

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 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 Mike Maguire, Lighthouse Assembly of God, 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
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Assistant City Manager
	William McCord	Acting Planning & Economic Development Director

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented a Certificate of Appreciation to Charlotte Friedland, on behalf of Nathan Friedland (deceased), Robert Rudolph, Evon FitzGerald and Edward Molloy for their service on the City Code Review Committee, Section 4. James Kraft also participated on the review committee.

Mayor Buckley read a proclamation recognizing the 50<sup>th</sup> Anniversary of the Brevard Symphony Orchestra (BSO); accepted by Fran S. Delisle, Executive Director, BSO.

5. APPROVAL OF MINUTES - Regular Meeting June 24, 2003

Moved by Hand/E. Palmer for approval.

Mrs. Walker referenced Item 18 (discussion of F-16 fighter jet training) and said that in her motion she also intended for the letter to be sent to local and Congressional leaders. The City Manager confirmed that the City's letter opposing the F-16 operation has been sent to surrounding cities and our Congressional representatives.

The question was called. Motion carried unanimously.

6. CITY MANAGER'S REPORT

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

No additions/no comments.

7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2003-35 ZONING REQUEST (Z-2003-950): (Second Reading/Public Hearing) An ordinance establishing a C-1 (Neighborhood Commercial) zoning designation on the west 8.71 acres and R-1B (Single-Family Residential) zoning designation on the east 25.46 acres of a 34.17-acre parcel, located on the east side of Wickham Road, north of Pebble Creek Street, and south of Summer Brook Street. (Owner – John Massaro) (Applicant - B.S.E. Consultants) (Representative - Ana Glaubitz) (First Reading - 6/24/03)

Attorney Gougelman read Ordinance No. 2003-35 by title. There were no disclosures by Mayor and Council and no comments from the public.

Moved by C. Palmer/Contreras for approval of Ordinance No. 2003-35. The roll call vote was:

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

Nay: None

Motion carried unanimously.

9. ORDINANCE NO. 2003-36 (AR-2003-143), ORDINANCE NO. 2003-37 (CPA-2003-03), ORDINANCE NO. 2003-38 (Z-2003-953), AND SITE PLAN APPROVAL (SP-2003-10): (Second Readings/Public Hearings) Ordinances providing for the annexation of a 3.33-acre and a .21±-acre portion of the Parkway Drive right-of-way, located on the west side of Wickham Road, south of Parkway Drive, establishing a mixed use Commercial/Medium Density Residential land use, establishing C-1 (Neighborhood Commercial) zoning and site plan approval on the same property. (Owner – Ed Paniccia & Allen Thorn) (Applicant - Building Management Systems, Inc.) (Representative - Perry J. Coleman) (First Reading - 6/24/03)
- a. Ordinance No. 2003-36: An ordinance providing for the annexation of the property. (AR-2003-143).
  - b. Ordinance No. 2003-37: An ordinance establishing mixed use Commercial/Medium Density Residential land use of the property (CPA-2003-03).
  - c. Ordinance No. 2003-38: An ordinance establishing C-1 (Neighborhood Commercial) zoning (Z-2003-953).

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

d. Site Plan Approval: A request for site plan approval (SP-2003-10).

Attorney Gougelman read each ordinance by title. No disclosures from Council/no comments from the audience.

Moved by Poole/Hand for approval of Ordinance No. 2003-36. The roll call vote was:

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

Nay: None.

Motion carried unanimously.

\*Mrs. Palmer originally voted nay; however, during Item 10 on the agenda, she stated that she voted nay on this item in error. She explained that her nay vote was intended for Item 10. Attorney Gougelman informed Council that under Robert's Rules of Order, a vote can be changed if there are no objections. The principal reason is that the outcome in this instance would not change by the vote being changed. Council agreed with allowing Mrs. Palmer to change her nay vote to an aye vote on this item.

Moved by Contreras/Walker for approval of Ordinance No. 2003-37. 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/Poole for approval of Ordinance No. 2003-38. 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 Site Plan SP-2003-10 with the conditions outlined in the agenda package. Motion carried unanimously.

10. ORDINANCE NO. 2003-39 (CU-2003-03) WITH SITE PLAN APPROVAL (SP-2003-11) INTERSTATE BATTERY: (Second Reading/Public Hearing) An ordinance granting a conditional use for an automotive service station and site plan approval on a 0.89-acre parcel zoned C-P (Commercial Parkway), located on the south side of Sarno Road, west

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

of Wickham Road, and east of State Street. (Owner - Anthony Tripodo) (Applicant - PMW Properties, Inc.) (Representative - Jake Wise) (First Reading - 6/24/03)

Mr. Gougelman read Ordinance No. 2003-39 by title. There were no disclosures from Council/no comments from the public.

Moved by Hand/E. Palmer for approval of Ordinance No. 2003-39. The roll call vote was:

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

Nay: Walker and C. Palmer

Motion carried.

11. ORDINANCE NO. 2003-40 (CU-2003-04) WITH SITE PLAN APPROVAL (SP-2003-12) FOUNTAIN TOWNHOMES: (Second Reading/Public Hearing) An ordinance granting a conditional use and site plan approval to allow a multiple-family development on an 11.06-acre parcel zoned C-1 (Neighborhood Commercial), located on the west side of Dairy Road, north of Palm Bay Road. (Owner/Applicant - Frank Brockerman) (Representative - Jake Wise) (First Reading - 6/24/03)

Mr. Gougelman read the ordinance by title. There were no disclosures. There were no comments from the public.

Moved by Contreras/Hand to approve Ordinance No. 2003-40 and direct the Planning & Zoning Board to begin review of school concurrency issues and provide recommendations by the end of August. The roll call vote was:

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

Nay: Poole

Motion carried.

Mrs. Poole voted nay because this property was supposed to be an extension of BJ's Wholesale Club when the property was annexed in 1999. The School Board has asked us not to approve this because Palm Bay High School is over-capacity. The County maps indicate there are scrub jays on the site; however, the Environmental Impact Report shows no scrub jays or scrub jay habitat. Also, the gopher tortoises on site, which we have been told have a respiratory disease, will be killed.

The Mayor pointed out that one report indicates that this development will only result in seven additional students at Palm Bay High School.

12. ORDINANCE NO. 2003-41 (Z-2003-951AD): (Second Reading/Public Hearing) An ordinance amending the City Code, Appendix B, Article XX, "Site Plan Approval for

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Multiple-Family Dwelling Districts, Planned Commercial and Industrial Developments, Mobile Home Parks, Institutional Zoning, Conditional Use Requests, and Downtown Redevelopment Area Proposals” and Article XV, “Granting Conditional Uses”; requiring the submittal of renderings of proposed projects and developments. (First Reading - 6/24/03)

The City Attorney read Ordinance No. 2003-41 by title. There were no comments during the public hearing.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 2003-41.

Mrs. Walker asked if the new change means that we will require a rendering before approving a conditional use. Mayor Buckley replied yes. Attorney Gougelman reminded Council that a rendering or photograph will not be binding on a development unless it is made a condition of approval.

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.

13. ORDINANCE NO. 2003-42 (Z-2003-954AD): (Second Reading/Public Hearing) An ordinance amending City Code, Appendix B, Article XXV, “Planning & Zoning Board,” by expanding the membership of the Board/LPA to include a non-voting member appointed by the School Board. (First Reading - 6/24/03)

Mr. Gougelman read Ordinance No. 2003-42 by title. There were no comments from the public.

Moved by Hand/E. Palmer for approval of Ordinance No. 2003-42. The roll call vote was:

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

Nay: C. Palmer

Motion carried.

NEW BUSINESS

14. ORDINANCE NO. 2003-49: (First Reading) An ordinance amending Section 32-49 of the City Code by establishing Timberline Estates Water Main Reimbursement Area.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Attorney Gougelman read the ordinance by title. City Engineer Howard Ralls reviewed the agenda report.

Moved by C. Palmer/Walker for approval of Ordinance No. 2003-49. Motion carried unanimously.

15. CONSENT AGENDA:

Mrs. Poole referenced item “f” and stated that Council did not approve placement of the existing Booker T. Washington neighborhood sign, which looks like it is the entrance to the cemetery sign. The sign was placed in the right-of-way. And, to compensate the City is going to fund an archway. She said that the archway won’t help the situation and the City should not have to pay for this.

Mrs. Palmer said that she (Mrs. Palmer) made a suggestion during a Council meeting that an archway, similar to the one at the Melbourne Cemetery, be installed.

Mrs. Poole referenced the people who attended a previous Council meeting on this issue and said this is not what they understood would happen. Mayor Buckley noted that the archway is an attempt to address the problems the Booker T. Washington sign created. The archway will make the cemetery distinct from the neighborhood sign. Mr. Palmer added that this action on the agenda has nothing to do with the Booker T. Washington sign.

Moved by Hand/Contreras for approval of items 15 “a” through “h” as recommended. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Transfer of \$20,000 from Miscellaneous Water & Sewer Projects to the U.S. 1 Watermain Extension Project No. C01306 for additional inspection services.
- b. Addendum to purchase order for Grit Waste Removal, D.B. Lee Phase III, Project No. C96373, Waste Management, - \$11,284.51.
- c. Annual maintenance and support services for Police Department computer software, Hewlett Packard, Roseville, CA - \$21,292.
- d. Award for construction/testing of a new 8” irrigation well at Harbor City Golf Course, Perry & Leighty, Inc., Melbourne, FL - \$38,440.
- e. Purchase of an Emergency Traffic Signal Preemption System for 10 intersections, Brown Traffic Products, Davenport, Iowa - \$25,522 and installation services, Traffic Control Devices, Inc., Altamonte Springs, FL - \$9,207.50.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

- f. Establish a project budget of \$3,500 to construct the Eau Gallie Cemetery Archway and transfer \$3,500 from General Miscellaneous Capital Projects to this new project.
  - g. Purchase and installation of four air conditioning units for the Eau Gallie Civic Center, Able Air, Melbourne, FL - \$18,611.50. (Note: the agenda reflected \$18,000; however, the backup material considered by Council correctly listed \$18,611.50.)
  - h. Sale of a Massey Ferguson Tractor to Melbourne Village - \$5,000.
16. REZONING (Z-2003-946) ELEMENT THREE: A request for a change of zoning on an 18.72±-acre parcel from C-R-A (Residential Holding with a conditional use for a motor cross track) (13.22 acres) and R-1A (Single-Family Residential) (5.5 acres) to R-2 (Cap 6) (One-, Two-, and Multiple-Family Residential with a cap of six units per acre) to allow for the development of a townhouse project, located west of I-95, east of Jones Road, and north of White Heron Drive. (Owner/Applicant - Element Three, Inc.) (Representative - Kimberly Bonder Rezanka) (P&Z Board - 6/19/03)

Mayor Buckley announced that the applicant's attorney has requested that the public hearing be postponed until the July 22 meeting.

A brief discussion followed regarding the citizens in the audience who asked to speak. Moved by Poole/E. Palmer to allow people to speak on this item. Motion carried. Mayor Buckley and Vice Mayor Contreras voted nay.

Mason Blake, Dean Mead law firm, said that Kim Rezanka from the same law firm filed the request to postpone the public hearing. He said that he has no objection to people speaking.

James Williams, 5000 Evinrude Road, said that the whole neighborhood is against this rezoning.

Robert Pechacek, 4950 Evinrude Road, stated his objection to the rezoning and asked if the owner plans to monitor the property so it doesn't become affordable housing. He added that they are trying to bully their way through the system and make this another Broward County.

Robert Rathoff, 5300 Evinrude Road, said that the continuous requests for postponement are a tactic to wear down the neighborhood. At this point, he asked the folks in the audience opposed to the development to stand. Approximately 20 people stood.

John Bennett, property owner of 4901 Evinrude Road, asked Council to make a definite decision at the next meeting instead of wasting the residents' time. He added

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

that this issue is important to the residents; however, apparently it is not important to the applicant.

David Hartz, 5260 Evinrude Road, stated that this rezoning is not in the best interest of Melbourne or the community.

Moved by Poole/Hand to postpone Z-2003-946 until the July 22, 2003 Council meeting. Motion carried unanimously.

17. ORDINANCE NO. 2003-43 (CAUSEWAY CENTER): (First Reading/Public Hearing) An ordinance amending Ordinance No. 2002-63, relating to the conditional use previously granted for the Causeway Center, by adopting a revised site plan and providing for a new stipulation; property located on nine platted lots and portions of two lots consisting of approximately 2.16 acres on the north side of new Haven Avenue, south of Strawbridge Avenue, and east of U.S. 1 (Harbor City Boulevard). (Owner/Applicant - Hynes Properties, LLC) (Representative - Dave Menzel) (P&Z Board - 6/05/2003)

Attorney Gougelman read Ordinance No. 2003-43 by title.

Mr. McCord briefed Council. The Planning and Zoning Board and the Planning and Economic Development Department recommended approval subject to the following revision to Ordinance No. 2002-63, Section 2(b) and the addition of stipulation (l):

- b. ~~The conditional use for height shall be consistent with the site plan for Causeway Center Building consisting of a seven sheet plan prepared by MAI Architects Engineers Construction of Melbourne, Florida, with Project Number 02-152, dated July 15, 2002, and with a signed, sealed, and stamped date of August 8, 2002.~~

The conditional use for height shall be consistent with the 10-page site plan prepared by MAI Architects Engineers, Inc. of Melbourne, Florida, with Project Number 02-152, dated as a resubmittal on 5-20-03, with a signed and sealed date of 5-30-03.

Any change to the site plan will require re-evaluation of the site plan by the Planning and Economic Development and Engineering Departments. Any substantial change shall require the review and approval of the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes but is not limited to: 1) a decrease by more than 5 percent in the amount of open space or vegetative areas on site; 2) a change in the location of vehicle access points; 3) an increase in the building height above the height approved as part of this conditional use approval; 4) a change in the location, provision for, landscaping, designation of a historical marker for the trysting steps as shown on the plans; or 5) any increase in square footage.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

- I. A traffic signal shall be installed at the intersection of the driveway on New Haven Avenue and Front Street when warrants are met, if approved by FDOT. At the time of receiving a building permit for the first structure on site, the developer shall finance the design, permitting, and construction of the signal improvements, and ensure that the signal complies with FDOT design standards. The applicant shall be eligible for partial impact fee credits for the expense of the traffic signal that is not a result of his development.

Mr. McCord noted that many of the changes were made to this site plan (“Hynes 3”) in order to address the comments made by various Council Members and the neighbors. The major changes include:

The garage has been moved to the interior of the building. The parking has been increased from 430 spaces to 515 spaces. This still includes the 13 easement parking spaces for One Harbor Place. The architectural style has significantly changed. The condominium units have been decreased from 56 to 50. One access has been eliminated on Strawbridge Avenue and the main Strawbridge access will encompass the alley. The access from Strawbridge Avenue will lead to an interior service and loading area, which will also provide for garbage pick up. One access has been eliminated on New Haven Avenue and the new access point will line up with Front Street. The setback from Mr. Brown’s property to the west has been increased from five feet to over 20 feet. A sidewalk has been added adjacent to the alley. And, handicapped accessibility has been added to the stairs on the west side of the development.

Mr. McCord stated that the Architectural Review Board consented to the plan; however, they asked that it return so they can reevaluate the color.

In addition to the materials in the agenda package, the following items were distributed to Mayor & Council:

DATE	FROM	SUBJECT
7/3/2003	City Manager	Distribution of material at the request of Council Member Pat Poole. Includes correspondence from the Department of State regarding excavations at the Causeway Center
7/6/2003	Wanda Curnow via e-mail	Opposed to tampering with the Causeway Center site in any way.
7/8/2003	Xochitl Ross via e-mail	Opposed to Causeway Center at this location; concerned about traffic and rapid growth of area.
7/8/2003	City Attorney Paul Gougelman	Distribution and explanation of letter from Gary Frese, attorney for Hynes Properties.

Attorney Gougelman explained that if this item is approved, an easement and license agreement will return to Council at second reading of the ordinance. The agreement will reflect the changes made as a result of the Hynes 3 site plan.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Additionally, Mr. Gougelman reported that Council previously approved a site plan (“Hynes 2”). If Hynes 3 is denied, the project does not go away. The owner/developer will have a right to develop using the Hynes 2 plan. He stressed that Council is not being asked to approve or deny the site plan. Council is being asked to consider a change in the approved site plan and to consider an additional stipulation.

Attorney Gougelman elaborated on the letter from Attorney Gary Frese. Mr. Frese has suggested the following: that Council Member Poole is biased/prejudiced because she has been opposed to this project from day one; she appeared at the June 5 Planning and Zoning Board meeting and urged denial of the project; and Mayor Buckley should encourage Mrs. Poole to abstain from voting.

Mr. Gougelman said he reviewed the June 5 P&Z Board minutes and the minutes do not indicate that Mrs. Poole appeared in opposition. Rather, she raised numerous issues that she feels need to be resolved as part of the site plan process. Additionally, there are very specific grounds under which a Council Member can abstain from voting. A 1979 Commission on Ethics opinion indicates that bias/prejudice is not a basis to abstain from voting.

In response to Mr. Palmer, Mr. McCord explained the difference between the seven-page Hynes 2 plan and the 10-page Hynes 3 plan. Mr. Palmer said that parking for the restaurant is still an issue and he does not know that it has been resolved. He asked how the applicant is getting around the parking requirements. Mr. McCord said that the restaurant will have limited hours; it will not be full service. There is a provision in the Code that allows for a reduction in the parking spaces if a parking lot serves two or more uses.

Mr. McCord confirmed for Mr. Palmer that Hynes 3 provides for the 13 parking spaces for One Harbor Place. On the plan they are dedicated to One Harbor Place.

A brief discussion followed regarding the current alley being 12 feet wide and the Hynes 3 plan providing for an alley that will be 24 feet wide. Mr. Gougelman noted that the 12’ wide alley has been approved under the easement and license agreement.

Mr. McCord confirmed for Mrs. Hand that the parking spaces are 11’ wide and handicapped parking is distributed throughout each level of parking.

Mayor Buckley asked for disclosures.

Mr. Contreras said he received a call from Dorothy Gaunce on July 7 who is in support of the Causeway Center.

Mrs. Poole said she received two letters (dated May 28, 2003 and June 10, 2003) from the Florida Department of State, Division of Historical Resources, regarding the archaeological and historical survey and excavations of the Causeway Center site. She also noted that the June 19 Florida Today article indicated that she protested the

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

plan at the Planning and Zoning Board meeting. Mrs. Poole stated that she did not protest at the P&Z Board meeting. Mrs. Poole elaborated on her comments made at the P&Z Board meeting (minutes previously distributed to Mayor & Council).

Mrs. Poole referenced training seminars conducted by the University of Central Florida for elected officials. Experts indicated during the training that Council Members can attend Planning and Zoning Board meetings and speak.

Later during disclosures, Mrs. Poole said she received a call from Dorothy Gaunce, a patient of Dr. Hynes, who supports the Causeway Center development.

Mrs. Walker said she received a call from Mrs. Gaunce who supports Dr. Hynes' development.

Mrs. Hand said she also received a call from Mrs. Gaunce who is in support of the request. Mrs. Hand said she also spoke with Wendy Brandon and Dennis Meehan (Downtown Redevelopment Committee) about redevelopment and the need to have residential mixed with businesses.

Mayor Buckley opened the public hearing.

Lisa Visconti, American Indian Movement, Cape Canaveral, stated that this is not an issue about crowded areas and traffic jams. She asked Council to remember that the graves of our ancestors are being disturbed and desecrated. Ms. Visconti reported that NAGPRA (Native American Graves Protection and Repatriation Act) is a federal law that is being violated continuously in Brevard County. Crane Creek is a known unmarked burial site and items removed must be properly returned in a sacred manner. She asked Council to protect this site.

Reverend James Newcomb, 2544 Burns Avenue, Southern Band of the Cherokees, encouraged Council to take a stand against desecration of American graves and sites. He added that it has been proven twice that there are burial sites on this property. He added that they have pictures of human remains and artifacts that have been taken from the site. Reverend Newcomb referenced NAGPRA and noted that it is a federal offense to disturb these unmarked graves. He asked Council to hold off on all plans and permits until the human remains and artifacts removed from the site are returned and a determination made on the archaeological research.

Stanley Field, 108 E. Melbourne Avenue, Southern Band of the Cherokees, distributed photographs showing excavation along Crane Creek. Mr. Field referenced NAGPRA and read from the Florida Statutes regarding the protection of archaeological sites. He explained that all human burial sites, including Indian burial mounds, must be responsibly treated once discovered. And, any person who unlawfully disturbs an unmarked burial must be immediately reported to law enforcement agencies.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Mr. Field added that he heard Peter Wright, the founding father of Melbourne, was taken/removed from his burial site.

Mrs. Palmer asked Mr. Field how long he or anyone in his association has known this was a sacred site. Following a brief discussion, Mr. Field said he doesn't personally know.

William O'Donnell, 2260 Front Street, #103, suggested that this development be built in Boca Raton. He noted that it will forever change the complexion of Melbourne.

Mark Blair, 1350 Ambra Drive, Melbourne, said that the new site plan takes into consideration previous concerns regarding the site. The owners have addressed problems and concerns. He added that he believes the development will enhance the downtown image, create jobs and create tax dollars.

Speaker who identified herself as the daughter of Elizabeth Gonzalez stated that if this project is allowed to be built, it will be another injustice in this town. The project is wrong and the people buried on this site are our ancestors.

Royal Prince Dwight Leslie informed Council that an Indian that is allowed to go to space is a royal Indian.

Dennis Meehan, 1310 E. Prospect Avenue, Chairman of the Downtown Redevelopment Committee, said that he has been here 52 years and his family has been here for 125 years – the burial issue is new to him. Mr. Meehan explained that redevelopment was established so that the private sector and government would work together. He added that he feels this project will be a benefit and an asset to the City of Melbourne.

Mrs. Poole asked Mr. Meehan if he felt that this development is in harmony with Downtown Melbourne. Mr. Meehan said at that location it is. He referenced the way that property has looked over the years and said that the Hynes development will be a definite improvement in Downtown Melbourne.

Dr. Hynes, applicant, said that two archaeological studies have been done on this site. He stressed that the only excavation on this site has been done by archaeologists. After being interrupted several times by people in the audience, Dr. Hynes sat down.

Dave Menzel, representing the applicant, stated that archaeological studies have been done on the property and they are proceeding according to all laws.

Mr. Menzel discussed the differences between the two plans and noted that staff added the new stipulation regarding the traffic signal. He discussed the parking that will be needed and said that a summary judgment was entered by the court in favor of Dr. Hynes (litigation with One Harbor Place). Since that is currently being appealed, the spaces for One Harbor Place have been left on the plan.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

The restaurant will be an evening restaurant providing for formal dining. Mr. Menzel displayed a rendering that shows the changes in the parking garage. He concluded by saying they are requesting approval of a site plan that is a lot better than the previously approved plan.

Mrs. Walker said the information is not clear on the total number of parking spaces. Mr. Menzel replied there were initially 430 and now there are 502 spaces plus 13 spaces for One Harbor Place (total of 515).

In response to Mrs. Poole, Mr. Menzel said the two archaeological studies that Dr. Hynes paid for showed no human bones found on the site.

Mr. Menzel confirmed for Mrs. Poole that the color choices and landscaping plan will return to the Architectural Review Board. There are palm trees on the site that will be relocated to Melbourne Avenue.

Mrs. Poole referenced the conflict of interest declared by Mr. Bogenrief at the Architectural Review Board meeting. Mr. Menzel said that Mr. Bogenrief prepared retention calculations and was paid for his work. Mrs. Poole pointed out that the board minutes are not clear on this issue.

Responding to Mrs. Walker, Mr. Menzel said that the light poles will resemble the poles in Downtown Melbourne.

Mrs. Hand said it would be better for the development to have a traffic signal. Mr. Menzel explained the Florida Department of Transportation process; eight or ten conditions have to be met before a traffic light can be installed. And, the requirements can only be met after the building is fully occupied.

Mrs. Poole stated that the additional stipulation is ridiculous because the site will have to meet the FDOT warrants. The City can't require the signal unless the warrants are met.

Recessed: 10:00 p.m.  
Reconvened: 10:11 p.m.

Moved by Hand/C. Palmer for approval of the revised site plan for the Causeway Center on the Indian River, approval of Ordinance No. 2003-43, revising stipulation "b" in Ordinance No. 2002-63, and adding a new stipulation regarding a traffic signal at Front Street and New Haven Avenue.

Mrs. Palmer said that this is a much better plan than the previous site plan.

Mrs. Poole said that the information presented to the Planning and Zoning Board is different than the information presented to Council. There are many conflicts. She

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

pointed out parking as one issue. Mr. McCord said that the plan and the table outlining the plan were distributed to the Planning and Zoning Board before the table was updated to reflect slight revisions. He stated that the table in the July 8 City Council agenda package (use, square footage, parking required and parking provided) is correct and reflects the plan presented to Council. Mrs. Poole said that she believes the changes are not "slight."

Mrs. Poole quoted from the May 28 and June 10 letters from the Florida Department of State, Division of Historical Resources. The letters indicate the following:

May 28 letter: Archaeological and Historical Survey of the Causeway Center. Results of the survey indicate that one previously recorded archaeological site, one newly recorded site, three previously recorded historic structures and two newly recorded structures were identified within the project area. The previously recorded site (8BR39) is a large prehistoric midden dating to the Malabar II period. Though past development has taken place within the project area, survey results indicate that prehistoric components of site 8BR39 remain intact and have the potential to yield archaeological information about the Malabar II period and the prehistoric residents of Melbourne.

June 10 letter: Phase II/III Excavations at the Causeway Center will require the preparation of a detailed data recovery plan for the site. The data recovery plan must be approved by (Florida Department of State) prior to excavations. The Phase I report was found incomplete. (The State is) still lacking the collected artifact list from the Phase I investigations. This list, as well as the list from the upcoming Phase II/III archaeological investigations, must be submitted before (the State) can complete (its) review.

Mrs. Poole referenced federal and state laws and said that the City cannot knowingly approve development until the conditions from the Florida Department of State are properly followed.

Mrs. Poole's motion to postpone action until the Phase II/III archaeological investigations are complete, with the stipulations outlined in the June 10, 2003 Florida Department of State letter, did not receive a second.

Mrs. Poole stated that they cannot proceed with any development on this site until the conditions in the referenced June 10 letter are followed.

The question was called on the main motion. The roll call vote was:

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

Nay: E. Palmer and Poole

Motion carried.

The following discussion occurred during the roll call vote:

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Mr. Palmer voted nay until the City receives the information outlined in the Florida Department of State letter.

Mrs. Walker said she does not know what position the City should legally take based on the correspondence referenced by Mrs. Poole regarding the archaeological findings. Attorney Gougelman said there is a lot of correspondence that suggests there might be some sort of problem; however, throughout the entire process no one from the state has communicated with the City Manager/City Council/City of Melbourne. He added that it is outrageous to interfere with someone's Constitutional rights through innuendo. He concluded by saying he is not sure how to advise Mrs. Walker because he has not seen evidence; the state has not seen fit to contact the City, which is the permitting jurisdiction.

Mayor Buckley pointed out that if Hynes 3 is not approved, the applicant can proceed with Hynes 2.

Responding to Mrs. Poole, Attorney Gougelman said if the State of Florida believes that this is an Indian burial ground, then it is fully capable of issuing a stop work order against the Hynes property.

Mrs. Walker agreed with Attorney Gougelman and said if there is evidence, then it should be supplied to the City Council or the City Manager.

A brief discussion followed between Mrs. Poole and the Mayor.

Mrs. Palmer said she will vote aye because the only issue is whether to approve site plan 2 or site plan 3. She added that she will depend on the state to close the operation down if it is not following the laws with regard to the archaeological findings.

Mrs. Hand stated her objection to a full discussion occurring during a roll call vote.

18. ORDINANCE NO. 2003-44, ORDINANCE NO. 2003-45, AND ORDINANCE NO. 2003-46 WITH SITE PLAN APPROVAL(INDIAN RIVER CONDOMINIUMS): (First Readings/Public Hearings) Ordinances providing for a minor Comprehensive Plan Amendment (2.93± acres), rezoning (2.93± acres), a conditional use (4.73± acres) and site plan approval to develop a five-story, 61-unit multiple-family condominium project on property consisting of three parcels, comprising 4.73± acres, located on the east side of Harbor City Boulevard, south of Ballard Drive. (Owner - River Bluff III Corporation) (Representative/Applicant - David T. Menzel) (P&Z Board - 6/19/03)
- a. Ordinance No. 2003-44: An ordinance changing the land use from Commercial to mixed use Commercial/Medium Density Residential (CPA-2003-04).
  - b. Ordinance No. 2003-45: An ordinance changing the zoning from C-2 (General Commercial) to R-2 (One-, Two-, and Multiple-Family Dwelling Units) (Z-2003-955).

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

- c. Ordinance No. 2003-46: An ordinance granting a conditional use to allow a building height greater than 40' with site plan approval (CU-2003-06/SP-2003-15).

Attorney Gougelman read each ordinance by title.

Mr. McCord reviewed the agenda report. The Planning and Zoning Board unanimously recommend approval with the modification that the land use be identified for a mixed-use (Medium Density Residential/Commercial), rather than just Medium Density land use. This would preserve the possibility of utilizing the property for commercial uses if this project is not constructed. Approval is recommended with the findings in the P&Z memorandum and the following conditions:

- a. The site plan for the Indian River Condominium shall be consistent with the one-page plan prepared by MAI Architects Engineers of Melbourne, Florida, with Drawing Number C-1, dated 5-16-03, with a revision date of 6-12-03 (SP-2003-15). Any change to the site plan will require reevaluation of the site plan by the City Engineering Department and Planning and Economic Development Department.

Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: 1) a decrease of 5 percent of the open space or vegetative areas on site; 2) an increase in the number of units proposed; 3) any increase in building height; or 4) the addition of a driveway.

- b. All trees shall be preserved unless located in a driveway, paved parking lot, building pad, or retention area. All structures, driveways, parking spaces and aisles, and retention areas shall be shifted whenever possible to preserve trees. Initially, trees shall only be removed for driveways, drainage facilities, and or model units. All hardwood trees less than ten inches in diameter impacted by the proposed plan shall be relocated on site. Trees in the footprint of the structure shall be removed only in conjunction with a building permit. All trees to be removed shall be identified by Code Enforcement personnel, and an evaluation shall be made to determine the possibility of saving hardwood trees.
- c. The applicant shall obtain appropriate environmental permits to provide for treated stormwater discharge into the Indian River Lagoon.
- d. Provide an opaque buffer consisting of a six-foot high fence, wall or hedge, or other existing or newly planted vegetation along the north property boundary adjacent to the River Bluff Condos.
- e. Extend the public sidewalk along U. S. 1 south to a point approximately 200 feet from the southerly most property boundary and provide an easement along the

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

U. S. 1 frontage for the sidewalk to provide at least a six-foot wide sidewalk separated at least three feet from the curb. A sidewalk extension along the east side of U. S. 1, adjacent to the river, shall be constructed, provided that sufficient upland area is available to provide a sidewalk, and if permitted by FDOT.

- f. Driveway access improvements including the need for directional driveways and turn lanes shall be provided as required by the Florida Department of Transportation.
- g. The applicant shall successfully abandon and vacated an unnamed 20 to 22-foot wide right of way that bisects Tax Parcel 787 (Deed Book 670, Page 289).
- h. The conditional use shall permit the development of up to 61 residential units as depicted on the site plan described in condition “a”, on the 4.73-acre properties, permitting a blended density on the three parcels.

(The site plan is a requirement of the conditional use. Therefore, all of the conditions are included in Ordinance 2003-46, which permits the conditional use.)

Mr. McCord confirmed for Mrs. Poole that the applicant has complied with the building setback requirements. Mrs. Poole asked if Council has to grant the conditional use and Mr. McCord replied no.

Philip Nohrr, attorney representing the applicant, stated that this will be a good project that will clean up this area of U. S. 1. The project will be in the \$20 - \$25 million range and will reduce the amount of potential trips if the property were developed commercial. The density has been blended for a total of 12.6 units per acre, which makes economic sense given the course of the land.

Mr. Nohrr discussed the history of the property and the proposed plan for development. He noted that doing away with the dome and the car lot will enhance the area. It will also be a catalyst for the property on the west side to upgrade and stimulate improvements in the Babcock Redevelopment Area.

Regarding height, he said they are asking for nine feet over Code (49 feet total). One thousand feet south on U. S. 1 on the west side, buildings are 80' high. Approval of this request will not add a height to the area that has not already been approved. The Australian pines are 75 feet high on the property. The pines will be removed leaving a 49' high structure.

Mr. Nohrr reported that the applicant has gone out of his way to discuss the development with the residents from the adjacent River Bluff Condominiums. He added that this development will be built so that it is not intrusive to River Bluff. Also, they will work to save the oak trees on site.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Mr. Nohrr concluded by saying this project will bring good economic growth to the City and attract folks who have disposable income. The project will not be a traffic generator. And, it is not realistic to think that this property will stay in its current state. He encouraged Council to approve the request.

A brief discussion followed regarding height. Mr. Palmer said he has not seen the rationale for going up 49'. Mr. Nohrr said they need to develop enough units to pay for the land and for the project to make good economic sense. Mr. Palmer said he can't support going over 40'. Other than the height, he stated that he believes this is a good project.

Mrs. Poole asked about the design of the retention and Dave Menzel, architect for the project, stated that surface retention is planned. Mrs. Palmer asked how far the wall will be from the street and the height of the wall. Mr. Menzel and Mr. Nohrr replied that a four-foot wall is planned about eight feet from the street. It is not designed to block the view. Mr. Nohrr added that the height will allow them to have more of a breezeway, which allows more of the river to be seen.

In response to Mrs. Poole, Mr. Nohrr elaborated on the recreational amenities. Mrs. Hand asked if the entrance gate has been designed with enough room for more than one car to enter from the highway. Mr. Menzel said there will be enough room for three or four cars to stack and there will be room for cars to make a U-turn at the entrance.

Mrs. Hand said she is not sure Council should approve more than a 40' height on the river. Mr. Menzel said as the structure goes up in height, the Code provides for additional setbacks. That was one reason to go up. Another is that the height will allow for each unit to have a nine-foot ceiling, which is more appealing than an eight-foot ceiling.

Mrs. Poole asked if the wall will serpentine to allow for landscaping on both sides. Mr. Menzel replied that is the intent.

Bob Hereford, owner/applicant, explained that he wants the building to have character and not look like a "new building." He noted that it will serve long-term residents; removal of the Australian pines will allow a beautiful view of the river; a wide sidewalk will extend beyond his property; Brazilian pepper trees will be removed; he wants trees – truckloads of trees and vegetation. He explained the layout of the units and the importance of having nine-foot ceilings. The garages will be underground and the elevators can be accessed from the parking garage. The property is elevated 27' with sandy soil so underground parking won't be a problem.

Mr. Hereford pleaded with Council regarding the need to have 49' in order to preserve the character of the buildings and not compromise the project.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

William White, 441 North Harbor City Boulevard (River Bluff Condominium), stated that this development will be good for Melbourne. He noted that the residents of River Bluff will be the most affected. From inception of the plan, Mr. Hereford has kept the residents informed and asked for opinions. He stated that he thinks the River Bluff Condominium Association approves the proposed development.

Mrs. Poole asked Mr. White if he is speaking for the association. Mr. White said he is the President of the Association; however, he is not speaking on behalf of everyone.

Gerald Petitpas, 441 North Harbor City Boulevard, explained the history of the property. He spoke in support of the project and said his only concern relates to construction. He said he hopes the applicant will have landscaping, etc. installed before the trees between the properties are removed. He noted that the applicant has also indicated that he is willing to remove the Australian pines that are adjacent to the River Bluff swimming pool.

Mr. Petitpas said he does not see a problem with height. As a good neighbor, this development should be welcomed. It will have a positive impact on River Bluff and Melbourne.

Sheila Vaughn, 441 North Harbor City Boulevard, stated that she fully supports this development. All of the concerns of the River Bluff owners have been addressed. The breezeway concept will be a better way to build and removal of the dome and car lot will be welcome.

Linda Gettings, 991 Thomas Barbour Drive, said she lives north of River Bluff. She stated that she welcomes any improvement on this site and encouraged Council to approve the request for height.

Marion Seaman, 441 North Harbor City Boulevard, said he has reviewed the plan and he believes this development will improve the view of the river, increase the tax base in Melbourne and be helpful to the community as a whole.

Henry Goode, 441 North Harbor City Boulevard, said that Mr. Hereford has emphasized the need for more trees and landscaping. Regarding height, he said that it will increase the tax base and attract people with disposable income.

Mr. Nohrr said that the applicant has no problem with Mr. Petitpas' recommendations. He repeated the reasons necessary for the height and stated that this will not set a precedent for the next parcel because this is the last parcel. He asked Council for approval.

Mrs. Poole said she has a problem with the height and recommended Mr. Menzel rework the plan. Mayor Buckley disagreed and said that in order to build something feasible on this property, height will be necessary. He added that this is a good project. Mrs. Hand said she can support the request because of the specific layout of

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

the site, the plan to build expensive condominiums, and the fact that all the neighbors are for it.

Mrs. Palmer said she is the last person who wants to see a wall of condominiums along the river; however, this is being proposed so that it won't block the view of the river. The nine-foot ceilings will be a nice amenity and the meandering wall with lots of trees and landscaping will be a plus. She stated that the neighbors are happy and concluded by saying the City has to allow improvements or prepare to stagnate and decay.

Mrs. Walker agreed and said she can also support the request for height.

Mrs. Poole read a statement from a former member of the Architectural Review Board, who questions why Council keeps breaking the current laws/rules.

Moved by Contreras/Walker for approval of Ordinance No. 2003-44. Motion carried.  
Mrs. Poole voted nay.

Moved by Hand/Walker for approval of Ordinance No. 2003-45. Motion carried unanimously.

Moved by Hand/Contreras for approval of Ordinance No. 2003-46. Motion carried.  
Mrs. Poole voted nay.

19. ORDINANCE NO. 2003-47 (CU-2003-05) WITH SITE PLAN APPROVAL (SP-2003-16) COMMUNITY CENTER: (First Reading/Public Hearing) An ordinance granting a conditional use and site plan approval for a community center building in the R-2 (Cap 6) (One-, Two-, and Multiple-Family Residential with a cap of six units per acre) zoning district, located on a .61-acre lot on the south side of Masterson Street, west of Southland Street, in the Booker T. Washington Park Addition Subdivision. (Owner - Fern Turner) (Applicant - The Brevard Neighborhood Development Coalition) (P&Z Board - 6/19/03)

- a. Ordinance No. 2003-47: Granting a conditional use with site plan approval for a community center (CU-2003-05/SP-2003-16).
- b. Council Action Re: Request from BNDC (Brevard Neighborhood Development Coalition) for forgiveness of City liens against property located at 1151 Masterson Street.

Mrs. Poole said she has a lot to say on this item and due to the hour (approaching midnight), she recommended it be postponed.

Moved by Poole/C. Palmer to postpone this item until the next meeting. Motion carried. Hand, Contreras and Buckley voted nay.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Immediately following Item 21, Council, by consensus, agreed to consider this item. Mayor Buckley asked Council to extend the meeting until 12:10 a.m. in order to consider this item. Council concurred.

Attorney Gougelman read the ordinance by title. Mr. McCord briefed Council. The Planning and Zoning Board recommended approval with the findings contained in the P&Z memorandum and the following conditions:

- a. The conditional use shall be consistent with the one-page site plan for BNDC Community Center, consisting of a one-page plan dated 5-5-03, with a revision date of 6-12-03, with Project Number BNDC-02, and Sheet Number SP-1, prepared by Brad Smith and Associates of Melbourne, Florida. (SP-2003-16)

Any change to the site plan will require reevaluation of the site plan by the City Engineering and Planning and Economic Development Departments. Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency and City Council. A substantial change includes but is not limited to: 1) a decrease of 5% or more of open space or vegetative areas on the site; 2) any increase in the number of access points as shown on the site plan; or 3) a 10% or more increase in the building size.

- b. Proposals to use portions of the building or redevelop the site for different permitted uses listed in the R-2 zoning district must ensure that adequate parking is available or provided to accommodate the proposed use. No occupational or business license will be issued for the building until determined by the City that sufficient parking will be provided.
- c. The applicant shall provide a fence around the southerly portion of the property including the building.
- d. The community center shall not be operated between the hours of 10:00 p.m. and 6:00 a.m., unless granted a special activity permit as provided for by Code and competent supervision shall be provided while the community center is open.
- e. The site will be adequately lighted to illuminate around the building and the parking area.

Lynn Brockwell-Carey, Executive Director, BNDC, said that the children in the Booker T. Washington neighborhood indicated that they wanted a place to go after school in order to receive help with homework. The BNDC Board found that very compelling and partnered with Irene Summerford, a long-time resident in the BTW neighborhood, who is willing to spearhead activities at the outreach center. The center will provide after school care for children, a computer room, mentoring program and a multi-purpose building. This project enjoys a lot of support from the neighborhood.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Regarding the request to forgive liens, she said that they are a non-profit organization and the request will be for the benefit of the neighborhood. That will be the only assistance they will request from the City. All funds for this project will come from the private sector.

Mrs. Poole asked if a building will be constructed. Ms. Carey explained that a 4,000 modular complex has been donated for the initial phase. Brevard Neighborhood Development Coalition fully intends to replace that with a permanent structure as the program grows.

Mrs. Poole noted that BNDC is a “faith based” organization. She questioned the separation of church and state and encouraged BNDC to pay the \$3,000 plus in liens rather than asking the City to forgive them. Ms. Carey noted that the project is not seeking CDBG money and they won’t make a profit. She added that the actual cost of the liens is \$1,802.50.

(Note: Principal of liens is \$1,802.50 plus accrued interest of \$1,873.18 for total of \$3,675.68.)

Irene Summerford, 1800 Bunche Street, stated that this program is about saving a generation. For every child rescued, the number of prisons that has to be built decreases. Children want to be educated, but they need help. She asked Council to approve the conditional use and forgive the liens. She concluded by stating that this is a great opportunity.

Mrs. Poole asked about the activities at Carver Park. Ms. Summerford said that Carver Park is only open during limited hours.

Mr. Palmer said that this request has great vision. Mrs. Poole pointed out that they have selected the two worst streets in the area. Mrs. Hand said she is happy the community is coming together; she supports the project.

Moved by Hand/E. Palmer for approval of Ordinance No. 2003-47. Motion carried unanimously.

Moved by Contreras/Hand for approval of BNDC’s request and authorization for the City Manager to execute all documents necessary to effect cancellation of the lot clearing liens and abatement of accrued interest against the property located at 1151 Masterson Street when BNDC takes possession of the property. Motion carried. Mrs. Poole voted nay.

20. ORDINANCE NO. 2003-48: (First Reading) An ordinance amending Section 2-201 of the Code of Ordinances by increasing the rates of subsistence meal allowance and mileage reimbursements.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

Attorney Gougelman read Ordinance No. 2003-48 by title.

Moved by E. Palmer/Poole for approval of Ordinance No. 2003-48. Motion carried unanimously.

21. COUNCIL ACTION RE: Appointment of members to the Historic Preservation Advisory Committee.

Council Member E. Palmer selected William Lovin. Council Member Poole selected Bob Gross. Council Member Walker selected Beth Glover. Council Member C. Palmer selected Weona Cleveland. Council Member Hand selected Sushila Renfro. Vice Mayor Contreras selected William Awodey. Mayor Buckley selected Betty Preece.

City Manager Jack Schluckebier selected Theresa Bryant, Susan Miller, and Elaine Murray Stone.

Moved by E. Palmer/Contreras to appoint the people selected above as members to the Historic Preservation Advisory Committee. Motion carried unanimously.

At this point, Mrs. Palmer said that she was on the prevailing side of the vote to postpone Item 19. She asked Council to consider hearing the item. Mayor Buckley agreed and by consensus, Council considered Item 19.

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

The City Manager briefed Council on the following items:

- “Boy in the Drain Productions” is currently filming a movie in Brevard County. They are using City streets and may feature one or more of our Melbourne Police Officers in the movie.
- The City of Palm Bay purchased wastewater capacity – 850,000 gallons – over 20 years ago. Seven-plus years ago they stopped using that capacity. Palm Bay now wishes to determine what it needs to do to begin using that capacity again. There is nothing in the agreement that would prevent this. Another option is for the City of Melbourne to buy the capacity back at the same rate that Palm Bay originally paid us.

Attorney Gougelman reported that staff is reviewing the final version of the Brevard County Water/Sewer District Ordinance. It is scheduled to go before the Brevard County Water Supply Board on July 11 and the County Commission on July 22.

Mrs. Poole said she is receiving calls from people who are unhappy because Mr. Johnson (Melbourne International Airport) will not accept telephone calls (regarding AeroGroup and the F-16 fighter training activities). Mr. Johnson is referring the calls to an Airport employee. She added that a Melbourne Village resident said that AeroGroup

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JULY 8, 2003

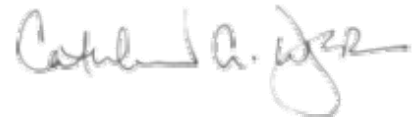
entered into a five-year lease with the Royal Netherlands Air Force.

Mayor Buckley assured Mrs. Poole that Mr. Johnson doesn't know what AeroGroup's plans are. The arrangement with the Dutch Air Force is entirely up to AeroGroup and Sheltair.

23. ADJOURNMENT

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

Meeting adjourned at 12:15 a.m.



---

City Clerk – 7/17/2003

Approved by Council: July 22, 2003