

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
SEPTEMBER 14, 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 7:00 p.m. by Mayor John A. Buckley.

1. The invocation was given by Vice Mayor Cheryl Palmer.
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

None.

5. Approval of Minutes – August 24, 2004 Regular Meeting

Moved by Hand/E. Palmer for approval. Motion carried unanimously.

6. City Manager's Report

Mayor Buckley referenced the memorandum from staff requesting that an agreement with Waste Management, Inc. for removal of yard waste debris from Hurricane Frances be added to the agenda as Item 11 "k." Moved by E. Palmer/Contreras to add Item 11 "k" to the agenda. Motion carried unanimously.

7. Public Comments

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2004-60 (CPA-2004-06) AND ORDINANCE NO. 2004-61 (CU-2004-08) WITH SITE PLAN APPROVAL (SP-2004-11) ATLANTIC VISTA CONDOMINIUMS (WCG/NEEL-SCHAFFER): Ordinances providing for a

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Comprehensive Plan Amendment and a conditional use with site plan approval on a 1.65±-acre parcel, in a C-P (Commercial Parkway) zoning district, located on the west side of Highway A1A, north of Provincial Drive. (Owner - Honey, Inc. (Jung-Lin Chen)) (Applicant/Representative - WCG/Neel-Schaffer)

- a. Ordinance No. 2004-60/CPA-2004-06: (Second Reading/Public Hearing) An ordinance changing the land use from Commercial to Commercial/Medium Density Residential. (First Reading - 8/24/04)
- b. Ordinance No. 2004-61/CU-2004-08/SP-2004-11: (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval in order to develop a four-story, multiple-family residential condominium project on a 1.65±-acre parcel. (First Reading - 8/24/04)

City Attorney Paul Gougelman read Ordinance Nos. 2004-60 and 2004-61 by title. There were no disclosures by Council. Mayor Buckley noted that at the last meeting Council selected "Site Plan B." The Mayor opened the public hearing. There were no comments.

Moved by Hand/Contreras for approval of Ordinance No. 2004-60.

Council Member Pat Poole read the requirements for a conditional use from the Zoning Code. She noted that there are no other high buildings in this area. And, a tall building will block the view from the single-family homes in the area. She added that this property was meant to be commercial. A multi-family development will block the view, add to the traffic and impact the schools that are already overcrowded.

Mayor Buckley stated that if this property were developed commercial, the building height could be 40'. The Planning and Zoning Board recommended "Plan B" and that is the plan Council is going forward with.

The question was called. The roll call vote was:

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

Nay: Poole and Walker

Motion carried.

Moved by Hand/E. Palmer for approval of Ordinance No. 2004-61, which includes "Site Plan B." The roll call vote was:

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

Nay: Poole

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Motion carried.

9. ORDINANCE NO. 2004-62 (Z-2004-990) AND ORDINANCE NO. 2004-63 (CU-2004-10) WITH SITE PLAN APPROVAL (SP-2004-15) CASA RIO CONDOMINIUMS: Ordinances providing for a change in zoning and granting a conditional use with site plan approval on a 1.00+-acre parcel, located on the east side of North Highway U.S. 1, south of Sarno Road, across from Adger Smith Lane. (Owner - Albert J. Bosco) (Applicant - David & Sherrie Bryant)
- a. Ordinance No. 2004-62/Z-2004-990: (Second Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to C-1 (Neighborhood Commercial) (First Reading - 8/24/04)
 - b. Ordinance No. 2004-63/CU-2004-10/SP-2004-15: (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to develop a four-story multiple-family residential condominium project on a 1.00±-acre parcel. (First Reading - 8/24/04)

The City Attorney read each ordinance by title. There were no disclosures by Council. Mayor Buckley opened the public hearing.

David Bryant, applicant, reported that this request is for a down-zoning. The Future Land Use Map calls for high density residential. He made the following comments: the request does not include additional height or density; the permissible density is 25 units per acre and the request is for 17; currently there are five residential units on the property; the Planning and Zoning Board unanimously recommended approval; there will be significantly less vehicle trips compared to a commercial development; they will have access to U. S. 1; the property will be nicely landscaped, which will improve the U. S. 1 corridor; he has corresponded with the neighbors across Elbow Creek and agreed not to allow lights to shine across the water; the distance from the proposed building to the nearest residence across the water is approximately 470'; and the property will be developed with luxury condominiums priced \$300,000 - \$350,000.

In response to Mrs. Poole, Mr. Bryant said that they will eliminate the five units that are already on the property.

Mrs. Poole noted that this is the beginning of the end. Soon there will be no views of Elbow Creek or the Eau Gallie River.

Moved by Contreras/Hand for approval of Ordinance No. 2004-62. The roll call vote was:

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

Nay: Poole

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Motion carried.

Moved by Hand/E. Palmer for approval of Ordinance No. 2004-63. The roll call vote was:

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

Nay: Poole

Motion carried.

NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for the Parkway/Turtle Mound Waterline Extension, Project No. C04323, Maxwell Contracting, Inc., Cocoa, FL - \$657,000 and transfer of \$722,700 from the Harlock Road Project into this project budget.

City Engineer Howard Ralls reviewed the agenda report. The recommendation is for approval of the waterline construction contract with Maxwell Contracting, Inc. in the amount of \$657,000 and transfer of \$722,700 from the Harlock Road waterline project to this project's budget.

Mr. Ralls confirmed for Council Member Ed Palmer that this project will accommodate future annexation, and it will improve flow and pressure in the system.

Moved by Poole/Contreras for approval (of the recommendation). Motion carried unanimously.

11. CONSENT AGENDA:

Moved by Hand/E. Palmer to approve the consent agenda, Items "a – k." (See substitute motion below.)

Vice Mayor Cheryl Palmer referenced Item "c." She said that this sounds like a good idea; however, her fear is that the facility will be located in City of Melbourne District 5.

Public Works and Utilities Director Robert Klapproth assured Mrs. Palmer that the facility would not be located in the City of Melbourne. It could be west of Melbourne off of Highway 192, but the site has not been selected.

Mrs. Palmer asked if Melbourne would be the most convenient site for transport and Mr. Klapproth replied no. He added that Viera would probably be the most convenient site.

Mrs. Poole asked that Item "j" be removed from the consent agenda.

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Council Member Loretta Hand asked the City Manager to address Item “k.” City Manager Jack Schluckebier explained that there is a provision in the Waste Management contract that allows the contractor to haul for the City in an emergency situation. There is an enormous amount of yard debris as a result of the hurricane and we hope to accomplish pick-up within a four to five week period. Staff negotiated with Waste Management and believes that this amendment is competitive and effective. Additionally, the City believes that it is pre-approved for the maximum federal reimbursement.

Mrs. Palmer asked about the location of the site. Mr. Klaproth said that the debris is being hauled to a 5,000-acre parcel owned by the Platts several miles west of I-95 on Highway 192.

A brief discussion followed regarding the pick-up schedule that will be followed.

Moved by Hand/Contreras for approval of Items “a – i” and “k.” Motion carried unanimously.

Moved by C. Palmer/Contreras for approval of Item “j.”

Mrs. Poole said she does not believe that this item should be addressed as the “Waterfronts Florida/CRA.” She added that it gives the wrong impression that this is part of the Community Redevelopment Agency. She referenced several of the projects listed in the plan and said it seems like this is a strategy to expand the CRA farther north and south.

Continuing, Mrs. Poole said that one funding source suggested is use of the CRA funds. Following a brief discussion, she recommended that Council consider what this plan is doing and where the funds will come from. She cautioned that it could get out of hand.

Council Member Richard Contreras said that the Vision Plan is simply a starting point. He commended the folks involved in the development of the plan.

Mr. Palmer pointed out that money won’t be spent until plans are implemented. He added that the City Council will have to approve the projects and stated that it is great that we have people planning this area who have vision.

Mrs. Palmer said she is sure that we can look at every plan and find things that cause hesitation; however, this group has done a good job in laying out a blueprint for the Eau Gallie area so things won’t be done “helter skelter.”

Mrs. Poole clarified that she believes the Vision Plan is great; however, she has problems with the funding and she is concerned that the CRA is taking on too much.

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

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The consent agenda was approved as follows:

- a. Supplement No. 203 to the Continuing Consultant's Contract for engineering services to provide a street lighting study for the Booker T. Washington Neighborhood Area, Project No. CD0466, Frazier Engineering, Inc., Melbourne, FL - \$6,500.
- b. Approval of budget adjustments to transfer recaptured HOME funds received and budget in City fiscal years 2001-2002 and 2002-2003 to the HOME funding years where these revenues were applied.
- c. Request for authorization for the City Manager to execute an Interlocal Agreement with the cities of Cocoa Beach, Cocoa, Titusville, Palm Bay, Rockledge, West Melbourne, Cape Canaveral, and Brevard County for the funding of a study to determine the feasibility of construction of a regional biosolids treatment facility - \$13,740.
- d. Agreement with the School Board of Brevard County for a School Resource Officer at the South Area Adult Community Education Center for the 2004/2005 school year at a maximum reimbursement of \$23,326.
- e. Multi-year contract award for the purchase of fire uniforms, Designlab, Inc., Orlando, FL - \$47,409 estimated annual cost.
- f. Contract award for the purchase of 1,016 Down Filmtec 8-inch reverse osmosis membrane elements, US Filter, Conroe, TX - \$451,612.
- g. Resolution No. 1893: A resolution authorizing the City Manager to execute a Memorandum of Agreement with the Florida Department of Transportation for maintenance of landscaped areas on certain State highways and rights-of-way in the City of Melbourne.
- h. Resolution No. 1894: A resolution authorizing the City Manager to submit a grant application to the Florida Department of Environmental Protection for grant funding through the Florida Recreation Development Assistance Program for improvements at Front Street Park.
- i. Resolution No. 1895: A resolution authorizing the City Manager to submit a grant application to the Florida Department of Environmental Protection for grant funding through the Florida Recreation Development Assistance Program for improvements at Southwest Recreation Complex.
- j. Resolution No. 1896: A resolution adopting the Waterfront Florida Community Vision Plan.

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Added to the agenda:

- k. Agreement with Waste Management, Inc. for yard waste debris removal from Hurricane Frances - \$20 per cubic yard at an estimated cost of \$3.6 million (to be reimbursed by FEMA).

Recessed: 7:48 p.m.

Reconvened: 8:00 p.m.

12. FINAL PLAT APPROVAL (SD-2003-13) EAGLE LAKE NORTH SUBDIVISION: (Public Hearing) A request for final plat approval on a 33.17±-acre parcel, zoned PUD (Planned Unit Development), located on the south side of Pirate Lane, west of Lipscomb Street, and east of Babcock Street. (Owner - Scott Gold, Esquire, and Nancy Rossman, Esquire) (Applicant - Eagle Lake North) (Representative - Joseph W. Mayer, P.E., Bussen-Mayer Engineering Group) (P&Z Board - 8/19/04)

Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board unanimously recommended approval of the final plat on a four-sheet plan prepared by William Mott Land Surveying Inc., of Melbourne, Florida, Project Number 302003, signed and dated August 13, 2004, subject to the following conditions:

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

Any substantial change to the final plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the final plat includes, but is not limited to: 1) an increase of more than 10 lots; 2) a decrease in the size of tracts intended to provide open space requirement; or 3) any additional roadway access onto Pirate Lane.

- b. The applicant shall not be entitled to record the final plat until all subdivision improvements are constructed to the satisfaction of the City or an improvement guarantee of at least 110% is provided to the City to ensure the completion of the improvements.
- c. Provide the additional required documents, pursuant to Chapter 29, Section 29-5 (c) (4) prior to plat recordation.

Mrs. Poole said that she cannot object too much to this project because the developer has met all the requirements and is not asking for a conditional use. She noted that she would like to see larger trees planted.

Mayor Buckley opened the public hearing.

Max Bosso, 1682 West Hibiscus Boulevard, said that he is representing the applicant.

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Mrs. Poole asked if any gopher tortoises were found on the site. Mr. Bosso said they found one tortoise, which was relocated to a natural area on site in the southwest corner.

Moved by Walker/E. Palmer for approval of the final plat subject to the conditions noted. Motion carried unanimously.

13. REQUEST FOR COMPREHENSIVE PLAN AMENDMENT (CPA-2004-10) AND CONDITIONAL USE (CU-2004-14) WITH SITE PLAN APPROVAL (SP-2004-14) WILLOW GROVE MIXED USE DEVELOPMENT: A request for a Comprehensive Plan Amendment and a conditional use with site plan approval on two parcels totaling 3.46± acres in a C-1 (Neighborhood Commercial) zoning district, located on the north side of Aurora Road, between Glenwood Drive and Mosswood Drive. (Owner - Thomas E. Reynolds) (Applicant - Willow Grove/Kevin Willis, President) (Representative - Matthew A. Soyka, P.E.) (P&Z Board - 8/19/04)
- a. CPA-2004-10: (Public Hearing) A Comprehensive Plan Amendment changing the land use from Commercial to mixed use Commercial/Medium Density Residential.
 - b. CU-2004-14/SP-2004-14: (Public Hearing) A request for a conditional use with site plan approval to allow a 26-unit multiple-family residential development on a 3.46±-acre parcel.

Mrs. Dittmer reviewed the agenda report and briefed Council. During the Planning and Zoning Board meeting, a number of residents spoke against the proposed residential use. Several of the issues raised were regarding the visibility from this property to the single-family homes. The applicant proposed installing an opaque fence and planting a number of trees along the north property line. A petition against the Comprehensive Plan amendment was received and represents 20.98% of the property owners within 500 feet of the proposed project. This will require a 6/7 majority of City Council to approve the request. The Board recommended denial (6 to 1).

A letter from the applicant was received on August 31 asking that Council consider remanding the proposal back to the Planning and Zoning Board so that a new site plan could be prepared addressing some of the residents' concerns. The 6/7 vote on the rezoning request will still be in effect when brought back before City Council.

The recommendation is to send the request back to the Planning & Zoning Board to allow the applicant to submit a revised site plan addressing some of the concerns noted during the meeting and re-notifying property owners within 500 feet of the property.

Mrs. Poole said she does not like the recommendation; people have probably attended the Council meeting expecting to speak and they should be given that opportunity.

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Attorney Gougelman said there is no question that Council should take public comment. However, the question is “what would Council be taking comment on” when the applicant has indicated that he intends to provide a revised site plan.

Mr. Schluckebier added that returning this item to the Planning and Zoning Board will not result in the 6/7 vote requirement being abated. The applicant understands that he will still have the higher burden and threshold.

Mrs. Poole said if the people who have attended this meeting understand that the 6/7 vote is still a requirement, then she can support the process.

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

Matt Soyka, 1680 West Hibiscus Boulevard, representing the applicant, stated that at the Planning and Zoning Board meeting on this item, the project was not perceived well by the adjacent property owners. The applicant is anxious to return with a site plan that would be more agreeable to the homeowners in the community. He added that they are looking at combinations, including commercial/professional, mixture of single story residential/professional, etc.

Mr. Soyka confirmed for Mrs. Poole that there would be a commercial aspect to the project, but it would not be a 40' tall structure.

Robert Fabbri, 1299 Sunwood Drive, confirmed that the area residents found a lot of the previous aspects of the plan to be detrimental to the way of life in the neighborhood. He said they are happy to hear that revisions are being considered. He added that concerns include school overcrowding, traffic and sidewalks.

That concluded comments from the public.

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

14. ORDINANCE NO. 2004-64 (Z-2004-991) AND ORDINANCE NO. 2004-65 (CU-2004-12) WITH SITE PLAN APPROVAL (SP-2004-16) HARBOR GARDENS CONDOMINIUMS: Ordinances providing for a zoning change and a conditional use with site plan approval on three parcels consisting of 2.7± acres, located on the east side of Highway U.S. 1, across from Sarno Road. (Owner - Biosystems, Inc.) (Applicant/ Representative - Vaheed B. Teimouri, P.E.) (P&Z Board - 8/05/04 & 8/19/04)
- a. Ordinance No. 2004-64/Z-2004-991: (First Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) and R-3 (Multiple-Family Dwelling) to C-1 (Neighborhood Commercial) at 2.7± acres.

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- b. Ordinance No. 2004-65/CU-2004-12/SP-2004-16): (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a multiple-family residential development with a building height of 59.5 feet on 2.7± acres.

Attorney Gougelman read the ordinances by title.

Mrs. Dittmer briefed Council. The Planning and Zoning Board recommended approval of the rezoning request, but requested a site plan that met the 40-foot height limit in conjunction with the conditional use request. Therefore, two site plans are contained in the package. Site Plan “A” provides for two 59.5-foot buildings containing a total of 54 units. This plan allows for the preservation of existing trees on site, additional green area and more open area/breezeways.

Site Plan “B” provides for one 40-foot building extending across most of the property containing a total of 60 units. This plan will require the removal of most of the oak trees located on the north portion of the property. Additionally, the only open areas are at each end of the buildings.

The Planning and Zoning Board voted unanimously to recommend approval of the rezoning request and the conditional use request with Site Plan “B”.

The staff recommendation is for approval, including Site Plan “A” prepared by Vaheed B. Teimouri, P.E., with File No. 2003122C1, with a signed and sealed date of August 11, 2004, with the following conditions:

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

Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: 1) a decrease of five percent of the open space or vegetative areas on site; 2) an increase in the height of the building; 3) any increase of 10 percent in building area; or 4) the addition of a driveway.

- b. The proposed building shall be substantially consistent with the rendering submitted by the applicant.

Mrs. Palmer asked the height of the project next door. Mrs. Dittmer said that, although the elevations are off, it would be the height of “Plan B” (40 feet).

Mrs. Poole said that she is glad that the Planning and Zoning Board stood its ground on this issue with regard to the 40’ height.

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

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Jack Spira, attorney representing the applicant, made the following comments: the rezoning will provide for a less intense use of the property; it will improve drainage in the area; the property will have on-site retention; a right-turn lane will improve traffic flow; the applicant has met with area residents, who are in favor and have no objections; the water line will be extended, which will improve water flow and fire protection; and no additional docks will be built.

Continuing, Mr. Spira distributed pictures showing the area. He stated that the distance between the proposed building and the nearest residence to the back would be between 400' and 500'. He commented that the existing zoning allows a 40' height with 60 units. A 59.5' height would result in the number of units being reduced to 54. This would also provide for a better project; there would be a smaller foot print with a breezeway; more separation, open space and green areas; and the building would be more attractive. Mr. Spira noted that the property owners to the rear are concerned about the 59.5' height; however, he believes the benefits would overcome the concerns. Additionally, a 40' height would force a "widening" of the project. And, trees would have to be removed so the parking requirements could be met.

Mr. Spira submitted elevations showing what he described.

Mr. Spira concluded by reporting that the engineer for the project made computations on the effect height would have on the rear residents' ability to see the sun or the view. The engineer has determined that the difference between 40' and 59.5' at a distance of 400' results in a two degree impact on vision.

Following a brief discussion, Mr. Spira said that there was confusion during the Planning and Zoning Board meeting on this item. A comment was made by staff that the structure would be seven stories. He clarified that the garage will be underground, so the project will only be six stories.

Mrs. Poole asked the selling price of the units. Mr. Spira said that the price would be different based on the size of the units.

Bill Klingsmith, 1965 Highway A1A, representing the applicant, discussed the size and selling price of the units. The size ranges from 1,500 s.f. to 2,600 s.f. and the units will be priced from mid \$200,000 to low \$400,000.

Mrs. Poole said that normally she supports saving every tree; however, in this case she believes that the height is more important. She stressed that it is important to stay with the 40' height and commended the Planning and Zoning Board for making a good decision.

Mr. Klingsmith stated that there was quite a bit of confusion during the Planning and Zoning Board meeting because of the two different proposals. He added that even the architect got turned around and was talking about different heights. Mr. Klingsmith

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said that he believes in all the confusion the Board went with the 40' height because it was safe and within Code.

Attorney Gougelman referenced the sunken garage and asked what would be done about flooding.

Vaheed Teimouri, engineer for the project, explained that the water table is very low in this area; the property sits on a bluff. He stated that they are probably 15' above the water level. Flooding would be highly unlikely.

A discussion followed about the view, height and grade. Mr. Teimouri assured Council that there would be a greater view with the breezeway between the two buildings (the 59.5' plan).

David Bryant reported that he attempted several years ago to put together a plan for this project; however, he was not able to access the light at Sarno Road. He encouraged Council to consider the two-building plan and said that it will look nicer and provide a breezeway.

There were no further comments from the public.

Mayor Buckley said that this plan resembles the plan of the building located next to Coral Bay on U. S. 1. The taller building reduces the loss of property along U. S. 1. He concluded by stating that he favors "Site Plan A."

Mrs. Poole said that once height is granted, it will follow along the entire riverfront. She expressed support for the 40' height and noted that it meets the Code.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2004-64. Motion carried unanimously.

Moved by C. Palmer/Hand for approval of Ordinance No. 2004-65 with "Site Plan B." Motion carried. Council Member Contreras and Mayor Buckley voted nay.

15. ORDINANCE NO. 2004-66 (AR-2004-158), ORDINANCE NO. 2004-67 (CPA-2004-22) AND ORDINANCE NO. 2004-68 (Z-2004-998) THOMPSON: Ordinances providing for annexation, Comprehensive Plan Amendment and a zoning change on a 0.44-acre parcel, located at 1679 Garden Avenue, west of Wickham Road and south of Aurora Road. (Owner/Applicant - Thomas Thompson and Mitzi Thompson) (Representative - Glenn W. Tomasone) (P&Z Board - 8/19/04)
- a. Ordinance No. 2004-66/AR-2004-158: (First Reading/Public Hearing) An ordinance providing for the annexation of a 0.44-acre parcel.

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- b. Ordinance No. 2004-67/CPA-2004-22: (First Reading/Public Hearing) An ordinance establishing a Low-Density Residential land use on a 0.44-acre parcel.
- c. Ordinance No. 2004-68/Z-2004-998: (First Reading/Public Hearing) An ordinance establishing R-1A (Single-Family Residential) zoning on a 0.44-acre parcel.

Attorney Gougelman read Ordinance Nos. 2004-66, 2004-67 and 2004-68 by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board unanimously recommended approval of this request.

Mrs. Poole asked if the County has transitional zoning. Mrs. Dittmer said she is not sure; however, it is not an uncommon allowance to have transitional zoning. She added that this would be the only lot eligible for that provision.

In response to Mr. Palmer, Mrs. Dittmer stated that this annexation would not create an enclave. She outlined the property on the map.

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

Mitzi Thompson, property owner, reported that she purchased the property and house during a foreclosure sale. She said that her hope is to annex with professional zoning.

Ms. Thompson confirmed for Mrs. Poole that she plans to clean up the property and remodel the existing structure.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2004-66. Motion carried unanimously.

Moved by Hand/Walker for approval of Ordinance No. 2004-67. Motion carried unanimously.

Moved by Contreras/E. Palmer for approval of Ordinance No. 2004-68. Motion carried unanimously.

- 16. ORDINANCE NO. 2004-69 (AR-2004-157) DOW CENTRAL PARK INDUSTRIAL SUBDIVISION: (First Reading/Public Hearing) An ordinance providing for the annexation of 30-acres of property located on Stan Drive, north of Ellis Road, and east of John Rodes Boulevard. (Owners - Gensen, Edward, Trustee; Dow Central Park Owners' Assoc., Inc.; Hafizi, Hamid; Hendrickson Electric Service, Inc. J&L Holdings of Brevard FL, Inc.; James O'Neill Construction, Inc.; MH of Brevard, Inc.; MS Thornton Enterprises; Matthews, Earl E.; Michaels Project, Inc.; Murphy Michael P.; Murray, Johathan W.; Plastics USA, Inc.; RTS Development, Inc.; Robinson, Michael; Trick Pro Motorsport, Inc.; Vandiver, Claude H.; Warner, Glen; Wilt, Mel) (Applicant - City of Melbourne) (P&Z Board - 8/19/04)

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

There were no comments from the public.

Moved by E. Palmer/Hand for approval of Ordinance No. 2004-69. Motion carried unanimously.

17. COUNCIL ACTION RE: Request by Waste Management, Inc. for an increase in solid waste collection rates.

- a. Ordinance No. 2004-70: (First Reading) An ordinance amending Chapter 14 of the Code of Ordinances entitled "Garbage and Refuse," providing rates for the collection of garbage and trash.
- b. Proposed contract modification agreement with Waste Management, Inc.

The City Attorney read the ordinance by title. Mr. Schluckebier briefed Council. He added that he credits the person that negotiated this agreement. The City continues to keep the lowest rates while Waste Management gets the opportunity to adjust in accordance with the Consumer Price Index.

Moved by Walker/Poole for approval of Ordinance No. 2004-70. Motion carried unanimously.

Moved by Walker/Poole for approval of the proposed contract modification agreement with Waste Management, Inc. Motion carried unanimously.

18. ORDINANCE NO. 2004-71: (First Reading) An ordinance amending Chapter 31 of the City Code entitled "Traffic and Motor Vehicles" by regulating parking at City facilities. (Approved by City Council 8/10/2004)

Attorney Gougelman read Ordinance No. 2004-71 by title. Mr. Schluckebier briefed Council.

Mr. Schluckebier confirmed for Mrs. Hand that the reserved Council parking spaces would be retained.

Moved by Poole/Walker for approval of Ordinance No. 2004-71. Motion carried unanimously.

19. RESOLUTION NO. 1897: (Public Hearing) A resolution to adopt an annual stormwater utility budget for the fiscal year beginning October 1, 2004.

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The City Attorney read the ordinance by title. Mr. Ralls briefed Council. There were no comments from the public.

Moved by E. Palmer/Poole for approval of Resolution No. 1897. Motion carried unanimously.

20. RESOLUTION NO. 1898: A resolution certifying the Stormwater Utility Assessment Roll.

The City Attorney read the resolution by title. Mr. Ralls briefed Council.

Moved by Hand/E. Palmer for approval of Resolution No. 1898. Motion carried unanimously.

21. COUNCIL ACTION RE: Approval of contract to purchase a 0.17-acre parcel located just east of the FEC railroad from the Caroline P. Rossetter Trust, authorization for the City Manager to sign closing statement and accept delivery of the deed, and authorization to transfer \$80,000 to the Rossetter Parking Lot account.

Attorney Gougelman reviewed the agenda report. The recommendation is for approval of the contract, authorization for the City Manager to sign the closing statement and accept delivery of the deed, and transfer of \$39,022 from the Reserve for Downtown Parking fund and \$40,978 from the Reserve for Future Projects in Downtown operating budget to this capital project budget.

Mrs. Palmer said she noticed that there is no existing survey. She asked how the boundaries were determined. Attorney Gougelman explained that the City's surveyor will survey the property prior to closing to ensure there are no problems or encroachments. He added that the legal description is on file at the courthouse; it is part of the old plat of the Downtown Melbourne area.

Mrs. Poole asked about designating the lot for employee parking only. Mr. Schluckebier said that staff will have to look at the most effective use of the property. The adjacent property has been sold and we are likely to hear from the new owners whether they wish to allow the property to be used for parking. If that is not the case, parking will become more of a precious commodity in Downtown Melbourne. He added that this property will be partly financed by Community Redevelopment Agency (CRA) trust money. If we use the lot exclusively for City customers or business, the City may end up having to reimburse the CRA trust.

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

22. COUNCIL ACTION RE: Proposed collective bargaining agreement with the Laborers' International Union (LIU), Local #678, for the period October 1, 2004 through September 30, 2007.

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Assistant City Manager Amy Elliott reviewed the agenda report. The recommendation is for approval of the collective bargaining agreement with the Laborers' International Union, Local 678, for a three year period, October 1, 2004 to September 30, 2007, and authorization for the City Manager to execute the contract with the LIU, which includes those items detailed in the ratified Memorandum of Agreement.

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

23. COUNCIL ACTION RE: Board Appointments

a. Building and Construction Advisory Committee - appointment of one member

Mrs. Palmer nominated Daniel Nuvy. Mr. Contreras nominated Ronald Marcucci.

Moved by Hand/Walker to close the nominations. Motion carried unanimously. The roll call vote was:

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

Nuvy: Poole and C. Palmer

Appointed: Ronald Marcucci (9/14/2004 – 5/26/2007, unexpired three-year term)

b. Golf Courses Advisory Board - appointment of two members

Moved by Contreras/Hand to reappoint Rin Troast and appoint Robert Paquette. Motion carried unanimously. (Troast 11/9/2004 – 11/8/2007) (Paquette 9/14/2004 – 11/8/2007, unexpired term plus three year term)

c. Melbourne Downtown Redevelopment Agency Advisory Committee - appointment of one regular member

Mrs. Poole nominated Tom Goffinet. Moved by Walker/Contreras to close the nominations. Motion carried unanimously. Moved by Walker/Contreras to appoint Tom Goffinet as the regular member. Motion carried unanimously. (9/14/2004 – 2/22/2006, unexpired three year term)

Mrs. Palmer nominated Hazel Buggs. Mayor Buckley nominated Elizabeth Saunders. Moved by Contreras/E. Palmer to close the nominations. Motion carried unanimously. The roll call vote was:

Buggs: Contreras, Walker, Hand and C. Palmer

Saunders: E. Palmer, Poole and Buckley

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Appointed: Hazel Buggs (9/14/2004 – 9/20/2005, unexpired three year term)

d. Melbourne Housing Authority - confirmation of Mayor's appointment

Moved by Poole/C. Palmer to confirm the Mayor's appointment of Melissa Keller. Motion carried unanimously. (9/14/2004 – 12/8/2005, unexpired four year term)

e. Olde Eau Gallie Riverfront Redevelopment Agency Advisory Committee - appointment of one alternate member

Mrs. Poole nominated Nancy Crawford. Mrs. Palmer nominated Frank Schrader. Moved by Hand/Contreras to close the nominations. Motion carried unanimously. The roll call vote was:

Crawford: Contreras, E. Palmer, and Poole

Schrader: Walker, Hand, C. Palmer and Buckley

Appointed: Frank Schrader (9/14/2004 – 6/11/2005, unexpired two year term)

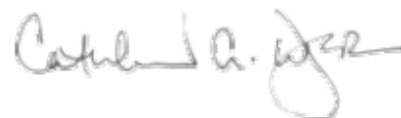
24. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Council Member Hand updated Council on Airport activities.

25. ADJOURNMENT

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

The meeting adjourned at 10:00 p.m.



City Clerk – 9/23/2004

Approved by Council: September 28, 2004