

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 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. Pastor Jeff Godwin, Northside Presbyterian Church, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Kathy Meehan	Vice Mayor, District 3
	Richard Contreras	Council Member, District 1
	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

Mayor Goode presented the following proclamation to Jewel Patton, South Brevard City Council of Beta Sigma Phi: “Beta Sigma Phi Day,” April 30, 2008.

Steve O’Conor, Brevard County E-911 Manager, presented a plaque to Heather Musolff, Communications Supervisor, Melbourne Police Department, commemorating National Telecommunications Week.

5. Approval of Minutes - April 8, 2008 Regular Meeting

City Clerk Cathy Wysor reported that Council Member Contreras would like the following note added to the last paragraph of Item 15 (Resolution No. 2095): “Mr. Contreras replied that he believes he was not the only member on Council who voted for that ordinance. He expressed displeasure that Mrs. Corby would specifically identify him. (Note: Ordinance No. 2006-107 was adopted October 10, 2006. At that meeting, it was moved by Walker/Hand to approve the ordinance. The motion carried unanimously with Contreras, LaRusso, Meehan, Walker, Palmer, Hand and Goode voting aye.)”

Moved by Contreras/LaRusso for approval of the minutes as amended. Motion carried.
Council Member Corby voted nay.

6. City Manager’s Report

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Water Production Division – Evaluation of use of answering service for calls that come in to the plant after business hours. Council Member Joanne Corby asked if there is a cost associated with this, the timeframe for the trial period, and if the call center is local. City Manager Jack Schluckebier replied that the cost would be nominal, between \$3,000 and \$4,000 per year. The service will be used for a 12- to 18-month period. Mr. Schluckebier added that he will determine if the center is local; however, he clarified that it would not be a long distance call for someone calling the plant.

Action by Fitch to lower its rating on Financial Guaranty Insurance Corporation (FGIC), the City's surety provider for a portion of the debt service reserve fund, to "BB" resulting in need for City to self fund in the amount of \$3.9 million. Mrs. Corby asked what the impact would be if FGIC is further downgraded. Mr. Schluckebier replied that \$3.9 million is the entire amount of reserve that had to be established for this bond issue. A further downgrade would not require the City to reserve additional funds. In response to Council Member Mark LaRusso, the City Manager said he does not believe FGIC is the surety provider for any other bonds in the City.

Brevard County Attorney's legal opinion regarding the Board of County Commissioners' authority over Community Redevelopment Areas. (With regard to restricting CRA payments to municipalities, the City does not concur with the opinion as to municipalities and whether their delegation of authority is revocable.) In response to Mr. LaRusso, the City Manager informed Council that the City has not received any additional information on this item. He added that the County's primary aim is to get a handle on the Merritt Island CRA. For Council's information, the County audited one of Melbourne's CRAs last year and we came through with flying colors. Mr. LaRusso asked staff to convey to the County that economic development/redevelopment is the heartbeat of our economy. It provides jobs and he would hate to see this effort go in the opposite direction. Mr. Schluckebier agreed and pointed out that the City Council on its own in February reduced funding of redevelopment agencies. This is a good position for the City to be in and the County may accept that rather than proceeding with a drastic reduction.

Trimble Road neighborhood meeting to discuss possible annexation. Council Member Cheryl Palmer asked Public Works and Utilities Director Bob Klaproth to provide an update on water service for the newly annexed areas. Bob Klaproth reported that lines have been installed and over 50% of the people in the newly annexed areas have signed up for water.

Mayor Goode referenced the report on FGIC and pointed out that the City has taken on an additional \$3.9 million in debt. He asked staff to provide information on what portion of this should be shared with West Melbourne.

7. Public Comments

None.

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

a. Planning & Zoning Board

Chairman Alan King reported that this is a geographically and socially diverse board. The board hears a lot of divisive issues. Although members do not always agree, they treat others and the public professionally. Mr. King introduced the members present and reported that in 2007 the board held 23 meetings and heard 90-plus items. The City Council did not accept the board's recommendation on three of those items.

Mr. King informed Council that the board is working on a number of items that will be brought to City Council. One of those provides for a change to the City Code as it relates to gas stations. The board has noticed a problem with gas stations encroaching on residential areas. Mr. King concluded by thanking Council for its support.

b. Zoning Board of Adjustment

Brenda Burgener, Chairman, introduced the board members present. She reported on the board's composition and noted that they met 12 times last year and considered 71 applications/118 requests. Four requests were withdrawn resulting in 114 actions. The board approved 89% of the requests submitted as compared to staff recommendations to approve 86%. The board denied 11% as compared to staff recommendations to deny 14%.

Ms. Burgener elaborated on the number and type of requests, including single-family residential, multi-family residential, commercial, signs, landscaping, drive aisle widths, parking space requirements and fences. Twenty nine percent of the cases heard pertain to commercial sign requests. She concluded by saying the board would like to continue its request from last year and be copied on meaningful drafts of revisions to the Sign Code.

Mr. LaRusso thanked Ms. Burgener for her 24 years of volunteer service to the City.

NEW BUSINESS

8. COUNCIL ACTION RE: Amendment No. 7 to the Consultant for Professional Engineering Services contract for the Alternative Reverse Osmosis Concentrate Disposal Site Study, Project No. 30308, Reiss Environmental, Inc., Orlando, FL - \$157,000.

Public Works/Utilities Engineer Michelle Shultz said that the City is currently trying to renew its concentrate discharge permit for the reverse osmosis plant. Currently, the City is permitted to discharge 1.25 million gallons per day of concentrate into the Eau Gallie River. Consultant studies have determined that discharge in the river may continue as long as the discharge point is moved. If the City wishes to fully expand the reverse osmosis plant, then an alternate means of disposal will have to be identified.

Council Member John Thomas asked if this study includes the environmental impact on the Eau Gallie River. Ms. Schultz replied yes and added that some laboratory fees

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

might not be associated with this scope; however, the City normally is charged direct costs for laboratory fees.

Moved by Palmer/Meehan for approval of Amendment No. 7 to Reiss Environmental, Inc. for the Alternative Reverse Osmosis Concentrate Disposal Site Study, Project No. 30308 in the amount of \$157,000. Motion carried unanimously.

9. CONSENT AGENDA:

Mayor Goode announced that Council Member Contreras removed Items “f” and “g” from the consent agenda.

Moved by LaRusso/Thomas for approval of 9 “a” through “e” as recommended. Motion carried unanimously.

- a. Supplement No. F024 to the Continuing Consultant’s Contract for signal improvements at the Babcock Street and Brevard Drive intersection, Project No. 65299, Frazier Engineering, Inc., Melbourne, FL - \$49,985.
- b. Contract award for mowing of the north area of Melbourne, Greener Pastures Turf Corporation, Palm Bay, FL - at listed unit prices; estimated annual cost of \$55,143.84.
- c. Contract award for Reverse Osmosis Antiscalant, Harn R/O Systems, Venice, FL - \$0.96/pound; estimated annual cost of \$60,960.
- d. Approval of an amendment to Section 10.12 of the Personnel Policies and Procedures in regard to Compensatory Time.
- e. Approval of \$50,000 for continued special legal counsel for the City’s continuing negotiations associated with the West Melbourne water utility dispute; and transfer of \$50,000 from Water and Sewer Fund Contingency to Outside Counsel Fees.
- f. Approval of an appropriation of \$2,200 from the Police Department Law Enforcement Trust Fund to sponsor three members of the Booker T. Washington Neighborhood to attend the Annual Florida Neighborhood Conference in Tallahassee, June 26 - 28, 2008. (See next agenda item for action.)
- g. Lien Rescission CE-03-074: A request for rescission of lien from \$6,375 to \$75 for property located at 311 Dartmouth Avenue. (Applicant - David W. Slattery) (See next agenda item for action.)

10. ITEMS REMOVED FROM THE CONSENT AGENDA

- f. Approval of an appropriation of \$2,200 from the Police Department Law Enforcement Trust Fund to sponsor three members of the Booker T. Washington

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Neighborhood to attend the Annual Florida Neighborhood Conference in Tallahassee, June 26 - 28, 2008.

Mr. Contreras pointed out that during the budget workshop meeting, Council briefly discussed, depending on the type of conference/meeting, sending one person who would then return and disseminate information. With that philosophy in mind, he asked why this item proposes to send three members to the same conference.

Mr. Schluckebier replied that the Police Department has been working cooperatively with a number of neighborhood associations. Generally, the City has been trying to scale back training and travel in accordance with the idea of fiscal belt tightening; however, staff is not sure it works the same way with neighborhood groups.

Police Chief Don Carey reported that Council previously approved sending three people from the Powell Subdivision. He added that he thought the direction from Council during the budget workshop applied to staff, not neighborhood groups. Continuing, the Chief explained that the Powell and Booker T. Washington neighborhoods are in high crime areas. Each neighborhood has three people who have provided a lot of volunteer time in an effort to clean up their neighborhoods. They have asked to attend neighborhood conferences to improve their skills. They are volunteers in a very loose organization that is not affiliated with the City. Additionally, the Law Enforcement Trust Fund (the funding source) contains dollars seized from drug dealers and other bad guys that the City uses in accordance with state guidelines. The City is required each year to spend 15% of that on crime prevention activities. Chief Carey commented that he believes the best way to spend it in this category is on activities that energize neighborhoods and people within neighborhoods.

Mr. Contreras stated that the additional information makes a huge difference, especially since this involves funds seized during crime activities.

Moved by Contreras/LaRusso to approve item "f" as recommended. Motion carried unanimously.

- g. Lien Rescission CE-03-074: A request for rescission of lien from \$6,375 to \$75 for property located at 311 Dartmouth Avenue. (Applicant - David W. Slattery)

Mr. Contreras said that Council has been considering the idea of recovering City costs on lien rescissions. He asked why there is a recommendation to reduce this item to \$75.00 when City costs total \$509.88.

Mr. Schluckebier confirmed that Code Compliance staff attempts to recover City costs at the Code Enforcement Board level. However, there are cases where, based on input, the Code Board, which is entrusted with that discretion, makes a different recommendation.

Code Enforcement Administrator Dan Porsi informed Council that this case began five years ago. Mr. Slattery had been in the area years before when the Code allowed one unlicensed vehicle on property outside for repair. That Code has since been changed.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

After Mr. Slattery was cited for having two unlicensed vehicles, he was under the impression that by removing one he would come into compliance. Additionally, he left town for several months. When Mr. Slattery returned and found the fine running, he immediately corrected the violation. After hearing the issue, the Code Board decided that Mr. Slattery was guilty for at least one day; therefore, the \$75.00 fine was instituted for one day. Mr. Porsi confirmed that staff asked the Code Board to recover at least City costs.

Moved by Contreras/LaRusso to approve Item “g” as recommended. Motion carried unanimously.

11. COUNCIL ACTION RE: (Public Hearing) Hearing to reconsider a request by Charles B. Robertson regarding rescission of lien (CE-07-041) from \$4,200 to \$2,200 if paid within 60 days on property located at 2902 Stetson Street. (Hearing approved by Council - 3/25/08)

Charlie Robertson, St. Cloud, informed Council that the Code Enforcement Board made a decision on February 27 that he did not find favorable. He provided the following details:

He owns a rental house at 2902 Stetson Street; last April shingles were blown off the roof during a storm; the renter covered the roof with a blue tarp and did not notify him about the damage; in late April or May Code Enforcement personnel stopped by the house and spoke to the renter; the renter was not cooperative and would not provide the City with contact information for Mr. Robertson; later, after speaking with neighbors, Code Enforcement found contact information for him in St. Cloud; the Brevard County Property Appraiser’s web site lists his mailing address as 2902 Stetson Street, although he has never lived in this house.

Continuing, Mr. Robertson stated that he didn’t see the damage to the house until July last year. By the time he knew there was a problem, the property had accumulated \$4,200 in fines. He requested a hearing before the Code Enforcement Board to explain the case. During that meeting a Code Enforcement Board member made an inappropriate and unprofessional comment that set the tone for the item. After much discussion the Code Enforcement Officer indicated that there was only a three-week period between the time Mr. Robertson was notified about the problem and when the roof was repaired.

Mr. Robertson detailed the motions that were made during the board meeting. The motion to rescind the fine to \$600 – although City costs were approximately \$400 – failed because it did not receive a supermajority vote. The board member who made the inappropriate comment made a motion to reduce the fine to \$2,200 and said his rationale is that it wouldn’t require a supermajority vote. That motion was not based on whether this was the correct fine.

Mr. Robertson summarized by saying that he’s not asking the City to foot the bill for the amount of money spent by Code Enforcement to track him down. He stressed that he

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

fixed the problem within three weeks of being notified, and he would like for the fine to be rescinded to City costs, approximately \$400.00.

Mrs. Palmer expressed concern that if anything serious happened on this property, no one would have been able to contact Mr. Robertson. Mr. Robertson replied that he was not aware that his mailing address was listed as Stetson Street on the Property Appraiser's web site until he spoke to the Assistant City Clerk.

Mr. Thomas stated that he believes this was an honest misunderstanding. He does not believe Mr. Robertson tried to thwart the system and, once he was made aware of the problem, he immediately took steps to make the repair.

Moved by Thomas/Palmer to reduce the fine to City costs. (The motion was later withdrawn in favor of a new motion.)

Following brief discussion, Mr. Porsi clarified that City costs in this case are \$421.14. He added that the Code Board made a motion to reduce the fine to \$600 to "round out" the numbers. That motion did not receive a supermajority vote.

Mr. Gougelman reminded Council that once Council "reduces" a fine, it cannot be raised again. Therefore, the recommended motion is to continue with the \$4,200 fine and authorize the City Manager to satisfy the lien and close the case if \$421.14 is paid within 60 days of the Council meeting.

Moved by Thomas/Palmer to keep the current fine of \$4,200.00 with authorization for staff to satisfy the lien and close the case if Mr. Robertson pays \$421.14 within 60 days.

Mrs. Corby commented that last week she met with staff. With regard to Code Enforcement liens, she asked if staff could establish a cost sheet showing the breakdown of costs and how the costs were established. This information would keep action consistent and would perhaps eliminate the thought by the Code Board to add additional money to "round up" the fine.

Mr. Porsi said that staff has been doing this and that information will now be included in the Council agenda package.

Mr. LaRusso pointed out that City Council can't force the Code Enforcement Board to follow the staff recommendations. If a member wants to add money to "round up" the fine, that authority will still exist.

The City Manager pointed out that although the motion was made to "round up" the number, the Code Board was still taking action to reduce a lien that was lawfully imposed.

Discussion followed regarding contact information for owners of rental property and the inappropriate remark made by the board member. Council Member Richard Contreras asked staff to determine if remediation for the board member would be in order.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

The question was called. Motion carried unanimously.

At this point, Mrs. Judy Robertson presented a check to the City in the amount of \$421.14.

Mayor Goode requested a future agenda item for Council to discuss placing a \$100.00 administrative fee in addition to City costs on lien reductions.

12. COUNCIL ACTION RE: (Public Hearing) Approval of the proposed activities for Fiscal Year 2008 HOME funds; authorization for the City Manager to submit them for inclusion in the Brevard County HOME Consortium's Consolidated Action Plan for 2008-2009; and authorization for the City Manager to execute all necessary documents pertaining thereto.

Housing and Community Development Director Melinda Thomas provided an overview. The following is an excerpt from the agenda report:

The Brevard County HOME Consortium will receive \$1,411,610 in fiscal year 2008 HOME funds from the U. S. Department of HUD. Melbourne's share of the funds is \$238,832 for the 2008-2009 program year that begins on October 1, 2008.

The Citizens' Advisory Board (CAB) considered and approved staff's proposal for the use of the funds. City Council subsequently gave preliminary approval to the CAB/staff recommendations at its meeting on February 26, 2008. The proposed use of FY 2008 HOME funds is as follows:

<i>Owner-occupied Housing Rehabilitation Program</i>	\$ 120,000
<i>Tenant Based Rental Assistance Program</i>	9,125
<i>Rental Housing Development</i>	50,000
<i>CHDO Set-Aside (15%)*</i>	35,824
<i>Administration (10%)*</i>	<u>23,883</u>
TOTAL	<u>\$238,832</u>

**Minimum CHDO and maximum administrative set-asides are prescribed by statute.*

Mayor Goode opened the public hearing. There were no comments.

Moved by LaRusso/Thomas for approval of the proposed activities for Fiscal Year 2008 HOME funds and authorization for the City Manager to submit them for inclusion in the Brevard County HOME Consortium's Consolidated Action Plan for 2008-2009 and to execute all necessary documents. Motion carried unanimously.

13. COUNCIL ACTION RE: (Public Hearing) Approval of the proposed projects and activities for Fiscal Year 2008 CDBG funding and the 2008-2009 CDBG Action Plan; authorization for the City Manager to submit the Plan for inclusion in the Brevard County HOME Consortium's Consolidated 2008-2009 Action Plan for submission to the U.S. Department of Housing and Urban Development for a Community Development Block Grant to the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

City; and authorization for the City Manager to execute all necessary documents pertaining thereto.

Mrs. Melinda Thomas provided an overview. The following is an excerpt from the agenda report:

The citizen participation process for the 2008-2009 CDBG program year is nearing completion. The full text of the completed 2008-2009 Action Plan was previously provided to Council under separate cover.

The advertised plan reflects an anticipated fiscal year 2008 CDBG entitlement award of \$555,154, which is \$21,577 less than the federal fiscal year 2007 award. Projects and activities proposed for CDBG funding and for inclusion in the 2008-2009 Action Plan to be submitted to HUD are:

PUBLIC SERVICES

Child Care Association of Brevard County, Inc.	
<i>Subsidized child care for children from low-income households</i>	\$12,455
City of Melbourne Housing & Community Development Department	
<i>Booker T. Washington Youth Initiative</i>	14,000
City of Melbourne Leisure Services	
<i>Scholarships for low-income youth to attend summer camp</i>	10,363
Club Esteem	
<i>After-school program</i>	5,000
Early Learning Coalition of Brevard County, Inc.	
<i>Subsidized child care for children from low-income households</i>	12,455
Greater Melbourne Police Athletic League (PAL)	
<i>Youth Athletic Scholarship Program</i>	5,000
PREVENT! of Brevard	
<i>Transitional housing and supportive services/Sally's House</i>	12,000
The Salvation Army, Inc.	
<i>Emergency shelter services</i>	<u>12,000</u>
Subtotal Public Services:	\$83,273

PUBLIC FACILITIES & IMPROVEMENTS

Carver Park Community Center Renovation	
<i>Partial repayment of pre-award loan from the City's General Fund in 2007-2008 for the community center improvements including restrooms</i>	75,000
Lipscomb Park Improvements, Phase II	
<i>Funding for construction of Phase II of Master Site Plan Improvements</i>	<u>187,851</u>
Subtotal Public Facilities & Improvements:	\$262,851

ADMINISTRATION

Program Administration	
<i>General program administration</i>	\$108,530
Fair Housing	
<i>Fair housing activities</i>	<u>2,500</u>
Subtotal Administration:	\$111,030

OTHER

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Code Enforcement

Comprehensive proactive code enforcement in North and South CDBG Target Areas \$ 75,000

Demolition & Clearance Program

Demolition and clearance activities for North and South CDBG Target Areas 10,000

Housing Services

Activity-delivery for HOME-funded Tenant Based Rental Assistance Program 13,000

Subtotal Other: 98,000

GRAND TOTAL: \$555,154

Mayor Goode opened the public hearing.

Eddie Taylor, representing the Lipscomb Street Park Association, thanked the City for all the improvements that have been made in the area. He commented on the number of children that enjoy Lipscomb Park.

Moved by Palmer/Meehan for approval of the proposed projects and activities for fiscal year 2008 CDBG funding and the 2008-2009 CDBG Action Plan, and authorization for the City Manager to submit the plan for inclusion in the Brevard County HOME Consortium's Consolidated Action Plan for 2008-2009 and to execute all necessary documents. Motion carried unanimously.

14. ORDINANCE NO. 2008-15 RED LIGHT CAMERAS: (First Reading) An ordinance amending Chapter 31 of the City Code entitled, "Traffic and Motor Vehicles," creating a new Article entitled "Technology Assisted Enforcement Code," establishing an enforcement program within the City and authorizing the City to permit and implement the use of unmanned cameras/monitoring devices for red light and school zone speed infractions; and providing enforcement procedures, including notice, appeal hearings and collection.

Attorney Gougelman read Ordinance No. 2008-15 by title.

Moved by Goode/Contreras for approval of Ordinance No. 2008-15 on first reading. (The motion was later withdrawn.)

Police Chief Don Carey reviewed a PowerPoint presentation and made the following comments:

- For the past two years, the Police Department has been looking at force multiplier ideas with regard to automated traffic enforcement. A pilot project was conducted in 2006, and one camera was placed at Hibiscus and Airport Boulevards. A City controlled intersection was selected because the company did not have the ability for its technology to be self-contained. The equipment had to be connected to the signal. There were 570 red light violations confirmed in that one year at the intersection selected, which has a low traffic count. There were numerous

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

violations in January and February. As letters were mailed, the violations gradually decreased until they were almost non-existent.

- The camera takes a series of three photos: vehicle at the stop bar while the light is red, vehicle passing under the red light, and the license tag number. The letter sent to individuals during that year advised that a person driving the vehicle registered to them had committed a violation at that intersection and asked them to drive more carefully. The photographs were also included with the letter. During that year, the Police Department received several letters from people thanking them for looking after their safety. Additionally, the Police Department received no complaints during that year.
- Red light cameras are adapted to school zones. They are either mounted on a fixed pole or part of a portable configuration in a vehicle. Every morning the traffic units head out to the school zones, which limits the department's ability to police the streets and address traffic congestion.
- The biggest advantage to automated red light enforcement is the reduction in traffic crashes and the resultant savings in property damage and injuries. There are 103 signalized intersections in the City, and in 2007 we had 119 right angle traffic crashes in those intersections. Right angle crashes are more dangerous because the sides of vehicles are less prepared to absorb impact, it's closest to peoples' bodies and generally fatalities and serious injuries occur.
- The top five intersections for red light violations are Lake Washington Road/Wickham Road, Sarno Road/Wickham Road, Aurora Road/Wickham Road, Eau Gallie Boulevard/North Harbor City Boulevard, and U. S. 1/Highway 192. For the past 18 months at these intersections, there have been 189 right angle crashes. Property damage is estimated to be over \$660,000 along with 31 injuries and one fatality.
- Nationwide studies conducted by the National Highway Traffic Institute and Iowa State indicate that red light cameras reduce right angle collision accidents at intersections by 40% to 50% on average. If the City assumes a 40% reduction, we could potentially in an 18-month period save over a quarter million dollars in property damage, over 12 injuries, and the potential for fatality.
- The ordinance has several salient features. Once a violation has occurred it will be verified by a traffic review officer – a police officer who is certified in the state and is a member of the Police Department. A citation will be issued once it has been verified. Citations will be sent to the registered owner of the vehicle, much like a parking ticket. A special magistrate will hear appeals from individuals who feel like they were wrongly ticketed because the vehicle was not in their control, it was stolen, or something else happened. A teenager driving the car would not be a valid excuse; parents or registered owner of the vehicle would be responsible.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Chief Carey concluded by saying the ordinance provides for a 60-day warning period. The City's intent is to reduce accidents and protect the public, not to generate revenue. The ordinance also contains an 18-month sunset provision, which provides a mechanism for Council to consider a report from the Police Department as to the efficiency of the cameras to reduce accidents and provide for better safety.

Mrs. Palmer said that people have suggested a longer amber light would reduce accidents more than having a camera. She asked if we have used that approach in stopping some of these accidents at our intersections. Chief Carey replied that he is not a traffic engineer; however, his experience in law enforcement has been that amber lights indicate to those individuals who are predisposed to run red lights to speed up. He added that it is his opinion that a longer amber light would not reduce red light running. It may have a negative impact on the flow of traffic for those people who do stop and it might even contribute to rear end collisions when some people stop and some people speed up.

The Chief confirmed for Mrs. Palmer that he has not looked at any studies regarding a longer amber light. Mrs. Palmer said the City might consider having a traffic engineer with expertise look at the timing of amber lights at our intersections.

Mr. LaRusso asked the breakdown of the \$100 civil penalty proposed in the ordinance, including the amount the City, county and state would receive. He added that although Chief Carey indicated that this is not a revenue generator, that idea always comes up with citizens.

Chief Carey explained that he looked at ordinances from other jurisdictions and amalgamated them into this draft ordinance. The \$100 fine is a median between what other places are charging. No one would receive any portion of that money except the City and/or any arrangements with a vendor. He stressed that his proposal is that we find a vendor willing to provide these cameras at no cost to the City. The arrangement is negotiated and the vendor would take a portion of that fee for their cameras and equipment. Generally it would cost between \$50,000 and \$100,000 to install cameras and devices at a signalized intersection. The fee is typically based on the volume of tickets; higher percentage with less tickets and lower percentage with more tickets.

Based on the volume of red light runners at the City's test intersection, Mr. LaRusso pointed out that from a business perspective, it would not make sense for a vendor to provide cameras at no cost and take only a portion of the fine. Chief Carey replied that the demonstration project was done at the lowest volume intersection in the City on only one lane. He would like to place these at our highest accident intersections in the City on all four lanes with a 24-hour operation. His feeling is that we will have thousands of violations a year.

Mr. LaRusso commented that the Legislature is still kicking this idea around. He asked if it's legal for the City to do what is being proposed in the ordinance.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Chief Carey explained that other cities have relied on enabling legislation that says we can develop ordinances that control or regulate traffic. There is also an Attorney General opinion that says we can do those type things as long as we don't interfere with the state. The proposed legislation calls for all of this to be handled by the state. If that passes, this may be a moot question. However, as of now it has not passed and it has been his experience that they generally don't pass.

Mayor Goode asked why the Florida Department of Transportation did not allow us to place a camera on a state intersection during the test period. The Chief explained that the camera used at the test site was connected to the signal mechanism. However, the technology has advanced to such a level that these cameras are free standing and act independently of the equipment. The new cameras are laser activated and stand alone. They can be placed on private property, in a mobile unit, etc.

Mr. Thomas said he has no doubt that this ordinance would be effective. His only concern is that this is completely legal. He asked the penalty if a person doesn't respond to the notice or doesn't pay the fine. The Chief replied that if someone doesn't pay the fine, they would be pursued in the same manner the City collects bad debts. The court system would not be used because it's a City infraction and not a criminal violation.

Mr. Schluckebier offered that there are cities that have experience with this. Gulf Breeze in the Panhandle as an example claims that their adherence rate is higher than 70%. Chief Carey added that Apopka and Pembroke Pines are currently doing this and have had no bad experiences.

Mr. Thomas said he is sure the City Attorney wrote or reviewed the ordinance. He asked Attorney Gougelman if he has any concerns about this ordinance exposing the City to any unnecessary liability and if he is aware of any opinions offered by the Attorney General on whether this equipment can be used for speed enforcement and issuance of fines.

Attorney Gougelman replied that he did not write the ordinance and he has not researched it, although he is generally familiar with this topic. The proposed state legislation referenced earlier is probably not going to pass. With regard to opinions, the Attorney General was asked to opine on two occasions with regard to the red light camera issue – once in the 1990s and then a couple of years ago at the request of Pembroke Pines.

The opinion that came out a couple of years ago provides the best yardstick. That opinion looked at two different aspects: 1) Does the city have a right to put up unmanned cameras? The Attorney General answered yes. Essentially, the program the City has been operating where people are filmed and warning notices are sent is something that is acceptable according to the Attorney General under state law. 2) Is it enforceable under the Uniform Motor Vehicle Traffic Code? The Attorney General answered no because an officer has to witness the infraction. Cameras cannot be used for enforcement purposes under the Uniform Motor Vehicle Code. That's why the Chief, in preparing this ordinance, has specified that we won't be operating under that Code. A

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

person who runs a red light would not get a normal ticket that goes through traffic court. There would be no points on the person's record and it would be processed as code enforcement type of civil violation. Attorney Gougelman added that he doesn't believe anyone can answer whether that's legal; he hasn't researched it. Under the concept of home rule, he believes the City could make a good argument that it probably is enforceable, but we really don't know for sure at this point.

Continuing, Mr. Gougelman said there is a third issue with regard to this ordinance and that relates to speeding in school zones. In the Pembroke Pines opinion, the Attorney General did not address the issue of somebody speeding in a school zone; that is an open issue.

Mr. Thomas asked the attorney if, in his professional opinion, it's in the City's best interest to obtain an opinion from the Attorney General before proceeding. Attorney Gougelman replied that Council could absolutely do that if it chooses. The question never asked in the two opinions is whether the process is legal if you use some method other than the Motor Vehicle Code to enforce it. It's an interesting home rule question. If the answer came back "no" there would probably be a number of cities using this process around the state that wouldn't be happy with Melbourne.

The City Manager remarked that there has been no effort to say this is the same as the Uniform Motor Vehicle Code. This ordinance provides for a process under the City's home rule authority.

Chief Carey informed Council that Section 316.008, Florida Statutes, grants municipalities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of police power, the authority to regulate and monitor traffic by means of police officers and security devices. This is the section Pembroke Pines and other cities have relied on as a way to enforce traffic using civil violations.

Mrs. Corby asked who wrote the ordinance. The Chief replied that he did. Mrs. Corby asked for confirmation that the City received an Attorney General opinion that it is okay to have these cameras. Attorney Gougelman replied that the City did not receive an Attorney General opinion. A couple of years ago the City of Pembroke Pines asked for an opinion and the Attorney General found that the mounting and use of the cameras for people running red lights is legal, but enforcement under the Motor Vehicle Code is not.

Mrs. Corby asked if we could request an opinion on whether cameras can be used in school zones and the enforceability issue. Attorney Gougelman replied that's up to the City Council.

Mrs. Corby said the Attorney General opinion relates to sending out notices and warnings. She asked how that would change once citations are issued. The Chief replied that it is his understanding the 2005 State Attorney General opinion is the basis for Pembroke Pines, Apopka, Orlando, and other municipalities throughout the state using civil citations. As he reads that opinion, it allows for that, but does not allow for

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

charging people under the Uniform Motor Vehicle Code. Under state law, an officer has to observe the violation and issue the ticket.

In response to Mrs. Corby, Chief Carey described how the citation might look and the information it would contain.

Mrs. Corby said she is assuming the Chief would say that this ordinance is enforceable. Chief Carey replied that otherwise he wouldn't have written it.

Mrs. Corby referenced several sections of the ordinance and noted that it's not clear how we plan to enforce this. She asked who would ultimately be the head honcho over this ordinance – the Code Enforcement Board or the magistrate. The Police Chief replied that under the ordinance the Code Board would appoint a magistrate to hear these appeals. He explained the process before a special magistrate. Mrs. Corby asked if the City would have to establish a special magistrate position and the Chief replied yes. He elaborated on the position and how someone would make an appeal.

Mrs. Corby said at the last meeting she asked for two items, a confrontation clause and information on the margin of error with the cameras. Regarding the confrontation clause, she commented that although a good attempt has been made to put in a process for someone who wants to appeal, she doesn't feel comfortable with the ordinance as written. She asked if the City was able to determine the margin of error on the cameras.

The Chief replied that if the margin of error relates to not being able to determine who the vehicle belongs to, that is generally less than 2% of the pictures taken. Mrs. Corby said she is referring to the mathematical formula that determines the error of the camera. The formula would include variables that could be adjusted depending on intersections. For example, it could relate to the length of the intersection, length of the car, the delay time, the sensitivity setting on the cameras, delay of the amber, whether the camera is attached to the light, intersection speed, etc.

Continuing, Mrs. Corby stated that first and foremost the government's responsibility is for safety and security of our citizens. She added that she's not saying the cameras are bad. Rather, based on the information provided and the way it has been presented, the City is not going about this the right way. With regard to the proposed legislation, she said that it's her understanding that the Senate Bill was passed and goes into effect July 1, 2008. Responding to Mrs. Corby, Attorney Gougelman confirmed that the language in the Senate Bill provides for preemption.

Mrs. Corby asked how many times a person could be cited if they trigger the camera and a police officer is present. Chief Carey replied that a person would be cited once. If the police officer is on the scene, he would write a ticket, which would negate any camera action.

Mrs. Corby briefly discussed the provisions of the senate bill with regard to the amount of fines and distribution of fines.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Mrs. Corby concluded by commenting that she supports the effort to reduce traffic violations. And, she believes a little more thought up front will prevent problems in the future.

Mrs. Palmer asked why the City Attorney didn't review something this important and controversial. Based on the discussion, it sounds like we are going to have another level of bureaucracy to implement this plan. She added that it reminds her of the vehicle impound ordinance where cars were confiscated from people suspected of drug and prostitution activity. That program turned out to be expensive and that's why the program was dropped.

Continuing, Mrs. Palmer said research is available on this topic. She is troubled that this item has been presented with only the research that backs an affirmative vote. Other states are no longer using red light cameras because of problems. Rear end collisions increased and scientific data and tests are up in the air. Mrs. Palmer stressed that Council needs good review and good information before being asked to pass an ordinance like this. Additionally, Council needs to know how much it is going to cost the City to enforce this plan. The public perception is that we're doing it for the revenue. She knows we wouldn't do it simply for the revenue; however, there is revenue to be had, which will probably be offset by the bureaucracy. She concluded by saying that she's uncomfortable with this ordinance on a number of levels, but mainly because Council does not have sufficient information to make a good decision.

Mr. Thomas asked Council to consider (postponing) this item. Although he believes this would be an effective tool, he's not comfortable supporting it given the holes. He recommended Council perhaps obtain an opinion from the Attorney General before moving forward with this item.

Vice Mayor Kathy Meehan agreed that this is a good program; however, she would feel better if the City Attorney reviewed the ordinance and Council received more research data.

Mr. LaRusso stated that he's not completely convinced. He said if this is (postponed) he would like for it to be reviewed by the City Attorney. Additionally he would like to know if a driver can be fined for other infractions if, for example, the photograph reveals that the driver is not wearing a seat belt or a child is not in a car seat. The Chief replied that those items are not part of the ordinance; therefore, they can't be enforced.

Mr. Contreras said he seconded the motion for discussion purposes. He added that he agrees there are unanswered questions; however, he noted that what he finds most disturbing is that this ordinance was not vetted through the City Attorney's office.

Mr. Contreras withdrew his second and Mayor Goode withdrew his motion.

Moved by Thomas/Contreras to (postpone) this item until the Attorney General has had a chance to offer an opinion; direct staff to answer some of these questions; and return at a later date with consideration that the net revenue generated from this program, if

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

approved, be used to enhance public safety by dedicating the funds to our Police and Fire Departments for new equipment and/or vehicles.

Mrs. Palmer stated that she would rather Council deny the ordinance and have it go back to square one with all of Council's considerations and comments.

Mrs. Corby asked if it would be helpful for Council Members to clarify some of the issues so staff will know the work that needs to be done. Additionally, she asked that the City Attorney verify if the Senate Bill on this issue goes into effect on July 1, 2008.

Mr. Schluckebier stated that he and the Police Chief met with the City Attorney and discussed issues related to recourse in the event that people ignored the citations. He declared the idea that this wasn't vetted or reviewed is an overstatement. Items are placed on the agenda in a routine manner and all the departments review the items before they are placed on the agenda. He added that he is not aware that anyone asks the City Attorney to look in great depth at any ordinance at any time. Additionally, he wasn't aware that there were deep abiding concerns about this issue because it is consistent with the provisions of state law.

Additionally, the City Manager said staff is looking for an indication of whether Council wishes to move forward. If Council does not wish to move forward, he requested that the ordinance be denied rather than staff answering a lot of questions.

Mrs. Corby said she would like for an effort to be made citywide to have departments recognize the City Attorney's Department and obtain that department's seal of approval on items that are going to affect the City legally.

In response to Mrs. Meehan, the maker/seconded amended the motion to direct the City Attorney to review the ordinance and have the City Attorney contact the Attorney General to request an opinion.

The question was called on the motion and the amendment. The roll call vote was:

Aye: Contreras, LaRusso, Thomas and Meehan

Nay: Palmer, Corby, and Goode

Motion carried.

When the item returns, Mrs. Palmer asked that it include information on how much the program will cost to run. Mrs. Corby asked that it include answers to the questions that have been asked. With regard to both requests, Mayor Goode replied, "Without objection, show it done."

Recessed: 8:41 p.m.
Reconvened: 8:47 p.m.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

15. COUNCIL ACTION RE: General Fund Budget and Fiscal Issues.

Deputy City Manager Amy Elliott introduced the item. The following is an excerpt from the agenda report:

At the February 28, 2008 budget workshop, City Council members approved expenditure reduction measures to incorporate in the 2008-2009 fiscal year budget and expenditure reduction measures for further staff review and possible implementation within the next 12 months. At that meeting, individual Council Members presented additional ideas for consideration. The Mayor requested staff report on these items with more information so that Council could vote on whether these additional ideas should be further studied. Staff is requesting that Council review and discuss the list of Council identified expenditure reduction measures and provide direction as to which items should or should not be given further review.

Additionally, a date needs to be selected for the July budget workshop. It is recommended that the meeting be held on July 21, 2008. If this date is not suitable, alternate dates of July 16 or July 17 are suggested.

Mayor Goode began to poll Council on each item on the list. Mrs. Corby asked if deep discussion is being delayed until the workshop meeting and Mayor Goode replied yes. By consensus, Council did not remove any items from the list and asked that they all be discussed at the budget workshop meeting.

Mr. Contreras said he did not see the item on the list that is applicable to the Airport Fire Department. It relates to discussion with Northrop Grumman and the City and the feasibility of sharing assets. Mrs. Elliott confirmed that item was under the discussion about relocating Fire Station 73, which is still under consideration.

Moved by LaRusso/Contreras to set the budget workshop meeting for July 21, 2008. Motion carried unanimously.

16. COUNCIL DISCUSSION RE: Review of City Council policies. (Requested by Council - 2/12/08)

Mrs. Wysor introduced the item.

Moved by Palmer/Goode to repeal the policies identified in the memorandum from the City Clerk.

Mrs. Corby inquired about the following policy: "Prior to any vote on an engineering or construction contract in excess of \$50,000, Council will be provided a detailed briefing..." Mrs. Wysor confirmed that the repeal of this policy would not affect the purchasing thresholds set by City Code.

The question was called. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

Note: Council's action resulted in Policies 1, 6, 11, 13, 14, 15, 16, and 17 being repealed, and a portion of Policy 21 being combined with Policy 39.

- ~~1. Any member of Council may request an additional item be added to the agenda; must be approved by majority vote of the Council. (2/6/1979)~~
- ~~6. Council will fill board, authority, or committee vacancies one seat at a time.~~
- ~~11. The conference room of the new Eau Gallie Civic Center will be made available to the public. (10/26/1993, Item #17)~~
- ~~13. Prior to any vote on an engineering or construction contract in excess of \$50,000, Council will be provided a detailed briefing by the appropriate staff member and have an executive summary prepared by the City Manager providing the details. The executive summary will include the start/stop date, total cost of the contract, penalty clauses if need be, scheduled updates and purpose of the work to be accomplished. Any contract under \$50,000 will be explained by the City Manager verbally.

The engineering or construction contract awards shall be included during the first portion of the agenda. (3/21/1995 special meeting)~~
- ~~14. The City will recognize and observe Veterans Day on November 11, except when November 11 falls on a weekend, then the nearest workday to November 11 shall be observed. The City Manager was authorized to implement. (3/28/1995, Item #16)~~
- ~~15. The public hearing and first reading of the ordinance regarding abandon and vacate requests will be conducted under the same agenda item. (4/11/1995, Item #17)~~
- ~~16. Resumes will be required with all board applications. (10/8/1996, Item #15)~~
- ~~17. Council Members are required to submit corrections/revisions to the Council minutes to the City Clerk by the Monday before the Council Meeting. Council clarified that corrections may still be requested at the meeting. (12/10/1996, Item #25)~~
- ~~21. Council established an ending time of *12:00 a.m. for Council meetings. The meeting may be extended by majority vote. If the meeting is recessed, Council will reconvene the following Tuesday to complete the agenda. (12/2/1997, Item #30 and 11/2/1999, Item #4) *Note: On October 14, 2003, Item #24, Council established an ending time of 11:00 p.m.~~

The portion of Policy 21 that was not repealed was combined with Policy 39 and will read as follows:

39. Council established 6:30 p.m. as the starting time for regular Council Meetings and 11:00 p.m. as the ending time. This will be effective with the October 28, 2003 meeting. (Previously the ending time was midnight as established in December

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

1997.) (10/14/2003, Item #24) The meeting may be extended by a majority vote of Council. If the meeting is recessed, Council will reconvene the following Tuesday to complete the agenda (12/2/1997)

17. COUNCIL ACTION RE: Council support for SB 2310. (Requested by Council Member Mark LaRusso)

Council Member LaRusso briefed Council. The following is an excerpt from the agenda report:

The objective of Senate Bill 2310 is to encourage the Florida state pension funds to invest their venture investments in small, Florida-domiciled high technology companies to support hi-tech development in this state. The bill states that the legislature wants to encourage the growth of small high-technology companies in Florida through investment by the SBA. It authorizes the SBA to invest up to 1.5% of the pension funds into Florida-domiciled small companies in a range of high technology businesses including biotechnology and life sciences, aerospace, computers and renewable energy.

The benefits include: provides financial support for small high-technology companies in Florida; uses pension funds, NOT tax revenues; leverages organizations and processes already in place for investment; and enhances the effect of Florida's past investment in biotech and aerospace, encouraging the development of new companies providing high-quality jobs.

Moved by LaRusso/Thomas to authorize the Mayor to sign a letter of support. Motion carried unanimously.

18. COUNCIL ACTION RE: Board appointments

- a. Appointment of three regular members to the Babcock Street Community Redevelopment Agency Advisory Committee.

Moved by Meehan/Contreras to reappoint John Edmiston, Larry Wuensch, and James Whaley. Motion carried unanimously. (Terms: May 4, 2008 through May 3, 2010)

- b. Appointment of two members to the Building and Construction Advisory Committee.

Moved by LaRusso/Meehan to reappoint Shea Shannon and Dennis Bonny. Motion carried unanimously. (Terms: May 27, 2008 through May 26, 2011)

19. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Corby distributed copies of questions she has about the City opting back into the Florida Retirement System. She explained to Council that she submitted these questions to staff; however, she wanted Council to have a copy.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
APRIL 22, 2008

In response to Mrs. Corby's questions regarding the focus groups that were established as a result of the employee satisfaction survey, Mrs. Elliott confirmed the following: the cost for each session is \$500; the number of sessions will vary depending on the nature of issues within each group; based on the results of the employee survey, some groups will not need many sessions, others may need to have more; and the facilitator will judge how the groups are progressing.

Mrs. Corby indicated that she's looking for an expected outcome. Mrs. Elliott replied that the facilitator will provide a report on each focus group.

A brief discussion continued. Mrs. Corby said she's trying to determine the cost. Mrs. Elliott noted that Brevard Community College was selected to handle this process because they had the least expensive program. Mrs. Corby asked if overtime will be involved with the focus groups. Mrs. Elliott said although she can't answer that, it is not likely to cost overtime. The focus groups were not planned in a manner that would result in unnecessary overtime.

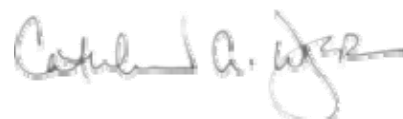
Mrs. Palmer said that the Space Coast League of Cities Board of Directors has asked each City to generate a list of unfunded mandates and provide information to the secretary of the league. Mrs. Palmer asked the City Manager to generate a list of the items that have the highest impact.

Mayor Goode asked if the SCLC considered the City's resolution regarding support for the tanker contract. Mrs. Meehan and Mrs. Palmer replied that item was not on the league's agenda for consideration.

20. ADJOURNMENT

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

The meeting adjourned at 9:20 p.m.



City Clerk – 5/7/2008

Approved by Council: _____