

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 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 Seongsik Yoon, Korean Presbyterian Church, 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

Several minutes into the meeting, Mayor Goode recognized members from Boy Scout Troop 285 in the audience.

4. Proclamations and Presentations

Mayor Goode presented a certificate to Council Member Mark LaRusso from the National League of Cities Leadership Training Institute for successfully completing “Creating Sustainable Communities for the 21st Century: Building on the Foundations of Your Community.”

5. Approval of Minutes – January 24, 2006 Regular Meeting.

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

6. City Manager’s Report

City Manager Jack Schluckebier referenced Item #7 in the report relating to the improvement of golf course revenues. He stated that the golf courses are not running in the red at this time, which is a different position than the Florida Today took in a recent news article. The City asked for corrections to that article; however, Florida Today declined. Golf Courses Advisory Board Chairman Rin Troast has written a letter to the editor, and our hope is that the letter will be published. It is unfortunate that the article left readers with several misunderstandings.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

7. Public Comments

Kapil R. Gandhi, 1600 Aurora Road, reported that he built a gas station on Aurora Road in the County in 1999. A couple of months ago the City annexed his property. He noted that he received the notice of hearing after the hearing had occurred. Mr. Gandhi said that under the County regulations he could sell alcohol on Sunday mornings; however, City regulations do not allow that.

Mr. Gandhi requested a variance based on his previous ability to sell on Sunday mornings. He stated that the change is hurting his business. He said that he has hired an attorney and stated that it is not right for the City to take over someone's business.

Mayor Goode asked what the practice has been in the past when we annex property that has a zoning or business practice different than the City's. Mr. Schluckebier said that this is a relatively isolated incident. This is one request by a property owner to change the hours of sale of alcoholic beverages to allow him to continue selling on Sunday mornings as he previously did when his jurisdiction was Brevard County. He added that it would be relatively easy to accommodate this request if it were the City's desire to allow the sale of alcoholic beverages on Sunday mornings. However, this gentleman is asking for a variance for his property only. And, Council might not have the ability to grant a variance for something that is prohibited by Code.

City Attorney Paul Gougelman added that variances are granted for zoning related issues. The Code that regulates the hours of sale of alcoholic beverages is not a zoning regulation. It is a similar situation in the State Statutes – the sale of alcoholic beverages is not contained in the growth management statutes. He concluded by saying there is really no vehicle to provide a variance such as this on a site-specific basis.

Mr. Schluckebier added that Mr. Gandhi has filed litigation seeking the City to nullify the annexation. The City believes that the annexation was properly drawn and articulated by ordinance.

Mayor Goode said he would prefer not to continue the discussion since this item is in litigation; however, his question relates to whether applicants are being made aware of any differences (between the County and City Codes). The City Manager replied that this was an involuntary annexation, which the City is entitled to do under State Statutes. The property is located in an enclave area that the City has long desired to annex.

A brief discussion continued. The Mayor confirmed that under City Code alcoholic beverages may not be sold until 1:00 p.m. on Sundays. Mr. Gandhi said that in the County he could begin selling at 7:00 a.m. The majority of his business on Sunday mornings came from beer sales. He concluded by saying that if he can't obtain a variance then he would like to be de-annexed.

Mayor Goode said that the City Council has heard the request and perhaps the City will come up with ideas. However, the City Council can't take action at this meeting.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Eric Ellebracht, 1948 Tyler Avenue, referenced the recent incident in Central Florida where a police officer shot and killed his wife, another police officer, and that police officer's wife. He said that this clearly shows the need for psychiatric evaluations. In Melbourne, officers only go through such an evaluation at the time of hiring unless an incident occurs. He recommended that the City consider requiring a brief psychiatric evaluation during annual evaluations.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2006-08 (Z-2005-1051) MAYFAIR ISLES: (Second Reading/Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to PUD (6) (Planned Unit Development with a cap of six units per acre) on 31.83 acres to develop a 1,306-unit single and multiple-family residential development on a 253.85±-acre parcel, located on the north side of Pirate Lane, west of Lipscomb Street, south of Florida Avenue, and east of Babcock Street. (Owner/Applicant - Southern Homes of Melbourne, LLC) (Representative - Philip Nohrr) (First Reading - 1/24/06)

City Attorney Paul Gougelman read Ordinance No. 2006-08 by its title. There were no disclosures by Council. Mayor Goode opened the public hearing.

Pat Poole, 805 East Palmetto Avenue, pointed out that development will occur on the entire 253-plus acres, not just the 31-acre parcel being rezoned. She expressed concern about the impact that 1,306 units will have on City roads and schools. Mrs. Poole said that the City has not had any experience with this developer. She recommended that the City allow development on the 31-acre parcel first to see how it goes before approving development on the entire parcel. This will also allow time to determine if the developer four-lanes (Pirate Lane).

Phil Nohrr, attorney representing the applicant, said that the parcel being rezoned will provide acreage in the area where Eber Road (Pirate Lane) will be directed to the north. It will continue east and eventually access U. S. 1, which should relieve traffic on Babcock Street. He asked Council for a favorable vote on this item.

Council Member Mark LaRusso asked for additional information about the School Board property. Mr. Nohrr explained that toward the end of the process, the School Board indicated that it needed ballfields for Palm Bay High school. They have agreed to make a six-acre site available for the School Board's acquisition; they will go through an appraisal process. A brief discussion followed on the proposed ballfields.

In response to Council Member Kathy Meehan, Mr. Nohrr confirmed that they plan to four lane Pirate Lane.

Responding to Council Member Cheryl Palmer, Mr. Nohrr referenced the brochure distributed at the last meeting, which shows the developer's product and where they have developed. He assured Council that the developer has a track record.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Moved by Meehan/Contreras for approval of Ordinance No. 2006-08. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

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

9. COUNCIL ACTION RE: Contract award for Downtown Melbourne Lighting and Streetscape, Phase III, Project No. 14204, Burkhardt Construction, Inc., West Palm Beach, FL - \$1,639,991.95.

City Engineer Jenni Lamb briefed Council. She noted that representatives from the City's consultant, Baskerville-Donovan, and the contractor, Burkhardt Construction, Inc., are available for questions.

Council Member Grace Walker asked if the contractor has any pictures available of their work. Ms. Lamb said that this work will be based on the design prepared by Baskerville-Donovan. She will be happy to provide any pictures available.

Moved by Meehan/Walker for approval, as recommended. The roll call vote was:

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

Motion carried unanimously.

Council reconvened for the remaining agenda items.

10. COUNCIL ACTION RE: Task Order No. 13 for the Harlock Road Waterline Extension, Project No. 31305, Hazen and Sawyer, Ft. Pierce, FL - \$55,800.

Ms. Lamb briefed Council and stated that a representative from Hazen and Sawyer is available to answer questions.

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

11. RESOLUTION NO. 1965: A resolution implementing FY 2005-2006 First Quarter Budget Review recommendations.

In response to Mrs. Walker, Deputy City Manager Amy Elliott confirmed that the first quarter review provides for the addition of five police officers and one vehicle – including equipment for that vehicle.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Moved by Palmer/Goode for approval of Resolution No. 1965. Motion carried unanimously.

12. CONSENT AGENDA:

Moved by Palmer/Meehan for approval of the consent agenda. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Approval of a Right-of-Way Use Agreement between the City of Melbourne and the Board of County Commissioners of Brevard providing for the City to perform the landscape and irrigation maintenance of project improvements installed by the Florida Department of Transportation on Apollo Boulevard between Sarno Road and Airport Boulevard.
- b. Approval of an agreement between the City of Melbourne and Space Coast Area Transit for transportation services for residents on bus routes #1 and #21 during the fiscal year 2005/2006 - \$26,083.
- c. Approval of special exceptions to allow increased housing rehabilitation awards up to the \$60,000 maximum currently allowed per rehabilitation project. (Applicants - Betty Broomfield, 749 University Boulevard and Doris Caldwell, 750 Redbud Street)
- d. Amendment No. 1 to the agreement between the City of Melbourne and Habitat for Humanity of Brevard County, Inc., approving an award increase in the amount of \$45,000 for the Purchase Assistance with Sweat Equity Program from Hurricane Housing Recovery funds and authorization for the City Manager to execute the amendment document.
- e. Approval of an award of HOME Investment Partnership Program funds in the amount of \$38,103 to Trinity Towers South, Inc. for the installation of hurricane shutters at 615 East New Haven Avenue and authorization for the City Manager to execute the agreement.
- f. Approval of an award of Hurricane Housing Recovery Program funds in the amount of \$9,680 to the South Brevard Women's Center for the installation of hurricane shutters at 1605 and 1609 Elizabeth Street and authorization for the City Manager to execute the agreement.
- g. Amendment No. 2 to the agreement between the City of Melbourne and Community Housing Initiative, Inc. increasing total funding for the Purchase Assistance Program from \$590,000 to \$732,837; authorization for the City Manager to execute the amendment document; and approval of a net increase of \$142,837 in the 2005-2006 SHIP revenue and expenditure budgets.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

- h. Purchase of four vehicles, one trailer mounted message board, and equipment installation in 16 Police vehicles, Emergency Vehicle Equipment Installation, Inc. Apopka, FL - \$16,720; Garber Ford-Mercury, Inc., Green Cove Springs, FL - \$89,514; Alan Jay Chevrolet Oldsmobile, Sebring, FL - \$21,418; American Signal Company, Atlanta, GA - \$13,100; and Freightliner Trucks of South Florida, Ft. Pierce, FL - \$46,265.
- i. Purchase of approximately 4,500 composite meter boxes, Ferguson Waterworks, Orlando, FL - \$31.39/unit, estimated annual cost of \$141,255.
- j. Purchase of networking equipment upgrade at the Police Department Babcock Facility, Morse Communications, Inc., Melbourne, FL - \$56,911.
- k. Approval of fiber optic installation from Harper Road to Apollo Boulevard, Morse Communications, Inc., Melbourne, FL - \$56,685.
- l. Purchase of 40 Dell computers for various City departments/divisions, Dell Computer Systems, Round Rock, TX - \$39,044.40.
- m. Contract award to conduct a fire services deployment study for City of Melbourne fire stations, Emergency Services Consulting, Inc., Wilsonville, OR - \$35,791.
- n. Purchase of various water distribution inventory items including meter resetters or yokes, Sunstate Meter & Supply, Newberry, FL - \$17,359.50 estimated annual cost.
- o. Purchase of 25,600 pounds of liquid polymer for the Wastewater Treatment facility, Fort Bend Services, Inc., Stafford, TX - \$1.28/pound, total estimated cost from February 15, 2006 through September 30, 2006 - \$32,768.
- p. Purchase of 40 Mall park benches and 40 Deluxe trash receptacles for City of Melbourne golf courses, American Recycled Plastic, Inc., Palm Bay, FL - \$21,689.60.
- q. Resolution No. 1966: A resolution authorizing the City Manager to submit a grant application in the amount of \$29,745 to the State of Florida Victims of Crime Act Program to continue the Victim Services Program by funding the Victim Advocate position for the City of Melbourne Police Department with matching funds of \$7,436 for a total program cost of \$37,181.

13. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

14. FINAL PLAT APPROVAL (SD-2003-06) 2200 WICKHAM BUSINESS CENTER: (Public Hearing) A request for final plat approval to develop Wickham Business Center on a

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

15.98±-acre parcel zoned M-1 (Light Industrial), located on the west side of Wickham Road, south of Lake Washington Road and north of Aurora Road. (Owner - Spiegel Lease Corp.) (Applicant - Frederick Spiegel, Spiegel Lease Corp.) (Representative - B.S.E. Consultants, Inc.) (P&Z Board - 1/19/06)

Planning & Economic Development Director Cindy Dittmer reviewed the agenda report. The Planning & Zoning Board voted unanimously to recommend approval of the request. The recommendation is for approval of the one-sheet plan prepared by B.S.E. Consultants, Inc. of Melbourne, Florida, Project Number 10188.02, stamped/sealed with a date of January 9, 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, including the fence along the north and west property lines, 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 and no comments from the public. Frederick Spiegel, applicant, was present and available for questions.

Moved by Hand/Contreras for approval of the final plat subject to the findings and conditions outlined in the agenda report. The roll call vote was:

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

Motion carried unanimously.

15. ORDINANCE NO. 2005-138 (CU-2005-11/SP-2005-20) HARBOR CITY MIXED USE (FKA CAUSEWAY CENTER, VUES): (First Reading/Public Hearing) An ordinance repealing Ordinance No. 2002-63 (CU-2002-15) and Ordinance No. 2003-43; and granting a conditional use with site plan approval to allow a building height of 159 feet, four inches for a mixed use retail and multiple family residential condominium project on three parcels comprising approximately 2.31± acres zoned C-3 (Central Business District), located on the south side of Strawbridge Avenue, on the north side of New Haven Avenue and east of U.S. Highway 1. (Owner - Hynes Properties, LLC) (Applicant/Representative - David T. Menzel, P.E., MAI Engineering, Inc.) (Denied - 12/13/05) (Council denial rescinded - 1/10/06)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Mrs. Dittmer briefed Council. This item was denied by City Council on December 13, 2005. On January 10, 2006 the City Council voted to rescind its action on the denial. The applicant has indicated that he will be submitting a revised architectural rendering. One of the main conditions relates to the “license and easement agreement,” which was previously approved by the City Council. Revisions to that agreement are being refined with the applicant and will be presented for Council consideration after second reading of the ordinance.

The recommendation is for approval of the ordinance, which includes the site plan, subject to the findings and conditions contained in the Planning & Zoning Board memorandum.

Mayor Goode asked Mrs. Dittmer to confirm that this is the same plan presented to Council in December. Mrs. Dittmer said it is the same; however, the applicant would like to propose a new rendering at this meeting.

The City Council made the following disclosures:

Vice Mayor Hand said that she received a call from Mrs. Shaffer today who is opposed. Also, she spoke with Ken Ward last Thursday about the project, drainage, his firm and why this type of development is important for a viable downtown district. She said that they also discussed the Strawberry Mansion and she was assured that if that property were acquired, the Mansion would be moved to another site. Mrs. Hand concluded by saying that she also discussed the back center with Mr. Ward.

Mrs. Meehan said that Rita Shaffer left her a message saying she is opposed. Also she spoke with Ken Ward today and discussed the project, drainage, and ingress/egress.

Mrs. Palmer said she spoke to Mrs. Shaffer today who is opposed to the development.

Mr. LaRusso said he spoke with Ken Ward on February 8 about drainage, traffic, parking, height and density. He received a call today from Mrs. Shaffer who indicated her displeasure with the project.

Mayor Goode said he spoke to Ken Ward on February 13 about the project.

Mayor Goode opened the public hearing.

Ken Ward, Homes by Towne, representing the applicant, stated that they have signed a joint venture agreement with Dr. Hynes to develop the project. He thanked Council for the opportunity to clarify several issues. Mr. Ward stated that they are excited about the potential of this project. They believe development of this site is vital to the success of Downtown redevelopment, and they believe that the project will bring residents to the Downtown area.

Mr. Ward reported that they met with the City Attorney and representatives from Planning and Engineering. He addressed the following subjects:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Parking Surcharge Fees and Impact Fees: They agree with the elements and they understand that impact fees are due and payable. He asked that this project be treated like any other with regard to when those funds are due and payable.

Right-In/Right-Out: They have reviewed the conditions and agree to a right-in and right-out on Strawbridge and New Haven Avenues. They discussed the concept with FDOT and FDOT did not indicate that there would be a problem. Therefore, they believe they can get that successfully permitted.

Traffic Signal if Warranted: Because this project provides for a 70% reduction in traffic over the previous project, they do not believe that warrants would be met at that intersection.

Drainage: They met with Engineering staff and reviewed a study done by the City's consultant, Frazier Engineering. That study identifies drainage problems in this area. Towne-Hynes has agreed to contribute funds (\$50,000), which will increase the money the City has budgeted for drainage improvements in this area (from \$150,000 to \$200,000). Mr. Ward noted that this project will reduce the amount of water that enters the intersection by two-thirds, and that is why they have proposed contributing an amount equal to one-third of the original budget amount.

Public Access: The City Attorney has drafted language providing for an easement through the property that will allow public access. And, they will maintain that public access in perpetuity.

Strawberry Mansion: If this property is acquired, Dr. Hynes has stated that he would maintain that facility. Towne Realty stands behind that same commitment. The Mansion would be relocated and would not be demolished.

Mr. Ward concluded by distributing a new rendering of the project.

Kohn Bennett, Homes by Towne/Towne-Hynes, stated that at prior meetings they heard concerns that the rendering was vague and without detail. He referenced the new rendering and discussed the detail. Mr. Bennett noted that the footprint will remain the same. The application hasn't changed, only the detail of the buildings.

Regarding the height, Mr. Bennett explained that this will be a high end product, which will require 10-foot ceilings. Anything less would be difficult to sell. Height is important for this to be a viable project. Additionally, the high ceilings will probably result in the number of units being decreased.

Mrs. Palmer said that the rendering shows one structure. She asked if the project will have one building rather than two with a breezeway. Mr. Bennett replied that the new rendering depicts the east building. They pushed hard in order to complete one rendering. He confirmed that they plan to have two buildings with a breezeway.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Mrs. Hand asked if this project will allow the public to access the parking deck in order to view the annual fireworks display. Mr. Bennett said that this project does not have an observation deck. Removal of the deck was the trade-off between having one building or having two with a breezeway.

Mrs. Walker referenced one of the conditions, which requires a traffic signal to be installed at New Haven Avenue and Front Street when warrants are met. Mr. Bennett replied that if this project is built as a right-in/right-out only, those warrants will probably not be met. If the warrants are met, they will comply with the condition.

Mr. LaRusso asked for clarification on payment by the developer to the City for drainage issues.

Mr. Ward explained that the City currently has \$150,000 budgeted to address drainage on Front Street. They plan to provide \$50,000 towards the budget (which will increase the City's budget total to \$200,000). Making a financial contribution to the City will allow the City to have control over the budget, bids and timing of the project.

Mr. LaRusso asked the City Manager if he agreed with this idea. Mr. Schluckebier responded yes and noted that concept was suggested by our Engineering and Planning staff.

Mr. LaRusso asked if FDOT has approved the right-in/right-out traffic movement. Mr. Bennett replied that FDOT wants to see the design first. Mr. Ward added that they have to submit an application to FDOT and go through the formal design process.

Theresa Bryant, 1759 Highland Avenue, expressed support for the project. She noted that she is a member of the City's Historic Preservation Advisory Committee. She was upset about the removal of the trysting steps; however, she believes that this development will be compatible with the Downtown area. She concluded by saying that we need to move forward as a city.

Charles Kiessling, 2908 Riverview Drive, stated that when the developer purchased this property, there was an 85-foot height limitation. He questioned if a person can purchase land and then change the allowable height to whatever is convenient. Mr. Kiessling added that traffic congestion in the area of Front Street is bad. Traffic is backed up daily and this development would increase that. Additionally, there will be a problem with fire protection on taller buildings and the Fire Department will need special equipment and training. He concluded by saying these things will fall on the taxpayer and not the developer.

Pat Poole, 805 East Palmetto Avenue, said that when Council considered this issue in December, Hynes was listed as the owner of the property. This application is by Hynes and Towne, which is a completely new endeavor. She said that she believes this item should go back through the Planning and Zoning process as a new application.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Continuing, Mrs. Poole said that the height of the development was the main reason Council denied this request, yet the item is back and the height hasn't changed. She discussed the various changes that have occurred to the site plan and noted the development has torn up the trysting steps and bluff walk, the area where Melbourne started. She pointed out that this is a conditional use, which means it does not have to be approved by Council.

Jack Ryals, business owner at 843 East New Haven Avenue, said this is the 34th year he has been involved in Downtown Melbourne. He is excited about this plan and believes it is the natural evolution in the redevelopment effort. Mr. Ryals stated that compared to 1982 when redevelopment began, there is a better merchant mix; however, the missing piece is residents. Residents add a 24-hour presence. He concluded by noting that this is an outstanding location for this development and it will be a landmark development in the Downtown area.

Laird Gann, representing Melbourne Main Street, stated that Main Street fully supports private development. He noted that they are not in a position to speak for or against height and density. However, they support the concept behind the Vues condominium project and appreciate the commitment by Hynes and Towne for a first class feature/development entrance to Downtown Melbourne. Mr. Gann read three quotes from the April 2004 issue of Main Street News. That issue indicates that baby boomers are trading in their homes for smaller housing units and downsizing to two areas, including downtown areas; and downtown areas offer walkable places that provide a venue for the reestablishment of sense of community.

Mr. Gann pointed out that the Downtown area needs a residential component. More Downtown residents will help restore economic vitality.

Mrs. Palmer asked if development in Downtown means possibly replacing our historic structures with new buildings. Mr. Gann replied that replacing existing buildings is not part of the equation. If a building is dilapidated or derelict and needs to be torn down, that is a choice. He said that his point is that new vitality brings new residents, property values increase, retail space becomes more valuable and ultimately owners will spend money to restore their historic properties. He added that currently we have owners who spend virtually nothing.

Mrs. Palmer said she doesn't believe that people in the City understand that an increase in valuation of historic Downtown property, coupled with the fact that most of the buildings are derelict or in bad shape, mean that we will probably end up having a new Downtown that has nothing to do with historic Melbourne.

Mr. Gann said he has a rendering that shows what the entire block of New Haven Avenue could look like if property owners revitalized their storefronts. It shows what the buildings looked like at the turn of the century and that is the vision of the Main Street program.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Richard Hester, business owner at 617 Eau Gallie Boulevard, said that he is a former member of the Eau Gallie Community Redevelopment Agency Advisory Committee. He noted that he doesn't have a problem with this project; however, he has a problem extending the height. He commented that if the developer can't make money at 96 feet, then they don't need the 159-foot height. He added that he doesn't think we have a lot of people who need 10-foot ceilings. He recommended that the developer work within the confines of what is allowed.

Mark Blair, 1350 Amber Drive, said that as a businessman in the Downtown area, he supports this project. It will revitalize the area and enhance businesses like his by bringing in residents.

Hamilton Boone, business owner at 301 Hibiscus Boulevard, stated that he is in favor of the Hynes project. He said he has seen prostitutes, panhandlers, drug houses, etc. in the area and his feeling is that this development will provide the engine to clean the area up. Mr. Boone added that he does not have a problem with the height and this development will provide a gateway to the Downtown area. This development, along with the proposed medical corridor in the Downtown area, will bring more people Downtown and will rid the area of vagrants, prostitutes, etc.

Mrs. Walker asked Mr. Boone if he lives in Melbourne. Mr. Boone replied that he is a resident of Indian Harbour Beach; however, he is a taxpaying business owner in Melbourne.

Continuing, Mr. Boone referenced the parking surcharge fee that Hynes will pay as part of this development. He recommended that we not tax or punish those who are willing to take a risk. People who live on this site will take a trolley or walk Downtown; therefore, this development should not have to pay for a parking garage. He added that the parking surcharge should be spread out evenly across the City and projects such as the Marina Towers development should also have to pay.

Mrs. Palmer asked Mr. Boone if he believes that building higher and charging more taxes will take care of vagrants and prostitutes. She asked if other cities lose these problems when they allow high-rise development.

Mr. Boone replied that a higher tax base will provide for more municipal services.

Mr. Bennett returned to the podium and clarified that the ownership of the property has not changed; the property is still owned by Hynes. Additionally, he reported that in their other projects, especially riverfront projects, they are finding a lot of locals who are moving downtown. The Towne company has been in business for close to 60 years and they take pride in redevelopment.

Mrs. Walker asked Mr. Bennett if they would consider a lower height. She added that she sees no reason to have 10-foot ceilings.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Mr. Bennett said that a condominium is different than a single-family home. There is no attic available for ductwork so they have to use drop down ceilings. If the ceilings are too low, it creates a narrow, bowling alley-like feeling. And, the market does not buy a product that has eight-foot ceilings. Buyers want an open unit. He noted that the project won't be successful if they construct eight-foot ceilings.

Mrs. Walker stated that she is not impressed by what is being proposed, and she can't support the height.

Moved by Meehan/Contreras for approval of Ordinance No. 2005-138.

Attorney Gougelman read Ordinance No. 2005-138 by title.

Mrs. Hand said she believes all the issues have been answered in regard to drainage and height. She said that this project will enhance the City's Downtown Redevelopment program by bringing residents into the Downtown area. She added that she feels it is a viable project and she is comfortable with the project.

Mrs. Palmer said that the new plan is being viewed as either "support for a 159-foot complex" or "support nothing on that site." She pointed out that Council has already approved a condominium complex and back center on this site with a conditional use for a height above the 80-foot limit. The City Council does understand that we need to revitalize the Downtown area and bring in residents. However, her problem is with the height. This is a turning point for the City of Melbourne. This plan could have been wonderful to more people if it did not impact the skyline, which will eventually destroy the historical character of Downtown Melbourne.

Mrs. Meehan stated that she definitely supports this project. She believes it will be positive for Downtown Melbourne and, to her, the height is not an issue. She added that it is time Melbourne moves ahead.

Attorney Gougelman said that condition "c" will need to be revised as a result of a new rendering being submitted. He read the following proposed language:

- c. The building shall be substantially consistent with the rendering submitted by the applicant, ~~dated November 23, 2005, Project number "05-060 rendering."~~ on February 14, 2006, which shall be attached to this ordinance as Exhibit "A."

The maker/seconded agreed that the new rendering and proposed language are included in the motion.

Mr. LaRusso said that he recently spent three days in a training session with 80 mayors and council members from all over the United States. He noted that two-thirds of those would love to be in Melbourne's position. Cities don't have the funds to sustain and pull in economic development. He added that as tenuous as this is, this is an opportunity. And, he is committed to ensuring the success of all of our community redevelopment areas.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Mrs. Hand asked about the next step. Attorney Gougelman said that if this is approved on first reading, it will return for second reading on the next agenda. At that time the restated and amended easement and license agreement will be presented for final approval. A draft of that is included in the agenda package and the details are being finalized.

Regarding the timing of payment of impact fees, Mr. Schluckebier said the City would like for Towne to accept what Dave Menzel previously agreed to.

Mrs. Palmer asked if our Fire Department will be able to accommodate this new development. The City Manager noted that the Fire Department provides safety for buildings that currently exceed this height. At some point in the future, the department will be assessing higher buildings in general because they add a different dimension to service. However, they are up to the task of this building.

In response to the Mayor, Mr. Schluckebier confirmed that the proposed development will not exceed the current height of Trinity Towers, which was constructed approximately 40 years ago.

The question was called. The roll call vote was:

Aye: Contreras, LaRusso, Meehan, Hand and Goode

Nay: Walker and Palmer

Motion carried.

Recessed: 8:15 p.m.

Reconvened: 8:25 p.m.

16. ORDINANCE NO. 2006-09 (Z-2005-1055) STACEY DUNN: (First Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to R-1A (Single Family Residential) on a 0.22±-acre lot, located on the south side of Kingston Lane, east of Wickham Road. (Owner/Applicant/Representative - Stacey Dunn) (P&Z Board - 1/19/06)

Attorney Gougelman read the ordinance by title. Mrs. Dittmer briefed Council. The Planning & Zoning Board voted unanimously to recommend approval. There were no disclosures by Council.

Mayor Goode opened the public hearing.

Stacey Dunn, applicant, said that after she constructed her house, she found out that the zoning was commercial. She added that she would like single-family zoning to match the construction.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Moved by Meehan/Contreras for approval of Ordinance No. 2006-09. Motion carried unanimously.

17. ORDINANCE NO. 2006-10 (AR-2005-185) AURORA ASSOCIATES, LLC: (First Reading/Public Hearing) An ordinance providing for annexation of an existing 2.75-acre mobile home park, located on the north side of Aurora Road, west of Lansing Street and east of Wickham Road. (Owner/Applicant - Aurora Associates) (Representative - William Binnicker) (P&Z Board - 1/19/06)

The City Attorney read Ordinance No. 2006-10 by its title. Mrs. Dittmer reviewed the agenda report. The Planning & Zoning Board voted unanimously to recommend approval.

The applicant's representative was in the audience. There were no comments from the public.

Moved by Palmer/Walker for approval of Ordinance No. 2006-10. Motion carried unanimously.

18. ORDINANCE NO. 2006-11 (AR-2005-187) JAMES & BARBARA EASTER: (First Reading/Public Hearing) An ordinance providing for annexation of a 0.75-acre property, located at 2460 Aurora Road, east of Lansing Street. (Owner/Applicant/Representative - James & Barbara Easter) (P&Z Board - 1/19/06)

Attorney Gougelman read Ordinance No. 2006-10 by title. Mrs. Dittmer reviewed the agenda report. The Planning & Zoning Board voted unanimously to recommend approval.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-11. Motion carried unanimously.

19. ORDINANCE NO. 2006-12 (AR-2005-188) DANIEL BARNETT STATE FARM: (First Reading/Public Hearing) An ordinance providing for annexation of a 0.24-acre property, located at 515 East Eau Gallie Boulevard, on the southeast corner of the intersection of Unity Drive and Eau Gallie Boulevard, east of South Patrick/Riverside Drive. (Owners - Larua D. Barnett and Daniel L. Barnett, Co-Trustee) (Applicant - Daniel Barnett State Farm) (Representative - Dan Barnett) (P&Z Board - 1/19/06)

Attorney Gougelman read the ordinance by title. Mrs. Dittmer briefed Council. The Planning & Zoning Board voted unanimously to recommend approval.

The applicant was present and available for questions.

Moved by Walker/Hand for approval of Ordinance No. 2006-12. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

20. ORDINANCE NO. 2006-13 (AR-2005-189) AURORA WOODS: (First Reading/Public Hearing) An ordinance providing for annexation of a 24-acre subdivision located on the south side of Aurora Road, west of Easy Street. (Applicant/Representative - City of Melbourne) (P&Z Board - 1/19/06)

The City Attorney read Ordinance No. 2006-13 by title. Mrs. Dittmer reviewed the agenda report. The Planning & Zoning Board voted unanimously to recommend approval.

There were no comments from the audience.

Moved by Walker/Meehan for approval of Ordinance No. 2006-13. Motion carried unanimously.

21. ORDINANCE NO. 2006-14: (First Reading) An ordinance amending Chapter 23, Retirement and Pensions, Article VI, Police Officers' Pension Plan, providing definitions for "credited service" and "retirement;" and amendments relating to the Board of Trustees, vesting, benefits, distributions, deferred retirement options, and reemployment after retirement.

The City Attorney read Ordinance No. 2006-14 by title.

Director of Finance Michele Ennis stated that the recommendation is for approval of the proposed ordinance. An actuarial study has been conducted and there is no financial impact on the City or the plan.

Moved by Hand/Contreras for approval of Ordinance No. 2006-14. Motion carried unanimously.

22. RESOLUTION NO. 1967: (Public Hearing) A resolution authorizing transmittal of eight major Comprehensive Plan Amendments to the Department of Community Affairs. (P&Z Board - 1/19/06)

a. CPA-2005-18 (Strong Investments): A Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 1.43-acre property, located on the east side of Wickham Road, north of Post Road, between Forest Run Drive and Pebble Creek Street. (Owner/Applicant - Strong Investments, L.C.) (Representative - David Armstrong)

b. CPA-2005-20 (Aurora Associates, LLC): A Comprehensive Plan Amendment designating a Future Land Use of Medium Density Residential on a 2.75-acre property, located on the north side of Aurora Road, west of Lansing Street. (Owner/Applicant - Aurora Associates) (Representative - William Binnicker)

c. CPA-2005-22 (James and Barbara Easter): A Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 0.75-acre property, located on

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

the north side of Aurora Road, east of Lansing Street. (Owner/Applicant/Representative - James & Barbara Easter)

- d. CPA-2005-23 (Daniel Barnett State Farm): A Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 0.24-acre property, located on the south side of Eau Gallie Boulevard at the intersection of Unity Drive. (Owners - Larua D. Barnett and Daniel L. Barnett, Co-Trustee) (Applicant - Daniel Barnett State Farm) (Representative - Dan Barnett)
- e. CPA-2005-24 (Aurora Woods): A Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential (three units per acre) on a 24-acre subdivision, located on the south side of Aurora Road, west of Easy Street. (Applicant/Representative - City of Melbourne)
- f. CPA-2005-25 (El Dorado Area): A Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential (three units per acre) on 123 acres of rural residentially developed property, located south of Parkway Drive, east of Turtle Mound Road, and west of Harlock Road. (Applicant/Representative - City of Melbourne)
- g. CPA-2005-26 (Deerwood Trail Area): A Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential (three units per acre) on 261 acres of property, located on Parkway Drive and Deerwood Trail, between Harlock Road and Turtle Mound Road. (Applicant/Representative - City of Melbourne)
- h. CPA-2005-27 (Palm Bay 20, Inc.): A Comprehensive Plan Amendment designating a Future Land Use of Commercial/Medium Density Residential on 11.1 acres and Medium Density Residential on 6.29 acres of property, located on the north side of Palm Bay Road, west of Dairy Road, and east of Hollywood Boulevard. (Owner/Applicant - Palm Bay 20, Inc.) (Representative - Jack B. Spira)

Attorney Gougelman read Resolution No. 1967 by its title. Mrs. Dittmer reviewed each item and provided Council with an overview.

Jack Spira, attorney representing the applicant on item “h”, was present and available for questions.

Moved by Hand/LaRusso for approval of Resolution No. 1967. Motion carried unanimously.

- 23. RESOLUTION NO. 1968: A resolution supporting the adoption of an ordinance by the Board of County Commissioners of Brevard County levying a one percent discretionary infrastructure sales tax for five years subject to voter approval in a November 7, 2006 referendum.

Attorney Gougelman read the resolution by title.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

Mr. Schluckebier reported that the Executive Board of the Space Coast League of Cities voted unanimously at its meeting yesterday to support this item and send it to the Board of County Commissioners. The attachment to the resolution is the City's prioritization of proposed projects. These would form the basis of an exhibit to an ultimate interlocal agreement. That list is not set in stone; however, for the moment it is a recommendation.

Continuing, the City Manager said that this item would return two or three times if the County agrees to enact an ordinance to provide for a referendum. Planning is occurring collaboratively by other cities and, in conversations with members of the Board of County Commissioners, they seem open to this type of framework. This is a focused, five year one-cent sales tax for roads with the road projects to be identified on the front end. He added that this follows City Council direction to Melbourne staff in August 2005 when the capital improvement plan was discussed. At that time, staff noted that we were \$50 - \$60 million short in revenue for capital items and this one-cent sales tax would close the gap on \$25 million of that.

Mr. Schluckebier concluded by saying that this initiative would allow the City to undertake high priority road issues. He expressed appreciation to Deputy City Manager Howard Ralls for the time and effort spent with other cities and for putting our priorities together.

Moved by Walker/Contreras for approval of Resolution No. 1968.

Mrs. Palmer said that this could go the way of the County parks referendum. Projects were pushed, the referendum passed, and money came in. The money is now gone and projects are not completed. The County ran into the problem of no bidders or few bidders and high costs. She added that in her opinion if we are going to have high-rise condominiums and new growth, then perhaps we don't need an additional sales tax.

Mrs. Walker pointed out that ultimately this will be decided by the voters in a referendum. Mayor Goode agreed and said that all the projects will be dedicated strictly to transportation. He pointed out that development has stopped on Wickham Road because of transportation issues.

Mr. Schluckebier said that there have been conversations about the timing. If the voters approved this in November 2006, the County and the cities would need time to get design work done and begin the projects. If the tax went into effect in January 2008, people would see work getting done while they are paying the tax. That would help restore voter confidence.

Mrs. Palmer said she is hearing from the voters that they don't like road money going towards landscaping and bike trails. People would like to see this go towards pavement. Mr. Schluckebier said he is not sure landscaping passes the test, although there may be incidental landscaping. And, he does not believe that the cities and the County have bikeways on their unfunded transportation lists.

Mr. LaRusso agreed with Mrs. Palmer and said he is hearing concerns about how the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

money will be spent; he's not getting a clear, concise yes from the voters.

Mr. Contreras said following the outcome of the last referendum, one concern is that the money not be taken that is specifically relegated towards roads. This needs to be as airtight as possible.

Mayor Goode said that the referendum would be narrowly defined and transportation projects would be the only item that the cities and County could spend the money on.

Mrs. Palmer asked if the General Fund would still provide money towards roads. She said that the voters are afraid that this money will replace General Fund money. Mr. Schluckebier replied that it is not our intention nor are we recommending displacement or shell games with any dollars of any type. This would be additive to the set amount of money now available in the General Fund.

The question was called. The roll call vote was:

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

Nay: LaRusso and Palmer

Motion carried.

24. COUNCIL ACTION RE: Appointment of three regular members to the Melbourne Downtown Community Redevelopment Agency Advisory Committee.

Moved by Meehan/LaRusso to reappoint Michael Melhado, Rita LoPresti and Thomas Goffinet. Motion carried unanimously.

25. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Vice Mayor Loretta Hand expressed appreciation for the Police Department's work in enforcing red light laws and cracking down on red light runners. She noted that she also likes the signs "Red Means Stop."

Additionally, Mrs. Hand read two letters into the record from Bruce Mochwart, member of the Martin Luther King, Jr. Naming Opportunities Committee. Mr. Mochwart expresses his concern with Council's recent action of returning the item to the committee and he encourages the Council to strongly consider the recommendations made by the committee.

Council Member Mark LaRusso asked for a status report on high school students being asked to participate in City Boards. (A letter was sent to the schools in September 2005. The January 24 City Manager's Report indicates that staff will follow-up with the schools.)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 14, 2006

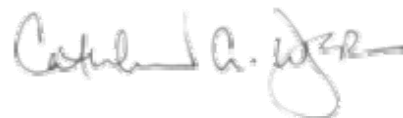
The City Manager said that the City Clerk is in the process of following up with each school. We have received favorable responses from Eau Gallie and Melbourne High Schools. Mr. LaRusso asked for a list of the schools along with contact information.

Council Member Grace Walker referenced the recent action by Council to consider a new City Hall. She said that during the discussion on that item, the architect noted that the current building is in good shape and would allow expenses to be conserved. She asked Council to consider all options from the standpoint of economy, rather than just a new building.

26. ADJOURNMENT

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

The meeting adjourned at 9:09 p.m.



City Clerk – 2/23/2006

Approved by Council: _____