



CITY MANAGER'S AGENDA REPORT
REGULAR MEETING OF NOVEMBER 10, 2009

Item No. 8 - Ordinance No. 2009-37 (AR-2009-229AD), Ordinance No. 2009-38 (CPA-2009-05AD), and Ordinance No. 2009-39 (Z-2009-1150AD) Bowers Road

These are the second readings of ordinances providing for the annexation of approximately 2.2± acres of private property and 0.26± acres of right-of-way for a total acreage of 2.46± acres, designation of a Low Density Residential Future Land Use and R-2(6) (One-, Two-, and Multiple-Family Residential Medium Density District with a cap of six units per acre), and zoning for 2.2± acres on property located on the east and west sides of Bowers Road, south of Aurora Road, and west of Croton Road.

The subject properties are contiguous to the City on three sides and are located within the Aurora Road unincorporated enclave. The City limits are located to the east, to the north, and to the south of the properties. Annexation has been requested in order to obtain Melbourne municipal services.

The applicant is requesting the Low Density Residential Future Land Use category, which is less intensive and appropriate for this area. The current County zoning would allow for the development of up to 10 units per acre and the proposed R-2 (6) zoning will only allow up to six units per acre. The applicant intends to build a combination of duplex style homes and a single-family home on the vacant lots. The general area contains commercial uses along Aurora Road and residential uses to the south. Upon approval of this request, the subject properties will be located within Council District 6.

The property owner has definite development plans for a duplex and two single family homes in the proposed annexation area. In accordance with City Code, Appendix D, Chapter 5, Article II, Sec. 5.05 (g) the City proposes to assess impact fees equal to the County impact fees at the time of annexation.

During the public hearing portion of the Planning and Zoning Board meeting, one resident requested clarification of the applicant's intent pertaining to the development of the property. Upon receipt of this information, the resident appeared to have no objection to the request. The Planning and Zoning Board voted unanimously to recommend approval of this request at its September 3, 2009 meeting based upon the findings contained in the Planning and Zoning Board memorandum.

Recommend approval of Ordinance No. 2009-37, Ordinance No. 2009-38, and Ordinance No. 2009-39, based upon the findings contained in the Planning and Zoning Board memorandum.

Item No. 9 - Ordinance No. 2009-40 (A&V No. 327) 363 Peregrine Drive

This is the second reading of an ordinance vacating a portion of an easement located on Lot 12, Block 7, Sanctuary Phase 2 Subdivision.



The applicants are the owners of Lot 12 located at 363 Peregrine Drive. There is a 15-foot wide public utility and drainage easement along the rear lot line. The owner would like to construct a swimming pool and screened enclosure within 7.5 feet of the easement.

The vacation action does not have an adverse impact on the public health, safety, welfare and interest of the public as outlined in City Code, Section 28-16.

Recommend approval of Ordinance No. 2009-40.

Item No. 10 - Ordinance No. 2009-41 (CU-2009-06/SP-2009-06) Brevard County Sarno Landfill Expansion

This is the second reading of an ordinance granting a conditional use with site plan approval to allow for a 9.80±-acre expansion of the existing Solid Waste Class III Landfill on an existing 80.90±-acre site, located south of Sarno Road, east of North Drive, and west of Wickham Road. The property is zoned M-1 (Light Industrial) with an Industrial Future Land Use designation.

The site has been used as a non-household waste landfill for more than 50 years. The overall County property contains the existing landfill and an adjacent household solid waste transfer station, including accessory scales and a hazardous substances collection area.

Brevard County is requesting only the 9.8±-acre expansion; however, the City of Melbourne is applying the conditional use to the entire 80.90±-acre landfill, since there is no existing conditional use approval tied to the landfill site. Therefore, this conditional use permit will tie the entire landfill together under the same conditions. The proposed site plan provides a 100-foot setback from the property line to the edge of waste to the east. An additional buffer is provided by the L-16 canal (150 feet). A 200-foot setback is proposed to the north where abutting a private landfill. The proposed maximum height of the landfill is 105 feet, which will require a variance to exceed the 40-foot height allowance.

In 2007, City Council denied the request, primarily due to nuisance and safety concerns; especially with regard to fire prevention and suppression. Since that time, staff from Brevard County and the City of Melbourne has regularly met to address these concerns. This new proposed conditional use incorporates the following:

- The County has developed and implemented a nuisance response plan to address citizen concerns regarding operations.
- The County has paved the northern and eastern perimeter lime-rock road and purchased a new 6,500-gallon water tanker to reduce dust emissions. The new water tanker will supplement the existing 5,000-gallon, self-propelled water truck



used to provide dust control and will supplement the County's fire fighting capabilities at the site.

- At the request of the Melbourne Fire Department, the County has agreed to construct a ramp to provide access to Pond B and a sump area or wet stand-pipe for ease of water withdrawal by the City's fire trucks in the event additional fire fighting equipment is necessary.
- The proposed reconfiguration of Pond A and outfall modifications to Pond A and Pond B are designed to meet the State water quality and quantity standards and have been permitted by FDEP.
- Once the new U.S. 192 solid waste management facility is permitted and constructed, the County intends to halt all non-transfer station activities at the Sarno Road Landfill site and permanently close the landfill according to FDEP permits.

Staff has recommended conditions regarding closure time frames of the landfill and compliance with the above mentioned items.

The Planning and Zoning Board voted unanimously to recommend approval of this request at its October 1, 2009 meeting.

At the October 27 meeting, Council approved the ordinance with a revision to condition "f" providing that the final decision on any height variance requests would come to Council for approval. The ordinance has been revised accordingly.

Recommend approval of Ordinance No. 2009-41 based upon the findings and conditions contained in the Planning and Zoning Board memorandum.

Item No. 11 - Ordinance No. 2009-42 (CU-2009-08/SP-2009-08) Sonata at Melbourne Assisted Living Facility (ALF)

This is the second reading of an ordinance granting a conditional use with site plan approval to allow an assisted living facility with a proposed maximum height of 41 feet on 8.15± acres located on the west side of North Harbor City Boulevard, north of Parkway Drive. The property is currently zoned C-R-2 (One-, Two-, and Multiple-Family Dwelling Medium Density District with a conditional use for condominiums with 67 feet, eight inches of height) and a Commercial/Medium Density Residential Future Land Use designation. The ordinance provides for the repeal of the ordinance granting the height allowance of 67 feet, eight inches.

The proposal includes a single building with up to four stories and 165 units for three levels of care: instrumental assisted living, assisted living, and memory care. The living units will include studios, one-bedroom, and several two-bedrooms, each with a kitchenette, with the exception of the memory care units. All residents will participate in a meal plan in the common dining facilities and will need to utilize at least one form of daily living assistance.



The overall size of the facility is 169,726± square feet. The building proposes many elevations: the central services area on the first level is one story; the memory care area and assisted living units to the west are three stories with a proposed maximum height of 32 feet; and the remaining assisted living wings to the east are four stories with a proposed maximum height of 41± feet. The building is a minimum of 55± feet from the buildings to the north and 90± feet from the buildings to the south.

The current Zoning and Future Land Use would allow the development of 122 multi-family units at a maximum height of 65 feet. Multi-family units would generate a significantly higher trip generation for the property as compared to the proposed use.

Several residents to the south spoke during the Planning and Zoning Board meeting regarding their concerns for development of this site.

The Planning and Zoning Board voted unanimously to recommend approval of this request at its October 1, 2009 meeting.

Recommend approval of Ordinance No. 2009-42 based upon the findings and conditions contained in the Planning and Zoning Board memorandum.

Item No. 12 - Ordinance No. 2009-43 (CU-2009-12/SP-2009-10) 4855 Wickham Center

This is the second reading of an ordinance granting a conditional use with site plan approval to modify a previously approved conditional use and site plan to develop a mini-storage building and three single-story office retail buildings, on a 6.05± acre property located on the southeast corner of Wickham Road and Mariah Drive. The property is zoned C-C-2 (General Commercial with a conditional use to allow a mini-storage building) with a Commercial Future Land Use designation.

There are two requested changes to the approved conditional use/site plan. First, the applicant has re-entered into discussions with Brevard County regarding a right-in driveway access from Wickham Road into the property. A similar access had been approved with the 2003 conditional use approval; the County denied that access during construction plan review, thus requiring the 2005 re-approval. The County has recently issued the applicant a permit for the Wickham Road driveway.

The second requested change is relative to the total number of units within the un-built storage building. Previous approvals permitted a maximum of 600 units. The proposed plan reduces the overall number of storage units to 360. The applicant is proposing to resize these units within the existing footprint approved with the 2005 conditional use/site plan; however, by City Code, the units may not exceed 400 square feet in size.

The former conditional use and site plan will be repealed if this request is approved.

The Planning and Zoning Board voted unanimously to recommend approval of this request at its October 1, 2009 meeting.



Recommend approval of Ordinance No. 2009-43 based upon the findings and conditions contained in the Planning and Zoning Board memorandum.

Item No. 13 - Ordinance No. 2009-44 (AR-2009-230AD) Trimble Road

This is the second reading of an ordinance providing for voluntary annexation of a total of 40.24± acres, including 5.53± acres of right-of-way located south of Aurora Road, west of Wickham Road, along Easy Street, Trimble Road, Baker Road, and Lytton Road. The proposed annexation area is a completely voluntary annexation effort and contains five areas where property owners have indicated a desire to annex into the City to receive City services. The designation of a future land use classification and zoning district will occur during the next round of major amendments.

Area A – This is the annexation of the eastern portion of the right-of-way that is necessary to contain all of the proposed Turtle Mound Road extension within the City of Melbourne. The width of this area is approximately 50 feet of right-of-way. The length varies from approximately 225 to 235 feet. Other portions of this right-of-way have already been annexed.

Area B – The City of Melbourne received voluntary annexation petitions from six property owners on Baker Road that contain six homes. The remaining two properties did not attend the neighborhood meeting and did not express interest in City services.

Area C – Along Easy Street, several homeowners have submitted voluntary petitions for annexation in order to receive City water and City services. There is currently a single remote meter that is legally connected to 1954 Trimble Road. Over the years, approximately 10 homes have installed illegal water connections off this single meter located on Aurora Road. These homes are located on the east and west sides of Easy Street, as well as the north and south sides of Trimble Road. All property owners except one, which are connected to this water line, have agreed to join the City and establish a legal water account. The property owner that did not agree to the annexation, as well as some other property owners that did agree, are not included in this annexation proposal because they are not contiguous. In the future, there are seven other properties that could be annexed if they become contiguous to the City of Melbourne border.

Area D – The City of Melbourne has a pre-annexation agreement that is contiguous to Area C and is developed as Aurora Village. This property is eligible to be annexed if Area C is also annexed. Currently, one building has been completed in this multi-family condominium project and several other buildings are on hold due to the economy.

Area E – The largest area that is proposed in this annexation is located along Miller Lane, Trimble Road, and Lytton Road. This area includes three churches, 13 homes, and five vacant residential lots. All of these properties wish to have City services. Other owners in this area are either not contiguous or do not want City services and are not included in this annexation request.



All of these properties are located within the Joint Planning Area (JPA) with Brevard County and were designated as future annexation areas.

During the Planning and Zoning Board meeting, there were speakers who spoke in favor of and against this proposed annexation effort.

The Planning and Zoning Board voted unanimously to recommend approval of this request at its October 1, 2009 meeting. Their vote included the addition of two lots in Area E that requested to voluntarily annex into the City.

Staff has provided additional information addressing concerns regarding provision of services and infrastructure within the annexation area.

Recommend approval of Ordinance No. 2009-44 based upon the findings contained in the Planning and Zoning Board memorandum.

Item No. 14 - Appointment of Vice-Mayor for 2009-2010

City Council will need to select a Vice Mayor to serve during 2009-2010.

Item No. 15 - Melbourne Airport Authority

Appointment of three Council Members to the Melbourne Airport Authority.

Item No. 16 - Contract Award for the D.B. Lee Reclamation Facility Deep Injection Well Plug and Abandonment, Project No. 35808

This is a proposed contract for the plugging and abandonment of four wells at the D.B. Lee Water Reclamation Facility. The United States Environmental Protection Agency and the Florida Department of Environmental Protection are requiring that the unused Class 1 Injection Well be plugged and abandoned. In addition to the Class 1 Injection Well, an exploratory well, a shallow monitoring well, and a Floridan aquifer monitoring well will also be plugged and abandoned.

Bids for this capital improvement project were opened on October 19, 2009. Five bids were received, ranging from \$222,587 to \$350,000. The low bid was submitted by Youngquist Brothers, Inc. of Fort Myers, Florida.

The City's standard construction contract requirements will apply. The contractor must complete the work within 90 days or be subject to liquidated damages of \$500 per day.

The total cost of the project is estimated to be \$244,837, which includes a 10% construction contingency.

Recommend approval of the construction contract with Youngquist Brothers, Inc. in the amount of \$222,587 for the D.B. Lee Well Plugging and Abandonment,



Project No. 35808 and the establishment of a project contingency in the amount of \$22,250.

Item No. 17 - Consent Agenda

- a. 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.
- b. Contract award for Lake Washington Water Treatment Plant sludge storage area road paving and road shoulder stabilization, Project No. 31409, W. M. Turnbaugh Construction, Inc., West Melbourne, FL - \$41,358.50 and approval to establish a construction contingency in the amount of \$4,135.
- c. Continuation of the 800 MHz equipment maintenance contract for two-way radio communications systems and other electronic equipment for the Police Department, Communications International, Vero Beach, FL - \$76,398.24.
- d. Purchase of 564 golf cart batteries, Jeffrey Allen, Inc., Bradenton, FL - \$37,224.
- e. Purchase of pavement striping, Fausnight Stripe & Line, Inc., Longwood, FL - at unit pricing; total estimated cost through August 20, 2010 of \$25,000.
- f. Blanket purchase of dumpster hauling and disposal fees for grit and screenings generated at the water reclamation facilities, Waste Management, West Melbourne, FL - \$21,099.
- g. Purchase of 12 sets of Janesville Isodri V-Force coats and bunker pants for firefighters, Municipal Equipment Company, LLC, Orlando, FL - \$20,435.40.
- h. Approval of two-year extensions of HOME Tenant Based Rental Assistance benefits for Patricia Cavanaugh, Marilyn Mone, Dottie Mansell, and Cynthia Thompson.
- i. **Resolution No. 3098:** A resolution ratifying agreements between Florida Power and Light (FPL) and the City of Melbourne for street lighting and authorizing the City Manager to execute this and all future street lighting agreements with FPL.
- j. **Resolution No. 3099:** A resolution delegating authority to the City Manager to negotiate, accept, and execute easements in favor of the City of Melbourne.
- k. **Resolution No. 3100:** A resolution implementing Fourth Quarter Budget Review recommendations.



Item No. 18 - Items Removed from the Consent Agenda

At this time Council will address any items that are removed from the Consent Agenda.

Item No. 19 - Release of Federal Aviation Administration (FAA) Deed Restrictions

Following up on the 2002 direction from City Council to purchase FAA deed restrictions from properties the City leases from the airport, staff is requesting authorization from Council to pay the Airport Authority \$1,280,079, payable over 11 years, in exchange for the release of FAA deed restrictions on three parcels used for water and sewer utility purposes. The three parcels are:

DB Lee Parcel: 2009 Appraisal: \$900,000

Currently leased as wastewater treatment plant; consisting of 12.5 acres near Apollo Boulevard and Sarno Road

Expansion Parcel: 2009 Appraisal: \$440,000

Adjacent to current wastewater treatment plant and targeted for expansion of same in the next year; consisting of 2.802 acres near Apollo Boulevard and Sarno Road

Hibiscus Parcel: 2009 Appraisal: \$75,000

Currently leased as water holding tank; consisting of 0.517 acres near Hibiscus Boulevard and Woody Burke Road

By purchasing the release of FAA deed restrictions on three parcels for \$1,280,079, the City will save between \$1.4 million and \$3.7 million in lease payments over the first 30 years and will not be required to negotiate future leases for use of the three parcels.

Recommend authorization for the City to accept an offer for the release of FAA deed restrictions on three properties used for City utilities in exchange for \$1,280,079, paid over 11 years, thereby transferring control of the properties to the City, and authorization for the City Manager to execute appropriate documentation to implement same.

Item No. 20 - Contract award for Conceptual Design Services for Eau Gallie Streetscape Improvements, Project No. 14209

Council will convene as the Olde Eau Gallie Riverfront Community Redevelopment Agency for this item:

This is a request for approval of contractual design services for \$31,995 with Land Design Innovations, Inc (LDI). The proposed services will provide community involvement in the selection of preferences to be included in a master plan for Eau Gallie streetscape projects. At the October meeting of the Olde Eau Gallie Community Redevelopment Agency Advisory Committee, the consensus of the Committee was a recommendation for staff to coordinate design services that provide for community involvement. LDI's



contract includes a community workshop that will establish design preferences, which will be incorporated into the Eau Gallie streetscape plans.

Recommend approval of a contract with Land Design Innovations, Inc., in the amount of \$31,995 for conceptual design services for Eau Gallie Streetscape Improvements, CIP Project #14209.

Council will reconvene for the remaining items.

Item No. 21 - Council Policy

At the October 13 meeting, Council Member Corby asked for a future agenda item on the following City Council rule of procedure (adopted by Resolution No. 3040):

Rule 3 – Debate.

- (c) Council Member speaking on agenda items. A Council Member may speak no more than 10 minutes on any one item. The City Council by majority vote may extend an individual Member's discussion beyond 10 minutes.

If any changes are made to this rule, a resolution would return on the November 24 agenda for Council consideration.

Item No. 22 - Board Appointments

- a. Appointment of one regular member to the Babcock Street Community Redevelopment Agency Advisory Committee.
- b. Appointment of one member to the Police Officers' Retirement Trust Fund Board of Trustees.