

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 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. Reverend Darice Dawson, Florida Tech Protestant Chaplain, 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 presented a plaque to Rin Troast recognizing him for 12 years of volunteer service to the City of Melbourne as a member of the Golf Courses Advisory Board.

5. Approval of Minutes – June 12, 2007 Regular Meeting

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

6. City Manager's Report

There were no additions and no comments.

7. Public Comments

Pat Poole, 805 East Palmetto Avenue, informed Mayor Goode that many people in Melbourne are pleased that he does not discuss quasi-judicial items with applicants prior to the public meeting. She recommended that all Council Members adopt this policy so that everyone hears the same message at the same time.

NEW BUSINESS

8. RECONSIDERATION OF SITE PLAN APPROVAL (SP-2007-07) WICKHAM PARK PHASE II: SENIOR CENTER AND COMMUNITY CENTER: (Public Hearing)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Reconsideration of a request for site plan approval to initiate Phase II of park improvements, including a 10,600 square foot senior center, an 18,000 square foot community center, a 12-court shuffleboard area, relocating the existing driveway on Wickham Road, and providing an internal connection to the equestrian area within the park on a 15.53±-acre portion of a 475.428±-acre parcel zoned I-1 (Institutional), located on the north side of Parkway Drive, east of Wickham Road. (Owner - Brevard County) (Applicant - Brevard County Parks & Recreation) (Representative - William Crowe, PBS&J) (Requested by Council Member Richard Contreras)

From the agenda report: At the May 22, 2007 Council meeting, a motion to approve this site plan failed by a two to five vote. Mayor Goode sent a letter to Brevard County requesting that the County reconsider the Wickham Park location in favor of a Downtown Melbourne location. On June 18, 2007, Council Member Contreras met with Commissioner Jackie Colon, County staff, and South County Senior Center Board members regarding this issue. He has advised City staff that his previous understanding about the potential use of the Henegar Center property (and other locations in Melbourne) has been dispelled.

The Planning and Zoning Board voted unanimously to recommend approval of the site plan as depicted on a two-sheet plan prepared by PBS&J, of Melbourne, Florida, Job Number 150469.50, with a signed and sealed date of April 19, 2007, with the following conditions:

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

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

- b. *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.*
- c. *The proposed buildings shall be substantially consistent with the rendering submitted by the applicant.*
- d. *The applicant shall construct the curb cut/driveway to Wickham Road prior to the issuance of a building permit for the Phase II Community Center Building, subject to review/permitting by Brevard County.*

Note: In addition to the correspondence and petitions contained in the agenda package, Council received the following: Letter dated June 21, 2007 from Peggy Busacca, County Manager, reporting that on May 24 the Board of County Commissioners voted unanimously to enter into conflict resolution with the City of Melbourne regarding the Senior Center site plan in Wickham Park; and in lieu of moving forward with that process,

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

requesting the City Council reconsider the site plan. Letter dated May 29 from Joan Brennan, Indialantic, in support of the center being located in Wickham Park. Petition submitted by Pat Poole on June 26 containing approximately 250 signatures from people opposed to the center being moved to Wickham Park.

Council Member Richard Contreras said he wanted the senior center located in the immediate Downtown Melbourne area. He felt there was potential opportunity with the old high school building located at the Henegar Center. The facade of that building is in good shape and his thought was that a partnership could be developed with the County. Mr. Contreras reported on his meeting with Commissioner Jackie Colon and her staff. He received additional information and that is why he will be voting in support of the site plan on this agenda to be located at Wickham Park. Additionally, he stated that the old high school facility has internal problems.

Moved by Contreras/Meehan to reconsider this item. Motion carried. Council Member Cheryl Palmer voted nay.

Attorney Gougelman said that the effect of this motion is that the previous motion to approve the site plan is now on the floor.

Note: The following motion, from the May 22 Council meeting, is now on the floor: Moved by Meehan/Corby for approval of the site plan based upon the findings and conditions contained in the Planning and Zoning Board memorandum.

Mayor Goode called for disclosures.

Mr. Contreras said on May 25, 2007 he spoke with Jerry Brees, Director of the Henegar Center, about a potential partnership with the County for renovation of the old Melbourne High School building for use as a senior center. On June 18 he met with County Commissioner Colon, County staff and members of the South County Senior Center Board. They provided him with a significant amount of data relative to the senior centers in Brevard County; findings on their research and the tour they took of the old high school facility; and information on the various programs they have or hope to establish. (Mr. Contreras submitted that information to the City Clerk. The same information is also contained in the agenda package on Pages 8-15 through 8-28.)

Council Member Kathy Meehan said on May 26, 2007 Harold Phillips, Vice President, senior center, left a message in support of the center being located in Wickham Park. On June 1 Shirley Massey left a message in support of the senior center being located in Wickham Park. On June 1 she spoke with Jack Ryals, Chairman of the Melbourne Downtown Community Redevelopment Agency Advisory Committee, who indicated that this is a County project; he did not indicate support for either location. On June 18 she met with Commissioner Colon, County staff, and the board members of the senior center to discuss the location of the center in Wickham Park; the need for the 10,600 s.f. building; and the present location not meeting their needs. During that meeting, she obtained a packet of information (which is included in the agenda package).

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Continuing, Mrs. Meehan said on June 26 she spoke with Jim White, Director of Trinity Towers, who opted to remain neutral. He did indicate that eight to ten residents from Trinity Towers joined the senior center and Trinity Towers is working on coordinating bus service with Space Coast Area Transit.

Council Member John Thomas reported that on May 23 he spoke with Harold Phillips, Vice President, senior center, who is in support of the center being located in Wickham Park. On June 20 he spoke with Commissioner Colon about the project. Additionally, he noted that he received e-mails in support of the senior center being located at Wickham Park. (After the meeting, Mr. Thomas forwarded the e-mails to the City Clerk and noted that his disclosure should have indicated that the e-mails were in support of the center being located in Downtown Melbourne. The e-mails (included in the agenda package on Pages 8-31, 8-33 and 8-34) are from Ladonna Williams, dated June 9; Joanne Wisler, 2616 Riverview Drive, dated June 11; and Patty Wolf, 2934 Riverview Drive, dated June 12.)

Council Member Cheryl Palmer disclosed that she spoke with Harold Phillips who is in favor of the center being located in Wickham Park. One of his main points was there were not that many citizens from Downtown Melbourne who participated in activities when the center was located Downtown. And, she received a message from Shirley Massey in support (of Wickham Park location).

Council Member Joanne Corby informed Council that she met with Commissioner Colon and County staff on June 18 and she received the information (referenced by Richard Contreras). And, she received letters of support from Mildred Giganti, Robert Lekarczyk and Betty Norwalk. She spoke with Pat Poole who is in support of the center being located in Downtown Melbourne.

Vice Mayor Mark LaRusso said that Commissioner Colon's office phoned him on June 18 to confirm that he voted for this site plan to be located in Wickham Park. Based on that, he felt that a meeting with the Commissioner was not necessary.

Mayor Goode opened the public hearing.

Pat Poole, 805 East Palmetto Avenue, submitted information containing a newspaper article about the City blocking plans to build a new senior center; staff memo dated May 10 on the site plan; and correspondence from April 2006 indicating that City and County staff resolved the parking issues at the Henegar Center thereby removing the need for a variance.

Mrs. Poole recalled the history of the senior center and the November 2000 Brevard County Parks referendum materials, which depicted the senior center at the Henegar location, not Wickham Park. She explained that if the County has proceeded with construction after City and County staffs resolved the parking variance issue on the Henegar site, the senior center would have been constructed by now. Mrs. Poole stated that Wickham Park is the cheapest way to go, but it is not the best way to go. Melbourne

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

should not have to have a senior center that supports people from all other areas. She stressed that the citizens want the senior center back in Melbourne.

Morris Richardson, Assistant County Attorney, distributed copies of his presentation, which is summarized as follows: The site plan provides for a 10,600 s.f. senior center, an 18,000 s.f. community center, a 12-court shuffleboard area, and 173 parking spaces; the Planning and Zoning Board voted unanimously to recommend approval; City staff recommended approval with conditions; the plan is consistent with the Comprehensive Plan and the City Code; the plan is compatible with surrounding uses, will not adversely increase traffic density, and will not change the character of the area; the City Council is considering the proposed site plan – not the preferred location for the project; the Board of County Commissioners believes the Wickham site will be an asset to the seniors of Melbourne and Brevard; the Wickham site is centrally located between existing senior centers; the former Downtown site is not big enough, parking is a concern, and the City has leased the old site from the County for parking; the Wickham site is already cleared; building on the old site would be costlier and result in delays; the Wickham site is designed to accommodate SCAT busing; and the seniors support the Wickham location. Additionally, the presentation included a timeline from voter approval of the referendum to present.

Mr. Richardson stated that Don Lusk, Director, County Parks and Recreation, is present, along with key members of staff and the design team. He concluded his presentation and asked for time at the end of the public hearing to address any questions or concerns raised.

Gwendolyn Kidd, 650 East Strawbridge Avenue, stated that she lives on the 15th floor of Trinity Towers. Ms. Kidd reported that parking is not available in Downtown Melbourne. The seniors were located in a building that was 65 years old and now there is discussion about putting the seniors in a building that is 81 years old. She stated that she would like a new building at Wickham Park while she is still alive and can enjoy it.

Mr. Contreras asked Ms. Kidd if transportation would be an issue for her if the senior center were located at Wickham Park. Ms. Kidd replied no and explained that she and several other members drive.

Mr. LaRusso asked Ms. Kidd how her neighbors who don't drive will get to Wickham Park. Ms. Kidd said that they are trying to secure a SCAT bus from Trinity Towers to Wickham Park.

Shirley Massey, 1290 Cypress Bend Circle, President of the South Brevard Senior Center at Melbourne, explained that for some the senior center is their only outlet. It offers a way for seniors to remain mentally alert and friendships are built that are stronger than family ties. Ms. Massey explained the importance of being in an area where they can grow and attract "young seniors." She stated that they have waited a long time for this and it is imperative that they have a new senior center now.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Jasper Trigg, 7692 Candlewick Drive, Suntree, asked representatives from the senior center in the audience in support of the site plan to stand (approximately 35 – 40 people stood). He discussed the history of the senior center from its opening in 1979 to present and encouraged the City Council to approve the site plan.

Mary Woodrow, 230 Brandy Creek Circle SE, Palm Bay, stated that the seniors are a family and they are looking for a bigger house because their family got big.

Phyllis Principe, 389 Glenwood Avenue, Satellite Beach, reported that she recently retired from Trinity Towers. She informed Council that more people are driving at a later age; more seniors are using the bus service; and they do not walk Downtown. Wickham Park is a wonderful solution to the location of the senior center.

Emmee Harmon Hanna, 1482 Meadowbrook Road NE, Palm Bay, board member, South Brevard Senior Center at Melbourne, explained that they are not against the location in Downtown Melbourne. She said she understands that people want the center in the Downtown area; however, it won't fit and they couldn't make it work. She said they really would like to go to Wickham Park.

Continuing, Ms. Hanna said they met with Jerry Brees at the Henegar Center. They do have concerns about working with another not for profit organization and they have safety concerns about the building. The Henegar Center has plans for the first two floors, which leaves the third floor as an option. The third floor is only accessible by 24 steps and the elevator on the north end of the building. Ms. Hanna said there would be a problem getting people out of the building in case of fire. Ms. Hanna referenced the memo from Howard Ralls regarding the probable costs in renovating the Henegar Center property and said that based on her experience in the construction business in Brevard, his estimates seem low. Renovation costs a lot and the prices would escalate rapidly.

Mr. Richardson returned to the podium and stated that there has been no evidence presented against the site plan. Speakers simply focused on the location.

Mr. Contreras asked when construction would begin on the site.

Bill Crowe, PBS&J, said that they plan to begin construction towards the end of this year; the construction process will run about one year.

Mr. LaRusso asked if the County has the money in the bank. Mr. Richardson replied yes and stated that they don't foresee any cuts with this project. He noted that construction costs have been held up on projects that have maintenance and operations costs beyond construction. They have a unique relationship with the seniors; the seniors will operate the facility.

That concluded comments from the public and the Mayor closed the public hearing.

Mrs. Palmer said that she voted against the site plan to push the County Commission to have convenient satellite facilities rather than one large facility. That is obviously not

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

going to happen and the County has threatened to sue if the City does not approve the plan. Mrs. Palmer stated that the City Council has to look at the site plan and determine if it meets Code and that is what she is going to do. She noted that she remains concerned that people in Melbourne won't be served and she hopes that SCAT will run bus service to Wickham Park.

Mrs. Corby said that at the May 22 meeting, Council Member Contreras indicated that the Downtown area is the preferred site. She asked Mr. Contreras if he still feels we could use a senior center in the Downtown area in addition to the center on this agenda.

Mr. Contreras replied that it comes down to a budget issue. He would be the first one to support the idea of satellite centers; however, the reality is that is not going to happen. What he had in mind at the last meeting was a potential marriage of the Henegar Center with the senior center. He nixed the Henegar Center idea after looking at the logistics and safety – relegating seniors to the third floor; seniors with walkers, oxygen tanks, etc.

Mrs. Corby said she doesn't think there will be a problem filling the new senior center and there may come a time when we need more than one. She said she would like for it to go on record that if we won the lottery, we could have a senior center in the Downtown Melbourne area.

Mr. Thomas said he agrees that the seniors deserve a new center and he supports the plan for Wickham Park. If there proves to be a need for a center in South Melbourne in the future, he noted that he would do everything possible to make that happen.

Mrs. Meehan said that as much as she would like to see a senior center in Downtown Melbourne, she supports the wishes of the senior center members and will support the location in Wickham Park.

The question was called. The roll call vote was:

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

Motion carried unanimously.

Recessed: 7:22 p.m.

Reconvened: 7:29 p.m.

9. 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: (Second Reading/Public Hearing) An

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

ordinance providing for annexation of 5.56-acre parcel and the 0.63-acre eastern one-half of the Highway A1A right-of-way. (First Reading - 6/12/07)

- b. Ordinance No. 2007-44/CPA-2007-04: (Second 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. (First Reading - 6/12/07)
- c. Ordinance No. 2007-45/Z-2007-1111: (Second Reading/Public Hearing) An ordinance providing for a zoning designating of C-1 (Neighborhood Commercial) on a 5.56-acre parcel. (First Reading - 6/12/07)
- d. Ordinance No. 2007-46/CU-2007-07: (Second 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. (First Reading - 6/12/07)

Attorney Gougelman read Ordinance Nos. 2007-43, 2007-44 and 2007-45 by title. Ordinance No. 2007-46 was missing from the package and Council recessed from 7:32 p.m. until 7:34 p.m. to allow the City Clerk time to retrieve a copy. (The ordinance, which appeared in the June 12 agenda package, was properly advertised for this meeting.)

Attorney Gougelman read Ordinance No. 2007-46 by title.

There were no Council disclosures and no public comments.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-43. The roll call vote was:

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

Motion carried unanimously.

Moved by Thomas/Corby for approval of Ordinance No. 2007-44. The roll call vote was:

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

Motion carried unanimously.

Moved by Palmer/Thomas for approval of Ordinance No. 2007-45. The roll call vote was:

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

Motion carried unanimously.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-46. The roll call vote was:

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Motion carried unanimously.

10. ORDINANCE NO. 2007-47 SPEED LIMIT: (Second Reading/Public Hearing) 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. (First Reading - 6/12/07)

Attorney Gougelman read Ordinance No. 2007-47 by title. Mayor Goode opened the public hearing. There were no comments and the Mayor closed the public hearing.

Moved by LaRusso/Contreras for approval of Ordinance No. 2007-47. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

11. COUNCIL ACTION RE: Contract award for the construction of a new administration building at the D.B. Lee Water Reclamation facility, Project No. 30905, Watauga Company, Titusville, FL - \$748,000 and transfer of \$336,835 from Unappropriated 2004 Bond Interest Proceeds to supplement this project budget.

City Engineer Jenni Lamb reviewed the report and pointed out that a budget transfer of \$336,835 from Unappropriated 2004 Bond Interest Proceeds will provide supplementary funding for this project. Since this project is funded using 2004 Bond Proceeds, the unbudgeted interest proceeds available can be used to help fund this project.

Moved by Contreras/Thomas for approval of the construction contract with the Watauga Company in the amount of \$748,000 for the D. B. Lee Administration Building and a budget transfer of \$336,835 from Unappropriated 2004 Bond Interest Proceeds to supplement this project budget. Motion carried unanimously.

12. COUNCIL ACTION RE: Contract award for the construction of the Country Road waterline extension, Project No. 30507, Don Luchetti Construction, Inc., Melbourne, FL - \$408,702.

Mrs. Lamb reviewed the report and stated that to expedite completion of this work, the project will piggy-back the City's existing Waterline Extension Deerwood Annexation Area contract with Don Luchetti Construction, Inc. Unit prices from the Deerwood contract were used, some of the lump sum prices were reduced as scope of work dictated, and there were three new line items added that were not included in the Deerwood contract. The total cost of the contract is less than the engineer's cost estimate.

Piggy-backing the City's existing contract will not only allow for a cost savings but also a time savings. It takes approximately three to four months to bid and advertise a project.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Since several of the homeowners have indicated that they have failing well systems, the time saved will also be a benefit to the residents in the Country Road annexation area.

Moved by Palmer/Meehan for approval of the construction contract with Don Luchetti Construction, Inc. in the amount of \$408,702 for installation of waterlines on Country Road. Motion carried unanimously.

13. CONSENT AGENDA:

Mayor Goode reported that Mr. Contreras removed Item “o” from the consent agenda.

Moved by Contreras/LaRusso for approval of the consent agenda, with the exception of Item “o.” Motion carried unanimously.

- a. Supplement No. 327 to the Continuing Consultants Contract for engineering services to survey, design, permit, prepare bid documents, and perform construction administration for reuse distribution improvements at various locations, Project No. 31707, Frazier Engineering, Inc., Melbourne, FL - \$24,000.
- b. Approval of a revised five-year lease agreement between the City of Melbourne and Coral Viejo, Inc. for surface parking at 702 New Haven Avenue, at a rate of \$7,300 for the first year with an annual five percent increase; and authorization for the City Manager to execute the agreement.
- c. Approval of an amended Interlocal Agreement between the City of Melbourne and the City of Palm Bay to provide law enforcement services on Palm Bay Road and Babcock Street.
- d. Amendment to the Interlocal Agreement between the City of Melbourne and Board of County Commissioners of Brevard County extending the terms of the Local Option Gas Tax until August 31, 2037.
- e. Approval of a request from St. Johns River Water Management District for funding participation in the 2008 Water Conservation Public Awareness Campaign - \$7,000.
- f. Contract award for the purchase of various water and sewer stock items, Ferguson Water Works, Orlando, FL - estimated total annual cost of \$85,124.43; Sunstate Meter & Supply, Newberry, FL - estimated total annual cost of \$29,778.72; and Consolidated Pipe, Orlando, FL - estimated annual cost of \$17,284.87.
- g. Extension of contract award for sanitary sewer manhole rehabilitation to complete Babcock Street, Chaz Equipment Company, Wellington, FL - at specified unit prices; anticipated cost of \$32,000.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

- h. Contract award for the videotaping of City Council meetings, Communications Concepts, Inc., Cape Canaveral, FL - \$900/meeting for the first four hours and \$65/each additional half hour; estimated annual cost of \$25,000.
- i. Contract award for traffic signal replacement at Babcock Street and Florida Avenue, Traffic Control Devices, Inc., Altamonte Springs, FL - \$24,914.35.
- j. Purchase of two starter control panels for centrifugal blower motors for the Water Reclamation Division, Power Pumps & Motors, Tampa, FL - \$23,114.46.
- k. Purchase/Installation of isolation valves for water/sewer/reuse mains, Mueller Services Company, Tamarac, FL - \$21,000.
- l. Lien Rescission CE-00-99: Approval of request for a lien reduction from \$13,300 to \$1,953.46 if paid within 365 days. (Freddie Lee Davis - 909 Almond Avenue)
- m. Lien Rescission CE-05-057: Approval of request for a lien reduction from \$22,750 to \$11,756.08 if paid within 30 days. (Scott Lockhart, S.A. Investment Properties - 20 E. Avenue B)
- n. Lien Rescission CE-06-118: Approval of request for a lien reduction from \$1,450 to \$507.31 if paid within 30 days. (HSBC Mortgage Services, Inc. - 1840 Glenwood Drive)

Note: See Item 14 for action on Item “o.”

- o. Lien Rescission CE-95-068: Approval of request for a lien reduction from \$7,200 to \$985.15 if paid within 30 days. (Lavonia L. & Brenda S. Roberts - 524 Ryoland Street)
- p. Lien Rescission CE-06-001: Denial of request for a lien reduction from *\$12,800 to \$0. (Brenda V. Townsend - 1330 North Harbor City Boulevard)

*Note: Incorrect amount listed on agenda. Correct amount is \$9,750.

- q. Resolution No. 2040: A resolution authorizing the City Manager to submit an application to the U.S. Department of Justice, Office of Justice Programs, for FY 2007-2008 Justice Assistance Grant funding in the amount of \$61,034 to be used for operations targeting violent, drug-, and gun-related crime.

14. ITEMS REMOVED FROM THE CONSENT AGENDA

- o. Lien Rescission CE-95-068: Approval of request for a lien reduction from \$7,200 to \$985.15 if paid within 30 days. (Lavonia L. & Brenda S. Roberts - 524 Ryoland Street)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Mr. Contreras stated that he does not have an issue with this request; however, this is another instance where someone purchased property at a tax sale and was not aware of a Code Enforcement lien. He asked if there is a process improvement that can be made and recommended that staff communicate with the appropriate County agency to work towards resolution.

The City Manager cautioned that this may be an ongoing issue; tax sales are a “buyer beware” situation. Typically people do not perform due diligence on a tax sale and some of these properties with Code Enforcement liens will slip through. He confirmed that staff will communicate with the Tax Collectors Office and see if they can provide extra caution to people in this situation.

Additionally, the City Manager explained the Code Board process and the fact that Council receives a recommended order from the Code Board. He noted that the board is not going to act favorably on a rescission request until the property is in compliance. And, if the request goes beyond a 50% reduction, it requires a super-majority vote.

Moved by Contreras/Thomas to approve Item 14 “o.” Motion carried unanimously.

15. COUNCIL ACTION RE: 2007-2008 General Fund Revenue Shortfall.

Excerpt from Amy Elliott's memorandum in the agenda package: At this point in the preparation of the General Fund budget for the 2007-2008 fiscal year, there is a \$4.1 million shortfall of revenues needed to meet proposed expenditures. This shortfall arises even after staff has carefully reviewed budgets to minimize expenditures and assumed property tax revenue at a rolled back rate as permitted by the new State legislation with a super-majority vote. The rolled back rate is intended to generate the same level of revenues as the current year and this level of revenues was unanimously approved by the City Council in the adoption of the 2007 fiscal year budget.

As staff is developing next year's budget, the first and most obvious step in reducing the revenue shortfall is to defer additional capital outlay and capital projects, then consider alternative revenue or funding sources, then determine a method for slowing the rate of increase in the single biggest element of expenditures, which is salaries. (Personnel services costs make up 68% of the General Fund budget.) In excess of \$1.5 million has already been reduced from scheduled projects/capital using these approaches.

To balance the budget and reduce the revenue shortfall, staff has assumed the following further reductions: 1) Reduce vehicles by \$947,500. This would postpone the replacement of these vehicles to future years and would mainly include postponing the replacement fire engine and Public Works, Parks Maintenance and Streets Management vehicles and equipment. (Funded from recurring revenues.) 2) Postpone the second phase of the Police Department's assigned vehicle program (26 additional police cars) in the Police Department at an annual savings of \$484,000. Thirty replacement police vehicles are still included in the proposed fiscal year 2008 budget. (Funded from recurring revenues.) 3) Cancel existing capital improvement projects that can be deferred to free up \$1,000,000 to be used for capital projects needed in fiscal year 2008.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

(non-recurring funding source.) 4) Reduce General Fund Contingency by 50% and reduce funding for health insurance premium increases for a total of \$450,000. These reductions mean less flexibility to cope with unexpected costs in next year's budget and mean that staff has assumed that there will be higher employee health insurance cost sharing experienced in 2008. (Funded from recurring revenues.)

Deputy City Manager Amy Elliott reported that staff is busy preparing the budget for the next fiscal year, which is expected to be delivered to City Council on July 6. It has been difficult preparing a balanced budget for the General Fund as the result of the adoption of House Bill 1B. This bill describes the property tax limitations that the City will be facing. As described in the agenda package, we are down to about a \$4.1 million shortfall – there are \$4.1 million more in expenditures than revenues. Staff is trying to close that gap while at the same time give fair consideration to all the programs that are provided through the General Fund to our citizens.

In terms of assumptions, staff has assumed that Council will support a roll back rate (which will require a super-majority vote as described in the agenda material) for the millage rate next fiscal year. The roll back rate will be consistent with the level of revenues that the Council unanimously approved for the current fiscal year. And, significant reductions have been made in capital projects and capital outlay to reduce the costs next year. However, given that, we are still at a \$4.1 million gap.

Staff is proposing to do everything possible to retain Melbourne's quality workforce. A budget will be proposed that will not require a reduction in staff. Mrs. Elliott reviewed the additional suggested reductions (outlined above) and noted that after making those suggestions, we have a \$1.2 million shortfall. This can be handled in two ways. We can find alternate revenue sources; however, the one she would recommend is the utility tax on water sales. This was not favorably received by Council several meetings ago, but that was before the City knew the impact of the new state law.

Continuing, Mrs. Elliott explained that the utility tax on water sales is a consumption-based tax; it would have a small impact on homeowners. If Council is not inclined to consider this, the recommendation is to seek wage concessions from our employee groups. That would require impact bargaining with the unions that we already have contracts with. Staff would approach this in a way to have parity among all of the employee groups. This is a last resort and it is an attempt to avoid a reduction in workforce.

Mrs. Elliott concluded by saying that these are fairly significant issues that will affect the public, services, programs and employees. Staff felt it was important to seek Council's direction. At this point, she recommended that Council authorize additional revenues. And, failing that, to authorize staff to proceed with discussions with the unions groups to adjust pay increase commitments.

Mr. LaRusso recalled that Council Member Contreras previously asked that each department head provide input as to where expenses could be reduced. He asked if the department heads provided input and if Council has the ability to review the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

recommendations. He added that this plan should not identify just the unions, which will pit employee groups against each other.

Mrs. Elliott confirmed that the department directors and senior management staff met. Suggestions were solicited and employees have been submitting ideas. There have been quite a few suggestions; however, together they don't add up to very much money. They are all very good ideas and they need to be considered as we move forward with the budget. She stressed that staff is trying to get a budget out in the next week. A lot of careful, thoughtful debate needs to be given to the suggestions because they are just a lot of ideas. Some of the suggestions weren't particularly helpful, like "cut expenses five percent." It would be helpful to know which expenses to cut five percent. Other suggestions included turning up the thermostat one degree or publishing the newsletter via the web site. At the end of the day, it is not enough to fix a \$4.1 million problem.

Regarding discussions with the unions, Mrs. Elliott said that staff is very conscious of the fact that we don't want to pit one employee group against another and we don't want to pit union groups against each other. Therefore, that is taken very seriously and is not offered lightly.

Mr. LaRusso asked the percentage the gap represents in the General Fund.

Mr. Schluckebier said it is between six and seven percent, depending on capital outlay and capital improvements. He added that as of today we are still hearing new rules, new processes and new estimating devices from the Florida Department of Revenue. This is sort of a moving target and staff is looking for major direction from Council right now so the required balanced budget can be completed. He noted that he realizes this is a short term direction, but we are obligated by Charter and state law to get the required balanced budget out the door.

The City Manager continued and said that the preference would be to get through this portion and return for a more methodical review rather than cut, cut, cut. If Council's answer is to cut \$4 million – and \$45 to \$50 million of our General Fund is people expense – there is no way to escape cutting pay increases or the number of people employed by the City.

Mr. LaRusso cautioned that it would send one heck of a message to the taxpayers if the City were to replace one tax with another. Therefore, he cannot move forward with the recommendation to authorize the additional revenue source.

The Mayor reported that state employees will get no pay raises in the upcoming year. They will receive a \$1,000 stipend, regardless of position. The Mayor stated that he does not want to see the City go to that degree. We've negotiated in good faith with the labor unions and we have ongoing contracts. Additionally, the City will take another hit in January (when the homestead referendum is placed on the ballot). This is just the first round and it's going to get deeper.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Mr. LaRusso stated that he has a lot of confidence that our labor unions will understand the City's challenges rather than the Council having to direct staff to approach the unions. He commented that he believes they will recognize what's on the table and will move forward with negotiations.

The City Manager informed Council that there were two rounds of discussions at the department level with respect to trying to assemble budgets this year. The first one was kind of an "everything is normal" year. As we got into the legislative session and realized this was going to be far from normal, everyone was called back in and all the requests for additional personnel fell by the way side. Approximately 25 requests for additional positions were dropped and we're down to one-half of an extra position on a 900-person job base. This is a unique year in Melbourne but we will have to continue with that. Staff's suggestion would be to return in the fall for more of a global look at the City and to look at the many ideas about reshaping and reconfiguring.

Responding to the Mayor, Mrs. Elliott said that Council's budget workshop meeting will be held July 23.

Mrs. Palmer pointed out that the Legislature worked so hard to come up with a way to provide tax relief to the citizens of the State of Florida. She would not be comfortable replacing that with another tax. She noted that she was one of the people that thought nothing would actually happen this year. There were too many arguments and too many plans. Yet here we are and it's sudden and it's large.

Continuing, Mrs. Palmer said she missed the Council meeting where the City gave its police officers take home cars. In the past, the City has always understood that plan was too expensive. Now the price of gas has gone up and she doesn't even know what the cost is to provide gas for those take home cars. Mrs. Palmer stated that she doesn't want to go to the unions and say that you are not going to get your raise this year. If we have to do that, she wants administration to take the same hit as everyone else. She noted that she doesn't understand why we can't go to each department and direct that six percent be found. She's not hearing that's what happened. She appreciates that capital projects are being put off because the City should not proceed with multi-million dollar building projects when the funding is not there.

Mr. Thomas stated that he appreciates all of the work that Mrs. Elliott has done on this issue. He reported that he met with Mrs. Elliott and the City Manager about this issue and, for the record, Mrs. Elliott was very passionate about protecting the employees at all cost. Additionally, he noted that is a major concern for the City Manager.

Mr. Thomas asked what the typical utility tax is for this area and how Melbourne compares. The City Manager replied that 10% is authorized under the state law on top of water bills – not the sewer or garbage portion – only the water portion. Melbourne is exceptional in that it does not apply that tax; most of our neighbors do. Even communities where the City of Melbourne supplies the water on a retail basis add their own six to ten percent on top of that as their own general government revenue.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Mr. Thomas asked what a five percent tax would mean to someone's water bill. Mrs. Elliott said that at the 10% level on a typical residential customer in Melbourne, it would be \$1.80 per month. A five percent tax would be ninety cents.

Mr. Thomas said that he hopes we can avoid touching employees' salaries at all costs. Health insurance is obviously going to go up and that will be an additional cost for employees and their families. He would like to protect the employees and place the salary discussion last on the list. He noted that he understands the need to defer additional capital outlay. If we are forced to delay the purchase of the take home cars for the Police Department, he asked the record to reflect his desire that, if any money is discovered in the budget down the road, he would support moving forward with that purchase. Given these circumstances, he stated that he believes it would be prudent to look into a utility tax of five percent.

Mrs. Meehan said that the Governor's web site lists the immediate tax cut for the average Floridian as \$200 per year. She said that ninety cents per month on a water bill to save employees' salaries and the quality of services in the City is a good trade-off. Therefore, she would support putting the utility tax idea on the table.

Mrs. Corby said that the Florida Today printed an article showing the reserves of each city. She asked if the \$40 million listed under Melbourne is correct. Mrs. Elliott replied that amount was not correct and it was very much overstated. To achieve the \$40 million, the City would have to sell the entire water and sewer system and generate the book value of the assets. The correct amount as of September 30, 2006 is about \$12.9 million. This represents a couple of month's worth of savings; it is less than three months of working capital reserve for the General Fund. Council has a fund balance policy of 25% and we are below that policy at 20%.

Mr. Schluckebier said that there has been sort of a pronouncement from Tallahassee that we can magically start using up our reserves and that is bad financial business. There is an article in the "Bond Buyer" that tax reform in Florida is going to have credit worthiness implications. One of the primary rules of operating government is that recurring revenues should exceed recurring expenses. Paying normal bills out of reserves simply puts off the inevitable.

Mrs. Corby agreed and said she was looking for clarification on the Florida Today article. Additionally, she asked if our stormwater fees are set at about 40% less than other cities. Mr. Schluckebier said that is it exactly. The standard is \$36.00 for an equivalent residential unit and ours is \$21.60.

In response to Mayor Goode, Mrs. Elliott said we have certain storm water related expenses in the General Fund. The stormwater fee provides revenue for the stormwater utility. Increasing the fee would be a backwards way of increasing revenue in the General Fund.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Mayor Goode commented on the importance of having reserves, especially following a hurricane. Mrs. Corby repeated that she was simply looking for clarification on a newspaper article; she was not suggesting that we tap into our reserves.

Mrs. Corby said she does not want to replace one tax with another. However, she noted that there are some fees for services that maybe we haven't tapped into. In addition to challenging staff to look at cost savings, they should also look at potential revenue sources in terms of programming and services. She referenced the increase in revenues as a result of increase in aquatics fees. Although attendance was lower, revenue was up. Our focus is on quality programming. She added that she disagrees with Mrs. Elliott and she believes that all the little things add up if they are done correctly. If we do it correctly we can tap into revenue sources that we are not receiving now.

The City Manager said we want to and intend to pursue those. However, because of the shortness of time, we needed to get direction from Council to turn the budget around. We intend to return to those suggestions; however, they need time for review to determine if they are reasonable. We expect to bring them back to Council.

Mr. LaRusso asked how much we have raised our water rates over the past five years and how much we plan to raise them over the next five years. He said his point is that it's going to be more than just a buck ninety. Even on the household side, it all adds up.

Mr. Schluckebier said that the rate consultant will be finalizing the study in the next two weeks. In answer to the first question, there was a 10% increase in the summer of 2002 and the last four years have been five percent.

Mr. Contreras asked where our shortfall would be if the utility tax were set at five percent or ten percent. Mrs. Elliott said if we set the rate at 10%, we would be even. If we set it at less, we would have to look for other ways to balance the budget.

Mr. Contreras said that he's not advocating one way or the other, but staff should go back and look at adjusting the stormwater utility fee; determine the cost for gas reimbursement for the police take home car plan; determine the real number on the suggestions made by departments, etc. He asked whether there would be layoffs if all the department heads were given direction to provide a six to seven percent cut.

Mrs. Elliott confirmed there would be layoffs under this approach because most of the expense in the various budgets relates to personnel. Departments have certain expenses that can't be changed, like electric costs, chemical costs, etc. However, using the City Clerk's Office as an example, a six percent cut would mean a loss in personnel.

Mr. Contreras said then it appears the recommendation is for the departments to go back and tell Council exactly what that means – whether one head here, half a person there, etc. Mr. Contreras briefly discussed living and working through layoffs at his place of employment. He noted that it is an ugly process and he is not a proponent of layoffs; however, Council should look at the numbers.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

The City Manager said that staff intentionally did not provide a default option of layoffs. If Council wants to put that on the table we will answer those questions; however, we would prefer not to. After January that won't be optional if we have a super exemption that takes 20% of the taxable value off the table.

Mr. Contreras said that most of the folks he has been speaking with at work and in his neighborhood want the City to keep their \$50 - \$200 dollars. They just don't want an impact on their services. Citizens haven't addressed Council about their taxes during the last four budget cycles. That may be apathy or an indication that the City Council and staff have been good stewards of their money.

Mayor Goode asked if there was any further discussion. The City Manager said that if Council does not have consensus for replacement revenue, then the default position is outlined in Mrs. Elliott's memo.

Mrs. Corby said she did not hear that Council does not want staff to look for other revenue sources. From her take, it doesn't necessarily need to be a tax. Therefore, she still feels that we can challenge staff to look at the programs and services that we are offering.

Mr. Schluckebier replied that he does not disagree with that. The question is being asked because we owe Council a balanced budget in the next eight business days and we won't be able to run through that exercise in that time. Mrs. Corby said it's worth a shot to ask staff to look a little deeper.

Mr. Thomas said that a utility tax would help get us where we need to be quickly. He added that staff needs answers today.

Mayor Goode said that staff needs to find \$1.2 million in eight days. In eight days that document needs to be finished and printed, not just prepared.

In response to Mrs. Corby, Mr. Schluckebier said that about 20 – 25% of the General Fund revenues come from fees for services. Mrs. Corby stated that we are not tapping into some of those fees for services and she believes we need to pursue that. She added that there would be more of a consensus if we challenged staff to move forward with that. Additionally, she noted that once we get going, we won't be able to stop and we will have leftover for next year.

The City Manager confirmed for Mr. Thomas that the fire assessment fee is probably not a possibility at this point because of the timing and notice requirements. And, there are some agreements that the City would have to enter into with the Tax Collector.

Responding to Mr. Thomas, Mr. Schluckebier said that as a replacement for General Fund revenue, the stormwater utility fee would probably generate fifty cents on the dollar. He added that those funds get complicated and the stormwater utility has to be used exclusively on stormwater related projects.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Mr. Thomas stated that he is not a proponent of raising taxes and it pains him to suggest it. But, given the fact that Council has an obligation to give staff direction, he's going to make a motion for a 10% utility tax on water sales.

Moved by Thomas/Meehan to have a 10% utility tax on water sales.

Mayor Goode asked how much revenue this will produce. Mrs. Elliott said she estimates that it will be \$1.1 to \$1.2 million.

Mayor Goode said that staff needs to also follow up on Mrs. Corby's idea of fees for services. Mrs. Elliott agreed and said that staff is pursuing that. Mr. Schluckebier confirmed that staff will go full speed ahead with those suggestions. He added that if we are able to discover a half million dollars of new revenue from an aggressive push in the next two to three weeks, coinciding with the budget workshop and before second reading of the water utility tax ordinance, we would recommend reducing the 10% utility tax.

Mr. Thomas said that he believes most citizens would gladly give \$1.80 per month to maintain a high level workforce rather than returning to our unions and saying that we want to reduce their pay.

Vice Mayor LaRusso pointed out that the proposal is not to lower pay, it is an employee pay increase commitment. They may not get 5%, it may end up being 3% or 4%.

Mr. Thomas said that he misspoke and he understands that.

Continuing, Vice Mayor LaRusso said that the legislators did not fix the inequities and the super homestead exemption is going to come in January. However, he is not ready to put another tax in its place.

Mrs. Corby agreed and said she will not support the motion.

Mrs. Palmer asked staff to return with figures on how the City is doing with gas reimbursement on the police take home car plan.

Mr. LaRusso said that the City also needs to consider cutting 1% from the proposed pay increases. He would like to know what that represents. Mrs. Elliott replied that every 1% equals about \$400,000.

Discussion continued.

At the request of Mr. Contreras, the maker/seconded agreed to amend the motion to include language that staff will continue doing due diligence to look for other revenue sources to offset the 10% utility tax.

The question was called on the motion and the amendment. The roll call vote was:

Aye: Contreras, Meehan, Thomas and Goode

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Nay: Palmer, Corby and LaRusso

Motion carried.

Recessed: 8:52 p.m.

Reconvened: 8:58 p.m.

16. SITE PLAN APPROVAL (SP-2006-34) MELBOURNE COMMERCE CENTER, PHASE ONE: (Public Hearing) A request for site plan approval to allow development of two 34,320- square foot flex warehouse buildings on a 12.82±-acre portion of a 35.57±-acre site zoned M-1 (Light Industrial), located on the north side of Sarno Road, west of Wickham Road, and south of Eau Gallie Boulevard. (Owner/Applicant - Melbourne Commerce Center, LLC) (Representative - Matt Soyka, Soyka Engineering & Associates, Inc.) (P&Z Board - 6/07/07)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the site plan, depicted on a two-sheet plan prepared by Soyka Engineering and Associates, Inc., of Melbourne, Florida, Sheet Nos. C-1 and C-2, with a signed and sealed date of May 24, 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.

- b. Appropriate environmental permits, including permitting for relocating the gopher tortoise, 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. In order to address the issues raised by the Traffic Impact Study for all phases of Melbourne Commerce Center (including the traffic generated by Phase One) the applicant shall coordinate a proportionate fair share agreement with the City, Brevard County, and other applicable agencies, for the monetary portion necessary to accommodate the traffic generated by the development of all phases of the 35.57± acre property, including Phase One. This may include funding above and beyond a proportionate fair share amount to actually complete a transportation improvement project. This agreement must be in place prior to approval of any future phases of development.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

- 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 (10%) in the amount of \$17,031.26 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.
- g. No change may occur in the approved uses identified in the traffic study that will increase traffic, without further review and approval by the Planning and Economic Development Director and the City Engineer.

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

Clifton McClelland, 1901 South Harbor City Boulevard, representing the applicant, was available for questions. He added that the consultant is also available in the audience.

The Mayor closed the public hearing.

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

- 17. ORDINANCE NO. 2007-48 (Z-2007-1107) AND ORDINANCE NO. 2007-49 (CU-2007-06/SP-2007-09) UNIVERSITY CONVENIENCE STORE: Ordinances providing for a change in zoning and granting a conditional use with site plan approval to allow an existing convenience store to add fueling stations on a 1.24±-acre parcel, located on the south side of University Boulevard, west of Grant Street, and east of Carver Street. (Owner - Ashoor S. Nisano, Trustee) (Applicant - RAJ SHAH) (Representative - Luke Miorelli, P.E., ME Construction, Inc.) (P&Z Board - 6/07/07)
 - a. Ordinance No. 2007-48/Z-2007-1107: (First Reading/Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on a 1.24±-acre parcel.
 - b. Ordinance No. 2007-49/CU-2007-06/SP-2007-09: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow an existing convenience store to add fueling stations on a 1.24±-acre parcel.

Attorney Gougelman read Ordinance No. 2007-48 and Ordinance No. 2007-49 by title. Mrs. Dittmer briefed Council and located the property on the map. The Planning and Zoning Board added one condition to not allow any future sale of property to decrease the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

parcel below 40,000 square feet. The Planning and Zoning Board voted six to one to recommend approval of this request.

Mr. LaRusso referenced condition “d” in Ordinance No. 2007-49, which requires a six-foot high opaque fence with associated vegetation, and noted that it allows a variance from the Board of Adjustment.

Mrs. Dittmer confirmed that the applicant intends to seek a variance so he does not have to provide the fence. The Planning and Zoning Board was reminded that they are not able to grant a variance. That is why the condition was changed to provide that the Zoning Board of Adjustment must approve.

Discussion followed regarding the type of fencing that can be used for an “opaque fence.”

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

Luke Miorelli, representing the applicant, discussed the site plan. He reported that they will seek a variance for the paving on the side. The existing paving does not meet Code and they want to allow room for two-way traffic. He added that landscaping will be brought up to Code.

With regard to the fence requirement, Mr. Miorelli said he is perplexed. None of the other convenience stores have fencing. The Code requires a fence for a service station; they are a convenience store with fueling stations. They will have a hedge and trees and believe the fence will block line of sight and cause a safety issue.

Mayor Goode closed the public hearing.

Moved by Palmer/Corby for approval of Ordinance No. 2007-48, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-49, based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

18. ORDINANCE NO. 2007-50 (AR-2007-217), ORDINANCE NO. 2007-51 (CPA-2007-05), ORDINANCE NO. 2007-52 (Z-2007-1113) RTS DEVELOPMENT (DOW ROAD): Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation on a 3.821±-acre parcel, located on the south side of Dow Road, east of John Rodes Boulevard, and west of West Drive. (Owner/Applicant/Representative - RTS Development, Inc.) (P&Z Board - 6/07/07)
- a. Ordinance No. 2007-50/AR-2007-217: (First Reading/Public Hearing) An ordinance providing for annexation of a 3.821±-acre parcel.
 - b. Ordinance No. 2007-51/CPA-2007-05: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Industrial on a 3.821±-acre parcel.

- c. Ordinance No. 2007-52/Z-2007-1113: (First Reading/Public Hearing) An ordinance designating M-1 (Light Industrial) zoning on a 3.821±-acre parcel.

The City Attorney read the ordinances by title. Mrs. Dittmer provided an overview and reported that the Planning and Zoning Board voted unanimously to recommend approval.

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

Moved by Palmer/LaRusso for approval of Ordinance No. 2007-50, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Thomas for approval of Ordinance No. 2007-51, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-52, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

19. ORDINANCE NO. 2007-53 (A&V No. 303): (First Reading/Public Hearing) An ordinance vacating a 50-foot wide unimproved, platted right-of-way, except the easterly 15 feet, lying east of Eau Gallie Boulevard, and abutting the south lines of Lots 31 and 32, and the north lines of Lots 33 and 34, Indian River Groves and Gardens. (Applicant – Turtle Mound Pointe, LLC)

Attorney Gougelman read Ordinance No. 2007-53 by title.

Mrs. Lamb briefed Council. The following is an excerpt from the agenda report. *The applicant is the owner of the lots on the north and south side of the unimproved, platted right-of-way and is in the process of platting and developing the site. The property, to be platted as Turtle Mound Pointe, could be better utilized by the developer if vacated since the right-of-way bisects the property.*

The following stipulation will apply to this request: This abandon and vacate is contingent on the transfer of right-of-way for the Turtle Mound Road Extension as approved by the City Engineer or issuance of final plat approval within 24 months of approval of this ordinance.

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

Moved by Contreras/Thomas for approval of Ordinance No. 2007-53.

Mrs. Palmer asked if the condition needs to be added. Staff confirmed that the condition is contained in the ordinance. Attorney Gougelman said that in addition to the condition, the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

effective date needs to be revised so that the abandon and vacate does not become effective until the right-of-way for the Turtle Mound Extension is transferred. He added that he will make this change prior to second reading.

Mrs. Lamb confirmed for Vice Mayor LaRusso that the future right-of-way will serve the City much better than the old right-of-way.

The question was called. Motion carried unanimously.

20. ORDINANCE NO. 2007-54 (Z-2007-1114AD/LDR-2007-02/FOC-2007-03) SITE PLANS: (First Reading/Public Hearing) An ordinance amending Appendix B, Article IX, Section 6(E) of the City Code by revising thresholds for substantial changes to approved site plans; and adding a threshold for a proposed decrease in land use. (Applicant - City of Melbourne) (P&Z Board - 6/07/07)

The attorney read Ordinance No. 2007-54 by title.

Mrs. Dittmer provided an overview and reported that the Planning and Zoning Board voted unanimously to recommend approval. The following is an excerpt from the agenda report. *Prior to the adoption of the new Zoning Code in 2005, staff had cited generic substantial change criteria. Now, “substantial change” criteria for site plans is covered in Appendix B, Article IX, Section 6 (E) where changes in open space, increases in land use or density, building height, etc. are covered. However, there is no criterion to cover a proposed decrease of a particular “land use” within a project. For example, if a project is approved with 100 residential units and 20,000 square feet of retail space, there is no existing criteria to deem it a “substantial change” if the site plan decreases the proposed retail space to 1,000 square feet with 100 residential units.*

The ordinance proposes some very minor changes to the table to address this concern. Adding a threshold for proposed decreases in “land use” would require a review of the change and a determination as to whether it requires further review by City staff or by the appropriate body (Planning & Zoning Board or City Council). This is determined by City Code based upon the total acreage of the project. The ordinance also proposes a change to the second threshold category to clarify that it affects “project scale”, i.e., increases in the square footage of the building and not changes in use. These changes were reviewed by City Council on March 27, 2007.

There were no comments during the public hearing.

Moved by Thomas/Contreras for approval of Ordinance No. 2007-54, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

21. ORDINANCE NO. 2007-55 (Z-2007-1115AD/LDR-2007-03/FOC-2007-04) ALCOHOL LICENSES: (First Reading/Public Hearing) An ordinance amending Chapter 3 and Appendix B, Article VI of the City Code, by exempting the distance requirement between establishments selling alcohol for consumption on the premises and churches/schools

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

within the Community Redevelopment Districts. (Applicant - City of Melbourne) (P&Z Board - 6/07/07)

Attorney Gougelman read the ordinance by title.

Mrs. Dittmer briefed Council and noted that the Planning and Zoning Board voted unanimously to recommend approval. Additionally, all three redevelopment advisory committees recommended approval.

The following is an excerpt from the agenda report. *Under present zoning rules, City Code requires a minimum separation distance of 450 feet from churches and schools for businesses selling alcohol throughout the City. Staff is proposing to add language that will clarify the application of the distance requirement.*

Owners of downtown businesses have expressed concerns about the ability to establish a church/school on an adjacent property or within the same multi-unit building, which could restrict where an establishment that serves alcohol can locate. Downtown areas typically contain compact, small lots with zero lot lines, and attached buildings in a condensed setting. The 450-foot distance requirement can be difficult to meet in this type of environment. The purpose of this amendment is to provide greater flexibility and co-existence of uses in compact urban settings.

Mrs. Palmer asked staff to confirm that this change applies only to the three redevelopment areas; it will not affect the adult entertainment district. Mrs. Dittmer confirmed that is correct.

The public hearing was opened and closed with no comments.

Moved by Meehan/LaRusso for approval of Ordinance No. 2007-55, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

22. ORDINANCE NO. 2007-56 UTILITIES: (First Reading) An ordinance amending Chapter 32, Section 32-49 of the City of Melbourne Code, entitled "Utilities," by requiring reimbursement to the Water and Sewer Fund for the cost of making sewer service available when a connection is made to the eight-inch sewer main located along West and East Drives.

Note: The ordinance was missing from the package. Without objection, Council postponed this item until the next meeting.

23. ORDINANCE NO. 2007-57 IRRIGATION: (First Reading) An ordinance amending Chapter 32, Sections 32-88 and 32-90 of the City of Melbourne Code, entitled "Utilities," by limiting the number of days per week to two that irrigation may take place. (Authorized by Council - 6/12/07)

The City Attorney read the ordinance by its title.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 26, 2007

Jennifer Wilster, Environmental Community Outreach Manager, explained that this amendment will make Melbourne's rules consistent with the rules of the St. Johns River Water Manager District. We are required to follow St Johns' rules and this change will help with future enforcement efforts.

Moved by LaRusso/Contreras for approval of Ordinance No. 2007-57. Motion carried unanimously.

24. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

None.

25. ADJOURNMENT

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

The meeting adjourned at 9:30 p.m.



City Clerk – 7/5/2007

Approved by Council: _____