

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
AUGUST 12, 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 Tony Hauck, Church on the Rock, gave the invocation.
2. Pledge of Allegiance.
3. Roll Call.

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| Present: | Harry C. Goode, Jr. | Mayor |
| | Kathy Meehan | Vice-Mayor, District 3 |
| | Richard Contreras | Council Member, District 1 |
| | Mark LaRusso | Council Member, District 2 |
| | John Thomas | Council Member, District 4 |
| | 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 |

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| Absent: | Joanne Corby | Council Member, District 6 (out of town) |
| | Cheryl Palmer | Council Member, District 5 (schedule conflict) |

4. Proclamations and Presentations

The Beautification and Environmental Advisory Committee “We Noticed Award” was presented to Brooks Glass, 2615 S. Harbor City Boulevard. A representative from Brooks Glass was not able to attend the meeting.

5. Approval of Minutes - July 9, 2008 Special Meeting, July 21, 2008 Special Meeting and July 22, 2008 Regular Meeting

City Clerk Cathy Wysor reported that Vice Mayor Meehan requested the following clarification of her statement in the July 22, 2008 minutes, Item #20b, (page 17):

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.

Moved by LaRusso/Meehan for approval of the minutes, with the clarification as noted.
Motion carried unanimously.

6. City Manager’s Report

Complimentary comment received from Joe McNeil about the swift resolution on the recent church related hate crimes in South Melbourne – Vice Mayor Kathy Meehan complimented

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the Melbourne Police Department for its swift actions in catching the perpetrator.

Mayor Goode referenced the following: request by staff to add Item 11 (I) to the consent agenda; request by staff to postpone Item 9 until the September 30 agenda; and request by attorney representing Wuesthoff Hospital to postpone Item 15 until the September 16 or September 30 agenda.

Mayor Goode stated that, without objection, Item 11 (I) will be added to the consent agenda, Item 9 will be postponed until September 30 and Item 15 will be postponed until either September 16 or September 30.

7. Public Comments

Eric Ellebracht, 1948 Tyler Avenue, reported that over the past week he has watched the wooded field on the south side of Croton Elementary cleared for development. He stated that he has allowed two raccoons and one possum, which no longer have a home in the wooded field, to move into his attic. Additionally, Mr. Ellebracht pointed out that Palm Bay's recent legislation to eliminate adult arcades will result in more similar businesses moving into Melbourne.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2008-46, TRAVEL REIMBURSEMENT: (Second Reading/Public Hearing) 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. (First Reading - 7/22/08)

City Attorney Paul Gougelman read Ordinance No. 2008-46 by title.

Moved by Contreras/Thomas for approval of Ordinance No. 2008-46. The roll call vote was:

Aye: Contreras, LaRusso, Thomas, Meehan and Goode

Motion carried unanimously.

9. ORDINANCE NO. 2008-47, GENERAL EMPLOYEES' PENSION PLAN: (Second Reading/Public Hearing) 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. (First Reading - 7/22/08)

At the request of staff, this item was postponed (without objection) until the September 30 meeting.

NEW BUSINESS

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10. COUNCIL ACTION RE: Contract award for emergency repair and replacement of a failed stormwater pipe on University Boulevard, Phase 2, Project No. 64108, Maxwell Contracting, Inc., Cocoa, FL - \$127,000; and transfer of \$124,874 from Miscellaneous General Construction Projects to supplement this project budget.

Michelle Shoultz, Utilities Engineer, Public Works/Utilities Department, was available for questions.

Moved by Meehan/LaRusso for approval of repair work by Maxwell Contracting, Inc. in the amount of \$127,000, a 5% contingency in the amount of \$6,350, and a transfer of \$124,874 from the Miscellaneous General Capital Improvement Projects to supplement this project budget. Motion carried unanimously.

11. CONSENT AGENDA:

Moved by Thomas/Contreras for approval of the consent agenda, Items “a” through “l.” Motion carried unanimously.

- a. Change Order No. 1 to the contract for the Grant Place Lift Station and Subaqueous Crossing, Project No. 33905, Timothy Rose Contracting, Inc., Vero Beach, FL - \$32,164 with a 115-day time extension; and transfer of \$48,000 from Water & Sewer Miscellaneous Capital Improvements to supplement this project budget.
- b. Supplement No. F031 to the Continuing Consultants Contract for threshold inspection services during construction of the City Hall Parking Garage, Project No. 10504, Frazier Engineering, Inc., Melbourne, FL (sub-consulting with Droor & Associates, Inc.) - amount not to exceed \$28,000; and transfer of \$28,000 from Miscellaneous Constructions Projects to supplement this project budget.
- c. Contract award for granular activated carbon exchange services, Calgon Carbon Corporation, Pittsburgh, PA - \$163,671.33/filter; total annual cost of \$982,027.98.
- d. Contract award for fence and backstop replacements at Sherwood Park and Crane Park, K.M.G. Fence, Oakland, FL - \$130,200.
- e. Purchase of 15 Panasonic Toughbook-52 laptop computers for the Police Department, Insight Public Sector, Inc., Lake Wales, FL - \$29,325; purchase of seven Powerheart AED G3 semi-automatic defibrillators and pads, Cardiac Science, Bothell, WA - \$9,583; and an appropriation of \$38,908 from Federal Asset Sharing Funds to finance this purchase.
- f. Approval and acceptance of a Boardwalk Easement between Towne Hynes of Crane Creek, LLC and the City of Melbourne for the public boardwalk at the South Crane Creek Mixed Use Development Project.

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- g. Implementation of a wedding rehearsal hourly rate of \$50/hour for residents and \$60/hour for non-residents for rehearsals on Monday through Thursday at the Leisure Services Department rental facilities.
- h. Approval of an appropriation from the Law Enforcement Trust Fund in the amount of \$750 to fund rental of two tents for the Powell Subdivision Neighborhood Watch Program Neighborhood Unity Day on October 11, 2008.
- i. Approval of a proposed increase of \$136,327.74 in 2007-2008 SHIP revenue and expenditure budgets and authorization for staff to amend the 2007-2008 Delivery Goals Chart contained in the 2007-2010 SHIP Housing Plan accordingly.
- j. Resolution No. 3011: A resolution approving an amended and restated lease agreement between the City of Melbourne and the Melbourne Community Service Organization, Inc. for lease of property located at 2401 Post Road for a five-year period ending June 13, 2013; and authorization for the City Manager to execute the agreement.
- k. Resolution No. 3012: A resolution approving a Renewal Lease Agreement between the City of Melbourne and the Melbourne Municipal Band Association, Inc. for an additional five-year period for \$1 per year for property located at 1924 Melody Lane.

The following item was added to the consent agenda under Item 6:

- l. Approval of modular housing lease for Fire Department through The Cooperative Purchasing Network (TCPN Contract No. R4637), Williams Scotsman, Inc., Orlando, FL - \$22,412 estimated 12-month cost.

For the benefit of the audience, the City Manager noted that this was submitted for the consent agenda because Council previously took action on this item (funds approved at the July 22 meeting). This item relates to temporary housing for Fire Station 71 personnel.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

13. COUNCIL ACTION RE: Approval of a \$110,000 funding increase to Habitat for Humanity of Brevard, Inc. for the Purchase Assistance with Sweat Equity Program; and authorization for the City Manager to execute an amendment to the agreement, adjust the HHRP and 2006-2007 SHIP budgets, and amend the affected SHIP and HHRP Housing Delivery Goals Charts accordingly.

Housing and Community Development Director Melinda Thomas was available for questions. She noted that Joe Gassman, Habitat for Humanity, was also present. The following is an excerpt from the agenda report:

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Habitat for Humanity of Brevard, Inc. (Habitat) is requesting an additional \$110,000 in Purchase Assistance with Sweat Equity funds to provide the maximum assistance to homebuyers approved to purchase homes in Habitat's Greater Heights Townhome development in the Booker T. Washington neighborhood.

Habitat's current agreement with the City for \$235,000 in Purchase Assistance with Sweat Equity funds falls short of the amount needed to provide the maximum assistance allowed for very low and low-income homebuyers. To date, Habitat has expended \$150,000 of its \$235,000 award to assist seven homebuyers participating in Habitat's home ownership program. The remaining balance of \$85,000 is inadequate to assist the eight homebuyers approved by Habitat to purchase homes in the Greater Heights Townhome development.

To provide maximum funding for down payment assistance to these eight homebuyers, Habitat needs a total of \$195,000 but only has \$85,000 remaining under the agreement. Under the City's SHIP Plan, very low-income homebuyers are eligible for \$25,000 in down payment assistance and low-income homebuyers are eligible for \$20,000 in down payment assistance.

Moved by LaRusso/Meehan for approval of a \$110,000 funding increase to Habitat for Humanity of Brevard, Inc. for the Purchase Assistance with Sweat Equity Program; and authorization for the City Manager to execute an amendment to the agreement, adjust the HHRP and 2006-2007 SHIP budgets, and amend the affected SHIP and HHRP Housing Delivery Goals Charts accordingly. Motion carried unanimously.

14. ORDINANCE NO. 2008-48 (Z-2008-1136) NEW VISIONS PLANT NURSERY: (First Reading/Public Hearing) An ordinance changing the zoning from C-2 (General Commercial) to C-P (Commercial Parkway) on 1.2± acres, located on the east side of North Harbor City Boulevard, on the west side of Avocado Avenue, south of Mathers Street, and north of McClendon Street. (Owners - John Asunmaa and Michael Cole) (Applicant/Representative - New Visions Full Service Nursery) (P&Z Board - 7/17/08)

Attorney Gougelman read Ordinance No. 2008-48. Mrs. Dittmer reviewed the item and noted that the Planning and Zoning Board voted unanimously to recommend approval of this request at its July 17, 2008 meeting.

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

Moved by Contreras/LaRusso for approval of Ordinance No. 2008-48, based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

15. COUNCIL ACTION RE: Denial of a Right-of-way Use Agreement between Melbourne Center, Inc. and the City of Melbourne for a subdivision sign on Technology Drive.

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Earlier in the meeting, Council postponed this item (without objection) until either the September 16 or September 30 meeting.

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

Council reviewed the following five policies and made no changes.

41. Resolution No. 1858 – Providing procedures for release or reduction of Code Enforcement liens. (1/13/2004, Item #20 “n”) Resolution No. 1871 – Providing that the City Manager, as a ministerial duty, may execute a cancellation of Code Enforcement lien when the entire amount due under the lien has been paid. (3/23/2004, Item #13 “f”)
42. Resolution No. 1861 – Authorizing the City Manager, Assistant City Manager or City Engineer to execute Florida Department of Transportation State Road/Temporary Road Closing Applications. (1/27/2004, Item #15 “g”)
43. Resolution No. 1863 – Authorizing the City Manager to execute pre-annexation agreements. (1/27/2004, Item #15 “h”)
44. With regard to patriotic banners, Council approved the following motion: “to allow patriotic expressions until the end of the present conflict with Iraq.” (5/11/2004, Item #19)

Council Member John Thomas recommended that the words “conflict with Iraq” be changed to “conflict in Iraq.”

Council Member Mark LaRusso said that he may wish to strike the policy and allow the patriotic banners 24/7 regardless of Iraq. He added that he would like to know the parameters, sizes, etc.

Council Member Richard Contreras said that the genesis of this item dates back to private individuals or business owners who wished to support the troops in combat. The banners and expressions of support for the troops did not comply with the current Sign Code. This rule was adopted in order to not diminish the support for troops in combat.

The City Manager pointed out that the City is currently under contract with a specialist to bring our Sign Code up to date with federal cases. That work should return to Council within the next six months. He asked Council to leave this policy pending receipt of the extensive study of the Sign Code.

There were no objections from Council to leaving this policy alone until after the Sign Code has returned for Council’s consideration.

45. Consent Agenda Procedure: After the agenda package has been distributed, Council Members will have until 3:00 p.m. on Monday prior to the meeting to ask

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for an item to be removed. If an item is removed, it will be considered under a new agenda item "Items Removed from the Consent Agenda" immediately following the Consent Agenda. New procedure to begin with the December 14, 2004 agenda package. (11/23/2004, Item #6)

17. COUNCIL ACTION RE: Board Appointments

- a. Resolution No. 3013: A resolution providing for the appointment of one member (real estate professional seat) to the Affordable Housing Advisory Committee.

Mr. Contreras nominated Ronald Smith. Moved by Thomas/Contreras to close the nominations. Motion carried unanimously. Moved by Contreras/LaRusso to appoint Ronald Smith. Motion carried unanimously. (August 12, 2008 through May 12, 2012, unexpired four-year term.)

Moved by Meehan/LaRusso to approve Resolution No. 3013 with a revision to include Mr. Smith's name and term. Motion carried unanimously.

- b. Appointment of one alternate member to the Zoning Board of Adjustment.

Mrs. Meehan nominated Thomas Herbert. Moved by Contreras/Thomas to close the nominations. Motion carried unanimously. Moved by LaRusso/Contreras to appoint Thomas Herbert. Motion carried unanimously. (August 12, 2008 through December 26, 2010, unexpired three-year term.)

18. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

None.

19. ADJOURNMENT

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

The meeting adjourned at 6:53 p.m.



City Clerk – 8/20/2008

Approved by Council: _____