

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 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. Council Member Cheryl Palmer gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

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

4. Proclamations and Presentations

Mayor Goode made the following presentations:

“We Noticed Award,” to Main Street Pub for outstanding containerized landscaping; accepted by Scott Konrady, co-owner.

“National Telecommunicators Week” proclamation, April 8-14, 2007; accepted by Ray DesMarais, Communications Supervisor; Jennifer Hayduk, Communications Officer III; and Annette Otero, Communications Officer I, Melbourne Police Department.

5. Approval of Minutes – March 27, 2007 Regular Meeting

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

6. City Manager’s Report

Council Member Joanne Corby referenced the Laurie Street/U. S. 1 traffic report and asked where staff obtained the data. City Manager Jack Schluckebier replied that the accident report information was provided by the Melbourne Police Department.

Mrs. Corby said that she is confused by the information because it differs from an e-mail she received on March 15 (from the City Manager transmitting Police Department data). The March 15 information indicates three deaths at Laurie Street and U. S. 1 and nine

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

accidents; however, the information in the City Manager's report indicates two deaths and eight accidents. Mrs. Corby said she needs to know which report to review when considering whether Laurie Street should be designated as one-way or limited to a right turn only onto U. S. 1 heading south. She stressed that one death is important enough for Council to provide direction to move this item forward.

In response to the City Manager, Mrs. Corby listed the date of each fatality. Continuing, Mrs. Corby said that this area is within the Babcock Street Community Redevelopment Area; therefore, funding is available. She acknowledged that Council Member Meehan also requested that the Babcock CRA Advisory Committee consider making the road one-way or limiting it to right turn only.

Mrs. Meehan clarified that she does not want Laurie Street to be one-way.

Mrs. Corby said she would like direction from Council to staff to ensure that the Florida Department of Transportation performs a traffic study at this intersection.

City Manager Jack Schluckebier said he would like to discuss the conflicting data with the City's Traffic Engineer. He confirmed that staff will return with an amended report.

Council Member Cheryl Palmer asked that the information Mrs. Corby received, including any additional information, be provided to City Council.

Fire Chief Paul Forsberg and Fire Department Training Coordinator Jim Wilson were available to answer Mrs. Corby's questions about fire training. Chief Forsberg confirmed that the City has authority over the City's training facility. Although there is a contract with FMTI (Florida Medical Training Institute) for use of the facility, the City enjoys a good working relationship with that organization. He added that he is not aware of the City not being able to use the building for training.

Council Member John Thomas referenced the e-mail he wrote to the City Manager as a follow-up to the security incident at the Police Department involving a former Police Explorer. He said that the City Manager's follow-up memo indicates that Council should refrain from further release of information. Mr. Thomas asked if his (Mr. Thomas's) e-mail was inappropriate. Mr. Schluckebier replied no and explained that his use of the word "further" was not intended to mean that the communication was inappropriate; "further" had to do with future release of information.

Mr. Thomas asked the status of the employee satisfaction survey. The City Manager replied that the initial (strategic planning session follow-up) report indicated that analysis of the employee evaluation system would be completed in six to eight months. At the last meeting, Council asked that the satisfaction survey be tacked on to that item.

Mrs. Corby asked if we have already selected a firm and the City Manager replied no. Mrs. Corby noted that adding an employee survey should not lengthen the time of completion. Mr. Schluckebier replied that the initial report indicated that this would be accomplished in the next six to eight months.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Council Member Kathy Meehan commended staff for the City's redevelopment efforts being listed as #18 on the list of "50 Most Influential Businesses in Brevard" in the April 2007 edition of the Space Coast Business publication.

7. Public Comments

Pat Poole, 805 East Palmetto Avenue, reported that she attended the funeral of one of Melbourne's most important citizens, Walter Edge. She noted that Mr. Edge was instrumental in developing many of the City's parks.

Continuing, Mrs. Poole said she is delivering a message from lifelong residents of Melbourne who want Council to know that when there are controversial issues, there should always be a full Council present. Additionally, she asked that discussions on controversial items not be placed near the end of the agenda.

7.1 Presentation To Council: Annual report to City Council from City Boards.

a. Melbourne Downtown Community Redevelopment Agency Advisory Committee

Chairman Jack Ryals and Vice-Chairman Hazel Buggs recognized the committee members in the audience. Mr. Ryals reported on the committee's meeting schedule and listed the following redevelopment highlights: 1) The Phase III Streetscape Project with bump-outs, landscaping, brick pavers, light posts and updated signage. 2) CRA expansion to South U. S. 1 and recommendation for C-3 zoning. 3) Parking Advisory Committee objectives to enforce on street parking and short term/long term management of outlying parking lots. 4) Gateway feature. 5) Front Street Park improvements including new gazebo, sidewalks, picnic pavilions, benches, lighting, parking, entrance sign and bike racks. 6) Melbourne Main Street activities including farmers' market, Friday Fest event, Fall Art Festival and facade program. 7) Public parking garage, which is part of new City Hall building and includes CRA funding. 8) Phase IV Streetscape Project east of Livingston Street.

Mr. Ryals concluded by reporting on the current issues and projects that need Council support: Code Enforcement should be proactive and buildings in need of repair should be identified; Strawbridge median project; and Henegar Center and Strawbridge building.

b. Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee

Chairman George Alexander introduced the committee members in the audience and elaborated on their meeting schedule. He provided the following report: There is strong merchant association and crime watch support. Progress has been made on the Eau Gallie Square, Eau Gallie Pier and the height overlay. Their challenges include parking, public restrooms, development of an art district, the School Board building and business infill.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mr. Alexander reviewed a plan the committee has been working on called “Push Carts of Eau Gallie.” The Eau Gallie Merchants’ Association would run the program; it would spur economic development; create retail attraction; and add shopping alternatives.

He concluded by saying that the advisory committee would like for Council to allow the push cart concept for the Eau Gallie area and expedite parking on Bud Yeager Drive. He thanked Council for its support and encouraged members to attend committee meetings.

Mayor Goode asked Mr. Alexander if there has been any dialogue with the School Board about donating the School Board property on Pineapple Avenue. Mr. Alexander replied that has not been discussed.

The City Manager confirmed for Vice Mayor LaRusso that the City has communicated with the School Board about repair of the building; however, we have not discussed gifting or donation of the property.

Mr. LaRusso recommended that City staff, CRA Advisory Committee members and citizens in the audience send Dr. DiPatri a letter specifically asking what the School Board plans to do about the Creel (School Board) building.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2007-13 (Z-2006-1097) AND ORDINANCE NO. 2007-14 (CU-2006-20/SP-2006-38) HARBOR GARDENS CONDOMINIUMS: Ordinances providing for a zoning change from C-2 (General Commercial) to C-1 (Neighborhood Commercial) on 0.33± acres, repealing Ordinance No. 2004-65, and granting a conditional use with site plan approval to allow development of a multiple-family 60-unit residential condominium project with five floors and one level of parking at a density of 20.25 units per acre and a building height of 50 feet on a 2.963±-acre parcel, located on the east side of U.S. Highway 1, across from Sarno Road. (Owner - Harbor Gardens, LLC) (Applicant/ Representative - Vaheed B. Teimouri, P.E.)
- a. Ordinance No. 2007-13/Z-2006-1097: (Second Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to C-1 (Neighborhood Commercial) on 0.33± acres. (First Reading - 3/13/07)
 - b. Ordinance No. 2007-14/CU-2006-20/SP-2006-38: (First Reading/Public Hearing) An ordinance repealing Ordinance No. 2004-65, and granting a conditional use with site plan approval to allow development of a multiple-family 60-unit residential condominium project with five floors and one level of parking at a density of 20.25 units per acre and a building height of 50 feet on a 2.963±-acre parcel. (Denied - 3/13/07; Item reconsidered)

City Attorney Paul Gougelman read Ordinance No. 2007-13 by title. Mayor Goode opened the public hearing and asked if there was anyone in the audience who wished to speak on the rezoning ordinance. There was no response. Attorney Spira indicated that

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

he had nothing to add on the rezoning ordinance. Mayor Goode closed the public hearing.

Note: In addition to the correspondence contained in the agenda package, Council received the following: Letter dated April 5 from Ralph and Dorothy Johnson, 980 Whitmire Drive, asking that the development remain at 40 feet. E-mail dated April 9 from Linda Janse, 749 Everglade Drive, forwarding a March 13 e-mail, which expresses her thoughts on the March 13 Council meeting. Un-signed letter from “resident of Loveridge Heights” dated April 10 expressing opposition to allowing the development to exceed 40 feet. Letter dated April 10 from Bobbie Cantrell, 539 Harbor View Drive, opposed to the Harbor Gardens Condominium project. E-mail from Linda Janse dated April 10 expressing opposition to the height request. E-mail dated April 10 from Bill and Marlene Walker, 725 Coral Drive, requesting Council deny the additional height request. Letter forwarded via e-mail dated April 10 from Mora McLaughlin McGill expressing opposition to a height greater than 40 feet.

During the course of disclosures, Attorney Gougelman provided a status report in response to Vice Mayor LaRusso. He noted that Ordinance No. 2007-13, the rezoning ordinance, is on the agenda for second reading. Ordinance No. 2007-14 was denied at the last meeting with a motion by Palmer/Corby; however the item was reconsidered. Therefore, the motion for denial is on the floor without a vote. He recommended that Council Members make disclosures and then allow the applicant to confirm whether he is amenable to the 50’ height. The applicant and citizens should be provided the opportunity to comment on the ex parte communications.

Mayor Goode called for disclosures.

Council Member Richard Contreras reported that on April 6, 2007 he received a message from Gary Karschnick, President of Eau Gallie Harbor Club (EGHC) Condominium Association. He represents 25 residential units and one business that support the Harbor Gardens project and height; they believe it will be a high quality neighbor. On April 9 he spoke with John Weaver, EGHC, who supports the request for a six-story condominium. On April 9 he spoke with Margaret Fonda, EGHC, who said she does not support a 40-foot box condominium – she supports a nice, high-end 50- to 60-foot condominium. On April 9 he spoke with Bob Reinecker, Board of Directors, EGHC, who supports the request and prefers the 50-foot height.

At this point, Attorney Gougelman provided a status report on the item for the Vice-Mayor (see above).

Vice Mayor LaRusso disclosed that he received a letter dated March 29, 2007 from Brian LaLonde expressing concerns about building height over 40 feet and requesting a telephone call. Mr. LaRusso said he phoned Mr. LaLonde and told him that he would not meet. He received a letter from John Saunders who circulated a memo asking for volunteers to attend the meeting and oppose the 40-foot height. On April 6 he received a message from someone who is opposed to the height; caller ID identified the caller as Frank Craig. He received a call from the President of the EGHC Condominium

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Association in support. On April 6 George Mitchell, EGHC, indicated that he supports the project. He received an e-mail from Mr. Spira and Mr. Teimouri asking for a meeting. The City Clerk responded for him with message that he would not meet.

On April 9 Margaret Fonda, EGHC, left message that she is in support. On April 9, William Walker on Coral Drive left a message that he is opposed. On April 9 Marlene Walker left message that she is opposed. On April 9 Diane Karschnick left message that she is in support. On April 9, Carol Lichwala, EGHC, left message that she is in support. And, on April 9 Lisa Kaleel left a message that she is in support.

Mr. LaRusso concluded by saying that he did not check any voice mails after noon today.

Mrs. Meehan informed the audience that on April 6, 2007 she received an anonymous voice mail in opposition; however, based on caller ID it was Frank Craig. On April 6 Caroline Humphreys left a message to vote no. On April 7 Janice Hilmer left a message to vote no because of the increase in traffic.

Council Member John Thomas said on March 14, 2007 he received a call from Jerome Barry asking to meet. On March 21 he met with Mr. Barry, Brian LaLonde and Chuck Hofmann on Whitmire Drive. They expressed their opposition to exceeding 40 feet and showed him the site from the backyards of Mr. LaLonde and Mr. Hoffmann. On April 6 Gary Karschnick, President of EGHC, left a voice mail that he represents 25 residents who are in support of the project. On April 6 George Mitchell of EGHC left a voice mail that he is in support. On April 6 Caroline Humphreys of 720 Thomas Barbour Drive called in opposition to the project. On April 6 Marlene Walker left a voice mail in opposition to the project. On April 9 Margaret Fonda who resides at the EGHC called in favor of the project. On April 9 Marlene Walker left a voice mail in opposition to exceeding 40 feet.

On April 9 Diane Karschnick of EGHC left a voice mail in favor of the project. On April 9 Carol Lichwala left a voice mail saying she was in favor and that the project would enhance the area. On April 10 he returned a call from Bob Reinecker, Vice President, EGHC Condominium Association, who has concerns regarding traffic but is in favor of the project. On April 10 Cecelia Johnson on Terry Drive said she was very much against the project. On April 10 George Allerton, EGHC, left a voice mail that he is in favor. On April 10 Mil Marney, EGHC, left a voice mail in favor. And, on April 10 Lillian Merrill, EGHC, stated that she and her husband are in favor.

Mrs. Palmer stated that on April 6, 2007 she received an anonymous message from someone who is opposed to the additional height because of the density and the dangerous traffic conditions; the caller was probably Frank Craig. On April 6 Gary Karschnick, EGHC President, called to say he supports the height extension; it will raise their property values. On April 6 Marlene Walker called and said she is against height over 40 feet. On April 6 George Mitchell of the EGHC said he and his wife support the project with the additional height. On April 6 Caroline Humphreys called to say she opposes the conditional use for height. On April 9, Diane Karschnick of EGHC called to say she supports the additional height. On April 9 Margaret Fonda, resident of EGHC

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

called to say she is in support. On April 9 John Weaver of EGHC called to say he supports approval with additional height. On April 9 Bob Reinecker of EGHC called and asked her to call him; she did not call him back; he supports. On April 9, Carol Lichwala of EGHC called to say she supports the project with the additional height. On April 10 Lisa Kaleel of EGHC called in support of additional height.

Mrs. Palmer added that all of the people who called from the EGHC said that the residents on Whitmire Drive and people visiting Ballard Park would not be able to view this building.

Mrs. Corby reported that on March 14, 2007 she conducted a site visit. She met with Finnbar Murphy and walked out on his dock to view the rear of the subject property. On April 6 she received a call from someone who indicated he is opposed to the project and concerned about traffic. She added that she assumes based on the other disclosures that the caller was Frank Craig. On April 6 she received a call from George Mitchell indicating he and his wife support the project. On April 6 she received a call from Carolyn Alvarez who is opposed. On April 7 she received a call from Marlene Walker who is totally against the project and the 40-foot height. On April 9 she received a call from John Weaver at EGHC who supports the project; he would rather see something on the property other than the current eyesore. On April 9 she received a call from Bill Walker who is opposed.

On April 9 Margaret Fonda called to say she is opposed to the eyesore on the property and she supports the project; would rather see higher style appearance in that area. Mrs. Corby said she asked Ms. Fonda about the traffic. Ms. Fonda said the traffic is dangerous and noted that drivers have to wait until the light turns red or risk getting killed trying to drive north on U. S. 1. On April 9 she received a call from Diane Karschnick who supports the project; she indicated that news crews broadcasted from their underground garage during the hurricane. In response to Mrs. Corby's question, Mrs. Karschnick confirmed there is a traffic problem exiting the facility; drivers heading north on U. S. 1 will shortcut through their property to travel the other direction. On April 9 she received a call from Robert Reinecker who supports the project. On April 9 she received a call from Carol Lichwala who is in favor of the project; however, she would like to see a right turn lane only because of traffic concerns.

Mayor Goode stated that at the March 13 meeting he commented that he didn't have any disclosures; however, later that evening he said he had received correspondence from former City Council Member Bobby Bechtel and Mr. Ralph Johnson. Additionally, Mayor Goode stated that at the March 13 meeting he acknowledged to Mr. Johnson that he had received his correspondence. Therefore, he was in error when he said that he had not talked to anyone.

Continuing, the Mayor said he made another statement during that meeting that he would go back and talk to some of these people before the next meeting. Mayor Goode clarified that, in the interim, he elected not to do that because he received written correspondence from people that clarified their position. (That correspondence has been included in the agenda package.)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

The Mayor concluded by saying that he received a personal note dated March 29, 2007 from Brian and Tricia LaLonde thanking him for his support at the last meeting.

Mr. Thomas and Mrs. Palmer said they also received correspondence from Mr. LaLonde.

Mr. LaRusso advised Council that the City Attorney has completely briefed him on this item (because he was absent from the March 13 meeting). He reviewed the conditional use process in the Code, read the transcript and listened to the recording of the Council meeting.

Attorney Gougelman asked Mayor Goode if he has committed on how he intends to vote on this item. Mayor Goode replied no and referenced the transcript from the March 13 meeting, which indicates, "I don't know how I'm going to vote."

Attorney Gougelman recommended that the public and the applicant be provided an opportunity to comment on the disclosures.

Mayor Goode asked if there were any comments regarding disclosures.

Charles Hofmann, 876 Whitmire Drive, said that he had submitted correspondence that was not disclosed.

Mayor Goode confirmed that Council received that correspondence, which has been made a part of the agenda package.

Moved by Palmer/Meehan for approval of Ordinance No. 2007-13. The roll call vote was:

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

Motion carried unanimously.

Attorney Gougelman recommended that Council allow the applicant to confirm that the 50-foot height is what is being considered.

Jack Spira, attorney representing Harbor Gardens, LLC, reported that they have looked at the 50-foot height from an engineering standpoint and have determined that it won't work. However, they will be able to construct the building at a 55-foot height.

Vaheed Teimouri, engineer representing the project, distributed a handout to Council entitled "fact sheet."

Mrs. Palmer expressed concern that the applicant was going to return with a plan for a 50-foot building. Now she is hearing 55 feet. Following a brief discussion, the Mayor said that we are providing the applicant an opportunity for an alternative plan. Attorney Gougelman said correct.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Continuing, Mr. Spira noted the following from the “fact sheet:”

40 FOOT HEIGHT – overall height of 47 feet; building length of 432 feet; allows left turn signal; approximately 450 feet to nearest structure across Crane Creek; no trees as vegetative screening on back of building; residents across Crane Creek see block building; would have to sink garage; sunken garage would result in steep incline to garage; steep incline may result in FDOT refusing to allow south entrance to project; may have water intrusion in garage; no architectural appeal; lower ceilings; no sales appeal; difficult to market; may not be built; allows eyesore to continue; possible commercial site with increased traffic; and negative impact on value of adjacent condominium units.

50 FOOT HEIGHT – overall height of 57 feet; building length 283 feet; expanded breezeway area; approximately 450 feet to nearest structure across Crane Creek, allows left turn signal; allows architectural design; would have to sink garage; sunken garage results in steep incline to garage; steep incline may result in FDOT refusing to allow south entrance to project; may have water intrusion in garage; may lose trees in rear of building due to retaining wall; and no vegetative screening to residents across Crane Creek.

55 FOOT HEIGHT – overall height of 62 feet; building length 283 feet; expanded breezeway area; nearest structure across Crane Creek approximately 450 feet; retain vegetative tree buffer in rear of building; removes longstanding eyesore; allows south entrance drive, left turn signal and deceleration lane; traffic impact is less than existing commercial zoning; allows architectural design; supported by the immediate adjacent residents; positive impact on value of adjacent condominium units; and staff recommends approval.

Additionally, Mr. Spira pointed out that the City has an ordinance in place that allows increased height. This request meets those requirements. He highlighted projects that Council has approved with increased height within the past four years.

Mr. Spira discussed the footprint difference between the 50 and 55-foot buildings versus the 40-foot building. The 40 or 50-foot building would require a sunken garage and the steep incline may result in FDOT not allowing the south entrance. Additionally, a retaining wall would have to be built and there is a good chance that the trees and buffer across the back of the property would be lost. Mr. Spira elaborated on each point from the “fact sheet” and said that he does not believe the 40 or 50-foot building would be a reasonable project.

Mayor Goode commented that the breezeway requirements were due to the efforts of Vice Mayor LaRusso to allow more height in exchange for less of a footprint.

Mr. LaRusso referenced the breezeway ordinance that Council passed two years ago and asked if it applies City-wide or just along the river. Attorney Gougelman confirmed that it applies to property along the Indian River Lagoon.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mrs. Corby recalled the discussion from the last meeting and said it was her understanding that the applicant would return with a plan providing for a 50-foot height. She added that she was insistent that the applicant would not have to re-file and pay a new application fee.

Mr. Spira replied that his recollection is that they would look at the 50-foot height from an engineering standpoint; they discussed dropping the garage a level. He added that the proposal at 50 feet would result in lost buffers because of the retaining wall, they would lose the south entrance, and there would be possible water intrusion in the garage. Therefore, from an engineering standpoint, the building is better at a 55-foot height.

Mr. Thomas stated that at a height of 40 feet and a few less condominiums, they could engineer a beautiful structure that would raise property values for the people next door while maintaining the trees in the back.

Mr. Spira said the market requires additional height for ceilings and architectural features. And, at a lower height, the U-shape would not be possible.

Vice Mayor LaRusso asked the Mayor for latitude in questioning since he was not at the March 13 meeting.

Mr. LaRusso asked if there are any buildings existing or permitted at over 40 feet within the area adjacent to the proposed Harbor Gardens project. Mrs. Dittmer said not in the immediate area; the nearest permitted buildings are about a mile and a half to the south; both are located on the Indian River.

Mr. LaRusso asked if it is reasonable to say that by permitting Harbor Gardens at 50 or 60 feet we are opening the door to change in the neighborhood from a height standpoint. Mrs. Dittmer replied yes.

Mr. LaRusso asked if it is true the condominium to the north was only permitted at 40 feet and Mrs. Dittmer replied yes. Mr. LaRusso asked if it is true that the condominium to the south, Rio Casa, was only approved at 40 feet and Mrs. Dittmer replied yes. Mr. LaRusso asked if it is true that the condominium previously proposed for this site, subject to a conditional use hearing for a height over 40 feet, was denied and Mrs. Dittmer replied yes.

Mr. LaRusso referenced the single-family subdivisions to the east of the project. He asked Mrs. Dittmer from a planning perspective if it is her professional opinion that it is reasonable to say that the Whitmire Drive area to the east of the subject property is adjacent to the project. Mrs. Dittmer replied that, although staff did not consider it that way in its planning report, it would not be unreasonable to consider it that way.

Mr. LaRusso asked if the proposed height of Harbor Gardens is compatible with maintaining the character of the adjacent single-family residential area. Mrs. Dittmer said if the single-family area is considered as "adjacent" to the project it would not be compatible.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mr. LaRusso asked Mrs. Dittmer, in her professional opinion, if there has been any mitigation of the incompatibility through the use of screening or other design features and Mrs. Dittmer said nothing is proposed on the plan at this time and anything above the tree line would not be screened.

Mr. LaRusso asked if there is a significant adverse effect on the livability and usability of the nearby single-family residential areas due to the glare from lighting or privacy issues. Mrs. Dittmer said with regard to screening, there could be an impact on the area above the tree line.

Mr. LaRusso said this seems to be contrary to staff's recommendation for approval. He asked how staff can recommend approval, yet the Planning Director has agreed with him in his points.

Mrs. Dittmer replied that she believes there is evidence to support denial of the conditional use request and evidence has been heard to support approval. Her professional opinion in the staff report is based on her prior experience and knowledge. The decision is up to the City Council; however, there has been good evidence that would support a recommendation of denial on the project.

In response to the Vice Mayor, Mrs. Dittmer elaborated on her background, education and training.

Mrs. Palmer asked the City Attorney if she can amend her motion and move for denial of the conditional use for 55 feet.

Attorney Gougelman said the ordinance as it stands is for a 60-foot conditional use. The ordinance in the package was created by staff to provide Council with an idea, based on what was heard at the last meeting, of what the ordinance would look like with a 50-foot height. The official ordinance before Council is for a conditional use for 60 feet. The motion as it stands on the floor is to deny that ordinance.

Mayor Goode asked how the motion should be worded if it is Mrs. Palmer's desire to kill this proposal. Attorney Gougelman replied that the motion on the floor is to kill the ordinance; however, if Council is looking to kill the entire thing, a motion should be made to deny the ordinance and to deny the application.

Mrs. Palmer clarified that it is not her intention to deny this development at 40 feet. It is her intent to deny this conditional use for additional height.

The following substitute motion was made: Moved by Palmer/Corby to deny this ordinance (Ordinance No. 2007-14) and the application.

Mrs. Palmer added that Vice Mayor LaRusso eloquently voiced her reasons for the motion. City Council has decided that a 40-foot height is appropriate for this area. One

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

finished project and two projects have been approved at the 40-foot height. There needs to be uniformity and anything over the 40-foot height on this site would be incompatible.

Mrs. Corby stated that she is also concerned with the traffic and the flow on U. S. 1. She added that the City seems to have shifted its priorities to the development and not infrastructure. She noted that U. S. 1 is backed up constantly. Following discussion, she explained that she seconded the motion for denial because the City is not concerned about the infrastructure that is in place.

At the request of Vice Mayor LaRusso, Attorney Gougelman briefly discussed the rule of law where in a zoning context an applicant may not keep presenting the same application over and over until approval is granted. Mr. Gougelman added that, in this case, the courts would look at that rule narrowly and that rule might not apply if there have been changes in conditions or circumstances since the applicant's 2004 application.

Mayor Goode stated that the motion is for denial. Attorney Gougelman asked Mrs. Palmer if her reasons for denial are lack of compatibility and failure to meet the conditional use permit requirements in Article IV and Article IX of the Zoning Code. Mrs. Palmer replied yes. Mrs. Corby added that she would also like to cite her infrastructure comment as a reason for denial.

Attorney Gougelman reminded Council that the other part of this request is for a residential use in a commercial district. He asked Council if the intent is to allow a conditional use for a residential use at the 40-foot height. By consensus, Council agreed.

A brief discussion followed regarding the waiver of the six-month rule for filing a new application.

The question was called on the motion for denial. The roll call vote was:

Aye: Thomas, Palmer, Corby, LaRusso and Goode

Nay: Contreras and Meehan

Motion carried.

Moved by Thomas/Palmer to waive the six-month rule if the applicant returns with a project that meets the 40-foot limit.

Mr. Thomas said it is his hope that when the applicant re-evaluates the project, he finds a way to maintain the vegetation in the back and provide the southern entrance.

Mrs. Palmer said she seconded the motion because she is looking forward to having that property redeveloped; it is an eyesore. She added that she is looking for continuity in the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

height limitation in this area and has confidence that the applicant can return with a marketable, attractive project.

Attorney Gougelman asked if the intent of the motion is to waive the six month waiting period if the applicant returns with a residential use in the C-1 District at a 40-foot height. Mayor Goode replied yes.

Mr. Contreras said that his concern from testimony provided earlier is that a 40-foot building will result in development of a “box” that meets Code; however, there is a risk that the south entrance won’t be approved by FDOT. Additionally, the adjoining residents do not care for a box; therefore, he is not able to support this motion. Mrs. Meehan agreed and stated that she does not want a box on this property.

The question was called. The roll call vote was:

Aye: Thomas, Palmer, Corby, LaRusso and Goode

Nay: Contreras and Meehan

Motion carried.

Recessed: 8:12 p.m.

Reconvened: 8:21 p.m.

9. ORDINANCE NO. 2007-15 (FOC-2006-01): (Second Reading/Public Hearing) An ordinance amending Section 10-101, City Code, to provide for inclusion of the Community Policing Program in the Downtown Melbourne Redevelopment Plan. (First Reading - 3/27/07)

Attorney Gougelman read Ordinance No. 2007-15 by title. Mayor Goode opened the public hearing. There were no sign in sheets and the Mayor closed the public hearing.

Mrs. Corby asked if an officer will be taken away from the rest of the City with this program. Mr. Schluckebier responded that the proposal is to add an officer to staff to accommodate this; it will be entirely funded by the CRA. Mrs. Corby asked if the City is experiencing hiring problems and the City Manager replied that the officer would be hired in due course.

Mr. Thomas said he would like to ensure that the officer will patrol the entire redevelopment area, not just New Haven Avenue. The City Manager replied that the CRA Advisory Committee’s proposal centered on the retail core area. As that core expands south, they may wish to expand into that area. However, the initial proposal was for the retail core area.

Mr. Thomas asked if we can articulate that the officer is not restricted to just the core area and Mr. Schluckebier replied yes.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

From the audience a resident (Brian LaLonde) called a Point of Order. Mayor Goode informed Mr. LaLonde that he may not call a Point of Order. Mr. LaLonde disagreed. The Mayor stated that the public hearing has been closed. He instructed Mr. LaLonde to sit and mind his manners or the officer will be instructed to remove him. After Mr. LaLonde stated that the public hearing has not been closed, Mayor Goode instructed the officer to remove Mr. LaLonde. As he was exiting the Council Chamber, Mr. LaLonde shouted, "As long as you don't speak on this what you just voted on. Can we trust you?"

Returning to the item on the agenda, Mrs. Meehan said that there are also problems on Lincoln Avenue, Waverly Place and Palmetto Avenue and she wants to ensure that the officer patrols those areas as well.

Moved by Meehan/Palmer for approval of Ordinance No. 2007-15. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2007-16 (A&V NO. 265): (Second Reading/Public Hearing) An ordinance vacating a 0.11-acre portion of right-of-way and providing for the retention of a public utilities easement over the entire right-of-way being vacated at the southeast corner of Circle Avenue South and Shull Avenue. (Applicant - Riverside, LLC) (First Reading - 3/27/07)

Attorney Gougelman read Ordinance No. 2007-16 by title. There were no disclosures from Council. The public hearing was opened and closed without comment.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-16. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2007-17 (Z-2007-1103) GARY N. WELLS, 1705 AIRPORT BOULEVARD: (Second Reading/Public Hearing) An ordinance changing the zoning from R-1AA (Single-Family Low Density Residential) to C-1A (Professional, Offices, and Services) on a 0.24-acre parcel, located on the east side of Airport Boulevard, south of the intersection of Airport Boulevard and Fee Avenue. (Owner/Applicant - Gary N. Wells) (Representative - Tim Shortell) (First Reading - 3/27/07)

The City Attorney read the ordinance by its title. There were no disclosures from Council and no comments during the public hearing.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-17. The roll call vote was:

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Motion carried unanimously.

12. ORDINANCE NO. 2007-18 (CPA-2006-29) AND ORDINANCE NO. 2007-19 (Z-2006-1087) MAHALA VILLAGE: Ordinances providing for a Comprehensive Plan Amendment and zoning change on 3.94± acres, located on the east side of Pineapple Avenue, south of Creighton Street, and north of McClendon Street. (Owner - GARD Development I, LLC) (Applicant/Representative - Rochelle Lawandales, Lawandales Planning Affiliates) (P&Z Board - 3/01/07)
- a. Ordinance No. 2007-18/CPA-2006-29: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Commercial/Low Density Residential on 1.95± acres and Low Density Residential on 1.99± acres to Medium Density Residential with a cap of eight units per acre. (First Reading - 3/27/07)
- b. Ordinance No. 2007-19/Z-2006-1087: (Second Reading/Public Hearing) An ordinance providing for a zoning change from C-1 (Neighborhood Commercial) on 1.95± acres and R-1AAA (Single-Family Low Density Residential) on 1.99± acres to R-2 (8) (One-, Two-, and Multiple-Family Residential with a cap of eight units per acre). (First Reading - 3/27/07)

The City Attorney read both ordinances by title. Mrs. Dittmer confirmed for Mrs. Palmer that the zoning ordinance is tied to the site plan. Any substantial change in the future will require the owner to return.

Mayor Goode called for disclosures.

Mr. Contreras said on March 17, 2007 he received a call from Michael Scott. He returned the call and spoke with Gary Potter. They discussed the Planning and Zoning Board denial. Mr. Potter mentioned he would continue working with City staff and the community, and that this would be a single-family home development. On March 21 he received a message from Attorney Nohrr. They played phone tag and did not speak.

Mayor Goode opened the public hearing.

Richard Hester, 617 Eau Gallie Boulevard, stated that the change in zoning on the far south property concerns him. The original Mahala Village proposal did not need the southern parcel changed; however, the City's Planning Department said that property needed to be rezoned. He reported that there is nothing that will prevent a future owner from changing this site plan. If that happens, "goodbye Mahala Village, hello box development." Mr. Hester added that he has heard that the financial stability of the owner is possibly in question.

Continuing, Mr. Hester asked Council to rezone only the north property. This will tell others that change stops here.

Mr. LaRusso informed Mr. Hester that the southern parcel will remain with R-1AAA zoning.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Additionally, a recent Comprehensive Plan text amendment will protect the property farther south.

Phil Nohrr, attorney representing the applicant, confirmed that they are not changing the last parcel; therefore, the domino effect is not an issue. Conditions have been added. They will provide breezeway and see through railings/fencing on Pineapple Avenue. He stated that they agree with the conditions and respectfully request a favorable vote.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-18 based upon the findings in the staff memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by Thomas/LaRusso for approval of Ordinance No. 2007-19 based upon the findings and conditions contained in the staff memorandum and the addition of conditions “c” and “d” as directed by Council at the March 27 meeting. The roll call vote was:

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

Motion carried unanimously.

13. ORDINANCE NO. 2007-20 MAYFAIR COMMUNITY DEVELOPMENT DISTRICT: (Second Reading/Public Hearing) An ordinance establishing and naming the Mayfair Community Development District pursuant to Chapter 190 of the Florida Statutes. (Applicant - Southern Homes of Melbourne II, LLC) (First Reading - 3/27/07)

Attorney Gougelman read Ordinance No. 2007-20 by title.

Mrs. Palmer asked if Mayfair will be imposing its own tax, if the property will be removed from our tax rolls and if the City will be providing police, fire and other services.

Attorney Gougelman replied that Mayfair will not be removed from the tax rolls. Mayfair will be assessing a special assessment fee and income from that fee will be used for construction of infrastructure within the project. They will be receiving City services, including police and fire; however, they will pay the same millage rate as other residents in the community.

Mrs. Corby asked where the funding will come from. Attorney Gougelman explained there is a specific methodology for funding provided under Florida Statute, Chapter 190. As a side note, community development districts have the ability to tax up to five mills; there are only about four districts in Florida that impose a tax. Mayfair plans to obtain funding through the special assessment route. This will be in addition to taxes levied by governmental jurisdictions. Future residents of the project will be required by State law to be notified in the purchase contract that there will be additional fees.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

In response to Mrs. Corby, Attorney Gougelman elaborated on how community development districts are governed.

Mayor Goode opened the public hearing.

Molly Tasker, 1557 Sienna Drive, referenced the newspaper article on this development. She said that in viewing the map in the newspaper, it does not appear that there are too many thoroughfare roads. This development will add 1,300 families with access off of Babcock Street. She asked if there is a way that the City can require the developer to pay for road improvements, traffic signals and additional access.

Phil Nohrr, representing the applicant, said there are three entrances to this project and none connect to Babcock Street. To get traffic away from Babcock Street, they shifted their major entrance south towards Lipscomb Street. They were asked to put another ingress/egress on Pirate Lane and they did that as well. And, the third entrance is off of Florida Avenue. He stressed that there is no ingress/egress off of Babcock Street.

Additionally, there is a voluminous developer's agreement in process that will address a lot of issues that Council will see in the not too distant future. They believe this is a wonderful project that will rejuvenate this portion of Babcock Street. It will be a gated community and will increase the tax base as well.

In response to the Mayor, Mr. Nohrr described how this development will eventually create an east/west roadway from Hollywood Boulevard to U. S. 1. He added that the developer's agreement provides for the owner to enhance and take over the Pirate Lane project. The result will be a nice, four lane boulevard from Lipscomb Street to Babcock Street.

That concluded comments and the Mayor closed the public hearing.

Moved by Meehan/Palmer for approval of Ordinance No. 2007-20. The roll call vote was:

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

Motion carried unanimously.

14. ORDINANCE NO. 2007-21 LOGOS: (First Reading) An ordinance amending Chapter 2 of the City Code, entitled Administration, by adding a new section, which provides for the adoption of the City's official logos. (Postponed - 3/27/07)

Attorney Gougelman read Ordinance No. 2007-21 by title.

Moved by LaRusso/Contreras for approval of Ordinance No. 2007-21. Motion carried unanimously.

15. COUNCIL ACTION RE: Approval of a 2007 interim agreement between the City of Melbourne and the City of West Melbourne regarding the sale and purchase of water. (Postponed - 3/27/07)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

From the agenda report: The agreement is the product of negotiations with West Melbourne. As noted in the City Attorney's memorandum, this is the first step in resolving water supply issues with West Melbourne. These issues arose due to the fact that the existing agreement with West Melbourne was written in the late 1970s. Numerous events have occurred since that time, which the agreement did not contemplate, including concurrency, rapid and significant growth in West Melbourne, the use of impact fees to fund the cost of expansion of the water supply system and a need to engage in conservation.

The original agreement merely contemplated that Melbourne would agree to sell all the water West Melbourne would need at the same rate as paid by consumers within the City of Melbourne. Since that time, West Melbourne has become Melbourne's single largest customer.

The agreement contains the following provisions:

- Requires construction at West Melbourne's expense by January 1, 2009 of a major new 16" water line along Hollywood Boulevard from U.S. 192 to Eber Road. (Melbourne staff had for some time indicated to West Melbourne that their internal system was not capable of large-scale expansion without such upgrades.)
- Provides for the metering of water flows to the 16" water line and permits an interconnect to the Melbourne system at U.S. 192 and Hollywood Boulevard.
- Provides a procedure for concurrency review of development applications with regard to seven new major projects consisting of over 1,650 residential units, as well as a separate procedure for the Hammocks Landing Development of Regional Impact to be located at the northeast corner of Minton Road and Palm Bay Road. These are additional to the concurrency certificate for substantial new development also approved for the Villages (912 ERU units) and Eastwood II (62 units) in the same general area.
- Provides a mechanism for further discussion if interim modeling demonstrates these improvements remain inadequate for the large growth that West Melbourne is experiencing.

The agreement provides that it will be used as a template for future negotiations with West Melbourne, and that the parties will continue to negotiate on at least a monthly basis to revise the existing water agreement in place since the 1970s. Either party may terminate the agreement with 90 days' notice, but the termination of the agreement shall not terminate any on-going process for resolution of the water-related disputes.

The City Manager provided an overview of the agreement and the negotiations that led to the agreement. He said that this agreement makes improvements, although they may not be optimal for Melbourne or West Melbourne.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mayor Goode asked if West Melbourne has voted on the agreement. Mr. Schluckebier replied that they voted 6-0 to approve (one member was absent).

Mayor Goode said he has received a request from Bruce Moia representing South Developers, LLC, requesting to speak. Mr. LaRusso asked if staff is familiar with Mr. Moia's issue. Mr. Ralls replied that the agreement on the agenda addresses seven projects. Mr. Moia is working on an additional project that is not included in this interim agreement. The agreement on the agenda hasn't been approved yet and the changes haven't been implemented; therefore, staff was not able to address South Developers' request for concurrency.

Continuing, Mr. Ralls said that the South Developers project is a hotel in West Melbourne located near the intersection of Hollywood Boulevard and 192. It is a development that will require additional water and it is not identified in this agreement.

Mrs. Corby said she would be interested in hearing what the speaker has to say. Mayor Goode said that Melbourne deals only with the City of West Melbourne.

Moved by Corby/Contreras to allow Mr. Moia an opportunity to speak. The roll call vote was:

Aye: Contreras, Palmer and Corby

Nay: Meehan, Thomas, LaRusso and Goode

Motion failed.

Mayor Goode informed Mr. Moia that his problem is with West Melbourne. Mr. Moia walked away from the podium while saying that they have been denied concurrency by Melbourne – not West Melbourne.

Mrs. Corby said it would be nice to hear what Mr. Moia has to say based on that comment. She added that she doesn't believe we need to become a City that doesn't allow people to speak. Mayor Goode called Mrs. Corby out of order. The Mayor asked Mr. Ralls to elaborate.

Mr. Ralls said that Mr. Moia's project is in the City of West Melbourne. Melbourne doesn't issue concurrency for projects in West Melbourne. The City of West Melbourne is our customer. Concurrency applications have to be made for projects in West Melbourne by the City of West Melbourne.

Mrs. Corby said that Mr. Moia indicated that he has a letter from the City of Melbourne and she would like to see it or hear about it. Mayor Goode said the motion failed; therefore, he won't take it again.

Moved by Meehan/Thomas for approval of the Interim Water Agreement.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

At the request of Vice Mayor LaRusso, Mrs. Meehan would not amend her motion to include a three-minute comment by Bruce Moia.

Discussion followed as to which motion (the failed motion above or the motion to approve the water agreement) Mr. LaRusso was attempting to amend.

The question was called. The roll call vote was:

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

Nay: Goode

Motion carried.

Moved by LaRusso/Palmer to reconsider and allow Mr. Moia an opportunity to speak. Motion carried. Mrs. Meehan voted nay.

Mrs. Corby said she has never seen such difficulty in allowing someone to speak. Mr. LaRusso said Council followed the proper procedure and he would like to provide Mr. Moia an opportunity to speak based on new information that staff did not provide.

Bruce Moia, representing South Developers, LLC, said this is a new project coming to the City of West Melbourne that will require City of Melbourne water. They have been denied concurrency from the City of Melbourne. He acknowledged that the agreement on the agenda does nothing to change that; however, his concern is that they cannot obtain concurrency from Melbourne for projects coming into West Melbourne. Every project that comes into the City of West Melbourne will be at a standstill. He asked Council to have staff address this so they can obtain concurrency.

Attorney Gougelman said that the City of West Melbourne is our customer, not individual property owners and developers located in West Melbourne. This is the process we have been trying to work with the City of West Melbourne on to make it clear that a water customer in West Melbourne will be a customer of the City of West Melbourne; therefore, that is where they need to apply. In turn, West Melbourne can present to us at any time a concurrency request for any proposed development.

The interim water agreement is a step in the direction toward trying to resolve that. But, as Mr. Moia has noted, that only involves a limited number of projects because it is an interim agreement. Hopefully our continued negotiations, which are called for in the interim water agreement, will bear some fruit and we will finally have a new system that will be more expedited.

Mr. Moia said he knows a little bit about concurrency as he worked as an engineer at the County and at the City of Melbourne. He explained that if you can demonstrate that the line has the capacity, then you can get concurrency. There is not even the ability to demonstrate that the existing facility has the capacity to serve their project.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mr. Schluckebier confirmed that this is one of the situations we were experiencing – anybody in the City of West Melbourne felt they had the latitude to connect to Melbourne’s system. This agreement will stop and clarify that. West Melbourne is our customer, not third parties. These individuals do not have the latitude to buy land and have the expectation that the neighboring city will supply water.

The City Manager said that Melbourne is saying that West Melbourne is the applicant in the future for anything occurring in their city and West Melbourne needs to provide a joint application. We want West Melbourne’s City Engineer or professionals to indicate that concurrency has been met on their end. Melbourne will do the modeling to address our concerns. Mr. Schluckebier added that the City doesn’t just sign off on concurrency because we have plant capacity. Our reading of the Statute is that concurrency goes beyond simple “plant capacity.”

No further action taken.

16. COUNCIL DISCUSSION RE: Televised Council meetings. (Postponed - 3/27/07)

From the agenda report: The previously distributed report from the Budget office on the cost to televise Council meetings has been included again in the agenda materials. The report provides a summary of methods used by other governmental jurisdictions to televise their meetings and provides a number of cost estimates for various options to televise Melbourne’s meetings.

Moved by Thomas/Contreras to proceed with contracting with an outside person or company to record each regular Council meeting, using two cameras and their own equipment; the City paying no more than \$450 per meeting; and have this enacted no later than June 1, 2007. (*See clarification below.)

Mr. LaRusso asked if the motion will cause problems if a meeting goes beyond the four hour limit outlined in the agenda material. Mr. Thomas said that he thought there were contractors that would charge a flat fee. Mr. LaRusso said that the per hour charge goes into effect after the initial four-hour period.

Deputy City Manager Amy Elliott explained that the per hour charge beyond four hours is \$150. She asked for clarification on whether we want the vendor by June 1 or if we want to begin televising by June 1. She added that we could on a temporary basis find a vendor and start televising; however, we would need to go through a formal bid process to get someone on board.

*Mr. Thomas stated that he stands corrected on the \$900 per meeting charge plus \$150 per hour over four hours. Additionally, he said it is his intent to have a vendor selected by the first meeting in June.

Mayor Goode asked the funding source in this year’s budget and stated that the City has spent thousands on police cars. He noted that we have dipped into our contingency.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mr. LaRusso asked how many meetings remain in this budget cycle. The Mayor replied approximately eight to nine meetings.

Mrs. Corby commented that the City didn't have any problem spending money for the Downtown area, or for police cars, or when we were considering purchasing swamp land. She stated that we have money in the budget to communicate to our constituents and residents.

Mayor Goode replied that he is not debating the merit. Mrs. Corby said she was responding to the question that was asked about the funding source. She added that it is a matter of priority and she believes it is a priority for Council to communicate to our residents.

Discussion continued regarding the funding source.

Mr. LaRusso asked the maker/seconded to request our award winning, certified financial staff to provide guidance on the funding source.

The maker/seconded agreed to ask City staff to provide funding guidance.

The question was called. Motion carried unanimously.

17. COUNCIL ACTION RE: Board Appointments (Postponed - 3/27/07)

- a. Appointment of one regular member to the Code Enforcement Board.

Mayor Goode called for nominations for the regular member seat.

Mrs. Palmer nominated Brad Reisner. Moved by Contreras/LaRusso to close the nominations. Motion carried unanimously. Moved by Palmer/LaRusso to appoint Brad Reisner as a regular member (engineer seat). Motion carried unanimously. (4/10/2007 through 10/14/2008, unexpired three-year term)

Moved by Meehan/Corby to move second alternate Thomas Saam into the first alternate seat. Motion carried unanimously.

Mayor Goode called for nominations for the alternate member seat.

Mrs. Corby nominated Ralph Durham. Moved by Palmer/Contreras to close the nominations. Motion carried unanimously. Moved by Goode/Palmer to appoint Ralph Durham as an alternate member. Motion carried unanimously. (4/10/2007 through 7/8/2008, unexpired three-year term)

- b. Appointment of one regular member to the Library Board.

Mrs. Corby left the Council Chamber at 9:28 p.m.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mr. LaRusso nominated Nancy Dillen. Moved by Contreras/Thomas to close the nominations. Motion carried unanimously (six votes). Moved by Contreras/LaRusso to appoint Nancy Dillen. Motion carried unanimously (six votes).

NEW BUSINESS

18. COUNCIL ACTION RE: Change Order No. 1 to the Public Works Operation & Maintenance Building contract for installation of a traveling crane hoist, Project No. 30805, P.W. Hearn, Inc., Cocoa, FL - \$57,100 and transfer of \$57,100 from Water & Sewer Capital Improvement Miscellaneous Projects to this project budget.

City Engineer Jenni Lamb reviewed the agenda report and the recommendation.

Moved by Contreras/Thomas for approval as recommended.

Mrs. Corby returned to the Council Chamber at 9:31 p.m.

The question was called. Motion carried unanimously (seven votes).

19. CONSENT AGENDA:

Moved by LaRusso/Contreras for approval of the consent agenda. Motion carried unanimously.

- a. Contract award for removal and replacement of existing exterior glass windows at the Housing & Community Development building, Project No. 06206, to Duncan Builders, Titusville, FL - \$24,900; transfer of \$7,390 from the Disaster Recovery Initiative Administration account to supplement this project budget and authorization to amend the related Disaster Recovery Initiative Grant line item budgets.
- b. Purchase of an additional 267,633 gallons of ferric sulfate for Water Production, Kemiron Companies, Inc., Lawrence, KS - estimated cost of \$310,355.
- c. Contract award from horizontal directional drilling services, Young's Communication, Melbourne, FL - various unit prices, estimated annual cost of \$107,045.
- d. Contract award for installation assistance and services for the Datastream inventory and control management software used by Wastewater Treatment and Water Production, Datastream Systems, Inc., Greenville, SC - \$65,600; plus estimated travel expenses of \$9,400; and transfer of \$70,843 from Water & Sewer Contingency to this project budget.
- e. Purchase of an Aurora 411BF Rotating Assembly for the Grant Street Water Treatment Facility, Barney's Pumps, Inc., Lakeland, FL - \$22,485.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

- f. Purchase of a 500 Mhz shielded RAMAC X3M™ ground penetrating radar control unit, MALA Geo-Science USA, Inc., Charleston, SC - \$17,850.
- g. Approval of HOME Program budget adjustments to allocate \$6,879.15 in HOME recaptured funds.
- h. Approval of \$2,000 from the Police Department Law Enforcement Trust Fund to finance travel for Chairs of the Police Community Relations Committee, The Booker T. Washington Neighborhood Committee, and the Powell Neighborhood Watch Group to attend the National Conference on Preventing Crime in the Black Community in Orlando, FL, May 30 - June 2, 2007 and the Annual Florida Neighborhoods Conference in Sarasota, FL, June 14 - 16, 2007.
- i. Approval of the Third Addendum to the Contract for Sale and Purchase dated August 22, 2005 and modified December 12, 2006 between the City of Melbourne and Brevard County Board of Commissioners for Parcel 101 of the Pineda Causeway Realignment Project, extending the closing date from the extended date of March 30, 2007 until April 11, 2007 and authorization for the City Manager to execute the closing statement, receive the deed of conveyance from the County, and receive the license agreement for access to the Pineda Causeway.
- j. Resolution No. 2031: A resolution authorizing the City Manager to execute a Cross Access Agreement between the City of Melbourne and the Board of County Commissioners of Brevard County for driveway access with connection to the Pineda Causeway Realigned Roadway.

20. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

21. RESOLUTION NO. 2032: (Public Hearing) A resolution approving the City of Melbourne Local Housing Assistance Plan as required by the State Housing Initiatives Partnership (SHIP) Program Act, authorizing and directing the City Manager to execute any necessary documents and certifications needed by the State and to carry out any conditions of the plan; authorizing the submission of the Local Housing Assistance Plan for review and approval by the Florida Housing Finance Corporation; and authorizing the expenditure of up to ten percent of the annual allocation and up to five percent of program income for administration.

Housing and Community Development Director Melinda Thomas briefed Council.

Mrs. Palmer referenced the agenda material, which indicates that “many assisted homebuyers sold their homes and paid off their City SHIP mortgages during the 2004-2005 run-up in the market and made sizable profits...” She asked if people are allowed a second chance to do this. Mrs. Thomas said that although there is not a prohibition, staff would look carefully at a request for a second helping.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mrs. Palmer said she would like for staff to determine what type of policy could be put in place to prevent this from happening in the future.

Mrs. Thomas said that if Council approves the plan this evening, the policies currently in place will need to be updated. That change can be incorporated when staff returns.

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

Moved by Palmer/Contreras for approval of Resolution No. 2032 with direction to staff to provide recommendations for a new policy to prevent repeat applicants being awarded funding for home purchases.

Discussion followed regarding the County's program. It was noted that SHIP allocations are made on a county-by-county basis. The City qualifies for its own allocation because we are a CDBG entitlement community.

The question was called. Motion carried unanimously.

22. FINAL PLAT APPROVAL (SD-2004-09B) PINEDA RIDGE SUBDIVISION, PHASE 2: (Public Hearing) A request for final plat approval for a 140-lot single-family 35.31-acre subdivision zoned R-1B (Single-Family Residential), located on the west side of Wickham Road, south of the Pineda Causeway at Constellation Drive. (Owner/Applicant - Jay Moynahan, Pineda Crossing Corporation) (Representative - Joseph W. Mayer, P.E., Bussen-Mayer Engineering Group, Inc.) (P&Z Board - 3/15/07)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board unanimously approved the final plat as shown on a four-page plat prepared by Bussen-Mayer Engineering Group, Inc. of Merritt Island, Florida, with a signed and sealed date of March 1, 2007, subject to the following conditions:

- a. The applicant shall not be entitled to record the final 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 plat recordation.
- 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 two building permits may be issued on any portion of the plat prior to recordation of the final plat.

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Moved by Contreras/Thomas for approval of the final plat based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

23. SITE PLAN APPROVAL (SP-2007-03) NORTH DRIVE BUILDINGS: (Public Hearing) A request for site plan approval for a two-phase industrial site with each phase including a 50,050± square foot office and warehouse building on 11.381± acres zoned M-1 (Light Industrial), located on the west side of North Drive, north of Digital Light Drive Industrial Plaza. (Owner - Henderson North Drive LLC) (Applicant - Karen L. Pearce) (Representative - Vaheed B. Teimouri) (P&Z Board - 3/15/07)

The Planning and Zoning Board unanimously approved SP-2007-03, as depicted on the single-page site plan by Teimouri & Associates, Inc., Project Number 2006-125, with a signed and sealed date of February 28, 2007, subject to the following conditions:

- a. Changes 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 either staff, the Planning and Zoning Board, Local Planning Agency, and/or the City Council.

- b. The applicant shall provide a right-turn into the project from North Drive, as determined by the Engineering Department and permitted during the construction plan review process.
- c. Appropriate environmental permits must be obtained as part of the construction plan review process.
- d. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved. Buildings and parking/drive aisles shall be shifted where possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.
- 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 reservation fee in the amount of \$47,909 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.

Mrs. Palmer asked if this property is in the adult entertainment district. Mrs. Dittmer replied that she believes it is.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

There were no disclosures by Council. Mayor Goode opened the public hearing. Vaheed Teimouri, representing the applicant, was present and available for questions. There were no comments from the audience.

Moved by Thomas/Meehan for approval of the final plat based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

24. SUBDIVISION VARIANCE (SDV-2007-01) PINEAPPLE RIDGE SUBDIVISION: (Public Hearing) A request for a variance from Subdivision Regulations, Appendix D, Chapter 8, to allow the division of land without requiring re-plat of the project, to allow lots that do not have frontage along a public or private right-of-way, and to allow lots that do not meet the minimum lot sizes on 4.96 acres of the Pineapple Ridge Subdivision zoned C-1A (Professional, Offices, and Services), located on the south side of Eau Gallie Boulevard, east of Wickham Road, and east of Holland Avenue. (Owners - Michael J. Brutz/Halifax Partners LLC/Manohar Reddy, MD/Dave Alley/Eau Gallie Building Group LLC/Pineapple Ridge LLC/Pineapple Ridge Professional Center, Inc.) (Applicant/Representative - Jake Wise) (P&Z Board - 3/15/07)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted 6/1 to approve the subdivision variance and to allow the lots to be split into seven additional lots as indicated on the two-page exhibit, Project No. 040457, prepared by Construction Engineering Group, subject to the following conditions:

- a. No additional access shall be permitted to/from Eau Gallie Boulevard from any portion of the subdivision.
- b. Any additional lot splits shall require re-platting of all of original Lots 1, 2 and 3, or by seeking a variance as provided for in City Code, Appendix D, Chapter 8, Section 8.8.
- c. Any future subdividing of this property shall comply with the minimum lot size requirements of the Melbourne Zoning Code, unless a variance is granted by the Board of Adjustment.
- d. The creation of any public streets, rights-of-way, or other public ways, or public tracts on the property shall require platting of all of these properties before or after development of all or a portion of the properties, and all owners of the parent Lot 4 shall join in with such plat. (This will not apply to the creation of private easements for drainage access or utilities.)
- e. The applicant must obtain variances from the Board of Adjustment for other non-conformities including, but not limited to, building setbacks and maximum lot coverage.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Jake Wise, applicant, explained that this project was approved through City Council with a plat and multiple site plans. It includes commercial frontage, over 1,000 linear feet, along Eau Gallie Boulevard and 204 residential units behind it. Through the master planning process, they split up with multiple property owners the commercial portion into three main lots with a parent tract. They master planned the entire development identifying one single entrance onto Eau Gallie Boulevard. This was done so seven to 10 lots would not be seeking a driveway connection and access to Eau Gallie Boulevard. The master plan provides for shared parking, landscaping, site lighting, irrigation, common architecture, etc.

Continuing, Mr. Wise said this is located on a scenic corridor. His personal office is on this property. They purchased and built on this property without realizing they do not meet City Code requirements with respect to lot size. Mr. Wise stated that they would like to continue to operate the entire site as it has been master planned with limited access onto the public right-of-way.

Michael Brutz, 2351 West Eau Gallie Boulevard, and Scott Krasny, representing Halifax Properties, LLC, were present and available for questions.

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

Moved by Palmer/Corby for approval of the subdivision variance based on the findings and conditions contained in the Planning and Zoning Board memorandum.

Mrs. Palmer stated that she doesn't like the way this happened; however, it is an attractive development, it has added to that corridor, and she appreciates the limited access.

The question was called. Motion carried unanimously.

The next three items were considered together:

25. ORDINANCE NO. 2007-22 (ANNEXATION AREA A): (First Reading/Public Hearing) An ordinance calling for a special election for an annexation referendum, as authorized by Special Act, for property located north and south of Aurora Road, east of Wickham Road and west of Croton Road.
26. ORDINANCE NO. 2007-23 (ANNEXATION AREA B): (First Reading/Public Hearing) An ordinance calling for a special election for an annexation referendum, as authorized by Special Act, for property located north and south of Aurora Road, east of Wickham Road and west of Croton Road.
27. ORDINANCE NO. 2007-24 (ANNEXATION AREA C): (First Reading/Public Hearing) An ordinance calling for a special election for an annexation referendum, as authorized by Chapter 171, Florida Statutes, for property located north of Aurora Road on Helen Street, Lewis Street, Thomas Drive and Linda Lane.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Attorney Gougelman read each ordinance by title. Mayor Goode opened the public hearing.

Ronald Fashano, 521 Palmetto Drive, representing Fishy's Pub, Inc., stated that he is here regarding Ordinance No. 2007-23. He stated that his business is governed by the County's rules and regulations with regard to hours of sale of alcohol. He operates a pub and if he were under City jurisdiction, he would lose 72 hours per month in operation. This would impact his income as well as the income of his employees.

Mr. Fashano asked Council to deny the ordinance. He commented that since he purchased the business, he has eliminated undesirables and has made visual improvements to the property.

Mrs. Corby asked Mr. Fashano to breakdown the 72 hours of lost time. Mr. Fashano said that in the City he could not open until 9:00 a.m. and on Sundays, he could not open until 1:00 p.m. In the County he can open at 7:00 a.m. seven days a week.

Mrs. Dittmer clarified that City regulations allow the sale of alcoholic beverages to begin at 7:00 a.m. She confirmed that it is restricted until 1:00 p.m. on Sundays. Mrs. Corby pointed out that Mr. Fashano would lose six hours per week. Mr. Fashano replied that he stands corrected.

Mayor Goode said that he has received a lot of complaints about the 1:00 p.m. Sunday restriction in Melbourne. Regarding the ordinance, he explained to Mr. Fashano that this simply calls for an election; people in the neighborhood will decide whether to annex.

Following a brief discussion, Attorney Gougelman said that if the property is annexed, the City could not take away the use; however, the business would be subject to City of Melbourne regulations regarding hours of sale of alcoholic beverages. Council could propose a change in hours; however, it would have to apply City-wide rather than to an individual property owner.

Mr. LaRusso added that we were petitioned by residents in the area. The City Manager clarified that the City asked the Legislature to grant the City of Melbourne special dispensation to hold an election because more than 70% of the land is owned by property owners that are not registered voters. This does not satisfy the State Statute requirements to conduct a typical mail ballot annexation referendum. The enclave area has been a difficult area to provide City/County services. Legislative authority to conduct an election will expire in December 2007.

In the meantime, staff took the time to have additional conversations with the residents; two neighborhood meetings have been conducted. Staff has advanced the idea that people in these areas have a chance to vote and make a determination.

Kipp Cooper, 1282 Bluff Avenue, Palm Bay, stated that he owns the property where Mr. Fashano's business is located. He added that he also owns the Happy Acre Mobile Home Park. Mr. Cooper said that one of the reasons he purchased property in the County is because of coverage from the Sheriff's Department. He added that the City's Planning

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Department told him that the City was not looking to annex this area for a long period of time.

Mr. Cooper said that the coverage by Melbourne and the coverage by the Sheriff's Department is like night and day. He said he is afraid that if he is annexed he will lose the coverage he is receiving. Additionally, he stated that sewer connection would be a financial burden that the residents could not bear. If sewer connection is required, 30 people would lose their homes. They can't afford to pay sewer hookup – that is why they live in a trailer. He added that these are folks who earn \$8 to \$12 per hour.

Mayor Goode asked if any members on Council would be interested in changing the hours of operation for the sale of alcoholic beverages on Sunday. Mrs. Meehan and Mr. LaRusso expressed interest.

Mrs. Palmer recalled that the City's Code allows for a different timeframe on Sundays for some businesses.

Mayor Goode closed the public hearing. Mr. LaRusso said he had a few more questions for Mr. Cooper and asked Mr. Cooper to indicate yes or no from the audience to the following questions:

Mr. LaRusso asked Mr. Cooper if he is petitioning against the annexation because hours of alcohol sales would be detrimental to the previous speaker's business; because of City services, specifically police coverage; and that residents will not be able to afford sewer connection. Mr. Cooper replied yes. Mr. LaRusso said he wanted to be clear in his mind about the reasons for objection because the focus seems to be on the hours of sale of alcoholic beverages.

Mayor Goode said if the property is annexed, the City would assess sewer.

Mrs. Corby asked the City Clerk if she had an answer for Mrs. Palmer about different hours of sale for certain establishments. Mrs. Wysor read an excerpt from Chapter 3 of the City Code. (Note: restaurants having 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, may begin selling beer and wine for consumption on premises only on Sundays beginning at 10:30 a.m.)

Mrs. Corby said she is concerned with the comment made about our police services. People are afraid they won't receive the same quality in the City. She added that she would consider a change in the hours of operation for alcoholic beverages.

Mayor Goode asked for a future agenda item on the hours of alcohol sales on Sundays.

Mrs. Palmer said this ordinance needs to be addressed and the discussion on hours of sale for alcohol needs to be taken up at another time.

Continuing, Mrs. Palmer said that the comments made during the public hearing are the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

reasons she has not supported the voting process for annexation. A simple majority of property owners will make the decision and this takes away a lot of personal property rights. She agreed that enclaves in the City are a problem; however, she recommended that the City work towards persuading people like Mr. Cooper about the benefits of annexing into Melbourne.

Mrs. Corby reported that when she met with Mr. Schluckebier during her campaign, they reviewed a map and he indicated at that time that the City had no plans to annex this area.

The City Manager replied that is not correct. He added that the Aurora Road enclave area has been a high priority. The City Council directed staff to work with the Legislature to provide the City with additional authority to conduct this election.

Mrs. Corby asked if the City will be able to provide water service to this area. Mr. Schluckebier said that we indicate to residents during meetings that following approval of the referendum, it takes six to 12 months to design and an additional 12 months to extend the lines. He confirmed for Mrs. Corby that we have met this schedule on previous annexation areas.

In response to Mr. Cooper raising his hand in the audience, Mayor Goode stated that he has closed the public hearing. Mr. Cooper indicated from the audience that this area is currently receiving City water.

The City Manager agreed that some of the property in the enclave area receives water now. He added that sewer was one of the issues raised during the neighborhood meetings. Some people in these neighborhoods desire sewer; however, we have told them that the City policy is that we do not carte blanche extend sewer. There is no part of this proposal – and the proposal is bound by an urban service plan – that says we will extend sewer. Extension will only be made in accordance with City policy. The policy indicates that if you are within a certain distance of a line, you would be required to connect. Beyond that, if a street votes lot by lot and is willing to be assessed, Council would take that under advisement.

Mr. Cooper attempted to comment on the sewer. Mayor Goode said no. Discussion continued. Mrs. Corby said she would like to hear Mr. Cooper's comments. The Mayor asked Mrs. Corby if we are going to do this again. Mrs. Corby asked what she was doing and stated that people have a right to speak, especially if they are here on an issue that Council is getting ready to vote on. Discussion continued. The Mayor advised Mrs. Corby that if she can get four votes, Mr. Cooper may speak.

Moved by Corby/Palmer to provide Mr. Cooper more time. Motion carried. Mrs. Meehan and Mayor Goode voted nay.

Mr. Cooper said he was informed by the City's Planning Department that if a septic system were to fail on his property, they would most likely not be allowed to replace that system because they are located within a half mile of sewer.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mr. Schluckebier said that is not his understanding of how the City operates. He asked Mr. Ralls to comment. Deputy City Manager Howard Ralls said that generally the sewer line has to be within 100 feet in order to require mandatory hookup.

Mr. Cooper said he spent \$800,000 on this property. If something like that happened it would devastate multiple people. He reflected and said that his property is probably within 100 feet of the existing sewer line.

Mrs. Palmer said that this is the kind of property owner Council needs to hear from when making a decision like this. This issue is extremely critical to this property owner.

Mayor Goode closed the public hearing.

In response to Mr. Contreras, the City Manager confirmed that staff can provide written information to Mr. Cooper and be very specific about sewer connection. Staff would like to know Mr. Cooper's exact circumstances; that information will be used to make a determination. Additionally, he confirmed that the written information can be provided prior to second reading.

Moved by LaRusso/Thomas for approval of Ordinance No. 2007-22. Motion carried. Mrs. Palmer voted nay.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-23. The maker/seconded agreed to include Mr. Contreras's request about staff returning with information on Mr. Cooper's property prior to second reading.

Mrs. Palmer commented that at a time when the County is scratching its head and looking at options for affordable housing, we may need to consider keeping some of these mobile home parks active.

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

Moved by Meehan/Contreras for approval of Ordinance No. 2007-24. Motion carried. Mrs. Palmer voted nay.

28. ORDINANCE NO. 2007-25 (CU-2007-01/SP-2007-01) LANSING SQUARE, PHASE 2: (First Reading/Public Hearing) An ordinance repealing Ordinance No. 2006-42 (CU-2005-16/SP-2005-21) and granting a conditional use with site plan approval to allow a mini-storage facility on a 4.66±-acre portion of an 11.32±-acre parcel zoned C-2 (General Commercial), located on the east side of Wickham Road, north of Lansing Street, and south of Lake Washington Road. (Owner/Applicant - Laws Hall Partnership) (Representative - Ryan J. Rusnak, FMDC) (P&Z Board - 3/15/07)

The City Attorney read Ordinance No. 2007-25 by title. Mrs. Dittmer reviewed the agenda report. There were no disclosures by Council. Mayor Goode opened the public hearing.

Ryan Rusnak, representing the applicant, was present and available for questions.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-25. Motion carried unanimously.

29. COUNCIL DISCUSSION RE: A proposal for historic preservation of Riverview Drive. (Requested by Council Member Joanne Corby)

Mrs. Corby read a letter that she received from the Brevard County Historic Commission. The following is an excerpt: "...the Commission fully supports any action to preserve historic buildings, sites, roadways and areas in incorporated and unincorporated areas of Brevard County. Riverview Drive is deserving of preservation and thus designation of an historic roadway. As you know our historic buildings, sites, roadways and areas are slowly disappearing to redevelopment. Once gone, they are lost forever. If we don't preserve some of our heritage, future generations will never have the opportunity to see firsthand just how lovely old Florida truly was. Riverview Drive is one of those roadways that should be preserved and is worthy of this historic designation. We encourage you to preserve this treasure by favorably supporting designation of Riverview Drive as an historic roadway."

Mrs. Corby said she would like Council to provide direction to staff or the City Attorney to draft an ordinance or resolution to designate Riverview Drive an historic roadway.

Mayor Goode asked the process that was followed when other properties in Melbourne were designated as historic.

Mr. Schluckebier replied that the City has yet to designate anything an historic site; however, the City has supported requests from private property owners in that regard and those property owners availed themselves to the federal designation process.

Continuing, the City Manager said that Council Member Meehan asked how to go about this and he advised her that the Historic Preservation Board could give the best guidance. The City Manager added that the Board is not quite ready to begin this process because they are working on being designated as a certified local government.

Mr. Schluckebier cautioned that once the Board issues a certificate of appropriateness, our hands may be tied with regard to the right-of-way. Although the Board's input would be good, in the end Council may simply want to limit the abandon and vacate process. Our abandon and vacate process is outdated and staff is reviewing that Code. The City Manager stressed that any designation should be by ordinance or through the protection of an ordinance because a resolution may be un-done in one meeting.

Mrs. Corby informed Council that she spoke with the Chairman of the Historic Preservation Board and he did indicate that they are going through the certification process. They also discussed what it means to designate something historic. There are lots of regulations that you impose on an owner; however, this is a roadway. And, homes located along the roadway would not be restricted to those same guidelines.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

Mrs. Meehan said there has been no discussion on details, including the length of the roadway that should be preserved. That is why she would like for this to go through the Historic Preservation Board.

Mrs. Corby said she would like a timeframe for this project. Mrs. Meehan said the Board needs to become certified first; therefore, she does not believe there needs to be a timeframe.

Following discussion, Mrs. Meehan asked that Mr. Flotz return with a reasonable timeframe. Mrs. Corby said she would like to provide direction for the timeframe so we can move this issue along.

Mayor Goode asked how long before the Board will be certified. Mr. Schluckebier said they will probably be certified in the next three to six months and we believe they will have an historic preservation officer during that time. In the interim they can provide input and advice.

For information, Mr. Schluckebier said that if the roadway receives a certificate of appropriateness, our own Public Works Department can't dig a shovel without getting a permit from the City preservation officer. And, he believes Council wants to preserve the character of the road, not prevent its maintenance.

Mrs. Corby said she has no problem moving forward; however, she is asking for a timeframe so it doesn't get lost in the shuffle.

Mr. Schluckebier said during that time he believes we can achieve the same objectives of preserving/protecting the roadway through the re-write of the abandon and vacate Code.

Mrs. Palmer said that when Council receives information from the Historic Preservation Board, she would like to see the constraints that we would be held to if the advice is to designate the roadway as historic. Mrs. Meehan added that she would also like the residents' input at that time.

Moved by Corby/Meehan to forward this item to the Historic Preservation Board for review and recommendation. Motion carried unanimously.

30. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 East Palmetto Avenue, read the section of the Zoning Code, which requires individuals to submit a written request to the City if they wish to remove their names from a zoning petition. Additionally, she discussed her concerns about a Council Member carrying a petition in support of a development project.

Mr. Thomas said that he previously brought up the issue of sidewalks on Country Club Road. A town meeting was held and a public hearing before Council will be held in May. Additionally, a public hearing will be held during the budget process. To alleviate the need for one additional public hearing, he said that he would like to place \$25,000 in the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 10, 2007

2007-2008 proposed budget to conduct a feasibility study for sidewalks on Country Club Road.

Mrs. Palmer said she believes this is premature because Council hasn't decided to proceed. Mrs. Corby agreed and added she would like to hear what the residents have to say. Mr. Thomas said he was simply trying to consolidate and have the residents return once rather than twice.

Vice Mayor LaRusso asked for a future agenda item to discuss staff recommendations on development items.

By consensus, Council agreed to have a future discussion item on changing the City Code as it relates to hours of alcohol sales on Sundays.

The City Clerk reported that Mayor Goode, Council Member Meehan and the City Manager will be traveling to Tallahassee April 25 – 27, 2007 to meet with our Legislative Delegation members. She asked Council to authorize the travel.

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

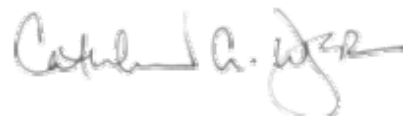
Mrs. Palmer asked for a future agenda item to consider establishing guidelines on abandon and vacate requests and the sale of City owned property. Specifically if property is worth "X" amount or if it is a certain size, Council should be required to take an extra step.

The City Manager noted that staff is currently reviewing the abandon and vacate ordinance and Mrs. Palmer's request can be folded in to that item.

31. ADJOURNMENT

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

The meeting adjourned at 11:02



City Clerk – 4/19/2007

Approved by Council: _____