

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 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 Dr. H. A. Dean, Pastor, Riverside Baptist 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 a plaque to Glen Outlaw in recognition of his service (1986 through 2008) to the City as a member of the Citizens Advisory Committee of the Brevard Metropolitan Planning Organization.

The Florida Planning and Zoning Association presented its 2008 Outstanding Public Urban Plan award for the Babcock Street Redevelopment Plan to the City of Melbourne. City Manager Jack Schluckebier presented the award to Babcock Community Redevelopment Agency Advisory Committee Chairman John Edmiston and Planning and Economic Development Director Cindy Dittmer.

5. Approval of Minutes – Special Meeting, May 19, 2008 and Regular Meeting, June 10, 2008

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

6. City Manager's Report

Daily Bread – City Manager Jack Schluckebier referenced the recent tour the Mayor and staff took with representatives from the Daily Bread to identify possible public land available for Daily Bread. Following preliminary review of the various sites and the tour, staff learned that the property located at Evans Road and Hibiscus Boulevard may not be considered. Although the land was given to the City it has constraints. The constraints aren't recognized in the City's deed of ownership; however, they are included in the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

underlying purpose of the deed as fulfillment of the Development of Regional Impact for the Melbourne Square Mall. The City has notified Daily Bread that the property may no longer be considered.

Workshop meeting to discuss City's long-term utility interests and executive session to brief Council on FOP and IAFF union negotiations – Council Member Richard Contreras asked if Council has reached consensus on the meeting dates. The City Manager replied no and said if there are no objections, the executive session would be held prior to the July 8 regular meeting. Following brief discussion, moved by Contreras/LaRusso to hold a special meeting on July 9 to discuss utility interests and recent offers by West Melbourne. Motion carried unanimously. (Later in the discussion, the Mayor confirmed that the executive session will be conducted on July 8 at 5:15 p.m.)

Croton Road – Council Member Cheryl Palmer thanked staff for following up on this item. The estimate to repair the road properly is \$227,500. Mrs. Palmer encouraged the County Commission to take appropriate action. Mr. Schluckebier commented that conversations with the County are underway at the staff level and the City is highly encouraged. We believe we can find an out of the box solution.

Service pin presentation scheduled for July 17 at the Eau Gallie Civic Center – Council Member Joanne Corby informed staff that she will be attending this event.

Status report on Fire Station 71 – Mrs. Corby asked how long this fire station has had a problem with rats. The City Manager replied that it is his understanding the problem has been intermittent for several years. Different remedies have solved the problem, but new issues have emerged. He added that a solution is long overdue. Mrs. Corby agreed and said she wants to make sure we move on corrective action.

7. Public Comments

None.

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

a. **Babcock Street Community Redevelopment Agency Advisory Committee**

Chairman John Edmiston listed the members who serve on this board. The board, which meets every other month, held five regular meetings and one special meeting in 2007. Accomplishments in 2007 include: revision of the Babcock Street CRA Redevelopment Plan, installation of Babcock gateway sign at the north end of the district, continued progress of the Hibiscus Boulevard and Babcock Street intersection improvements, and continued progress of the Phase II Babcock Street realignment.

The Phase II realignment includes widening between Laurie Street and U. S. 1, additional north and south traffic lanes, southbound turn lane on U. S. 1, median installation, sidewalks and landscaping, and public parking. Mr. Edmiston elaborated on the Babcock Street/Hibiscus Boulevard intersection improvements and the district signage and

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

identification. The sign at the north end of the district identifies the area as “Midtown Melbourne.” This will be replicated and installed at main intersections within the CRA.

Continuing, Mr. Edmiston highlighted private redevelopment and redevelopment opportunities in the district. He noted that the board’s 2008 goals and objectives include implementation of the redevelopment plan, Phase III median project between the FEC Railway and Alma Drive, and continued work with the Space Coast Area Transit for installation of transit shelters and benches. Their challenges include the strain on tax revenue as a result of Amendment 1, the limit on the CRA’s ability to borrow as a result of Strand v. Escambia County, and continued recognition of the importance of the CRA trust fund as a partnership in leveraging County tax and grant funding.

b. Golf Courses Advisory Board

Chairman John Francey named the other board members and informed Council that the board meets four times per year. He discussed the recent name change and re-branding of both courses and detailed the golf course revenues. Program highlights include a new concessionaire; expanded volunteer program with rangers, starters and a cart person; and junior golf, lessons and clinics.

Mr. Francey pointed out the challenges, including golf demand and supply, competitive pricing, the economy, poor weather conditions, golf course conditions and the marketing study recommendations. Upcoming projects at the golf courses include realignment and laser leveling of tees at Mallard’s Landing, driving range drainage project at Crane Creek Reserve, restroom renovation at both courses, and a point of sale system.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2008-24/ED-2008-01: (Second Reading/Public Hearing) An ordinance approving a grant in lieu of an economic development Ad Valorem Tax Exemption to Embraer Aircraft Holding, Inc., a Delaware Corporation, for location of a new business facility and tangible personal property at the Melbourne International Airport; and authorization for the City Manager to execute the grant agreement between Embraer Aircraft Holding, Inc. and the City of Melbourne, providing an economic development grant totaling \$786,443 over a period of five years. (First Reading - 5/27/08)

City Attorney Paul Gougelman read Ordinance No. 2008-24 by title. The Mayor recognized Lynda Weatherman from the Economic Development Commission in the audience. The public hearing was opened. There were no comments.

Council Member Cheryl Palmer referenced the grants for construction of the buildings and asked if they will be backed by a letter of credit from Embraer.

Attorney Gougelman explained that a letter of credit might come into play if there is going to be an industrial development or airport revenue bond. The contract provides that Embraer reserves the right to proceed with an industrial development or airport revenue bond. The contract doesn’t specifically reference a letter of credit, but it does reference a

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

conduit bond. If Embraer goes this route, the City would be the vehicle for issuance of the bond. In exchange, Embraer would indemnify the City against liability and would post some type of security, which would be defined when the bond parameters are defined. Additionally, disclosure would be made and bond purchasers would be informed that the City would not be involved in repayment.

Council Member Joanne Corby asked if the grant will be front-loaded or in arrears.

Mr. Gougelman replied that the bulk of the structures will consist of the aircraft assembly facility and the paint facilities. At the time they are substantially complete, payment of \$330,000 would be triggered. The second payment would be due a year later for \$330,000. That grant is in lieu of the ad valorem tax exemption. There is an additional Qualified Target Industry (QTI) grant of \$120,000 that will be spread over a four-year period. In order to receive that grant, Embraer has to demonstrate that it has met the hiring and salary goals.

Moved by Contreras/Meehan for approval of Ordinance No. 2008-24. The roll call vote was:

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

Nay: Corby

Motion carried.

9. ORDINANCE NO. 2008-25 (ED-2008-02) DRS, INC.: (Second Reading/Public Hearing)
An ordinance granting an ad valorem tax exemption for a period of five years totaling an estimated \$567,206.25. (First Reading - 6/10/08)

Attorney Gougelman read the ordinance by title. The public hearing was opened and closed with no comments.

Moved by Meehan/Thomas for approval of Ordinance No. 2008-25.

Mrs. Corby asked if the exemption will be front-loaded.

The City Manager replied no and added that this is a standard tax abatement situation. By vote, the residents approved the City offering the opportunity for tax abatement under certain situations for up to five years. The recipient has to demonstrate additional capital investment, job creation and retention. It is a pay for performance system. Mrs. Dittmer added that businesses receiving this exemption also have to file an annual status report with the City. Mr. Schluckebier commented that the annual reports are compiled and provided to City Council.

The question was called. The roll call vote was:

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Nay: Corby

Motion carried.

10. ORDINANCE NO. 2008-26 (A&V NO. 308): (Second 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) (First Reading - 6/10/08)

The City Attorney read Ordinance No. 2008-26 by title. There were no disclosures from Council. Mayor Goode opened the public hearing.

Barry Cabaniss, representing the applicant, was available for questions. He confirmed for Mrs. Palmer that they never received a reason why the Pineda Crossing Homeowners' Association objected to the request.

John Panik, 3202 Largo Vista Drive (unincorporated Brevard County), informed Council that he lives in the Pineda Crossing Subdivision. He asked a series of questions about the abandon and vacate request.

Mr. Cabaniss explained that the width of the easement is 20 feet, with five feet lying in the Tract C conservation area of the Pineda Crossing Subdivision. Nothing can be constructed in that area. The other 15 feet lies in the Pineda Ridge Subdivision and is divided into lots. The length of the easement is 668 feet running along the back of the lots.

City Engineer Jenni Lamb added that the easement was specifically provided for a waterline. The waterline has been relocated, so the easement is no longer needed. After the property is vacated, the 15-foot portion will go to each individual property owner. The five-foot portion, which is a conservation easement, will remain with the Pineda Crossing Subdivision.

Mr. Panik thanked the applicant and the City for the explanation. The Mayor closed the public hearing.

Moved by Meehan/LaRusso for approval of Ordinance No. 2008-26. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2008-27 (A&V NO. 310): (Second Reading/Public Hearing) An ordinance vacating two rights-of-way and two easements for the South Crane Creek

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

mixed use project, located west of U. S.1, south of Crane Creek, and north of Prospect Avenue. (Applicant - Kohn Bennett) (First Reading - 6/10/08)

Attorney Gougelman read the ordinance by title. There were no disclosures and the applicant's representative, Ken Ward, was available for questions.

Moved by LaRusso/Meehan for approval of Ordinance No. 2008-27. The roll call vote was:

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

Motion carried unanimously.

12. 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: (Second Reading/Public Hearing) An ordinance providing for annexation of two parcels totaling 2.96± acres. (First Reading - 6/10/08)
 - b. Ordinance No. 2008-29/CPA-2008-03: (Second 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. (First Reading - 6/10/08)
 - c. Ordinance No. 2008-30/Z-2008-1131: (Second Reading/Public Hearing) An ordinance establishing an R-1AAA (Single-Family Low Density Residential) zoning designation on two parcels totaling 2.96± acres. (First Reading - 6/10/08)

Attorney Gougelman read each ordinance by title. There were no disclosures by Council and no public comments.

Moved by Thomas/Palmer for approval of Ordinance No. 2008-28 based on the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by Contreras/LaRusso for approval of Ordinance No. 2008-29 based on the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Motion carried unanimously.

Moved by Palmer/Meehan for approval of Ordinance No. 2008-30 based on the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

13. 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: (Second 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. (First Reading - 6/10/08)
 - b. Ordinance No. 2008-32/Z-2008-1132: (Second Reading/Public Hearing) An ordinance establishing a C-1 (Neighborhood Commercial) zoning designation on 5.66± acres. (First Reading - 6/10/08)
 - c. Ordinance No. 2008-33/CU-2008-02: (Second Reading/Public Hearing) An ordinance granting a conditional use to allow a building height of 133 feet, five inches for an existing hotel on a 5.25±-acre parcel. (First Reading - 6/10/08)

The City Attorney read Ordinance Nos. 2008-31, 2008-32 and 2008-33 by title. Council made no disclosures. The public hearing was opened and closed with no comments.

Moved by LaRusso/Thomas for approval of Ordinance No. 2008-31 based on the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

Moved by Contreras/Meehan for approval of Ordinance No. 2008-32 based on the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Moved by Thomas/Palmer for approval of Ordinance No. 2008-33 based on the findings in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

14. COUNCIL ACTION RE: Contract award for construction of the Grant Street Wastewater Reclamation Facility administration building, Project No. 31407, Certified General Contractors, Inc., Melbourne, FL - \$434,434.

Mrs. Lamb explained that this is a proposed contract for the construction of a new administration building at the Grant Street Water Reclamation Facility. This building will replace the original administrative offices built in the 1950s. Construction includes a parking lot, stormwater treatment, site utilities, and landscaping. The low bid is well below the estimated cost of the project.

Moved by Meehan/Contreras for approval of the construction contract with Certified General Contractors, Inc. in the amount of \$434,434 for the Grant Street Water Reclamation Facility administration building. Motion carried unanimously.

15. COUNCIL ACTION RE: Supplement No. 7 to the Continuing Hydrogeologic Services contract to provide additional professional services in the renewal of the Grant Street Water Reclamation Facility injection well operating permit as required by the Florida Department of Environmental Protection, Project No. 35908, L.S. Sims & Associates, Inc., Rockledge, FL - \$72,000; and transfer of \$72,000 from the Water & Sewer Miscellaneous Capital Projects to establish this project budget.

The City Engineer and a representative from the consultant were available for questions.

Mrs. Corby asked if this is the only deep well injection system the City has. Mrs. Lamb replied that it is the only operating injection system.

Moved by LaRusso/Contreras for approval of Supplement No. 7 to the Continuing Contract with L.S. Sims & Associates, Inc. in the amount of \$72,000; establishing a new project for Grant Street Injection Well Permit Renewal, Project No. 35908; and transfer of \$72,000 from Water & Sewer Miscellaneous Capital Projects, Project No. 30099 to establish this project budget. Motion carried unanimously.

16. COUNCIL ACTION RE: Contract award for hydrofluorosilicic acid for Water Production, The Dumont Co., Inc., Oviedo, FL - \$580/ton, for an estimated annual cost of \$69,600.

Public Works/Utilities Director Bob Klapproth pointed out that this would normally be a consent agenda item; however, there was a bid protest that was upheld. The protest

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

related to a certification issue. He noted that he's available for questions and pointed out that this is a complex issue.

Moved by Thomas/LaRusso that the contract for Hydrofluorosilicic Acid for Water Production be awarded to The Dumont Co., Inc. at the unit price of \$580/ton - estimated annual cost of \$69,600. Motion carried unanimously.

17. COUNCIL ACTION RE: Contract award for a traffic timing study in the Babcock Street area, to include 11 intersections from NASA Boulevard south to Eber Boulevard, Project No. 64506, Naztec, Inc., Sugarland, TX - \$58,500.

Mrs. Lamb explained that this is a proposed contract award for a traffic timing study in the Babcock Street area that will include 11 intersections from NASA Boulevard south to Eber Boulevard. The traffic timing study will develop optimum signal timing to improve traffic flow within the Babcock Street corridor. The intent is to shorten delays by reducing the number of stops at red lights, improve overall safety by reducing accidents, provide greater consistency in travel planning for commuters and business commerce, and reduce driving frustration.

Mrs. Corby asked if funding is from the Babcock Community Redevelopment Agency. Ms. Lamb replied no because the project goes beyond the boundaries of the CRA. Funding is being provided from local option gas tax money.

Mrs. Corby commented that the contractor is from Texas. She asked if we have a local company that can provide this service. Mrs. Lamb responded that Naztec's main office is in Texas; however, they have a contract with Seminole County that we can piggyback. This is very specialized work – another contractor could perform the work; however, they would probably not be as familiar with traffic signals.

In response to Mrs. Corby, Mrs. Lamb said that local option gas tax money may be used for roads, signals and drainage related to roads.

Mrs. Corby said that she is trying to look at our budget with prioritization in mind. She added that she's trying to determine if the money would be best spent on the person who has to sit longer at a red light or for the repair of Croton Road, which has a safety issue. She's concerned about spending money on items that are a want rather than a need.

Mrs. Palmer asked about the timeframe on the FDOT road widening and realignment between Fee Avenue and New Haven Avenue. She asked if the traffic timing study would possibly be done by FDOT at that time. Mr. Ralls replied that the Babcock Street project is defined in the five-year program. Acquisition of right-of-way would take several years and the construction project is probably at least three or four years out. Mrs. Lamb confirmed that FDOT occasionally pays for signal work; however, they have not incorporated that into the Babcock project.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Council Member John Thomas mentioned that this project is designed to keep traffic flowing and minimize vehicles stopping at every light. With gasoline at four dollars per gallon, it is in the community's best interest to keep traffic flowing. Mr. Contreras agreed.

Mr. LaRusso mentioned that Council will soon be conducting a budget workshop meeting. There was a brief discussion about road paving and traffic projects in Melbourne.

Vice Mayor Kathy Meehan said she travels Babcock Street daily; this project is needed.

Moved by Palmer/Corby to postpone this item until after the budget workshop meeting (July 21) to allow Council time to look at the traffic dollars.

Mr. LaRusso asked if we would have to pay a significant amount later by not piggybacking this contract. Mrs. Lamb said she believes the contract will still be in effect after the July workshop meeting.

The question was called. The roll call vote was:

Aye: LaRusso, Palmer and Corby

Nay: Contreras, Thomas, Meehan and Goode

Motion failed.

Moved by Contreras/Meehan for award of a piggy-back contract to Naztec Inc. in the amount of \$58,500 for Traffic Timing Study, Project No. 64506. The roll call vote was:

Aye: Contreras, Thomas, Meehan and Goode

Nay: LaRusso, Palmer and Corby

Motion carried.

18. COUNCIL ACTION RE: Task Order No. 005 to the Continuing Engineering Services contract for the design of the Surface Water Treatment Plant South Backwash Pump Station, Project No. 31905, Hazen & Sawyer, P.C., Fort Pierce, FL - \$52,040.

Mrs. Lamb was available for questions.

Moved by LaRusso/Contreras for approval of Task Order No. 5 to Hazen & Sawyer, P.C. for the design of the Surface Water Treatment Plant South Backwash Pump Station in the amount of \$52,040. Motion carried unanimously.

19. CONSENT AGENDA:

Mayor Goode reported that Council Member Corby removed Items "k" and "m."

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Moved by Meehan/LaRusso for approval of the consent agenda, with the exception of Items “k” and “m.” Motion carried unanimously.

- a. Supplement No. 1a to the Continuing Hydrogeologic Services contract to provide additional professional inspection services during the construction, testing, and sampling of Backup Production Well No. 4, Project No. 31003, L.S. Sims & Associates, Inc., Rockledge, FL - \$47,285.
- b. Supplement No. 8 to the Continuing Hydrogeologic Services contract for plugging and abandonment permitting of the D.B. Lee Injection Well System as required by the Florida Department of Environmental Protection, Project No. 35808, L.S. Sims & Associates, Inc., Rockledge, FL - \$10,000; and transfer of \$10,000 from the Water & Sewer Capital Improvement Miscellaneous Projects to establish this project budget.
- c. Approval of a Right-of-way Use Agreement between the City of Melbourne and Guava Avenue Art Studio to allow parking for 1542 Guava Avenue. (Owner - Valerie Karas)
- d. Approval of an Amendment to Service Agreement No. 1 (Contract No. 12-136-0-2007) between the City of Melbourne and Advanced Xerographics Imaging Systems, Inc. to include a new tiered rate structure, provide utility bills via email, and provide the option of automated credit card payment of utility bills.
- e. Approval of City-wide usage of the State of Florida Comdata Fuel Card Program, TransMontaigne Product Services, Inc., Denver, CO; and Comdata Network, Inc., Brentwood, TN.
- f. Contract renewal for the purchase and delivery of sulfuric acid, Sulphuric Acid Training Company, Inc., Tampa, FL - \$347.76/ton (\$2.66/gal), plus \$750 annual air pump delivery and fuel surcharges - estimated annual cost of \$250,183.
- g. Contract award for security services at Water Production facilities, Security Operations and Solutions, Inc., Cocoa, FL - \$135,780.
- h. Purchase of a 2008 John Deere tractor with boom mower and accessories, Nortrax Equipment, Tampa, FL - \$102,517.60.
- i. Purchase of three sludge pump assemblies for the Water Reclamation Division, Penn Valley Pump Company, Inc., Warrington, PA - \$51,742.
- j. Purchase of 30 sets of Globe G-Extreme protective clothing for firefighters, Bennett Fire Products Company, Woodstock, GA - \$43,980.
- k. Purchase of two AutoPulse® non-invasive cardiac support pumps, Zoll Medical Corporation, Chelmsford, MA - \$30,570. (See next agenda item for action.)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

- l. Contract renewal for videotaping of City Council meetings, Communications Concepts, Inc., Cape Canaveral, FL - \$1,125 per meeting for the first four hours and \$65 for each additional half hour; estimated total annual cost of \$26,000.
- m. Purchase of one 2008 Chevrolet Impala with Police package, Garber Chevrolet, Green Cove Springs, FL - \$25,184. (See next agenda item for action.)
- n. Approval of proposed HOME budget adjustments to increase fiscal year 2006 and fiscal year 2007 HOME Tenant Based Rental Assistance funding.
- o. Approval of a two-year extension of HOME Tenant Based Rental Assistance benefits for Mercedes Hernandez and Julio Marquez.
- p. Resolution No. 3005: A resolution of intent to reinstate membership of special risk class employees (Airport Police) in the Florida Retirement System.
- q. Resolution No. 3006: A resolution authorizing the City Manager to submit an application to the U.S. Department of Justice, Office of Justice Programs, for 2008 Justice Assistance grant funding in the amount of \$22,792 for overtime operations to reduce drug and gang related violence.
- r. Resolution No. 3007: A resolution authorizing the City of Melbourne to submit an application on behalf on DRS, Inc. to Enterprise Florida for economic development transportation grant funding in the amount of \$650,000 for transportation improvements to the Babcock Street and Brevard Drive intersection.

20. ITEMS REMOVED FROM THE CONSENT AGENDA

- k. Purchase of two AutoPulse non-invasive cardiac support pumps, Zoll Medical Corporation, Chelmsford, MA - \$30,570.

Mrs. Corby said that she is trying to determine if this item is a want or a need.

Fire Chief Paul Forsberg stated that this equipment is important for CPR. A recent study shows that increased compressions are more productive and result in a better turnout for the patient. This machine delivers those compressions evenly. The City experienced 90-plus cardiac arrests last year. These units provide citywide coverage.

Mrs. Corby replied that the City already has seven systems in place. The two pumps being requested are for vehicles that operate as backup. Discussion followed regarding the type of vehicles, backup coverage, response area, and advanced versus basic life support.

Mrs. Corby asked if the City was saving lives prior to acquiring the AutoPulse system. The Chief replied yes, but not as effectively. Mrs. Corby disagreed and pointed out that these units are large and difficult to store. The City is in a budget crunch and she cannot

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

support spending money that doesn't need to be spent. Mrs. Corby stressed that she supports what the Fire Department is doing and noted that we have the best crew; their CPR skills are great.

Moved by Corby/Palmer to deny this item. (Mrs. Palmer later withdrew her second.)

Mrs. Palmer said that the agenda report indicates that this unit keeps compressions going during transport. She pointed out that the City does not transport. The Fire Chief replied that the City often sends a paramedic and our equipment with the County on a cardiac arrest. And, he doesn't believe the County has these units. He added that trying to perform CPR in the back of a vehicle is difficult.

Mr. Contreras stated that he can't support the motion. This is a small price to pay for saving citizens' lives.

Mrs. Palmer said that if the County doesn't have this equipment, she certainly sees the need.

Moved by Meehan/Contreras to approve the item. Motion carried. Mrs. Corby voted nay.

- m. Purchase of one 2008 Chevrolet Impala with Police package, Garber Chevrolet, Green Cove Springs, FL - \$25,184.

Mayor Goode commented that he thought this purchase was made at a previous Council meeting. Mrs. Corby said she thought the same thing until she spoke with Deputy City Manager Amy Elliott. (The previous item approved the funding source and this item approves the purchase from the vendor.) Mrs. Corby added that she pulled this item so she could clarify that this is the same vehicle; only one vehicle is being purchased.

Moved by Corby/Thomas for approval of the item. Motion carried unanimously.

- 21. COUNCIL ACTION RE: Approval of a \$150,000 State Housing Initiatives Partnership Program award to Prevent of Brevard, Inc. for implementation of the Tenant Assistance Program for State fiscal years 2007/2008, 2008/2009, and 2009/2010; and authorization for the City Manager to execute an agreement between the City of Melbourne and Prevent of Brevard, Inc.

Housing and Community Development Director Melinda Thomas reviewed the agenda report.

Mrs. Corby said she is pleased we are utilizing SHIP funding to help people with move-in costs as opposed to building multi-family units that aren't needed.

Moved by Contreras/Thomas for approval of a \$150,000 award to Prevent of Brevard, Inc. for implementation of the Tenant Assistance Program with SHIP funds for state fiscal years 2007-2008, 2008-2009 and 2009-2010 and authorization for the City Manager to execute an agreement with Prevent. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

22. ORDINANCE NO. 2008-34 (A&V No. 303): (First Reading/Public Hearing) An ordinance vacating a 50-foot wide unimproved, platted right-of-way, except the easterly 15 feet, lying east of Eau Gallie Boulevard and abutting the south lines of Lots 31 and 32; and the north lines of Lots 33 and 34 of Indian River Groves and Gardens. (Applicant - Turtle mound Pointe, LLC)

Attorney Gougelman read Ordinance No. 2008-34 by title. Mrs. Lamb briefed Council. The following is an excerpt from the agenda report:

This abandon and vacate was previously heard by Council last year at the June 26, July 10, and August 14, 2007 meetings. At the August 14 Council meeting, the ordinance was postponed indefinitely based upon the right-of-way needed for the Turtle Mound extension not being clearly defined in the previous condition of approval. Staff determined that this right-of-way is not needed for the Turtle Mound Road extension. The request is proceeding as a new ordinance.

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

Timothy Williams, Turtle mound Pointe, was available for questions.

Moved by LaRusso/Meehan for approval of Ordinance No. 2008-34. Motion carried unanimously.

23. ORDINANCE NO. 2008-35 (A&V No. 315): (First Reading/Public Hearing) An ordinance vacating a 15-foot wide drainage easement located north of Wright Avenue, east of Wickham Road, and west of the Crane Creek Drainage Canal. (Applicant - MAI Architects Engineers, Inc.)

The City Attorney read the ordinance by title. Mrs. Lamb was available for questions. There were no disclosures by Council and no comments from the public.

Moved by Palmer/Meehan for approval of Ordinance No. 2008-35. Motion carried unanimously.

24. ORDINANCE NO. 2008-36 (AR-2008-222), ORDINANCE NO. 2008-37 (CPA-2008-05), AND ORDINANCE NO. 2008-38 (Z-2008-1133) HIDDEN LAKES PLACE: Ordinances providing for annexation of 5.25± acres and a Comprehensive Plan Amendment and zoning designation for 4.52± acres, located on the south side of Hidden Lakes Place, east of Harlock Road, and south of Parkway Drive. (Applicant - Alfred & Venice Van Dyke, Ronald D. Lloyd, Frances Leonard, Jeffrey Robb, and Jack Gokoolsingh) (Applicant - City of Melbourne) (P&Z Board - 6/05/08)

- a. Ordinance No. 2008-36/AR-2008-222: (First Reading/Public Hearing) An ordinance providing for annexation of 4.52± acres of property and 0.73± acres of right-of-way.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

- b. Ordinance No. 2008-37/CPA-2008-05: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment designating a Future Land Use of Suburban Estate Residential on 4.52± acres of property.
- c. Ordinance No. 2008-38/Z-2008-1133: (First Reading/Public Hearing) An ordinance establishing an REU (Rural Estate Use, Single-Family Residential) zoning designation on 4.52± acres of property.

Mr. Gougelman read all three ordinances by title. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval.

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

Moved by Contreras/Meehan for approval of Ordinance No. 2008-36 based on the findings in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Thomas for approval of Ordinance No. 2008-37 based on the findings in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by Meehan/Contreras for approval of Ordinance No. 2008-38 based on the findings in the Planning and Zoning Board memorandum. Motion carried unanimously.

Without objection Council convened as the Babcock Street Community Redevelopment Agency for this item:

- 25. COUNCIL ACTION RE: Police Vehicle for the Babcock Street Community Redevelopment Area (CRA).
 - a. Approval of an appropriation of \$36,600 from the Babcock Street CRA Reserve for Future Projects to provide funding for the purchase of a police vehicle with associated equipment for the Community Policing Officer assigned to the Babcock Street CRA.

From the agenda report: The Police Department has assigned one full time officer to the Babcock Street Community Redevelopment Area (CRA). The officer will function under the same type job description as the Downtown CRA officer. In support of this assignment the Police Department is requesting approval for the appropriation of funding for the purchase of one fully marked patrol vehicle and related equipment. The total amount requested is \$36,600.

Mayor Goode asked if the difference between the \$25,184 and the \$36,600 involves equipment and the City Manager replied yes.

Moved by Meehan/Thomas for approval of an appropriation of \$36,600 from the Babcock Street CRA Reserve for Future Projects to provide funding for the purchase of a police vehicle with associated equipment for the Community Policing Officer assigned to the Babcock Street CRA.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Mrs. Corby asked if we know who will be assigned to this area. The City Manager replied that he does not believe the assignment has been made. Mrs. Corby asked if the officer will have a reporting system and if Council will receive that information. Mr. Schluckebier said that the officer will probably routinely report to the advisory committee, and the minutes would be available.

Mrs. Palmer asked when it's time to replace the vehicle if the CRA budget would pick up the cost. Mr. Schluckebier said that is the plan.

The question was called. Motion carried unanimously.

Without objection Council reconvened for the remaining items:

- b. Purchase of one 2008 Chevrolet Impala with Police package, Garber Chevrolet, Green Cove Springs, FL - \$25,184; and other related equipment purchases to multiple vendors for an estimated total package cost of \$36,600.

Moved by Contreras/LaRusso for the purchase of one 2008 Chevrolet Impala with Police package, Garber Chevrolet, Green Cove Springs, FL - \$25,184; and other related equipment purchases to multiple vendors for an estimated total package cost of \$36,600.
Motion carried unanimously.

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

- 25. Council minutes will be provided to the public at no cost. (11/2/1999, Item #4)

No action/no changes.

- 26. Provided that funding is available, outside legal counsel may be used upon recommendation by the City Attorney and concurrence by the City Manager with a spending limitation of not more than \$10,000 per fiscal year. Use of outside legal counsel when funding is not available, when the \$10,000 limitation will be exceeded, or on a permanent basis must be approved by the City Council. In all cases, City Council will be notified of the use of outside legal counsel. (12/14/1999, Item #29)

No action/no changes.

- 27. The City Attorney will provide Mayor and Council with a regular report about all lawsuits and claims against the City. (4/25/2000, Item #14)

No action/no changes.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

28. Ordinance No. 2000-32 amended the section of the Code (Chapter 2) relating to Mayor & Council salaries. In accordance with the Code change, Council adopted Resolution No. 1653 increasing the Mayor's salary from \$7,200 to \$9,000 per year and the salary of each Council Member from \$5,200 to \$6,500. (8/22/2000, Item #13d)

Effective November 14, 2006, the Mayor's salary will increase from \$9,000 to \$10,350 and Council's will increase from \$6,500 to \$7,475. (Reference Council action 8/9/2005, Item #19)

No action/no changes.

29. Tower leases (after March 26, 2001) for cellular telephone service will have an annual minimum base amount of \$30,000. (3/26/2001, Item #19)

Following a brief discussion, Attorney Gougelman recommended Council eliminate this policy. He explained that since the cell tower network is pretty much built, towers are being built sporadically. Cell phone companies are becoming picky about who they lease with. They no longer have the pressure to crank out multiple leases and can shop properties. The City may knock itself out of potential revenue by providing for a minimum lease amount. He confirmed that if we are able to bring in a lease, it will be on a competitive basis.

Moved by Contreras/LaRusso to repeal Policy #29. Motion carried unanimously.

27. COUNCIL DISCUSSION RE: Proposed ordinance amending recreational equipment/vehicle regulations.

Mrs. Dittmer briefed Council. The following is an excerpt from the agenda report:

City Council discussed changes to the recreational equipment/vehicle regulations during the May 13 Council meeting. Direction was given to staff and draft language incorporating the changes has been prepared. The proposed changes are:

Definition of Recreational Equipment:

The definition of major recreational equipment is revised to include several categories of equipment that had been previously interpreted as included, such as golf carts, off-road vehicles, and trailers for recreational equipment. Additionally, staff added language to state that motorized dwellings are defined as those that are primarily used for temporary lodging – not everyday transportation.

1. *The definition of the front building line that determines the allowable location to park recreational equipment/vehicles is proposed to be clarified. The current definition is very clear for typical rectangular lots; however, some lots are irregular in shape or have homes built on angles that do not parallel the right-of-way. The proposed language simply further clarifies that the front building line follows the*

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

edge of the home and then runs parallel to the right-of-way until it intersects the side property lines. This clarification follows the method staff has utilized to interpret this section of the Code for a number of years, and upholds the appeal to this section by the Zoning Board of Adjustment. Furthermore, it does not decrease the current allowable area to park recreational equipment/vehicles.

- 2. The ordinance would change the allowable yard area to park recreational equipment/vehicles for all corner lots, regardless of the type of roadway the side corner yard abuts. The language proposes that recreational equipment/vehicles may be parked in a side corner yard if parked behind a six-foot opaque fence and located at least 10 feet from the property line. Currently, the equipment/vehicles need to be located behind the building line, at least 20 feet from the property line. No regulation has been proposed as to whether or not the equipment/vehicles may be seen over the fence.*
- 3. The addition of new language to define a 48-hour timeframe for loading, unloading or maintenance of recreational equipment/vehicles has been included.*
- 4. The addition of new language providing a temporary allowance for guests to park a recreational vehicle in the front yard area. The ordinance proposes to allow guests to park on a driveway in the front yard for up to two weeks within each calendar year.*
- 5. The addition of new language to prohibit the parking of recreational equipment/vehicles within the public right-of-way. Based upon past Code complaints, staff believes that the current ability to park these vehicles in the right-of-way creates traffic visibility problems, emergency access problems and leads to visual clutter that is objectionable to surrounding neighbors.*
- 6. The addition of new language to require recreational equipment/vehicles be properly tagged, if required, and in operable condition. Based upon past Code complaints regarding inoperable vehicles, staff believes that this new language will assist in eliminating inoperable vehicles from being “abandoned” on the property for long periods of time.*

Most homeowners’ associations have more stringent guidelines than the current or proposed City guidelines. The association regulations would need to be adhered to above and beyond the City regulations. Therefore, it is likely that any proposed changes to these sections of Code would not apply to many newer subdivisions within the City because their regulations would be more restrictive.

Mr. LaRusso referenced #2 and said he does not believe there should be a setback requirement from the property line. He noted that four inches from the property line is normal in most communities for placement of items in the side yard. If there is a safety issue on a corner lot related to a setback, staff will have to calculate that variable.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Mrs. Dittmer agreed and said that visibility would be reviewed through the (Code Compliance Division).

Mr. Contreras said he would support this change given the fact these are reviewed for safety.

Mrs. Dittmer confirmed for Mrs. Palmer that (#4) the language proposes a two-week period total, regardless of the number of visitors. She added that staff is open for additional input.

Mrs. Palmer stated that she believes that is a little too restrictive. There's always potential that someone would have more than one visitor per year with a recreational vehicle. She suggested a process where a resident could notify the City that they will have a visitor and receive temporary permission. Regarding #6, she said she believes that requiring all equipment/vehicles to be tagged and operable is a little overboard. Sometimes people might be working on equipment in their backyard behind a fence. A motor vehicle driven on the street should be tagged; however, it might not be operable.

Mrs. Palmer asked staff to confirm that a public hearing will be held when this returns in ordinance format. She added that she would like input before the ordinance is finalized.

Mr. Thomas said he agrees with removing the setback requirement. Regarding the tagged and operable provision, he said that language should be added clarifying that a vehicle typically driven on the street should be tagged.

Mrs. Dittmer agreed and said that equipment should be tagged when applicable. Obviously there is some equipment that doesn't require a tag.

Staff confirmed for the Mayor that if Council approves language this evening, staff will prepare an ordinance, which will appear on a future agenda as a public hearing.

Without objection, Mayor Goode said he will allow public comment at this meeting.

James Douglas Price, 1265 Pinewood Drive, said he does not understand whether the changes would allow him to use his side yard.

Mrs. Dittmer explained that currently equipment may be parked in the side corner yard, but it must meet the setback of the zoning district. The proposal is to make the regulations more lenient, which would allow vehicles and equipment to be parked in the side corner yard.

Following a brief discussion, the Mayor encouraged Mr. Price to meet with staff to discuss the proposed changes.

Mrs. Palmer stated that she's looking forward to the public hearing so everyone can explain their configuration and provide input. There are a lot of people that want to keep

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

as much property rights as possible. She does not want that taken away unless it involves a safety or health issue.

Discussion followed regarding the origin of this change. Mrs. Dittmer explained that two issues brought about this proposal: 1) A property owner appealed her interpretation of the City Code to the Board of Adjustment. The board made an interpretation and staff began following that; however, the Code needs to be changed to update the definition of "front building line." 2) There were appeals related to side corner setbacks and where people could park recreational equipment.

Discussion followed regarding the Code Compliance Division taking on a role of being proactive.

Moved by LaRusso/Palmer for approval.

Mrs. Palmer said she seconded the motion because the proposed language is not as tight as the current language. However, she wants staff to understand that it's subject to change during the public hearing.

The maker/seconded agreed that the motion includes the change to the setback requirement.

Council agreed that the language providing a temporary allowance for guest to park can be finalized after the public hearing.

The question was called. Motion carried unanimously.

28. COUNCIL DISCUSSION RE: Pension service buyback requests. (Requested by Council Member Joanne Corby)

Mrs. Corby stated that she placed this item on the agenda to bring Council Members up to speed on this issue. She noted that what started out as a simple question has turned into a lengthy list of communication attempts. For the record, she wanted to let Council know the exact question. She referenced the copy of the letter distributed to Council dated June 24 from her to the Chairman of the General Employees' Pension Board. The question posed in the letter is, "...to request from the Board's actuary the actual formula used to calculate and determine the buy-in price of Dr. Schluckebier, City Manager, and Police Chief Don Carey..."

Mrs. Corby stated that she wants to ensure that a fair price has been paid. The purchase of past service impacts the employees' final retirement and the plan. The employee who purchases past service must consider how many months they must be retired before recovering the cost of the purchase. That is determined by comparing the estimated retirement benefit without the purchase to the estimated retirement benefit with the purchase. Because the final compensation paid to the employee during retirement comes from the plan, it affects the plan and all the members in the plan.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Mrs. Corby summarized by saying she has been unsuccessful in getting this information and her hope is that the letter to the Pension Board will prevail and she will get the information.

Mayor Goode referenced Mrs. Corby's letter to the Pension Board and noted that the second paragraph indicates that in correspondence from Amy Elliott on May 30, Ms. Elliott states that the actuary stands ready to provide the formula to any Council Member. The Mayor said he has heard that the actuary is not willing to provide this information.

Mrs. Corby said that she asked the actuary for that information and in subsequent discussion/correspondence he decided he doesn't want to provide the formula. She noted that she will reserve what she believes is causing the delay.

Mayor Goode said that it is his understanding actuaries consider this information to be proprietary. He added that Florida Statutes provide proprietary information does not have to be revealed.

Mrs. Corby replied that although the formula might be covered under State Statutes when the formula is subjective, once it has been utilized it becomes objective and falls under the public records law.

Mayor Goode asked the City Attorney if he had any information to add. He noted that he does not believe it is within Council's purview to delve into proprietary issues.

Attorney Gougelman replied that he does not believe Mrs. Corby is asking Council to join. She is simply attempting to brief Council on actions she's undertaking. Continuing, Mr. Gougelman said that the actuary has the formula. The actuary is hired, retained and under the control of the Pension Board. Mrs. Corby has gone to the source to make the request for information. They will either turn it over to her or they will tell her they are not going to turn it over. If they do not, under the public records law they will have to explain why.

Mrs. Corby revealed that she spoke to the Attorney General's Office about this issue. She has the ability to submit a letter directly to the Attorney General requesting an opinion; however, Council as a body may wish to submit that letter requesting an opinion on whether the formula is proprietary.

Moved by Corby/Palmer to have the City Council submit a letter to the Attorney General requesting an opinion on whether the formula used (to calculate the buy-in rate for Jack Schluckebier and Don Carey) is proprietary.

Mrs. Palmer said that if the information is public, there is no reason it should be withheld. She added that the information should probably be available if another employee decides to buy past service.

Mayor Goode clarified that each time an employee decides to buy in, an actuary study is performed to determine the price.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Mr. Thomas asked Mrs. Corby what got her attention with this matter and if she believes there is impropriety.

Mrs. Corby said when Council considered moving to the Florida Retirement System, she studied how that plan works and how members can buy time. The formula used by the Florida Retirement System is in black and white. If you use those numbers, the purchases that were made were not fair. Before jumping the gun, she thought it would be appropriate to ask staff for the formula. Another reason she is pursuing this information is because members of staff benefited from a 2006 ordinance that was passed. The two members identified in the letter to the Pension Board are the only two members of the plan who benefited from that ordinance.

Continuing, Mrs. Corby said that the 2006 ordinance changed the number of years that could be purchased from five to ten. Nationwide, the norm is five or six years. In the Florida Retirement System, it is six years. The ordinance also changed the definition of vesting. This part is really important because the ordinance changed the vesting definition to allow purchased time to count towards vesting. As an example, our Police Chief has been employed in Melbourne less than five years and he has already opted to jump into the DROP. He's benefiting from the plan and that impacts the system.

Mrs. Corby summarized by saying that the final reason she is pursuing this is the question of whether the price was fair. Council received the information from the City Manager showing all the employees who purchased time; however, there are only two employees on that list who are benefiting from the ordinance.

Mr. LaRusso said that it sounds like Mrs. Corby is proposing the City Manager and Police Chief have come together to create fraud.

Mrs. Corby replied that is not what she is proposing.

Mr. LaRusso and Mrs. Meehan said that is the message they are getting from this discussion.

Mrs. Corby replied that is why it is so important to get the formula so Council can find out exactly how the price was calculated. She added that she can provide all the calculations and it's definitely not a fair price tag. And, she doesn't want to make that assumption; it's not fair to do that.

Mr. LaRusso pointed out that Mrs. Corby is not exactly "super friends" with the City Manager. He recommended that she move forward with her letter to the Pension Board. Regarding his support of a letter to the Attorney General, he noted that Mrs. Corby is on this crusade and he doesn't have anything in front of him. He stated that she needs to return with something from the actuary through the board that would allow him to make a better judgment.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Continuing, Mr. LaRusso discussed his wife's experience in obtaining a buy-in formula (past service in Broward County and her current employment with the School Board). For the heck of it, he asked the formula that was used and channel after channel he was told it was proprietary information. Therefore, this is not an unusual situation. If Mrs. Corby believes it is different, then she needs to return with information. But, at this point it seems like she is saying fraud is involved.

Mrs. Corby stressed that her reasoning behind this is to ensure that the price was fair. She does not want to jump to those conclusions; however, based on everything she has reviewed, the right price was not paid.

Mr. Thomas asked what motivation an actuary could have to give an unfair price. Mrs. Corby said that she does not know. Mr. LaRusso pointed out that there are mega careers at stake here.

Deputy City Manager Amy Elliott commented that the actuary is a person who has many, many years of education and experience. He is a fiduciary to the Pension Plan and has a fiduciary responsibility to fulfill his obligations. The actuary is required to provide the benefit buy-in cost at a rate that will keep the plan actuarially sound and neutral. It is at no gain or no loss; that is the concept behind it. When a member requests a buy-in, he/she pays the cost of the actuary to perform the calculation. The actuary has a number of elements that he uses in the formula. In her correspondence to Mrs. Corby, she stated that the actuary said he stood ready to provide the formula to any Council Member who calls him. Mrs. Elliott added that the actuary advised her that it takes a mathematician to understand the formula; however, he would be happy to review the formula and explain the elements used. The calculation tends to deal with how many years the member is from retirement, salary level, mortality tables, etc.

With regard to the 2006 ordinance, Mrs. Elliott reported that the Pension Board endorsed it and Council unanimously approved it. It was an opportunity to provide possible benefit enhancements for all the employees who participate in the plan. Some members have taken the opportunity to purchase an income stream.

Mr. Contreras said that he has had the privilege of working with proprietary information for the past 20 years. Therefore, understanding that and being respectful of that system, he won't support the motion.

Mr. LaRusso said that given his personal experience with his wife being provided with a price for the purchase of past service, he can't support the motion.

Mrs. Meehan said she won't support the motion because it alleges that the City Manager and Chief of Police were in cahoots on fraud.

Following continued discussion, Mayor Goode, Mr. LaRusso and Mrs. Meehan pointed out that Mrs. Corby can make the request to the Attorney General on her own.

The question was called. The roll call vote was:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JUNE 24, 2008

Aye: Palmer and Corby

Nay: Contreras, LaRusso, Thomas, Meehan and Goode

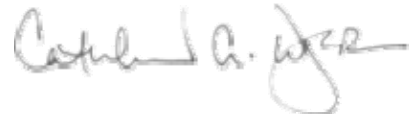
29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

None.

30. ADJOURNMENT

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

The meeting adjourned at 9:06 p.m.



City Clerk – 7/3/2008

Approved by Council: _____