

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 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. The invocation was given by Council Member Joanne Corby.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	John Thomas	Vice-Mayor, District 4
	Mike Nowlin	Council Member, District 1
	Mark LaRusso	Council Member, District 2
	Kathy Meehan	Council Member, District 3
	Molly J. Tasker	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 W. Elliott	Deputy City Manager
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

Richelle Holmes, Fund Development Manager, Early Learning Coalition of Brevard, presented the City of Melbourne with a certificate in appreciation of Council's support of the Early Learning Coalition of Brevard.

Mayor Goode presented Council Member Molly Tasker with a Certificate of Completion from the Florida Institute of Government for completion of the Institute for Elected Municipal Officials training held in Orlando, Florida on October 3-5, 2008.

Additionally, the Mayor presented Council Member Mike Nowlin with a plaque from the City Council recognizing his 10 years of volunteer service on the Zoning Board of Adjustment.

5. Approval of Minutes – November 25 Regular Meeting

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

6. City Manager's Report

St. Johns Heritage/Palm Bay Parkway – Without objection, Council added Item 21.1 to the agenda.

HUD/DCA Neighborhood Stabilization Program Funding – City Manager Jack Schluckebier noted that the City received notice late last week that it will be eligible to apply

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

for \$1.9 million in federal funds through the State of Florida. Staff was previously notified that our funding level would be zero. In the next few weeks, more information will be provided as the state rolls out its rules for the disbursement of funds. Council Member Corby, as the City's liaison on this issue, will be meeting with staff on possible uses of the funds and to provide input on developing a well rounded approach.

Council Member Mark LaRusso posed a series of questions regarding use of the funds. The City Manager replied that the City intends to follow the state guidelines. He added that the funding is not a bailout for existing homeowners. It is intended to take abandoned and foreclosed homes and get them back on the occupied housing market as soon as possible. Mr. LaRusso agreed with the goal of protecting neighborhoods from becoming further blighted by foreclosed properties.

Additional Funding from FDOT – Deputy City Manager Howard Ralls reported on the following:

- The state added \$8.4 million in XU funds in fiscal year 2013-2014 to the Apollo Boulevard extension project for construction. That will be placed in reserve, bringing the total funding available to \$19.4 million. The estimated construction is expected to be \$26.4 million. The City, as a local share provider, will have to provide 9%, or \$2 million.
- The NASA Boulevard/Ellis Road realignment project has been proposed by the state as a project in the stimulus bill. That means the City may be able to take some of those XU funds and make up the balance needed for the construction of the Apollo extension project.
- The state added \$302,000 in fiscal year 2010-2011 for a turn lane on Sarno Road at Washburn Road.
- Nine million dollars has been allocated in fiscal year 2011-2012 for milling and resurfacing Harbor City Boulevard/U.S. 1 from 192 to Aurora Road. Resurfacing projects often include traffic signal upgrades and there may be sufficient funds to upgrade the traffic signals at Eau Gallie Boulevard and 192 to mast arms. Staff has asked FDOT to determine if that's part of the scope.

In response to Vice Mayor John Thomas, Mr. Ralls said he will determine the funding source for the milling of U. S. 1.

Mr. Ralls confirmed for Mr. LaRusso that the construction estimate for the Apollo Boulevard extension project includes inflation.

Melbourne/West Melbourne – With regard to the Platt ranch request to join Melbourne, Mr. LaRusso reported that he watched the video of the December 2 Board of County Commission meeting on this item. He commented that there were some disturbing things that happened at that meeting. Regarding his previous discussions about Melbourne/West

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Melbourne, Mr. LaRusso said he would like to place an agenda item on a January agenda to discuss a potential merger between Melbourne and West Melbourne.

Moved by LaRusso/Nowlin to add to the first or second meeting in January an agenda item to discuss a strategic plan for West Melbourne and Melbourne if a citizens' committee were to recommend or not recommend merger.

Mr. LaRusso stated that he will provide an outline and will ask Council Members to participate by identifying concerns and challenges. The Mayor recommended Council consider this on the first agenda in February to allow members time to provide input.

The maker/seconded agreed to amend the motion to include this on the February 10, 2009 agenda.

Following brief discussion, Mr. LaRusso explained that a citizens' committee, made up of residents from Melbourne and West Melbourne, would publicly vet challenges and opportunities related to merger. He offered that his goal is for this to reach referendum status by 2010.

The question was called on the motion and the amendment. Motion carried unanimously.

7. Public Comments

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2008-68 (LDR-2008-04/FOC-2008-06) SCHOOL CONCURRENCY: (Second Reading/Public Hearing) An ordinance amending Appendix D, Chapter 3 of the City Code entitled, "Concurrency," by adopting the school concurrency provisions in the City's Land Development Regulations. (Applicant - City of Melbourne) (First Reading - 11/25/08)

City Attorney Paul Gougelman read Ordinance No. 2008-68 by title. The public hearing was opened and closed with no comments.

Moved by Tasker/LaRusso for approval of Ordinance No. 2008-68 based on the findings 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.

9. ORDINANCE NO. 2008-69 (CPA-2008-11) CAPITAL IMPROVEMENTS ELEMENT: (Second Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment updating the Capital Improvements Element and the schedule of Capital Improvement Projects in accordance with Florida Statutes and the Florida Administrative Code. (Applicant - City of Melbourne) (First Reading - 11/25/08)

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

The City Attorney read the ordinance by title. There were no comments made during the public hearing.

Moved by LaRusso/Meehan for approval of Ordinance No. 2008-69.

Mrs. Corby referenced the level of service analysis for potable water, which shows a decrease from 120 to 100 in the number of gallons/day/person. Planning and Economic Development Director Cindy Dittmer explained that the number is based on the water supply plan previously transmitted to the Department of Community Affairs. She added that the City believes people are actually using less water.

The question was called. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

10. COUNCIL ACTION RE: Contract award for the South End Reuse Expansion, Phase I, Project No. 31208, Masci Corporation, Inc., Port Orange, FL - \$278,737; and approval to establish a 15% construction contingency budget within the project budget.

City Engineer Jenni Lamb was available for questions.

Council Member Mike Nowlin recommended that the City consider increasing liquidated damages. Mrs. Lamb replied that she will review this and noted that there are several projects out to bid; therefore, a change would not be immediate. Mr. Nowlin said his thought is that \$300 per day seems low on a contract like this.

Mrs. Lamb responded to Mr. Nowlin's general questions about the project.

Moved by Thomas/Meehan for approval of the construction contract with Masci Corporation, Inc. in the amount of \$278,737 for the South End Reuse Expansion, Phase 1, Project No. 31208 and the establishment of a project contingency budget in the amount of \$41,811.
Motion carried unanimously.

11. COUNCIL ACTION RE: Supplement No. 9 to the Continuing Hydrogeologic Services contract for Grant Street Water Reclamation Facility Injection Well Mechanical Integrity Testing, Project No. 31709, L.S. Sims & Associates, Inc., Rockledge, FL - \$112,500.

Mrs. Lamb reported that this is a test the City has to perform every five years. In response to Mrs. Corby, Mrs. Lamb explained that the City has one operating deep well. The City is preparing to go out to bid to plug and abandon the deep well at the D. B. Lee site.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Moved by LaRusso/Tasker for approval of Supplement No. 9 to the Continuing Hydrogeologic Contract with L.S. Sims & Associates, Inc., Rockledge, FL in the amount of \$112,500 for the Grant Street Injection Well Mechanical Integrity Testing, Project No. 31709. Motion carried unanimously.

12. COUNCIL ACTION RE: Amendment No. 3 to the contract for additional professional engineering services associated with the management of the Unidirectional Flushing Program, Project No. 31306, Reiss Engineering, Inc., Winter Park, FL - not to exceed \$104,031.

Assistant Public Works/Utilities Director Harold Nantz was available for questions. He confirmed for Mr. Nowlin that there are no anticipated additional costs with the contract.

Moved by Meehan/LaRusso for approval of Amendment No. 3 to the contract with Reiss Engineering, Inc., Winter Park, FL, for the additional professional engineering services required to complete the management of the City-wide Unidirectional Flushing Program for a not-to-exceed contract amount of \$104,031. Motion carried unanimously.

13. CONSENT AGENDA:

Mayor Goode announced that Council Members Nowlin and Corby removed Items “b” and “f” from the consent agenda.

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

Regarding Item “c”, Leisure Services Director Mary Ann Bowman said that the vendor has indicated that he will complete the project within seven days of the City purchase order being issued. Crane Creek Reserve will be completed first.

- a. Approval of an Easement Agreement between Sutton Properties, LLP and the City of Melbourne for drainage facilities on DRS property located on North Babcock Street; and authorization for the City Manager to execute the agreement.
- b. Contract award to perform various types of concrete work and sod restoration, B & S Concrete, Inc., Melbourne, FL - at per unit prices; annual cost not to exceed \$175,350. (See next agenda item for change in cost and action.)
- c. Contract award for replacement of driving range netting at Crane Creek Reserve and Mallard’s Landing Golf Courses, Dixon Electric of Brevard, Inc., Cocoa, FL - \$43,899.
- d. Approval of a Memorandum of Understanding between the City of Melbourne and the Laborers’ International Union (LIU) to provide for a holiday/vacation exchange; and authorization for the City Manager to execute the amendment to the existing LIU contract effective October 1, 2009.
- e. Approval of a continuation of services to provide utility management consulting, engineering, and other related services associated with Melbourne/West Melbourne

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

utility matters on an as requested basis, GAI Consultants, Orlando, FL - at previously approved hourly rates, in an amount not to exceed \$24,000; and transfer of \$24,000 from Water and Sewer Fund Contingency to the Water & Sewer Non-Departmental Other Professional Services account.

- f. Approval of an Interlocal Agreement between the Board of County Commissioners of Brevard County and the City of Melbourne providing for a contribution of \$70,600 in Transportation Impact Fees to fund engineering feasibility studies to improve traffic capacity at three intersections on Wickham Road; and authorization for the City Manager to execute the agreement. (See next agenda item for action.)

14. ITEMS REMOVED FROM THE CONSENT AGENDA

- b. Contract award to perform various types of concrete work and sod restoration, B & S Concrete, Inc., Melbourne, FL - at per unit prices; annual cost not to exceed *\$175,350.

*Note: Deputy City Manager Amy Elliott referenced the memorandum distributed to Council revising the recommended award amount to \$134,000 with authorization for additional work at the per unit prices up to change order amounts.

The City Manager explained that this item wasn't clear. The department was recommending the contract amount but also recommending the use of the full budget. The point of the item is to recommend the contract amount. Therefore, staff's recommendation is to award the contract in the amount of \$134,000, not \$175,350.

The City Manager responded to Mrs. Corby's general questions about the budgeting process and remarked that this was simply a poorly written agenda item.

Mr. Nowlin pointed out that the City has its own concrete crew and he understands that it gets backed up from time to time. He asked if the City could prioritize its work differently rather than awarding the full amount of this contract.

Public Works/Utilities Director Bob Klapproth explained that right now the City has 66 work tickets the crew can't get to. The item on the agenda addresses emergencies and unplanned work. For example, a water break always involves loss of a sidewalk, curb, driveway, etc. Without this contract, there would be a 30 – 45 day wait, resulting in many complaints. Without hiring more people, staff cannot keep up with the workload and get it done in a reasonable amount of time without this contract.

Mr. Nowlin asked if the City could prioritize the emergency work and defer some of the other work until later. Mr. Klapproth repeated that this is not planned work. This is emergency repair work. The highest priority requests typically come from citizens or Council Members.

Moved by Corby/Thomas to approve Item 14 "b" at the new contract amount of \$134,000. Motion carried. Council Member Nowlin voted nay.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

- f. Approval of an Interlocal Agreement between the Board of County Commissioners of Brevard County and the City of Melbourne providing for a contribution of \$70,600 in Transportation Impact Fees to fund engineering *feasibility studies to improve traffic capacity at three intersections on Wickham Road; and authorization for the City Manager to execute the agreement.

*See discussion following motion. Council clarified that this is a study on turn lanes rather than a series of feasibility studies.

Mr. Nowlin stated that although he understands we are supposed to help the County, he has an issue with paying a consultant for work that we know needs to happen.

The City Manager replied that several years ago the County started to block further development on Wickham Road because of concurrency. The City and the County agreed to work in a collaborative way on low cost capital improvements. These intersection studies represent those kinds of solutions and will reveal how to get the most out of the existing roadway without widening or making massive expenditures. The City has been able to leverage these kinds of partnerships effectively by being in a position of having the studies done. The work is ready to be contracted when someone comes along with one or two million dollars. Needed projects gets done sooner because the City works with the County.

Mrs. Corby said she thought the feasibility study for Wickham Road was completed in 2004 or 2005 for the portions located in Melbourne. Mr. Schluckebier said that this item relates to intersection improvements.

Mr. Ralls added that the County has identified what improvements need to be done at these intersections. The problem is, we don't know anything beyond that. This project will include a preliminary engineering design; it will define the amount of additional right-of-way that will have to be acquired; and it will enable the consultants to define the construction and engineering costs. Developers who would otherwise be held up will be able to contribute towards construction of these projects.

Following brief discussion, Mrs. Corby pointed out that we are way beyond the feasibility study on Wickham Road; it would be more appropriate to refer to this as a study on turn lanes.

Moved by Meehan/Tasker for approval of Item 14 "f".

In response to Mrs. Corby, the Mayor asked the City Clerk to clarify that this agreement provides for a study on turn lanes.

The question was called. Motion carried. Mr. Nowlin voted nay.

15. COUNCIL ACTION RE: Receipt of the Affordable Housing Advisory Committee recommendations report on affordable housing incentive strategies; and authorization to proceed with developing an amendment to the SHIP Housing Assistance Plan to incorporate the proposed incentive strategies and/or other incentives.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Housing and Community Development Director Melinda Thomas recognized the members from the Affordable Housing Advisory Committee who were present. She was available for questions. The following is an excerpt from the agenda report:

Council is being asked to acknowledge receipt of the recommendations report of the Affordable Housing Advisory Committee (AHAC) on affordable housing incentives and authorize staff to proceed with developing an amendment to the State Housing Initiatives Partnership (SHIP) Program Housing Assistance Plan to incorporate the proposed incentive strategies and/or other incentives as directed by City Council.

The committee was required to submit the recommendations report to City Council by December 31, 2008. Within 90 days of receipt of the report, City Council must adopt an amendment to the SHIP Housing Assistance Plan to incorporate the housing incentive strategies that Council decides to implement. Staff will draft the required amendment, review it with the AHAC and submit it to City Council for approval prior to March 9, 2009. Compliance with these measures, processes, and timeline will ensure the City's continued eligibility for SHIP Program funding.

After studying and evaluating the merits of various strategies to incentivize the production of affordable housing, the AHAC is proposing the following:

- *Formalize expedited permitting requirements by resolution*
- *Extend transportation impact fee deferment to for-profit and not-for-profit developers*
- *Waive or relax City site requirements to achieve a 10% density bonus*
- *Adopt alternative and flexible design requirements and criteria with respect to parking, setbacks, lot configurations and streets and to encourage the development of affordable housing near transportation hubs, employment centers and mixed-use developments*
- *Retain existing review procedure*
- *Update the 1993 City owned land inventory*
- *Expand the definition of affordable to include households with incomes up to 120% of AMI and adopt a single Affordable Housing Ordinance that combines all affordable housing incentives*

In accordance with the SHIP regulations, the AHAC formally approved the recommendations report after advertising the report and holding a public hearing on December 1, 2008.

Moved by Meehan/Thomas for Council to acknowledge receipt of the AHAC housing incentive strategies recommendations report and authorize staff to proceed with developing an amendment to the SHIP Housing Assistance Plan to incorporate the proposed incentive strategies. Motion carried unanimously.

16. PRELIMINARY PLAT APPROVAL (SD-2008-02) MIMA OF MELBOURNE SUBDIVISION: (Public Hearing) A request for preliminary plat approval for the MIMA Subdivision, a four-lot office development on a 41.99±-acre parcel zoned M-1 (Light Industrial), located south of NASA Boulevard, north of Hibiscus Boulevard, east of Gateway Drive, and west of

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Broadband Drive. (Owners - NASA-Gateway, LLC & MIMA Real Estate LLC) (Applicant/ Representative - Jake Wise, CEG Engineering) (P&Z Board - 11/20/08)

Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board voted unanimously to recommend approval of the three-page preliminary plat prepared by AAL Surveying of West Melbourne, Florida, signed, sealed and date-stamped November 10, 2008, with the following conditions:

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

Any substantial change to the preliminary plat 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. 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.
- c. Appropriate environmental permits must be obtained as part of the construction plan review process.
- d. Access for Lot 3 will be provided internally from the cross access drive between Lots 2 and 3, and no additional driveway access will be permitted on NASA Boulevard for Lot 3.
- e. A cross access easement shall be provided across Lot 3 to allow internal access to Lot 4.

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

Jake Wise, representing the applicant, was available for questions.

Moved by Meehan/Nowlin for approval of the preliminary plat based on the findings and conditions contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

17. ORDINANCE NO. 2008-70 (Z-2008-1129AD/LDR-2008-02/FOC-2008-02) RV PARKING: (First Reading) An ordinance amending Appendix B of the City Code entitled Zoning, amending Article II by revising and expanding the definition of recreational equipment; and amending Appendix D of the City Code entitled Land Development Code, as it relates to parking, storage or use of recreational equipment and recreational vehicles. (Applicant - City of Melbourne) (P&Z Board - 11/20/08)

Attorney Gougelman read the ordinance by title. Mrs. Dittmer reviewed the agenda report. The following is an excerpt:

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Following previous Council input, a draft ordinance was prepared and discussed at the June 24, 2008 meeting. Council directed staff to return with a final ordinance. The following is a summary of the proposed changes.

Definition of Recreational Equipment

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

Location/Regulation of Recreational Equipment

- 1. The definition of the front building line that determines the allowable location to park recreational equipment/vehicles is proposed to be clarified. The current definition is very clear for typical rectangular lots; however, some lots are irregular or have homes built on angles that do not parallel the right-of-way. The proposed language further clarifies that the front building line follows the edge of the home and then runs parallel to the right-of-way until it intersects the side property lines. This clarification follows the method staff has utilized to interpret this section of the Code for a number of years and upholds the appeal to this section by the Zoning Board of Adjustment. Furthermore, it does not decrease the current allowable area to park recreational equipment/vehicles.*
- 2. The ordinance would change the allowable yard area to park recreational equipment/vehicles for all corner lots, regardless of the type of roadway the side corner yard abuts. The language proposes that recreational equipment/vehicles may be parked in a side corner yard, if parked behind a six-foot opaque fence. Equipment/vehicles would need to be located behind the building line, typically at least 20 feet from the property line, if not located behind a six-foot opaque fence (current allowance).*
- 3. The addition of new language to define a 48-hour timeframe for loading, unloading or maintenance of recreational equipment/vehicles has been included.*
- 4. The addition of new language providing a temporary allowance for guests to park a recreational vehicle in the front yard area. The ordinance proposes to allow guests to park on a driveway in the front yard for up to two weeks within each calendar year.*
- 5. The addition of new language to prohibit the parking of recreational equipment/vehicles within the public right-of-way. Based upon past Code complaints, staff believes that the current ability to park these vehicles in the right-of-way creates traffic visibility problems, emergency access problems and leads to visual clutter that is objectionable to surrounding neighbors.*

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

6. *The addition of new language to require recreational equipment/vehicles to be properly tagged, if required, and in operable condition. Based upon past Code complaints regarding inoperable vehicles, staff believes that this new language will assist in eliminating inoperable vehicles from being “abandoned” on the property for long periods of time.*

During the Planning and Zoning Board meeting, Board members expressed concern regarding the proposed Article II, Section 2., 9.74 (p) (4) and (5). Board members felt any parking of recreational vehicles in the front yard (driveway) for visitors should be limited to 48 hours and that the parking of recreational vehicles within the public right-of-way should not be prohibited. The Planning and Zoning Board voted six to one to recommend approval of the proposed ordinance based upon the findings contained in the Planning and Zoning Board agenda memorandum and the following amendments:

- (4) *Guests with recreational vehicles visiting the residence are allowed to park a recreational vehicle on a designated driveway for up to ~~two weeks~~ forty-eight (48) hours per calendar year. No portion of the recreational equipment or recreational vehicles shall extend over any portion of the sidewalk.*

- ~~(5) *Recreational equipment and recreational vehicles shall not be parked in any right-of-way.*~~

Based upon past guidance from Council regarding changes to the Code, staff does not agree with the changes proposed by the Planning and Zoning Board. The ordinance included in the agenda package does not reflect the proposed changes by the Planning and Zoning Board.

Mr. Nowlin referenced the change to definitions and said that it now prohibits a golf cart from being parked in the front yard. Mrs. Dittmer agreed and added that for many years staff has made the interpretation that a golf cart is recreational equipment. Mr. Nowlin asked if an off road motorcycle parked in his front yard would be in violation of the proposed ordinance. Mrs. Dittmer replied that off road vehicles relate to four wheelers; motorcycles are not typically considered in that group.

Based on his experience, Mr. Nowlin said that leaving sections of the Code up to interpretation causes great heartache among our citizens. He suggested that staff return to the original definition and add a factor to distinguish “major” equipment.

Mr. Nowlin pointed out that requiring a person on a corner lot to install a fence puts them at a disadvantage over someone who has an interior lot. Additionally, items three and four appear to be a tracking nightmare for Code Compliance. They will cause neighbors to call in, which Code will have to investigate.

Mrs. Dittmer clarified that item three currently exists as a 24-hour limitation. Code Compliance staff agreed with taking that to a 48-hour limit. This may reduce those types of calls to Code Compliance.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Attorney Gougelman referenced page three of the ordinance, “Recreational equipment and recreational vehicles may be parked...not to exceed forty-eight hours within a seven day period...” He asked if the intent is any 48 hours or 48 consecutive hours. Mrs. Dittmer replied consecutive and Attorney Gougelman recommended that Council insert the word “consecutive” prior to second reading.

Mayor Goode opened the public hearing. There were no comments.

Moved by LaRusso/Corby for approval of Ordinance No. 2008-70 with the addition of the word “consecutive” as recommended by the City Attorney.

In response to Mrs. Tasker, Attorney Gougelman explained the section of the ordinance that contains the 48-hour language.

The question was called. Motion carried. Mr. Nowlin voted nay.

18. COUNCIL ACTION RE: Approval of a Utility Service Agreement between the City of Melbourne; and Samuels & Associates Development, LLC; and Estate of William B. Ferrell; Diversified Properties; 192 Associates; Jaco Associates c/o William B. Ferrell; Blair Associates c/o William B. Ferrell; Valencia Real Estate, LLC; Richard M. Hammer and Rhonda J. Hammer; Douglas W. Harrison, Jr. and Tobie J. Harrison; and Walter E. Platt and Carlyn P. Platt, subject to the City Attorney’s final review for 281 acres of property, located outside of the Melbourne Urban Service Area (Watershed DRI); and authorization for the City Manager to execute the agreement with the stipulation that execution and initial payment be received within 30 days of receipt by Samuels & Associates Development, LLC of the signed agreement.

Note: At the time the agenda package was prepared, the agreement was still under review by City staff and not available for inclusion in the packet. A copy was emailed to City Council on December 8 and a hard copy was distributed the same day.

Mayor Goode referenced the correspondence dated December 9 from Attorney Howard Nelson and asked if the applicant is requesting this item be postponed.

Attorney Gougelman clarified that this item was submitted at the direction of the City Manager (the City is the applicant). The developer’s attorney has requested that the item be withdrawn from the agenda. Mayor Goode asked if it would be considered at a future date. Attorney Gougelman replied that he would assume that; however, he does not know for sure.

Mayor Goode stated that the City has tried to work with Mr. Dworkin and Mr. Ferrell for two or three years. They attended a public meeting last week and announced that Mayor Goode has held them up and won’t sell them any water. The Mayor stated that this is far from true. He pointed out that this agenda item relates to selling the development water; however, they don’t want to proceed.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Mr. Schluckebier said that there was significant misrepresentation of facts and opinions last week. The City had been working in good faith with this property. This item provides authorization for staff to extend to this development an agreement that offers significant financial savings as compared to how our Code treats other developments in Melbourne. This is based on: the City began negotiating with the development before our Code was changed; the property annexed into an adjacent city after those negotiations began; and the adjacent city offered to provide them water that is not within their purview to offer.

Continuing, the City Manager said there are several gross misunderstandings on the part of the developer. It was the City's intent to make an offer for service on a time-limited basis so they would quit the nonsense about "Melbourne foot-dragging." Mr. Schluckebier added that he finds that highly offensive that they would be spouting those kinds of misunderstandings at this late date after our goodwill and good faith negotiations.

Mr. Schluckebier said he understands that Council is wishing to postpone this item; however, at some point he fully expects Council to direct the Melbourne City Manager to perfect this agreement in accordance with our Code. At that moment, this agreement would be available to them but the initial buying price would immediately be \$300,000 to \$400,000 more.

Mrs. Corby asked why the agreement was not provided in the agenda package. Mr. Schluckebier replied that at the time we were coming to an internal staff recommendation, the agenda packet was being copied for distribution. It was simply timing logistics.

Mrs. Corby asked if the agreement emailed to City Council December 8 is the most recent agreement. The City Manager replied that the use of the word "agreement" is a misnomer. It is actually authorization to propose to them an agreement.

In response to Mrs. Corby's request, Attorney Gougelman will provide the most recent changes on this proposal.

Mrs. Meehan asked if a date will be placed on the postponement. Mayor Goode replied that the ball is in their court; it's not up to Council to place a date on it.

19. COUNCIL ACTION RE: Approval of two additional Communications Officer I positions to the Police Support Services budget; and transfer of \$77,526 from the Police Operations Capital Equipment accounts to the Police Support Services personal services accounts.

Police Chief Don Carey reported that in addition to the memorandum in the agenda package, he would like to provide background information. About two years ago a staffing study was done in the communications section using the Association of Public Safety Officers formulas. There was an indication that we needed several new positions. Staff placed that in a budget request, which coincided with Amendment 1 and several other budgeting issues. The City began using temporary employees from budgeted line items to fill those vacancies. The department has used an inordinate amount of overtime and sick leave because of stress related with the job. There are simply not enough employees to do the job. On average, the City's calls for service increase five percent a year. Over the five

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

and one-half years he's been with the City, we have not increased personnel in the communications section.

Continuing, the Chief said his request is to move money from savings that's been developed in equipment purchases and add two new dispatchers. Additionally, he noted that during the focus groups, which were conducted in response to the employee satisfaction survey, employees expressed concern about the stress levels and staffing in the communications section.

Vice Mayor Thomas asked the Chief how many communications officers the City is down based on the study. Mr. Carey replied that the study indicates we need 15 additional communications officers. The department set out in a budget proposal to Council to add five per year. However, the budget crunch hit and that was removed. Staff replaced that request with a smaller item for temporary personnel.

Mr. LaRusso noted that Council never passed a budget allowing the Chief to add five more positions. The Chief is asking for two positions, which he plans on fully supporting. Council Member LaRusso referenced the \$77,526 being transferred from the Police Operations capital equipment accounts and asked what the department is foregoing.

Chief Carey clarified that we're not foregoing anything. He added that this involves automobile replacements (for administrative vehicles). He explained that Deputy Chief Mimbs worked out a plan to reduce the number of police packages and use smaller, more fuel-efficient vehicles. The same number of vehicles will be replaced but at a substantial reduction.

Moved by LaRusso/Tasker for approval to add two Communications Officer I positions to the Police Support Services Division budget and transfer \$77,526 from the Police Operations capital equipment accounts to the Police Support Services personal services accounts to fund the positions. Motion carried unanimously.

20. COUNCIL DISCUSSION/ACTION RE: Review of proposed policy relating to adoption of ordinances. (Requested by Council - 5/13/08)

City Clerk Cathy Wysor provided an overview.

Moved by Meehan/Thomas for approval of the following: city staff should continue following Section 2-34 (a) of the City Code as it relates to preparation of ordinances; when an ordinance relating to a new subject, concept or idea is being drafted by staff, staff should include an information item in the City Manager's Report. Motion carried unanimously.

21. COUNCIL ACTION RE: Board Appointments
- a. Resolution No. 3038: A resolution providing for the appointment of one member (essential services personnel seat) to the Affordable Housing Advisory Committee; specifying the term.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

Mrs. Corby nominated Linda Jones. Mayor Goode closed the nominations. Mayor Goode declared Linda Jones appointed. There were no objections.

Attorney Gougelman read Resolution No. 3038 with the inclusion of Linda Jones' name and term.

Moved by LaRusso/Meehan for approval of Resolution No. 3038 as revised. Motion carried unanimously. (Term: December 9, 2008 through May 12, 2011; unexpired three-year term)

b. Appointment of one member to the Golf Courses Advisory Board.

Mr. LaRusso nominated Eric Martin. Without objection, Mayor Goode closed the nominations. Moved by Goode/LaRusso to appoint Eric Martin. Motion carried unanimously. (Term: December 9, 2008 through November 8, 2011; unexpired, three year term)

c. Appointment of one member to the Melbourne Housing Authority.

Mayor Goode asked Council to endorse his reappointment of Joan Madden. Moved by Meehan/Corby to approve the Mayor's reappointment of Joan Madden to the Melbourne Housing Authority. (Term: December 9, 2008 through December 8, 2012)

d. Appointment of two regular members to the Planning and Zoning Board.

Moved by Meehan/LaRusso to reappoint Alan King and Edward Coruzzi. Motion carried unanimously. (Term: December 3, 2008 through December 2, 2011)

e. Appointment of three regular members to the Zoning Board of Adjustment.

Moved by Goode/Tasker to reappoint Peter Kostrzewa and Edward Kasold as regular members and to appoint first alternate James Taylor as a regular member. Motion carried unanimously. (Terms of Kostrzewa and Kasold: December 3, 2008 through December 2, 2011. Term of Taylor: December 9, 2008 through December 2, 2011; unexpired, three year term.)

Moved by Goode/LaRusso to appoint John Scott as an alternate member. Motion carried unanimously. (December 9, 2008 through December 26, 2010; unexpired, three-year term.)

ADDED TO THE AGENDA:

21.1 COUNCIL ACTION RE: Approval to endorse mutually agreed upon funding priorities for the St. Johns Heritage/Palm Bay Parkway.

The following is an excerpt from the agenda report:

The Melbourne and Palm Bay City Councils met in a public meeting on December 3, 2008 at the Lagoon House in Palm Bay to discuss the joint advocacy of the two cities in seeking

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

federal funding for the St. Johns Heritage/Palm Bay Parkway. The Palm Bay City Council voted 3-2 to propose the overall parkway project to federal legislators with a defined list of priorities that include, in order:

1. *The two I-95 interchanges (at the north and south ends of the parkway).*
2. *The segment of the parkway between Malabar Road and U.S. 192.*
3. *The segment of the parkway between U.S. 192 and Ellis Road.*

Cost of the interstate interchanges is estimated to be in the \$30 - \$40 million range each. An estimate of \$200 million was cited for the roadway.

Mayor Goode stated that at the joint meeting in Palm Bay, the Palm Bay Council voted; however, the Melbourne City Council could not vote because the meeting was held outside the City. The Mayor added that he believes the Melbourne City Council agreed it would return at this meeting and pass a motion to participate with the City of Palm Bay in a joint venture to pursue the "South Brevard Parkway/Palm Bay Parkway/Space Coast Parkway."

Mayor Goode informed Council that Mrs. Poole submitted a request to speak; however, this is not a public hearing item.

Moved by Thomas/Meehan to support the priority list to be presented to the federal delegation as priority one: interchanges together as one package; priority two: Malabar Road to 192; and priority three: 192 to Ellis Road; to present the funding for those three projects in total with the stated priority list.

Mrs. Corby's motion to allow Mrs. Poole to speak did not receive a second. Mrs. Meehan called the question. Mrs. Corby asked if there is a reason Council is rushing this item. Mayor Goode replied that Council spent two and one-half hours in a meeting with Palm Bay and Mrs. Corby interjected that it was a waste of time. Continuing, the Mayor said that Melbourne agreed to do a joint venture with Palm Bay. Mrs. Corby stated that Melbourne did not agree to anything.

Discussion continued. The question was called. Motion carried. Mrs. Corby voted nay (see below).

Mrs. Corby stated that she would like clarification of the joint venture. Mayor Goode said that the lobbyists and elected officials from the Cities of Palm Bay and Melbourne will jointly work together with the federal government, State of Florida, and the Florida Department of Transportation to come to closure on a by-pass parkway around the Cities of Palm Bay and Melbourne and other cities in Brevard County.

Following discussion, Mrs. Corby said that her vote is nay.

22. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mitch Varnes, 503 Peregrine Drive, briefed Council on the Melbourne and Beaches Music Marathon scheduled for February 8, 2009. As a result of application and bid, Melbourne

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
DECEMBER 9, 2008

was chosen by the USA Track and Field Association to be the site of the 2009 National Championship Masters (40 and over) and one-half marathon race. Many of the nation's top runners will be on the Space Coast participating in the event. Mr. Varnes estimates that more than 1,000 runners will participate in this inaugural event, with a large percentage coming from outside Florida.

Pat Poole, 805 E. Palmetto Avenue, cautioned Council about moving too quickly on working with the City of Palm Bay on funding for the St. Johns Heritage Parkway. She asked Council to take time to carefully consider the issue.

Council Member Molly Tasker requested the following:

- a. That the Melbourne City staff research and advise the Council on the feasibility of establishing in the City or, within and with the County, a social services campus. The campus would provide low cost land to charitable organizations and the County would assure free bus transport for clients of such services as may be offered at the "social services campus."
- b. In conjunction with the above, she would like to see Melbourne based charitable, faith and veterans' organizations form a loose coalition to lend each other a hand in matters such as facilities and management guidance. The coalition's leadership could work with the City and the County to address homelessness and hunger in Brevard.

Additionally, Ms. Tasker asked staff to research and determine what other cities are doing, provide some innovative thinking, and return to City Council in 45 days with ideas for Council to discuss.

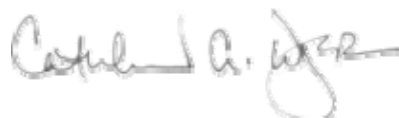
Mayor Goode stated that, without objection, show it done.

Mrs. Corby asked that staff also return with a breakdown of costs the City has accumulated in connection with the Daily Bread.

23. ADJOURNMENT

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

The meeting adjourned at 8:18 p.m.



City Clerk – 12/18/2008

Approved by City Council: _____