

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 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. Beau DiFrenna, Calvary Chapel of Melbourne, 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
	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: John Thomas Council Member, District 4 (family obligation)

4. Proclamations and Presentations

Mayor Goode presented the following proclamations:

“Commodore John Barry Day,” September 13, 2007; accepted by the following members from the Ancient Order of Hibernians: Patrick Moynihan, Patrick Keane, Ed Kelly and Ed Reilly.

“Constitution Week,” September 17 – 23, 2007; accepted by Delayne Wells, Regent, Abigail Wright Chamberlin Chapter Daughters of the American Revolution.

“Life Insurance Awareness Month,” September 2007; accepted by Sheila Gaylor, National Committee Chair, Space Coast Association of Insurance and Financial Advisors.

Additionally, the Mayor presented the Blanche Hopkins Memorial Beautification Award to Dick Elliott for his efforts in picking up litter along Sarno Road and Apollo Boulevard.

5. Approval of Minutes – July 25, 2007 special meeting and August 14, 2007 regular meeting

Mayor Goode referenced the memorandum distributed from the City Clerk outlining revisions Council Member Joanne Corby would like to the August 14 minutes. The revisions are outlined below:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

Item #16 d., first paragraph revised to read: 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.

Same item, paragraph before the motion revised to read: ~~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.

Item #22, fourth paragraph revised to read: 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.

Same item, eleventh paragraph revised to read: 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.

Moved by Contreras/LaRusso for approval of the special meeting minutes and the regular meeting minutes with the noted changes. Motion carried unanimously.

6. City Manager's Report

City Manager Jack Schluckebier reported that he, along with the entire City Council, attended the annual Florida League of Cities Convention. The convention offered a lot of beneficial programs and information. He informed Council that he placed his business card in a drawing and won a \$100 Home Depot gift card from an engineering firm. It has been his practice when he wins a drawing like this to use the gift to the City's benefit. He plans to use the card as an incentive for high givers in the City's internal United Way program.

Attorney Gougelman stated that pursuant to Florida State Statutes, he would like to request the City Council hold an executive session. He is in need of advice and direction with regard to Brevard County v. the City of Melbourne (relating to the conditional use for the landfill denied by the City) and City v. Florida Recyclers (relating to the recycling facility located east of the landfill). The proposal is to hold the executive session on September 11 in advance of the regular meeting. The Brevard County v. the City session would be held at 5:00 p.m. to be followed immediately at approximately 5:30 with City v. Florida Recyclers.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

Additionally, Attorney Gougelman reported that the Florida Department of Environmental Protection has issued a determination that the City of Melbourne water system can be expanded without the City's permission. There is a permit that DEP must issue for expansion of a system, known as a PWS Permit. Apparently, there are instances where the system can be expanded without the City's permission. The DEP is going to put that determination in limbo for 30 days. If DEP decides to continue, Mr. Gougelman asked for authorization to file a petition for administrative action. He confirmed that the City will attempt to negotiate with DEP in the interim.

Without objection, Council agreed to conduct an executive session on September 11 at 5:00 p.m. and 5:30 p.m. Additionally, there were no objections to authorizing the City Attorney to file a petition for administrative action against the Florida Department of Environmental Protection, if necessary.

Council Member Joanne Corby referenced the follow-up report from the Florida Department of Transportation regarding the Laurie Street intersection at U. S. 1. (Reference Mrs. Corby's request at the March 13, 2007 City Council meeting asking staff to investigate the possibility of making Laurie Street in that area one-way heading west.) She asked if this item will appear on a regular agenda for Council discussion.

The City Manager confirmed that there is no action remaining for the City Council. Under our City Code, the Traffic Engineer issued a report and the City sought a determination from FDOT. FDOT conducted its own study and concurred. The Traffic Engineer issued a recommendation to change the traffic control (to change a segment of Laurie Street to one-way westbound from U. S. 1). Mr. Schluckebier said that the change will likely happen in the next 45-60 days.

Mrs. Corby referenced the e-mail from Frank Facciobene, Chairman, Babcock Street Community Redevelopment Agency Advisory Committee. The committee made a recommendation that no action be taken at this time. If traffic patterns do not change after the Phase II improvements are complete, the committee would recommend that this intersection become a right-turn only from Laurie Street onto U. S. 1.

Mr. Schluckebier said that the CRA advisory committee has an opinion, which is based on tentative information. He added that he does not believe the committee saw the specific recommendation of the Traffic Engineer. The Traffic Engineer's recommendation is to make every accommodation for that business area.

Mrs. Corby asked if this means those businesses won't be affected. Mr. Schluckebier said that is the Traffic Engineer's opinion. He added that the City is in a difficult posture because we have an official study and direction from FDOT. If we did anything else and something happened at that intersection we would be at risk.

Mrs. Corby referenced the status report on the strategic planning objectives and how those were addressed in the budget. With regard to the employee satisfaction survey and performance evaluation system, she said that the Human Resources Director indicated during the strategic planning workshop that employee surveys were conducted

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

in the past. Mrs. Corby asked to review a summary of those surveys so a baseline can be established for the upcoming survey.

Mr. Schluckebier replied that he is not aware of any surveys conducted in the past. If surveys were conducted, they are dated. Deputy City Manager Amy Elliott added that she is not aware of any City wide survey conducted in the past; however, there were a couple of surveys conducted in the Police Department (years ago).

The City Manager confirmed for Mrs. Corby that the upcoming survey can be used as a baseline.

7. Public Comments

None.

OLD BUSINESS

8. ORDINANCE NO. 2007-64 (ED-2007-02) ROCKWELL COLLINS, INC.: (Second Reading/Public Hearing) An ordinance granting an Ad Valorem tax exemption for a period of five years totaling an estimated \$76,815.10. (First Reading - 8/14/07)

Attorney Gougelman read Ordinance No. 2007-64 by title. There were no public comments.

Moved by Contreras/Meehan for approval of Ordinance No. 2007-64. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2007-65 (A&V No. 307): (Second 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) (First Reading - 8/14/07)

Mr. Gougelman read Ordinance No. 2007-65 by title. There were no disclosures from Council and no public comments.

Moved by LaRusso/Palmer for approval of Ordinance No. 2007-65. The roll call vote was:

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

Motion carried unanimously.

10. 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. (Postponed - 8/14/07)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

Attorney Gougelman read the ordinance by title. The following is an excerpt from the agenda report: *This proposal is provided in response to a request from Council Member Cheryl Palmer to consider new guidelines for requests to abandon and vacate dedicated rights-of-way and easements. The ordinance provides procedures and standards that would be used in reviewing, considering, and granting requests to abandon and vacate dedicated rights-of-way and easements. The procedures and standards came from a review of many municipal and county ordinances that address this topic.*

Council Member Cheryl Palmer thanked Deputy City Manager Howard Ralls for his thorough review on this item.

Moved by Palmer/Corby for approval of Ordinance No. 2007-66. Motion carried unanimously.

NEW BUSINESS

11. COUNCIL ACTION RE: Contract award for waterline replacements at various locations (Ballard Park Area, Phase I), Project No. 30407, Maxwell Contracting, Inc., Cocoa, FL - \$351,000.

City Engineer Jenni Lamb reviewed the agenda report.

Moved by LaRusso/Contreras for approval of the construction contract with Maxwell Contracting, Inc. in the amount of \$351,000 for Waterline Replacements at various locations (Ballard Park Area, Phase 1). Motion carried unanimously.

12. COUNCIL ACTION RE: Contract award for renovation of Lift Station 46 at Brevard Community College, Project No. 30206, Stormwater & Underground, Inc., Titusville, FL - \$198,916.

Mrs. Lamb briefed Council.

Moved by Contreras/Meehan for approval of the construction contract with Stormwater & Underground, Inc. in the amount of \$198,916 for Lift Station 46 Renovation at BCC. Motion carried unanimously.

13. COUNCIL ACTION RE: Contract award for the replacement of a 54" metal storm drain at Melbourne High School, Project No. 64206, Don Luchetti Construction, Inc., Melbourne, FL - \$335,045.50.

Mrs. Lamb provided an overview.

Moved by LaRusso/Meehan to award a contract to Don Luchetti Construction, Inc. in the amount of \$335,045.50 for Melbourne High School Storm Pipe Replacement. Motion carried unanimously.

14. COUNCIL ACTION RE: Task Order No. 5 to the contract for professional engineering

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

services to design, permit, bid, and provide construction management services for the construction of the Pineda Causeway Ground Storage Tank, Project No. 30202, Hazen & Sawyer, P.C., Ft. Pierce, FL - \$332,970.

Mrs. Lamb reviewed the agenda report.

Moved by Palmer/Meehan for approval of Task Order No. 5 to the Hazen and Sawyer, P.C. Professional Engineering Services contract for Pineda Ground Storage Tank Construction Project in the amount of \$332,970. Motion carried unanimously.

15. COUNCIL ACTION RE: Change Order No. 5 to the contract for Lake Washington Surface Water Treatment Plant, Phase 2 improvements, Project No. 30102, Wharton-Smith, Inc., Palm Bay, FL - \$63,934; and an appropriation of \$100,000 from 2004 Bond Interest Proceeds to establish this project budget.

Mrs. Lamb reviewed the agenda report and explained that this is the first change order that adds work to the project. The first three change orders were deducts and the fourth was for a separate project.

Moved by LaRusso/Contreras for approval of Change Order #5 in amount of \$63,934 to Wharton-Smith for the Lake Washington Surface Water Treatment Plant Phase 2 Improvements and an appropriation of \$100,000 from 2004 Bond Interest Proceeds to establish the project budget. Motion carried unanimously.

16. COUNCIL ACTION RE: Acceptance of the selection committee's ranking of firms for the Consultant's Contract for Professional Engineering Services for Grant Street and D.B. Lee Wastewater Reclamation Facilities emergency generator and fuel storage improvements project; and authorization for the City Manager to negotiate a contract with Boyle Engineering Corporation, Orlando, FL.

Mrs. Lamb reviewed the agenda materials and explained that because the project is over one million dollars, the City must follow the Consultant Competitive Negotiations Act. The City Manager added that staff will return to the company and work out the best contract possible. The final contract will return to City Council for approval.

Moved by Contreras/LaRusso for approval of the selection committee's recommendation of Boyle Engineering Corporation to provide professional engineering services and authorization for the City Manager to negotiate a contract with Boyle Engineering Corporation. Motion carried unanimously.

17. CONSENT AGENDA:

Moved by LaRusso/Meehan for approval of the consent agenda as recommended. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

- a. Change Order No. 1 to the contract for the Harlock Road water main extension, Project No. 31104, Atlantic Development of Cocoa, Inc., Cocoa, FL - deduct amount of \$40,835.21.
- b. Change Order No. 1 to the contract for roof replacement at the Eau Gallie Civic Center, Project No. 10906, Sun Sky Roofing, Vero Beach, FL - \$19,028.21.
- c. Approval of a Subordination of City Utility Interests in Stormwater Maintenance Agreements and Utility Easements between the City of Melbourne and the Florida Department of Transportation for properties located on the east side of Babcock Street between Melbourne Avenue and Lincoln Avenue; and authorization for the City Manager to execute the agreements.
- d. Purchase of liquid polymer, Fort Bend Services, Stafford, TX - \$1.28/pound; estimated annual cost of \$30,592.
- e. Purchase of traffic cabinet, video detection, and communications equipment for Babcock Street/Hibiscus Boulevard intersection improvements, Naztec, Inc., Sugar Land, TX - \$26,390.
- f. Resolution No. 2047: A resolution authorizing the City Manager to execute a Highway Maintenance Memorandum of Agreement between the City of Melbourne and the Florida Department of Transportation for the City to provide routine maintenance of landscaped areas on State highways within the City at a reimbursement rate of \$59,174; and authorization for the City Manager to execute any documents related to the agreement.

18. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

19. COUNCIL ACTION RE: (Public Hearing) A request for lien rescission from \$16,750 to \$8,813 if paid within six months. (John A. & Melinda A. Redling - 427 Pirates Moon Court) (Authorized by Council - 07/24/07)

The following is an excerpt from the agenda report: *At the July 24 meeting, John A. Redling asked Council to conduct a public hearing to allow him an opportunity to present additional information. In July 2006 the property was cited for an unprotected pool. The case was presented to the Code Enforcement Board in September 2006, found in violation, and a fine of \$250 per day was assessed. In January 2007, Mr. Redling requested the City's lien be subordinated to refinance his home to obtain the monies to come into compliance.*

The property was brought into compliance with a \$16,750 fine at the January 31, 2007 meeting. Mr. Redling made application to appear before the March Code Board for a request for rescission of fine. Mr. Redling did not appear at the March or April meeting.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

Mr. Redling was present for the May meeting. The case was discussed and Mr. Redling explained the only means for compliance (according to his homeowners' association bylaws) was to install a screened enclosure. A recommendation was made by the Code Enforcement Board to reduce the fine from \$16,750 to \$8,813 based on this information.

Mr. Redling requested an additional appearance before the Board to present additional testimony. Mr. Redling failed to appear before the Board at the June 2007 meeting. Without Mr. Redling to provide his additional testimony, the Board took no action and allowed its original recommendation to stand.

An additional case cited for identical violations on the same street revealed that there were alternative means to gain compliance that were approved by the homeowners' association. (Pool fencing is permitted on pool decks.) Mr. Porsi contacted the homeowners' association and verified that pool fences were allowed to be installed as far back as March 1, 2006.

Had Mr. Redling installed a protective barrier (fence) around his pool in May 2006, when he was originally cited, the property would have been brought into compliance with no fines assessed.

Mayor Goode opened the public hearing.

Doug Beam, attorney representing Mr. Redling, said that after meeting with Mr. Redling for the first time today, he agreed to represent him pro bono. Mr. Beam discussed Mr. Redling's character and noted that he was victimized by the hurricanes. Mr. Beam explained that Mr. Redling's pool enclosure was damaged and the cost to repair was estimated at \$6,500. He made a good faith effort to find a contractor and the price increased from \$6,500 to \$20,000 to install an enclosure around his pool. Mr. Beam displayed a Florida Today newspaper article outlining the difficulties people experienced in finding contractors and the high prices after the hurricanes.

Mr. Beam stated that Mr. Redling is not a "frequent flyer" with the City's code enforcement process. He is a hardworking businessperson. The Code Board cut the fine in half and Mr. Redling has requested that the City Council reduce this amount further or, in the alternative, recover actual City costs. Mr. Beam concluded by saying he does not know if there is a societal benefit from Mr. Redling paying the fine.

Mayor Goode asked for clarification that we are talking about the 2004 hurricanes. Mr. Beam replied yes and added that there were issues with the pool company, refinance issues, etc. He pointed out that Mr. Redling is now in compliance.

John Redling, 427 Pirates Moon Court, stated that this has been a financial burden on him for the past three years and it is not of his doing. He commented that he understands the safety concerns and he didn't avoid making the repair. There were complications with the pool company and financially he did not have the money. He noted that he understands that the City has incurred costs and he is willing to pay those.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

He explained to Council that he already paid double the original estimate on the enclosure and he is financially strapped.

Mayor Goode said that previously Mr. Redling indicated that the homeowners' association required screen enclosures. The Mayor disclosed that he drove through the neighborhood and saw several homes with standard fences around their pools.

Mr. Redling said that a fence was an option; however, the price for his would have been \$5,000. He didn't want to pay this amount and then later pay the \$19,000 for a screen enclosure. Mayor Goode asked if a \$5,000 fence would be better than a pool cage if times are hard. Mr. Redling agreed and said he thought about that many times; however, he wanted what he originally contracted for.

Moved by Meehan/Palmer to reduce the fine to City costs. (See clarification below.)

Mr. Schluckebier said that since this is an appeal of a Code Board decision, staff would like the opportunity to have the Code Enforcement Administrator explain the City's position. There are some facts related to the violation, how long the violation existed, why the Code Board made its decision, etc.

Attorney Gougelman asked that staff also provide the amount of City costs.

Dan Porsi, Code Enforcement Administrator, stated that the City's costs in this case are \$598.95.

Attorney Gougelman said that the City Manager has asked for a history on this case.

Mr. Porsi discussed the history of this case (see excerpt above) and stated that the Code Board felt that cutting the fine in half was fair and just. In response to the City Manager, Mr. Porsi stated that a pool without a protective covering is considered a life threatening/life safety incident.

Continuing, Mr. Porsi said that it took approximately six months from the initial citation until compliance was met. If Mr. Redling had erected a fence immediately, he would not be here today.

Mr. Redling stated that this is all true, but events happened behind the scenes. He stated that a delay by a contractor should not fall on him; he did what he was asked to do.

Attorney Gougelman stated that the City Council is looking at a motion to satisfy the lien in exchange for payment of costs. He asked Mr. Redling how long it would take him to pay \$598.95. Mr. Redling asked for one month.

Attorney Gougelman recommended that Council authorize staff to satisfy the lien if the administrative costs of \$598.95 are paid within 30 days. If Mr. Redling pays, the City will receive its prosecution monies.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

The maker/seconder agreed.

Attorney Gougelman added that Council is not reducing the lien, rather authorizing the lien to be satisfied if City costs are paid within 30 days.

Mrs. Corby asked what would happen if the costs are not paid within 30 days and the Mayor replied that the lien would remain at \$8,813.

The question was called. The roll call vote was:

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

Motion carried unanimously.

20. RESOLUTION NO. 2048: (Public Hearing) A resolution authorizing the issuance of Water and Sewer Revenue Bonds, Series 2007B in the aggregate principal amount not to exceed \$28,000,000.

From the agenda report: Bond counsel, Bryant Miller Olive, has prepared the proposed bond resolution and certain exhibits. Disclosure counsel, Nabors, Giblin & Nickerson, prepared other exhibits to the resolution.

The resolution authorizes the issuance of the bonds, authorizes the City Manager to execute certain documents necessary for the issuance of the bonds; authorizes the Bank of New York Trust Company, N.A. to serve as escrow agent, authenticating agent and registrar; makes certain covenants with FGIC; and authorizes the City Manager to take the necessary steps to complete the sale and delivery of the bonds.

Once the resolution is approved, the Preliminary Official Statement will be printed and distributed. The competitive sale is tentatively scheduled for September 12, 2007. Once the City accepts the bid, the closing and delivery of the 2007B Bonds will occur prior to September 30, 2007.

Director of Finance Michele Ennis briefed Council. She reported that the City Council has previously awarded over \$6 million in projects to be financed with this issuance.

Mrs. Corby referenced the description of the various projects and reported that she received an inquiry from the recently annexed Lake Washington area, located between Turtle Mound Road and Harlock Road. Approximately 200 families annexed and it was their understanding that they would have flexibility in making five equal annual payments to connect to water. Mrs. Corby said she believes that the original letter outlining this process was mailed in September 2005. However, a recent June 2007 letter was sent to the residents indicating that they needed to make a decision to hook up and, if they choose not to, the connection fees would double. She asked for clarification on what happened and why there is such a discrepancy.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

The City Manager replied that he is not sure there is a discrepancy. He explained that at some point we ask for concurrency. Residents may connect at today's rates. If they do not wish to connect, we are giving fair notice. The opportunity is not held open indefinitely.

Mrs. Corby said that the issue is they received two different letters describing how to hook up. Some residents indicated that they would choose to hook up because they could pay over a period of time. Mr. Schluckebier stated that the City will honor that offer. Continuing, Mrs. Corby said that the June 2007 letter gives the impression to the reader that they no longer have the ability to pay over time. She suggested that another letter be mailed, which clarifies the connection process and provides a start date for the 365-day period residents have to make a decision. She said that she believes more residents would hook up if they felt these things were in place.

The City Manager said that the City would be happy to address any individual misunderstandings. He added that he does not believe there was inconsistency in the communications. One communication notes that you have 365 days from the date of the letter. After that period, we assume you have no intention to connect.

Mrs. Corby pointed out that the letter did not say 365 days "from the date of this letter." That is an assumption. She asked that the residents be reassured in a communication that they still have the option of making payments over a five-year period.

Mayor Goode asked if there were any objections to the request. There were no objections.

Moved by Contreras/Meehan for approval of Resolution No. 2048.

Mrs. Corby asked for confirmation that this issue will be in addition to the \$98 million in outstanding bonds. Mrs. Ennis replied that is correct.

The question was called. Motion carried unanimously.

Mr. Schluckebier advised Council that the recently upgraded bond rating that the City received from Moody's Investors Service will be retained with this issuance.

21. ORDINANCE NO. 2007-67, FPL FRANCHISE: (First Reading) An ordinance granting an electric franchise to Florida Power & Light and providing for monthly payments to the City of Melbourne; and acceptance of the side letter as additional consideration for the franchise.

Attorney Gougelman read Ordinance No. 2007-67 by title. The following is an excerpt from the agenda report:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

The City's franchise with FPL has been in effect since 1972 and was extended in 1978. It will expire on September 30, 2007. For the past year, the City's negotiating team has engaged in discussions with FPL's negotiating team.

The negotiations have produced a new 30-year franchise agreement with a 5.9% franchise fee. This represents a reduction from the current level of six percent although, in terms of revenue to the City, it will be more productive. A franchise agreement in the form of an ordinance and a side letter of concessions by FPL are included for Council's consideration. The FPL negotiating team has advised us that the agreement represents the outer limits of what its corporate policy will tolerate. If the franchise agreement is not approved by October 1, the collection of franchise fees will cease thereby negating a substantial source of General Fund revenue to the City. City staff has also reviewed other franchises and finds the ordinance proposed here to be comparable and in some ways better.

The franchise agreement/ordinance and the "side letter" are presented without recommendation favorable or unfavorable, although it would be in the City's interest to approve the "side letter" at the same time as the ordinance. The ordinance would go through the normal adoption process of two readings and adoption of the side letter should be accomplished by motion to accept the side letter as additional consideration for the franchise agreement.

It is the opinion of the City Attorney, Deputy City Manager, and the City Manager that all improvement opportunities for the City have been attained. Additionally, any further delay or renegotiation will put the City at financial and/or legal risk with regard to the franchise expiration.

There were no questions by Council.

Moved by Contreras/LaRusso for approval of Ordinance No. 2007-67.

The maker/seconder agreed that the motion includes approval of the "side letter" as additional consideration of the franchise agreement.

Mayor Goode asked Mr. Sanderson from Florida Power & Light if he had anything to inject. Mr. Sanderson replied no.

The question was called on approval of the ordinance and the "side letter." Motion carried unanimously.

22. COUNCIL ACTION RE: Approval of a Locally Funded Agreement between the City of Melbourne and the Florida Department of Transportation in regard to the City share of funding of land acquisition for the Apollo Boulevard extension; an appropriation of \$218,250 from Transportation Impact Fees to provide funding for this project; and authorization for the City Manager to execute the agreement and deposit the funds with the State.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

Mr. Ralls provided an overview. The following is an excerpt from the agenda report:

This is a proposed Locally Funded Agreement with the Florida Department of Transportation (FDOT) that addresses payment of the City's 12.5% local share of the cost to acquire a parcel of land that is needed for the project. FDOT's engineering design report identifies the subject parcel as "crucial" to the project. The FDOT has also advanced funding ahead of that shown in the Five Year Transportation Improvement Program in order to purchase this property. The 3.6-acre parcel is located on the south side of Eau Gallie Boulevard. Tolley Developments, LLC owns the property.

The property is ideally sited for a stormwater treatment pond that will handle runoff from the high point of the bridge over the Eau Gallie River north to and including the Apollo extension's intersection with Eau Gallie Boulevard. FDOT right-of-way staff has estimated the total cost of acquiring this parcel to be \$1,746,000. The City's 12.5% local share of that amount is \$218,250.

Mayor Goode said that although this is not a public hearing item, two people have asked to address Council. Moved by Palmer/LaRusso to allow public comments. Motion carried unanimously.

Pat Poole, 805 East Palmetto Avenue, discussed the history of the strong opposition to this project. She stated that she has a problem with buying property now when the City's budget is a concern; many items have been cut. She said that the FDOT won't have any funds to purchase the needed adjacent property until 2008-09. She recommended that Council delay this action until next year. She concluded by commenting on an alternative plan discussed in the past, which included a road along the north side of the Airport. That project would save money and solve the problem.

Mayor Goode stated that he was Mayor when this project was envisioned. At that time, he made the motion to acquire right-of-way from Sarno Road to the creek. He added that his only mistake was not buying property across the creek and building the bridge. He stressed that we have been postponing this project for years; the City needs a major north/south roadway.

David Graham, 1205 Heather Glen Circle, said that the City is going through a belt tightening process because the state is revamping property taxes. Everyone is getting a smaller piece of the pie and it is not good timing to lay down big money for land that we will not be able to use. Mr. Graham recommended that the City spend a fraction of the money to widen Sarno Road, construct an extension down Croton Road through the Airport, and improve Apollo Boulevard.

Mr. Ralls reported that this project has been the MPO's top priority for a number of years. Impact fees, which are collected to provide capacity on roadways, are funding this project. This road will relieve Wickham Road and U. S. 1. That has been the driving force behind this project. Mr. Ralls informed Council that the state did not have funds for right-of-way acquisition until fiscal year 2009-2010. Funds were approved for this property and the adjacent property because these properties are waiting to develop. This is an

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

opportune time to buy, before the properties are developed. He pointed out that if the City did not participate in this project, he does not believe the state would proceed.

Mrs. Palmer said when she came on Council in November 1998 residents asked that something be done about the Apollo extension; it had been blocked for 20 years. We are now at the point where the MPO has it as a high priority. This will divert traffic from Sarno Road/U. S. 1 and Eau Gallie Boulevard/U. S. 1. They are both bottlenecked and a safety problem. Citizens want something done and they want money spent on roads. She stressed that this is a chance for the City to get the lion's share of funding.

Council Member Kathy Meehan agreed this is a good opportunity for the City.

Regarding environmental concerns, Mrs. Palmer said that FDOT will take every opportunity to examine those concerns, save wildlife, save habitat, etc. State and federal guidelines will come into play.

The Mayor disclosed that he met with Mr. Tolley, the owner of this property; however, they did not discuss this agenda item.

Moved by Meehan/Palmer for approval of the Locally Funded Agreement between the State of Florida Department of Transportation and the City of Melbourne; appropriation of \$218,250 from Transportation Impact Fees to fund this project; and authorization for the City Manager to execute the agreement and to deposit the required amount with the State upon receipt of a fully executed agreement.

In response to Mrs. Corby, Mr. Ralls outlined the route and confirmed that the roadway would connect with Commodore Boulevard. A brief discussion followed regarding the alignment.

The question was called. Motion carried unanimously.

23. COUNCIL ACTION RE: Renaming of Melbourne golf courses.

Leisure Services Director Mary Ann Bowman reviewed the agenda report. The following is an excerpt from the agenda report:

An element of the golf course marketing plan included a re-branding plan of action to reinvigorate the courses. To accomplish the goal of developing a brand identity, the plan recommended that Melbourne begin by establishing new and more marketable course names. Staff and the Golf Courses Advisory Board engaged CK Communications, Inc. (CKC) to conduct a series of focus groups to gauge perception and attitude toward course brand. CKC then conducted public opinion polling on-site at golf courses in the south and central parts of Brevard County.

After an intense study with both focus groups and public opinion polling, CKC and the Golf Courses Advisory Board recommend renaming the Melbourne Municipal Golf Course to "Crane Creek Reserve". Overwhelming response favored this name selection

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

in both research methods. For the Harbor City Golf Course, Mallards Landing and Pineapple Ridge were both solid choices. CK Communications recommended that the Golf Courses Advisory Board assist in the final choice, and the board unanimously selected Mallards Landing.

Vice Mayor LaRusso pointed out that Caroline Kempf with CKC is in the audience. Mrs. Bowman reported that Ms. Kempf led the focus groups and conducted the polling.

Mrs. Corby asked if “golf course” will be added to the end of each name and Mrs. Bowman replied yes.

Mrs. Palmer said that there has been a lot of opposition to changing names in the past. She suggested “at Melbourne” be added to the end of both names.

Mrs. Corby said that there are 1,325 golf courses in Florida. Most courses are followed by “country club” or “golf course” and many include a location in their name. She commented that if we are looking to draw business, we might want to consider adding to the names.

Mr. Contreras thanked Mrs. Bowman, the Leisure Services Department staff, the Golf Courses Advisory Board and CKC. He stated that the two-year recovery plan is well underway and improvements are noted. He is hearing that folks are enjoying the aesthetics, upgrades, greens, etc.

Mr. LaRusso agreed and said that a lot of hard work has gone into this. He added that he will be going with CKC’s recommendations.

Caroline Kempf, CK Communications, said that the two-year recovery effort went beyond just trying to bring in new business. The name changes indicate that changes and improvements have taken place; they will encourage golfers to return.

Mrs. Corby asked if we have an estimate on the actual cost of changing the names, signage, etc. Ms. Kempf replied not at this time.

Mrs. Corby stated that she believes the suggested names are fabulous and she does not want to take away from that. Since the intent is to get residents to return and to draw new folks, she recommended that Council consider adding “at Melbourne” to both names. Ms. Kempf informed Council that was in the report as a possible recommendation.

Moved by Palmer/Corby to approve renaming the Melbourne Municipal Golf Course to “Crane Creek Reserve Golf Course at Melbourne” and Harbor City Golf Course to “Mallards Landing Golf Course at Melbourne.” The roll call vote was:

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

Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 28, 2007

24. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Council Member Kathy Meehan referenced the direction she received from Council at the August 14 meeting to determine what happened with the member appointed by the Chamber of Commerce to the Beautification and Environmental Advisory Committee. She said that she spoke with the member who indicated that she has elected not to serve because of prior commitments. Additionally, the chairman of the board has indicated that the position is open to any member from the Chamber of Commerce who is willing to serve. Mrs. Meehan reported that the Chamber plans to place a notice in its newsletter.

Council Member Richard Contreras referenced information Council received at the Florida League of Cities convention about ballot box zoning and the hometown democracy movement. (This is a citizen initiative that, if approved, would require approval of a referendum to amend a city's Comprehensive Plan.) He asked staff to stay on top of this issue and provide regular updates.

Mrs. Corby said that she visited several booths at the tradeshow during the FLC Convention and spoke with providers that she thought could provide useful information to the City. As a result, the Public Works and Utilities Director has an appointment with a representative from a firm that provides energy savings ideas related to water conservation.

25. ADJOURNMENT

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

The meeting adjourned at 8:17 p.m.

City Clerk – 9/5/2007

Approved by Council: September 11, 2007