

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 8, 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 Steven Rossi, God's Grace Fellowship, 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

4. Proclamations and Presentations

Mayor Goode presented "President's Student Service Awards" to members of Brevard's Best. The group, which is co-sponsored by the City of Melbourne Leisure Services Department, consists of young people ages 5 to 12 who perform throughout Brevard County at hospitals, nursing centers, retirement homes, children's events, community festivals, etc. Gold Awards were presented to members with a minimum of 100 hours of service and Bronze Awards were given to those with a minimum of 50 hours. Gold recipients included Stephanie Shores, Samantha Shores, Katelyn Kern, Stephanie Latta, Lauren Beadle, Lonching Eng and Bridget Lee. The Bronze recipients were Emily Reynolds, Meghan Beadle and Lonyee Eng.

The City of Melbourne received the 2004 Corporate Safety Achievement Award for Outstanding Safety Performance throughout the public sector of Central Florida from the Florida Safety Council. City Manager Jack Schluckebier presented the plaque to Michele Ennis, Director of Finance; Ken Gray, Risk Manager; and Roosevelt Solomon, Safety Training Coordinator.

The Mayor recognized Boy Scout Troop 300 from St. Paul's United Methodist Church.

5. Approval of Minutes - January 25, 2005 Regular Meeting

Moved by Hand/Meehan for approval. Council Member Grace Walker noted that Council Member Cheryl Palmer was absent at the last meeting (the minutes show her as being

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present). The maker/seconded agreed that the motion includes a correction to the minutes to reflect that Council Member Palmer was absent. Motion carried unanimously.

6. City Manager's Report

No comments/no additions.

7. Public Comments

None.

UNFINISHED BUSINESS

8. 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: (Second Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to R-3 (Multiple-Family Dwelling) on two parcels of 2.6± acres. (First Reading - 1/25/05)

b. Ordinance No. 2005-06/CU-2004-19/SP-2004-26: (Second 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. (First Reading - 1/25/05)

City Attorney Paul Gougelman read both ordinances by title. Council Member Mark LaRusso disclosed that he met with David Menzel at his office to review the proposed project.

Phil Nohrr, 1800 W. Hibiscus Boulevard, attorney representing the applicant, said there could be another plan, which includes additional setbacks and height if Council wishes to go in that direction. Mr. Nohrr stressed that his client would like the plan, as presented, acted upon at this meeting because of contractual obligations.

With regard to a future plan, Mr. Nohrr said that the City Attorney has language that would obligate the applicant to return by a specific date with another site plan.

Council Member Loretta Hand said that Mr. LaRusso's suggestion with regard to breezeways is good; however, she said she has observed that cement walls or fences usually eliminate the view.

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Mr. LaRusso said he discussed that challenge with Mr. Menzel and Mr. Menzel assured him that would not be an issue with this project. Continuing, Mr. LaRusso said he is not necessarily paving the way for more height. His concern is that the project will be located on the east side of U. S. 1, which is a scenic corridor. He is looking for a design that will allow a view of the river but, more important, he is looking for more innovative ideas.

That concluded comments from the public.

Attorney Gougelman said he met with Attorney Nohrr and Council Member LaRusso. As he understands the issue, the two chief tasks are the concept of breezeway and architectural elevation. Therefore, the following stipulation “d” is proposed to be added to Section 2 of Ordinance No. 2005-06:

- d. By not later than April 30, 2005, the owner/developer voluntarily agrees to submit and pursue approval of a revised site plan and conditional use application for a condominium not exceeding 51 units, not greater than 85 feet in height, not wider than 222 feet along the Indian River Lagoon, and with an enhanced quality architectural elevation in place of the condominium approved by this ordinance. The request may be further revised as to architectural appearance or withdrawn at the request of the City Council.

Moved by LaRusso/Contreras for approval of Ordinance No. 2005-05. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2005-06, which includes the additional stipulation “d” as noted by the City Attorney.

Vice Mayor Contreras said it might be advisable to direct City staff to look at the current height in the areas east of U. S. 1 where there is potential for development and return with a recommendation relative to aesthetics, breezeways, etc. Otherwise, people will constantly be looking for variances.

Mrs. Palmer asked Mr. Contreras if he was suggesting an overall height increase. Mr. Contreras said that would be part of it, in addition to the footprint and what would be gained/lost by virtue of breezeways. Mrs. Palmer said she would prefer that Council look at these sites one at a time rather than going with a general height increase east of U. S. 1.

Moved by Contreras/LaRusso to direct staff to look at the current height and zoning solely on the east side of U. S. 1 and return to Council with recommendations as to height, setbacks, and offsets.

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Mayor Goode said he would prefer that Council look at each plan on a site-specific basis. A brief discussion followed. The question was called on the motion relating to direction to staff. The roll call vote was:

Aye: LaRusso, Meehan and Contreras

Nay: Walker, Palmer, Hand and Goode

Motion failed.

The question was called on approval of the ordinance. The roll call vote was:

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

Nay: None

Motion carried unanimously.

NEW BUSINESS

9. COUNCIL ACTION RE: Contract award for Booker T. Washington neighborhood infrastructure improvements, Project No. CD0266, Maxwell Contracting, Inc., Cocoa, FL - \$471,000; and transfers totaling \$518,000 from various Booker T. Washington Revitalization budgets to this project budget.

City Engineer Howard Ralls briefed Council. The recommendation is for approval of the construction contract with Maxwell Contracting, Inc. in the amount of \$471,000 and transfer of \$518,000 from various Booker T. Washington revitalization accounts to this project budget.

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

10. CONSENT AGENDA:

The Mayor referenced the memorandum from staff asking that Item “h” be withdrawn because of a bid protest. Additionally, he noted that Mr. LaRusso submitted a request for Item “i” to be removed from the consent agenda.

Council Member Loretta Hand said she would like Item “b” removed from the consent agenda. Mayor Goode said that the Council policy provides that Council Members must submit a request by 3:00 p.m. on Monday prior to the Council meeting to remove an item from the consent agenda. Following a brief discussion, he said he would make an exception.

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Mr. Ralls elaborated on Item “b” for Mrs. Hand. He confirmed that the City is going to spend \$350,000 to \$400,000 to demonstrate scientifically that this discharge will not be harmful to the environment. The City is not seeking a relaxed standard.

Moved by Palmer/Walker for approval of the consent agenda, with the exception of Items “h” and “l.” Motion carried unanimously.

The consent agenda was approved as follows:

- a. Contract award for rehabilitation of sewer manholes in Bowe Gardens, Project No. C05322, Chaz Equipment Company, Wellington, FL - \$75,000.
- b. Amendment No. 1 to the environmental consulting services contract for the Reverse Osmosis Water Treatment Plant potable water by-product discharge permit renewal application, Project No. C03303, Reiss Environmental, Inc., Winter Park, FL - \$43,000.
- c. Supplement No. 215 to the Continuing Consultant Contract for the Grant Street injection well system review of monitoring well water quality data, Frazier Engineering, Inc., Melbourne, FL - \$24,488.
- d. Purchase of a 1998 Model 534D6-42 Gradall, 6,000-pound forklift truck, Hertz Equipment Rental Corporation, Melbourne, FL - \$38,850.
- e. Contract award to remove, and discard old fencing, clear vegetation along fence line and furnish and install 1,900-feet of 6-foot high chain fencing at the Fire Training Center, East Coast Fence and Guardrail of Brevard, Inc., Cocoa, FL - \$23,080.
- f. Contract award for application of 80 acres of Curfew soil fumigant on golf course fairways and 210,000 square feet of Curfew on golf course putting greens, DowAgroSciences, LLC, Wellington, FL - \$47,200.
- g. Purchase of two 2005 Freightliner MT45 step vans, Freightliner Trucks of South Florida, Fort Pierce, FL - \$42,761/each; and a John Deere 4x4 Gator utility vehicle, Turfmaster, Melbourne, FL - \$9,860.21.
- h. Contract award to provide 24/7 unarmed, fully uniformed security staff, vehicles, and communication equipment to patrol the John A. Buckley Actiflo Plant, the Joe Mullins RO Facility, and booster stations, Security Operations & Solutions, Inc., Cocoa, FL - \$15.59/hour unit cost, for a total annual cost of \$136,568.40.

Note: Item “h” withdrawn because of a bid protest.

- i. Purchase of a CMS-T331D trailer-mounted message/speed board for Police Support Services, American Signal Company, Atlanta, GA - \$16,320.

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- j. Purchase of liquid chlorine for the Water Treatment facilities and booster stations, DPC Enterprises, LP, Chicasaw, AL - \$439/1-ton cylinders and \$58.88/150-pound cylinders, for a total estimated annual cost of \$138,909.
- k. Request to apply for FDOT landscape funding in the amount of \$16,700 for the "Eau Gallie Square" project at Eau Gallie Boulevard and Highland Avenue.
- l. Resolution No. 1919: A resolution encouraging members of the Florida legislature to support certain growth management issues during the 2005 Legislative Session.

Note: Item "l" moved to agenda Item #11.

- m. Resolution No. 1920: A resolution authorizing the City Manager to submit a grant application to the State of Florida Department of Health and Rehabilitative Services, Office of Emergency Medical Services (EMS) for the purchase of auto pulse non-invasive cardiac support pumps.

11. ITEMS REMOVED FROM THE CONSENT AGENDA

Resolution No. 1919: A resolution encouraging members of the Florida legislature to support certain growth management issues during the 2005 Legislative Session.

In response to the Mayor, Mr. Schluckebier explained that this resolution follows the recommendations from the staff and policy committees of the Florida League of Cities (FLC).

Mr. LaRusso referenced the first bullet under Section 1 of the resolution regarding an infrastructure surtax. He asked if the FLC is recommending that we lobby the Legislature to implement a one-cent sales tax – a tax that the voters did not approve. The City Manager said that the mechanics established in the first bullet would make it easier for cities and counties to enact an infrastructure sales tax. He added that it doesn't authorize or impose a tax.

Mr. LaRusso stated that he cannot support this because the voters have told us that they don't want a one-cent sales tax. This resolution creates a lobby to levy that tax. He added that there are several other items in the resolution that he does not agree with.

Mayor Goode commented that the Legislature would never grant powers to cities and counties to impose a tax without a referendum. He added that the government continues to tell cities what to do but never provides a source of revenue. The gambling and cigarette taxes are diminishing returns and the FLC is suggesting that cities have a tool to conduct a referendum for the additional tax.

Mrs. Palmer said that the FLC is asking the state to give counties and cities more leeway to levy taxes and fees. She added that she does not understand the bullet regarding the repeal of the fuel adjustment charge exemption.

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Moved by Hand/Contreras for approval of Resolution No. 1919. The roll call vote was:

Aye: Meehan, Walker, Hand, Contreras and Goode

Nay: LaRusso and Palmer

Motion carried.

12. FINAL PLAT APPROVAL (SD-2002-09) OAK FOREST SUBDIVISION: (Public Hearing) A request for approval of a final plat for a 66-lot project on a 22.6-acre parcel, zoned R-1A (Single-Family Residential), located on the west side of John Rodes Boulevard, north of the intersection of Eau Gallie Boulevard, and south of the intersection of Aurora Road. (Owner/Applicant - Lennar Homes, Inc.) (Representative - Joseph Mayer, Bussen-Mayer Engineering, Inc.) (P&Z Board - 1/06/05)

Planning and Economic Development Director Cindy Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the final plat, consisting of a three-sheet plan prepared by Bussen-Mayer Engineering Group of Merritt Island, Florida, with a received date of December 17, 2004, pursuant to the findings 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) any increase or decrease in the number of access points including public or private streets to or from the subdivision; or 2) an increase of more than two lots.

- b. Upon completion of the subdivision improvements, the applicant/developer shall file a map amendment with the Federal Emergency Management Agency to correctly identify the flood zone designation/elevation of the property as a result of the improvements. Copies of the changes approved by FEMA shall be provided to the City of Melbourne Planning and Economic Development and Engineering Departments and Code Compliance Division.
- c. Prior to Certification of Completion, the applicant shall make payment into the City's bikeways/sidewalk trust fund for the length of the subdivision boundary abutting John Rodes Boulevard and Aurora Road.
- d. 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.

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- e. Provide the additional required documents, pursuant to Appendix D, Chapter 8, Section 8.5 (c) (4) prior to plat recordation.
- f. Only one building permit may be issued on any portion of the plat prior to recordation of the final plat.

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

Moved by Contreras/Meehan for approval with the findings and conditions noted. Motion carried unanimously.

13. RESOLUTION NO. 1921: (Public Hearing) A resolution authorizing transmittal of nine major Comprehensive Plan Amendments and one text amendment to the Department of Community Affairs. (P&Z Board - 1/20/05)
- a. CPA-2004-23 (Oak Hammock Estates): Comprehensive Plan Amendment on a total of 43 acres, designating a Future Land Use of Suburban Estate Residential. (Owners - Hoekstra Family Limited Partnership #1 and Bernini Family Limited Partnership #1) (Applicant - OHE Development, LLC) (Representative - Robert Renfro)
 - b. CPA-2004-25 (Magnolia Avenue): Comprehensive Plan Amendment on a 22.15±-acre parcel, changing the Future Land Use designation from Industrial/Commercial to Low Density Residential. (Owner - Robert & Rosemary Shoff) (Applicant/Representative - C. Douglas Engle)
 - c. CPA-2004-26 (MARSOL Development Company): Comprehensive Plan Amendment on a total of 16.83± acres, designating a Future Land Use of Commercial on 5.554 acres and Medium Density Residential on 11.296 acres. (Owner - TAL WIL Corporation) (Applicant/Representative - Mark Solimna, MARSOL Development Corporation)
 - d. CPA-2004-27 (Taranto): Comprehensive Plan Amendment on a total of 30 acres, designating a Future Land Use of Medium Density Residential on 12 acres, and a Low Density Residential on a vacant 18-acre parcel. (Owner/Applicant - Vincent & Marie Taranto)
 - e. CPA-2004-28 (Harris Corporation/505 Partners, Inc.): Comprehensive Plan Amendment on a 39-acre parcel, designating a Future Land Use of Industrial. (Owner - Harris Corporation and 505 Partners, Inc.) (Applicant - City of Melbourne)
 - f. CPA-2004-29 (Parkway Drive Area D): Comprehensive Plan Amendment for a 101.09-acre area located north of Parkway Drive, designating a Future Land Use of Suburban Estate Residential. (Applicant - City of Melbourne)
 - g. CPA-2004-30 (Dow Central Park Industrial Subdivision): Comprehensive Plan

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Amendment on a 29-acre parcel, designating a Future Land Use of Industrial. (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, Jonathan W.; Plastics USA, Inc.; RTS Development, Inc.; Robinson, Michael; Trick Pro Motorsport, Inc.; Vandiver, Claude H.; Warner, Glen; Wilt, Mel) (Applicant - City of Melbourne)

- h. CPA-2004-31 (Habitat for Humanity of South Brevard): Comprehensive Plan Amendment on a 0.93-acre parcel, designating a Future Land Use of Medium Density Residential. (Owner - Antonio Lovett) (Applicant/Representative - Joe Gassman, Habitat for Humanity of South Brevard, Inc.)
- i. CPA-2004-32 (Clark Development Company): Comprehensive Plan Amendment on a 72.25-acre parcel, designating a Future Land Use of Suburban Estate Residential. (Owner - Acopian Technical Company, Inc.) (Applicant - Clark Development Corporation) (Representative - Phil Nohrr)
- j. CPA-2004-33 (Text Amendment): A text amendment to add a new Future Land Use category of SER (Suburban Estate Residential) to allow the designation of parcels for a maximum of 3 units per acre. (Applicant - City of Melbourne)

Mrs. Dittmer briefed Council and noted that these requests are for Comprehensive Plan amendments and do not involve any actions on annexation, zoning, or development plans. Once the Department of Community Affairs has reviewed the proposed amendments, ordinances for each amendment, zonings and any development plans will be brought forward to City Council for approval.

Three petitions against amendments CPA-2004-24, CPA-2004-26, and CPA-2004-32 were submitted in an attempt to invoke the 6/7-vote requirement. The requirement of providing signatures for 20% of the property owners within 500 feet was not met in any of the three petitions.

Note: Council received the following correspondence with regard to Item "c": E-mail dated February 7 from Anthony Mirabito, 3498 Saddle Brook Drive, President of the Parkway Meadows Homeowners' Association. Mr. Mirabito is opposed to this amendment. Letter dated February 8 from Kathleen Finnegan-Hiers, 3688 Kestrel Court, Bay Meadows Subdivision. Ms. Hiers attached a letter that she and Jim Wilson distributed to all homes in the Bay Meadows Subdivision. Ms. Hiers supports the requested change.

Mayor Goode opened the public hearing.

The first round of speakers addressed **CPA-2004-26 (MARSOL Development Company)**.

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John T. Mutschler, 4565 Grand Meadows Boulevard, stated that he is opposed to the request. He noted that the applicant wishes to put in two roads and their subdivision doesn't need two more roads at the entrance.

Joan Chuckran, 3677 Kestrel Court, stated her objections to the developer's proposal to construct his exit onto Grand Meadows Boulevard. She said that Grand Meadows serves as the only exit for approximately 180 homes. Last year during a brush fire the residents couldn't enter/exit the subdivision.

John Klein, 3676 Kestrel Court, said that his main objection is the additional traffic on Grand Meadows. He also noted that the residents were trapped for several hours during a brush fire.

Jim Wilson, 3693 Kestrel Court, expressed support for the request and said it is in the best interest of the community. The developer intends to keep the density lower than what would be allowed. The development will bring additional traffic to the entrance of their subdivision – not through it.

Mr. Wilson said he is on the board of directors of the homeowners' association and at the last meeting his motion to provide information about this development to the residents was defeated. He added that Council will hear the vocal minority as opposed to the people who would support this if they had the information.

A brief discussion followed between Vice Mayor Contreras and Mr. Wilson as to the rationale of the board voting against providing information to the residents. Mr. Wilson said the argument was made that the board did not want to create an area of liability by trying to interpret the developer's intent.

Kathleen Hiers, 3688 Kestrel Court, stated that she is on the board of directors of the homeowners' association. She said that she distributed information to the residents as a homeowner rather than a board member. Ms. Hiers stated that she supports the request and would rather have residential located adjacent to her than commercial.

Debbie Wolfe, 3696 Kestrel Court, stated that she is worried about the traffic; however, she is in favor of the commercial/residential development. She noted that she sympathizes with the Parkway Meadows residents who do not want a second story townhome overlooking their backyard.

Dale Haidet, 3225 Cedar Bay Drive, stated that during high traffic periods it is difficult to exit the subdivision, and this development will add to the problem. Mr. Haidet rebutted Mr. Wilson's comments and said that he hand delivered information from the developer to all 186 homeowners prior to the Planning & Zoning Board meeting. He commented that they also have a bulletin board and stressed that word about this development has not been secret.

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Dr. Denise Van Cleef, 3370 North Wickham Road, Eau Gallie Veterinary Hospital, said that traffic along this area is a consideration and it needs to be figured out at some point. She commented that she is in favor of the development that is planned and added that it will be appropriate and in line with what exists.

That concluded comments from the public. Mayor Goode asked the applicant's representative to address Council.

Mark Solimna said that Kimley Horn and Associates did an analysis of the traffic and found that a single-family development produced more traffic than a multi-family development. He reported that he has been thinking about the layout since August and he spent two and one-half days knocking on doors in the community. He incorporated the residents' feedback. Originally he planned two entrances onto Grand Meadows; however, that has been reduced to one. He added that he is proposing a high-end townhouse product.

Mayor Goode said that the major concern being addressed is traffic. He asked Mrs. Dittmer if the Planning & Zoning Board gave this consideration. Mrs. Dittmer replied that the Planning & Zoning Board heard the same concerns. The board stipulated on the zoning, which will come to Council in several months, that the applicant should have two access points – one to the south and one onto Grand Meadows.

Mayor Goode stated that the next group of speakers would like to address **CPA-2004-32 (Clark Development Company)**. Mrs. Dittmer reported that during the Planning and Zoning Board meeting on this item, residents in the area expressed concerns about the environment, drainage and stormwater. She added that those items will be addressed during development plan review.

Mrs. Dittmer referenced a petition submitted late today signed by approximately 32 people in the vicinity of the property who support the request.

In response to the Mayor, Mrs. Dittmer confirmed that the entire 72 acres could be developed multi-family in the County.

Colleen Richards, 1977 Pinewood Road, said that she went door to door and everyone in her area is in favor of this development because it is single-family, consistent with the neighborhood and they plan to preserve the wetlands.

Michael Amicucci, 275 Baker Road, expressed his support for the request. He said that a low-density development will mean a low traffic count on Eau Gallie Boulevard. Additionally, they are going to preserve the wetlands.

Frances Baker, 277 Baker Road, reported that the residents of Baker Road, Trimble Road and Pinewood Road met with Mr. Clark. They reviewed the plan and their questions were answered. All the families living within 500' of the development signed a

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petition in favor because they feel R-1AAA zoning with 114 lots is an acceptable use of the property.

Molly Tasker, 1557 Sienna Drive, stated that several homeowners from Aurora Woods participated at a meeting with Mr. Clark and Mr. Nohrr. She said that they have concerns with the environmental approach to the watershed, retention ponds, etc. She also asked that special attention be given to the Environmental Impact Assessment. They would like to see greenways spread throughout the development rather than a clump of green space being set aside. This will allow the movement of critters and creatures. She concluded by saying they are looking forward to the annexation of this property into the City. They believe this development will add to the City and the developer will consider the environmental impact in a progressive way.

Dorene Cesa, 1708 Sienna Drive, said that the residents in Aurora Woods are looking for compatibility and responsible development. Also, they would like to see the use of natural buffers and preserves to encourage wildlife to remain in the area.

Thomas Quinn, 1767 Sienna Drive, said he experienced out of control growth in Miami. He added that additional development will place great pressure on the City's infrastructure. The folks in the area would like the development to be compatible and sensitive to the environment.

Roberta Inman, 1680 Anson Road, said that her property is directly behind the property that Mr. Clark plans to develop. She said that Mr. Clark has not met with anyone on Anson Road to address their concerns. She added that their main concern relates to drainage and wildlife. Mr. Clark plans to drain the property in her direction to the west and she does not know how he plans to keep their area from flooding.

Continuing, Ms. Inman asked why a bulldozer is already located on the subject property before anything has been approved.

Anna Ashby, 1700 Anson Road, confirmed that the residents on Anson Road have not been approached about this development. She confirmed that a bulldozer is located on the subject property and a temporary road has been built. Ms. Ashby discussed wildlife she has seen in the area, including owls and a fox. She stated that they can't bulldoze over everything.

Phil Nohrr, attorney representing the applicant, said he does not have a good answer as to why some of the residents were missed. Regarding the development, he stated that they are proposing an upscale development on vacant land that runs from Eau Gallie Boulevard north to Aurora Road. He noted that they are at a slight disadvantage because they are not ready to talk about the site plan and some of the other issues that will come later in the development process.

Mr. Nohrr stated that the development will have a positive impact. The only ingress/egress will be off Eau Gallie Boulevard. He briefly addressed a possible future

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extension of Turtle Mound Road to Eau Gallie Boulevard and said right-of-way will exist should the City/Council wish to extend that roadway.

Continuing, Mr. Nohrr said they selected R-1AAA zoning because they believe the larger lot development is compatible with the neighborhood and will significantly reduce the density that could otherwise be developed in the County. The flooding that occurs in the Baker Street area will be addressed with this development and he added that their drainage will not flow to the west. He stressed that they will not impact flooding in the area; it won't be an issue.

Mr. Nohrr said that he was caught short about the bulldozer. However, he does not believe it is located on their property. It is for the development south and west of their property. Mr. Nohrr commented that the environmental issues are not significant enough to cause this project to be severely restricted.

Mr. Nohrr concluded by saying he would be happy to meet with the folks on Anson Road. He asked Council to approve this item so it can be sent to the Department of Community Affairs for comment.

Council Member Walker and Mr. Nohrr briefly discussed the preliminary environmental study. Mr. Nohrr confirmed that they will abide by all state regulations.

Mr. Contreras noted that he was absent from the Council Chamber while Mr. Solimna was speaking. He asked Mr. Solimna if he received any threats or harm. Mr. Solimna stated that when he left the last Planning and Zoning Board meeting he discovered that his tire had been slashed.

Moved by Walker/Meehan for approval of Resolution No. 1921.

Mrs. Palmer said she has received a number of calls on Item "b" – Magnolia Avenue. Because this item has to be voted on as a whole, she will vote in the affirmative. However, that does not mean that she supports this project. She added that no one was present to speak on this item.

The question was called. The roll call vote was:

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

Nay: None

Motion carried unanimously.

Recessed: 8:35 p.m.

Reconvened: 8:45 p.m.

14. ORDINANCE NO. 2005-07 (ED-2005-001) CONFLUENT SYSTEMS, INC.: (First Reading)

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An ordinance granting an Ad Valorem Tax Exemption for a period of four years totaling an estimated \$56,952. (Owner/Applicant - Confluent Systems, Inc.)

Attorney Gougelman read the ordinance by title and Mrs. Dittmer briefed Council.

Moved by Hand/LaRusso for approval of Ordinance No. 2005-07. Motion carried unanimously.

15. COUNCIL ACTION RE: Ordinances relating to a Charter change by providing for Council Members to be elected by a majority rather than a plurality of votes. (Approved by City Council 12/14/2004)
- a. ORDINANCE NO. 2005-08: (First Reading) An Ordinance relating to the election of the Mayor and Council Members; providing ballot language for a referendum to be held during the next general municipal election on November 7, 2006; providing for an amendment to the Charter if the referendum is approved; providing that the Mayor and Council Members shall be elected by a majority of the votes cast; providing for a primary election.
 - b. ORDINANCE NO. 2005-09: (First Reading) An Ordinance amending Chapter 11, Elections, by revising the qualifying period; repealing the timeline for a special election called pursuant to a vacancy in candidacy; and providing the time for a general, primary and special election.

From the agenda report: At its December 14 meeting, Council approved proceeding with a Charter amendment to provide for Council Members to be elected by a majority rather than a plurality of votes. The attached ordinances provide the following:

Ordinance Amending the Charter – This ordinance calls for a referendum to be held with the next general municipal election on November 7, 2006 and provides for the ballot language. If approved by the voters, the Charter would be amended as follows:

- If three or more people run for a single seat, a primary would be held, which would coincide with the fall primary. If one of the candidates receives more than 50% of the vote, he/she would be declared elected. If none receives more than 50% of the vote, the two candidates receiving the highest number of votes would appear on the ballot in the runoff election conducted during the November general election.
- If two candidates qualify for a single seat, the election would be conducted during the November general election.
- If only one person qualifies for a seat, he/she would be declared elected.
- If a tie vote occurs, the candidates would draw lots.

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- No change is proposed to the date members are sworn in. Members would continue to be sworn in during the first regular meeting following the November general election.

Ordinance Amending Chapter 11 (Elections) – This ordinance moves the qualifying period to 61 – 75 days prior to the primary election and repeals the timelines in the “vacancy in candidacy” section for special elections. Additionally, this ordinance repeals the language relating to tie votes and it provides the time for a general, primary and special election.

Since the December 14 meeting, we have received information from several sources promoting the concept of “Instant Run-off Voting” (IRV). Material from Kevin Aplin is included in the package. The Brevard County Supervisor of Elections Fred Galey is opposed to IRV. His comments are included in the memorandum from the City Clerk. The IRV system, to our knowledge, has not yet been applied in Florida elections. Further, it is an alternative system for vote counting which is being suggested but may or may not be applicable to the ordinance under consideration.

Mayor Goode asked that the discussion relate to City elections rather than election rules (instant run-off voting) that aren’t allowed in the State of Florida. He suggested those issues be taken to Tallahassee.

Mr. LaRusso said that this has become a minority issue in the newspaper. He reported that out of the last eight elections four were represented by minorities, three of which would have moved on to the general municipal election if we had a majority vote system in place. He said that it is his belief that the system now works against many good people. He feels strongly about this and that is why he made the proposal.

Mrs. Hand said that “if it ain’t broke, don’t fix it.” She noted that the current system has been in our Charter all this time and we don’t need to go to a primary system. She added that candidates have a hard enough time getting money and it takes a long time to campaign. And, she believes the Black community would have a difficult time getting elected if the City went to a majority system. She concluded by saying she disagrees with drawing lots in case of a tie vote; it appears to be gambling for a Council seat.

Mrs. Walker said she shares Mrs. Hand’s feelings.

Mr. Contreras said that he first introduced this idea last year, although it was defeated 4-3. He said it is his opinion that when someone on Council is elected by less than a majority, far be it for that person to say that they represent the majority of citizens in Melbourne. He pointed out that single member districts were mentioned last year; however, he has yet to hear anyone rally support for that issue. Additionally, money should not be an issue when you volunteer to place your name on a ballot to represent the citizenry.

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Mr. Contreras concluded by saying he favors allowing the voters the opportunity to say how they would like their representative on Council elected.

Mrs. Walker said that she represents all the residents of the City, whether they voted for her or not.

Mayor Goode pointed out that even the State Legislature did away with runoffs. It is a disadvantage to minorities, whatever the minority may be.

Attorney Gougelman read both ordinances by title.

Bennie Hopkins, 624 Williams Street, representing the Civic League, assured Council that the single member district idea is not a dead issue. He added that money is a great issue when you are running; minorities don't have money. Continuing, Mr. Hopkins said that he believes the City should go with a single member district system so minorities will have an opportunity to sit on Council.

Mrs. Hand said that single member districts still create a problem. She said she thinks the majority of District 3 is the White community, so that wouldn't make a difference in a minority being elected. Mr. Hopkins replied that he believes he could get White people to vote for him if he decided to run. But it wouldn't be as difficult getting the votes in a single member district versus City-wide.

Charles Favors, President of the NAACP, said that no matter how this issued is dressed up, a majority vote means that the Blacks are out. Blacks represent 9% so it is impossible to look for a seat on Council with a majority vote; it would be better to keep the current system. He added that he doesn't know too much about single member districts but if that would help he's all for it.

Mrs. Palmer said that in past elections we have had more than one Black candidate for a seat. She asked Mr. Favors if he believes a Black person would have a better chance if there were only one Black candidate. Mr. Favors said yes with the current system but not with a majority system.

Bill Burton, Brevard County Coordinator for Instant Run-off Voting in Florida, said that he and Kevin Aplin are here to give a presentation.

Mayor Goode said that this Council can't change Florida law. Instant run-off voting is not allowed in the State and the City hangs its hat on the Florida election laws.

Kevin Aplin replied that he believes under the City Charter that the City has the ability to decide how its elections are conducted. Their presentation involves majority voting with a runoff.

Mayor Goode said that Brevard County Supervisor of Elections Fred Galey told him that Brevard County is not set up to handle such a venture at this time.

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A brief discussion continued. Mr. Aplin said they have a proposal to enhance what the City is discussing. He asked for the right to make a presentation. Mayor Goode asked Council if they would like to hear the eight-minute presentation. The consensus from Council was no.

Spence Guerin, Helen Street, stated that he is here to recommend single member district voting. Additionally, he would like Council to consider what it just decided not to consider. It is his belief that Council doesn't know what instant run-off voting is – a system that would save money and provide for a run-off at the same time.

The Mayor asked Mr. Guerin to stay off the topic of instant run-off voting. Mr. Guerin said he highly recommends Council consider this in the future. The Mayor said it is not legal in the State of Florida. Mr. Guerin noted that single member district voting is closer to democratic representation and the Mayor replied that there is no doubt about that.

Cammie Donaldson, Helen Street, representing the Space Coast Progressive Alliance, said they support single member districts. Additionally, they feel strongly that every effort should be made to represent all our citizens. She added that it is unfortunate that Council won't take eight minutes to listen to a presentation on instant run-off voting. Since a change is being considered in the way elections are conducted, Council should consider all options. She concluded by saying she does not support going to a majority system.

Tim Doyle, spokesperson/chairman of the Green Party in Brevard County, spoke about the benefits of single member district voting. He read a statement from the Green Party and stated that the Green Party supports single member districts.

Mr. LaRusso stated that he is still not convinced and he believes we are shortchanging everybody by not going to a majority system.

Mrs. Hand said she can't support single member districts. On the County level she has heard many people say they don't feel they are represented by all the County Commissioners. If you don't feel they are doing a good job, you don't have the opportunity to vote them out of office.

One more person asked to speak from the audience. Moved by Palmer/Walker to allow Mrs. Poole to speak. Motion carried unanimously.

Pat Poole, 805 E. Palmetto Avenue, said she has a problem with the proposal to go to a majority system. There will be elections from June/July through November. Plus, everyone is angry about the political signs. She added that single member districts are not the way to go. She recommended that the person who gets the most votes wins.

Mr. Contreras said that minority representation on Council doesn't happen by virtue of the pigment of one's skin. You have to hump and do what is legal to make it happen

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regardless of what geographic region you are in. It doesn't come natural, it's not easy and it's a lot of work.

Mrs. Palmer said that in principal she has been a supporter of the majority system because she feels that someone who makes important decisions should have support of at least 50% of the voters. In looking at the details of the ordinance, she said she doesn't like drawing lots in case of a tie vote. She added that our current system allows for a political newcomer – like herself – to win an election, prove themselves to the voters, and get re-elected.

Mrs. Palmer said she has a feeling that the primary election would be similar to the general election held now. After the primary, when it comes down to two people, someone could easily buy the election, and that's where she has a problem. Mrs. Palmer concluded by suggesting that the minorities look at redistricting rather than single member district voting.

Mrs. Meehan said she has a concern with having two elections.

A brief discussion continued.

Moved by LaRusso/Contreras for approval of Ordinance No. 2005-08. The roll call vote was:

Aye: LaRusso and Contreras

Nay: Meehan, Walker, Palmer, Hand and Goode

Motion failed.

Attorney Gougelman stated that based on the denial of Ordinance No. 2005-08, Ordinance No 2005-09 is moot and should be withdrawn.

16. COUNCIL ACTION RE: Employee health and other insurance benefits.

Assistant City Manager Amy Elliott briefed Council. The recommendation is for approval of the employee insurance benefits package effective April 1, 2005:

	<u>City Cost</u>	<u>Employee Cost</u>	<u>Total Cost</u>
Flex Plan Adm.	\$3,900.00		\$3,900.00
Basic Life	87,558.00	*\$11,791.44	99,349.44
Supplemental Life		93,139.00	93,139.00
Dependent Life		18,397.68	18,397.68
Short Term Disability		87,061.00	87,061.00
Long Term Disability		85,839.00	85,839.00
Dental		276,450.00	276,450.00
Medical Insurance	<u>4,585,565.00</u>	<u>**993,977.00</u>	<u>5,579,542.00</u>

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Total Cost	\$4,677,023.00	\$1,566,655.12	\$6,243,678.12
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* Retiree cost ** Includes retiree cost of \$254,028.00

Moved by Hand/Meehan for approval as recommended. Motion carried unanimously.

17. COUNCIL ACTION RE: Board Appointments

a. Architectural Review Board - Appointment of two regular members

Mrs. Meehan nominated Charles Smith. Without objection, Council closed the nominations and without objection, Council appointed Charles Smith. (2/26/2005 – 2/25/2008)

Mrs. Walker nominated Ann Luttrell and Mrs. Hand nominated Joyce Miller. Moved by Walker/Palmer to close the nominations. Motion carried unanimously. The roll call vote for the nominees was:

Luttrell: LaRusso, Walker, Palmer, Contreras and Goode

Miller: Meehan and Hand

Appointed: Ann Luttrell (2/26/2005 – 2/25/2008)

b. Babcock Street Community Redevelopment Agency Advisory Committee - Appointment of four regular members and two alternate members

Rich Levine stated that he would like to be considered for this committee. He noted that he has served on the Building and Construction Advisory Committee for 19 years. His house is one mile from Babcock Street and he owns 50 rental properties within 100' of Babcock Street.

Regular Members:

Mrs. Hand nominated Ken Allen. Moved by Hand/Palmer to close the nominations. Motion carried unanimously. Moved by Hand/Walker to appoint Ken Allen. Motion carried unanimously. (5/4/2005 – 5/3/2007)

Mrs. Meehan nominated Karen Harshaw. Moved by Contreras/Walker to close the nominations. Motion carried unanimously. Moved by Walker/Meehan to appoint Karen Harshaw. Motion carried unanimously. (5/4/2005 – 5/3/2007)

Mrs. Palmer nominated Richard Ennis. Moved by Hand/Walker to close the nominations. Motion carried unanimously. Moved by Hand/Contreras to appoint Richard Ennis. Motion carried unanimously. (5/4/2005 – 5/3/2007)

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Mrs. Meehan pointed out that Nancy Dukeman has been absent 7 out of 10 meetings. Mr. LaRusso said she's an alternate member and it is at the discretion of the boards whether alternate members attend every meeting.

Mrs. Meehan nominated Nancy Dukeman. Moved by LaRusso/Walker to close the nominations. Moved by LaRusso/Palmer to appoint Nancy Dukeman. Motion carried unanimously. (Note: see further action below.)

Alternate Members:

Mrs. Hand nominated Nancy Garmer. Moved by LaRusso/Walker to close the nominations. Moved by Walker/Contreras to appoint Nancy Garmer. (Note: see further action below.)

Mayor Goode nominated Rich Levine and Mr. Contreras nominated Neil Long. Moved by Palmer/Walker to close the nominations. Motion carried unanimously. The roll call vote for the nominees was:

Levine: Hand and Goode

Long: LaRusso, Meehan, Walker, Palmer and Contreras

Appointed: Neil Long (Note: see further action below.)

Council asked for a summary of the action taken under this item. City Clerk Cathy Wysor reported that Council appointed Ken Allen, Karen Harshaw, Richard Ennis and Nancy Dukeman as the regular members. Nancy Garmer and Neil Long were appointed as the alternate members.

Council Members stated that they didn't realize they had missed reappointing Robert Jensen.

Council agreed to withdraw the motion and vote that was taken to close the nominations on the fourth regular member seat. Mrs. Palmer nominated Bob Jensen. Moved by Contreras/Palmer to close the nominations. Motion carried unanimously. The roll call vote on the nominees was:

Dukeman: LaRusso and Walker

Jensen: Meehan, Palmer, Hand, Contreras and Goode

Appointed: Bob Jensen (as the fourth regular member) (5/4/2005 – 5/3/2007)

Moved by Contreras/Palmer to annul the action taken on the appointment of both alternate members. Motion carried unanimously.

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Mrs. Palmer nominated Nancy Dukeman as the first alternate. Moved by Meehan/Contreras to close the nominations. Motion carried unanimously. Moved by Hand/Contreras to appoint Nancy Dukeman. Motion carried unanimously. (6/8/2005 – 6/7/2007)

Mr. LaRusso nominated Nancy Garmer, Mr. Contreras nominated Neil Long and Mrs. Hand nominated Rich Levine for the second alternate. Mrs. Hand withdrew her nomination of Rich Levine since he is already serving on a board. Moved by Contreras/Goode to close the nominations. Motion carried unanimously. The roll call vote on the nominees was:

Garmer: LaRusso, Walker, Palmer, Hand and Goode

Long: Meehan and Contreras

Appointed: Nancy Garmer (2/8/2005 – 6/7/2007, unexpired term plus two year term)

c. Citizens' Advisory Board - Appointment of one regular member

Mrs. Palmer nominated Ann Luttrell and Mrs. Meehan nominated Ricardo Rangel. Moved by Palmer/Contreras to close the nominations. Motion carried unanimously. The roll call vote on the nominees was:

Luttrell: Walker and Palmer

Rangel: LaRusso, Meehan, Hand, Contreras and Goode

Appointed: Ricardo Rangel (2/8/2005 – 11/11/2006, unexpired three-year term)

The Mayor called for nominations for the alternate member seat (due to the appointment of Ricardo Rangel as a regular member). Mrs. Palmer nominated Ann Luttrell. Moved by Goode/Walker to close the nominations. Motion carried unanimously. Moved by Hand/Walker to appoint Ann Luttrell. Motion carried unanimously.

Immediately after Item “d” the City Clerk noted that earlier in the meeting Ann Luttrell was appointed to the Architectural Review Board. Moved by Palmer/Contreras to annul the action taken on the appointment of Ann Luttrell to the Citizens' Advisory Board. Motion carried unanimously. Mrs. Meehan nominated Evelyn Morrison as the alternate member. Moved by Hand/Contreras to close the nominations. Motion carried unanimously. Moved by Palmer/Contreras to appoint Evelyn Morrison as the alternate member. Motion carried unanimously. (2/8/2005 – 11/11/2007, unexpired three-year term)

d. Melbourne Downtown Community Redevelopment Agency Advisory Committee - Appointment of three regular members

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Mrs. Meehan pointed out that her husband Dennis Meehan is up for reappointment. She asked if she can vote on this item. Attorney Gougelman quickly reviewed the State Statutes and said that Dennis Meehan cannot be appointed. The Statutes provide that an individual can't be appointed if such appointment is made by a collegial body by which a relative of the person is a member.

Mrs. Walker pointed out that Robert Miller has been absent 15 out of 31 meetings. The Mayor called for nominations for the first seat. Mrs. Hand nominated Wendy Brandon. Moved by Contreras/Palmer to close the nominations. Motion carried unanimously. Moved by Goode/Hand to appoint Wendy Brandon. Motion carried unanimously. (2/23/2005 – 2/22/2008)

Mrs. Palmer nominated Hazel Buggs for the second seat. Moved by Walker/Palmer to close the nominations. Motion carried unanimously. Moved by Hand/Walker to appoint Hazel Buggs as a regular member. Motion carried unanimously. (2/23/2005 – 2/22/2008)

Mrs. Palmer nominated Gerry Smith. Moved by Contreras/Palmer to close the nominations. Motion carried unanimously. Moved by Walker/Contreras to appoint Gerry Smith. Motion carried unanimously. (2/23/2005 – 2/22/2008)

The Mayor called for nominations to fill the alternate member seat (due to appointment of Mrs. Buggs as a regular member). Mrs. Hand nominated Patricia Nichols. Moved by LaRusso/Contreras to close the nominations. Motion carried unanimously. Moved by Goode/Contreras to appoint Patricia Nichols as an alternate member. Motion carried unanimously. (2/8/2005 – 9/20/2008, unexpired term plus three-year term)

18. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

City Manager Jack Schluckebier commented on the following:

- Under agenda Item #13, Mr. Contreras spoke with an applicant about an incident that occurred at a Planning and Zoning Board meeting. The City Manager confirmed that the applicant's tire was slashed and another individual was verbally threatened for supporting the developer's plans.
- The City Manager will be attending a Florida County and City Managers' Association meeting at the end of this week. Additionally, he was re-elected to the Board of Directors of that Association for a two-year term. Service on the Board of Directors will involve about four meetings per year.
- Staff has made a policy decision to withhold further Airport advertising in our utility bills. The City received complaints from people asking why a private, for profit advertisement was being included with the bills. The City was accommodating the Airport in its promotion of the new Delta Melbourne-JFK route.

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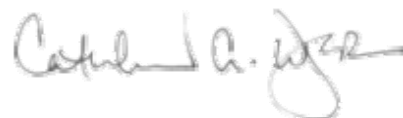
- A recent article in the newspaper reported that the County is trying to change the general annexation laws. Cities have tried to change these laws for some time and it will be unlikely that the County will be able to change the laws.
- The spokesperson for the Police Department, who normally reports on general crime news, made an incorrect comment to the newspaper. It is not the City's policy to collect intelligence during a demonstration. Names, license tags numbers, etc. were not recorded during a recent demonstration.

Council Member Palmer referenced the naming/renaming of a street in honor of Dr. Martin Luther King, Jr., which appeared on the last agenda. She said that the City previously decided on the Palm Bay Beltway because it would not affect residents/businesses with change of address. She added that a substantial roadway – not a side street – needs to be named in honor of Dr. King. That is another reason the Beltway was selected. Mrs. Palmer said that renaming Apollo, which commemorates the Apollo astronauts, is wrong. Therefore, she will continue to support naming the Palm Bay Beltway in honor of Dr. King.

Mrs. Palmer discussed the landscaping that has been planted on the Melbourne Causeway by the Florida Department of Transportation. She noted that it interferes with the view of the river, fishing, etc. Additionally, access has been obstructed.

19. ADJOURNMENT

Moved by Hand/LaRusso to adjourn. Motion carried unanimously. The meeting adjourned at 10:32 p.m.



City Clerk – 2/17/2005

Approved by Council: February 22, 2005