

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JANUARY 25, 2005



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 Harry Goode.

1. Pastor Linda Howard, Special Gathering, gave the invocation.
2. Pledge of Allegiance
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Richard Contreras	Vice Mayor, District 1
	Mark LaRusso	Council Member, District 2
	Kathy Meehan	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Loretta Isenberg-Hand	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Assistant City Manager
	Cindy Dittmer	Planning & Economic Development Director

Absent: Cheryl Palmer Council Member, District 5 (ill)

4. Proclamations and Presentations

None.

5. Approval of Minutes - January 11, 2005 Regular Meeting

Moved by Hand/Walker for approval. Motion carried unanimously.

6. City Manager's Report

Council Member Mark LaRusso expressed appreciation to staff for preparing an in-depth report on alternative fuel vehicles.

No further discussion/no additions.

7. Public Comments

- Lacey J. Sauerland – presenting concerns regarding the Daily Bread soup kitchen

Ms. Sauerland, 816 East Lincoln Avenue, stated that her neighborhood is no longer nice because of the Daily Bread soup kitchen. She stated that the soup kitchen attracts prostitutes, pimps, drug dealers, etc. She referenced the number of police reports that

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have been filed over the past six months involving assault, drugs and warrants. Ms. Sauerland stated that the situation must change. She distributed photographs showing the area around the soup kitchen littered with trash and debris. Ms. Sauerland said that the operator of the kitchen has since cleaned up the area. She concluded by asking Council to take some action to help the residents.

In response to Council Member Grace Walker, Ms. Sauerland said that Sue Holaday operates the soup kitchen.

Mr. LaRusso said that a quick review of the police reports indicates that there were 193 incidents during a six-month period. He asked if other areas of the City experience this many calls.

Police Chief Don Carey stated that this is a very high number. He added that they don't generally have that many calls at other locations.

John Giordano, 609 E. Fee Avenue, said that Daily Bread plans on building a new structure on Waverly. He added this would be the perfect opportunity to relocate the facility. He agreed with comments made by Ms. Sauerland and noted that the homeless use this area as a cut-through between the park and Babcock Street. Needles are left in the bushes, residents find people passed out, etc.

Pam Misson, 615 E. Fee Avenue, reported that before the Daily Bread there were no problems in the neighborhood. As a result of the Daily Bread she has called the Police Department many times. She commented on the following: homeless enter her yard, despite the presence of her dog; she has been yelled at when she has not given money; her dog has been maced by a homeless man; before walking into the yard, she has to make sure that no one is sleeping in the field or urinating in her bushes; homeless urinate across the street from the school bus stop; and some of the homeless act in such a way that they scare her.

Mike Kulisky, Mike's Midtown Motors, 1700 South Harbor City Boulevard, stated that the situation with Daily Bread has progressively gotten worse over the years. He agreed with the comments made by the previous speakers. He added that he has seen drug paraphernalia, prostitutes and drunks. He has phoned the police, but the people leave the area before the police arrive. Mr. Kulisky stressed that all of this comes from the Daily Bread. He said that the best thing for our City would be for the Daily Bread to move to a different location; it does not belong in the middle of a residential area.

Mr. LaRusso referenced the security plan attached to the conditional use ordinance for the Daily Bread (Ordinance No. 92-31). Under the heading of "school bus stop," he asked if a Daily Bread volunteer monitors the bus stop.

Mr. Kulisky said he has not seen this and does not believe it is happening.

Rudy Garcia, 708 Seminole Avenue, agreed with the previous speakers and added that

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he has been forced to install security cameras. He said that he does not believe that the Daily Bread needs to expand.

Matt Seiffert, Super Clean Detailing Center, 1612 South Harbor City Boulevard, agreed with the comments that have been made and added that he couldn't imagine being a resident in the area. Mr. Seiffert stated that he has to deal with prostitutes and crime; the police have tried to operate stings but they can't get a handle on it; the criminals are locked up one day and let out the next day. He concluded by saying that the situation needs to be handled; we can't allow people to cause crime in the community just because they are hungry.

Pat Poole, 805 East Palmetto Avenue, reported that residents with children have moved away from the area. She added that the Daily Bread should not be allowed to expand. Some of the clients have been released from institutions and are no longer on their medication.

Council Member Kathy Meehan said she understands the concerns and complaints that have been raised because she sees it on a daily basis. After reviewing the 190-plus complaints she suggested staff be directed to determine if the use is consistent with the area and if the Daily Bread is operating within its conditional use.

Mayor Goode recommended Code Enforcement determine if the Daily Bread is operating as outlined in its conditional use.

The Mayor asked if there was anyone in the audience representing Daily Bread. There was no response.

Continuing, the Mayor asked the City Attorney to address the question of whether the Daily Bread can be evicted or arbitrarily moved.

Attorney Gougelman said that perhaps this should be addressed from a Code Enforcement angle. The security plan, which is attached as part of the conditional use ordinance, should be reviewed to determine if the facility is operating consistent with the security plan. Additionally, staff should meet with Daily Bread administrators to convey the concerns that have been discussed.

The Mayor said he would also like staff to determine if the City can require the Daily Bread to provide its own security. He added that our taxpayers expect the best bang for their buck and 190 calls for police service in six months at one location does not provide this.

Mr. Schluckebier said that as part of the Council direction staff will meet with the Daily Bread management and work towards identifying whether another site would better serve their purposes. He noted that as a private property owner, they have the latitude to use their property without expectation that government will force them off of it.

Attorney Gougelman recommended that the residents band together and seek a private

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attorney who can bring an action stating that this is a nuisance. In the meantime, the City can review the conditional use from a Code Enforcement angle.

- Jack Salmela, 1060 Sarno Road, presenting concerns regarding need to dredge Eau Gallie River

Mr. Salmela, spokesperson for “Friends of The Eau Gallie River,” asked the City to take the steps necessary to get the river dredged. Mr. Salmela submitted information from State Representative Mitch Needelman, which indicates he is also pursuing funding for this item.

The City Manager confirmed that Representative Needelman met with staff at City Hall yesterday concerning his efforts to work with state agencies, the St. Johns River Water Management District and the Corps of Engineers. Mr. Needelman believes he will be able to have the project imbedded in a community budget request he is making.

Continuing, Mr. Schluckebier said that the City has carried this as an on-going project in the Capital Improvement Program. The timing is slipping, however, because the project is contingent on funding from other agencies. He explained that if the City fully funded this project, it would be at the expense of every other project across the City for about a year. The City Manager stressed that it is the City’s desire that this project also be completed.

Pat Meyer, 979 Kelmore Drive, pointed out that the information distributed from Representative Needelman does not include dredging the area west of U. S. 1. He stated that this is where the main pollution is and this area must be included.

Phil & Ramona Matthews, 1317 Richmond Drive, stated that they live west of the railroad tracks and they support dredging this area.

Mayor Goode informed the audience that the difficulty is involved with the size of dredges required to go under U. S. 1 and the railroad tracks.

Justin Ostroff, 1339 Richmond Drive, agreed that the area west of U. S. 1 must be included. Mr. Ostroff stated that he is a civil engineer by trade. He added that he believes the other big issue is how to prevent this in the future. The City of Melbourne must take responsibility for runoff from roads, sidewalks and paved areas that enter the river.

A brief discussion followed about the City’s stormwater utility.

Julia Perian, 1359 Richmond Drive, agreed with the previous speakers, especially on the need to dredge upriver. She also pointed out that the extension of Apollo Boulevard across the river will have a major impact on the river environment.

Walter Smith, 968 Placid Drive, asked for a timeframe on the dredging. He noted that the area around his dock is like quicksand – two to three feet thick with muck. Also, creeks and tributaries around the river are blocked with muck.

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Mayor Goode said that this is a monumental task; therefore, Council is unable to provide a project date. He added that we are fortunate that Representative Needelman is pursuing funding for this project.

The Mayor noted that staff will continue working with Representative Needelman on this issue.

- Dr. Joan Joesting, 415 Rutgers Avenue

Dr. Joesting discussed her concerns with “excessive police surveillance and videotaping” at a rally held at City Hall on January 20. She stated that as she walked home, the police shadowed her along the way and a police vehicle was parked near her home.

The City Manager reported that a “counter inaugural rally” was held at City Hall on January 20. The Melbourne Police Department received information that there would be threats and possibly violence at the rally. The Police Department wanted to ensure that their presence would make any threats/violence a difficult proposition.

Mayor Goode apologized to Dr. Joesting if this occurred. He said that staff would look into this issue.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2005-01 (AR-2004-164), ORDINANCE NO. 2005-02 (CPA-2004-24), AND ORDINANCE NO. 2005-03 (Z-2004-1008) LEICHTENBERG PROPERTY: Ordinances providing for annexation and a Comprehensive Plan Amendment designating a Low Density Land Use for a 1.7-acre parcel and rezoning the 1.7-acre parcel and a 17.54-acre parcel, located west of I-95 and north of Eau Gallie Boulevard. (Owners - Robert L. Leichtenberg/Michael R. Leichtenberg) (Applicant - Richard P. Love, Jr., Matnick Partners, Inc.) (P&Z Board - 12/02/04)
 - a. Ordinance No. 2005-01/AR-2004-164: (Second Reading/Public Hearing) An ordinance providing for annexation of a 1.7-acre parcel. (First Reading - 01/11/05)
 - b. Ordinance No. 2005-02/CPA-2004-24: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment to designate a Low Density Future Land Use on a 1.7-acre parcel. (First Reading - 01/11/05)
 - c. Ordinance No. 2005-03/Z-2004-1008: (Second Reading/Public Hearing) An ordinance rezoning 17.54 acres from R-A (Residential Holding, 1 dwelling unit per acre) to REU (Rural Estate Use, 1 dwelling unit per acre) and applying REU zoning on 1.7 acres of newly annexed property to allow the development of a single-family residence and the construction of an accessory barn for horses. (First Reading - 01/11/05)

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Attorney Gougelman read Ordinance Nos. 2005-01, 2005-02 and 2005-03 by title. The Mayor reported that a Comprehensive Plan sign-up sheet is available on this item. There were no disclosures by Council and no comments from the audience.

Moved by Contreras/Walker for approval of Ordinance No. 2005-01. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Hand, Contreras and Goode

Nay: None.

Motion carried unanimously.

Moved by Hand/LaRusso for approval of Ordinance No. 2005-02. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Hand, Contreras and Goode

Nay: None.

Motion carried unanimously.

Moved by Meehan/Walker for approval of Ordinance No. 2005-03. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Hand, Contreras and Goode

Nay: None.

Motion carried unanimously.

9. ORDINANCE NO. 2005-04 (CU-2004-18/SP-2004-24) FIRE STATION 78: (Second Reading/Public Hearing) An ordinance granting a conditional use and site plan approval to allow a fire station in an R-2 (One-, Two-, and Multiple-Family Dwelling District) on a 4.52-acre parcel, located on the north side of Eber Road, east of Dairy Road, and west of Stack Boulevard. (Owner/Applicant/Representative - City of Melbourne) (First Reading - 01/11/05)

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

Moved by Contreras/LaRusso for approval of Ordinance No. 2005-04. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Hand, Contreras and Goode

Nay: None.

Motion carried unanimously.

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NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for the construction of a steel storage building at the John A. Buckley Surface Water Treatment Plant, Project No. C04304, L.A. Construction Services, Inc., Merritt Island, FL - \$98,000.

From the agenda report: The recommendation is for approval of the building construction contract with L.A. Construction Services, Inc. in the amount of \$98,000.

Moved by Hand/LaRusso for approval of the recommendation.

At the request of Mrs. Walker, City Engineer Howard Ralls briefed Council.

The question was called. Motion carried unanimously.

11. CONSENT AGENDA:

Mr. Schluckebier (reference Item “j”) said that Orange County will be going through a competitive quote process. Melbourne expects to join that quote before the next quarterly fuel award. With regard to the item on this agenda, staff believes that this is a competitive price.

Moved by LaRusso/Meehan for approval of the consent agenda. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Supplement No. 225 to the Continuing Consultants Contract for reuse production and distribution study, Project No. 05340, Frazier Engineering, Inc., Melbourne, FL - \$49,800.
- b. Supplement No. 223 to the Continuing Consultants Contract for upgrading the force main from Lift Station 51 to Osage Street along Sarno Road, Project No. 05332, Frazier Engineering, Inc., Melbourne, FL - \$34,400.
- c. Supplement No. 227 to the Continuing Consultants Contract for a belt press controller and electrical upgrades at the Wastewater Treatment Plants, Project 05431, Frazier Engineering, Inc., Melbourne, FL - \$31,250.
- d. Change Order No. 1 for the Parkway Drive and Turtle Mound Road waterline extension, Project No. C04323, Maxwell Contracting, Inc., Cocoa, FL - \$46,550.
- e. Approval of an agreement between the Florida Department of Transportation and the City of Melbourne for subordination of a utility easement along the south side

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of Eau Gallie Boulevard and authorization for the City Manager to execute the agreement.

- f. Approval of an agreement between the Brevard County Board of Commissioners and the City of Melbourne for subordination of a portion of the utility easement along the west side of Wickham Road and authorization for the City Manager to execute the agreement.
- g. Purchase of a 2005 Diamond SPEC 7600 SFA 6 x 4 dump truck with Hardee 18-yard dump body, Maudlin International Trucks, Inc., Orlando, FL - \$88,751.
- h. Emergency purchase of replacement lighting fixtures in the parking lots of the Police Administration Building, Eau Gallie Civic Center, and the Honor America Building, Rexel Consolidated Electric, West Melbourne, FL - \$16,020; Lighting & Traffic Solutions, Cocoa Beach, FL - \$11,940; and Raybro Consolidated Electric, Cocoa, FL - \$11,250; for a total cost of \$39,210.
- i. Annual contract award for the purchase of various water & sewer stock items, Sunstate Meter & Supply, Inc., Newberry, FL - \$56,552.95; Ferguson Waterworks, Orlando, FL - \$47,427.40; and Utility Pipe Sales Company, Winter Haven, FL - \$19,697.98; for a total cost of \$123,678.33.
- j. Purchase of gasoline and diesel fuel, Glover Oil, Melbourne, FL - \$46,793; Petroleum Traders Corporation, Fort Wayne, IN, \$143,035; for a total cost of \$189,828.
- k. Approval of a budget adjustment to transfer \$10,628.99 from miscellaneous CDBG accounts to the CDBG Demolition and Clearance account.
- l. Approval of an Interlocal agreement between the Florida Department of Transportation, Brevard County, City of Cocoa, City of Cocoa Beach, Town of Indianalantic, City of Indian Harbour Beach, City of Melbourne, Town of Melbourne Beach, City of Palm Bay, City of Rockledge, City of Satellite Beach, City of Titusville, City of West Melbourne, and the Canaveral Port Authority for creation of the Metropolitan Planning Organization.
- m. Resolution No. 1917: A resolution adopting street names for private streets serving Manatee Cove Apartments.
- n. Resolution No. 1918: A resolution adopting street names for private streets serving Legacy at Hibiscus Park Apartments.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

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Moved by Contreras/Meehan to convene as the Melbourne Downtown Community Redevelopment Agency for Item #13. Motion carried unanimously.

13. COUNCIL ACTION RE: Request by Melbourne Main Street for the City to co-sponsor the 2005 Friday Fest events conducted monthly in Downtown Melbourne.

Laird Gann, Executive Director, Melbourne Main Street, was present.

Moved by Hand/LaRusso to approve co-sponsorship of the 2005 Friday Fest events in Downtown Melbourne (by providing electrical connection and barricade delivery) at an approximate cost of \$2,750 from the Downtown Redevelopment Fund. Motion carried unanimously.

Moved by Walker/LaRusso to reconvene as the City Council for the remaining agenda items. Motion carried unanimously.

14. PRELIMINARY PLAT APPROVAL (SD-2004-12) HARVARD APARTMENTS: (Public Hearing) A request for approval of a preliminary plat for an eight-lot, six-tract, multiple-family residential and commercial development on a 49.83±-acre parcel, zoned R-2 (One-, Two-, and Multiple-Family Dwelling) and C-1 (Neighborhood Commercial), located on the north side of Palm Bay Road, east of Dairy Road, and west of Stack Boulevard. (Owner/Applicant - Palm Bay Developers, LLC) (Representative - Clayton A. Bennett, P.E., Fleis and Bennett Engineering, Inc.) (P&Z Board - 1/06/05)

Planning & Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the preliminary plat, as depicted on a two-sheet plan prepared by Fleis & Bennett Engineering, Inc., of Indian Harbour Beach, Florida, with a stamped and sealed date of December 17, 2004, with the findings contained in the agenda package and the following conditions:

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

Any substantial change to the preliminary plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the preliminary plat includes, but is not limited to: 1) any additional driveways.

- b. The shared drive along the north lot line of the commercial lots must be built at the time the other infrastructure is installed for the subdivision or bonded for the road construction by final plat approval.
- c. The eight-lot subdivision will be allowed only two driveway cuts onto Palm Bay Road – one located between Lots 2 and 3 and the second one located between Lots 5 and 6. Access to the driveways shall be coordinated with Brevard County, FDOT, and City staff.

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- d. Appropriate environmental permits must be obtained as part of the construction plan review process.
- e. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.
- f. Only one building permit may be issued on the plat prior to recordation of the final plat.

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

Troy Edwards, representing the applicant, agreed with the staff presentation and conditions.

Moved by Walker/Hand for approval subject to the findings contained in the agenda package and the listed conditions. Motion carried unanimously.

15. SITE PLAN APPROVAL (SP-2004-27) HARVARD APARTMENTS, PHASE TWO: (Public Hearing) A request for site plan approval for Phase Two of Harvard Apartments on a 9.62±-acre tract, zoned R-2 (One-, Two-, and Multiple-Family Dwelling), located on the north side of Palm Bay Road, east of Dairy Road, and west of Stack Boulevard. (Owner/Applicant - Palm Bay Developers, LLC) (Representative - Clayton A. Bennett, P.E., Fleis and Bennett, Inc.) (P&Z Board - 1/06/05)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the site plan, as depicted on a single-sheet prepared by Fleis & Bennett Engineering, Inc., of Indian Harbour Beach, Florida, with a stamped and sealed date of December 17, 2004, with findings as listed in the agenda package and the following conditions:

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

Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and City Council. A substantial change in the site plan includes, but is not limited to: 1) an increase of more than 11 units.
- b. Appropriate environmental permits must be obtained as part of the construction plan review process.
- c. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles

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shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.

- d. The buildings shall be substantially consistent with the rendering submitted by the applicant.

There were no disclosures by Council. Mayor Goode opened the public hearing. The applicant's representative was present. There were no comments from the audience.

Moved by Hand/Meehan for approval subject to the conditions as listed. Motion carried unanimously.

16. FINAL PLAT APPROVAL (SD-2002-08A) ALAMANDA KEY SUBDIVISION, PHASE ONE (FKA REFLECTIONS AT THE FOUNTAINS SUBDIVISION): (Public Hearing) A request for approval of a final plat for Phase One (consisting of 54 lots) on a portion of a 46.49±-acre parcel, zoned P.U.D. (Planned Unit Development), located west of Stack Boulevard, south of Eber Road, and north of Palm Bay Road. (Owner/Applicant - Tom Vani, Managing Member, Alamanda Key, LLC) (Representative - Joseph Mayer, Bussen-Mayer Engineering, Inc.) (P&Z Board - 1/06/05)

Mrs. Dittmer briefed Council and reviewed the agenda report. A previous condition of approval on the preliminary plat required that a "six-foot staggered block wall" be built along the northern property line. The applicants are requesting to change this condition to a six-foot opaque vinyl fence, which will be maintained by the homeowners' association. The applicant received a letter from the homeowners' association to the north, agreeing to the change.

The Planning and Zoning Board voted unanimously to recommended approval of the final plat, consisting of a portion of the overall plat of 46.49± acres, consisting of a two-page plan prepared by Bussen-Mayer Engineering Group of Merritt Island, Florida, with a received date of December 15, 2004, pursuant to the findings as listed in the agenda package, and 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 four lots; or 2) any change in the street network or retention pond location.

- b. Only one building permit may be issued on any portion of the plat prior to recordation of the final plat.

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- c. A six-foot opaque, vinyl fence shall be installed along the north property line, in Tract F, prior to the issuance of the Certificate of Completion on the subdivision improvements. The fence shall be maintained by the Alamanda Key Homeowners' Association.

Note: See Council action for change to condition "c."

- d. Provide the additional required documents, pursuant to Chapter 29, Section 29-5 (c) (4) prior to plat recordation.

(Note regarding condition "c": Council received information from Mark Abbey, 4129 Bayberry Drive, regarding this item. Mr. Abbey indicates that he was the president of Bayberry Homeowners' Association in February 2002 when the condition was made for a masonry wall along the north property line. He further notes that he believes the current Bayberry Board of Directors acted improperly by accepting \$15,000 from the current developer in exchange for approving the vinyl fence. A petition is included, which is signed by Bayberry residents asking that the original agreement remain in place and that a decorative masonry wall be provided.)

Vice Mayor Contreras referenced the requirement in the preliminary plat for a six-foot staggered block wall along the north property line. Although the property has changed ownership, he stated that he will not be wavering from the block wall.

Mayor Goode called for disclosures. Council Member Loretta Hand said Linda Vigeant (4037 Bayberry Drive) phoned her to say she is opposed to the vinyl fence. Ms. Vigeant wants to maintain the cement wall. Mrs. Walker said she received phone calls from people objecting to the vinyl wall. Mayor Goode said he discussed this same issue with Gary Vigeant. Mr. LaRusso and Mrs. Meehan said they also spoke with Mr. Vigeant about the vinyl fence versus block wall.

Mayor Goode opened the public hearing.

Tom Vani, representing Alamanda Key, reported that the wall was originally called for because the plan included a perimeter road along the outside of the project. This would result in cars traveling next to Bayberry Estates and there would be a problem with lights, noise, etc. The perimeter road has since been moved so there will be no traffic adjacent to Bayberry. The homes will be designed with side entry garage.

Mr. Vani said that the Bayberry Board of Directors approved the change, although there are some residents who object. Mr. Vani stated that block walls tend to have mildew, stains and cracking. Vinyl maintains its color and doesn't crack. Alamanda will be a 55+ year age restricted community, and there will be a limited amount of people to do the physical maintenance required for a block wall. Over the long haul, it will save time and effort because maintenance won't be an issue.

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Mr. Vani confirmed for Mr. LaRusso that the wall or fence will be maintained by the homeowners' association. Mr. LaRusso asked if vehicles would have to pull straight in to the driveway, facing the wall or fence, before turning left or right into the garage. Mr. Vani replied yes.

Mayor Goode asked the approximate length of the wall/fence and Mr. Vani replied 1,500'.

Gary Vigeant, 4037 Bayberry Drive, referenced the agreement that was reached with the previous property owner about providing a block wall. He said that although the perimeter road is gone, driveways from the proposed subdivision will still be facing their homes. Mr. Vigeant pointed out that fences that were blown over during the hurricanes are still down. And, he did not see any concrete walls blown over during the last storms.

Mr. Vigeant referenced the engineer's report distributed to Council (with the packet of information from Mark Abbey) about the effectiveness of a wall versus a fence.

Mr. Contreras asked Mr. Vigeant how many people he is representing. Approximately eight – ten residents stood in the audience. Mr. Vigeant added that 14 of the 17 residents who live along the property boundary line signed the petition in favor of the block wall.

That concluded comments from the audience.

Moved by Hand/Walker for approval of the final plat, including the conditions, with a change to condition "c" that will require a six-foot staggered block wall. Motion carried unanimously.

17. SITE PLAN APPROVAL (SP-2004-29) HARBOR EDGE CONDOMINIUMS: (Public Hearing) A request for site plan approval to develop a 27-unit residential condominium on a 0.58-acre parcel, zoned C-3 (Central Business District), located on the south side of New Haven Avenue, east of US Highway 1, at 1207 East New Haven Avenue. (Owner - Harbor Edge of Melbourne, Inc.) (Applicant/Representative - Teimouri & Associates, Inc., Vaheed Teimouri) (P&Z Board - 1/06/05)

Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the site plan, as shown on the two-page plan prepared by Teimouri & Associates, dated November 15, 2004, with File Number 2004120C1, and a two page drawing by Dave Nagrodsky Architects dated October 1, 2004, with File Number AR0015738, subject to the findings listed in the agenda package, and the following conditions:

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

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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) any change in the ingress/egress points; or 2) an increase of more than two units (10%).

Note: See Council action for change to stipulation “a.”

- b. The applicant shall participate in the funding of the Front Street sanitary sewer lift station upgrades based on the number of net new equivalent residential units (eight) on the property.
- c. The applicant shall obtain appropriate permits from the Florida Department of Transportation for the relocation of the driveway adjacent to New Haven Avenue prior to construction plan approval.
- d. The building shall be substantially consistent with the rendering submitted by the applicant.
- e. Provide a recorded copy of the existing cross access easement prior to construction plan approval.

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

Vaheed Teimouri, representing the applicant, agreed with the staff comments.

Mr. Teimouri confirmed for the Mayor that he was not able to get the two adjacent property owners to agree about use of the pool. Therefore, a pool will be located adjacent to the condominiums.

Following a brief discussion, the Mayor referenced condition “a” and said he would like for the plan to return to Council if there are any structural movements or boundary movements. Mr. Teimouri agreed with this change.

Moved by Contreras/Walker to approve the site plan subject to the conditions as noted, including a change that would require the plan to return to Council if there are any structural movements or boundary movements. Motion carried unanimously.

18. ORDINANCE NO. 2005-05 (Z-2004-1007) AND ORDINANCE NO. 2005-06 (CU-2004-19) WITH SITE PLAN APPROVAL (SP-2004-26) HIBISCUS RIVERFRONT CONDOMINIUMS: Ordinances providing for rezoning and a conditional use with site plan approval in order to develop a building with seven habitable floors and one level of parking on two parcels of 2.6± acres, located on the east side of US Highway 1, north of Hibiscus Boulevard. (Owner – Tricon Real Estate, Inc.) (Applicant/Representative – Dave T. Menzel, P.E., MAI Engineering, Inc.) (P&Z Board – 1/06/05)

- a. Ordinance No. 2005-05/Z-2004-1007: (First Reading/Public Hearing) An ordinance

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changing the zoning from C-2 (General Commercial) to R-3 (Multiple-Family Dwelling) on two parcels of 2.6± acres.

- b. Ordinance No. 2005-06/CU-2004-19/SP-2004-26: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a building height of 67.67 feet and site plan approval to develop a condominium with seven habitable floors and one level of parking on two parcels of 2.6± acres.

Attorney Gougelman read both ordinances by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board unanimously voted to recommend approval subject to 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 number of units proposed by more than five units; or 3) additional building height.

- b. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- c. The applicant shall provide a 10-foot pedestrian easement along the U.S. 1 right-of-way prior to construction plan approval.

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

Phil Nohrr, attorney representing the applicant, submitted a letter from the property owners to the south (Gary and Judy Gregory) indicating they are in favor of this request. Mr. Nohrr discussed the plans and said that they are proposing a significant upgrade to the property. Mr. Nohrr submitted photographs of the property showing its current condition.

Continuing, Mr. Nohrr stated that they are proposing 51 units; the property currently has 66 units. This change will result in less traffic on U. S. 1. The requested R-3 zoning is less intense than the existing C-2 zoning. The project, which is estimated at \$25 to \$30 million, is an in-fill project that will increase the tax base. There will not be an additional requirement for City services.

Mr. Nohrr stated that the applicant has agreed to participate in the linear park along U. S. 1 by providing a 10' easement. He added that this developer has been in Brevard County for a long time; he has a track record. Mr. Nohrr noted that this is not the first project that will bring height to this area. He discussed developments along U. S. 1 that have additional height. Also, height allows for a breezeway with more view of the river.

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Mr. Contreras asked the approximate value of the units. Mr. Nohrr said that they will be sold in the \$450,000 to \$500,000 range.

Mr. LaRusso referenced the rendering and asked if that is final.

Dave Menzel, MAI Engineering, said that they are proposing a standard condominium with a Mediterranean look. He added that the detail will be enhanced. Mr. Nohrr said there may be aesthetic changes, but the basic structure will be as represented in the rendering.

Mr. LaRusso said that the building is a big block of concrete that blocks the view of the river. He said he would love to see more breezeway and asked if several proposals could be brought before Council. He commented that the rendering appears very stark and it reminds him of what is being built along the ocean.

Recessed: 8:30 p.m.
Reconvened: 8:42 p.m.

Pat Poole, 805 East Palmetto Avenue, pointed out that with C-2 zoning they could not have the requested height. She asked Council if the direction is to cover every bit of land with development. Additionally, Mrs. Poole said that 50-unit hotel is not filled everyday; therefore, she is not sure that there will be fewer trips on U. S. 1.

Chris Romandetti, 705 S. U. S. 1, agreed with going higher in order to have more view of the river. He spoke in support of the request and said that this development will be an improvement.

Discussion followed regarding Mr. LaRusso's request to have staff work with the developer on several options. Staff noted that the ordinances need to be advertised and if height is changed (increased) at second reading, the ordinances would have to be re-advertised.

Mr. Nohrr said that their due diligence period is running out. He asked Council to proceed with the ordinances as prepared and Mr. Menzel can meet with Mr. LaRusso before the second reading. He confirmed that his preference is to proceed with the ordinances as written.

Moved by Contreras/LaRusso to approve Ordinance No. 2005-05.

Mr. Schluckebier confirmed for Mrs. Hand that if there are substantial changes at second reading, the ordinances would have to be readvertised.

The question was called. Motion carried unanimously.

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Moved by LaRusso/Contreras for approval of Ordinance No. 2005-06. Motion carried unanimously.

19. COUNCIL DISCUSSION RE: Discussion of the utility billing drive-through window relating to renovations at City Hall.

From the agenda report: This is a request for direction to architects concerning building configuration for the City Hall renovations. The specific issue concerns consideration for termination of the utility billing drive-through payment window. This would enable additional parking spaces, which would greatly improve the ability of our customers to conduct business at City Hall. Although the drive-through has served well in the past, it is a tool better left to the 20th Century.

Mr. Contreras added that envelopes are now included with utility bills. And, with the cost of gasoline versus a 37 cent stamp, he supports eliminating the drive-through.

Director of Finance Michele Ennis confirmed for Mr. Contreras that on-line billing will be implemented within the next year.

Mayor Goode noted that the drive-through window often blocks the City Hall parking lot; folks can't get in or out.

Moved by Contreras/Walker to eliminate the drive through payment window during the renovations. Motion carried unanimously.

20. COUNCIL DISCUSSION RE: Discussion of renaming of a City street. (Requested by Vice-Mayor Richard Contreras)

Vice Mayor Contreras said that during the Martin Luther King, Jr. holiday, Palm Bay Mayor John Mazziotti approached him and asked if the City of Melbourne would be interested in naming a shared roadway in honor of Dr. King. The initial discussion focused on Lipscomb Street; however, subsequent discussions with Mr. Leonard Ross on the issue brought to light that the Lipscomb Family had issues with renaming that street.

Continuing, the Vice Mayor said he spoke with Mayor Mazziotti over the weekend, who indicated that he would support renaming Florida Avenue from Babcock Street east or from Lipscomb Street east.

Mr. Contreras concluded by saying in 2001 the proposal was made to name the Palm Bay beltway in honor of MLK. We do not know when the beltway is going to be built and it is past time for the City of Melbourne to honor Dr. King. In the spirit of discussion, he stated that he would like to hear from staff, Council, the MLK Coalition and citizens affected by the name change.

Mrs. Hand said she has always been in favor of the community having a street named in honor of Martin Luther King; however, the issue is where. She agreed that the funding is a

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long way off for the beltway, although she still believes that would be a good roadway to consider. She noted that she does not have a problem with University Boulevard, from Babcock Street east to U. S. 1. Additionally, renaming Florida Avenue west of Babcock Street would not be good.

Mr. LaRusso said he was honored to be part of a team that led the way for a road to be renamed Martin Luther King, Jr. Boulevard in Broward County. He added that he is amazed that it hasn't happened here. He asked to hear comments from the audience and from the people who would be affected by the renaming.

Mayor Goode said that University Boulevard, Lipscomb Street, Florida Avenue and Palm Bay Beltway have all been discussed. He stated that the issue needs to be narrowly defined and the City should consider forming a committee. He explained that his goal in defining the street is so that the entire City doesn't attend a Council meeting to say "not on my street."

Leonard Ross, President, Martin Luther King Coalition, stated that over the years he has been disturbed by those who wish to relegate Martin Luther King to an obscure street located only in the Black neighborhood. He reported that since the newspaper reported that Florida Avenue was being considered, his phone has been ringing off the hook. People are saying that he is accepting less. Mr. Ross stated that as a result he is removing the idea of Florida Avenue from the table and suggesting serious consideration of Apollo Boulevard.

Mrs. Meehan asked the parameters on Apollo Boulevard. Mr. Ross said they are resentful in renaming a portion; therefore, they are recommending the entire roadway from Fee Avenue to Sarno Road.

Mrs. Hand said she has no problem with this and added that Apollo will eventually be extended across the river to Eau Gallie Boulevard.

Mr. Contreras pointed out that previous proposals have failed miserably. He asked if there are any other recommendations beyond Apollo Boulevard. Following a brief discussion, Mr. Ross said their proposal is Apollo Boulevard.

Carl Finerson, representing the NAACP, offered his gratitude to Council for entertaining this discussion. He stated that he has long advocated that this is not a Black issue. Council should name a major thoroughfare after Martin Luther King. He thanked the members who are honoring commitments made during the campaign.

Bennie Hopkins, 624 William Street, representing the South Brevard Civic League, discussed previous efforts to name/rename a street in honor of Martin Luther King. He said he is concerned that the word "parameters" was used in the renaming of Apollo Boulevard. Mr. Hopkins said he hopes this Council proceeds and noted that this will bring the entire community together.

Reverend Hartford Lee, Greater Allen Chapel and Martin Luther King, Jr. Coalition, stated

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that he is pleased that Council is looking at this. He added that a descendant of the Lipscomb Family still lives in the community. They are very satisfied that renaming Lipscomb has been removed from the table.

Charles Favors, President of the South Brevard Branch of the NAACP, stated that Dr. King gave a lot to this country. He stood not only for Blacks – but for everyone. He asked Council to take this into consideration and do the best it can to honor Dr. King.

Mr. Contreras asked staff to comment on the process. Mr. Schluckebier said that there are two different processes outlined in the Code – the first with an applicant and the second with Council as the applicant. Although Council has the ability to directly rename a roadway, he recommended that the public process be followed. This would involve a meeting notice, hearing date, notice to affected property owners, etc.

Mrs. Hand said that the renaming of Apollo Boulevard should also include the portion that will extend from Sarno Road to Eau Gallie Boulevard in the future.

Moved by Contreras/Hand to rename Apollo Boulevard from Eau Gallie Boulevard to Fee Avenue in honor of Dr. Martin Luther King, Jr. Motion carried unanimously.

Jim Neil, Areca Palm Avenue, stated that Apollo Boulevard was probably named for the space program and our astronauts. He added that it is incumbent on the City to look at the history.

Mayor Goode asked staff to include the history on the naming of Apollo Boulevard when this item returns to Council.

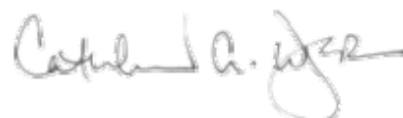
21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

None.

22. ADJOURNMENT

Moved by Contreras/LaRusso to adjourn. Motion carried unanimously.

The meeting adjourned at 9:35 p.m.



City Clerk – 2/3/2005

Approved by Council: 2/8/2005 w/noted revision to page one