

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 14, 2007



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

1. Pastor Gary Stebbins, Church on the Rock, 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
	Cathleen A. Wysor	City Clerk
	Suzanne Crockett	Assistant City Attorney
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

Jerry Sansom, Florida Inland Navigational District (FIND), provided information and background on FIND. He reported that 80 years ago FIND held its inaugural meeting in Eau Gallie, probably in a hotel located near the historic Eau Gallie Pier. Mr. Sansom presented the City with a check in the amount of \$276,537 representing FIND's grant contribution for construction of the Eau Gallie pier.

Mayor Goode presented Council Member Joanne Corby with a certificate from the Florida Institute of Government for completion of the Institute for Elected Municipal Officials, June 8-10, 2007.

5. Approval of Minutes – July 23, 2007 budget workshop and July 24, 2007 regular meeting

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

6. City Manager's Report

City Manager Jack Schluckebier updated Council on the Florida Power and Light Franchise. The following is an excerpt from the report: *The City has been negotiating and exchanging franchise update/renewal concepts with Florida Power and Light. The 30-year franchise will expire in early October 2007; however, recent settled court cases establish a power company's obligation to continue the payment of franchise fees past the franchise end date pending negotiated franchise renewal. Florida Power and Light representatives have recently demanded a right to negotiate directly with Council and have threatened to stop*

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franchise payments at the end of the franchise, despite case law to the contrary.

Mr. Schluckebier stated that staff believes we are very close to resolving outstanding issues. He reported that last week Attorney Gougelman sent a communication to FPL, which outlines the remaining issues. He noted that the correspondence will be copied to the City Council.

Continuing, the City Manager reported on the following:

- Staff is proceeding with implementing the parking ordinance at City Hall. In the next 30 days we expect employees in the annexes to relocate to temporary facilities at the former K-Mart plaza. Parking at City Hall will be restricted to accommodate construction activities. The number of parking spaces will be reduced; however, there will be fewer employees on site. Proportionally, parking will remain about the same; however, there will be difficulties as a result of closing the drive through window (customers will need to park and enter the lobby of City Hall). Parking restrictions will involve the use of signage, parking decals and hangtags.
- Mr. Sellers from the Housing Authority has been invited to provide Council with an update on the relocation of Ramshur Tower residents.
- The City's fire rescue group will be receiving recognition as a result of their recent assistance in extricating several puppies.

Council Member Richard Contreras thanked staff for the report on code enforcement liens and tax certificate sales/tax deed sales. He pointed out that the entire process emphasizes, "Let the buyer beware."

Vice Mayor Mark LaRusso referenced the conflict resolution process with the County as a result of the City's denial of the conditional use/site plan for the Sarno Road landfill expansion. He asked if a date has been established for a joint Melbourne/Brevard County meeting. The City Manager explained that staff will meet in the next 30-45 days. Subsequently, the elected officials will meet.

7. Public Comments

Ron Sellers, Executive Director, Melbourne Housing Authority, briefed Council on the transition of Ramshur Towers residents. He noted that they are working aggressively with the property owner and hope to sign a lease extension in the next 30 days. That extension would end December 31, 2009.

Mr. Sellers responded to general questions about the relocations that have occurred. Additionally, he confirmed that he believes all vendors are satisfied; they are on a regular payment schedule.

NEW BUSINESS

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8. 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 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) (Postponed - 7/10/07)

Attorney Crockett read Ordinance NO. 2007-53 by title.

City Engineer Jenni Lamb provided an overview. The following is an excerpt from the agenda report: *Per Council direction at the June 26 meeting, Attorney Gougelman was asked to revise the ordinance so that it does not become effective until the right-of-way for the Turtle Mound extension is transferred. Due to issues related to the exact legal description of the Turtle Mound extension, this item was postponed at the request of staff for 30 days at the July 10 Council meeting.*

At this time, staff and the applicant have not clearly defined the right-of-way needed for the Turtle Mound extension. Staff and the applicant have met several times and will continue to work to resolve this issue. The recommendation is to postpone indefinitely the approval of the ordinance.

The City Manager added that if Council would prefer, the item could be postponed until a date certain.

Mayor Goode asked if there were any objections to postponing indefinitely approval of the ordinance. There were no objections.

NEW BUSINESS

9. COUNCIL ACTION RE: Contract award for the construction of lighting at the Southwest Park soccer fields, Project No. 70007, Davco Electrical Contractors Corporation, Boynton Beach, FL - \$344,844; and an appropriation from Recreation Impact Fees of \$160,000 to supplement this project budget.

Mrs. Lamb reviewed the agenda report.

Moved by Thomas/Meehan for approval of the construction contract with Davco Electrical Contractors Corporation in the amount of \$344,844 for the Southwest Park soccer field lighting and an appropriation from Recreation Impact Fees of \$160,000 to supplement this project budget. Motion carried unanimously.

10. COUNCIL ACTION RE: Contract award for the replacement of waterlines in the Old Eau Gallie area, Project No. 32305, Timothy Rose Contracting, Vero Beach, FL - \$336,821.79.

Mrs. Lamb briefed Council.

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Moved by Palmer/Corby for approval of the construction contract with Timothy Rose Contracting, Inc. in the amount of \$336,821.79 for the Replacement of Old Eau Gallie Water Lines, Partial Segment V. Motion carried unanimously.

11. COUNCIL ACTION RE: Contract award for the construction of a fence and security upgrades at the Public Works Facility, Project No. 30007, Florida Door Control of Orlando, Inc., Melbourne, FL - \$127,595.25; and transfer of \$43,019 from Water & Sewer Capital Improvement - Miscellaneous Projects to supplement this project budget.

Mrs. Lamb was available for questions.

Moved by LaRusso/Meehan for approval of the construction contract with Florida Door Control of Orlando, Inc. in the amount of \$127,595.25 for the Public Works Facility Fence and Security Upgrades and a budget transfer of \$43,019 from Water & Sewer Capital Improvement – Miscellaneous Projects to supplement this project budget. Motion carried unanimously.

12. COUNCIL ACTION RE: Contract award for drainage improvements in the Tallwood Subdivision, Project No. 20104, Insituform Technologies, Jacksonville, FL - \$163,832.50.

Mrs. Lamb briefed Council.

Moved by Palmer/Meehan to award the contract to Insituform Technologies, Inc. in the amount of \$163,832.50 for the Tallwood Subdivision Drainage Improvements. Motion carried unanimously.

13. COUNCIL ACTION RE: Contract award for the replacement of two-inch galvanized steel water mains on Tampa Avenue and Melbourne Avenue in Indialantic and Ford Circle West in Melbourne, Project No. 30407, Young's Communication, Inc., Melbourne, FL - \$99,104.59.

Mrs. Lamb briefed Council.

Council Member Cheryl Palmer asked why these lines were selected rather than some of the older lines in the City. Mrs. Lamb replied that the City has received numerous complaints about these lines. Additionally, staff has determined that these three pipes need to be replaced immediately.

Mrs. Palmer informed staff that in the areas where lines are older, some people have simply stopped complaining.

Moved by Meehan/Thomas for award of contract to Young's Communication, Inc. in the amount of \$99,104.59 for a portion of the 2007 Miscellaneous Waterline Replacement (Tampa Avenue, Melbourne Avenue, Ford Circle West). Motion carried unanimously.

14. COUNCIL ACTION RE: Acceptance of the selection committee's ranking of firms for the Continuing Consultant's Contract for Engineering Services and authorization for the City

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Manager to negotiate a contract with Frazier Engineering, Inc.

Mrs. Lamb reviewed the agenda report and pointed out that this is the first time since she has served on a consultant selection committee that every member ranked the firms in the same order. She added that the first, second and third choices were very clear.

Moved by LaRusso/Meehan for approval of the selection committee's recommendation of Frazier Engineering, Inc. to provide Continuing Consultant Services and authorization for the City Manager to negotiate a contract with Frazier Engineering, Inc. Motion carried unanimously.

15. CONSENT AGENDA:

Mayor Goode said that Council Member Corby has removed Items "d", "q" and "r" from the consent agenda. Moved by LaRusso/Contreras for approval of the consent agenda, with the exception of Items "d", "q" and "r." Motion carried unanimously.

- a. Approval of a Subordination of City Utility Interests in Stormwater Maintenance Agreements between the Florida Department of Transportation and the City of Melbourne for property located on the south side of Eau Gallie Boulevard near Commodore Boulevard.
- b. Approval of estimated service fees associated with the issuance of the 2007B Water and Sewer Bonds, Bryant Miller Olive - \$34,125, plus out of pocket expenses not to exceed \$3,500; Nabors, Giblin & Nickerson - \$27,300, plus out of pocket expenses not to exceed \$1,500; Public Financial Management - \$27,300, plus out of pocket expenses not to exceed \$1,500; and Bank of New York - \$750, plus out of pocket expenses.
- c. Approval of a Mutual Release and Settlement Agreement regarding Spinnerz Arcade and authorization for the City Manager to execute the agreement.

Note: See next agenda item for action on Item "d."

- d. Addendum to the City Manager's employment contract with regard to an automobile allowance.
- e. Contract award for the purchase of hydrogen peroxide 50% for Utility Operations, Siemens Water Technologies, Sarasota, FL - \$3.40/pound; estimated annual cost of \$150,000.
- f. Purchase of a Model 77-000-16 trailer mounted valve exerciser, E.H. Wachs Co., Wheeling, IL - \$44,495.
- g. Purchase of 26,400 pounds of Hychem LC-214-PWG dry polymer for Water Production, LeahChem Industries, Inc., Titusville, FL - \$1.69/pound; estimated total cost of \$44,616.

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- h. Purchase of 25 sets of firefighter personal protective clothing, Bennet Fire Products Company, Woodstock, GA - \$1,410/each; total cost of \$35,250.
- i. Traffic signal replacement at Apollo Boulevard and Sheridan Road, Traffic Control Devices, Inc., Altamonte Springs, FL - \$21,890.09.
- j. Purchase of additional networking equipment to complete fiber optic cable installation between the Apollo Police facility and the temporary office space at Melbourne Plaza, LLC.
- k. Purchase of two Model FD2026112FA107245 submersible sludge transfer pumps, I. Kruger, Inc., Cary, NC - \$19,204.25.
- l. Approval of an agreement for work previously bid between the City of Melbourne and DRC Emergency Services, LLC, Mobile, AL for emergency debris hauling services utilizing unit prices in the contractor's existing contract with the City of Plantation, FL; authorization for the City Manager to execute the agreement and provide notice to proceed in the event of a natural disaster.
- m. Approval of a \$73,519.54 increase in 2006-2007 SHIP revenue and expenditure budgets and authorization to amend the 2006-2007 Goals Delivery Chart in the 2004-2007 SHIP Housing Assistance Plan.
- n. Approval of budget adjustments of \$57,458.18 to the FY 2005 HOME revenue and expenditure accounts to allocate recaptured funds.
- o. Lien Rescission CE 06-046: Approval of request for a lien reduction from \$12,250 to \$1,428.35 if paid within 90 days. (John Fabien - 1777 Bruman Terrace)
- p. Lien Rescission CE 07-034: Approval of request for a lien reduction from \$2,750 to \$300.43 if paid within 30 days. (Deatra McGuire - 2715 N. Harbor City Blvd.)

Note: See next agenda item for action on Items "q" and "r."

- q. Lien Rescission CE 07-016: Denial of a request for a lien reduction of \$8,750. (William E. & Su Yeah Denton - 27 East Nelson Avenue)
- r. Lien Rescission CE 04-145: Denial of a request for a lien reduction of \$4,000. (Stacey L. & Stevie Joe McCray - 2502 Canal Street)
- s. Resolution No. 2044: A resolution encouraging the State of Florida, Office of Tourism, Trade, and Economic Development to approve the State Economic Confidential Development Project (06/07) 5-2-28E.
- t. Resolution No. 2045: A resolution implementing FY 2006-2007 Third Quarter Budget Review recommendations.

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16. ITEMS REMOVED FROM THE CONSENT AGENDA

- d. Addendum to the City Manager's employment contract with regard to an automobile allowance.

Mrs. Corby said that it she has three concerns with this item. It appears as if we are giving a \$9,000 pay raise to the City Manager during a time of budget crunch. Additionally, this The item is inconsistent with the City Manager's employment contract. And, the fact that this item was placed on the consent agenda.

Mayor Goode asked the City Manager to explain his current vehicle arrangement.

Mr. Schluckebier said that Section 9 of his contract states that the City will provide a vehicle, pay the upkeep and provide insurance. He reported that he is driving the Ford Explorer that was provided at the time of employment, and it is approaching five years old. Council authorized a replacement vehicle in the current budget. He explained that for a variety of reasons, he has determined it is better for him and the City if he switched to an automobile allowance.

Mr. Schluckebier discussed arrangements other city managers have in Brevard County. About half have assigned vehicles and the others have an allowance. He pointed out that the allowance he is proposing - \$550 per month – is not the highest allowance in the County. It is slightly higher than the monthly allowance Council authorized for the Mayor; however, he noted that he believes he drives more on City business than the Mayor.

Continuing, Mr. Schluckebier stated that the \$550 per month does not equal a \$9,000 pay raise. His proposal would cost the City less in the long- and short-term. The \$24,000 authorized in the current budget for vehicle replacement would be returned to contingency.

Mrs. Corby said she arrived at the \$9,000 pay raise as follows: \$550/month x 12 months equals \$6,600. Over a five-year period that is \$33,000. If you subtract the \$24,000 allocated for vehicle replacement, the remainder is \$9,000.

Continuing, Mrs. Corby said that an automobile allowance is inconsistent with the City Manager's employment contract. The current contract provides, "...the employee's duties require that he shall have the exclusive and unrestricted use at all times during his employment with the City of an automobile provided to him by the City." She stressed that it does not state that he can have a car allowance if he chooses not to utilize the car provided by the City.

Also, there is no stipulation in the contract that authorizes travel reimbursement related to daily use and operation. Mrs. Corby said another concern is that the contract does not have an expiration date. She stated that this is about perception and leadership by example. The City is at crunch time in the budget; we have a manager who is well paid; the City is going to have to make cuts and strong decisions; and she views this as a

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roundabout way of the City Manager giving himself a pay raise. If he chooses not to use the automobile, the City will put \$550 per month in his paycheck.

Mayor Goode asked Mrs. Corby to put a motion on the floor before proceeding with discussion.

Moved by Corby/Palmer to deny this item. (Later in the discussion, Mrs. Palmer withdrew her second.)

Mrs. Palmer referenced the material in the agenda package, which indicates that changing to an automobile allowance would actually be a savings. She asked what period of time was used to calculate the savings.

The City Manager said that the Fleet Management Division used real expenses from the last five years in making the calculation; therefore, the savings would be over a five-year period. He added that his own preference is to switch to a vehicle allowance instead of a City vehicle. And, he regrets if that was not abundantly clear in the write-up.

Mrs. Palmer said she is trying to establish that this would not cost the City more. Mr. Schluckebier replied that it would not. He informed Council that he would incur an additional expense because the automobile allowance would be fully taxable income. Because of his situation, he would not be allowed to deduct this as a business expense. He added that anyone who receives an allowance that drives for business understands it is not “free.”

Mrs. Corby said she appreciates and sympathizes with the City Manager’s personal reasons; however, she does not agree with placement of this item on the consent agenda. The consent agenda is for operational-type items and adjusting the City Manager’s contract is not a day-to-day operational item. She concluded by saying that Council’s decision on this item should be consistent with the employment contract.

Mrs. Palmer stated that she seconded the motion for discussion purposes; however, she will withdraw the motion and rely on the indication that the change will not cost the City more than the current arrangement. Additionally, she agreed that items like this should not be placed on the consent agenda.

A brief discussion continued. Mrs. Corby requested (after Mrs. Palmer withdrew her second) that an adjustment be made to the City Manager’s employee contract to reflect the action being taken. Mayor Goode said that there is no second; therefore, there is no more discussion.

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

- q. Lien Rescission CE 07-016: Denial of a request for a lien reduction of \$8,750. (William E. & Su Yeah Denton - 27 East Nelson Avenue)

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- r. Lien Rescission CE 04-145: Denial of a request for a lien reduction of \$4,000. (Stacey L. & Stevie Joe McCray - 2502 Canal Street)

Based on no objections, Mayor Goode announced that these two items will be scheduled for a public hearing on September 11.

17. SITE PLAN APPROVAL (SP-2007-18) FLORIDA INSTITUTE OF TECHNOLOGY, SOUTH CAMPUS, PHASE 2: (Public Hearing) A request for site plan approval to allow for Phase 2 upgrades to the Florida Institute of Technology South Campus on a 13±-acre portion of an 57.657±-acre site zoned I-1 (Institutional), located on the west side of Babcock Street, south of University Boulevard, and north of Florida Avenue. (Owner/Applicant - Florida Institute of Technology) (Representative - Vaheed Teimouri, Teimouri and Associates) (P&Z Board - 7/19/07)

Planning and Economic Development Director Cindy Dittmer briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of this request as presented on a three-sheet plan prepared by Teimouri and Associates, Inc., of Melbourne, Florida, Project Number 2006-123, with a signed and sealed date of June 27, 2007, subject to the following conditions:

- a. Changes to the site plan will require reevaluation by the Engineering Department and Planning and Economic Development Department.
- Any substantial change to the site plan as outlined in Appendix B, Article IX, Section 6 (E), will require review and approval by City staff, the Planning and Zoning Board, Local Planning Agency, and/or the City Council.
- b. Appropriate environmental permits 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. Buildings and parking/drive aisles shall be shifted where possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.
- d. The proposed building shall be substantially consistent with the renderings submitted by the applicant.
- e. The applicant shall receive the necessary variances for setbacks along Babcock Street for the parking garage and the Autism Center, and the side yard buffer requirements prior to construction plan approval.
- f. The staging of construction for all buildings in this phase shall provide adequate code complying parking at all times.
- 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

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reservation fee (10%) in the amount of \$4,860 for water and sewer impact fees. Payment must be received by the City of Melbourne within 10 business days of the date of rendition of this development order by City Council approval. The 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.

Mayor Goode called for disclosures. Council Member Kathy Meehan reported that Carey Gleason with FIT left her a telephone message; however, she did not return the call. Council Member John Thomas said that Ms. Gleason contacted him by phone and offered to answer questions. Council Members Palmer and Corby and Vice Mayor LaRusso said that they had the same disclosure.

Mayor Goode opened the public hearing.

Dwayne McCay, Provost, Florida Tech, explained that this is a quarter million dollar addition to Florida Tech. He stated that they are growing and appreciate Council's support.

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

18. RESOLUTION NO. 2046: (Public Hearing) A resolution authorizing transmittal to the Department of Community Affairs the Comprehensive Plan Amendment CPA-2007-06, amending the Future Land Use element of the Comprehensive Plan with site specific policies for Study Area IV, and Coastal Management Element, Policy 5.a, to give the 160-unit Beach Club Condominium Complex the ability to rebuild at its current density of 14.95 dwelling units per acre in the event the structures on site are destroyed by more than fifty percent of their replacement cost. (P&Z Board - 7/19/07)

Mrs. Dittmer briefed Council. There were no comments during the public hearing.

Moved by Meehan/LaRusso for approval of Resolution No. 2046, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

19. ORDINANCE NO. 2007-64 (ED-2007-02) ROCKWELL COLLINS, INC.: (First Reading) An ordinance granting an Ad Valorem tax exemption for a period of five years totaling an estimated \$76,815.10.

Attorney Crockett read Ordinance No. 2007-64 by title. Mrs. Dittmer provided an overview.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-64. Motion carried unanimously.

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20. ORDINANCE NO. 2007-65 (A&V No. 307): (First Reading/Public Hearing) An ordinance vacating the southeasterly three feet of a 7.5-foot wide public utility easement, except the north and south 7.5 feet thereof at 2815 Locksley Road. (Applicant - James Teele)

The Assistant City Attorney read the ordinance by title. Mrs. Lamb reviewed the request.

Mayor Goode called for disclosures. Mrs. Palmer said she spoke with the applicant, James Teele, who explained the reason for the request. Mr. Thomas said he spoke with James Teele on July 6 regarding this issue.

Mayor Goode opened the public hearing. Bryan Teele and James Teele, 2442 Empire Avenue, were available for questions.

Moved by Palmer/Thomas for approval of Ordinance No. 2007-65. Motion carried unanimously.

21. ORDINANCE NO. 2007-66 VACATING OF STREETS AND ALLEYS: (First Reading) An ordinance amending Chapter 28, Article V of the City of Melbourne Code, by providing new guidelines for requests to abandon and vacate dedicated rights-of-way and easements.

Mrs. Crockett read Ordinance No. 2007-66 by title. Mrs. Palmer said she would like to postpone this item until the next meeting to allow her time to meet with Deputy City Manager Howard Ralls. Without objection, Mayor Goode announced that this item is postponed until the August 28 meeting.

22. COUNCIL ACTION RE: Acceptance of the Code Enforcement Process Review Project, Public Management Group, Inc., Orlando, FL and approval of the implementation of the Code Study Action Plan.

From the agenda report: A Code Enforcement study was authorized in September 2006 to be conducted by Dr. Peter Colby. Dr. Colby and his study group interviewed a large number of staff, residents/businesses, and those connected to our code process, and provided a report that addresses many different areas. The main focus of Dr. Colby's suggestions is improving communication with the citizens. The report did provide a theme that an agency generally establishes a largely reactive approach or a largely proactive approach. The City of Melbourne has predominated with a staffing level and environment with a reactive and relatively low-key central codes processes, although supplemental with CDBG Code area assistance. Staff created an action plan to incorporate Dr. Colby's recommendations.

Fire Chief Paul Forsberg provided an overview and stated that the recommendation is to accept the study and adopt the action plan.

Mrs. Palmer said that in the past the City discussed being proactive in its code enforcement efforts; however, we discovered that we would have to hire more code officers, purchase more vehicles, etc.; the cost would be prohibitive.

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The City Manager reminded Council that Dr. Colby owns a private company and is a professor at UCF. The City Manager said He added that the action plan was specifically drafted to not encompass any additional staff. The plan provides better opportunities for information, use of technology and how we go about code enforcement. This action plan does not include moving to a proactive model.

Mrs. Palmer asked if checking every street quarterly would be considered proactive. Chief Forsberg explained that the idea is to divide the City into zones and have staff look for obvious violations, like abandoned vehicles. The plan does not include going door to door looking for violations. Staff will be able to tour all the neighborhoods and be proactive about catching obvious violations.

Mr. Schluckebier added that Dr. Colby and his group try to find ways that work can be disassembled/reassembled to take advantage of information technology and existing staff.

Moved by Goode/Palmer to accept the study. Motion carried unanimously.

Moved by Meehan/Contreras to approve the action plan.

Mrs. Corby asked Chief Forsberg what he believes is the purpose of the Code Compliance Division. The Chief responded that it is to enforce codes established by the City and the State.

Referencing “P 1” of the action plan, Mrs. Corby asked if the goals are in order of priority or listed for the sake of being orderly. Chief Forsberg replied that they are listed in an orderly fashion, not in priority order.

Mrs. Corby said she likes the second goal (double the number of self initiated complaints) because it establishes a measurable. She asked Chief Forsberg the current number of self initiated complaints and how much we paid for this study.

Mr. Schluckebier said somewhere around \$14,000.

Code Enforcement Administrator Dan Porsi said that currently when responding to a complaint, a code officer will look at that site along with five surrounding sites. That is the self-initiation. Additionally, staff notes any violations while driving major thoroughfares. The current number is about 250 per month.

Mrs. Corby asked staff to clarify if they are going to go from 250 to 500 self-initiated complaints per month. Mr. Porsi replied that about half of the 250 are actual violations.

Continuing, Mrs. Corby said she wants people to feel like they can live in Melbourne – not be imprisoned in Melbourne. If a person misses cutting the grass one week, she doesn't want code enforcement to respond. She added that she supports having codes and standards but, at the same time, she does not want to infringe on the way people live; there is a fine line.

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Mr. Porsi said that the initial meeting with a respondent is one-on-one. A courtesy notice is provided and the person is educated about the violation. After that meeting, code enforcement moves forward if the property does not come into compliance. Mrs. Corby offered that the initial meeting does not always involve a courtesy notice.

Discussion continued about the current process.

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

23. COUNCIL DISCUSSION/ACTION RE: \$1.1 million gap in the General Fund budget.

The following is an excerpt from the agenda report: *At the July 23, 2007 budget workshop the City Council tentatively approved a balanced budget for the next fiscal year that included \$1.1 million of revenue from a new utility tax on water sales. At the July 24 meeting, Council did not take any action to implement the 10% utility tax. This inaction results in a \$1.1 million revenue shortfall in the 2007-2008 fiscal year budget that needs to be addressed so that a balanced budget can be submitted for the required September public hearings (September 11 and September 25) on the proposed budget.*

There are basically two ways to address this revenue shortfall - increase other revenues or decrease expenditures for a combined total of \$1.1 million. Staff has developed suggestions for bridging this gap subject to Council approval, and recommended a scoring method for Council evaluation and consideration of each option. The options and the scoring method are detailed in the memorandum from Deputy City Manager Amy Elliott.

The City Manager informed Council that Budget and Management Officer Karen Windsor will lead Council in the discussion on the scoring sheets. He explained that staff distributed options, some of which Council discussed at previous meetings. Some of the options are new. Revenue options are listed as "A" and expenditure items are listed as "B." These options are not intended to be all-inclusive. If Council wishes to add any to the list, they will be identified on Ms. Windsor's flip chart as "A1, A2, B1, B2", etc.

Continuing, the City Manager said that each department was asked to review travel, subscriptions and dues. Those reductions are identified and summarized on the expenditure option sheet. He explained that each Council Member is being asked to complete the form and check enough revenue and/or expenditure options to reach \$1.1 million. He clarified that the agenda materials reflect a figure of \$285,000 for revenue option A7 (parking surcharge for building B of the Causeway Center/Hynes project). The correct figure is \$241,000. The sheets distributed to Council at this meeting reflect the correct number.

Mr. Schluckebier referenced the scoring sheets distributed to Council (0=no interest/3=moderate interest/5=definitely support) and reported that if four Council members assign a five to one item, it will be considered adopted.

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Mayor Goode referenced the e-mail dated August 14 from Beth and Dale Young, which indicates that they are opposed to a utility tax on water and any suggestions that would cut wages for union members. Additionally, he noted that someone signed up to speak on this item; however, it is not a public hearing item.

At this time, the City Manager asked if any members wanted to add revenue options or expenditure options.

Mrs. Windsor referenced the green scoring sheets distributed to Council. She said that they will be collected and tallied. She asked each member to score each option with a five, a three or a zero.

Mrs. Meehan stated that she recalls that the revenue being received on attorney's fees is low. She would like to make sure that we are collecting the proper amount of attorney's fees. The City Manager referenced the revenue option, "increase legal advertising fees and plan development review costs." He noted that implicit in the plan development review costs will be a determined effort to try and recover attorney review fees.

Mrs. Palmer stated that she has been mulling over a high expenditure – admittedly an expenditure that she has initiated. She added that she does not know how much we are spending on outside attorneys' fees. Now that we have one in house attorney and two assistant attorneys, she would like to substantially reduce the amount we spend on outside attorneys and make more use of our in house staff.

Mrs. Windsor said that has been taken into consideration during preparation of the upcoming budget.

Vice Mayor Mark LaRusso said that outside attorneys' fees need discussion. We have labor fees, lawsuit fees, like Florida Recyclers, etc. that have been perpetuated by Council. He recalled that the City Manager indicated that those outside legal fees would start to come down next year because of the additional assistant city attorney.

Mr. Schluckebier agreed to the extent regular work can be allocated internally. In the past work was farmed out because we didn't have enough help.

Mrs. Palmer pointed out that with Council's approval, the City Attorney also has other outside employment.

Assistant City Attorney Suzanne Crockett reported that a lot of the outside counsel fees were incurred on special projects, not routine litigation. Examples include the West Melbourne water and annexation issues, Florida Power & Light franchise, Florida Recyclers litigation, and revisions to the Sign Code to bring the Code into compliance with the First Amendment. These are all special projects with specialized areas of law.

Continuing, Mrs. Crockett said that perhaps the City would consider reducing its reliance on labor counsel. Mr. Hament is currently being used in arbitration and union negotiations. If we want to limit his services to solely arbitration, because he has been so

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successful for the City of Melbourne in that capacity, limiting his involvement in negotiations might help to bring down costs. The fees for using other attorneys for real estate transactions, title searches and assistance with the Code Board are negligible compared to the larger ticket items that have complete reliance on outside attorneys.

Mrs. Palmer said that she understands that and she initiated the Florida Recyclers/landfill issue. She pointed out that Council needs to be more careful and look at whether this has served us well financially in the past. Attorneys' fees and consulting fees are big ticket items that people point out to her as needing reduction.

The City Manager pointed out that the outside legal fees in the upcoming budget are less than in the current year budget. He agreed that these projects are expensive; however, typically Council makes the decision to proceed. If we don't have a specific number to address, he suggested that this item return for discussion in a fall workshop meeting that will be held in advance of the January election (on tax reform).

Mrs. Palmer said she would like to look at attorneys' and consultant fees during the workshop meeting. She pointed out one of the expenditure options for \$36,000, "reduce health insurance incentive paid to employees", and stressed that she would rather see attorneys' and consultant fees reduced before we start taking money away from our faithful employees.

Mr. Contreras said that at the July 24 meeting, Beth Young made three recommendations – withdrawing from the Florida League of Cities, eliminating grants-in-aid, and stopping construction of new City Hall. He asked that these items be reflected in the options.

Mr. Schluckebier said the Florida League of Cities expense is in the \$8,000 - \$10,000 range; grants-in-aid is roughly \$104,000; and stopping construction on the new City Hall would be an expense to the City; there would be no benefit.

Mrs. Palmer stated that the grants-in-aid serve a good purpose in the community; however, before she will vote to touch paid employees, she would vote to eliminate grant money to non-profit organizations.

Mrs. Corby said during a discussion about revenues with the City Manager, she discussed MVA fees; however, she does not see that on the list. She asked that MVA fees be added to the list.

Several members asked for additional information. Mrs. Windsor said that the MVA – motor vehicle accident – fee would be charged when the Fire Department responds to an accident. Mrs. Corby added that it is charged to the insurance company of the person who caused the accident.

Chief Forsberg explained that this is a program that has had limited adoption throughout the state. It would require work on the City's part to get a collection agency involved. Our best guess is that it would produce \$100,000 in revenue. As more cities consider

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adoption of this fee, there has been discussion in the insurance industry about raising rates to cover the costs. So far there is a mixed review on the collection of those fees.

Mrs. Corby asked if the collection could be conducted in house. The Fire Chief said that would be difficult. The City Manager stated that this would be something the Finance Department would undertake.

Mr. Thomas asked if there are any legal concerns involved with issuing a citation to a person for causing an accident and then fining the person. Attorney Crockett replied that she is not familiar with this program and would need to look at it.

Mrs. Windsor added the MVA fee to the flip chart and instructed members to add it to their score sheet if they would like to vote for it.

Mr. LaRusso asked if outside legal fees warrants being placed on the score sheet. Mrs. Crockett said if he has a number, that would be helpful. She asked how much he would like outside legal fees reduced.

Mr. LaRusso replied that he has no numbers in his agenda package. There are a number of items within that expenditure and he is not sure if any of them are funded by other programs. He expressed his frustration with the process and stated that he feels like Council is getting pressure to vote without getting specific information.

Following brief discussion, Mr. Schluckebier said that the idea is to return in the fall with fuller information on that item.

Mrs. Palmer stated that she believes Mr. LaRusso is disgruntled because that item is not on the list. She added that Council would like to reduce that number as much as possible.

Mrs. Windsor informed Council that outside legal fees have been reduced by \$80,000 in the upcoming budget.

At this point, members completed their score sheets and submitted them to staff. Council recessed to allow staff time to tally the numbers.

Recessed: 8:22 p.m.
Reconvened: 8:51 p.m.

Following discussion and several adjustments, Mrs. Windsor noted that Council has scored the following:

Revenue Options

- County EMS first responder fees - \$300,000.
- Fully fund School Resource Officers - \$196,000.
- Legal advertisement fees and plan review costs - \$100,000.

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- Building permits - \$40,000.
- Parking surcharge - \$241,000.

Expenditure Options

- Dues, subscriptions, training and education - \$41,000.
- Stormwater drainage projects - \$175,000

Total: \$1,093,000.

(Note: the composite of Council's score sheets are attached to the minutes.)

Mrs. Corby referenced the strategic planning workshop and stated that not once during the budget process has Council referred to the list of priorities – priorities that were identified as a group. She stated that Council is not being consistent. Additionally, she noted that she has a problem with the budget coming at Council in this way. The proposed budget is cornering Council for a supermajority vote. Items are being cut before Council knows the impact to residents and changes are not focusing on where Council previously identified it would like to go.

Mr. Schluckebier offered that there are a lot of ideas relative to expenditures and revenues. Staff tried to come up with a way for Council to come to a decision. We had a short period in July to put together a balanced budget, which Council tentatively adopted. He added that he regrets that this has been a short period of time with a lot of variables. He asked the Council Members to look at the flip chart and determine whether they would like to make adjustments to any of the items.

Several members adjusted their scoring (which is reflected on the composite sheet).

Mayor Goode pointed out that at this point we can't place a definite number in the outside legal fees category. The City Manager confirmed that given the amount of interest in that item, it will return prior to the fall workshop.

With regard to the school resource officers, Mr. Schluckebier reported that the City just received the contracts, which did not include an increase in revenue. The School Board Superintendent will be meeting with the Police Chiefs on this issue.

In response to Mrs. Palmer, Mrs. Windsor explained that if we need additional funding once we learn the outcome of school resource officers and EMS fees, staff will look at the next highest ranking. On the expenditure side, it appears that the patrol officer assigned to the Babcock CRA will be next. And, on the revenue side, code enforcement fines will be next.

Council continued making adjustments in their scoring.

Referring to the school resource officers, the City Manager repeated that staff just received the contracts. School will begin before the contracts can be placed on Council's

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agenda for approval. He noted that as an interim measure, Palm Bay authorized a one-month contract. For information, Mr. Schluckebier said that right now the School Board is reimbursing what amounts to one-half of two-thirds of the officers.

Moved by Thomas/Goode to authorize the City Manager to negotiate a one-month contract with the School Board for the School Resource Officers. Motion carried unanimously.

24. COUNCIL ACTION RE: Appointment of one member to the Beautification and Environmental Advisory Committee.

Mr. LaRusso nominated Darlene Smith. Moved by Palmer/Goode to close the nominations. Motion carried unanimously. Moved by LaRusso/Thomas to appoint Darlene Smith. Motion carried unanimously. (August 14, 2007 - July 10, 2009, unexpired 3-year term)

Mayor Goode reported that the member recently appointed by the Chamber of Commerce resigned from the Committee after being informed by the Chairman that the group prefers members who are retired. Following discussion, Council agreed that the City's representative on the Chamber, Kathy Meehan, should determine what happened.

25. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

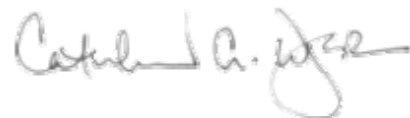
The City Manager confirmed for Council Member Thomas that the employee satisfaction survey should be undertaken within the next 30 days.

Returning to the discussion about the Beautification Committee, Mrs. Corby said that it is important for Council to send a message to people who are willing to volunteer that we have guidelines and expectations.

26. ADJOURNMENT

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

The meeting adjourned at 9:24 p.m.



City Clerk – 8/23/2007




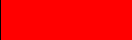
Approved by Council: August 28, 2007 with revisions to Items 16 and 22.

SUMMARY OF COUNCIL ACTION ON AUGUST 14, 2007 - AGENDA ITEM NO. 23

REVENUES										
Program:	Proposed Amount	Approved Amount	Contreras	LaRusso	Meehan	Goode	Thomas	Palmer	Corby	Total Points
1a Fire Motor Vehicle Accident Fee (MVA)	\$100,000		0	0		0	0	100,000	100,000	10
1b Increase False Alarm Fine	\$9,000		0	0	9,000	0	0			5
2 Recover EMS fee reduction from County	\$300,000	\$300,000	0	0	300,000	300,000	300,000	300,000	300,000	28
3 Increase SRO revenue from School Board	196,000	196,000	0	196,000	196,000	0	196,000	196,000	196,000	25
4 Fees to recover Legal Adv. Fees/Plan reviews	100,000	100,000	0	100,000	100,000	100,000	100,000	100,000	0	28
5 Portion of Building Permit fees to cover temp City Hall	40,000	40,000	0	0	40,000	40,000	40,000	40,000	0	23
6a 5% Water Utility Tax (full year)	550,000		0	0	0	0	550,000	0	0	8
6b 5% Water Utility Tax (half year)	275,000		0	0	0	0	0	0	0	8
7 Parking Surcharge at Causeway Center	241,000	241,000	0	0	241,000	241,000	241,000	241,000	0	26
8 Payment in Lieu of Taxes for services/Trailer Haven	100,000		0	0	100,000	0	0	0	0	11
9 Collect first three days of Code Fines	25,000		0	0	25,000	0	25,000	0	0	13
Total Revenue	\$1,661,000 *	\$877,000	\$0	\$296,000	\$1,011,000	\$681,000	\$1,452,000	\$977,000	\$596,000	

* Total revenue reflects only the inclusion of the full year utility tax on water sales, not both the value of the full year utility tax and the half year utility tax.

EXPENDITURES										
Program:	Proposed Amount	Approved Amount	Contreras	LaRusso	Meehan	Goode	Thomas	Palmer	Corby	Total Points
1a Remove Grants - in -Aid Funding	\$104,000		0					0		3
1b Remove Florida League of Cities Dues	\$12,000		0					0		3
1c Decrease Outside Attorney Fees	?		0	?	?	?	?	?	?	25
1d Reduce Training & Education and Dues & Subscriptions	\$41,000	\$41,000	41,000	41,000	41,000	41,000	41,000	41,000	0	33
2 Reduce/Eliminate SRO program	340,756		0	0	0	0		0	0	3
3a Defer Stormwater drainage project @ Hickory St	175,000	175,000	0	0	175,000	175,000	0	175,000	175,000	23
3b Defer Stormwater drainage project @ University Blvd	325,000		0	0	325,000	0	0	325,000	325,000	18
4 Reduce scheduled/union contract pay adjustments	400,000		0	0	0	0	0	0	0	0
5 Patrol officer assigned to Babcock CRA	61,000		0	0	61,000	61,000	0	0	0	19
6a Reassign fire crew	185,000		0	0	185,000	0	0	0	0	8
6b Reduce fire staff	200,000		0	0	200,000	0	0	0	0	8
7 Reduce CRA Tax Increment funding	66,000		0	0	66,000	0	0	0	0	8
8 Reduce health insurance incentive	36,600		0	0	0	0	0	0	0	0
Total Expenditures	\$1,946,356	\$216,000	\$41,000	\$41,000	\$1,053,000	\$277,000	\$41,000	\$541,000	\$500,000	
Total Approved Revenue & Expenditures:		\$1,093,000	\$41,000	\$337,000	\$2,064,000	\$958,000	\$1,493,000	\$1,518,000	\$1,096,000	

LEGEND				
Block Color				
Scale	No Vote	Approved	Some Interest	No Interest