

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008



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 Cheryl Palmer gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

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|----------|-----------------------------|------------------------------------------------|
| Present: | Harry C. Goode, Jr. | Mayor |
| | Kathy Meehan | Vice Mayor, District 3 |
| | Richard Contreras | Council Member, District 1 (arrived 6:37 p.m.) |
| | Mark LaRusso | Council Member, District 2 |
| | 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 Elliott | Deputy City Manager |
| | Howard Ralls | Deputy City Manager |
| | Cindy Dittmer | Planning & Economic Development Director |

4. Proclamations and Presentations

Note: Pruitt Real Estate, Inc., 10 South Harbor City Boulevard, and NASA Commerce Center, 685 Atlantis Road, received the March Beautification and Environmental Advisory Committee “We Noticed” Award. Representatives were not able to attend and accept the award.

5. Approval of Minutes - March 11, 2008 Regular Meeting

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

6. City Manager’s Report

City Attorney Paul Gougelman reported that the Daily Bread rezoning and conditional use application for expansion of its soup kitchen facility will be heard by the Planning and Zoning Board on April 3 and will appear on Council’s May 13 agenda. (Later in the discussion, the City Manager pointed out that the City Manager’s report indicates that the Planning and Zoning Board will consider this item on April 4. He noted that the correct P&Z hearing date is April 3). Continuing, Mr. Gougelman said that a large turnout is expected. The legal counsel for Daily Bread has indicated that she will need up to an hour to prepare her record. She has five expert witnesses who plan to testify.

Attorney Gougelman stated that, at the next meeting, Council may wish to discuss how to handle the public hearing. Issues to consider include whether to hold the meeting at a

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

(larger) facility, whether the meeting should be held on a separate night; and whether special rules should be placed in effect, such as swearing in witnesses, cross examination, etc.

City Manager Jack Schluckebier pointed out that the plans for the new City Hall involve a lobby entrance feature with a design imbedded in glass in the floor. The agenda package includes options for the art work, which closely resemble the City seal. Mr. Schluckebier asked Council to indicate a preference on the art work.

The Mayor asked the City Clerk to poll Council. Council unanimously selected option “B” (three color design).

The City Manager informed Council that the Mayor intends to participate in the Florida League of Cities Florida League of Mayors Board of Directors “Fly-In” during the 2008 Legislative session April 23-24 in Tallahassee. He asked Council Members to contact his office if they would like to participate so common travel arrangements can be made and noted that he will also be attending.

Mayor Goode added that this is a good time to attend during the session. By this point, the Legislature will be settling down and working on real issues that will affect cities.

Council Member Richard Contreras arrived at 6:37 p.m.

Council Member Mark LaRusso referenced the report on additional police, code and security measures that have been taken since William Miller appeared before Council to complain about the late night noise and activities coming from the pubs on New Haven Avenue. The report indicates that club owners “seem cooperative.” Mr. LaRusso asked how the owners of Main Street Pub can be cooperative when they are in jail. Further, he asked staff to ensure that we are following through on Mr. Miller’s complaint and working with the staff of Main Street Pub.

The City Manager confirmed that City staff will continue monitoring this issue. He informed Council that the conditions outlined in the conditional use granted to 702 Downtown aren’t as tight as we would like. Although it turns out that the facility is not serving (liquor), a number of measures can be taken to improve the situation. He added that he believes discussions with the club owners will be productive.

Council Member Joanne Corby referenced the same item, which highlights the additional City resources being provided for that one area. She stressed that we should not place all our resources in one area and neglect the rest of the City.

Council Member Cheryl Palmer thanked Planning and Economic Development Director Cindy Dittmer for her report on capital projects in the Downtown Melbourne area.

7. Public Comments

None.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

7.1 Presentation to Council: Annual report to City Council from City Boards.

a. Code Enforcement Board

James Teele, Chairman, recognized the Code Board members and Code Compliance Division staff in the audience. He reported that the mission of the Code Compliance Division is to: promote and maintain a safe and desirable living and working environment; help maintain and improve the quality of our community by administering a fair and unbiased compliance program to correct issues of municipal codes and land use requirements; and to promote, protect and improve the health, safety and welfare of the citizens by imposing fines and other non-criminal penalties in the enforcement of City codes.

Mr. Teele outlined the makeup/background of the Code Board members and noted that the board functions very well. Code Board meetings average three to four hours per month and board members contribute over 50 hours per year. The board has over 38 years of combined service and the longest serving member has been on the board for 12 years.

In the future, the board feels that a member with a housing and development background should be added. Additionally, the members would like a sergeant-at-arms to attend meetings because the board has the authority to issue fines, which has a financial effect on people.

Mr. Teele provided an update on the progress that has been made as a result of the January 2008 Code Study action plan and concluded by stating that he appreciates the work of the Code Board members and the Code Enforcement Officers.

b. Historic Preservation Board

Peter Flotz, Chairman, recognized the members of the board and reported that the board met 10 times last year and considered 23 agenda items. Accomplishments include: ongoing board training; rules of procedures drafted by board and approved by Council; application made to the Florida Department of State for the Certified Local Government Program; recommendation made to Council for the first local historic designation (1809 Riverview Drive); grant application for historic resource survey and update; and historic preservation officer secured for 2008.

The board's 2008 goals and objectives include: continue board training; develop an historic marker for designated properties; approve local historic designation of two to three properties; perform historic resource survey and update Florida master site files with the Downtown Melbourne and Eau Gallie Community Redevelopment Areas; research potential historic districts; develop information materials; and perform outreach.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Mr. Flotz displayed photographs of properties in Downtown Melbourne and Downtown Eau Gallie that the board feels are historic. He concluded by asking for Council's continued support on the Historic Preservation Ordinance, historic markers, informational materials and grant matches. Additionally, the board expressed appreciation for Council's funding commitment of \$20,000 from the two Downtown Community Redevelopment Areas and the Department of State matching grant for the Downtown Melbourne and Downtown Eau Gallie resource survey.

c. Library Board

Charlotte Friedland, Chairman, stated that the board acts as advisor to the Eau Gallie, Dr. Martin Luther King, Jr., and Melbourne Libraries. She recognized board members and staff in the audience. Mrs. Friedland reported that the board met 10 times in the last calendar year and considered 133 agenda items. Their combined statistics for 2007 are: 699,888 items checked out, 646,035 patron visits, 414,827 reference questions, 158,370 computer usage, 795 programs and 12,647 program attendance.

In addition to their daily activities each library is involved in other services. The Eau Gallie Public Library Director, Sharon Dwyer, partnered with the Brevard Art Museum's Jazz Friday. Friends of the Library and Delta Kappa Gamma Teacher's Sorority presented a program to celebrate local authors. The library is a community sponsor of the Annual Artworks of Eau Gallie Fine Art Festival. The director makes reports to the Library Board of the meetings held by the Olde Eau Gallie Riverfront Community Redevelopment Agency Advisory Committee. This library was also selected as an Eagle Scout project. Troop 373 weeded and planted over 700 plants during the summer.

The Dr. Martin Luther King, Jr. Public Library Director, Estella Edwards, assisted the Brevard County School Board and the South Brevard Branch of the NAACP with the "Read to Success" program with a book and toy giveaway. They networked with a reading teacher at Stone Middle School issuing library cards and providing books to assist with the school's reading list. The library provides outreach services to the Head Start program, presenting story hour at their centers. They have a monthly mail book club that meets, discusses, and recommends books of interest. And, the third Thursday at 6:00 p.m. is family movie night.

The Melbourne Public Library Director, Geraldine Prieth, appreciates City employees and volunteers for their hard work on the annual Arbor Day celebration, which is sponsored by the City and held at the Melbourne Library. City employees and all who take care of the Wells Park landscaping are commended for keeping it so beautiful. The Melbourne Library continues to offer free income tax assistance.

Mrs. Friedland informed Council that the three Library Directors are excellent and dedicated to their work. All three libraries interact with the community in various ways to expand the interest in reading, which in turn makes for a more educated and vital population. The libraries will face funding challenges this year as a result of Amendment 1. She concluded by saying that the continued support by the City Council and City

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Departments of the Brevard County Library System is of utmost importance and very much appreciated.

Council Member Mark LaRusso informed the audience that this marks Mrs. Friedland's 31st year of volunteer service on the Library Board.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2008-09, (LDR-2008-01/FOC-2008-01) SIGNS: (Second Reading/Public Hearing) An ordinance amending Chapter 25, entitled "Signs and Advertising," amending the standards for electronic changeable copy signs. (Applicant - City of Melbourne) (First Reading - 3/11/08)

Attorney Gougelman read Ordinance No. 2008-09 by title. There were no public comments.

Moved by Meehan/Corby for approval of Ordinance No. 2008-09. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2008-10, AFFORDABLE HOUSING ADVISORY COMMITTEE: (Second Reading/Public Hearing) An ordinance amending Chapter 2 of the Code of Ordinances, entitled "Administration," as it relates to boards, authorities and committees; establishing the Affordable Housing Advisory Committee and providing for the composition and duties; expanding the portion of Chapter 2 that generally applies to all City boards, by providing for definitions, rules of procedure, meetings and records; amending the composition and duties of the Building and Construction Advisory Committee by removing references to affordable housing and housing costs; and repealing duplicate language throughout Chapter 2. (First Reading - 3/11/08)

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

Moved by Thomas/Meehan for approval of Ordinance No. 2008-10. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for Reuse Distribution Improvements at various locations on the west end of NASA Boulevard, Project No. 31707, Premier Grounds Management, Inc., Cocoa Beach, FL - \$78,038.50.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Assistant City Engineer Keith Cunningham was present and available for questions. The project consists of installing approximately 1,520 linear feet of new reuse pipe along NASA Boulevard between Airport Boulevard and Babcock Street.

Moved by LaRusso/Contreras for approval of the construction contract with Premier Grounds Management, Inc. in the amount of \$78,038.50 for the Reuse Distribution Improvements – Various Locations – West End (NASA Boulevard) project. Motion carried unanimously.

11. CONSENT AGENDA:

Regarding Item “b”, Council Member Corby said that staff advised her that we are slowly moving towards online billing to reduce the costs of mailing and printing. Printed versions of the bill would not be eliminated for residents who do not have access to computers. Mrs. Corby stated that she is excited the City is moving in this direction.

Mayor Goode reported that Mr. Thomas removed Item “g” and Mrs. Palmer removed Item “j” from the consent agenda.

Moved by Contreras/LaRusso for approval of the consent agenda, with the exception of Items “g” and “j.” Motion carried unanimously.

- a. Approval of a blanket purchase of gasoline and diesel fuel, Glover Oil Company, Melbourne, FL - \$594,016; Mansfield Oil Company, Gainesville, FL - \$301,449; and Petroleum Traders Corporation, Fort Wayne, IN - \$524,255; estimated six-month cost of \$1,419,720.
- b. Contract award for printing and mailing of utility bills, Axis, Inc., Orlando, FL - at per unit prices, estimated annual cost of \$84,679; and postage - \$209,664.
- c. Contract approval for rental of 10 vehicles for six months for use by Police Department Special Operations Unit, Enterprise Rent-A-Car, Orlando, FL - \$870/month per vehicle, total cost of \$52,200.
- d. Renewal of annual contract to convert standard water meters at increased price, Badger Meter, Inc., Milwaukee, WI - \$26,553.49 increase; total estimated annual contract - \$690,146.13.
- e. Contract approval for rental of work uniforms, Unifirst Corporation, Orlando, FL - at per unit prices, estimated annual cost \$53,335.
- f. Lien Rescission CE-06-119: Approval of a request for a lien reduction from \$16,900 to \$0. (Donald M. Waltrip - 2814 S. Harbor City Boulevard)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

- g. Lien Rescission CE-07-041: Approval of request for a lien reduction from \$4,200 to \$2,200 if paid within 60 days. (Charles B. Robertson - 2902 Stetson Street)
(Note: Item removed from consent agenda.)
- h. Lien Rescission CE-07-080: Approval of request for a lien reduction from \$22,500 to \$0. (HSBC Bank USA NA, Trustee/Joan Willis, Realtor/Lynn Brockwell-Carey, Brevard Neighborhood Development Coalition - 1975 Kennedy Street A-C)
- i. Resolution No. 2089: A resolution authorizing the City Manager to execute a Transportation Impact Fee Credit Agreement for Veranda Place between the City of Melbourne and Veranda Place Development Corporation in the amount of \$716,189.98 to be reimbursed from Transportation Impact Fees that will be collected on construction in the Veranda Place Subdivision, located between Aurora Road and Eau Gallie Boulevard, south of where Turtle Mound Road terminates into Aurora Road.
- j. Resolution No. 2090: A resolution authorizing the City Manager to submit an application to the Florida Department of Transportation through the Brevard Metropolitan Planning Organization for Transportation Enhancement Projects for FY 2010/2011. (Note: Item removed from consent agenda.)
- k. Resolution No. 2091: A resolution authorizing the City Manager to submit an application to the Department of Homeland Security for the Assistance to Firefighters Grant Program for funding in the amount of \$791,600 with matching funds of \$223,808 for the purchase of a 100-foot aerial platform and cardio exercise equipment.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

- g. Lien Rescission CE-07-041: Approval of request for a lien reduction from \$4,200 to \$2,200 if paid within 60 days. (Charles B. Robertson - 2902 Stetson Street)

(Per Council's policy on lien reduction requests, when an item is pulled from the consent agenda it will be set for a future public hearing. This item will return on Council's April 22 agenda.)

- j. Resolution No. 2090: A resolution authorizing the City Manager to submit an application to the Florida Department of Transportation through the Brevard Metropolitan Planning Organization for Transportation Enhancement Projects for FY 2010/2011.

Note: Council received a memo from the City Manager transmitting a new version of the resolution. Due to scrivener's error, a draft copy of the resolution was distributed with the agenda package. The revised resolution contains the following projects:

1. M-1 Canal Pedway/Greenway (Crane Creek Canal)
2. South Melbourne Canal System Greenway – Phase I

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

3. U. S. 1 Linear Park – Phase I
4. Crane Creek Pedestrian Bridge – Phase II

Council Member Cheryl Palmer explained that this is a request to apply to the Florida Department of Transportation for Federal Transportation Enhancement Funds for fiscal year 2010/2011. Projects 1 and 2 are on the County Greenways and Trails Master Plan. If there is any funding to be had in this arena, it will probably go to those two projects first. Beyond that, Mrs. Palmer said that she believes asking for funding for the Crane Creek pedestrian bridge is inappropriate when we still have gaps in our sidewalk system. Sidewalks are a matter of public safety and they provide transportation for bicyclists and pedestrians. She stated that she would like to see this project removed.

Continuing, Mrs. Palmer pointed out that all of these projects will be in competition for the limited funding available. In this time of limited funding, Council needs to support items that are necessary for the safety and welfare of the citizens. Therefore, she asked that Projects 3 and 4 be removed from the list. She clarified that she supports the U. S. 1 linear park and seeking other funding sources; however, she does not want to use Traffic Enhancement Funds for that purpose.

Moved by Palmer/LaRusso for approval of Resolution No. 2090, with the exclusion of Projects 3 and 4 (U. S. 1 Linear Park and Crane Creek Pedestrian Bridge).

Mrs. Palmer confirmed for Mrs. Corby that Projects 1 and 2 are on the Metropolitan Planning Organization list as priorities. The City Manager added that this collaborates with the MPO and endorses its selection; it is not a separate pool of funding. To the extent the City's priorities are aligned with the MPO, it gives that much more weight.

Mrs. Corby asked if the intent of the motion is to include sidewalks on the list of projects. Mr. Schluckebier replied that initially staff reviewed and gave consideration to sidewalks. However, without multi-jurisdictional involvement there is extremely limited funding and sidewalks probably won't get funded.

Following a brief discussion, Mrs. Palmer suggested future discussion about the status of the sidewalks fund, which is funded from developments. The City Manager replied that staff can provide a status report.

The question was called. Motion carried. Vice Mayor Meehan voted nay.

13. PRESENTATION TO COUNCIL: Comprehensive Annual Financial Report from Hoyman Dobson.

From the agenda report: *The Comprehensive Annual Financial Report (CAFR) was presented to Council several weeks ago to allow Council members adequate time for review. The CAFR and external audit were presented with a clean unqualified statement, continuing the City tradition of excellent financial reporting.*

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Mr. Chas Hoyman, Director, Hoyman Dobson, the City's external auditing firm, provided a brief presentation. He distributed a handout and discussed: General Fund unreserved fund balance; General Fund operating revenues and expenditures; Water and Sewer System operating revenues and expenditures; Golf Course Fund; and Airport Fund.

14. COUNCIL ACTION RE: A request for continuance until September 23, 2008 of the public hearing for site plan approval of Parkway Place Apartments.

From the Agenda Report: *The developers of Parkway Place are currently scheduled to bring a revised site plan to City Council for a public hearing on April 22, 2008. The developer is engaged in revising the plan to satisfy concerns raised by residents in the area.*

The applicant has requested that the public hearing for the site plan approval be continued until September 23, 2008, to allow the applicant to complete site plan revision and further meetings with the residents.

The City Attorney has contacted the residents' attorney. He has tentatively indicated no objection to the site plan revision, but he is contacting his clients to confirm this position.

Moved by Contreras/Thomas that the public hearing scheduled for April 22, 2008 for SP-2007-19 (Site Plan for Parkway Place Apartments) be continued until September 23, 2008. Motion carried unanimously.

15. COUNCIL ACTION RE: (Public Hearing) Hearing to reconsider a request by Phillip G.S. Sangha regarding rescission of lien from \$68,250 to \$1,663.37 if paid within 60 days on property located on Pirates Moon Court. (Hearing approved by City Council 3/11/08)

The following is an excerpt from the agenda report: *Mr. and Mrs. Sangha own a single-family home at 447 Pirates Moon Court. They failed to promptly reinstall a barrier around the swimming pool after the 2004 hurricanes. Barriers are required for child safety to reduce the possibility of drowning.*

A fine was assessed by the Code Enforcement Board, and upon coming into compliance with the Code, the fine had reached \$68,250. The Sanghas requested a reduction of the lien and penalty. The Code Enforcement Board reduced the lien and penalty to \$1,663.37, which was the cost of prosecution of the offense.

At a City Council hearing in February, the City Council approved the recommendation of the Code Enforcement Board. Despite verbal advice by staff at the Code Board meeting, as well as a certified letter (which apparently was not picked up at the Post Office by the Sanghas), the Sanghas claim they were unaware of the Council hearing and wish to contest the resolution.

Phillip Sangha, 447 Pirates Moon Court, made the following statements: 30 days after moving into their new house they were hit by hurricanes (2004); he approached the City to determine why the pool screen came down because it was constructed to withstand

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

135 mph winds; they started to have pool deck problems; he discovered that no final inspection had been done on the pool screen; he was never informed by the builder that a final inspection had not been done; the City informed him that the contractor, Blue Marlin Pools, had canceled the permit; the City allowed the contractor to cancel the permit, while granting them new permits to build pools in other locations; Mr. Sangha was informed that he would have to go through a legal battle with Blue Marlin; after requesting information from the City, it took three months for him to receive information about the pool – no information was provided on the screen; and an additional three months went by before the City informed him that it had lost the file on the pool screen.

Continuing, Mr. Sangha said during this time the pool was cracking. He installed a temporary fence as requested by the City and attempted to resolve this with Blue Marlin; however, he did not get anywhere. Mr. Sangha elaborated on the process of hiring inspectors, a structural engineer and attorneys. He incurred huge costs pursuing this problem on top of having to pay for a new pool screen.

Mr. Sangha informed Council that he pulled a permit to build a permanent fence because of pressure from the City. He noted that up until March 2006, the homeowners' restrictions did not allow permanent structures to be built on the pool deck. He displayed a photograph of the final job, showing that the new contractor had to dig six feet to fix the problems.

Mayor Goode noted that this is the result of a contractor hired by Mr. Sangha. Mr. Sangha replied that this is a contractor hired by Mercedes Homes. He agreed that the City did not hire the contractor; however, the City issued a permit and he expected a full inspection to be done.

Mayor Goode pointed out that in February 2008 the City Council reduced the fine from \$68,250 to \$1,663.37. Mr. Sangha replied that he understands that, but he has been put through mental torture for three years. Mayor Goode offered that Mr. Sangha would not be in this situation if he had a proper contractor.

Mr. Sangha concluded by saying that the City misplaced his file and Code Enforcement has gone after him instead of the pool builder. The job was incomplete. A final inspection was not done, yet the contractor was allowed to continue.

Mayor Goode stated that Mr. Sangha has a legal problem with the contractor, not the City of Melbourne.

In response to Mrs. Corby, Mr. Sangha explained there were two files, one for the pool and one for the screen. He described the amount of time it took for the City to provide pool records and the missing records for the pool screen.

Mr. Thomas asked Mr. Sangha if he contacted Blue Marlin Pools to obtain the name of the engineer who designed the pool screen. Mr. Sangha replied that they would not return his phone calls. Mr. Thomas asked him if he pursued that through legal means. Mr. Sangha said the situation never reached that point. The matter was resolved through

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Mercedes Homes. Mr. Thomas pointed out that the City's mistake in the entire situation is losing a file, yet the City has agreed to reduce the fine (from \$68,000 to \$1,663).

Mr. Sangha clarified costs outlined in the backup material for Mr. LaRusso. He confirmed that the second screen enclosure cost over \$28,000, which included the new decking costs. The screen company would not install a screen on the sinking deck. The deck had to be repaired first. Mr. Sangha said that he presented this information in a letter from the screen company that built the second screen. He pointed out that is why this issue took three years to resolve.

Code Enforcement Administrator Dan Porsi reviewed the timeline of Code Enforcement events and the options that were outlined for Mr. Sangha along the way to come into compliance. The process was before the Code Board for several months, with a \$250 per day fine running. Code Board and staff talked with Mr. Sangha about the nature of the problem and how it could be corrected. It was left up to Mr. Sangha to come into compliance. Mr. Sangha finally had his pool enclosed with screen through the second permit, which brought him into compliance. He then returned to the board for rescission. The board fully discussed the timeframe, the options that the board gave Mr. Sangha in the past to bring the violation into compliance, and the life safety issue. After several motions, the Code Enforcement Board recommended that the fine be reduced to City costs.

Mrs. Corby asked if there were any attempts to get another screen enclosure company when the first company walked away from the job.

Mr. Sangha clarified that he didn't hire a pool screen company, he hired a company to build the pool. He did not know the screening was subcontracted.

In response to Mr. LaRusso, Mr. Sangha stated that he did not know the pool did not receive a final inspection. All the payments went to the builder, Mercedes Homes. And, the pool had a fully constructed screen.

Moved by Thomas/Meehan that Mr. Sangha satisfy the lien by paying \$1,663.37 within 60 days. (Mrs. Meehan later withdrew her second. See below for new motion.)

Mrs. Corby stated that she will support the motion; however, she cautioned that the City needs to be fair across the board. She recalls that Council decided to recover at least the City's costs when liens are reduced, and that needs to be done across the board.

Attorney Gougelman explained that in the past Council has agreed to authorize administration to satisfy a lien if a respondent pays the designated amount within a certain period of time. The general rule is that the lien doesn't go down and then back up if not paid. It always remains the original amount with an authorization for staff to satisfy the lien if the designated amount is paid within the designated time period.

Mr. LaRusso said that Mr. Sangha has indicated a financial hardship in making this request. He asked if the maker/seconded would be amenable to payment within six

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

months. Mrs. Meehan said she was not agreeable with the six months; therefore, she withdrew her second.

Moved by Thomas/Corby that Mr. Sangha satisfy the lien by paying \$1,663.37 within six months (180 days) of this date.

A brief discussion continued. Mrs. Palmer discussed the number of years that the pool sat with no barrier to children. She asked if there is something the City can do in the future to step in and take further action.

Mr. Thomas asked if allowing six months for payment will set a precedent or if each case is independent. Attorney Gougelman replied that each case is independent; however, if a future respondent does their research well, they will probably cite that this case was allowed 180 days to pay.

Mrs. Corby said she is sure everyone has a story and a hardship to sell. Council's job is to be equal and fair across the board, not to look at these case by case. Council did agree to at least recover the City's costs when a lien is rescinded and that needs to be done equally across the board, regardless of the story.

The City Attorney confirmed for Mrs. Corby that Council would not be setting a precedent by allowing six months payment on this item.

Attorney Gougelman asked Council to consider that these cases go through lengthy hearings before the Code Enforcement Board before appearing on Council's agenda.

Mr. LaRusso said that generally Council follows Code Board recommendations on lien rescissions/lien reductions.

Mayor Goode said he will support to extend payment beyond 60 days because City staff lost the file for the screen enclosure.

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

Mrs. Meehan said she voted nay because the Code Enforcement Board made a recommendation that payment in this case be made within 60 days.

Mrs. Palmer asked Mr. Sangha if he understands that if payment is not made within six months, the lien will remain \$68,250. The Mayor asked that the record reflect Mr. Sangha nodded his head in agreement from the audience.

16. COUNCIL ACTION RE: Approval of a \$523,500 award to Community Housing Initiative, Inc. from 2007-2010 State Housing Initiatives Partnership Program (SHIP) funding for implementation of the Purchase Assistance Program and the Companion Homebuyer Education/Housing Counseling Program; and authorization for the City Manager to execute the agreement.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

The following is an excerpt from the agenda report: *Community Housing Initiative, Inc. (CHI) submitted an application for \$915,000 (at \$305,000 per SHIP funding cycle) to continue administering the City's Purchase Assistance Program (PAP) and the companion Homebuyer/Housing Counseling Program.*

CHI is a 501(c)(3) non-profit organization whose purpose is in part "to provide for assistance in the acquisition of decent housing" and "to lessen the burden of government in regard to the provision of affordable housing for underprivileged persons and persons of very low, low and moderate income". The agency has been serving Brevard residents since 1992 and currently administers the homebuyer assistance programs for Brevard County and the cities of Palm Bay and Melbourne and has worked or is working on special affordable housing projects with the named jurisdictions as well as the cities of Titusville and Cocoa. CHI also owns Willow Brook Apartments, a 54-unit affordable rental community developed by the agency in 1995.

Since 1999, CHI has been administering the City's Purchase Assistance Program, providing financial assistance for down payment, closing costs and repairs to low-income homebuyers as well as homebuyer education and housing counseling services to prepare prospective homebuyers and/or help previously assisted homebuyers keep their homes when trouble strikes.

While CHI is requesting \$305,000 per SHIP funding cycle, the City's approved 2007-2010 SHIP Local Housing Assistance Plan provides only \$174,500 per funding cycle for a total of \$523,500. Therefore, if approved as recommended, the estimated number of benefiting homebuyers will be approximately four per funding cycle or 12 households for all three funding cycles.

The Citizens' Advisory Board considered CHI's request for SHIP funds at its regular meeting on March 3, 2008 and unanimously approved an award of \$523,500 to CHI at \$174,500 per SHIP cycle for the stated purposes.

Housing and Community Development Director Melinda Thomas was available for questions.

Mrs. Corby asked if the City's policy allows SHIP or Home funding for multi family units. Mrs. Thomas replied yes and explained that the City has a rental development program.

Moved by LaRusso/Meehan for approval of \$523,500 in State Housing Initiatives Partnership Program funds to Community Housing Initiative, Inc. for implementation of the City's Purchase Assistance Program and provision of Homebuyer Education/Housing Counseling services for the duration of the City 2007-2010 SHIP Local Housing Assistance Plan with funding provided as proposed below and authorization for the City Manager to execute an agreement. Motion carried unanimously.

17. COUNCIL ACTION RE: Approval of a \$75,000 award to Space Coast Center for Independent Living, Inc. from 2007-2010 State Housing Initiatives Partnership Program (SHIP) funding for implementation of the Home Modification Program to provide

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

handicapped accessible improvements; transfer of \$25,000 from the Housing Rehabilitation Account to fund the program each SHIP funding cycle; and authorization for the City Manager to execute the agreement.

The following is an excerpt from the agenda report: *Space Coast Center for Independent Living, Inc. (SCCIL) is a 501(c)(3) non-profit organization whose mission is “to provide services and programs to promote independence, create change and empower people with disabilities to achieve equality and inclusion within their home, work and community”. The agency has been serving residents of Brevard County since 1975 and was formerly known as the Space Coast Association of the Physically Handicapped, Inc.*

In line with its mission, SCCIL approached the City and was awarded City Community Development Block Grant (CDBG) funds for the first time in 2002 to implement a program that would assist low-income Melbourne residents with physical disabilities in making accessibility improvements to their homes. In the five fiscal years following their first award, the agency was able to secure a total of \$83,000 in CDBG funds to continue offering these services to Melbourne residents. Although SCCIL had difficulty obtaining bids on projects following the 2004 hurricanes, the agency expended \$75,396.63 during this five-year period and assisted 25 households with various types of needed accessibility improvements, e.g. wheelchair ramps, roll-in showers, handicapped toilets, grab bars, and lever door handles.

The Citizens’ Advisory Board considered SCCIL’s request for SHIP funds at its March 3, 2008 regular meeting and unanimously approved an award of \$75,000 at \$25,000 per SHIP cycle for the stated purposes.

Larry Fowler, representing SCCIL, was present and available for questions.

Moved by Contreras/Thomas for approval of \$75,000 in State Housing Initiatives Partnership funds to Space Coast Center for Independent Living, Inc. for the implementation of the Home Modification Program for the duration of the City’s 2007-2010 SHIP Local Housing Assistance Plan; authorization for the City Manager to execute an agreement; and a budget transfer of \$25,000 from the Housing Rehabilitation account to fund the program each SHIP funding cycle. Motion carried unanimously.

18. ORDINANCE NO. 2008-11 (A&V No. 299): (First Reading/Public Hearing) An ordinance vacating a 50-foot wide portion of an unimproved, platted right-of-way between Lots 15 and 16, Block 1 of the Lindsays Subdivision. (Steven Casanova - 2325 Babcock Street)

Attorney Gougelman read Ordinance No. 2008-11 by title. There were no disclosures by Council.

Keith Cunningham pointed out that the west 30’ of this right-of-way will be retained for future Babcock Street road widening. The Department of Transportation made that request and the applicant is aware.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Mrs. Palmer said that the width of the right-of-way is 50'. She asked the length. Mr. Cunningham replied about 150'. Mrs. Palmer asked if there is any public benefit to the abandon and vacate request. Mr. Cunningham noted that the applicant intends to use the property for parking. In response to Mrs. Palmer, he confirmed that this is vacant, undeveloped public right-of-way.

Mr. Contreras asked the value of the property. Mr. Cunningham said he does not have that information. Mr. Contreras said he is concerned that we are simply abandoning and vacating public land. In previous arrangements, there were offsets in favor of the City.

Mayor Goode opened the public hearing.

Steve Casanova, 2325 South Babcock Street, applicant, explained that there would be a tax benefit to the City for converting this to private property. Property taxes are not currently collected. Mr. Casanova discussed the location of the property and reported that it is a 50' wide strip. The back end of the land is a preserve, where no building is allowed. Based on the information he has found, this right-of-way was a "paper street." It's been vacant for some time and is not a usable piece of land for the City. If vacated, it would be subdivided between him and his neighbor to the south, Diane Baccus Horsley.

Mr. Casanova discussed the improvements that other neighbors have made in the area based on the improvements that he has made. He noted that after the property is split between him and his neighbor, he will gain about 25 feet of property. He would like to add a parking area. He concluded by saying that the City will benefit because he will maintain the property. If it goes to private use, it will look better and the City will gain the taxes.

Mr. Casanova confirmed for Council Member Palmer that the property he leases to the State of Florida will use the vacated property once it's converted to a parking lot. He added that Ms. Baccus Horsley is associated with this request because she will own half the property once it is vacated.

Diane Baccus Horsley spoke in support of the request and confirmed that this is a 50' wide lot that was platted originally when Lindsay's Subdivision was platted. The right-of-way is one lot wide and leads to nowhere. As a result of backing up to a conservation area, nothing will ever happen on this property. Ms. Baccus Horsley clarified that because 30' will be retained as road right-of-way, the property will be 50' by 120'. She and Mr. Casanova would each receive 25' of front footage. The benefit would be that the property would go on the tax rolls and the City would not have maintenance responsibilities.

Mayor Goode closed the public hearing.

Council Member LaRusso asked the value of the land if we were to ask Mr. Casanova to purchase the property.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Attorney Gougelman explained that this is a platted right-of-way that is being vacated; the City does not own the property. Rather, we own an easement right or a right of user. Back in the 1930s the Florida Supreme Court ruled that right-of-way cannot be sold. Additionally, Attorney Gougelman reminded Council about the ordinance recently passed which outlined criteria that must be met before property like this can be abandoned and vacated. That ordinance was applied to this application and issues addressed include the determination of whether the right-of-way is needed and whether it will be needed in the future. If those answers are no, the process moves in favor of the abandonment. If the answers are yes, we have no business proceeding. Another issue that has to be addressed relates to whether there are public utilities in the right-of-way. If so, usually the utility will ask for some type of easement.

Mayor Goode stated that review has been done before the ordinance makes it to City Council. Attorney Gougelman replied exactly and added that is why the City Engineer has recommended approval.

Mr. Schluckebier briefly addressed the additional criteria in the ordinance (used to review whether property should be abandoned and vacated) and stated that this request survived that scrutiny. Staff has no hesitation in recommending approval of this request.

Moved by Contreras/Meehan for approval of Ordinance No. 2008-11.

In response to Mrs. Corby, Mr. Casanova said he will build as many parking spaces on this property as allowed by the City. It will take a while to get all the plans in place and construction could start a year from now.

Mrs. Palmer pointed out that this is a 50' by 120' undeveloped piece of property that adjoins a conservation area. It is larger than some of our City parks and we don't know in the future if we will need that for right-of-way. She commented that she doesn't care enough about the small amount of tax revenue it will generate to give up the future possibility of a roadway and to give up an undeveloped piece of property; therefore, she is going to vote no.

The question was called. Motion carried. Council Members LaRusso and Palmer voted nay.

19. ORDINANCE NO. 2008-12 RECLAIMED WATER: (First Reading) An ordinance amending Chapter 32, entitled "Utilities" by increasing the current flat monthly rate for reclaimed water; establishing a requirement for meters to be installed on all new reclaimed water services; and establishing a monthly service charge. (Authorized by Council - 01/08/08)

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

Existing customers currently pay a fixed monthly charge for reclaimed water. The charge is based on the pervious area of the property that may be irrigated with reclaimed

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

water. The base rate is \$5 for property up to one-half acre and that covers over 500 of the City's 549 customers. The customer base is paying only about 10.5% of the cost to operate and maintain the system. The 2007 rate study indicated that a flat monthly charge of \$9.62 is needed and recommended the rate be changed to \$5 per month and increased to \$9 per month in five years. The proposed ordinance increases that base charge to \$9 per month for existing customers; however, the increase would not be effective until the normal increases in October 2008. That charge is comparable to the cost to irrigate with an irrigation well and pump including the cost for power.

The ordinance also establishes a monthly service charge and a monthly gallonage charge for all new customers. The monthly service charge includes a gallonage allocation of reclaimed water that is based on the meter size. The gallonage charge will apply only if the customer's use exceeds the monthly allocation. The proposed ordinance also provides for a new customer/meter connection charge.

The proposed ordinance also provides for negotiating an agreement that provides a reduced fee arrangement for customers who can commit to utilize a minimum average daily volume of 100,000 gallons of reclaimed water on a monthly basis. Such commitments are important in that they help assure the City's compliance with the requirements of St. Johns River Water Management District Consumptive Use Permit to reclaim 30% of the City's wastewater plant flow.

Mrs. Palmer asked if customers will be required to connect to new reuse lines for irrigation. Mr. Ralls explained that this ordinance only addresses changes to charges. He added that connection to new reuse lines primarily relates to new development.

Mrs. Palmer said she is looking down the road and doesn't want to see the day when people can't use their irrigation wells.

Following a brief discussion with the City Manager, Mrs. Palmer said that developers of new subdivisions have the option to connect, or through development agreement requirements, and the requirement to connect is not imposed on existing subdivisions. Mr. Schluckebier said that is correct.

Moved by Meehan/Contreras for approval of Ordinance No. 2008-12. Motion carried.
Council Members Palmer and Corby voted nay.

20. COUNCIL ACTION RE: Appointment of a representative to the Wickham Park Advisory Committee.

From the agenda report: Council Member Palmer has served as the member on this committee since 1998 and wishes to discontinue her service as the Council representative. The recommendation is that the District 1 Council Member serve as the City's representative on the committee and that the designation continue until Council or the member from District 1 wishes to modify the arrangement.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 25, 2008

Moved by Palmer/Goode for approval of the recommendation. Motion carried unanimously.

21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

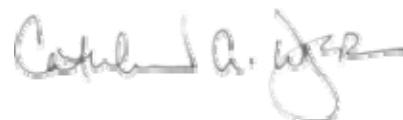
Pat Poole, 805 E. Palmetto Avenue, recommended that Council Members serve on a Florida League of Cities committee in order to be more effective with the Legislature.

Mrs. Palmer reported on her experience participating in the first annual Mayors Meals on Wheels event in Brevard County. She reported that Meals on Wheels needs more volunteers and suggested that our local corporations promote volunteerism with this program. Mrs. Palmer concluded by stating that Meals on Wheels is rewarding for the volunteers and crucial for the recipients of that service.

22. ADJOURNMENT

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

The meeting adjourned at 8:44 p.m.



City Clerk – 4/3/2008

Approved by Council: _____