

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 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. Reverend Derrise Dawson, FIT Chaplain, 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
	Amy W. Elliott	Assistant City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations – Mayor Buckley presented a proclamation to City Attorney Paul Gougelman in recognition of receiving the Florida League of Cities “City Attorney of the Year” Award.
5. Approval of Minutes – June 22, 2004 Regular Meeting
Moved by Contreras/Hand for approval. Motion carried unanimously.
6. City Manager’s Report

City Engineer Howard Ralls introduced Ivan Horodyskyj, the City’s new Traffic Engineer. Mayor and Council welcomed Mr. Horodyskyj.

Assistant City Manager Amy Elliott referenced the proposal by County Commissioner Sue Carlson to proceed with a seven-year, one-cent sales tax to fund transportation projects. The Board of County Commissioners met on July 13 and made it clear that they were not ready to proceed.

Mayor Buckley referenced the memorandum, which reports that David Armstrong has asked for Council to rescind the action taken by the City Council at its May 25 meeting. The action relates to an annexation request on property located on the north side of Eau Gallie Boulevard, west of Wickham Road and east of the intersection with Sarno Road.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Moved by Hand/Walker to add this to the agenda as Item 21.1.

Council Member Pat Poole asked if Council could move Item 21 (public comments at Airport Authority meetings) in front of the consent agenda. Attorney Gougelman said that Council may choose where to place an item on the agenda. Mayor Buckley said he would accept an amendment to add the (Armstrong) item as 20.1.

Moved by E. Palmer/C. Palmer to amend the motion by making this Item 20.1. Motion carried. Mrs. Hand voted nay.

The question was called on the main motion, as amended. Motion carried. Mrs. Poole and Mrs. Hand voted nay.

Mrs. Poole asked if Council was going to move the Airport item up on the agenda. Mayor Buckley replied no and said that many of the applicants on the agenda paid (fees) for their item. Council Member Loretta Hand said she voted nay because this is an Airport Authority item (public comments at Airport Authority meetings) and should not be discussed at a Council meeting.

Mayor Buckley stated that Dave Armstrong's request would be heard as Item 20.1.

7. Public Comments

Jacqueline Bandish, 4027 Careywood Drive, displayed an aerial of property she and her husband purchased on NASA Boulevard between Hughes Supply and the Sears repair center. She reported that a representative from the City indicated that access to NASA Boulevard would not be an issue; however, when they applied for permitting, City staff indicated it would be an issue because of the distance requirements between driveways.

Mayor Buckley asked City Manager Jack Schluckebier to review this issue and inform Ms. Bandish if anything can be done.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2004-38 (Z-2004-986) MASLOW DEVELOPMENT GROUP, LLC: (Second Reading/Public Hearing) An ordinance providing a zoning change from R-A (Residential Holding) to R-2 (6) (One-, Two-, and Multiple-Family Residential Dwelling with a cap of six 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) (First Reading - 5/25/04) (Postponed - 6/08/04)

From the agenda report: This item was postponed for 30 days at the June 8 Council meeting at the request of the applicant. The applicant originally requested the maximum allowable density at 15 units per acre; however, Council revised the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

ordinance at the May 25 meeting to six units per acre. The revised ordinance is included in the package.

Attorney Gougelman read Ordinance No. 2004-38 by title. There were no disclosures by Council. Mayor Buckley opened the public hearing.

Joseph DiPrima, property owner, said that he signed a contract and purchased the property based on his anticipation that the property would be zoned at 15 units per acre. He said he is trying to determine why staff recommended 15 units, but City Council decreased the density to six units. Mr. DiPrima reported that his intention is to develop the property for townhomes. He has constructed several of these projects on the beach at a density of eight units per acre.

Continuing, Mr. DiPrima said he believes that the request is compatible with the surrounding development. He asked the City Council to consider eight units per acre in lieu of six.

Mrs. Poole informed Mr. DiPrima that the density was reduced to six because of concerns raised by area residents. Mr. DiPrima said that this was not made known to him. He asked Council if he could pull the item so he can review the record and share the plan with people in the area who objected to the request.

Attorney Gougelman asked Mr. DiPrima to elaborate on his relationship to this item. Mr. DiPrima confirmed that he closed on the property about a month ago and he is the owner. Mr. DiPrima noted that Mr. Maslow is out of the picture.

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

9. ORDINANCE NO. 2004-47 (Z-2004-989AD/LDR-2004-03/FOC-2004-03) ADULT ENTERTAINMENT: (Second Reading/Public Hearing) An ordinance amending City Code, Appendix B, by revising the location requirements for adult entertainment establishments and establishments for the consumption of alcohol. (Applicant - City of Melbourne) (First Reading - 6/22/04)

From the agenda report: This is the second reading of an ordinance to change the distance requirements for adult entertainment establishments. Additionally, at the June 22 Council meeting, Attorney Kahn (adult entertainment consultant) recommended that the section relating to "waiver" be deleted at the second reading of the ordinance. The recommendation is for approval of Ordinance No. 2004-47, subject to the findings contained in the Planning and Zoning Board memorandum and deletion of Article XVIII, Section 22(f), Waiver.

Attorney Gougelman read Ordinance No. 2004-47 by title.

Mayor Buckley called for disclosures. Vice Mayor Cheryl Palmer said that she spoke with the Thayers who own property on Washburn Road. The Thayers are in

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

agreement with the action being taken by the City. Additionally, she said she talked with our special legal counsel, Attorney Mike Kahn, when the ordinance was being drafted.

Mayor Buckley opened the public hearing. There were no comments.

Moved by Hand/Poole for approval of Ordinance No. 2004-47 with the deletion of Article XVIII, Section 22(f), Waiver. The roll call vote was:

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

Nay: None

Motion carried unanimously.

10. ORDINANCE NO. 2004-48 (CU-2004-07) MOONSTRUCK WINE COMPANY: (Second Reading/Public Hearing) An ordinance granting a conditional use to allow the consumption of alcohol on the premises in a C-3 (Central Business) zoning district, located on the northwest corner of East New Haven Avenue and Municipal Lane. (Owner - Scott Lillycrop) (Applicant - Moonstruck Wine Company) (First Reading - 6/22/04)

Attorney Gougelman read the ordinance by title. Council Member Grace Walker disclosed that she occasionally walks by this location. Mayor Buckley opened the public hearing. There were no comments from the public.

Moved by Contreras/Buckley for approval of Ordinance No. 2004-48. The roll call vote was:

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

Nay: Walker

Motion carried.

11. ORDINANCE NO. 2004-49 (AR-2004-152), ORDINANCE NO. 2004-50 (CPA-2004-08), AND ORDINANCE NO. 2004-51 (Z-2004-988), SHELL PROPERTIES & RTS DEVELOPMENT: Ordinances providing for annexation, Comprehensive Plan Amendment, and rezoning on 0.93-acre parcel, located on West Drive, between Ellis Road to the south and Dow Road to the north, and a one-acre parcel, located on the northeast corner of the Dow Central Park industrial subdivision at 445 Stan Drive. (Owners - Shell Properties, LLC and RTS Development, Inc.) (Applicant/ Representative - Vaheed Teimouri, P.E.)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

- a. Ordinance No. 2004-49/AR-2004-152: (Second Reading/Public Hearing) An ordinance providing for the annexation of two properties for a proposed plumbing supply business on West Drive. (First Reading - 6/22/04)
- b. Ordinance No. 2004-50/CPA-2004-08: (Second Reading/Public Hearing) An ordinance establishing an Industrial land use for two parcels. (First Reading - 6/22/04)
- c. Ordinance No. 2004-51/Z-2004-988: (Second Reading/Public Hearing) An ordinance establishing a zoning designation of M-1 (Light Industrial) for two parcels. (First Reading - 6/22/04)

Attorney Gougelman read Ordinance Nos. 2004-49, 2004-50 and 2004-51 by title. There were no disclosures by Council and no comments from the public.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2004-49. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Hand/Walker for approval of Ordinance No. 2004-50. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by Walker/E. Palmer for approval of Ordinance No. 2004-51.

Mrs. Poole thanked staff for revising the agenda report to reflect that two properties are involved with the annexation.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

12. COUNCIL ACTION RE: Contract award for Eber Road widening, Project No. E01608/I03606, Ranger Construction Industries, Malabar, FL - \$3,840,879 and transfer of \$300,000 from the Stormwater Utility Reserve; \$250,000 from Local Option Gas Tax; \$40,000 from Bikeways Improvement Impact Fees, and \$16,020 from Water & Sewer Miscellaneous Capital Improvements to this project budget.

City Engineer Howard Ralls briefed Council. The recommendation is for approval of the contract with Ranger Construction Industries, Inc. in the amount of \$3,840,879 and transfer of \$300,000 from the Stormwater Utility Reserve, transfer of \$250,000 from the Local Option Gas Tax Reserve, transfer of \$40,000 from the Bikeways Improvement Trust Fund, and transfer of \$16,020 from the Water and Sewer Miscellaneous Construction Fund.

Moved by Contreras/E. Palmer for approval of the recommendation. Mr. Ralls responded to general questions about the project. The question was called. Motion carried unanimously.

13. COUNCIL ACTION RE: Change Order No. 1 to the Babcock Street Realignment contract for Lime Drive paving, Project No. 01610, Wm. Turnbaugh Construction, Inc., \$123,627.50.

Mr. Ralls reviewed the agenda report. The recommendation is for approval of Change Order No. 1 to the William Turnbaugh Construction, Inc. contract for Babcock Street Realignment for the purpose of constructing Lime Drive in the amount of \$123,627.50.

Council Member Ed Palmer said that this move will save the City funds and take care of a long overdue project. He asked for confirmation that the Babcock Street realignment project will not be adversely impacted. Mr. Ralls agreed that the Babcock project would not be affected. He explained that the realignment project is in the utility relocation phase, which requires different equipment. The paving equipment will be shifted over to the Lime Street project and the job will be done quickly.

Mayor Buckley read the recommendation. Moved by E. Palmer/C. Palmer for approval of the recommendation. Motion carried unanimously.

14. CONSENT AGENDA:

Moved by Contreras/Poole for approval of the consent agenda, Items “a – i.”

Staff responded to Mr. Palmer’s general questions about Items “d” and “e.” At Mr. Palmer’s request, the City Manager will provide Council with detailed information about Item “g” (hand-held radios).

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Regarding Item “f”, Mrs. Palmer thanked staff for looking for another supplier. Mr. Schluckebier elaborated on the steps taken to ensure that the City is receiving a good price on the ferric sulfate.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Amendment No. 1 to Professional Services Agreement to perform a review of water and wastewater impact fees and other service fees and charges, Public Resources Management Group, Inc., Maitland, FL - \$29,400.
 - b. Approval of an amendment to the agreement with South Brevard Sharing Center, Inc., increasing the award amount by \$30,383 to \$150,383, transfer of \$30,383 from Special Needs Rental account to the Tenant Assistance Program, and authorization for the City Manager to execute all related documents.
 - c. Extension of HOME Tenant Based Rental Assistance benefits for Angelika Nason and Barbara Rinehart.
 - d. Renewal of agreement with Brevard County for six School Resource Officers for the 2004/2005 school year at a maximum reimbursement of \$141,554.50.
 - e. Purchase of an Ely solid granite columbarium for the Melbourne Cemetery, Eickhof Columbaria, LLP, Crookston, MN - \$22,848.
 - f. Purchase of ferric sulfate, Kemiron Companies, Inc., Bartow, FL - \$199/ton unit price, estimated annual cost of \$773,314.
 - g. Resolution No. 1885: A resolution authorizing the City Manager to submit a grant application to the Bureau of Justice Assistance for the Local Law Enforcement Block Grant Phase IX in the amount of \$58,595 to purchase hand-held radios and approval of \$6,511 in matching funds from the General Fund.
 - h. Resolution No. 1886: A resolution adopting names for private streets at Wickham Club Apartments.
 - i. Resolution No. 1887: A resolution authorizing the City Manager to execute an agreement for professional services between the City of Melbourne and the Office of the State Attorney for the prosecution of municipal ordinances.
15. PRELIMINARY PLAT APPROVAL (SD-2004-05) SONESTA WALK PHASE II: (Public Hearing) A request for preliminary plat approval for a 210-unit residential townhome development on a 21.8-acre parcel zoned R-2 (Cap 6) (One-, Two-, and Multiple-Family Dwelling with a cap of six units per acre), located at the southeast corner of Dairy Road and Range Road. (Owner/Applicant - Dairy Towns Community

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Developers, Inc.) (Representative - Brian J. Bussen, P.E., Consultant to Mercedes Homes, Inc.) (P&Z Board - 6/17/04)

Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board unanimously recommended approval of SD-2004-05, consisting of a two-sheet plan prepared by Campbell Surveying and Mapping of Brevard, Inc., of Merritt Island, Florida, and a data sheet prepared by Mercedes Homes, Inc., Melbourne Division, dated June 8, 2004, subject to the following conditions:

- a. A change to the preliminary plat will require review by the Engineering Department and the Planning and Economic Development 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 includes, but is not limited to: 1) a decrease of 10 percent of the amount of open space or vegetative areas on site, unless necessary to comply with a code provision; 2) an increase of 20 or more lots; or 3) any additional driveways.

- b. The owner/applicant shall extend Range Road east of the proposed street connection to an area adjacent to the jog in the north line of the plat, west of the public drainage canal.
- c. The owner/applicant shall convey to the City of Melbourne a 10-foot wide strip of land along the south edge of Range Road.
- d. The owner/applicant shall obtain all applicable permits required by the Environmental Impact Analysis prior to construction plan approval of Phase II.

Additionally, the recommendation provides for approval of a subdivision variance to allow block lengths greater than 1,500' in length.

In response to Mrs. Poole, Mrs. Dittmer said that the landscaping tracts look minimal because in this phase the ends of blocks are the only remaining items to be addressed. The small tracts will enable homeowners to provide landscaping on the ends of streets. Phase one of the development included the large open and recreation areas.

Mrs. Palmer asked about the vacant area in the center. Mrs. Dittmer said that will be a wet retention area.

Mayor Buckley called for disclosures; there were none. Mayor Buckley asked the applicant to come forward.

Morris Smith, Mercedes Homes, agreed with the staff presentation. (Later in the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

discussion, he agreed with the conditions.)

Mrs. Palmer asked Mr. Smith if he would be willing to consider a round about with landscaping or some other speed calming devices. She commented that block lengths greater than 1,500' tend to become speedways.

Mr. Smith replied that he will determine if the site can accommodate a re-design. The location of roads would have to remain because of design and utilities. He stated that the City would have to agree for the sidewalks to be placed out of the right-of-way to accommodate a bulge in the road.

Moved by Hand/Contreras for approval of the preliminary plat as recommended, subject to the conditions.

Mayor Buckley asked if there were any other speakers. There were no comments from the public.

The question was called. Motion carried. Council Members Poole and Walker voted nay.

16. COUNCIL ACTION RE: Request by Mayor Buckley to rescind the action taken by City Council at its June 22, 2004 meeting on the following items relating to a 3.25±-acre parcel located on the south side of East Eau Gallie Boulevard, east of Unity Drive, and west of Highway A1A:
- a. Ordinance No. 2004-44/CPA-2004-07: An ordinance changing the land use from Commercial to Medium Density Residential (10 units per acre).
 - b. Ordinance No. 2004-45/Z-2004-987: An ordinance changing the zoning from C-P to R-2 (10) (One-, Two-, and Multiple-Family Residential with a cap of 10 units per acre).

From the agenda report: At the June 22 Council Meeting, the motion to approve Ordinance No. 2004-44 failed by a 3-3 vote. Based on this, no action was required or taken on Ordinance No. 2004-45. Mayor Buckley asked that the ordinances be placed on this agenda for Council consideration. He will be asking for a motion to rescind the action taken on June 22 so that the public hearing can be re-opened.

A memo is included in the package from the Mayor. He has indicated that at the June 22 meeting, Mr. Rufo and Mr. Clark made public comments. Immediately after they finished speaking, the Mayor did not ask if there were any other comments from the audience. After the item failed, Mr. Rufo indicated to the Mayor that there were people in the audience who wished to speak. The Mayor believes that the fair thing to do would be to rescind the previous action and re-open the public hearing.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Should Council rescind the previous action, staff believes that the item should be placed on the next agenda (July 27). This would allow time for the ordinances to be advertised for public hearing. If the June 22 action were rescinded, the ordinances would appear on the July 27 agenda as a first reading/public hearing.

Mrs. Poole said that she cannot recall Council ever rescinding action taken on ordinances that passed after first and second readings. She said perhaps this action could be taken if staff found that something was left out or changed that could have affected the vote. However, the reason given is not justified. Anyone wishing to speak at a Council meeting simply needs to complete a sign-up sheet, stand up during the item, or speak at the end of the meeting. She encouraged Council not to rescind its previous action on this item.

Mrs. Poole's motion that Council "not rescind the vote taken on June 22, 2004" did not receive a second. Mrs. Poole concluded by saying that this could set a precedent and have an adverse affect on our boards, unions and committees.

Mrs. Hand asked the procedure involved and if someone from the prevailing side needs to make the motion. Attorney Gougelman explained that the only parliamentary procedure available is the motion to rescind. A motion to rescind can be made by any member, regardless of the prevailing side, and it requires a two-thirds vote to pass.

Mrs. Hand pointed out that Mrs. Palmer was absent at the last meeting and did not get to hear the item. She added that Council did not know that Mr. Clark would be joining the applicant. She recommended that Council consider this since things have changed.

Mayor Buckley stated that he acted prematurely by closing off the comments and taking the vote. He said that Mr. Rufo informed him during the break that he had other people who wished to speak. If this item is rescinded, it will return on the July 27 agenda to be voted up or down. The Mayor added that he is still opposed to this item.

Moved by Contreras/Walker to rescind (the action taken by Council at its June 22 meeting).

Mr. Palmer pointed out that the recommendation from staff is for denial and he does not believe that staff has changed its mind.

The question was called. Motion carried. Council Members E. Palmer and Poole voted nay.

Coy Clark, representing the applicant, asked that Council also consider this item on first reading at this meeting. He said that it is imperative this item be considered because the contract calls for a closing on Thursday (July 15). He asked Council to consider this as a continuation of the public hearing/first reading.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Attorney Gougelman said that Council has the flexibility to proceed as it chooses. He pointed out that first reading was previously advertised and the ordinance was read. There were problems with how the public hearing was conducted; at this point it needs to be reopened. Council could opt for further advertisement to give everyone a chance to return or continue with first reading. Council has wiped the slate clean by rescinding the item.

Mrs. Poole said that Council does not have to jump through hoops to please developers who have plans that don't work out. She stated that the entire matter needs to be re-advertised. Attorney Gougelman said that is how these matters have been handled in the past; however, he believes Council has the flexibility.

Council Member Richard Contreras said that the public would still be afforded an opportunity to make comments during the public hearing/second reading in two weeks. Council Members Hand and Walker agreed. Mayor Buckley said he thinks the item should be re-advertised. People may not be in attendance who wish to speak.

A brief discussion followed on the process. Moved by Contreras/Hand to consider Ordinance Nos. 2004-44 and 2004-45 as a continuation of the public hearing.

The Mayor confirmed for Vice Mayor Palmer that if Council takes this action, the public would still have a chance to attend and comment during second reading (at the next meeting).

The question was called. Motion carried. Council Members E. Palmer and Poole and Mayor Buckley voted nay.

Moved by Poole/Buckley to postpone this item until the next meeting to allow time for the ordinances to be distributed.

Mrs. Hand stated that time factor won't work for Mr. Clark.

Paul Rufo, applicant, pointed out that the first time this item was (postponed) it put the project back. The second time the vote was 3-3 and he was not aware that would be considered a loss. He added that it is not their fault that they are out of time. Mr. Rufo stated that there are people present and he has petitions and letters he would like to present.

Mayor Buckley called for a recess to allow the City Clerk time to retrieve the ordinances.

Recessed: 8:00 p.m.
Reconvened: 8:10 p.m.

The City Clerk distributed both ordinances to Mayor, Council, staff and the applicant.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

The question was called on the motion to postpone. Motion failed.

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

City Attorney Paul Gougelman read Ordinance Nos. 2004-44 and 2004-45 by title. Mrs. Dittmer briefed Council. She added that staff's recommendation is for denial.

Mayor Buckley asked the applicant to address the item.

Paul Rufo, applicant, distributed and discussed the following information: a) Petition signed by 36 people who are business owners, land owners or occupants of properties in the immediate vicinity of the subject property in support of the request. b) Letter dated July 14 from Jacie Stivers, Commercial Investment Real Estate Group, supporting the rezoning effort for a townhouse development and indicating that the property is not configured for commercial use. (At the applicant's request, Mayor Buckley read the letter in its entirety.) c) Letter dated July 9 from Michael Goins, Lucky Clover Mobile Homes, in support of the request.

Continuing, Mr. Rufo said he had three other people who were supposed to be at this meeting; however, they either got tired of coming or they have other commitments. He noted that he believes he has additional information that staff was not aware of when it made its recommendation for denial. Mr. Rufo referenced his June 17 letter (previously distributed to Council) and pointed out that the City will receive almost three times the tax revenue if the property is developed as residential versus commercial.

Mr. Rufo distributed the following additional material: d) Photographs of vacant commercial property in the area. e) Rendering of proposed development labeled "Eau Gallie Townhomes, Melbourne, Florida" prepared by MAI Architecture Engineering Construction.

Mr. Rufo discussed the proposed townhome development and said that it will be a gated community with the streets being maintained by the homeowners' association. He added that the property is surrounded by residential.

Mrs. Poole said that she would like to hear the people speak who said that they didn't have an opportunity to speak at the last meeting. Mayor Buckley asked Mr. Rufo to wrap up and bring his speakers forward.

Mr. Rufo summarized by discussing the number of vacant commercial properties in the area. He added that they agree to a condition of eight units per acre. Additionally, he asked staff to comment on the additional information that has been provided.

Mrs. Poole stated that she would like to hear the speakers. Mayor Buckley asked if there was anyone else present who wished to address Council on this item. There

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

was no response from the audience. Mr. Rufo added that they were here at a previous meeting.

Mrs. Dittmer said that one of the findings that staff originally made would no longer hold true. This relates to “the proposed amendment could have an impact on the City’s budget or the economy of the City due to the likely higher cost of City services for residential uses versus commercial.” Mrs. Dittmer clarified that staff did not have a specific proposal to review when the findings were made.

Mr. Contreras asked if staff’s recommendation is still for denial. Mrs. Dittmer replied yes. Mr. Schluckebier added that staff has not had an opportunity to analyze the assumptions Mr. Rufo put on the record. And, it is questionable that our finding would change based on the idea that expensive housing may or may not have a financial impact on the City.

Mrs. Hand said that she is supporting this because of the number of empty strip malls. This land is sitting vacant and if passed on first reading, staff can review the tax base information.

Mayor Buckley pointed out that most of the information regarding area properties presented by Mr. Rufo is not located in Melbourne.

Mrs. Palmer said that the applicant has answered all of the questions she had about the property. She noted that it is up to staff to determine whether this information is accurate.

Mrs. Poole said Council should rely on the information presented by staff. She added that she has a problem with the way this has been handled. Council re-opened this item to allow people to speak, yet they didn’t show up.

Mr. Clark informed Council that the property has been marketed, but not sold, for commercial. It has a depth of 440’ and a frontage of 330’, which is disproportionate for a commercial layout. Mr. Clark referenced the elevation/rendering distributed to Council. He said he is not fond of the colors; however, it is representative of the townhomes. The units would be marketed in excess of \$300,000. He concluded by asking for Council’s support.

Mr. Clark confirmed for Mr. Gougelman that they agree to eight units per acre. The site would be developed with 26 units. Attorney Gougelman said that if Council goes forward, Ordinance No. 2004-45 would need to be amended to reflect R-2 (8).

Moved by Hand/Walker for approval of Ordinance No. 2004-44. Motion carried.
Council Members E. Palmer and Poole and Mayor Buckley voted nay.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Moved by Contreras/Hand for approval of Ordinance No. 2004-45, with a revision to reflect R-2 (8). Motion carried. Council Members E. Palmer and Poole and Mayor Buckley voted nay.

In response to Vice Mayor Palmer, Attorney Gougelman said that this is not completely consistent with the way this has been handled in the past; however, he believes the procedure followed by Council at this meeting is legal.

17. ORDINANCE NO. 2004-52 (A&V NO. 272): (First Reading/Public Hearing) An ordinance to abandon and vacate a 50-foot wide public right-of-way known as Church Street from Race Street west to Grant Street and a 24-foot wide public right-of-way known as Davis Street.

Attorney Gougelman read Ordinance No. 2004-52 by title. Mr. Ralls reviewed the agenda report.

Mrs. Hand asked what the applicant plans to do with the property that is vacated. Mr. Ralls said he imagines that the plan is to expand the cemetery.

Mrs. Palmer asked how long the 50' and 24' areas are. Mr. Ralls pointed on the map to the 50' right-of-way, which is about 800' long, and the 24' right-of-way, which is a little over 350' in length.

Mr. Palmer asked what precipitated this action. Mr. Ralls said that the abutting property owner submitted an application. The applicants, Bruce and Alisha Buggs, operate a private cemetery.

A brief discussion followed regarding the ditch. Mr. Ralls said that a condition of the ordinance is that the Buggs will convey a drainage easement to the City for the ditch. The City would continue to maintain the ditch. The ditch would not be vacated; the City would retain access.

There were no disclosures by Council. Mayor Buckley asked the applicant to come forward.

Bruce Buggs, applicant, said that they own the property on both sides of Church street. They also own the property on Davis Street, along with another property owner. Mr. Buggs said that the other property owner is in favor of the request.

Continuing, Mr. Buggs said that the intended use of the property is to be able to beautify and expand the cemetery.

Mrs. Palmer asked Mr. Buggs if he would be selling cemetery lots in the vacated portion of the property. Mr. Buggs replied yes; however, he noted that they won't be able to utilize the property for the cemetery until the zoning is approved.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Mrs. Poole recalled that there was quite a bit of discussion at a Council meeting about the cemetery, a wall, and the trees. Mr. Ralls said that issue dates back to 1997 and 1998. The discussion involved the wall and setback. He added that the wall, which was a requirement, was built.

Mrs. Poole asked the applicant what he would do if the rezoning isn't approved. Mr. Buggs said that they would join that property with the property they own to the south.

Mayor Buckley opened the public hearing.

Charlie Stodom, 803 E. Davis Street, explained that the 24' portion hasn't been used since Davis Street was extended. He said that since the dirt road was closed he has been mowing that portion. He asked Council to support the request.

Moved by Hand/E. Palmer for approval of Ordinance No. 2004-52.

Mrs. Palmer said that she would be willing to vacate the 24' section; however, the 50' portion will be used by a business to make money. She said that the property belongs to the people of the City of Melbourne. And, she noted that Council has denied previous applications to vacate similar size parcels. Mrs. Poole agreed.

The question was called. Motion carried. Council Members Contreras and Poole and Vice Mayor Palmer voted nay.

18. ORDINANCE NO. 2004-53 (CU-2004-09) MAINSTREET PUB: (First Reading/Public Hearing) An ordinance granting a conditional use to allow the consumption of alcohol on the premises of a property zoned C-3 (Central Business District), located at 705 East New Haven Avenue, on the south side of the road, east of Livingston Street and west of Grant Place. (Owner – JMC Limited Corp.) (Applicant/Representative - E&D Mainstreet Corporation/ D.B.A. Mainstreet Pub) (P&Z Board - 6/17/04)

The City Attorney read the ordinance by title. Mrs. Dittmer briefed Council. Due to the proximity of residential uses and the outdoor areas located on the property, City staff has recommended a condition that would limit outdoor music and events to 10:00 p.m. (condition "d").

The Planning and Zoning Board unanimously recommended approval of this request, subject to the findings in the agenda report and the following conditions:

- a. Any change to the site will require reevaluation by the Engineering Department and the Planning and Economic Development Department.

Any substantial change to the site 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 five percent of the open space or vegetative areas on site; 2) an increase in the square

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

footage of the building; or 3) the addition of seats or outside deck/patio areas.

- b. Architectural Review Board approval must be received for any façade changes to the building.
- c. The conditional use is tied specifically to Parcel 8.01. Any changes/modifications to the single-family home located on Parcel 8.04 will be considered as a separate application.
- d. Any outdoor events on the property shall be limited to 10:00 p.m., which includes concerts, special activities and music. The property shall comply with all applicable City Codes including, but not limited to, noise.

Mrs. Poole said that she understands that this area is zoned C-3; however, she noted that this area was originally zoned residential.

Mrs. Hand said that it seems like Council is getting a lot of these requests. She questioned if this is a way to get around the State law about smoking in public buildings. She noted that our Downtown area is beautiful and she does not want to see the area turned into a lot of bars; therefore, she won't support this request.

Mrs. Dittmer said that the applicant intends to serve food. They won't meet the City's requirement of 51% in food sales; therefore, they can't be considered a restaurant.

Mrs. Hand replied that she doesn't feel this is consistent with public health.

Mayor Buckley opened the public hearing.

Joe McAneney, proprietor, Mainstreet Pub, addressed Council.

Mrs. Palmer asked if this business will mainly be a bar and Mr. McAneney replied yes, they will have full liquor.

Santo Filippelli, property owner to the east, said he thought that this would be a restaurant. He discussed problems he had with the previous business at this location (Green House). Mr. Filippelli explained that the building is open on the second level, which enabled customers to throw bottles, cigarette butts, etc. on top of his building. Additionally, noise is a concern. He asked Council to address his concerns.

Mayor Buckley said he would recommend that the upper area be closed off with a screen so that bottles can't be thrown.

There were no further comments from the public.

Based on the applicant not being familiar with the recommendation, Mayor Buckley read each condition. Mr. McAneney said the conditions sound fine.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Mrs. Palmer asked about a condition requiring the balcony to be closed. Mayor Buckley added a condition that the openings be closed to prevent material from being thrown from the building.

Mr. McAneney said he does not understand why he has to screen the porch. He noted that if it is someone's intent to throw a bottle, they will find a way whether the porch is screened or wide open. Mr. McAneney asked that he be allowed to handle an abusive customer accordingly.

In response to Mrs. Palmer, Mr. McAneney said that he has not opened yet for business. Mayor Buckley withdrew his request to screen the porch.

Mr. Filippelli said that when people are inebriated, they throw things. He added that he has talked with the applicant about this and he does not intend to do anything about it. He stressed that he had problems before and he knows he will have problems again.

Mayor Buckley added the condition that the open areas be screened or latticed. He said that he believes this is reasonable.

Moved by Contreras/Walker to deny Ordinance No. 2004-53.

Mrs. Poole discussed the history of the property and noted that a business and home are located adjacent to the proposed bar. She discussed the following concerns: complaints about the previous business at this location; the request for a conditional use to change the business to a bar with smoking; the lack of parking spaces; and bars could lead to stores and cafes closing in the Downtown area.

Mrs. Poole referenced one of the findings, which provides that "the proposed conditional use could potentially impact the neighborhood and public welfare...the proposed use is more intense than the previous restaurant use on this site. Specifically, the potential noise due to amplification for outdoor concerts/events and outdoor speakers potentially broadcasting loud music late into the evening is a staff concern." Continuing, Mrs. Poole said she does not agree with the finding that the "conditional use is consistent with the public health, safety, welfare, economic order and quality of life..."

Mrs. Poole said that this business will attract crowds with smoking and drinking. The music will be loud and once the Police leave the area, the music will be turned up again. This request is not compatible with the adjacent residential use and she cannot support the request.

The question was called. Motion carried unanimously.

19. ORDINANCE NO. 2004-54 (CPA-2003-11) AND ORDINANCE NO. 2004-55 (Z-2003-968) NORTH WICKHAM ROAD: Ordinances providing for a Comprehensive Plan

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Amendment and zoning on a total of 120.5± acres, located east and west of Wickham Road, north of Post Road, and south of Pineda Causeway. (Owner/Applicant/Representative - Pineda Crossing Corporation, Jay Moynahan) (Owner/Applicant - EVV Florida Investments, Ltd.) (Representative - K2 Development, Bob Kurlander) (Owner - Hoff of Brevard) (Owner - Bear Hugs Child Care, Inc.) (Owner - Brevard County) (Owner - Pineda Crossing Homeowners' Association) (Owner - Deer Lakes Homeowners' Association) (P&Z Board - 6/17/04)

- a. Ordinance No. 2004-54/CPA-2003-11: (First Reading/Public Hearing) An ordinance establishing a Commercial land use on 74.5 acres, Low Density Residential on 39.57 acres, and Conservation land use on 6.4 acres.
- b. Ordinance No. 2004-55/Z-2003-968: (First Reading/Public Hearing) An ordinance establishing C-P (Commercial Parkway) zoning on 60.2 acres, C-2 (General Commercial) zoning on 12.96 acres, C-1 (Neighborhood Commercial) zoning on 3.47 acres, and R-1B (Single-Family Residential) zoning on 43.8 acres.

City Attorney Paul Gougelman read Ordinance Nos. 2004-54 and 2004-55 by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board unanimously recommended approval of CPA-2003-11 at its January 8, 2004 meeting and approval of Z-2003-968 at its June 17, 2004 meeting.

Mrs. Poole said that the School Board was not able to afford this property to build a school because of the scrub jays. She asked if they would have been able to develop without water and sewer if we had not annexed the property. Mr. Schluckebier replied that the County is in a position to provide water and sewer in that area; they demonstrated that with the Post Commons project.

A brief discussion followed regarding the incorporated and unincorporated land in the area.

Mr. Schluckebier reported that it is the City's intent to bring properties in under their current or similar land use and zoning. That is consistent with our agreement with the County and stops folks from "density shopping."

Mr. Palmer asked if Wickham Road will be able to handle the traffic. Mrs. Dittmer said that is another issue. At this time we are designating the land use and zoning. There are projects in for review and staff is carefully reviewing the traffic issue. Mayor Buckley added that hopefully we can reassign some of the traffic to U. S. 1 once it is complete.

Mrs. Walker asked if the lots in the adjacent development are 50'. Mrs. Dittmer said she believes that the adjacent Pineda Crossing Subdivision has 50' – 75' lots.

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Jay Moynahan, president of Pineda Crossing, said he owns the majority of this property. He confirmed that the Pineda Crossing Subdivision, which directly adjoins the residential portion on this plan, contains primarily 75' wide lots. Deer Lakes Subdivision immediately to the north has 50' lots. He pointed out that the residential portion of this property is part of the Pineda Crossing PUD at 369 units. He said that their plan is for only 141 units, which is a reduction in density.

There were no further comments from the public.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2004-54. Motion carried. Mrs. Poole voted nay.

Moved by Hand/Walker for approval of Ordinance No. 2004-55. Motion carried. Mrs. Poole voted nay.

20. ORDINANCE NO. 2004-56 (CPA-2003-13) AND ORDINANCE NO. 2004-57 (Z-2003-970) DAIRY ROAD/FLORIDA AVENUE: Ordinances providing for a Comprehensive Plan Amendment and zoning on a total of 38.73 acres, located west of Dairy Road and north of Florida Avenue. (Owners/Applicants - James W. Morgan Jr., Charles Brown/William Marcus, John Weare Jr., Thomas and Carol Guthrie, Barbara Losson, Steven J. Morgan, F. Alan Ford/Catherine A. Ford, Wendy L. Potter, William and Wendy Potter, William Edward and Susan Lyndall Riebsame, Vincent H. and Margaret E. Angleton, Alfred and Jane Theis, Carlton and Sandra Holder, and Gregory and Margaret Parker) (P&Z Board - 6/17/04)
- a. Ordinance No. 2004-56/CPA-2003-13: (First Reading/Public Hearing) An ordinance establishing a Low Density Residential land use on 38.73 acres.
 - b. Ordinance No. 2004-57/Z-2003-970: (First Reading/Public Hearing) An ordinance establishing Agricultural Estate Use (AEU) zoning for the Terra del Sol Subdivision on 37.22 acres and R-1AA (Single-Family Residential) for three parcels on 1.51 acres abutting Florida Avenue.

Attorney Gougelman read each ordinance by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board unanimously recommended approval of CPA-2003-13 at its January 8, 2004 meeting and approval of Z-2003-970 at its June 17, 2004 meeting.

There were no disclosures from Council and no comments from the public.

Moved by C. Palmer/Hand for approval of Ordinance No. 2004-56. Motion carried unanimously.

Moved by Poole/E. Palmer for approval of Ordinance No. 2004-57. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Mr. Schluckebier informed Council that staff is working towards development of a “crosswalk agreement” with the County. This would allow annexed property to automatically be assigned the equivalent County land use and zoning. This agreement would require approval by the Department of Community Affairs.

Added to the agenda:

20.1 COUNCIL ACTION RE: Request by David Armstrong for Council to rescind the action taken by the City Council at its May 25, 2004 meeting on the following items relating to the 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.

- a. Ordinance No. 2004-30/AR-2004-149: An ordinance providing for the annexation of a 5.75-acre parcel.
- b. Ordinance No. 2004-31/CPA-2004-04: An ordinance establishing a Medium Density Residential Land Use on a 4.8-acre parcel.
- c. Ordinance No. 2004-32/Z-2004-981: An ordinance establishing a zoning designation of R-2 (One-, Two-, and Multiple-Family Residential) on a 4.8-acre parcel.

Mrs. Poole asked if this action needs to be taken tonight. She noted that this item is completely different than the previous request to rescind (reference Item #16). Mayor Buckley pointed out that Mr. Armstrong’s letter was distributed to Council ahead of time – on June 30. He added that Council is being asked if it wishes to rescind the denial of Ordinance No. 2004-30. If the action is rescinded, the item will be re-advertised.

Moved by Contreras/Hand to rescind the action taken (on May 25) on Ordinance No. 2004-30.

Mrs. Palmer said that the applicant (at the May 25 meeting) did not have time to consider Mr. Palmer’s proposal (for a reduction in density); therefore, she supports the item returning.

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

Recessed: 9:58 p.m.
Reconvened: 10:05 p.m.

21. COUNCIL DISCUSSION RE: Offer by Office of the Attorney General to mediate a public access dispute between Milo M. Zonka and the Melbourne Airport Authority. (Requested by Council Member Pat Poole)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Mayor Buckley informed Council that the Airport Authority is considering a proposal to require 24-hour advance notice for speakers, speakers will be allowed to speak before each item, and at the conclusion of the meeting, the public may comment on any Airport related item not on the agenda.

Mrs. Poole noted that this is about the third change the Authority has proposed. She said she asked for this item since the Airport Authority has proposed a change in the speaking policy to be considered at its July 21 meeting. Mrs. Poole said that the current policy (which requires 10 days' notice) is not acceptable. Milo Zonka sent a copy of that policy to the Office of the Attorney General. Patricia Gleason, General Counsel, Office of the Attorney General, has written a letter to Airport Attorney Don Nohrr offering to mediate the matter.

Mrs. Poole discussed the Sunshine Law and quoted from various case law on the importance of public participation and open meetings. She stressed that if the Airport had been abiding by the Sunshine Law, the Attorney General's office would not have offered mediation. She discussed the following: not allowing the public to comment until the conclusion of the meeting; the public's right to participate in a meeting; and the purpose of the meeting notice, which is to apprise the public of the opportunity to appear and present ideas.

Mrs. Poole stated that the Melbourne International Airport belongs to the City of Melbourne and the Airport Authority was formed to manage the Airport. Therefore, it is Council's obligation to ensure that the Government in the Sunshine Laws will no longer be violated.

Moved by Poole/C. Palmer for the Mayor to write a letter to the Airport Authority Board requesting that the Airport Authority use the same procedures that the City Council uses for public comments.

Mr. Palmer said that this has merit, but it is premature because the Authority has not been able to talk about the new policy or vote on it. Mrs. Hand agreed and added that Council can send its comments; however, the Authority has not had an opportunity to review the revised policy as a board.

Mrs. Poole said she is asking Council to recommend that the Authority use the same procedures used by Council. And this means no 24-hour notice.

Mrs. Hand said it is difficult for her to vote on this when she hasn't had the opportunity to discuss this issue with the Airport Authority Board.

Mrs. Palmer questioned why this would need to be discussed with the Board. She added that the time for Council to send a recommendation is before a decision has been made – not after.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Mr. Palmer repeated that this issue has not been discussed by the Airport Authority Board. The item is scheduled for July 21 and the common sense approach would be for the Airport to get close to the speaking policy used by Council.

Mrs. Palmer stated that three Council Members sit on the Airport Authority and are aware of the Council speaking policy, yet have been using the Airport Authority policy. She added that she expects good, sound reasoning as to why the Council policy is not suitable for Airport Authority meetings.

Mayor Buckley said that the 24-hour notice has been proposed so that the agenda can be set up in such a way that meetings will not be too long. There are a number of people on that Board who need to get to their jobs in the morning. These are unpaid Board members. That is the only reason for the 24-hour notice, which has been decreased from 10 days.

Mrs. Poole said that the City has boards made up of professional people. She questioned why the Airport feels it has to take things off the agenda and she recommended that people who are willing to serve be appointed.

Mr. Contreras said that his employer, who serves on the Board, has a schedule that is six months to a year out. He added that he understands changes are needed relative to operating in the Sunshine; however, the proposed changes sound reasonable.

Mrs. Walker said that since the Sunshine Law has not been observed one of the members should have requested an agenda item. She stressed that the speaking policy needs to be observed the same as it is at Council meetings.

Mrs. Hand replied that all of the Airport meetings have been in the Sunshine and she doesn't violate the law.

Continuing, Mrs. Walker said that when she reads the Airport minutes, it appears there is not much input; items are "rubber stamped."

Mayor Buckley informed Council that several people have asked to speak on this item.

Rob Downey, 5745 Cajeput Circle, Melbourne Village, said he is pleased that the public speaking policy is moving in a direction that will make people happy. He commented that he is still concerned about the 24-hour requirement and recommended that be eliminated. Mr. Downey said he supports the Authority working in the same manner as Council and pointed out that there seems to be a lot of input at the Council level.

Lee Bohlmann, Melbourne-Palm Bay Area Chamber of Commerce, stated that the current policy needs to change if the Airport wants people to feel like they are a part of the Airport. It is important that those who are in charge listen to others that may have concerns. The Chamber continues to support the Airport and wants it to be the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

economic engine that it can be. However, that can't be done without citizen involvement and commitment.

Ms. Bohlmann added that she feels the City Council is the overriding agent of the Airport Authority. Council has the right to respond and send a message to the Airport that we need a clear and open speaking policy without limitations. Regarding the concern raised about the length of agendas, she pointed out that this is a talented group that can manage its time.

Michael Whaley, 2256 Autumn Way, said that he works for a company that conducts business at the Airport. Mr. Whaley said that general aviation is the heart and sole of the Melbourne Airport. He is very concerned because the Airport Authority doesn't seem to give a hoot about general aviation and that is appalling given that is 90% of the operation.

Mr. Whaley said that he is here because he doesn't feel like he has the opportunity to address the Airport Authority. This entire area is affected by the Airport, yet sadly the Airport has alienated themselves from the local aviation community.

In response to Mr. Whaley, Mayor Buckley clarified the most recent speaking policy that will be considered by the Authority. Mr. Whaley concluded by strongly urging Council to support the Airport having the same rules as Council.

Mr. Contreras stated that he won't support the motion. The changes being proposed are a significant improvement. He added that he presumes a draft of the changes would be submitted to City Council for review and input prior to final approval by the Airport Authority. Therefore, this action is putting the cart before the horse.

Mrs. Poole said she would love to have it that way – where important items come before Council for review and input. However, Council has no say-so.

Mrs. Palmer said there is a perception in the community that the Airport Authority is arrogant and not listening; they don't care what the people of this City think. She added that having restrictive rules on public input fosters that perception, although she does not believe that is necessarily a fact. When you allow people to have input, it diffuses a lot of those feelings.

Continuing, Mrs. Palmer said there has to be some time limits. But, there will be a much better perception, cooperation, and attitude if the Authority will change its rules to allow input without 24 hours' notice. She added that she is sorry that a majority of Council is not willing to send a recommendation to the Airport Authority. It is simply a recommendation and, again, that is arrogance.

Mayor Buckley said that the Airport Authority is willing to listen to anyone. And, if this item is about making a recommendation, that is different than making a demand.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

Milo Zonka, 1077 Jupiter Boulevard, Palm Bay, said that Council as a body is simply offering an opinion. The question for Council is, "Do you like the rules with which you operate? Are they fair?" Mr. Zonka said he is sorry that he contributed to the further ill repute of the Airport Authority. However, the 24-hour proposal is shocking and would deny the rights of the public. Mr. Zonka offered as an example the item that was added to Council's agenda at this meeting. He said that the item was created this evening so he would not be able to say 24 hours ago that he wanted to speak on this item. Mr. Zonka concluded by encouraging Council to send a letter to the Airport Authority.

A brief discussion followed regarding the schedule and attendance of Airport Authority members.

Mrs. Walker pointed out that if this motion passes, Council is making a request to the Authority to consider observing the same rules used by Council.

Mr. Palmer said he does not think there is any member of the Airport Authority that doesn't agree with having input from the citizens of the City. The Authority had a regulation that was restrictive. It has been changed and will be voted on at the next meeting.

Mrs. Palmer asked Mr. Palmer why he is opposed to making a recommendation. Mr. Palmer said this conversation is premature because the item has never come before the Airport Authority.

Mrs. Hand said that Council Members have been welcome to attend Airport Authority meetings and give input. Mrs. Poole replied that she attended; however, she was not allowed to speak because she had not given 10 days' notice.

Mayor Buckley stated that on the basis of this being a recommendation, he will vote for the motion.

The question was called. Motion carried unanimously.

Mr. Schluckebier asked that an exception be made for items added to the Airport Authority's agenda if the Airport ultimately goes with the requirement for speakers to sign up 24 hours in advance.

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Palmer reported that Patricia Hartman recently passed away. She informed Council about the visitation and service arrangements.

Mr. Palmer expressed interest in the City pursuing the requirement for reuse water. Mr. Schluckebier said that a project is being proposed that would provide for an

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 13, 2004

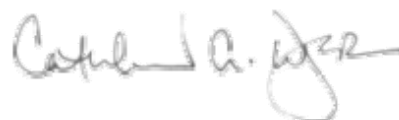
interconnect between the two plants. After that is accomplished, we will be able to expand the service areas.

Mrs. Poole asked that the October Space Coast League of Cities meeting (Melbourne will host) be conducted at Front Street Civic Center. The Mayor said he would determine if the City has already made a commitment with other arrangements.

23. ADJOURNMENT

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

The meeting adjourned at 10:54 p.m.



City Clerk – 7/22/2004

Approved by Council: July 27, 2004