

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
JUNE 12, 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. The invocation was provided by Terry Highland, Melbourne Police Department Senior Chaplain.
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

Representatives from Keep Brevard Beautiful, including George Geletko, Chairman, presented the City Competition Trash Bash Award to the City of Melbourne. Jennifer Wilster, Environmental Community Outreach Manager, and Michelle DeVillo, Environmental Programs Coordinator accepted the award. The City's 80 volunteers picked up 53,300 pounds of trash and litter.

Mayor Goode presented a proclamation to Joan McGaughey, City of Melbourne Regulatory Compliance Coordinator, and Director, Florida Water & Pollution Control Operators Association, declaring August 6-10, 2007 as "Florida Water Professionals Week."

5. Approval of Minutes – May 22, 2007 Regular Meeting

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

6. City Manager's Report

City Manager Jack Schluckebier highlighted the following item from the report: Public Works and Utilities staff is recommending an amendment to Chapter 32 of the City Code relating to water conservation. An ordinance will appear on the June 26 agenda that will make our irrigation rule consistent with the St. Johns River Water Management District rule,

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which allows irrigation to take place no more than two times per week.

Council Member Joanne Corby referenced the May 2007 “Leisure Times” report. The report indicates that, although pool attendance is less this year compared with last year, revenues have increased. She asked if there has been an increase in pool fees. Mr. Schluckebier replied that he can’t answer that definitively at this meeting. He noted that Council reviews the fees each year as part of the budget process.

Mrs. Corby asked if we are ticketing children on bicycles for not stopping at stop signs. Police Chief Don Carey replied that it is not a priority; however, it is possible. Mrs. Corby noted that a ticket for \$120 was recently issued and she wanted to ensure that we are not targeting wrong traffic violations. Chief Carey said he would look into the circumstances of that ticket.

Mrs. Corby referenced the following item from the written report: “Brevard County has identified the first responder program funding as a potential cut caused by the anticipated property tax reform initiatives. Although the City may lose close to \$300,000, it is in the best interests of the citizens for Melbourne to continue providing this service.”

Chief Forsberg responded to Mrs. Corby’s general questions about the first responder program. Mrs. Corby said she is searching for a tool that Council can provide to support the Fire Chief and prevent the County from cutting this funding. She noted that it is not right that the cities are providing the service, yet the County intends to put the money back in its pocket. Chief Forsberg said he is not certain if the County Commission has addressed this issue yet.

Council Member Cheryl Palmer asked if the County is prepared to provide first responder service if the City of Melbourne does not. Chief Forsberg replied that the County can’t provide faster response. Mr. Schluckebier mentioned that the County is not offering any alternative other than removing the funding.

Vice Mayor Mark LaRusso said that Officer Jim Sargeant, the community police officer assigned to Downtown Melbourne, did a phenomenal job when he worked the Downtown Eau Gallie area. Council Member Kathy Meehan added that the merchants are very pleased and feel that this officer is a good fit for the Downtown Melbourne area.

7. Public Comments

None.

NEW BUSINESS

8. ORDINANCE NO. 2007-30 (AR-2007-215), ORDINANCE NO. 2007-31 (CPA-2007-03), AND ORDINANCE NO. 2007-32 (Z-2007-1109) ROSS PROPERTY: Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation on a 1.88-acre parcel, located on the east side of the undeveloped Turtle Mound Road right-of-way, south of Aurora Road. (Owner - Gerald Ross) (Applicant/Representative - Scott D. Widerman,

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Esq.) (P&Z Board - 4/19/07)

- a. Ordinance No. 2007-30/AR-2007-215: (Second Reading/Public Hearing) An ordinance providing for annexation of 1.88 acres. (First Reading - 5/22/07)
- b. Ordinance No. 2007-31/CPA-2007-03: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential on 1.88 acres. (First Reading - 5/22/07)
- c. Ordinance No. 2007-32/Z-2007-1109: (Second Reading/Public Hearing) An ordinance providing for zoning designation of R-1AAA (Single-Family Low Density Residential) on 1.88 acres. (First Reading - 5/22/07)

City Attorney Paul Gougelman read each ordinance by its title. There were no disclosures by Council and no comments during the public hearing. Scott Widerman, representing the applicant, was available for questions.

Moved by Palmer/Corby for approval of Ordinance No. 2007-30 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by Thomas/LaRusso for approval of Ordinance No. 2007-31 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by LaRusso/Contreras for approval of Ordinance No. 2007-32 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2007-34 (CPA-2006-31) AND ORDINANCE NO. 2007-35 (Z-2006-1089) FOUNTAINS AT LAKE WASHINGTON: Ordinances providing for a Comprehensive Plan Amendment and zoning designation for two parcels consisting of 98.3± acres located west of I-95, north of the northern terminus of Washingtonia Drive, the Chestnut Run Subdivision, and the proposed Woodshire Preserve Subdivision. (Owner - Fountains at Lake Washington, LLC) (Applicant/Representative - John H. Evans) (P&Z Board - 1/18/07)

- a. Ordinance No. 2007-34/CPA-2006-31: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future

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Land Use of Suburban Estate Residential on two parcels consisting of 98.3± acres.  
(First Reading - 5/22/07)

- b. Ordinance No. 2007-35/Z-2006-1089: (Second Reading/Public Hearing) An ordinance providing for a zoning designation of R-1AAA (Single-Family Residential) on two parcels consisting of 98.3± acres. (First Reading - 5/22/07)

Attorney Gougelman read Ordinance No. 2007-34 and Ordinance No. 2007-35 by title. There were no disclosures by Council. John Evans, representing the applicant, was available for questions. Mayor Goode opened and closed the public hearing with no comments from the audience.

Moved by Meehan/Palmer for approval of Ordinance No. 2007-34 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-35 based on the findings contained in the Planning and Zoning Board memorandum and the condition contained in the ordinance. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2007-36 (CPA-2006-32) AND ORDINANCE NO. 2007-37 (Z-2006-1091) WOODSHIRE PRESERVE: Ordinances providing for a Comprehensive Plan Amendment and zoning designation for 183± acres located west of I-95, at the north end of Washingtonia Drive, immediately north of the Chestnut Run Subdivision. (Owner - Woodshire Preserve, LLC) (Applicant - City of Melbourne) (Representative - Candice Hawks, Engle Homes) (P&Z Board - 1/18/07)

- a. Ordinance No. 2007-36/CPA-2006-32: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential on 183± acres. (First Reading - 5/22/07)
- b. Ordinance No. 2007-37/Z-2006-1091: (Second Reading/Public Hearing) An ordinance providing for a zoning designation of REU (Residential Estate Use, Single-Family Residential) on 183± acres. (First Reading - 5/22/07)

Attorney Gougelman read the ordinances by title. Council made no disclosures. Candice Hawks, representing Engle Homes, was available for questions. Mayor Goode opened and closed the public hearing. There were no comments from the audience.

Moved by Palmer/Meehan for approval of Ordinance No. 2007-36 based on the findings

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contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-37 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2007-38 (CPA-2006-38) TEXT AMENDMENT BY PAUL R. RUFO: (Second Reading/Public Hearing) An ordinance amending Appendix D, Chapter 4, Section 4.04 of the City Code; and amending the Future Land Use map to allow commercial development on the east side of Wickham Road, adjacent to Wickham Park. (Owner - Brevard County) (Applicant/Representative - Paul R. Rufo) (First Reading - 5/22/07)

Attorney Gougelman read Ordinance No. 2007-38.

*From the agenda report: Although the Planning and Economic Development staff originally recommended denial of the proposed text amendment, Brevard County staff provided correspondence showing their concurrence with the applicant's request. Therefore, City staff no longer recommends denial of the request.*

Planning and Economic Development Director Cindy Dittmer confirmed for Council Member Cheryl Palmer that the Planning and Zoning Board did not have the correspondence from the County at the time it made its recommendation.

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

Moved by Contreras/Thomas for approval of Ordinance No. 2007-38. The roll call vote was:

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

Nay: LaRusso

Motion carried.

12. ORDINANCE NO. 2007-40: (Second Reading/Public Hearing) An ordinance amending Chapter 10 of the City Code, entitled "Community Planning and Development," as it relates to the Architectural Review Board; revising the composition of the board; and providing that if an applicant violates the terms and conditions of a certificate of appropriateness, the property may be referred to the Code Enforcement Board for action. (First Reading - 5/22/07)

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The City Attorney read the ordinance by its title. There were no public comments.

Moved by Meehan/Corby for approval of Ordinance No. 2007-40. The roll call vote was:

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

Motion carried unanimously.

13. ORDINANCE NO. 2007-41: (Second Reading/Public Hearing) An ordinance amending Chapter 3 of the Code of Ordinances, entitled "Alcoholic Beverages;" amending Section 3-1.1 as it relates to hours of sale for alcoholic beverages. (First Reading - 5/22/07)

Attorney Gougelman read Ordinance No. 2007-41 by title. Mayor Goode opened the public hearing.

Pat Poole, 805 East Palmetto Avenue, reported that she attended a Planning and Zoning Board meeting last Thursday and learned that the City is considering changing the distance requirements between businesses that sell alcoholic beverages and churches and schools. She expressed concern that we are watering down our codes and encouraged Council to not reduce the distance requirement in the future.

In response to the Mayor, the City Attorney agreed that this ordinance amends the (opening) hours for businesses that sell alcoholic beverages.

Mayor Goode closed the public hearing.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-41. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

14. COUNCIL ACTION RE: Contract award for site paving and curbing restoration work associated with the emergency repair of failed sewer mains on Country Club Road, Project No. 30707, Aquatic Technologies, LLC, Palm Bay, FL - \$64,562.50 and appropriation of \$71,019 from the Water & Sewer Prior Year Surplus to provide funding for this portion of the project.

Utilities Engineer Michelle Shoultz reviewed the agenda report.

Moved by Thomas/Meehan for approval of contract award for site restoration work to Aquatic Technologies, LLC in the amount of \$64,562.50 and an appropriation of \$71,019 from the Water & Sewer Prior Year Surplus into the Rehab & Line Sewer CIP Project Budget (30707) to provide the funding for this portion of the project. Motion carried unanimously.

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15. CONSENT AGENDA:

Moved by Meehan/LaRusso for approval of the consent agenda, Items “a” through “q.”  
Motion carried unanimously.

- a. Contract award for the purchase of quicklime for the water reclamation facilities, O-N Minerals, Luttrell, TN - \$164.03/ton; estimated annual cost of \$82,015.
- b. Purchase of 29,700 pounds of Magnafloc LT22S dry polymer for the Actiflo Surface Water Treatment Plant, Ciba Specialty Chemicals Corp., Suffolk, VA - \$57,618.
- c. Purchase of a 155kW portable generator set for the Wastewater Treatment Plant, Florida Detroit Diesel-Allison, Orlando, FL - \$56,250.
- d. Approval of a blanket purchase order for the purchase of replacement sewage pumps of various sizes, Florida Bearings, Inc., Miami, FL - \$50,000.
- e. Purchase of fire truck tools and equipment, Ten-8 Fire Equipment, Inc., Bradenton, FL - \$35,178.19.
- f. Purchase of point-of-sale hardware and software for the City golf courses automated tee time system, Active Network, Inc., San Diego, CA - \$18,196.25; and budget transfers of \$9,099 from Melbourne Golf Course Computer Software and \$9,099 from Harbor City Golf Course Computer Software to the Information Technology Computer Software to provide funding for this purchase.
- g. Authorization for the City Manager to execute a Minnesota Multi-State Contracting Alliance for Pharmacy Facility Membership Agreement to allow the City to participate in a Florida State Program for vaccine purchases.
- h. Approval of an addition to the Blanket License Agreement between the City of Melbourne and the Florida East Coast Railway dated March 5, 1997, providing for the addition of one new crossing at an annual fee of \$550; and authorization for the City Manager to execute the document.
- i. Rescission of the contract award for removal and replacement of existing exterior glass windows at the Housing & Community Development building, Project No. 06206, Duncan Builders, Titusville, FL - \$24,900.
- j. Contract award for removal and replacement of existing exterior glass windows at the Housing & Community Development building, Project No. 06206, Certified General Contractors, Inc., Melbourne, FL - \$32,103.50 and transfer of \$4,314 from DRI Administration to this project budget.

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- k. Task Order No. 2 to the Continuing Consultants Contract for engineering services to provide an engineer's report for the official statement, Water & Sewer Improvement Revenue Bonds, Series 2007B, Hazen and Sawyer, P.C., Fort Pierce, FL - \$24,000.
- l. Approval of a HOME Investment Partnership Program award to Community Housing Initiative for the Macedonia Missionary Baptist Church rental development project in the amount of \$284,380; related budget adjustments from various HOME accounts to fund the project; and authorization for the City Manager to execute the agreement.
- m. Acceptance of a \$53,767.19 payment to satisfy City HOME liens against property located at 1016 Church Street and authorization for the City Manager to execute the satisfaction of mortgages.
- n. Acceptance of a settlement agreement between the Florida Department of Financial Services, the Florida Department of Legal Affairs, Office of the Attorney General, the Office of Insurance Regulation, and Brown & Brown, Inc. regarding certain undisclosed compensation received by insurance brokers Brown & Brown in connection with placement of insurance coverage on behalf of certain local governmental entities and authorization for the City Manager to execute a release waiving any further claims.
- o. Approval of an additional appropriation of \$8,748.50 from the Law Enforcement Trust Fund for miscellaneous hardware and installation charges associated with the purchase of a dispatch console for the Police Department Communications Center. (Approved by Council - 4/24/07)
- p. Travel authorization for Vice Mayor LaRusso to travel to Tallahassee, Florida on June 17, 2007 to meet with legislators regarding tax reform. (Note: the legislative session ended early and the Vice Mayor canceled his trip.)
- q. Resolution No. 2038: A resolution authorizing the City Manager to execute a Special Warranty Deed between the City of Melbourne and Harris Corporation conveying property, located near the corner of Hibiscus Boulevard and Harris Road, held as security under Industrial Development Bond.

16. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

17. COUNCIL ACTION RE: Acceptance of the Site and Facility Study for the Melbourne Auditorium.

*From the agenda report: Strategic Planning Group, Inc. has performed a market study to determine the need for a public assembly facility. The study was routed to City Council for review on May 10, 2007.*

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*Three alternatives were included in this phase of the market assessment. As stated in the report, all alternatives must be located within walking distance of a 300-room hotel. Alternative A is to provide a facility similar to the existing Melbourne Auditorium; Alternative B is to construct a new facility with 40,000 square feet of exhibit space, a combination of pre-function and ballroom areas of 20,000 – 25,000 square feet and 8,000 – 10,000 square feet of additional meeting breakout space; and Alternative C is Alternative B with the addition of 20,000 square feet of exhibit space.*

Bob Gray, Strategic Planning Group, reported that they found the building today is virtually 100% occupied, although it is functionally obsolete. He reviewed the alternatives and said that, depending on the final solution, a cost/benefits analysis should be prepared identifying estimates of construction costs, financial operations, potential funding sources and economic impacts.

Council Member John Thomas said he would like to accept the study and table further discussion until we know the outcome of property tax reform.

Moved by Thomas/Palmer to accept the Site and Facility Study and postpone further discussion and direction on proceeding with additional phases of the evaluation until we know the outcome of the property tax issue.

Mr. Schluckebier said that this suggestion makes perfect sense. He added that he does not believe Council could allocate significant resources at this time. However, the current status is that an engineering evaluation of the existing building would need to be performed before Council would be in a position to make a decision. Therefore, he asked Council to consider postponing the item to a date certain.

The maker/second agreed to postpone further discussion and direction until the first meeting in November (November 13).

Mrs. Palmer reminded staff that she had asked for information on parameters regarding what types of City properties could be sold without voter approval. She said that she has a fear that if this site is deemed not acceptable, it might be sold to a private developer.

Mr. Schluckebier reported that Deputy City Manager Howard Ralls is working on criteria for that along with criteria for abandoning and vacating property.

Mrs. Palmer asked for both prior to the November 13 meeting.

Mrs. Corby referenced the recommendation in the report that states the facility should be located in proximity to a supply of at least 300 hotel rooms. She asked if this is something planned for the future.

The City Manager replied that he is not aware of any immediate plans. He added that it would be premature to say this location is not a good permanent location; at this point we just don't know.

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The question was called. Motion carried unanimously.

18. COUNCIL ACTION RE: Approval of a Participation Agreement and Memorandum of Agreement between the City of Melbourne and the St. Johns River Water Management District (SJRWMD) providing that the City design, construct, and maintain a Stormwater Treatment Facility for South Sarno Road area drainage, Project No. 20105, at the Evergreen Village property location to be purchased by SJRWMD; and authorization for the City Manager to execute the agreements.

City Engineer Jenni Lamb briefed Council.

*The following is an excerpt from the agenda report: This is a participation agreement and a memorandum of agreement with St. Johns River Water Management District (SJRWMD) for a stormwater treatment facility. SJRWMD intends to purchase the Evergreen Village property located west of Magnolia Avenue and south of Laurie Street for the purpose of a stormwater treatment facility to provide water quality improvements. The Participation Agreement and Memorandum of Agreement (MOA) will allow SJRWMD to convey the property to the City provided the City designs, permits, and constructs a stormwater treatment facility at the Evergreen Village Property.*

*St. Johns will participate by acquiring the parcel. On May 8, 2007, the SJRWMD board approved the purchase of the property for \$1,887,000. The City will design, construct and maintain the facility. A multi-phased South Sarno Road Area Drainage project was approved as part of the fiscal year five-year capital improvement program. SJRWMD acquisition of the Evergreen Village property will allow the City to initiate a first phase of the South Sarno Road Area drainage project. There is currently \$400,000 available in the project budget.*

*The term of the agreement is two years or until closing between SJRWMD and the City, whichever occurs first. SJRWMD will initially take title to the parcel and then convey title to the City, subject to an MOA. The MOA restricts the use of the property to construction, operation, maintenance, and enhancement by the City of a water quality improvement/stormwater treatment facility. The City must commence construction within five years from the date of recording the MOA and must continue to operate and maintain the property or SJRWMD shall have the option of requiring the City to either re-convey title to the property back to SJRWMD or reimburse SJRWMD the full amount it funded for the parcel, plus interest at the rate of five percent per year.*

*The Evergreen Village parcel has been presented to Council on three previous occasions. 1) The Magnolia Avenue Condominiums/Evergreen Village submittal for rezoning from Industrial/Commercial to Low Density Residential was denied on May 24, 2005. 2) Nieman Commerce Center, an industrial park, was approved for the property on August 23, 2005. During the two development hearings, residents expressed interest in the property remaining undeveloped. 3) On April 11, 2006 Council approved the submittal of a grant application to purchase the property as conservation land; however,*

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*Brevard County's Environmentally Endangered Land's program was unable to provide the required matching funds for the project.*

Mrs. Palmer asked if there are any opportunities to leave an area on the property open for hiking. Mrs. Lamb replied that there is an opportunity to provide a path around the pond, but the main purpose has to be stormwater treatment facility.

In response to the Mayor, Mrs. Lamb outlined the agreement between the City and SJRWMD. She added that more than likely we will be able to provide a buffer of trees along Magnolia Avenue. Additionally, the City won't have to spend money for property acquisition to build a project that was already budgeted.

The City Manager exclaimed that this is an outstanding opportunity and a good collaboration between two public agencies.

Council Member Kathy Meehan asked if the property will be fenced. Mrs. Lamb replied that we are aiming for a slope that would be more aesthetically pleasing and not require fencing.

There were no objections from Council to allow public comments.

Peggy Snead, 738 Anita Drive, asked if equipment, pumps and machinery will be included in the project.

Mayor Goode recommended that Ms. Snead speak to the City Engineer.

Ms. Snead asked if citizens would have an opportunity to provide input on beautification.

Council Members nodded their head in agreement.

John Emery, 552 South Magnolia Avenue said that he is pleased with this development, especially since the neighborhood will be able to participate in the beautification.

Vice Mayor LaRusso said that there were many obstacles and this plan provides a huge opportunity.

Moved by LaRusso/Meehan for approval of the Participation Agreement and the Memorandum of Agreement with St. Johns River Water Management District and authorization for the City Manager to execute the agreements. Motion carried unanimously.

19. FINAL PLAT APPROVAL (SD-2004-04) CROSSROADS VILLAGE SUBDIVISION: (Public Hearing) A request for final plat approval to allow development of a seven-lot retail/ office on a 13.02-acre parcel zoned C-2 (General Commercial), located on the east side of Wickham Road, south of the Pineda Causeway. (Owners - CV of Melbourne LLC and Community Educators Credit Union) (Applicant - Robert Kurlander) (Representative - Rick Renfro) (P&Z Board - 5/17/07)

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Planning and Economic Development Director Cindy Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the final plat as submitted on a single page prepared by Campbell Surveying of Merritt Island, Florida, signed, sealed and date-stamped April 19, 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. Noel Droor, representing the applicant, was present. Mayor Goode closed the public hearing.

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

20. SITE PLAN APPROVAL (SP-2007-10) LANSING SQUARE, PHASE 3: (Public Hearing) A request for site plan approval to allow development of a 20,000 square foot retail/office building on a 1.49±-acre portion of an 11.32±-acre site 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 - 5/17/07)

Mrs. Dittmer reviewed the report and located the property on the map. The Planning and Zoning Board voted unanimously to recommend approval of the site plan as submitted on a single-sheet plan prepared by Bussen-Mayer Engineering Group, Inc., of Melbourne, Florida, Project No. 357903, with a signed and sealed date of May 8, 2007, subject to the following conditions:

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

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

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- b. Appropriate environmental permits, including permitting for the gopher tortoises, must be obtained as part of the construction plan review process.
- c. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.
- d. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- e. As required by Chapter 10, Appendix D, and Chapter 32, Melbourne City Code, to reserve capacity, the owner/developer shall be required to pay the capacity reservation fee (10%) in the amount of \$14,038.00 for transportation, water and sewer impact fees. Payment must be received by the City of Melbourne within 10 business days of the date of this development order by City Council approval. The transportation, water and sewer capacity reservation shall not become effective until payment of the capacity reservation fee has been made payable to and received by the City of Melbourne. Failure to have reserved capacity shall be a basis for withdrawing approval of this development order.

There were no disclosures by Council and no comments during the public hearing.

Moved by Palmer/Corby for approval of the site plan, based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

21. SITE PLAN APPROVAL (SP-2007-14) CITY HALL: (Public Hearing) A request for site plan approval to allow demolition and redevelopment of a five-story, 58,279 square foot City Hall building with an accessory five-story, 353-space parking structure on a 2.5±-acre parcel zoned C-3 (Central Business District), located on the north side of Strawbridge Avenue, west of the Florida East Coast Railway, and east of Waverly Place. (Owner/Applicant/Representative - City of Melbourne) (P&Z Board - 5/17/07)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the site plan consisting of a single-sheet prepared by the Construction Engineering Group, Project No. 060483, with a stamped and sealed date of May 8, 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 City staff, the Planning and Zoning Board, Local Planning Agency, and/or the City Council.

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- b. The applicant shall provide a right-turn/taper into the project from Strawbridge Avenue, as determined by the City Engineering Department and if permitted by the Florida Department of Transportation (FDOT) during the construction plan review process. If the FDOT does not grant a permit for the deceleration lane, the applicant shall be required to request a variance before the Zoning Board of Adjustment.
- c. Appropriate environmental permits must be obtained as part of the construction plan review process.
- d. All trees identified on the site plan shall be preserved as depicted on the plan.
- e. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- f. The project must receive Architectural Review Board approval prior to construction plan approval.

There were no disclosures by Council. Mayor Goode opened the public hearing. Jake Wise, representing Construction Engineering Group, was present. The Mayor closed the public hearing.

Moved by Meehan/Contreras for approval of the site plan, based upon the findings and conditions contained in the Planning and Zoning Board memorandum.

Vice Mayor LaRusso asked about the clock feature. Mrs. Lamb confirmed that it has been incorporated in the design. Following a brief discussion about the proposed location, Mr. LaRusso said he would like to see it placed higher so that folks driving from the east or west will be able to view it. Mrs. Lamb said she will determine if there is an opportunity to place the clock higher on the building.

The question was called. Motion carried unanimously.

22. COUNCIL ACTION RE: Lease agreement for City Hall parking garage.

- a. Resolution No. 2039: A resolution approving a Parking Space Triple Net Lease Agreement and authorizing the City Manager to execute the lease agreement between the City of Melbourne and the Melbourne Downtown Community Redevelopment Agency for future parking spaces in the proposed City Hall parking garage.

Attorney Gougelman read the resolution by title and Mrs. Dittmer said she had nothing to add to the written report.

*The following is an excerpt from the agenda report: This is a request for City Council and for the City Council sitting as the Downtown Melbourne Community Redevelopment*

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*Agency (“CRA”) Governing Board to approve a resolution relating to the approval of a Parking Space Triple Net Lease Agreement between the City of Melbourne and the CRA.*

*City Council approved a contract for the design-build of the City Hall parking garage at its March 13 meeting. The staff report indicated that a lease agreement between the City and the Downtown Melbourne CRA for the leasing of a portion of the public parking would return to City Council for approval at a future date.*

*The City Hall parking garage and surface parking area will have a total of 424 parking spaces. The parking spaces will be allocated as follows: 168 employee parking spaces in the garage and 35 parking spaces in the surface parking lot for City Hall, and an additional 221 parking spaces for the public, including employees of Downtown businesses, shoppers, and other business people. The floor plans of the parking spaces are attached as an exhibit to the lease. The Chairman of the CRA and the City Manager, acting on behalf of the City, have the right by separate letter of agreement to redraw the boundaries of the parking spaces and to re-locate limited numbers of the spaces to accommodate changes in the layout of the parking garage. This may be required in the future to accommodate handicapped parking spaces or to make some spaces more convenient to City Hall visitors.*

*The Downtown CRA Advisory Committee, at its March 2, 2007 meeting, recommended the concept of a lease agreement with the City of Melbourne for the additional Downtown parking spaces provided in the garage. The lease agreement commences the day it is approved by the Council and the CRA, but lease payments and the right to use the garage don't commence until April 1, 2009, a time shortly after the planned issuance of a certificate of occupancy for the parking garage. The lease agreement provides for the Downtown Melbourne CRA to pay an annual lease amount through December 31, 2022, the date that the CRA will expire as to jurisdiction over the Downtown area. The lease amount will be \$250,000 annually until September 30, 2013. Effective on October 1, 2013, the rent will increase to \$300,000 annually until September 30, 2022. From October 1, 2022 until December 31, 2022, the rate shall be increased to \$33,333.33 per month.*

*The CRA's parking spaces will be maintained at the cost of the CRA, but the parking garage will be maintained by and at the cost of the City. The City will insure the parking garage, but the City, acting through the City Manager, has the right to require the CRA's leased area to be insured by and at the expense of the CRA, if necessary in the future. The City will also provide electricity for lighting and elevators and water for water fountains. Depending upon the cost of these services, as the option of the City acting through the City Manager, the CRA may be required to pay its proportionate share of these types of costs to the parking garage.*

*It is currently planned that the CRA's parking spaces will be operated for free, but should the CRA wish to charge for the parking spaces, they will have a right to do so. The City Attorney is currently investigating whether such an event would cause the parking garage to be subject to ad valorem taxation. Assuming that such an event would occur, the lease provides that the CRA will be responsible for payment of any taxes.*

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Mrs. Dittmer confirmed for Mr. LaRusso that the number of handicapped parking spaces meets Code and that the garage will have an elevator.

Mrs. Palmer asked staff to elaborate on the provision that “should the CRA wish to charge for parking spaces, they will have a right to do so.” She noted that we are leasing the spaces to the CRA to make public parking available, yet we are saying that in the future they can charge.

Attorney Gougelman replied that it is optional and would have to be invoked by the CRA Board, which is the City Council. He explained that this is a long-term lease and it is conceivable that it could be assigned to some other entity. The assignee would be subject to the lease provisions. If they take assignment, they would want, more likely than not, to be able to have paid parking. If the City holds the lease through its term, the type of charges available would only be a parking meter or toll booth type of arrangement. Any individual that would want to reserve space for a long period of time could do so for a time not to exceed 30 days. With the bond arrangement, it would not be legally possible to lease a spot to someone for a long-term arrangement.

Mr. Gougelman confirmed that the CRA (Council) would have to approve the concept of someone taking over the lease. He added that is not planned at this time.

Mrs. Palmer pointed out that the parking garage is being built to accommodate citizens who wish to come to City Hall or Downtown. It is not for business owners to have a private, long-term space.

Moved by Meehan/Contreras for approval of Resolution No. 2039.

Mr. LaRusso asked the effect of the tax reform legislation. The City Manager said that the Legislature is exempting the incremental finance method, which this comprises.

Mrs. Corby asked if we would be prevented in the future from going into the parking business as a potential opportunity for revenue. She said she wants to be sure that we leave ourselves open for that opportunity.

The City Manager said he doesn't believe we are prohibited; however, there may be tax considerations.

The question was called. Motion carried unanimously.

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

- b. Approval of a Parking Space Triple Net Lease Agreement between the City of Melbourne and the Melbourne Downtown Community Redevelopment Agency for future parking spaces in the proposed City Hall parking garage.

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

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

23. ORDINANCE NO. 2007-42 (Z-2007-1110) CARL C. GAY: (First Reading/Public Hearing)  
An ordinance changing the zoning from R-1AA (Single-Family Low Density Residential) to C-1 (Neighborhood Commercial) on a 0.58-acre parcel, located on the north side of Sarno Road, east of Apollo Boulevard, and west of Kelmore Drive. (Owner/Applicant/Representative - Carl C. Gay and Sylvia F. Gay) (P&Z Board - 5/17/07)

Attorney Gougelman read Ordinance No. 2007-42 by title. Mrs. Dittmer briefed Council and noted that the Planning and Zoning Board voted unanimously to recommend approval of this request. Additionally, she reported that the public hearing notice contained an error. It listed an incorrect date for the Planning and Zoning Board meeting. The date listed for the City Council meeting was correct. Mrs. Dittmer commented that it was a courtesy notice and not a statutory requirement.

The Mayor asked about the history of the property. Mrs. Dittmer explained that years ago Melbourne had a transitional zone, which allowed the first lot adjacent to commercial zoning to have transitional, or low intensity commercial uses. In the early 1990s this property converted under that portion of the Code and a children's therapy center began operating. The property owner would like to sell to an individual that would like to locate a daycare center on the property.

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

Carl Gay, property owner, explained that after he bought the building, he renovated to bring it up to commercial code. The property has a concrete parking lot, drainage, etc. Therefore, it would be unfeasible to return the property to a residential use. He added that every year since 1991 the property has been issued an occupational license for a daycare center. They are attempting to correct the transitional zoning; however, the property will still be a childcare center.

Bill Insko, 949 Kelmore Drive, said he has resided at this address for the past 21 years. He reported that all of the people in the neighborhood object to this rezoning request and the placement of a daycare center on the property. He pointed out that one resident, Kelli Jo Holt, has provided Council with a letter.

Mr. Insko asked Council to defer action on this request. He referenced the zoning protest requirements in the Zoning Code and said that the incorrect Planning and Zoning Board meeting date on the public hearing notice resulted in the neighbors not being able to file a timely petition. The time to file a petition had expired before the residents received the notice and they feel like they have been denied due process.

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Mr. Insko explained that the residents are primarily opposed because of traffic. The previous owner outgrew this facility. Cars were parked up and down the street and sometimes access to their homes was completely denied.

Chris Webber, 952 Kelmore Drive, explained that he is located north of the property. He referenced the incorrect public hearing notice and agreed that the neighbors object to the change in zoning. Mr. Webber informed Council that he purchased his property in January 2003. Since that date the subject property has not been occupied; it has not been used as a residence or a business during that time. The residents have grown accustomed to that. This is a dead-end dirt street with seven houses; it is very private. Allowing a daycare center will directly affect the value and desirability of these properties.

Mr. Webber discussed current and future traffic. There are plans to widen Apollo Boulevard; the property to the west is a new, 13 building townhome facility; and the property across the street will be a strip mall. Ten parking spaces are planned and four or five of them will be for employees. People will be turning left off of Sarno Road to drop off and then will attempt to access Sarno Road; it will be almost impossible. Mr. Webber asked Council to deny this and to read Ms. Holt's letter.

Mayor Goode referenced the letter dated June 12 from Kelli Jo Holt, 933 Kelmore Drive. (Ms. Holt notes the following in her letter: The property has not been occupied for well over five years; the original facility was for medically handicapped children, not a regular public access daycare facility; when she moved into her property in 1993, there was a major issue with people parking on the grassy area on the side of the building; others used her front yard and driveway to turn around when they had missed the driveway; Kelmore is a dirt road with very little traffic; when the previous business was open she had to ask people to move their cars off the sidewalk so her children did not have to walk around cars on Sarno Road.)

Mrs. Palmer stated that Ms. Holt makes some valid points in her letter. She asked the Mayor to read the letter. Mayor Goode declined and said it is three or four pages long and has been distributed to Council.

Mayor Goode closed the public hearing.

Mrs. Palmer said that this property does not look like it has sufficient area to allow cars to queue up without lining up on Sarno Road. She asked the solution.

Mrs. Dittmer said that staff's view is that the existing use is similar to the proposed use. The property has a two-lane driveway. There is a possibility in the morning or afternoon of cars lining up. Mrs. Palmer asked how they will queue up without backing up traffic on Sarno Road. Mrs. Dittmer said there will be a total of 12 parking spaces. The Code doesn't provide for "queuing"; therefore, folks would park and walk in.

Mrs. Palmer asked how many children can be served at this facility. Mrs. Dittmer replied that is determined by the state.

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Mrs. Palmer stated that she is concerned about traffic and would especially like to ensure that traffic does not back up and block Sarno Road.

Moved by Meehan/Palmer to direct staff to send a new notice to the neighborhood and return the item through the Planning and Zoning Board process.

Mrs. Dittmer confirmed that if there were any advertisement costs involved, the City would pick up the tab.

The question was called. Motion carried unanimously.

Recessed: 8:07 p.m.

Reconvened: 8:16 p.m.

24. ORDINANCE NO. 2007-43 (AR-2007-216), ORDINANCE NO. 2007-44 (CPA-2007-04), ORDINANCE NO. 2007-45 (Z-2007-1111), AND ORDINANCE NO. 2007-46 (CU-2007-07) RADISSON HOTEL (A1A): Ordinances providing for annexation of 6.20 acres (5.56 acres plus 0.63 acres of right-of-way), a Comprehensive Plan Amendment, zoning designation, and granting a conditional use for building height on a 5.56-acre parcel, located on the east side of North Highway A1A, south of Eau Gallie Boulevard. (Owner/Applicant/Representative - Nicholas Telemachos, Trustee) (P&Z Board - 5/17/07)
- a. Ordinance No. 2007-43/AR-2007-216: (First Reading/Public Hearing) An ordinance providing for annexation of 5.56-acre parcel and the 0.63-acre eastern one-half of the Highway A1A right-of-way.
  - b. Ordinance No. 2007-44/CPA-2007-04: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Commercial/Medium Density Residential on a 5.56-acre parcel.
  - c. Ordinance No. 2007-45/Z-2007-1111: (First Reading/Public Hearing) An ordinance providing for a zoning designating of C-1 (Neighborhood Commercial) on a 5.56-acre parcel.
  - d. Ordinance No. 2007-46/CU-2007-07: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a building height of 132 feet, 10 inches for an existing hotel and convention center on a 5.56-acre parcel.

Attorney Gougelman read each ordinance by title. Mrs. Dittmer reviewed the agenda report and located the property on the map. The Planning and Zoning Board voted unanimously to recommend approval.

*From the agenda report: The property currently contains the Radisson Inn, which includes 168 rooms and a convention center area. The property owners signed a pre-annexation agreement in 1984 to provide City water to the property. The property owners are requesting voluntary annexation of the property at this time.*

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*In regard to the request for additional building height for the existing building (Ordinance No. 2007-46), City staff is not able to make a recommendation for height over 60 feet, due to Council policy.*

Mrs. Palmer referenced the note about Council's policy on height and pointed out that this is an existing building. Mr. Schluckebier agreed and said staff could have made a recommendation because Council's policy deals with new construction.

There were no disclosures by Council and Mayor Goode opened the public hearing. Nicholas Telemachos, applicant, was present. Mayor Goode closed the public hearing.

Moved by LaRusso/Palmer for approval of Ordinance No. 2007-43. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-44. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-45. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-46. Motion carried unanimously.

25. ORDINANCE NO. 2007-47 SPEED LIMIT: (First Reading) An ordinance amending Chapter 31 of the City Code, entitled "Traffic and Motor Vehicles," amending Section 31-3 relating to speed limits on City streets.

Note: The ordinance would give the City the ability to lower the official maximum speed limit in a residential area to 25 miles per hour after an investigation determines that such a limit is reasonable as allowed by Florida Statutes.

The City Attorney read the ordinance by title.

Moved by Contreras/Thomas for approval of Ordinance No. 2007-47. Motion carried unanimously.

26. COUNCIL ACTION RE: Approval to negotiate a lease agreement with Melbourne Plaza, LLC or Evans-Butler Realty for office space for the relocation of employees during the construction of City Hall; authorization for the City Manager to execute the agreement; and an appropriation from the General Fund for the first two months rent - \$19,494 or \$32,624 respectively.

Mrs. Lamb provided an overview.

*The following is an excerpt from the agenda report: This lease agreement is office space for the 56 employees currently working in the two annex buildings that will be demolished in September as part of the new City Hall construction.*

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*Melbourne Plaza, LLC has 13,600 square feet available in the former K-mart building at the corner of Apollo Boulevard and Sarno Road. The cost to lease this space is \$8.60 per square foot. This cost includes base rent, common area maintenance, insurance, and real estate taxes for a two-year term. Included in the rental agreement is the construction of new restrooms, three conference rooms, four offices, nurse's station, break room, and divider walls between departments. Also included is the rental of soft walls to divide employees within each department. Staff believes this construction can be completed before the Annex buildings are scheduled for demolition in September. The total rental cost for a two-year term to Melbourne Plaza, LLC is \$233,918.*

*Evans-Butler Realty, Inc. has a total of 10,168 square feet available in two buildings at Hibiscus Office Park. \*The cost to lease this space is \$19.25 per square foot. The buildings are well equipped with finished bathrooms, break-rooms, reception areas, and many offices. Hibiscus Office Park is available for immediate occupancy and would require no alterations. The total rental cost for a two-year term to Evans-Butler Realty, Inc. is \$391,486.*

*The lease agreement would begin August 1, 2007. Therefore, two months rent will be necessary for fiscal year 2007. The remaining rent will be part of the fiscal year 2008 and fiscal year 2009 budgets.*

*\*Mrs. Lamb said that today Evans-Butler lowered its price to \$15.75 per square feet, for a total of \$381,292 for two years. That would also change the figure in the recommendation to \$27,300 should the Evans-Butler Realty lease be executed.*

Moved by Corby/Meehan for authorization to negotiate lease with Melbourne Plaza, LLC and, in event that negotiations fail, authorize staff to negotiate lease with Evans-Butler Realty; authorization for the City Manager to execute final lease document; and an appropriation from General Fund Balance for two months rent, \$19,494 should the Melbourne Plaza lease be executed or \$27,300 should the Evans-Butler Realty lease be executed. Motion carried unanimously.

27. COUNCIL DISCUSSION RE: Status of conflict resolution regarding Brookfield Village property.

*The following is an excerpt from the agenda report: Based on a communication from West Melbourne's attorney, we have been advised that at its June 5, 2007 meeting, the West Melbourne City Council voted unanimously to accept the recommendation from City Manager David Reynal and reject the City of Melbourne's pre-litigation settlement proposal. Melbourne staff believes the Melbourne proposal was a fair approach and should not have been discarded.*

*The compromise was developed at the recent meeting of Melbourne and West Melbourne staff and attorneys, as well as with input and agreement of the property owner (Hessee), who was also at the meeting.*

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*Unless Council wishes to withdraw from the conflict resolution process, the recommendation is to pursue this through the means previously authorized by Council. The Councils of Melbourne and West Melbourne may need to meet in the near future as a last ditch effort to avoid litigation.*

Attorney Gougelman reported that the Melbourne City Council previously authorized the City Attorney's office to initiate litigation as appropriate to contest the annexation of this property by West Melbourne and enforce our rights to provide water and sewer service to the parcel; and to enforce a utility agreement by which the developer would build a lift station that could be upsized at Melbourne's expense and used as a regional lift station to service the area with wastewater treatment.

At the time West Melbourne annexed the property, their City Council agreed to a hiatus of 60-90 days before service would be commenced by West Melbourne to allow negotiations to be undertaken with Melbourne. Melbourne and West Melbourne's negotiating team came up with an arrangement, pursuant to the conflict negotiation statute, that the City of Melbourne would concede the annexation to West Melbourne. In return Melbourne would be the retail service provider of water and wastewater service and the developer would proceed with the original plan to construct a lift station.

Attorney Gougelman said that everyone was in agreement when they left the negotiating table. The City of Melbourne drafted a settlement agreement reflecting those terms. That item was presented to the West Melbourne City Council. That same day, their City Manager released a memorandum of recommendation indicating that he had reviewed the issue with his staff and had come to the conclusion that the agreement was not beneficial to West Melbourne.

If Melbourne wishes to go further, the next step under the conflict resolution statute would be to call a joint meeting of the two City Councils. That would need to happen soon. Our special counsel feels that inherent in this situation seems to be yet another counter proposal, which is to split service. It's unclear as to which service Melbourne would take and which service West Melbourne would take. The City's special counsel has recommended posing two questions to the City Council: "Do you find West Melbourne's counter proposal acceptable? And, if you do not, is it your intention to defend your service area provision by all means available?"

Moved by Goode/Meehan to defend the service area by all means available.

Mr. LaRusso asked if the West Melbourne City Manager was at the meeting where everyone agreed. Attorney Gougelman replied yes. Mr. LaRusso asked if the West Melbourne City Manager contacted him before drafting a recommendation memo of denial. Attorney Gougelman replied no.

Mr. Schluckebier added that a West Melbourne City Council Member who was present at the meeting described Melbourne's proposal/compromise as a win/win situation.

The question was called. Motion carried unanimously.

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28. COUNCIL DISCUSSION RE: Staff recommendations on zoning issues. (Requested by Council Member Contreras)

*From the agenda report: Staff discussed the addition of one new procedure, which may be beneficial given the new law that requires boards to state a substantive reason for denial of a development project request. The new procedure would require supplemental findings at the board level to accompany any recommendation for denial.*

Mr. Contreras referenced the backup material, which includes previous City Council and Planning and Zoning Board minutes on this subject. He noted that the Assistant City Attorney made an interesting point in 2003 that legal burden is the bottom line. The statement made at that time was “what is being sought is the ease of burden...what must be questioned are the quantum, quality and competency of the evidence.”

In discussing this item, he referenced the law that requires a board to state a substantive reason for denial. The suggestion made by staff that supplemental findings be developed at the board level to accompany the recommendation for denial is one issue.

Another issue is whether we are placing ourselves in a litigious state by providing recommendations. Council should consider whether any evidence to the contrary to deny should be provided.

The City Manager pointed out that it is not often that the City Council will make a decision that is in direct conflict with staff or the Planning and Zoning Board. In that event, it would make sense for Council to step back and use the asset of time. It would be worth Council’s time to take one more meeting and ask staff to answer pertinent questions so Council’s full opinion can be placed on the record. He stressed that staff is here to help protect Council’s decision.

The City Manager addressed the second issue – staff recommendations. He informed Council that committees and City Council benefit from formal staff review. During the process, Council does not see all the red lights that developers receive for bad ideas, bad projects, projects not in accordance with Code, etc. He said Council should be reluctant to change that process but should consider an update to the process.

Mayor Goode agreed that Council needs the expertise of staff. A brief discussion followed regarding the process of making recommendations to advisory boards, the makeup of our boards, etc. Mrs. Corby said she would support the Planning and Zoning Board developing the list of reasons for denial if that board were to recommend denial of a project.

Attorney Gougelman commented that our worst enemy is the fact that we are in a rush to render an answer quickly for someone. Sometimes applicants take advantage and insist that they “have a closing on the property tomorrow.” Attorney Gougelman stressed that Council is not under pressure. The rush to judgment is what kills us. We now have a state law that requires us to specify the reasons for denial. Rather than developing reasons on the fly, Council should slow the bus down for one or two meetings and direct staff to prepare

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a written order of denial. The order would be specific and would list any deficiencies that would need to be corrected; staff would return with a synopsis of evidence that would support the denial. It is a more elongated process, but consistent with state statute.

The City Manager recommended that Council consider that the process outlined would automatically add 30 days. This would enable staff to clarify and protect Council's decision.

Attorney Gougelman informed Council that the process would also need to include an opportunity for the applicant to respond to the draft order of denial.

Mrs. Palmer said she has always been concerned that our planning director may become the expert witness for the person who is being denied. The planning director and our boards review the City Code and the Comprehensive Plan. The City Council considers the health, safety and welfare of our citizens.

Discussion continued regarding the process outlined by Attorney Gougelman. Mrs. Corby asked if staff could develop a process flow chart that would spell out the steps and procedures and incorporate the legal requirements. She noted that Council looks at a plan with regard to quality of life, how it fits into the strategic plan, etc.

Mr. Schluckebier asked if the flow chart would relate to the revised procedure discussed. Mrs. Corby agreed and said it should include the "what to dos" on a project from the beginning through its end.

Mr. Contreras said that this is the perfect opportunity to nail this process down. He agreed with development of a flow chart.

Mayor Goode said that without objection staff will proceed.

29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole 805 East Palmetto Avenue, expressed concern over an ordinance that is being drafted that will reduce the current distance requirements between business that sell/serve alcoholic beverages and churches and schools.

In response to Mrs. Poole, Mr. Schluckebier answered general questions about the City's lobbyist.

Additionally, Mrs. Poole recommended that Council Members lobby legislators as a group or in concert with the Florida League of Cities rather than individually.

Mr. LaRusso referenced the Florida League of Cities, Florida Cities of Excellence awards program. He noted that he would like to recommend Mayor Goode as Mayor of the Year; Council Members Contreras and Palmer for Council Member of the Year; Paul Gougelman as City Attorney of the Year; Cindy Dittmer as City Employee of the Year; and Cathy Wysor as City Clerk of the Year.

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Moved by LaRusso/Thomas to proceed with the nominations.

Mrs. Meehan asked Mr. LaRusso if he would include Jack Schluckebier as City Manager of the Year. Mr. LaRusso said he will move forward with his nominations and then Mrs. Meehan can proceed with hers. He immediately reconsidered and the maker/second amended the motion to include Jack Schluckebier as City Manager of the Year.

Mrs. Corby asked if the motion is for those initially named by the Vice Mayor. Mr. LaRusso said that at the request of Council Member Meehan he amended his motion (to include the City Manager). Mayor Goode added that the maker/second amended the motion. Mrs. Corby said she would prefer to stay with the original nominations and then Mrs. Meehan can make her motion. Mayor Goode asked the Vice Mayor if he agreed to accept Mrs. Meehan's nomination. Mr. LaRusso replied that he did agree and added that Mr. Thomas seconded the amendment.

Vice Mayor LaRusso recapped the following nominations: Mayor Goode as Mayor of the Year; Council Members Contreras and Palmer for Council Member of the Year; Paul Gougelman as City Attorney of the Year; Cindy Dittmer as City Employee of the Year; Cathy Wysor as City Clerk of the Year; and Jack Schluckebier as City Manager of the Year.

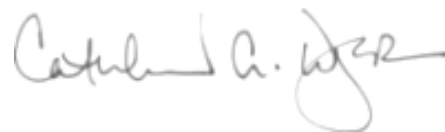
The question was called (on the motion and the amendment). Motion carried unanimously.

(Note: Immediately after adjournment, Mrs. Corby asked if the question was called on the motion and the amendment. The City Clerk confirmed that it was. Mrs. Corby said that if she had realized this when the question was called, she would have voted nay.)

30. ADJOURNMENT

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

The meeting adjourned at 9:11 p.m.



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City Clerk – 6/21/2007

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