

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 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. Evangelist Bruno Malara 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
	Amy W. Elliott	Deputy City Manager
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

Mayor Goode presented the “Life Insurance Awareness Month” (September 2006) proclamation to members of the Space Coast Association of Insurance and Financial Advisors.

5. Approval of Minutes - August 8, 2006 Regular Meeting

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

6. City Manager’s Report

City Manager Jack Schluckebier reported on the following:

- One additional person has qualified for the General Municipal Election since the City Manager’s Report was distributed.

(Following the close of qualifying on August 24, the following qualified: District 2: Mark LaRusso. District 4: Matthew Bronson, Joshua Shane Norcross, John Thomas and Patricia Williams. District 6: Joanne Corby, Greg Jones and James Teele.)

- Since the area south of Crane Creek has been included in the Downtown Redevelopment Area, development proposals have been moving forward at a rapid pace. The requests include changes from solid commercial to primarily residential.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Council may wish to consider several ideas to guide staff in review, including consideration of a moratorium. Staff does not feel strongly about a moratorium; the word was used to gain attention. However, staff does believe that a Small Area Study would be helpful. The item will return for further Council consideration at the next or subsequent meeting. This is not an effort to diminish any proposals that are properly before Council at this time.

Council Member Richard Contreras said that the idea of a moratorium got his attention. He said he would prefer staff look at an overlay district or variation of an overlay district. The Mayor asked Council if there were any objections to staff developing the idea of an overlay district. There were no objections.

7. Public Comments

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2006-45 (CU-2005-19/SP-2004-19) PARKWAY COMMONS, PHASE ONE: 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.) (Motion to reconsider pending - 8/08/06)

The first reading/public hearing on this ordinance was held on August 8, 2006. The motion to approve failed by a 6-1 vote. After the motion to approve failed, it was moved by Goode/Meehan to reconsider and leave pending on the minutes. Council needs to vote on this pending motion.

Vice Mayor Loretta Hand said that she received a call today from Hugh Evans, Sr. The message wasn't clear; however, she believes that it relates to this item. Mrs. Hand advised that Mr. Evans was not in when she returned the call.

Council Member Cheryl Palmer said that the motion to reconsider was made immediately after the motion to approve failed. The motion to reconsider was not made based on new information; therefore, she sees no reason to reconsider the item.

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

Aye: Contreras, Meehan and Goode

Nay: LaRusso, Walker, Palmer and Hand

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Motion failed.

Moved by Palmer/Walker to deny Ordinance No. 2006-45. Motion carried. (Council Members Contreras and Meehan voted nay.)

9. 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 - 7/25/06)

Planning & Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board unanimously approved the six-sheet plan prepared by Construction Engineering Group, Melbourne, Florida, Project No. 050208, with a signed and sealed date of May 26, 2006, subject to the following conditions:

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

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

- b. Appropriate environmental permits, including permitting for the gopher tortoises, must be obtained as part of the construction plan review process.
- c. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.
- d. The project, including the landscaping and signs, must comply with the standards adopted by City Council for scenic corridors.
- e. The proposed building shall be substantially consistent with the rendering submitted by the applicant.

City staff has recommended adding condition "f" as follows:

- f. The applicant shall convey all portions of Technology Drive right-of-way under the ownership of the applicant, as of July 1, 2006, to the City prior to construction plan approval. The conveyance shall be by warranty deed in form and substance acceptable to the City Attorney and shall be free and clear of all security interests and similar encumbrances.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Mrs. Dittmer noted that the applicant has met condition “f.” Attorney Gougelman asked that it remain a condition of site plan approval.

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

Jack Wise, civil engineer representing the applicant, stated that this is a great project; it will help service the needs of Melbourne residents.

That concluded comments from the public.

Moved by Meehan/Palmer for approval of the site plan as recommended, including condition “f.” Motion carried unanimously.

10. ORDINANCE NO. 2006-85 (AR-2006-203) THIRREL ALTMAN: (Second Reading/Public Hearing) An ordinance providing for annexation of a 38-acre parcel, located at the northeast corner of Ellis Road and John Rodes Boulevard. (Owner/Applicant - Thirrel Altman) (First Reading - 8/08/06)

Attorney Gougelman read Ordinance No. 2006-85 by title. There were no comments from the public.

Moved by LaRusso/Walker for approval of Ordinance No. 2006-85. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2006-86 (AR-2006-204) CONFAB CORPORATION: (Second Reading/Public Hearing) An ordinance providing for annexation of a 15.64±-acre parcel, and the adjacent 0.547-acre right-of-way, located at the northwest corner of Ellis Road and John Rodes Boulevard. (Owner - Confab Corporation) (Applicant - Renate Jackson) (First Reading - 8/08/06)

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

Moved by Contreras/LaRusso for approval of Ordinance No. 2006-86. The roll call vote was:

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

Motion carried unanimously.

12. ORDINANCE NO. 2006-87 (AR-2006-205) CITY OF MELBOURNE: (Second Reading/Public Hearing) An ordinance providing for annexation of a 2.07-acre parcel and the adjacent 0.456-acre right-of-way, located at the northwest corner of Ellis Road and John Rodes Boulevard. (Applicant - City of Melbourne) (First Reading - 8/08/06)

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

The City Attorney read Ordinance No. 2006-87 by title. There were no comments made during the public hearing.

Moved by Hand/Meehan for approval of Ordinance No. 2006-87. The roll call vote was:

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

Motion carried unanimously.

13. ORDINANCE NO. 2006-88 (AR-2006-200) ROBERT & EVA MAE COCHRAN: (Second Reading/Public Hearing) An ordinance providing for annexation of a 16.184±-acre parcel and the adjacent 1.96-acre, 72-foot wide Crane Creek Drainage District L-15 Canal right-of-way, located at the southwest corner of Ellis Road and John Rodes Boulevard. (Owners/Applicants - Robert & Eva Mae Cochran) (Representative - Phil Nohrr) (First Reading - 8/08/06)

Attorney Gougelman read Ordinance No. 2006-88 by title. There were no comments from the public.

Phil Nohrr, attorney representing the applicant, was present and available for questions. He confirmed for Mrs. Palmer that they are aware of the industrial nature of the property to the north.

Moved by Meehan/Hand for approval of Ordinance No. 2006-88. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

14. COUNCIL ACTION RE: Change Order No. 1 to the contract for John A. Buckley Surface Water Treatment Plant Phase 2 improvements, Project No. 30102, Wharton-Smith, Inc., Palm Bay, FL - \$195,017 contract reduction.

City Engineer Jenni Lamb was present and available for questions.

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

15. CONSENT AGENDA:

Mrs. Hand declared a conflict of interest on Item "d" because she is a nurse working per diem for Health First Corporate Partners.

Moved by Walker/Contreras for approval of the consent agenda, with the exception of Item "d." Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Moved by Palmer/LaRusso for approval of Item “d.” Motion carried unanimously. (Six votes – Mrs. Hand abstained from voting.)

- a. Supplement No. 294 to the Continuing Consultant’s Contract for engineering services to provide a market assessment study for the Melbourne Auditorium, Project No. 10406, Frazier Engineering, Inc., Melbourne, FL - \$35,000.
- b. Approval of budget transfers from Miscellaneous Water & Sewer Capital Projects in the amounts of \$11,000 to the Deerwood Trail Waterline Extension, Project No. 31006 and \$5,000 to the El Dorado Waterline Extension, Project No. 31106 to cover additional permitting costs for both projects.
- c. Approval of an agreement between the City of Melbourne and the Melbourne Airport Authority for the joint purchase of a five-acre parcel of land located adjacent to I-95 near the intersection of John Rodes Boulevard and Ellis Road.
- d. Amendment No. 1 to the developer’s agreement between Holmes Regional Medical Center and the City of Melbourne to amend parking requirements for the hospital expansion.
- e. Purchase of a Comfort Elite Model ADA+2 portable restroom trailer for the Carver Park Community Center, Wells Cargo COG, DeKalb, TX - \$34,180; approval to transfer \$27,964 from General Fund Contingency and \$6,216 from the Carver Park Rental & Lease budget to the Carver Park Capital Project budget.
- f. Contract award for the performance of analysis of effluent in the wells, groundwater, wastewater, and sludge, P.E. Lamoreaux & Associates, Lakeland, FL - \$36,995.
- g. Purchase of 11 sets of Cairns REACTION™ Basofil jackets, trousers, and suspender sets and 11 pairs of Warrington Pro #5000 Firepower boots, Bennett Fire Products Company, Woodstock, GA - \$18,861.37.
- h. Purchase of a 500 MHz Shielded RAMAC X3M™ radar control unit, MALA Geo-Science, USA, Inc., Charleston, SC - \$17,850.
- i. Lien Rescission CE-05-022: Approval of request for a lien reduction from \$21,400 to \$807.25 if paid in full within ten days. (Henry Tolivert - 2617 Race Street)
- j. Amendment No. 1 to the employment agreement between Paul R. Gougelman, III, City Attorney, and the City of Melbourne to provide retirement benefits in the General Employees’ Pension Plan and authorization for the City Manager to execute the agreement.
- k. Approval of a submerged land lease agreement between the City of Melbourne and the State of Florida for the Eau Gallie Pier at Pineapple Park; and authorization for the City Manager to execute the agreement.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

16. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

17. ORDINANCE NO. 2006-89 (CU-2006-01/SP-2006-01) THE SUMMIT AT MELBOURNE PLACE: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a building height of 159'-4" for a mixed-use hotel, retail, restaurant, and condominium project on a 3.05±-acre parcel zoned C-3 (Central Business), located on the south side of New Haven Avenue, north of Melbourne Avenue and west of Harbor City Boulevard. (Owner - Crane Creek Partners, LLC) (Applicant/Representative - Brandon Lurie, The Richard-Brandon Company, Developer; David T. Menzel, P.E., MAI Engineering, Inc.) (P&Z Board - 08/03/06)

Attorney Gougelman read Ordinance No. 2006-89 by title. Mrs. Dittmer briefed Council.

From the agenda report: Based upon the C-3 zoning regulations, the property would be permitted to build up to 80 feet in height; therefore, the applicant is requesting an additional 79' 4" in height. On March 28, 2006, City Council adopted a policy that limits the ability of City staff to recommend approval of building height requests exceeding 50% of the permitted height. However, this request was submitted to the City on January 18, 2006. City staff did not make a recommendation regarding the conditional use request to the Planning and Zoning Board, but did provide conditions of approval in the event that the Planning and Zoning Board desired to recommend approval to City Council.

The Planning and Zoning Board had a very lengthy discussion regarding the request. There were some concerns regarding the scale of the project and the building's architectural compatibility to the surrounding area. An equal number of residents were supportive of the project as were opposed to the project. In the end, the Planning and Zoning Board voted 4 to 3 to recommend denial of the conditional use request.

Based upon the Planning and Zoning Board discussion, the applicant has proposed several changes to address the concerns raised during the meeting. To address the comments regarding the New Haven Avenue frontage of the project, the applicant is proposing to change the façade of the building, both on the upper hotel area and the lower pedestrian/street level, to make it more pedestrian friendly and to blend the architecture with the surrounding Downtown area. Additionally, the applicant is proposing to lower the hotel building by three levels to bring the height of the building to approximately 80 feet. To address the comments regarding the "scale" of the building, the applicant is proposing to remove two units per floor on the western end of the condominium building to provide a smaller "length" of a building and to allow the addition of more green space at the base of the building.

City staff would have recommended approval of the project prior to the City Council policy change due to the extensive benefits that a mixed-use condominium project of this nature will bring to the revitalization of the Downtown Melbourne Community Redevelopment Area.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Appropriate conditions of approval are contained in the ordinance for City Council consideration.

Mayor Goode called for Council disclosures. Mr. Contreras said he spoke with Attorney Nohrr today, who mentioned the height, the Planning & Zoning Board vote, the architecture, the changes that have been made, and that the Architectural Review and Downtown Community Redevelopment Agency Advisory Committees reviewed the plan after the changes were made and gave a favorable recommendation.

Council Member Mark LaRusso said that on June 26 he met in Mr. Menzel's office to review the plan. He added that they discussed the project; however, he did not reach any conclusions. On August 18 a package was delivered to his home, which detailed the changes, reduction in height, additional green space, etc.

Council Member Kathy Meehan asked Attorney Gougelman what her obligation is with regard to voting. Attorney Gougelman said he discussed her situation with the Commission on Ethics and it is his opinion that Mrs. Meehan does not have an ethical conflict and, therefore, would be required to vote under State law.

Mrs. Palmer asked for details on the issue. Mrs. Meehan said that her husband owns six properties in the Downtown area. Attorney Gougelman added that based on the location of the properties, which are all developed, the conclusion of the Commission on Ethics staff in looking at previous opinions is that there would be no voting conflict. The most recent opinion was issued a few months ago on June 14.

Mayor Goode opened the public hearing.

Phil Nohrr, attorney representing the applicant, stated that this is an exciting development that will have a positive economic impact on the Downtown Melbourne area. He explained the following mixed-use development that is being proposed:

A 110 room hotel; townhome style condominiums; condominium building; the hotel will be oriented toward New Haven Avenue and residences farther south will be oriented toward Melbourne Avenue; the number of units in the residential building has been decreased from 176 to 159; the height of the hotel has been decreased from eight stories to five stories; and they have reduced the length of the building to provide a much larger green space and a walkway from New Haven Avenue to Melbourne Avenue.

Mr. Nohrr reported that they are prepared to deed over the land they own on the south side of Melbourne Avenue. Although it can't be used for development, they are willing to place it in City ownership.

Continuing, Mr. Nohrr discussed the history of the Downtown area. In the mid to late 1970s commercial shifted from the Downtown area towards the west. This had a negative impact on Downtown and merchants and residents in the Downtown area are looking for ways to bring back that vitalization. From 1990 to 2000 there was a 10% reduction in the number of residents living in the Downtown area. One of the things that the City's consultants advised

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

is that residential units will lead to commercial development. This is a multi-use project that, if approved, will result in 200 – 250 full time jobs. These workers will also shop in Downtown Melbourne.

Mr. Nohrr discussed the reduction in number of floors; the setbacks; the reduction in residential units; the additional greenery; the increase in parking spaces and the 60% visual corridor that will be provided between the hotel and residential tower. The square footage has been reduced from 398,000 to 358,000. He pointed out that under C-3 zoning, it would be possible to develop up to one million square feet. Additionally, Mr. Nohrr discussed the estimated tax base the project would generate.

After the decision of the Planning and Zoning Board, they reviewed the project and made revisions as noted. After the revisions, they appeared before the Architectural Review Board and they returned with a unanimous recommendation. They also met with the Downtown Community Redevelopment Agency Advisory Committee, and that board also gave a unanimous vote. The project comes with a stamp of approval from both of these boards and they have listened to the Planning and Zoning Board.

Mr. LaRusso asked what franchises are being considered for the hotel. Mr. Nohrr said that they are in a quiet period in the negotiations and he is not able to provide an answer at this time.

Carlos Touzet, Brickell Avenue, Miami, architect representing the applicant, informed Council that he reviewed the City's Redevelopment Plan, the recommendations made by the City's consultant, and then walked the Downtown area to determine the architecture. He submitted and reviewed a packet of renderings entitled "The Summit at Melbourne Place."

Mr. Touzet said that the Redevelopment Plan identified the connection of the Downtown Area to the harbor as being important. That is why they have proposed a walkway from New Haven Avenue to Melbourne Avenue.

Dan Mestayer, Indialantic, Consolidated Environmental Engineering, reported that his firm performed the environmental work on the site. He noted that they are not anticipating any environmental issues.

Bob Hynes, 636 East Melbourne Avenue, spoke in support of the project. He stated that people who live in a Downtown area are very special people. They are urban dwellers; they become the catalyst that helps grow the Downtown area; and they patronize restaurants, shops and cafes.

Mr. Hynes added that the other important part of this project is the hotel. He said that when he traveled to various cities that had opportunities where his wife and children could be entertained, it counted as time not away from the family. The Downtown area is the perfect location. People from the hotel will also become part of the critical mass in the Downtown area. Mr. Hynes concluded by asking Council to think about this project in terms of size, scope and space. There is an opportunity to make the Downtown area a special place.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Pat Poole, 805 East Palmetto Avenue, referenced the 4-3 vote by the Planning and Zoning Board to deny this project. She discussed the height and size of the project and asked how it will be compatible with the one story gas station at one end of the block and the two-story flower shop at the other end of the block.

Mrs. Poole referenced the petitions she has submitted from folks who are opposed to high-rises in the Downtown area. She recommended that Council consider placing a referendum on the November ballot about this issue.

Lori Emly, President of the Melbourne Art Festival, discussed the relationship the Art Fest has with the applicant. She stated that Brandon Lurie and the Richard-Brandon Company have been wonderful community partners.

Jack Ryals, 843 East New Haven Avenue, Chairman of the Melbourne Downtown Community Redevelopment Agency Advisory Committee, informed Council that they held a special meeting last week to review this item. The members had plenty of opportunity to ask questions and provide input. The committee voted unanimously – and enthusiastically – to recommend approval. He added that he is impressed by how quickly the applicant responded to the concerns of the Planning and Zoning Board.

Laird Gann, representing Melbourne Main Street, asked the property owners and merchants from the Downtown area who support this project to stand. (Approximately 12 – 14 people stood in the audience.) Mr. Gann encouraged Council to support this project and stated that it will be a great step forward for Downtown Melbourne.

Dano LoPresti, 1002 East New Haven Avenue, stated that his property is located directly across from the proposed Summit Place. He commented that as a business owner he has always hoped that “something would happen on the other side of the railroad tracks.” Mr. LoPresti concluded by saying they are one hundred percent behind the project.

Kristin Takayama, 731 Walnut Drive, said that she is in support of the project; the proposed building is beautiful; it will enhance the Downtown area; it will create jobs; and is very futuristic. She asked Council to vote yes for the project.

Michael Melhado, business owner at 903 East New Haven Avenue, informed Council that he also owns other properties in the Downtown area. He stated that this project is a first; the developer spent a lot of time integrating the project into the Downtown area. It is the first mixed-use project that will also be an economic driver. He concluded by saying that everyone he has talked with is excited.

Dorothy Gaunce, 721 Walnut Drive, commented that she is 100% in support of the project. She added that she would gladly park visiting family members at the hotel for three or four days.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

John Fakatselis, 394 Lanternback Island Drive, Satellite Beach, said that as an owner of property and businesses in the Downtown area, he is in support of the project. It will bring growth and provide incentives for the other business owners and property owners.

Mayor Goode referenced the following additional correspondence distributed to Mayor and Council (in addition to the material in the agenda package): E-mail dated August 22, 2006 from Young and Paul Mills, Blossom House, in support of the Summit. Memorandum from Planning and Economic Development dated August 17 reporting that the Architectural Review Board and the Downtown CRA Advisory Committee reviewed and recommended approval of the project.

Attorney Nohrr returned to the podium and referenced the amount of support for this project. He said they believe they have addressed compatibility; the project will exist nicely with Downtown Melbourne. Mr. Nohrr said that the owners and engineer are present and available for questions. He finished by asking Council to allow this opportunity.

Mrs. Palmer referenced the changes made following the Planning and Zoning Board meeting and asked why there was no reduction in height. Mr. Nohrr said there was discussion on height at the board meeting; however, it was his impression that height wasn't as important as architecture. Rather than reducing height they opened the project up on the west side.

Mrs. Palmer asked if this is a final rendition and if the applicant is ready to move and build this project. Mr. Nohrr replied that he has had a long conversation with his client. They may tweak the plan but his client has represented that it is their intent to build this project. They have spent a lot of time and money. And, this is an experienced developer.

Mrs. Palmer asked about the condominium market in Downtown Melbourne. Mr. Nohrr said that when planning a project like this you have to look out a couple of years. The market today isn't the market that they will ultimately sell to. Mr. Nohrr commented that he would not want to sell a condominium today; however, he believes the market will change in a couple of years.

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

Moved by Goode/Meehan for approval of Ordinance No. 2006-89.

Mrs. Palmer said that we have to make infrastructure improvements to accommodate projects of this scale. She asked the City Manager to provide an estimate on the time it takes to receive the tax revenue after the improvements have been made. Mr. Schluckebier said the answer is often site specific. There should not be any extraordinary infrastructure requirements on this project.

A brief discussion followed regarding the changes in impact fees proposed under agenda Items 25, 26 and 27. Mr. Schluckebier said that based on court cases and extensive discussions with staff and the City Attorney, it is his understanding that this project would receive the full benefit of any changes in our fees adopted by Council.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Council Member Grace Walker said she plans to vote for this item as presented. She asked if any changes to the plan would return to Council. Mr. Schluckebier replied that as part of the conditional use process, the City Council set rigid standards about the changes that may occur; Council must approve significant changes.

Mrs. Hand said that she thinks this is a great economic engine for Downtown. The residential portion with the hotel and shops will provide a win/win situation for the Downtown Melbourne area.

Mrs. Meehan stated that this is an awesome project and she is fully in support.

Mr. LaRusso said that the boards are working with each other and the developers are listening to the concerns of the Planning and Zoning Board. He stated that he plans to support this request and noted that it is one of the few projects that he is truly excited about.

Mrs. Palmer said she really believes that the people in our City are opposed to building heights. Everyone who spoke in favor had some vested interest, although it may not be an ethical problem. She said she will probably vote for this project because something will be built on this site and this proposal provides for a good amount of green space. The height on the hotel is fabulous and if the condominiums didn't have the height, she would also be excited about this project. Mrs. Palmer concluded by saying she hopes people read the minutes of this meeting and understand that Council needs to hear from them.

The question was called. Motion carried unanimously.

Recessed: 8:01 p.m.

Reconvened: 8:11 p.m.

18. ORDINANCE NO. 2006-90 (CU-2006-14) MINI-STORAGE AT THE MELBOURNE PLAZA: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a mini-storage facility within an existing building on a portion of a 16±-acre parcel zoned C-P (Commercial Parkway), located on the southwest corner of Sarno Road and Apollo Boulevard. (Owner - Melbourne Airport Authority) (Applicant - Melbourne Plaza, LLC) (Representative - Ken Allen) (P&Z Board - 08/03/06)

Council received a letter dated August 18 from Ken Allen, President, Melbourne Plaza, LLC asking that the item be removed from the agenda to allow time to work with the Airport. Mr. Allen noted that the Airport staff feels this project may be detrimental to its leasing efforts.

19. ORDINANCE NO. 2006-91 (CPA-2006-24) AND ORDINANCE NO. 2006-92 (Z-2006-1082) SUTTON PROPERTIES: Ordinances providing for a Comprehensive Plan Amendment and rezoning on a 1.89±-acre parcel, located on the north and south side of Prospect Avenue, west of Irwin Street and east of South Harbor City Boulevard. (Owner/Applicant - Fred E. Sutton, Sutton Properties, LLC) (Representative - Clifton A. McClelland, McClelland, Jones, Lyons, & Lacey, L.C.) (P&Z Board - 08/03/06)

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

- a. Ordinance No. 2006-91/CPA-2006-24: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Commercial to Commercial/High Density Residential on a 1.89±-acre parcel.
- b. Ordinance No. 2006-92/Z-2006-1082: (First Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to C-3 (Central Business District) on a 1.89±-acre parcel.

Attorney Gougelman read both ordinances by title.

Mrs. Dittmer reviewed the agenda report. The Planning & Zoning Board expressed concern about the request, primarily due to the ability to request a building height over 80 feet, and the need for larger pedestrian walkways along the front of the buildings. The applicant and owner were present and indicated that they would agree to a condition to limit the height for future development on this property to a maximum of 80 feet.

The Planning and Zoning Board voted unanimously to recommend approval, with a condition to apply a maximum height of 80 feet for future development. The City Attorney will draft a deed restriction to be recorded in the public records.

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

Clifton McClelland, attorney representing the applicant, reported that Mr. Sutton is a long time developer with quite a bit of experience. He reported that the building, which was constructed in 1929, is non-conforming. This application will allow C-3 zoning, which permits uses needed in the redevelopment district.

Attorney McClelland said that the area is obviously blighted. He noted that he included documents, including police reports, which indicate the number of incidents in the surrounding area. He concluded by saying that this land use and zoning are needed to foster development on this property.

Fred Sutton, applicant, confirmed that the building was constructed in the 1920s and doesn't conform to today's setback and parking requirements. This is presenting a problem with the lender. He reported that since they have owned and operated this building, they have experienced crime, drugs, vagrants, prostitution, and building decay.

Mr. Sutton stated that the 16-acre Riverview Park is located east of this property and then the Indian River Lagoon beyond. This location will allow them to build moderately priced residential units and possibly commercial. Mr. Sutton said they would be pioneering in this area and it has a high degree of risk. He concluded by saying that he feels this project will be a catalyst for the U. S. 1/Prospect/Irwin area. He asked Council for positive consideration.

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

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Mrs. Meehan asked her obligation to vote on this item since her residence is located at 1310 East Prospect Avenue. Attorney Gougelman confirmed that this is another instance where Mrs. Meehan does not have a voting conflict and, therefore, would be required to vote.

Moved by Hand/Meehan for approval of Ordinance No. 2006-91. Motion carried unanimously.

Moved by Contreras/Palmer for approval of Ordinance No. 2006-92. Motion carried unanimously.

20. ORDINANCE NO. 2006-93 (CPA-2006-25) SOUTH CRANE CREEK MIXED USE: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Commercial and Commercial/Medium Density Residential to Commercial/High Density Residential on a 5.840±-acre parcel. (Owner - Hynes Properties, LLC) (Applicant/Representative - David T. Menzel, MAI Architects Engineers, Inc.) (P&Z Board - 08/03/06)

The City Attorney read the ordinance by title. Mrs. Dittmer provided an overview for Council. The Comprehensive Plan states that residential densities should be limited in areas that are found to be coastal high hazard areas. City staff will look closely at ground elevations, density and the height of the first occupied building level during the development review process, which may limit the overall density of the project. The Planning and Zoning Board voted unanimously for approval of the land use amendment request.

Mrs. Meehan disclosed that she met with Dr. Hynes and Mr. Menzel to discuss the phases of the proposed development. Also, she met with Bob Hynes and Hazel Buggs on the property. Mr. LaRusso said that on June 26 he looked at the plans. Mr. Contreras said he received a call from Dr. Hynes on June 23 concerning the phasing. Mrs. Meehan stated that she spoke with Dr. Hynes about the plans.

Mayor Goode opened the public hearing.

Ken Ward, Towne Realty, Inc., stated that this proposal is consistent with the expanded redevelopment plan. He noted that Town Realty and Dr. Hynes are also working together on the Vues project.

Dave Menzel, representing the applicant, pointed out that this property is listed as the start of the Redevelopment Area in the expanded plan. He added that they will return at a later date with a plan.

Dorothy Gaunce, 721 Walnut Drive, spoke in support of the project.

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

Moved by Meehan/Hand for approval of Ordinance No. 2006-93.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Mrs. Palmer asked the current height limitation on the property. Mrs. Dittmer replied that it is 40' in the C-2 district. Mrs. Palmer asked the difference in density. Mrs. Dittmer replied that High Density Residential allows over 15 units per acre.

The question was called. Motion carried unanimously.

21. ORDINANCE NO. 2006-94 (CPA-2006-27) AND ORDINANCE NO. 2006-95 (Z-2006-1085) TRICON PLAZA SOUTH: Ordinances providing for a Comprehensive Plan Amendment and rezoning on a 2.4±-acre parcel, located on the south side of Line Street, east of South Harbor City Boulevard and west of Melwood Drive. (Owner – Tricon Real Estate, Inc.) (Applicant/Representative – David T. Menzel, MAI Architects Engineers, Inc.) (P&Z Board – 08/03/06)
- a. Ordinance No. 2006-94/CPA-2006-27: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Commercial (0.05± acres) and Commercial/Medium Density Residential (2.35± acres) to Commercial/High Density Residential on the entire 2.4±-acre parcel.
  - b. Ordinance No. 2006-95/Z-2006-1085: (First Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) (0.05± acres) and from C-1 (Neighborhood Commercial) (2.35± acres) to C-3 (Central Business District) on the entire 2.4±-acre parcel.

Attorney Gougelman read Ordinance Nos. 2006-94 and 2006-95 by title. Mrs. Dittmer reviewed the agenda report. The Comprehensive Plan states that residential densities should be limited in areas that are found to be coastal high hazard areas. City staff will look more closely at ground elevations, density and the height of the first occupied building level during the development review process, which may limit the overall density of the project.

Four area property owners were in support of the request and one resident was opposed. The Planning & Zoning Board, concerned about requests for height over 80 feet, asked the applicant if a maximum 80-foot height was acceptable, to which the owner agreed.

The Planning and Zoning Board voted unanimously for approval of both the land use amendment and the rezoning requests, with a condition to apply a maximum height of 80 feet for future development. The City Attorney will draft a deed restriction that will be recorded in the public records.

There were no disclosures by Council.

Phil Nohrr, attorney representing the applicant, said that this is an interesting parcel. It is probably the largest undeveloped parcel as you enter the City on U. S. 1 from the south. This is an opportunity to set the tone for what you may want the City to look like. He discussed the surrounding property and zoning and noted that this is a developable piece of property.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Attorney Nohrr said they do not believe that rezoning to C-3 will have an adverse effect. The development will be oriented towards U. S. 1. He noted that the owner is in the audience and is available for questions.

Mr. Contreras asked about the pawnshop located to the west. Mr. Nohrr confirmed that the subject property surrounds the pawnshop. He said that they hope to eventually acquire that property; however, at this point it will be a challenge to provide a buffer. He confirmed that there is a current dialogue with the pawnshop owner.

Yvonne Morales, 2600 Riverview Drive, stated that she lives within 300' of this project. She described the transient issues that the neighborhood has been dealing with. Ms. Morales said she believes this project will help bring families to the area, which will improve Riverview Park. She commented that the neighborhood is in bad need of redevelopment and she would love to see this project come to fruition.

Margo Pierce, 2504 Riverview Drive, said that this project will be happening in her backyard and she is in favor. She noted that she is in favor of the U. S. 1 corridor being developed and she likes the height limit of 80'. She agreed that there are problems with transients and she is hoping for increased police presence.

Mitty Barclay, 2510 Riverview Drive, said that she also owns 2515 and 2513 Riverview Drive. She referenced the e-mail she sent in support of the request. Ms. Barclay closed by saying this request will move this area of the City into a better economic state.

Annette Anastasia, 1307 Shenandoah Drive, reported that she submitted a petition on July 31 signed by over 50% of the residents opposed to this development. (Note: A staff calculation revealed that the owners of just over 7% of the area within 500' are opposed to the request.)

Ms. Anastasia stressed that they are only opposed to height and density. They want the area developed; however, she does not want to live next to a high-rise. The view outside of her window will be condominiums. She added that the people who spoke in favor all have a river view.

Robert Foreman, 2415 South Harbor City Boulevard, said the problem in the area is blight. No one does anything to improve their buildings, and they have problems with prostitution and drugs. He commended the applicant for having the vision to do something with this area. He noted that this is the south entrance to the City from U. S. 1 and the City will be better off if this property develops.

Attorney Nohrr returned to the microphone and said that he is not familiar with a 50% petition in opposition. He pointed out that Ms. Anastasia lives on the south side of Shenandoah. There is a home located between her and the subject property, so they don't abut. Ingress and egress to the subject property will be from U. S. 1. They don't believe they are impeding on that neighborhood; they are simply trying to improve and develop.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Attorney Gougelman said that at the Planning and Zoning Board meeting the applicant volunteered to restrict the height to 80'. Attorney Nohrr agreed.

From the audience, Ms. Anastasia said that the house located across the street from her will be razed and the property is for sale.

Mayor Goode closed the public hearing.

Moved by Meehan/Hand for approval of Ordinance No. 2006-94. Motion carried unanimously.

Moved by Contreras/Meehan for approval of Ordinance No. 2006-95. Motion carried unanimously.

22. ORDINANCE NO. 2006-96 (CPA-2006-26) LINCOLN AVENUE: (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 a 1.6±-acre parcel, located on the north side of Lincoln Avenue, west of Waverly Place and east of Livingston Street. (Applicant - City of Melbourne) (P&Z Board - 08/03/06)

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

Mayor Goode opened and closed the public hearing with no comments.

Moved by Walker/LaRusso for approval of Ordinance No. 2006-96. Motion carried unanimously.

23. ORDINANCE NO. 2006-97 (CU-2006-12) ST. JOHN'S EPISCOPAL CHURCH DAY SCHOOL: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a day school within the existing St. John's Episcopal Church at 610 Young Street, zoned R-2 (One-, Two-, and Multiple-Family Residential). (Owner - St. John's Episcopal Church) (Applicant/Representative - Paul Burleson) (P&Z Board - 08/03/06)

City Attorney Gougelman read Ordinance No. 2006-97 by title.

Mrs. Dittmer was available for questions. From the agenda report: The Planning and Zoning Board voted unanimously to recommend approval of this request with several changes. Subsequent to the board meeting, the applicant provided staff with the square footage/student ratio. The criterion established is 20 net square feet of area required per student. Based upon this information, the school could have as many as 50 students. City staff recommended capping the maximum student limit to 40 students.

Mr. Contreras disclosed that his son's Cub Scout pack meets at this location intermittently. Mrs. Palmer disclosed that she spoke to a couple in the audience about this request during the break.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Reverend Eric Turner, St. Johns Episcopal Church, reported that they are hoping to make arrangements with Holy Family School to lease the small building for a day school. The only matter in question is the requirement for the drop off area to be paved in front of the building. He said they would like to avoid that because of the expense and it will require the removal of a well-established tree.

In response to the Mayor, Mrs. Dittmer said that staff requested a drop off point along Young Street in front of the school. If there is a better area, that would be acceptable to staff.

Following a brief discussion, the Mayor asked the applicant and staff to meet prior to second reading to agree on a mutual drop off area.

Lars Tennyson, architect representing St. John's Episcopal Church, reported that he has developed a compromise that should be acceptable.

That concluded comments from the public.

Moved by Palmer/Contreras for approval of Ordinance No. 2006-97 on first reading with a condition that City staff and the applicant meet prior to second reading to determine a safe and adequate student drop off area. Motion carried unanimously.

24. ORDINANCE NO. 2006-98 (A&V NO. 298): (First Reading/Public Hearing) An ordinance to abandon and vacate an alley and right-of-way easement located east of U.S. 1 between Strawbridge Avenue and New Haven Avenue within the Block 18 of Grove Block Subdivision (also known as Strawbridge Subdivision) for Towne Hynes of Melbourne, LLC; Spanish Trace, Inc.; and Nannie Lee's Strawberry Mansion, Inc.

The City Attorney read the ordinance by title. City Engineer Jenni Lamb briefed Council. She confirmed for Mrs. Palmer that the owners of the adjacent properties are the applicants.

Mrs. Hand said she spoke to Dr. Hynes about the alleyway.

The Mayor opened the public hearing.

Ken Ward, Towne Realty, Inc., confirmed that all adjacent property owners are making the request. He noted that they will retain a public utility easement over the existing improvements and will relocate them as part of the Vues project.

In response to Mrs. Walker, Mr. Ward said that the easements would move when the utilities are moved.

Mrs. Palmer asked if this will be part of the Vues development and Mr. Ward replied that this will be part of their site plan.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Pat Poole, 805 East Palmetto Avenue, asked how much more the City Council will give away. She elaborated on her concerns about the Vues development and stated that the people of Melbourne should have a say in this.

Moved by Contreras/Meehan for approval of Ordinance No. 2006-98. Motion carried unanimously.

25. ORDINANCE NO. 2006-99 CONCURRENCY: (First Reading/Public Hearing) An ordinance of the City of Melbourne, relating to Concurrency; amending Appendix D, Chapter 3, to require payment of a capacity reservation fee and revising the schedule for payment of impact fees. (Applicant - City of Melbourne)

From the agenda report: Concurrency has been a planning tool to define future infrastructure needs so that capital projects can be planned in a manner to accommodate future growth. Under new growth management legislation, it is a requirement to identify those needed projects in the capital improvement program and to define a budget.

It is difficult to plan for infrastructure expansion when many development projects that have Council approval do not proceed to the next step yet still hold a reservation for future capacity through their concurrency certification. It is also a problem funding expansion projects and having them on-line when impact fee revenues from development projects are not seen until the project is ready to be occupied.

This amendment creates a capacity reservation fee for infrastructure concurrency. The fee will apply to new developments requiring concurrency as part of the approval process for obtaining a development permit, e.g. site plan, preliminary subdivision plat.

The proposed capacity reservation fee will be ten percent of the estimated impact fees for the water, sewer, and roads systems that are applicable to the project seeking approval. Payment of the fees will be required as a condition of the issuance of a development permit.

The proposed capacity reservation fee is non-refundable and is valid for the same time period as the development permit - one year for site plans and three years for subdivision plats. The capacity reservation may be extended one year by payment of an extension fee equal to fifteen percent of the estimated impact fees.

This amendment also changes the time of payment of the balance of impact fees from issuance of the certificate of occupancy to time of issuance of the building permit.

Attorney Paul Gougelman read Ordinance No. 2006-99 by title. Deputy City Manager Howard Ralls provided an overview of the item. Mr. Ralls cited the recent Mayfair Isles development as an example. That project has 1,300 units and it received concurrency. Four hundred thousand gallons of plant capacity was assigned, which is a big chunk of the remaining capacity at the Grant Street Plant. Mayfair also used transportation capacity on Babcock Street. All of this is on hold for a total cost of \$576 to the applicant. The developer has made no investment but has tied up capacity. Mr. Ralls clarified that he is sure that the Mayfair project is going forward.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Mr. Ralls explained that the timing needs to be addressed for projects that are underway. A requirement to pay up front could result in a financial burden. Staff is proposing to amend the ordinance to provide that:

“...Any property owners or their authorized representatives who have received site plan approval on or before August 22, 2006 and are making substantial progress toward obtaining a building permit in a timely manner per City Code may enter into a developer’s agreement with the City in which the payment of applicable water, sewer and transportation impact fees may be deferred until August 22, 2009 – three years – but not later than the issuance of a Certificate of Occupancy. The application for the developer’s agreement must be made to the City by October 24, 2006.”

Mr. Ralls noted that October 24 is the effective date of this ordinance and the subsequent two ordinances on the agenda.

Mrs. Hand asked if we are granting additional time to make the payment rather than grandfathering. Mr. Ralls said yes and stated they would pay the impact that is in effect at the time they make the payment. If the impact fees were to go up between now and the payment due date, they would pay the impact fee in effect at the payment due date. The developer’s agreement would not guarantee the same impact fee rate.

Mrs. Palmer asked if the amendment would apply to the projects that were voted on tonight. Mr. Ralls said yes if they were approved on second reading. Mrs. Palmer pointed out that only one site plan approval was granted this evening.

Mr. Schluckebier said the intent was for those substantially underway. It was not for those simply receiving site plan approval. Mr. Ralls re-read the proposed amendment. Mr. Schluckebier said this is a delicate situation. This isn’t intended to capture people who are just now presenting their development plan. But, we are not trying to do harm to developments in progress. They came under a set of rules and they have some expectation those would be applicable.

Mr. Contreras referenced the site plan approved this evening and the two site plans that will be approved on second reading in two weeks. He asked how this change would apply. Mr. Ralls replied that the new ordinance would apply to anyone who has not received site plan this evening.

Mr. Contreras referenced the people who are far along with their plans and asked if this change would jeopardize the cost factor on their projects. Mr. Schluckebier said that the amendment is intended to deal with folks in progress who have already received a site plan or subdivision approval. They would have the opportunity to file for an agreement to specify that they wish to pay their fees later.

Mrs. Palmer said this may place a hardship on the smaller developments. The City Manager said in our case we are fairly unique in waiting for those payments until

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

occupancy. Most of the surrounding communities require payment at the time of payment of the building permit fee. We are trying to bring our Codes into agreement with the understanding of concurrency. The City is on the hook to issue utilities, roadways, etc.

Mrs. Palmer said she is concerned about infrastructure; there has to be a funding source for it. However, if this is passed on first reading, she said she would need some instruction between now and second reading. There are a lot of facets to this. The City Manager pointed out that the next two ordinances have similar impacts.

Mr. LaRusso referenced projects that already have their site plan approved and asked if they are taken out of this equation. Mr. Schluckebier said they would have two months to enter into a developer's agreement to allow them up to three years – or date of occupancy – to pay.

The Mayor added that with the three-year extension, the check will be written at the going rate at that time. Mr. Schluckebier replied yes.

Mr. LaRusso said that projects in the pipeline have already determined their costs. Mr. Schluckebier said that last year when we changed water, sewer, transportation and recreation impact fees, we allowed a two-month window for folks to pay the old fees at that time. Several took advantage and pre-paid at the old rates. Our intent is to provide the same opportunity.

Mr. LaRusso said that this item and the next two items have huge impacts on economic development. He asked that Council conduct a special workshop to understand this issue completely to make an informed decision.

The City Manager said that we could delay second reading for a month to allow time for a workshop. He added that we have as much time as Council desires; there is no rush. He added that with the other two ordinances on the agenda, we would like to work through first reading and set the second hearings a month or six weeks out.

A brief discussion continued. Mr. LaRusso stated that this is not just one sided – it affects the consumers as well. Mr. Contreras said he has no problem pushing out second reading. He recommended that Council Members meet on an individual basis with staff. Mrs. Hand recommended that the item be postponed rather than being approved on first reading.

Mrs. Palmer asked if we capture the "August 22" date if this ordinance is approved on first reading and the City Manager replied yes. Mrs. Palmer pointed out that if this is not passed on first reading, the clock would be re-set. Mr. LaRusso asked Mrs. Palmer how she feels about that. Mrs. Palmer answered that she needs more information. She added that if this is something that should be approved, the date should be set today.

Mayor Goode opened the public hearing.

Ken Ward, Towne Realty, Inc., stated that he is opposed to the ordinance. He noted that it is obvious Council needs more deliberation. And, he is not sure why the City should move

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

forward on first reading to capture a date so the fees are retroactive. Mr. Ward recommended a provision in the ordinance to exclude the Downtown Redevelopment Area. This is an area that needs to be revitalized and incentives need to be provided. Additionally, the Downtown area is an in-fill area with roads, water and sewer in place. This ordinance should apply where the City is extending its services. He asked Council not to adopt this on first reading.

Mayor Goode asked Mr. Ward about the timing of payments in Titusville. (Mr. Ward is a Council Member in Titusville.) Mr. Ward replied that the fees are assessed at the time of Certificate of Occupancy, which is the same as the County.

Dave Menzel, 2200 Front Street, said that the timing will make it tough for him. He explained that he has a project that should have been on this agenda; however, it was removed by staff without his knowledge. He asked how that fits in with this plan.

Kohn Bennett, Towne Realty, Inc., stated that he will wait until the workshop meeting to make his comments.

Mayor Goode stated that a Council workshop is not for public comments.

Mr. Bennett reported that in every jurisdiction where he has developed, impact fees are paid at the time of Certificate of Occupancy. He added that he is not aware of instances where payment is made at time of site plan.

Continuing, Mr. Bennett referenced the Downtown Redevelopment area and stated that Council has adopted a plan and a study; both call for incentives. He said that these fees take the opposite approach. Adopting the ordinances tonight to take advantage of a date would be a mistake because he is sure what is ultimately adopted will be different. Many people have commitments on the purchase of land and believe they should be provided reasonable notice. He concluded by recommending that Council conduct a workshop and look closely at projects that are in the works. This issue could make or break a project that is needed in the blight area.

Chris Romandetti, 705 South Harbor City Boulevard, stated that his Marina Towers project was approved a while back. He explained that his budget is done and anyone who has approval should be exempt. If he is required to pay the new rate, he will be blown out of the water. Mr. Romandetti disagreed that a workshop should be for Council only. Council should take input from the public.

That concluded comments from the public.

Moved by Hand/Meehan to postpone this item to allow time to conduct a workshop. (Mrs. Hand clarified later in the discussion that her intent was to postpone until October 3, 2006.)

Aye: LaRusso, Meehan and Hand

Nay: Contreras, Walker, Palmer and Goode

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Motion failed.

Moved by Goode/Walker to approve Ordinance No. 2006-99 on first reading, postpone second reading for six weeks or longer, and conduct a workshop meeting in the intervening period.

Discussion followed regarding whether to allow public input at the workshop meeting.

The question was called. The vote was:

Aye: Contreras, Walker, Palmer and Goode

Nay: LaRusso, Meehan and Hand

Motion carried.

Moved by Meehan/Palmer to allow public input at the workshop meeting. Motion carried unanimously.

26. ORDINANCE NO. 2006-100 UTILITIES: (First Reading/Public Hearing) An ordinance of the City of Melbourne, amending Chapter 32, Utilities, relating to capacity reservation fees, payment of impact fees, extension fees in newly annexed areas, and limitations on services and extensions. (Applicant - City of Melbourne)

From the agenda report: The amendment references the Concurrency requirement for payment of a capacity reservation fee equal to ten percent of the water and sewer impact fees. It also redefines the time for full payment of the impact fees to be at issuance of the building permit. For water extension projects outside the City, the time of payment of impact fees is related to the permits to construct those lines.

The amendment also better defines the requirements or restrictions on new services and new extensions where approval of such connections could be detrimental to proper planning of the water distribution system and to future annexations.

The amendment further places a time frame to benefit from the low waterline extension fee that is paid for new services where waterlines have been extended to newly annexed areas. The extension fee will increase after a period of time.

Mr. Ralls briefed Council. Attorney Gougelman read Ordinance No. 2006-100 by title.

The Mayor opened the public hearing.

Chris Romandetti, 705 South Harbor City Boulevard, asked Council to consider taking away today's date on all of these fees. He asked that people already in the pipeline not be included.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

That concluded comments from the public.

Moved by Goode/Contreras for approval of Ordinance No. 2006-100 on first reading with second reading to be scheduled at least six weeks out.

Mr. Contreras said he is looking forward to the workshop meeting. He asked that only these three items be on the agenda.

Mayor Goode asked that staff survey surrounding cities and counties to determine when impact fees are due during a development project.

The question was called. Motion carried. (Council Members LaRusso and Meehan and Vice Mayor Hand voted nay.)

27. ORDINANCE NO. 2006-101 TRANSPORTATION IMPACT FEES: (First Reading/Public Hearing) An ordinance of the City of Melbourne, relating to Impact Fees; amending Appendix D, Chapter 10, Article I, Transportation Impact Fees. (Applicant - City of Melbourne)

From the agenda report: The amendment provides for an increase in the transportation impact fees to be consistent with the fee increases recently approved by Brevard County. It does consider the impact fees recently approved by the City of Palm Bay. For some land uses where Palm Bay's fee is lower, it provides for adoption at that level with a phased increase in two years to the County's fee.

The rationale for increasing the impact fees is to provide supplemental funds for capacity improvement projects on County roads within the City of Melbourne. There are no impact fees collected to fund County road projects inside the City. The basis for the City's current impact fees is the percentage of travel on City streets and does not include the percentage of travel on County or State roads. The County's fees take into consideration the travel on all eligible roads, so those fees can be adopted by the City given the City's intent to contribute funds for County road projects. Such contributions would be on a project specific basis and by means of interlocal agreements.

The amendment also revises the time of collection of the impact fees to be at the issuance of building permits. Any capital reservation fee payments would be applied against the impact fee charges.

A major part of the proposed amendments provides definitions for new Land Use categories. Since the proposed changes move toward adopting Brevard County's impact fee schedule, it is necessary to adopt Brevard County's Land Use categories by revising, deleting, and adding definitions. To coincide with Brevard County's Land Use categories, five definitions have been revised, seventeen added, and fourteen stricken. The remaining definitions that have been added relate to deferral of impact fees for lower income buyers, also to coincide with Brevard County.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

The effective date of the amendment will be October 24, 2006 due to the statutory requirement for a 90-day notice.

The City Attorney read Ordinance No. 2006-101 by title. Mr. Ralls provided an overview for Council.

Mr. Schluckebier said that the City would offer the opportunity for anyone in the pipeline to pre-pay the fees at the current rates.

The Mayor pointed out that the County is not collecting fees on its roads in the cities and the City of Melbourne is not collecting fees on County roads in the City. That is why there is a moratorium on Wickham Road.

Mayor Goode opened the public hearing.

Kohn Bennett, Towne Realty, Inc., stated that this ordinance is different. The previous two ordinances addressed timing of collection of the fees – this ordinance provides for rate increases. This will increase by huge numbers the transportation impact fees. He noted that the roadways in the City are very different than the roadways in the County; infill is different than sprawl; the commercial rates are high. He recommended that Council not pass this on first reading. Council is moving too quickly on this ordinance.

Chris Romandetti, 705 South Harbor City Boulevard, stated that this will impact his development \$350,000 for condominiums that he has already set a price on. If he built out the approved site plan of 40,000 square feet, he would be looking at \$270,000 additional for the extra commercial. Mr. Romandetti disagreed with paying \$700,000 more in impact fees. He prepared his budget; this item needs more public input.

Moved by LaRusso/Hand to table this item. The vote was:

Aye: LaRusso, Meehan and Hand

Nay: Contreras, Walker, Palmer and Goode

Motion failed.

Mrs. Palmer's motion to deny the ordinance did not receive a second.

Moved by Goode/Contreras to adopt Ordinance No. 2006-101 on first reading and schedule second reading at least six weeks out.

Mr. Contreras asked Council to consider that the City has not been collecting any fees on County roads in the City, yet we are holding the County responsible for the moratorium on Wickham Road. He added that we have been fortunate to partner with the County on projects, like Croton Road, and dollars are needed.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

The question was called. The roll call vote was:

Aye: Contreras, Walker, and Goode

Nay: LaRusso, Meehan, Palmer and Hand

Motion failed.

Moved by LaRusso/Meehan to postpone first reading on this item for six weeks to allow time for the workshop meeting. The roll call vote was:

Aye: Contreras, LaRusso, Meehan, and Goode

Nay: Walker, Palmer and Hand

Motion carried.

28. COUNCIL ACTION RE: Funding authorization for efforts to oppose the proposed “Save Brevard” Brevard County Charter Amendments.

The City Manager stated that Council previously passed a resolution unanimously opposed to the proposed Brevard County Charter amendments. At this time we have no idea what the Board of County Commissioners may or may not do; therefore, a consortium of cities has decided to begin legal work.

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

29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 East Palmetto Avenue, referenced the amount of development in the Downtown area and reminded Council that she has submitted petitions signed by people who are opposed to high-rise development in the Downtown area. Additionally, she commended the Mayor for a comment he made earlier in the meeting about his personal preference to not meet with applicants about development items prior to the Council meeting. She said it is not fair for members to meet individually (with applicants) because nobody knows what is said; they could offer (Council Members) a special bonus if they voted for an item.

Finally, Mrs. Poole expressed concern about allowing public comment at the impact fee workshop meeting. She said that only developers will attend and comment. The average person won't comment because they don't know enough about the subject.

Mayor Goode said he was not trying to embarrass any Council Member who meets with applicants prior to Council Meetings. He noted that the Florida State Statutes allow for this. He wanted the public to know that he doesn't make disclosures because he doesn't meet; that's his policy. If a Council Member wants additional information, that should be and is allowed.

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
AUGUST 22, 2006

Mr. LaRusso said that suggesting anyone would accept a bonus is like saying members accept bribes. He added that if anyone has any information regarding this, he challenges them to take this to the Ethics Commission. He added that he has met with everyone from the Fire Department, PBA, developers, and private citizens because he represents everyone.

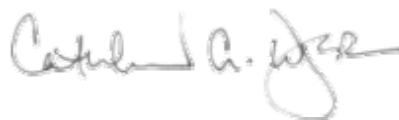
Mrs. Walker said when people call and want to speak privately, she says she feels it is inappropriate and she will hear what they have to say at Council meetings.

Mr. Contreras said this comment is hypocritical coming from someone (Mrs. Poole) who was sanctioned by the public court for working behind the scenes and indicating her vote well in advance of a Council meeting.

30. ADJOURNMENT

Moved by Meehan/Goode to adjourn. Motion carried unanimously.

The meeting adjourned at 10:39 p.m.



---

City Clerk – 8/30/2006

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

Attachment to the official minutes: Memorandum of Voting Conflict Form for Vice Mayor Hand (reference Item No. 15 d.)