

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
APRIL 25, 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. Reverend Father Bill Hanley, Our Lady of Lourdes, 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
	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

Absent: Loretta Isenberg-Hand Vice Mayor, District 6 (out of town for funeral)

4. Proclamations and Presentations

Mayor Goode presented a Certificate of Appreciation to Lieutenant Steve Coutu for his heroic actions and quick response on January 30, 2006, which saved a citizen's life and prevented the destruction of a residence. Fire Chief Paul Forsberg also presented Lt. Coutu with a commendation bar.

Mayor Goode presented the following proclamations:

"National Volunteer Month," April, 2006; accepted by Retha Mullins, Stella Shockley, and Evelyn Murrian, Melbourne Woman's Club.

"Beta Sigma Phi Day," April 30, 2006; accepted by Olga Clarke, President, South Brevard Beta Sigma Phi.

"National Drinking Water Week," May 7 – 13, 2006; accepted by Jennifer Wilster, City of Melbourne Environmental Community Outreach Manager.

Additionally, Mayor Goode and Ms. Wilster presented Certificates of Appreciation to the following students for their participation and winning entries in the City of Melbourne's "2006 Drop Savers Poster Contest:" Jessica Holanda (first place entry), Hoover Middle School; Jenny Vernon, Stone Middle School; and Reynald Desir, Central Middle School

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“Environmental Art.” Additionally, Hadley Hansen, West Shore Junior/Senior High School and Diana Calderon, Central Middle School “Art,” submitted winning entries; however, were not able to attend the meeting.

5. Approval of Minutes – April 11, 2006 Regular Meeting

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

6. City Manager’s Report

City Manager Jack Schluckebier discussed the status of the proposed Florida Communities Trust grant application for the purchase of the Magnolia Point Preserve property (reference the April 11 Council minutes for resolution authorizing the application). The City was lead to believe that the County Environmental Endangered Lands (EEL) program would fund as much as (55%) of the purchase price. The Florida Communities Trust (FCT) would fund the remaining 45%. The EEL program committee met and recommended a much lower level – 25%. As a result of the reduction in funding, the City is no longer in a competitive posture. Therefore, staff sent an opinion to the County that we do not believe we can proceed.

Additionally, Council did not authorize City funding, and there is not an appropriated source for that funding. Council would need to identify and authorize \$300,000 - \$400,000 in order for the City to be competitive in the grant application. The City Manager concluded by saying that staff will consider this matter closed unless Council wishes to discuss further.

In response to a request by the Mayor, the City Manager provided a brief update on the status of the County senior center. The Mayor communicated the City’s desire that the center not be constructed in Wickham Park and that it be more centrally located to the Brevard County Parks and Recreation South Area Advisory Board. Despite our concerns, the County is proceeding in that direction. The Mayor would like to discuss the specific direction from the City because the County would prefer that the City act in a positive direction as opposed to telling them what not to do. The County Commission did affirm at a recent meeting that the senior center would be constructed at Wickham Park. The County is not in a fiscal position to acquire property elsewhere.

Mayor Goode said that he is concerned that the senior center has moved away from the Downtown Melbourne area. Additionally, he would like to know the geographic boundaries that the County uses in determining where to locate its senior centers. He noted that Wickham Park may be located in the center of that boundary. Mayor Goode said if there are no objections, he will continue dialogue with the County on this issue.

7. Public Comments

John Emery, 552 South Magnolia Avenue, stated that he is concerned with historic preservation and preservation of green space. He reported that everyone in the Magnolia Avenue area was excited about the potential for the property behind them (Magnolia Point Preserve) to be preserved as green space. Mr. Emery said that he understands the fiscal issue; however, on behalf of the community, he hopes the City will continue to pursue

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acquisition of this property.

Peggy Snead, 738 Anita Drive, referenced the Magnolia Point Preserve property. She noted that the City's Comprehensive Plan requires a balance between construction and open space, which is based on the population density. And, at this time there appears to be a deficit of land for public use. Ms. Snead pointed out that the purchase of this property would satisfy the need for balanced growth, provide green space, and a sanctuary for animal and plant species. Ms. Snead asked Council to stay the course and continue looking for funding for the \$700,000 shortfall to meet the criteria. She requested that the door not be closed on this issue.

Mayor Goode commented that the City is continuously looking at issues. Although this grant cycle will pass, there will be more in the following months and years. He concluded by saying that the City will continue looking at this issue.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2006-23 (FOC-2006-01) HISTORIC DOWNTOWN MELBOURNE REDEVELOPMENT PLAN: (First Reading) An ordinance amending Chapter 10, Article IV, Section 10-101, by adopting a new Historic Downtown Melbourne Redevelopment Plan, which modifies the boundaries of the CRA district and recommends capital improvement projects. (Postponed - 4/11/06)

City Attorney Paul Gougelman read Ordinance No. 2006-23 by its title. Council Member Kathy Meehan stated that she would like to postpone this item until the May 9 meeting to allow for a full Council to be present.

Without objection, Council postponed this item until the May 9 meeting. The Mayor announced that the public hearing was held and closed on April 11. The second public hearing will occur during second reading of the ordinance.

9. ORDINANCE NO. 2006-24 (AR-2006-193) HARLOCK ROAD AND COUNTRY ROAD ANNEXATION: (Second Reading/Public Hearing) An ordinance providing for a special mail ballot annexation referendum to be held on June 6, 2006; providing for the annexation of certain lands located on the south side of Post Road, west of Turtle Mound Road and Harlock Road, including Thomas Place and Country Road, north of Deerwood Trail. (First Reading - 4/11/06)

Attorney Gougelman read Ordinance No. 2006-24 by title. Mayor Goode opened the public hearing.

Ed Parker, 4390 Country Road, stated that he is opposed to this annexation; he does not need anything that the City has to offer. He commented that some properties were removed at the last Council meeting and asked if his property could also be excluded.

Mayor Goode asked Mr. Parker if his property is contiguous like the others that were removed, and Mr. Parker replied no.

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Mr. Schluckebier said that this is the first he has heard about concerns. He added that occasionally people are not in favor and that is why the State Statutes provide people with an opportunity to vote.

Robb Liebl, 4405 Country Road, agreed with Mr. Parker's comments and added that there are more than just a few who do not support this annexation. They have well water and are very happy with that. He concluded by saying that they appreciate the offer, but respectfully decline to be annexed.

John Campbell, 3710 Harlock Road, said he is opposed to the process. He reported that it is his understanding that about five years ago the County contacted individuals about running a water line. The financing was approved and everything was in order; however, the City of Melbourne declined to give the County access to the water system.

Continuing, Mr. Campbell stated that he is not quite so satisfied with the well water. The water system is a public utility – something people need. Mr. Campbell stated that he believes the City would want people to request to be annexed rather than blackmailing people into annexing into the city in order to get water. Additionally, he will vote to be annexed because he does want the water; however, he has several questions.

Mr. Campbell asked the City Attorney if he realized that the State Statues provide that property may not be annexed without being provided services a city has to offer, i.e., sewer, parks, etc. He asked when the City planned on installing sewer on Harlock Road.

The City Manager replied that Chapter 171, which regulates annexation, does not require the City to extend those lines in the way that Mr. Campbell has suggested. Chapter 171, which the City follows, requires us to provide urban services in the same way, manner and regard throughout the City. The plan, which accomplishes this, has been provided and sent to the County.

Moved by Contreras/Meehan for approval of Ordinance No. 2006-24.

Council Member Cheryl Palmer said that once again she will have to vote no. Although she welcomes new citizens, she objects to the process. A simple majority can bring people into the City against their will. Mrs. Palmer apologized to Mr. Campbell and everyone else who feels this way. She pointed out that she voted for the policy that requires people to annex in order to receive water. She regrets that vote and believes that people should only be annexed voluntarily.

The question was called. The roll call vote was:

Aye: Contreras, LaRusso, Meehan and Walker

Nay: Palmer and Goode

Motion carried.

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10. ORDINANCE NO. 2006-25 (AR-2006-196) POST ROAD AND TURTLE MOUND ROAD ANNEXATION: (Second Reading/Public Hearing) An ordinance providing for a special mail ballot annexation referendum to be held on June 6, 2006; providing for the annexation of certain lands located on the north and east sides of Turtle Mound Road, between Pine Cone Road and Post Road, and on the south side of Post Road, east of Turtle Mound Road and west of Crane Place. (First Reading - 4/11/06)

Attorney Gougelman read Ordinance No. 2006-25 by title. There were no comments from the public.

Moved by LaRusso/Contreras for approval of Ordinance No. 2006-25. The roll call vote was:

Aye: Contreras, LaRusso, Meehan, Walker and Goode

Nay: Palmer

Motion carried.

11. ORDINANCE NO. 2006-26 (AR-2006-192), ORDINANCE NO. 2006-27 (CPA-2006-06), AND ORDINANCE NO. 2006-28 (Z-2006-1061) SPACE COAST EARLY INTERVENTION CENTER: (Second Readings/Public Hearings) Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning on a 2.5-acre parcel to allow the development of a child care facility, located on the west side of Dairy Road, south of Florida Avenue. (Owner/Applicant - Space Coast Early Intervention Center) (Representative - Vaheed Teimouri) (P&Z Board - 3/16/06)

- a. Ordinance No. 2006-26/AR-2006-192: (Second Reading/Public Hearing) An ordinance providing for annexation of a 2.5-acre parcel. (First Reading - 4/11/06)
- b. Ordinance No. 2006-27/CPA-2006-06: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial/Low Density Residential on a 2.5-acre parcel. (First Reading - 4/11/06)
- c. Ordinance No. 2006-28/Z-2006-1061: (Second Reading/Public Hearing) An ordinance providing for a zoning designation of C-1 (Neighborhood Commercial) on a 2.5-acre parcel. (First Reading - 4/11/06)

Attorney Gougelman read the three ordinances by title. There were no Council disclosures and no public comments.

Moved by Contreras/Meehan for approval of Ordinance No. 2006-26. The roll call vote was:

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

Motion carried unanimously.

Moved by LaRusso/Walker for approval of Ordinance No. 2006-27. The roll call vote was:

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

Motion carried unanimously.

Moved by Palmer/Walker for approval of Ordinance No. 2006-28. The roll call vote was:

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

Motion carried unanimously.

12. ORDINANCE NO. 2006-29 (ED-2006-02) MEDSOLUTIONS: (Second Reading/Public Hearing) An ordinance granting an Ad Valorem Tax Exemption for a period of four years totaling an estimated \$35,428.48. (First Reading - 4/11/06)

The City Attorney read Ordinance No. 2006-29 by title. John Chestnut, representing MedSolutions, was present and available for questions.

Moved by Contreras/Meehan for approval of Ordinance No. 2006-29. The roll call vote was:

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

Motion carried unanimously.

13. ORDINANCE NO. 2006-30 HISTORIC PRESERVATION: (Second Reading/Public Hearing) An Ordinance amending Chapter 10 of the City Code by creating Sections 10-223 through 10-232; providing for the adoption of an Historic Preservation Code. (First Reading - 4/11/06)

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

Moved by LaRusso/Palmer for approval of Ordinance No. 2006-30. The roll call vote was:

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

Motion carried unanimously.

14. ORDINANCE NO. 2006-31 AD VALOREM TAX EXEMPTION FOR HISTORIC PROPERTIES: (Second Reading/Public Hearing) An ordinance amending Chapter 30, "Taxation," providing for an Ad Valorem Tax Exemption for historic properties. (First Reading - 4/11/06)

Attorney Gougelman read Ordinance No. 2006-31 by title. There were no public comments.

Moved by Walker/Meehan for approval of Ordinance No. 2006-31. The roll call vote was:

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

Motion carried unanimously.

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15. ORDINANCE NO. 2006-32: (Second Reading/Public Hearing) An ordinance relating to elections; amending Section 11-4 of the City Code by revising the City's candidate qualifying period. (First Reading - 4/11/06)

Attorney Gougelman read Ordinance No. 2006-32 by title. There were no comments from the audience.

Moved by LaRusso/Walker for approval of Ordinance No. 2006-32. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

16. COUNCIL ACTION RE: Contract award for the relocation of Lift Station 43 (Front Street), Project No. 31005, Jobear/Warden Construction, Palm Bay, FL - \$540,271 and appropriation of \$92,000 from the Water & Sewer Fund - Sewer Capital Reserve account to this project budget.

City Engineer Jenni Lamb reviewed the agenda report.

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

17. COUNCIL ACTION RE: Contract award for the replacement/rehabilitation of Bell Street Sewer Aerial, Project No. 30503, Jobear/Warden Construction, Palm Bay, FL - \$139,605.50 and transfer of \$106,306 from the Water & Sewer Capital Improvement, Miscellaneous Project No. 30099 to this project budget.

Ms. Lamb referenced the agenda report and was available for questions.

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

18. CONSENT AGENDA:

Moved by Meehan/Contreras for approval of the consent agenda, as recommended. Motion carried unanimously.

- a. Amendment No. 3 to the Environmental Consulting Services Contract for the Reverse Osmosis Water Treatment Plant Waste Stream Collection, Project No. 32105, Reiss Environmental, Inc., Winter Park, FL - \$39,700.
- b. Supplement No. 280 to the Continuing Consultant's Contract for engineering services to provide for Booker T. Washington neighborhood lighting improvements, Project No. 00305, Frazier Engineering, Inc., Melbourne, FL - \$28,500.

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- c. Supplement No. 279 to the Continuing Consultant's Contract for engineering services to provide for Southwest Park improvements, Project No. 70006, Frazier Engineering, Inc., Melbourne, FL - \$24,000.
- d. Supplement No. 196 to the Continuing Consultant's Contract for engineering services to provide for Crane Field reuse irrigation, Project No. 32905, Frazier Engineering, Inc., Melbourne, FL - \$17,000.
- e. Fire sprinkler system installation at Fire Station #75, Universal Fire Protection, Melbourne, FL - \$35,654.
- f. Standby electric generator installation at five fire stations, CE Power Solutions, LLC, Lake Hamilton, FL - \$26,650.
- g. Purchase of a Controlled Power Model HV160 Uninterrupted Power System (UPS) for the John A. Buckley Surface Water Treatment Plant, PowerLogics, Inc., Apollo Beach, FL - \$15,054.
- h. Travel authorization for Mayor Goode and Council Member LaRusso to travel to Tallahassee, April 27-28, 2006, to meet with State legislators.
- i. Travel authorization for Mayor Goode to travel to Washington, DC, May 17-18, 2006, to meet with legislators and the City's lobbyist.
- j. Resolution No. 1979: A resolution supporting the Florida Department of Elder Affairs' Communities for a Lifetime Initiative (Requested by Mayor Goode)
- k. Lien Rescission CE-03-071: Approval of request for lien rescission in the amount of \$20,025. (Stefan Douglas Griggs - 829 Camellia Street)
- l. Lien Rescission CE-05-020: Approval of request for lien rescission in the amount of \$15,300. (Stefan Douglas Griggs - 829 Camellia Street)
- m. Lien Rescission CE-05-035: Approval of request for lien rescission in the amount of \$12,000. (Walter Knight, Jr. - 3326 James Street)
- n. Lien Rescission CE-96-108: Approval of request for partial release of lien in the amount of \$2,162.18 for new owner for the property located at 2615 Race Street without relinquishing the personal liability of the original respondent against whom the lien was filed. (Applicant - Sharon Martin)
- o. Approval of a settlement agreement between the City of Melbourne, Niranjan S. Patel, and Sarju Corporation.

19. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

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20. COUNCIL DISCUSSION RE: Annual report to City Council from City Boards.

a. Melbourne Downtown Community Redevelopment Agency Advisory Committee

Chairman Jack Ryals reported that the advisory committee met for 10 regular and three special meetings during 2005. The following items were covered during these meetings: update of the 1982 redevelopment plan; Phase III streetscape project; Downtown parking study; Downtown building height; Melbourne Main Street funding; façade improvement program; benches and receptacles, TIF revenue; Historic Preservation Ordinance; the 2005 budget; urban design workshops with consultant; consultant presentation for Phase III; consultant presentation for the parking study; and Melbourne Main Street contract review and recommendations.

Committee highlights include establishment of closer communication and support for the Main Street program. Phase III lighting was closely monitored and approaches reality. Lowlights include the lack of any visible projects being started in 2005, no existing means for staying informed on private development in the area, and the length of time it takes to implement plans.

Mr. Ryals concluded by saying that the members would like for the board training to be revised and they would like for Council Members to occasionally attend committee meetings.

Mayor Goode referenced the recent parking time limit change from three hours to two hours. He reported that since the change, he has been inundated with complaints, especially from the beauty salons in the area. Apparently the two-hour limit does not allow enough time for a customer to receive beauty salon services and have lunch or shop in the Downtown area. He asked the board to look at this issue again.

Mr. Ryals replied that this is part of an overall parking effort. The time was reduced to get the merchants out of the parking spaces. Although this is the solution now, it may not be the final solution.

Mrs. Palmer asked if the enforcement was less when there was a three-hour time limit and Mr. Ryals replied yes. He confirmed that the two-hour limit is being enforced consistently. Mrs. Palmer said that perhaps the board should consider a three-hour limit with the current level of enforcement. Mr. Ryals said that is a possibility.

The members from the advisory committee stood in the audience.

b. Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee

Chairman George Alexander introduced the members from the advisory committee. He reported that the advisory committee was created in 2000. They held 12 regular meetings last year and enjoyed great public attendance and community support. Program highlights include purchase of the Eau Gallie Square and their partnership with the Rotary Club for a

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pavilion; and they have received an FDOT landscaping grant for \$61,494. The height overlay maintains the historic scale of the neighborhood while allowing for business development. They are seeking grant funds to rebuild the Eau Gallie Pier, which was destroyed in 2005 by Hurricane Wilma. Additional highlights include Waterfronts Florida designation; CRA expansion; bench selection workgroup; and planter beautification.

Mr. Alexander stated that the committee would like Council support in the following areas: investigate area zoning as requested by the Eau Gallie Crime Watch and Neighborhood Improvement Group; continued support for height overlay; angled parking on Bud Yeager Drive; and long term parking solutions. He concluded by thanking Council and staff for its support.

c. Planning and Zoning Board

Chairman Alan King asked the members from the Planning and Zoning Board to stand. Mr. King reported that the board held 24 meetings last year, which were attended by the majority of regular and alternate members. The board considered and voted on 202 items, of which Council reversed the decision on four. The board is diverse and is represented by black, white, Latin, men and women who live beachside, in new subdivisions, in North Melbourne and South Melbourne. Mr. King said that he is impressed in light of the diversity that many of the items voted upon are unanimous. This means that the members are able to apply the Code – the law – and are usually in agreement with the Code.

Mr. King stated that three of the major items acted on last year include a total revamp of the Zoning Code, review of the Downtown Redevelopment Plan, and review of the Historic Preservation Ordinance. He thanked staff for stepping up to the plate on these items.

Mr. King concluded by saying that the board members would like Council's views and direction on traffic infrastructure, including the requirement for deceleration lanes, shared access driveways and traffic management. He added that he is proud to represent the board as its chairman.

d. Police Officers' Retirement Trust Fund Board of Trustees

Chairman Jan Hill listed the other members who serve on the board. She reported that the board is required to have quarterly meetings, which are usually held the month following the calendar quarter. They also conduct special disability meetings as needed. The board asks each member to attend at least one educational conference during the year. A typical agenda normally covers 10 – 15 items, including quarterly investment managers' reports, actuarial evaluation, performance evaluation reports, and administrative matters.

The highlights from last year include the hiring of Chase investment counsel. Chase has contributed quite positively to the overall performance and returns. Ms. Hill noted that the lowlights include the approval of three disability retirements in one year – all in the line of duty. The members found this very disturbing. Also, the board realized that total required contributions have increased in dollar amounts and percentage of the total annual payroll. These increases were attributed to an increase in the average salaries and also low

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employment turnover. And, those increases were partially offset by good investment performance.

Ms. Hill concluded by saying there were no changes to the plan last year, which are usually dictated by changes to Florida Statutes 112 and 185. Regarding Council assistance, she noted that none is needed at this time.

e. Zoning Board of Adjustment

Chairman Mike Nowlin introduced the members from the board and commented that the Board of Adjustment is comprised of a broad variety of talent. From the most senior member to the newest alternate, each member's talent and diversity help the board make its decisions. During 2005 the board met 11 times; one meeting was canceled due to a storm. The board acted on 103 variance requests and approved 80 of those. Out of the 103, 41 were residential, 29 sign related, 18 commercial, eight lot division, and seven institutional.

Mr. Nowlin said that the board reviewed its job description and feels it is accurate. The members also feel that staff is doing an excellent job with its recommendations and presentations. The board would like to see a more formal way of communicating ideas to Council and staff, along with appropriate feedback.

Mr. Nowlin concluded by saying last and most important, the board spends the bulk of its time on sign requests. The members strongly feel that hiring a consultant to review the Sign Code would be advantageous to the City. Mr. Nowlin added that the board is looking forward to a challenging and productive year.

Mayor Goode recognized Zoning Board of Adjustment member Charles Jackson for his 30 years of volunteer service to the City of Melbourne.

Mayor and Council expressed appreciation to each of the boards for their volunteer service to the City of Melbourne.

Recessed: 7:47 p.m.

Reconvened: 7:57 p.m.

Mayor Goode pointed out that this completes the first cycle of board reports. He noted that in light of the time requirements, Council may wish to have some of the boards that meet less frequently provide biennial reports. Mr. Schluckebier added that if Council is satisfied, staff will proceed with a less intense schedule. There were no objections from Council.

21. SITE PLAN APPROVAL (SP-2006-05) PARKWAY PLACE CONDOMINIUMS: (Public Hearing) A request for site plan approval to develop a 152-unit townhome-style condominium project on a 14.73-acre parcel, zoned R-2 (One-, Two-, and Multiple-Family Residential), at a density of 10.3 units per acre, located on the southeast corner of Parkway Drive and Wickham Road. (Owner/Applicant - Wickham Park, LLC) (Representative - Philip F. Nohrr) (P&Z Board - 4/06/06)

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Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board unanimously approved the two-page plan prepared by Cantelou Powell Inc., with Project No. 04-057, signed, sealed, and dated March 22, 2006, subject to the following conditions:

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

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

- b. Appropriate environmental permits, including permitting for the gopher tortoises, must be obtained as part of the construction plan review process.
- c. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.
- d. The applicant shall provide a minimum of an additional 10 feet of right-of-way on Wickham Road and at the intersection with Parkway Drive, if necessary, and construct a dedicated right turn lane and a transitional lane onto Parkway Drive, if permitted by Brevard County. The details of the right-of-way shall be mutually approved during the construction plan review process, and impact fee credits can be given for the contribution of the land, engineering design, and actual construction costs as determined by the City Engineer.
- e. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- f. The applicant shall provide internal sidewalks throughout the project as required by City Code.

Council Member Richard Contreras asked if the left turn lane towards the east on Parkway Drive will be made longer. Additionally, Mrs. Dittmer confirmed that the culvert to the south will be piped and covered. Mr. Contreras asked if the intent is to pipe the ditch all the way up to the driveway. Mrs. Dittmer said that is more of a construction detail and is not shown on the site plan.

Mayor Goode opened the public hearing.

Cliff Repperger, 1800 West Hibiscus Boulevard, attorney representing the applicant, stated that this project is an upgrade from the approval granted last year. The project has a reduced density, and they meet the Comprehensive Plan and City Code requirements.

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Mr. Contreras asked for additional detail about piping the culvert and for the price and square footage.

Damon Cole, representing the Richman Group, reported that these will be market rate units and will be priced from the low \$200,000 range to the low \$300,000 range. The footprint of each unit is 2,500 s.f.; however, the footage under air conditioning will be 1,400 – 1,800 s.f. All the units will have a two car attached garage along with visitor parking.

Pete Cantelou addressed the piping of the culvert and said that the pipe will be extended based on what the St. Johns River Water Management District and the City deem appropriate. Additionally, he confirmed that on Wickham Road they have enough right-of-way for a turn lane.

Mr. Cantelou confirmed for Mr. Contreras that the bikepath on Wickham Road will be reconfigured and shifted to the right-of-way line.

Attorney Repperger concluded by asking Council for approval of the project.

Council Member Mark LaRusso asked why the plan changed from affordable housing to a townhome development. Mr. Cole noted that affordable housing is their bread and butter; however, in this area they believe the townhome product will work. Mr. Contreras expressed appreciation for the shift in strategy.

Moved by Contreras/Meehan for approval of the site plan subject to the conditions and findings. Motion carried unanimously.

22. PRELIMINARY PLAT APPROVAL (SD-2004-06) MELBOURNE CENTER SUBDIVISION: (Public Hearing) A request for preliminary plat approval to develop a four-lot, 11-tract project known as Melbourne Center Subdivision, Phases 2 and 3, on 62.679± acres zoned M-1 (Light Industrial), located on the west side of Wickham Road, north of Ellis Road. (Owner/Applicant – Robert L. Cochran, Melbourne Center, Inc.) (Representative –Robert I. Lee, Lee Engineering, Inc.) (P&Z Board – 4/06/06)

Mrs. Dittmer briefed Council. The Planning and Zoning Board unanimously recommended approval of the preliminary plat, as depicted on a two-sheet plan prepared by Lee Engineering, Inc., of Indialantic, Florida, with a stamped and sealed date of February 6, 2006, subject to the following conditions:

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

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

- b. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles

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shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.

- c. Appropriate environmental permits must be obtained as part of the construction plan review process.
- d. Only one building permit may be issued on the plat prior to recordation of the final plat.
- e. Proportionate Fair Share Agreement: By the time of final plat recording, the Owner/Developer must enter into a tri-party proportionate fair share agreement in compliance with Section 163.3180 (11) and (16), Florida Statutes (2005), between the City of Melbourne and Brevard County, in form and substance acceptable to the City Manager and the City Attorney. The agreement shall commit the Owner/Developer to contributing \$528,403 to the City of Melbourne for construction of improvements at the intersection of Wickham Road and Sarno Road, as described in Table 1 of the proportionate share cost calculations submitted by Lassitter Transportation Group. The agreement must state that the improvements must be completed within two years after Brevard County, and FDOT if necessary, obtain the necessary right-of-way for the improvements. The contribution shall be guaranteed by a letter of credit, drawn on a Florida banking institution in form and substance acceptable to the City Manager and City Attorney, or cash escrow deposited with the City. The letter of credit or cash escrow shall be delivered to the City prior to recordation of the final plat.
- f. Cul-de-Sac Agreements: By the time of final plat recording, the Owner/Developer shall enter into a temporary cul-de-sac agreement in form and substance acceptable to the City Manager and the City Attorney. In the event that the entire Technology Drive roadway is not constructed at one time from Wickham Road to Ellis Road in West Melbourne, the agreement shall provide for temporary cul-de-sacs and easements to be conveyed to the City for each phase of the roadway completed, as provided by Section 8.6 (b) (1) c., Appendix D, Melbourne City Code.
- g. Subdivision Variance to be Obtained: In the event that the Owner/Developer does not complete City acceptable construction of the entire Technology Drive roadway to City standards from Wickham Road to the City limits as shown on the approved construction plans, and to West Melbourne City standards from the City limits to Ellis Road as shown on the approved West Melbourne construction plans, by January 31, 2012, the Owner/Developer shall request a subdivision variance pursuant to Section 8.8, Appendix D, Melbourne City Code, from Section 8.6 (b) (4) k., Appendix D, Melbourne City Code, for segment length of the roadway.
- h. Stormwater Maintenance Agreement Required: By not later than the time of recording of the final plat and pursuant to Section 8.5 (d) (4) c., Appendix D, Melbourne City Code, the Owner/Developer shall enter into, with the City and a permanently operating property owners' association, a standard City form stormwater maintenance agreement in form and substance acceptable to the City Manager and

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the City Attorney. At no expense to the City of Melbourne, the Owner/Developer shall convey to the City of Melbourne an easement for stormwater drainage from project roadways dedicated to the public, which easement shall be over, under, and across project retention ponds. Said easements shall be conveyed to the City by not later than the time of recording of the final plat.

- i. Conveyance of Phase 1 Improved Roadway: By not later than the time of construction plan approval for Technology Drive as depicted on the preliminary plat, the Owner/Developer and Wuesthoff Health Systems, Inc. (the owner of a portion of the Phase 1 roadway property) shall convey by warranty deed in form and substance acceptable to the City Manager and the City Attorney, the Phase 1 improved roadway to the City of Melbourne. Said roadway shall be free and clear of all title encumbrances, unless waived by the City Engineer and City Attorney.
  
- j. Sewer Line Easements: Prior to time of recording of the final plat, the Owner/Developer shall convey to the City of Melbourne, in the locations shown on the preliminary plat, a 15-foot wide force main sewer easement and a 25-foot wide easement for the force main and gravity connecting the lift station, located on Harris Corporation property to the south of the Owner/Developer's project, with Wickham Road. All surveying and recording costs, perfecting title, and costs of conveyance of the easements shall be at the expense of the Owner/Developer. The easement conveyances shall be in form and substance acceptable to the City Manager and City Attorney and free and clear of all encumbrances to marketable title. The City Manager may waive this condition of approval, if an easement connecting the lift station, located on Harris Corporation property to the south of the Owner/Developer's project, with Wickham Road over, under, and across Harris Corporation property is furnished to the City at no cost to the City of Melbourne.

Mrs. Palmer asked about the right-of-way located west of the property. Mrs. Dittmer said she believes it is a canal right-of-way and confirmed that it is not a street.

Mayor Goode opened the public hearing. There were no comments.

Mrs. Palmer asked if there was any possibility of the property being used as part of the landfill. Mrs. Dittmer replied that in the M-1 zoning category, a conditional use would be required for that type of activity. She added that based on discussions with the applicant, she does not believe that is the intent for use of the property.

Moved by Contreras/Meehan for approval of the preliminary plat, subject to the findings and conditions as outlined in the agenda package.

Mrs. Palmer asked if staff is aware of the nature of the intersection improvements planned for Sarno/Wickham Roads. Mrs. Dittmer said that the intersection will be widened so that all four directions would have right dedicated turn lanes. She noted that this will assist with traffic capacity.

The question was called. Motion carried unanimously.

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23. COUNCIL ACTION RE: (Public Hearing) Approval of a land development interlocal agreement between the City of Melbourne and the City of West Melbourne regarding the Melbourne Center Subdivision; and authorization for the City Manager to execute and record the agreement.

Attorney Gougelman reviewed the agenda report. A small strip of property (0.318 acres) that is part of the Melbourne Center development is located in Melbourne. It is part of the overall Melbourne Center property, which is located in West Melbourne. Planning staff from both municipalities determined that this strip of land would be more conveniently developed and permitted by West Melbourne.

Pursuant to Florida's Growth Management Law, the power of development permitting may be ceded by one municipality to another municipality by interlocal agreement. To do so, the agreement must be approved by each municipality after an advertised public hearing. Attached is a proposed agreement, which cedes development permitting authority to West Melbourne over the strip of land until December 31, 2012.

Mayor Goode opened the public hearing. There were no comments.

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

24. ORDINANCE NO. 2006-35 (A&V NO. 289): (First Reading/Public Hearing) An ordinance vacating the easterly three feet of a 7.5-foot wide public utility and drainage easement adjacent to the 15-foot drainage right-of-way at 1436 Arnold Drive. (Owners - Jack & Lauralee Lawrence)

Attorney Gougelman read Ordinance No. 2006-35 by title. There were no disclosures by Council and no comments from the public. The applicant was present and available for questions.

Moved by Contreras/Walker for approval of Ordinance No. 2006-35. Motion carried unanimously.

25. ORDINANCE NO. 2006-36 (AR-2006-190) BURTON COMMERCIAL, EAST/WEST DRIVES: (First Reading/Public Hearing) An ordinance providing for annexation of 29.41 acres and the adjacent 4.16-acre public right-of-way, located north of Ellis Road and south of North Drive in the Ellis Road Industrial Plaza. (Owners/Applicants - Alfred B. Osterhout, Kirk Campaignha, Hugh M. Evans, Jr., Martha E. Donahoe, Louis D. Kipp, and Vaughn Development, LLC) (Representative - City of Melbourne) (P&Z Board - 4/06/06)

Attorney Gougelman read the ordinance by title and Mrs. Dittmer briefed Council. There were no comments from the public.

Moved by LaRusso/Walker for approval of Ordinance No. 2006-36. Motion carried unanimously.

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26. ORDINANCE NO. 2006-37 (CU-2006-05) HARBOR CITY PROFESSIONAL CENTER: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a barbershop in a C-1A (Professional, Offices, and Services) on a 1.46±-acre lot, located on the east side of Harbor City Boulevard, south of Thomas Barbour Drive, and north of Ballard Drive. (Owner - Harbor City Professional Center, Inc.) (Applicant/Representative - David T. McWilliams) (P&Z Board - 4/06/06)

Attorney Gougelman read Ordinance No. 2006-37 by title. Mrs. Dittmer reviewed the agenda report. There were no disclosures from Council and no comments during the public hearing.

Moved by Contreras/Meehan for approval of Ordinance No. 2006-37. Motion carried unanimously.

27. ORDINANCE NO. 2006-38 (Z-2006-1063) MELBOURNE LIMITED PARTNERSHIP: (First Reading/ Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on a 12.26±-acre portion of a 16.36±-acre lot, located on the north side of Palm Bay Road, west of Babcock Street, and east of Stack Boulevard. (Owner/Applicant - RIA Melbourne limited Partnership) (Representative - Paul Rufo) (P&Z Board - 4/06/06)

The City Attorney read Ordinance No. 2006-38 by its title. Mrs. Dittmer briefed Council on the request. There were no disclosures by Council.

Mrs. Palmer referenced the agenda report, which indicates that the applicant has been approached by adult arcade operators for use of the property. Based on this, she said that she would support denial of the request.

In response to Mrs. Palmer, Mrs. Dittmer confirmed that the existing C-1 zoning requires a conditional use for an adult arcade. If the property were rezoned to C-2, an adult arcade could operate without a conditional use. Mrs. Palmer stated that C-1 zoning will give the City more oversight.

Moved by Palmer/Contreras for denial of Ordinance No. 2006-38.

The Mayor asked the applicant if he would like to address Council.

Paul Rufo, 1600 Sarno Road, representing the applicant, said that it has been difficult to lease space on this site. An operator of an adult arcade has expressed interest. They operate an adult arcade in Merritt Island, which is a first class operation with no cash, no smoking and no drinking. Mr. Rufo said he believes this would be an asset to the area and would help the owner of the property lease to this tenant and future tenants.

Mayor Goode said that Melbourne has had litigation over similar type of uses.

Mr. Rufo said he discussed this with the City's legal counsel and the Police Department. The Police Department indicated that it would not have a problem with this operation unless they were creating a disturbance or conducting an illegal activity.

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There were no further comments from the public.

The question was called. The roll call vote was:

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

Motion carried unanimously.

28. ORDINANCE NO. 2006-39 (AR-2006-195), ORDINANCE NO. 2006-40 (CPA-2006-04), AND ORDINANCE NO. 2006-41 (Z-2006-1064) FLAMINGO MIO, INC.: Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation on a 0.44-acre parcel, located at 2148 Leewood Boulevard, west of Croton Road, south of Aurora Road, and north of Shelby Drive in the Leewood Forest Estates Subdivision. (Owner/Applicant - Flamingo, Mio, Inc.) (Representative - Frank Bartolotta) (P&Z Board - 4/06/06)
- a. Ordinance No. 2006-39/AR-2006-195: (First Reading/Public Hearing) An ordinance providing for annexation of a 0.44-acre parcel.
  - b. Ordinance No. 2006-40/CPA-2006-04: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Low Density Residential on a 0.44-acre parcel.
  - c. Ordinance No. 2006-41/Z-2006-1064: (First Reading/Public Hearing) An ordinance providing for a zoning designation of R-1A (Single-Family Residential) on a 0.44-acre parcel.

Attorney Gougelman read each ordinance by title. There were no disclosures by Council and no comments during the public hearing.

Moved by Meehan/Palmer for approval of Ordinance No. 2006-39. Motion carried unanimously.

Moved by Contreras/LaRusso for approval of Ordinance No. 2006-40. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-41. Motion carried unanimously.

29. COUNCIL ACTION RE: Budget and fiscal issues.

Deputy City Manager Amy Elliott reviewed the agenda report. The report advises Council of issues that will be coming up as staff prepares the 2006-2007 budget. Generally, staff is proposing status quo operating budgets with regard to service levels provided to the citizens by each department. All operating budgets will require increases to provide for salary and benefit increases for existing staff in accordance with union contracts and at comparable rates for non-union employees. Additionally, funds must be provided for increased staffing

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previously authorized for which the full year's cost has not yet been budgeted. Further, it is believed that additional resources will be needed for health insurance premiums and additional staff required as a result of growth in the community. Typically, these increases are funded through property taxes.

General capital improvement projects create greater challenges in identifying funding resources. As was discussed at a special workshop last August, Melbourne has significant unfunded capital improvement projects in its Five Year Capital Improvement Schedule. An additional \$5-\$7 million is needed annually, assuming that some of the projects identified in the workshop will be funded through debt issuance. Since the one-cent sales tax does not look promising in terms of financing projects next fiscal year, other possibilities need to be considered, such as additional transportation impact fees, increased or expanded stormwater utility fees, and an allocation of additional property taxes.

Next year is the last year of the adopted 5.0% rate increases in the Water and Sewer Fund. Postponing a bond issue planned for the current fiscal year takes a little pressure off rates, but it is likely there will be a bond issue next fiscal year. This will necessitate a revenue sufficiency analysis and staff is hopeful that future rate increases could be at a reduced rate.

Ms. Elliott noted that the proposed budget workshop date is July 24, 2006. Additionally, staff recommended a change to the budget public hearing dates listed in the agenda package after learning that Brevard County scheduled its hearings at the same time. The recommendation is to hold the public hearings on the 5<sup>th</sup> and 19<sup>th</sup> of September. The regular meetings would be held after the public hearings have adjourned. A change in the regular meeting schedule would require a Code change (Chapter 2, Section 2-17). The Code currently provides that regular meetings will be held the second and fourth Tuesday of each month.

Moved by Contreras/Walker to approve the schedule and authorize a change to the City Code as outlined.

Mayor Goode asked if the Code change would apply to the September meetings only. Mr. Schluckebier said the ordinance will be drafted to allow latitude to change the schedule following adoption of a resolution.

The question was called. Motion carried unanimously.

30. RESOLUTION NO. 1980: A resolution concerning the recalculation of Brevard County Transportation Impact Fees.

From the agenda report: The resolution requests that the Brevard County Commission act to increase the County's transportation impact fees. The resolution further states that the City of Melbourne will also follow through to provide for some proportionate increase in collection of impact fees for County roads within the City. The intent is to recommend action for improvement and with collaboration.

Moved by Walker/Contreras for approval of Resolution No. 1980.

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Deputy City Manager Howard Ralls provided a brief overview for Council. The City Manager noted that the County will be conducting a workshop meeting on May 9. City staff did not want to indicate that we believe the County's impact fees are below where they should be without the support of City Council.

Following a brief discussion, Mr. Schluckebier assured Council that this resolution does not approve or require any change in the City's impact fees. The resolution will simply allow the City to have a conversation with the County. Any future change would remain in the purview of the City Council.

The question was called. Motion carried. Mrs. Palmer voted nay.

31. COUNCIL ACTION RE: Appointment of three regular members to the Babcock Street Community Redevelopment Agency Advisory Committee

Moved by Meehan/Palmer to reappoint the current members, John Edmiston, Frank Facciobene, and James Whaley. Motion carried unanimously. (May 4, 2006 – May 3, 2008)

32. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 East Palmetto Avenue, submitted petitions signed by 100 people opposed to high-rise buildings and requesting a referendum restricting height. She noted that these petitions go with the petitions she submitted on March 28.

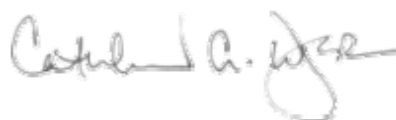
Additionally, Mrs. Poole discussed the County senior center and stated that the people do not want the center located in Wickham Park. She reported that the County Commission will discuss this issue at its May 9 meeting.

Mayor Goode said he would like to know how the County decides where to locate its senior centers. Mr. Schluckebier said if the County has a specific area or list of senior centers, he will obtain that information for Council. He pointed out that Council gave the Mayor the latitude to communicate (under agenda item #6) with the County about this issue.

33. ADJOURNMENT

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

The meeting adjourned at 9:02 p.m.



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City Clerk – 5/4/2006

Approved by Council: \_\_\_\_\_