

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 27, 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 Pete Inman, Lighthouse Assembly of God, 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 Manager
	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 following proclamations:

“Women in Construction Week,” March 4-10; accepted by Gloria Herring, President, and Kathy Ogle, member, National Association of Women in Construction Space Coast Chapter #355.

“Irish-American Heritage Month,” March 2007; accepted by Patrick Moynihan, President, and Ed Reilly, Member, Ancient Order of Hibernians.

5. Approval of Minutes – January 29, 2007 Special Meeting, January 30, 2007 Special Meeting and February 13, 2007 Regular Meeting

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

Mayor Goode announced that Item #18 will not be considered at this meeting. (See item for additional details.)

6. City Manager’s Report

- City Manager Jack Schluckebier and Deputy City Manager Amy Elliott, in her capacity as President of the Florida Government Finance Officers Association (GFOA), presented the Certificate of Achievement for Excellence in Financial Reporting from the

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GFOA to Director of Finance Michele Ennis and Assistant Finance Director Sondra D'Angelo.

Melbourne has received this award every year it has applied since 1981. The award is reflective of the hard work and dedication of the finance staff.

- The City Manager distributed a copy of a legal notice that appeared in the February 24 edition of the FLORIDA TODAY. The notice was posted by the City of West Melbourne and it identifies property that West Melbourne intends to annex located in the southeast quadrant of Highway 192 and I-95 (identified today as the "Rest Area LLC" property). Attached to the legal notice is a copy of a 1987 agreement where the property owner agreed to annex into the City of Melbourne should it become legally possible to do so in the future.

Mr. Schluckebier noted that this is similar to the Brookfield Village property. (Melbourne has an annexation agreement with the property owner; however, West Melbourne began the annexation process.)

Continuing, the City Manager stated that the City should preserve the integrity of the 1987 agreement; the agreement is irrevocable and West Melbourne would not be acting in good faith if it took action contrary to our business interests. He added that he would like Council to authorize appearances before the West Melbourne City Council and communication with West Melbourne that it not act on its notice of intent to annex. Melbourne needs to establish a record of objection quickly and indicate that it intends to protect its interests and agreements.

Mayor Goode pointed out that a relatively new law (Interlocal Service Boundary Agreement Act) allows Melbourne to begin the process to annex property that is not contiguous. Based on West Melbourne's action with the Brookfield property and with the Rest Area LLC property, he stated that he intends to make a motion at the next meeting to annex the "Ferrell" properties. (Approximately 250 acres located on the south side of U. S. 192 that was included in Melbourne's proposed municipal service area. Subsequently, staff learned that the owner of most of the parcels south of U. S. 192 signed a pre-annexation agreement with West Melbourne in 1994.) He concluded by stating that this is twice West Melbourne has taken action counter to our interests.

In response to questions, the City Manager noted that the Rest Area LLC property is in excess of 100 acres; West Melbourne has not taken final action to annex the Brookfield property, which is approximately 20 acres; Melbourne has communicated verbally with West Melbourne about the Rest Area LLC property and subsequent to that communication they advertised their notice to proceed; and Melbourne staff has not spoken with the Rest Area LLC property owner about this notice.

The City Manager confirmed for Vice Mayor LaRusso that the property owner who signed the agreement in 1987 is not the current property owner. Further, he confirmed that the City of Melbourne has the ability to provide utilities to that parcel.

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Attorney Gougelman advised that the property is going to be sold to a group of developers that intends to construct a fairly extensive commercial development. They would like to annex into a municipality to obtain a full line of City services, including water, sewer, police and fire. Assuming that we can get an interlocal agreement with Brevard County to annex the property (as part of the Interlocal Service Boundary Agreement Act), the property owners are not willing to wait. They want to annex now.

Mr. LaRusso asked the City Attorney to elaborate on what would happen if West Melbourne continued with its annexation efforts. Attorney Gougelman said if West Melbourne stays the existing course and annexes the property, the City Manager would probably ask Council to make a policy decision in filing a lawsuit. The City would try to invalidate the annexation in court.

Mr. Schluckebier added that we could also attempt negotiations with the property owner in the interim while attempting to block West Melbourne. Melbourne has agreed to serve that property, even if it is not located in the City of Melbourne, and that may not have been conveyed to the property owner in direct terms.

The City Manager confirmed for Council that staff intends to contact the current property owner and discuss this issue.

7. Public Comments

Eric Ellebracht, 1948 Tyler Avenue, reported that the Airport Authority recently assumed the food and liquor concessions at the Melbourne International Airport. He suggested that the Airport concentrate on attracting local patrons by validating parking, extending hours of operation, etc. He noted that the Airport has a beautiful terminal that is under-utilized; the space should be used as an entertainment venue.

8. ORDINANCE NO. 2007-03 (CU-2006-21) EXECUTIVE CIGAR SHOP AND LOUNGE (NEW LOCATION): (Second Reading/Public Hearing) An ordinance granting a conditional use to allow the sale and consumption of alcohol on the premises of an existing multi-tenant building on 0.14± acres zoned C-3 (Central Business District), located on the south side of New Haven Avenue, west of Municipal Lane. (Owner - John Fakatselis) (Applicant/Representative - S. Sam Nardone) (First Reading - 2/13/07)

Attorney Gougelman read Ordinance No. 2007-03 by title. There were no public comments and no disclosures from Council.

Moved by Meehan/LaRusso for approval of Ordinance No. 2007-03 based upon the findings and condition in the Planning and Zoning memorandum. The roll call vote was:

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

Motion carried unanimously.

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9. ORDINANCE NO. 2007-04, BEAUTIFICATION & ENVIRONMENTAL ADVISORY COMMITTEE: (Second Reading/Public Hearing) An ordinance amending Chapter 2 of the City Code, entitled Administration, as it relates to the Beautification and Environmental Advisory Committee, removing the reference to a specific City department providing staff support. (First Reading - 2/13/07)

Mr. Gougelman read Ordinance No. 2007-04 by title. There were no comments during the public hearing.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-04. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for design/build of City Hall, Project No. 10504, Certified General Contractors, Inc., Melbourne, FL - \$8,674,446.58.

City Engineer Jenni Lamb briefed Council. The following is an excerpt from the agenda report:

This is a proposed contract for the design-build of a new City Hall building and associated site-work including a base four-story City Hall, the additional fifth floor as a shell space and associated site work. On December 19, 2006, Council authorized negotiations with Certified General Contractors, Inc.

The proposed contract is a standard American Institute of Architects' document for a design-build contract. The amount of the contract is the same as the guaranteed maximum price proposal that was submitted during the selection process.

The contractor will be subject to liquidated damages of \$100.00 per day if the work is not completed within the 774-day contractual period (180 days for design, maximum 45 days to permit, and 549 for construction).

Ms. Lamb added that the contract for the parking garage will return to Council on the March 13 agenda.

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

11. COUNCIL ACTION RE: Contract award for construction of Backup Production Well #4, associated piping, and a pump station for the Joe Mullins Reverse Osmosis Water Treatment Plant, Project No. 31003, A.C. Schultes of Florida, Inc., Gibsonton, FL - \$1,320,900; and transfers of \$334,715 from Wickham Waterline Relocation (Project No.

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30002); \$70,000 from Cascades Waterline (Project No. 32404); \$47,183 from Miscellaneous Water & Sewer Projects (No. 30099) and an appropriation of \$256,432 from 2002A Bond Issue Proceeds to supplement this project budget.

Ms. Lamb briefed Council.

Council Member Cheryl Palmer asked Ms. Lamb if she had any insight as to why the City received only one bidder. Ms. Lamb said there aren't many well drillers that perform this type of work. Although there is nothing special about the contract that would have excluded bidders, perhaps it was the timing of the bid.

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

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

12. COUNCIL ACTION RE: Change Order No. 5 to the contract for the Downtown Melbourne Lighting and Streetscape, Phase III, Project No. 14204, for construction of the Downtown Melbourne entrance feature, Burkhardt Construction, Inc., West Palm Beach, FL - \$255,000; and an appropriation of \$195,201 from the Downtown Community Redevelopment Agency Prior Year Surplus to supplement this project budget.

Ms. Lamb provided an overview of the item. (This item also requires City Council approval; therefore, it has been included on the consent agenda.)

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

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

13. COUNCIL ACTION RE: Supplement No. 316 to the Continuing Consultant's Contract for engineering services to survey, design, permit, prepare bid documents, and perform construction administration for the 2007 waterline replacements at various locations in the Ballard Park area and Indian Harbour Beach, Project No. 30407, Frazier Engineering, Inc., Melbourne, FL - \$56,160 and approval of interim financing through an appropriation of \$56,910 from Water and Sewer Prior Year Surplus.

Ms. Lamb briefed Council.

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

14. CONSENT AGENDA:

Mayor Goode reported that Council Member Contreras asked for item "e" to be removed and Council Member Corby asked for items "b" and "q" to be removed.

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Moved by Contreras/Corby for approval of the consent agenda, with the exception of items “b”, “e” and “q.” Motion carried unanimously.

- a. Supplement No. 314 to the Continuing Consultant’s Contract for engineering services to provide for a Water Quality Investigation and Response Plan, Frazier Engineering, Inc., Melbourne, FL - \$45,000 and a transfer of \$45,000 from Water and Sewer Contingency to Water Distribution - Other Professional Services to provide funding for this project.

Note: See Item 15 for action on “b.”

- b. Change Order No. 5 to the contract for the Downtown Melbourne Lighting and Streetscape, Phase III, Project No. 14204, for construction of the Downtown Melbourne entrance feature, Burkhardt Construction, Inc., West Palm Beach, FL - \$255,000; and an appropriation of \$195,201 from the Downtown Community Redevelopment Agency Prior Year Surplus to supplement this project budget.
- c. Contract award for annual pavement striping, Fausnight Stripe & Line, Inc., Longwood, FL - \$40,000.
- d. Purchase of a 2007 Chevrolet Trail Blazer for the Fire Operations Division, Champion Chevrolet, Tallahassee, FL - \$21,628.

Note: See Item 15 for action on “e.”

- e. Approval of additional labor costs associated with the fiber optic cable extension from the Police Department building on Babcock Street to City Hall, Morse Communications, Inc., Melbourne, FL - \$19,186.50.
- f. Purchase of SCADA iFIX software support service for the Wastewater and Water Treatment Plants, Gray Matter Systems, Melbourne Beach, FL - \$16,217.
- g. Approval of a 60-month lease agreement for 10 Toshiba copiers, Toshiba Business Solutions, Orlando, FL - \$101,985.
- h. Approval of an agreement between the City of Melbourne and Bryant Miller Olive, P.A. for bond counsel services.
- i. Approval of an agreement between the City of Melbourne and Nabors, Giblin, and Nickerson, P.A. for disclosure counsel services.
- j. Approval of memoranda of understanding between the City of Melbourne and the Coastal Florida Police Benevolent Association regarding wages and health insurance.
- k. Approval of a memorandum of agreement between the City of Melbourne and the Laborers’ International Union and memoranda of understanding regarding health

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insurance and a revised emergency operations policy, contingent upon a favorable ratification vote of the memorandum of agreement.

- l. Approval of program improvements and fees for the 2007 Leisure Services summer program, including a summer recreation swim team program at a rate of \$45 for residents, \$54 for non-residents, and \$2 per visitor per swim meet; a summer water aerobics program at a rate of \$12 for residents and \$16 for non-residents; and a 20% increase in summer camp fees for Eau Gallie Civic Center and Crane Community Center.
- m. Approval of a one-year extension of HOME Tenant Based Rental Assistance benefits for Anne-Marie Burke.
- n. Approval of an amendment to condition f. of the site plan approval for Mayfair Isles Subdivision to allow the payment date for one-half of the water and sewer impact fees to extend to August 27, 2007. (Requested by the Southern Homes of Melbourne, LLC)
- o. Approval of a renewal of employee health and other insurance benefits.
- p. Approval of an employee health insurance opt-out provision.

Note: See Item 15 for action on “q.”

- q. Resolution No. 2024: A resolution establishing a declaration of official intent to reimburse certain Water and Sewer System capital expenditures incurred with proceeds of one or more future debt financings in an amount not to exceed \$37,500,000.
- r. Resolution No. 2025: A resolution expressing opposition to the proposed House Bill 529, which would impair local government authority with regard to cable television franchises.
- s. Resolution No. 2026: A resolution implementing FY 2006-2007 First Quarter Budget Review recommendations.

15. ITEMS REMOVED FROM THE CONSENT AGENDA

- b. Change Order No. 5 to the contract for the Downtown Melbourne Lighting and Streetscape, Phase III, Project No. 14204, for construction of the Downtown Melbourne entrance feature, Burkhardt Construction, Inc., West Palm Beach, FL - \$255,000; and an appropriation of \$195,201 from the Downtown Community Redevelopment Agency Prior Year Surplus to supplement this project budget.

Council Member Joanne Corby said she pulled this item because she did not know whether agenda Item 12 would be approved. The City Manager said that we can add a

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note on future similar items that placement on the consent agenda is conditioned on favorable action by the City Council acting as the Community Redevelopment Agency.

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

- e. Approval of additional labor costs associated with the fiber optic cable extension from the Police Department building on Babcock Street to City Hall, Morse Communications, Inc., Melbourne, FL - \$19,186.50.

Council Member Richard Contreras said he had a question about how this project would tie into construction of the new City Hall. He said he learned from Deputy City Manager Amy Elliott that most of the work would be preserved; therefore, his question has been answered.

Moved by Contreras/Palmer for approval of Item “e.” Motion carried unanimously.

- q. Resolution No. 2024: A resolution establishing a declaration of official intent to reimburse certain Water and Sewer System capital expenditures incurred with proceeds of one or more future debt financings in an amount not to exceed \$37,500,000.

Council Member Joanne Corby referenced the resolution, which provides “...that the City hereby expresses its intention to be reimbursed from proceeds of one or more debt financings...” She asked if staff can be more specific on what the \$37.5 million will cover.

Director of Finance Michele Ennis noted that during the recent refunding, Series 2007A, approximately \$35 million was identified in the official statement as future bond financing. The resolution provides a not-to-exceed amount of \$37.5 million.

Mrs. Corby asked what the 2007A issue covered. Ms. Ennis replied that it refunded outstanding 2000 debt at a lower interest. No new money was financed and the City experienced a net present value savings of \$1,049,396.

A brief discussion followed regarding the water and sewer rate study. Ms. Ennis explained that during the rate study the consultant will review the rates in comparison to the operating costs of the system.

The City Manager added that since 2002 the City has had routine rate increases as opposed to imposing a large rate increase every five years. Additionally, the City has been delaying bonds for as long as possible and, in some cases, downsizing the size of the bond. Everything included in a bond issue has received scrutiny and has been approved by Council as a project.

Discussion followed regarding the magnitude and cost of water and sewer projects. Mr. Schluckebier said the projects are large enough that they should not be done on our rate base alone. Mrs. Corby pointed out that we are looking at \$110 million in outstanding debt now. The City Manager agreed and added that another \$37 million is projected for

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this summer and in 2009-2010 there will probably be another \$50 - \$55 million. All of these depend on projects that the Council will approve in the meantime.

Mayor Goode added that we are required by federal law to guarantee that the rates are adequate to cover the bonds.

Mrs. Corby asked if the financing pays for anything other than water and sewer projects. Mr. Schluckebier replied that these are entirely water and sewer projects. Mrs. Corby asked if we were planning to use some of this funding to purchase the Gleason property. Mr. Schluckebier said that three to five months ago there was an idea to use a future issue as a funding source; however, that idea has been abandoned.

Mrs. Palmer said she recalls that we have borrowed Water and Sewer Fund money for other purchases. Mrs. Elliott replied that in the past we have used cash in the Water and Sewer System to loan money to another fund. The other funds pay back the Water and Sewer System, including interest. It is an interim financing mechanism only. And, the City has never issued water and sewer debt to loan money to another fund.

Moved by Contreras/Thomas for approval of Item “q.” Motion carried. Mrs. Corby voted nay.

16. COUNCIL ACTION RE: (Public Hearing) Preliminary approval of proposed list of projects and activities for inclusion in the 2007-2008 proposed CDBG Action Plan based on estimated funding of \$559,504 and authorization to advertise the Action Plan for public comment upon completion.

From the agenda report: CDBG allocations for federal fiscal year 2007 are currently unavailable. Staff estimates that the City will receive \$559,504 for the City fiscal year beginning October 1, 2007. The funding amount will be adjusted upon notification of the actual allocation amount from the U. S. Department of Housing and Urban Development.

At a funding level of \$559,504, the statutory limits on Public Services and Administration/Planning spending in the CDBG program for 2007-2008 are:

Public Services	(15% of grant)	\$ 83,925
Administration/Planning	(20% of grant)	\$111,900

The Citizens' Advisory Board reviewed the 2007-2008 CDBG funding requests and approved the following staff recommendations as proposed:

PUBLIC SERVICES

Child Care Association of Brevard County, Inc.

Subsidized child care for children from low-income households \$23,000

**City of Melbourne Housing & Community Development
Department**

14,000

Booker T. Washington Youth Initiative

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City of Melbourne Leisure Services	
Scholarships for low-income youth to attend summer camp	11,688
Club Esteem	
After-school program	7,800
Greater Melbourne Police Athletic League (PAL)	
Youth leadership & peer mentoring program	5,000
PREVENT! of Brevard	
Transitional housing and supportive services/Sally's House	10,000
The Salvation Army, Inc.	
Emergency shelter services	<u>12,437</u>
Subtotal Public Services:	\$83,925
 <u>PUBLIC FACILITIES & IMPROVEMENTS</u>	
Lipscomb Park Improvements, Phase I and II	
Funding for construction of Phase I and II of Master Site Plan Improvements	<u>265,679</u>
Subtotal Public Facilities & Improvements:	\$265,679
 <u>ADMINISTRATION</u>	
Program Administration	
General program administration	\$109,400
Fair Housing	
Fair housing activities	<u>2,500</u>
Subtotal Administration:	\$111,900
 <u>OTHER</u>	
Code Enforcement	
Comprehensive proactive code enforcement in North & South CDBG Target Areas	\$ 75,000
Demolition & Clearance Program	
Demolition & clearance activities for North & South CDBG Target Areas	10,000
Housing Services	
Activity-delivery for HOME-funded Tenant Based Rental Assistance Program	<u>13,000</u>
Subtotal Other:	98,000
GRAND TOTAL:	\$559,504

The recommendation is for Council to approve the proposed list of projects and activities shown for inclusion in the 2007-2008 CDBG Action Plan to be prepared by staff and grant permission to advertise the Action Plan for public comment upon completion.

Housing and Community Development Director Melinda Thomas reviewed the item.

Mayor Goode opened the public hearing.

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Eddie Taylor, 1500 Woodlake Drive, Palm Bay, representing the Lipscomb Street Park Association, spoke in support of the funding for improvements to Lipscomb Park. He thanked Council for its past support and encouraged approval of this item.

Paul Halpern, Executive Director, Club Esteem, presented each Council Member with a “thank you” card made by the children who participate in the Club Esteem program. Mr. Halpern elaborated on the after school, evening, summer and family assistance programs. He thanked Council for its support.

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

17. COUNCIL ACTION RE: (Public Hearing) Preliminary approval of proposed activities for Federal FY 2007 HOME funds based on estimated funding of \$253,616.

Excerpt from the agenda report: HOME allocations for federal fiscal year 2007 are currently unavailable. For planning purposes staff is using the fiscal year 2006 HOME allocation amount of \$253,616. The amount will be adjusted upon receipt of the final allocation figure from Brevard County.

Staff solicited public input on the City’s HOME Program during neighborhood public meetings. One request was received for \$204,267.36 from Community Housing Initiative, Inc. to undertake and develop three single-family homes for rental to low-income families in partnership with Macedonia Baptist Church. Due to the amount of uncommitted funds currently available in HOME, staff believes the proposal submitted by Community Housing Initiative, Inc. can be considered using existing funds. A feasibility assessment of this project is underway and the project will be scheduled for City Council review and action upon completion of staff’s evaluation.

Federal fiscal year 2007 HOME funds expected to be available on October 1, 2007 are therefore proposed for distribution among various housing activities (as has been recommended in previous years).

The Citizens’ Advisory Board reviewed 2007-2008 HOME funding requests and approved the following staff recommendations as proposed:

Owner-occupied Housing Rehabilitation Program	\$75,000
Tenant Based Rental Assistance Program	10,000
Rental Housing Development	105,211
CHDO Set-Aside (15%)	38,043
Administration (10%)	<u>25,362</u>
TOTAL	\$253,616

The recommendation is for Council to approve the proposed activities for federal FY 2007 HOME funds and authorize their inclusion in the Brevard County HOME Consortium Action Plan for 2007-2008.

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Mrs. Thomas provided an overview for Council.

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

18. ORDINANCE NO. 2007-05, A&V NO. 296: (First Reading/Public Hearing) An ordinance vacating a 40-foot wide, improved, platted right-of-way known as Riverside Drive, adjacent to Lots 28, 29, and 30 of Block 1. (Applicant - Riverwalk Sands Yacht Club Development, LLC)

Deputy City Manager Howard Ralls indicated that the applicant had originally requested that this item be postponed until March 13; however, they have since asked for the item to be postponed until the March 27 meeting. The City Manager added that the request will be modified; therefore, new notices will be sent and the item will be re-advertised.

Council agreed to postpone the item; however, it may return as a new item.

19. ORDINANCE NO. 2007-06 (CPA-2006-36) AND ORDINANCE NO. 2007-07 (Z-2006-1099) MICHAEL S. ULLIAN: (First Reading/Public Hearing) Ordinances providing for a Comprehensive Plan Amendment changing the Future Land Use from Low Density Residential to Commercial/Low Density Residential and changing the zoning from R-1A (Single-Family Residential) to C-2 (General Commercial) on a 0.2±-acre parcel, located north of NASA Boulevard, west of Hickory Street, at the southern end of Wisteria Drive. (Owner/Applicant/Representative - Michael S. Ullian) (P&Z Board - 2/01/07)

Attorney Gougelman read Ordinance Nos. 2007-06 and 2007-07 by title.

Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval. There were no disclosures by Council and no comments from the public.

Moved by Meehan/Corby for approval of Ordinance No. 2007-06 based on the findings outlined in the Planning and Zoning Board memorandum.

In response to Mrs. Palmer, Mrs. Dittmer said that the additional buffering is proposed for the northwest corner of the property. Additionally, there is a Code requirement for a six-foot opaque fence. Mrs. Dittmer added that it is the applicant's intent to develop a professional office; night uses are not anticipated.

The question was called. Motion carried unanimously.

Moved by Contreras/LaRusso for approval of Ordinance No. 2007-07 based upon the findings and conditions outlined in the Planning and Zoning Board memorandum. Motion carried unanimously.

20. ORDINANCE NO. 2007-08 (CPA-2007-01) AND ORDINANCE NO. 2007-09 (Z-2007-1102) DONALD M. WALTRIP: (First Reading/Public Hearing) Ordinances providing for a Comprehensive Plan Amendment changing the Future Land Use from Commercial to

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Commercial/Industrial and a change in zoning from C-2 and C-C-2 (General Commercial) to M-1 (Light Industrial) on a 2.252±-acre parcel, located on the west side of U.S. Highway 1, north of University Boulevard and south of Powell Avenue. (Owners - Donald M. Waltrip/Jackson's Enterprises/Eddie S. Rickenbach/Mike Logsdon/Deroop Benimadhu) (Applicant/Representative - Donald M. Waltrip) (P&Z Board - 2/01/07)

The City Attorney read both ordinances by title. Mrs. Dittmer reviewed the agenda report. She noted that this request was generated by Donald Waltrip to address the existing non-conforming business (Ted's Sheds) that leases his property. The business has outdoor storage and display, which is not permitted in a C-2 zoning district. Other non-conforming uses exist in the area, and several property owners joined Mr. Waltrip in the application to rezone.

These properties were included within the expansion of the Downtown Melbourne Community Redevelopment Area (CRA) last year. The redevelopment plan proposed the extension of C-3 zoning into this area. The CRA Advisory Committee and the Planning and Zoning Board held a joint meeting in August. Both boards recommended extending the C-3 zoning southward throughout the CRA, including the properties proposed for the M-1 rezoning.

Due to the previous direction and discussion of these committees, the concerns with providing Industrial zoning at the south entrance to our City, and the Comprehensive Plan policies, which discourage industrial zoning along major corridors, the Planning and Zoning Board and the Planning and Economic Development staff have recommended denial of these requests.

The Planning and Zoning Board voted six to one to recommend denial of these requests.

Mrs. Meehan disclosed that in October she met with Donald Waltrip at her office. Mr. Waltrip indicated that he was making the rezoning request to accommodate Ted's Sheds.

Mayor Goode opened the public hearing.

Randy Carmichael, Glenn's Tire and Service Company, 2726 South Harbor City Boulevard, stated that he supports the recommendation to deny this request. He said that rezoning to M-1 would downgrade the commercial property. And, he doesn't believe it will have a positive impact on the surrounding neighborhood, including his own business.

Donald Waltrip, 2814 South Harbor City Boulevard, applicant, informed Council that the first property located at the northwest corner of Harbor City Boulevard and University Boulevard is zoned M-1. There are three different zoning districts within a two-block area on the west side of U. S. 1, and it would be wise to have uniform zoning.

Continuing, Mr. Waltrip explained that the owners of the six properties that are part of this request have authorized him to be their representative. Although they all look forward to the properties being rezoned to C-3, it is their understanding that this won't happen for

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five-plus years. In the meantime, the requested M-1 zoning would cause less of a hardship on the property owners.

Mr. Waltrip discussed the surrounding uses. He reported that initially Ted's Sheds was placing sheds too close to the roadway. The sheds are now setback 20', and they are always locked so there is no access after hours. Additionally, he noted that the sheds are on the property waiting to be delivered to customers.

Mr. Waltrip concluded by saying the properties that are part of this application are all well maintained. He repeated that they know C-3 is planned and they want to be a part of that. His property is conducive to its current use and he has entered into a long-term lease with Ted's Sheds.

Responding to Mrs. Palmer, Mr. Waltrip said there are current uses that are non-conforming and the property owners would like to bring their properties into conformance.

Mrs. Dittmer confirmed that there are a number of non-conforming, grandfathered uses on the properties included in this rezoning application. She noted that Mr. Waltrip lost his grandfathering status when the property was vacated. There has been Code Enforcement action related to his property and his only option was to request rezoning.

Mrs. Palmer asked about code action on the other five properties. Mrs. Dittmer said that the uses on the other five properties have not changed or ceased; therefore, their grandfathering continues.

Mrs. Meehan said she was under the impression that C-3 zoning would occur in the next six months. Mrs. Dittmer stated that is correct.

Mr. LaRusso asked if Mr. Waltrip is accruing fines as the result of Code Enforcement action. Mrs. Dittmer replied no because Mr. Waltrip applied for rezoning. If the rezoning is denied, the current use needs to cease or the item will proceed to the Code Enforcement Board for action.

Mrs. Dittmer confirmed for Vice Mayor LaRusso that if this property is rezoned C-3, Ted's Sheds would not be an allowable use.

Based on that comment, Mr. Contreras asked Mr. Waltrip if he is prepared for the impact C-3 zoning will have on his property. Mr. Waltrip replied that he is prepared and added that he wants to be in compliance. He discussed the difference between display and storage and clarified that the sheds are being stored before being delivered while the buyers obtain permits and prepare their sites.

Mrs. Corby asked if it is necessary to take action on this item since the C-3 zoning is close to happening. Mrs. Dittmer replied that the outdoor storage/display of sheds is not permitted in the C-3 zoning district. Mr. Waltrip has requested M-1 zoning to allow continuation of this use.

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Mr. LaRusso said he is perplexed. Mr. Waltrip has indicated he is willing to accept C-3 zoning, yet Ted's Sheds won't be an allowed use in C-3 zoning. He asked Mr. Waltrip if this means that he will relinquish Ted's Sheds from the lease. Mr. Waltrip replied yes.

Discussion followed on what remedies might be available to Mr. Waltrip. Mrs. Dittmer explained that the current use – Ted's Sheds – has not received a Business Tax Receipt (formerly known as an occupational license) from the City. They are operating without the proper permit. Staff has gone through all the options. If the use was contained completely indoors and did not have outdoor storage, then it would meet the City Code.

Mrs. Corby stated that this is wrong and the City needs to find a solution for this businessman.

Mr. Contreras disagreed and said that the root cause is the business owner of Ted's Sheds occupying the property in an illegal fashion. And, they are continuing to operate without a Business Tax Receipt. Ted's Sheds is the root of this dilemma.

Mr. Waltrip replied that he allowed Ted's Sheds to sign a 10-year lease and he is stuck with that unless he removes them from the property.

Mayor Goode said that the business not operating in compliance with the City Code is grounds to terminate the lease.

Discussion continued on possible remedies. Council recommended Mr. Waltrip speak to the owner of Ted's Sheds. Mr. Contreras repeated that the issue is with the tenant, not with the City. Mr. LaRusso recommended that this issue be postponed to allow Mr. Waltrip time to speak to his tenant. Council confirmed that the Code Enforcement action should be stayed until that time.

Moved by LaRusso/Palmer to postpone this item until the March 27 meeting.

Mayor Goode allowed one more speaker from the audience.

Bill Davis, IM Solutions, 2801 South Harbor City Boulevard, stated that he is opposed to the request for M-1 zoning. He added that he is afraid M-1 zoning will set a precedent; the City needs to continue with the move towards C-3 zoning.

The Mayor closed the public hearing.

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

Recessed: 8:32 p.m.

Reconvened: 8:39 p.m.

21. ORDINANCE NO. 2007-10 (CU-2006-15/SP-2006-27) TBCOM PROPERTIES: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a 180-foot stealth communications facility and an associated equipment building

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on a 0.083±-acre portion of a 4.81±-acre parcel zoned I-1 (Institutional), located on the east side of Dairy Road, north of Florida Avenue, and south of Edgewood Drive. (Owner - VFW Post No. 4206; Raymond Pickard, Quartermaster of Melbourne VFW Post 4206) (Applicant/Representative - Sheryl L. Denan for TBCOM Properties, LLC) (P&Z Board - 2/01/07)

Attorney Gougelman read Ordinance No. 2007-10 by title.

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval subject to the findings and conditions contained in the Planning and Zoning Board memorandum. Mrs. Dittmer responded to general questions about the site and the zoning.

Mr. Contreras disclosed that he was on the property during baseball practice. Mayor Goode opened the public hearing.

Ray Pickard, VFW Post 4206 Commander, representing the property owner, confirmed that the tower will be constructed on the site of the current ballfield; the ballfield will be moved to the other side (northeast corner) of the property. He added that the members of the VFW post voted on this request and recommended approval.

Mary Solik, legal counsel representing the applicant, clarified one item in the staff report. The report indicates that the leased area will meet all City Code landscaping requirements; however, communication towers are exempt from this requirement.

(Note: One condition of the ordinance provides that the landscaping shall be substantially consistent with the landscape plan submitted by the applicant.)

In response to Mr. Contreras, Ms. Solik stated that the antennas will be concealed inside of the pole.

Mrs. Palmer asked if the 200' setback is required because of potential health problems and if the health problems are the same with stealth towers.

Ms. Solik replied that the Telecommunications Act preempts local governments from denying such a request based on frequency emissions. She added that the Code needs to address safety or aesthetics. Safety relates to the fall zone and in this case, the fall zone will be 47'.

Mrs. Palmer asked the purpose of the "stealth" tower. Ms. Solik replied that a stealth tower is more compatible with the neighborhood. In this case, the flagpole on the VFW Post property will be compatible with the neighborhood.

Mrs. Palmer asked about the health affect. Ms. Solik said there is no difference between the emissions of a stealth tower and a typical communications tower.

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Mr. Contreras asked about the electromagnetic energy and if it will place the little league players within that zone.

Dan Babilla, senior radio frequency engineer for T-Mobile, said that the electromagnetic emissions are non-ionizing radiation. And, they will conform to all FCC guidelines and regulations.

Discussion followed about the emissions and the effect. Mr. Babilla noted that the elements are imbedded in the pole near the top. He said there would be more of a health and safety issue for someone located on a rooftop in front of or near the top of the tower. Regarding the tower site, studies have shown that there is no conclusive evidence of any health problems.

Mr. Contreras asked the capacity of the tower. Mr. Babilla replied that it is designed to be a five-carrier pole.

Sheryl Denan, authorized agent for TBCOM Properties, was present and available for questions.

Mayor Goode closed the public hearing.

Moved by Meehan/LaRusso to approve Ordinance No. 2007-10 based upon the findings and conditions outlined in the agenda report. Motion carried. Mrs. Palmer voted nay.

22. ORDINANCE NO. 2007-11 (CU-2006-19/SP-2006-37) THE LOFTS AT WAVERLY PLACE: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow a building height of 120 feet for a mixed-use retail, condominium and public parking project on a 0.57±-acre parcel zoned C-3 (Central Business District), located on the southeast corner of Strawbridge Avenue and Waverly Place. (Owner/Developer - Legacy Southeast Investments) (Applicant - Peter Flotz) (Representative - Scott M. Glaubitz, P.E., PLS, BSE Consultants, Inc.) (P&Z Board - 2/16/07)

Attorney Gougelman read the ordinance by title and Mrs. Dittmer reviewed the agenda report. The applicant is requesting an additional 40 feet of building height to allow the construction of a 120-foot mixed-use building. The building will contain 20 public parking spaces (owned by the City) and a 2,800 square foot retail unit on the ground floor, as well as public access to the parking and access to the properties located on the south side of the project.

The City entered into a contract for the purchase of the public parking lot, in lieu of receiving 20 public parking spaces on the ground floor of the garage, a cash amount of \$1,597,968, and a dedicated easement to provide public access along the south property line. Additional public parking is currently being negotiated through a long-term lease on property located at the southwest corner of New Haven Avenue and Waverly Place to include a minimum of 35 additional public parking spaces. In addition, City staff has

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continued working on a long-term lease with Brevard County for the use of the former Senior Center parking lot located behind the Henegar Center.

There were a number of conditions contained within the contract that are also included as conditions of approval of the conditional use and are further explained within the staff memorandum. Other requirements of the applicant have also been added to assist in addressing the public benefits that will be received with the construction of this project. Several of those conditions required of the applicant are as follows: the requirement to pay a public parking surcharge fee in the amount of \$122,724 for the additional building height; the requirement to install paved sidewalks, lighting and street furniture along both rights-of-way; the requirement to pay for the replacement value of the existing trees located on the public lot to be utilized for future tree installation within the Downtown area; and the requirement to provide public access and easements to access the ground level, and to provide access to the buildings located to the south of the project.

The applicant will be required to obtain FDOT and City of Melbourne right-of-way use agreements/permits to allow any building appurtenances within the rights-of-way or any modifications or temporary closures of the rights-of-way.

The current future land use designation on the property was intended for high-density mixed-use projects within a downtown, urban area. Other buildings within the adjacent areas are over 80 feet in height. The construction of mixed-use projects within the downtown urban areas assists in providing a 24-hour life to the downtown.

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

Council made the following disclosures: Mr. Contreras received a telephone call with an offer to meet with the owner/developer; he did not meet. Mr. LaRusso said he met with Fred Malik who wanted to discuss parking and the alleyway configuration. That conversation led him to no conclusions. Mr. Thomas said he received a call from a representative of the owner/developer offering to assist if he had questions. He did not have any questions. Mrs. Poole contacted him about the project; however, he offered no opinion.

Mrs. Palmer said she also declined a meeting with the developer. Mrs. Corby said she was contacted with an offer to meet with the owner/developer; however, they did not meet. Mrs. Poole contacted her to express opposition to the project. Mrs. Meehan said she met with Jack Ryals who indicated he is in support of the project. She met with Peter Flotz to discuss the project, variances and alleyway easements. And, she met with Laird Gann at his office, who is in support of the project.

Mayor Goode opened the public hearing.

Peter Flotz, applicant, discussed his background and the history of this project. He noted that the initial plan called for 34 parking spaces that would be owned by the City for public parking. Through the process, they found that there is an issue with accessing the rear

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of properties that are located on New Haven Avenue for service and trash. They (applicant/developer) were charged with the mission to create an alleyway. They are dedicating land on their side and they have obtained easements for an alleyway that will run from Strawbridge Avenue to New Haven Avenue. The need for the alleyway has resulted in a reduction of the number of public parking spaces from 34 to 20. In the contract for sale, staff included a price on the 14 spaces in the total contract cost.

Mr. Flotz concluded by saying they are almost done with the design and they are prepared to move forward.

In response to Attorney Gougelman, Mr. Flotz confirmed that he is familiar with and is in agreement with the conditions outlined in the ordinance.

Fred Malik, representing The Lofts, was present and available to answer questions. He noted that his specialty is construction.

Scott Glaubitz, civil engineer for The Lofts, was present and available for questions.

Pat Poole, 805 East Palmetto Avenue, presented a petition signed by 86 people who are opposed to the conditional use and site plan for The Lofts. Mrs. Poole stated that there is not enough parking in the Downtown area. When this issue first surfaced, all the parking was to be deeded back to the City. Now that number has been reduced to 20 spaces. Mrs. Poole added that an alley was proposed to extend to Municipal Lane; however, the adjacent property owners are not aware of this. Mrs. Poole concluded by saying that this project does not belong in the area, and the notices that were sent out by the City are wrong.

Mayor Goode said he was clear from the beginning that he wanted an alley wide enough to accommodate the rear of businesses located on New Haven Avenue. He added that there was no talk about an alley extending to Municipal Lane; that would be something to consider in the future. The creation of the service alley has resulted in a reduction in the number of public parking spaces.

Mrs. Poole reported that at the Planning and Zoning Board meeting, Mr. Flotz said that there would only be one entrance/exit on Strawbridge Avenue for 20 spaces. She noted that access was initially proposed from Strawbridge Avenue and Waverly Place.

Eva Nagymihaly, 3413 Willowwood Drive, Brevard County, explained that when a person buys property, he/she knows the height limitations, setback requirements, etc. She said that the requirement to include an alley to provide access is not a hardship. The applicant for this property knew the site limitations when he began the project. She questioned why additional height was being granted and said that Council will be setting a precedent.

With regard to parking, the public spaces will be small and designed for straight in parking. They will not accommodate a sports utility vehicle. The parking spaces will be taken by the retail space and the tenants, visitors and service people will not have

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adequate parking. She stressed that this project can't be built on this small piece of property.

Ms. Nagymihaly asked why we are selling a parking lot when there is not enough parking in Downtown Melbourne. City staff is discussing the possibility of leasing parking spaces elsewhere without knowing the cost. She asked Council to consider its decision.

Mr. Flotz informed Council that all 20 ground level parking spaces will be deeded to the City. The alley for The Lofts will straddle the property line so it can accommodate a future extension to Municipal Lane. The public parking will have access from Strawbridge Avenue and Waverly Place. Additionally, there will be a separate private ramp on Waverly Place.

Continuing, Mr. Flotz addressed the public parking surcharge fee that will be paid if this project is approved. He commented that Melbourne is the only community that requires 11' wide parking spaces.

Mr. Thomas asked about guest parking. Mr. Flotz said there are a number of extra spaces included in the development. The City Code requires 126 spaces on the upper levels and they are proposing 131.

Mrs. Palmer asked the width of the 20 public parking spaces. Mr. Flotz replied that they are larger than the spaces in the current parking lot.

Mrs. Palmer asked about payment for the 14 spaces that have been lost. Mr. Flotz replied that payment will be made during closing on the property. Mr. Ralls added that payment was calculated using the \$12,168 charge that developers have to pay now into a trust fund for parking Downtown.

Mrs. Palmer asked about the on-street parking spaces that will be removed. Mr. Flotz explained that they are proposing to remove spaces on 192 at the request of FDOT. The spaces are six feet wide and the area can legally accommodate three parking spaces.

Mrs. Palmer referenced the agenda report, which notes two parking leases are being pursued for the Downtown area. She asked for an update. Mrs. Dittmer replied that there are 100 spaces in the lot behind the Henegar Center; there would be no cost to lease those spaces. The lease agreement has not been finalized yet because it is hung up in the legal review process. The other parking lot lease is currently being negotiated. It would provide for approximately 35 spaces.

Mr. LaRusso asked if the 14 spaces would remain intact if the businesses on New Haven Avenue were serviced off of New Haven Avenue. Mr. Flotz responded from the perspective of being a business owner and chairman of the Historic Preservation Board. He said that for historic, aesthetics and other reasons it is extremely critical that the businesses have service available in the rear.

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Mr. Contreras asked if the project has received support from adjacent business owners. Mr. Flotz replied that Meg O'Malley's is in favor. And, so far three out of four businesses have voluntarily signed easements.

Mrs. Palmer asked how many parking spaces will be needed for the retail space. Mr. Flotz replied eight to nine spaces will be required. With regard to the current parking lot, he said that many people believe it is used exclusively by Meg's. However, that lot is full at 9:00 a.m., which means that Downtown Melbourne employees are utilizing the space.

Mrs. Corby asked about the removal of the sidewalk on Strawbridge Avenue. Mr. Flotz said that the current sidewalk and the three on-street parking spaces will be removed. A new sidewalk will be constructed that is two and one-half times as wide as the current sidewalk. He confirmed that lane space will not be lost on 192.

Moved by Meehan/Goode for approval of Ordinance No. 2007-11 based upon the findings and conditions outlined in the agenda package.

Mrs. Meehan said that the Downtown Melbourne Redevelopment Plan states that the Downtown area needs a strong residential mixed-use component. She added that revitalizing Downtown Melbourne and creating walkable neighborhoods are her passion. Walkable communities make pedestrian activity possible. She concluded by stating that this quality, mixed-use project will be an asset to Downtown Melbourne.

Mr. LaRusso explained that he previously voted against this item based on the financing arrangement and terms. With regard to the project, he said he will support a height that is no higher than 50% of the allowed height. The plan has merit. People are coming to the Downtown area, buildings are not dilapidated and the Downtown environment is thriving.

Mr. Contreras said he has been in a similar development in Charleston, South Carolina. It is located in an extremely historic area and the development has not been detrimental. It has brought tourists, infill, etc. He added that he supports this request.

Mrs. Palmer pointed out that the plans for the redevelopment of Downtown Melbourne did not include 120' tall buildings. The 80' height limitation in the C-3 district provides for a beautiful, historic look. She noted that she has visited other downtown areas in Florida that do not have height. She stressed that her problem is with the height. Many people in the City – mainland and beachside – are opposed to height. The property is in the very center of the Downtown area across from City Hall. It is out of perspective for the area.

Mrs. Corby stated that residential property is not selling. She is concerned about the number of vacancies in Melbourne and she does not want to see a high-rise building in Downtown Melbourne sit vacant because property is not selling.

The question was called. The roll call vote was:

Aye: Contreras, Meehan, Thomas, LaRusso and Goode

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Nay: Palmer and Corby

Motion carried.

23. ORDINANCE NO. 2007-12 WATER & SEWER BONDS: (First Reading) An ordinance restating the existing water and sewer bond Ordinance No. 2002-45 to eliminate deletion and addition references that are now effective in order to provide a consolidated document.

Attorney Gougelman read Ordinance No. 2007-12 by title. Director of Finance Michele Ennis reviewed the agenda report.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-12. Motion carried unanimously.

24. COUNCIL ACTION RE: Approval of an amendment to the contract for sale and purchase of City-owned Lots 12 and 13 in Block 32 of Camps Plat of Melbourne to Lofts of Melbourne, LLC.

The developer of The Lofts of Melbourne has proposed four amendments to the Contract for Sale and Purchase, including:

1. Slightly shortening the south side of the alleyway easement behind The Lofts of Melbourne so that it will run from the east side of Meg O'Malley's Restaurant to Waverly Place.
2. Increasing the width of the alleyway easement on the south side by one inch.
3. Changing the date when the alleyway easements for the south side of the alleyway must be furnished to the City from June 30, 2007, or the date of closing, whichever event occurs first in time, to June 30, 2007, or the date of closing, whichever date occurs second in time. The effect of this amendment is to require that the alleyway easements must be turned over and conveyed to the City simultaneous with the planned date of closing, which should occur in September, 2007 (although the developer has a right to pay additional money and extend the date of closing).
4. Requiring an agreement to provide \$500,000 of property damage and liability insurance to the City and various property owners along the south side of the alleyway easement to provide coverage for accidents occurring on the alleyway. The buyer is being compelled to do this by various property owners along the south side of the alleyway in order to obtain easements for the alleyway, which will be turned over to the City.

Attorney Gougelman summarized the changes and stated that they are minor.

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Mrs. Palmer asked if the \$500,000 liability insurance is a good amount. Attorney Gougelman said this is coverage that would otherwise not be in place. It should be considered icing on top of the cake.

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

25. COUNCIL DISCUSSION RE: Proposal for sidewalk installation on Country Club Road.

From the agenda report: Petitions both in support and opposition of a sidewalk on Country Club Road have been submitted to the City. A neighborhood meeting was held to discuss the issue. The general public opinion supports construction of a sidewalk; however, the owners of property along Country Club Road are opposed to the sidewalk.

No determination has been made as to which side of the road a sidewalk would be constructed on if the project proceeds. A survey and preliminary engineering could define which side is better suited for sidewalk, and would also provide a more accurate cost estimate.

There are currently no available funds that are defined specifically for sidewalk projects. If funds are identified for a sidewalk project, the sidewalks on Country Club Road would logically have some priority because the road is classified as a collector yet has no sidewalks. The total project cost to install a sidewalk along Country Club Road between U.S. Highway 192 and Edgewood Drive is estimated to be \$550,000 with \$50,000 allocated for surveying, design, and permitting. A project and budget will need to be established.

Mr. Thomas referenced the public meeting that was held with residents of the area. He stated that he wanted to bring this item before Council to gain insight and determine what action the City should take.

Moved by Thomas/Palmer to conduct a public hearing.

A brief discussion followed regarding the date of the public hearing. By consensus, Council agreed to conduct a public hearing on May 8.

The question was called. Motion carried unanimously.

26. COUNCIL DISCUSSION RE: Proposal for a Climate Protection Campaign and agreement. (Requested by Council Member Thomas)

Excerpt from the agenda report: Action by Council is requested in four areas:

1. Consideration of a resolution affirming the City of Melbourne's long-term commitment to learning about and engaging in climate protection actions.
2. Mayor Goode consider signing the U.S. Mayors' Climate Protection Agreement

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3. Council direction to the City Manager to evaluate joining the ICLEI Local Governments for Sustainability and/or participation in the Sierra Club's Cool Cities Program, determining which available resources will best assist the City in developing future policies and programs to reduce the greenhouse gas emissions that contribute to global warming.
4. Creation of a volunteer citizens' committee to research and make recommendations on what other actions the City can initiate to move forward on this issue.

On a related matter, one of the most significant expense issues to the City is the operation of the City's fleet of cars, trucks, and heavy equipment, particularly more so with the upcoming expansion of the Police fleet through the Assigned Vehicle Program. The order for nearly 50 vehicles (Crown Victorias) through the four-year lease program has not yet been finalized. If Council wants to give direction regarding downsizing one size on Police vehicles (Chevrolet Impala or equivalent), this can still be accomplished. This decision would save substantially (25% - 30%) on this program with respect to fuel and operation/maintenance.

Alternatively, Council may wish to defer any action on current year items (vehicle program) and ask the citizen committee to work with staff to focus on such improvements.

Mr. Thomas stated that it is important for the City to make energy efficiency a priority. In 2005, 160 local governments in the United States participating in the Climate Protection Campaign reported an annual savings for taxpayers of \$600 million in energy and fuel costs while reducing global warming pollution. He noted that the City should lead by example. Global warming used to be about politics; however, it is now about our future.

Mr. Thomas concluded by saying that more than 400 mayors across the United States have signed the U. S. Climate Protection Agreement. He asked Council for support of the four areas outlined in the package.

Mayor Goode asked Mr. Thomas to consider leaving the creation of a committee out of his motion. If the first three items come to fruition, then Council could address a volunteer committee in the future.

Moved by Thomas/Contreras for approval of areas one, two and three (outlined above).

Mrs. Palmer referenced the backup material, which indicates that by signing on to this agreement, "...we will strive to meet or exceed Kyoto Protocol targets for reducing global warming pollution..." She stated that the United States did not sign the Kyoto Protocol; therefore, she does not see why the City should give way to a document that would result in a huge expense for the people of this City. She referenced the long list of actions outlined, which include adoption of land use policies, transportation options, building code

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changes, etc. She pointed out that by signing on to these outside agreements, we are handing over control.

Continuing, Mrs. Palmer stated that the City should consider having green buildings or buying fuel-efficient cars; those are practical solutions. She questioned whether everyone has thoroughly studied the ramifications of this item.

Mr. Thomas said that the key to this issue is "...we will strive to meet or exceed Kyoto Protocol targets..." He stated that this will be non-binding on the City.

Mrs. Corby informed Council that glaciers are melting and glaciers are forming; this is called evolution. It has been going on for millions of years. She said that a client of hers made the comment that choosing to be green is a lifestyle choice. It does more for a person's inner being than it does to change nature's natural process.

Mrs. Corby said that she applauds anyone who chooses to live green; however, she does not want to bind anyone who chooses not to. The City of Melbourne can take inexpensive steps to contribute towards conservation.

Mr. LaRusso agreed that this is a lifestyle choice. The United States did not ratify the Kyoto Protocol. He doesn't agree with that choice, but it was a choice of the administration. If the City approves this, it is nothing more than a mindset and puts us on the path of conservation. There is no commitment. He stressed that we have to investigate to see if there are more efficient ways. The City previously considered hybrid cars; however, found that they would not be beneficial. There are arguments on both sides.

Mr. Thomas said it was not his intent for this item to cost the City money. He was looking for ways to save the City money by being fuel-efficient. It makes good sense to be fuel-efficient.

Mrs. Palmer said she is not going to argue global warming, and she is not going to say it's wrong to stop emissions, clean up water or remove toxins from our children. She referenced the backup material and said that it touches on land use, zoning, building codes, etc. These items will cost the City money based on someone else's criteria.

Continuing, Mrs. Palmer asked if the City is willing to trade in its huge Crown Victoria police cars that sit idling for more efficient police cars. These are decisions that can be made in house. Once we bring in outside agencies, we will be handing over home rule. She again asked if everyone read the entire document.

Mr. Contreras asked if approval of this item results in the City handing over its home rule powers, or if the language is flexible.

Attorney Gougelman said that admittedly he is not familiar with the intricacies of the Kyoto Protocol. He said that the language "we will strive" doesn't mean that the City will be taking a blood oath. The argument that we would be giving up home rule is

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essentially the argument that the President made in not moving forward with the Kyoto Protocol.

Mrs. Corby agreed that everyone is conscientious enough to want to “strive.” She added that perhaps an ad hoc committee would be a way to take strides. A volunteer group could provide feedback and make recommendations when the City is in the process of purchasing new equipment.

Mr. Thomas said he is not suggesting that the City sign the Kyoto Protocol – rather he is suggesting that the City sign the U. S. Mayors Climate Protection Agreement. There is nothing binding in this document and it is a good goal to work towards.

With regard to police cars, Mr. Thomas said it is an excellent idea to become more fuel-efficient.

The question was called. The roll call vote was:

Aye: Contreras, Meehan, Thomas, LaRusso and Goode

Nay: Palmer and Corby

Motion carried.

Mr. Contreras asked Council to address the fourth item, creation of a committee.

Moved by Thomas/Contreras to form a volunteer citizens committee made up of seven members who would research and make recommendations on actions the City can initiate to move forward with this issue.

Mrs. Palmer cautioned against charging the committee with the task of researching and making recommendations. She said if Council does not accept the ideas, the members would be offended. She recommended instead that we use the committee to gather information when there are issues to consider.

Mrs. Corby pointed out that the issue of global warming and climate protection were not listed as priorities during the Strategic Planning meeting. Mr. LaRusso replied that it is every Council Member’s right to bring any item to the table, whether it is a priority or not.

Mr. Contreras recommended that during the budget cycle, Council ask the City Manager and staff, from an internal perspective, to make recommendations on becoming more frugal and efficient.

The question was called. The roll call vote was:

Aye: Meehan and Thomas

Nay: Contreras, Palmer, Corby, LaRusso and Goode

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Motion failed.

27. COUNCIL ACTION RE: Appointment of a fifth member to the General Employees' Pension Plan Board of Trustees.

Moved by Goode/Meehan to confirm the appointment of Tina Casey as the fifth member to the board. Motion carried unanimously.

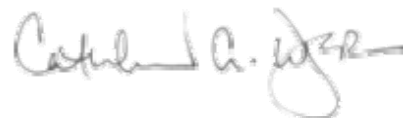
28. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 East Palmetto Avenue, referenced the action taken on The Lofts development. She stated that five minutes is not enough time for a speaker to make his/her presentation. She added that she will distribute her written information on this project to Council.

29. ADJOURNMENT

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

The meeting adjourned at 10:52 p.m.



City Clerk – 3/7/2007

Approved by Council: _____