

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



A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:30 p.m. by Mayor Harry C. Goode, Jr.

1. Mary Rosendahl, Holy Trinity Episcopal 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 two proclamations: 1) Recognizing Dale Morrison, Scoutmaster, Troop 300, chartered by St. Paul's United Methodist Church, for being named the Scoutmaster of the Year for Eagle District; accepted by Mr. Morrison. 2) Recognizing Renee Waldrop, Cubmaster, Pack 726, chartered by St. John's Episcopal Church in Eau Gallie, for being named the Cubmaster of the Year for Eagle District; accepted by Ms. Waldrop.

Additionally the Beautification and Environmental Advisory Committee "We Noticed Award" was presented to Dr. Richard Leong, DDS, for outstanding landscaping at his office located at 400 South Babcock Street.

5. Approval of Minutes – July 8, 2008 Regular Meeting.

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

6. City Manager's Report

**Melbourne Economic Enhancement District (MEED)** – City Manager Jack Schluckebier reported that this area will also be designated as a Brownfield Area. (A map of the area is available for review in Planning and Economic Development and the Office of City Clerk.) The state statutes require the City to announce the public hearing dates. The item will be considered by the Planning and Zoning Board on August 7 and the City Council on August

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26 and September 16.

**Automatic red light cameras** – Council Member Joanne Corby referenced the Police Chief’s report on the “margin of error.” (The red light camera companies reported that four to seven percent of the violations are not ticketed, mainly because of license plate obstruction or raindrops on the lens.) Mrs. Corby asked if staff is aware of the sampling size, which resulted in the four to seven percent figure. Police Chief Don Carey said that he is not aware of the sampling size. Staff contacted vendors of red light cameras and they responded with information. The percentage is based on the difference between the number of photographs taken and the number of citations issued.

(The report further indicates that approximately 90% of citations written by officers for red light violations are upheld when violators contest the tickets in court.) Mrs. Corby pointed out that 10% of the people who receive red light citations have those overturned in court. She asked if we know the court costs involved to contest such a citation. The Police Chief replied that the cost would be directly related to the individual. For example, if a person is not paid for their time away from work while in court, that would be the cost to that individual. He confirmed that to his knowledge a study has not been done to determine the average cost.

Continuing, Mrs. Corby said that the report indicates some people receive tickets due to error. She asked if we know the percent. Chief Carey said that statement is based on human error (the officer misreads the license tag information from the photograph) and not equipment malfunction. Mrs. Corby expressed concern that there may be some non-violators who do not contest the citation and pay the costs.

**Police Department on-call program** – Mrs. Corby pointed out that the report on the program (standby pay for Police personnel who are on call per the union contract) indicates that year to date the City has spent roughly \$37,000 for on call pay. For the two years prior, the City spent an average of \$80,000 per year as a result of on call pay. Mrs. Corby asked if we pay employees when they come in. Chief Carey said if they are called in after schedule, they receive a minimum of two hours, unless it coincides with their regular shift. He added that the City determines when they are on call and when they come in. Additionally, employees are held accountable and are required to come in within 30 minutes.

Mrs. Corby stated that the City should seriously consider not offering a program where we pay \$80,000 per year to have people sit by the phone in case we call. She pointed out that money could be used for other programs. Chief Carey clarified that we are paying people with specific expertise to come in after hours. The department needs trained traffic homicide investigators, detectives, etc. – individuals with expertise – to be available after hours. Mrs. Corby asked if the Police Department is equipped to handle any and every call 24 hours a day. Chief Carey replied yes and repeated that we are not paying people to sit by the phone; we are paying people with expertise to respond when needed. For the record, Mrs. Corby stated that she does not believe this is a cost effective program. The funds could be used to pay the cost of one or two employees.

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In response to Council Member Mark LaRusso, the Chief said that employees are paid two hours straight time when they are on call overnight. The program guarantees that we have expertise available when needed.

Council Member Richard Contreras said that since it has been suggested the on-call program be eliminated, staff should prepare a brief analysis outlining the ramifications – positive and negative – of eliminating the program. He added that impact would relate not only to pay but also morale. The City Manager replied that staff would be happy to prepare that information.

Mrs. Corby pointed out that the cost of this program averages \$80,000 per year. With regard to morale, she believes we only have a few specialists; therefore, elimination of the program would only affect a few. The on call program is not offered to all officers. Additionally, the employees on call have take home vehicles, which they utilize for their personal use. The City is currently addressing reducing fuel consumption and this is something to consider. She stressed that her point is not meant to be negative. She's trying to point out that the City needs to be prudent in its spending habits.

Council Member John Thomas asked if the Police Department has detectives, homicide detectives, and traffic homicide investigators on duty 24 hours a day. Chief Carey replied no.

***Melbourne International Airport access road*** – Mr. LaRusso pointed out that the City's federal lobbyist notified us that the Senate Transportation and HUD Appropriations bill includes one million dollars for the Airport access road. He asked staff to confirm that the cost of the lobbyist is shared between the City and the Airport. Mr. Schluckebier agreed and said that each party pays \$37,500 per year for the lobbyist's services. Mr. LaRusso asked if that roadway had been included in an appropriation bill prior to having a federal lobbyist. The City Manager replied no and added that an interchange at Ellis Road was included in the bill for the St. Johns Parkway.

***Fourth of July fundraising activities*** – Vice Mayor Kathy Meehan complimented the City's Public Information Officer for securing sponsors for the 2009 Fourth of July activities at Front Street Park. With regard to the "contributor levels" outlined in the report, Mrs. Meehan recommended that it be lowered to \$250 or \$500 so that more small businesses could participate. The City Manager pointed out that in the regular fireworks program, the City does offer an opportunity for all levels of participation, beginning at the one-dollar level. The report in the agenda package relates to a new concept – solicitation of contributions to support City-sponsored activities on July 4, 2009, including the bus service, music, stage, lighting, etc.

7. Public Comments

Debbie Ambrose, 2155 Palm Bay Road, informed Council that she is the wedding planner for Elizabeth Pittman. She reported that Ms. Pittman has been having difficulties with her lease at the Eau Gallie Civic Center. The contract doesn't indicate that there are additional fees involved in having a rehearsal. She added that the contract is generic and only covers

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issues like liability. Ms. Ambrose stated that she has over one thousand brides in Brevard County and she is sending many to Melbourne for wedding venues. She asked the City to review its contract and ensure everything is clear.

Elizabeth Pittman, 325 E. University Boulevard, stated that she is having her wedding at Eau Gallie Civic Center. She reported that in order to have a rehearsal, the City wants to charge her an additional \$125. Ms. Pittman added that the staff at Leisure Services has not been very helpful.

Leisure Services Director Mary Ann Bowman reported that she spoke with Ms. Pittman. Mrs. Bowman said that the contract clearly indicates Ms. Pittman is renting the facility on November 8 from 9:00 a.m. until 1:30 a.m. The rules and regulations on the back of the contract, signed by the renter, state that requests for early entry up to a maximum of two hours may be considered and accommodated when possible. If approved, a flat \$75 fee is charged in addition to the rental fee. Additionally, per the fee resolution approved by City Council, full rental rates are charged for Friday, Saturday and Sunday. A block of time at a reduced rate may be approved for Monday through Thursday. If Ms. Pittman wants to use the facility on Friday for a rehearsal, she will have to pay the full rental fee. If she holds the rehearsal on Monday through Thursday, she may pay a block of time. Or, Ms. Pittman may have early access the day of the event for a fee of \$75.

Mr. Thomas asked Mrs. Bowman how wedding rehearsals have been handled in the past. Mrs. Bowman explained that the majority of renters come in early the day of the rental.

Mrs. Meehan said that Ms. Pittman would like to come in for an hour on Friday for the rehearsal; however, she was told that she has to pay a fee. Mrs. Bowman pointed out that full rates are charged for Friday, Saturday and Sunday. She pointed out that someone may rent the facility on Friday between now and the wedding.

Mrs. Palmer asked if it was possible to work up a system – not just for Ms. Pittman – that would allow rehearsal time on the day prior to the wedding for less than the three hour block. Leisure Services could offer a type of wedding package.

Mrs. Bowman said that staff could look at that and consider changing the fee resolution adopted by City Council. A choice has to be made on whether the facility is rented for an hour or whether a prime date remains open for the full rental fee. Mrs. Palmer clarified that she wouldn't want to offer a special on a prime date. She would like staff to look at the off dates. Mrs. Bowman said that staff could work up something for Monday through Thursday.

Mrs. Corby stated that the City has lovely venues to offer for weddings. It's a product that we have and it might be to our advantage to construct the agreements based on a package. That change could move us above the other cities that also offer venues. She added that it's not unusual to have a different type of contract for different packages.

Mr. LaRusso asked how we can help Ms. Pittman at this point. Mrs. Bowman replied that right now staff is following the resolution, policies and procedures. Changing the process midstream when we have people with signed contracts would pose difficulties. She

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recommended that Ms. Pittman come in early the day of the event or take a three-hour block during the week. Mr. LaRusso asked if it would be advantageous for Ms. Pittman to book on a Wednesday or Thursday for the rehearsal, with an opportunity to hold the practice on Friday if the facility doesn't get booked. Mrs. Bowman said staff will look at that.

Mayor Goode apologized to Ms. Pittman for the contract not being clear on the arrangement. He added that staff is going to work on the suggestions that have been made.

Laird Gann, Executive Director, Melbourne Main Street, informed Council that Melbourne Main Street has been designated the Florida Main Street Community of the Month for July 2008 by the Florida Department of State. He added that Main Street also received this designation last August. Mr. Gann read from the Secretary of State's press release, which indicates, "Melbourne Main Street has stood by its mission to preserve the historical essence of the community and to continuously promote a strong development program." Mr. Gann thanked Council for its support and said that much of the credit is due to City staff and the Downtown Community Redevelopment Agency Advisory Committee.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2008-21 (Z-2006-1080) AND ORDINANCE NO. 2008-22 (CU-2006-11) DAILY BREAD: Ordinances providing for a change in zoning on 0.37± acres and a conditional use with site plan approval to allow the development of a 9,193± square foot soup kitchen on 0.76± acres, located on the south side of Fee Avenue, east of Waverly Place, and west of Florida East Coast Railroad right-of-way. (Owner/Applicant - Daily Bread, Inc.) (Representative - Matt Soyka, Soyka Engineering, Inc.)
- a. Ordinance No. 2008-21/Z-2006-1080: An ordinance changing the zoning from C-1 (Neighborhood Commercial) to C-2 (General Commercial) on a 0.37±-acre parcel. (Denied - 5/19/08; motion to reconsider left pending)
  - b. Ordinance No. 2008-22/CU-2006-11: An ordinance granting a conditional use with site plan approval to allow the development of a 9,193± square foot soup kitchen on 0.76± acres.

The following is an excerpt from the agenda report: *The applicant has requested a continuance of the hearing until the August 12 or August 26 meeting. It should be noted that two members of Council have indicated their intended absence from the August 26 meeting.*

Mayor Goode reported that the applicant has asked for the item to be postponed. The item was going to be delayed until August 26, but two members will be absent at that meeting.

Mrs. Meehan moved to postpone the item until the September 16 agenda. Mayor Goode stated that without objection, show it adopted.

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Mrs. Corby asked why Council is moving the second reading of this ordinance. City Attorney Paul Gougelman clarified that it's Council action on a motion to reconsider. Continuing, Mrs. Corby said that the information in the agenda package indicates Daily Bread is looking for another location in Melbourne. Mayor Goode said that Daily Bread asked for time to pursue other sites.

Mrs. Corby asked if we have other sites available in Melbourne. Mayor Goode said that the City originally offered three sites, but later had to withdraw one from consideration. Mrs. Corby asked if the two City sites were acceptable to Daily Bread. Mayor Goode replied that the Daily Bread Board of Directors is still working on the issue and looking at other possible opportunities. He added that the item has been postponed; therefore, he's going to move ahead on the agenda.

9. ORDINANCE NO. 2008-39 (A&V NO. 316): (Second Reading/Public Hearing) An ordinance vacating a six-foot wide public utility and drainage easement, located north of Sarno Road, south of Eau Gallie Boulevard, and west of Harbor City Boulevard. (First Reading - 7/08/08)

Attorney Gougelman read Ordinance No. 2008-39 by title. There were no disclosures by Council and no public comments were offered during the public hearing.

Moved by Meehan/Contreras for approval of Ordinance No. 2008-39. The roll call vote was:

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

Motion carried unanimously.

10. ORDINANCE NO. 2008-40 (AR-2008-223), ORDINANCE NO. 2008-41 (CPA-2008-06), AND ORDINANCE NO. 2008-42 (Z-2008-1134) SUNG AND HYUN CHUNG (DAIRY ROAD): Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation on a 4.39±-acre parcel, located on the west side of Dairy Road, north of Eber Road, and south of Florida Avenue. (Owner/Applicant/Representative - Sung Wuk Chung and Hyun Sook Chung)
- a. Ordinance No. 2008-40/AR-2008-223): (Second Reading/Public Hearing) An ordinance providing for annexation of a 4.39±-acre parcel. (First Reading - 7/08/08)
- b. Ordinance No. 2008-41/CPA-2008-06: (Second Reading/Public Hearing) An ordinance establishing a Future Land Use of Commercial on a 4.39±-acre parcel. (First Reading - 7/08/08)
- c. Ordinance No. 2008-42/Z-2008-1134: (Second Reading/Public Hearing) An ordinance establishing C-1 (Neighborhood Commercial) zoning on a 4.39±-acre parcel. (First Reading - 7/08/08)

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The City Attorney read each ordinance by its title. There were no disclosures made by Council and no comments during the public hearing.

Moved by LaRusso/Palmer for approval of Ordinance No. 2008-40 based on the findings contained 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 Thomas/Meehan for approval of Ordinance No. 2008-41 based on the findings contained 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. 2008-42 based on the findings contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2008-43 (AR-2008-224), ORDINANCE NO. 2008-44 (CPA-2008-07), AND ORDINANCE NO. 2008-45 (Z-2008-1135) GARY OLNEY - DOW ROAD: Ordinances providing for annexation, a Comprehensive Plan Amendment, and zoning designation on a 1.9±-acre parcel, located on the south side of Dow Road, east of John Rodes Boulevard, and west of West Drive. (Owner - Melbourne Properties) (Applicant/ Representative - Gary Olney)
- a. Ordinance No. 2008-43/AR-2008-224: (Second Reading/Public Hearing) An ordinance providing for annexation of a 1.9±-acre parcel. (First Reading - 7/08/08)
  - b. Ordinance No. 2008-44/CPA-2008-07: (Second Reading/Public Hearing) An ordinance establishing a Future Land Use of Industrial on a 1.9±-acre parcel. (First Reading - 7/08/08)
  - c. Ordinance No. 2008-45/Z-2008-1135: (Second Reading/Public Hearing) An ordinance establishing M-1 (Light Industrial) zoning on a 1.9±-acre parcel. (First Reading - 7/08/08)

The City Attorney read the ordinances by title. The public hearing was opened and closed with no comments and there were no disclosures from Council.

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Moved by Palmer/Thomas for approval of Ordinance No. 2008-43 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 LaRusso/Meehan for approval of Ordinance No. 2008-44 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 Thomas/Contreras for approval of Ordinance No. 2008-45 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

12. COUNCIL ACTION RE: Utility relocation plans to support the NASA Boulevard Realignment at Wickham Road, Phase II, Project No. 30703.
- a. Approval of a Joint Project Agreement (also known as Utility Work by Highway Contractor Agreement) between the State of Florida Department of Transportation (FDOT) and the City of Melbourne allowing the City to incorporate utility adjustments into the FDOT bid package; a Memorandum of Agreement between FDOT, the State of Florida Department of Financial Services, Division of Treasury and the City of Melbourne providing for an initial deposit of \$1,159,208; an appropriation of \$1,159,208 from bond proceeds to establish this project budget; and a transfer of \$14,500 from Water & Sewer Miscellaneous Capital Improvements to supplement this project budget.
  - b. Supplement No. F029 to the Continuing Consultants Contract for engineering services to coordinate with FDOT, re-evaluate the preliminary design, and prepare final plans for utility relocations, Frazier Engineering, Inc., Melbourne, FL - \$14,500.

City Engineer Jenni Lamb reviewed the agenda report. The following is an excerpt:

*This item includes the required agreements with the Florida Department of Transportation (FDOT) and a supplement to the Frazier Engineering, Inc. Continuing Consultants Contract for the NASA Boulevard Realignment at Wickham Road Utility Relocation project.*

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*FDOT is currently in the final design stage of realigning NASA Boulevard to intersect Wickham Road directly across from Ellis Road. FDOT encountered funding delays in 2004, but the project is now scheduled to bid in July 2009. These roadway changes and accompanying drainage improvements will require City utility lines to be relocated to accommodate the improvements.*

*The City will be required to deposit the cost of the utility work in the amount of \$1,159,208 with FDOT in June 2009, which is 30 days prior to FDOT advertising the project for bid. Due to FDOT's funding delays, the construction portion of the City's utility relocation project was not budgeted. An appropriation from bond proceeds is recommended to fund this project. A budget transfer for the updated engineering is also recommended.*

Moved by Contreras/LaRusso for approval of the Utility Work by Highway Contractor Agreement; approval of the Memorandum of Agreement; appropriation of \$1,159,208 from bond proceeds to establish the project budget; and transfer of \$14,500 from Water & Sewer Miscellaneous Capital Improvements to supplement this project budget. Motion carried unanimously.

Moved by LaRusso/Thomas for approval of Supplement No. F029 to Frazier Engineering, Inc. for NASA Realignment at Wickham Utility Relocations, Project No. 30703 in the amount of \$14,500. Motion carried unanimously.

13. COUNCIL ACTION RE: Contract award for drainage improvements at Crane Creek Reserve Golf Course and reshaping of tee areas at Mallards Landing Golf Course, Project Nos. 40007/40107, Highland Golf, Inc., Avon Park, FL - \$157,428.20; and approval of transfers of \$3,165 and \$51,898 from Golf Course Miscellaneous Capital Improvements Projects to supplement the respective project budgets and a transfer of \$30,867 from Golf Course Contingency to further supplement the Mallards Landing project budget.

Mrs. Lamb was available for questions.

Moved by LaRusso/Contreras for approval of the construction contract with Highland Golf, Inc. in the amount of \$157,428.20 for the drainage improvements at Crane Creek Reserve Golf Course/reshape tee areas at Mallards Landing Golf Course; and transfers of \$3,165 and \$51,898 from Golf Course Miscellaneous Capital Improvements Projects to supplement the respective project budgets and a transfer of \$30,867 from Golf Course Contingency to further supplement the Mallards Landing project budget.

Deputy City Manager Amy Elliott confirmed for Mrs. Corby that the transfers being made are within the Golf Course Fund.

The question was called. Motion carried unanimously.

14. CONSENT AGENDA:

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Mayor Goode reported that at the request of Mrs. Corby, items “a”, “b” and “e” were removed from the consent agenda. Additionally, he noted that Norman Coates has asked to speak on Item “f.”

Mrs. Palmer asked why Item “f” was on the consent agenda. City Clerk Cathy Wysor explained that in accordance with Council’s policy, lien rescission requests come forward with a recommended order from the Code Enforcement Board and are placed on the consent agenda. If four members of Council agree to pull a request, a public hearing is scheduled two meetings out.

Norman Coates, 830 Brothers Avenue, said his complaint is that the Code Enforcement Officer gathered evidence incorrectly.

Mr. LaRusso pointed out that Mr. Coates has (\$14,600) at stake; therefore, he recommended the item be set for public hearing. By consensus, Council agreed. Mayor Goode announced that Item “f” will return on the August 26 agenda as a public hearing. Mrs. Corby pointed out that two Council Members will be absent on August 26. Mayor Goode replied that the City still has to conduct business. Mrs. Corby said she’s trying to be fair to the applicant.

Moved by Thomas/ LaRusso for approval of the consent agenda, with the exception of Items “a”, “b”, “e” and “f.” Motion carried unanimously.

- a. Change Order No. 1 to the contract for North Water Treatment Facility demolition to reduce hauling and dump fees, Project No. 35105, Sunrise Systems of Brevard, Inc., Cocoa, FL - decrease of \$66,437.31. (See Item 15 for Council action.)
- b. Contract award for renovations to the main entrance restrooms at the Melbourne Auditorium, ION, Inc., West Melbourne, FL - \$44,995. (See Item 15 for Council action.)
- c. Purchase of a Flygt submersible wastewater pump, ITT Flygt, LLC, Apopka, FL - \$19,788.
- d. First Amendment to Agreement for Work Previously Bid on August 15, 2007 between the City of Melbourne and DRC Emergency Services, LLC for debris management services, providing for the inclusion of Form 1273 to comply with Federal Highway Administration regulations.
- e. Approval of a transfer of \$31,850 from General Fund Contingency to Fire Operations to provide funding for relocation and temporary housing costs for Fire Station 71. (See Item 15 for Council action.)
- f. Lien Rescission CE-07-052: Denial of request for rescission of lien for property located at 830 Brothers Avenue. (Applicant - Norman L. Coates) (This item will return on the August 26 agenda for action.)
- g. Resolution No. 3009: A resolution providing for a change in the November 2008 regular meeting schedule; rescheduling the November 11 meeting to November 12; and revising Resolution No. 1906 by changing the end of terms of the Mayor and the Council Members from Districts One, Three and Five from November 11 to November 12.

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- h. Resolution No. 3010: A resolution calling for a General Municipal Election to be held November 4, 2008 to elect one Mayor and three Council members, one each, from Districts One, Three, and Five; specifying the terms of office for each.

15. ITEMS REMOVED FROM THE CONSENT AGENDA

- a. Change Order No. 1 to the contract for North Water Treatment Facility demolition to reduce hauling and dump fees, Project No. 35105, Sunrise Systems of Brevard, Inc., Cocoa, FL - decrease of \$66,437.31.

The following is an excerpt from the agenda report: *This material was intended to be disposed of at a landfill; however, the contractor was able to recycle more material than originally anticipated resulting in a reduction in the hauling and dump fees.*

Mrs. Corby expressed appreciation that a vendor took the time to sift through this material, which will save the City \$66,000-plus. She asked what the City will do with the savings. Mrs. Lamb explained that the funds will remain in the Water and Sewer Fund and be placed in the Water and Sewer Capital Improvement Miscellaneous Projects account. This account is used when a project has savings or if there is a budget shortfall on a project.

Moved by Corby/Palmer to approve Item “a.” Motion carried unanimously.

- b. Contract award for renovations to the main entrance restrooms at the Melbourne Auditorium, ION, Inc., West Melbourne, FL - \$44,995.

Mrs. Corby asked how bad we need these repairs. Leisure Services Director Mary Ann Bowman displayed photographs of the restrooms and explained that for at least the last 25 years, none of the tile and partitions have been replaced. These are the restrooms located immediately off the entrance lobby and they are badly in need of upgrade.

Mrs. Corby noted that the City hasn't decided what action to take on the entire facility as a result of the Auditorium study. She pointed out that the budget is tight and it would be senseless to remodel one portion and then pay that cost again if a decision is made to remodel the entire facility.

Mrs. Bowman informed Council that this project has been planned for the past 10 years. It keeps getting pushed back because we don't know the future of the Auditorium. The Auditorium is one of the most highly used facilities. Renters pay a lot of money to use that facility and staff receives a lot of complaints about the restrooms. The City received a good response from the contractor on what can happen for the money budgeted. Mrs. Bowman concluded by saying that she doesn't foresee the City making any changes to the Auditorium for quite a while because money is not available; therefore, she highly recommends we move forward with this project.

Moved by Corby/LaRusso to approve Item “b.”

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Mr. LaRusso asked if we use this venue for weddings and Mrs. Bowman replied yes. Mrs. Meehan stated that she is pleased the bathrooms will be upgraded; it's a well-needed project.

The question was called. Motion carried unanimously.

- e. Approval of a transfer of \$31,850 from General Fund Contingency to Fire Operations to provide funding for relocation and temporary housing costs for Fire Station 71.

Mrs. Corby asked if the City is getting a new fire station. The City Manager replied there is no new fire station proposed in the five-year plan. Mrs. Corby asked why we are paying money for temporary housing. Mr. Schluckebier explained that half a million dollars is proposed in the upcoming budget for improvements to Station 71 in response to environmental issues. Mrs. Corby asked if we are referring to the rat problem and Mr. Schluckebier replied yes.

Mrs. Corby pointed out that the rat problem has been going on since 1980. Fire Chief Paul Forsberg said that it is his understanding the station has had a problem, off and on, for approximately 20 years.

Mrs. Corby asked again if the City is going to get a new fire station. Chief Forsberg said Frazier Engineering has been contracted to evaluate the station. Mrs. Corby said right and noted that study recommended a new fire station. Chief Forsberg clarified that the (2006 Fire Department Deployment Study) addressed needs at Station 71. Frazier Engineering has not yet completed its report.

Mrs. Corby said that the City keeps putting a band-aid on the problem and throwing money away. At some point we are going to have to tear down and start over, which she believes was the recommendation in the report (Deployment Study). Mrs. Corby noted that she doesn't understand why we are allowing our staff to live in those conditions. The Fire Chief said that is why they are seeking temporary housing while waiting on the Frazier report.

Mr. Schluckebier said he would like the City Engineer to comment. He pointed out that the magnitude and scope of the project budgeted for the next fiscal year goes beyond a band-aid approach. Mrs. Corby asked if that is the price for remodeling.

Mrs. Lamb explained that Frazier Engineering is evaluating whether the building can be remodeled or whether it needs to be leveled and reconstructed. Frazier is looking at the structural components and all the internal components. Additionally, the study will determine whether the existing building can accommodate the current and future use of the building.

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Mrs. Lamb confirmed for Mrs. Corby that City Hall has rats. She doesn't know the status of the problem; however, she believes it is under control. Mrs. Lamb added that the 830 North Apollo building also had a mouse problem.

Mrs. Corby stated that she wants a commitment that we are going to get a new facility for that station and one that is more efficient.

Moved by Contreras/Meehan for approval of Item "e."

Mrs. Corby asked how long the temporary housing will be in place. Chief Forsberg said it will be 12 – 18 months, depending on the recommendations in the Frazier study.

The question was called. Motion carried unanimously.

Recessed: 7:56 p.m.

Reconvened: 8:01 p.m.

16. SITE PLAN APPROVAL (SP-2008-06) MIMA OF MELBOURNE, PHASE II: (Public Hearing) A request for site plan approval to allow the Phase II development of a two-story 134,092± square foot medical office project on a 14.41±-acre portion of a 39.9±-acre parcel zoned M-1 (Light Industrial), located south of NASA Boulevard, north of Hibiscus Boulevard, east of Gateway Drive, and west of Broadband Drive. (Owner/Applicant - MIMA Real Estate LLC) (Representative - Jake Wise, P.E., CEG Consulting Engineers) (P&Z Board - 7/03/08)

Planning and Economic Development Director Cindy Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the site plan, as presented on a three-sheet plan prepared by Construction Engineering Group, Melbourne, Florida, Project No. 070149, with a signed and sealed date of May 19, 2008, subject to the following conditions:

- a. Any change to the site plan will require reevaluation by the Engineering Department and Planning and Economic Development Department.

Any substantial change to the site plan as outlined in Appendix B, Article IX, Section 6 (E), will require review and approval by City staff, the Planning and Zoning Board, Local Planning Agency, and/or the City Council.

- b. Appropriate environmental permits, including permitting for the gopher tortoises and scrub jays, must be maintained throughout the development process.
- c. All hardwood trees and scrub oaks located outside of the building footprint and parking driveway aisles shall be preserved, and buildings and parking/drive aisles shall be shifted when possible to preserve hardwood trees or scrub oaks, as determined during construction plan review.

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- d. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- e. In conjunction with Phase 1, the applicant shall construct a dedicated right-turn lane on NASA Boulevard. The details of the right-of-way improvements shall be approved by the City Engineer during the construction plan review process.
- f. The approval of this site plan is contingent upon compliance with the proportionate fair share agreement approved with Phase 1, to comply with the concurrency management standards contained in City Code, Appendix D, Chapter 3.
- g. As required by Chapter 10, Appendix D, and Chapter 32, Melbourne City Code, to reserve capacity, the owner/developer shall be required to pay the capacity reservation fee in the amount of \$169,733.65 for transportation, water and sewer impact fees. Payment must be received by the City of Melbourne within 10 business days of the date of rendition of the Development Order by City Council. The Development Order shall not become effective until payment of the capacity reservation fee has been made payable to and received by the City of Melbourne.

Vice Mayor Meehan disclosed that she drove around the site. Mayor Goode opened the public hearing.

Jack Kirschenbaum, Cocoa Beach, attorney representing the applicant, stated that the professional engineer and representatives of the project are available for questions. He added that he accepts all the conditions.

Moved by Thomas/Contreras for approval of the site plan, based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

(Note: The form of Ordinance No. 2008-46 was missing from the agenda package. Council considered Item 18 first to allow staff time to retrieve a copy of the ordinance.)

- 17. ORDINANCE NO. 2008-46, TRAVEL REIMBURSEMENT: (First Reading) An ordinance amending Section 2 of the City Code, entitled Administration, by increasing the rate of mileage reimbursements to match the Internal Revenue Service (IRS) Income Tax Regulation § 1-274.5.

Attorney Gougelman read Ordinance No. 2008-46 by title. Director of Finance Michele Ennis provided an overview and added that this change will result in the City's mileage rate automatically indexing to the IRS rate. The following is an excerpt from the agenda report:

*The proposed ordinance provides for an increase in the mileage allowance not to exceed the Internal Revenue Service (IRS) Income Tax Regulation § 1-274.5. This index is updated annually on January 1 and most recently on July 1, 2008 to increase the business rate to 58.5 cents per mile.*

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Mr. LaRusso pointed out that the current rate of 44.5 cents is way out of line. He thanked staff for moving quickly on this change.

Mrs. Corby asked if this rate would also apply to requests for mileage reimbursements that are submitted to FEMA. Following brief discussion, Deputy City Manager Amy Elliott said that FEMA always estimates their own rates, which may or may not match the City's rates. The City always applies for the maximum mileage rate allowed by FEMA.

Moved by LaRusso/Corby for approval of Ordinance No. 2008-46. Motion carried unanimously.

18. ORDINANCE NO. 2008-47, GENERAL EMPLOYEES PENSION PLAN: (First Reading)  
An ordinance amending Chapter 23 of the City Code, Retirement and Pensions, Article VII, General Employees' and Special Risk Class Employees' Pension Plan, by closing the plan to new members and authorizing the transfer of funds to the Florida Retirement System.

The following is an excerpt from the agenda report:

*This ordinance closes the General Employees' and Special Risk Class Employees' Pension Plan (the "General Pension Plan") to new members effective August 1, 2008.*

*Council previously adopted Resolution Nos. 2095 and 3005 providing notice of intent to reinstate membership in the Florida Retirement System for employees covered by the General Pension Plan, authorizing current members of the General Pension Plan to elect to transfer to the FRS or to remain in the General Pension Plan, and further authorizing the past service cost to be transferred from the General Plan to FRS for those members electing such a transfer. The election is complete; nearly 90% of the General Pension Plan members elected to transfer to the FRS. The General Pension Plan will remain in existence for those members who chose to remain in this Plan.*

*In addition to closing the General Pension Plan to new members effective August 1, the ordinance provides direction within the pension plan section of the City Code to transfer the actuarial accrued benefit (past service cost) for those members electing to transfer their pension to the FRS.*

The City Attorney read Ordinance No. 2008-47 by its title.

Mrs. Corby commented that initially the Airport Police were not included in the plan to allow employees to transfer to the Florida Retirement System. Mrs. Elliott explained that when this item first came forward in the form of a resolution, FRS advised the City that Airport police could not participate. Subsequently, staff worked with FRS to change their ruling and Council adopted another resolution to extend the same opportunity to the Airport police.

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Mrs. Corby asked why FRS changed its mind. Mrs. Elliott explained that the Airport police had been in FRS prior to implementation of the General Pension Plan. The City argued the merits of the case that the Airport police should be allowed back in the plan that they were previously in.

Mrs. Corby said that 90% of the employees decided to go with the FRS plan. She asked if the other 10% are retirees. Mrs. Elliott explained that it's a mixture of active employees. Mrs. Corby asked staff to confirm that these employees will not have another opportunity to go with FRS. Mrs. Elliott replied that is correct.

Mrs. Corby said that the ordinance refers to "the combined total actuarial value". She asked the formula used to determine that value. Mrs. Elliott explained that the board actuary would prepare the calculation. To a certain extent the City has that information because the actuary provides the aggregate benefit valuation information annually in the actuarial valuation. Staff doesn't expect the information to vary greatly from that.

Moved by Contreras/LaRusso for approval of Ordinance No. 2008-47. Motion carried.  
Mrs. Corby voted nay.

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

35. Council authorized the City Manager the flexibility to hire senior management employees at the mid-range level for annual leave. (5/27/2003, Item #21)

No change.

36. The City Manager was granted the authority to approve project change orders up to the amount of normal purchase order authorization (\$15,000), provided that the change orders remain within the project budget or contingency amount. A written report of the change will be made to Council on or before the next regular Council meeting. (6/10/2003, Item #11)

No change.

37. Resolution No. 1830 – Fund Balances, Reserves and Utility Rate of Return Policy. (6/10/2003) Amended by Resolution No. 1938. (6/28/2005)

No change.

38. Council approved a policy, which authorizes Council Members to attend Florida League of Cities scheduled functions (policy committee meetings, Legislative Conference, Annual Conference, Legislative Action Day, etc.) without further action by Council. (10/14/2003, Item #23)

No change.

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40. Resolution No. 1845 – Delegating authority to the City Manager to negotiate and execute certain documents and agreements, including the stormwater maintenance agreement and releases of satisfaction liens imposed pursuant to the HOME, SHIP, CDBG, or similar programs. (10/28/2003, Item #14)

In response to Mrs. Corby, the City Manager responded to general questions about the satisfactions of lien. No changes were made to this policy.

20. COUNCIL ACTION RE: Board Appointments

- a. Appointment of a fifth member to the General Employees' Pension Plan Board of Trustees.

Moved by Palmer/Thomas to confirm the appointment of Lisa Brown as the fifth member of the General Employees' Pension Plan Board of Trustees.

Mrs. Corby asked if Lisa Brown is an employee. City Clerk Cathy Wysor replied yes and clarified that she is not a plan member. Mrs. Brown will serve as the fifth member.

The question was called. Motion carried unanimously. (Term: Unexpired, two-year term ending February 21, 2009.)

- b. Appointment of two alternate members to the Melbourne Downtown Community Redevelopment Agency Advisory Committee.

Mrs. Meehan said she would like for Joann Davis to serve as an alternate member. Mrs. Palmer asked why. Mrs. Meehan said that she has worked with Ms. Davis has worked on the design team with Main Street and she is very interested in serving on this committee.

Mr. LaRusso reminded Council that Main Street just received another award. He cautioned against changing people who are working in a team environment.

Mayor Goode called for nominations for Patricia Nichols' seat. Mrs. Meehan nominated Joann Davis and Mrs. Palmer nominated Patricia Nichols. Moved by LaRusso/Contreras to close the nominations. Motion carried unanimously. The roll call vote was:

Nichols: Contreras, LaRusso, Thomas, Palmer, Corby and Goode

Davis: Meehan

Appointed: Patricia Nichols (September 21, 2008 – September 20, 2011)

Mayor Goode called for nominations for the remaining seat and nominated LeAnn Smithson. Moved by Contreras/LaRusso to close the nominations. Motion carried unanimously. Moved by Goode/Palmer to appoint LeAnn Smithson. Motion carried unanimously. (July 27, 2008 – July 26, 2011)

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21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Pat Poole, 805 E. Palmetto Avenue, discussed the history of Daily Bread and the problems it has caused for the residents in the area. She expressed concern that the City postponed action on the Daily Bread at this meeting. Additionally, she informed Council that Daily Bread is now serving coffee at 7:30 a.m. They are not supposed to begin serving until 11:00 a.m.

Continuing, Mrs. Poole noted that prostitution activity has increased in the area. She concluded by saying that it's time to place people on Council who will take care of the health, safety and welfare of the citizens.

Mrs. Meehan said that the Police Department has the street crime unit working on problems in the area of Daily Bread. She added that she receives calls daily about the problems.

Mrs. Palmer said that she has noticed more prostitutes in the area of Daily Bread and she believes there is a lack of police patrolling the area. Often she sees two patrol cars in the Melbourne Auditorium parking lot while two blocks away prostitution is occurring. Mrs. Palmer recommended that there be more police presence in the area. Mayor Goode asked staff to give the Police Chief a reminder about the need for police presence in the area of Daily Bread.

Discussion continued. Moved by Meehan/Thomas to allow Marjorie Derrick three minutes to speak. Motion carried unanimously.

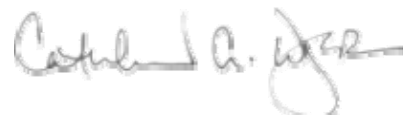
(Ms. Derrick completed a sign-in form for Item 8. She did not complete a sign-in form for Item 21.)

Marjorie Derrick, 550 Acacia Avenue, Melbourne Village, discussed the history of Daily Bread and encouraged the City to take charge and force Daily Bread to relocate.

22. ADJOURNMENT

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

The meeting adjourned at 8:36 p.m.



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City Clerk – 7/30/2008

Approved by Council: August 12, 2008, with clarification to Item #20(b)