

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JANUARY 9, 2007



A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:30 p.m. by Mayor Harry C. Goode, Jr.

1. Pastor Bill Anderson, Palmdale Presbyterian Church, 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
	Suzanne Crockett	Assistant 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 a Beautification and Environmental Advisory Committee “We Noticed” Award for Christmas lights and decorations to the following businesses: 1) Morgan and Barbary and Alliance Title, 730 E. Strawbridge Avenue; accepted by Mike and Steve Spragan, Alliance Title; 2) New Vision Nursery, 1861 N. Harbor City Boulevard; accepted by Mike Cole and 3) The Old Pineapple Inn, 1736 Pineapple Avenue; accepted by Celeste Henry.

Additionally, Mayor Goode presented a plaque to Robert McKemy recognizing 28 years of volunteer service on the Melbourne Housing Authority (December 1978 through December 2006).

5. Approval of Minutes – Regular Meeting – December 19, 2006

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

6. City Manager’s Report

- City Manager Jack Schluckebier reported that the next Police Community Relations meeting will be held on January 11, 7:00 p.m., at Carver Park. At that meeting, Yvonne Minus will be installed as the new president. Although this is not an official committee of the City, it is a group that works in cooperation with the City.

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- Deputy City Manager Howard Ralls distributed a memorandum, which updates Council on the Palm Bay Road widening project. Representatives from Brevard County, Palm Bay, West Melbourne and Melbourne met to discuss how local governments might share in the cost of funding the additional \$15.2 million needed for this project. The estimated construction cost is \$51.2 million and FDOT only has \$36 million.

FDOT has agreed to reimburse the local governments for fronting the shortfall. They need to have the money in hand before they proceed with advertising the project; therefore, they need to know by January 20 if everyone is interested in proceeding. Although the \$15.2 million is reimbursable, the cost of borrowing the money – the interest – is not. The total interest would be around \$3 million. This cost would be divided as follows: Brevard County would pay 50%, Palm Bay 25%, West Melbourne 12.5% and Melbourne 12.5%.

Mr. Ralls noted that Melbourne's total cost (the interest) would be approximately \$375,000. Palm Bay has proposed borrowing the \$15.2 million. Palm Bay would enter into an agreement with FDOT and the other governments would enter into an agreement with Palm Bay to pay the identified share.

Mr. Ralls pointed out that \$375,000 is a great investment for a \$51 million road project. Palm Bay Road is out of capacity, in poor condition and development in Melbourne depends on that road for providing capacity. Our share would be eligible for funding through transportation impact fees. He concluded by asking Council for consensus for proceeding with this project as described.

Mr. Ralls confirmed for Mayor Goode that Melbourne has almost 18% of the frontage on Palm Bay Road. Mayor Goode stated that a proportionate arrangement is fair; therefore, he will support this effort.

Mr. Ralls pointed out that FDOT will include a maximum budget in its bid package. The Department will not award a contract if it exceeds that amount. If that is the case, the cost beyond the budgeted amount may not be reimbursable.

Council Member Joanne Corby asked when reimbursement would begin. Mr. Ralls said they would begin to reimburse Palm Bay in 10 equal quarterly payments in July 2010.

Moved by Contreras/Meehan to support the FDOT Palm Bay Road widening project and commit the City of Melbourne to proceed under "Option 1" as outlined in Mr. Ralls' memorandum. Motion carried unanimously.

- Council Member Cheryl Palmer referenced the Marina Towers site plan and expressed concern that it is no longer a mixed use project.

Following a brief discussion, Council asked for a future agenda item to consider adding "change in use" as a threshold for site plans that need to return to Council.

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The City Manager said that information can be returned in the next 60 days. There was consensus that Council's future discussion will not affect the Marina Towers project. Council Member Richard Contreras recommended that staff consider a developer's agreement on the Marina Towers plan so that the retail and restaurant uses would be part of a future phase.

Mayor Goode made the following announcements: Item #11 will be postponed until the January 23 Council meeting. Under the consent agenda, Item #15, Vice Mayor LaRusso asked that item "l" be removed and considered at this meeting. Also under consent, the property owner on items "j" and "k" would like a public hearing conducted on February 13.

Mayor Goode stated that, without objection, these items will be considered as noted.

7. Public Comments

Pat Poole, 805 East Palmetto Avenue, reminded Council that the Arbor Day celebration will be held on January 12, 10:00 a.m., at Wells Park. This year's event will include Apollo Astronaut Al Worden. Mrs. Poole discussed the importance of trees and implored Council to save the 13 trees in front of City Hall during the construction of a new City Hall.

Betty Moore, Chairman, Beautification and Environmental Advisory Committee, briefly discussed the planned celebration and encouraged Council to attend.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2006-146 (Z-2006-1095) FRANK KOFFLIN: (Second Reading/Public Hearing) An ordinance changing the zoning from R-1AA (Single-Family Low Density Residential) to R-2 (6) (One-, Two-, and Multiple-Family Medium Density Residential with a cap of six units per acre) on a 0.34±-acre parcel, located on the east side of Dairy Road, south of Edgewood Drive, and north of Florida Avenue. (Owner/Applicant/Representative - Frank Kofflin) (First Reading - 12/19/06)

Assistant City Attorney Suzanne Crockett read Ordinance No. 2006-146 by title. There were no public comments and no Council disclosures.

Moved by Thomas/Meehan for approval of Ordinance No. 2006-146 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2006-147 (CU-2006-16/SP-2006-21) BRENTMOOR (FORMERLY KNOWN AS THE COLLINS PROPERTY): (Second Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow the development of a 90-unit townhome-style condominium project at a density of approximately nine units per

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acre on a 10.01±-acre parcel zoned C-1 (Neighborhood Commercial), located on the west side of Babcock Street, north of Lake in the Woods Drive, and south of Eber Road. (Owner/Applicant - Alexander Pezzeminti) (Representative - Matt Soyka, Soyka Engineering & Associates, Inc.) (First Reading - 12/19/06)

Attorney Crockett read the ordinance by title. There were no Council disclosures. Robbyn Spratt, representing Soyka Engineering, was available for questions.

In response to Council Member John Thomas, Planning and Economic Development Director Cindy Dittmer said that staff is coordinating with the Florida Department of Transportation on the location of the traffic signal. The proposed location would be at the Sun Lake and Lake in the Woods intersection. Crown Boulevard is not suitable for a signal because it is located too close to the Eber Road intersection.

Council Member Cheryl Palmer pointed out that this project previously provided for 150, three-story apartment units. The applicant has redesigned the project to provide for 90, two-story units.

Moved by Palmer/LaRusso for approval of Ordinance No. 2006-147 based on the findings and conditions in the Planning and Zoning Board memorandum, including the revision to condition “e” (as noted at the December 19 Council meeting). The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2006-148 (AR-2006-209), ORDINANCE NO. 2006-149 (CPA-2006-34), AND ORDINANCE NO. 2006-150 (Z-2006-1094) TUMBLEWEEDS GYMNASTICS, INC.: Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation to allow the construction of an 18,000 sq. ft. gymnasium and 5,500 square feet of leasable office space on a 3.38-acre parcel, located on the south side of Parkway Drive, west of the intersection of Parkway Drive and Wickham Road. (Owner/Applicant - Tumbleweeds Gymnastics, Inc.) (Representative - Jake Wise, P.E.)
- a. Ordinance No. 2006-148/AR-2006-209: (Second Reading/Public Hearing) An ordinance providing for annexation of a 3.38-acre parcel. (First Reading - 12/19/06)
  - b. Ordinance No. 2006-149/CPA-2006-34: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial on a 3.38-acre parcel. (First Reading - 12/19/06)
  - c. Ordinance No. 2006-150/Z-2006-1094: (Second Reading/Public Hearing) An ordinance providing for designation of C-1 (Neighborhood Commercial) zoning on a 3.38-acre parcel. (First Reading - 12/19/06)

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The Assistant City Attorney read each ordinance by its title. There were no public comments and no disclosures from Council.

Moved by Meehan/Thomas for approval of Ordinance No. 2006-148 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Nay: Contreras

Motion carried.

Moved by Thomas/Meehan for approval of Ordinance No. 2006-149 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Nay: Contreras

Motion carried

Moved by Meehan/Thomas for approval of Ordinance No. 2006-150 based upon the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

Nay: Contreras

Motion carried.

11. COUNCIL DISCUSSION RE: Proposal to settle controversy regarding Brookfield Village Adult Congregate Living Facility project. (Postponed - 12/19/06)

Mr. Craig Hesse, property owner, asked for this item to be postponed until January 23 to allow for his attorney and the City Attorney to discuss staff's proposed additional conditions. (By consensus, Council postponed the item under agenda Item #6.)

12. COUNCIL ACTION RE: Appointment of one member to the Golf Courses Advisory Board. (Postponed - 12/19/06)

Mrs. Corby said she shared the current applications with the person who was interested in applying. Subsequently, he decided not to apply.

Council Member Kathy Meehan nominated Penny Goode. Moved by LaRusso/Thomas to close the nominations. Motion carried unanimously. Moved by Palmer/Meehan to

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appoint Penny Goode to the Golf Courses Advisory Board. Motion carried unanimously.  
(Unexpired, three-year term: January 9, 2007 through November 8, 2008.)

13. COUNCIL ACTION RE: Contract award for the Melbourne Avenue drainage improvements at Pennwood Drive, Project No. 20106, RKT Constructors, Inc., Titusville, FL - \$184,290 and an appropriation of \$99,240 from Stormwater Fund Prior Year Surplus to supplement this project budget. (Postponed - 12/19/06)

City Engineer Jenni Lamb briefed Council. She reported that this item was postponed at the last meeting to allow time to determine the nature of the litigation between Brevard County and RKT Constructors, Inc. The County is litigating over a force main that was installed in Indialantic and Melbourne Beach over three years ago. During the past three years, the City of Melbourne has had three successful projects with RKT. Based on RKT's past performance with the City, City staff has not changed its mind about recommending approval. Additionally, it should be noted that Melbourne Beach recently hired RKT for a project.

Moved by Thomas/LaRusso for approval of the contract as recommended.

Mrs. Palmer asked how long this has been on the list of projects. Mrs. Lamb said it has been in the stormwater budget over two years. City staff worked with DOT on the Babcock widening project to ensure that this work would not be torn up or destroyed. She added that there is an historic drainage problem in this area. Mrs. Palmer said it seems as if this project gained attention quickly.

The question was called. Motion carried unanimously.

NEW BUSINESS

14. COUNCIL ACTION RE: Contract award for the construction of the Public Works Operation & Maintenance Building, Project No. 30805, P.W. Hearn, Inc., Cocoa, FL - \$571,800 and transfer of \$263,980 from the Grant Street WWTP Building System Improvements budget to supplement this project budget.

Mrs. Lamb was available for questions.

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

15. CONSENT AGENDA:

Mayor Goode noted the following action, which was approved by consensus under Item #6: Item "l" has been removed from the consent agenda and will be considered under agenda Item #16. Items "j" and "k" will be removed from the agenda and a public hearing will be scheduled for February 13.

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Additionally, Items “h” and “i” were removed from the consent agenda at the request of Mrs. Corby and will be considered under Item #16.

Moved by Contreras/LaRusso to approve the consent agenda, with the exception of Items “h” through “l.” Motion carried unanimously.

- a. Purchase of a TCOM25H Mobile SCBA Trailer System, Breathing Air Systems, Ocala, FL - \$85,932.
- b. Contract award for mowing, trimming, and clearing of vacant or developed lots with overgrowth, East Coast Site Control, Deland, FL - \$30,000 estimated annual cost.
- c. Approval of a 48-month lease agreement for 51 Police vehicles, SunTrust Leasing Corporation, Orlando, FL - \$28,211.40/month; total cost of \$1,354,147.20.
- d. Approval of an amended and restated Memorandum of Understanding between the St. Johns River Water Management District and the City of Melbourne for the Crane Creek dredging project; approval of an appropriation of \$100,000 from Fund Balance in the General Fund; and authorization for the City Manager to execute the related documents.
- e. Resolution No. 2015: A resolution approving a temporary non-exclusive access and construction easement with the St. Johns River Water Management District on property located adjacent to the south side of Crane Creek.
- f. Resolution No. 2016: A resolution adopting the names, “Schooner Drive” and “Trysting Court” for private streets/driveways serving the Crane Creek Vistas condominium project.
- g. Resolution No. 2017: A resolution authorizing the City Manager to submit a grant application to the Department of Homeland Security through the Fire Prevention and Safety program in the amount of \$70,560 with a matching requirement of \$17,640 from the General Fund for the implementation of a Mobile Inspection Reporting program in the Code Compliance Division.

Note: See Item 16 for action on Items “h” and “i.”

- h. Resolution No. 2018: A resolution requesting the Florida Legislature, the Florida Department of Transportation (FDOT), and the Florida Transportation Commission revise the FDOT FY 2007/2008 through FY 2011/2012 work program by restoring State funding for the Palm Bay Road widening and reconstruction project; and requesting that construction begin in FY 2007/2008.
- i. Resolution No. 2019: A resolution requesting the Florida Legislature, the Florida Department of Transportation (FDOT), and the Florida Transportation Commission respond to the FDOT FY 2007/2008 through FY 2011/2012 Tentative Work

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Program by reinstating State funding for the Apollo Boulevard Extension and proposing innovative financing approaches for timely project completion.

Note: Items “j” and “k” were removed from the agenda and will be considered on February 13.

j. Lien Rescission CE-01-012: Denial of request for lien reduction from \$8,006 to \$0. (Valerie Thompson - Vacant lot on Dove Street)

k. Lien Rescission CE-01-013: Denial of request for lien reduction from \$14,306 to \$0. (Valerie Thompson - 1105 Dove Street)

Note: See Item #16 for action on “l.”

l. Lien Rescission CE-06-002: Denial of request for lien reduction from \$12,800 to \$0. (Linda Gordon/Wells Fargo Home Mortgage/USA Bank - 1150 Masterson Street)

m. Approval of an agreement between Gray-Robinson, P.A. and the City of Melbourne to provide legal services associated with the West Melbourne utility dispute in an amount not to exceed \$50,000 and authorization for the City Manager to execute the agreement.

16. ITEMS REMOVED FROM THE CONSENT AGENDA

h. Resolution No. 2018: A resolution requesting the Florida Legislature, the Florida Department of Transportation (FDOT), and the Florida Transportation Commission revise the FDOT FY 2007/2008 through FY 2011/2012 work program by restoring State funding for the Palm Bay Road widening and reconstruction project; and requesting that construction begin in FY 2007/2008.

Mrs. Corby asked if the discussion under the City Manager’s Report affects this item. Mr. Schluckebier replied that this item is consistent in that the City is asking that a committed project remain in the pipeline.

Moved by Meehan/Corby for approval of Item “h.” Motion carried unanimously.

i. Resolution No. 2019: A resolution requesting the Florida Legislature, the Florida Department of Transportation (FDOT), and the Florida Transportation Commission respond to the FDOT FY 2007/2008 through FY 2011/2012 Tentative Work Program by reinstating State funding for the Apollo Boulevard Extension and proposing innovative financing approaches for timely project completion.

Mrs. Corby asked if this item needs to go through the Metropolitan Planning Organization. The City Manager replied that this item is consistent with the action taken by our Melbourne representatives who sit on the MPO.

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Moved by Meehan/Thomas for approval of Item “i.” Motion carried unanimously.

- I. Lien Rescission CE-06-002: Denial of request for lien reduction from \$12,800 to \$0. (Linda Gordon/Wells Fargo Home Mortgage/USA Bank - 1150 Masterson Street)

In response to Mr. LaRusso, the Assistant City Attorney reviewed the lien rescission process adopted by City Council. She noted that, in this case, the Code Enforcement Board made a recommendation for denial. The affected property owner (Wells Fargo) and the prospective purchaser (Brevard Neighborhood Development Coalition) who needs clear title, asked Council to not follow that recommendation and to consider a satisfaction of release of lien at this meeting.

Vice Mayor LaRusso stated that he would like to move forward with the release. He referenced the materials in the agenda package and noted that the City has invested SHIP and Hurricane Housing Recovery funds in this project. If the \$12,800 lien were released, it would be from taxpayers' money. The BNDC is working with the City to rejuvenate this area and we need to continue moving forward with that effort.

Moved by LaRusso/Thomas to rescind the lien from \$12,800 to \$0 on this property and to release the Code Enforcement lien on all properties known as the Kennedy Street Apartments formerly owned by Linda G. Gordon/Gladys L. Gordon.

(Note: The property addresses are 1150 Masterson Street and 1930, 1940, 1950, 1960, 1965, 1970, 1975 and 1985 Kennedy Street.)

The City Manager recommended that Council obtain clarification as to BNDC's specific interest. He cautioned against releasing the lien without some statement of interest that the property will be used by BNDC for public purposes.

Mayor Goode questioned why this hearing is being held at this meeting rather than being scheduled for a future meeting. Mrs. Crockett said that the purpose of the Council policy is to ensure that the applicant and interested parties are afforded an opportunity to attend and be heard. With regard to this item, all interested parties are at this meeting.

Lynn Brockwell-Carey, representing the Brevard Neighborhood Development Coalition, explained that this discussion relates to the Kennedy Street Apartments. There are nine properties involved. In November, the City Council granted a loan to BNDC for a little over \$700,000 for rehabilitation of these properties. It is BNDC's intention to turn these properties around. They closed on the first property in December and they have five others under contract or pending. The difficulty with this lien is that it is attached to all the other lots; obtaining clear title is difficult. If there is not a whole release, there will have to be separate re-foreclosures and that would take half of 2007 to accomplish. BNDC represented to the City with the funds provided that it would have residents in these units by March 2008. Because BNDC and the City are partners in this effort, it seems in the best interest to release the lien and move forward.

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A brief discussion followed regarding the City's costs. Mr. LaRusso said his intent is to reduce the lien to zero.

The question was called. Motion carried unanimously.

17. COUNCIL ACTION RE: (Public Hearing) Hearing to consider a request by Shaver A. Jackson, Sr. for rescission of lien from \$10,000 to \$0 on property located on Testimony Street. (Hearing approved by City Council 11/28/2006)

Dan Porsi, Code Enforcement Administrator, outlined the history on this case and provided the background information from the agenda package.

Code Enforcement Board Chairman Bennie Hopkins was also available for questions.

Council Member John Thomas asked if Mr. Jackson was informed about each Code Enforcement Board meeting. Mr. Porsi said that each time a certified letter was sent and when necessary the property was posted.

Mr. Porsi clarified for Mrs. Palmer that the Code Board will not consider a request for rescission until the property is in compliance. The property came into compliance for the first time in October 2006. The property owner was first cited in October 2005.

Mayor Goode opened the public hearing.

Shaver Jackson, 810 W. Covina Court, stated that everything stated is true except with regard to the postponed Code Enforcement Board meeting. (The August 2006 meeting was canceled because of Hurricane Ernesto.) Mr. Jackson said he thought that meeting would be held one month later; however, it was held sooner. He arrived at that meeting late. At that meeting, the Code Officer displayed photos showing that the automobiles were still on his property. Mr. Jackson said he testified that he did not believe the vehicles were located on his property. He added that he thought his property had been in compliance for months.

Mayor Goode asked Mr. Jackson if he did not receive notifications about the January, February, March, April, May, etc. meetings. Mr. Jackson said he did receive those notifications; however, one of the vehicles wasn't his and he didn't know if the others were on his property.

Mr. Porsi noted that the Code Officer testified that, based on property lines, location of fences, etc., he determined the vehicles were on Mr. Jackson's property.

Discussion followed regarding vacant property and whether vehicles can be towed from vacant property. Mr. Porsi reported that there are several junkyards that will remove vehicles from vacant property at the property owner's request. Mrs. Palmer said she is concerned about people abandoning property on vacant lots.

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Moved by Goode/Contreras to deny the request for rescission of the lien. Motion carried.  
Mrs. Palmer voted nay.

18. COUNCIL ACTION RE: A request for subordination of Code Enforcement Lien CE-06-074. (John A. Redling - 427 Pirates Moon Court)

From the agenda report: The property owner is asking the City of Melbourne to subordinate its code enforcement lien so that he may refinance his home to obtain the cash needed to make repairs and bring the home into compliance with the City Code. The property sustained hurricane damage to the screened pool enclosure as a result of Hurricanes Frances and Jeanne in 2004.

The property has not been brought into compliance, and Code Enforcement fines of \$250 per day continue to accrue. Because the property is not in compliance and the fine has not been capped, the Code Enforcement Board cannot and will not consider a reduction in the amount of the fine or capping the fine. The property owner is not asking the City Council to cap the fine or reduce the fine – he simply wants the City Council to agree that any fine/lien imposed by the City will be subordinate to the new mortgage lien created when the property is refinanced.

Currently, the City of Melbourne's code enforcement lien is subordinate to the property owner's existing mortgage lien because the City's lien was recorded after the property owner's existing mortgage was recorded. Consequently, if the City Council agrees to subordinate its code enforcement lien to the subsequent lender, the City Council will simply continue to be in a subordinate position to the mortgage. The cost to the City is the loss of a superior position as a lienholder, but because the property at issue is homestead, the City is prohibited by statute from foreclosing on the property in order to satisfy its lien in the same manner as a mortgage lien holder.

Assistant City Attorney Suzanne Crockett reviewed the agenda report. She referenced the additional material distributed to Council, which includes the form of the "Subordination of Lien" agreement.

Mayor Goode asked the amount of the lien. Mrs. Crockett said it is still running; however, it is probably near \$16,000. The fine is accruing at \$250 per day. Because this was a life safety issue – screen enclosure around the pool – the fine is hefty.

John Redling, property owner, discussed issues he has experienced with the screening company. He added that the price of screening has increased three times since 2004. He reported that he refinanced the home, the screen enclosure is up and he is now in compliance. He asked Council to consider subordination of the code enforcement lien.

Mr. Porsi said that the day they call for a CO (certificate of occupancy) will be the day the fine is stopped.

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Responding to Mr. Contreras, Mr. Redling said when he was notified of the possibility of a fine being levied, he contracted with a pool enclosure company. The City issued a permit dated August 28. The screen is up and he is in compliance.

Mrs. Palmer said if this property is in compliance, there has to be some way to reduce the amount of the fine. Mr. Schluckebier noted that there is a separate procedure for reduction or rescission of lien and Mr. Redling will receive the benefit of that process later.

Mrs. Corby asked if we have a standardized process in place that applies to code enforcement. She said it sounds like Mr. Redling has made attempts and efforts, but they have fallen through the cracks.

The City Manager replied that the Code Board process is systemized. They have an attorney at all meetings and they handle dozens of cases. This is a unique case and under State law, the City Council is the only agency that can reduce or rescind a lien once it has been recorded.

Mrs. Corby asked if we choose to not communicate with applicants if they don't attend meetings. Mr. Porsi explained that an applicant receives a certified letter when he/she is first found in violation. Subsequently, minutes of the Code Board meetings are mailed until the property comes into compliance.

Mr. Redling confirmed that process was followed in his case.

The Mayor pointed out that Mr. Redling was out of compliance two years before the Code Board took action. Mr. Redling said that is correct; during those two years he had issues with a pool company.

Moved by Contreras/Palmer to approve the request to subordinate the lien.

A brief discussion continued.

The question was called. Motion carried unanimously.

19. COUNCIL ACTION RE: Modification of vacant budget position and authorization for over-hires in the Fire Department.

Fire Chief Paul Forsberg was present and available for questions. Mr. Thomas asked the Chief if he planned to request three Battalion Chiefs in next year's budget. Chief Forsberg replied yes.

Moved by Corby/Contreras for approval of reinstatement of the second Training Officer position and authorization of a temporary "over-hire" procedure for up to three firefighter/paramedics from current eligibility list to seize the available opportunity. Motion carried unanimously.

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20. COUNCIL ACTION RE: Request by Martin Luther King, Jr. Coalition for the City to provide funding for the liability insurance for the 2007 Martin Luther King, Jr. Peace March and Program (requested by Leonard Ross)

Withdrawn by Mr. Leonard Ross.

Recessed: 8:19 p.m.  
Reconvened: 8:29 p.m.

21. SITE PLAN APPROVAL (SP-2006-05EXT) PARKWAY PLACE CONDOMINIUMS: (Public Hearing) A request to allow an extension of site plan approval to develop a 152-unit townhome-style condominium project on a 14.73-acre parcel, zoned R-2 (One-, Two-, and Multiple-Family Medium Density Residential), at a density of 10.3 units per acre, located on the southeast corner of Parkway Drive and Wickham Road. (Owner/Applicant - Wickham Park, LLC) (Representative - Philip F. Nohrr) (P&Z Board - 12/07/06)

Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board unanimously approved the request, subject to the findings contained in the Planning and Zoning Board memorandum and 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 applicant shall provide a minimum of an additional 10 feet of right-of-way on Wickham Road and at the intersection with Parkway Drive, if necessary, and construct a dedicated right-turn lane and a transitional lane onto Parkway Drive, if permitted by Brevard County. The details of the right-of-way shall be mutually approved during the construction plan review process, and impact fee credits can be given for the contribution of the land, engineering design and actual construction costs as determined by the City Engineer.
- e. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- f. As required by Chapter 10, Appendix D, and Chapter 32, Melbourne City Code, to reserve capacity, the owner/developer shall be required to pay the capacity

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reservation fee in the amount of \$64,881 for transportation, water and sewer impact fees. Payment must be received by the City of Melbourne within 10 business days of the date of rendition of this Development Order by City Council approval. This Development Order shall not become effective until payment of the capacity reservation fee has been made payable to and received by the City of Melbourne.

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

Damon Kolb, representing the Richman Group, was present.

Mr. Contreras asked why the extension was requested. Mr. Kolb explained that they are a conservative developer that primarily builds rental apartment communities. They would like to utilize this time to see if the market stabilizes and if they can obtain lower prices.

Moved by Contreras/Meehan for approval of the extension based on the findings and conditions outlined in the Planning and Zoning Board memorandum. Motion carried unanimously.

22. FINAL RE-PLAT APPROVAL (SD-2003-01B) "THE PRESERVE" AT LAKE WASHINGTON SUBDIVISION, PHASE II (TRACTS H & J): (Public Hearing) A request for final re-plat approval for Tract H (0.27± acres) and Tract J (0.40± acres) within the 34.63±-acre "The Preserve" at Lake Washington Subdivision, Phase II, zoned R-1B (Single-Family Low Density Residential), located south of Lake Washington Road, west of Avocado Avenue. (Owner/Applicant - Riverside Development Group, Inc.) (Representative - Dave McWilliams) (P&Z Board - 12/07/06)

Mrs. Dittmer reviewed the request. The Planning and Zoning Board and staff recommended approval subject to the following conditions:

- a. The applicant shall not be entitled to record the final plat re-plat until all subdivision improvements are constructed to the satisfaction of the City, or an improvement guarantee of at least 110% is provided to the City to ensure the completion of the improvements.
- b. The applicant shall provide the additional required documents, pursuant to Appendix D, Chapter 8, Section 8.5 (c) (4) prior to recordation of the final plat.
- c. The applicant shall provide the additional required information and certificates as required by F.S. 177.071 and 177.081 prior to recordation of the final plat.
- d. Only one building permit may be issued on any portion of the plat prior to recordation of the final plat re-plat.
- e. As required by Chapter 10, Appendix D, and Chapter 32, Melbourne City Code, to reserve capacity, the owner/developer shall be required to pay the capacity reservation fee in the amount of \$3,327 for transportation, water and sewer impact

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fees. Payment must be received by the City of Melbourne within 10 business days of the date of rendition of this Development Order by City Council approval. This Development Order shall not become effective until payment of the capacity reservation fee has been made payable to and received by the City of Melbourne.

There were no disclosures by Council and no comments from the public.

Moved by LaRusso/Meehan for approval based on the findings and conditions outlined in the Planning and Zoning Board memorandum. Motion carried unanimously.

23. ORDINANCE NO. 2007-01 PLANNING & ZONING BOARD: (First Reading) An ordinance amending Chapter 2 of the Code of Ordinances, entitled "Administration" as it relates to appeals of decisions made by the Planning and Zoning Board; providing for procedures. (Approved by City Council 10/10/2006)

Attorney Crockett read Ordinance No. 2007-01 by title.

Moved by Thomas/LaRusso for approval of Ordinance No. 2007-01. Motion carried unanimously.

24. COUNCIL DISCUSSION RE: Strategic Planning Session. (Requested by Council Member Joanne Corby)

Mrs. Corby referenced the additional information she distributed to Council, which outlines a five-step chart. The chart incorporates different types of strategic planning and emphasizes the different important levels. She recommended that Council provide instruction to the facilitator regarding expectations from the session.

Mr. Thomas asked Mrs. Corby if she had suggestions on how to include all the steps in the planning session. Mrs. Corby said she believes that we need to include key players and obtain input from certain staff members, one or two levels below the department directors.

Mr. LaRusso said he believes that department directors have been invited to participate in the session. The City Manager stated that directors have been invited to attend as resource people. Several may also bring assistants or division managers. He added that it was his understanding that this session was to provide an opportunity for Council to interchange ideas.

Mr. LaRusso spoke in support of having a more relaxed set-up, with the Mayor and Council moving to the main floor area rather than the dais. Mrs. Corby agreed that environment is important. She added that Council should be providing that direction.

Mr. Contreras and Mrs. Palmer confirmed that the Airport Authority members sat in a circle of chairs during its strategic planning meeting. Mrs. Palmer clarified that Airport Authority staff was on hand; however, it was not their meeting. She said that she can't agree with having department heads sit with Council as part of the process. Council

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receives quite a bit of input from departments and she would like for this to be Council's visioning.

Mrs. Corby said then that is the direction – Council is strictly looking at what Council's desires are. She noted that this will be a brainstorming session.

Mrs. Palmer said that following the strategic planning session, the City would begin approaching specific goals.

The City Manager said that this planning program will provide Council an opportunity to square up some of the input received from other places – town hall meeting, resident opinion survey – other than staff and departments. Staff's sense is that Council wants to decide its own path.

Mr. LaRusso recommended that each member attend with the idea of "letting go" and allowing the facilitator to guide the meeting.

25. COUNCIL ACTION RE: Confirmation of the Mayor's appointment of one regular member to the Melbourne Housing Authority.

Moved by Thomas/Meehan to approve the appointment of Greg Jones to the Melbourne Housing Authority. Motion carried unanimously. (Unexpired, four-year term: January 9, 2007 through December 8, 2010.)

26. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Dale Davis, 1612 Mitchell Street, asked Council to consider televising its meetings on Space Coast Government Television. He reported what other municipalities and jurisdictions are doing with regard to televising. As an example, Barefoot Bay uses a volunteer and Palm Bay, which went through an RFP process, uses a private company. He added that it would not take much funding to outfit the current Council Chamber or the Council Chamber in the new City Hall. Videotaping could be used as a vehicle to increase public interest, advertise for volunteers or announce special events.

Mr. Thomas said that during the campaign process, he learned that there is a great sentiment in the community, especially among our elderly, that this would be good for the City.

Mrs. Corby said that she has also talked to a lot of people who would like to see our meetings televised.

Mrs. Palmer said that this issue was raised right after she came on Council; however, she does not believe that the previous Council wanted to be televised. She added that it bothers her that some people in the community don't have a clue other than what they read in the FLORIDA TODAY.

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The City Manager stated that staff would return in the next 60 days with information for Council consideration.

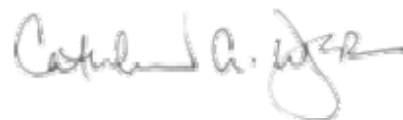
Mr. Thomas reported that there are several roads in his district that are not paved. He asked if there is a priority list on the horizon outlining roads scheduled to be paved. Mr. Schluckebier replied that we have a schedule with respect to resurfacing. Regarding unpaved roads, we prioritize based on interest from the neighborhood. In the past this has been done by special assessments – which today would make it almost cost prohibitive. Staff is toying with the idea internally of providing a level of match. An item may appear on the next agenda seeking Council direction.

Mr. Thomas announced that the community meeting regarding a sidewalk on Country Club Road will be held on January 25 at Central Baptist Church.

27. ADJOURNMENT

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

The meeting adjourned at 9:06 p.m.



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City Clerk – 1/18/2007

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