a" – "n". (Mrs. Poole voted nay based on Items 13 "m" and "n".)

Mrs. Palmer commented, regarding Item 13 "n", that the funding proposed for the youth initiative project must be used in low income neighborhoods. No money is being taken away from anyplace. Mr. Contreras added it is not a hand out.

- a. Supplement No. 140 to Continuing Consultant Contract for Cliff Creek Baffle Box, Project No. C03900, Frazier Engineering, Inc. - \$10,400.

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- b. Change Order No. 2 to ABC Landclearing and Development, Inc. for Franklin Street and Myles Drive Paving, Project No. CD0021, \$750.
- c. Change Order No. 3 to ABC Landclearing and Development, Inc. for Dunham Street, Branch Street, and Sea Grape Avenue Paving, Project No. CD0121, \$4,599.
- d. Engineering and construction of sidewalks on Rio Villa Boulevard and Rio Casa Drive at Riverside Drive by Brevard County, engineering estimate of \$1,300 and construction estimate of \$15,000-\$20,000 and appropriation of Transportation Impact Fees for this Project.
- e. Purchase of vulcanized seam system for belt press conveyors for the wastewater treatment facilities, Epperson & Company; Jacksonville, FL - \$16,032.60.
- f. Annual Contract for the purchase of Reverse Osmosis pre-filter cartridges, Tri-Dim Corporation; Stuart, FL - \$27,040 (based on unit price of \$8.45 delivered).
- g. Purchase of fifteen Jaguar 700P Portable Radios with batteries and programming, Communications International, Inc.; Vero Beach, FL - \$24,575.
- h. Purchase of four vehicles and equipment, Ferrara Fire Apparatus, Inc., Holden, LA; Nortrax, Orlando, FL; Wesco Turf Supply, Lake Mary, FL - \$142,736.37.
- i. RESOLUTION NO. 1819: A resolution authorizing submittal of an application to the Florida Communities Trust (FCT) Program within the Florida Department of Community Affairs for the third cycle of the Florida Forever grant program in the amount \$101,116.94 to reimburse the costs associated with the recent purchase of a 0.56-acre parcel of property located at the northeast corner of Highland Avenue and Eau Gallie Boulevard.
- j. RESOLUTION NO. 1820: A resolution amending when participants may change a benefit election after the plan year has commenced (resulting from changes in family status) and approving the Summary Plan Description - Material Modifications to the City's Flexible Benefit Plan.
- k. RESOLUTION NO. 1821: Subordination Agreement with FDOT for a Sidewalk Easement at 340 North Harbor City Boulevard.
- l. RESOLUTION NO. 1822: Quit-Claim Deed to Beville Outlaw and John Rice, Trustees for Tract A in Rio Villa Subdivision, located on Riverside Drive south of Paradise Boulevard.
- m. Retention of the existing Booker T. Washington (BTW) Neighborhood Landscaped Sign and replacement of existing cemetery sign with larger sign to be located on the north side of the main entrance.

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n. Approval of the proposed 2002-2003 Booker T. Washington (BTW) Youth Initiative Project Activities.

14. CONDITIONAL USE/SITE PLAN APPROVAL (CU-2001-17/SP-2001-13) HISTORIC ROSSETTER FOUNDATION: (Public Hearing) A request for a conditional use to allow a museum in a residential zoning district by converting the old Rossetter home into a museum with expansion of the site to include additional properties, which include botanical gardens and parking for the museum and special events. (Owner – Caroline P. Rossetter Trust c/o William C. Potter; Hestor D. Morton; and City of Melbourne; Florida Historical Society) (Applicant - Historic Rossetter Foundation) (Representative – John Parks) (P&Z - 4/17/2003)

Mayor Buckley referenced correspondence from Attorney Phil Nohrr, representing the applicant, requesting that this item be postponed until the June 10 Council meeting.

Moved by Hand/Walker to postpone this item until the June 10 Council meeting. Motion carried unanimously.

15. ORDINANCE NO. 2003-28 REZONING REQUEST (Z-2002-948): (First Reading/Public Hearing) An ordinance to change the zoning from R-1AA (Single-Family Residential) to C-1A (Professional Offices and Services District) on three lots and a portion of a fourth lot consisting of .478 acres located on the east side of Airport Boulevard, south of Fee Avenue. (Owner/Applicant/Representative – Donald Frederick, President, Private Mortgage Acquisitions Corp.) (P&Z Board - 4/17/2003)

Attorney Gougelman read Ordinance No. 2003-28 by title.

Ms. Braz briefed Council. This is a request to change the zoning on three lots and a portion of a fourth lot consisting of .478 acres located on the east side of Airport Boulevard, south of Fee Avenue from R-1AA to C-1A to develop an office building and related parking. When Airport Boulevard was four-laned, it was determined that professional uses would be appropriate on the street. The land use on the property is mixed-use low density residential and commercial with a site-specific policy to limit development to professional uses. The proposed C-1A zoning complies with these regulations.

The Planning and Zoning Board unanimously recommended approval.

Mayor Buckley opened the public hearing. The applicant, Donald Frederick, was present.

Moved by Contreras/Hand for approval of Ordinance 2003-28. Motion carried. (Mrs. Poole voted nay.)

16. ORDINANCE NO. 2003-29 (ED-2003-01): (First Reading/Public Hearing) An ordinance granting an Ad Valorem Tax Exemption for a period of four years totaling an estimated \$32,476.60. (Applicant - Liberty Aerospace, Inc.)

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Attorney Gougelman read Ordinance No. 2003-29 by title. There were no public comments.

Mrs. Dittmer briefed Council on this new process. This is an ordinance to approve a tax exemption for Liberty Aerospace, Inc. to manufacture small airplanes at 1401 General Aviation Drive on property owned by the Melbourne International Airport. The company will provide 64 new jobs by the year 2005, with an average salary of \$39,000, and intends to complete \$1.5 million in improvements to the property and bring \$1 million in new personal property value to the City. The City's Program Guidelines indicate that a total of 22 points should be assigned to the company based upon projected employees, payroll and capital improvements, which would provide a 100% exemption from Melbourne property taxes for four years. Based upon this information, the Property Appraiser's office has determined that the estimated tax exemption would be \$8,119.15 annually. The actual tax exemption will be based on the actual amount of construction value and personal property.

Mr. Palmer stated this is a county-wide program and asked if there were any indications that this was a problem within the county and whether companies were not meeting the specifications.

Attorney Gougelman stated this application relates to Melbourne ad valorem taxes. It is the first one we've ever experienced. He said there have been some reports in the newspaper about Brevard County exemptions where the companies may or may not have met the criteria.

Mr. Palmer asked about the procedure to determine if a company meets prerequisites. Mr. Gougelman responded that the company is required to provide an annual report stating it meets the stipulations in the application. If a report is not submitted or we find they don't meet the criteria outlined in the application, the exemption can be adjusted or withdrawn.

Referencing the proposed 64 jobs, Mrs. Palmer asked if these are new to Brevard County or new to the company. Mrs. Dittmer responded they are new Brevard County jobs. Liberty Aerospace has upper level management that will come with the company; however, a majority of the 64 jobs will be filled from Melbourne applicants.

Mrs. Palmer recommended that for future applications, the points be based on new jobs rather than including jobs of people that come with the company. The intent was to give a tax break for jobs created for the community. Mrs. Dittmer stated Liberty Aerospace is bringing two people to Melbourne with the company, and has a net increase of 62 employees.

Mayor Buckley recommended that staff monitor the number of employees very carefully. The County found many companies don't meet the numbers. He said the City will reduce or revoke the tax exemption. Mrs. Dittmer advised that State Statutes require the company to submit an annual report.

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Discussion followed regarding the ratio (based on annual wages) of annual taxes not going into the coffers. Mr. Contreras reported that based on a wage impact of \$4.8 million, the loss of tax revenue amounts to two tenths of one percent. In terms of investment into Brevard County this is very good. The enforcement of the statute and the ordinance is critical. If Brevard County doesn't hold these companies accountable that is the County's concern; however, Melbourne should keep a tight reign.

Mrs. Dittmer reported that the County has taken back a number of exemptions. Some companies have been given more time to reach the proposed employment numbers.

Mrs. Poole referenced Maverick Jet, Inc. pulling out of Melbourne. The company moved to Melbourne last year; however, determined it would be less expensive somewhere else. She discussed the fact that a company with less than 100 employees is exempt from providing a 60 day notice of job cuts. She expressed concern that Liberty Aerospace proposes 64 jobs and they, too, will be exempt from that notification.

Mrs. Poole's motion to postpone to the next meeting did not receive a second.

Moved by Contreras/Hand for approval of Ordinance No. 2003-29. Motion carried. (Mrs. Poole voted nay.)

Recessed: 10:35 p.m.  
Reconvened: 10:40 p.m.

17. ORDINANCE NO. 2003-30 ZONING CODE AMENDMENT (Z-2003-949AD) DOWNTOWN EAU GALLIE OVERLAY DISTRICT: (First Reading/Public Hearing) An ordinance amending City Code, Appendix B, Article XVIII, Supplementary District Regulations (8), creating an overlay district and regulating the height of structures in the Olde Eau Gallie Redevelopment Area. (P&Z - 4/17/2003)

Attorney Gougelman read Ordinance No. 2003-30 by title. There were no public comments.

Ms. Braz briefed Council. This is a proposal that has been prepared as a suggestion from the consultants (EDAW) who are developing the Eau Gallie Master Plan and the Riverwalk. It will limit the height and the setback of buildings to be consistent with the scale of the area. The height will vary, allowing increased height as development moves away from the water. A map included in your agenda package identifies the various levels.

All of the affected property owners have been notified of the change and there have been two public hearings before the Planning and Zoning Board, and additional meetings with the Eau Gallie Redevelopment Committee. There has been no opposition. The owner of property located between Montreal Avenue and Eau Gallie Boulevard, east and west of Pineapple Avenue, has submitted preliminary drawings and is vested for development under the existing Code.

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The Planning and Zoning Board unanimously recommended approval of this proposed ordinance.

Mrs. Poole said she read in the Planning and Zoning Board minutes that there were no objections; however, this is a misrepresentation. She received calls of objection including one from Mr. Saunders. Mrs. Braz responded that Mr. Saunders did not object to lowering the height restriction; he wanted it lower.

Mrs. Braz explained the tiered building heights, noting that the height decreases as you near the river.

There was a brief discussion regarding grandfathering of Goldfield Corporation because they had previously submitted plans. Attorney Gougelman explained that when someone submits a plan under existing regulations and there is no pending change to the regulation, the plan must be reviewed under the regulations existing when the plan was submitted. This does not mean that the plan will be approved, but it must be reviewed under the old regulations.

Mrs. Braz confirmed for Mrs. Palmer that there is no increase in any height limitation; the ordinance is more restrictive.

Mayor Buckley opened the public hearing.

George Alexander, Chairman, Olde Eau Gallie Riverfront Community Redevelopment Advisory Agency, stated he likes the plan. The area is currently zoned for 80' everywhere. This ordinance lowers the height limitations and creates a visual effect. He pointed out that the height limitation on his property is being decreased from 80' to 40'; and he thinks this is a good idea. Mr. Alexander said Mr. Saunders asked that the height limitation not be increased to 80'; he was not aware that the height limitation was currently 80'.

Mrs. Poole asked about Link Johnsten's opinion. Mr. Alexander stated he believed Mr. Johnsten supported the ordinance even though it decreases the height limitation on his property from 80' to 35'.

Mr. Palmer objected to vested rights for someone that had merely submitted a plan. There has been no approval. People should not believe they are vested merely because they submitted a plan.

Moved by Hand/Contreras for approval of Ordinance 2003-30. Motion carried. (Mrs. Poole voted nay.)

18. RESOLUTION NO. 1823: A resolution approving an Interlocal Agreement with Brevard County regarding an Infrastructure Sales Tax.

Mayor Buckley referenced the memorandum from the City Manager requesting this item be withdrawn.

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

19. COUNCIL ACTION RE: Approval of proposed Grants-in-Aid Funding at the recurring level to grant organizations which have received recurring grant funds.

From the agenda report: At the April 22, 2003 meeting the City Council recommended preparation of the 2003-2004 Budget at current service levels, which would include providing grants from the General Fund to local non-profit organizations. The attached memo from Amy Elliott describes the City's application process and lists the non-profits which have recently received grants.

Now that staff is developing the Fiscal Year 2003-2004 Budget, it is time to begin the application process, but because of economic uncertainty and fiscal constraints necessary to balance the budget this fiscal year, we do not recommend providing more than the recurring level of grants (\$75,162) to the organizations receiving recurring grant funds. If Council concurs with this recommendation, staff will advise these non-profit organizations of the application deadline but will not send letters to any other organizations.

Mrs. Elliott reviewed the item. Resolution No. 1727 sets an annual cap of \$60,000 for non-profit organizations and provides that Council can increase/decrease that amount. She asked for some clarification based on discussion of funding next year's budget at the current service level. She said she does not want groups who were funded last year to think they will receive the same funding this year.

Mr. Contreras pointed out that there are specific organizations that Council set aside, such as Honor America, Melbourne Municipal Band, etc. Mrs. Elliott responded that Council did not set aside a specific amount. There are certain groups that have been identified for many years in the budget as individual line items.

Moved by Poole/C. Palmer to keep the annual cap at \$60,000.

Mrs. Elliott advised that staff has not started the application process in terms of notifying organizations that funding is available; however, unsolicited requests for funding have been received.

Mr. Contreras stated only giving to those organizations on the recurring grant cycle might be bad precedence for this year.

Mrs. Poole recommended reducing funding to the Brevard Art Museum. She commented that some organizations throw big fundraisers and have the ability to obtain other funding.

Discussion followed. Council agreed funding for AARP, Community Services Council, Honor America, Melbourne Municipal Band, Melbourne Community Orchestra, and the Henegar Center is included in this \$60,000 amount.

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The question was called. The roll call vote was:

Aye: Poole and C. Palmer

Nay: E. Palmer, Walker, Hand, Contreras and Buckley

Motion failed.

Moved by Contreras/Hand to increase the amount to \$75,162. Motion carried. (Mrs. Poole and Mrs. Palmer voted nay.)

20. COUNCIL ACTION RE: Updated Transportation Improvement Program.

From the agenda report: Each year the Florida Department of Transportation (FDOT) and the Brevard County Metropolitan Planning Organization (MPO) request that the City provide a list its proposed five-year transportation improvement program (known as the TIP). As the current-year projects begin implementation, they are dropped from the list and are replaced with new fifth year projects. The TIP consists of two lists: one for locally (City and County) funded transportation improvements and one for State and Federally funded improvements. Projects in the work program need not be included or restated. Projects where a new phase of implementation is proposed are included in the request.

For the most part, the recommended list is a continuation of projects with additional phases identified in future years. Projects to be developed from local funding sources include both County and City maintained roadways. The list has been modified from last year to indicate projects that have been implemented or not considered necessary at this time, and to add new projects described on the list titled Locally Funded Projects.

Moved by Hand/Walker for approval of the proposed projects and priorities (State and Federal Funding Requests FY 2003-04 to 2007-2008, Locally Funded Projects FY 2003-04 to 2007-2008, and County Roadway System Improvements) and transmission to the Brevard Metropolitan Planning Organization. Motion carried. (Mrs. Poole voted nay.)

21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Poole discussed problems with the netting at the Harbor City Golf Course.

Mr. Schluckebier reported on the following:

Officer Matt Dazutta, an injured police officer, has been placed in a vacant community service officer position, taking him off workers' compensation.

The City received an improved rating (from nine to eight) from the Insurance Services Office in its Community Rating System. This is a rating program that provides credit points based on flood plan management. The eight rating provides a 10% discount on flood insurance for residents living in a flood plan area.

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Pat Torpy, Assistant Utilities Director, is resigning effective May 30.

Regarding the sales tax issue, the Cities of Palm Bay, Titusville and Melbourne are working with the County. Before an interlocal agreement is signed, some changes are needed; however, the general thrust continues to be beneficial. The County can hold a referendum in November with the support of cities representing more than half of the County's population. Melbourne, Palm Bay and Titusville meet that requirement.

By consensus, Council agreed to allow the City Manager to enroll in the pension plan provided to the City's senior management positions. Council also agreed that the City Attorney, should he wish, could choose the same option for the future.

In response to Mr. Palmer, Mr. Schluckebier advised that he will provide an updated report to Council on the status of City employees called to active duty.

There was a brief discussion regarding the police chief selection process.

22. ADJOURNMENT

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

The meeting adjourned at 11:22 p.m.



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Acting City Clerk – 5/22/2003

Approved by Council 5/27/2003