

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 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 C. Goode, Jr.

1. Reverend Willie Lockett, St. Martha Missionary Baptist Church, 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 recognized Boy Scout Troop 520 with St. Joseph's Catholic Church. The scouts are working towards their first class rank and citizenship in the community merit badge.

Additionally, the Mayor presented the "Sweet Adelines Week" proclamation, July 9-15, 2005, to the members of the Platinum Coast Chorus. The chorus performed "On the Road Again."

5. Approval of Minutes - June 7, 2005 Special Meeting and June 14, 2005 Regular Meeting

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

6. City Manager's Report

No additions/no discussion.

7. Public Comments

John Mutschler, 4565 Grand Meadows Boulevard, referenced the February 29, 1996 "Dedication of Grand Meadows Boulevard" agreement that he distributed to City Council at the May 24, 2005 meeting. He asked if the Council Members who were serving at the time of the dedication were informed that this is considered contractual zoning, which is illegal in Florida.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

City Attorney Paul Gougelman agreed that contract zoning is illegal; however, the document Mr. Mutschler is referring to is an agreement where the developer of Bay Meadows Subdivision dedicated the entrance road to the public. Attorney Gougelman stated that this is not zoning, rather it is an act of subdividing and/or dedication.

A brief discussion followed.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2005-47 (Z-2004-1010) MARSOL DEVELOPMENT COMPANY: (Second Reading/Public Hearing) An ordinance providing for a zoning designation of C-1 (Neighborhood Commercial) on 5.530± acres located along Wickham Road and R-2 (7) (One-, Two-, and Multiple-Family Residential with a cap of seven units per acre) on the western 11.311± acres, located west of Wickham Road, north of Parkway Drive, and south of Grand Meadows Boulevard. (Owners - TAL WIL Corporation) (Applicant/ Representative - Mark Soliman, MARSOL Development Corporation) (P&Z Board - 1/20/05) (First Reading - 6/14/05)

Attorney Gougelman read the ordinance by title. There were no disclosures by Council. The applicant's representative, Attorney Phil Nohrr, was present.

Kathleen Finnegan Hiers, 3688 Kestrel Court, spoke in support of the request. She added that 121 homeowners and seven business owners are in support of this item.

Mayor Goode closed the public hearing. Mrs. Pat Poole stepped forward and submitted an "addressing Council" form. The Mayor noted that the public hearing was closed. Moved by Walker/Palmer to reopen the public hearing to allow Mrs. Poole to speak. The roll call vote was:

Aye: Walker, Palmer and Hand

Nay: LaRusso, Meehan, Contreras and Goode

Motion failed.

Council Member Mark LaRusso asked Mr. Nohrr what his client is proposing in the way of buffers. Mr. Nohrr said that buffering will be addressed during development of the site plan. He added that there will be a wall or fence and they will provide extra landscaping and buffering. He asked Council Members to contact him if they had something specific in mind.

Moved by Meehan/Contreras for approval of Ordinance No. 2005-47. The roll call vote was:

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Nay: Walker

Motion carried.

9. ORDINANCE NO. 2005-69 (Z-2005-1031) AND ORDINANCE NO. 2005-70 (CU-2005-04/SP-2005-09) PALMS RIVERFRONT CONDOMINIUMS (FKA HIBISCUS RIVERFRONT CONDOMINIUMS): Ordinances providing for a zoning change and conditional use with site plan approval on property located on the east side of U.S. Highway 1, north of Hibiscus Boulevard. (Owner - Tricon Real Estate, Inc.) (Applicant - David T. Menzel, P.E., MAI Engineering, Inc.) (Representative - Philip Nohrr) (P&Z Board - 5/19/05)
- a. Ordinance No. 2005-69/Z-2005-1031: (Second Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to R-3 (Multiple-Family Dwelling) on a 0.4-acre portion of a 3.0±-acre property consisting of three parcels. (First Reading - 6/14/05)
- b. Ordinance No. 2005-70 (CU-2005-04/SP-2005-09): (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to construct an 85-foot high multiple-family condominium development at 23.3 units per acre on 3.0 acres. (First Reading - 6/14/05)

Attorney Gougelman read Ordinance Nos. 2005-69 and 2005-70 by title. There were no disclosures by Council and no comments from the audience. The applicant's representative was present.

Moved by Hand/Meehan for approval of Ordinance No. 2005-69.

Mr. LaRusso asked the applicant if he was still in agreement that there would be no wall in front of the property and no bushes higher than 38".

Attorney Phil Nohrr, representing the applicant, replied yes.

The question was called. The roll call vote was:

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

Motion carried unanimously.

Moved by LaRusso/Contreras for approval of Ordinance No. 2005-70. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2005-71 (AR-2005-170), ORDINANCE NO. 2005-72 (CPA-2005-08), AND ORDINANCE NO. 2005-73 (Z-2005-1027) RONNIE D. RICHARDS: Ordinances

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

providing for annexation of 9.92 acres, and a Comprehensive Plan Amendment and establishing zoning on a 9.02-acre parcel, located on the west side of Dairy Road, south of the intersection of Dairy Road and Eber Boulevard. (Owner/Applicant - Ronnie D. Richards, Trustee) (Representative - Don Anthony) (P&Z Board - 5/19/05)

- a. Ordinance No. 2005-71/AR-2005-170: (Second Reading/Public Hearing) An ordinance providing for annexation of a 9.92-acre parcel. (First Reading - 6/14/05)
- b. Ordinance No. 2005-72/CPA-2005-08: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Mixed Use Commercial/Low Density Residential. (First Reading - 6/14/05)
- c. Ordinance No. 2005-73/Z-2005-1027: (Second Reading/Public Hearing) An ordinance providing for a zoning designation of C-1 (Neighborhood Commercial). (First Reading - 6/14/05)

The City Attorney read each ordinance by title. There were no disclosures by Council and no comments from the public. The applicant's representative was in the audience.

Moved by Palmer/Hand for approval of Ordinance No. 2005-71. The roll call vote was:

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

Motion carried unanimously.

Moved by Contreras/Palmer for approval of Ordinance No. 2005-72. The roll call vote was:

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

Motion carried unanimously.

Moved by Hand/LaRusso for approval of Ordinance No. 2005-73. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2005-74 (LDR-2005-04/FOC-2005-04): (Second Reading/Public Hearing) An ordinance amending Chapter 27, Storm Water Management, by adopting the revisions recommended by the City Code Review Committee, Section 2. (Applicant - City of Melbourne) (First Reading - 6/14/05)

The City Attorney read the ordinance by title. There were no comments from the public.

Moved by Walker/LaRusso for approval of Ordinance No. 2005-74. The roll call vote was:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

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

Nay: Palmer

Motion carried.

12. ORDINANCE NO. 2005-75 (LDR-200505/FOC-2005-05): (Second Reading/Public Hearing)
An ordinance of the City of Melbourne, relating to Impact Fees; amending Appendix D, Chapter 10, Article I, Transportation Impact Fees; Article II, Recreation Impact Fee for New Development; and establishing Article III, to be entitled Public Facilities Impact Fee. (First Reading - 6/14/05)

Attorney Gougelman read Ordinance No. 2005-75 by title. There were no comments from the public.

Moved by Walker/Meehan for approval of Ordinance No. 2005-75.

Mr. LaRusso said that he would like a 20% reduction in the retail center and sit down restaurant categories. He added that the City needs to remain business friendly.

Council Member Cheryl Palmer stated that she is opposed to these increases. She commented that the growth that we have experienced will present a windfall of revenue that will result in growth paying for itself.

Vice Mayor Contreras asked how we can handle the existing growth when we don't realize the benefit of the tax revenue until the future. Mrs. Palmer replied that growth pays for itself now through permitting and other fees.

Mayor Goode said he takes exception to that comment. The City has been remiss in keeping up with street resurfacing. He stressed that growth does not pay for itself and reported that ad valorem taxes aren't realized until 18 – 20 months after someone moves in.

City Manager Jack Schluckebier said that staff believes that the proposal has been directly and substantially justified. He referenced the Mayor's comments about whether our growth is paying for our infrastructure and stated that it is abundantly clear that growth is not paying for itself anywhere in Florida.

Mrs. Palmer pointed out that the condition of our roads has to do with prioritizing of past budgets. She added that she is glad transportation is at the top of the Mayor's list. Mayor Goode agreed and said that the City should be paving 11 to 12 miles per year.

The question was called. The roll call vote was:

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

Nay: Palmer

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Motion carried.

13. ORDINANCE NO. 2005-76: (Second Reading/Public Hearing) An ordinance amending Chapter 23, Retirement and Pensions, Article V, Firefighters' Pension Plan; amending Section 23-79, finances and fund management. (First Reading - 6/14/05)

Attorney Gougelman read Ordinance No. 2005-76 by title. There were no comments from the public.

Moved by Hand/Meehan for approval of Ordinance No. 2005-76. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

14. COUNCIL ACTION RE: Contract award for the Eau Gallie subaqueous water main crossing at Ballard Park, Project No. C04309, RKT Constructors, Inc., Titusville, FL - \$124,535 and transfer of \$109,935 from Water & Sewer Miscellaneous Projects into this project budget.

City Engineer Howard Ralls briefed Council. The recommendation is to award the waterline contract to RKT Constructors, Inc. in the amount of \$124,535 and transfer of \$109,935 from Water & Sewer Miscellaneous Projects to this project budget.

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

15. CONSENT AGENDA:

Moved by Palmer/Hand for approval of the consent agenda, Items "a" through "f." Motion carried unanimously.

- a. Interlocal agreement with Brevard County providing for the City of Melbourne's participation in the Brevard County Library Facilities Impact Fee program.
- b. Supplement No. 248 to the Continuing Consultant's Contract for D.B. Lee Wastewater Treatment Plant administration building, Project No. 05338, Frazier Engineering, Melbourne, FL - \$33,925.
- c. Contract award for the purchase and delivery of ferric sulfate, Kemiron Companies, Inc., Lawrence, KS - \$186.69/dry ton, estimated annual cost of \$725,477.34.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

- d. Contract award to provide 24/7 unarmed, fully uniformed security staff, vehicle(s), and communication equipment to patrol the water production facilities, U.S. Security Associates, Inc., Orlando, FL - \$12.97/hour, total annual cost of \$113,617.20.
- e. Purchase of hardware, operating systems, and database licenses, Dell Computer Systems, Round Rock, TX - \$58,897.53 and Software House International, Somerset, NJ - \$6,640.30.
- f. Resolution No. 1938: A resolution amending the Fund Balance and Utility Rate of Return Policy.

16. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed from the consent agenda.

17. FINAL PLAT APPROVAL (SD-2004-05) SONESTA WALK PHASE II: (Public Hearing) A request for final plat approval to develop a 212-lot townhome project on a 26.35±-acre parcel zoned R-2 (6) (One-, Two-, and Multiple-Family Dwelling with a cap of six units per acre), located on the east side of Dairy Road, north of Palm Bay Road, and south of Range Road. (Owner/Applicant - Dairy Towns Community Developers, Inc.) (Representative - Brian Bussen, Mercedes Homes) (P&Z Board - 6/02/05)

Planning & Economic Development Director Cindy Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the final plat for Sonesta Walk Phase II Subdivision, consisting of a four-sheet plan prepared by William Mott Land Surveying of Melbourne, Florida, with a stamped and sealed date of May 27, 2005, 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 Planning and Economic Development and Engineering Departments and Code Compliance Division.
- c. The applicant shall not be entitled to record the final plat until all subdivision

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

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.

- d. Provide the additional required documents, pursuant to Appendix D, Chapter 8, Section 8.5 (c) (4) prior to plat recordation.
- e. 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 Council and no comments from the public.

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

18. RESOLUTION NO. 1939 AND ORDINANCE NO. 2005-77 OLDE EAU GALLIE RIVERFRONT COMMUNITY REDEVELOPMENT DISTRICT:

- a. Resolution No. 1939: A resolution finding that blighted areas exist adjacent to the Olde Eau Gallie Riverfront Community Redevelopment District.
- b. Ordinance No. 2005-77: (First Reading/Public Hearing) An ordinance amending the Olde Eau Gallie Riverfront Redevelopment District to include an expansion area of 144.74 acres, located north to Coleman Street, south to the Eau Gallie River, east to the Indian River Lagoon, and west to the Florida East Coast Railroad tracks and amending the Olde Eau Gallie Riverfront Community Redevelopment Plan.

Attorney Gougelman read the resolution and ordinance by title. Mrs. Dittmer reviewed the agenda report.

Council Member Loretta Hand referenced the new law, which provides that a government may take a person's land and home. She asked if this will apply to the City's plan.

Attorney Gougelman said that Mrs. Hand is referring to a recent decision of the U. S. Supreme Court. That decision merely defined what is constitutional with regard to condemnation. The court said that condemnation is permissible for future economic projects that will benefit a community. That is no different than the opinion issued by the Florida Supreme Court in 1980. Attorney Gougelman explained that condemnation won't occur without approval of Council. The court has said that a City has extreme and broad powers in condemnation; however, that doesn't mean that a City has to use those powers. He pointed out that since he has served as City Attorney, the City hasn't used those powers with regard to redevelopment.

Mayor Goode questioned the inclusion of Hyde Park Lane. Mrs. Dittmer said it relates to the definition of blight and the condition of the infrastructure.

Mr. Schluckebier clarified for Council that the current redevelopment area is authorized by action of the Board of County Commissioners for a period of 25 years. The item on

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

this agenda simply changes the area to which the initial authority extends. It does not extend the time period, which was set in 2000.

Mrs. Walker said that she agrees with adding some of the streets; however, she believes that we are extending the redevelopment area to too large of an area.

Mayor Goode opened the public hearing.

Pat Poole, 805 East Palmetto Avenue, asked if this means that the City may add area to a redevelopment area without any further authorization.

Attorney Gougelman said that the redevelopment district was created in 2000. The life of the district can only be 25 years unless the County Commission decides otherwise; therefore, this area will have another 20 years. He confirmed for Mrs. Poole that increasing the size of the area does not require approval by the County Commission.

Mrs. Poole said she obtained information from City staff showing how much has been spent to date, what has been done in the area, etc. She noted that it is pertinent information. Mrs. Poole expressed concern with the following: taxes for any new development in the area will not be used City-wide; the plan calls for waiving height and density; grants require a matching payment; the plan will result in a lot of expenses; and the people she has talked with don't want high-rises. Mrs. Poole added that the Hyde Park area is not blighted.

That concluded comments from the public.

Mrs. Walker's motion to postpone this item for two weeks to allow Council time to review the information referenced by Mrs. Poole did not receive a second.

Moved by Meehan/LaRusso for approval of Resolution No. 1939.

Mrs. Palmer said when this issue previously came up she was opposed to extending the redevelopment area to the south. And, she still has a problem with that. She pointed out that almost any area of Melbourne built before 1980 could fall under the definition of "blighted." Extending the redevelopment area will take a lot of acreage out of the general revenue of the City. Mrs. Palmer stated that she supports the CRA, but she does not support expansion to the south.

Mr. LaRusso referenced the "taxable values" portion of the blight study and noted that the expansion area amounts to less than 2% of the City total. He added that he is not sure that the City is going to get shortchanged by 2%. Mr. LaRusso pointed out that this area is part of his district; he sees what is going on and knows that there are challenges in this area. Therefore, he is going to vote yes.

Mrs. Walker agreed with Mrs. Palmer's statement.

The question was called. The roll call vote was:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Aye: LaRusso, Meehan, Hand, Contreras and Goode

Nay: Walker and Palmer

Motion carried.

Moved by LaRusso/Meehan for approval of Ordinance No. 2005-77. Motion carried.
Council Members Walker and Palmer voted nay.

19. ORDINANCE NO. 2005-78 (CPA-2005-12) AND ORDINANCE NO. 2005-79 (Z-2005-1034)
“THE PRESERVE” AT LAKE WASHINGTON SUBDIVISION: Ordinances providing for a Comprehensive Plan Amendment and zoning change on a 0.67±-acre parcel, located within the Preserve at Lake Washington Subdivision on the south side of Lake Washington Road, west of Avocado Avenue. (Owner/Applicant - Riverside Development Group, Inc.) (Representative - Jake Wise, P.E., Construction Engineering Group) (P&Z Board - 6/02/05)
- a. Ordinance No. 2005-78/CPA-2005-12: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment to change the Future Land Use from Industrial to Low Density Residential.
 - b. Ordinance No. 2005-79/Z-2005-1034: (First Reading/Public Hearing) An ordinance providing for a zoning change from M-1 (Light Industrial) to R-1B (Single Family Residential).

The City Attorney read both ordinances by title.

From the agenda report: The Planning and Zoning Board voted unanimously to recommend approval of this request.

There were no disclosures by Council and no comments from the public. The applicant's representative, Jake Wise, was in the audience.

Moved by Hand/Palmer for approval of Ordinance No. 2005-78. Motion carried unanimously.

Moved by Contreras/Hand for approval of Ordinance No. 2005-79. Motion carried unanimously.

20. ORDINANCE NO. 2005-80 (CU-2005-03) RIA MELBOURNE LIMITED PARTNERSHIP: (First Reading/Public Hearing) An ordinance granting a conditional use to allow indoor recreation on a portion of a 4.1±-acre parcel zoned C-1 (Neighborhood Commercial), located on the north side of Palm Bay Road, west of Babcock Street, and east of Stack Boulevard. (Owner/Applicant - RIA Melbourne Limited Partnership) (Representative - Joe Corey) (P&Z Board - 6/02/05)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Attorney Gougelman read Ordinance No. 2005-80 by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of this request.

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

Moved by Palmer/LaRusso for approval of Ordinance No. 2005-80. Motion carried unanimously.

21. ORDINANCE NO. 2005-81 (LDR-2005-01/FOC-2005-01) PARKING REGULATIONS: (First Reading/Public Hearing) An ordinance amending Appendix D, Chapter 9, Parking Regulations, amending land use type and off-street parking ratio requirements; establishing a downtown parking trust fund and providing for a fee in lieu of; and amending the procedure for calculating the required number of spaces and minimum standards of design of off-street parking areas. (Applicant - City of Melbourne) (P&Z Board - 4/07/05)

Attorney Gougelman read Ordinance No. 2005-81 by title. Mrs. Dittmer reviewed the agenda report.

Mayor Goode said that at the April 26 meeting, the initial parking ordinance failed by a 3-3 vote and now a new ordinance is back before Council. Attorney Gougelman explained that a 3-3 vote does not mean that an ordinance has been defeated, it means that an ordinance did not pass; it opens the door for other options.

In response to questions, Mrs. Dittmer said that the previous ordinance was not approved because several Council Members did not want the reduced parking width. The parking width changes have been removed from this ordinance.

Mayor Goode said he was not at the April 26 meeting; however, if he had been, the ordinance would have passed. He discussed parking needs in Downtown Melbourne and Downtown Eau Gallie and said that he has some ideas. The Mayor recommended that when Council approves a building height in excess of 80' that a special assessment be charged. The funds could go into a pool, which would allow the City to build parking garages.

Council Member Kathy Meehan asked for clarification. The Mayor said that any applicant requesting height above the normal height limitation should kick in money towards a parking garage. He added that the Senior Center site (in Downtown Melbourne) would be the perfect location for a parking garage. He asked that staff return by second reading with amendments to the ordinance.

Mr. LaRusso said that he has done some further investigation on his own and has discovered that we are challenged; the City has a parking problem. He noted that he is inclined to add an addendum to the ordinance to include the 10' wide parking spaces.

Mayor Goode asked if Mr. LaRusso was referring to 10' parking spaces in controlled, not

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

open to the public, areas. Mrs. Dittmer reported that the City Code allows for employee parking spaces to be 10' wide. Employees typically park once per day. The same logic was utilized in looking at assigned parking spaces for residential units in an enclosed parking garage. The recommendation for 10' wide spaces was not about public parking.

Mayor Goode said he is for 11' wide public parking spaces; however, he would support 10' wide private parking spaces.

Mrs. Hand said regardless of whether this is for public or private spaces, she cannot support the change. She explained that 11' wide spaces stop people from banging their car doors into the adjacent vehicle.

Mr. LaRusso confirmed that he is talking about private, indoor parking spaces.

Mr. Schluckebier said that staff can provide additional review and return with comments.

Mrs. Palmer asked the Mayor to confirm that he is not talking about asking a developer (who builds a structure higher than 80') to add more parking to his building, but rather he wants a payment into a fund for public parking.

The Mayor replied yes and said that anyone who can afford to build higher than 80' can "pony up" the money, which would allow the City to build a parking structure. This could be in the form of an assessment from people who are looking for exceptions.

Mrs. Palmer said this would be okay as long as it passes the scrutiny of the Constitution, or as long as it passes the scrutiny of the courts.

Moved by Goode/Hand to postpone this item for one month (until July 26) to allow staff time to review the recommendation made by the Mayor (with regard to an assessment against building height) and 10' wide spaces for private, enclosed parking spaces. Motion carried unanimously.

22. COUNCIL DISCUSSION RE: Traffic capacity and concurrency issues on major roadways in the City of Melbourne. (Requested by Vice-Mayor Richard Contreras)

Mr. Contreras thanked staff for assimilating the data and said that he understands that staff hasn't verified the validity of the traffic concurrency spreadsheet. He asked the status of discussions between the City and the County.

Mrs. Dittmer replied that City staff is still in discussion with the County staff, particularly related to Wickham Road.

Mr. Contreras said that North Wickham Road brought this to a head. He asked if during the discussions between the County and the City if there have been any other recommendations, other than the Intelligent Transportation System (ITS), coming forth from the County – given that this is their arterial way.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Mrs. Dittmer replied that there have been recent meetings regarding the ITS and other improvements; however, at this time she is not able to give a more defined answer.

In response to Mr. Contreras, Mr. Ralls said that from an arterial standpoint, with the exception of 192 and U. S. 1, major roads in the City are County roads.

Mr. Contreras said that lack of attention is directly affecting the City of Melbourne and those who have undeveloped property. There is a moratorium (by the County). He noted that there are other arterials that the City doesn't have jurisdiction over and asked if there is going to be a moratorium declared on those, too.

Mrs. Dittmer said that the City is not sure that the Maximum Allowable Volume (MAV) is right. It is a number generically established by the County without a lot of basis. She cited an example and noted that the numbers need to be reviewed.

Mr. Contreras asked about the 125% level set for Babcock Street, Fee Avenue and NASA Boulevard. He asked for an explanation. Mrs. Dittmer said that the levels were adopted by City Council in the Comprehensive Plan about five years ago. Mr. Schluckebier explained that these are cases where the City intends to meet concurrency, but the actual improvements are not in place.

Mr. Contreras asked if the widening of Wickham Road was budgeted or funded by the County. Mrs. Dittmer replied that it has been removed from their plan. Mr. Contreras said that makes the 125% excessive. He asked when the County removed this from their plan. Mrs. Dittmer said in the last three years the County determined that it was not financially feasible.

Mr. Contreras stated that when something of that magnitude is moved off the table on a main arterial, due diligence says that the City should adjust its figures in terms of capacity. He pointed out that in areas of Babcock Street, Sarno Road, Eau Gallie Boulevard and U. S. 1, there are large spikes in volume during peak periods. He recommended that the discussion with the County be expanded to include these other roadways that could benefit from the ITS.

Mr. Contreras asked what six months would do in terms of a moratorium (Brevard County's six month moratorium on the issuance of driveway permits) if there are no plans to expand Wickham Road. He added that this is a ruse to landowners and the City should take the initiative to say that portion of the road is declared an indefinite moratorium until the County does something with it.

Moved by Contreras/LaRusso that an indefinite moratorium be declared on Wickham Road, between Parkway Drive and Pineda, by the City of Melbourne until solutions can be implemented for expansion. (See below, motion withdrawn.)

Mrs. Palmer said now that development is here the County Commission wants a moratorium. She asked Council Members if they have driven through Viera recently and looked at the homes, businesses and apartments. Based on the growth in that area she

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

said she has a problem with the County Commission pointing its finger at the City saying we have been remiss in growth management. Obstructionists on the County Commission wanted to hold up the Pineda Extension. With all the development in Viera, she stated that she won't support a moratorium.

At the suggestion of the Mayor, the maker/seconded agreed to amend the motion to include the portion of Wickham Road, between Parkway Drive and Pineda, that is in the corporate limits. (See below, motion withdrawn.)

Mr. Contreras referenced his motion and said the intent is to put a fire under something or someone. It points out that we need action.

Mrs. Palmer said that in terms of a moratorium, we need to look at what is developing in the rest of the City; this is not isolated to North Wickham Road.

Mr. Contreras said that after staff validates the numbers, he'd like to address this item again with other roadways that are nearing capacity.

Mrs. Palmer said that she would support the ITS and the re-evaluation of roadway volumes and capacity; however, she won't support a moratorium.

Mr. Schluckebier explained that Wickham Road is a County road. The City has an interlocal agreement with the County to share information and to jointly plan. Although the County has the underlying responsibility for improving the road, the City has been forthright in our communications that we stand ready to jointly share their responsibility. He stressed that timely development of City real estate is at risk.

With regard to a City moratorium, he said that he does not believe the moratorium can be accomplished in the form of a motion. The County intends to issue an ordinance with documentation and justification for not issuing driveway permits along Wickham Road for a specified section. However, they are not issuing a moratorium on development. And, whether you use the City's concurrency system or the County's, it is based on their opinion that no more permits should be issued on that segment of Wickham.

Mrs. Walker asked if the moratorium would be for an indefinite period or for a specified period. Mr. Schluckebier replied that Council should carefully consider this before issuing a moratorium because there are a number of development ramifications. He added that he knows the intent is to put some heat on the County; however, it might actually have the opposite effect. It might remove any pressure that the County has.

Mayor Goode cautioned that the City may own Wickham Road sooner than we want. The City Manager agreed and said that the County may be very happy to flip it.

Regarding the County's moratorium on driveway permits, Mr. Schluckebier said it doesn't do anything to solve the problem. It doesn't say that during this period the County has a commensurate corresponding obligation to determine what could be done and by whom. He commented that we can all state that there is a problem and perhaps that is a start.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Attorney Gougelman outlined the procedure for putting into effect a moratorium. An ordinance will be required along with two advertised public hearings. It will also require Planning & Zoning Board review. The City will have to refine what it is putting a moratorium on. For example, you may not put an indefinite moratorium into effect – it will be overturned by the courts. It needs to be set for a specified period of time. Also, the question becomes, “Which permits are you putting a moratorium on?” The City issues plat approvals, site plan approvals, rezonings, Comprehensive Plan amendments, building permits and variances. All of those are considered development permits. We will need to determine if people halfway through the process will be grandfathered in. And, whether it will apply to just properties along Wickham Road, or properties that feed into Wickham Road.

Attorney Gougelman concluded by saying that if the City puts an actual moratorium on development and the solution to the problem is not ours to conjure up because we don’t have jurisdiction over Wickham Road, we could end up in the position of effectuating a taking of a lot of private property along Wickham Road. This is not a taking as defined in the U. S. Constitution; this is a taking as defined in the Bert Harris Act, which is a much lower threshold.

Mr. Contreras said that he is envisioning that this would apply to development that hasn’t even broken ground. The area should be defined and include property that we have jurisdiction over and the timeframe could be a year. Regarding the City’s role in solving this, he added that it would certainly be a capital improvement challenge; however, that is a future discussion.

The maker/seconder withdrew the motion.

Moved by Contreras for staff to draft an ordinance taking into account the permitting issue, points of entry, grandfathering aspects, area affected and timeframe.

Mayor Goode said that if staff goes through all the work involved in drafting an ordinance, the Council Members who vote for this at this meeting better be willing to vote for it at second reading.

Mrs. Hand said she has concern about the properties that have been annexed in this area. The City is now going to deny those property owners use of their property.

At this point Mr. LaRusso provided a second to the motion. Moved by Contreras/LaRusso for staff to draft an ordinance taking into account the permitting issue, points of entry, grandfathering aspects, area affected and timeframe. (See below, motion withdrawn.)

Mr. LaRusso said that the City is raising the level of debate on this issue so he will support the motion.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Mrs. Palmer said that this is an open-ended, ambiguous request for an ordinance. She asked how the City will control the increase in traffic from areas that are not part of the City, such as Viera or beachside across the Pineda.

Continuing, Mrs. Palmer stated that placing a moratorium is saying that we have failed. And now that we are at this impasse, we are saying that we don't care what you have planned. She noted that the County allowed development to continue along North Wickham Road without thought to land acquisition for roadway widening. Taxes were collected, but the jurisdiction didn't live up to its responsibility. She said that we need to look at short term, quick fixes like the ITS along with land acquisition. We need to look at these issues before we place a moratorium on development on that section of the roadway. There will still be development in Viera and on the beachside. A moratorium is just not a good solution and Council is asking staff to draft an ordinance without any particulars.

Mr. Contreras said that his point was to place this issue on the table. He added that he realizes that City staff is currently in conversations with the County and we need to make our interests and concerns known – without a doubt.

A brief discussion followed about the condition of the City's roads and the Mayor said that he intends to put the paving of 12 miles of City streets in the City's budget.

Mr. Schluckebier asked Council to consider an alternative to the moratorium, which is to direct staff to attend the County's hearing regarding its moratorium and work towards the following: during the moratorium period, there should be an intense study of the corridor; solutions should be proposed during that period; there should be cooperative planning between the City and the County; and specific financing situations should be proposed.

The maker/seconded withdrew the motion.

Mr. Schluckebier added that the intention of the City Council is very clear on this issue. There's great concern about the North Wickham corridor as well as hot spots for traffic capacity elsewhere in the City.

Mrs. Palmer said that she would really like to look at the Intelligent Transportation System. She added that she has been in cities with worse traffic and roads no larger than Wickham Road. However, because of the coordination of the lights, turn lanes, etc., traffic flows much more smoothly. There are solutions related to technology that come with a much cheaper price than pavement and property.

Mr. Contreras said that he would like a timeframe considered during the discussions.

Attorney Gougelman said that the County Commission's hearing on its moratorium is scheduled for July 12. If the City Manager needs authority to be delegated to attend that hearing, this would be the time.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 28, 2005

Following a brief discussion, Mr. Schluckebier said that if there is no objection from Council, he will proceed as discussed.

23. COUNCIL ACTION RE: Appointment of one alternate member to the Code Enforcement Board.

Mrs. Walker nominated Ronald Mitchell and Mrs. Hand nominated Oscar Hotusing.

Mrs. Palmer asked if the current member, Lynne Flora, didn't attend meetings because she was an alternate member. City Clerk Cathy Wysor explained that during board orientation, alternate members are asked to attend every meeting. An alternate member still has the ability to participate in the discussions even if he/she is not seated as a voting member.

Moved by Contreras/Palmer to close the nominations. Motion carried unanimously. The vote was:

Mitchell: LaRusso, Walker and Contreras
Hotusing: Meehan, Palmer, Hand, and Goode

Appointed: Oscar Hotusing (7/9/2005 – 7/8/2008 (3-year term))

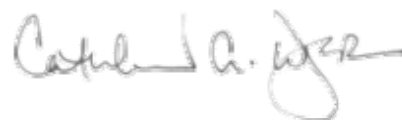
24. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 E. Palmetto Avenue, expressed concern with the Mayor's comment earlier in the meeting that perhaps a parking garage could be constructed on the Senior Center property in Downtown Melbourne. Additionally, she discussed growth management and stated that if infrastructure had been in place, the City would not be experiencing problems (like traffic on North Wickham Road).

25. ADJOURNMENT

Moved by Meehan/Palmer to adjourn. Motion carried unanimously.

The meeting adjourned at 8:45 p.m.



City Clerk – 7/7/2005

Approved by Council: July 12, 2005