

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
NOVEMBER 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. Council Member Cheryl Palmer 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
	Mike Nowlin	Council Member-Elect, District 1
	Mark LaRusso	Council Member, District 2
	John Thomas	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Molly J. Tasker	Council Member-Elect, District 5
	Joanne Corby	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathy L. Baker	Assistant City Clerk
	Amy W. Elliott	Deputy City Manager
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

None.

5. Approval of Minutes – October 28, 2008 regular meeting minutes

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

6. City Manager's Report

Item #3: The City Manager said the City's United Way Campaign was tremendously successful. He is extremely proud of the continued growth and generosity of the City of Melbourne employees, especially given the economic times.

Items #2 and #3: Mrs. Corby congratulated the Finance Department for receipt of the Certificate of Achievement for Excellence in Financial Reporting and commended the City for its United Way Campaign.

Item #4: Mrs. Corby thanked Council Member Contreras for his initiative on the Wickham Park skate park. The indoor skate park in South Melbourne is doing well and the City could use a facility in the north end. However, she is not certain an environmental study was done; if we keep chiseling away at Wickham Park, eventually we won't have that park anymore and that

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concerns her. Mrs. Corby added that the recently demolished Crane Pool is vacant and the City is not certain what to do with it. She recommended looking at alternative spots for the skate part and perhaps Crane Pool could be considered.

Council Member Contreras reported this is an indoor skate park, outdoor skateboard park, water park, and BMX park complex. He has been working with Brevard County Parks staff on this opportunity to provide activities for children and young adults of Melbourne/Brevard County. Funds are tight and they are seeking a public/private partnership. Wickham Park is a large park. The footprint of this proposed complex is six to eight acres, which would not have a large impact on the park. He noted that Julie Cain (skate park owner) is present and willing to provide information or respond to questions.

7. Public Comments

Ron Sellers, Chief Executive Officer, Brevard County Housing Authority, provided an update on the Silver Sands project. Regarding anticipated funding, he said it is a tough time in the tax credit world with a significant drop in investors willing to buy tax credits. The syndication costs for those tax credits, which provide dollars for Phase One of this development, have dropped significantly. Mr. Sellers informed Council that he would continue working with the developer regarding construction dates. A commitment was made that former Ramshur residents will have priority to relocate to Silver Sands when the project is complete and the Housing Authority stands by that commitment.

Mr. Sellers said the temporary Housing Choice Vouchers for Ramshur Towers residents were replaced with permanent vouchers. Housing Authority staff is reviewing the issue of affordability of rent plus the cost of utilities for residents. It may be advisable to move some residents back into public housing. At Ramshur Towers, residents did not have utility costs, and the utility voucher does not cover the entire utility costs. His staff is working with residents on life-style patterns; providing education to help control utility costs. Responding to Mayor Goode, Mr. Sellers advised that Silver Sands is located at Sun Lake Road and Babcock Street, between the Palm Bay High School football stadium and Palm Bay Road.

UNFINISHED BUSINESS

8. COUNCIL ACTION RE: Contract award for the North-South Terminal Canal Erosion Control, Project No. 20103, ATL Diversified Industries, Lake Worth, FL - \$822,694.44; and transfers of \$100,000 from the Hickory Ditch Stabilization Phase 2 Project; and \$33,308 from the Tallwood Subdivision Drainage Project to establish this project budget; and approval of interim financing of \$685,371 from the General Fund to supplement this project budget, pending reimbursement from the United States Department of Agriculture Natural Resources Conservation Service grant.

Jenni Lamb, City Engineer, said staff pulled this item from the October 28 agenda because only half of the funding was available. But, the United States Department of Agriculture recently notified staff that additional grant funding is available to the City for this project. She pointed out a slight error in the amendment to the agreement that reported the increase in funding at \$502,000 and advised it is actually \$670,000. She said staff recommends that the full scope of the work be awarded to the contractor as follows:

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Contract award for the North-South Terminal Canal Erosion Control, Project No. 20103, ATL Diversified Industries, Lake Worth, FL - \$1,524,138.88; and transfers of \$100,000 from the Hickory Ditch Stabilization Phase 2 Project; and \$223,417 from the Tallwood Subdivision Drainage Project to establish this project budget; and approval of interim financing of \$1,237,759 from the General Fund to supplement this project budget, pending reimbursement from the United States Department of Agriculture Natural Resources Conservation Service grant; and authorization for the City Manager to execute Amendment No. 1 to the project Agreement with the United States Department of Agriculture Natural Resources Conservation Service.

Council Member LaRusso pointed out that the contingency is five percent for this project and noted that similar projects have a 15% contingency. He asked if staff is comfortable with five percent. Ms. Lamb responded yes.

Mayor Goode commended the Engineering staff's initiative in obtaining this funding.

Moved by Thomas/Meehan for approval of staff's revised recommendation.

Council Member Corby asked why the City's cost went from \$33,000 to \$223,000. Ms. Lamb said it is the City's 25% grant match. The City was required to provide a \$33,000 grant match when the contract was \$822,000. Because the contract has been increased, additional funding is required for the City's match. Further, she noted that initially it was thought the pipes for the Tallwood Subdivision project had to be replaced; however, staff found the pipes could be relined at a much lower cost than originally budgeted. The City is using the savings from that project to fund the 25% match for this project. No money is being taken from any project.

The question was called. Motion carried unanimously.

9. ORDINANCE NO. 2008-63 (A&V NO. 317): (Second Reading/Public Hearing) An ordinance vacating the northerly 225± feet of an existing 50 foot wide right-of-way known as Kennedy Street. (Applicant - Brevard Neighborhood Development Coalition [BNDC]) (First Reading - 10/28/08)

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

Moved by Contreras/Palmer for approval of Ordinance No. 2008-63.

Council Member Palmer said it's great that these townhomes will replace the crime and drug ridden, old group of buildings. The Neighborhood Coalition has done a great job.

The question was called. The roll call vote was:

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

Motion carried unanimously.

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10. ORDINANCE NO. 2008-64, HOLY NAME OF JESUS CATHOLIC CHURCH: (Second Reading/Public Hearing) An ordinance terminating an existing 20-foot wide Public Utility Easement at 3050 Holy Name of Jesus Drive, Indialantic; and authorizing the City Manager to execute the agreement. (First Reading - 10/28/08)

Mr. Gougelman read the ordinance by title. There were no comments from the public.

Moved by Meehan/LaRusso for approval of Ordinance No. 2008-64. The roll call vote was:

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

Motion carried unanimously.

11. ORDINANCE NO. 2008-65, BABCOCK QUIZNOS: (Second Reading/Public Hearing) An ordinance terminating an existing 20-foot wide Public Utility Easement at 4320 South Babcock Street; and authorizing the City Manager to execute the agreement. (First Reading - 10/28/08)

Mr. Gougelman read Ordinance No. 2008-65 by title. There were no public comments.

Moved by Thomas/LaRusso for approval of Ordinance No. 2008-65. The roll call vote was:

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

Motion carried unanimously.

12. ORDINANCE NO. 2008-66, PORCELLA AVENUE: (Second Reading/Public Hearing) An ordinance amending Chapter 28 of the City Code entitled "Streets, Sidewalks, and Other Public Places, changing the name of State Street to Porcella Avenue. (First Reading - 10/28/08)

The attorney read the ordinance by title. There were no comments from the public.

Moved by Palmer/Corby for approval of Ordinance No. 2008-66. The roll call vote was:

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

Nay: Meehan

Motion carried.

Mayor Goode commented that the City of Melbourne had some favorite sons that lost their lives on D-Day in Normandy. In the future, the City should consider some of these residents as possible candidates for street names.

13. RESOLUTION NO. 3034: A resolution reporting the outcome of the General Municipal Election conducted November 4, 2008, and setting forth the terms of the Mayor and the District 1, District 3, and District 5 Council Members.

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Attorney Gougelman read Resolution No. 3034 by title.

NOTE: The Official Certificate of County Canvassing Board was received after the agenda package was prepared.

Moved by Contreras/Palmer for approval of Resolution No. 3034 as revised to reflect the Official Canvassing Board information. Motion carried unanimously.

Mayor Goode advised that this is the last Council meeting for Council Members Contreras and Palmer. He said he is going to allow them a few minutes for a farewell statement, adding ladies first.

Council Member Palmer said it has been an honor and privilege to serve on the City Council of what she believes is the best city in Brevard County. We have the most diverse and wonderful population of citizens. The membership of the Councils she has served on has changed a few times; they were people supported by their constituents, were a credit to the community and did the best job they could. As she drove in tonight, she thought about how the City had changed since she was sworn-in in 1998. At that time, Downtown was a dangerous place at night; it was pretty dark. Now it is lit up at night with thriving businesses and people out with their families. Around town there aren't so many empty, vacant buildings. There has been a lot of new development and we have a lot of beautiful parks that are well maintained. We have an excellent police and fire department. The City has done a wonderful job with the budget it has had to work with. We have very loyal, intelligent and hardworking employees. She thanked all of them. People on the City Council get credit for a lot of things that happen, but it is those people on the ground, with the Service is Our Business mentality that get things done and make the City look good and function well. She thanked the members of this Council who came in young, professional, aggressive, who serve with humor. There hasn't always been agreement, but there has always been respect for one another. At the end of the evening, all of the differences were put aside, and Council went home with a handshake. She appreciates that and wished all of them well. She added that she will be coming down to give her opinion from time to time, and concluded by saying, "Thank you people of Melbourne."

Council Member Contreras thanked the citizens and said they are our greatest asset. He hopes and believes he has contributed to the progress of the City. He said it has been an honor and privilege to serve with the Council and he wished them all the very best. The City of Melbourne employees are consummate professionals, doing their jobs, day in/day out, rain or shine, mostly without fanfare. He commended the volunteers that served on City boards and committees; their efforts are obvious throughout the City. He specifically thanked the City staff he worked directly with for the last 8½ years; Dr. Jack Schluckebier, City Manager; Deputy City Managers Amy Elliott and Howard Ralls; Paul Gougelman, City Attorney; Assistant City Attorneys Suzanne Crockett and Alison Dawley; City Clerk Cathy Wysor. He thanked Assistant City Clerk Baker for her work and Sally Goltzman. He recognized the department heads, Jenni Lamb, Michele Ennis, Chief Forsberg, Melinda Thomas, Mary Ann Bowman, Cindy Dittmer, Chief Carey, Bob Klapproth, Richard Ennis, Executive Director, Melbourne International Airport, and his Assistant Pat Howlett. He thanked his wife, Marguerite, for her unselfish support through thick and thin, he is eternally

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grateful. He said his son Jonathon grew up in the midst of City Hall, and has gotten to know many of the fine people who run the City. He hopes Jonathon never forgets these memories. He closed stating he will never forget the many fond memories, and for himself and his family, he expressed deep appreciation and added “As tradition has it, I wish you all Fair Winds and Following Seas.”

Mayor Goode commended Council Members Contreras and Palmer; they have done an outstanding job, being very diligent about taking care of their constituency.

14. OATH OF OFFICE AND SEATING OF:

- a. Mayor Harry Goode
- b. Council Member Mike Nowlin, District #1
- c. Council Member Kathy Meehan, District #3
- d. Council Member Molly Tasker, District #5

Attorney Paul Gougelman administered the Oath of Office to Harry Goode, Mike Nowlin, Kathy Meehan and Molly Tasker. (The oaths will be attached to the official minutes.)

15. TRANSITIONAL RECESS: Recess to allow time for outgoing members to leave the dais and incoming members to take their seats.

Recessed: 7:14 p.m.

Reconvened: 7:27 p.m.

NEW BUSINESS

16. COUNCIL ACTION RE: Appointment of Vice-Mayor for 2008-2009.

Council Member LaRusso nominated John Thomas. The nominations were closed without objection.

Mayor Goode moved to appoint John Thomas by unanimous acclamation as the Vice Mayor for 2008-2009. Motion carried unanimously.

Mayor Goode welcomed Council Member Nowlin and Council Member Tasker to the table.

17. COUNCIL ACTION RE: Appointment of two Council Members to the Melbourne Airport Authority.

Council Member LaRusso nominated John Thomas and Council Member John Thomas nominated Molly Tasker. The nominations were closed without objection.

Mayor Goode moved to appoint John Thomas and Molly Tasker by unanimous acclamation to the Melbourne Airport Authority (11/12/2008 – 12/11/2009; unexpired 2-year terms). Motion carried unanimously.

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18. COUNCIL ACTION RE: Appointment of one Council Member to the Space Coast Transportation Planning Organization.

Council Member John Thomas nominated Mark LaRusso and Council Member Corby nominated Mike Nowlin. The nominations were closed without objection.

The roll call vote was:

LaRusso: Nowlin, LaRusso, Meehan, Tasker, Corby, Thomas and Goode

Appointed: Mark LaRusso (11/12/2008 – 11/2010; concurrent with his Council term)

19. COUNCIL ACTION RE: Appointment of Voting Delegate and Alternate to the Space Coast League of Cities. (Required by SCLC By-Laws)

Council Member Meehan nominated John Thomas as the voting delegate. The nominations were closed without objection.

Moved by Mayor Goode to appoint John Thomas by unanimous acclamation as the voting delegate to the Space Coast League of Cities. Motion carried unanimously.

Vice Mayor Thomas nominated Mike Nowlin as the alternate member. The nominations were closed without objection.

Moved by Mayor Goode appoint Mike Nowlin by unanimous acclamation as the alternate member to the Space Coast League of Cities. Motion carried unanimously.

20. COUNCIL ACTION RE: Contract award for professional engineering services for preparation of the Water System Master Plan Update, Project No. 35107, Reiss Engineering, Inc., Winter Park, FL - \$268,900; deletion of the Wastewater Capacity Master Plan Update, Project No. 35307 and transfer of those project funds in the amount of \$100,000; and transfer savings from the Alternate Reverse Osmosis Concentrate Disposal Study, Project No. 35107 in the amount of \$68,966 to supplement this project budget.

Jenni Lamb, City Engineer, pointed out that the two projects where funds are being transferred from no longer need those funds.

Vice Mayor Thomas asked for clarification as to why Project 35307 was budgeted if the information was being developed in Project 35207. Ms. Lamb stated that staff thought the project needed to be done; however, that study is being developed under another project; therefore, Project No. 35307 is not needed as a stand alone project.

Mrs. Corby asked what project no longer needed funding and if this item has anything to do with items "a" and "b" on the consent agenda. Ms. Lamb responded that the project is the Wastewater Capacity Master Plan Update (Project No. 35307) and added the items on the consent agenda.

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City Manager Schluckebier explained that the City has two water reclamation plants; sometimes staff seeks alternative funding from the state or federal government for expansion, enlargement or continuation. The City must meet the granting agencies' requirements and follow the framework and model they provide. With the Wastewater Master Plan Update, as good planning requires, staff set aside money for the study; however, at the same time, expansion and permitting planning of the reclamation plant basically had us doing a similar study. There was no point in doing two studies for the same objective.

Vice Mayor Thomas asked if this item is associated with 23(d). Ms. Lamb said yes; but it is not the additional scope requested.

Moved by Thomas/Meehan for approval of the Professional Engineering Services Contract with Reiss Engineering, Inc. for the Water System Master Plan Update in the amount of \$268,900; a budget transfer of \$100,000 from Wastewater Capacity Master Plan Update, Project No. 35307; and a budget transfer of \$68,966 from Alternate Reverse Osmosis Concentrate Disposal Study, Project No. 30308 to supplement this project budget. Motion carried unanimously.

21. COUNCIL ACTION RE: New City Hall, Project No. 10504

- a. Purchase of two 60 kva Uninterrupted Power Supply (UPS) units as manufactured by Tripp Lite Company to serve the Data Center in the new City Hall building, Florida Micro, LLC, Delray Beach, FL - \$74,861.18; an appropriation of \$69,921 from General Fund Fund Balance Prior Year Surplus and transfer of \$4,941 from Water & Sewer Miscellaneous Projects to supplement this project budget.

Ms. Lamb briefed Council. She said staff was able to secure lower pricing for the purchase; however, the change was not received in time to be included in the agenda package. Staff requests approval as follows:

Purchase of two 60 kva Uninterrupted Power Supply (UPS) units as manufactured by Tripp Lite Company to serve the Data Center in the new City Hall building, Florida Micro, LLC, Delray Beach, FL - \$71,841.76; an appropriation of \$67,179 from General Fund Fund Balance Prior Year Surplus and transfer of \$4,670 from Water & Sewer Miscellaneous Projects to supplement this project budget.

Mrs. Corby asked if this funding is from General Fund surplus of last year's budget. Ms. Lamb said it is from the General Fund balance. Mrs. Corby questioned a combined \$106,000 surplus from the General Fund.

Amy Elliott, Deputy City Manager, stated that close out of last year's budget is not complete; it is in process and subject to audit adjustments. The prior year surplus is an accumulated fund balance and is not necessarily the last fiscal year.

Mrs. Corby said two things jump out at her. First we had a budget that carried a surplus. Nothing can be done now; however, she believes the City could have gone with a lower millage rate to save the tax payers some money. She also questioned whether any

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consideration was given to how the transfer from this building to the new building would be made and if it was included in the bid for the new City Hall.

Ms. Lamb responded it was included in the bid. Engineering has worked very closely with the IT (Information Technology) Department on the transition. This UPS unit is not for the transition; it will serve the new building and be tied into the electrical system.

Mrs. Corby asked if there is a unit in the existing building. Ms. Lamb said no; there are some small UPS units for individual computers. The proposed UPS is for the network computers to run the computer system in the new City Hall in the time period when the power goes out and the generator comes on line.

Mrs. Corby commented that City Hall operates now without the unit. Ms. Lamb responded that there are situations when the network goes down because this system is not in place. She noted the IT Manager is present and can discuss the issue.

John Nadolny, Manager of IT, said the City currently has a UPS system in the data center to keep all critical systems up and running in the event of power fluctuations or outages before the generator comes on.

Mrs. Corby asked why that same piece of equipment couldn't be used in the new City Hall. Mr. Nadolny said the new equipment is needed to maintain continuity of operations; it is not a situation where we can shut off City Hall and run to the new building and start operations; that is not feasible. The UPS needs to be in place. The current UPS at City Hall will probably be moved to the Police Department for additional capacity. He also noted that the new UPS unit will provide for expansion and future growth that the current system does not.

Council Member Tasker asked if there was any contemplation of the difficulty in filling this gap when the contract was first let and why the issue is coming up now.

Ms. Lamb responded that this was designated and has always been identified as an owner purchased item in the design criteria documents. Staff knew the unit would need to be purchased at some point. She commented this cost is similar to the moving costs that were not part of the contract.

Ms. Tasker referenced the budgeting effort. She said we are dipping into other (funds) when it should have been budgeted earlier. Ms. Lamb agreed that it probably would have been better to add a contingency for this.

Moved by Meehan/LaRusso for approval of State Contract Purchase #250-000-09-1 of two 60kva UPS units as manufactured by Tripp Lite Company supplied by Florida Micro, LLC, Delray Beach, FL, in the amount of \$71,841.76; an appropriation of \$67,179 from General Fund Fund Balance Prior Year Surplus; and a transfer of \$4,670 from Water & Sewer Miscellaneous Projects (Project No. 30999) to supplement this project budget. Motion carried unanimously.

- b. Approval of Modification No. 2 to the construction contract for the new City Hall for the Uninterrupted Power Supply Design Build, Project No. 10504, Certified General

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Contractors, Inc., Melbourne, FL - \$31,057.94; an appropriation of \$29,039 from General Fund Fund Balance Prior Year Surplus and transfer of \$2,019 from Water & Sewer Miscellaneous Projects to supplement this project budget.

Moved by LaRusso/Meehan for approval of Contract Modification No. 2 to the contract with the Certified General Contractors, Inc., Melbourne, FL, in the amount of \$31,057.94; an appropriation of \$29,039 from General Fund Fund Balance Prior Year Surplus; and a budget transfer of \$2,019 from Water & Sewer Miscellaneous Projects (Project No. 30999) to supplement this project budget. Motion carried unanimously.

22. COUNCIL ACTION RE: Change Order No. 1 to the Florida Avenue 20" Watermain Repair Project for construction of the Dartmouth Ditch Culvert at Country Club Road, Project No. 20206, Don Luchetti Construction, Inc., Melbourne, FL - \$175,000; and approval of interim financing of \$88,425 from the General Fund to supplement this project budget, pending reimbursement from the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS) grant.

Ms. Lamb said this is the last of three projects awarded to the City by USDA NRCS. She reported the USDA will only pay 75% of the cost to install the culverts in the erosion control, less the portion under the road (approximately \$21,000).

Mrs. Corby asked about expectation for receipt of pending reimbursement. Ms. Lamb stated that typically when an invoice is received from the contractor it is submitted to the granting agency for reimbursement. In this case there is some advance reimbursement and the USDA has direct deposit with the City. Staff expects a quick turn around. Mrs. Corby asked for a timeframe; and Ms. Lamb said she anticipates 14 to 21 days.

Responding to Mrs. Corby, Ms. Lamb commented that staff evaluated box culverts versus round pipe. Box culverts were not chosen in this instance based on existing utilities in the area; a sewer line runs through the middle. A box culvert would provide less capacity when placed at an elevation to clear the sewer main.

Mrs. Corby asked about the percentage of the pipe's capacity for a regular rainfall. Ms. Lamb said that during a 26 inch rainfall it would be at full capacity, but under a normal afternoon thunderstorm it would be less than 50%.

Mrs. Corby agreed there are drainage issues in the south area; however, there are also severe drainage problems in the north end of town. She asked if these funds were specifically allocated for this area.

Ms. Lamb responded that the USDA looked at the problems and where the City experienced the worst erosion. She agreed other areas of the City have erosion problems, but the USDA identified this area for these three projects.

Mrs. Corby asked if the erosion problem was due to cleaning the drainage ditch and who had this responsibility. Ms. Lamb responded all three locations are City maintained. Mrs. Corby said it is the City's responsibility to keep them clean. Ms. Lamb responded that the ditches were cleaned. The amount of water that came through (during Tropical Storm Fay),

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created swirling motions that caused a huge amount of erosion. She pointed out that this was a project previously slated to be fully funded by the City.

Moved by Thomas/Meehan for approval of Change Order No. 1 for \$175,000 to the Florida Avenue 20" Water Main Repair Project with Don Luchetti Construction, Inc. of Melbourne, Florida and interim financing from the General Fund pending reimbursement by the United States Department of Agriculture Natural Resources Conservation Service of \$88,425 to supplement this project budget. Motion carried unanimously.

23. CONSENT AGENDA:

At the request of Council Member Corby, items b and e were removed.

Moved by Meehan/Thomas for approval of Items 23 a, c, d f, g, and h, as recommended. Motion carried unanimously.

- a. Change Order No. 3 to the contract for the Reverse Osmosis Raw Water Pump Stations 1, 2, & 3 Mechanical Upgrades, Project No. 31406, HM² Mechanical & Specialty Contractor, Titusville, FL - \$18,696.
- b. Task Order No. 4a to the December 22, 2005 agreement for additional design services associated with the Lake Washington Reverse Osmosis Plant High Service Pump Modifications, Project No. 30107, Hazen & Sawyer, Fort Pierce, FL - \$18,550. (See Item 24 for action.)
- c. Approval of Construction Contract Modification No. 2 for emergency repair work on the existing eight inch watermain for the Pineda Causeway Waterline Replacement, Project No. 33605, in accordance with the November 16, 2007 Interlocal Agreement with Brevard County - \$15,470.88.
- d. Amendment No. 2 to the contract for additional work on the Wastewater Collection/Transmission System Master Plan, Project No. 35207, Reiss Environmental, Inc., Winter Park, FL - \$12,435.
- e. Purchase of 130 pairs of Pro Warrington Model 5006 structural fire fighting boots, Fisher Safety, Orlando, FL - \$35,620. (See Item 24 for action.)
- f. Approval of continued Historic Preservation Services, Land Design Innovations, Inc., Winter Park, FL - not to exceed \$25,000; and authorization for the City Manager to execute the agreement.
- g. Approval of an appropriation of \$1,500 from Police Department Donations for the purchase of replacement K-9 training equipment.
- h. Resolution No. 3035: A resolution adopting the name "Leisure Way" for a private street within Wickham Park serving the Wickham Park Senior Center.

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24. ITEMS REMOVED FROM THE CONSENT AGENDA

- b. Task Order No. 4a to the December 22, 2005 agreement for additional design services associated with the Lake Washington Reverse Osmosis Plant High Service Pump Modifications, Project No. 30107, Hazen & Sawyer, Fort Pierce, FL - \$18,550.

Mrs. Corby commented that the consultant should have known the pumps would put off heat and been able to advise about the type of cooling system needed. This contract provides payment to the consultant to analyze the type of cooling system needed for pumps they recommended in the first place.

Ms. Lamb explained that in the initial contract the City requested four self-cooled, variable frequency drive units to avoid modifications to the existing air conditioning room for the electrical room. The consultant got into the design and evaluated the self-cooled units. The electrical room has allocated space for potential plant expansion. If all four units are installed the plant can't be expanded without a complete upgrade, because there isn't room for electrical equipment and the drive. She pointed out that by not using the self-cooled units, the savings on equipment alone is approximately \$75,000. Staff did not realize how expensive these units are.

Mrs. Corby said the City pays the consultant to provide expertise and knowledge. She asked whether the consultant had done this type of work before, and if the City had always used this consultant for this kind of work or if the service was obtained from other providers.

Robert Klapproth, Public Works Director, stated that Hazen and Sawyer has done a lot of work for the City at the water and wastewater plants. It is important to note that the City negotiated a contract with the engineer to provide certain services; we told the engineer we wanted air-cooled units. We did not ask them to investigate or analyze that or anything else. Unfortunately what we wanted is not going to work and now the consultant must look at something we did not initially request.

Following brief discussion, Mrs. Corby asked if the knowledge is not available in the department to research and recommend the right system.

Mr. Klapproth stated that is why we hire consultants. Mrs. Corby again asked if there is no one on staff who can do that. Mr. Klapproth replied that staff runs the plant and knows the type of equipment we want; however, we are not familiar with the specifications of the equipment and how it is put together.

Responding to a question from Mrs. Corby, Mr. Schluckebier advised that the City discontinued service from CH2M Hill several years ago based on a similar situation. CH2M Hill got about \$150,000 of invoiced services ahead of what the contract allowed on a design project. A settlement was negotiated and staff felt it was in the City's best interest to use a different firm. No one necessarily did anything wrong; there were concerns about how much service the consultant was to provide without prior written authorization from the City.

Mrs. Corby responded it sounds like this situation is close to the same thing. Mr. Schluckebier said no, in this instance the consultant has not done any extra service. The

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consultant could abide by the contract and do what the City directed; however, to our advantage and to his credit, the consultant has said this is not the best move for the City. Mr. Schluckebier said this is a measure twice cut once situation.

Responding to Mrs. Corby's question about research, Ms. Lamb reported that the City does not have electrical or mechanical engineers on staff to do this research.

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

- e. Purchase of 130 pairs of Pro Warrington Model 5006 structural fire fighting boots, Fisher Safety, Orlando, FL - \$35,620.

Mrs. Corby asked if the boots had been purchased. Greg Anglin, Melbourne Fire Department, stated the purchase has not been made; it could not be made without Council approval. Mrs. Corby stated she is just checking because she was told the boots had already been purchased.

Mrs. Corby asked about the life expectancy of the boots and if the boots on hand could be used as reserves for employees. She also asked about the bidding process and whether we got the best price available.

Mr. Anglin said the life expectancy is three to five years; the current boots were purchased more than five years ago. He also said the existing boots will be back ups. He explained the Fire Department does not purchase anything until it is field tested. Vendors donate an item, staff field tests it and decides which item best serves the department's needs. This boot is the middle range, not the least expensive, not the most expensive.

Mrs. Corby asked about the City piggy-backing Orange County. Mr. Schluckebier explained Orange County recently competitively bid this, as did the State. The City is able to use the Orange County pricing because their contract includes the ability to shop this same price to other governmental agencies. The State discount on the product is 25%; however, Orange County's is 27%.

Mrs. Corby said the 27% is off list price; whenever you buy in bulk you never pay list price. Mr. Schluckebier stated this was the best price available that was recently competitively bid.

Mrs. Corby stated in trying to save the City some money she did some research. She found the same boot, Pro Warrington Model 5006, on the internet from two different vendors with a list price of \$292 and \$279; not the \$492 quoted in the agenda package. She contacted these companies and each advised that more money could be saved with a big bulk purchase. Additionally, she found a clearance price on the boot for \$149, but because it was clearance no additional discount could be given. Even so, this would save \$125 per set or a \$16,000 savings.

Mr. Anglin stated that his experience with clearance items has been that it is the larger and smaller sizes, not the sizes needed. Mrs. Corby said the other two vendors have all the sizes. She wants to focus on the mindset of scrimping and saving; being more

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conscientious. She offered her information and stated certainly we can do this. Mr. Anglin responded that he would research it again.

Mayor Goode said the item is postponed to a future agenda pending further review.

25. SITE PLAN APPROVAL (SP-2007-12) LUCCA VILLAGE CONDOMINIUMS: (Public Hearing) A request for site plan approval to develop a 76-unit multi-family residential condominium project on an 8.52±-acre portion of a 25.25±-acre subdivision zoned R-2 (6) (One-, Two-, and Multiple-Family Residential with a cap of six units per acre), located on the south side of Eber Road, west of Babcock Street, and east of Dairy Road. (Owner/Applicant - DiPrima Holdings) (Representative - Rick Kern, P.E., RK Engineering, Inc.) (P&Z Board - 10/16/08)

Cindy Dittmer, Planning and Economic Development Director briefed Council. The Planning and Zoning Board voted unanimously to recommend approval of SP-2007-12 as submitted on a single-sheet plan prepared by RK Engineering and Associates, Inc., with a signed and sealed date of September 2, 2008, subject to the following conditions:

- a. Any change to the site plan will require reevaluation of the site plan 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. If Tract A is proposed to develop prior to the single-family residential portion of the subdivision, the applicant shall coordinate the required deceleration lane and left-turn lane with the construction plan approval of this site plan, in compliance with Appendix D, Chapter 8, Section 8.6 (b) (1) (e), which requires a deceleration lane for subdivisions that border on or contain a collector or an arterial street.
- c. The applicant shall construct the entrance into the subdivision from Eber Road in conjunction with the development of this site plan and shall record the ingress/egress easement between Tract A and the overall subdivision prior to construction plan approval.
- d. Appropriate environmental permits, including permitting for the gopher tortoises, must be obtained as part of the construction plan review process.
- e. 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.
- f. The applicant shall construct the master stormwater pond (Tract B of the overall subdivision) in conjunction with the development of this site plan.

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- g. Only one building permit may be issued on the site plan prior to recordation of the final plat for Lucca Village Subdivision.
- h. The owner/developer shall not subdivide any part of Tract A into more than two lots without receiving subdivision approval per Appendix D, Chapter 8, City Code.
- ~~i. 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 amended capacity reservation fee in the amount of \$42,719.60 for transportation, water and sewer impact fees. Payment must be received by the City of Melbourne within ten business days of the date of rendition of the Development Order by City Council approval. This 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 Thomas referenced the 3.98-acre wetlands and asked if the retention would be located within the wetlands and if this would be the lowest point on the property.

Mrs. Dittmer responded the wetlands would likely be the lowest point; however, the St. Johns River Water Management District (SJRWMD) typically does not allow retention in a wetlands area. The developer will be required to meet SJRWMD permitting requirements. Mrs. Dittmer added she is not certain about the location of the wetlands; however, the retention is located in the southeast corner of the property.

Mr. Schluckebier stated that in rare occasions an allowance is made by SJRWMD or other permitting agencies to utilize wetlands and mitigate; however, that is extremely difficult. In those instances the ratio of replacement wetlands is anywhere from two to 40 acres per acre. It is rare to allow wetlands to be consumed or replaced by development.

Mr. Thomas said his concern is about flooding. Mr. Schluckebier responded that the retention would be in addition to the wetlands.

Mrs. Corby asked about the exit point of the retention pond and the drainage. Mrs. Dittmer stated at this level of the formal site plan, the stormwater system is not designed to that detail; it is a conceptual site plan. The next step will be construction plans where hard design of engineering will be shown.

Mrs. Corby asked about the creek the flow would exit to. Mayor Goode said if she is referring to the outfall to the Indian River Lagoon, it would be through Crane Creek.

Mrs. Dittmer said the water would enter the southwest drainage system, large canals in the southwest area of the City off Eber Road, south of Florida Avenue, and into Crane Creek.

Mrs. Corby referenced the 446 trips the development will generate. She said Eber Road is a City road and Babcock Street belongs to the County and State. She asked if the City is only responsible for maintenance of Eber Road. Mrs. Dittmer responded correct.

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Mrs. Corby said DiPrima is an excellent builder and does wonderful work; however, she asked if the surrounding communities are filled and operating at capacity and whether the City needed more supply as far as housing, apartments and condominiums.

Mayor Goode reminded Mrs. Corby that the City does not decide economically whether or not a developer can afford to build a 140 apartment complex. The market economy, which we all know is poor right now, is not a reason for denial. Mrs. Corby said she understands and appreciates this; however, she is looking at the impact on the City's infrastructure. The City is only able to resurface two percent of its roads right now and there is a problem with the drainage in the area. She wants to ensure the City can provide adequate infrastructure and not take away from the existing developments.

Mayor Goode opened and closed the public hearing with no comments.

Moved by LaRusso/Meehan for approval of Site Plan (SP-2007-12) based upon the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried. (Mrs. Corby voted nay.)

26. ORDINANCE NO. 2008-67 (CU-2008-07) RISING STARS ACADEMY: (First Reading/Public Hearing) An ordinance granting a conditional use to allow a private school on a 0.15±-arce developed parcel zoned R-P (Residential Professional), located on the south side of Sarno Road, west of Croton Road, and east of Cronin Avenue. (Owner - Reyburn and Patricia Campbell) (Applicant/Representative - Roni and Art Stockdale) (P&Z Board - 10/16/08)

Attorney Gougelman read Ordinance No. 2008-67 by title. There were no public comments and no disclosures from Council.

Mrs. Dittmer briefed Council. She noted that the Planning and Zoning Board unanimously recommended approval, and staff recommends approval subject to the findings and conditions contained in the Planning and Zoning Board memorandum.

Responding to Council Member LaRusso, Mrs. Dittmer reported there is a daycare center located a few parcels over; however, this request is for a private school, elementary through high school age.

Council Member Tasker asked at what point according to size the City is required to post an area as a school zone, and if this is required for private schools. Mrs. Dittmer said she is not aware of any requirement. The School Board posts for public schools. The City currently has a handful of private schools and the City has not been required to post signs.

Mrs. Corby referenced the letter in the Council package from the daycare urging Council not to approve the request. She asked if staff had talked with the daycare and if there were reasons for objection other than stated in the letter. Mrs. Dittmer said the daycare owner attended the Planning and Zoning Board meeting; however, she did not talk with him.

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Roni Stockdale, applicant, reported that the daycare owner asked her if she would be interested in leasing a vacant building from him if she did not receive Council approval. She said she is very surprised by his letter of objection.

Mayor Goode closed the public hearing. There were no disclosures from Council.

Moved by Corby/Thomas for approval of Ordinance No. 2008-67 subject to the findings and conditions contained in the Planning and Zoning Board memorandum. The roll call vote was:

Aye: Nowlin, LaRusso, Meehan, Tasker, Corby, Thomas and Goode

Motion carried unanimously.

By consensus, Council convened as the Melbourne Downtown Community Redevelopment Agency for the following item:

27. COUNCIL ACTION RE: Approval of grant awards for the Facade Improvement Program in the Historic Downtown Melbourne Community Redevelopment Area and authorization for the City Manager to execute rebate agreements with IM Solutions, Inc. - \$13,824; Treasure Holdings, LLC - \$20,000; and 1900 Building, LLC - \$8,000.

Mrs. Corby asked if this process is different than the Babcock Street facade program. Mrs. Dittmer said that program was tailored after the Downtown program. The Downtown program is in its second year and both are a dollar for dollar matching program.

Moved by Meehan/LaRusso for approval of the grant awards for the Facade Improvement Program, and approval for the City Manager to execute rebate agreements with IM Solutions, Inc. for \$13,824, Treasure Holdings, LLC for \$20,000 and 1900 Building, LLC for \$8,000.

Mrs. Corby reported she is not going to support this, not because she doesn't support the effort in the Downtown area, but for the same reason she didn't support the Babcock Street program. In the fiscal time we are in right now, the last thing to focus on is the facade, flowers, etc.

The question was called. Motion carried. (Council Member Corby voted nay.)

Council reconvened for the remaining agenda items.

28. COUNCIL ACTION RE: Board appointments

- a. Appointment of one member to the Building and Construction Advisory Committee.

Mayor Goode pointed out that Council received a memorandum noting that Richard Contreras would like to be considered for appointment to this committee. The memorandum included an application from Mr. Contreras.

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Council member Meehan nominated Richard Contreras. Council Member Corby nominated Fred Andrews.

Moved by LaRusso/Thomas to close nominations. Motion carried unanimously. The roll call vote was:

Contreras: LaRusso, Meehan, Thomas, Tasker and Goode

Andrews: Nowlin and Corby

Appointed: Richard Contreras (11/12/2008 – 8/8/2009; unexpired 3-year term)

b. Appointment of fifth member to the Police Officers' Retirement Trust Fund Board of Trustees.

Moved by Goode/Thomas to affirm the appointment of Janice Hill (Term: 11/1/2008-10/31/2010; 2-year term). Motion carried unanimously.

29. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mrs. Corby noted at the last Council meeting she discussed the questions the City received from the State regarding the Federal Housing and Economic Recovery Act of 2008 (HERA). She distributed a sheet containing those questions and the City's answers.

30. ADJOURNMENT

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

The meeting adjourned at 8:36 p.m.



Assistant City Clerk – 11/18/2008

Approved by Council: 11/25/2008 with correction on Item 25 (deletion of condition "i")

Attachment to Official Minutes: Oaths of Office (Item #14)