

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 13, 2007



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. Dr. H. A. Dean, Pastor, Riverside Baptist Church, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Mark LaRusso	Vice Mayor, District 2
	Richard Contreras	Council Member, District 1
	Kathy Meehan	Council Member, District 3
	John Thomas	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Joanne Corby	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Manager
	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

Mayor Goode announced that the Beautification and Environmental Advisory Committee “We Noticed” award has been presented to Dr. Kevin Brackett for the Animal Emergency and Critical Care Center of Brevard, located at 2281 West Eau Gallie Boulevard.

City Manager Jack Schluckebier presented the 2006 Crystal Award from the Florida Government Communicators Association for second place in the Internet web site category to Public Information Officer Mike Moore and Heather Hackett, City Manager’s Office. The City Manager commended both for designing and maintaining the City’s excellent web site.

Council Member Richard Contreras (assistant den leader) recognized Cub Scout Pack #726 from Roy Allen Elementary School. The pack den leader is Renee Lewars. Mr. Contreras informed the audience that the scouts are attending the Council meeting to learn about local government.

Mayor Goode presented a two-year pin to Council Member Kathy Meehan and Vice Mayor Mark LaRusso. The Vice Mayor presented Mayor Goode with a two-year pin.

5. Approval of Minutes – January 9, 2007

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

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6. City Manager's Report

City Manager Jack Schluckebier reported on the following:

- Regarding the temporary closure of Dairy Road, between U. S. 192 and Hibiscus Boulevard, the West Melbourne City Manager has indicated that they plan to excavate later this week to determine the cause of the cave in. That roadway is located in West Melbourne and West Melbourne staff understands it is their responsibility. Melbourne has been providing assistance and has offered expertise, the loan of equipment and assistance in re-routing traffic.
- Lt. Renee Purden has been promoted to the rank of Commander in the Melbourne Police Department. She is the first female Commander in the Department's history; this is a significant event in the Police Department.
- The neighborhood meeting has been conducted regarding the proposal for the Police Athletic League to lease the Carver Community Center for its operations. That meeting went very well and the lease agreement will return to Council for action.
- Planner Wade Morefield has resigned to take the position of Director in the newly formed Planning Department of the Canaveral Port Authority. Staff is excited for Mr. Morefield but sorry to see him go.
- The Brevard County Board of County Commissioners will consider the issue of affordable and workforce housing on its February 20 agenda. They have an ordinance that establishes a number of incentives. Staff will circulate what the County is working on. Council may wish to spend more time on this issue at a future workshop meeting.
- The City has successfully finished bargaining with the Laborers' International Union. We believe we will have a three-year contract, which will be presented to Council.
- The Police Benevolent Association conducted an election and approved the items concerning wage modification and health insurance. This will return to Council for approval.

Vice Mayor LaRusso referenced the School Board property located on Pineapple Avenue. He reported that the School Board discussed this building at its meeting today and City staff should be receiving a positive communication from the School Board about this property.

Council Member Joanne Corby referenced the Gleason property. She asked the City Manager if he wished to elaborate on why this item does not appear on the agenda.

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The City Manager replied that there were a number of questions raised by Council at the December meeting and he did not feel the item should return with less than complete information.

Mrs. Corby said that on December 19 Council postponed the Gleason property item until this meeting; however, the item has been removed from the February 13 agenda. She said she would like to know why.

Mr. Schluckebier said that staff wasn't prepared to make a recommendation to move forward. Mrs. Corby said that staff was prepared to move forward on December 19. In response to Mrs. Corby, the City Manager said that staff is still interested in this property; yes, it is legal for us to purchase the property; and he disagrees with Scott Ellis that it is unlawful or unethical for the City to purchase that property in the manner that had been outlined.

Mrs. Corby asked Attorney Gougelman if it is legal for the City to purchase the Gleason property as it was presented to Council at the December 19 meeting. Attorney Gougelman said the answer is a "conditional yes." He added that when this item returns to Council, staff will outline the case law and the negatives and positives in moving forward with the use of water and sewer monies.

Discussion continued. The Mayor and the City Manager confirmed for Mrs. Corby that this item is on a postponed list and will return on a future City Council agenda.

7. Public Comments

None.

8. COUNCIL DISCUSSION RE: Proposal to settle controversy regarding Brookfield Village Adult Congregate Living Facility project. (Postponed - 1/23/07)

Mayor Goode referenced the request from Craig Hessee asking that this item remain postponed until the February 27 meeting. Without objection, the item was postponed.

9. ORDINANCE NO. 2007-02 (A&V NO. 277): (Second Reading/Public Hearing) An ordinance vacating a utility easement located at 705 South Harbor City Boulevard. (Applicant - Melbourne Realty Investments, LLC) (First Reading - 1/23/07)

City Attorney Paul Gougelman read Ordinance No. 2007-02 by title. There were no Council disclosures and no public comments.

Moved by Palmer/Meehan for approval of Ordinance No. 2007-02. The roll call vote was:

Aye: Contreras, Meehan, Thomas, Palmer, Corby, LaRusso and Goode.

Motion carried unanimously.

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NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for Gramling Park road and drainage improvements, Project No. 04106, APAC Southeast, Inc., Melbourne, FL - \$579,785.35; and transfers of \$26,825 from CDBG Miscellaneous Savings (00199); \$50,000 from BNDC Youth Center Project (00606); \$46,248 from FY 2006 Resurfacing (63299); \$50,000 from Transportation Construction Miscellaneous (60099); and \$43,762 from Grant Street Community Center Project (00505) to supplement this project budget.

City Engineer Jenni Lamb briefed Council.

Council Member John Thomas asked about the various transfers being made to supplement this project's budget. Mrs. Lamb explained that there are three roadways involved in the resurfacing money. Two are included on this year's list and one will appear on next year's list.

Housing and Community Development Director Melinda Thomas said the BNDC Youth Center money was a grant award Council approved in the Booker T. Washington Neighborhood. The Brevard Neighborhood Development Coalition reported that, as a result of a successful fundraising effort, they won't be needing the City's funds. Mrs. Thomas elaborated on the remaining transfers.

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

11. COUNCIL ACTION RE: Contract award for the construction of the Crane Field reclaimed water irrigation main, Project No. 32905, Young's Communication Co., Melbourne, FL - \$174,022.28 and transfer of \$29,724 from Water & Sewer Capital Improvements Miscellaneous Projects (No. 30099) to this project budget.

Mrs. Lamb briefed Council.

Council Member Cheryl Palmer referenced the requirement in the City's Consumptive Use Permit to reuse a minimum of 30% of the wastewater treated at City facilities.

Mrs. Lamb said that the City is very close to meeting that number. Staff has been calculating infiltration, which makes it difficult to determine how much water is actually being treated. This project will help us stay on top of that requirement.

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

12. COUNCIL ACTION RE: Contract award for replacement of an emergency generator and automatic transfer switch at Fire Station #75, Project No. 00406, East Coast Power, Inc., Titusville, FL - \$65,985 and transfer of \$24,784 from the Fire Stations Generator Replacements Project (No. 10606) into this project budget.

Mrs. Lamb briefed Council.

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Moved by Palmer/Corby for approval as recommended. Motion carried unanimously.

13. COUNCIL ACTION RE: Approval of the purchase of two residential properties at 2936 and 2924 Zephyr Lane for use as a proposed stormwater treatment facility in the amount of \$200,000 (\$141,000 and \$59,000 respectively) and an appropriation in the amount of \$190,000 from Stormwater Fund Prior Years Surplus to establish a project budget and supplement funding.

Mayor Goode referenced the memorandum from staff requesting this item be delayed to allow time for further research. Without objection, the item was delayed.

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

14. COUNCIL ACTION RE: Purchase of DuMor park benches, receptacles, and bike bollards, Rep Services, Inc., Longwood, FL - \$98,084.84.

Mrs. Dittmer outlined the purchase. The following is an excerpt from the agenda report: This is a request to approve CRA funding in the amount of \$98,084.84 for the purchase of site furnishings to be installed on New Haven Avenue and Front Street Park. The project budget was established in 2005 to proceed with the project.

The site furnishings will include, benches, trash receptacles and bike racks manufactured by DuMor, Inc. The Melbourne Main Street Design Committee and the Melbourne Downtown CRA Advisory Committee were involved in the selection process for the proposed furnishings. The Advisory Committee voted unanimously to recommend that Council proceed with the purchase of the furnishings at its January 5, 2007 meeting.

This item also requires City Council approval; therefore, it has been included again on the consent agenda.

Mrs. Dittmer confirmed for Council Member Meehan that there is at least a five year warranty on the products. Additionally, the City checked with other cities that are using the benches. Jacksonville, which is a coastal city, has been using the DuMor products and has reported that they are holding up well.

Mr. LaRusso inquired about the color. Mrs. Dittmer said they will be dark green to match the lamp posts. This will become the theme color throughout Downtown Melbourne.

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

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

15. CONSENT AGENDA:

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Council Member Corby asked to remove Item “e” from the consent agenda.

Moved by Meehan/Thomas for approval of the consent agenda, with the exception of Item “e.” Motion carried unanimously.

- a. Amendment to Purchase Order No. 07000761-00 to upgrade the valve actuators for the Liquid Oxygen System at the John A. Buckley Surface Water Treatment Plant, Phase 2 Improvements, Project No. 30102, Chart, Inc., Plaistow, NH - \$17,725.
- b. Approval of agreements with the Florida Department of Transportation for the City of Melbourne’s subordination of stormwater maintenance agreements, lift station maintenance agreement, and assessment agreement for Lot 4, NASA Corporation Centre, Phase 1, located on the south side of NASA Boulevard near Atlantis Road.
- c. Approval of a right-of-way use agreement between the City of Melbourne and Barbara L. Gunter to allow construction of a fence in the rights-of-way of two unimproved alleys located at 1706 Fletcher Street.
- d. Amendment to the agreement between the City of Melbourne and Harris Sanitation to provide for the institution of a pilot program for automated garbage cart collection in the Sanctuary Subdivision.

Note: See next agenda item for approval of Item “e.”

- e. Approval of an agreement between James L. Reinman and the City of Melbourne to provide legal services as a consulting attorney on a case-by-case basis and authorization for the City Manager to execute the agreement.
- f. Supplement No. 61.06B to the Continuing Planning Consultant’s Contract to complete activities related to the submittal of the Evaluation and Appraisal Report for transmittal to the Department of Community Affairs, Land Design Innovations, Inc., Winter Park, FL - \$48,260 plus reimbursable expenses.
- g. Purchase of DuMor park benches, receptacles, and bike bollards, Rep Services, Inc., Longwood, FL - \$98,084.84.
- h. Purchase of 143 Glock pistols, 143 Glock tactical lights, 143 Safariland holsters, and ammunition, B&H Gun Rack, Inc., Merritt Island, FL - \$67,839.20; Law Enforcement Supply Co., Inc., Panama City, FL - \$15,036.45; and Gulf States Distributors, Inc., Montgomery, AL - \$5,700.
- i. Purchase of seven vehicles and equipment, Highland Turf & Tractor, Melbourne, FL - \$84,253.99; Nortax SE, Tampa, FL - \$36,352; American Signal Company, Atlanta, GA - \$13,100.

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- j. Approval of a series of adjustments to the 2004-2005, 2005-2006, and 2006-2007 SHIP Program budgets and related revisions to the 2004-2007 SHIP Plan Housing Delivery Goals charts to budget recaptured funds, meet expenditure deadlines, and meet statutory requirements.
- k. Resolution No. 2022: A resolution authorizing the City Manager to submit a grant application to the State of Florida Victims of Crime Act Program for FY 2007-2008 grant funding of \$34,177 with local matching funds of \$8,544 in order to continue the Victim Services Program by funding the victim advocate position for the Melbourne Police Department for a total program cost of \$42,721.
- l. Lien Rescission CE-02-004: Approval of request for a lien reduction from \$8,006 to \$0. (Willie Sims Estate - 1115 Coleman Street)

16. ITEMS REMOVED FROM THE CONSENT AGENDA

- e. Approval of an agreement between James L. Reinman and the City of Melbourne to provide legal services as a consulting attorney on a case-by-case basis and authorization for the City Manager to execute the agreement.

Mrs. Corby asked about the legal services provided by Mr. Reinman. Attorney Gougelman said he provides mixed services. Mr. Reinman was the City Attorney for 17 years; therefore, he has good institutional and historical knowledge about the City. He is used for overflow work from the City Attorney's Office. Additionally, one of his partners is used to defend the City in zoning decisions.

Continuing, Mr. Gougelman said that Mr. Reinman has extended a great billing rate to the City over the years. He has billed at \$105 per hour for years and this contract reflects a modest increase in that rate.

Mrs. Corby asked if this contract is an attempt to replace an Assistant City Attorney and Mr. Gougelman replied no. Attorney Gougelman elaborated on the in house activities of the City Attorney's Office.

Mrs. Corby asked if Mr. Reinman specializes in human resource matters. Mr. Gougelman said he has provided some services for the City; however, he is not a labor attorney. He pointed out the item later on this agenda, which provides for a labor attorney.

Following a brief discussion, Attorney Gougelman noted that the practice of law has become sophisticated. That is why the City uses specialized attorneys. He confirmed that it is not the City's intent to use Mr. Reinman as a labor attorney.

In response to the Mayor, Attorney Gougelman said we are hiring Jim Reinman. He added that it is his belief that hiring a law firm is not the way to go. We want to see the same person representing the City and assisting with cases. He clarified that when we contract with a particular attorney, we authorize him/her to draw on talent in the firm.

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Moved by Meehan/Corby for approval of Item “e” as recommended. Motion carried unanimously.

17. COUNCIL ACTION RE: (Public Hearings) Hearings to consider requests by Valeria Thompson for lien rescission for two properties located on Dove Street. (Hearings approved by Council - 1/09/07)
- a. Lien Rescission CE-01-012: A request for lien rescission from \$8,006 to \$0. (Valeria Thompson - Vacant lot on Dove Street)
 - b. Lien Rescission CE-01-013: A request for lien rescission from \$14,306 to \$0. (Valeria Thompson - 1105 Dove Street)

Code Enforcement Administrator Dan Porsi and Code Board Chairman Bennie Hopkins were present.

Valeria Thompson, property owner, stated that she has complied and the property has been cleared and cleaned. She reported that over the years she has cleaned the property only to be cited for another violation not found the first time. She informed Council that she was out of the country for several months while her son was being held hostage in Africa.

In response to Mrs. Corby, Ms. Thompson said that she traveled back and forth from Africa. Each time she returned and cut the grass. One time the entire neighborhood helped clean up the yard.

The Mayor asked how the properties reached \$23,000 in lot clearing. Dan Porsi explained that the lot clearing case went on for several years with a fine running at \$100 per day until compliance was reached. The other case was for vehicles in disrepair and unlicensed on the property.

Mrs. Corby asked the timeframe. Mr. Porsi said that this started in 2001. Mr. Bennie Hopkins informed Council that he was not present at the Code Board meeting when the board decided to recommend that the liens not be rescinded.

Mr. Thomas asked if the fines accrued over consecutive days or if they were broken up over multiple times. Mr. Porsi said they were consecutive days from February 2001. In October 2002 she requested rescission; however, the properties were still not in compliance. She was advised to return when the properties were in full compliance. Ms. Thompson returned to the Code Board in November 2006 and was again advised that the unlicensed vehicle on the site needed to be removed. She returned to the December 2006 Code Board meeting and the property was found in compliance.

Mr. LaRusso asked who chaired the Code Board meeting when the lien rescissions were considered. Mr. Hopkins replied that Vice Chairman James Teele chaired the meeting.

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Mrs. Palmer asked if the fines stopped each time when she returned home and cut the grass. Mr. Porsi said no. He added that she may have cut the grass; however, she did not call for reinspection. He explained that any growth over 12 inches in height is considered in violation.

Mrs. Palmer said that this is the second or third person who has indicated that they don't understand the Code process. She asked if any changes have been made to ensure that people understand they need to contact Code Enforcement in order to stop the daily fine.

Mr. Porsi replied that staff personally discusses this with the property owner on site and a certified follow-up letter is mailed indicating that Code Compliance must be contacted when the property is in compliance.

Mrs. Palmer said she remembers complaining that the Causeway Center property had weed growth of more than two feet in height, yet she doesn't recall that owner receiving fines. She said that she feels badly when someone who may have extenuating circumstances is fined at \$100 per day, but a highly visible property has no fine levied.

Mr. Porsi explained that Mrs. Thompson was not represented at Code Board meetings. The City sent numerous letters that were returned unclaimed and the property was posted. At the last meeting, she said she thought she was in compliance. He added that the City costs involved in the first case are \$391.97 and the costs on the second case are \$497.91.

Mr. LaRusso asked if there was any consideration given by the Code Board to reduce the liens.

Code Board Vice Chairman James Teele replied that Case CE-01-012 was not in compliance so the board could not consider that request. Mr. Porsi clarified that the property was in compliance at the December 2006 meeting.

Mr. LaRusso asked again if there was any discussion on reducing the liens. Mr. Porsi said that the board considered the testimony of the Code Enforcement Officer, the number of years the property remained in non-compliance, and decided not to reduce.

Mr. Thomas said that the violation began in 2001 and the property came into compliance in December 2006. Without considering the two or three months spent outside the country, he asked Ms. Thompson to explain what precluded her from taking care of the property.

Ms. Thompson said she won't try to explain. The Code Officer knew exactly when her yard was mowed; the entire community came out and helped with that. If her lawnmower was not working, he also knew that. She said she tried to work with the Code Officer. Additionally, she elaborated on the horse trailer that was parked on the property.

Moved by Palmer/Corby to reduce Code Enforcement Lien CE-01-012 to \$391.97 to cover City costs. The roll call vote was:

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Aye: Palmer, Corby, LaRusso and Goode

Nay: Contreras, Meehan and Thomas

Motion carried.

Moved by Palmer/Corby to reduce Code Enforcement Lien CE-01-013 to \$497.91 to cover City costs. The roll call vote was:

Aye: Palmer, Corby, LaRusso and Goode

Nay: Contreras, Meehan and Thomas

Motion carried.

Mrs. Meehan stated that she voted nay because of the amount of time it took for the property to come into compliance.

18. COUNCIL ACTION RE: Approval of a change and continuation of service agreement between Andrew Hament and the City of Melbourne to provide legal services as a consulting attorney for labor-related issues and authorization for the City Manager to execute the agreement.

From the agenda report: Andy Hament has worked with the City as a consulting attorney for labor-related matters, including Public Employee Relations Commission issues, Equal Employment Opportunity and age or sexual discrimination issues, union negotiations, consultation with the Personnel Director on routine matters and counsel on selected and specialized labor litigation.

This area of law has become increasingly specialized over the years. The amount of exposure that the City has does not justify hiring a full-time labor attorney, but the specialization required does justify obtaining representation from someone with significant labor experience.

The agenda package contains a proposed contract prepared by the City Attorney with Mr. Hament. Mr. Hament currently works with the City, but his contract authorization is expiring. The proposed contract runs from January 1, 2007 until September 30, 2012. The proposed compensation rate represents no change in his existing rate of \$175 per hour for him and other partners of his firm and \$150 per hour for associates of his firm. Paralegals will continue to be compensated at a rate of \$65 per hour.

The contract will receive an adjustment in October, and thereafter his rate will be increased by 5% effective October 1 of each year of the contract. Delaying any adjustments until October 1 of each year will allow the City to plan for adjustments as a part of the budget process. Mr. Hament will not be charging the City for charges such as

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secretarial time, photographic copies or computer research time. He will be compensated for long distance phone calls at cost.

Moved by Goode/Meehan for approval of the contract, as outlined.

Mr. LaRusso said that he asked for this item to be placed on the regular agenda for discussion. He explained that from his perspective, the City had some bad results on the last negotiations with the Police Benevolent Association. Some Council Members were thrown into the firestorm and he believes that Mr. Hament was very much a part of that.

Mr. LaRusso's motion to amend the contract by reducing the term to two years and removing Mr. Hament from labor negotiations and the negotiating table did not receive a second.

The Mayor asked why we would hire Mr. Hament if we weren't willing to use him during union negotiations. Mr. LaRusso said he does not wish to place the City in a quagmire by removing him totally. He has done some good things for the City and he would like to solicit for a labor negotiations attorney.

Mrs. Corby pointed out that the City is the client and she believes that Mr. Hament would want to provide the best services for his client. The direction is driven by the City Manager, City Attorney and the Human Resources Director. She added that the services the City received were based on a combination of things, not just the direction of one attorney.

Mr. LaRusso replied that attorneys are hired to give clear and sound advice in the process – it's not all on the City.

Mayor Goode said that he believes Mr. Hament has done a good job. The City Council provided direction and Mr. Hament and staff did a good job. The Mayor added that he doesn't support a five year contract, he would prefer three years.

The maker/seconder agreed to reduce the term of the contract to three years.

Attorney Gougelman confirmed for Mrs. Corby that the contract contains a termination clause.

Mrs. Palmer asked if the three year timeframe would end at a crucial time during any of our negotiations. Attorney Gougelman stated that under the code of ethics, Mr. Hament would not leave the City in a lurch if the parties decided to part ways.

Mr. Schluckebier referenced the cycle of our union negotiations and noted that a three year contract would not end at a crucial time.

Mrs. Palmer said that as a Council Member she takes personal responsibility for the direction given to Mr. Hament. She said she believes that he followed the direction Council as a whole, perhaps not Mr. LaRusso, laid out for Mr. Hament.

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The question was called on approval of the contract, as amended. Motion carried.
Council Member Contreras and Vice Mayor LaRusso voted nay.

19. FINAL PLAT APPROVAL (SD-2005-03) THISTLE CREEK SUBDIVISION (FKA 3RD ADDITION TO CROWN HEIGHTS): (Public Hearing) A request for final plat approval to allow development of a residential subdivision with 16 single-family lots at 4.6 units per acre on two parcels consisting of 3.47± acres zoned PUD (6) (Planned Unit Development with a cap of six units per acre), located on the south side of Pirate Lane, west of Lipscomb Street and east of Babcock Street. (Owner/Applicant - Eagle Lake Development Company) (Representatives - David Evans/Jeremy Sadoff) (P&Z Board - 1/18/07)

Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the final plat as depicted on a single-sheet plan prepared by William Mott Land Surveying of Melbourne, Florida, with a signed and sealed date of January 10, 2006, 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 recordation of the final plat.
- 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 and no comments during the public hearing.

Moved by Meehan/LaRusso for approval of the final plat subject to the findings and conditions outlined in the agenda report. Motion carried unanimously.

Recessed: 7:58 p.m.
Reconvened: 8:04 p.m.

20. ORDINANCE NO. 2007-03 (CU-2006-21) EXECUTIVE CIGAR SHOP AND LOUNGE (NEW LOCATION): (First Reading/Public Hearing) An ordinance granting a conditional use to allow the sale and consumption of alcohol on the premises of an existing multi-tenant building on 0.14± acres zoned C-3 (Central Business District), located on the south side of New Haven Avenue, west of Municipal Lane. (Owner - John Fakatselis) (Applicant/Representative - S. Sam Nardone) (P&Z Board - 2/01/07)

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Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of this request.

Attorney Gougelman read Ordinance No. 2007-03 by title.

The public hearing was opened and closed with no comments. The Mayor recognized the applicant, Mr. Nardone, in the audience.

Moved by Meehan/Thomas for approval of Ordinance No. 2007-03. Motion carried unanimously.

21. ORDINANCE NO. 2007-04, BEAUTIFICATION & ENVIRONMENTAL ADVISORY COMMITTEE: (First Reading) An ordinance amending Chapter 2 of the City Code, entitled Administration, as it relates to the Beautification and Environmental Advisory Committee, removing the reference to a specific City department providing staff support.

Attorney Gougelman read Ordinance No. 2007-04 by title.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-04. Motion carried unanimously.

22. RESOLUTION NO. 2023: (Public Hearing) A resolution authorizing transmittal of three major Comprehensive Plan Amendments and one text amendment to the Department of Community Affairs. (P&Z Board - 1/18/07)

a. CPA-2006-31 (Fountains at Lake Washington): A Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential (SER) for two parcels of land consisting of 98.3± acres, located west of I-95, north of the northern terminus of Washingtonia Road, Chestnut Run Subdivision, and the proposed Woodshire Preserve Subdivision. (Owner - Fountains at Lake Washington, LLC) (Applicant/Representative - John H. Evans)

b. CPA-2006-32 (Woodshire Preserve): A Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential (SER) for 183± acres located west of I-95, at the north end of Washingtonia Road, north of the Chestnut Run Subdivision. (Owner - Woodshire Preserve, LLC) (Applicant - City of Melbourne) (Representative - Candice Hawks, Engle Homes)

c. CPA-2006-37 (Brockerman/Platt): A Comprehensive Plan Amendment designating a Future Land Use of Commercial/Medium Density Residential for 29.57 acres, located on the north side of U.S. 192, west of I-95. (Owners - John S. E. Platt/Frank Brockerman) (Applicants/Representatives - Shad Cunningham, ECRE, Inc./Scott Glaubitz, BSE Consultants, Inc.)

d. CPA-2006-38 (Paul Rufo): A Comprehensive Plan Amendment amending the Future Land Use element of the Comprehensive Plan to allow commercial

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development on the east side of Wickham Road, adjacent to Wickham Park. (Owner - Brevard County) (Applicant/Representative - Paul R. Rufo)

Mrs. Dittmer reviewed each amendment. She confirmed for Mr. LaRusso that staff originally recommended denial of “d”, the text amendment. At the Planning and Zoning Board meeting, the applicant confirmed that Brevard County staff agrees with the request (the Brevard County Commission has approved the exchange). The applicant will exchange property located south of the text amendment property to Brevard County in exchange for Brevard County property located adjacent to the church. The County is interested in the Rufo/Valade property because it will serve as the entrance to the new senior center. The County would like for that property to remain undeveloped.

Mr. LaRusso asked for additional information about the location of institutional versus commercial in this area. Mrs. Dittmer replied that the land use from Parkway Drive to Post Road on the east side of Wickham Road is designated as institutional. The Comprehensive Plan contains a site specific policy that says no commercial uses will be permitted in that section. Institutional uses include churches, schools and hospitals.

Mr. Contreras said he has been in discussion with Mr. Rufo and staff about this property. He noted that he appreciates Brevard County and staff bringing this to fruition in order to keep that proposed entrance to the park undeveloped and vegetated.

Mr. LaRusso asked if the applicant could build on the property without the text amendment. Mrs. Dittmer said an amendment is required to build anything other than institutional.

The City Manager clarified that although commercial or professional could not be located on the southern site, there could be a building on this property. The trade allowance will ensure that there is no building on the southern site.

Mayor Goode opened the public hearing.

John Evans, representative on item “a”, discussed the request, future zoning and site planning issues. He circulated a map of the proposed subdivision.

Mr. LaRusso recalled that during the annexation of this property, Council raised concerns regarding the long roadway needing traffic calming devices. Mr. Evans replied that they have addressed that through the use of roundabouts.

Don Simms, representative on item “a”, distributed pictures of the proposed roundabouts.

Mr. Contreras complimented Mr. Evans and Mr. Simms on the aesthetics of the subdivision and expressed appreciation that the concerns raised by Council on the long roadway have been addressed.

Mrs. Corby asked the applicant to keep in mind that during an evacuation, everyone will be trying to leave via one exit. Mr. Simms replied that this will be a gated community.

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Paul Rufo, applicant on item “d”, distributed a color-coded map outlining the property exchange. He informed Council that the County has been trying to acquire property for public use in this area; the exchange was the County’s idea. The property that the County will acquire will stop further intrusion into the park and the property he will receive will allow him to expand his wife’s insurance office.

Mr. LaRusso said that if the County were not benefiting, he would not support this amendment. He noted that it does open the floodgate.

Mr. Contreras pointed out that if this does not pass, Mr. Rufo could build on the property that the County is going to acquire. The City Manager added that there could be a building, although it would have to be built under the institutional guidelines. Mr. Contreras said his preference is no building on the site the County will receive.

Moved by LaRusso/Thomas for approval of Resolution No. 2023. Motion carried unanimously.

23. COUNCIL DISCUSSION RE: Benches for Space Coast Area Transit bus stops and bicycle racks in the Melbourne and Eau Gallie downtown areas. (Requested by Council Member Palmer)

Excerpt from the agenda report: This item is in response to Council Member Palmer’s request regarding bus benches and bicycle racks. City staff has discussed a partnership with Space Coast Area Transit (SCAT) to have bus benches installed through their federal transit enhancement grant funding. SCAT does not have the funding to provide operating/maintenance of the bus benches; therefore, the City of Melbourne would need to provide maintenance responsibility.

SCAT has identified 18 initial locations for the benches and City staff has initially looked at the cost to provide maintenance of the bus bench sites. The Parks Division has estimated an annual cost of approximately \$12,000. Additionally, the Babcock CRA Advisory Committee had already initiated conversations with SCAT regarding bus shelters in the Babcock CRA, where a large number of bus exchanges are made. Locations for the shelters are being discussed and a future recommendation would also be brought to City Council/CRA.

Ten bicycle racks for the Downtown Melbourne CRA will be purchased with the contract to Rep Services, Inc., which also includes benches and trash receptacles. The Eau Gallie CRA Advisory Committee has also recently discussed including several bike racks at Eau Gallie Square and at the Eau Gallie Pier.

The recommendation is to proceed with a partnership with SCAT to install bus benches to include a future agreement to be approved by City Council.

Mrs. Palmer expressed appreciation to staff and stated that she is delighted with this item. The benefit will be enormous and it will encourage ridership. Additionally, she

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noted that she is excited that the two Downtown areas are moving forward with benches and bike racks.

Moved by Palmer/Corby for approval of the recommendation.

Mrs. Corby asked if shelters are also a part of this item.

Mrs. Dittmer said that they have been working on the shelter idea in the Babcock Redevelopment Area. That area serves as a major exchange point for people and buses. Staff will inquire to determine if any of the 18 locations would also be appropriate for a shelter.

The maker/seconder agreed that working with SCAT on appropriate locations for shelters is included in the motion.

The question was called. Motion carried unanimously.

24. COUNCIL DISCUSSION RE: Proposal for a joint workshop between the City of Melbourne, City of West Melbourne, and the Board of County Commissioners to open dialogue regarding service and boundary adjustment issues. (Requested by Council Member Thomas)

Mr. Thomas said that he would like for Council to consider this item before we spend thousands of taxpayers' dollars on attorneys and lawsuits. He stated that we have enjoyed a good relationship with West Melbourne over the years and he is interested in opening communication, hearing the issues firsthand, opening a dialogue and providing a forum to hear all the viewpoints. At the conclusion, the bodies can agree it was productive or agree to move forward with the attorneys.

Mayor Goode said he does not believe this is a good idea. Our staff has been working with West Melbourne's staff. And, Florida law will require both bodies to meet if we reach litigation.

Mr. Thomas asked why not meet before we get to that point. The Mayor replied that both staffs are moving closer to agreement and he believes it is premature for the bodies to meet. Fourteen council members and five county commissioners would provide for a dog and pony show that won't solve the problem.

Mr. Thomas said his idea includes the use of an independent facilitator. The citizens deserve this and Council needs to demonstrate that it can get along and work to resolve the issues.

Mayor Goode said that the idea is good but at this time it is premature. The two staffs need to continue working together.

Mr. Thomas noted that West Melbourne approved moving forward with a meeting.

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Mrs. Palmer stated that she shares the Mayor's opinion on this item.

Mr. Contreras applauded Mr. Thomas's efforts; however, he noted that many of these issues involve private property issues. The private property owners are driving this and Council doesn't have control over that.

Mrs. Palmer said that we have intricate issues relating to annexation, water distribution, private property rights, etc. These issues may have to be litigated and for Council to get together to talk about personal feelings is a little late. The time for that would have been years ago.

Mr. LaRusso said legalities have to be looked at and options have to be considered. However, he enjoys Mr. Thomas's enthusiasm and will support a motion.

Mrs. Corby said she applauds the efforts of moving forward to save the taxpayers' money. She added that she is concerned that if we all sit at a table, members might say things or discuss things that might be detrimental.

Moved by Thomas/LaRusso that the Council direct staff to schedule a joint meeting with the City Council, the West Melbourne City Council and the County Commission; that a facilitator be used from the Florida League of Cities; and that the meeting be held on or before March 9.

Mr. Contreras asked if there was any potential for running afoul of the law for the City of Melbourne in having this discussion. Mr. Gougelman replied yes. He added that there are 100 different scenarios where things could go sideways.

Regarding the water agreement, Mr. Schluckebier said that we expect to have a draft agreement in the next 30 to 45 days. With regard to sewer service and the boundary issue, the City is following the new statutory process; there will be plenty of opportunity for input during that process.

Mrs. Meehan said that she would prefer both staffs to continue negotiations.

Discussion continued regarding the negotiations and the staffs and legal counsel attending the negotiations.

Mr. Thomas stated that he appreciates everyone's insight. He clarified that he is not asking for debate – just a forum.

The question was called. The roll call vote was:

Aye: Thomas, Corby and LaRusso

Nay: Contreras, Meehan, Palmer and Goode

Motion failed.

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25. COUNCIL DISCUSSION RE: Proposal for a “Youth Organization Summit” to be hosted by the City of Melbourne and the City of Melbourne Leisure Services Department, underwritten by the Greater Melbourne Police Athletic League, Inc. (Requested by Council Member Thomas)

Mr. Thomas reported that he has worked with youth organizations for quite some time. A lot of good work has been done in our community, but there has not been a lot of communication. He said he thought it would be beneficial for the City to host a youth organization summit. The Melbourne Police Athletic League has agreed to underwrite the expense. The idea is for the various organizations to sit down and explain their mission so folks from other youth organizations have an idea about their activities. They may be able to better refer children in need and possibly provide joint programs.

Moved by Thomas/Contreras for approval of a Youth Organization Summit as outlined by Mr. Thomas in the agenda package.

Mrs. Palmer stated that she has worked with non-profit organizations and she understands that funds are not always used efficiently because of overlaps and gaps. She added that this is a fabulous idea.

The question was called. Motion carried unanimously.

26. COUNCIL DISCUSSION RE: Proposal for the City of Melbourne’s participation with Brevard County and the Melbourne Airport Authority in the Ellis Road Widening Project by providing up to one-third of the engineering costs not to exceed \$500,000.

From the agenda report: This is a proposal that the City of Melbourne offer to participate in the cost of a County road widening project. Ellis Road is an important segment of the corridor that will link the St. Johns River Heritage Parkway and I-95 to the Melbourne Airport and to central Melbourne. Activities are underway on the Parkway project, on a study for the interchange at I-95 and on the realignment of NASA Boulevard at Wickham Road, to meet Ellis Road.

The Brevard County Commission will consider funding for three major road-widening projects at its February 15 meeting. The projects are Ellis Road, Hollywood Boulevard, and Babcock Street south of Malabar Road. There is not enough money for all the projects, and perhaps only one.

Staff is proposing that the City offer to provide one-third of the funds for the engineering fees related to the Ellis Road widening project not to exceed \$500,000 as an incentive for the County to prioritize its funds for the project. Funding could be provided from Transportation Impact Fee reviews. Melbourne Airport Director Richard Ennis will ask the Authority to make a similar offer.

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Mr. Schluckebier briefed Council. He confirmed for Vice Mayor LaRusso that Ellis Road will not make the list without assistance from Melbourne and West Melbourne. The County has dozens of projects that they could commit ahead of this one.

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

27. COUNCIL ACTION RE: Board appointments

- a. Appointment of alternate member (elected official) to the Brevard Water Supply Board.

Moved by Meehan/Palmer that the Council Member who is serving as the Vice Mayor each year shall also serve as the alternate member on the Brevard Water Supply Board. Motion carried unanimously.

- b. Appointment of one regular member and one alternate member to the Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee.

Mayor Goode announced that Rhodie Humbert stopped by City Hall and withdrew his name from consideration. Additionally, the following submitted applications after the agenda package was prepared: Priscilla Clendenin and Donna Humbert. And, Rick Dillen from the Eau Gallie CRA Advisory Committee submitted an e-mail encouraging Council to appoint Rick Hester and Ed Baranowski.

Mayor Goode called for nominations for the regular member seat. Mrs. Corby nominated Finnbar Murphy and Mr. Thomas nominated Rick Hester. Without objection, the nominations were closed.

Mrs. Corby noted that the memo from the City Clerk includes a recommendation that alternate member Finnbar Murphy be appointed as the regular member.

City Clerk Cathy Wysor said she was trying to point out that appointing an alternate member to a regular member seat is consistent with Council's past practice. The City Manager added that it is not our intention to handicap any individual member. The staff report should simply point out the practice rather than making a recommendation for a specific member.

The roll call vote was:

Murphy: Contreras, Meehan, Corby, LaRusso and Goode

Hester: Thomas and Palmer

Appointed: Finnbar Murphy (2/13/2007 through 6/11/2008; unexpired, two-year term)

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Mayor Goode called for nominations for the two alternate member seats. Mr. Contreras nominated Rick Hester and Mr. LaRusso nominated Priscilla Clendenin. Moved by Meehan/Contreras to close the nominations. Motion carried unanimously. Moved by Goode/Corby to appoint Rick Hester and Priscilla Clendenin as the alternate members. Motion carried unanimously.

Appointed first alternate: Richard Hester (2/13/2007 through 6/11/2009; unexpired two-year term plus full term)

Appointed second alternate: Priscilla Clendenin (2/13/2007 through 6/11/2008; unexpired two-year term)

- c. Appointment of one resident member to the Firefighters' Pension Plan Board of Trustees.

Mr. LaRusso nominated Douglas Taylor. Moved by Contreras/Goode to close the nominations. Motion carried unanimously. Moved by Contreras/LaRusso to appoint Douglas Taylor. Motion carried unanimously. (2/13/2007 through 9/30/2008; unexpired, two-year term)

- d. Appointment of one regular member to the Melbourne Downtown Community Redevelopment Agency Advisory Committee.

Mrs. Meehan nominated Jack Ryals. Moved by Contreras/LaRusso to close the nominations. Motion carried unanimously. Moved by Contreras/LaRusso to reappoint Jack Ryals. Motion carried unanimously. (2/23/2007 through 2/22/2010)

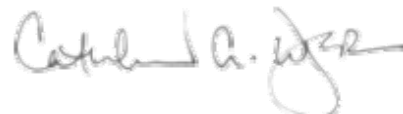
28. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 E. Palmetto Avenue, reminded everyone that tomorrow is Valentine's Day. She said it is also the 49th anniversary of our City Attorney living in Florida.

29. ADJOURNMENT

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

The meeting adjourned at 9:21 p.m.



City Clerk – 2/22/2007

Approved by Council: _____