

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
SEPTEMBER 25, 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 6:46 p.m. by Mayor Harry C. Goode, Jr.

1. Council Member John Thomas gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Mark LaRusso	Vice Mayor, District 2
	Richard Contreras	Council Member, District 1
	Kathy Meehan	Council Member, District 3
	John Thomas	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Joanne Corby	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Amy W. Elliott	Deputy City Manager
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

None.

5. Approval of Minutes - September 11, 2007 special meeting  
- September 11, 2007 regular meeting

City Clerk Cathy Wysor referenced the regular meeting minutes and reported that condition "h" from Item 16 (preliminary plat approval for Mayfair Isles) was not included in the minutes. The condition was included in the agenda backup materials. The condition reads:

- h. Payment of the water and sewer impact fees shall occur as described in the Developers Agreement as follows: payment of 12.5% within 10 business days of the date of rendition of the Development Order by City Council, and payment of another 12.5% prior to December 31, 2007.

Moved by Palmer/Meehan for approval of the September 11 special minutes and the September 11 regular minutes, with the noted correction. Motion carried unanimously.

6. City Manager's Report

City Manager Jack Schluckebier referenced the information item relating to proposed increases in the City's development fees. He reported that the item contains the current

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fees rather than the updated fees. Dr. Schluckebier distributed the proposed new fees and confirmed that this item will appear on Council's October 9 agenda for consideration.

Council Member Joanne Corby said that at the August 28 meeting (Item 20, Water and Sewer Revenue Bonds) she raised a concern about letters sent to residents in the newly annexed areas (Deerwood Trail/Parkway Drive and El Dorado Way/Mustang Road). The letters discussed how water connection would occur, payment, etc. She noted that as of today, the residents have not received a clarification letter.

Mr. Schluckebier said that relates to Item 21 on this agenda. If Council approves the item, a new letter (draft included in the agenda package) will be sent to the residents. The recommendation by staff is for Council to take action favorable for the residents with regard to the financing interest rate.

Mrs. Corby referenced the meeting that was held on September 21 with representatives of the School Board, the City of Melbourne and the City of Palm Bay to discuss the payment of salaries for the placement of School Resource Officers at the junior and senior high schools. She stated that Council did not receive the agenda package until the evening of September 20. This did not provide enough time to make arrangements to attend that meeting. She asked that items like this be e-mailed in advance.

The City Manager clarified that this was an information item placed in the package for reference. No elected officials were present at that meeting.

Mrs. Corby replied that if she had known about this meeting in advance, she may have attended. She asked that in our attempt to keep the lines of communication open, it would be helpful to have items like this e-mailed.

7. Public Comments

Bruce Mochwart, 2235 Canopy Drive, referenced the action taken by Council on September 11 with two Code Enforcement cases. He quoted comments made by Council Members during the review of those items and asked Council to return to the process where the Code Board makes the final decision. He reported that it is frustrating when the Code Board spends months on a case and then Council, after seeing the respondent for the first time, overturns months of hard work. He concluded by saying that he does not believe the Code Board is a revenue-producing board; however, the Code Board needs teeth and the City needs to collect costs.

Attorney Gougelman confirmed for Mayor Goode that, thanks to a change in State Statute, the City Council is the body that may release or reduce a lien.

David Reynal, City Manager, City of West Melbourne, referenced the letter dated September 24 from West Melbourne Mayor Shirley Bradshaw to the Melbourne City Council. Mr. Reynal explained that at a joint meeting between the two cities held on July 25, 2007, both cities reached agreement on the Brookfield property and the Coastal Commerce property. On August 13 the property owners and West Melbourne staff

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agreed on a draft of the settlement agreement, which was then transmitted to Melbourne's attorneys. Mr. Reynal reported that since that time they have waited patiently but have received no comments. He stated that this reinforces suspicions held by West Melbourne and the property owners that Melbourne is not acting in good faith or with honorable intentions. He added that the delay is having an economic impact on the affected property owners and West Melbourne is concerned whether Melbourne will live up to the agreement.

Mayor Goode stated that after receiving West Melbourne's letter today, he talked to staff. He stated that the City of Melbourne will honor its commitments.

Mrs. Palmer said that as a Council Member, she does not want to give her word and then have the process drag out and appear as if the City was not being up front and honest.

Moved by Palmer/Thomas to instruct the City Attorney to take the steps necessary to respond to the agreement sent to us by West Melbourne.

Mayor Goode noted that he has already given staff instructions. Mrs. Palmer stressed that she would like to see it expedited.

The question was called. Motion carried unanimously.

Dirk Hermann, President, Design Management and Installation, Inc., stated that he is appealing an evaluation report issued by the City of Melbourne. He explained that his firm contracted to supply the City with several fences for parks; his company met all requirements and was within the dollar amount. He believes that the Leisure Services Department report is retaliation based on a memorandum issued by Design Management outlining issues with this project. They experienced vandalism and time delays by City employees. Mr. Hermann referenced the packet of information provided to each Council Member.

Vice Mayor LaRusso asked for follow-up by City staff. Mr. Schluckebier said that Leisure Services Director Mary Ann Bowman and City Engineer Jenni Lamb are present. He added that the information provided by Mr. Hermann can be reviewed with a great level of detail. Regarding impropriety of any City employee, he said that this is the first time he has heard about this. Mr. Schluckebier added that he hopes that Mr. Hermann has something more than an allegation.

Without objection, Council agreed that staff would review this issue.

Council Member Joanne Corby asked several questions, including: whether City staff had communicated dissatisfaction about the work; whether phone calls placed by Mr. Hermann to the Leisure Services Director were returned; and whether the City has a force majeure clause in its contracts. She noted that it is important that we get accusations on the table; it goes back to miscommunication.

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Mr. Hermann replied that he did not know the City was dissatisfied until after the first permit inspection at Southwest Park. Additionally, he stated that his phone calls to the Leisure Services Director were not returned. Attorney Gougelman confirmed that the City's contracts do not contain a force majeure clause.

Mrs. Corby briefly discussed the date Council approved the fence contract versus the date the purchase order was issued. She asked the reason for the delay. Additionally, she asked if there is a reason the Leisure Services Director cannot answer these questions at this meeting.

Mayor Goode said that he is not going to hold a hearing on this item. Mrs. Corby asked for a specific date.

Following discussion, staff indicated that information will be provided to Council by October 23.

Scott Glass, attorney representing the City of West Melbourne, thanked Mayor and Council for taking action on the proposed settlement agreement. He said he looks forward to working with Attorneys Gougelman and Cloud to wrap this issue up.

NEW BUSINESS

8. ORDINANCE NO. 2007-68 (A&V NO. 304): (Second Reading/Public Hearing) An ordinance vacating the southerly three feet of a six-foot wide public utility and drainage easement at 560 & 572 Louvre Drive. (Applicants - Frank & Mary Zambrotto) (First Reading - 9/11/07)

Attorney Gougelman read Ordinance No. 2007-68 by title. There were no disclosures by Council and no comments from the public.

Moved by Contreras/LaRusso for approval of Ordinance No. 2007-68. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2007-69 (A&V NO. 309): (Second Reading/Public Hearing) An ordinance vacating approximately 126 feet of the north end of Grant Court. (Applicant - City of Melbourne) (First Reading - 9/11/07)

The City Attorney read the ordinance by title. There were no disclosures by Council and no comments from the public.

Moved by LaRusso/Thomas for approval of Ordinance No. 2007-69. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2007-72 (CPA-2006-39) AND ORDINANCE NO. 2007-73 (Z-2007-1116) PAUL RUFO: Ordinances providing for a Comprehensive Plan Amendment and a change in zoning on a 0.69-acre parcel, located on the east side of Wickham Road, north of Parkway Drive, and south of Melbourne Fire Station #77. (Owner - Brevard County) (Applicant/Representative - Paul R. Rufo) (P&Z Board - 8/16/07)
- a. Ordinance No. 2007-72/CPA-2006-39: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment changing the Future Land Use from Public Lands and Institutions/Recreation to Public Lands and Institutions/Commercial on a 0.69-acre parcel. (First Reading - 9/11/07)
- b. Ordinance No. 2007-73/Z-2007-1116: (Second Reading/Public Hearing) An ordinance changing the zoning from I-1 (Institutional) to C-1 (Neighborhood Commercial) on a 0.69-acre parcel. (First Reading - 9/11/07)

The City Attorney read both ordinances by title. Council Member John Thomas said he spoke with Mr. Rufo today, who mentioned that he may not be able to attend the meeting. Mr. Thomas said they did not discuss the item. There were no further disclosures. Mayor Goode opened and closed the public hearing with no comments.

Moved by Meehan/Contreras for approval of Ordinance No. 2007-72 based upon the findings contained in the Planning and Zoning memorandum. The roll call vote was:

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

Nay: LaRusso

Motion carried.

Moved by Thomas/Palmer for approval of Ordinance No. 2007-73 based upon the findings and condition contained in the Planning and Zoning memorandum. The roll call vote was:

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

Nay: LaRusso

Motion carried.

11. ORDINANCE NO. 2007-74 (Z-2007-1117AD/LDR-2007-05/FOC-2007-06) AUXILIARY LANES: (Second Reading/Public Hearing) An ordinance amending Appendix B, Article IX and Appendix D, Chapter 8 of the City of Melbourne Code, by amending the

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requirements deceleration lanes and left-turn lanes. (Applicant - City of Melbourne)  
(First Reading - 9/11/07)

The City Attorney read Ordinance No. 2007-74 by title. There were no comments during the public hearing.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-74 based upon the findings contained in the Planning and Zoning memorandum. The roll call vote was:

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

Motion carried unanimously.

12. ORDINANCE NO. 2007-76, CITY HALL PARKING: (Second Reading/Public Hearing)  
An ordinance amending Chapter 31 of the City Code, entitled "Traffic and Motor Vehicles," by providing a penalty for unauthorized parking at a City facility where official signs have been posted. (First Reading - 9/11/07)

Attorney Gougelman read Ordinance No. 2007-76 by its title. There were no public comments.

Moved by Contreras/Thomas for approval of Ordinance No. 2007-76. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

13. COUNCIL ACTION RE: Contract award for Water Distribution System Flushing Services, Project No. 35708, Wachs Utility Services, Lincolnshire, IL - \$397,435.

Harold Nantz, Assistant Public Works and Utilities Director, briefed Council. He noted that this is the first of two items regarding implementation of the unidirectional flushing program.

Council Member Cheryl Palmer asked why the large difference between the two bidders. Mr. Nantz said the company that bid high is located in mid-USA and he believes they used pricing from that area. (Wachs Utility Services has a local office in Pensacola, Florida.)

Moved by Palmer/Corby for approval, as recommended. Motion carried unanimously.

14. COUNCIL ACTION RE: Contract award for locating, inspecting, and testing of valves and hydrants, Project No. 35608, Wachs Utility Services, Lincolnshire, IL - \$320,176.

Mr. Nantz briefly reviewed the item and said that this involves the valving work that will be done in advance of the flushing crews.

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

15. COUNCIL ACTION RE: Change Order No. 6 to the contract for Lake Washington Surface Water Treatment Plant (SWTP), Phase 2 improvements, Project No. 30102, Wharton-Smith, Inc., Palm Bay, FL - \$322,622; approval of an appropriation of \$200,000 from 2004 Bond Interest Proceeds; and transfer of \$122,622 from the SWTP South Backwash Pump Station Project No. 31905 to supplement this project budget.

City Engineer Jenni Lamb reviewed the item and pointed out that the total increase to the contract for the plant activities is \$167,224. That is only an increase of 1.48%, so the total change order related to this project is less than 2%.

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

16. COUNCIL ACTION RE: Approval of a Continuing Contract for Professional Consulting Services between the City of Melbourne and Frazier Engineering, Inc., Melbourne, FL for projects with estimated construction costs not to exceed \$1,000,000 and studies not to exceed \$50,000.

Mrs. Lamb reported that on August 14, Council authorized negotiations with Frazier Engineering after being selected as the most qualified firm to provide professional engineering services to the City. Compensation will be based on negotiated fees, which may be a lump sum amount or an hourly rate. The rates are consistent with professional services rates for engineers and technicians observed in other projects and with other current City continuing service contracts for engineering. The term of the contract is four years with a four-year renewal clause.

Moved by Meehan/Thomas for approval of the continuing contract for professional consulting services with Frazier Engineering, Inc. for projects with estimated construction costs not to exceed \$1,000,000 and studies not to exceed \$50,000. Motion carried unanimously.

17. CONSENT AGENDA:

The Mayor reported that Council Member Contreras removed Item “e” from the consent agenda.

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

- a. Approval of a Right-of-Way Use Agreement between the City of Melbourne and Jaqueline L. Hoinsky to allow the property owner to replace an existing fence in an improved right-of-way known as Sherwood Boulevard.

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- b. Purchase of gasoline and diesel fuel, Glover Oil, Melbourne, FL - \$226,231 estimated six-month cost; and Petroleum Traders Corporation, Fort Wayne, IN - \$478,792 estimated six-month cost.
- c. Purchase of Rosemount Analytical pH monitoring equipment for Water Production, Fluid Control Specialties, Inc., Sanford, FL - \$16,289.40.
- d. Approval of an appropriation of \$1,500 from the Law Enforcement Trust Fund to provide funding to support the South Brevard Crime Conference at Stone Middle School on October 27, 2007.

Note: See next agenda item for action on Item “e.”

- e. Approval of an Extension of Time in which to close on the Sale of Property, located at 809 East Strawbridge Avenue (Lofts of Melbourne, LLC).
- f. Request by Florida Institute of Technology to extend the time period for a special activity permit along with associated banners along Babcock Street and University Boulevard for a period of 24 months.
- g. Approval of an agreement between Space Coast Area Transit (SCAT) and the City of Melbourne to provide free transportation for Melbourne residents on various bus routes from October 1, 2007 through September 30, 2008 due to a grant provided by the City of Melbourne in the amount of \$26,083.
- h. Lien Rescission CE 07-023: Approval of request for a partial lien reduction in the amount of \$3,900 related to property at 1093 Collins Street, provided that such partial release shall not in any way affect or diminish the personal liability of the original respondent against whom the Code Enforcement lien was entered or limit the lien of such Code Enforcement lien against any property other than the specific property listed. (Applicant - Watson Title Insurance Inc./Deutsche Bank National Trust Company; Original owner - Thomas E. & Michelle B. Quinley)
- i. Approval of a contractual GIS Technician for Public Works, MSS Staffing, Melbourne, FL - not to exceed \$27,000 and purchase of an ESRI ArcInfo license, Environmental Systems Research Institute, Inc., Redlands, CA - \$9,900.

18. ITEMS REMOVED FROM THE CONSENT AGENDA

- e. Approval of an Extension of Time in which to close on the Sale of Property, located at 809 East Strawbridge Avenue (Lofts of Melbourne, LLC).

Mayor Goode informed Council that this is a Council action item and Peter Flotz has asked to speak. Moved by Thomas/Contreras to allow Mr. Flotz three minutes. Motion carried unanimously.

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Mr. Contreras referenced the easements, which are required along the south property line of the property. He said that the agenda materials indicate that there is consternation from one of the owners and he (Contreras) would like to understand what the City can or cannot do in terms of involvement. Additionally, he noted that there is a concern by the property owner with indemnification.

Mayor Goode said that it was time to close on the property and he saw no activity. The construction industry is slow and The Lofts is not prepared to start construction. This Council approved giving over the property and then taking it back with a generous amount of money on the side. The Mayor advised that he spoke to the City Manager and the City Attorney and asked why the property should be conveyed now when we are not in a posture to see construction. He added that the easement issue is the applicant's problem.

Mr. Contreras said that the phrase from the applicant's letter that stuck with him was, "There is no indication that the easements will be withheld, rather there seems to be a general lack of a sense of urgency by the party representing the owners." He stressed that regardless of the current economic situation, "no sense of urgency" is a different issue.

Peter Flotz, 812 East Strawbridge Avenue, said that he is still proud to be the developer of this project. He noted that they negotiated for this valuable property during the highest market; therefore, they have challenges to face. They intend to move forward with the commitments they have made.

Regarding the easements, he reported that a couple of things have happened since he wrote the letter (in the agenda package). The property that changed hands has been bought by a local resident who owns a business in Downtown, supports the project and has executed the easement. That easement has not been delivered yet because it requires the consent of the mortgage holder.

Mr. Flotz explained that there are four properties. They have easements on two and at this point believe they are close on the indemnification language. Regarding the reference to "lack of urgency" referenced in his letter, he said that he was trying to convey that while this is important to him, it is not as important to people outside of this room. He clarified that he does not believe the owners are withholding, rather just taking their time.

Discussion followed regarding the owners of the properties.

Vice Mayor LaRusso pointed out that "this Council" did not approve the contract, it was the previous Council. That is why he asked staff to provide a copy of the contract to Council Members Thomas and Corby. Mr. LaRusso confirmed that he is satisfied; his questions have been answered.

Mr. Contreras said that he believes six months is a little too long. His motion to approve a three-month extension did not receive a second.

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Mrs. Palmer asked how the six-month period was selected and if it relies on an upturn in the economy. She asked if the City will be asked for a further extension if the economy has not recovered in six months.

Mr. Flotz replied that he can't predict the future. They have a certain number of pre-sales required by their lenders. He clarified that under the contract with the City, there are no lines of credit. They are, however, required to post a Letter of Credit. Mr. Flotz added that if they reach a point and still don't have sufficient pre-sales – between 35 and 40 – to move ahead, they would suggest taking possession of the property and holding off on building. He commented that it makes more sense to continue with a partnership arrangement where the City continues to have parking and he will build residential homes in the Downtown area.

Mrs. Palmer asked if six months is enough time. Mr. Flotz replied that if he can get a six-month extension, that is what he will take. He noted that if they get everything done sooner, they will close on the property.

Mr. Schluckebier offered that the concept of six months was anybody's best guess on the time needed to untangle the easements. It is staff's opinion that we should not close without the easements. At this moment, the City is under no obligation to close. And, it appears that one of the difficult issues has been resolved and one remains.

Mrs. Palmer pointed out that there is a financial problem in addition to the easement problem.

In response to Mr. LaRusso, Mr. Flotz said that the last three weeks have been their busiest since they began marketing the property.

Mr. LaRusso pointed out that the City has a non-refundable deposit and we continue to own the parking lot. Attorney Gougelman agreed. Mr. LaRusso asked the City Attorney if he felt six months was reasonable and Attorney Gougelman replies that he believes so.

Moved by Meehan/Thomas for approval of Item "e." Motion carried. Mr. Contreras voted nay.

19. SUBDIVISION VARIANCE (SDV-2007-02) WAL-MART STORE EAST (POST ROAD AND WICKHAM ROAD): (Public Hearing) A request for a Subdivision Variance from City Code, Appendix D, Chapter 8, regarding the definition of Subdivision, to permit the division of a single-platted lot into three or more lots for property zoned C-1 (Neighborhood Commercial) and C-C-2 (General Commercial with a conditional use for an automotive service station/convenience store) located on the southwest corner of Wickham Road and Post Road. (Owner - Wal-Mart Stores East, LP) (Applicant/Representative - Trisha Rothe, Kimley-Horn & Associates) (P&Z Board - 9/06/07)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the variance, as presented on a three-page

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exhibit labeled Project No. 86921.01, prepared by Baskerville-Donovan, Inc., of Melbourne, Florida, with a signed and sealed date of July 17, 2007 subject to the following conditions:

- a. No additional access shall be permitted to/from Wickham Road or Post Road from any portion of the subdivision.
- b. Any additional lot splits shall require platting of all original lots or by seeking a variance as provided for in City Code, Appendix D, Chapter 8, Section 8.8.
- c. Any future subdividing of this property shall comply with the minimum lot size requirements of the Melbourne Zoning Code, unless the Board of Adjustment grants a variance.
- d. The creation of any public streets, rights-of-way, or other public ways, or public tracts on the property shall require platting of all of these properties before or after development of all or a portion of the properties, and all owners of the parent parcel shall join in with such plat. (This will not apply to the creation of private easements for drainage access or utilities.)
- e. The applicant must obtain variances from the Board of Adjustment for other non-conformities including, but not limited to, minimum building size and buffer/landscaping width to adjacent properties.
- f. In conjunction with the sale of the property to Murphy Oil, the owner shall record the appropriate agreement for cross-access, cross-utilities, cross-stormwater and other applicable covenants and easements.

There were no disclosures by Council and no comments from the public.

Moved by Palmer/Goode for approval of SD-2003-07 based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

20. ORDINANCE NO. 2007-77 (CU-2007-08/SP-2007-20) RACETRAC PARKING EXPANSION: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow additional parking at an existing gas station/convenience store on a 1.61-acre parcel zoned C-C-P (Commercial Parkway), located on the south side of Eau Gallie Boulevard, east of I-95, and west of John Rodes Boulevard. (Owner - Rod Longman) (Applicant - RaceTrac Petroleum, Inc.) (Representative - John Moody, P.E. Osceola Engineering, Inc.) (P&Z Board - 9/06/07)

Attorney Gougelman read Ordinance No. 2007-77 by title and Mrs. Dittmer provided an overview. The Planning and Zoning Board voted unanimously to recommend approval. There were no comments from the audience and no Council disclosures.

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Moved by Palmer/LaRusso for approval of Ordinance No. 2007-77 based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

21. COUNCIL ACTION RE: Clarification of the City's financing policy for water line extensions.

Director of Finance Michele Ennis reviewed the item. The following is an excerpt from the agenda report:

*City Council requested clarification on information provided to residents in the annexation areas of Deerwood Trail/Parkway Drive and El Dorado Way/Mustang Road. This information has been provided by the Planning and Economic Development Director regarding the option available for financing of water line extensions as defined in Melbourne City Code Sec. 32-45.*

*Although Section 32-45(c) states that the financing terms shall be the statutory interest rate as determined by the comptroller of the State of Florida at the time the agreement is accepted by the City, we recommend the City honor the proposed arrangement as stated in the September 23, 2005 letters to property owners to provide for financing at an annual rate of 7%, which was the statutory interest rate at the time the offer was initiated. The current rate for 2007 has increased to 11%.*

Mayor Goode referenced the increase from 7% to 11% and asked Ms. Ennis if she has ever seen a jump like that. She replied yes and pointed out that the rate has ranged from 6% to 11% from 1995 through 2006.

In response to Mayor Goode, the City Manager said that his recommendation on this issue in the future would be to stay with the rate quoted instead of making the rate variable based on the future rate.

Mrs. Corby reviewed the draft letter and asked if we can spell out when the 365-day period begins (timeframe required for making the connection). The City Manager replied yes and noted that Mrs. Dittmer will revise her draft letter. Mrs. Corby asked if the residents can request connection any time within that 365-day period and the City Manager replied yes. Mrs. Corby asked if the start date is the same for all residents. Mr. Schluckebier said that one area was cleared by the Florida Department of Environmental Protection June 26 and the other area was cleared on June 5.

Moved by Palmer/Corby to authorize a 7% statutory interest rate for the five year financing of water line extensions for the Deerwood Trail/Parkway Drive and El Dorado Way/Mustang Road annexation areas upon request by the property owner. Motion carried unanimously.

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Vice Mayor LaRusso reported that in conjunction with Industry Appreciation Week, the Economic Development Commission recognized local manufacturing and high tech

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companies that have contributed to the economic prosperity of the community by expanding or creating new jobs. He stated that the company he has been working with for the past year – TyraTech – received the award in the advanced technology category.

Attorney Gougelman updated Council on issues related to our discussions with West Melbourne and Brevard County about the area located west of I-95. The City of Melbourne specified an area to discuss with Brevard County for possible future annexation of property that is not contiguous. Initially, the City received positive signals from Brevard County. Since that time, there have been changes in staff, changes in policy, etc. and the direction the City is now receiving from the County is that Brevard County does not intend to enter into an interlocal annexation agreement unless West Melbourne agrees. This will make it virtually impossible to proceed with annexing areas located west of I-95 along 192 that are not contiguous.

Additionally, Mr. Gougelman said that the City received an interesting proposal from West Melbourne to change the way water is handled. They have indicated that they might be open to the idea of changing from a wholesale arrangement for the area located west of I-95 when that area comes into the City of West Melbourne. The City would receive a franchise and Melbourne would be the retail water supplier to consumers. Staff is reviewing that proposal.

The City Manager added that staff is still reviewing the regulatory changes made by the Florida Department of Environmental Protection; we are concerned about those. Regarding the proposal by West Melbourne for a retail water concept, this may offer a better way for us to proceed with our neighbors and have less conflict.

With regard to the municipal service area, he recalled that last summer when we proposed this area we were receiving requests from property owners located east and west of I-95. The City believed it would be in a position to extend its boundaries using the new State law. Since then, many things have changed, including staff changes at the County and the discovery of a commitment by the Ferrell property to ultimately annex into West Melbourne. Unlike West Melbourne, we told them that we did not intend to annex on top of their agreement.


Given all of these issues, Mr. Schluckebier said that he regrets that West Melbourne is saying that Melbourne is dragging its feet. That is not the case. Rather, we want to be certain that the agreement conveys what Council actually agreed to.

23. ADJOURNMENT

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

The meeting adjourned at 8:08 p.m.

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City Clerk – 10/3/2007

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