

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



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

1. Dr. Larry Bazer, First Baptist Church of Melbourne, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

| | | |
|----------|-----------------------------|--|
| Present: | Harry C. Goode, Jr. | Mayor |
| | Mark LaRusso | Vice Mayor, District 2 |
| | 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 |

Absent: Richard Contreras Council Member, District 1 (traveling)

4. Proclamations and Presentations

Mayor Goode announced that the Beautification and Environmental Advisory Committee selected Dr. Robert L. Burns, 481 N. Harbor City Boulevard, and Holmes Regional Medical Center, Hickory Street, for the “We Noticed” award for outstanding landscaping.

Richard Helvy, Director of Building Services, Holmes Regional Medical Center, accepted the award on behalf of the hospital.

5. Approval of Minutes – June 26, 2007 Regular Meeting

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

6. City Manager’s Report

No additions/no comments.

7. Public Comments

Eric Ellebracht, 1948 Tyler Avenue, discussed his letter to the editor in the June 29 edition of the FLORIDA TODAY regarding Police Officer Jennifer Hall’s involvement with a police explorer.

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Tom Abraham, 3676 Brentwood Court, discussed his opinion about the invocation; suggested that the speaker's podium be placed at an angle so it can be viewed by the audience; recommended a change to the "addressing City Council" form; and requested that the Melbourne Police Department speed up the national accreditation process.

Pat Poole, 805 East Palmetto Avenue, referenced the senior center and stated that she would like to know the real reason Council voted unanimously to approve the site plan on June 26 after denying the plan on May 22. She discussed the history of the senior center and stated that it would have been completed by now if there had been no interference. Mrs. Poole added that she would like people to know that the County Commission threatened the City with a lawsuit if it did not approve the site plan.

NEW BUSINESS

8. 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: (Second Reading/Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on a 1.24±-acre parcel. (First Reading - 6/26/07)
- b. Ordinance No. 2007-49/CU-2007-06/SP-2007-09: (Second 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. (First Reading - 6/26/07)

City Attorney Paul Gougelman read the ordinances by title. There were no Council disclosures. Luke Miorelli, engineer representing the applicant, was present and available for questions. The Mayor closed the public hearing.

Moved by LaRusso/Corby for approval of Ordinance No. 2007-48 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by Thomas/Corby for approval of Ordinance No. 2007-49 based upon the findings and conditions contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

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Motion carried unanimously.

9. 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: (Second Reading/Public Hearing) An ordinance providing for annexation of a 3.821±-acre parcel. (First Reading - 6/26/07)
- b. Ordinance No. 2007-51/CPA-2007-05: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Industrial on a 3.821±-acre parcel. (First Reading - 6/26/07)
- c. Ordinance No. 2007-52/Z-2007-1113: (Second Reading/Public Hearing) An ordinance designating M-1 (Light Industrial) zoning on a 3.821±-acre parcel. (First Reading - 6/26/07)

Attorney Gougelman read Ordinance Nos. 2007-50, 2007-51 and 2007-52 by title. Council made no disclosures and there were no public comments.

Moved by Palmer/Meehan for approval of Ordinance No. 2007-50 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

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. The roll call vote was:

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

Motion carried unanimously.

Moved by Palmer/Corby for approval of Ordinance No. 2007-52 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2007-53 (A&V No. 303): (Second Reading/Public Hearing) An ordinance vacating a 50-foot wide unimproved, platted right-of-way, except the easterly 15 feet, lying

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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) (First Reading - 6/26/07)

Note: At the last Council meeting, the City Attorney advised that the effective date of the ordinance needed to be revised so that it would not become effective until the right-of-way for the Turtle Mound Extension is transferred. Due to issues related to the legal description of the Turtle Mound extension, staff recommended that this item be postponed until August 14, 2007. The ordinance was advertised for a public hearing.

Attorney Gougelman read the ordinance by its title and Mayor Goode opened the public hearing. There were no comments from the audience.

Moved by LaRusso/Meehan to postpone this item until the August 14, 2007 meeting.
Motion carried unanimously.

11. ORDINANCE NO. 2007-54 (Z-2007-1114AD/LDR-2007-02/FOC-2007-03) SITE PLANS: (Second 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) (First Reading - 6/26/07)

The City Attorney read Ordinance No. 2007-54 by title. There were no comments during the public hearing.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-54 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

12. ORDINANCE NO. 2007-55 (Z-2007-1115AD/LDR-2007-03/FOC-2007-04) ALCOHOL LICENSES: (Second 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 within the Community Redevelopment Districts. (Applicant - City of Melbourne) (First Reading - 6/26/07)

The City Attorney read the ordinance by its title.

Council Member Cheryl Palmer asked if in the future someone outside of the redevelopment districts could make a similar request for a change in the distance requirements. Attorney Gougelman replied that Council may exempt properties in the redevelopment districts; it is similar to the concept of overlay zoning. He added that nothing would stop someone from making a similar request in the future; however, Council would not be required to grant the request.

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

Moved by Meehan/LaRusso for approval of Ordinance No. 2007-55 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

13. 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. (Postponed - 6/26/07)

Attorney Gougelman read ordinance No. 2007-56 by title.

City Engineer Jenni Lamb reported that on April 24 Council approved a utility upgrade agreement to pay \$293,455.39 for the construction costs of an eight-inch gravity sewer main within the West Drive and M-1 Canal rights-of-way. The reimbursement area includes properties located south of the M-1 Canal on West and East Drives. The pro-rata charge for connection to the sewer main is based on front footage. The City will receive revenue from the reimbursement area as undeveloped properties are developed and existing properties experience septic system failures and request connection. Reimbursements totaling \$46,478.32 will be received within the next three months from the seven properties located in this area.

Moved by Meehan/Thomas for approval of Ordinance No. 2007-56. Motion carried unanimously.

14. ORDINANCE NO. 2007-57 IRRIGATION: (Second Reading/Public Hearing) 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. (First Reading - 6/26/07)

Attorney Gougelman read Ordinance No. 2007-57 by title. The Mayor opened the public hearing. There were no comments from the public.

Moved by Thomas/Meehan for approval of Ordinance No. 2007-57. The roll call vote was:

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

Motion carried unanimously.

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NEW BUSINESS

15. COUNCIL ACTION RE: Contract award for the construction of a multi-purpose building at Southwest Park, Project No. 70006, P.W. Hearn, Inc., Cocoa, FL - \$435,409; and transfer of \$121,436 from the McGrath Field Restroom/Concession Project to supplement this project budget.

City Engineer Jenni Lamb briefed Council.

Vice Mayor Mark LaRusso (referencing the City's upcoming budget shortfall) said that this is an item where the City can save money. He asked if this building will serve as a hurricane shelter when it is complete. Mrs. Lamb replied no and confirmed the building will be constructed of block.

Mr. LaRusso asked if the City has investigated whether a metal structure would serve our needs and if the project can be re-bid. Mrs. Lamb replied that she is not sure what the savings would be with block versus a metal structure without obtaining cost estimates from our consulting engineer. She noted that we have typically gone with block structures for maintenance and longevity. Block also holds up better to vandalism.

Mr. LaRusso asked if this could be delayed by one meeting to allow staff time to get cost comparisons. Mrs. Lamb said that the bid is good for a certain number of days; however, she could ask the contractor to hold the price.

The City Manager asked Leisure Services Director Mary Ann Bowman to address the planning requirements for this building. He added that the source of funds for this project is recreational impact fees; therefore, any savings could not be shifted to the General Fund.

Deputy City Manager Howard Ralls stated that with regard to vandalism, block is far superior to a metal building and it has a greater life expectancy. Additionally, if the interior of a metal building is going to be finished with drywall, the costs will be comparable.

Mr. LaRusso said he is not for or against a block building. He is just trying to save money. He asked if a two-week delay would affect this project with grant applications, etc.

Ms. Bowman informed Council that this project is not being funded with grant money. She commented that although the building won't be used as a hurricane shelter, it may have to house several hundred children during a soccer game if a storm strikes. The building will also take care of the adult softball league and serve as storage.

Mr. LaRusso said that the City is approving similar buildings throughout the City and he is curious about the savings. He noted that if the consensus is to move forward, he'll move forward. However, if the life expectancy of a metal building is half, perhaps funding the other half would be easier for the City in 10 years.

Discussion continued. Staff confirmed that since the funding is from recreation impact fees, any savings could not be used towards the City's \$1.2 million shortfall. The money may

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only be used for recreational improvements that add facilities or expand recreation. Staff confirmed that there should not be a problem delaying this item until the next meeting.

In response to Mrs. Palmer, Ms. Bowman said that to save on design costs the engineers used a design from another building, which was block. Block was also selected for aesthetics.

Council Member Joanne Corby disagreed with delaying this item. She pointed out that the funding is not from the General Fund and she is going to trust staff's recommendation. Mr. LaRusso replied that fiscal prudence is important, regardless of the source of funds.

Moved by LaRusso/Thomas to postpone this item until the July 24 meeting.

Mayor Goode recommended that Council Members meet with staff in advance of Council meetings to resolve these types of questions.

Mrs. Palmer said that block was selected for aesthetics and to save on design costs. She noted that any money saved on this project can be used for other recreational improvements.

The question was called. The roll call vote was:

Aye: Meehan, Thomas, Palmer and LaRusso

Nay: Corby and Goode

Motion carried.

16. COUNCIL ACTION RE: Contract award for the construction of a replacement six-inch cast iron waterline on Hallwood Place, Project No. 30299, Don Luchetti Construction, Inc., Melbourne, FL - \$158,194.

Mrs. Lamb reviewed the agenda report.

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

17. COUNCIL ACTION RE: Supplement No. 329 to the Continuing Consultants Contract for engineering services to survey, design, permit, prepare bid documents, and perform construction administration for reuse main improvements in the Apollo Boulevard and Hibiscus Boulevard corridors, Project No. 31707, Frazier Engineering, Inc., Melbourne, FL - \$85,000.

Mrs. Lamb provided an overview of the item.

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

18. CONSENT AGENDA:

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

- a. Contract award for the purchase and delivery of sulfuric acid for the City's Reverse Osmosis Facility, Sulfuric Acid Trading Company, Tampa, FL - \$0.5355/gallon; estimated annual cost of \$48,195.
- b. Resolution No. 2041: A resolution adopting the Official Rules of Procedure for the Historic Preservation Board and authorizing the Board to operate according to these rules.

19. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

20. COUNCIL ACTION RE: Selection of an Annual Independent Audit Services firm and authorization for the City Manager to negotiate a written contract with the top-ranked firm as defined in the Auditor Selection Procedures.

The following is an excerpt from the agenda report:

The City issued a Request for Proposal (RFP) for Independent Audit Services. Three firms responded to the RFP: Berman Hopkins Wright & Laham CPAs, LLP; Hoyman Dobson; and McGladrey & Pullen, LLP.

Pursuant to the Auditor Selection Procedures, each firm will be interviewed by the City Council, acting as the Auditor Selection Committee. As defined in the procedures, the committee shall make a finding that the firm to be employed is fully qualified to render the required services. The committee shall rank the firms with number one being the highest score. The firm with the most number one votes shall be the top ranked firm. In case of a tie for first place, the firm with the lowest total score shall be the top ranked firm.

Director of Finance Michele Ennis, added that the City's contract for independent annual audit services expired with the September 30, 2006 audit. Hoyman Dobson had been auditor for the previous five years.

Ms. Ennis stated that she received a phone call today from the Berman Hopkins firm. The firm withdrew their proposal. The two remaining firms will make a presentation to City Council.

HOYMAN DOBSON

Chas Hoyman, audit co-director, distributed a handout entitled "Exceeding Expectations." He made a brief presentation and highlighted the following: Hoyman is a large firm with experienced government auditors assigned to the job. They are uniquely qualified; the team has audited over 65 governmental entities; they are currently auditing 17

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government agencies; and as the City's audit team, they have a consistent, yet fresh approach. Hoyman Dobson is experienced in auditing large and small governments; experienced auditors will be assigned to the City; they have met and will commit to meeting the City's audit time requirements; and Melbourne will receive priority service.

Mr. Hoyman identified the audit team and listed their function. He noted that Hoyman is the best value for the following reasons: In time of potential budget cuts they are the lowest cost; they have the greatest number of directors and managers in their proposal; experienced auditors will be assigned to this engagement; and they have a proven record of providing excellent service. Hoyman Dobson has knowledge of City operations; they will work with the City to continually improve the accounting function and they add value. Their effective audit approach uses investment and technology; their research library is in each computer; they have a higher level of experienced people and they use a risk-based approach.

Vice Mayor LaRusso referenced the compliance checklist and stated that Hoyman is cheaper, but their hours are also much less – almost by 30%.

Mr. Hoyman pointed out that in the breakdown of hours, they have more director and manager time; that relates to the risk-based audit approach. It takes a higher, more experienced person to really understand the risk and direct individuals into the areas where they believe the most risk for the City exists. Therefore, they believe they do an efficient and effective audit.

McGLADREY & PULLEN

Bob Feldmann, government specialist, introduced others from the firm and distributed a handout entitled "Presentation to Serve the City of Melbourne, Florida." He discussed the firm's background and stated that from a national perspective, the firm has made the public sector one of its main industry focuses. McGladrey serves over 2,700 public sector clients, including 600 governmental entities across the United States. The firm has a partner to staff ratio of 1:7, which means that the senior members of the engagement team are going to be actively involved in the audit.

Another strength with being a national firm is that they are able to offer the breadth of services to address any need the City may have, whether bond services, actuarial services, arbitrage rebate services, etc. From a Florida perspective, they have made the public sector their second largest industry – it will soon be their largest. They serve over 20 municipalities, including Titusville, Palm Bay and Cape Canaveral. Last year they were awarded the City of West Palm Beach audit. They continue to add resources so they can properly serve their clients.

Mr. Feldmann introduced Yvonne Clayborne, client service and engagement partner.

Yvonne Clayborne stated that their commitment to the City is only as good as people they have assigned to the project. They have identified a team that has extensive, technical skills and are familiar with the operational financial environment of a local

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government. They are also committed to maintaining their high level of technical competence through industry specific continuing and professional education.

Ms. Clayborne referenced the engagement flow chart and pointed out that the relationship among team members is more functional rather than linear. This provides the City with the most comprehensive coverage from a management team perspective. Ms. Clayborne discussed McGladrey’s willingness to meet the time requirements; current and projected workloads; expertise and experience in municipal audits; and their past performance. She concluded by saying that the change of an audit firm is encouraged. They are a national firm with the resources that has a local firm service philosophy, and they want the City of Melbourne’s business.

Mr. Feldmann responded to Mayor Goode’s question regarding arbitrage.

In response to Mrs. Corby, the City Manager confirmed that, although one firm withdrew, the underlying procedure remains the same. The firm a member likes the best will receive a “one” and the other firm will receive a “two.”

A roll call vote was taken and the vote was:

| COUNCIL MEMBER | HOYMAN DOBSON | McGLADREY & PULLEN |
|-----------------------|----------------------|-------------------------------|
| Meehan | 1 | 2 |
| Thomas | 1 | 2 |
| Palmer | 1 | 2 |
| Corby | 1 | 2 |
| LaRusso | 2 | 1 |
| Goode | 1 | 2 |
| TOTAL | 7 | 11 |

Mayor Goode announced that Hoyman Dobson is the top ranked firm and they will be the City’s auditors for the next five years. By consensus, the City Council made a finding that both firms are fully qualified to render the required services. The City Manager was authorized to negotiate a written contract with Hoyman as the top ranked firm or McGladrey as the second ranked firm if negotiations with Hoyman are unsuccessful.

Mr. LaRusso said he did not vote for Hoyman because Hoyman was more expensive than McGladrey given the hourly times.

21. COUNCIL ACTION RE: Water and Wastewater services rates.

a. Acceptance of the Water and Wastewater Rate Study.

The following is an excerpt from the agenda report:

The City is required to maintain Water and Sewer System revenues sufficient to cover costs of operation and maintenance, capital improvements and debt service

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requirements as defined in the City's bond ordinance. A formal review of the rates was done by Burton and Associates in 2002. Rate increases were adopted for a five-year period beginning October 1, 2002. In preparation for the issuance of the Water and Sewer Improvement Revenue Bonds, Series 2007B, the City contracted with Public Resources Management Group (PRMG) to perform a five year rate study, in addition to the revenue sufficiency analysis required for the bond issue.

The study includes a series of scheduled rate increases recommended for the five-year period beginning October 1, 2007. For fiscal years 2008-2012 the proposed increases for water and wastewater are 7%, 7%, 5%, 5%, and 5%, respectively. Reasons for the increases as detailed in the report include the significant increases in chemical, fuel and electric costs, in addition to the higher construction costs for maintenance and capital improvements. In addition to expenses increasing at a rate higher than inflation, the water consumption has been declining and sales are relatively flat.

Various steps were taken to reduce the impact to the ratepayer in the five-year horizon. Cash reserves of \$8.5 million were used to offset the revenue required from rates in the forecast period. Costs for projects in the existing five-year (fiscal year 2007-2011) CIP schedule were reduced by \$10 million. Additionally, the proposed five-year (fiscal year 2008-2012) CIP schedule was reduced by \$56 million by moving various projects to fiscal year 2013 and beyond.

The proposed rates are required to provide revenue sufficiency in the five-year horizon. The recommended increases are essential to provide for operating expenses, funding the five-year capital improvements program (as adjusted), and maintaining debt service coverage.

Ms. Ennis reviewed the agenda report. She noted that PRMG is recommending a system wide rate increase of 7% effective October 1, 2007. They have re-designed the rate structure to increase the base charges proportionally higher than the user charges and each customer type will have a slightly different rate increase. However, the total system revenue is expected to be 7% higher in the 2008 fiscal year over 2007.

The average single family residential customer – that is a customer using 5,000 gallons per month – is expected to see a 6.3% increase, which equates to \$3.42 per month. For fiscal years 2009 – 2012, the recommended rate increases are 7% followed by three consecutive 5% rate increases.

Robert Ori, President, PRMG, provided an overview of the 2007 Water and Wastewater Rate Study. The last formal rate review was performed in fiscal year 2002. The City adopted a five-year rate-phasing plan. The final phased adjustment occurred in October 2006. A revenue sufficiency analysis was performed in fiscal year 2004 to provide a five-year financial forecast in concert with the 2004 bonds. A continuation of the rate-phasing program was recommended and it identified need for further adjustments.

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Significant events have affected the City's financial position since 2004. The cost of power and chemicals has increased over 50%. Inflation has been roughly 12%. The cost of petroleum has a significant effect on cost. As an example, in 2004 gas was \$1.88 per gallon and in 2007 that has risen to \$3.00 per gallon. Customer growth has been less than projected. This is due to economic slowdown and weather events. Water sales are declining; conservation measures have had a significant impact on the revenues of the system. Additionally, the capital plan five years ago was about \$100 million and now it is over \$160 million. The need to perform capital improvements on the system continues and is necessary to maintain the high level of service the City is providing.

Mr. Ori addressed revenue requirements and said they are the expenditures that the rates must recover to meet needs. Expenditures include cost of operation and maintenance, debt service, capital funding, deposits to capital recovery reserve, rate of return (General Fund transfer), and working capital. After looking at the requirements, any sources of revenue are backed out and that is the net revenue requirements funded from rates. They also reviewed bond covenants and other compliance requirements to make sure that the City is recovering its costs and is in compliance with bond resolutions and other policies of the City.

They completed a five-year financial forecast. Regarding customer statistics, the City has a large system with almost 54,000 customers and over 60,000 equivalent households are being served by the system. We have almost 27,000 sewer customers located primarily inside the City. Eighty percent of our customers are single-family residential. The City has grown about one to two percent since 2001. Our growth rate is fairly low. The average residential customer uses about 5,000 gallons of service per month. The average in the state is between 6,000 and 7,000. Ninety three percent of our customers use 10,000 gallons or less. Conservation is working in Melbourne. The City provides bulk service to the City of West Melbourne. That is an important customer at 12% of our water sales and over 5% of our revenues. It is not 12% of our revenues because we don't provide wastewater service. With respect to the forecast, he assumed a 1% growth rate.

In terms of revenue requirements – the total expenditures funded from rates – the key is financial sustainability of the system. Operating expenses account for over 70% of our revenue requirements. That includes labor, power, chemicals, repairs and maintenance, etc. It also recognizes no additional personnel over the next five years. This was increased for inflation and growth. Growth of one percent in the customer base and a five percent increase in operating expenses results in declining margins. The recommended rates recognize the need for annual price index to maintain margins.

The Capital Improvement Program of over \$162 million is for fiscal years 2007 through 2012. It includes this year because the study was started several months ago. Mr. Ori briefly discussed some of the capital projects and the funding analysis. We have a fully funded capital program. Most of the funding is either from bonds or system rates and

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revenues. Additionally, the \$162 million does include \$22 million in encumbrances – projects the City has already awarded that will be spent in this year.

Regarding debt service, the City has about \$98 million of bonds outstanding and payable from the rates of this system. The City is paying about \$7.2 million a year today in debt service, which will eventually go to over \$11 million in 2012. Mr. Ori recommended that the City review this every couple of years. The bond issues may slip, growth could be higher, etc. This report reflects the forecast today. The other issue with debt is that you have to meet your debt service covenants. The net revenues and impact fees have to be 115% of our debt payment. Mr. Ori said he projects that with the proposed rate adjustments the City will meet all of its bond requirements.

With regard to the proposed rate adjustments, the cost recovery is different for water and wastewater in October 2007. They looked at the systems individually and determined that the water system needed a larger increase than the sewer system. That has been corrected in the October 2007 increase. The total combined system increase will be 7% in 2007. After that, they recommend uniform application.

Reasons for the rate adjustments include: maintain financial sustainability of the system; reduced customer/sales growth; significant increases in cost of operations; increase in rate of return payment to City; significant capital expenditure program; and compliance with bond covenants and additional bond test requirements.

The City is using working capital to phase this in over time. That will leave about 40 days of rate revenue at the end of the program. He noted that he prefers to see 60 but believes this will be fine. The rate increases will be required to meet the issuance of the 2007B bonds. He recommended that the rates be implemented prior to the City entering the bond market.

Continuing, Mr. Ori said once they determined the revenue requirements, they looked at the rates. The City has a two-part rate structure – a base charge based on meter size and a consumption charge based on metered use at the property. They recommend no change in structure, only the level of the rates. They are proposing an increase in the base charge at a proportionally higher increase from the volume charge. The City's base charges are very low relative to cost recovery and in comparison to other utilities. This will improve the revenue stability of the system. The base charge is the City's minimum revenue. If it is set too low, then the City is relying on the volume charges. When sales drop, revenue drops proportionally greater than it should. He commented that this change will impact the lower end users; however, it is comparable to what other utilities are charging.

Mr. Ori discussed the average customer impact as a result of the rate increase and provided a comparison of existing rates with neighboring utilities. Mr. Ori reported that he also reviewed the City's reclaimed water rates. The City currently has a flat rate system for reclaimed water. Many of our capital improvement projects are to deliver

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reclaimed water to areas of the City. He noted that the increases being proposed leave the City competitive with other jurisdictions.

Mr. Ori concluded by saying he would recommend adoption of the ordinance and implement the rates effective October 1, 2007. He recommended implementing the rates prior to the issuance of bonds. And, he recommended that the City continue with the biannual review to ensure compliance and credit worthiness.

Mr. Ori agreed with the Mayor that he is being more conservative in this study. The City is at a one percent growth rate when it was over two percent in 2004. He added that if growth materializes again, the financial picture will change.

Mr. Schluckebier confirmed for Mrs. Palmer that with this increase, the rates will have increased about 50% since 2002.

In response to Mrs. Palmer, Mr. Ori discussed how a multi-family customer is billed. She noted that she is concerned about condominium projects sitting vacant with consumption going down. Mr. Ori replied that is why the City should raise the base charge. The current base charge is \$12.28. In comparison, Brevard County is at \$25.32, Cocoa is \$18.10 and Palm Bay is \$24.99.

Mr. Schluckebier referenced concurrency and stated that the City has pledged that it has the capacity available for certain developments. Planning reviewed approved development projects over the last four years and found that over 50% of 6,400 residential units in that time period have not been built. Yet, the City has issued concurrency and those fixed costs remain on the system.

In the condominium example, Mrs. Corby asked who would pay the base fee. Mr. Ori replied that the owner of the account will pay the base fee.

Mrs. Corby asked staff to elaborate on recommendations that have been made to revise the billing operation. Ms. Ennis said that we will now bill the property owner at the time of a vacancy; this will replace what was a very difficult and complex system. This change will allow the City to begin recovering the fixed charges immediately when a property is vacated. Additionally, the fire hydrant rental fee, which is very cumbersome and time consuming, has been included in the base charge.

Mrs. Corby asked how we compare with 70% of our total revenue going to operating expenses. Mr. Ori replied that Moody's Investors Service, an agency that rates municipal bonds across the country, completed a survey several years ago for water and sewer systems and found that 64% is average. We are slightly higher because we have a high level of treatment with surface water and reverse osmosis.

Mr. Ori confirmed for Mrs. Corby that 70% is not too far out of line. Changes being proposed should bring that percentage down over the forecast period and move us toward the 65% range.

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Mrs. Corby asked about the \$8.5 million in cash reserves that are being used to offset the revenue required from rates. The City Manager explained that based on internal policies adopted by Council the City has excess money that is swept into reserves and held. The goal is to reach a reserve level of six months of operating revenue. The City has reached four and one-half to five months. This plan would draw down on those reserves. Instead of issuing debt for projects, the City would draw down on available reserves.

Mrs. Corby asked if the rate increase will also be charged to non-residents. Mr. Ori replied that the new charges will apply to everybody who receives service from the City's system – whether inside or outside the City. He added that the City does charge an outside City surcharge.

Mrs. Corby asked if the rate increase is in addition to the water tax discussed at the last meeting. The City Manager replied yes. Mrs. Palmer asked if the 10% water tax has been factored into any of these calculations. Mr. Ori replied no because the proposed utility tax is a General Fund revenue that is entirely outside the utility system.

Mrs. Palmer referenced the Capital Improvement Program for fiscal year 2007-2012, which indicates \$13.1 million for a new disposal site for the reverse osmosis by-product. Mr. Ori replied that he lumped that project with the Phase II RO Plant. The lion's share of this expense will be for plant construction. The City Manager added that he does not believe the City has obtained any costs on sites and we are in a long-term negotiating posture with the regulatory agencies as to whether we would be able to expand that system.

Mrs. Palmer asked for confirmation that we are continuing with our current operation. Mr. Schluckebier said that we are operating under the continuing authority that we have had for about 12 years.

Mrs. Meehan asked about the recommendation to eliminate the customer requested turn-on and turn-off fee. Ms. Ennis said that is another instance where we have cumbersome language in the current ordinance. Currently we require a \$20 fee every time someone wants to turn-on/turn-off. With the new process, when someone leaves the system will be turned off. When someone comes in and asks for service, there will be a \$20 initiation service fee. In the meantime, the base charge will be charged to the property owner.

Mr. Thomas asked the City Manager to outline any critical pitfalls that could occur by reducing the reserves by \$8.5 million.

The City Manager replied that when we use reserves up, they are no longer available. Staff believes that Mr. Ori has presented a conservative forecast. At the staff level, we're always hopeful and more optimistic. If we get below a certain point, there would be opportunity to delay the issuance of further debt.

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Mr. Thomas asked what type of emergencies the reserve funds are used for. Mr. Schluckebier said that in the past he does not know that we've had to really tap into our utility reserves. However, they could be used following storms or if something put our system completely out of commission. However, in those instances the City has insurance. Presently our reserves are used for recurring operating revenue cash flow issues and we believe that we are still within safe boundaries with the levels that are being recommended. This will place us at levels we were six or eight years ago. Although we are not happy about returning to that point, we wanted everyone to understand that we are drawing down on all available resources before going to the ratepayer.

Mr. Thomas asked the City Manager to comment, in his professional opinion, if there are any other viable alternatives to the rate increase that would allow us to maintain our system adequately. Mr. Schluckebier replied no, given Mr. Ori's review and opinion. The City Manager added that he has worked with Mr. Ori for almost 30 years.

Mr. LaRusso said that he is not a proponent of rate increases; however, this time around he is more educated about what citizens want. They want water when they want it and they want clean water. He noted that he is not crazy about the base rate increase and he was never in support of the increase in the late fee. He agreed that staff has worked hard and done a good job; he understands the need to increase the rates.

The Mayor noted that we are currently indebted for \$98 million. He asked what the bond documents require us to keep in reserves. Mr. Ori replied that the City is required to have one month of working capital. He added that the bondholders want sustainability – a credit worthiness type of system where the City has the ability to pay its debt, perform capital improvements and have competitive rates.

Mr. Ori added that the City provides good service, has adequate cash and can definitely fund the improvements.

A brief discussion followed on capital improvement projects. The City Manager noted that the City is still holding \$17 million from the last bond issue. That money is pledged toward projects that are coming on line. So in addition to reserves, we have bond money. If we had any type of situation, to protect our assets and protect the system, we would not be without a means to make those absolute requirements.

Mr. Ori confirmed for Mrs. Corby that the \$22 million in projects that are underway are included in this report. That is why 2007 was included in the forecast.

Moved by Corby/Thomas to accept the water and wastewater rate study prepared by Public Resources Management Group. Motion carried unanimously.

- b. Ordinance No. 2007-58: (First Reading) An ordinance amending Chapter 32 of the City of Melbourne Code, entitled "Utilities," adjusting water, sewer,**

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and reclaimed water service rates; removing fire hydrant rental charges; eliminating customer requested turn-on and turn-off service fee and eliminating guaranteed water and sewer revenue charges.

Attorney Gougelman read the ordinance by title. The following is an excerpt from the agenda report:

This is the first reading of an ordinance amending Chapter 32, Utilities, to implement the recommendations in the Water and Wastewater Rate Study Report (the Report) and to implement administrative recommendations to enhance the efficiency of the billing operation. The most significant changes include:

- *Adjusting water service, wastewater service and reclaimed water service fees for October 1, 2007-2011 as recommended in the Report.*
- *Eliminating the fire hydrant rental fee billed to customers once annually. The proposed rates will absorb this fee to eliminate the annual billing.*
- *Eliminating the customer requested turn on and turn off fee.*
- *Eliminating guaranteed revenue charges for water and wastewater to cover the carrying costs of the system. Property owners/occupants will now be billed a monthly water and sewer service charge to cover the carrying costs of the system when there is no active consumption.*

Moved by Corby/Goode for approval of Ordinance No. 2007-58.

Mrs. Palmer said that she did not vote for the last series of rate increases. She stated that she is going to vote for this one because we do have to keep our capital improvements going. So many people in her district have told her that they are not getting good, clear water. She added that she assumes without this rate increase that we will never be able to replace the aging pipes in the old Eau Gallie area. The flushing that has been done and the flushing that is planned simply isn't doing the job. She commented that she would like to see permanent residents not have to pay the base charge; however, this increase is very crucial to our water system.

Mrs. Meehan agreed and said that people in the Southgate area are also experiencing problems. That is why she will support the ordinance.

Mr. LaRusso said that he wants to ensure that the City can continue providing good service and water for our customers; therefore, he will support the rate increase.

The question was called. Motion carried unanimously.

Recessed: 8:35 p.m.

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Reconvened: 8:45 p.m.

22. ORDINANCE NO. 2007-59 (Z-2007-1112) AND SITE PLAN APPROVAL (SP-2007-14) ST. MICHAEL PLACE, PHASE ONE: (First Reading/Public Hearing) An ordinance changing the zoning from M-1 (Light Industrial) to M-2 (General Industrial) on a 2.204±-acre portion of a 17±-acre parcel and site plan approval on the entire 17±-acres to allow development of two 12,000 sq. ft. office/warehouse buildings and an 87,200 sq. ft. manufacturing facility with offices, located on the west side of Apollo Boulevard at the intersection of St. Michael Place. (Owner/Applicant - Melbourne Airport Authority) (Representative - Brian Pendleton, P.E., Airport Engineering Co., Inc.) (P&Z Board - 6/21/07)

The City Attorney read the ordinance by its title. Mrs. Dittmer briefed Council and reported that the Planning and Zoning Board voted unanimously to recommend approval of the rezoning and the site plan. The site plan consists of a three-sheet plan prepared by Airport Engineering Company, Inc. of Rockledge, Florida, with a signed and sealed date of May 30, 2007, and is subject to the following conditions:

- a. Any change to the site plan will require reevaluation by the City 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 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. In order to address the issues raised by the Traffic Impact Study for all phases of St. Michael Place (including the traffic generated by Phase One) the applicant shall coordinate a proportionate fair share agreement with the City, Florida Department of Transportation, and other applicable agencies, for the monetary portion necessary to accommodate the traffic generated by the development of all phases of the 42±-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.
- e. Absolutely no manufacturing activities shall be permitted outside the building.
- f. The proposed buildings shall be substantially consistent with the renderings submitted by the applicant.

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- g. 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 \$49,867.60 for transportation, water and sewer impact fees. Payment must be received by the City of Melbourne within 10 business days of the date of the 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.
- h. 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.

Mayor Goode referenced the memorandum distributed to Mayor and Council, which indicates the following: "After further review of the existing access to the Melbourne Police Department, City staff would recommend adding the following condition to provide an ingress/egress easement for access to the two existing curb cuts into the parking lot:

- i. Assurances shall be received in a form acceptable to the City Attorney for recordation in the Public Records of Brevard County, Florida, from the Melbourne Airport Authority and the Federal Aviation Administration that the curb cuts from the existing Melbourne Police Department property onto St. Michael Place, all as shown on the site plan, shall be open to the public for motor vehicle use and pedestrian ingress and egress and shall be maintained to City standards by the Melbourne Airport Authority. As used in this condition, the "site plan" shall refer to sheet G2 of the St. Michael Development at Melbourne International Airport, Revised Site Plan, submitted May 30, 2007, prepared by Airport Engineering Company, Inc. of Rockledge, Florida, under AEG Job No. 0614, Drawing No. 0614-Stephen-R2.DWG, dated April 2007 with the latest date of revision being May 30, 2007.

There were no disclosures by Council. Cliff Repperger, attorney representing the Airport Authority, was present and available for questions. Mayor Goode closed the public hearing.

Moved by Thomas/Palmer for approval of Ordinance No. 2007-59 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of the site plan based upon the findings and conditions contained in the Planning and Zoning Board memorandum, and the new condition "i." Motion carried unanimously.

- 23. ORDINANCE NO. 2007-60, AD VALOREM TAX EXEMPTIONS: (First Reading) An ordinance amending Chapter 30 of the City of Melbourne Code, entitled "Taxation," as it relates to Economic Development Ad Valorem Tax Exemption, amending Section 30-63 by revising the definition of the expansion of an existing business in accordance with Florida Statute 196.012(16).

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The City Attorney read Ordinance No. 2007-60 by title.

Mrs. Dittmer explained that this change will provide consistency with Chapter 196.012(16), Florida Statutes, by allowing manufacturers to expand on a site not collocated with a commercial or industrial operation owned by the same business.

Moved by Meehan/Thomas for approval of Ordinance No. 2007-60. Motion carried unanimously.

24. ORDINANCE NO. 2007-61 BUSINESS TAX RECEIPTS: (First Reading) An ordinance amending Chapter 19 of the City of Melbourne Code, entitled “Local Business Tax Receipts,” by revising the date for beginning the annual sale of local business tax receipts from August 1 to July 1 each year.

Attorney Gougelman read Ordinance No. 2007-61 by title.

Mrs. Ennis explained that a recent change in state law revises the date for beginning the annual sale of Local Business Tax Receipts from August 1 to July 1. All receipts will continue to become due and payable September 30 of each year. This ordinance amends the City Code in accordance with the new law.

Moved by Palmer/Corby for approval of Ordinance No. 2007-61. Motion carried unanimously.

25. ORDINANCE NO. 2007-62 RETIREMENT AND PENSIONS: (First Reading) An ordinance amending Chapter 23 of the City of Melbourne Code, entitled “Retirement and Pensions,” Article VII, General Employees’ and Special Risk Class Employees’ Pension Plan, to allow elected Trustees to be selected by a majority vote of those members who vote in the election and to liberalize the current investment restrictions.

Attorney Gougelman read Ordinance No. 2007-62 by title. The following is an excerpt from the agenda report:

This is first reading of an ordinance amending the General Employees’ and Special Risk Class Employees’ Pension Plan, as follows:

- Section 23-142 of the City Code is amended to allow elected Trustees to be selected by a majority vote of those members who vote in the election.
- Section 23-143 of the City Code is amended at the recommendation of the Board’s Investment Consultant to liberalize the current investment restrictions to allow the Board to further diversify its investments.

Mrs. Ennis briefed Council.

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Moved by Thomas/Meehan for approval of Ordinance No. 2007-62. Motion carried unanimously.

Moved by LaRusso/Corby to convene as the Babcock Street Community Redevelopment Agency for the following item. Motion carried unanimously.

26. COUNCIL ACTION RE: Approval of the purchase and installation of a 12-foot gateway/entrance sign at the north end of the Babcock Street Community Redevelopment Area, Kendall Signs, Rockledge, FL - \$6,920.

Mrs. Dittmer reviewed the agenda report. Mrs. Corby asked if this is the best price available. Mrs. Dittmer replied yes and noted that the City obtained three quotes.

Following a brief discussion and at the request of Mrs. Corby, the City Manager will determine the status of FDOT's review of a right-turn only sign from Laurie Street to U. S. 1.

Moved by Meehan/Thomas to approve the purchase of the sign from Kendall Signs for the installation of a new gateway entrance sign on Babcock Street, with funding provided from Reserve for Future Projects within the Babcock CRA budget. Motion carried unanimously.

Moved by LaRusso/Corby to reconvene for the remaining agenda items. Motion carried unanimously.

27. COUNCIL ACTION RE: Acceptance of status report on the 2007 annual City board reports.

Mrs. Palmer asked if Council is simply accepting the report or if Council is voting to approve all the recommendations made by the committees. The City Manager confirmed that Council is voting to accept the report.

Moved by Palmer/Meehan to accept the report. Motion carried unanimously.

Mrs. Meehan said she would like to consider the request made by Mr. Bruce Mochwart. Mayor Goode referenced the correspondence from Bruce Mochwart, Code Board member, recommending a change in the process for appointing the chair and vice-chair of the City's quasi-judicial boards. Mayor Goode noted that this contradicts the change Council made to the process in 2005.

Moved by Meehan/Thomas to have a future City Council agenda item on the appointment of the chair and vice-chair of the quasi-judicial boards.

Mrs. Corby pointed out that there has only been one complaint about the new process. Mayor Goode said he strongly believes that someone should not serve more than two years. The City has five quasi-judicial boards and he would like to see new blood on those boards.

Mrs. Corby said that the City Code states clearly the chair and vice chair appointment process. She asked if changing this process is something that the City really wants to sink

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its teeth into right now.

Mr. LaRusso agreed with Mrs. Corby and added that City Council hashed this out two years ago. Council has already spent an unbelievable amount of time on this issue.

The question was called. The roll call vote was:

Aye: Meehan and Thomas

Nay: Palmer, Corby, LaRusso and Goode

Motion failed.

28. COUNCIL ACTION RE: Board Appointments

- a. Appointment of four regular members and two alternate members to the Architectural Review Board.

Moved by LaRusso/Meehan to reappoint Timothy Loomer (contractor seat) and Shanna Tibbetts (Babcock redevelopment seat). Motion carried unanimously. (10/1/2007 through 9/30/2010)

Moved by LaRusso/Corby to appoint the two alternate members into the regular member seats. Motion carried unanimously.

Appointed: David Corbin (unexpired, three-year term of July 10, 2007 through September 30, 2008) and Thomas Wood (July 10, 2007 through February 25, 2008).

Moved by Palmer/Meehan to appoint Angelina Wheeler Chong and Wendy Burstein as alternate members. Motion carried unanimously. (Unexpired term plus full three-year term of July 10, 2007 through September 30, 2010.)

- b. Appointment of one resident member to the Police Officers' Retirement Trust Fund Board of Trustees.

Mr. Thomas nominated Joseph Downs. By consensus, Council closed the nominations. Moved by Goode/Palmer to appoint Joseph Downs. Motion carried unanimously. (Unexpired, two-year term of July 10, 2007 through September 30, 2008.)

29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

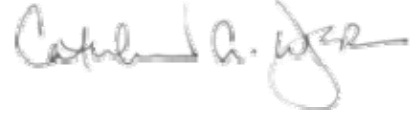
Pat Poole, 805 East Palmetto Avenue, discussed her disappointment with the senior center being constructed at Wickham Park. She said she resents that a County Commissioner called three Council Members and applied pressure to approve the location of the center at Wickham Park. Mrs. Poole concluded by recommending that the City Council ask Brevard County to change the name to "Senior Center at Wickham Park."

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30. ADJOURNMENT

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

The meeting adjourned at 9:20 p.m.



City Clerk – 7/19/2007

Approved by Council: _____