

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JANUARY 10, 2006



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 Mike Maguire, Lighthouse Assembly of God, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Richard Contreras	Council Member, District 1 (left the meeting at 7:08 p.m.)
	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 - Regular Meeting - December 13, 2005

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

6. City Manager's Report

City Manager Jack Schluckebier commented on the following:

- Item #2 in the report contains an update from the City Engineer regarding the Carver Park Community Center. This is in response to an item brought to Council's attention by Mr. Eddie Taylor. The report outlines how we intend to address the restroom facilities on a temporary basis. A long-term solution will require a substantial amount of funding. He added that he wanted to be sure that Council was okay with the direction outlined in the memo. There were no objections from Council.
- Item #6 contains information about Code Enforcement liens. The item was prompted by three ideas: 1) The City Attorney is concerned that some liens are substantially reduced if paid within a certain period of time. The attorney believes that an action by Council to rescind or reduce a lien is final and the lien can't be returned to its original amount if it

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isn't paid within a set period. 2) Some government agencies have experimented with the concept of offering a set period of time to allow people to pay a reduced amount to clear liens from the books. 3) If we are reducing or rescinding a substantial portion of a lien, Council may wish to ask for an extraordinary explanation or require an extraordinary vote. The idea that we are taking liens from large numbers to nothing calls into question the underlying process.

The City Manager asked if staff should return in the next month or two with a more detailed report along with ideas for change. By consensus, Council agreed that the item should return.

7. Public Comments

Gordon Cann, 296 Cinnamon Lake Circle, discussed his concerns with commercial development on Babcock Street proposing to add driveways onto Cinnamon Lake Circle. He explained that the residents are concerned about safety. This is their only access and during an emergency they are blocked. Mr. Cann asked that the City take the steps to complete the dead end street at the entrance to their subdivision and to remove the driveways on Cinnamon Lake Circle from any proposed plans before construction begins.

Mayor Goode said that this is not something the City Council can address at this meeting; however, the City Manager will look into the situation.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2005-137 (CU-2005-20/SP-2005-30) 4855 WICKHAM CENTER: (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to develop a four-story mini-storage building and three single-story office buildings on a 6.05±-acre parcel zoned C-C-2 (General Commercial), located east of Wickham Road, south of Mariah Drive. (Owner/Applicant - Boozer Properties, LLC) (Representative - Rochelle Lawandales) (First Reading - 12/13/05)

City Attorney Paul Gougelman read Ordinance No. 2005-137 by title. There were no disclosures by Council.

Rochelle Lawandales, representing the applicant, reported that they met with Doug Dixon and another member from the Live Oak Homeowners' Association. They believe they have satisfied most of the concerns and have reached agreement on who will maintain the landscaping prior to, during and after construction. She noted that Mr. Boozer will try to make everyone as happy as he can, recognizing that development will occur on this property.

Doug Dixon, 2779 Caitlin Court, President, Live Oak Homeowners' Association, said that the residents are not going to oppose this development; they believe it is the lesser of evils. He stressed that they do have a concern with five driveways on one entrance to a subdivision. They believe this is a safety issue, especially since they have narrow streets with no outlet. Mr. Dixon reported that the homeowners and Mr. Boozer have reached

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agreement on landscaping irrigation and maintenance issues.

Mr. Dixon concluded by asking the City to be sensitive to the residents' needs as more development begins to occur.

Moved by Meehan/Palmer for approval of Ordinance No. 2005-137. The roll call vote was:

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

Nay: LaRusso

Motion carried.

Mayor Goode announced that Council Member Contreras is not feeling well and would like to leave the meeting. Mr. Contreras would like to postpone Item #9 until the next meeting and move Item #27 to the first item under New Business. There were no objections by Council.

9. COUNCIL ACTION RE: Approval of updated Personnel Policies and Procedures. (Postponed - 12/13/05)

By consensus, Council postponed this item until the January 24 meeting.

NEW BUSINESS

At this point, Council considered Item #27. Immediately following action on Item #27, Mr. Contreras left the meeting at 7:08 p.m.

10. COUNCIL ACTION RE: Approval of acquisition of Lot 1 of Johnson & Rhodes Subdivision, located on the northwest corner of Fee Avenue and Apollo Boulevard, at a purchase price of \$200,000 and transfer of \$184,714 from Stormwater Reserve for Future Projects and an appropriation of \$15,286 from Stormwater Fund Balance to Stormwater - Land.

City Engineer Jenni Lamb briefed Council. The purchase of the land will provide stormwater benefits including the ability to provide stormwater treatment and the completion of the approved fiscal year 2006-2007 Fee Avenue culvert upgrade project. The property currently lists for \$235,000. The appraisal indicates a fee simple market value of \$200,000 and the owners have agreed to sell it to the City for this price.

Ms. Lamb added that the ditch that runs through the property will be a benefit to the City, not a hindrance.

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

11. COUNCIL ACTION RE: Emergency purchase for the installation of an eight-inch sanitary sewer sub-aqueous by-pass main at Grant Street Wastewater Treatment Plant, Project No. 33905, Young's Communication Company, Inc., Melbourne, FL - \$54,745.40.

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Ms. Lamb briefed Council. In addition to the written report, she informed Council that the Florida Department of Environmental Protection has expedited the permitting process. Installation of the line will prevent any potential discharges into Crane Creek. The expedited permitting and approval were done with the expectation that the City would make the modification immediately.

Mrs. Palmer asked what precipitated this situation. Ms. Lamb stated that the City received a warning notice in March. Staff informed FDEP about the sub-aqueous crossing study and application was made for the emergency by-pass line.

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

12. CONSENT AGENDA:

Moved by Hand/Walker for approval of the consent agenda as recommended. Motion carried unanimously.

- a. Contract approval for federal lobbyist firm, Alcalde & Fay, Ltd - \$45,000; and transfer of \$45,000 from General Fund Contingency to establish a budget.
- b. Purchase of eight vehicles, Alan Jay Chevrolet Oldsmobile, Sebring, FL - \$63,005; Garber Ford Mercury, Green Cove Springs, FL - \$47,305; and Duval Ford, Jacksonville, FL - \$48,829.
- c. Lien Rescission CE-05-054: Approval of request for lien reduction from \$21,500 to \$718.65 with the stipulation that the fine be paid in full within 30 days or the fine reverts to the original amount. (Deriff D. & Marlene M. Waite - 3314 Plummer Circle)
- d. Lien Rescission CE-05-033: Approval of request for lien reduction from \$29,750 to \$1,190.14 with the stipulation that the fine be paid in full within 30 days or the fine reverts to the original amount. (Double Quad Holdings Corp. – Elton Street, Elton Manor Condo)
- e. Lien Rescission CE-03-077: Approval of request for lien rescission in the amount of \$12,250. (Double Quad Holdings Corp. - 19 Elton Street, Elton Manor Condo)
- f. Lien Rescission CE-03-102: Approval of request for lien rescission in the amount of \$14,000. (Double Quad Holdings Corp. - 27B, 28A, 28C, 30D, 35, & 37 Elton Street, Elton Manor Condo)
- g. Resolution No. 1962: A resolution authorizing the City Manager to submit a grant application to the Department of Homeland Security for equipment to provide enhanced homeland security protection for the Melbourne Police Department.

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- h. Resolution No. 1963: A resolution adopting the name “Learning Lane” for a private street adjacent to Croton Elementary School.
- i. Resolution No. 1964: A resolution adopting the name “Twisting Branch Court” for a private street in the Hidden Oaks Condominium complex.

13. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

14. COUNCIL ACTION RE: Presentation by the Dr. Martin Luther King, Jr. Naming Opportunities Committee of proposed options to honor Dr. King.

Reverend Hartford Lee, Chairman, Dr. Martin Luther King, Jr. Naming Opportunities Committee, along with members Bob Moletteire, Walter West, James Teele, Joe McNeil, Bobby Bowen and John Stem, were present. Mayor Goode asked Chairman Lee to make a presentation to Council.

Reverend Hartford Lee reviewed the process the Committee followed. He reported that the Committee began meeting in August 2005. Public input was obtained throughout the process and, on November 1, the Committee held a public hearing. Approximately 20 people attended and nine people spoke. The Committee ranked the following four proposals for renaming to honor Dr. Martin Luther King, Jr.:

- 1. Airport Boulevard
- 2. Hibiscus Boulevard
- 3. Melbourne Auditorium
- 4. Babcock Street

Reverend Lee thanked Council for its attention and the opportunity to serve on this Committee.

Mrs. Palmer pointed out that all four options involve renaming. She asked if there were any opportunities to name something new.

Mr. Lee said the Committee discussed the “Palm Bay Beltway” but, during the process, learned that it is way off in the future.

Mrs. Hand said that the Auditorium may not be a City structure forever. She added that she would hate to see tax dollars used to provide a memorial for Dr. King in a location that may not be there in the future.

Reverend Lee replied that it was one option the Committee discussed. Mrs. Hand thanked the members of the Committee for their hard work.

Council Member Mark LaRusso expressed appreciation to the Committee for its hard work. He asked how the Committee arrived at these four recommendations.

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Mr. Lee said each Committee member was asked to provide suggestions. Additionally, staff reviewed what other cities have done. He noted that they focused on ensuring that one particular area of the City was not selected. They wanted to choose an area that is traveled by everyone in Melbourne. Regarding the Auditorium, Mr. Lee said that he has seen signs on the Florida Turnpike advertising the “gun show” at the Melbourne Auditorium. That is why the Auditorium made the list.

Mr. LaRusso asked about opportunities to name new roads. Assistant Public Works and Utilities Director Harold Nantz (who provided staff support to the Committee) explained that they reviewed plans by the Metropolitan Planning Organization and the County. The Committee felt that identified future roads are too far into the future; they wanted to do something more immediate.

Mayor Goode recommended that Council accept the Committee’s report as presented.

Moved by LaRusso/Hand to accept the report as presented. The roll call vote was:

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

Motion carried unanimously.

Mayor Goode said that the Committee’s first choice is to rename Airport Boulevard. He stated that would require an ordinance and a public hearing. He commented that several people have asked to speak at this meeting; however, public input would be at a future date. Mrs. Hand stated that she would support conducting a public hearing in one month.

Moved by Hand/LaRusso to hold a public hearing and rename Airport Boulevard Dr. Martin Luther King, Jr. Boulevard.

Mr. Schluckebier asked if it is Council’s intent for an ordinance to be prepared for first reading consideration. The Mayor replied yes.

Mr. LaRusso asked if just Airport Boulevard would be included. Mayor Goode said that is the motion. Mrs. Hand pointed out that this was the Committee’s recommendation. She said that it doesn’t matter what street is selected, there will always be objection. She recommended that Council take a stand. Mr. LaRusso said he doesn’t want to box this into just one location.

Mayor Goode said that numerous petitions have been submitted and many people will want to speak on this item. He asked Council if a special meeting should be scheduled rather than including this on a normal agenda night. Mrs. Hand replied that a special meeting would be fine.

Mrs. Palmer said that all the communications she received relate to Airport Boulevard. She stated that if Council plans to discuss any other street or building, then it needs to be advertised.

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Mayor Goode said that staff will prepare an ordinance for renaming Airport Boulevard. The item will be advertised and a public hearing will be conducted. He recommended that Council keep the item narrowed down rather than including everything.

Attorney Gougelman explained that there could not be a sudden last minute change in an ordinance without going through the advertisement and public hearing process.

Mrs. Hand pointed out that a full Council is not present at this meeting.

Moved by Hand/Meehan to postpone this item until a full Council is seated. Motion carried unanimously.

Pat Poole, 805 E. Palmetto Avenue, submitted a petition signed by 293 people opposed to the renaming of Hibiscus Boulevard and/or the Melbourne Auditorium.

15. COUNCIL ACTION RE: (Public Hearing) Proposed amendments to the CDBG Disaster Recover Initiative Grant.

Housing and Community Development Director Melinda Thomas briefed Council. This is to request Council consideration of a two-part amendment to the City's \$447,656 CDBG Disaster Recovery Initiative (DRI) Grant Agreement with the Florida Department of Community Affairs.

The purpose of the amendment is:

1. To cancel the proposed \$10,000 building renovation project that would benefit the low-income clientele served by Links of Hope, a local non-profit organization, and transfer the \$10,000 to the City's proposed Gramling Park Subdivision Drainage Project budget.
2. To establish line items of \$6,000 and \$44,000 for engineering and generator expenses, respectively, within the proposed \$50,000 DRI budget for the Fire Station #75 (University Blvd.) Generator Project.

These changes are necessary because it is unlikely that the Links of Hope \$10,000 project could be completed in a timely manner in compliance with all CDBG DRI provisions; and to satisfy DCA's requirement for an itemized budget in order to be eligible for reimbursement of engineering expenses associated with the Fire Station #75 Generator Project.

As proposed, the amendment will have no impact on the City's original CDBG DRI application score of 20 points and on its continued eligibility for the CDBG DRI funding award.

The recommendation is: 1) Delete the Lifehouse (formerly Rapha Christian) Center Links of Hope project from the DRI award and reallocate the \$10,000 to the Gramling Park

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Subdivision drainage project; 2) Separately establish line items of \$6,000 for engineering fees and \$44,000 for generator expenses in the Fire Station #75 (University Boulevard) \$50,000 DRI project budget; and 3) Authorization for the City Manager to submit the amendment and related documents to the Florida Department of Community Affairs.

There were no comments from the public.

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

16. FINAL PLAT APPROVAL (SD-2004-12) HARVARD APARTMENTS SUBDIVISION: (Public Hearing) A request for final plat approval to develop an eight-lot, six-tract, multiple-family residential and commercial development on a 49.83±-acre parcel zoned R-2 (One-, Two-, and Multiple-Family Residential) and C-1 (Neighborhood Commercial), located on the north side of Palm Bay Road, east of Dairy Road, and west of Stack Boulevard. (Owner/Applicant - Palm Bay Developers, LLC) (Representative - Clayton A. Bennett, P.E., Fleis and Bennett Engineering, Inc.) (P&Z - 12/15/05)

Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the two-sheet plan prepared by William Mott Land Surveying, Inc., of Melbourne, Florida, with a stamped and sealed date of November 28, 2005, subject to the following conditions:

- a. 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.
- b. The applicant shall provide the additional required documents, pursuant to Appendix D, Chapter 8, Section 8.5 (c) (4) prior to plat recordation.
- c. 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.
- d. 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.

Clayton Bennett, representing the applicant, noted that Council reviewed the preliminary plat about a year ago. He asked for a favorable vote.

Moved by Hand/Meehan for approval, subject to the findings and conditions. Motion carried unanimously.

17. SITE PLAN APPROVAL (SP-2005-28) MELBOURNE AVENUE CONDOMINIUMS: (Public Hearing) A request for site plan approval to develop an eight-story, 107-unit

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residential condominium at a height of 80 feet on a 1.96±-acre parcel zoned C-3 (Central Business District), located on the northwest corner of Melbourne Avenue and Melbourne Court. (Owner/Applicant - Coggeshall Hall, LLC, Inc.) (Representative - Vaheed Teimouri, Teimouri & Associated, Inc.) (P&Z - 12/01/05)

Mrs. Dittmer briefed Council. Several adjacent property owners spoke in opposition to the project at the Planning and Zoning Board meeting. The Planning and Zoning Board voted unanimously to recommend approval of the two-page plan prepared by Teimouri & Associates, with a signed and sealed date of November 3, 2005, Project Number 2005-122, and a five-page architectural submittal by Scott Architecture dated October 31, 2005, with TSPA Job Number 05006, subject to the findings listed in the P&Z memorandum and the following conditions:

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

Any substantial change to the site plan as outlined in Appendix B, Article IX, Section 6 (E), will require review and approval by either City staff, the Planning and Zoning Board, Local Planning Agency, and/or the City Council.

- b. The applicant shall participate in the funding of the Front Street sanitary sewer lift station upgrades based on the number of net new equivalent residential units on the property.
- c. The applicant shall make intersection improvements at Melbourne Avenue and Melbourne Court to refine the corner for a defined “stop” from Melbourne Court onto Melbourne Avenue. Such improvements shall include roadway, sidewalk and pedway improvements as determined by the City Engineer during the construction plan review process.
- d. The applicant shall provide for the lighting and sidewalk pavers along Melbourne Avenue and Melbourne Court, consistent with the Phase 3 Streetscape and Lighting project for the Melbourne Downtown Community Redevelopment Agency. These improvements will be coordinated during the construction plan review process.
- e. The building shall be substantially consistent with the rendering submitted by the applicant.
- f. The applicant must obtain Architectural Review Board approval prior to any site development.

There were no disclosures by Council. Vaheed Teimouri, representing the applicant, was present and available for questions. He agreed with the conditions recommended by staff and the Planning and Zoning Board.

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Moved by Meehan/Hand for approval subject to the findings and conditions outlined.
Motion carried unanimously.

18. ORDINANCE NO. 2006-01 (AR-2005-186) WICKHAM CORPORATE, LLC: (First Reading/Public Hearing) An ordinance providing for annexation of a 0.583-acre parcel and the adjacent 100-foot wide right-of-way, located on the north side of Parkway Drive, west of Wickham Road. (Owner/Applicant - Wickham Corporate, LLC) (Representative - Philip Nohrr, Esq.) (P&Z Board - 12/01/05)

Attorney Gougelman read Ordinance No. 2006-01 by title. Mrs. Dittmer briefed Council. The property is a very small strip of land located within an enclave and was probably not previously annexed due to an error in a legal description. The Planning and Zoning Board voted unanimously to recommend approval of the request.

There were no comments from the public.

Moved by Palmer/LaRusso for approval of Ordinance No. 2006-01. Motion carried unanimously.

19. ORDINANCE NO. 2006-02 (Z-2005-1044) AND SITE PLAN APPROVAL (SP-2005-27) RIVER BREEZE CONDOMINIUMS: (First Reading/Public Hearing) An ordinance changing the zoning from R-1AA (Single-Family Residential) to R-2 (8) (One-, Two-, and Multiple-Family Residential with a cap of eight units per acre) and site plan approval to develop an 18-unit, single-family, detached-style condominium project on 2.41± acres, located on the east side of U.S. 1, south of Post Road. (Owner/Applicant - Q Closing LLC) (Representative - Jack Spira, Esq.) (P&Z Board - 12/01/05)

The City Attorney read the ordinance by title and Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of this request. There were no disclosures by Council.

Mr. LaRusso asked if this will be gated with a private road. Mrs. Dittmer replied that it will be a private drive; the applicant hasn't indicated whether it will be gated.

Mayor Goode opened the public hearing.

Jack Spira, attorney representing the applicant, was present.

Mrs. Meehan asked the selling price of the units. Attorney Spira replied that they have not set a firm price. He added that the development will be gated with a private road.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-02. Motion carried unanimously.

Moved by Hand/Walker for approval of the site plan, subject to the findings and conditions. Motion carried unanimously.

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20. ORDINANCE NO. 2006-03 (CU-2005-21/SP-2005-32) MARRIOTT RESIDENCE INN: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to develop a 134-room hotel at a height of 65 feet on a 2.72±-acre leased portion of a parking lot zoned C-P (Commercial Parkway), located on the west side of Babcock Street, north of Hibiscus Boulevard. (Owner - Florida Marketplace of Brevard) (Applicant - Melbourne FI, LLC) (Representative - C.J. Bock, P.E., Kimley Horn Associates, Inc.) (P&Z Board - 12/15/05)

The City Attorney read Ordinance no. 2006-03 by its title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of this request.

Mrs. Palmer asked what the distance would be between the development and Babcock Street. Mrs. Dittmer replied that it would be at least 50' and perhaps double that.

Mrs. Hand asked if the hospital is still using the Florida MarketPlace for parking. Mrs. Dittmer said she believes so; however, that issue would be a private matter between Holmes Regional Medical Center and Marriott.

Mrs. Palmer asked if these would be long stay suites. Mrs. Dittmer said that the development will be considered a hotel, not an apartment unit. They will have a kitchenette, similar to the Suburban Lodge located on Airport Boulevard.

There were no disclosures by Council.

Richard Torpy, attorney representing the applicant, stated that the intended stay would be a week up to a month. He added that these will not be apartments.

Mrs. Hand asked if the hospital is aware of this. Mr. Torpy replied that he does not know. He added that this would be an issue between the owner of the shopping center and the hospital.

Mr. Torpy agreed with the conditions outlined in the agenda report.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-03. Motion carried unanimously.

21. ORDINANCE NO. 2006-04 (A&V NO. 274): (First Reading/Public Hearing) An ordinance vacating a 20-foot wide public right-of-way known as Silver Palm Terrace and authorization for the City Manager to execute a binding lot agreement. (Applicant - King Investments, LLC)

Attorney Gougelman read Ordinance No. 2006-04 by its title. Mrs. Lamb briefed Council. Mrs. Hand disclosed that she was in the office a couple of months ago and staff showed her the property. Mrs. Walker said that Dr. Bryan discussed this with her a long time ago and asked what could be done to abandon this property. She advised him that the owner would need to submit an application/request.

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Daniel King, applicant and property owner, said that the right-of-way was previously used to access homes on either side. The homes have now been removed.

Mrs. Palmer asked about the future plans. Mr. King said he is doing this for investment purposes and possible expansion of his medical practice in the future.

Moved by Meehan/Hand for approval of Ordinance No. 2006-04 and authorization for the City Manager to execute the binding lot agreement. Motion carried unanimously.

22. ORDINANCE NO. 2006-05 (A&V NO. 286): (First Reading/Public Hearing) An ordinance vacating the five-foot wide public utility and drainage easement along the north lot line, except the easterly and westerly 10 feet of 1050 North Wickham Road and the five-foot wide public utility and drainage easement along the south lot line, except the easterly and westerly 10 feet of 1070 North Wickham Road. (Applicant - Melbourne Equities, LLC)

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

Moved by Walker/Meehan for approval of Ordinance No. 2006-05. Motion carried unanimously.

23. ORDINANCE NO. 2006-06: (First Reading/Public Hearing) An ordinance amending Chapter 28, Streets, Sidewalks and Other Public Places, by changing the name of Ballard Drive between Laurie Street and U.S. Highway 1 to North Babcock Street.

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

Moved by LaRusso/Walker for approval of Ordinance No. 2006-06. Motion carried unanimously.

24. ORDINANCE NO. 2006-07 FIREFIGHTERS' PENSION PLAN: (First Reading) An ordinance amending Chapter 23, Retirement and Pensions, Article V, Firefighters' Pension Plan, to incorporate applicable provisions of federal law and state statutes.

Attorney Gougelman read Ordinance No. 2006-07 by title. Deputy City Manager Amy Elliott provided a brief overview.

Moved by Hand/LaRusso for approval of Ordinance No. 2006-07. Motion carried unanimously.

25. COUNCIL DISCUSSION RE: City Hall expansion/renovation options.

Mrs. Palmer said that Council Member Contreras had asked for this agenda item.

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Moved by Palmer/Hand to postpone this item until the January 24 meeting. Motion carried unanimously.

26. COUNCIL DISCUSSION RE: Site plan notification policy.

From the agenda report: City Council requested that a discussion item be placed on a future City Council agenda regarding the site plan notification requirements. Included in the package is the previous memo discussing the issues. If City Council desires to make any changes, City staff would recommend implementing a policy to notify adjacent property owners about formal site plan requests only under certain circumstances where other City action has been involved.

Mrs. Dittmer reviewed the agenda report. She explained that currently we notify property owners within 500' of a zoning or conditional use request. This is done because someone is requesting a change in use of their land. A site plan does not involve a change in use. It is simply a matter of whether the plan meets City Code. That is why notifications are not done on site plans. The public does not often understand that the use is not a topic if there is no request to change the use.

Mr. Schluckebier said that this issue came up as part of the discussion on the cement plant. That company had gotten itself sideways with Code Enforcement and there were many complaints from the neighbors. There may be merit to the idea that when a property is being modified that is or has been before another quasi-judicial board, the neighbors be notified.

Continuing, the City Manager said that if the neighbors are invited to provide input when there is no change in use or zoning, they will expect Council to mind their input. And, Council will have a limited ability to do that if the plan meets City Code.

Mrs. Palmer said she understands this; however, when a property has a huge change in its site plan – the Vues (Hynes property) for example – then the surrounding property owners should be notified. She added that she would like this option as opposed to notifying surrounding residents about all site plans.

Mrs. Dittmer explained that when a site plan is tied to a conditional use or zoning ordinance, as in the case of the Vues, the surrounding property owners are notified. Additionally, the new Zoning Code lists the thresholds that describe at what point a site plan would return to Council if it has been modified.

Mrs. Palmer said these are the instances she is talking about. Mr. Schluckebier said if Council concurs, staff understands the direction on the site plan notification policy. There were no objections by Council.

27. COUNCIL ACTION RE: A request to rescind previous Council action – Ordinance No. 2005-138 (CU-2005-11/SP-2005-20) Harbor City Mixed Use.

This item was considered as the first item under New Business on the agenda.

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From the agenda report: In accordance with the procedural review by City Attorney Paul Gougelman and the request from the applicant, this item has been scheduled for Council consideration concerning possible rescission of the previous decision for denial. As Council previously took decisive action, there is no staff recommendation concerning further disposition of this matter. It is entirely a policy decision for Council as to whether there may be benefit to hearing from the new developer.

Mayor Goode asked for a representative from Homes by Towne to provide a brief synopsis.

Richard Hynes, 2200 Front Street, introduced Kohn Bennett from Towne Homes and Ken Ward from Towne Realty.

Mr. Hynes explained that Homes by Towne and Hynes have formed a partnership or joint venture. They would like for the item to be reheard so they can present information that would clarify and eradicate any misunderstanding. Regarding the previous discussion about the back center, Mr. Hynes stated that it will be located in Downtown Melbourne; however, the question is location. Traffic has become a big concern and that is why they proposed moving the back center elsewhere, which would result in a 70% reduction in traffic.

Kohn Bennett, General Manager for Towne Realty and Vice President of Homes by Towne, provided a history of their company. He noted that they have become specialists in redevelopment. They would like to present this item to clear misunderstandings. Mr. Bennett noted the following: Hynes and Towne are partners in this development; they will provide a plan showing the drainage; the City has commissioned a drainage study and they (Towne/Hynes) want to be involved in the cure of any problems; they are not looking to limit or change public access; access will be in perpetuity; and they are ready to stand with City representatives before the Florida Department of Transportation to work out the right in/right out access issues.

Mayor and Council made the following disclosures:

Mayor Goode said he talked to Mr. Ward briefly about this item yesterday.

Mrs. Hand said she spoke with Dr. Hynes yesterday about questions she had about the back center and the misunderstanding she had about the Strawberry Mansion. She said that Dr. Hynes assured her that if he acquired the Strawberry Mansion property, the structure would be moved rather than demolished. He also explained the partnership with Towne Realty. Mrs. Hand said these are the reasons she would like to hear the presentation.

Mrs. Meehan said she spoke with Ken Ward a couple of times about the item returning and she also spoke with Dr. Hynes.

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Mr. LaRusso stated that he met with Kohn Bennett and Ken Ward on December 18 in Attorney Gougelman's office to discuss his (LaRusso's) challenges with this project.

Mr. Contreras noted that he also spoke with Mr. Ward concerning the opportunity to have this item heard.

Mrs. Palmer said she received messages from all parties; however, she did not speak to anyone. Additionally, she received an e-mail from Robert Hynes that was very explanatory on why the item needed to return. Mrs. Palmer asked if the site plan has changed.

Mr. Bennett stated that no formal changes have been filed with the City at this point.

Mr. LaRusso said that traffic, drainage and parking on New Haven Avenue are deal breakers in his mind. Also, they need to discuss height and density. He asked if these issues will be addressed if the item returns.

Mr. Bennett replied that they are prepared to talk about every issue. Mayor Goode said that Council is not here to negotiate at this meeting. Rather, Council needs to decide whether to hear this item at a future date. Mr. LaRusso replied that he has specific questions and these answers will help him to decide whether to vote for hearing this item at a future meeting.

In response to Mrs. Walker, Mr. Hynes briefly discussed the future plans for the back center.

Mayor Goode noted that several people have asked to speak on this item. It is not a public hearing, Council is deciding whether to re-hear this item at a future meeting.

Moved by Meehan/Hand to not open this item for public hearing.

Mrs. Palmer asked if the people who have signed up wish to speak on whether the item is reheard. Mayor Goode said that is a decision that Council should make.

Pat Poole, 805 East Palmetto Avenue, submitted a letter from the women graduates of old Melbourne High.

Mayor Goode read the letter, signed by 18 people, thanking Council for denying the Causeway Center/Vues site plan.

Moved by Hand/Meehan to rescind the Council's decision to deny approval of Ordinance No. 2005-138 and to rescind the Council's decision by which Ordinance No. 2005-138 failed on adoption. The roll call vote was:

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

Nay: Palmer

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Motion carried.

Council concurred with Mr. Bennett's request for this item to return on the first agenda in February (February 14).

28. COUNCIL ACTION RE: Approval of contract between the City of Melbourne and the International Association of Firefighters.

Mrs. Elliott reviewed the proposed contract. The proposed contract provides for 3% across the board pay adjustments effective October 1 of each year and step increases of 2.5% on the anniversary date of rank this year, and on October 1 in subsequent years, for a total annual salary increase of 5.5% each year of the contract. As a matter of good faith bargaining, the City has already paid step increases beginning October 1 consistent with this language. Additionally, the contract provides for correction of the step pay plan so there is a 2.5% difference between each step. This is consistent with the police step pay plan.

The contract also provides for a step advancement plan for Solo Paramedics based on years of experience as a Solo Paramedic, which is an increase from the current Solo Paramedic incentive; an increase to the book allowance from \$100 to \$150 per course for those employees receiving a tuition grant; an increase from \$50 to \$100 per month for preceptors and inclusion of fire instructors in this incentive; an increase in the City's contribution to the firefighters' health insurance plan by 2.8% effective October 1, 2005 through March 31, 2006; for the firefighters to return to the City's health insurance plan on April 1, 2006; an increase in the vacation accrual by one shift for the first two tiers of the vacation schedule; minimum manning per station; and continued negotiations of pension benefits pending receipt of actuarial cost data. These enhanced benefits and salary adjustments provide a lucrative contract advancing our firefighters to among the best paid in the County.

The recommendation is for Council to approve the proposed collective bargaining agreement with the International Association of Firefighters Local 1951 for a three year period, October 1, 2005 to September 30, 2008, and authorize the City Manager to execute the contract with the IAFF which includes those items detailed in the Memorandum of Agreement.

Moved by LaRusso/Palmer for approval as outlined. The roll call vote was:

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

Motion carried unanimously.

29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

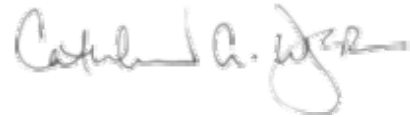
Vice Mayor Loretta Hand asked that Council be asked in the future if it is convenient to conduct a special meeting at 5:30 p.m. prior to a 6:30 p.m. regular meeting.

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30. ADJOURNMENT

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

The meeting adjourned at 8:23 p.m.



City Clerk – 1/19/2006

Approved by Council: _____