

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
JANUARY 10, 2012



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 City Attorney Paul Gougelman.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Mike Nowlin	Vice Mayor, District 1
	Mark LaRusso	Council Member, District 2
	Kathy Meehan	Council Member, District 3
	John Thomas	Council Member, District 4
	Molly J. Tasker	Council Member, District 5
	Greg Jones	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Howard Ralls	Deputy City Manager
	Cindy Dittmer	Planning & Economic Development Director

The Mayor announced that Item “h” on the consent agenda has been withdrawn from further consideration.

4. Proclamations and Presentations
5. Approval of Minutes – December 13, 2011 Regular Meeting

Moved by Nowlin/LaRusso for approval. Motion carried unanimously.

6. City Manager’s Report

Vice Mayor Mike Nowlin said that he is glad Fire Station 71 (Eau Gallie Boulevard) is back in full service.

Council Member Kathy Meehan asked that the City Attorney conduct research on the issue of panhandling in Downtown Eau Gallie and Downtown Melbourne. There were no objections from City Council.

City Manager Jack Schluckebier referenced the following correction to the City Manager’s Activity Report: Change Order No. 2 to the Engineering CIP Project 30103, Potable Water Byproduct Discharge, is actually a deduct item in the amount of \$8,500 rather than an additional expense.

With regard to the Planning Director’s report on mobile vending, Council Member Mark LaRusso asked that the City Attorney provide a legal opinion on whether this type of activity

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could be excluded in the community redevelopment areas. There were no objections from Council.

Council Member Molly Tasker noted the following correction to the report: The Police Community Relations Council meeting will be held on Thursday, January 12. Additionally, she commented for the public that Melbourne Airport Director Richard Ennis received the United Safety Council Leadership Award in recognition of his outstanding safety leadership record.

Council Member Greg Jones referenced the mobile vending report and said that he sent a communication to the City Manager and Planning Director regarding upscale food trucks, which are different from hot dog carts. If used properly, he said that they could attract foot traffic to the redevelopment areas and may be useful for economic development; therefore, he would like to explore all options.

Mrs. Tasker thanked Planning and Economic Development Director Cindy Dittmer for the mobile vending report, which she found very enlightening. She pointed out that the ultimate decision on mobile vending will be a policy decision for City Council.

7. Public Comments

Pat Poole, 805 East Palmetto Avenue, informed Council that she has been attending City Council meetings for 45 years. She recognized Eddie Taylor in the audience, who has also been attending meetings for a long time.

Toni Lepore, 3254 Arden Circle, asked Council for its thoughts on mobile vending.

Mayor Goode replied that this will possibly return as an agenda item next month.

Eric Ellebracht, 1948 Tyler Avenue, distributed an article about research being conducted at Florida Tech through a grant from the U. S. Scientific Foundation. Following discussion, he recommended that someone from the City verify that the school isn't conducting research and development on weapons of mass destruction by logical, chemical, nuclear or cyber means.

Mayor Goode announced that Mike Scudiero with the Coastal Florida PBA has asked to speak. The Mayor stated that the City is at impasse with the PBA. Council will be taking some action in the future; however, that is all Council is prepared to say at this time.

Mike Scudiero, Coastal Florida PBA, Daytona Beach, reported that four articles in the contract remain unresolved. He summarized the issues on each.

Mayor Goode stated that although both parties are at impasse, the negotiations will continue.

UNFINISHED BUSINESS

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8. ORDINANCE NO. 2011-58 (CU-2011-14) ANYTIME FITNESS: (Second Reading/Public Hearing) An ordinance granting a conditional use to allow an indoor recreation facility in part of an existing building on a portion of an overall 1.73±-acre parcel zoned C01 (Neighborhood Commercial), located on the south side of Hibiscus Boulevard, east of Babcock Street and west of Apollo Boulevard. (Owner - Dr. Craig and Sharon Deligdish, OMNI Healthcare) (Applicant - Dr. Craig Deligdish) (Representative - Lynn Mallak) (First Reading - 12/13/11)

Attorney Gougelman read the ordinance by title. There were no disclosures from Council and the public hearing was opened and closed without comment.

Moved by Tasker/Nowlin for approval of Ordinance No. 2011-58, based upon the findings and conditions contained in the Planning and Zoning Board memorandum. The roll call vote was:

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

Motion carried unanimously.

NEW BUSINESS

9. COUNCIL ACTION RE: Supplement No. CDM7 to the Continuing Consultant's Contract for the provision of shallow and deep monitoring well design services for the Grant Street Water Reclamation Facility deep injection well system, Project No. 33612, CDM Smith, Inc., Vero Beach, FL - not to exceed \$183,969.

City Engineer Jenni Lamb reported that the City has been experiencing problems and anomalies in water quality data in the deep monitoring wells since 1994 and in the shallow monitoring wells since 1996. Planned corrective action includes the design and construction of new monitoring wells, which was approved by the Florida Department of Environmental Protection last August. The engineering was included in this year's budget and the construction cost, estimated to be \$1.76 million, is in next year's capital improvement program. Ms. Lamb mentioned that a representative from CDM Smith is available in the audience for technical questions. She closed by stating that the recommendation is for approval.

Vice Mayor Nowlin said that the agenda materials indicate a 275-day timeframe with three task items expected to return. He asked if the three task items will come back during the 275 days. Ms. Lamb replied no and clarified that they will return after that time period. The items are associated with construction administration and inspection services; it will be more appropriate to return those during the construction timeframe.

With regard to the entire project, Ms. Lamb confirmed that it could take as long as a couple of years.

Moved by Thomas/Nowlin for approval of Supplement No. CDM7 to CDM Smith for the Grant Street Water Reclamation Facility Deep Injection Well Shallow and Deep

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Monitoring Wells, Project No. 33612 in an amount not to exceed \$183,969. Motion carried unanimously.

10. COUNCIL ACTION RE: Approval of a Utility Work by Highway Contractor Agreement between the State of Florida Department of Transportation (FDOT) and the City of Melbourne for the New Haven Avenue waterline relocation associated with the FDOT resurfacing project of New Haven Avenue from U.S. 1 to Strawbridge Avenue, Project No. 30512 – not to exceed \$106,630; authorization for the City Manager to execute the agreement; and transfer of \$106,630 from Miscellaneous Water & Sewer Capital Improvement Projects to establish a project budget.

Ms. Lamb reviewed the agenda report and recommended approval.

Moved by Meehan/Nowlin for approval of the Utility Work by Highway Contractor Agreement; authorization for the City Manager to execute the agreement; and approval of a budget transfer in the amount of \$106,630 from Water & Sewer Capital Improvement Miscellaneous, Project No. 30099 to establish this project (30512) budget. Motion carried unanimously.

11. COUNCIL ACTION RE: Supplement No. F134 to the Continuing Consultant's Contract for professional engineering services for Lift Station 12 renovation and rehabilitation at Colonial Way and U.S. 1, Project No. 32010, Frazier Engineering, Inc., Melbourne, FL - \$58,000.

Ms. Lamb added to the written report that Lift Station 12 is located south of Post Road, north of Horse Creek, on the west side of U. S. 1.

Moved by Thomas/Tasker for approval of Supplement No. F134 to Frazier Engineering for Renovate Lift Station 12, City Project No. 32010 in the amount of \$58,000. Motion carried unanimously.

12. CONSENT AGENDA:

Mayor Goode stated that staff has withdrawn Item "h" from further consideration.

Mr. LaRusso stated that he spoke with the City Manager regarding Item "e." Mr. Schluckebier confirmed for the Mayor that Mr. LaRusso did request that Item "e" be removed from the consent agenda. The City Manager added that he consulted with the Airport on the item and the Airport would prefer to leave the arrangement as is.

Moved by LaRusso/Tasker for approval of the consent agenda, less Items "e" and "h." Motion carried unanimously.

- a. Approval of a Utility Work Agreement between the State of Florida Department of Transportation (FDOT) and the City of Melbourne for relocation of a utility associated with the FDOT resurfacing project of U.S. 1 from Crane Creek Bridge to Law Street; and authorization for the City Manager to execute the agreement.

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- b. Amendment No. 5 to the agreement for professional engineering services to update the reuse distribution system hydraulic model, AECOM Technical Services, Inc., Palm Bay, FL - \$37,300.
- c. Continuation of the 800 MHz equipment maintenance contract for the Police Department, Communications International, Inc., Vero Beach, FL - \$54,984.
- d. Cured-In-Place Pipe Rehabilitation Services for current year capital improvement projects, Project 64699, Insituform Technologies, Inc., Jacksonville, FL – at unit prices, not to exceed \$1,391,523; and transfer of \$250,000 from the Installation of Gabions on the North Side of Edgewood Drive, Phase I Project (No. 64412) to supplement this project budget.
- e. Authorization for the City Manager to execute a 12-month contract extension for federal lobbyist services, Alcalde & Fay, Washington, D.C. - \$48,000. (See next agenda item for action.)
- f. Approval of SCADA IFIX software renewal and upgrades for the Wastewater and Water Treatment Plants, GE Intelligent Platforms, Inc., Sewickley, PA - \$36,228.14.
- g. Lien Rescission CE-10-077: Denial of a lien rescission in the amount of \$7,312.14 for property located at 1775 Southland Avenue. (Applicant - Jose Rodriguez)
- h. Resolution No. 3228: A resolution supporting police officer and firefighter disability presumption reforms to make pension plan and workers' compensation benefits sustainable for current and future police officers and firefighters. (Withdrawn by staff.)
- i. Resolution No. 3229: A resolution establishing a budget for the Assistance to Firefighters grant by appropriation of \$192,000 grant revenue and \$48,000 in Prior Year Surplus funds as the City's required match for acquisition of ALS equipment.

13. ITEMS REMOVED FROM THE CONSENT AGENDA

- e. Authorization for the City Manager to execute a 12-month contract extension for federal lobbyist services, Alcalde & Fay, Washington, D.C. - \$48,000.

Mr. LaRusso said that our lobbyist is asking for an additional \$1,000 this year, with \$500 being paid by the City and \$500 being paid by the Airport. Based on the Airport receiving approximately 70% of the federal funding, Mr. LaRusso recommended that the Airport bear the burden of the entire increase.

Mayor Goode offered that in some years the City fares better and in other years the Airport fares better. Mr. LaRusso pointed out that the request for an increase is coming

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during a down time. Since the Airport has experienced a large resurgence in economic growth, he thought that the Airport would be willing to offset the increase.

Moved by LaRusso/Thomas for approval of Item “e.” Motion carried unanimously.

14. ORDINANCE NO. 2012-01 (CU-2011-16) U-CYBER CENTER & U-PIZZA: (First Reading/Public Hearing) An ordinance granting a conditional use to allow an amusement center in conjunction with an existing take-out restaurant on a 0.620±-acre portion of a developed 1.836±-acre property zoned C-1 (Neighborhood Commercial), located on the south side of East University Boulevard, west of Grant Street, and east of Carver Street. (Owner - Charlie Burr) (Applicant/Representative - Yuksel Oldac) (P&Z Board - 12/15/11)

Attorney Gougelman read Ordinance No. 2012-01 by title. There were no disclosures by Council. Mayor Goode called the applicant, Yuksel Oldac, forward. From the audience, Mr. Oldac waived his right to speak.

Moved by Thomas/Jones to postpone this item until the January 24 meeting to allow time to obtain additional information from staff. Motion carried unanimously.

15. ORDINANCE NO. 2012-02 (AR-2011-234), ORDINANCE NO. 2012-03 (CPA-2011-03), ORDINANCE NO. 2012-04 (Z-2011-1175), AND ORDINANCE NO. 2012-05 (CU-2011-15/SP-2011-08) MURPHY EXPRESS BEACHSIDE: Ordinances providing for annexation, a Comprehensive Plan Amendment to establish Future Land Use, zoning designation, and granting a conditional use with site plan approval on 0.806±-acre parcel, located on the north side of east Eau Gallie Boulevard, west of Highway A1A, and east of Ponce de Leon Drive. (Owner - Martin E. Terrico, Trustee) (Applicant - Murphy Oil USA, Inc.) (Representative - Scott Stannard, Commercial Site Solutions, Inc.) (P&Z Board - 12/15/11)
- a. Ordinance No. 2012-02/AR-2011-234: (First Reading/Public Hearing) An ordinance providing for annexation of a 0.806±-acre parcel.
 - b. Ordinance No. 2012-03/CPA-2011-03: (First Reading/Public Hearing) An ordinance providing for a Comprehensive Plan Amendment establishing a Future Land Use of General Commercial on a 0.806±-acre parcel.
 - c. Ordinance No. 2012-04/Z-2011-1175: (First Reading/Public Hearing) An ordinance establishing C-P (Commercial Parkway) zoning on a 0.806±-acre parcel.
 - d. Ordinance No. 2012-05/CU-2011-15/SP-2011-08: (First Reading/Public Hearing) An ordinance granting a conditional use with site plan approval to allow construction of a gas station with 10 fueling stations on a 0.806±-acre parcel.

Attorney Gougelman read the ordinances by title. Mrs. Dittmer reviewed the request and located the property on the map. The Planning and Zoning Board voted unanimously to recommend approval at its December 15, 2011 meeting.

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Mrs. Dittmer confirmed for Council Member LaRusso that surrounding neighbors are notified, regardless of whether they are located in the City. Mr. LaRusso asked if the City received any negative comments from property owners to the east or west of the site, and Mrs. Dittmer replied no.

Council Member Tasker commented that the setback requirement for the storage tanks is 100 feet and the applicant is going to request a variance to allow a setback of only 38 feet. She pointed out that this is a huge variance.

Mrs. Dittmer explained that the required setback is from residentially zoned property. The property to the north is a trailer park zoned commercial; however, since it is used as residential, the setback is required. She added that the same property owner owns the trailer park property.

Council Member Jones said that other Murphy locations in the City seem to keep adding vending machines on each side of the walk-up, which ultimately crowds the drive aisles. He asked if there is anything in this proposal that would limit the number of vending machines that can be placed outside.

Mrs. Dittmer replied yes and said that in the C-P zoning district, the Code limits the amount of outdoor display to 30% of the square footage. The applicant will not be allowed to sprawl out on this property.

Council Member Meehan said that this station is kind of “blah.” Although it follows our Code, it doesn’t have a “wow factor.”

Mrs. Dittmer explained that substantial changes were made to the City Code about two years ago to require gas stations to be more subdued so they don’t jump out with lots of colors, striping and signage. The applicant is following our Code in using earth tones and limiting signage.

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

Moved by LaRusso/Nowlin for approval of Ordinance No. 2012-02, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Thomas for approval of Ordinance No. 2012-03, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Nowlin for approval of Ordinance No. 2012-04, based upon the findings contained in the Planning and Zoning Board memorandum. Motion carried unanimously.

Moved by LaRusso/Nowlin for approval of Ordinance No. 2012-05, based upon the

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findings and conditions contained in the Planning and Zoning Board memorandum.
Motion carried unanimously.

16. COUNCIL DISCUSSION RE: Establishment of a Citizens' Budget Advisory Committee.

Council Member Meehan stated that she believes it would be to the City's benefit to involve citizens in the budget process. She added that she realizes approval of the budget is Council's responsibility; however, she believes it would be good to have input from the outside.

Mayor Goode said that although this is a good idea, the seven elected members of Council have dialogue with the residents; therefore, he is not in favor of establishing a committee.

Mrs. Meehan's motion for approval did not receive a second. No action was taken.

17. COUNCIL ACTION RE: Appointment of one alternate member to the Planning and Zoning Board.

Mrs. Meehan nominated alternate member Kathy Chambers. Moved by LaRusso/Goode to close the nominations. Motion carried unanimously. Mayor Goode stated that by unanimous acclamation, Kathy Chambers is appointed as the alternate member.

18. PETITIONS, REMONSTRANCES, AND COMMUNICATIONS

Mr. Nowlin briefly discussed the number of telephone calls he has been receiving regarding enforcement activity by Code Enforcement officers. Following discussion, he said that he will meet with staff regarding this.

Mr. Nowlin recommended that police officers who retire after 30 years of service be given their City-issued service weapon. He stated that this is a small price to pay and a simple gesture for someone who has spent 30 years with the City.

Mr. LaRusso asked if officers currently have the option of purchasing their weapon at retirement, and Mr. Nowlin replied no. Mr. LaRusso said he would like to know why we are not giving service weapons to 30-year officers and why others are not being offered the option to purchase their weapons.

The City Manager replied that staff would be happy to answer those questions in a follow-up report. He commented that employees who retire are given a \$250 gift certificate. The price range of guns is \$350 to \$500. It is something the City negotiated for the first time several years ago. He cautioned against getting in the posture of giving things away. Although a goodwill gesture, it might be considered an unfair labor practice when you are in a negotiating posture.

Council Member Thomas stated that any employee retiring after 25 or 30 years of service should be recognized by Mayor and Council at a City Council meeting. The City Manager

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stated that employees can certainly be asked if they wish to receive recognition on their own time.

Mr. Schluckebier confirmed for Mrs. Tasker that a retirement certificate is given. Mrs. Tasker discussed what is done at the federal level and recommended that the City seal, signed by Mayor and Council be framed and presented.

Discussion continued regarding the process for retirements.

Moved by Thomas/LaRusso to have staff look into a recognition award from the Mayor on behalf of the Council to retiring employees with 30 years of service or more to be presented at a Council meeting. Motion carried unanimously.

Mrs. Meehan reported that Arbor Day will be held at Wells Park on January 20 at 10:00 a.m.

Mr. LaRusso referenced the nasty letter the City received from the disgruntled former golfer regarding the golf courses. The City Manager confirmed that there will be follow-up from the Leisure Services Department.

19. ADJOURNMENT

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

The meeting adjourned at 7:30 p.m.



City Clerk – 1/19/2012

Approved by Council: _____