

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
NOVEMBER 28, 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 6:35 p.m. by Mayor Harry C. Goode, Jr. Mayor Goode announced that the executive meeting, which began at 5:30 p.m., ran later than expected.

1. Council Member Cheryl Palmer gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Mark LaRusso	Vice Mayor, District 2
	Richard Contreras	Council Member, District 1
	Kathy Meehan	Council Member, District 3
	John Thomas	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Joanne Corby	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Deputy City Manager
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

None.

5. Approval of Minutes – November 14, 2006 Regular Meeting

City Clerk Cathy Wysor reported the following correction: Item 27, Page 15, Mr. Thomas said he ~~had mentioned public safety concerns to the City Manager~~ asked the City Manager if the Chief of Police had any public safety concerns with regard to this issue.

Moved by LaRusso/Contreras for approval with the noted correction. Motion carried unanimously.

Recessed: 6:35 p.m.  
Reconvened: 6:45 p.m.

6. City Manager's Report

City Manager Jack Schluckebier referenced the strategic planning meeting discussed by Council at the last meeting. He reported that Marilyn Crotty with the Institute of Government at the University of Central Florida provided a similar session for the Airport Authority. The report lists several dates in January that Ms. Crotty would be available. The program takes about five to six hours; therefore, two evening meetings would be required.

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Council Member Richard Contreras recommended back-to-back meetings so Council does not lose synergy. Mayor Goode asked if Council voted at the last meeting to conduct a strategic planning meeting. Mr. Schluckebier replied that, although a vote was not taken, there was Council consensus. Mayor Goode said he would like to see a motion on this item because three of the seven Council Members have just gone through a similar session with the Airport Authority. Mr. Contreras clarified that the session would be tailored to Council's needs. The mechanics will be the same; however, the outcome will be different.

Moved by Contreras/Palmer to engage Marilyn Crotty with the Institute of Government at the University of Central Florida to provide a strategic planning meeting for Council.

Council Member Joanne Corby said that at the last meeting Council did not determine that Marilyn Crotty would facilitate this meeting. She noted that she (Mrs. Corby) had recommended each Council Member complete their own survey, which would save about four or five hours of time. That document could be completed in advance of the meeting, which would facilitate the strategic planning.

Council Member Cheryl Palmer said that she was skeptical when this idea was first brought to the Airport Authority; she thought it would be a huge waste of time. She added that she is not a fan of structured visioning planning. Mrs. Palmer said that the Airport meeting was not guided – everything came from the Airport Authority members. The structure was just enough to help the members start with generalizations and, at the end, issues turned into consensus. This was more valuable than each member completing his/her own goals.

Vice Mayor Mark LaRusso said it is really brainstorming and it is all for the betterment.

A brief discussion followed regarding the Airport's strategic planning meeting.

The question was called. Motion carried. Council Member Corby and Mayor Goode voted nay.

The Mayor asked the members to select a day and time. Moved by Contreras/LaRusso to conduct the meetings on January 29 and January 30.

Following discussion, Council decided to conduct the meetings at 5:30 p.m. or 6:00 p.m. Members will advise the City Manager or City Clerk if they are not available on these dates.

The question was called. Motion carried unanimously.

Deputy City Manager Howard Ralls briefed Council on a meeting that was held with County staff on November 21 about transportation issues. The Board of County Commissioners will meet on December 14, 2006 at 1:00 p.m. to prioritize projects and identify funds. He informed Council that there are a lot of projects in competition for a limited number of funds.

Mr. Ralls said that the County is trying to identify \$9 million to reconstruct and resurface County roads in the cities. He added that the City may want to convey its interest in

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improving County roads in the City and perhaps offer to share in the cost of some of those projects. He asked Council if it wished to consider matching County funds in the range of 20% to 50%.

The City Manager agreed that this is really a competition. If the County can get more leverage by involving the local host government, they will go with the project that will get them the most product.

Mr. Contreras expressed appreciation for staff moving forward on this item. He said that it is his belief that this is a short-term fix as opposed to being a long-term solution for the City. Mr. Schluckebier said that is an accurate assessment. The County recognizes that it has \$500 to \$600 million in unfunded roadway projects. They do not have the money and they do not see a money source in the future. Mr. Ralls added that the County is only willing to devote \$9 million out of a potential \$90 million in funding to this issue.

The City Manager asked Council how intensively it wished for staff to proceed. Mr. Contreras said that ideas will come forth from the strategic planning session and at a later date we will have to present our ideas and recommendations to the County.

Discussion continued. No action taken.

7. Public Comments

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2006-117 (Z-2006-1083) HOUSE OF POWER: (Second Reading/Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on a 10.66±-acre parcel, located east of Dairy Road and north of Palm Bay Road. (Owner - DiPrima Holdings, Ltd.) (Applicant - House of Power, Glen Sandler) (Representative - Phil Nohrr) (First Reading - 11/14/06)

City Attorney Paul Gougelman read Ordinance No. 2006-117 by title.

Planning and Economic Development Director Cindy Dittmer said that this will be the first project upon approval that will have to pay the capacity reservation fee for transportation, water and sewer impact fees. The amount will be \$17,900, which will be payable before the development order on this project becomes effective.

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

Paul Coyne, 970 Luminary Circle, #101, representing the homeowners of Sonesta Walk, reported that he lives in the single-family townhomes development that is located a parking lot away from the proposed House of Power site. He asked how the City could consider a change in zoning, with all the associated noise, after allowing a single-family development

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to be built adjacent to this site. Mr. Coyne added that he believes the home values will decline after this rezoning is approved.

Mrs. Palmer asked Mr. Coyne if the bowling alley is located between the site and his development. Mr. Coyne replied yes.

Phil Nohrr, attorney representing the applicant, stated that his client has been sensitive to the noise issue. Service will be performed indoors and ingress/egress is oriented towards the interior of the property. In addition, they have a soundproof test room.

Mr. Nohrr explained that the bowling alley is located north of the subject property, and it will also provide a buffer. And, they have additional buffering on their northern property line. He concluded by saying that they will also have to comply with the City's noise ordinance, otherwise they will be subject to Code Enforcement action.

Mrs. Palmer referenced the rendering that shows a number of trees located towards the back of the building. She asked if there will be landscape buffering in the retention area. Mr. Nohrr said he is not sure.

The City Manager asked Mrs. Dittmer if there is any prohibition against test-driving vehicles outside of the building. Mrs. Dittmer said there is nothing specific in our Code, other than the noise ordinance.

Mr. Schluckebier asked Council to carefully consider the idea of motorcycles test-driving, particularly with the abutting residential development. He said that he understands most testing will be indoors; however, if there is no prohibition against outdoor testing, this could be an issue.

Mayor Goode asked Mr. Nohrr if his client would be amenable to an amendment that would prohibit outdoor testing. Mr. Nohrr said his client is not present and added that someone driving to or from the dealership should not be viewed as a violation. He clarified that there is not a test track around the property.

The City Manager asked if delaying this issue would cause a concern. Mr. Nohrr said it would present some minor contractual difficulties. They need to avoid delay if possible. He would prefer a condition rather than a continuance.

Following a discussion about code enforcement, the City Manager said that we do not have enough code officers to plant on the site to determine if the noise level is being exceeded each day.

Mrs. Palmer referenced the site plan, which shows 12 service bays facing towards the neighbors. She said she would like to know about hours of operation for service.

Regarding the site plan, Mrs. Dittmer informed Council that although it was approved at the last Council meeting with multiple conditions, it is not effective until this ordinance is passed. She explained that staff was concerned about service hours and noise. That is why many

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of the conditions attached to the site plan address these issues. One provides that the bay openings will now be moved towards the interior; there will be no bay openings towards the residential area.

In response to Council, Mrs. Dittmer reviewed the buffers on the site and the distance to other properties.

Attorney Gougelman read a condition that would be attached to the ordinance. Mr. Nohrr expressed hesitation and the Mayor recommended that the item be tabled to allow the attorneys time to craft a condition.

In response to Mrs. Palmer, Mr. Nohrr said he believes that the service hours would be limited to daylight hours.

By consensus, Council tabled this item and moved on with the agenda.

After the 8:00 p.m. recess, Council returned to this item. Attorney Gougelman read the following proposed condition that would be included in Section 2 of the ordinance:

“All test riding (normal direct ingress or egress to or from the property or on adjacent roadways, excepted) of motorcycles, motor vehicles, or jet-ski or wave runner-type equipment, shall be conducted indoors in a sound proof room that insulates the engine sounds or noises from being heard on adjacent or other properties in the area.”

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-117 with the amendment read by Attorney Gougelman.

Attorney Gougelman noted that all other conditions are attached to the site plan. Attorney Phil Nohrr agreed with the new condition as noted.

The question was called. The roll call vote was:

Aye: Contreras, Meehan, Thomas, Palmer, Corby, LaRusso and Goode

Motion carried unanimously.

9. ORDINANCE NO. 2006-118 (CPA-2006-33) AND ORDINANCE NO. 2006-119 (Z-2006-1093) CITY HALL: Ordinances providing for a Comprehensive Plan Amendment and change in zoning on a 2.5±-acre parcel located on the north side of Strawbridge Avenue, west of the FEC Railroad, and east of Waverly Place. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 10/19/06)
  - a. Ordinance No. 2006-118/CPA-2006-33: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Public Land and Institutions to Commercial/Public Land and Institutions on a 2.5±-acre parcel. (First Reading - 11/14/06)

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- b. Ordinance No. 2006-119/Z-2006-1093: (Second Reading/Public Hearing) An ordinance providing for a change in zoning from I-1 (Institutional) to C-3 (Central Business District) on a 2.5±-acre parcel. (First Reading - 11/14/06)

The City Attorney read both ordinances by title. Mrs. Dittmer referenced the petition of opposition on this item, which has been signed by the owners representing 25.85% of the property within 500 feet. This will require a 6/7 vote by Council.

Mrs. Palmer disclosed that she received a phone call from Pat Poole about this item. Mr. Thomas stated that he discussed this item with Mrs. Poole on November 27.

It was noted that Council Members Thomas, Palmer and Corby, Vice Mayor LaRusso and Mayor Goode received an envelope on the dais containing information about this item from Mrs. Poole. The members indicated that they did not have time to read it. Council Members Contreras and Meehan said that their envelopes from Mrs. Poole contained a page from the comic section of the newspaper.

The Mayor opened the public hearing.

Pat Poole, 805 East Palmetto Avenue, stated that City Hall is special and should remain with an institutional zoning. She added that she spoke to a developer who said it is not necessary to remove the trees in front of the building, nor is it necessary to rezone to C-3 in order to build City Hall.

That concluded comments from the public.

Mayor Goode said that Mrs. Poole has raised a valid concern about the two beautiful trees in front of City Hall.

Moved by Goode/Meehan for approval of Ordinance No. 2006-118 with a condition that the two large trees in front of City Hall not be removed.

(Note: Later in the discussion, Mayor Goode clarified that the condition will be part of the zoning ordinance No. 2006-119. Mrs. Meehan agreed.)

Mrs. Palmer said that she has heard concerns that once rezoned the City Hall property can be sold to a condominium developer – similar to the parking lot sold on Strawbridge Avenue. If the property remains institutional, it can't be used by a private developer. Additionally, the new City Hall can be built with variances.

Mr. Thomas asked why the rezoning is necessary if City Hall can be built with variances. Mr. Schluckebier stated that there are limitations on the property if it remains institutional. When the building was constructed in 1964, today's setbacks were not in effect. With institutional zoning, a four- to five-foot story building would have to have a 90-foot setback. For comparison, the existing structure is setback about 48 feet from the sidewalk.

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Continuing, the City Manager said that when staff previously approached the Zoning Board of Adjustment on the renovation plan, the board members said they would prefer Council deal with this issue directly as a zoning matter. They thought it was inappropriate for the City to ask for a variance.

Mrs. Dittmer pointed out that the Future Land Use on the City Hall property is commercial/institutional, which does not allow for residential uses.

Regarding the split zonings on the property, Mrs. Dittmer said that at this point we do not know where the footprint of the building will be located. It will be close to the zoning line between C-3 and I-1. The institutional zoning would require a 90- to 100-foot setback from U. S. 192 and a 25' setback from Palmetto Avenue. This would leave very little room in the middle. She confirmed that the Zoning Board of Adjustment recommended the City consider C-3 zoning. The C-3 district lists "governmental" as a use.

The City Manager informed Council that the companies bidding on the design/build project will make their presentations on December 11. Without the zoning, we have unanswered questions on where/how to place the building on the property that may not have proper setbacks.

Mr. LaRusso added that Council will make the final decision on the design/build on December 19. Council will have full control and given how quickly this project is ramping up, he is inclined to follow staff's advice.

Mrs. Palmer asked if there is any assurance that can be placed on the zoning change that will ensure that this will remain City property. Attorney Gougelman said short of placing something in the Charter, probably not. A legislative body always has the power to change its mind.

Mayor Goode said that for a month he has heard the story that Council is getting ready to sell this building. He stated that he does not know where this idea came from. And, as long as he is alive, this will remain City Hall. He asked for six votes so the City can proceed with building a new City Hall. Mrs. Palmer said that statement is not legally binding. The Mayor noted that with the condition to save the two large trees, there will be a 40- to 50-foot setback.

Mrs. Poole returned to the podium and said that there are seven trees, not two. Mayor Goode ruled Mrs. Poole out of order since the public hearing has been closed. Mrs. Poole continued speaking and Mayor Goode asked the officer to remove her from the Chamber.

The question was called. The roll call vote was:

Aye: Contreras, Meehan, Thomas, Corby, LaRusso and Goode

Nay: Palmer

Motion carried.

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Moved by Contreras/LaRusso for approval of Ordinance No. 2006-119 (which includes the condition to save the two large trees in front of City Hall). The roll call vote was:

Aye: Contreras, Meehan, Thomas, Corby, LaRusso and Goode

Nay: Palmer

Motion carried.

Recessed: 8:00 p.m.

Reconvened: 8:07 p.m.

At this point, Council returned to Item #8 (House of Power).

10. ORDINANCE NO. 2006-120 (LDR-2006-04/FOC-2006-06) CONCURRENCY – “PROPORTIONATE FAIR SHARE”: (Second Reading/Public Hearing) An ordinance amending Appendix D, Chapter 3 of the City Code, Concurrency, by establishing a “Proportionate Fair Share” option that will allow developers to satisfy concurrency requirements through proportionate fair share contributions as required in Chapter 163.3180(16) Florida Statutes. (First Reading - 11/14/06)

Attorney Gougelman read Ordinance No. 2006-120 by title. The public hearing was opened and closed with no comments.

Moved by Contreras/Thomas for approval of Ordinance No. 2006-120. The roll call vote was:

Aye: Contreras, Meehan, Thomas, Palmer, Corby, LaRusso and Goode

Motion carried unanimously.

11. ORDINANCE NO. 2006-121 BUSINESS TAX RECEIPTS: (Second Reading/Public Hearing) An ordinance amending Chapter 19 of the City Code, currently entitled “Licenses” to “Local Business Tax Receipts” in accordance with Chapter 205 of the Florida Statutes. (First Reading - 11/14/06)

Attorney Gougelman read Ordinance No. 2006-120 by title. There were no comments during the public hearing.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-121. The roll call vote was:

Aye: Contreras, Meehan, Thomas, Palmer, Corby, LaRusso and Goode

Motion carried unanimously.

NEW BUSINESS

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12. COUNCIL ACTION RE: Annual contract extension for Cured-in-Place Pipe rehabilitation services, Insituform Technologies, Inc., Ponte Vedra Beach, FL - \$2,570,200.

City Engineer Jenni Lamb was present and available for questions.

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

13. COUNCIL ACTION RE: Contract award for the survey and clearing of the water transmission easement from the Water Treatment Plant to Ellis Road, Project No. 35104, Santa Cruz Construction, Merritt Island, FL - \$63,993; and transfer of \$35,033 from the Water & Sewer Capital Improvement Miscellaneous Project No. 30099 to this project budget.

Mrs. Lamb was available for questions.

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

14. CONSENT AGENDA:

Mayor Goode referenced the correspondence received from Shaver Jackson requesting that Item “m” be removed from the agenda and scheduled for public hearing. The Mayor noted that if Council agrees, a hearing will be scheduled for the January 9 agenda (due to the anticipated size of the December agenda).

Moved by Meehan/Palmer to remove Item “m” from the consent agenda and schedule a public hearing for the January 9, 2007 agenda. Motion carried unanimously.

Moved by Thomas/Contreras to approve the consent agenda, minus Item “m.” Motion carried unanimously.

- a. Task Order No. 9a - amendment to the agreement for engineering services for the Canova Beach Booster Station Improvements, Project No. 30303, Hazen & Sawyer, P.C., Ft. Pierce, FL - \$16,500 and transfer of \$1,800 from the Water & Sewer Capital Improvement Miscellaneous Project No. 30099 to this project budget.
- b. Approval of an interlocal agreement between the City of Melbourne and the Board of County Commissioners of Brevard County for the County to provide traffic signal maintenance and repair for a five-year period.
- c. Purchase of seven vehicles, Duval Ford, Jacksonville, FL - \$97,065; Ferrara Fire Apparatus, Holden, LA - \$104,805; Nortrax SE, Tampa, FL - \$36,352; and Atlantic Truck Center, Ft. Lauderdale, FL - \$48,491.
- d. Networking equipment upgrade at the Public Works Department, Morse Communications, Inc., Melbourne, FL - \$81,877.80.

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- e. Contract award for the replacement of ceiling tiles at the Melbourne Auditorium, Acousti Engineering Company, Rockledge, FL - \$59,761; and transfer of \$5,761 from General Construction Miscellaneous Projects to this project budget.
- f. Blanket purchase order for a 10-month, closed-end vehicle lease program for up to nine unmarked vehicles for the Police Department, Mears Motor Leasing, Orlando, FL - \$58,000.
- g. Purchase of three sets of TNT fire rescue tools, Fisher Safety, Suwanee, GA – \$50,310.
- h. Purchase of 26,400 pounds of Hychem LC-214PWG Dry Polymer, LeahChem Industries, Inc., Titusville, FL - \$1.69/pound; total cost of \$44,616.
- i. Purchase of licenses and maintenance of Novell software, Softchoice Corporation, Tampa, FL - \$43,406.82.
- j. Purchase of annual Novell Netware and GroupWise support service, Viable Solutions, Inc., Orlando, FL - \$22,415.
- k. Lien Rescission CE-06-026: Approval of request for a lien reduction from \$5,700 to \$2,851 if paid in full within thirty days. (Fran Green - 2718 Grant Street)
- l. Lien Rescission CE-05-027: Denial of request for lien reduction from \$16,000 to \$0. (Seymour Baum, Boruch-David, Inc. - 820 East Lincoln Avenue)

Note: Item “m” will be considered on January 9, 2007:

- m. Lien Rescission CE-05-100: Denial of request for lien reduction from \$10,000 to \$0. (Shaver A. Jackson, Sr. - Vacant Lot on Testimony Street)
- n. Resolution No. 2010: A resolution authorizing the City Manager to execute the fifth addendum to a lease agreement with Robert Scott Harrell for property at 912 East Palmetto Avenue.
- o. Resolution No. 2011: A resolution amending Resolution No. 2009, amending the total of votes for each candidate in accordance with the official certificate of the County Canvassing Board.
- p. Amendment to Contract for Purchase and Sale with Brevard County; purchase of acreage for water system use.

15. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

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16. RESOLUTION NO. 2012: A resolution authorizing the issuance of the Water and Sewer Refunding Revenue Bonds, Series 2007A in the aggregate principal amount not to exceed \$21,000,000.

Director of Finance Michele Ennis reported that the resolution authorizes the bonds to be issued in the aggregate principal amount not to exceed \$21,000,000 to refund all of the 2000 bonds. As of yesterday, we expect over 5% savings. This represents the savings on future debt service payments over the life of the bond issue discounted to the present day. Additionally, if the savings remains 3% or more on December 13, the City will proceed. The closing will be held in January. Ms. Ennis concluded by noting that bond counsel is available for questions.

Moved by Contreras/LaRusso for approval of Resolution No. 2012. Motion carried unanimously.

17. RESOLUTION NO. 2013: A resolution implementing FY 2005-2006 Fourth Quarter Budget Review recommendations.

Moved by Contreras/Goode for approval of Resolution No. 2013. Motion carried unanimously.

18. ORDINANCE NO. 2006-122 POLICE OFFICERS' PENSION PLAN: (First Reading) An ordinance amending Chapter 23 of the City Code, Retirement and Pensions, Article VI, Police Officers' Pension Plan, amending Section 23-106, benefit amounts and eligibility in accordance with Chapter 185, Florida Statutes.

Attorney Gougelman read Ordinance No. 2006-122 by title. Ms. Ennis briefed Council.

Moved by LaRusso/Corby for approval of Ordinance No. 2006-122. Motion carried unanimously.

19. ORDINANCE NO. 2006-123 (AR-2006-208) WOODSHIRE PRESERVE: (First Reading/Public Hearing) An ordinance providing for annexation of a 214.15-acre parcel located west of I-95, at the north end of Washingtonia Drive. (Owner - Woodshire Preserve, LLC) (Applicant - City of Melbourne) (Representative - Engle Homes) (P&Z Board - 10/19/06)

Attorney Gougelman read Ordinance No. 2006-123 by title. Mrs. Dittmer briefed Council and reviewed the agenda report.

There were no comments during the public hearing.

Moved by Meehan/Goode for approval of Ordinance No. 2006-123 based upon the findings in the Planning and Zoning memorandum.

Mr. Schluckebier confirmed for Mrs. Corby that this annexation is on the pending list that was prepared for Council. We entered into an agreement with the property owner about 18 months ago in exchange for utilities.

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Mrs. Corby asked if “utilities” includes sewer service. The City Manager explained that long ago the City adopted a policy that it would not extend sewer outside of the City. There are no plans to extend sewer to this project and there are no requirements to extend sewer to this property.

A brief discussion followed about police and fire service. Mr. Schluckebier pointed out that this property is currently vacant. For information, we do have an automatic aid agreement with Brevard County. Mrs. Corby asked for a copy of the agreement.

Mr. Thomas asked for a projection on when this project will be finished. Mrs. Dittmer replied that they are constructing the infrastructure and new home construction will probably begin in the next six months.

In response to Mr. LaRusso, Mrs. Dittmer said that the County zoning on this property is RR-1, which is identical to our REU zoning. Mr. LaRusso said that he wanted this statement on the record because a County Commissioner previously indicated that municipalities take County land and increase the density.

The question was called. Motion carried unanimously.

20. ORDINANCE NO. 2006-124 (AR-2006-207) FOUNTAINS AT LAKE WASHINGTON: (First Reading/ Public Hearing) An ordinance providing for annexation of a 102±-acre parcel located west of I-95, north of Washingtonia Drive and the Chestnut Run Subdivision. (Owner - Fountains at Lake Washington, LLC) (Applicant/Representative - John H. Evans) (P&Z Board - 10/19/06)

Attorney Gougelman read the ordinance by title and Mrs. Dittmer reviewed the agenda report.

Mayor Goode opened the public hearing.

Don Simms, representing Fountains at Lake Washington, distributed a rendering showing how the entrance to the community will be constructed. He elaborated on elements of the site plan.

Moved by Palmer/Contreras for approval of Ordinance No. 2006-124 based upon the findings in the Planning and Zoning memorandum.

Mr. Contreras noted that this annexation was also included in the pending list prepared for Council. He referenced his initial discussion about the moratorium on annexations (November 14 meeting) where he had indicated that he has no problem grandfathering any pending annexation items.

The question was called. Motion carried unanimously.

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Mayor Goode reported that the following items, 21 through 30, are major Comprehensive Plan amendments. Council previously reviewed these requests prior to the amendments being transmitted to the Department of Community Affairs in Tallahassee. The items have returned from DCA with no conditions; staff has addressed all comments.

21. ORDINANCE NO. 2006-125 (CPA-2006-01) AND ORDINANCE NO. 2006-126 (Z-2006-1059) BURTON COMMERCIAL, EAST/WEST DRIVES: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on properties consisting of 29.4±-acres, located north of Ellis Road and south of North Drive on both sides of West Drive and the west side of East Drive. (Owners/Applicants - Alfred B. Osterhout, Kirk Campaignha, Hugh M. Evans, Jr., Martha E Donahoe, Louis D. Kipp, and Vaughn Development, LLC) (Representative - City of Melbourne) (P&Z Board - 7/20/06)
- a. Ordinance No. 2006-125/CPA-2006-01: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Industrial on properties consisting of 29.4±-acres.
  - b. Ordinance No. 2006-126/Z-2006-1059: (First Reading/Public Hearing) An ordinance designating M-1 (Light Industrial) zoning on properties consisting of 29.4±-acres.

The City Attorney read Ordinance Nos. 2006-125 and 2006-126 by title. Mrs. Dittmer briefed Council. There were no disclosures by Council and no comments from the public.

Moved by Contreras/LaRusso for approval of Ordinance No. 2006-125 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by LaRusso/Thomas for approval of Ordinance No. 2006-126 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

22. ORDINANCE NO. 2006-127 (CPA-2006-05) AND ORDINANCE NO. 2006-128 (Z-2006-1065) ROBERT L. BURNS, JR.: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on three parcels consisting of 98±-acres, located adjacent to Jones Road, north of Evinrude Road and Eau Gallie Boulevard, and west of I-95. (Owner/Applicant/Representative - Robert L. Burns, Jr.) (P&Z Board - 7/20/06)
- a. Ordinance No. 2006-127/CPA-2006-05: An ordinance providing for a Comprehensive Plan Amendment establishing Suburban Estate Residential on 61.12± acres and changing the future land use designation from Low Density Residential to Suburban Estate Residential on 36.87± acres (97.99 acres total)
  - b. Ordinance No. 2006-128/Z-2006-1065: (First Reading/Public Hearing) An ordinance establishing AEU (Agricultural Estate Use) zoning (one unit per 2.5 acres) on 61.12± acres on 61.12± acres and changing the zoning from R-A (Residential Holding) to AEU (Agricultural Estate Use) on 36.87± acres (97.99 acres total)

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Attorney Gougelman read Ordinance Nos. 2006-127 and 2006-128 by title. Mrs. Dittmer reviewed the agenda report. There were no disclosures by Council and no comments from the audience.

Moved by Thomas/Meehan for approval of Ordinance No. 2006-127 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by LaRusso/Palmer for approval of Ordinance No. 2006-128 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

23. ORDINANCE NO. 2006-129 (CPA-2006-10) AND ORDINANCE NO. 2006-130 (Z-2006-1070) ROBERT & EVA MAE COCHRAN: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on a 16.184-acre parcel, locating at the southwest corner of the intersection of John Rodes Boulevard and Ellis Road. (Owners/Applicants - Robert & Eva Mae Cochran) (Representative - Phil Nohrr) (P&Z Board - 7/20/06)

- a. Ordinance No. 2006-129/CPA-2006-10: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Medium Density Residential on a 16.184-acre parcel.
- b. Ordinance No. 2006-130/Z-2006-1070: (First Reading/Public Hearing) An ordinance designating R-2 (One-, Two-, and Multiple-Family Dwelling Medium Density) zoning on a 16.184-acre parcel.

The City Attorney read the ordinances by title and Mrs. Dittmer briefed Council. There were no disclosures by Council and no comments from the public. Mayor Goode noted that Attorney Nohrr is present if there are any questions.

Moved by Contreras/Thomas for approval of Ordinance No. 2006-129 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by Palmer/Meehan for approval of Ordinance No. 2006-130 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

24. ORDINANCE NO. 2006-131 (CPA-2006-12) AND ORDINANCE NO. 2006-132 (Z-2006-1072) HAZELWOOD DRIVE: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on 14 parcels consisting of 3.93±-acres, located on the west side of Stewart Road, south of Lake Washington, and north of Aurora Road. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 7/20/06)

- a. Ordinance No. 2006-131/CPA-2006-12: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Low Density Residential on 14 parcels consisting of 3.93±-acres.
- b. Ordinance No. 2006-132/Z-2006-1072: (First Reading/Public Hearing) An ordinance designating R-1A (Single-Family Residential) zoning on 14 parcels consisting of 3.93±-acres.

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Attorney Gougelman read Ordinance No. 2006-131 and Ordinance No. 2006-132 by title. Mrs. Dittmer reviewed the agenda report. There were no disclosures by Council and no comments from the public.

Mr. LaRusso asked if we are lowering – by 80% – the density from what the County currently allows on this property and Mrs. Dittmer replied yes.

Moved by Meehan/LaRusso for approval of Ordinance No. 2006-131 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by Palmer/LaRusso for approval of Ordinance No. 2006-132 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

25. ORDINANCE NO. 2006-133 (CPA-2006-13) AND ORDINANCE NO. 2006-134 (Z-2006-1073) HARLOCK ROAD AND COUNTRY ROAD AREA: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on 147± acres, located adjacent to Country Road and Harlock Road. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 7/20/06)

a. Ordinance No. 2006-133/CPA-2006-13: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential on 147± acres of property.

b. Ordinance No. 2006-134/Z-2006-1073: (First Reading/Public Hearing) An ordinance designating REU (Rural Estate Use) zoning on 147± acres of property.

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

Moved by Corby/Thomas for approval of Ordinance No. 2006-133 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-134 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

26. ORDINANCE NO. 2006-135 (CPA-2006-14) AND ORDINANCE NO. 2006-136 (Z-2006-1074) POST ROAD AND TURTLE MOUND ROAD AREA: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on 63± acres, located adjacent to and on the north and east sides of Turtle Mound Road, between Pine Cone Road and Post Road, and on the south side of Post Road, east of Turtle Mound Road and west of Crane Place. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 7/20/06)

a. Ordinance No. 2006-135/CPA-2006-14: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential on 63± acres of property.

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- b. Ordinance No. 2006-136/Z-2006-1074: (First Reading/Public Hearing) An ordinance designating REU (Rural Estate Use) zoning on 63± acres of property.

The City Attorney read Ordinance Nos. 2006-135 and 2006-136 by title. Mrs. Dittmer reviewed the agenda report. There were no disclosures by Council and no comments from the public.

Moved by Contreras/Thomas for approval of Ordinance No. 2006-135 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by Palmer/Corby for approval of Ordinance No. 2006-136 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

27. ORDINANCE NO. 2006-137 (CPA-2006-20) AND ORDINANCE NO. 2006-138 (Z-2006-1077) CONFAB: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on a 15.64-acre parcel, located at the northwest corner of the intersection of John Rodes Boulevard and Ellis Road. (Owner - Confab Corporation) (Applicant - Renate Jackson) (P&Z Board - 7/20/06)

- a. Ordinance No. 2006-137/CPA-2006-20: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Industrial on a 15.64-acre parcel.
- b. Ordinance No. 2006-138/Z-2006-1077: (First Reading/Public Hearing) An ordinance designating M-1 (Light Industrial) zoning on a 15.64-acre parcel.

Attorney Gougelman read the ordinances by title and Mrs. Dittmer reviewed the agenda report. There were no disclosures by Council and no comments from the public.

Mrs. Palmer pointed out that the adjacent property is being changed to residential. Mrs. Dittmer agreed and said that the residential property will probably be developed as multi-family; there are adequate buffers between the two. She confirmed for Mrs. Palmer that during its review, DCA was fully aware that we are changing property located side by side to industrial and residential.

Mr. LaRusso asked if multi-family is the transition zoning from light industrial or commercial. Mrs. Dittmer said that multi-family, medium density or high density, is usually located next to commercial. We don't typically see single-family or low density residential next to commercial; however, that is where we have had problems.

Moved by Thomas/Meehan for approval of Ordinance No. 2006-137 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by LaRusso/Palmer for approval of Ordinance No. 2006-138 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

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28. ORDINANCE NO. 2006-139 (CPA-2006-21) AND ORDINANCE NO. 2006-140 (Z-2006-1079) CITY OF MELBOURNE: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on a 2.0-acre parcel, located at the northwest corner of the intersection of John Rodes Boulevard and Ellis Road. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 7/20/06)

a. Ordinance No. 2006-139/CPA-2006-21: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Industrial on a 2.0-acre parcel.

b. Ordinance No. 2006-140/Z-2006-1079: (First Reading/Public Hearing) An ordinance designating M-1 (Light Industrial) zoning on a 2.0-acre parcel.

The attorney read Ordinance No. 2006-139 and Ordinance No. 2006-140 by title. The Planning & Economic Development director reviewed the agenda report. There were no disclosures by Council and no comments from the public.

Moved by Contreras/Thomas for approval of Ordinance No. 2006-139 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by Palmer/Meehan for approval of Ordinance No. 2006-140 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

29. ORDINANCE NO. 2006-141 (CPA-2006-23) AND ORDINANCE NO. 2006-142 (Z-2006-1078) THIRREL ALTMAN: Ordinances providing for a Comprehensive Plan Amendment and zoning designation on two properties consisting of 38 acres, located at the northeast corner of the intersection of John Rodes Boulevard and Ellis Road. (Owner/Applicant - Thirrel A. Altman, Sr.) (P&Z Board - 7/20/06)

a. Ordinance No. 2006-141/CPA-2006-23: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial/Industrial on two properties consisting of 38 acres.

b. Ordinance No. 2006-142/Z-2006-1078: (First Reading/Public Hearing) An ordinance designating M-1 (Light Industrial) zoning on two properties consisting of 38 acres.

Attorney Gougelman read the ordinances by title. Mrs. Dittmer briefed Council. There were no disclosures by Council and no comments from the audience.

Moved by LaRusso/Thomas for approval of Ordinance No. 2006-141 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

Moved by Thomas/Meehan for approval of Ordinance No. 2006-142 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

30. ORDINANCE NO. 2006-143 (CPA-2006-22) TEXT AMENDMENT: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment amending the

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Future Land Use element by correcting a grammatical error and updating the Community Redevelopment Areas. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 7/20/06)

Mr. Gougelman read Ordinance No. 2006-143 by title and Mrs. Dittmer reviewed the agenda report. There were no comments during the public hearing.

Moved by Meehan/Corby for approval of Ordinance No. 2006-143 based upon the findings in the Planning and Zoning memorandum. Motion carried unanimously.

31. ORDINANCE NO. 2006-144 (ED-2006-03) EDAK: (First Reading/Public Hearing) An ordinance granting an Ad Valorem Tax Exemption for a period of four years totaling an estimated \$43,288.04.

The attorney read the ordinance by title, and Mrs. Dittmer described the item. The Mayor opened the public hearing.

Kevin Gholston, General Manager, EDAK, Inc., displayed a sample of the aluminum cases that they make for the military. He elaborated on their operation and the success that they have enjoyed.

Moved by LaRusso/Meehan for approval of Ordinance No. 2006-144. Motion carried unanimously. Motion carried unanimously.

32. ORDINANCE NO. 2006-145 (ED-2006-04) COASTAL MECHANICAL SERVICES, LLC: (First Reading/Public Hearing) An ordinance granting an Ad Valorem Tax Exemption for a period of two years totaling an estimated \$14,065.28.

Attorney Gougelman read Ordinance No. 2006-145 by title, and Mrs. Dittmer described the request. Mayor Goode opened the public hearing.

Kim Brown, representing Coastal Mechanical Services, noted that they operate a pipe fabrication facility. She detailed their operation.

Moved by Meehan/Contreras for approval of Ordinance No. 2006-145. Motion carried unanimously.

Moved by Contreras/LaRusso to convene as the Melbourne Downtown Community Redevelopment Agency for the following item. Motion carried unanimously.

33. COUNCIL ACTION RE: Approval of an agreement for services for 2006-2007 with Melbourne Main Street, Inc. and \$55,000 of funding for operational support.

The Mayor noted that Laird Gann with Melbourne Main Street is present and available for questions.

Moved by Meehan/Thomas for approval of the agreement. Motion carried unanimously.

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Moved by Palmer/Corby to reconvene as the City Council for the remaining agenda items. Motion carried unanimously.

34. COUNCIL ACTION RE: Board Appointments

- a. Appointment of one alternate member to the Citizens' Advisory Board

Mrs. Palmer nominated Patricia Williams. Moved by LaRusso/Contreras to close the nominations. Motion carried unanimously. Moved by LaRusso/Palmer to appoint Patricia Williams. Motion carried unanimously. (November 28, 2006 through November 11, 2009; unexpired, three-year term)

- b. Appointment of one member to the Library Board

Moved by Goode/LaRusso to reappoint Judith Davis. Motion carried unanimously. (December 3, 2006 through December 2, 2011)

- c. Appointment of three regular members to the Planning & Zoning Board

Mayor Goode said that he developed a belief while serving in the Legislature that a member should not serve on a board more than two terms. (It was noted that Nathaniel Clement has served since January 1996, Donald Laird since September 1995 and Glen Outlaw since May 1994.)

The Mayor added that he is not implying that members aren't doing a good job – this is just his personal belief.

Moved by LaRusso/Palmer to reappoint Nathaniel Clement, Donald Laird and Glen Outlaw. Motion carried. (Mayor Goode voted nay.)

(December 3, 2006 through December 2, 2009)

Vice Mayor LaRusso said that this is really a vote for experience. He commented that Council previously considered this issue and decided not to provide for term limits on boards.

- d. Appointment of two regular members to the Zoning Board of Adjustment

Moved by Goode/LaRusso to reappoint Charles Jackson and Dale Young. Motion carried unanimously. (December 3, 2006 through December 2, 2009)

35. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Council Member Richard Contreras thanked Attorney Gougelman for his report on ad hoc legislation.

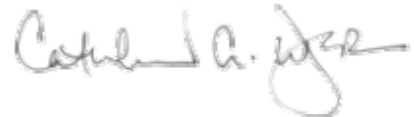
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Mayor & Council approved (in accordance with his contract) the City Attorney's upcoming vacation.

36. ADJOURNMENT

Moved by Contreras/LaRusso to adjourn. Motion carried unanimously.

The meeting adjourned at 9:33 p.m.



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City Clerk – 12/8/2006

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