

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
NOVEMBER 22, 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. Pastor Tom Snyder, Communities of Care, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Richard Contreras	Council Member, 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	Vice Mayor, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Deputy City Manager
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

None.

5. Approval of Minutes - November 8, 2005 Regular Meeting

Moved by Palmer/Meehan for approval.

Council Member Grace Walker referenced Item 9 (adoption of the new Zoning Code) from the November 8 minutes. She said that she provided an amendment, which would require a person to appear before Council to have his/her name removed from a petition of opposition.

Attorney Gougelman read from the minutes and said that Council deleted the requirement for a person to appear before Council. The remainder of Mrs. Walker's amendment was adopted.

Vice Mayor Loretta Hand referenced Item 6 and said that Mrs. Walker's 20 years of service as an elected official include the time she was with Melbourne Village. City Clerk Cathy Wysor said the minutes note that Mrs. Walker will be recognized by the Florida League of Cities for "20 years of public service as an elected official."

The question was called. Motion carried unanimously.

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6. City Manager's Report

City Manager Jack Schluckebier commented on the following:

- The report from Fire Chief Paul Forsberg on medical transport service is intended to serve as an outline and review of the issues. The County and the City of Palm Bay are in litigation over this topic. And, given the opinion of the County Tax Collector and County Property Appraiser that the EMS fee will no longer be levied/collected as it has been in the past, the City Manager asked the Fire Chief to prepare options. This item does not require immediate action; however, Council may wish to schedule this item for future discussion. If Council is satisfied, the item will probably appear on a January or February agenda.
- City employee donations for the United Way campaign have increased by 35% for the third year in a row. The City Manager commended the employees for their substantial level of giving.

There was a brief discussion about the report from Planning and Economic Development Director Cindy Dittmer about notification of area residents on site plan approval. By consensus, Council asked for the site plan notification issue to return on a future agenda.

7. Public Comments

Phil Nohrr, attorney representing Prestige Concrete, provided a brief report on a meeting held with area residents. He noted that the meeting was positive. The residents are relatively satisfied with the noise issue; however, they would like further improvements. They are primarily concerned about dust and encouraged Prestige to proceed rapidly with paving. Also, Prestige representatives have agreed to attend the homeowners' association January meeting.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2005-119 SEXUAL PREDATORS: (First Reading) An ordinance relating to sexual offenders and sexual predators; creating Sections 20-90 through 20-92, City Code; providing findings and definitions; requiring registration with the Chief of Police or the Chief's designee. (First Reading - 11/08/05)

City Attorney Paul Gougelman read the ordinance by title.

Council Member Cheryl Palmer said it was her understanding that this ordinance would affect sexual predators, yet the ordinance pertains to predators and offenders. She noted that she is concerned about the 18-year-old man who has sex with his 17-year-old girlfriend and becomes titled as a sex offender.

Mayor Goode said that the label offender or predator is determined at the time of adjudication.

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Attorney Gougelman added that the ordinance as drafted includes predators and offenders. There are four or five offenses that a person would have to be convicted of to be labeled a predator. Offenses include making kiddy porn movies; engaging in sexual conduct with a minor of a certain age; and sexual conduct with an elderly person who is infirm. Mr. Gougelman said that the ordinance could be further amended to include only predators.

Mrs. Palmer said she would feel more comfortable with a little more discussion. Mayor Goode pointed out that there are three predators in Melbourne and 100 offenders. If the ordinance were amended, only three people would fall under its provisions.

Council Member Mark LaRusso stated that Council has given the authority for the Police Department to hire an officer and a clerical assistant to ensure that all predators and offenders in Melbourne are where they should be. The ordinance provides teeth for additional registration. It does not add residency restrictions or force anyone out of their home. It is simply another layer of protection.

Mrs. Palmer asked if we are simply enforcing what is already in place on these individuals. Mr. LaRusso said correct, plus it provides for additional registration through the Police Department.

Mrs. Palmer said that she does not have a problem with the ordinance if we are not adding any more restrictions, other than reporting.

Moved by LaRusso/Contreras to approve Ordinance No. 2005-119. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2005-128 (ED-2005-04) ROCKWELL COLLINS, INC.: (Second Reading/Public Hearing) An ordinance granting an Ad Valorem Tax Exemption for a period of four years totaling an estimated \$21,219.56. (First Reading - 11/08/05)

The City Attorney read Ordinance No. 2005-128 by its title. There were no comments from the public.

Moved by Hand/Walker for approval of Ordinance No. 2005-128. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2005-129 (Z-2005-1042) AND ORDINANCE NO. 2005-130 (CU-2005-12/SP-2005-12) GRANDVIEW CONDOMINIUMS: Ordinances providing for a zoning change and conditional use with site plan approval to construct a multiple-family

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condominium development on 8.15± acres, located on the west side of North Harbor City Boulevard, north of Parkway Drive. (Owner – Rivercrest III) (Applicant/Representative – David T. Menzel, P.E., MAI Engineering, Inc.) (P&Z Board – 10/20/05)

- a. Ordinance No. 2005-129/Z-2005-1042: (Second Reading/Public Hearing) An ordinance changing the zoning from C-P (Commercial Parkway) and R-A (Residential Holding) to R-2 (One-, Two-, and Multiple-Family Residential). (First Reading - 11/08/05)

- b. Ordinance No. 2005-130/CU-2005-12/SP-2005-12: (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow an additional 27' 8" in height to construct a 67' 8" multiple-family condominium development, including two-story townhome style condominiums with 108 units at 13.25 units per acre. (First Reading - 11/08/05)

The City Attorney read each ordinance by title.

Mayor Goode referenced the memorandum from Cindy Dittmer, which provides: "During first reading of the ordinance, Council requested consideration of donation of the property east of U. S. 1 to the City. The applicant has suggested instead that the City be granted a 20-foot wide easement abutting the right-of-way; and that the property owner will maintain the property and not develop in the future, with the exception of a gazebo. Since there are residential lots located to the north and south of the property along the river, it is unlikely that the City would be able to obtain ownership of those lots to provide for a linear park or riverwalk area. Staff has recommended that the City Council consider this request in lieu of the previous request for ownership of the property."

Attorney Gougelman commented that following the last Council meeting, the applicant reviewed this issue with legal counsel and decided to clarify and narrow the donation of land. Mr. Gougelman said he has no objection to the applicant's request.

Phil Nohrr, attorney representing the applicant, said that the project will be marketed as a riverfront condominium. They are concerned that transferring the property located on the river to the City will put them into a difficult legal position. Rather than an outright transfer, they would like to provide the City with a 20-foot wide easement; they will not construct anything permanent, other than a gazebo; and they will maintain the property.

In response to Attorney Gougelman, Attorney Nohrr said he would have no objection to adding this as a condition of approval to Ordinance No. 2005-130.

Moved by Contreras/Meehan for approval of Ordinance No. 2005-129. The roll call vote was:

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

Motion carried unanimously.

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Moved by Hand/LaRusso for approval of Ordinance No. 2005-130, including a new condition as referenced by staff and agreed to by the applicant.

Mr. LaRusso said he was initially opposed because staff recommended against the requested height. However, he will vote for the ordinance based on the amendment.

The question was called. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

11. COUNCIL ACTION RE: Contract award for the Apollo Boulevard Sanitary Sewer Line Rehabilitation, Project No. 32605, Insituform Technologies, Inc., Jacksonville, FL - \$316,408.

From the agenda report: The recommendation is for approval of a piggy-back to the October 1, 2005 Manatee County Annual Contract (P.O. # P5000067) with Insituform Technologies, Inc. in the amount of \$316,408.

City Engineer Jenni Lamb was present and available for questions.

Moved by Contreras/Meehan for approval of the recommendation. Motion carried unanimously.

12. COUNCIL ACTION RE: Supplement No. 001 to the Continuing Consultant's Contract for hydrogeologic services for Back Up Well No. 4 at the Joe Mullins Reverse Osmosis Water Treatment Plant, Project No. 31003, L.S. Sims & Associates, Inc., Rockledge, FL - \$72,500.

From the agenda report: the recommendation is for approval of Supplement No. 001 to the Continuing Consultant's Contract with L.S. Sims & Associates, Inc. in the amount of \$72,500.

Mrs. Lamb was present and available for questions.

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

13. CONSENT AGENDA:

Moved by Hand/Contreras for approval of the consent agenda, Items "a – m." Motion carried unanimously.

The consent agenda was approved as follows:

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- a. Change Order No. 2 to the contract for the Public Works and Utilities Administration Building for overhead garage doors at Grant Street Wastewater Treatment Plant, Project No. 31304, Certified General Contractors, Inc., Melbourne, FL - \$26,756.
- b. Interlocal agreement with Brevard County providing for the City of Melbourne's participation in the Brevard County Emergency Medical Services Impact Fee program.
- c. Approval of Supplemental Amendment Number 1 to the Locally Funded Agreement with the Florida Department of Transportation for the Apollo Boulevard extension; appropriation of \$18,500 from the Transportation Impact Fee fund to this project budget; and authorization for the City Manager to execute the document.
- d. Purchase of nine vehicles and two pieces of equipment, Alan Jay Chevrolet Cadillac, Sebring, FL - \$64,454; Duval Ford, Jacksonville, FL - \$87,488; Florida Detroit Diesel, Orlando, FL - \$38,499; Garber Ford Mercury, Green Cove Springs, FL - \$74,242; and Ring Power, Orlando, FL - \$79,068.
- e. Purchase of 21 Panasonic Toughbook 73 laptop computers, power adapters, and three-year no fault warranties, Insight Public Sector, Tallahassee, FL - \$72,765.
- f. Refurbishment of a Channel Monster unit, JWC Environmental, Buford, GA - \$20,376.
- g. Purchase of Datastream software and services, application servers, and Microsoft SQL server and Windows licenses, Datastream Systems, Inc., Greenville, SC - \$221,240; Dell Computer Systems, Round Rock, TX - \$15,569.18; and Software House International, Somerset, NJ - \$8,653.83.
- h. Award of \$2,500 in 2005-2006 CDBG funds and \$2,500 in Hurricane Housing Recovery Program (HHRP) funds to the Fair Housing Continuum, Inc. to provide fair housing testing services and authorization for the City Manager to execute an agreement for these services.
- i. Approval of budget adjustments to the FY 2002 and FY 2003 HOME funding to allocate \$13,541.34 in recaptured funds to the Tenant-Based Rental Assistance program.
- j. Lien Rescission CE-04-052: Approval of request for lien reduction from \$1,300 to \$276.67 with the provision that the fine be paid within 30 days or the lien reverts back to the original amount. (Joshua M. Denton – 721 East Seminole Avenue)

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- k. Approval of an interlocal agreement between the Brevard County Board of Commissioners, Brevard County Sheriff, and the City of Melbourne with respect to the 9-1-1 Local Option Fee.
- l. Travel authorization for Council Member Mark LaRusso to attend the National League of Cities Leadership Training Institute, January 26-28, 2006 in Ft. Lauderdale, Florida.
- m. Travel authorization for Mayor Goode to attend the United States Conference of Mayors 74th Winter Meeting, January 25 – 27, 2006, Washington, DC.

14. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

15. COUNCIL ACTION RE: (Public Hearing) Approval of amendments to the 2004-2005 and 2005-2006 CDBG Action Plans; reallocation of \$71,000 from cancelled projects to the Gramling Park Paving and Drainage Improvement project; and approval to allocate savings from recently completed and soon-to-be completed CDBG projects and activities to this project budget.

From the agenda report: The recommendation is for approval of amendments as proposed to the 2004-2005 and 2005-2006 CDBG Action Plans and reallocation of \$71,000 from the cancelled projects to a new project entitled *Gramling Park Paving and Drainage Improvement Project*; and approval to use savings from recently completed and soon-to-be completed CDBG activities and projects to make up as much of the estimated \$201,060 paving budget shortfall as possible.

Moved by Contreras/LaRusso for approval as recommended. Motion carried unanimously.

16. COUNCIL ACTION RE: Conceptual approval of an award of \$450,000 in Housing Hurricane Recovery Program (HHRP) funds and \$200,000 in SHIP Rental Development Program funds to Brevard Neighborhood Development Coalition (BNDC) for the acquisition of Kennedy Street Apartments and tentative approval of an exception to the \$15,000 per unit award limit in the Rental Development Program policies and the HHRP and SHIP Housing Assistance Plans in order to subsidize acquisition of Kennedy Street Apartments by BNDC at a higher per unit level.

Lynn Brockwell-Carey, Director, Brevard Neighborhood Development Coalition, introduced Margie Pressley, BNDC Board Member and Vice-President of the Booker T. Washington Neighborhood Association.

Margie Pressley thanked Council for this opportunity. She reported that the Kennedy Street Apartments are an eyesore in the neighborhood. She added that an area doesn't have to have a drug problem just because it is low income. Ms. Pressley stated that this purchase will allow the apartments to be cleaned up and repaired to attract good families.

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Mrs. Palmer asked if the BNDC is going to maintain ownership of the property. Ms. Brockwell-Carey replied yes. She added that they aren't wearing rose-colored glasses – they understand the challenges. They plan to secure a management company and have a resident manager who has dealt with these types of properties.

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

17. FINAL PLAT APPROVAL (SD-2003-12) THE ARBORS AT LONGLEAF SUBDIVISION:
(Public Hearing) A request for final plat approval to develop 31 buildings with a total of 110 single-family residential townhome units on an 18.4±-acre parcel zoned R-2 (6) (One-, Two-, and Multiple-Family Residential with a cap of six units per acre), located on Preserve Drive, across from the intersection of Wickham Road and Pebble Creek Drive, north of Post Road. (Owner - Cascades Community Developers, Inc.) (Applicant/Representative - B.S.E. Consultants, Inc.) (P&Z Board - 11/03/05)

Mrs. Dittmer briefed Council. The Planning and Zoning Board unanimously recommended approval of the two-page final plat prepared by BSE Consultants, Inc., with a signed and sealed date of October 19, 2005, subject to the following conditions:

- a. 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 Department, Engineering Department and Code Compliance Division.
- b. The applicant shall not be entitled to record the final plat until all subdivision improvements are constructed to the satisfaction of the City, or an improvement guarantee of at least 110% is provided to the City to ensure the completion of the improvements.
- c. The applicant shall provide the additional required documents, pursuant to Appendix D, Chapter 8, Section 8.5 (c) (4) prior to plat recordation, including the Pedestrian Path and Access Easement.
- d. The applicant shall provide the additional required information and certificates as required by F.S. 177.071 and 177.081 prior to recordation of the final plat.
- 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. The applicant's representative was in the audience and available for questions.

Moved by Palmer/Hand for approval of the final plat, subject to the findings and conditions outlined in the agenda package. Motion carried unanimously.

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18. ORDINANCE NO. 2005-131 (A&V NO. 288): (First Reading/Public Hearing) An ordinance vacating the southerly five feet of a 15-foot wide public utility and drainage easement along the north lot line except the easterly and westerly five feet of Lot 24, Block 1, Dartmouth Trail. (Robert & Shirley Fulton - 2584 Senator Way)

Attorney Gougelman read Ordinance No. 2005-131 by title. There were no disclosures by Council and no comments from the public.

Moved by Walker/Meehan for approval of Ordinance No. 2005-131. Motion carried unanimously.

19. ORDINANCE NO. 2005-132 (A&V NO. 290): (First Reading/Public Hearing) An ordinance vacating the westerly seven feet of a 10-foot wide public utility easement. (Fredrick & Suni Clark - 3183 Winnipeg Court)

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

Moved by Palmer/Walker for approval of Ordinance No. 2005-132. Motion carried unanimously.

20. ORDINANCE NO. 2005-133 (ED-2005-05) FYI CORPORATION: (First Reading) An ordinance granting an Ad Valorem Tax Exemption for a period of three years totaling an estimated \$4,564.08.

Attorney Gougelman read the ordinance by title. Kerry Gilger, representing FYI Corporation, was present and available for questions.

Moved by Hand/Contreras for approval of Ordinance No. 2005-133. Motion carried unanimously.

21. ORDINANCE NO. 2005-134 (CPA-2005-17) TEXT AMENDMENT: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment which amends the Future Land Use element by adding clarity to the current policy with regards to vacant, platted lots of record. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 11/03/05)

Attorney Gougelman read Ordinance No. 2005-134 by title. Mrs. Dittmer briefed Council.

Mrs. Palmer said the change provides that “future development of substandard lots would be required to meet the current requirements of the Zoning Code, unless they were owned in single ownership.” She asked why the caveat (unless owned in single ownership).

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Mrs. Dittmer said that a person who owns several substandard lots would be able to comply with the Zoning Code requirements. The change would allow someone to develop without meeting those requirements if they owned a single lot.

A brief discussion followed regarding the phraseology in the agenda report and the intent. Mrs. Dittmer reported that a person with one lot could develop without meeting the required width of that zoning district. If a person owns multiple lots that are contiguous, they would be able to make a conforming lot.

Mayor Goode stated that his neighborhood is full of 50' wide lots. He reported that his neighbor has a 60' wide lot, with a home, and the adjacent vacant 50' wide lot. They will soon close on the sale of the home; however, they intend to retain the 50' wide lot with the intention of building in the future.

Mrs. Dittmer said that they would not be able to do that after this ordinance passes. She noted that many people are in the process of doing this and there are some that may slip through before this is finalized.

Mayor Goode opened the public hearing.

Sean Clark, 2206 Hyde Parkway, said that he owns two of the subject lots, which were platted in 1925. He read from a July memorandum from the Planning and Zoning Board to the City Council and asked for clarification.

Mrs. Dittmer explained that staff made a different proposal to the Planning and Zoning Board. The board did not agree with staff's recommendation. Council is considering the Planning and Zoning Board's recommendation under this agenda item.

A brief discussion followed

Mrs. Palmer said that if this ordinance passes, people will wind up building one massive home on two lots. Mrs. Dittmer said that would be the effect. Mrs. Palmer asked if that is our intent. Mrs. Dittmer said the intent is to require a person to meet the zoning regulations if they are able. Mrs. Palmer pointed out that this will make for some strange infill in some of the neighborhoods.

Mrs. Hand stated that she does not believe this ordinance is fair. This will upset many people who have owned their property for a long time.

Mayor Goode said he won't vote for the ordinance because his entire neighborhood is full of substandard lots.

Mrs. Palmer asked for further clarification.

Attorney Gougelman said that currently the Zoning Code and Comprehensive Plan are inconsistent. The rule in effect in the Zoning Code is that if there is a subdivision that has been platted with 50' wide lots and the City later set the zoning restrictions to require

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frontage of 60' – the 60' requirement will not apply if a person has owned that one lot and has not owned an adjacent lot since the 60' requirement was set. It also provides that if you own two or more lots, you may only develop one lot because you have enough frontage to meet the 60' requirement.

There were no further comments from the public. Mayor Goode closed the public hearing.

Moved by Palmer/Hand for denial of Ordinance No. 2005-134.

Mr. Contreras said that our Comprehensive Plan and Zoning Code will be out of synch. Attorney Gougelman said that staff will have to return with an amendment to the Zoning Code to make it consistent with the Comprehensive Plan.

The question was called. The roll call vote was:

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

Motion carried unanimously.

22. ORDINANCE NO. 2005-135 (AR-2005-177) AND ORDINANCE NO. 2005-136 (CPA-2005-16) PALM BAY 20, INC.: Ordinances providing for annexation and a Comprehensive Plan Amendment on a 17.39±-acre parcel, located on the north side of Palm Bay Road, between Dairy Road and Hollywood Boulevard. (Owner/Applicant - Palm Bay 20, Inc.) (Representative - Jack B. Spira) (P&Z Board - 11/03/05)
- a. Ordinance No. 2005-135/AR-2005-177: (First Reading/Public Hearing) An ordinance providing for annexation of a 17.39±-acre parcel.
 - b. Ordinance No. 2005-136/CPA-2005-16: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Medium Density Residential on a 17.39±-acre parcel.

The City Attorney read the ordinances by title. Mrs. Dittmer briefed Council. There were no comments from the public.

Moved by Contreras/Hand for approval of Ordinance No. 2005-135. Motion carried unanimously.

Moved by Palmer/Walker for approval of Ordinance No. 2005-136. Motion carried unanimously.

Without objection, Council convened as the Melbourne Downtown Community Redevelopment Agency for the following items:

23. COUNCIL ACTION RE: A request for \$25,000 of funding assistance to support capital improvements at the Henegar Center.

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Jerry Brees, Director, Henegar Center for the Arts, reported that the Henegar Center has been in existence for about 16 years. In the last five or six years, the Center has become extremely active and vital, open 90 hours per week. They have requested assistance with capital improvements because the building is getting rough around the edges. The Board of Directors has undertaken a four-year plan to improve the facility. They asked the redevelopment advisory committee for assistance in matching funds to accomplish some of these projects. They need carpet, lighting, and acoustical improvements and the wood flooring needs to be refinished. These are all items separate from their operational programming.

Mayor Goode said that the City has donated about \$550,000 to the cause over the years and every year he hears that the Center is going to be self sufficient "next year." He said if Council sees fit to grant the funds, he would like a caveat that it be used to match a grant applied for after this date.

Mrs. Walker said she would like to know the specific improvements that are planned for the Henegar Center. Mr. Brees said they need carpet, new lighting, hardwood floors refinished, new sound system in the theater and acoustical paneling in the ballroom area. Mrs. Walker asked if they have obtained bids and prices. Mr. Brees said they have an estimate of \$48,000 for the carpeting; they are going through a bid process on the sound system.

Mrs. Walker asked if they have applied for grants. Mr. Brees said they apply every year; however, most of the grants are for operational programs. There are very few grants available for capital improvements.

In response to Mr. Contreras, Mr. Brees agreed that it would be almost impossible to obtain a matching capital improvement grant. They would be able to obtain funding from individuals and members to match the funds. Their intent is to match this money through their fundraising effort in the community.

Based on this information, Mr. Contreras said he would not support tagging the funding to a matching grant.

Mrs. Hand said that the Henegar Center is a gem and it should not be allowed to run down. She added that she won't support a condition that there be a matching grant.

Mayor Goode announced that Mrs. Poole asked to speak on this item and the next agenda item, although they are not public hearings.

Moved by Hand/Walker to allow Mrs. Poole to speak on Items 23 and 24. Motion carried.
Council Member Contreras voted nay.

Mayor Goode instructed Mrs. Poole that she had a total of five minutes for both items.

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Pat Poole, 805 E. Palmetto Avenue, said that the Henegar Center belongs to a private enterprise, the Brevard Regional Arts Group. She reported that the historical grant will expire in 2010 and she is concerned that the Center could be sold. She stressed that there must be some way to protect these historic buildings.

Moved by Hand/Contreras for approval of the \$25,000 funding assistance to the Henegar Center from the Melbourne Downtown CRA Reserve/Future Projects account.

Mrs. Palmer asked Mrs. Hand if she wanted to connect the funding with matching funds, rather than a matching grant. Mrs. Hand said she does not want a condition.

Mayor Goode said he hates to keep pouring money down the tube. The City has contributed half a million and the state has contributed a million. And, this doesn't count all the grants and aid.

Mr. LaRusso recalled that a few Council meetings ago there was a lively discussion about a request from Honor America for funding assistance. The request was denied and Honor America was forced to find its own funding. He noted that this is a motivational factor and a proactive way of helping the community fend for itself. He concluded by saying he is inclined to say that the Center should seek private contributions.

Mr. Contreras said he takes exception to the comment "pouring money down the tube." He stated that the Henegar Center has been an asset to the entire City, not just the Downtown area. Relative to fundraising, he recommended that over the next five years the funding be released on an incremental basis based on a report from staff on the Center's objectives, goals and fundraising results.

Mrs. Palmer said that "money down the tube" was a poor choice of words. The Center is a cultural asset to the community. It doesn't belong to the City of Melbourne and the taxpayers whose money is being donated. She added that the only way she can support the motion is to tie the funding to matching funds, whether from private individuals, organizations, etc.

Mayor Goode asked Mr. Brees to clarify who the owner of record is for the Henegar Center. Mr. Brees said the Brevard Regional Arts Group is a not for profit, 501c3 organization doing business as the Henegar Center for the Arts. He added that there is a president and a board of directors. They are governed by bylaws.

Mr. Schluckebier asked what would become of the assets if the corporation were dissolved. Mr. Brees said he is not 100% sure. He noted that their bylaws address dissolution and he believes that the assets would revert to the community in some way or another. He added that the board of directors does not share in revenue or profits. Mr. Brees said that he can provide this information to the City.

Mrs. Hand asked Mr. Brees if he would be comfortable with a condition that the funding be tied to matching funds. Mr. Brees replied absolutely.

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The maker/seconded agreed that the funding will be tied to matching funds.

Mrs. Palmer said she would like to see some recommendations in the future for the City to protect the community's interest in these facilities. She added that with all this investment, the Center could go up for auction to the highest bidder.

The question was called. The roll call vote was:

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

Motion carried unanimously.

Mrs. Walker said the City should receive evidence of matching funds before our funds are released. Mayor Goode added that the City Manager and City Attorney should review the Center's articles of incorporation and determine what would happen to the assets if the corporation were dissolved.

24. COUNCIL ACTION RE: Approval of a grant funding agreement between the Melbourne Downtown Community Redevelopment Agency and Melbourne Main Street, Inc. for services assisting in the development and promotion of Historic Downtown Melbourne and \$55,000 in operating support funding.

Note: Mrs. Poole made the following comments under the previous agenda item.

Pat Poole stated that the Main Street program has been going for three years, but she is not aware of anything in the program that has been visible. She said the flowers that have been planted in the area are pretty; however, they are expensive to change. The original plants were selected because they would last and would not have to be changed often. Mrs. Poole questioned funding this program and said she believes it is an overlap with the existing downtown redevelopment program. The sidewalks were to be the first project, and they have not been done yet.

Additionally, Mrs. Poole recommended that the carved sign be returned to the end of Municipal Lane so it can be used as a community bulletin board.

Moved by Meehan/Hand for approval of the request.

Mr. Contreras said that it has been alleged that Main Street is a non-value added program. He asked the applicant to address any accomplishments that have been made.

Beverly Sanders, President of the Board of Directors, Main Street, noted the following accomplishments: the City and the merchants were brought together on the dumpster issue and significant headway has been made; they initiated a relationship with the Police Department for added enforcement Downtown, including bike patrols; they assisted the City with the master plan, parking study and landscape program; and they have developed a façade program so they can begin a test program next year.

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Mayor Goode referenced the dumpsters behind Bella's Restaurant and asked what has been accomplished.

Laird Gann, Main Street Coordinator, provided a brief history of the dumpster issue. He reported that approximately 35 merchants rent from six or seven property owners, and they share one dumpster. He added that an incredible amount of effort has been put into meeting and communicating with everyone involved in order to reach agreement. He said the bottom line is that Main Street is an intermediary between Downtown merchants and the City. They have formed a task force with staff from Planning and Zoning, Code Compliance and Solid Waste. He concluded by saying they have been working on this for a year.

Mrs. Meehan said the dumpster issue continues, and not just behind Bella's. There are issues when numerous tenants do not share in the cost of the waste management fee.

Mayor Goode commented that the situation behind Bella's in the alley has not improved. They have been trying to find out for a year who pays for service out of the 25 or 30 merchants and they can't seem to get an answer.

Mr. Schluckebier agreed that a lot of time has been expended on this issue in the past year. Mr. Gann is now coordinating with staff and the private contractor. There are people directly involved who want no part of the solution.

Ms. Sanders said that the Chamber of Commerce solved its problem by installing a lock on its dumpster.

Mayor Goode stated that he wants to know who is paying and who is not. Mr. Schluckebier said he can provide that answer tomorrow.

Mrs. Palmer asked why this isn't a Code Enforcement issue. Mayor Goode asked who would be fined. Mrs. Palmer replied, "the owners." She added that when a large commercial enterprise gets away with so much, it results in an inequity.

The City Manager informed Council that the City does not have a specific Code that requires every business to have garbage/trash pickup.

A brief discussion continued.

Mr. Schluckebier advised Council that the item on the agenda is a first time agreement between the City and Main Street. We have not had an agreement in place in the past. The agreement outlines the responsibilities and largely, it provides for Main Street to play an intermediary role. The agreement also provides direct accountability for the funds.

Mrs. Palmer asked for additional information on the sign. Mrs. Sanders said the carved sign that was located in front of Turner's was removed because half of the merchants listed on the sign are no longer Downtown. Additionally, the former downtown merchants

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group was sued over placement of the sign. She added that there is a Downtown Melbourne sign located between New Haven Avenue and Strawbridge Avenue near the piano merchant.

Mrs. Meehan clarified that the lawsuit was initiated because the sign blocked several storefronts.

Mr. Contreras summarized and said that as a result of the lawsuit and the sign being out of date, it can't be returned/replaced.

Mrs. Sanders continued outlining the accomplishments made by Main Street.

Mr. Contreras said that the accomplishments, activities, etc. are public information. Ms. Sanders said that is correct. She added that they can also show their fundraising records.

The question was called. Motion carried unanimously.

Without objection, Council reconvened for the remaining agenda items.

25. RESOLUTION NO. 1958: A resolution implementing FY 2004-2005 Fourth Quarter Budget Review recommendations.

Moved by Hand/Walker for approval of Resolution No. 1958. Motion carried unanimously.

26. RESOLUTION NO. 1959: A resolution implementing changes to the program guidelines for the City of Melbourne's Ad Valorem Tax Exemption Program.

Moved by Contreras/LaRusso for approval of Resolution No. 1959. Motion carried unanimously.

27. COUNCIL DISCUSSION RE: Discussion regarding the possible hiring of a federal lobbyist firm for the purpose of seeking federal fund appropriations.

The City Manager said that Council previously asked what type of projects a federal lobbyist would pursue. The report prepared by Deputy City Manager Howard Ralls outlines potential areas where the City has needs as reflected in our five-year capital improvement program (transportation, recreation, water and sewer, police, stormwater and Airport Authority interests).

Mayor Goode added that this would be in conjunction with the Airport. The City would seek an intergovernmental type of lobbyist familiar with municipal government and aviation.

Moved by Goode/Walker to allow staff to seek proposals, go through the screening process and return to Council for engagement of a lobbyist to share with the Melbourne Airport Authority.

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Mr. LaRusso asked about the decision making for hiring the lobbyist. The Mayor said that staff will come up with two or three recommendations and Council may possibly conduct interviews. Mrs. Palmer asked if the final decision will be made by Council and the Mayor replied yes.

The Mayor confirmed for Mr. Contreras that the Airport Authority will also have to be involved in the approval process.

Mrs. Meehan asked how the cost will be shared with the Airport. The City Manager replied that staff believes a fair resolution will be reached.

The question was called. Motion carried unanimously.

28. COUNCIL ACTION RE: Board Appointments

- a. Appointment of one member to the Dr. Martin Luther King, Jr. Naming Opportunities Committee.

Moved by Contreras/LaRusso to appoint Eric Lewis to replace Ed Williams. Motion carried unanimously.

- b. Appointment of one member to the Library Board.

Moved by Hand/Palmer to reappoint Charlotte Friedland.

Mayor Goode said that it is his preference that board members be limited to two terms. He added that this would give new people an opportunity to serve. Additionally, the Mayor pointed out that there are no other applications on file for this board.

Mrs. Palmer noted that Council Members are subject to term limits.

Mr. LaRusso recalled that Council previously discussed implementing term limits for board members; however, the idea was turned down.

Mrs. Hand said that it seems like people just aren't interested; it is hard to get people interested in applying to serve on a board or to run for City Council.

The question was called. Motion carried unanimously. (12/3/2005 – 12/2/2010)

- c. Appointment of a public housing tenant member and a regular member to the Melbourne Housing Authority (confirmation of the Mayor's appointment).

Note: Mayor Goode reappointed Melissa Keller to the public housing tenant seat and appointed Judith Doyle as a regular member (to replace Johnnie Mae Scott).

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Mrs. Hand asked if Johnnie Mae Scott resigned. Mayor Goode said no and added that she wanted to be considered. He reported that there was only one qualified applicant for the housing tenant seat (Melissa Keller) and five or six qualified applicants for Ms. Scott's seat. He interviewed all the applicants. He noted that Ms. Scott has been on the board since 1985 and since other qualified applicants were available, he felt it was time for a change.

Moved by Palmer/LaRusso to approve the Mayor's appointment of Melissa Keller and Judith Doyle. Motion carried unanimously. (12/9/2005 – 12/8/2009)

d. Appointment of two regular members to the Planning & Zoning Board.

Mr. LaRusso nominated Edward Coruzzi and stated that Mr. Coruzzi is a hard worker on this board. Moved by Hand/Goode to close the nominations. Motion carried unanimously. Moved by Goode/Hand to reappoint Edward Coruzzi. Motion carried unanimously. (12/3/2005 – 12/2/2008)

Mrs. Hand nominated Alan King. Moved by Walker/Hand to close the nominations. Motion carried unanimously. Moved by Goode/Meehan to reappoint Alan King. Motion carried unanimously. (12/3/2005 – 12/2/2008)

Mrs. Walker asked if the number of members on each board could be increased in order to appoint new people. Attorney Gougelman said yes; however, it would require a Code amendment.

Mr. Schluckebier pointed out that Council has accommodated many of our boards with a fairly innovative alternate concept. He noted that our current system allows people to be involved and stay involved.

e. Appointment of three regular members to the Zoning Board of Adjustment.

Moved by Palmer/Hand to reappoint Edward Kasold, Peter Kostrzewa and Mike Nowlin. Motion carried unanimously. (12/3/2005 – 12/2/2008)

29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 E. Palmetto Avenue, noted that during the November 8 Council meeting, she suggested a change to Council Member Grace Walker's amendment on the Zoning Code. She said the minutes do not reflect that she made this suggestion.

The City Manager reported that Senator Bill Nelson will be conducting a public meeting on November 28 at 2:00 p.m. in the Cocoa Beach Commission Chamber. A staff representative from Melbourne will attend.

Additionally, the City Manager noted that the School Board has decided to comply with the City's sign regulations with regard to their electronic signs located at the high schools.

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Attorney Gougelman credited Assistant City Attorney Suzanne Crockett for her work on this item.

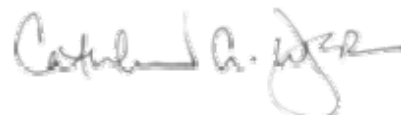
Council Member LaRusso thanked the City Manager for providing answers to annexation questions covering the past 10 years. He said that the report is clear, comprehensive and answers many questions.

Council Member Richard Contreras said that a Florida Today newspaper article indicated that FDOT denied the City's request to place a camera at the intersection of Eau Gallie Boulevard and U. S. 1. Mayor Goode said that the reporter probably assumed that based on the discussion during the Council meeting. The City Manager confirmed that staff has requested approval from FDOT and we have not yet received a response.

30. ADJOURNMENT

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

The meeting adjourned at 9:05 p.m.



City Clerk – 12/2/2005

Approved by Council: December 13, 2005