

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 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 Darice Dawson, Florida Tech, 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
	Cindy Dittmer	Planning & Economic Development Director

Mayor Goode announced that the attorney representing the applicant on Item #18 has asked for the item to be postponed until the July 11 meeting.

4. Proclamations and Presentations

None.

5. Approval of Minutes – May 2, 2006 Special Meeting  
May 9, 2006 Regular Meeting

Moved by Hand/LaRusso for approval of the May 2 and May 9 minutes. Motion carried unanimously.

6. City Manager's Report

City Manager Jack Schluckebier reported that the City is currently advertising for members to serve on the Historic Preservation Board, which was established by the adoption of the Historic Preservation Ordinance. This board will assist with the execution and implementation of the programs set out in that ordinance. It is expected that the seven-member committee will be appointed in late June.

7. Public Comments

William Miller, 2016 Grant Place, asked for assistance on the following items: a) Residents who live south of 192 in the Downtown area struggle to cross 192. The traffic signals are set

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

for 96 seconds 24 hours a day, seven days a week. He asked if the City could work with FDOT to adjust the lights so they are triggered at reasonable times. b) The area behind his home is part of the Henegar Center. Part of that has been abandoned and the weeds are waist high. The Henegar Center has told him the County is responsible; the County has said that the City is responsible and the City has said that the County is responsible. He asked if someone could please mow the weeds. c) FDOT has finished working along the river between Dunkin' Donuts and Appliance Direct. He said he believes they have not done a complete job. The area where DOT parked its equipment needs to be sodded, light poles have been left leaning, etc.

Council Member Kathy Meehan said that Mr. Miller has contacted her and she will forward information to the City Manager's Office.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2006-23 (FOC-2006-01) HISTORIC DOWNTOWN MELBOURNE REDEVELOPMENT PLAN: (Second Reading/Public Hearing) 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. (First Reading - 5/09/06)

City Attorney Paul Gougelman read Ordinance No. 2006-23 by title. Mayor Goode referenced additional correspondence distributed prior to the meeting: a) E-mail dated May 17 from Rena Elder-Foley, resident of the "Tar Heel" area, asking that this area be excluded from the expansion area. b) Memorandum from the City Manager dated May 19 transmitting an updated agenda report on the item and confirming that the ordinance is correct as presented in the package.

Mayor Goode opened the public hearing.

Ray Barclay, 2510 South Riverview Drive (Tar Heel area), submitted a petition containing 12 signatures of residents from the area who are in favor of the Tar Heel area being included in the redevelopment area. And, asking that the boat ramps at Front Street Park not be moved to Riverview Park. Mr. Barclay added that two of the 12 signers of the petition are now undecided.

Mr. Barclay reported that there has been a lot of misinformation circulated in the community. People have heard that the Community Redevelopment Agency would increase the chances of eminent domain and people are concerned about C-3 zoning. He added that everyone is in agreement that the powerboats should remain at Front Street and Riverview Park should remain a non-motorized craft launching area.

Continuing, Mr. Barclay said that this area has bums, whores, drug dealers and run down buildings. Most of the run down buildings are located on U. S. 1. The residents experience vehicle break-ins and bums walking through yards. These elements put a damper on their beautiful neighborhood and something needs to be done. The bums and whores hang out on U. S. 1 because it looks like a place where they can hang out. He concluded by saying he

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

appreciates that the City wants to improve this area.

Mr. Barclay confirmed for Council Member Cheryl Palmer that he does not want to be excluded from the redevelopment district.

Margo Pierce, 2504 Riverview Drive (Tar Heel area), stated that she is against the Tar Heel/Riverview Heights area being included in the expansion of the redevelopment area. Her backyard abuts C-2 zoning and as the C-2 area begins to rezone to C-3 and development starts expanding, she is concerned that her land will be a target. Ms. Pierce said she knows that the City Council has placed in writing that it disavows any attempt to take private property; however, she has no guarantee that won't change a year from now when circumstances change.

Ms. Pierce stated that she wants to reserve the right to sell her land to a developer; she does not want the City to be the middleman. She stressed that she wants the right to control her land. Ms. Pierce commented that she is in favor of redevelopment and she endorses taking care of the problems on U. S. 1 with the whores and drug dealers. She added that proper enforcement would run them across the street or up to the Eau Gallie area.

Continuing, Ms. Pierce said that there is nothing in the plan that says the CRA will do something for her neighborhood other than bring in big business.

In response to the Mayor, Attorney Gougelman confirmed that the Legislature has changed the law and municipalities in Florida will no longer have the ability to take private property for the purpose of selling to a third party developer for economic development. Cities may continue to condemn property – regardless of location – for road projects, etc.

Council Member Mark LaRusso asked Ms. Pierce, in light of this change in the law, if she still wants to be removed from the CRA. Ms. Pierce replied that she is concerned that the City will expand Riverview Drive, change the use of Riverview Park, and move congestion from the Downtown area to her area.

Mrs. Palmer asked Ms. Pierce when she became aware of the plan. Ms. Pierce said she has known about the plan all along. She realized that if this passes and her neighborhood is included, she may lose certain rights. She confirmed that she does not want her property included in the redevelopment district; however, she does endorse having U. S. 1 cleaned up and modernized.

Patty Wolf, 2934 Riverview Drive (Tar Heel area), said she did not have access to the redevelopment plan; therefore, she is not aware of its implications on her as a homeowner.

Ms. Wolf asked if her taxes will increase as improvements are made. Mayor Goode replied that the CRA won't impose a tax; however, if the value of her property increases, her taxes will increase.

Ms. Wolf asked if the zoning in the area would change under the plan. Following a brief discussion, Mr. Schluckebier said that the plan itself recommends that the area be a different

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

type of zoning. However, any rezoning would be subject to a separate, public process.

In response to Ms. Wolf, Mayor Goode said that developers may request a conditional use for height, regardless of whether property is located in or out of the redevelopment area. Ms. Wolf asked the timeframe for the redevelopment area. Mayor Goode replied 40 years. Mrs. Palmer clarified that it could be up to 40 years.

Mrs. Wolf concluded by saying she does not want to see Riverview Drive become a canyon of condos. She supports redevelopment, but she doesn't want it to affect homeowners. She added that she doesn't believe redevelopment should be a license for over-development.

Rena Elder Foley, 2704 Melwood Drive (Tar Heel area), referenced the blight study, which led to the Tar Heel area being included in the expansion area. She said that there are many misleading statements in that document and the area does not meet the criteria for being declared blighted. Ms. Foley added that the Tar Heel area abuts a blighted area.

Continuing, Ms. Foley said that the Tar Heel area is a residential area eight blocks long located south of Riverview Park, east of the U. S. 1 commercial corridor and west of the Indian River Lagoon. Riverview Drive is a narrow roadway that the residents would like left intact. The Tar Heel area is currently zoned R-2 (15), medium density residential. This is a one of a kind community in Melbourne and one of the oldest areas of Melbourne. Ms. Foley pointed out that one of the objectives of the plan calls for higher density residential use. She noted that this goal is presently being achieved, and she concluded by asking for this area to be excluded.

Mrs. Palmer asked Ms. Foley if she sees anything positive from being included in the redevelopment area. Ms. Foley replied not at this time. She added that the area will benefit tremendously by abutting the redevelopment area. And, the area is progressing as necessary while meeting the goals and objectives of the redevelopment plan.

Pat Poole, 805 East Palmetto Avenue, stated that there are items in the redevelopment plan that need to be removed. She added that moving the Front Street boat ramps is one of the worst things that could happen. Ms. Poole submitted a petition containing (374) signatures of people "adamantly opposed to the removal of our Front Street newly replaced boat ramps..." Mrs. Poole commented that there are not enough boat ramps in Brevard County.

Continuing, Mrs. Poole submitted a petition containing 20 signatures of people "opposed to the destruction of Downtown Melbourne, twin towers, high-rise buildings; requesting referendum to restrict heights..." She referenced the plan and said she likes the part that calls for the retail area to be three- and four-stories. However, she does not like that high-rise, high-density development is called for the perimeter. She noted that this would look like a stockade has been built around the retail area.

Debbie Palmer, 2612 Riverview Drive, read the definition of blight from the State Statutes and stated that almost all of the criteria relate to the U. S. 1 corridor – not the Tar Heel residential area. The only issues identified in the blight study that relate to Tar Heel are the condition of Riverview Drive and Kragers Court. And, Kragers Court has been vacated. Further, the blight study notes that the residential area is rich in Melbourne's past history, which is along the

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

waterfront. Ms. Palmer stated that the residents would like to preserve this heritage as best as they can.

Continuing, Ms. Palmer returned to the definition of blight, which includes defective parking, faulty lot layout, deteriorated buildings, falling lease rates, high vacancy rates, and incidents of crime higher than elsewhere in the municipality. She displayed crime data from the City's web site for the period February-March and noted that they had one report near University Boulevard in a 30-day period. Therefore, they probably don't have a surplus of crime in the residential area. She stressed that all of these items apply to the U. S. 1 area – not the residential area.

Mr. Contreras asked Ms. Palmer if she sees transients as an issue. Ms. Palmer replied that transients are directly applicable to the U. S. 1 corridor. Clean-up of the U. S. 1 corridor will impact her neighborhood. Mr. Contreras said that some of the speakers are just entering the discussion at the last minute and may not understand that the TIF money would benefit the neighborhood. Ms. Palmer said she understands the definition of TIF money and its impact.

Mr. Schluckebier stated that he met with individuals from the residential area yesterday and they were emphatic after reading the studies and statistics that they do not want the residential district to be included in the CRA. They seemed cognizant of the opportunities and benefits. There may be issues that staff would dispute about their underlying assumptions; however, that is not relevant.

Billie Brown, 2900 Riverview Drive, noted that in order to be a blighted area, property values should not have increased in the past five years. She reported that based on the Tax Collector's records, there has been an increase in assessed value in the area of almost 50%. The market value in the area exceeds the assessed value. Additionally, a blighted area is defined as being unsanitary. Ms. Brown assured Council that conditions in the neighborhood do not promote the spread of disease.

Continuing, Ms. Brown said that a blighted area has building code violations greater than in other areas of the City. She said she checked with the City and found no violations on Riverview Drive and the surrounding streets. Ms. Brown concluded by saying that the area does not fit the criteria for being blighted and it was wrongly included in the redevelopment area.

Paul Brooks, 2825 Riverview Drive, submitted a petition, which he said represents 71 parcels out of 103 parcels in the Tar Heel area. The petition indicates that the signers "understand the benefit that can be garnished by the Melbourne Downtown Redevelopment Plan; are concerned about the recommended changes to the Tar Heel area; do not support the proposed Future Land Use change and zoning designation change; and do not want to be included in the Downtown Redevelopment Plan." Mr. Brooks asked Council to remove the blight designation from their neighborhood. He added that prostitution, which is part of the crack trade, is a concern throughout Downtown Melbourne. The residents support redevelopment of the U. S. 1 corridor and realize that the problems won't be solved overnight.

Mr. Brooks referenced the redevelopment plan and stated that the residents don't believe the

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

vision as outlined is appropriate for the Tar Heel neighborhood. With a 25-year lifespan, there is opportunity for a less benevolent City Council to impose this vision on their area. Tar Heel is an historic neighborhood and an asset to the community. The residents want to preserve the historic character and ask that this area be removed from the redevelopment area.

Following a series of questions by Mr. Contreras, Mr. Brooks said that he sees redevelopment as being largely private development. Through the redevelopment plan, private development on U. S. 1 would improve.

Diane Barile, 1809 North Riverview Drive, stated that her neighborhood includes the largest conglomeration of old houses. She noted several issues that she has, which include: The City is expanding the redevelopment area although it hasn't finished redevelopment of the current area; in the past 15 years her area received one gazebo; and they continue to have high crime, prostitution, etc. She said she hopes that the City will look at the North Riverview Drive area – an area that is in transition. The residents would like more than a gazebo.

Ms. Barile pointed out that the adoption of this plan will require an amendment to the Comprehensive Plan and then eventually the Zoning Code. She said that the east side of Riverview drive is currently zoned C-1. A picture accompanying the plan shows a block of condominiums covering most of the area from 192 to the Wells house. She stressed that this is the last place in town with an old road and old houses that can be protected. She concluded by referencing the new Historic Preservation Ordinance and said she hopes that this portion of Riverview Drive will be the core historic preservation area in town.

William Miller, 2016 Grant Place, said that the City has done a poor job of including the public. He encouraged Council to extend second reading of this ordinance and explained the difficulties he experienced in obtaining information.

Jack Ryals, Chairman, Community Redevelopment Agency Advisory Committee, noted that the advisory committee consistently meets the first Friday of each month in the Council Chamber of City Hall. He noted that he also represents the merchants on that committee.

Mr. Ryals said that there are two main points – a sunset date and the use of the TIF revenues. The CRA should not go on forever; however, after 24 years, one speaker commented that her area has only received a gazebo. Mr. Ryals said that perhaps 25 years should be a minimum for a CRA. He recalled that there were concerns 24 years ago about eminent domain and the Downtown area becoming a high-rise concrete jungle; that hasn't happened. Regarding TIF revenue, there are a lot of projects on the board, but nothing has gone vertical. He said he doesn't believe we should discuss how the money is split until we are further down the road.

Mr. Ryals said at the last advisory committee meeting, they received appropriate criticism that they have not been successful at planning for one, five and ten years. He commented that there are some elements in the plan that look good and others that don't. In response to Mr. Ryals, approximately 10 people who support the redevelopment plan stood in the audience.

That concluded comments from the public. Mayor Goode closed the public hearing.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

Mayor Goode said he asked the City Attorney to prepare a proposed amendment to the ordinance, which shows how the ordinance would be amended if the residential portion south of Riverview Park were taken out of the plan. That proposed amendment has been distributed to Council.

Moved by Goode/LaRusso to remove the residential portion located south of Riverview Park, as outlined on the amendment prepared by the City Attorney, from the redevelopment (expansion) area.

Mrs. Palmer said she believes that the speakers took a long and hard look at what blight means. They proved tonight that their neighborhood does not meet the criteria for blight. The Council looked at the blight study as a whole. The residents might not have looked closely until they realized their homes had been included. That is why people have been stepping up this late in the game.

Mrs. Walker agreed and thanked those who attended the meeting.

Mr. Contreras said that the neighborhood teamanship is impressive. He recommended that the residents continue by participating in advisory committee meetings.

Mr. LaRusso applauded the efforts of the residents.

The question was called on the amendment. The roll call vote was:

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

Motion carried unanimously.

Mrs. Palmer said that Council is taking staff's word that the amendment completely removes the Tar Heel neighborhood.

Moved by Goode/Walker to grant the City Attorney scrivener's rights to amend the legal description of the ordinance as necessary to accomplish this. Motion carried unanimously.

Mayor Goode asked Council to address the ordinance, as amended.

Mrs. Meehan noted that following the last meeting, the ordinance was prepared with Option A (Mrs. Palmer's option) and includes a provision for revenue sharing and a sunset date. She said she would like to remove the provisions of Option A from the ordinance and proceed with the plan as originally recommended by staff and the advisory committee.

Moved by Meehan/Hand to strike Option A from the ordinance.

Mrs. Meehan said she would like to proceed with the ordinance without revenue sharing and the limited sunset date because she does not want to give money back to the County. She reported that the Merritt Island redevelopment area receives \$1.4 million from the County and recently they expanded by 145 acres – along with a date that is indefinite. At this point, the

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

City needs to proceed with the projects outlined in the plan and review a sunset date 10 – 12 years from now.

Mrs. Palmer said that the ordinance as written (which includes Option A) will return 50% of the TIF money after the redevelopment area begins receiving \$1.6 million per year. She noted that the rest of the City will be greatly impacted by the high density residential developments that have been proposed. Development will affect our roadways, water, sewer, police, and fire. Mrs. Palmer stressed that \$1.6 million is a lot of money that will stay in the Downtown area to fund these wonderful improvements. She said that she is not gutting the plan. She is looking out for the entire City rather than being district oriented.

Mrs. Hand said that she still firmly supports going 40 years with no revenue sharing. Considering a 10% growth factor, the funds raised would be approximately \$427 million. She added that with annexation and all the condominiums that are coming in, the rest of the community will have enough money.

Mr. Contreras said that from a broader perspective, the County's coffers benefit the quality of life in the City. He pointed out the senior center proposed for Wickham Park as an example and stated that he can't support the motion.

Mrs. Palmer asked the effect of Mrs. Meehan's motion. Attorney Gougelman noted that there would not be a termination date for the CRA other than the date outlined in the plan, which says it is intended to run through the year 2045. The other legal effect is that the revenue sharing constraints would be removed.

The question was called. The roll call vote was:

Aye: Meehan and Hand

Nay: Contreras, LaRusso, Walker, Palmer and Goode

Motion failed.

Following a brief discussion, Mrs. Meehan said she has five amendments she would like to propose.

Mrs. Meehan moved to change the 50% revenue sharing to 25% after the base value has reached 10 times the original. There was no second. Mrs. Meehan moved to cap the TIF growth at 20 times, rather than 10 times, the original base value. There was no second. Mrs. Meehan moved to provide for a reevaluation of the target thresholds and end dates at the time of bonding or by the year 2012, whichever comes first to determine the need for subsequent plan amendments. There was no second.

Moved by Meehan to change the sunset date on the existing CRA to 2031 to coincide with the expansion area. Mayor Goode provided a second; however, the motion was later withdrawn.

Mrs. Hand said that these may be good ideas and she would like time to review them rather

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

than having them thrown at her at this meeting. Mayor Goode withdrew his second so Mrs. Hand could seek support for a motion to postpone this item.

Moved by Hand/Meehan to postpone this item until the next regular meeting.

Mayor Goode noted that if the item is postponed, it would return on the next agenda for Council action only – the public hearing has been closed.

Mrs. Palmer said she can't support the motion. During the public hearing, people asked for more time for review. Now there is a proposal to table without taking additional public comments.

Mrs. Hand said she would support taking more public comments. This would provide everyone an opportunity to look at the plan again and ask questions.

Mrs. Meehan asked if there is a timeframe for when the plan has to be adopted. Mr. Schluckebier replied no and said that it is entirely up to the Council to decide.

The question was called on the motion to postpone. The roll call vote was:

Aye: Meehan and Hand

Nay: Contreras, LaRusso, Walker, Palmer and Goode

Motion failed.

Moved by Meehan/LaRusso to provide for an all purpose evaluation in 2016 by the CRA committee.

Mrs. Meehan said this amendment would require the advisory group to determine what projects they have completed up to that point and what direction they have gone. Mr. LaRusso asked if this means that another Council would have an opportunity to review and change what has been done at this meeting. Mrs. Meehan replied that would be good. Mr. LaRusso asked if this evaluation would determine if the goals have been met and if an adjustment is needed and Mrs. Meehan replied correct.

Mr. Contreras said he does not believe that placing an evaluation in stone would be of any value because of the consistent evaluation that takes place. The chairman of the advisory committee commented earlier in the meeting that the group conducts monthly meetings.

The question was called. The vote was:

Aye: LaRusso and Meehan

Nay: Contreras, Walker, Palmer, Hand and Goode

Motion failed.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

Moved by Palmer/Contreras for approval of Ordinance No. 2006-23 as amended (removal of the Tar Heel area from the plan). The roll call vote was:

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

Nay: Hand

Motion carried.

Mrs. Meehan stated that she is in favor of redevelopment in the South Melbourne area; however, she is not pleased that the plan has been chopped.

Recessed: 8:11 p.m.

Reconvened: 8:21 p.m.

9. ORDINANCE NO. 2006-42 (CU-2005-16) LANSING SQUARE: (Second Reading/Public Hearing) An ordinance granting a conditional use to construct a mini-storage facility on an 7.63±-acre portion of an 11.32±-acre parcel, zoned C-2 (General Commercial), located on the east side of Wickham Road, north of Lansing Street, and south of Lake Washington Road. (Owner/Applicant - Laws Hall Partnership) (Representative - Brad Smith, Brad Smith Associates, Inc.) (First Reading - 5/09/06)

Attorney Gougelman read Ordinance No. 2006-42 by title. There were no disclosures by Council and the public hearing was opened and closed with no comments.

Moved by Hand/Walker for approval of Ordinance No. 2006-42. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2006-43 COUNCIL MEETING SCHEDULE: (Second Reading/Public Hearing) An ordinance relating to regular Council meetings; amending Section 2-17 of the City Code by providing for flexibility in the meeting schedule under special circumstances; and requiring the adoption of a resolution to change the meeting schedule. (First Reading - 5/09/06)

Attorney Gougelman read the ordinance by its title. There were no public comments.

Moved by LaRusso/Contreras for approval of Ordinance No. 2006-43. The roll call vote was:

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

Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

NEW BUSINESS

11. COUNCIL ACTION RE: Supplement No. 281 to the Continuing Consultant's Contract for engineering services for the development of a Unidirectional Flushing Program and assisting with the planning associated with an Initial Water Distribution System Evaluation, Project No. 31306, Frazier Engineering, Inc., Melbourne, FL - \$197,400; and transfer of \$197,400 from the Water & Sewer Capital Improvement - Miscellaneous Projects to establish a project budget.

City Engineer Jenni Lamb reviewed the agenda report.

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

12. COUNCIL ACTION RE: Supplement No. 003 to the Continuing Consultant's Contract for hydrogeologic services for Reverse Osmosis Wells 1, 2, and 3 pump stations mechanical upgrades at the Joe Mullins Reverse Osmosis Water Treatment Plant, Project No. 31406, L.S. Sims & Associates, Inc., Rockledge, FL - \$61,900; and transfer of \$62,900 from the Water & Sewer Capital Improvement - Miscellaneous Projects to establish a project budget.

City Engineer Jenni Lamb briefed Council.

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

13. CONSENT AGENDA:

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

- a. Authorization to negotiate a settlement agreement between the City of Melbourne and the South Oaks Subdivision Homeowners' Association for repairs to the perimeter wall adjacent to Eber Road in an amount not to exceed \$44,000; Eber Road Widening, Project No. 01608.
- b. Acceptance of the delivery and recording of an easement from Grandview Condominiums for pedestrian and bicycle traffic over the land east of U.S. 1.
- c. Contract award for the replacement of tennis court lighting at Fee Avenue Park, Dixon Electric Co., Inc., Cocoa, FL - \$53,032.92; and transfer of \$31,032.92 from General Fund Contingency to this project budget.
- d. Contract award for fence installation at College View Estates and Autumn Woods retention ponds, Aabot Fence, Inc., Orlando, FL - \$29,898.40.
- e. Annual contract award for the purchase of hydrofluosilicic acid, Lucier Chemical Industries, Ltd., Jacksonville Beach, FL - \$192.50/ton for  $\frac{3}{4}$  loads and \$240/ton for  $\frac{1}{2}$  loads; minimum estimated annual cost of \$23,100.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

- f. Approval of a one-year extension of HOME Tenant Based Rental Assistance benefits for Dennis Culp, Georgia Riddle, James Smith, and Ellen Webb.
- g. Approval of HOME Program FY 2002 budget adjustments to allocate \$13,176.07 in HOME recaptured funds for tenant based rental assistance.
- h. Resolution No. 1983: A resolution providing for a change in the September 2006 regular meeting schedule; providing that City Council will conduct the two regular meetings on September 5 and September 19 immediately following adjournment of the budget public meetings.
- i. Resolution No. 1984: A resolution authorizing the City Manager to execute a quit claim deed conveying property located at 1792 Steele Street to Habitat for Humanity of South Brevard, Inc.

14. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

15. SITE PLAN APPROVAL (SP-2005-15) CROSSINGS AT BAYMEADOWS, PHASE ONE: (Public Hearing) A request for site plan approval to allow the development of Phase 1 of a townhome-style condominium project consisting of 78 units at a density of seven units per acre on an 11.3±-acre portion (zoned R-2 (7) (One-, Two-, and Multiple-Family Residential with a cap of seven units per acre) of a 16.84±-acre parcel, located west of Wickham Road, north of Parkway Drive, and south of Grand Meadows Boulevard. (Owner - TAL WIL Corp.) (Applicant - Homes by MARSOL) (Representative - Clayton Bennett, Fleis & Bennett Engineering) (P&Z Board - 5/04/06)

Mrs. Dittmer reviewed the agenda report. During the Planning and Zoning Board meeting, several residents expressed concerns related to traffic in the area and flooding. Several residents also spoke in favor of the development. The Planning and Zoning Board voted four to three to recommend approval of the two-sheet plan prepared by Fleis & Bennett Engineering, Inc., of Melbourne, Florida, Project No. 05.810, with a signed and sealed date of April 18, 2006, subject to 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 and scrub jays, 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

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

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

- d. At no point shall any of the structures or parking be located within the 50-foot buffer adjacent to the Parkway Meadows Subdivision.
- e. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- f. The applicant shall provide the necessary improvements on Grand Meadows Boulevard with a left turn into the project. The details of the roadways improvements shall be mutually approved during the construction plan review process.
- g. The applicant shall provide a minimum of one internal access point to provide a vehicular connection to the project to the south (Parkway Commons).
- h. City staff shall review and determine the preferred traffic improvement options of two eastbound lanes on Grand Meadows Boulevard to Wickham Road, or a westbound left turn lane on Grand Meadows Boulevard into the project.

Mrs. Palmer referenced the stub out shown at the bottom of the plan and asked if that will provide for future ingress/egress. Mrs. Dittmer replied that is a stub out to Parkway Commons (reference Item #18 on the agenda). Staff worked with the property owner to the south to provide access.

Mayor Goode referenced correspondence dated May 22 from John Klein, Baymeadows Subdivision, opposed to the request.

There were no disclosures by Council. The Mayor opened the public hearing.

Clayton Bennett, representing the applicant, stated that they have worked through the issues with staff and have produced a good plan.

Kathleen Finnegan-Hiers, 3688 Kestrel Court, Baymeadows Subdivision, stated that she supports this project because it is small, upscale and is not apartments. She added that the development will provide a smooth blend. Ms. Hiers referenced the petition (June 14, 2005 Council meeting) containing the signatures of 121 homeowners, along with businesses, in support of this development.

Moved by Palmer/Walker for approval of the site plan subject to the findings and conditions outlined in the agenda report. Motion carried unanimously.

16. FINAL PLAT APPROVAL (SD-2004-07) LAKE WASHINGTON TOWNHOMES SUBDIVISION: (Public Hearing) A request for final plat approval for the Stewart and Lake Washington Townhomes Subdivision, a 288-lot development on a 38.47±-acre parcel with 20.10± acres zoned R-2 (8) (One-, Two-, and Multiple-Family Residential with a cap of eight units per acre) and 17.11± acres zoned R-2 (13) (One-, Two-, and Multiple-Family

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

Residential with a cap of 13 units per acre), located on the east side of Stewart Road, north of Lake Washington Road. (Owner/Applicant - D.R. Horton, Inc.) (Representative - Jake Wise, P.E., Construction Engineering Group) (P&Z Board - 5/04/06)

Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the five-sheet plan prepared by Campbell Surveying, with a signed and stamped received date of April 27, 2006, subject to the following conditions:

- a. The applicant shall not be entitled to record the final plat until all subdivision improvements have been constructed to the satisfaction of the City, or an improvement guarantee of at least 110% is provided to the City to ensure the completion of the improvements.
- b. The applicant shall provide the additional required documents, pursuant to Appendix D, Chapter 8, Section 8.5 (c) (4) prior to recordation of the final plat.
- c. The applicant shall provide the additional required information and certificates as required by F.S. 177.071 and 177.081 prior to recordation of the final plat.
- d. Only one building permit may be issued on any portion of the plat prior to recordation of the final plat.

There were no disclosures by Council.

Dani Straub, Construction Engineering Group, representing the applicant, was available to answer questions.

Travis Newton, DR Horton, representing the applicant, was available to answer questions.

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

17. ORDINANCE NO 2006-44 (AR-2006-197) ROBERT L. BURNS, JR.: (First Reading/Public Hearing) An ordinance providing for annexation of 61.64 acres of property, located adjacent to Jones Road, north of Evinrude Road, west of I-95 and north of Eau Gallie Boulevard. (Owner/Applicant - Robert L. Burns) (P&Z Board - 5/04/06)

Attorney Gougelman read Ordinance No. 2006-44 by title.

Mrs. Dittmer briefed Council. The applicant owns a total of 100 acres, and the remaining 37 acres are already within the City limits. The applicant intends on constructing a single-family home on the 100 acres.

During the Planning and Zoning Board meeting, several residents expressed concern that the property owner may close the existing canal, which they use to access Lake Washington. Although the change in jurisdiction to the City does not affect the canal, City

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

staff found that the Florida Department of Environmental Protection (DEP) has regulating control over the canal. And, it is unlikely that DEP would permit closing of the canal.

The Planning and Zoning Board voted unanimously to recommend approval of this request.

Mrs. Palmer asked if staff determined from DEP who is responsible for keeping that waterway navigable. Mrs. Dittmer said no; however, anyone wishing to alter that canal must go through DEP for permitting. Mrs. Palmer asked if the canal is being dredged and maintained. Mrs. Dittmer said staff is not sure; however, a change in jurisdiction would not change maintenance.

Mayor Goode opened the public hearing.

David Hartz, 5260 Evinrude Road, stated that this is a unique area that has access to Lake Washington and the St. Johns via the canals. The canals have been used for this purpose since the 1950s. He noted that the County has turned down every developer who wanted to build in this area and the residents feel they have been protected by the County. Mr. Hartz stated that the residents are concerned about losing access to the lake and the river. If they were assured that they would not lose this access then they would welcome Mr. Burns to the community. Also, Mr. Burns may not close off access, but nothing would prevent him from selling to a developer in the future who would close access.

Mr. Hartz submitted a petition containing 26 signatures of people opposed to the canal being blocked and requesting a legal condition be placed on the annexation of this property.

Attorney Gougelman said that such a condition would have to be something done privately between Mr. Burns and the residents. He noted that the same type of issue occurred on Lake Okeechobee where the Lykes Corporation blocked access to Fish Eating Creek. This resulted in a protracted legal battle.

Continuing, Mr. Gougelman said the question is whether this is a navigable waterway. If it is, the Army Corps of Engineers and DEP will determine whether it may be blocked. This decision won't be up to the City.

Mr. Hartz said if the residents can't have a condition, then no one in the community wants this property to annex into the City.

In response to the Mayor, Mr. Hartz located the property and canal on the map.

A brief discussion followed regarding jurisdiction.

Mrs. Palmer asked who maintains the canals. Mr. Hartz replied that the St. Johns River Water Management District controls aquatic weeds. Additionally, homeowners have cleaned out canals behind their homes.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

Mr. Contreras asked about a development agreement or pre-development agreement. Attorney Gougelman said that with regard to navigability, that is not a local issue. A condition could be placed in the ordinance, but it would get knocked out in court.

Robert Pechacek, 4950 Evinrude Road, said his main concern is the canal. He noted that a condition in the ordinance would slow the process down if someone tried to close the canal. It would provide the residents time to respond. Mr. Pechacek explained that if they install a seawall or dock, they have to go through SJRWMD. Regarding access, St. Johns said that is determined by the Army Corps of Engineers. The residents have nowhere else to go and believe that a condition would provide them time.

Sam Long, 5185 Evinrude Road, and Jim Williams, 5000 Evinrude Road, agreed with the previous speakers.

Robert Burns, applicant, 4035 Post Road, stated that he also owns property along the canal so he is not interested in blocking the canal. He added that he probably won't occupy this property forever, so he understands the neighbors' issues. Mr. Burns said he does not know what responsibilities he would have by allowing people to cross his property and he would need time to look at a legal condition.

Mr. Contreras said it sounds like everyone is in agreement and a mechanism is needed to ensure access to the waterway. He asked Mr. Burns if he would provide assurances to the neighbors. Mr. Burns replied that he is not an attorney and he does not know what his liability would be.

Mr. Contreras asked if there was a rush to annex because a motion to postpone may be in order. Mr. Burns said he is in the process of developing house plans. Part of the property is already located in the City and there is some timeframe.

Attorney Gougelman suggested that this be passed on first reading with second reading scheduled for June 27 to allow him time to draft a condition or deed restriction to ensure that the canal passing through this property will remain open. This would allow him time to review the condition with the applicant. Later under this item, Attorney Gougelman said whatever assistance he can render to the applicant will be free to the applicant.

Moved by Walker/Goode for approval on first reading (with second reading to occur June 27). Motion carried unanimously.

18. ORDINANCE NO. 2006-45 (CU-2005-19/SP-2004-19) PARKWAY COMMONS, PHASE ONE: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a multi-family residential development on 19.21+ acres zoned C-P (Commercial Parkway), in conjunction with the adjacent 5.57± acres zoned R-2 (One-, Two- and Multiple-Family Residential), for a total of 24.78± acres at a density of 6.7± units per acre and site plan approval on the Phase 1 portion (24.78 acres) of the overall 30.1±-acre property, located on the north side of Parkway Drive, West of Wickham Road. (Owner/Applicant - Wickham Corporate, LLC) (Representative - Brad Smith, Brad Smith Associates, Inc.) (P&Z Board - 5/04/06)

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
MAY 23, 2006

By consensus Council postponed this item until the July 11 meeting at the request of the applicant's representative.

19. RESOLUTION NO. 1985: A resolution implementing FY 2005-2006 Second Quarter Budget Review recommendations.

Attorney Gougelman read Resolution No. 1985 by its title. Deputy City Manager Amy Elliott stated that the recommendation is for approval.

Moved by Hand/Meehan for approval of Resolution No. 1985. Motion carried unanimously.

20. COUNCIL ACTION RE: Board Appointments

- a. Appointment of two regular members to the Building and Construction Advisory Committee.

Moved by Palmer/Meehan to reappoint Tom Luce and John Black. Motion carried unanimously. (Term: May 27, 2006 – May 26, 2009)

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

Moved by Meehan/LaRusso to reappoint Ralph Sanders, Rick Dillen and Dennis Walker as regular members and Finnbarr Murphy as an alternate member. Motion carried unanimously. (June 12, 2006 – June 11, 2008)

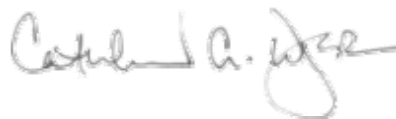
21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

None.

22. ADJOURNMENT

Moved by Meehan/Contreras for adjournment. Motion carried unanimously.

The meeting adjourned at 9:18 p.m.



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City Clerk – 6/6/2006

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