

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 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. Pastor Seongsikyoon, Korean Presbyterian Church, gave the invocation.
2. Pledge of Allegiance
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Loretta Isenberg-Hand	Vice Mayor, District 6
	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: Richard Contreras Council Member, District 1 (vacation)

4. Proclamations and Presentations

Mayor Goode proclaimed August 1, 2006 as “National Night Out” and presented the proclamation to Sandra Pelham, President, Powell Subdivision Neighborhood Watch.

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

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

6. City Manager’s Report

City Manager Jack Schluckebier reported that the growth management provisions require the School Board, municipalities, and Brevard County to work towards an agreement on school concurrency. The School Board’s consultant has formulated a set of ideas, which will be sent to the Florida Department of Community Affairs. It is likely that the cities, through a joint effort, will take this issue on a little more forcefully rather than being handed the School Board’s answer about what school concurrency might mean. There may be an item on the next agenda about a joint effort with the cities and Brevard County.

7. Public Comments

Paul Kantz, 4803 Springwater Circle, stated that he represents the Daily Bread as its board president. He reported that the Daily Bread wishes to offer the City and the Melbourne

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

Downtown Community Redevelopment Agency (CRA) Advisory Committee its assistance during the consultant's review of the impact the Daily Bread will have on the redevelopment area. He noted that if the study is to be fair and impartial, informational input from the Daily Bread will be important.

Additionally, Mr. Kantz reported that the Daily Bread will sponsor a public meeting on Wednesday, September 6, 7:00 p.m., at the Melbourne Auditorium to present its expansion plans and solicit feedback.

Council Member Cheryl Palmer asked whether the Daily Bread needs to work through the City Council or the CRA Advisory Committee to participate in the study. Mayor Goode said there should not be a problem with the Daily Bread participating. The Advisory Committee will meet during open public meetings. The City Manager added that the Daily Bread will be consulted and their cooperation and participation will be encouraged.

UNFINISHED BUSINESS

8. SITE PLAN APPROVAL (SP-2006-09) WUESTHOFF HOSPITAL EXPANSION: (Public Hearing) A request for site plan approval to allow a 71,305 sq. ft. expansion for three buildings on a 43.797±-acre parcel zoned M-1 (Light Industrial), located on the west side of Wickham Road, north of Technology Drive, and south of Sarno Road. (Owner/Applicant - Wuesthoff Health Systems, Inc.) (Representative - Jake Wise, PE, Construction Engineering Group) (Postponed - 6/27/06)

Mayor Goode referenced the correspondence from Harold Bistline, attorney representing the applicant, requesting that this item be postponed until August 22. Mr. Bistline indicated that this will allow time to accomplish the dedication of Technology Drive to the City of Melbourne. By consensus, Council postponed this item until the August 22 meeting.

9. 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.) (Postponed - 7/11/06)

Mayor Goode referenced the correspondence from Phil Nohrr, attorney representing the applicant, asking that this item be continued until the August 8 meeting so that Council Member Contreras may be present.

Note: A memorandum was distributed to Council detailing a meeting between City staff and the applicant. Based upon additional information provided by the applicant, City staff recommended that condition "d" in the ordinance be revised to read:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

- d. A minimum 30 foot buffer shall be provided and maintained between the Parkway Meadows Subdivision and the proposed project including a minimum of one tree per 30 feet planted along the west side of a berm, a drainage conveyance swale along Lots 16-22 of Parkway Meadows Subdivision and a six foot opaque fence installed along the western property line of the project.

Moved by Hand/LaRusso to postpone this item until the August 8 meeting. Motion carried unanimously.

10. ORDINANCE NO. 2006-74 (A&V NO. 293): (Second Reading/Public Hearing) An ordinance vacating a 33-foot wide right-of-way known as Ridge Road. (Applicant - Veranda Park Development Corp.) (First Reading - 7/11/06)

City Attorney Paul Gougelman read Ordinance No. 2006-74 by title. There were no comments from the audience and no Council disclosures.

Moved by Hand/Walker for approval of Ordinance No. 2006-74. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Hand and Goode

Nay: Palmer

Motion carried.

11. ORDINANCE NO. 2006-75 (CU-2006-10/SP-2006-15) DISCOVER LIFE CHURCH: (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a 19,266 sq. ft. church on a 4.74±-acre parcel zoned R-P (Residential Professional), located on the north side of Eau Gallie Boulevard, east of John Rodes Boulevard, and west of Wickham Road. (Owner/Applicant - Kenneth Hitte) (Representative - Scott Lamb, P.E., Lamb & Associates) (First Reading - 7/11/06)

The City Attorney read Ordinance No. 2006-75 by title. No one from the public spoke and there were no Council disclosures.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-75. The roll call vote was:

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

Motion carried unanimously.

12. ORDINANCE NO. 2006-76 (AR-2006-199), ORDINANCE NO. 2006-77 (CPA-2006-09), AND ORDINANCE NO. 2006-78 (Z-2006-1068) COMMUNITY TRAILER PARK, INC.: Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation for an 8.243-acre parcel, located on the south side of Eau Gallie Boulevard, east Unity Drive, between Riverside Drive and Highway A1A. (Owner/Applicant - Community Trailer Park, Inc.) (Representative - Philip R. Nohr, Esq.)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

- a. Ordinance No. 2006-76/AR-2006-199: (First Reading/Public Hearing) An ordinance providing for annexation of an 8.243-acre parcel. (Postponed - 7/11/06)
- b. Ordinance No. 2006-77/CPA-2006-09: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial/Medium Density Residential on an 8.243-acre parcel. (Postponed - 7/11/06)
- c. Ordinance No. 2006-78/Z-2006-1068: (First Reading/Public Hearing) An ordinance providing for a zoning designation of R-2 (10) (One-, Two-, and Multiple-Family Residential with a cap of 10 units per acre) on an 8.243-acre parcel. (Postponed - 7/11/06)

Attorney Gougelman read the ordinances by title. Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of these requests.

Phil Nohrr, attorney representing the applicant, reported that the property is currently developed at 14 units per acre. The County land use allows 15 units per acre; however, if annexed into the City, they plan to develop at 10 units per acre. Although this conforms with the maximum allowed by the City on the beachside, it would actually be a reduction. Mr. Nohrr commented on the surrounding uses and stated that this requested zoning is compatible. He added that his client has no immediate plans to develop.

Continuing, Mr. Nohrr stated that if/when the property develops, there is a statutory process that must be followed, including notice to the current residents, relocation money, etc. He concluded by saying that the owners are present and available in the audience.

Mayor Goode said that people have expressed concern that this will eliminate affordable housing. He recalled that the first night he was Mayor, Mr. Nohrr represented an applicant that received approval for an affordable housing development.

Mr. Nohrr said yes and stated that project had over 200 units. Mr. Nohrr added that the subject property can accommodate 116 mobile homes; however, there are only 36 or 37 mobile homes remaining in the park.

Vice Mayor Hand said that many of these people are older with low incomes. She asked who will pay for their relocation.

Mr. Nohrr said that the applicant will pay a minimum of \$2,700 to \$3,000 for a single mobile home and a little more for a double wide mobile home. The residents would not leave without some compensation. He stressed that the owner is not going to do anything immediately. They are simply applying for land use and zoning compatible with the area.

Mayor Goode asked how long the current owner has owned this property. Mr. Nohrr said 50 years and added that the owner has paid his dues.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

Pat Poole, 805 East Palmetto Avenue, stated that the County would not allow this property to be rezoned. County staff said that the owner would have to annex into the City of Melbourne. Mrs. Poole stated that this site provides affordable housing. The residents work in lower paying jobs and many of their trailers are over 10 years old, which means other parks won't take them. She expressed opposition to the owner being able to rezone the property so he can get a higher price if it sells. She reported that a "for sale" sign is posted on the property. And, what the City calls affordable would not be affordable to the people living in this park.

Attorney Nohrr returned to the podium and clarified that they withdrew their application from the County after the City indicated that the policy on receiving municipal water and sewer requires annexation. That is the only reason they are not in the County today. In the County they would have the opportunity to ask for up to 15 units per acre. He added that he is not sure where the information came from that the County rejected their application.

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

Mrs. Dittmer confirmed for Mayor Goode that everything surrounding this property, with the exception of Unity Drive, is located in the City.

Mr. LaRusso disclosed that on July 21 Mr. Nohrr called him and asked if he had any questions, which he did not. Mrs. Palmer said she received a call from Mrs. Poole who made basically the same comments as she did at this meeting.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-76.

Mrs. Palmer stated that she understands the issue of affordable housing and she has sympathy for people who are forced to move; however, this is private property and the residents are renting. They understand the temporary nature of that and the Florida Statutes provide relief. The City can't insist that a property owner continue to provide affordable housing if that is not what they choose to do.

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

Moved by Meehan/LaRusso for approval of Ordinance No. 2006-77. Motion carried. Mrs. Hand voted nay.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-78. Motion carried. Mrs. Hand voted nay.

NEW BUSINESS

13. COUNCIL ACTION RE: Approval of the contract for sale and purchase of the Post Road Storage Tank site, a 1.1-acre parcel, located on the proposed Pineda Causeway Extension, at the appraised value of \$610,000.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

City Engineer Jenni Lamb briefed Council.

Moved by Hand/Walker for approval as recommended.

Mrs. Palmer said she has no idea whether this appraisal is good or not. She asked if the City has a market analysis. Mrs. Lamb replied that an appraisal was performed and based on sale prices and comparative values, it seems to be a reasonable price for what other property in the area is selling for.

Mr. Schluckebier stated that staff is confident that the appraisal reflects the market. He added that it is almost outrageous that the market has pushed this property to this level. However, the County insists on trading with market value. This is the only property in a 2-½ year search that meets our needs – all the other properties had environmental or other issues. The City is happy to have this property; it works with the flow, pressure, etc. and it is a good location for our utility system.

Mrs. Palmer asked if there was any chance that the Pineda extension would change directions. Mr. Schluckebier replied no and added that their final engineering determined that this is residual property that is not needed.

The question was called. Motion carried unanimously.

14. CONSENT AGENDA:

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

- a. Supplement No. 275 to the Continuing Consultants Contract for engineering services associated with the 2006 Miscellaneous Waterline Project to replace and upgrade existing cast iron or undersized water mains, Capital Improvement Project No. 30299, Frazier Engineering, Inc., Melbourne, FL - \$42,000.
- b. Approval of an Interlocal agreement between the City of Melbourne and the Board of County Commissioners of Brevard County providing for a 50/50 cost sharing of design fees related to construction of a sidewalk segment on Riverside Drive and appropriation of \$31,274.80 from the Transportation Impact Fee Fund to provide for the City's 50 percent payment to Brevard County.
- c. Purchase of a Hydromatic prefabricated fiberglass lift station, Barney's Pumps, Inc., Lakeland, FL - \$28,484.
- d. Agreement with the School Board of Brevard County for six School Resource Officers for the 2006/2007 school year at a maximum reimbursement of \$176,562.89.
- e. Agreement with the School Board of Brevard County for one School Resource Officer at the South Area Adult Community Education Center for the 2006/2007 school year at a maximum reimbursement of \$28,939.61.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

- f. Lien Rescission CE-06-009: Approval of a request for a lien reduction from \$6,300 to \$428.46 if paid in full within ten days. (William M. Kyvik - 2526 Reed Avenue)
- g. Resolution No. 1991: A resolution nominating Jack M. Schluckebier for the “City Manager of the Year Award” as part of the Florida League of Cities Excellence Awards program.
- h. Resolution No. 1992: A resolution authorizing the City Manager to negotiate an Interlocal Service Boundary Agreement with Brevard County.

15. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

16. ORDINANCE NO. 2006-79 (Z-2006-1069AD) LAND DEVELOPMENT CODE (LDR-2006-01/FOC-2006-03): (First Reading/Public Hearing) An ordinance amending Chapter 2 of the City Code, entitled "Administration", as it relates to the Zoning Board of Adjustment; providing for procedures and limitations to interpret the Airport Zoning Code, Appendix A, Zoning Code, Appendix B, and the Land Development Code, Appendix D; amending Appendix B, Zoning Code, by revising definitions, clarifying sections and removing context, type-setting, or other scrivener's errors made during the adoption of the new Zoning Code; and amending Appendix D, Land Development Code, as it relates to the size of text on preliminary and final plats. (Applicant - City of Melbourne) (P&Z Board - 7/06/06)

Attorney Gougelman read Ordinance No. 2006-79 by title.

Mrs. Dittmer briefed Council. Appendix B was completely rewritten and approved by City Council in November 2005. Since that time, City staff has found some items that were mistakenly omitted, not addressed in the change over, or which contained grammatical errors within Appendix B. In addition, Appendix D needed a change to the font size required for plat submittals.

Changes within Appendix B are very minor, and in most cases change uses/regulations back to their previous allowance. Several standards regarding adult entertainment, accessory dwellings, and non-conforming lots of record were not carried over in the previously approved Zoning Code.

The Planning and Zoning Board also recommended changing the allowance of personal service establishments in R-P and C-1A zoning districts from a conditional use to a permitted use. The Board discussed the frequency of these requests and compared the intensity of personal service uses to that of medical offices, which are permitted uses in these two districts.

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

Mrs. Palmer asked for an example of outdoor display. Mrs. Dittmer said that is an allowance that occurs in the C-3 Central Business District where a merchant may display

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

merchandise in the outdoor area. She confirmed for Mrs. Palmer that it is very regulated on how much merchandise may be displayed and that this is not a reference to holiday displays.

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

Moved by Walker/Hand for approval of Ordinance No. 2006-79. Motion carried unanimously.

17. ORDINANCE NO. 2006-80 (CU-2006-07/SP-2006-20) NEIL & EDA PEITHMAN: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a single-station hair salon addition to an existing single-family home on a 0.26-acre parcel zoned R-P (Residential Professional), located on the north side of Strawbridge Avenue, west of McQuaid Street, and east of Hickory Street. (Owner/Applicant - Neil S. Peithman) (Representative - Lymari Merheb, P.E.) (P&Z Board - 7/06/06)

Attorney Gougelman read Ordinance No. 2006-80 by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of this request.

The applicants were present and there were no comments from the public. Mayor Goode said that the applicants recently told him about their plans. There were no further disclosures from Council.

Moved by Meehan/Palmer for approval of Ordinance No. 2006-80. Motion carried unanimously.

18. ORDINANCE NO. 2006-81 (CU-2006-09/SP-2006-13) DAIRY & EBER C-STORE: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a 13,621 sq. ft. retail project including a 4,434 sq. ft. convenience store with 16 fueling station on a 2.8±-acre parcel, located on the southwest corner of the intersection of Dairy Road and Eber Boulevard. (Owner - Frowzar LLP) (Applicant - Petro Management, Inc.) (Representative - Luke Miorelli, P.E., ME Construction, Inc.) (P&Z Board - 7/06/06)

The City Attorney read the ordinance by title. Mrs. Dittmer briefed Council. Several residents spoke against the project due to concerns regarding traffic, lighting, and sewer capacity. The Planning and Zoning Board voted four to three to recommend approval of this request.

Note: Council received a letter from Beville Outlaw, owner of the property immediately to the west of the subject property. As the adjacent owner, they are opposed to the cross-access easement to their area (condition "c" in the ordinance).

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

Steve Monroe, representing the applicant, confirmed that they received a copy of the letter from the adjacent property owner. Mr. Monroe said that his client has no problem with eliminating the requirement for a cross-access easement.

That concluded comments from the public.

Moved by Hand/Meehan for approval of Ordinance No. 2006-81.

Beville Outlaw, adjacent property owner, asked Council to consider eliminating condition “c.”

Mrs. Dittmer confirmed for the Mayor that Mr. Outlaw informed the City about his concerns. From the audience, Mr. Monroe repeated that his client has no objection.

The maker/second agreed with removing condition “c” from the ordinance.

The question was called on the motion, including the removal of condition “c.” Motion carried. Mr. LaRusso voted nay.

19. ORDINANCE NO. 2006-82 (AR-2006-201), ORDINANCE NO. 2006-83 (CPA-2006-11), AND ORDINANCE NO. 2006-84 (Z-2006-1071) AMSOUTH BANK: Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation for a 2.7-acre portion of a 9.17-acre parcel, located at the southwest corner of Wickham Road and Post Road. (Owner/Applicant – AmSouth Bank) (Representative – John Rawson) (P&Z Board - 7/06/06)
- a. Ordinance No. 2006-82/AR-2006-201: (First Reading/Public Hearing) An ordinance providing for annexation of a 2.7-acre portion of a 9.17-acre parcel.
 - b. Ordinance No. 2006-83/CPA-2006-11: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 2.7-acre portion of a 9.17-acre parcel.
 - c. Ordinance No. 2006-84/Z-2006-1071: (First Reading/Public Hearing) An ordinance providing for a zoning designation of C-1 (Neighborhood Commercial) on a 2.7-acre portion of a 9.17-acre parcel.

Attorney Gougelman read the three ordinances 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 the public hearing was opened and closed with no comments.

Moved by LaRusso/Palmer for approval of Ordinance No. 2006-82. Motion carried unanimously.

Moved by Palmer/Walker for approval of Ordinance No. 2006-83. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JULY 25, 2006

Moved by Hand/Meehan for approval of Ordinance No. 2006-84. Motion carried unanimously.

20. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Vice Mayor Hand referenced the nomination of the City Manager for the City Manager of the Year Award through the Florida League of Cities, Florida Cities of Excellence Awards Program (Item 14 "g"). She stated that she hopes the City Manager receives this award.

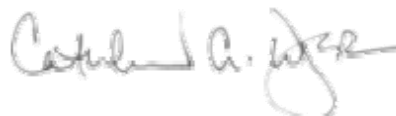
Mr. Schluckebier thanked the Mayor and Council for their support and confidence expressed in the resolution. He added that the nomination is meaningful no matter what the outcome.

In response to Council Member Mark LaRusso, the City Manager said he will ask the Parking Advisory Committee (a subcommittee of the Melbourne Downtown Community Redevelopment Agency Advisory Committee) to provide a status report on its review of three-hour parking versus two-hour parking in Downtown Melbourne.

21. ADJOURNMENT

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

The meeting adjourned at 7:32 p.m.



City Clerk – 8/3/2006

Approved by Council: _____