

COUNCIL MINUTES JULY 16, 2008

Pursuant to Public Notice, Mayor Brimer convened a regular meeting of the City Council on Wednesday, July 16, 2008, at 7:00 p.m. in the Council Chamber. Those present were Mayor Mark Brimer, Vice-Mayor Joseph Ferrante, Councilwoman Martha Kirby, Councilman Sal D'Amato, Councilman Dominick Montanaro, City Attorney James Beadle, City Manager Michael Crotty, and City Clerk Barbara Montanaro.

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Councilman D'Amato led a moment of silence followed by the Pledge of Allegiance.

CITIZEN COMMENTS

No citizens had signed up for citizen comments.

COUNCIL COMMENTS

Councilman D'Amato reported that he attended the Space Coast League of Cities meeting.

Councilwoman Kirby reported the following information from the Space Coast League of Cities Board meeting:

- The No. 1 priority this year is support for home rule.
- There was a report on the status of the bids to construct a tanker plane and a thank you letter from Gov. Crist for comments from municipalities on the bid process.
- Municipalities with lifeguards may have to fund them this year because Brevard County has recommended not including those costs in the County Budget.
- She and the City Manager are serving on the scholarship committee this year.

Councilman Montanaro reported that he attended the Beautification Board meeting and the Space Coast League of Cities meeting where Scott Dudley, Senior Legislative Advocate for the Florida League of Cities, spoke on upcoming legislation and the impact it may have on municipalities.

Councilman Montanaro asked for a report on the home at the corner of DeSoto Parkway and Poinsettia Drive where the roof replacement has been a three-year project. The incomplete project with loose tiles on the roof may be a liability to the City.

Mayor Brimer reported that he attended the Space Coast League of Cities meeting.

CITY ATTORNEY REPORT

City Attorney James Beadle did not have a report.

CITY MANAGER REPORT

City Manager Michael Crotty reported as follows:

He presented a letter addressed to Dr. Andrew Frank with the Department of Mechanical and Aeronautical Engineering at the University of California, requesting information on a potential partnership application for a Renewal Energy Technologies Grant Program to develop fuel-efficient vehicles.

The results of the sign code review should be to Council in ordinance form at the first meeting in October.

Cindy Rogell has received a plaque from Keep Brevard Beautiful for the amount of debris picked up from Satellite Beach beaches during the recent Trash Bash. Staff will contact her to see when she can appear at a Council meeting or would like to come to City Hall for a photo to go into the Beachcaster. Mayor Brimer has sent her a letter of appreciation.

There will be Green Conference on October 23 in Fort Pierce. If Council wishes to be represented there, this would be the time to authorize attendance.

Mayor Brimer asked for public comment. There were no comments.

ACTION: Councilman Montanaro MOVED, SECOND Vice-Mayor Ferrante, to authorize the attendance of interested Council Members and staff at the Second Annual Treasure Coast Green Conference. VOTE: ALL AYES. MOTION CARRIED.

Council suggested driving a city vehicle to save the 58.5 cents per mile mileage reimbursement.

PRESENTATION BY ALLEN DRAA ON SOLAR ENERGY FOR CITY FACILITIES

The City Manager introduced Allen Draa of Arcstar Energy, stating that staff has met with Mr. Draa to discuss the possibility of a long-term Power Purchase Agreement to provide for solar energy for the Scotty Culp Municipal Complex.

Mr. Draa stated that his company does not sell solar equipment; they provide solar equipment and charge for the electricity that it generates. The system is connected to the Florida Power and Light (FPL) meter. If the complex generates more electricity than it uses, the meter will spin backward. If there is a credit at the end of twelve months, FPL writes a check for the credit.

Mr. Draa projected a 50% increase in the cost of electricity in Florida over the next twenty years. If the City enters into a power purchase agreement with Arcstar Energy, the cost of electricity will be frozen at the rate on the date the agreement is executed; cost to the City will not increase during the term of the agreement.

There are grants available to assist with programs similar to this. Mr. Draa will speak with the Space Coast League of Cities Energy Efficient Action Coalition in August to explore the possibility of several municipalities joining together in a grant application.

The City grant writers are researching grant options related to solar energy and hybrid/plug-in vehicles.

Council raised the following questions:

- Who is responsible for the maintenance of the equipment? (Arcstar)
- Twenty years is a long commitment to a new company. Can we have a ten-year contract with two five-year renewal options? (Possibly)
- Does the Public Service Commission allow power purchase agreements? (Not directly, but they may open the door to this type of agreement.)

Mayor Brimer asked for public comments. The following individuals addressed Council:

- Walter Wood, 1355 South Patrick Drive (Marketing Talent Network, Inc.), stated that he has been exploring use of natural gas and the Public Service Commission will entertain the request of a viable business to allow a power purchase agreement. He expressed interest in the solar program.
- John Fergus, 135 Maple Drive, stated that the technology is complex. If the City is interested in participating, a decision has to be made soon because the incentives and grant opportunities will expire. This agreement is not a deregulation of electricity, but provides supplemental electricity.

Council discussed the following:

- Council asked if the ball field lights could be solar powered through this program.
- They questioned why the equipment would be added to the City's insurance policies.
- With a 10-20 year contract, what happens if the equipment is obsolete in five years?
- Can the City purchase the equipment at the end of twenty years?
- Can the City go sole source on this or do they need to go out to bid?

After discussion, Council asked the City Attorney to research the legal issues of a power purchase agreement and staff to continue discussions of agreement terms and duration. Council expressed appreciation to Mr. Draa for an interesting presentation.

PRESENTATION BY ELIGERE STRATEGIES, LLC, REGARDING LEGISLATIVE INITIATIVES

Garret Pomichter, Eligere Strategies, LLC, expressed appreciation for the opportunity to address Council on legislative issues and introduced his partner Matt DuPree.

Mr. DuPree gave a brief history of his experience dealing with members of the Florida Legislature. He spoke of the fallacies of Amendment V, which would fund the schools through sales tax instead of ad valorem taxes, stating that sales decline during hard times and school funding would decline at the same time.

He also talked about Bill 949, which would strip all ad valorem to 3.45 mills. Under this bill the county would collect and distribute the taxes. This would kill small cities. Mr. DuPree stated that he had worked with legislators last session to kill this bill, but it will reappear in some form during the next session. Small cities that receive 40-50% or more of their revenue from ad valorem taxes should be exempt from Bill 949.

Mr. DuPree proposed that cities unite to implement a comprehensive government relations program to be pro-active in influencing the legislature before and during session. He stated that Eligere Strategies uses a campaign-style approach to address political challenges.

Council discussed the apparent desire of the legislature to force smaller cities (25,000 and under) to consolidate with other small cities to form a larger municipality or county government.

Mayor Brimer asked for public comments. The following individuals addressed Council:

- John Fergus, 135 Maple Drive, recommended that Council take the offensive, not the defensive, in dealing with current legislators in order to protect home rule and the quality of life in Satellite Beach.
- Bill Higginson, 1175, Highway A1A, stated his resentment at being held hostage by the State through unfunded mandates and the erosion of home rule. He said that any opportunity to protect home rule should be investigated and should include all Brevard County cities, not just Satellite Beach.

Tim Buckley of Eligere Strategies said that they need a twenty-city coalition to fund a one-year comprehensive legislative program in opposition to Amendment 5 and 949. The single retainer fee would be \$15,000 per city. Indian Harbour Beach has signed a contract.

Council recognized the need to protect home rule and maintain sufficient revenue sources to operate the city. By consensus, they agreed to look at this contract during budget preparation.

Council expressed appreciation to Eligere Strategies for their presentation.

COUNCIL CONVENED AS THE COMMUNITY REDEVELOPMENT AGENCY FOR THE FOLLOWING AGENDA ITEMS:

REPORT ON FINANCIAL STATUS OF FAÇADE GRANT PROGRAM

Community Development Director Laura Canady reported that \$75,000 was approved for the Façade Grant Program for FY 07/08. A total of \$61,762 has been committed to projects this year, leaving a total of \$13,238. The CRA Advisory Committee was aware of the limited funds when they reviewed three grant applications. They determined that all three are quality projects and recommended approval of the following three projects, subject to funds being available in the FY 08/09 budget. Approval now allows construction to begin with completion dates to be from early fall to early 2009.

DISCUSS/TAKE ACTION ON FAÇADE GRANT APPLICATIONS:

THE REGENCY CENTER, 1227 SOUTH PATRICK DRIVE, APPLICATION FOR A FAÇADE GRANT FOR A MONUMENT SIGN AND LANDSCAPING WITH IRRIGATION

Community Redevelopment Coordinator Cheryl Gitlin stated that the Regency Center, 1227 South Patrick Drive, has applied for a Façade Grant to replace the existing pole sign with a monument sign (the owner will wait until the sign code review is complete to put up the new sign) and landscaping with irrigation. The estimated cost of the project is \$28,541.48. The matching funds grant would be in the amount of \$14,270.74.

There is an outstanding code violation fine against the Regency; it is anticipated that this will be resolved at the July meeting of the Code Enforcement Board. The CRA Advisory Committee recommended approval of the grant, with funding to be awarded upon satisfaction of code violation.

Mr. Smart, speaking for the Regency Center, stated that the violation was a misunderstanding.

(Discussion of this grant application expanded to include all three grants and the timing for funding the grants. For clarity in the minutes, Council's discussion and public comments regarding the grant applications will be included after the three grants are described.)

MTN ADVERTISING, 1355 SOUTH PATRICK, APPLICATION FOR A FAÇADE GRANT FOR EXTERIOR IMPROVEMENTS TO ADD STUCCO AND PAINT, NEW ROOF, PAVERS, BALCONY RAILS, LIGHTING, AND LANDSCAPING

MTN Advertising, 1355 South Patrick Drive, has requested a Façade Grant for exterior stucco and paint, landscaping with irrigation, brick pavers, and outdoor lighting fixtures. The estimated cost of the project is \$12,741.87; the matching grant would be \$6,370.93. The applicant also has a site plan before the Planning and Zoning Advisory Board to add a second story, but the façade grant applies only to improvements to the existing building.

OULETTE DENTAL, 1100 A1A, APPLICATION FOR A FAÇADE GRANT FOR EXTERIOR IMPROVEMENTS, TO ADD STUCCO, HARDIE BOARD SIDING, SHUTTERS, METAL ROOF

AND MANSARD, LANDSCAPING WITH IRRIGATION, AND TOP COAT/STRIP PARKING LOT

Oulette Dental, 1100 Highway A1A, has requested a Façade Grant for exterior improvements, including stucco and paint, top coat and stripe parking lot, pavers, landscape and irrigation, and planters. The estimated cost of this project is \$42,125; the recommended matching grant is \$15,000. Improvements to this property will also include the addition of a second story; however, grant funds apply only to improvements to the existing structure.

DISCUSSION

The landscape plans of all three projects were reviewed and approved by the Beautification Board on July 11, 2008.

Final review of the sign code revisions will be in August and September and an ordinance will be heard by Council at the two October meetings.

The Community Advisory Committee (CRA) discussed the time of receipt of the various applications and the fairest way to award funding (first application gets funded first; each application gets partial payment this year and remainder next, etc.) The timing is complicated by the fact that only \$13,238 is available in the FY 07/08 Budget to fund projects totaling \$34,741.67. All applicants are aware that their funding is subject to allocation of funds to the Façade Grants in the FY 08/09 Budget.

Vice-Mayor Ferrante expressed the desire of the CRA to be business-friendly. He suggested that Regency be given the portion of the grant funds for the landscaping and irrigation as soon as that was complete, instead of having to wait for the installation of the sign after the sign code review process.

Under the guidelines for Façade Grants, no funds can be awarded until the entire project is complete; there cannot be partial payments. Each property is entitled to only one Façade Grant.

Mayor Brimer asked for public comments. The following individuals addressed the CRA:

- Mr. Smart, Regency Center, stated that a major business owner has approached them to open a 1600 square foot show room for LED lighting and green environment products. They want to include an LED sign and are willing to wait for the completion of the sign code review to receive the grant.
- David R. Schechter, 635 Seville Court, CRA Advisory Committee, stated that these are three good projects. Applicants have to get the project approved before they can start. He requested that the CRA approve all three applications and to continue to fund the Façade Grant Program next year. One purpose of community redevelopment is to improve the looks of the business corridors. MTN did not ask for money to replace their sign, but they assured the Committee that the sign will go away when the rules say they must go.

- Walter Woods, MTN, stated that he will comply with the Code requirement to remove the sign by November 2009. In response to questions from Councilman Montanaro regarding time to remove the pole sign, Mr. Woods agreed to remove the pole sign at the time of the grant.

ACTION: Councilman Montanaro MOVED, SECOND Councilwoman Kirby, to approve Façade Grants as follows: Regency Center, \$14,270.74 to include all items with the understanding that \$6,770.74 will come from the 07/08 budget and the balance from 08/09; MTN, \$6,370.93 from 07/08 Budget; and Oulette Dental, \$15,000 from 08/09 Budget, contingent upon Council's approval of funds for the Façade Grant Program in the 08/09 Budget. VOTE: ALL AYES. MOTION CARRIED.

REPORT ON LIST OF EXCLUDED USES FOR THE A1A/DESOTO PROPERTY (FORMER PEG LEGS)

Community Development Director Canady gave an overview of her memorandum to Council dated July 9, 2008, stating that the CRA Advisory Committee had reviewed the list of excluded uses at their June 26, 2008, meeting. They recommended adding drive-through pick-up windows to the previously discussed list of excluded uses. At that meeting, the CRA Advisory Committee also recommended that appraisals be obtained to determine the value of the property before offering it for sale.

Council reviewed the list of excluded uses and discussed whether parks and childcare centers should be on the list. The CRA Advisory Committee did not add childcare center to the list; it was included because it is currently a conditional use in the Commercial District.

Mayor Brimer asked for public comments. The following individual addressed the CRA:

- Gabe Feindt, 470 Caribbean Drive, member of the A1A and DeSoto Property Use Citizen Ad Hoc Committee, stated that the Committee did not want the City to build a park there; but it was not the intent of the Committee to prohibit an individual from putting a park there.

ACTION: Councilman Montanaro MOVED, SECOND Councilman D'Amato, to approve the list of excluded uses as presented and to move forward with the three-prong appraisal (update of 2006 appraisal with the same allowed uses as 2006 including mixed use, current market value without mixed use; and current market value with excluded uses). VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer declared a recess from 8:35 to 8:45.

COUNCIL RECONVENED AS THE CITY COUNCIL FOR THE FOLLOWING AGENDA ITEMS:

DISCUSS/TAKE ACTION ON APPLICATIONS TO THE BREVARD COUNTY EMS ADVISORY COUNCIL AND BREVARD COUNTY TOURIST DEVELOPMENT COUNCIL FOR

THE DEVELOPMENT OF A WATER RESCUE PROGRAM WHICH WILL INCLUDE THE PURCHASE OF AN AWD ATV, TRANSPORT VEHICLE, TRAILER, AND ASSOCIATED TRAINING; AND GRANT SUBMISSION TO THE BREVARD COUNTY EMS ADVISORY COUNCIL IN SUPPORT OF FIRE DEPARTMENT'S COMMUNITY INJURY PREVENTION AND HEALTH PROGRAMS

Commander Don Hughes presented three grant applications – two to Brevard County EMS Advisory Council and one to Brevard County Tourist Development Council (TDC) for the following purposes:

- Purchase of an AWD ATV, a personal watercraft, and tuition for 32-hour water rescue training in the amount of \$19,571, with a match of \$6,524 to come from the Satellite Beach Reserve Firefighters.
- Purchase of an AWD ATV, a personal water rescue craft, tuition for 32-hour water rescue training, ¾ ton pickup truck, and an 18-24 foot enclosed trailer to support ocean rescue and haz-mat removal in the amount of \$50,095, with no match.
- Funding to support community injury prevention and community health programs, an extension of the Communities for a Lifetime initiative in the amount of \$22,125, with a match of \$7,375 to come from the ALS Trust Fund.

Mayor Brimer asked for public comments on the three grant applications. The following individual addressed Council:

- Gabe Feindt, 470 Caribbean Drive, spoke in support of any training that the Fire Department needs. He also expressed his appreciation to them for their prompt response to his 911 call and their professional skills which saved his wife's life.

ACTION: Councilman Montanaro MOVED, SECOND Councilwoman Kirby, to authorize Satellite Beach Fire Department to submit, on behalf of the City, a grant application in the amount of \$22,125 for the support of Community Injury Prevention and Community Health Program. VOTE: ALL AYES. MOTION CARRIED.

ACTION: Councilman Montanaro MOVED, SECOND Councilman D'Amato, to authorize Satellite Beach Fire Department to submit, on behalf of the City, a grant application in the amount of \$19,571 for the support of the water rescue program. VOTE: ALL AYES. MOTION CARRIED.

ACTION: Councilman Montanaro MOVED, SECOND Councilwoman Kirby, to authorize Satellite Beach Fire Department to submit, on behalf of the City, a grant application in the amount of \$50,095.00 for the support of the water rescue/haz-mat removal program. VOTE: ALL AYES. MOTION CARRIED.

Council expressed appreciation to Councilwoman Kirby, Fire Chief Rocque, and Commander Hughes for their efforts in preparing these grants.

DISCUSS/TAKE ACTION ON ADOPTION OF 2008/2009 BUDGET CALENDAR

City Manager Crotty presented the proposed Budget Calendar, outlining the dates of meetings, advertisements, and document submittals. He asked Council to indicate their preference of August 7 or August 12 for a special budget meeting; Council recommended August 7.

Mayor Brimer asked for public comments on the budget calendar. There were no comments.

ACTION: Councilman D'Amato MOVED, SECOND Councilman Montanaro, to approve the Budget Calendar as presented, including the special meeting on August 7. VOTE: ALL AYES. MOTION CARRIED.

DISCUSS/TAKE ACTION ON ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CHANGES TO IRRIGATION RULES

City Manager Crotty presented a packet of information relating to proposed amendments to the St. Johns River Water Management District irrigation regulations. These amendments would reduce irrigation during Eastern Standard Time to one day per week. SJRWMD wants local governments enforce the regulations. He presented a letter from the City of Melbourne expressing their opposition to the proposed amendments. Also included was a packet of information from the City of Palm Bay in opposition to the amendments.

Council discussed the following:

- The City of Melbourne supplies water to Satellite Beach and the City would like to support Melbourne's position.
- How can local government enforce these regulations? There are already a number of City Code violations that cannot be taken care of in a timely manner and, with the reduction in revenue, the City does not have funds to hire additional people. This is another unfunded mandate where another entity makes rules and the City is expected to enforce them.
- Council can adopt a resolution similar to Palm Bay's resolution in opposition or write a letter supporting the position of the City of Melbourne.

Mayor Brimer asked for public comments. There were no comments.

By consensus, Council requested the City Manager to draft a letter for the Mayor to sign, stating the City's opposition to the amendments and supporting Melbourne's position.

DISCUSS/TAKE ACTION ON 2008/2009 STORMWATER PROJECTS AND FINANCING

There are three outstanding stormwater projects that must be undertaken in FY 08/09: Ocean Outfalls, North Drainage, and Cassia Phase I. Council has considered combining Cassia Phase I and Phase II to be bid together to possibly reduce costs. If the bids of the Cassia

Phase I and Phase II do not come back in the City's favor, the City can reject Phase II and proceed with Phase I only.

If the Council proceeds with the \$1 per month increase in the stormwater utility tax, the City will be able to undertake the projects in the next year. If the bids come in at the estimate, the City's ongoing annual cost would be about \$10,000 over the next twelve years.

Mayor Brimer asked for public comments. There were no comments.

The stormwater utility tax resolution will be prepared to include the \$1 per month increase.

DISCUSS/TAKE ACTION ON ANNUAL EVALUATION OF CITY MANAGER

Mayor Brimer presented the results of the annual evaluation by Council as follows:

Council members were asked to rate the City Manager on various aspects relating to the nine (9) categories. The rating scale was 5 – Excellent, 4 – Very Good, 3 – Good, 2 – Fair and 1 – Poor.

The ratings of the Council members have been tabulated. The Council members' evaluation forms contained a total of 155 ratings/evaluations of the City Manager. A summary of the ratings is as follows:

<u>RATING</u>	<u>NUMBER OF RATING/RESPONSES</u>	<u>% OF RATING/RESPONSES</u>
Excellent (5)	146	94.2%
Very Good (4)	9	5.8%
Good (3)	---	---
Fair (2)	---	---
Poor (1)	---	---
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TOTAL RESPONSES	155	100%
AVERAGE RATING	4.94	

Mayor Brimer asked for public comments. Gabe Feindt, 470 Caribbean Drive, stated that Council rated him too low.

ACTION: Councilman Montanaro MOVED, SECOND Councilwoman Kirby, to accept the evaluation report and establish a merit increase of 2%. VOTE: ALL AYES. MOTION CARRIED.

Council commended Mr. Crotty on his continued professional leadership and commitment to excellence in the City.

APPOINTMENTS TO BOARDS

City Clerk Montanaro presented a report dated June 25, 2008, listing the Board applicants and vacancies.

Mayor Brimer asked for public comments prior to each board appointment. There were no comments.

ACTION: Councilman Montanaro stated that he is the liaison to the Code Enforcement Board and Chairman Richard Ralph does an excellent job running the meetings. Councilman Montanaro MOVED, SECOND Councilman D'Amato, to reappoint Richard Ralph to a three-year term on the Code Enforcement Board, said term ending August 1, 2011. VOTE: ALL AYES. MOTION CARRIED.

The City Clerk stated that Roy Wariner, a former member of the Comprehensive Planning Advisory Board (CPAB), had recently moved back to Satellite Beach and submitted an application to serve on the CPAB again.

ACTION: Councilman Montanaro and Councilman D'Amato stated that they know Mr. Wariner and his service to the CPAB in the past. Councilman Montanaro MOVED, SECOND Councilman D'Amato, to appoint Roy Wariner to a three-year alternate position on the CPAB, said term ending July 16, 2011. VOTE: ALL AYES. MOTION CARRIED.

ACTION: Councilman Montanaro MOVED, SECOND Councilwoman Kirby, to reappoint Sloan Willis-Dawkins to a two-year term on the Samsons Island Park Committee, said term ending August 1, 2010. VOTE: ALL AYES. MOTION CARRIED.

City Clerk Montanaro stated that she had received a request from Rochelle Lawandales, Chair of the Community Redevelopment Agency Advisory Committee (CRA AC), to be transferred from a regular member to an alternate member because of on-going conflicting schedules. Council recognized the knowledge and dedication of Ms. Lawandales.

ACTION: Councilman Montanaro MOVED, SECOND Councilman D'Amato, to transfer Rochelle Lawandales to an alternate position on the CRA AC, said term ending January 1, 2009. VOTE: ALL AYES. MOTION CARRIED.

ACTION: Councilman Montanaro MOVED, SECOND Councilwoman Kirby, to transfer David Omler from an alternate position to a regular position on the CRA AC, said term ending January 1, 2009. VOTE: ALL AYES. MOTION CARRIED.

AGENDA ITEMS FOR NEXT REGULAR COUNCIL MEETING AND DISCUSSION ON DATE FOR FUTURE SPECIAL MEETINGS

The City Manager presented a list of agenda items for the next Council meeting.

Council discussed the need to have a representative on each of the Florida League of Cities Legislative Committees so that the City receives all the information from those Committees. Council will discuss who will submit an application to which Committee at the next Council meeting.

ADOPTION OF MINUTES: JULY 2, 2008, REGULAR MEETING

ACTION: Councilman Montanaro MOVED, SECOND Vice-Mayor Ferrante, to approve the July 2, 2008, minutes as presented. VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer adjourned the meeting at 9:55 p.m.

Barbara Montanaro, CMC
City Clerk