

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 10, 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 K. L. Frink, St. James Missionary Baptist Church, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Kathy Meehan	Vice-Mayor, District 3
	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

Absent: Richard Contreras Council Member, District 1 (vacation)

4. Mayor Goode presented the Beautification and Environmental Advisory Committee “We Noticed” award to Glen VanCleve, Art Expressions, 1404 Highland Avenue, for outstanding containerized plants. Additionally, the Mayor noted that Alacri, 1501 Avocado Avenue, was the recipient of the same award in the category of outstanding landscaping. A representative from Alacri was not able to attend the meeting.

5. Approval of Minutes - May 27, 2008 Regular Meeting

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

6. City Manager’s Report

Assistance provided by the City of Melbourne during the fire emergencies – Council Member Joanne Corby thanked the Public Works/Utilities and Police Departments for providing the additional detailed information. Following a brief discussion, Deputy City Manager Amy Elliott confirmed that the City will use the maximum reimbursement rate for mileage allowed when submitting for reimbursement from FEMA.

Croton Road resurfacing – Mrs. Corby asked Deputy City Manager Howard Ralls when Council will receive additional information on this item. (Mr. Ralls’ memo in the agenda report explains that Croton Road is on the County’s priority list of road maintenance projects; however, it is not on the portion of the list for which funds are currently available. Maintenance of Croton Road would be funded by gas tax revenues since it is not in a

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County Municipal Services Taxing Unit or MSTU.) Mr. Ralls replied that County staff has confirmed that funds are not currently available to resurface this roadway. He noted that he plans to continue working with County staff on this issue.

Mrs. Corby asked if the County's funding is coming from MSTUs. Mr. Ralls replied no and said there are no MSTUs in the City. These areas are only located in the unincorporated areas of the County. Mrs. Corby said that MSTU monies collected go into one big pot of money for the County to use in managing the resurfacing of roadways. Mr. Ralls replied that is not his understanding of how the program works. Other than MSTU money, gas tax money is the only funding the County uses for maintenance. Mayor Goode added that money collected in an MSTU may only be spent within the geographical confines of that area.

Mrs. Corby disagreed and discussion continued. She asked if one could conclude that Croton Road will never get resurfaced. Mr. Ralls said no because the County's gas tax revenues could eventually be used. Mayor Goode asked about the Council Members serving on the Metropolitan Planning Organization and their input into the process. Mrs. Corby replied that as a collective body, the City Council would carry more weight when approaching the MPO. She stressed that this road has been dangerous for 20 years and the City can't just ignore it; she's looking for a way to force that roadway into being a priority.

Council Member Cheryl Palmer asked if the City of Melbourne has local option gas tax money available to contribute to leverage the County into doing something about Croton Road. In addition to resurfacing, she commented that the roadway is in need of re-engineering. Mrs. Palmer recommended that the City be proactive in persuading the County to move this up on the priority list.

Following discussion, there were no objections to Mrs. Palmer's request for staff to determine if the City has funding available for Croton Road.

Meeting between West Melbourne City Manager and Melbourne City Manager to discuss water agreement – Council Member John Thomas asked the City Manager to elaborate on this meeting and to comment on the "Dworkin" proposal. (Steve Dworkin is the representative for a Development of Regional Impact project called Town Centre of West Melbourne. The 280-acre site is located along the south side of U. S. 192 and I-95.) With regard to Dworkin, Mr. Schluckebier referenced the information from Howard Ralls outlining Dworkin's project requirements. He added that Melbourne is being told many things about this project, some of which we can rely on. More information will follow.

Regarding the meeting with West Melbourne's City Manager, Mr. Schluckebier said the meeting was fine and they both agreed to meet more in the future. He stated that staff will provide an additional written report along with our consultant's report on the feasibility of ideas under discussion. Additionally, he would like to schedule a special workshop meeting in the next three or four weeks about this issue.

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Mr. Schluckebier reported that he did not ask West Melbourne to refrain from litigation, especially if they have determined litigation to be their business course of action. At the same time, Melbourne is keeping the door open while accommodating growth issues in a way that is fair for all sides. Melbourne is still not clear on their basis for litigation.

Later under the City Manager's report, Council Member Mark LaRusso returned to this subject and asked Mr. Schluckebier if he asked Mr. Reynal whether or not West Melbourne plans to move forward with litigation. The City Manager replied no he did not. Discussion continued.

Mrs. Corby asked if West Melbourne has paid their bill. Mr. Schluckebier explained that he did not set out in the meeting to inquire about a payment schedule. The bill relates to developer commitments and interpretations of different attorneys as to the timing of payments. Melbourne believes it is past due and West Melbourne believes it is a third party obligation. Mr. Schluckebier added that issue will resolve itself over time. As to litigation, the West Melbourne City Council has instructed its staff and outside counsel to litigate. Mr. Schluckebier said he does not believe their staff would make an administrative decision to change that.

Inquiry regarding police officers leaving employment – Mr. Thomas asked for an update on this issue. Mr. Schluckebier said that the Police Chief reviewed the most recent report provided to Council. The City Manager confirmed that no one, except Officer Martinez who retired, has left in the last month.

7. Public Comments

Eric Ellebracht, 1948 Tyler Avenue, commented on the following: 1) Melbourne should study Palm Bay's recent ordinance that regulates adult arcades. Palm Bay does not have any adult arcades and Melbourne seems to be getting more. 2) Melbourne should not adopt a program like West Melbourne and Cocoa to bill insurance companies for responses to accident scenes. This action turns police and fire departments into for-profit agencies. 3) The City should proceed with caution on the Hunt Club issue.

James Douglas Price, 1265 Pinewood Drive, discussed his concerns regarding the way he was recently cited by Code Enforcement. He expressed concern that an anonymous complaint was filed against him. Apparently his case has been closed, but it doesn't change the fact that a complaint was filed against him that was not fully completed. It did not contain a name, address, etc. Mr. Price said that violates the City Code. He added that neighbors are using the Code Enforcement process to file anonymous complaints against a neighbor they might have a grievance against.

Continuing, Mr. Price said he was accused of violating a code. His yard was supposedly in a mess. The pictures taken by the Code Enforcement Officer show that his yard really wasn't that bad. He was told that he couldn't have gym equipment in his side yard because it faces a street, which changes the "front building line" and disallows him the use of his side yard. Mr. Price concluded by saying he has been cited and has nowhere else to turn.

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Mr. LaRusso asked Mr. Price if he has appeared before the Code Enforcement Board and been levied a fine. Mr. Price replied no and clarified that he was cited and told to clean up his mess. He added that Code Enforcement Administrator Dan Porsi told him he is now in compliance. The camper may remain in his side yard and he may have his gym equipment.

Mayor Goode informed Mr. Price that Council is currently reviewing the ordinance that regulates parking of recreational equipment in side yards.

Mr. Price said it doesn't change the fact that the Code Enforcement Officer trespassed on his property. When he tried to discuss that with City staff, he was put off and told that the officer has the "authority" to inspect for health issues. Mr. Price said he agrees that in extreme cases officers should have the authority to enter property.

Mr. LaRusso asked if everything has been resolved. Mr. Price replied that he was informed no action would be taken against the Code Enforcement Officer for not completing the report as set forth by Code.

Mr. Schluckebier explained that Code Compliance does take anonymous complaints. There is no requirement that someone swear out a complaint or that an individual complainant such as a neighbor give their name, address, telephone number, etc. Part of the dispute is that Mr. Price believes the Code Officer acted improperly by going on his property. There is some dispute as to when and under what conditions the officer entered the property. The City Manager said that often people misunderstand a violation notice is simply a notice as compared to a citation, which has a harsher remedy.

Discussion continued. Mr. LaRusso recommended that Mr. Porsi and Mr. Price meet and take care of this issue.

Mrs. Corby asked Mr. Price what he was expecting to gain from being here. Mr. Price said it is his hope that another neighbor isn't cited and/or fined for parking recreational equipment inside their side yard. Discussion continued.

Dan Porsi briefed Council and confirmed that Mr. Price is in compliance. He added that he informed Mr. Price that until the recreational equipment ordinance is resolved, the City is not moving forward on side yard complaints.

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

a. General Employees' Pension Plan Board of Trustees

Chairman Leigh Ann McDonald provided information about the members who serve on the board. She reported that the plan has 437 regular class members, eight special risk members, and seven retirees. The fund has a current balance of \$13.5 million. Last year they saw a return of 14.1% on investments. The current contribution rates for fiscal year 2008 are 13.1% for regular members and 22.8% for special risk members.

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Since the last update provided to Council, the board conducted nine meetings; revised some of its standard operating procedures to require errors and omissions insurance from its professionals; hired four new money managers, including a separate value and growth equity manager and a new fixed income and international manager; and changed its custodian, which has resulted in lower fees. Ms. McDonald stated that the board will continue to look for additional options to further allocate the assets of the fund and reduce risk.

Continuing, Ms. McDonald displayed a chart showing the general growth of the plan since 2000. She reported that the upcoming challenges will include the economic outlook, fluctuation in the markets, and the effect on the fund of reinstatement into FRS.

The Mayor thanked Ms. McDonald and asked her to inform the other members that the City Council appreciates their service.

In response to Mrs. Corby, Ms. McDonald confirmed that she is a volunteer member of the board. Mrs. Corby asked how many of the five board members are City employees. Ms. McDonald replied three. Mrs. Corby asked if the board has a standardized formula it uses to determine the price of a buy-in. Ms. McDonald replied no and explained that the board's actuary provides that number. Mrs. Corby asked if the actuary provides that number to the board or to the member buying time. Ms. McDonald said that it is between the member buying time and the actuary.

Ms. McDonald added that the way she understands the process to work is that the plan member who wishes to buy back service pays the actuary a fee to perform a calculation. The actuary plugs in his variables and then provides a sum of the amount of money the member has to contribute to buy back a certain number of years. Mrs. Corby asked if the board simply takes the actuary's word for it. Ms. McDonald pointed out that the board has to take the word of all its professionals.

Mrs. Corby stated that she has consistently asked for the formula that was used to determine the buy-in price of two plan members, but she has been unsuccessful in getting that formula. Mrs. Corby added that the City should know whether the benefit the member is receiving by buying extra time is paid at a fair price. The board should also play a role in making sure that is done correctly.

Mayor Goode offered that is done statutorily by the State. Mrs. Corby replied no and said it's done by the individual. Mayor Goode said that the process of the actuary is set up by Statutes. Mrs. Corby disagreed and said the actuary works for the pension board.

Discussion continued and Mrs. Corby said she's requested this information from staff for approximately two months. In some cases, her requests have been ignored.

Mayor Goode said that she's not going to get that information because of the way the law is set up. He added that the buy back process (for the general plan) was copied from the FRS Statute.

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Mrs. Corby stated that if the calculations followed the FRS guidelines, Council would see that these two members purchased time for a significantly less amount than they should have paid. This is based on the numbers.

Vice Mayor Kathy Meehan called a point of order based on this agenda item being the “annual report from City boards.” Mayor Goode agreed. Mrs. Corby pointed out that she requested the floor. Mayor Goode called Mrs. Corby out of order. Mrs. Corby replied that she is not out of order. Mayor Goode declared a 10 minute recess, or until he decides to return.

Recessed: 7:23 p.m.
Reconvened: 7:27 p.m.

Mrs. Corby said that there is a major cover up going on.

That concluded the report from the General Pension Board.

b. Police Officers’ Retirement Trust Fund Board of Trustees

Janice Hill, Chairman, provided information about the other board members. She reported that the board holds quarterly meetings as well as special meetings to address disability hearings. During those meetings the board approves minutes and invoices. The board’s main job is to review and monitor the investment managers and their performance. The board also approves the actuarial valuation. This year the board revised the summary plan description, reviewed the COLA calculation for negotiations, and held two disability hearings.

Ms. Hill stated that recently the board interviewed three candidates for investment consultants. They hired the same firm that provides these services to the General Pension and the Fire Pension. This firm will monitor fund performance, review asset allocation, update the investment manager policy and guidelines, and assist with investment manager searches if the board desires.

In conclusion, Ms. Hill said that the plan has a little over \$48 million. Forty-seven percent of their assets are in U. S. equities, 37% in U. S. bonds, 13% in international funds and 3% in cash. The plan has 88 retirees, 156 active members and 11 members in the DROP program.

In response to Mrs. Corby, Ms. Hill confirmed that she is a volunteer on the board. Mrs. Corby asked how many of the five board members are employees of the City. Ms. Hill replied two.

Mrs. Corby said that Ms. Hill mentioned that the pension board approves the actuary calculations. Ms. Hill replied that the board approves the actuarial report. Mrs. Corby asked if the board sees the calculation. Ms. Hill said no and added that no one would see the calculation because it’s proprietary information. Mrs. Corby disagreed and said

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that when public funds are expended, there's no secret and there's no proprietary information. Ms. Hill explained that the calculation has to be done based on the actuarial calculation that is reviewed by the State Division of Retirement. As long as it meets the State's criteria, the actuary is allowed to keep that information proprietary.

Mrs. Corby disagreed and informed Council that according to the State Retirement Division and the Florida Office of Financial Regulation, it is not. She noted that any time a formula or calculation is used to expend public funds, there's no secret. Ms. Hill replied that it's not a secret, it's a present value calculation. It is the present value of a future income stream. Ms. Hill said she could run such a calculation from her office, but that doesn't mean it meets the requirements of the State Division of Retirement.

Mayor Goode asked Mrs. Corby to get off this subject. Mrs. Corby asked for the floor and the Mayor replied that he is willing to recess all night long. Mrs. Corby thanked Ms. Hill for her time.

Mayor Goode asked Ms. Hill to convey Council's appreciation to the other members for their service.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2008-19 (LDR-2008-03/FOC-2008-03) CONCURRENCY: (Second Reading/Public Hearing) An ordinance amending Appendix D of the City Code entitled, "Land Development," by amending Section 3.02, definitions; and Section 3.06, concurrency review. (Applicant - City of Melbourne) (First Reading - 5/27/08)

City Attorney Paul Gougelman read Ordinance No. 2008-19 by title. The public hearing was opened and closed with no comments.

Moved by LaRusso/Thomas for approval of Ordinance No. 2008-19 based upon the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

9. ORDINANCE NO. 2008-23 (A&V NO. 314): (Second Reading/Public Hearing) An ordinance vacating a 3.5' x 48.10' portion of a public utility and drainage easement located at 2634 Bernice Court. (Applicant - Russell Norfleet) (First Reading - 5/27/08)

Attorney Gougelman read Ordinance No. 2008-23 by title. There were no public comments and no Council disclosures.

Moved by Palmer/Meehan for approval of Ordinance No. 2008-23. The roll call vote was:

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

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Motion carried unanimously.

Mayor Goode said if there are no objections, Council will consider Item 15 at this point. Although the applicant did not make a request to be moved up on the agenda, he is from out of town. There were no objections.

Council returned to this portion of the agenda immediately following Item 15.

NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for the purchase and installation of telephone and networking equipment and materials for the new City Hall, Morse Communications, Inc., Melbourne, FL - \$463,946.60; and approval of appropriations from General Fund Prior Year Surplus in the amount of \$110,663.95, from Water & Sewer Prior Year Surplus in the amount of \$53,282.65; and from 2006 Bond Interest Proceeds in the amount of \$300,000 to supplement this project budget.

City Engineer Jenni Lamb was available for questions.

Moved by Meehan/Thomas to award the telephone and networking solutions for the new City Hall building to Morse Communications, Inc., in the amount of \$463,946.60; an appropriation from General Fund Prior Year Surplus in the amount of \$110,663.95, an appropriation from Water & Sewer Prior Year Surplus in the amount of \$53,282.65 and an appropriation from 2006 Bond Interest Proceeds in the amount of \$300,000. Motion carried. Mrs. Corby voted nay.

11. CONSENT AGENDA:

Mayor Goode referenced the memo from staff removing Item “c” from the agenda. (The vendor may not meet the rigid specifications for chemicals and staff would like time to further investigate.)

Moved by LaRusso/Meehan for approval of the consent agenda, except Item “c.” Motion carried. Council Member Corby voted nay.

- a. Supplement No. 00061.061 to the Continuing Consultant’s Contract for planning services to complete activities related to the submittal of Comprehensive Plan Amendments required by Florida Statutes, Land Design Innovations, Inc., Winter Park, FL - \$69,182.
- b. Contract award for purchase and delivery of liquid ferric sulfate for the Surface Water Treatment Plant, Kemira Water Solutions, Inc., Lawrence, KS - \$2.20/gallon; estimated cost of \$1,056,000 for a six-month contract.
- c. Contract award for hydrofluorosilicic acid for Water Production, Lucier Chemical Industries, Ltd., doing business as LCI, Ltd., Jacksonville Beach, FL - \$668/ton

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(3/4 loads) and \$704/ton (1/2 loads), for an estimated annual cost of \$80,880. (This item was removed from the agenda at the request of staff.)

- d. Contract award for replacement of tile in the locker room/restrooms at the Mallard's Landing and Crane Creek Preserve Golf Courses, Liberty General Development, Inc., West Melbourne, FL - \$22,347.
- e. Approval of a request from St. Johns River Water Management District for funding participation in the 2009 Water Conservation Public Awareness Campaign - \$7,000.
- f. Approval of a lease agreement between the City of Melbourne and FDG ROW Holdings, LLC for a drainage pipe easement, providing for annual renewal and rental payments; authorization for the City Manager to execute the agreement subject to City Attorney review.
- g. Approval of a proposed 60-day extension of the June 26, 2008 payment timeframes within the Development Agreement for the Vues (August 26, 2008).
- h. Resolution No. 3003: A resolution authorizing the City Manager to submit a grant application to the United States Department of Justice, Office of Community Oriented Policing Services for funding in the amount of \$133,280.25 to purchase back up VHF radios for the Police Department.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

13. RESOLUTION NO. 3004: A resolution providing for a change in the September 2008 regular meeting schedule; providing that City Council will conduct the two regular meetings on September 16 and September 30 immediately following adjournment of the budget public meetings.

City Clerk Cathy Wysor provided an overview.

Moved by Thomas/Meehan for approval of Resolution No. 3004. Motion carried unanimously.

14. COUNCIL ACTION RE: A request for additional State Housing Initiatives Partnership (SHIP) funding of \$177,039 to the Brevard Neighborhood Development Coalition, Inc. (BNDC) for the Greater Heights Rental Development Project.

Housing and Community Development Director Melinda Thomas briefed Council. She reported that BNDC was successful in acquiring the 10 parcels that make up the Greater Heights Rental Development Project for less than originally budgeted; however, unanticipated environmental issues, building requirements triggered by demolition of existing buildings, additional site-work required under current zoning and land

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development regulations, and market increases in construction costs over time have resulted in significantly increased project construction costs.

The estimate to complete the project has risen from \$1,381,929 at the project's inception to the current estimate of \$2,537,270. To date, BNDC has raised \$1,949,208 (grants, loans, and in-kind donations) from both the public and private sector. An additional \$588,062 is needed to complete the project as currently estimated.

Housing and Community Development has identified \$77,039 available in 2007-2008 SHIP rental development funds, as well as an anticipated \$100,000 in 2008-2009 SHIP rental development funds that could be provided to BNDC for this Project. These funds represent uncommitted SHIP funds, which, if committed to BNDC's project, will not affect the other SHIP housing assistance strategies covered in Melbourne's approved Local Housing Assistance Plans.

Mrs. Corby asked if staff is aware of the environmental issues. Mrs. Thomas said that they found asbestos in all the buildings along with some lead based paints in some of the buildings. The asbestos, however, is the compelling environmental issue.

Moved by LaRusso/Meehan for approval of \$177,039 in State Housing Initiatives Partnership funds to Brevard Neighborhood Development Coalition, Inc. for the Greater Heights Rental Development Project. Motion carried unanimously.

Note: the following item was heard immediately after Item 9:

15. ORDINANCE NO. 2008-25 (ED-2008-02) DRS, INC.: (First Reading) An ordinance granting an ad valorem tax exemption for a period of five years totaling an estimated \$567,206.25.

The City Attorney read Ordinance No. 2008-25 by title. Planning and Economic Development Director Cindy Dittmer reviewed the agenda report. This is a request to approve a five-year tax exemption for DRS, Inc. for the proposed business expansion located at 100 and 150 North Babcock Street. The details of the expansion are included in the staff memorandum and within a summary provided by the company. There are currently 449 jobs located at the Melbourne facility on Babcock Street and the company is considering a building expansion to accommodate the relocation of 502 jobs from the Palm Bay facility.

The expansion would provide 512 new full time positions to the City of Melbourne and the incentives would assist in retaining the current 449 jobs in Melbourne. The average annual salary for the new positions will be \$50,000. The capital investment of the new real and personal property will amount to approximately \$29,500,000. This would result in an approximate annual tax exemption of \$113,441.25.

Mrs. Palmer pointed out that they are moving these positions from Palm Bay to Melbourne and creating only 10 new jobs. She asked how that plays into our formula for the tax exemption. Mrs. Dittmer replied that they are new jobs to the City of Melbourne.

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At the state level, there is an additional requirement to create the 10 new jobs. DRS is considering several other sites for this consolidation. Melbourne would not only gain the jobs, but would retain the 449 jobs that are here today. The City's guidelines provide allowances for retaining jobs.

Mrs. Corby asked if the City has some type of policy or guideline for incentive packages. Mrs. Dittmer replied yes and noted that the guidelines have been adopted by resolution of City Council. Mrs. Corby asked if the 10 jobs meet those guidelines. Mrs. Dittmer replied yes, plus the new 502 jobs to the City of Melbourne.

Alan Barkin, Vice President, Business Operations, DRS Technologies, New Jersey, reported that DRS Technologies is a global leader in the development and manufacture of defense electronics with over 40 business units operating in 26 different states. As a substantial employer in the area, they take their role and responsibility as a community leader very seriously. They are proud of their skilled labor base and the active role they play in the community.

DRS currently has 10,000 employees worldwide, 25% of which are in the State of Florida. Their electronics business has experienced robust growth in a deeply competitive industry. Over the last three years, the division has grown from 650 to 950 employees. This substantial growth has required them to operate without optimal efficiency out of three separate locations – two in Palm Bay and one in Melbourne. The future success of the business requires them to invest in a facility that affords the achievement of engineering and manufacturing excellence.

Mr. Barkin said it is their hope the City will appreciate their need to invest in and consolidate their operations, and partner by offsetting some of the substantial costs associated with a project of this magnitude. DRS is proud of its history in Melbourne and would like nothing more than to solidify their commitment to the City by moving forward with this project.

Mrs. Corby asked if it's possible in the future that there may be more than 10 additional jobs. Mr. Barkin replied that 502 employees will be coming in and joining 449. He said that adding more than 10 new jobs in the future is certainly a possibility. DRS has experienced tremendous growth in this operating unit and they would like nothing more than to expand and grow the jobs greater than 10. In their industry, which works off government appropriations and contracts, it is very difficult to predict job growth.

Mrs. Corby asked if the annual exemption of \$113,441 is a proportionate amount of the tax exemption or 100% of the tax exemption. Mrs. Dittmer explained that it represents 100% of the City's millage for the expansion portion. The portion on the tax rolls today would not be exempt.

Mrs. Corby said her first thought when reviewing this was to ask how it's government's responsibility to help corporations expand. She continued to look deeper and researched DRS, which is a manufacturing company. As a rough example, she pointed out that for every one engineer DRS might employ, there are probably 10 workers on the

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manufacturing floor. This helped her reach the conclusion that these are the types of jobs we are targeting. It's great to have the high paying engineering jobs, but we also need to have the middle and low-income jobs. Melbourne needs jobs in the salary range of \$50,000; therefore, she will support this item.

Mr. LaRusso pointed out that the ad valorem tax exemption is not a government program. The process was approved by voters at a referendum in Melbourne.

Mrs. Palmer referenced some of the comments made in the newspaper relating to the accusation that DRS brings in employees from a temporary service and most are never hired as full time employees with benefits. She asked Mr. Barkin for a ballpark figure on the percentage of the people brought in as temporary employees that end up being hired full time. Mr. Barkin replied that he does not know the answer to that question; however, the 951 employees being discussed as part of this item are full time employees receiving benefits.

Moved by Meehan/LaRusso for approval of Ordinance No. 2008-25. Motion carried unanimously.

16. ORDINANCE NO. 2008-26 (A&V NO. 308): (First Reading/Public Hearing) An ordinance vacating a 20-foot wide utility easement in the Pineda Crossing Subdivision and the Pineda Ridge Subdivision, located north of Post Road, south of the Pineda Causeway, and west of Wickham Road. (Applicant - Jay Moynahan)

The City Attorney read the ordinance by title and Mrs. Lamb reviewed the agenda report. The applicant is the developer of Pineda Ridge Subdivision. The 20-foot wide public utility easement along the west property line of the Pineda Ridge Subdivision and the east property line of the Pineda Crossing Subdivision was granted to the City in 1995 when a waterline was built to serve Pineda Crossing. During the construction of the Pineda Ridge Subdivision, a new waterline was constructed within the Pineda Ridge road right-of-way and the existing waterline located within the easement was removed.

The Pineda Crossing Homeowners' Association objected to the abandon and vacate with no reasons listed. Since the waterline has already been removed and relocated from the easement with no adverse impacts to Pineda Crossing Subdivision, there is no longer a need for this easement.

Barry Cabaniss, representing Jay Moynahan, said that he is available to answer questions about this item.

Mrs. Palmer asked why the Pineda Crossing Homeowners' Association objected. Mr. Cabaniss replied that he does not know. The waterline was initially installed to close the loop and provide better water pressure in the Pineda Crossing Subdivision. The waterline was rerouted when Pineda Ridge was built; however, the same pressure is being provided. The waterline is being removed because it is in the rear yards of Pineda Ridge and in a conservation easement for Pineda Crossing. The residents don't gain or lose anything by this action.

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Mrs. Lamb said that staff tried to contact the Pineda Crossing HOA several times; however, they would not provide a reason. The association simply said it did not approve. She added that the public utility easement was granted to the City of Melbourne for the sole purpose of the waterline.

Moved by LaRusso/Thomas for approval of Ordinance No. 2008-26. Motion carried unanimously.

17. ORDINANCE NO. 2008-27 (A&V NO. 310): (First Reading/Public Hearing) An ordinance vacating two rights-of-way and two easements for the South Crane Creek mixed-use project, located west of U.S.1, south of Crane Creek, and north of Prospect Avenue. (Applicant - Kohn Bennett)

Attorney Gougelman read Ordinance No. 2008-27 by title. Mrs. Lamb provided an overview. The owner of the property is requesting the abandonment and vacation of two rights-of-way and two easements as outlined in the South Crane Creek mixed use project development agreement.

Since there are active utilities in the rights-of-way and easements, temporary easements will be granted until the utilities are relocated. All utilities and City departments were notified of the request. The temporary easements resolved all objections.

There were no disclosures by Council, and the Mayor opened the public hearing.

Ken Ward, Homes by Towne, was available for questions.

Moved by Meehan/Thomas for approval of Ordinance No. 2008-27. Motion carried unanimously.

18. ORDINANCE NO. 2008-28 (AR-2008-220), ORDINANCE NO. 2008-29 (CPA-2008-03), AND ORDINANCE NO. 2008-30 (Z-2008-1131) DORIS BROWN (3210/3212 DAIRY ROAD): Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation for two parcels totaling 2.96± acres, located on the west side of Dairy Road, north of Florida Avenue, and south of Edgewood Drive. (Owner/Applicant/Representative - Doris Brown) (P&Z Board - 5/15/08)

- a. Ordinance No. 2008-28/AR-2008-220: (First Reading/Public Hearing) An ordinance providing for annexation of two parcels totaling 2.96± acres.
- b. Ordinance No. 2008-29/CPA-2008-03: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment establishing a Future Land Use of Suburban Estate Residential on two parcels totaling 2.96± acres.
- c. Ordinance No. 2008-30/Z-2008-1131: (First Reading/Public Hearing) An ordinance establishing an R-1AAA (Single-Family Low Density Residential) zoning designation on two parcels totaling 2.96± acres.

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Attorney Gougelman read the ordinances by title. Mrs. Dittmer located the property on the map and provided a brief. The Planning and Zoning Board voted unanimously to recommend approval.

There were no Council disclosures and no comments during the public hearing.

Moved by Thomas/LaRusso for approval of Ordinance No. 2008-28 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Meehan for approval of Ordinance No. 2008-29 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by Meehan/LaRusso for approval of Ordinance No. 2008-30 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

19. ORDINANCE NO. 2008-31 (CPA-2008-04), ORDINANCE NO. 2008-32 (Z-2008-1132), AND ORDINANCE NO. 2008-33 (CU-2008-02) MELBOURNE HILTON BEACHSIDE (A1A): Ordinances providing for a Comprehensive Plan Amendment, zoning designation on 5.66± acres, and granting a conditional use on 5.25± acres, located on the east side of North Highway A1A, between Eau Gallie Boulevard and U.S. 192/Fifth Avenue. (Owner - Wilmington Trust Company, Trustee) (Applicant/Representative - City of Melbourne) (P&Z Board - 5/15/08)
- a. Ordinance No. 2008-31/CPA-2008-04: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment establishing a Future Land Use of Commercial on 5.25± acres and a Future Land Use of Conservation on the remaining 0.41± acres.
 - b. Ordinance No. 2008-32/Z-2008-1132: (First Reading/Public Hearing) An ordinance establishing a C-1 (Neighborhood Commercial) zoning designation on 5.66± acres.
 - c. Ordinance No. 2008-33/CU-2008-02: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a building height of 133 ft. 5 in. for an existing hotel on a 5.25±-acre parcel.

Attorney Gougelman read the three ordinances by title and Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval at its May 15, 2008 meeting.

There were no disclosures by Council. Mayor Goode opened the public hearing. There were no comments from the audience.

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Moved by LaRusso/Meehan for approval of Ordinance No. 2008-31 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by Meehan/LaRusso for approval of Ordinance No. 2008-32 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by Thomas/Meehan for approval of Ordinance No. 2008-33 based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

20. PRELIMINARY PLAT APPROVAL (SD-2006-04) AND DEVELOPMENT AGREEMENT (DA-2008-02) TURTLEMOUND POINTE SUBDIVISION: (Public Hearing) A request for preliminary plat approval for development of a 12-lot subdivision on a 19.565±-acre parcel, 9.40± acres zoned C-1 (Neighborhood Commercial) and 10.165± acres zoned M-1 (Light Industrial), located on the south side of West Eau Gallie Boulevard, east of the intersection with Sarno Road; approval of a Development Agreement for Turtle mound Pointe between Turtle mound Pointe, LLC and the City of Melbourne; and authorization for the City Manager to execute the agreement. (Owner/Applicant - Melbourne Commerce Center, LLC) (Representative - Matt Soyka, Soyka Engineering and Associates, Inc.) (P&Z Board - 5/15/08)

Mrs. Dittmer provided an overview and pointed out that Items 20, 21 and 22 are interrelated. Items 20 and 21 are two separate development projects that are tied with Item 22, a transportation proportionate fair share agreement. She summarized by saying that the Planning and Zoning Board voted unanimously to recommend approval at its May 15, 2008 meeting.

There were no disclosures by Council. Mayor Goode opened the public hearing.

Clifton McClelland, attorney representing the applicant, pointed out that principals and staff of the project are available to answer questions. Mr. McClelland expressed appreciation to staff in terms of this project and the next project. These are large projects and staff selected the extension of Turtle Mound Road as a project that would minimize the impact from this project and the next project. His clients have committed to build the Turtle Mound Road extension. They believe this will effectuate a significant public good because it will take traffic off of Wickham Road and lessen the trips on a critical section of Wickham Road, between Aurora Road and Eau Gallie Boulevard.

Mrs. Corby referenced the development agreement and asked if the “seven year approval” means that the project won’t start for seven years. Mr. McClelland said they are committed to build the road within (18) months. This is a complex project and preliminary estimates indicate that they will have to provide about one million dollars to build the road. The development agreement requires these two projects to be developed consistent with the City Code; however, they will have the ability to return during that seven year period and request a credit against the million dollar expenditure for any

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development they do. City staff has limited development to that seven-year period in terms of recouping those funds.

Mrs. Corby recalled that a drainage issue came up about a year ago. She asked if the drainage issue will be resolved. Mrs. Dittmer responded that the drainage for the roadway will be taken care of through the Veranda Subdivision stormwater. Those allowances were made when the preliminary plat was approved.

Mrs. Palmer asked the applicant if they know what will be going in the area zoned M-1.

Paul Hanna, representing Turtlemound Pointe, LLC, said that they envision Lot 7, the western lot, having a 16,000 square foot multi-use building; Lot 8 will have a similar building; they are not sure about Lots 9, 10, and 11; and they are negotiating with a child care school and/or a tire store for Lot 12. He commented that it's difficult to get a commitment at this point.

Mayor Goode closed the public hearing.

Moved by Thomas/Palmer for approval of SD-2006-04 and the Development Agreement, based upon the findings and conditions contained in the Planning and Zoning Board memorandum; and authorization for the City Manager to execute the agreement. Motion carried unanimously.

21. SITE PLAN APPROVAL (SP-2008-01) AND DEVELOPMENT AGREEMENT (DA-2008-03) MELBOURNE COMMERCE CENTER, PHASE 1B: (Public Hearing) A request for site plan approval to allow development of eight office/storage buildings totaling 236,880 square feet on an 11.24±-acre portion of a 24.34±-acre Phase One area zoned M-1 (Light Industrial), located on the north side of Sarno Road, west of Wickham Road, and east of North Drive; approval of a Development Agreement for Melbourne Commerce Center between Melbourne Commerce Park, LLC and the City of Melbourne; and authorization for the City Manager to execute the agreement. (Owner/Applicant - Melbourne Commerce Center, LLC) (Representative - Matt Soyka, Soyka Engineering and Associates, Inc.) (P&Z Board - 5/15/08)

Mrs. Dittmer located the property on the map and reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval at its May 15, 2008 meeting. There were no disclosures by Council. Mayor Goode opened the public hearing.

Clifton McClelland, attorney representing the applicant, said that his prior remarks also pertain to this item. He noted that John Hannah is available to answer questions.

Moved by Meehan/LaRusso for approval of SP-2008-01 and the Development Agreement, based upon the findings and conditions contained in the Planning and Zoning Board memorandum; and authorization for the City Manager to execute the agreement. Motion carried unanimously.

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22. COUNCIL ACTION RE: Approval of an Agreement for Turtle Mound Road Extension Project between the City of Melbourne, Turtle mound Pointe, LLC, and Melbourne Commerce Park, LLC, providing for proportionate fair share obligations for the construction of an extension of Turtle Mound Road from Aurora Road to Eau Gallie Boulevard; and authorization for the City Manager to execute the agreement.

Mrs. Dittmer reviewed the item. The agreement is necessary to provide a mechanism for the two projects to address roadway capacity issues and meet transportation concurrency requirements for their proposed developments. City staff has determined that the proposed roadway construction is reasonably related to the mobility demands of the proposed projects as determined by City Code, and is consistent with the allowances of Florida Statute 163.3180. Additionally, the extension will provide a new north/south corridor connection that will assist other area roadway issues.

The agreement has been reviewed by the City Attorney's office, and outlines the following: the process for design and approval of the project and construction costs by City staff; the procedure for the credit of transportation impact fees based upon the project cost; transportation concurrency approval of the projects; and the allowance for a maximum of four certificates of occupancy to be issued prior to the completion of the roadway. The roadway is required to be constructed within an 18-month period.

Mrs. Corby asked if anyone has communicated with the residents in the area about this roadway project. Mrs. Dittmer replied not specifically. She added that area residents are aware of this project. A portion of the roadway is already constructed. It is currently road right-of-way and it is apparent that connection is proposed.

Clifton McClelland was available for questions.

Moved by Palmer/Meehan for approval of the agreement for the Turtle Mound Road Extension Project and authorization for the City Manager to execute the agreement. Motion carried unanimously.

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

19. Council Members may not read unattributed letters into the record. If a member wishes to read a letter, they must say whom it is from. (9/23/1997, Item #27)

Mrs. Corby said that she believes Council discussed combining Policies 19 and 20. Mayor Goode said the policies are different and should remain separate. Mrs. Corby asked if Council can find a way to reword and combine these two policies. Mrs. Meehan said she believes they should remain separate.

No action was taken.

20. A Council Member must seek permission of the chair before reading lengthy papers or portions of text into the record. (9/23/1997, Item #27)

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Mrs. Palmer recommended that members seek permission from Council as a body rather than the chair.

Moved by Palmer/Corby to change the language to provide that a member must seek permission from City Council. Motion carried unanimously.

22. Council approved the following order for items appearing under new business: engineering or construction contract awards in excess of \$50,000 and consent agenda items. (6/2/1998, Item #21 and 11/2/1999, Item #4)

No action was taken.

23. When the renaming of a park is requested, residents within 500' of the park shall be notified by staff prior to Council consideration of the renaming. (8/25/1998, Item #20.1)

No action was taken.

24. Council approved the "Gated Street Events" policy. (1/26/1999, Item #22. Revised 2/22/2005, Item #19.)

No action was taken.

24. COUNCIL ACTION RE: Appointment of one regular member to the Citizens Advisory Committee of the Brevard Metropolitan Planning Organization.

Moved by Meehan/Thomas to appoint Greg Jones. Motion carried unanimously. (Mr. Jones's application will be submitted to the MPO for confirmation by its membership.)

25. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

James Douglas Price, 1265 Pinewood Drive, thanked Council for listening to him and extending him courtesy under public comments.

Pat Poole, 805 E. Palmetto Avenue, noted that earlier in the meeting the Mayor admonished Mike Nowlin, who was sitting next to Mrs. Poole, for chatting too loudly in the Chamber. Mrs. Poole said that she was talking, not Mr. Nowlin and she feels bad that he was called out for her actions.

Mayor Goode apologized to Mr. Nowlin.

Mr. Thomas asked Council to join him in nominating Cathy Wysor as City Clerk of the Year (Florida League of Cities, Florida Cities of Excellence Awards Program). There were no objections from Council.

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Mrs. Corby said that an email Council received from a constituent about the annual fireworks display prompted the following idea. She asked Council to consider next year encouraging people to contribute the amount they would have contributed for fireworks to their favorite organization that provides a year round service in the City. This may be the best way to spend our money, rather than watching our money “go up in flames.” Additionally, Fourth of July could be celebrated in other ways.

Mayor Goode asked what percentage of the fireworks display is paid by the City. The City Manager replied that the \$13,000 - \$14,000 fireworks display is entirely funded by private contributions. In the past, the City has added funds to cover lease and assembly of the stage, musical features, sponsorship of the bus, etc. We are communicating to people this year that because of budget cuts and unless new sponsors come forward or new major funding is found, next year we don't plan to provide music, free bus rides, etc.

Mrs. Palmer said she believes our citizens want to continue with the fireworks display.

Discussion followed regarding sponsorship, level of participation, etc.

Mrs. Corby said that she doesn't want to sound unpatriotic; however, the City is going to have to make cuts and she does not want to see year round service in the City of Melbourne cut.

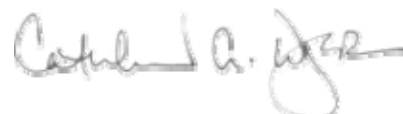
Following discussion, Mayor Goode said the sentiment he is hearing from Council is “keep the fireworks.”

Mrs. Corby asked if City staff could work with Brevard County in providing speed control in Wickham Park. Following discussion, the Mayor asked staff to look into this.

26. ADJOURNMENT

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

The meeting adjourned at 8:50 p.m.



City Clerk – 6/19/2008

Approved by Council: _____