

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
NOVEMBER 13, 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. Council Member Joanne Corby 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
	Joanne Corby	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

Absent: Cheryl Palmer Council Member, District 5 (out of town)

4. Proclamations and Presentations

Note: The following Certificates of Recognition “for outstanding economic contribution to our community through investment in capital and labor” were prepared for DRS Tactical Systems, Inc., for creating 61 new local jobs, and DRS Optronics, Inc., for creating 123 new local jobs. Representatives from DRS were not able to attend the Council meeting.

5. Approval of Minutes - October 23, 2007 Regular Meeting

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

6. City Manager’s Report

Council Member Joanne Corby referenced the summary of issues with West Melbourne and asked the City Manager to elaborate. She said that she was under the impression both cities reached agreement during the joint meeting held in July.

City Manager Jack Schluckebier explained that there is a contract on the “Hessee property,” and the proposed use will be different than the use discussed during the July conflict resolution meeting. The change in use creates differences in the items settled. He noted that all of the issues are outlined in Mr. Ralls’ memorandum and staff believes that a proposed interlocal settlement agreement will be ready for the next agenda.

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Vice Mayor Mark LaRusso referenced the additional information provided on the school resource officers. He asked if staff knows what the two arrests were for at West Shore Junior/Senior High School during 2006-2007. The City Manager replied no; however, he can obtain that information.

Council Member John Thomas asked when the results of the employee satisfaction survey will be discussed. The City Manager replied that staff hopes to have the results and an action plan on the next agenda.

7. Public Comments

None.

There were no objections to Mayor Goode's request to move agenda Items 18 and 19 forward on the agenda. Items 18 and 19 were considered at this point. Immediately following recess, Council returned to the beginning of the agenda, starting with Item 8.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2007-86 (CPA-2007-06) BEACH CLUB 160 CONDOMINIUM ASSOCIATION: (Second Reading/Public Hearing) An ordinance providing for a text amendment to the Comprehensive Plan to allow a 10.7-acre complex zoned R-2 (One-, Two-, and Multiple-Family Medium Density Residential), located on the south side of Eau Gallie Boulevard, west of A1A, to rebuild at its current density (14.95 dwelling units per acre) in the event the structures on site are destroyed by more than 50 percent of their replacement cost. (Owner/Applicant/Representative - Beach Club 160 Condominium Association, Inc.) (First Reading - 10/23/07)

City Attorney Paul Gougelman read Ordinance No. 2007-86 by title. Mayor Goode opened the public hearing. Erik Whynot, attorney representing the applicant, was available for questions. The Mayor closed the public hearing.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-86. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2007-87 (Z-2007-1120AD/LDR-2007-06/FOC-2007-07) ZONING LIMITATIONS: (Second Reading/Public Hearing) An ordinance amending Appendix B, Article IX of the City Code entitled, "Limitations," by changing the limitations of how and when a property is eligible to request a zoning amendment. (Applicant - City of Melbourne) (First Reading - 10/23/07)

The City Attorney read the ordinance by title. There were no comments during the public hearing.

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In response to Mrs. Corby, Planning and Economic Development Director Cindy Dittmer confirmed that the ordinance amends Appendix B, Article IX, Section 1(C)(2), relating to the size of property. It does not amend Section 1(C)(3) (which provides for a six-month waiting period).

Moved by Contreras/Thomas for approval of Ordinance No. 2007-87. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

10. COUNCIL ACTION RE: Appointment of Vice-Mayor for 2007-2008.

Mayor Goode nominated Kathy Meehan.

Mr. LaRusso stated that he enjoyed serving as Vice Mayor. He thanked City staff for all of its support and added that he hopes each Council Member gets an opportunity to serve as Vice Mayor.

There were no other nominations. Moved by Contreras/LaRusso to close the nominations. Moved by Goode to declare Mrs. Meehan Vice Mayor by unanimous acclamation. The question was called. Motion carried unanimously. (Council did not vote on the motion to close nominations, and the motion to declare Mrs. Meehan Vice Mayor did not receive a second. Therefore, without objection, Council appointed Mrs. Meehan Vice Mayor.)

11. COUNCIL ACTION RE: Contract award for the Lipscomb Park Phase I Improvements, Project No. 00106, C&D Construction, Inc., Cocoa, FL - \$647,416.

City Engineer Jenni Lamb reviewed the agenda report and read the recommendation. Mrs. Corby asked if these projects are part of the 2005-2010 Consolidated Plan. Mrs. Lamb replied that she doesn't know; however, these projects have been budgeted and received Florida Recreation Development Assistance (FRDAP) grant money.

Mrs. Corby asked how this project is funded. Housing and Community Development Director Melinda Thomas said that all of the parks in the target areas, as well as parks that serve low and moderate income neighborhoods outside of the target areas, are part of the City's five year Consolidated Plan.

Mrs. Corby said that the City received \$576,731 in CDBG Funds for fiscal year 2007-2008. In the Consolidated Plan approved by Council, \$276,876 was designated for the Lipscomb Park Improvement Phase 1 and Phase 2 project. She said she has a concern with the difference in funding being requested. She pointed out that this project costs more than the City received in CDBG Funds.

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Mrs. Thomas replied that is correct. Several years of CDBG funding have been set aside for this project. The \$276,876 in 2007-2008 represents only a portion of the budget for this project.

Mrs. Corby said the City's annual budget shows CDBG revenues in the amount of \$576,731. The Consolidated Plan includes other projects, including one in the Booker T. Washington area, the PAL program, etc., and she doesn't want other projects to not receive their fair share of the funding.

Mrs. Thomas confirmed that none of these projects will suffer; they will all receive funding. The City's budget shows clearly that we are not robbing any of these projects to fund the Lipscomb Park project. The Lipscomb Park project has been on the drawing board for a very long time and we have been accumulating money over several years out of the CDBG program, along with the FRDAP grant of \$200,000.

Mrs. Corby said the 2007-2008 budget is our plan and those monies do not appear anywhere in that plan. If we have accumulated money over the years, it should be reflected in the budget.

Mrs. Thomas said that the Consolidated Plan has to equal the amount of money the federal government says we are eligible for. Every year the City completes an annual status report.

Mrs. Corby stated that this whole thing does not smell good. Her motion to "not approve this item" did not receive a second.

Moved by Meehan/Thomas for approval of the construction contract with C&D Construction, Inc. in the amount of \$647,416 for the Lipscomb Park Phase I Improvements.

Responding to Mr. Thomas, Leisure Services Director Mary Ann Bowman elaborated on her Department's plans to increase programming if this item is approved.

Council Member Richard Contreras offered an opportunity for staff to clarify the issue raised regarding the fiscal accounting of these projects.

Mayor Goode pointed out that the City is audited for every dollar it receives as part of a grant. A multi-layered system is being used for this project and he thought Mrs. Thomas was clear on that issue.

Mrs. Thomas agreed that there is more auditing on federal and state grants than any other program in the City. She elaborated on the audit process and informed Council that we are able to accumulate funding for a large project on a limited basis. Every July the federal government asks if we have more than 1.5 times our annual allocation in our letter of credit. When carrying forward money, we have to pass – and have passed – a level of tolerance test.

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Continuing, Mrs. Thomas said that the planning for Lipscomb Park and development of the master site plan involved tremendous community participation. After Council accepted the master site plan, staff began to diligently pursue other sources of funding because the CDBG program would not be able to provide adequate funding for this project. That is how the FRDAP grants came along.

In 2005 we were awarded FRDAP funds; we went out for bid; the project came in at over one million dollars; and staff returned to the drawing board and redesigned the project by removing all elements that were not FRDAP eligible. Mrs. Thomas stated that staff is very diligent and she would welcome the opportunity to share how the accounting is represented. She closed by saying everything is as clear as daylight; this program is subject to a lot more scrutiny than many other City departments.

Mrs. Corby listed the money this project received in two prior years. For the record, she noted that these funds do fall under the Sadowski Act. She reported that in addition to the CDBG funding, the City received \$247,476 in HOME funds and \$690,150 in SHIP funds. She asked if any of this funding is applicable to the projects slated in the Consolidated Plan for 2007-2008.

Mrs. Thomas replied that SHIP is a housing grant and CDBG is a totally separate grant. CDBG is not subject to the Sadowski Act; it is strictly HUD funding that comes through the federal government directly to the City of Melbourne.

Mrs. Corby said that CDBG funding is definitely underneath the Sadowski Act; however, she will not argue that point.

Mr. Thomas stated that when he was executive director of the Police Athletic League, he had to face the wrath of Ms. Thomas's office many times with regard to CDBG funding. He can attest to the fact that Ms. Thomas and her staff do an outstanding job.

Mrs. Corby said she is not questioning the job; she's pointing out that the numbers do not add up. She asked that her questions not be interpreted as an accusation of not doing something correct. Mrs. Corby explained that since we are entering a tight budget year, she thinks it is prudent for all of us to be fiscally responsible, look at the numbers, and not be so free willing in spending our money.

A brief discussion continued.

Mr. Contreras commented that staff has provided an excellent rationale for how government funds are treated and accounted for. As a member of the elected body, he said he is compelled to apologize to staff for being treated with condescending and belittling behavior.

The question was called. The roll call vote was:

Aye: Contreras, LaRusso, Thomas, Meehan and Goode

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Nay: Corby

Motion carried.

12. COUNCIL ACTION RE: Approval of an agreement with Florida Power and Light for Booker T. Washington Neighborhood Lighting Improvements, Project No. 00305 - \$71,705.97, plus a tree trimming allowance contingency - amount not to exceed \$25,000; transfer of \$75,000 from Project No. 00306 to supplement this project budget; and authorization for the City Manager to execute the agreement.

Mrs. Lamb briefed Council. She reported that this project includes upgrading 68 existing streetlights, installing 67 new lights on existing poles, and installing 20 new poles with lights. All of this is being done to more adequately light the streets of the Booker T. Washington neighborhood.

Mayor Goode announced that Joe Gassman, Habitat for Humanity, and Lynn Brockwell Carey, Brevard Neighborhood Development Coalition, are here in support of the project.

Moved by LaRusso/Contreras to authorize the City Manager to enter into the Street Lighting Agreement with Florida Power & Light Company in the amount of \$71,705.97 plus a \$25,000 tree trimming allowance and contingency; and transfer of \$75,000 from the BTW Revitalization 05/06 (Project No. 00306) into the BTW Revitalization 04/05 (Project No. 00305) to supplement this project budget.

In response to Mrs. Corby, Mrs. Lamb confirmed that funding is being provided from two different CDBG funding years. The money has been combined for one neighborhood project.

Mrs. Corby asked if it would be possible to receive a follow up report on all of the funds that we have received and held over. Mr. Schluckebier replied yes.

Mr. LaRusso complimented staff and the supporters of the Booker T. Washington neighborhood. He listed the projects and activities taking place in the area and stated that we are moving forward by inches, but it's better than going back by feet.

Mr. Contreras said that Habitat for Humanity and the Brevard Neighborhood Development Coalition provide a private and faith based partnership. He had the privilege of supporting the seed money for BNDC several years ago as a member of Council. He noted that these projects are the culmination of a lot of hard work, sweat equity, drive and determination.

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

13. COUNCIL ACTION RE: Supplement No. F003 to the Continuing Consultant's Contract for engineering services to design and permit the North End Reuse Expansion and Upgrades at various locations (Apollo Boulevard between Sarno Road and Eau Gallie Boulevard),

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Project No. 31607, Frazier Engineering, Inc., Melbourne, FL - \$85,550.

Mrs. Lamb briefed Council. The scope of work includes design and permitting of utility conflict resolutions for the Apollo Boulevard extension project and a new 16-inch reuse main along the proposed Apollo Boulevard extension. To satisfy FDOT's schedule for the utility conflict resolution and to plan ahead for future underground utilities within the roadway, this project will address the conflicts and incorporate future reuse needs within the corridor under a single project.

Mrs. Corby asked if we have secured all the right-of-way to complete the Apollo extension project. Deputy City Manager Howard Ralls replied that FDOT has not secured all the property required to construct the Apollo Boulevard project.

Mrs. Corby said the land she is referring to is the former YMCA/pool property. Mr. Ralls said the FDOT right-of-way agents are in negotiations with property owners. The only land that has been acquired so far is the Tolley property, which is located farther west on Eau Gallie Boulevard.

Mrs. Corby asked if there is anything the City can do to help secure that right-of-way. She said a previous statement made by the Mayor that his only regret is that we didn't purchase the property when we had the opportunity prompted her to ask the question. She does not want to let a window of opportunity slip by.

With regard to the "Javer property," Mr. Ralls said the City may have to advance funds to FDOT for the purchase. At this point, FDOT has no funds in its budget to purchase property; right-of-way acquisition is several years out.

Moved by LaRusso/Contreras for approval of Supplement No. F003 to Frazier Engineering, Inc. for Various Locations - North End Reuse Expansion and Upgrades, Project No. 31607 in the amount of \$85,550. Motion carried unanimously.

14. COUNCIL ACTION RE: Supplement No. F004 to the Continuing Consultant's Contract for engineering services to survey, design, permit, prepare bid documents, and perform construction administration for the South End Reuse Expansion, Phase II (Edgewood Drive), Project No. 31308, Frazier Engineering, Inc., Melbourne, FL - \$95,000; and transfer of \$100,000 from the North End Reuse Water Transmission Main, Project No. 31607 to establish this project budget.

Mrs. Lamb briefed Council. The scope of the work includes the design and permitting of approximately 8,000 linear feet of 16-inch reuse main along Edgewood Drive and Line Street between the reuse storage tank at Crane Creek Reserve Golf Course and the Grant Street Water Reclamation facility. This project will help the City achieve the 30% reuse goal as established by the St. Johns River Water Management District consumptive use permit.

Additionally, the budget transfer included with this item is from the North End Reuse Expansion. The transfer is the result of FDOT pushing back construction of that project.

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Staff is asking to move funds to this project because it will help us meet our reuse goals and supply reuse water to the Mayfair development when it's needed.

Moved by LaRusso/Meehan for approval of Supplement No. F004 to Frazier Engineering, Inc. for the South End Reuse Expansion, Phase II (Edgewood Dr), Project No. 31308 in the amount of \$95,000 and transfer of \$100,000 from the North End Reuse Expansion and Upgrades, Project No. 31607 to establish this project budget.

Mr. LaRusso asked if some of this water will also be diverted to the Crane Creek Reserve Golf Course. Mr. Schluckebier replied that the golf course is the primary, if not exclusive, user of the Grant Street reclaimed water. This project will allow a significant transmission connection, which will allow reuse water to be utilized in other parts of the southern portion of the City.

The question was called. Motion carried unanimously.

15. CONSENT AGENDA:

Mayor Goode reported that Council Member Corby has removed item "q" from the consent agenda.

Moved by Meehan/Thomas for approval of the consent agenda, with the exception of Item "q." Motion carried unanimously.

- a. Supplement No. F006 to the Continuing Consultant's Contract to provide professional consulting services for threshold inspection services during City Hall construction, Project No. 10504, Frazier Engineering, Inc., Melbourne, FL - \$39,408; and transfer of \$39,408 from General Fund Miscellaneous Projects to supplement this project budget.
- b. Supplement No. F007 to the Continuing Consultant's Contract for engineering services for the design and construction of drainage improvements at Southgate Boulevard, Project No. 20108, Frazier Engineering, Inc., Melbourne, FL - \$48,250.
- c. Supplement No. F008 to the Continuing Consultant's Contract to provide professional consulting services for pedway improvements along Country Club Drive from U.S. Highway 192 to Edgewood Drive and Melbourne Avenue, Project No. 64308, Frazier Engineering, Inc., Melbourne, FL - \$35,250.
- d. Continuation of the partnership with the St. Johns River Water Management District Brevard County Watershed Action Volunteer Program - \$20,000.
- e. Contract award for fire hydrant refurbishment/replacement program, Mueller Service Company, Tamarac, FL - not to exceed \$306,000.
- f. Contract award for sewer manhole rehabilitation, Dallas 1 Construction & Development, Inc., Thonotassassa, FL - estimated total project cost of \$158,000.

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- g. Approval of an increase in contract for installation of grout-filled, fabric-formed revetment work, Terra Firma Environmental, Brooksville, FL - \$137,500.
- h. Contract award for the purchase of fertilizer with pre-emergent herbicide for golf course fairways, tees, and roughs, Sunniland Corporation, Sanford, FL - \$85,140.
- i. Contract award for roof replacement/repair at multiple buildings, Couch's Waterproofing, Palm Bay, FL - \$29,123.20; Hamilton Roofing, Palm Bay, FL - \$23,173; and Sunsky Roofing, Vero Beach, FL - \$59,715.
- j. Contract award for maintenance services for two-way radio communications systems and other electronic equipment, Communications International, Inc., Vero Beach, FL - \$41,229.32.
- k. Purchase of Novell software licenses and maintenance, Viable Solutions, Inc., Orlando, FL - \$35,276.67.
- l. Purchase of two Lifepak® defibrillator/monitors, batteries, and cables, Medtronic Emergency Response Systems, Redmond, WA - \$29,933.
- m. Purchase of two Evinrude 250 hp outboard boat motors for the Fire Department, Eau Gallie Marine, Melbourne, FL - \$24,540.
- n. Purchase of annual Novell Netware and GroupWise support service, Viable Solutions, Inc., Orlando, FL - \$23,615.
- o. Purchase of annual GWAVA, GWAVIX, Redline, and Reload licenses and maintenance, Viable Solutions, Inc., Orlando, FL - \$17,574.93.
- p. Purchase of annual maintenance and support services for GIS software, ESRI, Redlands, CA - \$15,830.14.

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

- q. Approval of draft letter to Brevard County regarding the Viera Development of Regional Impact (DRI) and its impact on planned transportation improvements.
- r. Resolution No. 2059: A resolution designating those persons authorized to sign checks and transact business pertaining to City of Melbourne bank and investment accounts on behalf of the City.
- s. Resolution No. 2060: A resolution canceling the December 25, 2007 regular Council meeting.

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- t. Resolution No. 2061: A resolution encouraging the State of Florida, Office of Tourism, Trade, and Economic Development to approve State Economic Development Project Live TV, LLC.
- u. Resolution No. 2062: A resolution authorizing conveyance of an easement for wetland enhancement to TFM Enterprises, Inc. and Calico Heights Homeowners' Association, Inc.; and authorizing conveyance of a conservation easement to the St. Johns River Water Management District on property located south of the intersection of Post Road and the railroad tracks; and authorizing the City Manager to execute the documents.

16. ITEMS REMOVED FROM THE CONSENT AGENDA

- q. Approval of draft letter to Brevard County regarding the Viera Development of Regional Impact (DRI) and its impact on planned transportation improvements.

Mrs. Corby recommended that the letter carry the full weight and support of Council; therefore, she suggested that it be signed by the Mayor, Council, and City Manager. There were no objections from Council.

Moved by Corby/LaRusso for approval of Item "q." Motion carried. Mrs. Meehan voted nay.

17. ORDINANCE NO. 2007-88 (Z-2007-1123) MICHAEL PAVLICK: (First Reading/Public Hearing) An ordinance changing the zoning from C-1 (Neighborhood Commercial) to C-3 (Central Business District) on two parcels totaling 0.45± acres, located on the south side of New Haven Avenue, east of Helen Street, and west of Goff Place. (Owner - Michael Pavlick and Eye Docs, Inc.) (Applicant/Representative - Michael Pavlick) (P&Z Board - 5/22/07)

Attorney Gougelman read Ordinance No. 2007-88 by title. Mrs. Dittmer reviewed the agenda report and located the property on the map. The Downtown Melbourne Community Redevelopment Agency Advisory Committee reviewed the request and unanimously recommended the Planning and Zoning Board and City Council support this request. The Planning and Zoning Board voted unanimously to recommend approval.

Mayor Goode pointed out that this is a disclosure item. Council Member Kathy Meehan said on October 18 she received a call from the applicant requesting approval of the change. On November 13 she spoke with Patty Goffinet, Helen Street, who has no objections to the change in zoning.

Moved by Meehan/Contreras for approval of Ordinance No. 2007-88 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

18. COUNCIL DISCUSSION RE: Reconsideration of setting date for public hearing of site plan approval (SP-2007-19) for Parkway Place Apartments. (Requested by Council Member

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Richard Contreras)

From the agenda report: *Parkway Place is a proposed multi-family residential project at the corner of Parkway and Wickham Road. On October 9, 2007, the City Council agreed to postpone consideration of the project until April 2008.*

The developer of the proposed project, The Richman Group of Florida, Inc., has asked that the City Council give further consideration to the date to which consideration of the site plan has been postponed. The developer proposes December 11, 2007. The developer also advises that if the City Council does not wish to reset the date to December 11, 2007, the developer will consider their site plan to be denied and will “take appropriate actions.”

Since the time of receipt of the letter from the developer’s attorney, Council Member Contreras has advised that he wishes this item to be placed on the agenda.

The City Attorney’s memo indicates there is a question about the exact date in April 2008 to which the site plan public hearing has been continued. The Council minutes reflect that consideration of the site plan was continued until “at least April 2008.” The City Attorney suggests that the date of continuance should be clarified, and the City Council may wish to give consideration to provided notice to interested parties in the area.

Mr. Contreras placed the following correspondence into the record: Letter dated November 6, 2007 from Attorney Paul Gougelman to Philip Claypool, Executive Director, Florida Commission on Ethics. The subject is a request for an informal opinion on a voting conflict of interest as it relates to Mr. Contreras. The response, dated November 7, 2007, from Christopher Anderson, Chief Assistant General Counsel, Commission on Ethics, indicates that Council Member Contreras appears to have no voting conflict (with regard to Parkway Place Apartments).

Note: Council received a letter dated November 9 from Thomas McIntee, attorney representing several homeowners’ associations in the area, supporting re-setting the public hearing date to December 11, 2007.

Cliff Repperger, attorney representing the applicant, was present.

Mr. Contreras said he would like to establish a baseline on what has transpired between the Richman Group and the City of Melbourne. Mayor Goode cautioned that this item relates to scheduling a public hearing. Council will not be discussing the merits of the application.

Mr. Repperger confirmed the following for Mr. Contreras: the Richman Group has been before Council on previous site plans; Council approved the previous site plans; and the current site plan has an extension to 2008. Mr. Contreras asked if it would be fair to state that the due process the Richman Group has historically received from Council has been fair, including action on the current site plan. Mr. Repperger replied that he would not agree with that statement as it relates to the date of postponement on the current application. With regard to prior site plans, he agreed that due process was provided on those

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applications.

Mr. Contreras stated that he won't discuss the merits of the Sadowski Act because he believes this particular item doesn't pertain to this issue for two reasons: 1) Based on legal advice from the City Attorney, it is against the Fair Housing Act to consider the source of funding in reviewing the site plan. Council was advised three times during the previous meeting not to use source of funding as a criteria relative to this site plan. 2) It doesn't have anything to do with the site plan.

Continuing, Mr. Contreras said he has been working on this issue in his district and in his neighborhood for quite some time. His previous and future disclosures will reveal the degree and extent. He has been monitoring discussions and any potential compromises. Therefore, he believes the December 11 date to continue the public hearing on this project may be too early.

Mr. Contreras posed the following questions for Mr. Repperger. (Mr. Repperger's answers follow.)

1. Do you concur there appears to be more work ahead of you on this project before us? Mr. Repperger agreed.
2. Do you agree that the December 11 date may be too early to come back to Council on this project? Mr. Repperger replied that based on some recent developments, he believes that is the case. He clarified that they have recently met with the neighbors in the general vicinity and they are currently evaluating some of the alternative suggestions. Although some of the issues may be able to be addressed by December 11, they would like the opportunity to again meet with the neighbors. Mr. Repperger concluded by saying he believes this can be accomplished by January.
3. Would you be amenable to reconvening the public hearing on this site plan on January 22, 2008? Mr. Repperger replied yes.

Moved by Contreras/Meehan, based on discussions with the applicant's representative, Mr. Repperger, that the date of continuance for Site Plan SP-2007-19 Parkway Place Apartments, be re-set to January 22, 2008.

At the same time Mrs. Meehan seconded the motion, Mrs. Corby called a point of order. Mayor Goode stated that there is a motion and second on the floor; therefore, Mrs. Corby is out of order. Mrs. Corby asked the Mayor to confirm that Council is now in discussion on this item. Mayor Goode replied yes, with regard to the January 22 meeting date to hold a public hearing.

Mrs. Corby stated that Council unanimously voted to postpone this item until April. She made that motion and, if that motion has any confusion, she would like to be the one to correct it. Mrs. Corby explained that Council meets twice per month. The October 9 minutes indicate that after the vote to postpone, Mayor Goode announced that the item has been postponed until late April. Mrs. Corby pointed out that "late" comes after "early." She

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does not believe the January date is feasible because it does not provide ample time for the developer to address the items requested by Council.

Mrs. Corby suggested a reasonable compromise. Council should stay with the April 22 date but allow the developer the option to advance information to Council with a two-week notice when they have completed all the necessary requirements for this project. At that point, the item can return to Council. It leaves the option open to the developer.

At the request of Mayor Goode, Mr. Contreras repeated his motion. Mayor Goode said he is going to accept that motion; it is the same as a motion to reconsider. The Mayor added that postponing the item until a date in April based on the Sadowski Act is not quite correct. The Sadowski Act is a funding source. The applicants don't intend to use low income funding. They are going to use low-income financing through a lending institution.

With regard to the Sadowski Act, Mr. LaRusso asked the City Attorney to comment on his interpretation as to what Council unanimously voted on at the last meeting.

Attorney Gougelman said that Mrs. Corby made her motion to postpone until April based in part on the Sadowski Act and the Legislature's planned review of that Act. One concern is that consideration of the source of funding for any type of affordable housing project could be inconsistent with the Florida Fair Housing Act. The Florida Fair Housing Act has a provision that states when making a land use decision, you cannot consider race, sex, etc., and source of funding.

Mrs. Corby asked if the developer would have to follow our Code and guidelines for developing since this project has nothing to do with the Sadowski Act. Mayor Goode replied yes. Mrs. Corby asked if one of the guidelines is compatibility. Mr. Contreras called a point of order. Mayor Goode said he is going to call Mrs. Corby out of order. He added that we are discussing whether to conduct a hearing on this item at a future date. The Mayor said that Mrs. Corby is trying to debate the merits of whether this is a good or bad project and that is not the issue. Mrs. Corby commented that the Mayor did not get the correct impression.

Mrs. Meehan asked for the question to be called. Mrs. Corby pointed out that we have one Council Member absent and Council has gone through this before (with a missing member) on other controversial projects. Mayor Goode called Mrs. Corby out of order and asked the City Clerk to take a roll call vote.

The question was called. The roll call vote was:

Aye: Contreras, Meehan, Thomas, LaRusso and Goode

Nay: Corby

Motion carried.

Mayor Goode announced that Council will hold a public hearing on this item on January 22,

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2008.

Mr. Repperger thanked Council for its consideration. Council paused briefly to allow the Council Chamber to clear.

19. ORDINANCE NO. 2007-89 (CU-2007-12) MAXINE'S SALON (1586 HIGHLAND AVENUE): (First Reading/Public Hearing) An ordinance granting a conditional use to allow the consumption of alcohol on premises on a 0.2±-acre parcel zoned C-3 (Central Business District), located on the west side of Highland Avenue, south of Creel Street, and north of St. Clair Street. (Owners - Susan and Bill Elam) (Applicant/Representative - Susan Extein-Elam) (P&Z Board - 10/22/07)

Note: In addition to the correspondence in the agenda package, Council received the following: Letter dated November 13 from the church council of St. Paul's United Methodist Church requesting that the City Council deny this request. Letter dated November 8 from Frances McHarvey, 153 Palm Circle, expressing concerns about a bar being opened across the street from the church. E-mail dated November 12 from Tom Sylvester asking Council to deny the request. E-mail dated November 13 from Pat Deabenderfer expressing opposition to the request.

Additionally, prior to the meeting, Betty Moore distributed a document entitled, "Business plan for the Wine'd Down Room at Maxine's Salon and Spa."

Attorney Gougelman read the ordinance by title. Mrs. Dittmer reviewed the agenda report and located the property on the map. The following is an excerpt from the agenda report:

City Code, Chapter 3 and Appendix B, Article VI were recently changed to exempt distance limitations between bars, and churches and schools within the three CRAs.

The Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee reviewed the request and unanimously recommended that the Planning and Zoning Board/City Council support this request with the conditions suggested by staff.

City staff proposed six conditions to limit the proposed use and any future use of the facility so that it remains accessory to the salon use.

During the public hearing portion of the Planning and Zoning Board meeting, four individuals spoke in opposition to the request due to concerns regarding a bar opening too close to a church, and the welfare and safety of the church members, as well as public groups that use the church facilities.

The Planning and Zoning Board voted six to one to recommend approval of this request.

Mrs. Dittmer confirmed for Mr. LaRusso that a redevelopment agency advisory committee is not a typical recommending body to City Council for land use matters. She noted that the applicant asked to make a presentation to the CRA advisory committee.

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Mr. Thomas asked for clarification on the following sentence from Mrs. Dittmer's memorandum: "In addition, the applicant stated that alcohol licensing of the salon would qualify the business for proper liability insurance." Mrs. Dittmer said that the applicant explained people currently bring alcohol into the facility. Liability insurance would not likely cover an incident. By obtaining proper licensing, they can obtain proper insurance.

Mrs. Corby asked if a conditional use remains with the property and Attorney Gougelman replied yes.

Mrs. Corby referenced the ordinance (2007-55), which amended Chapter 3 (Alcohol) and Appendix B (Zoning Code), by exempting the distance limitations between bars, churches and schools in the redevelopment areas. She said that during first reading of the ordinance in June, the staff write-up indicated that the purpose of the change was to provide greater flexibility in compact urban areas. She asked if the Eau Gallie Redevelopment Area is considered compact. Mrs. Dittmer replied that it is urban and compact.

Mayor Goode called for disclosures.

Mrs. Meehan said that David Wickham left her a telephone message on November 6. She returned the call. Mr. Wickham stated that he is a member of St. Paul's United Methodist Church and has concerns about serving alcohol across from the church. The church conducts a lot of meetings and this would not send a good message.

Mr. LaRusso said he also received a call from David Wickham on November 6. He returned his call and Mr. Wickham explained the various challenges that he and the church perceive with this project. (Later in the discussion, Mr. LaRusso disclosed that he attended the Planning and Zoning Board meeting when this item was discussed.)

Mrs. Corby said she received a call today from Mrs. Dubois who indicated that she is not in favor of this request. She also received a call from Bob Johnson who indicated that he is not in favor of this issue. And, she received correspondence from R. Flamm indicating that he is not in favor of this issue.

Mayor Goode referenced the additional correspondence and information received regarding this item (noted above). The Mayor summarized the "business plan" for the Wine'd Down Room submitted by Betty Moore.

Mayor Goode opened the public hearing.

Bill and Susan Elam, 3201 Pineapple Avenue, stated that their business address is 1584-1590 Highland Avenue. Mr. Elam said that their primary business is a 5,000 s.f. hair salon and day spa. They allow people to bring in alcohol; however, they would like to have control, including proper insurance. Mr. Elam explained that alcohol will only be available during salon hours.

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Mrs. Corby asked what portion of business sales receipts are from the hair salon. Mr. Elam replied 100%; however, if they obtain a license to consume on the premises, a small percentage would be for that. Mrs. Corby asked if they sell food. Mr. Elam replied no; however, they do provide complimentary hors d'oeuvres.

Attorney Gougelman pointed out that the ordinance as written permits beer, wine and liquor. Mr. Elam stated that they are seeking permission for beer and wine only. (City Clerk Cathy Wysor confirmed that she made an error in drafting the ordinance.) Mayor Goode asked if the ordinance could be amended by the next meeting and the City Clerk replied absolutely.

Tom Sylvester, 2767 Village Park Drive, lay leader and church treasurer at St. Paul's United Methodist Church, informed Council that the church is located directly across the street from Maxine's Salon. Mr. Sylvester said that his comments have been approved by the church council, the governing body of the church. Additionally, he submitted a petition, which he said contains the signatures of 176 people affirming the message and intent of the church council.

Mr. Sylvester read a prepared statement. The church requests that the City Council deny the conditional use request by Maxine's salon to sell and serve alcoholic beverages. They are concerned that this will place their members, staff, students, and visitors at risk from the salon's customers driving under the influence of alcohol. The salon uses the parking lot next door to them, which belongs to the church.

Mr. Sylvester pointed out that their property and facilities completely encircle the salon. The church has shown faith and cooperation with the City by providing a portion of their parking facilities to be used for public parking. Their current programs of feeding, clothing and housing the needy; providing meeting space for alcoholics anonymous, neighborhood crime watch, and scouts; and their Christian pre-school are testimony that they are about meeting the basic needs of people.

Mr. Sylvester said that the church is requesting parity with other Melbourne churches that receive protection with a distance requirement in the Code. He concluded by asking Council to deny the request by Maxine's Salon.

In response to Mr. LaRusso, Mr. Sylvester said that members, friends of the church who use their facilities, and some residents from the surrounding area signed the petition.

Reverend Tom Black, St. Paul's United Methodist Church, said that he serves as the pastor of the church. He expressed concern for the health, safety and welfare of the children and youth that use the church and its facilities. Pastor Black elaborated on their programs and stated that there will be people potentially driving under the influence of intoxicants in the area.

Mr. LaRusso referenced the pre-school and asked if federal grants or scholarships are being supplied to the church. Pastor Black replied yes, from the state government, as part of the voluntary Pre-K program.

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David Wickham, 1770 Highland Avenue, said he is a lifelong resident who lives within two blocks of the salon. He noted that he will first speak as a member of St. Paul's United Methodist Church then as a private citizen.

Mr. Wickham said that the church has a lot of concerns. He is the scout coordinator for the church. Boy scouts, girl scouts and cub scouts use the main parking facility. The salon uses the parking lot, too. The church's front door is only 75 feet away from the salon's front door; they completely surround Maxine's property.

With regard to the change in City Code, which removed the distance requirement for the redevelopment areas, Mr. Wickham said this was changed to stimulate business and the economy in the redevelopment areas. He asked Council to consider that there is more than economic development that must occur in these areas. Churches provide a positive influence in the community; they provide community activities, meeting space, and social services. Mr. Wickham concluded by saying that he is opposed to the request.

Speaking as a private citizen, Mr. Wickham said that he believes a happy medium can be struck. He recommended Council revisit the ordinance, which struck the distance requirements in redevelopment areas. Mr. Wickham distributed a proposed change to the City Code, which would implement a distance requirement of 300 feet in the redevelopment areas.

Moved by Corby/Thomas to allow Mr. Wickham two additional minutes. Without objection, Mayor Goode said that Mr. Wickham is granted two additional minutes.

Mr. Wickham read the proposed language in his handout and concluded by recommending Council review the distance ordinance and deny the conditional use request.

Mr. LaRusso said that the proposal to change the distance requirements came from the redevelopment agency advisory committees. Council looked at both sides of the issue – the location of an establishment serving alcohol and the ability of a church to expand if an alcohol establishment is nearby. Mr. LaRusso stated that he is not a moral judge. And, he pointed out that Council cannot make a change to the City Code on the fly.

Mr. Wickham said that there is an interpretation of state law concerning setbacks from schools. He stated that he would provide that information to City Council.

Mrs. Corby agreed that we can't change the City Code on the fly. She asked Mr. Wickham if he is proposing that the 300 feet be applicable only in the redevelopment areas (with the remainder of the City staying with a 450 foot distance requirement). Mr. Wickham replied that is correct.

Mr. Wickham confirmed for Mrs. Meehan that they are concerned about the transfer of the conditional use. If the owner sells the business, the conditional use will remain with the property. He added that in his experience he has learned that once the initial hurdle

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is accomplished it is easy to change restrictions like operating hours, square footage, etc. The result is that the church could have a bar across the street in the future.

Betty Moore, 2552 Pineapple Avenue, chairman of the Eau Gallie Crime Watch Neighborhood Improvement, informed Council that their area has worked hard to become family friendly. She asked who would enforce the hours of operation and discussed the problems encountered in the past with a bar that was operating illegally. It took many City hours and resources to close the facility. They found from that interaction that unless code officers see a violation, they can do nothing.

Mrs. Moore expressed concern that the distance requirements have been changed. She noted that one size does not fit all; this is not a good mix for the neighborhood. She commented that they have no problem with the beer and wine license that is in the area now because 51% or more of their sales comes from food. And, that is the key. Mrs. Moore concluded by saying she is concerned about enforcement.

Mayor Goode closed the public hearing and asked the applicants to return for rebuttal.

Mr. LaRusso asked the applicants if they made a presentation to the church body.

Mr. Elam explained that they discussed their plans with the pastor and the bible school teacher. Mr. Elam said that he and Susan are members of St. Paul's United Methodist Church. They have offered to discuss everything with the church, but they haven't been able to get anyone to meet with them.

Mr. Elam stressed that they are not opening a bar. The hair salon and day spa are their primary functions. He stated that he invested far too much money in this building to sell it right now. He closed by saying that the license will allow them to offer their clients something unique.

Ms. Elam explained that they already have a beer and wine license. They can sell beer and wine at Maxine's Salon and Spa. They are asking for a consumption on the premises license.

Continuing, Ms. Elam said that they have parties at the salon and people consume alcohol in the facility now. She would like to have the proper insurance.

Mr. Contreras asked for the church leadership to comment on why a follow up meeting was not held with the Elams. Additionally, he asked for clarification on the statement that they "currently have a beer and wine license." Attorney Gougelman said they do not have a conditional use from the City for consumption on premises. Mr. Elam explained that they have a 2-APS license from the state (for sale in sealed containers and for consumption off premises only).

Following a brief discussion, Mrs. Dittmer said they have a 2-APS license for package sales, which is not affected by the distance requirements in the Code. The applicants would like a 2-COP license, which would allow consumption on premises. Consumption

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on premises is an entirely different issue than package sales, and it requires a conditional use.

Mrs. Dittmer confirmed for Mrs. Corby that under its current state license, the salon is able to sell the alcohol in package but not allowed to have consumption on premises.

Mr. Thomas pointed out that although the license doesn't allow consumption on premises, the Elams are allowing customers to consume alcohol on the premises. Mr. Elam added that customers can consume alcohol if they bring in their own.

Mr. Thomas asked if customers drink after purchasing alcohol at the salon. Ms. Elam replied no and added that they have had wine tastings at the salon where clients would buy a bottle and leave with it.

Mr. Thomas asked if it would be a violation of the Code for people to consume alcohol in a business if they don't have a conditional use. Attorney Gougelman said he doesn't believe it would be a violation of the Code, assuming they are giving it away.

Discussion continued regarding the types of licenses and what the applicants are currently doing in the salon with regard to alcohol.

Mr. LaRusso commented that the applicants can't control how many glasses of wine someone has and that's a grave concern. Additionally, he would like to know if funding from the state for the school at the church would be affected by this conditional use.

At this point, Mr. LaRusso disclosed that he attended the Planning and Zoning Board meeting when this item was discussed. He sat in the audience and he overheard many of the conversations. People are concerned that the applicant would have no control over people.

Attorney Gougelman said he is familiar that in a number of hair salons it is not uncommon for patrons to be offered a glass of wine for free. The question is whether this is legal in the City. Section 3-6 of the City Code says that no person shall consume alcoholic beverages on the premises of any commercial establishment unless the owner is also licensed to sell alcoholic beverages. In this case, the applicants have a license from the state to sell.

Mrs. Corby said she also believes state law would require an establishment that sells beer and wine to also sell food, with food representing at least 51% of their sales. Attorney Gougelman said he does not know what the state license requirements are. Mayor Goode said the food requirement relates to a 4-COP license. Mrs. Corby said she believes that also applies to beer and wine establishments. Mayor Goode disagreed.

Reverend Black returned to the podium and confirmed that he met with the Elams. He hoped to have another meeting last week, but Susan Elam was out of town. Reverend Black said that this is not a moral referendum on drinking. This is about protecting children and youth and dispensing intoxicants to people who will be driving in the area.

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Mrs. Meehan asked Reverend Black if he understands that the ordinance contains conditions relating to signage, hours of operation, etc. Mr. Black said they discussed that during their meeting; however, the procedure is not the issue. It's the fact that there will be people who have been provided intoxicants who will be driving in the area.

Mrs. Corby asked if the church would be amenable to the salon continuing with special events, like wine tastings. Pastor Black replied that would be a decision for the church leadership to make.

Bill Elam clarified that wine tastings are not their only special events. They have marketing groups, business networking groups and guest speakers. The salon is not all about alcohol. Susan Elam added that for three or four years people have been walking out of Maxine's that might have had a glass of wine. They are not asking to do anything different; however, they would like more liability and control with their operation.

Moved by LaRusso/Thomas for denial of Ordinance No. 2007-89 based on the health and well being of the community; concern about the school; concern that grants could be affected by this; and the ordinance, although it could get cleared up, providing for beer, wine and liquor.

Mr. Thomas said that he has a problem with a business allowing people to consume alcohol within 450 feet of a church.

The question was called. The roll call vote was:

Aye: Contreras, Thomas, Corby, LaRusso and Goode

Nay: Meehan

Motion carried.

Recessed: 7:54 p.m.

Reconvened: 8:00 p.m.

Immediately following recess, Council returned to the beginning of the agenda and started with Item 8.

20. ORDINANCE NO. 2007-90 (ED-2007-03) LIVE TV, LLC: (First Reading/Public Hearing)
An ordinance granting an Ad Valorem tax exemption for a period of three years totaling an estimated \$47,310.75.

Attorney Gougelman read Ordinance No. 2007-90 by title.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-90. Motion carried unanimously.

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21. ORDINANCE NO. 2007-91 SALE OR LEASE OF CITY PROPERTY: (First Reading) An ordinance amending Chapter 2, entitled “Administration,” as it relates to the disposition of real property, by exempting certain sales and lease of property subject to the jurisdiction of the Melbourne Airport Authority.

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

The City Council recently adopted an ordinance containing uniform procedures for the long term leasing or sale of City-owned property. The procedures required bids and appraisals depending upon the purpose of the sale or lease of City-owned property. The ordinance exempted certain types of sales or leases from the uniform review procedures. One type of transaction not exempted was the sale or leasing of City-owned property subject to Airport Authority oversight.

Most of the property subject to Airport Authority oversight is owned by the City of Melbourne. This property is also subject to deed restrictions and Federal Aviation Administration grant restrictions. The property can't be leased or sold unless the transaction is beneficial to the Airport and meets federal standards. Previously, all lease transactions were handled solely by the Airport Authority and sales of Airport Authority property were handled jointly by the Airport Authority and the City Council.

The new ordinance adopting uniform procedures subjects property under the Airport Authority's jurisdiction to the uniform procedures. At the October 23, 2007, City Council meeting, the City Council approved drafting an ordinance to exempt the lease or sale of airport property owned by the City of Melbourne from the uniform procedures. The effect of the ordinance will be to leave the leasing of Airport property to the Airport Authority, which has been the historic practice.

Moved by Thomas/Contreras for approval of Ordinance No. 2007-91. Motion carried unanimously.

22. ORDINANCE NO. 2007-92 (Z-2007-1121AD/LDR-2007-07/FOC-2007-08) OLDE EAU GALLIE ART OVERLAY ZONE: (First Reading/Public Hearing) An ordinance amending Appendix B, entitled “Zoning,” amending Article IV, Section 1, exceptions and variations to height regulations; amending Article V, District Regulations, by adding Section 3, “Overlay Zone Regulations.” (Applicant - City of Melbourne and the Olde Eau Gallie Riverfront Community Redevelopment Agency) (P&Z Board - 10/22/07)

Attorney Gougelman read Ordinance No. 2007-92 by title. Mrs. Dittmer briefed Council. The following is an excerpt from the agenda report:

The proposed overlay would apply to properties west of Pineapple Avenue, east of Avocado Avenue, north of Creel Street and south of McClendon Street; and the properties located along the west side of Avocado Avenue north of Creel Street, and south of Law Street; and the properties located along the east side of Guava Avenue north of McClendon Street and south of Mathers Street. The proposed area is currently

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zoned R-2 (6) (One-, Two-, and Multiple-Family Medium Density Residential with a cap of six units per acre). The future land use of the area is Commercial/Low Density Residential, which would permit mixed uses.

When the CRA boundaries were expanded in 2005 and a proposed overlay zone area was conceived, the CRA Advisory Committee established a workgroup to develop an art overlay zone. The workgroup researched established art communities around the country and results indicate a reduction in crime, increased property values and a positive overall impact to the local community.

The workgroup proposes changing the zoning from the R-2 (6) to C-1, which will permit an artist live/work scenario while allowing a limited amount of low intensity commercial activity in the residential neighborhood. Since the C-1 zoning would permit uses the workgroup thought were too intense and may not be conducive to maintaining the residential character of the neighborhood, the proposed overlay zone would further restrict the permitted uses.

The overlay zone regulations would only apply to the proposed area with properties rezoned to C-1, with a Commercial/Low Density Residential Future Land Use. This will require additional zoning amendments to change the actual zoning on the individual properties. Subsequent to approval of the proposed Code change, staff would return with these rezoning requests for the overlay zone.

The proposed overlay zone also includes special allowances for required parking for some uses, so that public or on-street parking could be utilized in lieu of new on-site parking. The CRA will need to monitor the transition of uses, and the parking necessary to accommodate these changes. Additionally, the overlay zone implements stricter sign standards, which are outlined in the staff memorandum.

A public workshop was held with all property owners within the proposed zone and all property owners within 500 feet of the proposed zone. Approximately 56 people attended the workshop, and all comments during the meeting were positive. Additionally, the CRA Advisory Committee recommended approval of the proposed zoning amendment at its September 13, 2007 meeting.

The Planning and Zoning Board voted unanimously to recommend approval of this request.

Betty Moore, Pineapple Avenue, was available for questions.

Moved by LaRusso/Meehan for approval of Ordinance No. 2007-92 based upon the findings contained in the Planning and Zoning Board memorandum.

Mr. LaRusso pointed out that the advisory committee worked very hard on this ordinance. It is a hybrid of a number of different codes. He thanked the Planning and Zoning Board for its consideration and added that this is a positive move forward for the Eau Gallie area.

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The question was called. Motion carried unanimously.

23. COUNCIL DISCUSSION RE: Authorization to proceed with additional phases of the Site and Facility Study for the Melbourne Auditorium. (Requested by Council - 6/12/07)

Mrs. Lamb briefed Council. The following is an excerpt from the agenda report: *At its June 12, 2007 meeting, Council accepted the Site and Facility Study for the Melbourne Auditorium as prepared by Strategic Planning Group, Inc. (SPG) and further discussion and direction on proceeding with additional phases of the evaluation were postponed until the first meeting in November.*

SPG identified facility and site assessments to determine if the needs for the development of a 40,000 square foot multi-purpose facility, exhibition halls, future expansion, and parking facilities are feasible. A cost/benefits analysis to identify estimates of construction costs, financial operations, potential funding sources, and economic (fiscal) impacts for each alternative are listed in the study.

The three alternatives were:

- *Alternative A: Provide a facility similar to the existing Melbourne Auditorium.*
- *Alternative B: Construct a new facility with 40,000 square feet of exhibit space, a combination of pre-function and ballroom areas of 20,000 – 25,000 square feet and 8,000 –10,000 square feet of additional meeting breakout space.*
- *Alternative C: Alternative B with the addition of 20,000 square feet of exhibit space.*

Funding is estimated at \$24,000 and is available from General Construction Miscellaneous Projects should Council direct staff to proceed with the additional phases.

The City Manager discussed the history of the study. The study shows what we have a need for, but we don't know the condition of the building – whether the integrity is sufficient to be expanded, or whether it is appropriate or feasible to expand it. The next step will provide that information and staff believes it would be timely to proceed.

Mayor Goode recalled that a study was previously done, which shows it isn't feasible to expand the building. The City Manager and Mr. Ralls replied that they are not familiar with the previous study. From the audience, Mrs. Pat Poole nodded her head that a study had previously been done.

Mr. LaRusso recalled that a previous plan contained options, including consideration of a hotel. His concern is that we don't know what will happen with the property tax reform referendum in January. If we proceed with the next phase of the evaluation at \$24,000, it may be years before we can move to the next level. At that point, the initial study may have to be done again. Therefore, he would like to postpone this item until after January 29 so the City has an idea of where we are going.

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Moved by LaRusso/Contreras to postpone this item until after January 29, 2008 (the date of the referendum on property tax reform). Motion carried unanimously.

24. COUNCIL ACTION RE: Board Appointments

- a. Appointment of one regular member to the Babcock Street Community Redevelopment Agency Advisory Committee.

Mr. Contreras nominated first alternate Larry Wuensch and Mrs. Corby nominated Jim Ridenour. Moved by Contreras/Meehan to close the nominations. Motion carried unanimously. The roll call vote was:

Wuensch: Contreras, LaRusso, Thomas, Meehan and Goode

Ridenour: Corby

Appointed: Larry Wuensch (11/13/2007 – 5/3/2008, unexpired two-year term)

Mayor Goode called for nominations for the vacant alternate member seat. Mrs. Corby nominated Jim Ridenour. Based on no further nominations, moved by Goode/Corby to appoint Jim Ridenour. Motion carried unanimously. (11/13/2007 – 6/7/2009, unexpired two-year term)

- b. Appointment of three members to the Melbourne Airport Authority.

Moved by Goode/LaRusso to reappoint the three existing members (Mayor Harry Goode and Council Members Richard Contreras and Cheryl Palmer). Motion carried unanimously.

25. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Contreras referenced agenda Item 18 and said he believes it has been Council's unwritten practice to yield to a particular Council Member on an issue that arises within their district. He agreed that members represent the City as a whole; however, members are elected representatives of districts with geographic boundaries. This provides our citizens with a clear chain of command on issues.

Continuing, Mr. Contreras stated that he believes political protocol/political courtesy was undermined with Parkway Place Apartments.

Mrs. Corby stated that her focus has never been about the seven seats on the dais; her focus is on the crest (City seal) that sits behind the dais. She referenced the district map and pointed out that there is a very fine line that covers the area being referenced. She noted that her purpose for meeting with the residents was to clear what had happened during the Council meeting and to listen to their input. Mrs. Corby stated that it's important for each member to listen to input and she will continue to do that. As leaders

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of the City, she believes it is Council's obligation to listen to any resident, regardless of where they live.

Mayor Goode asked all members to keep in mind that they may not form a predetermined opinion on land use items prior to the public hearing and vote.

Vice Mayor Meehan agreed with Mr. Contreras that each member has their own district. She added that she believes Council needs to go back to the policy that members stay within their district, even though they are voted on Citywide.

Moved by Meehan/Contreras to follow that protocol.

Mayor Goode stated that the motion is that each Council Member basically conduct business in his district and kind of be the lead of Council in whatever is in a particular area.

Mr. LaRusso said he concurs with both sides; however, he is concerned about taking a vote to restrict Council. He cautioned against micromanaging and pointed out that there are a number of different talents that each member brings to the table. He asked Vice Mayor Meehan to take her motion off the table. Council should extend hands across the water. He said he fears that Council is headed down a wrong path; we need to heal some wounds and work as a team.

Mayor Goode said he does not believe Council is micromanaging when it passes a policy. He pointed out that there are currently 51 (plus) rules and regulations that this Council and previous Councils have adopted. Based on 51 (plus) rules being in effect, he said he can support the motion.

Mr. Thomas offered that he doesn't like the idea of being restricted to a district, but he does concur with Council Member Contreras with regard to protocol. Members should make sure that the member from a particular district knows what's going on. He recommended that members communicate through City Hall about what's going on and be respectful of each other's districts.

Mr. Contreras agreed that communication is the key. He would expect out of respect that the other member would provide due diligence and yield as a professional courtesy to the member whose district the issue is in.

Mrs. Corby asked the Mayor to indicate the policy number that Council is referring to (about staying in your own district). Mayor Goode said he's not referring to a specific number. He is saying that there are currently 51 (plus) rules and regulations in place that Council abides by and that's why he supports the motion.

Mrs. Corby asked for an explanation from the maker of the motion as to how this is going to improve communication in our City.

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Mrs. Meehan said if she is out in the community and someone talks to her about a problem in their neighborhood, she always yields to the member from that district. And, she usually goes through City Hall to advise the other member.

Mrs. Corby said she doesn't believe we need a policy and she won't support it for two reasons: 1) There has been a huge assumption on Council's part that she was approached and didn't advise the residents of other sources (another avenue they could choose). 2) The district map shows that the residents she spoke with originally are from the district she represents. A line goes right between the area that covers Parkway Place. She asked Council to take a good, hard look at the map if we are going to impose such a boundary in our community.

Mr. Contreras asked the Mayor to call the question.

The question was called. The roll call vote was:

Aye: Contreras, LaRusso, Thomas, Meehan and Goode

Nay: Corby

Motion carried.

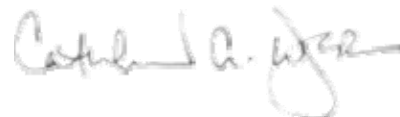
Pat Poole, 805 East Palmetto Avenue, stated that the last meeting marked 23 years that she has not missed a City Council meeting. She made the following comments: Council Members are not elected from just their district, they are elected to represent all the citizens in Melbourne; the new policy shows professional jealousy; some citizens don't want to speak to the Council Member from their district because they don't represent their feelings; Council changed the date of a public hearing without a full Council being present at this meeting; and the Mayor's nomination of the Vice Mayor makes it appear as if he trying to have control of Council.

Mrs. Meehan commented that Mrs. Poole has missed two Council meetings and she will provide Mrs. Poole with a memorandum.

26. ADJOURNMENT

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

The meeting adjourned at 9:20 p.m.



City Clerk – 11/21/2007

Approved by Council: _____

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