

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004



A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:30 p.m. by Mayor John A. Buckley.

1. Council Member Grace Walker gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Richard Contreras	Council Member, District 1
	Ed Palmer	Council Member, District 2
	Pat Poole	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Vice-Mayor, 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
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

Mayor Buckley read and presented a proclamation for “Management Week,” June 7 - 12, 2004, to Barry Mandell, Awards Chairman, Florida Space Coast Council, The National Management Association.

5. Approval of Minutes – May 11, 2004 Regular Meeting

City Clerk Cathy Wysor reported that the following motion and vote were omitted from the end of Item 10 (sale of Palms 8 Theater property): “Moved by Walker/C. Palmer to reconvene as the Melbourne City Council. Motion carried unanimously.”

Moved by E. Palmer/Hand for approval of the May 11 minutes with the noted correction. Motion carried unanimously.

6. City Manager’s Report

Item #2 – City Manager Jack Schluckebier reported that the cost to repair the fire damage to Fire Station 72 will be in the \$103,000 range. A report outlining the specific costs will be forwarded to Council this week.

Fire Chief Walt Chamberlin and Risk Manager Ken Gray elaborated on the various costs and work performed. Chief Chamberlin reported that the original estimate for \$80,000 was made the day after the fire. After the repair work started, the construction crew

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

found problems with the drywall, air conditioner/heating unit, tile floor in the day room and kitchen, and molding/wood work.

Mr. Gray confirmed for Council Member Grace Walker that all work was handled through our insurance company. He added that the City reserved \$140,000 for the repair, so the final amount will be less than what staff anticipated. He displayed pictures showing the extent of the damage.

Council Member Ed Palmer asked if the fire was fully covered by our insurance. Mr. Gray explained that it is subject to our self-insured retention, which is \$100,000. If the final amount holds at \$103,000, he recommended that we not file a claim for \$3,000. It would be better to pay the \$3,000 rather than have that claim on our record. Mr. Palmer asked if this recommendation is based on the effect it could have on future premium costs and Mr. Gray replied yes.

In response to Council Member Richard Contreras, Chief Chamberlin elaborated on the original construction timeframe and the delays experienced. Chief Chamberlin confirmed that the punch list items have been completed.

Responding to Mrs. Walker, Mr. Gray said that qualified contractors performed the work. He added that the general contractor is from Mt. Dora; however, many of the subcontractors are from this area.

Item #5 – Mr. Schluckebier referenced the parking at City Hall and the use of the parking lot by those who are not customers or employees. A number of people in the Downtown area believe this is an open parking area and routinely use our lot. Staff is in the process of notifying businesses in the area in an effort to address/improve the parking situation.

7. Public Comments

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2004-30 (AR-2004-149), ORDINANCE NO. 2004-31 (CPA-2004-04), AND ORDINANCE NO. 2004-32 (Z-2004-981) ARMSTRONG HOMES: Ordinances providing for annexation of 5.75 acres, a Comprehensive Plan Amendment, and rezoning on a 4.8-acre parcel, located on the north side of Eau Gallie Boulevard, west of Wickham Road and east of the intersection with Sarno Road. (Owner - Gleason Brothers and Company) (Applicants - Alex Sokolik & Dave Armstrong)

- a. Ordinance No. 2004-30/AR-2004-149: (First Reading) An ordinance providing for the annexation of a 5.75-acre parcel. (Postponed - 4/27/04)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

- b. Ordinance No. 2004-31/CPA-2004-04: (First Reading) An ordinance establishing a Medium Density Residential Land Use on a 4.8-acre parcel. (Postponed - 4/27/04)
- c. Ordinance No. 2004-32/Z-2004-981: (First Reading) An ordinance establishing a zoning designation of R-2 (One-, Two-, and Multiple-Family Residential) on a 4.8-acre parcel. (Postponed - 4/27/04)

The City Attorney read each ordinance by title. Mayor Buckley called for disclosures. Council Member Pat Poole said that on May 12 she spoke with Sue Arnold about density, flooding, incompatibility and gopher tortoises. Mrs. Poole added that on May 21 she was in the City Clerk's Office when Mrs. Arnold delivered petitions. At that time, they spoke again about loss of habitat and the concerns of the property owners.

Planning and Economic Development Director Cindy Dittmer reviewed the agenda report. Several Council Members, adjacent neighbors, and the County have expressed belief that the requested density of 15 units per acre seems unreasonable. Staff conveyed this to the applicant with a request to voluntarily alter the proposal to a cap of six or eight units per acre. The applicant has not yet responded. Additionally, the City has received the County staff opinion, provided pursuant to the City/County Joint Planning Agreement, which recommends a density cap of eight units per acre. The opinion is not binding upon the City; however, its observance would ameliorate long-term problems and avoid any impression that the applicant is "density shopping." The County's comments were not available at the last meeting.

The recommendation is for approval of Ordinance No. 2004-30, Ordinance No. 2004-31, and Ordinance No. 2004-32. Ordinance No. 2004-32 has been modified to a density cap of eight units per acre and includes the following condition:

- a. Area residents will be re-notified when a site plan is submitted for approval.

If the lower density cap is not acceptable to the applicant, it is recommended that the ordinances be denied.

Mrs. Walker asked Mrs. Dittmer to elaborate on the County's comments. Mrs. Dittmer said the County indicated that, although the land use designation would allow up to 15 units per acre, they would not approve zoning with this density. They recommended a medium density, around eight units per acre.

Dave Armstrong, applicant, requested a density of up to 15 units per acre. He reported that a meeting was held with the folks who live in the area about a week ago. They have addressed the residents' concerns, which include flooding and wildlife. The northeast portion of the property is higher than the surrounding property. During construction, this drainage issue would be addressed. The environmental study indicates one possible gopher tortoise hole.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Mr. Armstrong said many of the residents would like City water. Additionally, some improvement in this area might enhance their quality of life. He stressed that they have no desire to open up Baker Road. He would agree if the residents wanted to vacate that portion of Baker Road. There is a small wetland on the northeast corner of the property that will be maintained and enhanced. And, access to the property would be from Eau Gallie Boulevard.

Mr. Armstrong stated that he feels they have answered all the residents' questions. He added that he doesn't understand why Mrs. Arnold is at this meeting because she doesn't live in the immediate area.

Continuing, Mr. Armstrong said he estimates the cost of providing water and sewer to the property at a quarter of a million dollars. He commented that because of the feasibility, the property might be better suited for commercial development. Mr. Armstrong asked Council to approve the annexation and a density of up to 15 units per acre.

Mrs. Poole asked Mr. Armstrong to clarify the statement he made at the last meeting that "there are ways to purchase water and sewer." Mr. Armstrong said he is sure that he was referring to purchasing water and sewer from the City of Melbourne.

Mrs. Walker asked Mr. Armstrong if he would settle for less than 15 units per acre. Mr. Armstrong said that it would not be financially feasible to develop at eight units per acre and 12 would be borderline.

Susan Arnold, 3603 Palomino Road, said that she is interested in this item because up until a year ago she lived on Easy Street. She referenced the petition (submitted May 17) signed by 165 area residents opposed to this request. She stated that the residents want to see a site plan and added that Mr. Armstrong is creating an element of distrust by not presenting his plans in writing.

Continuing, Mrs. Arnold said that the residents object because of compatibility; density; drainage; traffic; and environmental preservation. They are also concerned that the City might open Baker Road in order to address ingress/egress on property with such a high density.

Mrs. Poole asked Mrs. Arnold if she could verify that that there is more than one gopher tortoise hole on the property. Mrs. Arnold said she has seen more than one tortoise; however, she has not seen more than one hole.

Alex Sokolik, representing Armstrong Homes, said that the proper order is to annex, zone and amend the Comprehensive Plan before preparing a site plan. The site plan is a separate issue that will come later if they annex into the City.

Regarding concerns about wildlife, he said that he previously distributed information about the types of habitat on this site. He added that the sandhill crane is not on the federal endangered species list. In Florida it is a threatened species. However, it is a

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

moot point unless there is a nesting pair on the site. He stated that there are no nesting sandhill cranes on this property and the environmental study shows one gopher tortoise burrow.

Liz Adesso, 265 Baker Road, asked if the homes on Baker Road are included in this annexation. Regarding the wildlife, she said that tortoises, sandhill cranes and a red tailed hawk live on the property.

A brief discussion followed about whether the existing homes on Baker Road are included in this annexation. Mayor Buckley said that the homes on Baker Road would not be annexed. Mrs. Dittmer displayed the property that is being considered for annexation on the map.

Ms. Adesso said if they annex Baker Road, there are concerns that down the road it could be accessed by another ingress/egress. Mayor Buckley said possibly; however, the applicant has indicated he is not going to do this.

Colleen Richards, 1977 Pinewood Road, asked why the extra property (Baker Road right-of-way) needs to be annexed. She recommended that it remain in the County. Ms. Richards said that this request is for too many units. Development would impact the entire area, which is made up of single-family homes on larger lots.

Mrs. Palmer asked the City Manager to address the Baker Road right-of-way. Mr. Schluckebier said that in accordance with the Joint Planning Agreement with Brevard County, the City agrees to take up the road right-of-way when property is annexed. The Baker Road right-of-way falls within the confines and general intent of that agreement.

Roy Raithe, 965 Cobb Lane, confirmed that a pair of sandhill cranes in the immediate area has raised young for at least 11 years. He discussed the number of subdivisions that have been developed in the area and said that the drainage system – even with improvements – will only be able to handle so much water. The residents do not want their homes flooded.

Mr. Raithe said that this property should only be approved at two units per acre. He commented that the motive is profit. He concluded by saying that the people in the area are concerned about flooding and traffic.

Richard Marshall, 586 Deerfield Drive, referenced Ms. Adesso's question about whether Baker Street would be annexed. He confirmed that the petitioner asked for only the 4.8-acre parcel. The City included the unopened Baker Street in the proposal, bringing the acreage to 5.75 acres.

Continuing, Mr. Marshall said that a lot of the discussion does not relate to this site. The number of subdivisions in the area is not relative; he does not believe there is a nesting pair of sandhill cranes on the property; Mr. Armstrong will have to handle any gopher

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

tortoises on site; the flooding in the area exists on the property that is undeveloped; and drainage would be addressed during site planning.

Mr. Marshall confirmed that he attended the meeting that was held with the homeowners. Also, he confirmed for Mrs. Poole that he is a realtor representing Mr. Armstrong.

Mayor Buckley read the recommendation. Mrs. Hand said that Mr. Armstrong wants a higher density than what is recommended. Attorney Gougelman said that procedurally, if Council denies the annexation, there is no need to vote on the other two ordinances.

Moved by E. Palmer/Hand to deny Ordinance No. 2004-30.

Mr. Palmer said that his motion is based on the developer indicating that he could not accept eight units per acre.

The question was called. Motion carried unanimously.

9. ORDINANCE NO. 2004-33 (CU-2004-02) EXECUTIVE CIGAR SHOP: (Second Reading/Public Hearing) An ordinance granting a conditional use to allow the consumption of alcohol on the premises on a 0.27-acre parcel, zoned C-3 (Central Business District), located on the north side of New Haven Avenue, west of Municipal Lane. (Owner - Scott Lillycrop) (Applicant/Representative - S. Sam Nardone) (First Reading - 5/11/04)

Attorney Gougelman read Ordinance No. 2004-33 by title. Mrs. Poole disclosed that she received a notice since she is located within 500' of the property. There were no comments from the public.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2004-33. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2004-34 (Z-2004-982) THE RICHMAN GROUP: (Second Reading/Public Hearing) An ordinance to change the zoning from C-2 (General Commercial) to R-2 (One-, Two-, and Multiple-Family Residential) on four parcels totaling 14.35 acres, located on the west side of South Harbor City Boulevard, between Caroline Street and NASA Boulevard. (Owner - Richard L. Schmidt) (Applicant - The Richman Group of Florida, Inc.) (Representative - Robby Block) (First Reading - 5/11/04)

Mayor Buckley referenced the letter from Attorney Phil Nohrr, dated May 20, requesting the item be postponed until the June 8 Council Meeting to address comments made by the City Council at its May 11 meeting.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Moved by C. Palmer/Poole to postpone this item until the June 8 meeting. Motion carried unanimously.

11. ORDINANCE NO. 2004-35 (CPA-2004-03) AND ORDINANCE NO. 2004-36 (Z-2004-979) CYPRESS SPRINGS CONDOMINIUMS: Ordinances providing for a Comprehensive Plan Amendment and rezoning on an 8.74±-acre parcel, located on the north side of Eber Road, west of Babcock Street. (Owner/Applicant - Boca Ven Land, Inc.) (Representative - Scott B. McGuire, Knight McGuire & Associates, Inc.)
- a. Ordinance No. 2004-35/CPA-2004-03: (Second Reading/Public Hearing) An ordinance changing the land use from Commercial to Medium Density Residential. (First Reading - 5/11/04)
 - b. Ordinance No. 2004-36/Z-2004-979: (Second Reading/Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to R-2 (One-, Two-, and Multiple-Family Residential) on an 8.74±-acre parcel. (First Reading - 5/11/04)

Attorney Gougelman read each ordinance by title. There were no disclosures by Council and no comments from the public.

Moved by Hand/E. Palmer for approval of Ordinance No. 2004-35.

Mrs. Poole discussed her concerns with the rezoning and said that this development will add 516 trips to a road that is already busy. She asked where the garages are located. Mrs. Dittmer said that the garages are detached in rows of six and eight. She confirmed that every unit will not have a garage; however, every unit will have parking.

The question was called. The roll call vote was:

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

Nay: Poole

Motion carried.

Mrs. Poole said she voted nay because she is opposed to rezoning from commercial to residential.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2004-36. The roll call vote was:

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

Nay: Poole

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Motion carried.

12. ORDINANCE NO. 2004-37 (Z-2004-983AD/LDR-2004-02/FOC-2004-02) ZONING CODE: (Second Reading/Public Hearing) An ordinance amending the City Code by providing for Agricultural Estate Use (AEU) and Rural Estate Use (REU) zoning districts; amending Appendix B, Article V, Definitions; amending Article XII, Use Districts and Regulations; amending Article XVIII, Supplementary District Regulations; amending Chapter 5, Animals; by adding an exception for beekeeping in an Agricultural Estate Use zoning district; amending Appendix D, Chapter 9, by including the Agricultural Estate Use in the Standards for Fences; providing an exception for fence height in the Agricultural Estate Use district, and including a reference to the AEU and REU zoning districts in the Parking, Storage or Use of Recreational Equipment. (Administrative request by City Council) (First Reading - 5/11/04)

The City Attorney read Ordinance No. 2004-37 by title. There were no comments from the public.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 2004-37. The roll call vote was:

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

Nay: None

Motion carried unanimously.

13. COUNCIL DISCUSSION RE: A request by Council Member Pat Poole for Melbourne International Airport master plan discussion. (Postponed by Council - 5/11/04)

From the agenda report: This is a request from Council Member Poole for Council review and discussion of concerns related to the Melbourne International Airport Master Plan and development. The materials in the agenda package were prepared by Milo Zonka and submitted by Mrs. Poole for Council information. The Capital Improvement Plan summary is also included for Council reference.

Mrs. Poole said that Mr. Zonka prepared the in-depth financial study after many hours of research of Airport Authority documents. She added that the information compiled needs Council attention. The materials submitted address Airport Authority expenditures; Airport Authority financial mismanagement; comparison of Melbourne with its peers; and the PlaneStation debacle. She added that because four of the Council Members do not attend Airport Authority meetings, she wanted Mr. Zonka to share this information. Mrs. Poole asked Mr. Zonka to address Council.

Milo Zonka informed Council that he graduated from Florida Tech with a degree in aviation management. He is also a certified financial planner. He said that his concern is

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

that the airport, over a very long period of time, has fallen into a situation where it is not in a sound financial situation to be successful in the future. Mr. Zonka stated that this Airport is the City of Melbourne's most vital asset. He noted that although he does not have solutions, he can bring Council concerns. The City should take advantage of resources in the industry available to facilities like the Melbourne Airport.

Mr. Zonka discussed the following: misrepresentations made by the Airport Authority regarding the PlaneStation deal; 10 years of financial reports; comparison between Melbourne and its peers; and the Airport vision. He pointed out that the Airport has lost Port O'Call and is now about to lose FIT Aviation.

Mayor Buckley clarified that the document to relocate FIT was prepared in a particular way so the Federal Aviation Administration would contribute towards the parking lot (in the new area). He added that Dr. Catanese with Florida Tech agreed and signed the document. Mr. Zonka said that the point is that a long-standing tenant has been evicted under the vision of PlaneStation, which has not yet occurred.

Mayor Buckley said he is concerned that Mr. Zonka sent sensitive Melbourne Airport documents to the Sanford Orlando Airport. Mr. Zonka said the Melbourne Airport released correspondence that was derogatory of Sanford Orlando.

Mr. Contreras informed Mr. Zonka that the City of Melbourne's greatest asset is its citizens.

A brief discussion followed regarding FIT Aviation. Mayor Buckley said that FIT was asked to move 15 years ago.

Mr. Palmer said that the records indicate that the Melbourne International Airport made a profit of \$2.4 million in 2003. Mr. Zonka said no and added that a comparison shows that the budget is obfuscated.

Mr. Palmer said that over the last eight years, the Airport's bank account has gone up \$15 million. He added that he finds "mismanagement" hard to understand if the business is making a profit. Mr. Zonka discussed the amount of the Airport's unrestricted funds, which is actually interest earned on the account.

A brief discussion followed regarding the Master Plan and programming of funds. The City Manager confirmed that the Airport's expenditures are subject to annual appropriation. He added that the City is aware of its financial responsibility in the event the Airport experiences financial difficulty.

Mrs. Hand said that she has reviewed Mr. Zonka's material and listened to him at an Airport Authority meeting. She asked Mr. Zonka about his ultimate goal and how he feels things can be done differently. She stressed that the Airport Authority, Director and staff have done everything possible to bring airlines here. They have brought industry in with

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

jobs. She asked Mr. Zonka if he feels a study is needed and noted that the City would have to pay for a study.

Mr. Zonka said he has an interest and vested concern. He flies out of the Melbourne Airport as a small aircraft pilot. He commented that his goal is to effect change that will improve the operation and soundness. He said he would look for a consultant that offers specialized abilities to look at airports similar to Melbourne.

Mrs. Poole asked Mr. Zonka to explain the eight dollar incentive offered by the Airport. Mr. Zonka discussed incentives being offered to carriers with “land and leave” passengers. He stressed that the people in our community want flights; flights to New York, etc. Mrs. Poole expressed concern with attracting passengers who immediately leave on a bus headed for the Port to cruise.

Mr. Palmer said that those passengers now fly into Orlando, board a bus and head for the Port to cruise. He stated that if we can entice them to fly into Melbourne, which is closer to the Port than Orlando, then the passengers would use the hotels/motels in our area, spend time on our beaches and in the Brevard County/Melbourne area. That is the goal of the Melbourne International Airport.

At this point, Mrs. Hand recommended that Council continue with its agenda. A brief discussion followed about when Airport Authority meetings are held. Mrs. Walker and Mrs. Poole thanked Mr. Zonka for his presentation. Mrs. Poole asked Mr. Johnson to express his views.

Airport Director Jim Johnson said that he is ashamed of Mrs. Poole for inviting someone whose claim is that he is a graduate of FIT in aviation management to speak as a professional consultant for aviation and airport management. He added that he is not aware that Mr. Zonka has worked one day on an airport. He suggested that if Council has one speck of doubt about how the Airport is managed or operated, that it hire a professional consultant to do a professional study.

Mr. Johnson said that over the last eight years, the current administration at the Airport has added \$15 million to the Capital Improvement Fund at the Airport. During fiscal year 2003, the Airport added \$2.4 million and anticipates adding more in fiscal year 2004. He pointed out that Mr. Zonka has disagreed with the acceptable mandated governmental accounting procedures that are set forth to determine the performance of an airport. He stressed that the Airport operates with the same accounting methodologies as the City of Melbourne. And, he noted that the City has retained control over the finances of the Airport. Mr. Johnson said that Mr. Zonka also disagrees with the Airport Authority’s aggressive policies to generate additional aviation business in a difficult economic time.

Continuing, Mr. Johnson said that Mr. Zonka did not help the Airport or the community by sending documents to the Vice President of Aviation for the Orlando Sanford Airport. With regard to the Melbourne Airport working on cruise destination operations, Orlando Sanford is Melbourne’s only competitor in that deal.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Mr. Johnson concluded by suggesting that the City Council hire a professional consulting firm to perform an appropriate study if it is concerned about the management and operation of the Melbourne International Airport.

Mrs. Poole expressed concern with Mr. Johnson making a personal attack on her. She added that she is thankful that someone has taken the time to gather this information. She stated that she does not want the Airport to be a glorified real estate empire. People in our community want flights. She said she is hoping changes will be made and that the large decisions faced by the Airport Authority come before Council for approval. She asked that the Airport work on bringing in flights harder than it works on bringing in development.

A brief discussion followed between Mr. Johnson and Mrs. Poole.

Vice Mayor Palmer said that Mr. Johnson and the other members of the Airport Authority need to understand that the citizens of Melbourne have the misunderstanding that the Melbourne City Council runs the Airport. She commented that Mr. Zonka has made serious allegations, and she welcomed the opportunity to hear Mr. Johnson discuss some of those misconceptions. Mrs. Palmer said that unfortunately Mr. Johnson instead opted to get personal with Mrs. Poole. She stressed that she would have liked to have heard an explanation on why Mr. Zonka is wrong.

Recessed: 8:22 p.m.
Reconvened: 8:33 p.m.

NEW BUSINESS

14. COUNCIL ACTION RE: Contract award for painting at Lake Washington Water Treatment Plant, Project No. C03304, Universal Painting Corp., Lakeland, FL - \$159,592.

City Engineer Howard Ralls reviewed the agenda report. The recommendation is for award of the painting contract to Universal Painting Corp. in the amount of \$159,592.

Moved by C. Palmer/Poole for approval of the recommendation. Motion carried unanimously.

15. COUNCIL ACTION RE: Contract award for Cured In Place Pipe linings, Inflow & Infiltration (I&I) elimination, Lift Station 6, Phase II, Project No. C03314, Insituform Technologies, Inc., Jacksonville, FL - \$301,606.

Mr. Ralls briefed Council and reviewed the agenda report. The recommendation is for approval of the piggy-back contract with Insituform Technologies, Inc. in the amount of \$301,606.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Moved by Walker/Poole for approval of the recommendation. Motion carried unanimously.

16. CONSENT AGENDA:

Moved by C. Palmer/Walker for approval of Items “a – f.”

The City Manager responded to general questions about Item “c.” Fire Chief Walt Chamberlin and Assistant Chief Joe Sunday elaborated on Items “e” and “f.” Housing and Community Development Administrator Melinda Thomas discussed the budget in Item “d.”

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Task Order No. 9 amendment to the agreement for professional engineering services for Canova Beach Ground Storage Tank Chemical Storage and Feed System, Project No. C03306, Hazen and Sawyer, Ft. Pierce, FL - \$38,000.
- b. Contract award for diesel engine generator service, Pantropic Power, Inc., Miami, FL - \$48,705 estimated annual cost.
- c. Contract award for the annual purchase of 1-½” and 2” water meters, Badger Meter, Inc. Milwaukee, WI - \$26,247.25.
- d. Contract award for the renovation of public restrooms at the Grant Street Community Center, GC Construction & Development, Inc., Melbourne, FL - \$19,749 and transfer of \$11,724 from the Lipscomb Park Restroom Project to this project budget.
- e. Purchase of LIFEPAK equipment and accessories, Medtronic Physio-Control Corporation, Redmond, WA - \$20,983.65.
- f. Purchase of capnography upgrades to include seven filter line disposables and 11 filterline sets, Medtronic Physio-Control Corporation, Redmond, WA - \$23,115.

17. PRESENTATION TO COUNCIL: Legislative update from State Representative Mitch Needelman

State Representative Mitch Needelman stated that it has been an honor and privilege to serve the City in Tallahassee. He added that it has been an exciting year and he would like to present a thumb sketch of the legislative activities.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Mr. Needelman reviewed important aspects of the state budget, new spending on important projects, and new legislation. He outlined what the Brevard Legislative Delegation brought forward for Brevard County. In closing, he thanked the City Attorney and City Manager for responding quickly when he had questions.

Mrs. Poole asked Mr. Needelman to work on funding for the dredging of Lakes Hell 'N Blazes and Sawgrass. This is an important project for the City's water supply. Mr. Needelman said that he intends to work with the Corps of Engineers and Congressman Weldon's office on this issue.

Attorney Gougelman commended Representative Needelman for not allowing the transportation bill to pass in its original form, which would have stripped millions from Brevard County for roadway improvements.

Mayor and Council thanked Representative Needelman for his support of Brevard County and the City of Melbourne.

18. COUNCIL ACTION RE: A request for approval of an award of \$170,150 in HOME CHDO funds to Community Housing Initiative, Inc. (CHI) for continuation of the Homebuyer Infill Housing Project, budget transfers totaling \$127,099 from Rental Housing and Owner Occupied Rehabilitation accounts to CHDO accounts in FY 2002 HOME and FY 2003 HOME, and authorization for the City Manager to execute an agreement with CHI for the project.

Mrs. Thomas reviewed the agenda report. The recommendation is for approval of an award of \$170,150 in HOME CHDO funds to Community Housing Initiative, Inc. for continuation of the Homebuyer Infill Housing Project, approval of the proposed budget adjustments, and Council authorization for the City Manager to execute an agreement with CHI for said project.

Moved by E. Palmer/Walker for approval of the recommendation. Motion carried unanimously.

19. PRELIMINARY PLAT APPROVAL (SD-2004-03) CAPTIVA SUBDIVISION PUD/FKA STROKES: (Public Hearing) A request for preliminary plat approval on 37.88 acres, zoned PUD (Planned Unit Development), located on the east side of Dairy Road, between Eber Road and Range Road. (Owner/Applicant - Strokes Community Developers, Inc.) (P&Z Board - 5/06/04)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board unanimously recommended approval of SD-2004-03, Preliminary Plat for "Captiva PUD" Subdivision, consisting of a three-sheet plan prepared by Soyka Engineering and Associates, Inc, of Melbourne, Florida, with a stamped and sealed date of April 21, 2004, with the findings listed in the agenda package and the following conditions:

- a. Any change to the preliminary plat will require its re-evaluation by the Planning

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

and Economic Development Department and Engineering Department.

Any substantial change to the preliminary plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the preliminary plat includes, but is not limited to: 1) an increase of more than nine lots; or 2) a decrease of more than 5% of the existing open space.

- b. Add a note on the plans that side lot easements will be removed for homes built on two lots.
- c. Add a note on the plans that fences are regulated in easements per City Code, Appendix D, Section 9.47 (d).
- d. Appropriate permits for any threatened or endangered species must be obtained.
- e. Trees located within common areas and tracts shall be preserved unless determined during construction plan review that they must be removed to construct improvements.

There were no disclosures by Council.

Mrs. Poole asked if a tree survey will be done. Mrs. Dittmer said that during construction plan review, staff will look at common and recreation areas to determine if playground equipment, etc. can be moved to save trees.

Mrs. Dittmer confirmed for Mrs. Poole that the lots around the perimeter will be large enough to accommodate a pool. Mrs. Poole asked if the School Board commented on this project. Mrs. Dittmer replied that the property was already zoned to allow up to six units per acre; therefore, they did not comment on this development.

Mayor Buckley opened the public hearing.

Morris Smith, Mercedes Homes, said that Vice Mayor Palmer has previously indicated that projects need to include activities for children. He stated that this development reflects that desire and elaborated on the play and recreation areas. He concluded by agreeing with the conditions.

There were no further comments from the public.

Moved by E. Palmer/Contreras for approval, subject to the conditions.

Mrs. Poole said that she will vote for this item since this is a quality builder and the development will include recreation areas for the children.

The question was called. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

20. ORDINANCE NO. 2004-38 (Z-2004-986) MASLOW DEVELOPMENT GROUP, LLC: (First Reading/Public Hearing) An ordinance providing a zoning change from R-A (Residential Holding) to R-2 (One-, Two-, and Multiple-Family Residential Dwelling with a cap of 15 units per acre) on a 9.7-acre parcel, located on the south side of Eber Road, east of Stack Boulevard, and west of Babcock Street. (Owner - New Covenant Fellowship Church/Gary Stebbins) (Applicant - Maslow Development Group, LLC) (Representative - Albert S. Lagano) (P&Z Board - 5/06/04)

Mayor Buckley referenced the memorandum dated May 21 from the City Manager, which transmits a notice of intent to file a protest petition from Edward Bain. The notice was received after the required Code deadline; therefore, the 6/7 vote requirement will not be enacted.

City Attorney Paul Gougelman read Ordinance No. 2004-38 by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted (4 to 3) to recommend approval of this request subject to the findings contained in the agenda package and the conditions contained in the ordinance.

There were no disclosures by Council.

In response to Mr. Palmer, Mrs. Dittmer said that the properties to the south and west have a density of six units per acre. Mr. Palmer said that based on that, he believes the density request for 15 units per acre is too high.

Hugh Bain, 292 Cinnamon Lake Circle, said he is here to protest the rezoning request. He would like the zoning to remain so that the developer won't be able to build three-story apartment buildings. He and the other residents of Cinnamon Cove believe that this request is not compatible or consistent with the surrounding areas. And, rezoning to allow higher density will set a precedent.

Mr. Bain said that the water supply, air quality, native plants, transportation, etc. need to be considered. Also, he pointed out that this passed through the Planning and Zoning Board by only one vote.

Mr. Bain presented a petition and said it is signed by over 20% of the residents in the area. He asked for Council's support.

Al Lagano, representing the applicant, said that all they are asking for is a change in the zoning. They have made no determination as to what will be put on the property. At that time, they will have to submit a plan and go through the various boards. If it is determined that the requested development is not compatible with the surrounding area, then it will be rejected. Also, he said that whether the density is six or 15 units per acre will be up to Council.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Mayor Buckley said that his preference would be six to eight units per acre. He added that anything higher would be too dense.

Mr. Lagano said he does not think they anticipate building an apartment complex because the area is too nice.

Mr. Palmer asked Mr. Lagano if he would agree to six units per acre. Mr. Lagano said he can't say. He added that this small tract will probably be combined with another before it is developed.

In response to Mrs. Poole, Mr. Lagano said that approval of this request will not tie the density to 15 units per acre. He added that the density decision will be made later when Council reviews the (site) plan. Mrs. Poole asked Mr. Lagano if he read the ordinance and Mr. Lagano replied that he does not believe that he has.

Mrs. Walker asked Mr. Lagano to expand on the comment about combining this property with adjacent property. Mr. Lagano said they are currently talking with the owner of the parcel to the west. He has no idea what they are going to put on the property; however, they have no desire to build apartments.

Following a brief discussion, Mrs. Dittmer said that this is the time for Council to address the density if there are concerns. She said that during site plan review, staff will simply determine if the plan meets the City Code. The density will be determined by the decision made at this meeting. Attorney Gougelman agreed. Mr. Palmer recommended that Council designate the density at this meeting.

Moved by E. Palmer/Hand to approve Ordinance No. 2004-38 with a density of six to eight units per acre.

Attorney Gougelman asked Council to specify whether it will be six or eight units per acre.

Following a brief discussion, Council recessed from 9:48 p.m. until 9:53 p.m. to allow Mrs. Dittmer time to review the Comprehensive Plan.

After Council reconvened, Mrs. Dittmer confirmed that six units per acre with the R-2 zoning would be consistent with the Medium Density Future Land Use designation. In addition, it would be consistent with the property to the west that is vacant and with the Cinnamon Cove Subdivision to the south.

The maker/seconded amended the motion to provide for a density of six units per acre.

Mrs. Poole discussed her concerns with the requested density of 15 units per acre. She said that this is too dense.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

The question was called on the motion and the amendment. Motion carried. Mrs. Poole voted nay.

Mrs. Poole said that if the petition had been submitted in time, a 6/7 vote would be required. She said she won't vote for this until she determines if the surrounding residents agree with the change.

Mrs. Palmer pointed out that the lower density is compatible with the Cinnamon Cove Subdivision and the change made by Council recognizes the concerns raised in the petition.

21. ORDINANCE NO. 2004-39 (Z-2004-985) STEVE CORDELL: (First Reading/Public Hearing) An ordinance providing a zoning change from C-2 (General Commercial) to R-3 (Multiple-Family Residential) on a 0.28-acre parcel, located on the east side of North Harbor City Boulevard, north of Sarno Road. (Owner/Applicant - Steve Cordell) (Representative - David Bogenrief, P.E.) (P&Z Board - 5/06/04)

Attorney Gougelman read the ordinance by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board unanimously recommended approval of this request.

Mrs. Poole said she has questions on the number of variances that this property has received. She said that there is not enough detail and she is not able to determine if there was a hardship.

Mrs. Dittmer said that the previous owner of the property tried to force commercial uses, which resulted in a number of variances. Mr. Cordell bought the property in the last year or two and his desire is to move in and use that as a residential property. The most recent variances relate to his desire to have a garage.

Mrs. Poole noted that the variances will stay with the property. Mrs. Dittmer said that is correct. She explained that in order to rezone, a property must have 40,000 s.f. – essentially an acre – or be adjacent to a district with the same zoning designation. R-3 is the only adjacent residential zoning district that would allow the property to be used as residential.

Steve Cordell, applicant, said that the house was built in 1916 over the water on pilings. He said he does not plan on building multi-family on the site. He wants to live and retire in this house.

Moved by Walker/Contreras for approval of Ordinance No. 2004-39. Motion carried unanimously.

22. ORDINANCE NO. 2004-40 (AR-2004-151), ORDINANCE NO. 2004-41 (CPA-2004-05), ORDINANCE NO. 2004-42 (Z-2004-984), AND ORDINANCE NO. 2004-43 (CU-2004-04) ALOHA PET AND BIRD HOSPITAL: Ordinances providing for annexation,

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Comprehensive Plan Amendment, rezoning, and a conditional use on 0.55-acre parcel, located at 968 East Eau Gallie Boulevard. (Owner/Applicant - Dr. Jose Peppin) (P&Z Board - 5/06/04)

- a. Ordinance No. 2004-40/AR-2004-151: (First Reading/Public Hearing) An ordinance providing for the annexation of a 0.55-acre parcel, currently developed as a veterinary clinic.
- b. Ordinance No. 2004-41/CPA-2004-05: (First Reading/Public Hearing) An ordinance establishing a Commercial land use for a veterinary clinic.
- c. Ordinance No. 2004-42/Z-2004-984: (First Reading/Public Hearing) An ordinance establishing a zoning designation of C-2 (General Commercial).
- d. Ordinance No. 2004-43/CU-2004-04: (First Reading/Public Hearing) An ordinance granting a conditional use to continue the operation of a veterinary hospital.

The City Attorney read each ordinance by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of this request.

There were no disclosures by Council and no comments from the public. The applicant was not present.

Moved by C. Palmer/E. Palmer for approval of Ordinance No. 2004-40. Motion carried unanimously.

Moved by E. Palmer/C. Palmer for approval of Ordinance No. 2004-41. Motion carried unanimously.

Moved by Hand/Walker for approval of Ordinance No. 2004-42. Motion carried unanimously.

Moved by Walker/E. Palmer for approval of Ordinance No. 2004-43. Motion carried unanimously.

Moved by C. Palmer/Contreras to convene as the Downtown Melbourne Community Redevelopment Agency. Motion carried unanimously.

23. COUNCIL ACTION RE: A request to establish a project budget for the purchase of 61 replacement benches, 33 trash receptacles, and 11 table and benches in the Downtown Redevelopment District, Dumor Site Furnishings, Longwood, FL - total cost not to exceed \$100,000.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Mrs. Dittmer reviewed the agenda material. The recommendation is to establish a project budget for the purchase of new benches, trash receptacles, and table/bench sets at a cost not to exceed \$100,000 from the Downtown Redevelopment Fund.

Mrs. Poole said that the benches and receptacles look modern. She noted that 20 years ago a great deal of effort was put into ensuring that the structures in the area looked historic. Mrs. Poole asked the status of the sidewalk replacement project.

Mrs. Dittmer said that this project will begin before construction of the sidewalks because it does not require engineering and design. Mrs. Poole recommended that the sidewalks be repaired first before the new benches are set.

Regarding the appearance, Mrs. Dittmer said that the Main Street and Downtown Redevelopment Advisory Committees received a lot of community input and spent time selecting items that fit the historic nature of the Downtown area.

Mrs. Palmer said she believes that they made a good decision; the structures appear to be attractive and durable. The bronze color will blend with the environment rather than bright colors and she appreciates the time they took to consider all options.

Mr. Contreras said that during the prior discussion on the sidewalk replacement, he requested information about the 10-year plan.

Mrs. Dittmer said that staff is working on bringing an updated Downtown Melbourne Redevelopment Plan before Council in the near future.

Regarding the sidewalks, Mrs. Dittmer said that they are included in the Phase 3 streetscaping and lighting project. The sidewalk replacement project is happening. Mr. Schluckebier agreed and added that Council has already approved the funding for that program. He stressed that there is no way the sidewalk replacement project will be moved to the bottom of the list.

Mayor Buckley read the recommendation.

Moved by E. Palmer/Contreras for approval of the recommendation. Motion carried unanimously.

Moved by Poole/Walker to reconvene as the Melbourne City Council. Motion carried unanimously.

24. COUNCIL DISCUSSION RE: A request from the Brevard County School Board for the appointed Planning & Zoning Board representative to become a voting member.

From the agenda report: The Brevard County School Board has asked all the cities to upgrade the School Board representative that serves on the various planning and zoning boards to a voting member. City staff believes the recently established arrangement is too new to be evaluated, let alone revised. This may be a good proposal after the School

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

Board provides for appropriate formal input in their decision making systems and processes by local government.

The recommendation is for Council to refrain from answering the specific request at this time and refer the issue and our concerns to the Space Coast League of Cities for a collaborative review and response.

Moved by E. Palmer/Poole for approval of the recommendation. Motion carried unanimously.

Mrs. Palmer said she does not see why Council can't deny the request outright. Mayor Buckley pointed out that the makeup of our Planning and Zoning Board can't be changed without City Council approval. The issue will return to Council.

25. COUNCIL ACTION RE: Building and Construction Advisory Committee - appointment of two regular members

Moved by Poole/C. Palmer to reappoint Bill Losapio and Dan Wolfe. Motion carried unanimously. (5/27/2004 – 5/26/2007)

26. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

The City Manager briefed Council on the following:

- The Code Compliance Division is continuing to work on the code complaints about the two concrete plants (noise, dust and vibrations) near Avocado Avenue. One of the plants has come into compliance and the other is scheduled to appear before the Code Enforcement Board on May 26.
- The Coastal Florida Police Benevolent Association has notified the City that it intends to use an attorney during the upcoming PBA negotiations. Therefore, the City also intends to use an attorney during the negotiations. Additionally, an executive session will be scheduled with City Council around the second week of June to review collective bargaining issues. This will be a "shade" meeting, which is authorized under state law.
- City Council will be copied on the letter that staff sent to Waste Management regarding the City's intention to cease allowing the discharge of hauled waste (from portable toilets) to the City's wastewater treatment facilities. The Florida Department of Environmental Protection pointed out that continued acceptance of the waste would result in a violation of the standards established in our industrial pre-treatment program.
- Recently a drop in the level of Lake Washington resulted in airboat operators going around the dam. This created a breach in the lake embankment, which caused the

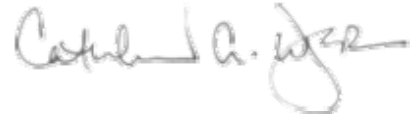
CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MAY 25, 2004

lake level to drop about one inch per day. The breach has been identified and repaired.

27. ADJOURNMENT

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

The meeting adjourned at 10:39 p.m.



City Clerk – 6/3/2004

Approved by Council: June 8, 2004