

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 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. Council Member Grace Walker gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Loretta Isenberg-Hand	Vice Mayor, District 6
	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
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

Mrs. Linda Goode (Mayor Goode's late wife) was posthumously awarded the Keep Brevard Beautiful "Tom Wasdin Outstanding Pelly Ambassador of the Year Award" from Larry Weber, Executive Director, Keep Brevard Beautiful (KBB). Mayor Goode accepted the award on behalf of his wife.

Mr. Weber explained that Linda Goode, along with several others, was instrumental in starting KBB. Additionally, Mr. Weber reported that a golf fundraiser was held last week with teams from several municipalities, the county, and KBB. He presented a \$500 check to the City for its fourth place win. The check is to be presented to the charity of Melbourne's choice.

5. Approval of Minutes – May 23, 2006 Regular Meeting

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

6. City Manager's Report

City Manager Jack Schluckebier reported on the following items:

- The City received a summary from the Property Appraiser that indicates that Melbourne had a substantial increase in value. The Florida Today newspaper article left the impression that there was a 75% increase in value, which is not accurate. The newspaper only reported new construction numbers. The recommended millage rate

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

that the City Council will consider will be published in the proposed budget on July 1. Council will consider that recommended tax rate at its July 24 budget workshop meeting.

- The Police Department will be preparing a news release about people impersonating Florida Power and Light employees who are gaining fraudulent access to residents' homes under the guise of helping them prepare for hurricanes. There has been one robbery.

Council Member Mark LaRusso asked that the panhandling information that is going to be forwarded to the Downtown Melbourne Community Redevelopment Agency (CRA) Advisory Committee also be forwarded to the Olde Eau Gallie Riverfront CRA Advisory Committee.

7. Public Comments

None.

Mayor Goode asked if anyone in the audience was present for the "Woodson annexation" located south of the southeast corner of Buena Vista Avenue and Sand Lake Drive, west of I-95. Approximately six to eight people raised their hands. The Mayor announced that item is not on this agenda and is expected to return on the June 27 agenda. He asked the folks present to leave their contact information with Planning & Economic Development Director Cindy Dittmer.

8. PRESENTATION TO COUNCIL: Legislative update from State Representative Mitch Needelman

Representative Needelman provided Council with an overview of important legislation passed during the 2006 session. He concluded by saying that the leadership of the House of Representatives would like local municipalities to be more involved in the process and to submit ideas. He submitted a DVD entitled "Got Ideas?" which describes how to become more involved in the process.

Mayor Goode recognized Representative Needelman's aide, Bill Johnson, and the City's lobbyist, Jerry Sansom.

NEW BUSINESS

9. COUNCIL ACTION RE: Approval of the Contract for Sale and Purchase of a five-acre parcel of land located adjacent to I-95 near the intersection of John Rodes Boulevard and Ellis Road in the amount of \$750,000 with the City contributing \$375,000 and the Melbourne Airport Authority funding the other \$375,000; authorization for the City Manager to execute the documents; and appropriation of \$400,000 from Transportation Impact Fee Fund Balance to establish a budget for this new project.

From the agenda report: This is a proposal to acquire a five-acre parcel of land located adjacent to I-95 near the intersection of John Rodes Boulevard and Ellis Road. The Brevard County Metropolitan Planning Organization plans show this property located where the proposed western beltway intersects I-95 and at the point where the proposed Ellis

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

Road Airport access route shows an interchange. The subject five-acre parcel is part of a 40-acre parcel that became available for purchase recently. The owner agreed to separate this parcel from a planned sale of the entire property.

The property will be needed for right-of-way to construct an I-95 interchange to serve the western beltway and Ellis Road, or if the crossing is to be a fly-over to connect the beltway to Ellis Road. The purchase price for the five-acre parcel is \$750,000. At its June 8 meeting, the Melbourne Airport Authority agreed to participate in the purchase and to fund half of the purchase price, or \$375,000, with the condition that the City will reimburse the Authority its share if a planned interchange justification report determines that an interchange is not warranted.

To establish this project, a budget of \$400,000 is suggested. This includes the City's \$375,000 share of the purchase price plus a contingency to cover the boundary survey and other fees/costs related to the purchase. Funding is available from fund balance in the Transportation Impact Fee Fund.

The recommendation is to approve the Contract for Sale and Purchase of the property for \$750,000 with the City contributing \$375,000 and the Melbourne Airport Authority funding the other \$375,000; authorization for the City Manager to execute the documents; and appropriation of \$400,000 from Transportation Impact Fee Fund Balance to establish a budget for this new project.

Mr. Schluckebier said that the City expected the Airport Authority to consider this item at its regular meeting in June (June 21). We were not aware that the Airport was going to move this item up on its June 8 special meeting agenda. As a result, Council Members who serve on the Authority considered this item without detailed information. He noted that staff is ready to go into more detail at this time.

Deputy City Manager Howard Ralls briefed Council and reviewed the agenda report. He noted that we have an opportunity to purchase this land now, which will be more cost effective. The Airport is in the process of working with consultants to provide an interchange justification study. If that study reveals that an interchange is warranted at that location, it would become eligible for SIS funds (Strategic Intermodal System), which could also be used for the beltway, interchange and route from I-95 to the Airport.

The City Manager added that the City Attorney, Airport Attorney, Airport Director and Mr. Ralls met yesterday to ensure everyone is on the same wavelength. The Airport's position is that it may not use Airport funds for something that will not inure to the benefit of the Airport. If the study determines that there will not be an interchange or that the interchange would not benefit the Airport, the Airport would like for the City Council to enter into a reimbursement agreement. This is a completely understandable condition, and that agreement will likely return to Council in the next month or two. Additionally, at the Airport Authority meeting a member expressed interest in how the property will be titled. Attorney Nohr has suggested that, similar to other Airport property, it be titled in the City of Melbourne's name. The Airport is indeed an agency of the City.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

The Airport would also like assurance that the value represents the market. A memorandum has been distributed to Council showing comparable recent sales. Mr. Schluckebier stressed that this is a reasonable market deal and it is in the City's best interest to acquire this land through a willing buyer/willing seller arrangement at a reasonable, negotiated price.

In response to Council Member Cheryl Palmer, the City Manager said that the Airport will have a set time to indicate that there is no benefit, and the City would have a set time of up to two years to reimburse. Mrs. Palmer asked when the justification study is expected and Mr. Schluckebier said Director of Aviation Richard Ennis believes it will be completed in the next 12 to 18 months.

Council Member Richard Contreras asked the value of the reimbursement. Mr. Schluckebier said it would be half of the purchase price, \$375,000. Mr. Contreras asked if it would be possible for the \$375,000 to be considered an investment. Airport Director of Operations Richard Cloutier said that all Airport money gained from leases and other entities is to be used strictly for the operational benefit of the Airport.

Following a brief discussion, Mr. Contreras said he is concerned from the City's perspective that if everything goes south, the City will have to pay and the tax payers will pick up the tab. Mayor Goode said that the City will have five acres of land, which has value. Mr. Contreras said he would like for this to be a "share the wealth or the pain" arrangement.

Airport Attorney Don Nohrr clarified that the Airport may not speculate property as an investment. All Airport funds, regardless of the source, are restricted to use. If the property is not used for an interchange but the Airport can show a justifiable reason to have money invested in this property, the Airport would not have to ask the City for reimbursement. Otherwise, the Airport could not own property that would be of no benefit to the Airport.

Mr. Contreras asked if this is a federal rule or a self-imposed rule. Mr. Nohrr said that this is a federal rule based on the Airport accepting grants from the federal government.

Mr. Schluckebier said that the FAA considers the Airport to be a "box" in which Airport resources are put in and may not be taken out. If resources, assets, cash, etc. are taken from the Airport for a reason that does not inure to the benefit of the Airport, the government wants reimbursement of previously paid federal government grants. They won't ask for reimbursement in the form of a check, rather they will decrease that amount from future grant funds. This is a universal condition throughout the country.

Mr. Nohrr added that the FAA may also impose penalties if they believe funds were not used for Airport purposes.

Mr. Schluckebier said that Mr. Ralls approached the Airport with this idea, which is innovative. Mr. Contreras said he understands and supports this; however, his point is that this would return to the City for reimbursement of \$375,000 under the worst case.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

Moved by Meehan/Palmer for approval of this transaction as recommended. Motion carried unanimously.

10. COUNCIL ACTION RE: Supplement No. 285 to the Continuing Consultant's Contract for engineering services to provide for Grant Place lift station and subaqueous force main, Project No. 33905, Frazier Engineering, Inc., Melbourne, FL - \$50,250.

City Engineer Jenni Lamb referenced the agenda report and was available for questions. The recommendation is for approval.

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

11. CONSENT AGENDA:

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

- a. Supplement No. 286 to the Continuing Consultant's Contract for engineering services to provide for the renovation of Lift Station 46, Project No. 30206, Frazier Engineering, Inc., Melbourne, FL - \$40,000.
- b. Supplement No. 287 to the Continuing Consultant's Contract for engineering services to provide for the renovation of Lift Station 29, Project No. 30306, Frazier Engineering, Inc., Melbourne, FL - \$40,000.
- c. Supplement No. 4 to the Continuing Hydrogeologic Services Contract for Grant Street Wastewater Treatment Plant Injection Well System operational data review and evaluation, L.S. Sims & Associates, Inc., Rockledge, FL - \$22,500.
- d. Change Order No. 2 to the Fire Station #78 construction contract for the Grant Street Wastewater Treatment Plant electrical modifications, Project No. 30606, Certified General Contractors, Inc., Melbourne, FL - \$20,837.64.
- e. Approval of a Right-of-Way Use Agreement with Silver Sands Senior Housing Limited Partnership to construct a private force main in the Sun Lakes Road/Tarpon Way right-of-way and to construct a driveway on Sun Lakes Road and authorization for the City Manager to execute the agreement.
- f. Annual contract award for on-call directional drill services, Young's Communications Company, Inc., Melbourne, FL – estimated annual cost of \$54,625.
- g. Purchase of a 2007 Chevrolet Trailblazer, Alan Jay Chevrolet, Sebring, FL - \$20,729.
- h. Approval of a cost share agreement between the St. Johns River Water Management District and the City of Melbourne pursuant to the District's Water Protection and Sustainability Program and authorization for the City Manager to execute the agreement. The agreement provides 20% of the estimated \$6,600,000 construction

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

cost for reclaimed water improvements at the Grant Street Wastewater Treatment Plant.

- i. Release of the Sarno Road Improvement agreement between the City of Melbourne and Sports Palace, Inc. and authorization for the City Manager to execute the release.
- j. Approval of a landscape maintenance agreement between the City of Melbourne and Florida Institute of Technology (FIT) providing that the City maintain the medians on Babcock Street, north of University Boulevard, at an annual cost of \$6,980 to be paid by FIT.
- k. Approval of an interlocal agreement for the City of Melbourne's participation in a Municipal Underground Utilities Consortium, payment of \$10,753 to the Consortium, and transfer of \$10,753 from General Fund Contingency to General Fund Non-Departmental Miscellaneous Contractual Services to provide for the payment.
- l. Resolution No. 1986: A resolution authorizing the City Manager to submit a grant application to the Department of Homeland Security for the FY 2006 Staffing for Adequate Fire and Emergency Response (SAFER) grant for a total of \$414,000 over five years to provide funding for four additional firefighters.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

13. PRELIMINARY PLAT APPROVAL (SD-2005-08) PALMWOOD SUBDIVISION, PHASE 2: (Public Hearing) A request for preliminary plat approval for Phase 2 of the Palmwood Subdivision, consisting of 29 lots on a 6.02±-acre parcel zoned R-1B (Single-Family Residential), located on the west side of John Rodes Boulevard, north of Eau Gallie Boulevard. (Owner/Applicant/Representative - Beville Outlaw) (P&Z Board - 5/18/06)

Planning & Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the preliminary plat, consisting of a two-sheet plan prepared by Outlaw & Jones Engineers, with a signed and sealed date of May 9, 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 shall be

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

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. The applicant is granted variances from City Code, Appendix D, Chapter 8, Section 8.6 (b) (4) k. to permit a cul-de-sac in excess of 1,000 feet.
- f. Upon completion of the subdivision improvements, the applicant/developer shall file a map amendment with the Federal Emergency Management Agency to correctly identify the flood zone designation/elevation of the property as a result of the improvements. Copies of the changes approved by FEMA shall be provided to the City of Melbourne Planning and Economic Development Department, Code Compliance Division and Engineering Department.

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

Mr. Contreras referenced the variance that is being granted and asked what type of traffic calming will be implemented.

Beville Outlaw, applicant, explained that the cul-de-sac won't be full length. It will be broken up with the cul-de-sac that was constructed at the end of Phase One.

Mr. Ralls noted that the construction plan review won't occur until after the preliminary plat is approved. If there is a need for traffic calming, it will be identified during plan review.

Mr. Contreras asked that staff not lose focus on traffic calming and continue looking for opportunities for developers to construct traffic calming measures.

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

14. ORDINANCE NO. 2006-46 (A&V NO. 291): (First Reading/Public Hearing) An ordinance vacating a three-foot wide utility easement adjacent to the south lot line of 843 Adger Smith Lane. (Owners - Brian & Gina Turner)

City Attorney Paul Gougelman read Ordinance No. 2006-46 by its title. There were no disclosures by Council and no comments during the public hearing.

Moved by Meehan/Hand for approval of Ordinance No. 2006-46. Motion carried unanimously.

15. ORDINANCE NO. 2006-47 (A&V NO. 292): (First Reading/Public Hearing) An ordinance vacating the south 2.5 feet except the west 7.5 feet of a 10-foot wide public utility and

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

drainage easement adjacent to the north (rear) lot line of 284 Provincial Drive. (Owners - Steven & Marianne Ziemba)

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

Moved by Walker/Palmer for approval of Ordinance No. 2006-47. Motion carried unanimously.

16. ORDINANCE NO. 2006-48 (CU-2006-06) AND SITE PLAN APPROVAL (SP-2006-11) STACK CROSSING: (First Reading/Public Hearing) An ordinance granting a conditional use to construct a mini-storage facility on a 5.25±-acre portion of an 8.34±-acre parcel and site plan approval for a retail center and 739-unit, single story mini-storage facility on an 8.34±-acre parcel zoned C-1 (Neighborhood Commercial), located on the northeast corner of Stack Boulevard and Palm Bay Road. (Owner/Applicant - Palm Bay Venture I, LLC) (Representatives - Philip Nohrr & Richard Kern, RK Engineering, Inc.) (P&Z Board - 5/18/06)

The City Attorney read the ordinance by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the conditional use and the site plan as depicted on a single-sheet plan prepared by RK Engineering and Associates, Inc., of Melbourne, Florida, with a signed and sealed date of April 27, 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, as applicable, 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. Storage units shall only be accessible from either a central interior building corridor or interior driveways and no rental unit shall contain roll-up doors facing a public street or the adjacent properties.
- e. In lieu of the "exit only", the applicant shall provide an ingress/egress access point for the gated mini-storage facility on Stack Boulevard, which will exclude the requirement of a deceleration lane.
- f. The applicant shall provide a deceleration lane into the project from Palm Bay Road.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

- g. The proposed building shall be substantially consistent with the rendering submitted by the applicant.

Council Member Mark LaRusso asked if Stack Boulevard is still being provided as an exit only. Mrs. Dittmer said no and referenced condition “e.”

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

Cliff Repergger, attorney representing the applicant, discussed the site and the surrounding property. He added that they concur with the conditions and he concluded by asking for approval.

Moved by Hand/Walker for approval of Ordinance No. 2006-48. Motion carried unanimously.

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

17. ORDINANCE NO. 2006-49 (Z-2005-1036), PRELIMINARY DEVELOPMENT (SITE) PLAN APPROVAL (SP-2006-07), AND PRELIMINARY PLAT APPROVAL (SD-2006-01) FOREST LAKE TOWNHOMES: (First Reading/Public Hearing) An ordinance designating PUD (8.1) (Planned Unit Development with a cap of 8.1 units per acre) zoning; a request for preliminary development (site) plan approval and preliminary plat approval for a 335-unit, single-family townhome residential planned unit development at 7.8 units per acre on a 43-acre parcel, located on the north side of Snicole avenue (formerly known as Madison Avenue), west of Dairy Road, south of Eber Boulevard, and north of Palm Bay Road. (Owner/Applicant - Developers Group of West Melbourne) (Representative - Jake Wise, Construction Engineering Group) (P&Z Board - 5/18/06)

Attorney Gougelman read the ordinance and Mrs. Dittmer briefed Council. The rezoning and a conceptual site layout were included in the previously approved developer’s agreement, which would have allowed for the development of up to 348 single-family townhome lots. The proposed preliminary development plan and preliminary plat provide for a total of 335 lots at a density of 7.8 units per acre. The proposed preliminary development plan and preliminary plat comply with all requirements of the developer’s agreement.

The Planning and Zoning Board voted unanimously to recommend approval of the zoning; the site plan consisting of a three-page plan prepared by Construction Engineering Group of Melbourne, Florida, titled Forest Lake Townhomes, Project Number 040104, with a stamped received date of May 12, 2006, consistent with the conditions of the preliminary plat; and the three-page preliminary plat prepared by Construction Engineering Group, of Melbourne, Florida, titled Forest Lake Townhomes, Project Number 156145, with a signed and sealed date of May 1, 2006, subject to the following conditions:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

- a. Any change to the preliminary development plan or 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. The density of the project shall be limited to a maximum of 8.1 units per acre, consistent with the recorded developer's agreement (Official Records Book 5398, Page 435).
- 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. Appropriate environmental permits must be obtained as part of the construction plan review process.
- e. The applicant is granted variances from City Code, Appendix D, Chapter 8, Section 8.6 (b) (4) k. to permit a cul-de-sac in excess of 1,000 feet, which must be provided if Snicole Avenue (formerly known as Madison Avenue) is not developed prior to this plan receiving construction plan approval.
- f. The project shall be consistent with all aspects of the review/construction process as outlined in the recorded developer's agreement (Official Records Book 5398, Page 435).
- g. The 15% open space requirement shall be consistent with the attached figures, including the recreational amenities, the bicycle/pedway located within the FP&L easement, and sidewalks (or a stabilized path in wetland areas where St. Johns River Water Management District does not permit a solid surface).
- h. Only one building permit may be issued on the plat prior to recordation of the final plat.

Mrs. Palmer asked if the wet areas on the property are considered part of the 15% open space. Mrs. Dittmer replied that the PUD requirements say that if water is used, it can only count as half the total acreage. Mrs. Palmer asked if the conservation area is considered open space for public use. Mrs. Dittmer said yes and added that they have to provide access, like a walkway.

Mr. LaRusso referenced the two conflicting environmental reports with regard to gopher tortoises. Mrs. Dittmer said that the applicant is in the process of providing another report, and staff will return with that report during final plat review.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

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

Dani Straub, Construction Engineering Group, was available for questions.

Mrs. Palmer asked about the recreational areas. Ms. Straub said there are several on site, including a park, tot lot and pool. They are also constructing a bikepath/walking path.

Mrs. Palmer asked if the wetlands are part of the open space requirements. Ms. Straub said that a small portion adjacent to sidewalks is part of this calculation. Mrs. Palmer asked Ms. Straub to return with a calculation on the acreage.

In response to Mrs. Walker, Ms. Straub said that their consultant is conducting surveys in preparation of providing a secondary environmental report. She added that they will have to submit permits to the City prior to construction. Mrs. Walker asked the size of each unit and Ms. Straub said they will be 1,300 to 1,800 s.f.

Eva Nagymihaly, 3413 Willowwood Drive, stated that she lives in the county off of Eber Road. She reported that a study is not needed to show that gopher tortoises inhabit the property. Ms. Nagymihaly asked Council to look at the property and determine how much more green area can be saved, ensure that the green areas can be used for people and animals, and consider traffic issues. She pointed out that only one-car garages are being provided; however, there are usually two cars per home. She concluded by saying that we all share the roadway and all of these issues should be considered before Council allows this development. Animals should be given a decent chance for survival and the City should not allow the area to become overbuilt.

Mrs. Walker said that she can't support this item because it calls for squeezing too much development into a small space.

Moved by Meehan/Palmer for approval of Ordinance No. 2006-49. Motion carried. Mrs. Walker voted nay.

Moved by Meehan/Hand for approval of the site plan/preliminary development plan as recommended, consistent with all the conditions of the preliminary plat. Motion carried. Mrs. Walker voted nay.

Moved by Hand/Meehan for approval of the preliminary plat subject to the conditions. Motion carried. Mrs. Walker voted nay.

18. ORDINANCE NO. 2006-50 (CPA-2006-08) LINCOLN AVENUE, LOTS 7, 10, AND 11, BLOCK 29, CAMPS PLAT OF MELBOURNE: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Commercial to mixed-use Commercial/Medium Density Residential on three parcels totaling 0.61± acres, located on the north side of Lincoln Avenue, east of Waverly Place and West of Tangerine Street. (Applicant - City of Melbourne) (P&Z Board - 5/18/06)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

Attorney Gougelman read Ordinance No. 2006-50 by title and Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of the request. The public hearing was opened and closed without any comments.

Moved by Meehan/Hand for approval of Ordinance No. 2006-50. Motion carried unanimously.

19. ORDINANCE NO. 2006-51 (CPA-2005-18) AND ORDINANCE NO. 2006-52 (Z-2005-1045) STRONG INVESTMENTS: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial and a C-1 (Neighborhood Commercial) zoning designation on a 1.43-acre parcel, located on the east side of Wickham Road, north of Post Road, between Forest Run Drive and Pebble Creek Street. (Owner/Applicant – Strong Investments, L.C.) (Representative – David Armstrong) (P&Z Board – 5/18/06)
- a. Ordinance No. 2006-51/CPA-2005-18: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 1.43-acre parcel.
 - b. Ordinance No. 2006-52/Z-2005-1045: (First Reading/Public Hearing) An ordinance providing for a C-1 (Neighborhood Commercial) zoning designation on a 1.43-acre parcel.

The City Attorney read each ordinance by its title and Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval. There were no disclosures by Council and no comments during the public hearing.

Moved by Walker/Palmer for approval of Ordinance No. 2006-51. Motion carried unanimously.

Moved by Hand/LaRusso for approval of Ordinance No. 2006-52. Motion carried unanimously.

20. ORDINANCE NO. 2006-53 (CPA-2005-20) AND ORDINANCE NO. 2006-54 (Z-2005-1047) AURORA ASSOCIATES, LLC: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of Medium Density Residential and an R-2 (One-, Two-, and Multiple-Family Resident) zoning designation on a 2.75-acre parcel with an existing mobile home park, located on the north side of Aurora Road, west of Lansing Street and east of Wickham Road. (Owner/Applicant – Aurora Associates) (Representative – William Binnicker) (P&Z Board – 5/18/06)
- a. Ordinance No. 2006-53/CPA-2005-20: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Medium Density Residential on a 2.75-acre parcel.
 - b. Ordinance No. 2006-54/Z-2005-1047: (First Reading/Public Hearing) An ordinance providing for an R-2 (One-, Two-, and Multiple-Family Residential) zoning designation on a 2.75-acre parcel.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

Attorney Gougelman read Ordinance Nos. 2006-53 and 2006-54 by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of these requests. There were no disclosures by Council.

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

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-53. Motion carried unanimously.

Moved by Hand/Meehan for approval of Ordinance No. 2006-54. Motion carried unanimously.

21. ORDINANCE NO. 2006-55 (CPA-2005-22) AND ORDINANCE NO. 2006-56 (Z-2005-1049) JAMES & BARBARA EASTER: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial and a C-1 (Neighborhood Commercial) zoning designation on a 0.75-acre parcel, located at 2460 Aurora Road, east of Lansing Street. (Owner/Applicant/Representative – James & Barbara Easter) (P&Z Board – 5/18/06)
- a. Ordinance No. 2006-55/CPA-2005-22: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 0.75-acre parcel.
 - b. Ordinance No. 2006-56/Z-2005-1049: (First Reading/Public Hearing) An ordinance providing for a C-1 (Neighborhood Commercial) zoning designation on a 0.75-acre parcel.

Attorney Gougelman read the ordinances by title and Mrs. Dittmer briefed Council. There were no disclosures by Council and no comments during the public hearing.

Moved by Meehan/Palmer for approval of Ordinance No. 2006-55. Motion carried unanimously.

Moved by Walker/Meehan for approval of Ordinance No. 2006-56. Motion carried unanimously.

22. ORDINANCE NO. 2006-57 (CPA-2005-23) AND ORDINANCE NO. 2006-58 (Z-2005-1050) DANIEL BARNETT STATE FARM: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial and an R-P (Residential Professional) zoning designation on a 0.24-acre parcel, located at 515 East Eau Gallie Boulevard, east of South Patrick/Riverside Drive. (Owner – Laura D. Barnett & Daniel L. Barnett, Co-Trustee) (Applicant – Daniel Barnett State Farm) (Representative – Daniel Barnett) (P&Z Board – 5/18/06)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

- a. Ordinance No. 2006-57/CPA-2005-23: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 0.24-acre parcel.
- b. Ordinance No. 2006-58/Z-2005-1050: (First Reading/Public Hearing) An ordinance providing for an R-P (Residential Professional) zoning designation on a 0.24-acre parcel.

City Attorney Paul Gougelman read each ordinance by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of this request.

There were no disclosures by Council and no comments during the public hearing.

Moved by LaRusso/Palmer for approval of Ordinance No. 2006-57. Motion carried unanimously.

Moved by Palmer/LaRusso for approval of Ordinance No. 2006-58. Motion carried unanimously.

23. ORDINANCE NO. 2006-59 (CPA-2005-24) AND ORDINANCE NO. 2006-60 (Z-2005-1052) AURORA WOODS: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of SER (Suburban Estate Residential) and an R-1AA (Single-Family Residential) zoning designation on a 24-acre subdivision, located on the south side of Aurora Road, west of Easy Street and Wickham Road. (Applicant – City of Melbourne pursuant to a pre-annexation and utility agreement with Joyal Enterprises) (P&Z Board – 5/18/06)

- a. Ordinance No. 2006-59/CPA-2005-24: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of SER (Suburban Estate Residential) on a 24-acre subdivision.
- b. Ordinance No. 2006-60/Z-2005-1052: (First Reading/Public Hearing) An ordinance providing for an R-1AA (Single-Family Residential) zoning designation on a 24-acre subdivision.

Attorney Gougelman read Ordinance No. 2006-59 and Ordinance No. 2006-60 by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of these requests.

There were no disclosures by Council and no comments during the public hearing.

Moved by Hand/Meehan for approval of Ordinance No. 2006-59. Motion carried unanimously.

Moved by Meehan/Hand for approval of Ordinance No. 2006-60. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

24. ORDINANCE NO. 2006-61 (CPA-2005-25) AND ORDINANCE NO. 2006-62 (Z-2005-1053) EL DORADO AREA ANNEXATION: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of SER (Suburban Estate Residential) and zoning designations of REU (Rural Estate Use) and AEU (Agricultural Estate Use) on 123.45 acres of privately owned land, located south of Parkway Drive, west of Turtle Mound Road, and east of Harlock Road. (Applicant – City of Melbourne) (P&Z Board – 5/18/06)
- a. Ordinance No. 2006-61/CPA-2005-25: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of SER (Suburban Estate Residential) on 123.45 acres.
 - b. Ordinance No. 2006-62/Z-2005-1053: (First Reading/Public Hearing) An ordinance providing for REU (Rural Estate Use) on 116 acres and AEU (Agricultural Estate Use) zoning designations on a 7.5 acres.

Attorney Gougelman read both ordinances by title and Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of these requests.

Mrs. Palmer asked how this new zoning designation compares with the zoning currently on the property. Mrs. Dittmer replied that it is identical. Mr. Schluckebier added that corresponds to Council's direction to staff and our objectives as a City to welcome these new areas in a way where we are not impinging on the residents' lifestyle.

There were no disclosures by Council. Mayor Goode opened and closed the public hearing with no comments.

Moved by Palmer/Walker for approval of Ordinance No. 2006-61. Motion carried unanimously.

Moved by LaRusso/Hand for approval of Ordinance No. 2006-62. Motion carried unanimously.

25. ORDINANCE NO. 2006-63 (CPA-2005-26) AND ORDINANCE NO. 2006-64 (Z-2005-1054) DEERWOOD TRAIL AREA ANNEXATION: Ordinances providing for a Comprehensive Plan Amendment designating a Future Land Use of SER (Suburban Estate Residential) and an REU (Rural Estate Use) zoning designation on 261± acres of privately owned land, located on Deerwood Trail and Parkway Drive between Turtle Mound Road and Harlock Road. (Applicant – City of Melbourne) (P&Z Board – 5/18/06)
- a. Ordinance No. 2006-63/CPA-2005-26: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of SER (Suburban Estate Residential) on 261± acres.
 - b. Ordinance No. 2006-64/Z-2005-1054: (First Reading/Public Hearing) An ordinance providing for a zoning designation of REU (Rural Estate Use) on a 261± acres.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

The City Attorney read the ordinances by title and Mrs. Dittmer reviewed the agenda report. She reported that the Planning and Zoning Board voted unanimously to recommend approval of these requests.

There were no disclosures by Council and no comments during the public hearing.

Moved by Hand/Meehan for approval of Ordinance No. 2006-63. Motion carried unanimously.

Moved by Walker/Palmer for approval of Ordinance No. 2006-64. Motion carried unanimously.

26. ORDINANCE NO. 2006-65 (CPA-2006-27) PALM BAY 20, INC.: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial/Medium Density Residential on an 11.1±-acre portion and Medium Density Residential on a 6.29±-acre portion of a 17.39±-acre parcel, located on the north side of Palm Bay Road, between Dairy Road and Hollywood Boulevard. (Owner/Applicant - Palm Bay 20, Inc.) (Representative - Jack B. Spira) (P&Z Board - 5/18/06)

Attorney Gougelman read Ordinance No. 2006-65 by title. Mrs. Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of these requests.

Mayor Goode opened the public hearing. Attorney Jack Spira, representing the applicant, was present and available for questions.

Moved by Hand/Meehan for approval of Ordinance No. 2006-65. Motion carried unanimously.

27. COUNCIL ACTION RE: Appointment of one regular member to the Code Enforcement Board

Mr. LaRusso nominated alternate member Oscar Hotusing and noted that the board unanimously adopted a motion to appoint Mr. Hotusing as the regular member. Mayor Goode pointed out that the board also requested an engineer.

Moved by Walker/Goode to close the nominations. Motion carried unanimously. Moved by Hand/Palmer to appoint Oscar Hotusing as the regular member. Motion carried unanimously. (Unexpired, three-year term: June 13, 2006 through October 14, 2008)

Mayor Goode called for nominations for the alternate member seat. Mrs. Palmer nominated Thomas Saam. Moved by Walker/Hand to close the nominations. Motion carried unanimously. Moved by Hand/Walker to appoint Thomas Saam. Motion carried unanimously. (Unexpired, three-year term: June 13, 2006 through July 8, 2008)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

28. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Schluckebier updated Council on our water agreement with West Melbourne with regard to the request by a local developer to receive City water. Melbourne advised the developer to go to his host city – Melbourne did not advise the developer to de-annex. The City of Melbourne is honoring its agreement with West Melbourne; however, West Melbourne is interpreting our obligations under that agreement differently. West Melbourne has asked to discuss this issue further. At this time, we are not sure whether that developer has given West Melbourne a written request for service; that is a work in motion. The City of Melbourne hopes to negotiate a satisfactory and amicable solution with West Melbourne.

Mrs. Walker asked if the developer indicated a desire to join the City of Melbourne and Mr. Schluckebier replied absolutely. He added that they are interested in working with West Melbourne to find an amicable solution.

Continuing, Mr. Schluckebier reported that the Legislature unanimously adopted boundary adjustment legislation (Interlocal Service Boundary Agreement Act) and, if signed into law, will change the allowances for annexation as we know it. The new rules would not require contiguity as long as the County is in agreement. He noted that it is possible that will provide a solution; however, we are going to work with West Melbourne in a neighborly way.

Mrs. Hand said that this would result in enclaves and Mayor Goode added that under the new law we will be able to have enclaves. Mr. Schluckebier said that there are multiple definitions of enclaves. In our view we would not be creating a new enclave, we would be decreasing an existing enclave.

A brief discussion continued about development along the I-95 corridor.

On a related item, the City Manager said he would like to put our annexations into relative terms. Melbourne has been annexing approximately one to one and one-half square miles per year for the past three and one-half years. On its next agenda, Palm Bay will annex 11 square miles. And, during the last three years Palm Bay has annexed 20 square miles. He noted that the objective is not to grow rapidly, rather we are trying to accomplish quality growth for our future.

Mr. LaRusso reported that Olde Eau Gallie Riverfront CRA Advisory Board Member Finnarr Murphy has volunteered to serve on the County's marine advisory board. Mr. Murphy owns the Eau Gallie (Boatworks) and would like to offer his assistance. The City Manager said he would determine if the County is looking for input on this issue from the cities and, if so, we would return with an official Council appointment.

Mrs. Palmer said she read a newspaper article that indicated that Washington Mutual will be laying off 90 employees. She asked if this means that the tax abatement will be rescinded. Mr. Schluckebier said that under the reporting conditions established in the ordinance, Washington Mutual met its obligations for January 2006. Their next report is due January 2007 and, if they do not meet the criteria, the abatement would be modified.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 13, 2006

Mrs. Palmer referenced the recent newspaper article about the purchase of the five-acre parcel located adjacent to I-95 (see agenda Item No. 9). She noted that the article contained more information than Council had previously been supplied. She asked Council to consider a policy that Council be sent a communication prior to Florida Today printing detailed articles.

Mr. Schluckebier said he is not sure it would be possible to meet that condition because we don't have control over what Florida Today publishes. In this case, the reporter listened to the Council tape recording about the West Melbourne water agreement discussion. Mr. Schluckebier stressed that it is never his intention for Council to read things of this nature in the paper. Additionally, City staff believed that the Airport Authority would consider this item during its June 21 regular meeting. We were not aware that they had moved the item up on a special meeting agenda.

To improve communications, he noted that Deputy City Manager Howard Ralls will be reviewing the agendas of outside agencies where we have Council Members serving – Melbourne Airport Authority, Metropolitan Planning Organization, etc. – to ensure that our members have current information.

29. ADJOURNMENT

Moved by Hand/Walker for adjournment. Motion carried unanimously.

The meeting adjourned at 8:35 p.m.



City Clerk – 6/22/2006

Approved by Council: June 27, 2006