

**ORMOND BEACH CITY COMMISSION MEETING
HELD AT CITY HALL COMMISSION CHAMBERS**

February 15, 2005 7:00 p.m.

Present were: Mayor Fred Costello, Commissioners Jeff Boyle, Troy Kent, Scott Selis, and Bill Partington, City Manager Isaac Turner, Assistant City Manager Theodore MacLeod, City Attorney Randy Hayes, and City Clerk Veronica Patterson.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the February 1, 2005, meeting.

5) **AUDIENCE REMARKS:**

6) **INTERGOVERNMENTAL BOARD REPORTS:**

- A) Metropolitan Planning Organization
- B) Volusia Council of Governments
- C) Smart Growth Implementation Committee
- D) Water Authority of Volusia

7) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.

- A) Resolution No. 2005-27 appointing JoAnne King as a member to serve on the Neighborhood Improvement Advisory Board; setting forth term and conditions of service.
- B) Resolution No. 2005-28 appointing Gordon Kipp as a member to serve on the Historic Landmark Preservation Board; setting forth term and conditions of service.
- C) Resolution No. 2005-29 urging members of the Florida Legislature to support certain growth management issues during the 2005 legislative session.
- D) Resolution No. 2005-30 authorizing the settlement of a dispute between the City and State of Florida Department of Transportation. (\$21,000)
- E) Resolution No. 2005-31 terminating effective immediately the Third Amended Lease Agreement between with Ormond Beach Neighborhood Child Development Center, Inc., for the property located at 150 South Washington Street.
- F) Resolution No. 2005-32 authorizing and directing the execution of an interlocal agreement for use of the Ormond Beach Elementary Parking Lot between the Volusia County School Board and the City of Ormond Beach; authorizing payment for the City's portion of the project.
- G) Resolution No. 2005-33 authorizing the execution of Change Order No. One (1) to that contract awarded to Wood & Partners, Inc., regarding the Parks and Recreation Master Plan, by increasing the contract price by \$8,645.
- H) Resolution No. 2005-34 authorizing a six-month extension of the current Wrecker Service Agreement between the City of Ormond Beach and Landau Enterprises, Inc., d/b/a Fryer's Towing Service; authorizing and directing the Mayor and City Manager to execute an amendment to effect said extension.
- I) Resolution No. 2005-35 authorizing the approval of a requisition for the purchase of one (1) Dodge Stratus under State of Florida Bid No. 070-001-05-1; authorizing expenditure of \$3,400 from the Federal Law Enforcement Confiscation Fund, and \$11,000 from the State Law Enforcement Confiscation Fund. (Carl Gregory Dodge - \$14,404)
- J) Resolution No. 2005-36 authorizing the approval of a requisition for the purchase of one (1) fairway mower under the Orange County School Board Bid No. 02-03-11VH; declaring the City's existing fairway mower to be surplus property and authorizing the disposition thereof. (Coastal Equipment Systems - \$34,784.26)
- K) Resolution No. 2005-37 authorizing the execution of a Joint Participation Agreement with the Florida Department of Transportation regarding the installation of landscaped medians along US1 from Hernandez Avenue to Calle Grande. (\$300,000 in FDOT funds; no local match)
- L) Resolution No. 2005-38 authorizing the execution of a Work Authorization to Quentin L. Hampton Associates, Inc., for the design of on-site generators at the peninsula lift stations. (Not-to-exceed \$29,400)

M) Resolution No. 2005-39 authorizing the execution of a Work Authorization to Ghyabi & Associates, Inc., to provide engineering services for the Orchard Street Reconstruction project; authorizing the execution of a Work Authorization thereto. (Not-to-exceed \$61,900)

N) Review of FY 2004-05 budget status.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 10, 2005.

O) Proposed FY 2005-06 budget calendar.

DISPOSITION: Approve as recommended in City Manager memorandum dated February 10, 2005.

8) **PUBLIC HEARING** on Ordinance No. 2005-01 amending the Future Land Use Element of the Comprehensive Plan by amending the Future Land Use Map to change the designation of one (1) parcel of real property totaling 9.98 acres located on US1, south of the Ormond Lakes Subdivision, from "Industrial" to "Medium Density Residential" and "Open Space/Conservation." (Ormond Grande, LLC) (First and Only Reading)

9) **FIRST READING OF ORDINANCES:**

A) Ordinance No. 2005-02 amending Article III, Dogs and Cats, of Chapter 5, Animals and Fowl, of the *Code of Ordinances*, by amending Section 5-78, Dangerous Dogs, to provide for a new definition of "Dangerous"; by amending Section 5-81, Action to be Taken by Owners/Keepers of Dangerous Dogs.

B) Ordinance No. 2005-03 amending Article I, In General, of Chapter, 5, Animals and Fowl, of the *Code of Ordinances* by revising Section 5-11, Limitations on Domesticated Animals, to remove dogs from its application; adding Section 5-14, Limitations on Dogs.

10) **RESOLUTION** No. 2005-40 authorizing the execution of a Regional Aquifer Management Program Agreement between the City and the St. Johns River Water Management District. (Reuse storage to serve the north peninsula reclaimed water service area - \$500,000 in grant funds; \$1,921,000 in matching funds)

11) **DISCUSSION ITEMS:**

A) Fire Department employee pregnancy policy.

B) Firefighter Overtime Plan.

C) Labor attorney contract.

D) City Attorney evaluation.

E) Options for the paving of Mirror Lake Drive.

F) Request by Commissioner Partington to discuss the extension of Runway 17-35.

12) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.

13) Close the meeting.

Item #1 - Call to Order

Mayor Costello called the meeting to order at 7:00 p.m.

Item #2 - Invocation

Mayor Costello gave the innovation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the minutes of the February 1, 2005, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Mayor Costello asked if there was any objection to approving the minutes as submitted. Hearing none, he declared the minutes approved as submitted.

Presentation of a Plaque to Commissioner Selis

Mayor Costello presented Mrs. Selis with roses and Commissioner Selis with a plaque thanking him for outstanding service as a Commissioner to the City of Ormond Beach from November 5, 2002, to February 28, 2005. He stated that while the entire Commission may not have always agreed, they appreciated the fact that Commissioner Selis cared, was passionate, and that he loved Ormond Beach, making it a better place.

Commissioner Selis expressed his grateful appreciation for the opportunity to have served his constituents. He explained the health problem that led to his resignation. Commissioner Selis reported he had recently sold his home and would be moving to Ormond Lakes located in Zone 1, and he looked forward to communicating with Commissioner Boyle relative to issues facing Zone 1.

Commissioner Selis thanked the constituents who disagreed with his views because it forced him to open his mind on all the issues; and while his vote may not have been what some would have preferred, he assured everyone that he listened to all points of view. He also thanked those who agreed with his point of view and lent their support. He expressed appreciation to his campaign team, volunteers, and contributors to his campaign.

Commissioner Selis pointed out that the City employees work hard for the Commission. He expressed special thanks to Planning Director Clay Ervin, Public Works Director/City Engineer Judy Sloane, City Clerk Veronica Patterson, City Manager Isaac Turner, Assistant City Manager Ted MacLeod, City Attorney Randall Hayes, and his fellow Commission members. Commissioner Selis stated that as a member of the Planning Board, he had problems with attendance due to his health, and there was a drive to remove him from that board. He explained he called Mayor Costello as the Commission member who had appointed him and also as a friend to ask for his support to remain on the board, and Mayor Costello's reply was that he did not know if he could support him since there had been problems on the Commission, and he needed to do what he could to bring peace. Commissioner Selis stated Mayor Costello reported that if it were the will of the Commission to remove him, he would not oppose that will. He explained that he greatly respected Mayor Costello for that stand, which was why he would stand up to anyone who might challenge Mayor Costello's integrity. Commissioner Selis expressed thank to his parents, children, and wife. He noted he would be available via his cell phone. He presented his mother and wife with bouquets of flowers.

Item #5 - Audience Remarks

Benefit Concert

Mr. Emmett R. Crump, 1 Tomoka Oaks Boulevard, stated the Florida Hospital Memorial Foundation was sponsoring a concert of classical vocal music by Richard Valdez and the Ormond Beach Symphony Orchestra at the Ormond Beach Performing Arts Center on Wednesday, March 2 at 7:00 p.m. at \$38.00 per ticket. He reported the concert would benefit the Stuart F. Myer Hospice House with the groundbreaking scheduled for April. Mr. Crump noted \$2.1 million had been raised with a goal of \$2.5 million. He urged everyone to attend this concert to enjoy a delightful evening and help this worthy cause.

Spending Taxpayers' Money

Mr. Glenn Jaspers, 160 Ocean Terrace, pointed out that he spoke to the Commission numerous times relative to the way the Commission spends taxpayers' money for various projects that he found to be unworthy such as the blimp deal and the Birthplace of Speed Park. He noted he recently learned the Commission was considering spending more money on commissioning new cars to be built and placed in the Birthplace of Speed Park. Mr. Jaspers expressed concern that the next project the City would spend taxpayers' money on would be to improve the Three Chimney's site. He pointed out the adjacent golf course was kept pristine, but had now become an eyesore.

Mayor Costello noted there was no connection between the golf course and the Three Chimney's project. He noted an office condo was slated to be constructed on that land.

Water Issues

Mr. Joe Bourassa, 801 Lewis Drive, Daytona Beach, stated Ormond Beach was prepared to spend \$1.921 million on a water project.

Mayor Costello stated Mr. Bourassa may speak relative to the proposed water project at that point on the agenda or he may speak now on any general water related issues.

Eagle's Nest

Mr. Frank Bailey, 355 Airport Road, reported there was an eagles' nest in the flight pattern of the Ormond Beach Municipal Airport. He displayed photographs of the nest located approximately one-quarter mile east of the Pine Trail Elementary School. Mr. Bailey stated the United States Fish and Wildlife Services assigned this nest a registration number, and they would do a flyover next week to determine how many eagles were in the nest. He reported helicopter and fixed wings should be kept at a distance of 1,000 feet from the nest as they would be detrimental to the eagles.

Southeast Quad Development

Mr. Adrian Thompson, 6 Dorado Beach Court, provided information regarding the development that would soon begin at the southeast quadrant of the Ormond Beach Airport. He noted the report outlined a clear chronology of the project which started as a small project with no City investment and grew into a large project with \$170,000 of City funds required and a total of \$1.2 million needed from City taxpayers. Mr. Thompson stated the City received \$12,200 annually for the lease of the property, and it would take 14 years to recover the \$170,000 investment and 98 years to recover the \$1.2 million investment. He pointed out the tenant would have an income of \$179,800 per annum. Mr. Thompson reported there was no economic development study with this project, no jobs created, no economic benefit for 14 years or generally 98 years, and the project would have no impact on making the airport self-sufficient. He strongly urged the Commission to reconsider continuing with the southeast quad development.

Response to Citizen Concerns

Mr. Thompson stated many citizens come to the Commission with questions, observations, and problems, but all too often their questions are ignored or remain unanswered. He stated Mayor Costello requested the City Attorney provide an answer at the next meeting to a question he posed relative to whether the Sunshine Law was complied with at the January 4 meeting, but that had not occurred.

Answering a Direct Question

Mr. Thompson asked whether a member of the City staff could refuse to answer a direct question regarding City business claiming the information was private or privileged. He requested if the City Attorney could answer a question tonight or at the next meeting or the following meeting regarding the lack of information provided regarding Item #11(F).

Oak Park Circle Drainage

Mr. Greg Gronning, 428 Oak Park Circle, stated that at the last meeting he was told Oak Park Circle was not included in the Stormwater Master Plan because there were not enough complaints filed. He reported the pump the City provided was taken away two weeks ago and upon asking why the pump was taken, the reply was that if they do not respond to his home, they do not have anything on file indicating there was a problem. Mr. Gronning questioned exactly what needed to be done to create a file other than make a call indicating a problem.

Mayor Costello requested Mr. Gronning contact Ms. Sloane after the meeting, and if this was not resolved to contact the Commission at the next meeting.

Unanswered Questions

Mr. Gregory Avakian, 161 Heritage Circle, concurred there were many unanswered questions and two in particular that he had asked approximately 20 times.

Request to Pull a Consent Agenda Item

Mr. Avakian recommended sending Resolution No. 2005-39 to the Budget Advisory Board.

Mayor Costello asked if Mr. Avakian was requesting that Item 7(m) be pulled for discussion; whereby, Mr. Avakian stated he was asking that the item be pulled for discussion.

Explorer Calendar

Police Chief Larry Mathieson stated the Ormond Beach Police Department Explorer Post 430, which was affiliated with the Boy Scouts of America, had a calendar available to raise funds for various project and to travel to explorer events. He noted this year’s calendar was dedicated to the memory of Officer Robert Grim. Chief Mathieson offered the calendar to anyone who was interested. He noted there was no charge, but a donation could be made for the Explorers at the Police Station.

Item #6(A) – Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization (MPO) would meet on February 22. He stated he was in Orlando on Monday and Congressman Mica asked Metroplan Orlando and representatives of the Volusia MPO to meet with him. Mayor Costello noted Congressman Mica was working hard to get commuter rail from Volusia County to Orange County.

Item #6(B) – Volusia Council of Governments

Mayor Costello reported some members of the Volusia County Council were questioning the value of Volusia Council of Governments (VCOG). He stated Dwight Lewis was last year’s County Council Chairman and this year’s VCOG Chairman, and he was carrying the charge to the County Council that if they do not believe VCOG was beneficial, that many of the municipalities would not believe they would be receiving the cooperation of the County. Mayor Costello noted he believed VCOG would be strengthened rather than weakened by this questioning.

Item #6(C) – Smart Growth Implementation Committee

Mayor Costello reported the next meeting of the Smart Growth Implementation Committee was scheduled for February 28, and he encouraged anyone who could attend do so because it would have a tremendous impact on the smart growth initiatives that come out of the County Council as they relate to urban growth boundaries.

Item #6(D) – Water Authority of Volusia

Commissioner Boyle advised a special meeting of the Water Authority of Volusia (WAV) was held on February 2 to guide the Master Facilities Plan. He noted there would be a total of ten of these type meetings. Commissioner Boyle reported the regular monthly meeting would be held tomorrow at 8:30 a.m.

Item #7 - Consent Agenda

Mayor Costello advised that the action proposed for each item on the Consent Agenda was so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any one or more of the items separately.

Mayor Costello noted he was asked to pull Item No. 7(M).

Commissioner Partington asked Item No. 7(G) be pulled for discussion.

Commissioner Boyle asked that Item Nos. 7(C), 7(E), 7(F), 7(K) and 7(L) be discussed separately.

Commissioner Kent moved, seconded by Commissioner Boyle, for approval of the Item Nos. 7(A), 7(B), 7(D), 7(H), 7(I), 7(J), 7(N), and 7(O).

Call Vote:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Selis	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #7(C) – Growth Management Issues

RESOLUTION NO. 2005-29
A RESOLUTION URGING MEMBERS OF THE FLORIDA
LEGISLATURE TO SUPPORT CERTAIN GROWTH

MANAGEMENT ISSUES DURING THE 2005 LEGISLATIVE SESSION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2005-29, as read by title only.

Commissioner Boyle reported the Florida League of Cities requested the Commission pass a resolution urging legislation to the State government. He stated the resolution referred to revising concurrency requirements or adequately funding needed infrastructure, but the term “adequate” was not defined, and he was uncomfortable revising concurrency requirements without knowing why they should be revised. Commissioner Boyle noted that adequate infrastructure was also not defined. He reported the resolution also mentioned, “articulated State growth management policies and articulated State management goals,” which were not defined. Commissioner Boyle noted the entire resolution was vague and unspecific. He stated he was also uncomfortable with the quote “granting cities greater flexibility and less State oversight in pursuing growth management strategies.”

Call Vote:	Commissioner Kent	yes
	Commissioner Selis	yes
	Commissioner Partington	yes
	Commissioner Boyle	no
Carried.	Mayor Costello	yes

Mayor Costello asked Commissioner Boyle to remind him to speak about some of these issues in a workshop setting because he believed there may be a difference in their interpretation of the provisions.

Item #7(E) – Terminating a Lease Agreement

RESOLUTION NO. 2005-31
A RESOLUTION TERMINATING EFFECTIVE IMMEDIATELY THE THIRD AMENDED LEASE AGREEMENT BETWEEN WITH ORMOND BEACH NEIGHBORHOOD CHILD DEVELOPMENT CENTER, INC., FOR THE RIGBY SCHOOL PROPERTY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-31, as read by title only.

Commissioner Boyle pointed out the budget indicated \$22,000 remained in the budget for this entity that was to be terminated. He asked what would happen to these funds.

Mr. Isaac Turner, City Manager, stated there was currently another entity that was operating child care services out of the building, and there would be a contract on the next agenda with that entity that he believed would be favorable to the Commission.

Call Vote:	Commissioner Selis	yes
	Commissioner Partington	yes
	Commissioner Boyle	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #7(F) – Interlocal Agreement for Use of the Ormond Beach Elementary School Parking Lot

RESOLUTION NO. 2005-32
A RESOLUTION AUTHORIZING AND DIRECTING THE EXECUTION OF AN INTERLOCAL AGREEMENT FOR USE OF THE ORMOND BEACH ELEMENTARY PARKING LOT BETWEEN THE VOLUSIA COUNTY SCHOOL BOARD AND THE CITY OF ORMOND BEACH; AUTHORIZING PAYMENT FOR THE CITY’S PORTION OF THE PROJECT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Selis, to approve Resolution No. 2005-32, as read by title only.

Commissioner Boyle stated that when the City was trying to obtain vital parking in the downtown, the Commission’s intent was to combine the School Board property with the property between the playground and Lewis Street. He noted no reference was made to this intent. Commissioner Boyle reported that at a Main Street Board meeting a number of years ago, the owner of the property indicated in the public record that he would be a willing seller for the standard percentage over assessed value.

Mr. Clay Ervin, Planning Director, reported that at this point in negotiations the property owner indicated they were not willing to sell; therefore, to avoid delaying the project, staff designed the project whereby if, in the future the City could obtain this parcel, further expansion of the parking lot could be done.

Commissioner Boyle clarified that the owner had apparently rescinded his offer to sell. He questioned if the problem was the amount of money or if the owner was merely unwilling to sell.

Mr. Ervin replied that staff contacted the property owners asking them to identify a price, but they were not willing to sell the property.

Commissioner Boyle noted the concept was always for the two properties in tandem, and he would not vote to approve this without the adjacent property included.

Mayor Costello reported his recollection was that there was always a “wish” to include this parcel, but not that the project was contingent upon obtaining the parcel.

Commissioner Boyle clarified that it would be a deal breaker for him without this parcel.

Mayor Costello noted he was pleased the design could be expanded to include this parcel, and he was hopeful the City could obtain it at some time in the future.

Commissioner Kent stated the report indicated the City was provided the opportunity to utilize the existing playground equipment. He asked if the current equipment could be placed elsewhere in the City where it was needed.

Mr. Ervin reported the School Board advised that they were planning to get rid of this playground equipment and graciously accepted the City’s request for the equipment to be used elsewhere in the City.

Call Vote:	Commissioner Partington	Yes
	Commissioner Boyle	No
	Commissioner Kent	Yes
	Commissioner Selis	Yes
Carried.	Mayor Costello	Yes

Item #7(G) – Parks and Recreation Master Plan

RESOLUTION NO. 2005-33
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. ONE (1) TO THAT CONTRACT AWARDED TO WOOD & PARTNERS, INC., REGARDING THE PARKS AND RECREATION MASTER PLAN, BY INCREASING THE CONTRACT PRICE BY \$8,645; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Kent, to approve Resolution No. 2005-33, as read by title only.

Commissioner Partington reported he received an e-mail from Ms. Rita Press, president of Citizens for Ormond Beach and a member of the City’s Planning Board, relative to specific concerns regarding the Parks and Recreation Master Plan.

Mr. Ervin reported Ms. Press’ primary concern was why this change order was needed. He noted the level of service standards in the Comprehensive Plan and Land Development Code are not efficient enough to do functional capital budgeting; therefore, about 18 months ago he, Leisure Services Director Alan Burton, and former Budget Manager Bob Bentkofsky, reviewed what was in the Comprehensive Plan and identified the need to make changes. Mr. Ervin stated it was discovered that to have an effective level of service standard, detailed surveying analysis and expertise relative to assessment of current standards in comparison with other communities would be needed. He advised staff went through the normal bidding process with

a very detailed scope of services and selected a firm with multiple years of experience in doing master plans and site specific detailed analysis for recreational facilities throughout the southeast. Mr. Ervin noted the critical aspect was the surveying of the users' needs. He reported staff could provide national standards, but this would not answer the needs of the citizens of Ormond Beach. Mr. Ervin noted that in order to arrive with a scientifically valid and effective survey, the City sought out a professional who had accomplished this in the past; and the company selected had provided a survey instrument that was very detailed with a series of cross checks to assure validity in the answers. He reported staff would not have been able to present as detailed a review in as short a time. Mr. Ervin stated Parks and Recreation Impact Fees could be used for this, but could not have been used for general maintenance items. He noted this would identify future needs so the City could properly budget in the Capital Improvement program and the City could charge the proper impact fee.

Commissioner Boyle reported that the City was being asked to approve \$8,600 for an extra meeting to be paid from the Parks and Recreation Impact Fee fund. He stated when an \$8,600 meeting was needed, staff should come to the Commission for approval prior to the meeting rather than after the meeting. Commissioner Boyle noted he had serious questions as to the survey methodology when some segments of the population would be surveyed and others would not be surveyed. He stated that he had hoped some day there would be recreational fields in Ormond Beach that could be accessed by children on a bicycle where there would not necessarily be competitive recreation.

Commissioner Kent stated he was amazed that the cost would be \$75,000. He pointed out that the report was very in depth. Commissioner Kent reported the two meetings should have been sufficient, and he would not approve the additional \$8,600 tonight.

Mayor Costello noted the Commission could have stated maintenance was the most important issue. He concurred with Ms. Press relative to a three-board meeting and urged the Commission to discuss this in the future. Mayor Costello stated the goal was for everyone to be heard. He recommended an advertised bus tour of Ormond Beach to try to find some places that could be identified for a recreation area that could be accessed by bicycles. Mayor Costello reported a joint workshop was scheduled with the School Board where he hoped to discuss using school facilities.

Call Vote:	Commissioner Boyle	no
	Commissioner Kent	no
	Commissioner Selis	no
	Commissioner Partington	no
Failed.	Mayor Costello	yes

Item #7(K) – Installation of Landscaped Medians

RESOLUTION NO. 2005-37
A RESOLUTION AUTHORIZING THE EXECUTION OF A JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING THE INSTALLATION OF LANDSCAPED MEDIANS ALONG US1 FROM HERNANDEZ AVENUE TO CALLE GRANDE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-37, as read by title only.

Commissioner Boyle asked if the curbs would be fixed after construction; whereby, Ms. Sloane reported FDOT would fix the curbs at each of the side streets. Commissioner Boyle asked if this irrigation system would spray the mist that wets the streets or would the water be confined to the medians. Ms. Sloane replied this was not the system that was used on Nova Road; it was more similar to the system on Granada Boulevard. Commissioner Boyle questioned if the staff prediction of \$20,000 annual maintenance for the 14 medians over 1.6 miles was a firm prediction; whereby, Ms. Sloane explained the contractor provided \$20,000 as a preliminary estimate, but she could not describe the number as firm until the bids were received.

Commissioner Boyle noted that at one time the 16 medians on West Granada Boulevard from Nova Road to I-95 had a \$51,000 contract that later became \$117,000.

Call Vote:	Commissioner Kent	yes
	Commissioner Selis	yes
	Commissioner Partington	yes
	Commissioner Boyle	yes
Carried.	Mayor Costello	yes

Item #7(L) – On-site Generators at the Peninsula Lift Stations

RESOLUTION NO. 2005-38
 A RESOLUTION AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION TO QUENTIN L. HAMPTON ASSOCIATES, INC., FOR THE DESIGN OF ON-SITE GENERATORS AT THE PENINSULA LIFT STATIONS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2005-38, as read by title only.

Commissioner Boyle stated the Commission would be approving only \$30,000 tonight for the on-site generator design. He explained the City had nine lift stations on the peninsula and two have generators, but this would be for seven new generators.

Ms. Sloane concurred that it was estimated the seven new generators would be \$245,000.

Commissioner Boyle asked if staff would recommend a funding mechanism at that time; whereby, Ms. Sloane concurred they would. He reported a constituent living on Riverside Drive had sewage infiltration into her home caused by the lift station; it was corrected and caused no damage after the first hurricane; however, in the second hurricane, the peninsula was evacuated and no generators were working and no personnel were able to access the peninsula resulting in sewage infiltration in the house. Commissioner Boyle noted the claim for \$7,000 of property damage to date had been denied. He pointed out that the City was denying the claim for a problem everyone acknowledged was due to the loss of power, and the lift station not functioning because of the lack of a generator. Commissioner Boyle noted it seemed that this item was acknowledging this problem and the City’s responsibility for the problem. He noted he was pleased the City was doing this and was confident a funding mechanism would be found.

Mayor Costello expressed compassion for the families who had to endure all types of hurricane tragedies, and he hoped the community would be better off by finding ways to improve situations for the future.

Call Vote:	Commissioner Selis	yes
	Commissioner Partington	yes
	Commissioner Boyle	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #7(M) – Orchard Street Reconstruction Project

RESOLUTION NO. 2005-39
 A RESOLUTION AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION TO GHYABI & ASSOCIATES, INC., TO PROVIDE ENGINEERING SERVICES FOR THE ORCHARD STREET RECONSTRUCTION PROJECT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-39, as read by title only.

Mr. Gregory Avakian, 161 Heritage Circle, stated the architectural fees for the fire station were outrageous. He stated this \$61,900 fee may be able to be done in house and recommended the Commission send this to the Budget Advisory Board to search for potential savings. Mr. Avakian expressed the opinion that \$61,900 figure was too high for the work to be done.

Call Vote:	Commissioner Partington	yes
	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Selis	yes
Carried.	Mayor Costello	yes

Item #8 – Ormond Grande, LLC

ORDINANCE NO. 2005-01

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING 9.98 ACRES LOCATED ON US1, SOUTH OF THE ORMOND LAKES SUBDIVISION, FROM “INDUSTRIAL” TO “MEDIUM DENSITY RESIDENTIAL” AND “OPEN SPACE/CONSERVATION;” REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-01, on first and only reading.

Ms. Brenda Wesolowsky, 6 Wayland Circle, reported the homeowners’ concern was that this would be used as a cut through, but she was informed the area would be sodded and possibly have a chain to restrict access. She asked if a gate would be considered.

Mayor Costello reported he understood it would be sodded with a break-away gate for emergency vehicles.

Mr. Ervin explained this was merely a land use issue tonight; therefore, the formal site plan application had not yet been made. He noted the property owner provided a design utilizing wooden gates and sodded areas to blend in, similar to areas such as Broadwater and Coquina Point; however, specifics have not been provided to date. Mr. Ervin reported that staff had heard the concerns of the Ormond Lakes residents, staff would make certain the plan would be consistent with their desires.

Commissioner Boyle disclosed the developer stopped by to discuss the project during the last few months, and he also spoke to a number of Ormond Lakes residents relative to their concerns. He noted that based on how these emergency access cut throughs have been handled in other areas, he was confident there would be no cut through traffic. He noted the staff and Commission were aware of the concerns, and the developer had done a wonderful job of addressing these concerns in other projects.

Mayor Costello, Commissioner Selis, Commissioner Kent, and Commissioner Partington disclosed they also spoke individually to the developer and were assured the concerns would be addressed as described.

Call Vote:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Selis	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Hearing no objection, Mayor Costello closed the public hearing on Item #8.

Item #9(A) – Dangerous Dogs

ORDINANCE NO. 2005-02

AN ORDINANCE AMENDING ARTICLE III, DOGS AND CATS, OF CHAPTER 5, ANIMALS AND FOWL, OF THE *CODE OF ORDINANCES*, BY AMENDING SECTION 5-78, DANGEROUS DOGS, TO PROVIDE FOR A NEW DEFINITION OF “DANGEROUS”; BY AMENDING SECTION 5-81, ACTION TO BE TAKEN BY OWNERS/KEEPERS OF DANGEROUS DOGS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boyle, to approve Ordinance No. 2005-02, on first reading.

Call Vote:	Commissioner Kent	yes
	Commissioner Selis	yes
	Commissioner Partington	yes
	Commissioner Boyle	yes
Carried.	Mayor Costello	yes

Item #9(B) – Limitations on Domesticated Animals

ORDINANCE NO. 2005-03

AN ORDINANCE AMENDING ARTICLE I, IN GENERAL, OF CHAPTER, 5, ANIMALS AND FOWL, OF THE *CODE OF ORDINANCES* BY REVISING SECTION 5-11, LIMITATIONS ON DOMESTICATED ANIMALS, TO REMOVE DOGS FROM ITS APPLICATION; ADDING SECTION 5-14, LIMITATIONS ON DOGS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-03, on first reading.

Commissioner Boyle asked if this would place a limit of four dogs per household.

Mayor Costello proposed an amendment to exclude the REA zoning district in that the REA district consisted of five acres per unit.

Commissioner Boyle stated the code defined more than four dogs in a household as a kennel. He questioned how this would be enforced.

Police Chief Larry Mathieson reported this would be enforced upon citizen complaint after an investigation although, as in any other law or ordinance, voluntary compliance was hoped for from all the citizens.

Commissioner Boyle asked if the four dog limit was previously in the code, and if so, why this was needed.

Ms. Sandy Upchurch, Deputy City Attorney, stated this ordinance was specifically not retroactive and was drafted at the request of Commissioner Partington who was approached by numerous constituents. She explained Commissioner Partington was informed that people have moved to Ormond Beach because it had no number limitation of dogs while neighboring jurisdictions have limitations. Ms. Upchurch reported that in the feral cat discussion, a number limitation was discussed and proved to be very controversial. She noted that a very “watered down” version of a number limitation was passed. Ms. Sloane stated the Code of Ordinances allowed for a residential property to have four or more animals if they were kept on the premises, and Commissioner Partington requested an ordinance with more substance to address a problem in his zone.

Commissioner Partington noted he supported this ordinance. He explained one residence in his zone had 12 rottweilers, and the homeowner reportedly moved to Ormond Beach because he learned that any number of dogs were allowed. Commissioner Partington stated research showed that DeLand, Daytona Beach, Daytona Beach Shores, and Port Orange all have a more onerous number limitation on animals, allowing only four domesticated animals, be it a combination of dogs, cats, ferrets, rabbits, or other animals. He pointed out that he asked this ordinance refer strictly to dogs, understanding the previous problems with number limitations. Commissioner Partington stated he was hopeful this could clear up a situation between the Land Development Code and the Code of Ordinances that made either law difficult to enforce.

Mayor Costello commended Commissioner Partington for directing this legislation. He expressed concern relative to those living in the rural estate/agricultural area of Ormond Beach in that if a homeowner lived on five acres, he would tend to be more lenient regarding the number of dogs he would be allowed; but in that it was Commissioner Partington’s ordinance, he could support it with or without the amendment. Mayor Costello offered a possible provision to read: “No person shall keep or maintain more than four dogs at any dwelling unit, manufactured home, or commercial property except in the REA zoning district.”

Commissioner Partington stated he did not believe this ordinance would affect many people in Ormond Beach; however, he was unsure whether a limit on the number of dogs should be in the

REA district; possibly a certain number could be permitted per acre. He noted he was not opposed to the amendment.

Mayor Costello noted that due to Commissioner Partington's hesitance, he would not make the amendment at this time.

Call Vote:	Commissioner Selis	yes
	Commissioner Partington	yes
	Commissioner Boyle	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #10 – Reuse Storage to Serve the North Peninsula Reclaimed Water Service Area

RESOLUTION NO. 2005-40

A RESOLUTION AUTHORIZING THE EXECUTION OF A REGIONAL AQUIFER MANAGEMENT PROGRAM AGREEMENT BETWEEN THE CITY AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Partington, to approve Resolution No. 2005-40, as read by title only.

Mr. Joe Bourassa, 801 Lewis Drive, Daytona Beach, stated that implicit in all of the Regional Aquifer Management Program (RAMP) studies was a suggestion by the consultant that before any projects were initiated, a further study would be done for potential flooding damages caused by increasing the aquifer level. He pointed out these studies were done four to five years ago and implementation was finally being considered, but the conditions used for the studies was basically in error. Mr. Bourassa noted the City was not in a position at this time where there were aquifer problems other than the fact that the aquifer was filling too fast, and flooding had occurred in areas where it was previously not a problem. He urged this be researched further before approving this \$1.921 million expenditure.

Mayor Costello stated he would rely on the professionals on water issues and the Water Authority of Volusia (WAV) in that he was not in the position to hold up a study that the professionals have indicated to be valid. He noted he had difficulty believing it would not be best to increase the aquifer. Mayor Costello reported he would vote for this study, not because he did not value the information Mr. Bourassa brought to the City, but because he was not equipped to address his concerns at this time.

Commissioner Kent stated he found Mr. Bourassa's information very interesting. He reported he was also not an expert relative to water levels, but he had noticed that lake levels throughout Deltona were swollen. He advised he would like to meet with Mr. Bourassa to discuss the issues.

Call Vote:	Commissioner Partington	yes
	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Selis	yes
Carried.	Mayor Costello	yes

Item #11(A) – Fire Department Employee Pregnancy Policy

Fire Chief Barry Baker explained that the Fire Department had a policy for quite some time to provide relief of light duty for pregnant firefighters in the fifth or sixth month, removing them from the hazardous duty environment. He reported that at a fire chief's meeting with 60 fire chief's in attendance he asked who had similar programs and was informed that 58 of the 60 fire chief's had a similar policy. Chief Baker explained that due to the tight overtime constraints, suspending this policy was considered to save limited overtime; however, this did not seem to be a wise decision even though overtime may be required to fill the temporarily vacated positions.

Commissioner Boyle stated what Chief Baker was actually asking was for the Commission to raise the \$450,000 cap the Commission had placed on firefighter overtime. He noted Chief Baker estimated \$25,000 in overtime per pregnancy; therefore, he was actually asking the cap be raised to \$475,000.

Mr. Turner stated that earlier in this agenda the Commission was updated on the budget status, and the goal for this item was to update the Commission on the same agenda relative to the key budget item of firefighter overtime. He explained the Commission was not being asked to raise the cap, only to be cognizant of the fact that there were additional pressures to reach the goal and inform the Commission as to the types of decisions being made in an attempt to reach that goal. Mr. Turner noted this decision could have been made at an administrative level, but staff wanted to inform the Commission what was occurring as the decisions were being made.

Commissioner Boyle noted the City had a good policy; the administration rescinded the policy; and it was now before the Commission. He stated the Commission did not make policies; they suggest overtime caps, but they did not micromanage how the cap should be achieved. Commissioner Boyle questioned why this was brought to the Commission at all. He asked if the administration was asking for expansion of the cap or an understanding that there was more pressure in achieving the \$450,000 cap.

Mr. Turner noted the reasoning for bringing this item was definitely the latter. He stated Item (B) should probably have been listed before Item (A). Mr. Turner explained staff wanted the Commission to understand that there was a great deal of pressure on administration to reach the \$450,000 cap, but they were continuing to work to achieve that goal while alerting the Commission to challenges.

Commissioner Boyle stated Chief Baker indicated last month that some of the language in the new contract was significant in reducing overtime, but \$575,000 to \$550,000 was as far as that language change could achieve because of Workers Compensation issues triggering overtime. He reported that promoting from within to fill the assistant chief position was done, and an employee was hired yesterday to fill the position of the person who advanced to Assistant Chief. Commissioner Boyle noted that this would now mean that the City had just eliminated a significant cause of firefighter overtime.

Chief Baker stated this was true, but other issues continued to affect the overtime, such as the fact that the Fire Department had a firefighter that was pregnant, another firefighter in the National Guard going to Germany and ultimately probably to Iraq, and another awaiting surgery with a six to eight week rehabilitation period. He reported while this could have been done administratively, it provided the opportunity to inform the Commission of the type of pressures the administration was facing. Chief Baker pointed out this item was also in direct correlation to the December 6 meeting where the Commission instructed him to reduce overtime wherever possible, which was a direction he took very seriously. He noted he would like to continue this pregnancy policy, but it would increase overtime.

Commissioner Boyle noted he appreciated that and believed the Commission concurred relative to keeping the policy. He noted the problems with the Assistant Chief triggered a domino effect of people who needed to be qualified to work the overtime. Commissioner Boyle asked if it were not true that the cause of the overtime for that single position would be a greater factor than the three employees previously described.

Chief Baker concurred that the Assistant Chief issue was a very large issue.

Mayor Costello pointed out that firefighter overtime was \$853,069 last year.

Mr. Turner stated if everything would be stable, overtime this year would come in at \$480,000; however, it would not remain stable, and it would still be a substantial reduction from last year. He noted the overtime hours have been reduced 60%; however, the dollars were not at the same level that they were when the overtime was closer to the \$400,000 three to four years ago. Mr. Turner stated while the Assistant Chief position would not affect overtime any longer, staff does foresee certain situations impacting the overtime. He reported the \$480,000 figure would probably not remain, and staff must investigate other methods to bring the level down to \$450,000 as requested.

Commissioner Boyle stated the hurricane overtime of \$60,000 was separate, and the comparison figure was actually \$780,000 to \$790,000; whereby, Mr. Turner concurred that was correct.

Mayor Costello noted he also concurred that the actual comparison figure should be \$780,000 to \$790,000, but the Commission requested a \$450,000 cap. He commended staff for doing as the Commission requested, which was to try to attain the cap of \$450,000, but to bring information as to what needed to be done to achieve the goal; and if cuts were needed, the Commission should make the decisions rather than staff making the decision. Mayor Costello

stated he wanted to keep the policy for the pregnant firefighter even if it would cost more overtime.

Mr. Turner concurred with Commissioner Boyle that the policy was an administrative decision; however, staff would not object to the Commission making a statement regarding the \$450,000 cap relative to this decision if they wish to do so, even though staff was not asking for an increase in that figure.

Mayor Costello reiterated he wanted staff to inform the Commission why that figure could not be attained. He noted he also wished to support the staff member being deployed overseas, and if amending the cap would show that support, he would favor doing so. Mayor Costello urged the total firefighter cost be considered as opposed to merely the overtime portion of that cost because the benefits for new firefighter become so expensive that overtime may be less expensive overall. He summarized by stating that the Commission wanted the \$450,000 overtime cap; but if it could not be done, he urged staff to continue to do as was being done tonight to explain why it could not be done.

Commissioner Boyle concurred with Mayor Costello's last statement. He stated his perception was that there was a huge positive impact in the firefighter overtime that ended yesterday, but the Commission was not informed of that positive impact. Commissioner Boyle noted he felt the Commission was being leveraged to amend the cap. He urged that the cap not be amended; but if the abovementioned circumstances actually occur, the Chief could then come to the Commission and ask the cap be amended later in the year. Commissioner Boyle noted he may be more amenable to amending the cap at that time.

Chief Baker replied that this would be quite acceptable. He assured the Commission he was committed to sharing with the Commission what was occurring relative to overtime. Chief Baker noted overtime had been monitored very closely, but he should probably have better prepared the Commission for what had occurred last year. Mayor Costello concurred, stating the Commission preferred to be prepared. He noted the direction to staff was to continue, the policy of caring for the firefighters.

Item #11(B) – Firefighter Overtime Plan

Chief Baker reiterated he had been working on a weekly basis with the Finance Department and Mr. Turner trying to reduce overtime wherever possible, and the report provided a list of a number of changes that were made in that effort. He pointed out that long-term issues were also addressed. Chief Baker reported the final recommendation was to add firefighters, and it was determined that \$18,000 could be saved between the cost of an overtime person and hiring a fulltime person. He explained the SAFER Act for hiring firefighters through the federal government, similar to the COPS More Program for police officers, where the first year paid 80% funding and would drop after four years to 0% funding. Chief Baker reported the President did not authorize money for this program this year or last year, but the general consensus was that \$85 to \$100 million would be appropriated through Congress and the Senate, as was the case last year. He noted further information should be available in May.

Commissioner Boyle stated he concurred with Chief Baker's recommendation and with his prior statement regarding long-term solutions; however, on the short-term, he believed the items listed were already being done. He asked how much was spent for overtime relative to control burns and training classes last year.

Chief Baker reported between \$5,000 and \$8,000 was spent for control burn operations and \$24,000 to \$27,000 for training.

Commissioner Boyle pointed out that many of the Ormond Beach firefighters attend these training classes and are not paid while attending the classes as opposed to how training was handled in other jurisdictions.

Chief Baker advised whether a firefighter would be paid for attending classes would depend on the class. He explained that Fair Labor Standards indicate that if the administration required the class, the City would have to pay for the firefighter's time. Chief Baker reported there was some contractual language dealing specifically with emergency medical technicians and paramedics that would be paid to attend classes.

Commissioner Boyle stated that three years after the Commission approved the early retirement for 16 employees and 17 months after the early retirements actually occurred, he questioned if the City now had enough qualified personnel to work overtime in higher classifications.

Chief Baker answered affirmatively to Commissioner Boyle's question and noted that the City continued to add to that to provide further assurance. He noted the higher the level of vacancy the more difficult it was to replace the employees. Chief Baker explained the problem in that situation was that the retirement attorney recommended the assistant chief position not be replaced, but overtime reached such a significant level that a replacement was hired over the advice of the retirement attorney.

Mr. Turner asked for clarification relative to hiring the recommended two additional firefighters. He noted if the Commission would raise the cap, some of this may be negated in that the additional firefighters would alleviate some of the pressure on the overtime and have people available to meet minimum staffing levels.

Mayor Costello stated he recommended part-time employees and Chief Baker opposed this recommendation, but he would have to yield to Chief Baker as the professional. He specifically recommended hiring some of the 16 retired firefighters or those who passed the classes to work on a part-time basis. Mayor Costello noted he believed this would save money without losing services although he concurred that management would be more difficult. He stated he was not prepared to hire two new firefighters to save \$18,000 and would favor paying the overtime and continue to search for other methods of reducing the overtime figure.

Commissioner Selis stated he could not support spending money to hire the two firefighters to save \$18,000. He urged managing and controlling the overtime. Commissioner Selis noted he appreciated that Chief Baker brought these issues to the Commission's attention, but the Commission had already given direction, and it was now up to management to find a way to meet that direction. He concurred with Commissioner Boyle that it was not the roll of the Commission to micromanage.

Mayor Costello noted that it was the roll of the City Commission to decide if two firefighters should be hired.

Commissioner Selis noted there was not enough evidence provided to convince him to hire new firefighters at this time.

Mayor Costello reiterated he would rather err on the side of incurring more overtime this year than hiring firefighters to bring that level down, which was why he urged the entire cost be considered as opposed to only considering overtime.

Mr. Turner reported staff was clearly informing the Commission that unless certain expenditures were adjusted, it would be next to impossible to achieve the \$450,000 number. He stated if the Commission would prefer to keep the cap, staff would recommend hiring the extra firefighters; but if the Commission would like to wait and ask staff to come back at a later date with accurate figures and reconsider the cap at that time if needed, that scenario would be quite acceptable as well. Mr. Turner reiterated staff was attempting to alert the Commission to the options and strategies staff was considering in their attempts to attain the Commission goal.

Commissioner Boyle reported he agreed with Commissioner Selis completely on this issue. He stated it would be fair to reexamine the issue in 90 to 120 days, but not now.

Commissioner Kent noted his interpretation of Commissioner Selis' statement was that the Commission gave management a directive and that directive was to be carried out exactly. He questioned why the union would oppose the part-time firefighters.

Commissioner Boyle stated the problem was in training part-time employees and finding employees willing to work part time. He noted part-time employees are being hired quickly by different jurisdictions throughout the County.

Chief Baker stated Volusia County was currently in a major hiring situation. He reported that a unified hiring process had been created of which he was the Chair. Chief Baker reported the numbers of hires have increased, but the number of qualified firefighters was actually dismal, considering the number of available positions.

Mr. Bob Mandarino, IFF 3499 president, reported the union would oppose part-time firefighters because of the safety issue. He explained part-timers would not be training with the full-time firefighters on a regular basis, which would jeopardize safety.

Commissioner Kent questioned why the County was hiring part-timers if this was a safety issue.

Mr. Mandarino stated the County was not hiring part-timers; they were hiring full-timers.

Mayor Costello noted this was the reason he recommended the recently retired firefighters that had trained with the full-timers.

Item #11(C) – Labor Attorney Contract

Commissioner Boyle reported his request relative to this item was not to review the existing labor contract, but to consider the possibility of obtaining bids for the contract. He pointed out that this firm had been the City's labor counsel for 13 years and they travel from Tampa, which would probably cost more and cause a short-term accessibility problem. Commissioner Boyle noted that last year there was also a lack of communication between the labor counsel and the City Attorney's office.

Mr. Randall Hayes, City Attorney, confirmed there were additional costs related to mileage and travel that are outlined in the contract. He stated the "glitches" in communication have improved, and he was satisfied with the current status of the relationship. Mr. Hayes reported the contract would require a 60-day written notice for termination. He explained additional matters were being handled by counsel at this time, and a transition would need to take place.

Commissioner Boyle reported he was satisfied with Mr. Hayes' explanation if the Commission was satisfied. He noted if he was the only one questioning this contract, he was ready to move on.

Commissioner Partington supported the concept of a competitive bid in that this was the position the Commission had taken on other issues. He noted if a more local representative could be located, it may provide a cost savings to the City.

Mayor Costello asked if it would be possible to obtain Requests for Proposals (RFP). He pointed out that he was not aware how specialized this service was and how many firms would do this sort of work. Mayor Costello noted the company the City currently used represented an incredible number of jurisdictions, which could mean that they were good at what they do, they were the only company doing such work, or no one else wanted to take on such work.

Mr. Hayes advised a number of firms do this type of work, although it was a fairly specialized type of law. He cautioned that there would probably not be a great deal of firms locally doing this type of work, and the larger firms may have conflicts; but there may be firms in Orlando or Jacksonville who could do the work.

Mayor Costello concurred with Commissioner Partington, noting he would welcome finding out if another firm may be interested. He urged the current firm be informed that while the Commission was not displeased with their work, it was merely their due diligence that after 13 years of service to find out if another firm could provide the same or better service at a lower cost.

Mr. Hayes asked for clarification if the Commission would like him to obtain information for the Commission relative to cost from firms or if they would prefer sending out RFPs.

Mayor Costello stated obtaining costs would provide him with enough information to make a decision.

Commissioner Boyle stated the report provided had sufficiently answered his questions, and if further information was needed, he recommended a discussion another night with all of the questions answered in a staff report by the City Attorney.

Mayor Costello stated the Commission was merely informing the City Attorney what information they wanted to obtain. He noted he would be interested in finding out what other firms would charge.

Commissioner Boyle concurred that he would like to know everything associated with the possibility of going to another firm.

Mr. Hayes offered to do a survey of the firms that he was aware of that do this type of work, but he noted that some of the firms that may reply to an RFP may not be identified by such a survey.

Mayor Costello urged the survey be done and a letter be written to the existing firm explaining the situation. No opposition to Mayor Costello's recommendation was noted.

Item #11(D) – City Attorney Evaluation

Mr. Hayes thanked the Commission for the evaluation, which was a reflection of the high quality staff in the City Attorney’s office. He noted a significant volume of work passed through his small office. Mr. Hayes explained most projects are not completed quickly as they required a longer period of time to do properly. He stated he looked forward to making improvements where noted.

Item #11(E) – Options for the Paving of Mirror Lake Drive

Mayor Costello stated if Mirror Lake Drive was to be paved, he would prefer the utilities be done at the same time.

Ms. Sloane reported the survey of the residents indicated they were not interested in proceeding with the special assessment.

Mayor Costello noted he had a problem approving paving without utilities since it would set a bad precedent. He asked how much more it would cost later when the residents would be ready for the utilities.

Ms. Sloane stated the additional cost would be for the road restoration. She noted typically water could be added without impacting the road but the sewer would go down the center of the road causing a financial impact.

Mayor Costello noted he would vote against the paving until the residents were ready for the utilities. He stated he would approve lengthening the time to pay the loan back in a special assessment district if that would help the residents.

Commissioner Boyle moved, seconded by Commissioner Partington, to approve Option #2 as recommended by staff.

Call Vote:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Selis	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	no

Mayor Costello called a short recess at 9:00 p.m. and reconvened the meeting at 9:08 p.m.

Item #11(F) –Extension of Runway 17-35

Commissioner Partington reported he had asked that this item be placed on the agenda for discussion because there had been a great deal of confusion as to what actually occurred at the January 4 City Commission meeting. He stated the practical effect of what was done was to approve the environmental assessment and the Finding of No Significant Impact (FONSI), but not to take any further action on the runway extension. Commissioner Partington requested the motion be amended to reflect that fact.

Mayor Costello explained Commissioner Partington was asking to reconsider the runway extension so he could make an amendment to clarify the motion.

Commissioner Partington reiterated he wished to clarify that no further action would be taken on the extension of Runway 17-35 until such time that the environmental assessment and FONSI were completed. He stated this was a six to nine month process with multiple public hearings where the public could be heard. Commissioner Partington noted at the completion of that process, the issue would be taken to the Aviation Advisory Board and then to the Commission for a determination as to whether the runway extension would proceed or not proceed.

Mayor Costello asked the City Attorney if Commissioner Partington could request this be placed on the next agenda or if it must have a second. He advised he would second the motion should Commissioner Partington make such a motion. Mayor Costello questioned what could occur, considering the next meeting would have a new Commissioner seated.

Mr. Hayes advised that this Commission approved a contract for an environmental assessment study, and that decision could not be revisited in that it involved a contract; however, the other matter related to policy, giving direction to staff to initiate certain activities such as submitting grant applications. He stated should the grants be awarded, a contract would be drawn up, and the Commission could vote the contract up or down. Mr. Hayes noted another policy directive

was making appropriate amendments to the budget as may be necessary, and the Commission would have further consideration of that during the budget process to be finalized in September; and other Commissions would have the same discretion in future years. He stated that, as a practical matter, nothing more than what was already done was actually needed because no final action had been taken other than approving the environmental assessment contract. Mr. Hayes reported that should the Commission decide to clear any confusion and place an emphasis on that, the Commission could bring back the policy directions given to staff and clarify that the Commission did not want staff to proceed any further until after the environmental assessment report was completed. He explained that when a new Commission member was seated, he may have his own perspective on policy, and he may bring up any number of issues.

Commissioner Partington concurred he wanted to clear up the confusion and place an exclamation on the point that until the public meetings were held and more information was gathered, the City would not take any further steps toward the runway extension. He noted this would basically slow the process down rather than speed it up.

Mayor Costello noted the new Commissioner would probably wish to express his opinion on this issue. He reported he would like to honor both the sitting Commissioner and the new Commissioner when he comes on the Commission. Mayor Costello stated if Commissioner Partington merely wanted a clarification and the Commission agreed, nothing more was needed; but if Commissioner Partington wanted to reconsider the issue, reconsideration could be done at the next meeting.

Commissioner Partington noted either method would be acceptable, but he would rather conclude the issue tonight.

Mayor Costello explained that someone on the prevailing side could ask an item be reconsidered, but Commissioner Partington was merely asking to clarify the motion.

Commissioner Selis stated his impression of the vote was that none of the steps toward the runway extension would take place unless the City received a Finding of No Significant Impact. He reported that he clarified at the January meeting that this was not a vote to extend the runway but was only approving a schedule. Commissioner Selis recalled the decision was that the City would not expend any money or resources on steps mentioned in the staff memo until after the FONSI was issued, if it was issued at all.

Mr. Lipps stated that in processing grants to the FAA, there was an incredibly long lead time, and to implement what the Commission was indicating tonight, he would recommend the request for funds for land acquisition scheduled for next year be delayed a year because the timing of submittal of certain documents would be required before the FONSI would be completed. He noted, however, a contract would not be presented to the Commission until after the FONSI could be completed.

Commissioner Selis asked what was involved in staff time and City expense in preparing the grant applications.

Mr. Lipps stated because this was a multi-step process, a significant amount of time would not be necessary for this phase. He reported a great deal of work would be required when and if the FAA would approve the request, but not in the early stages. Mr. Lipps pointed out that there was a finite amount of funds that Ormond Beach would be competing for against other applicants. He reiterated that he would have to submit the application prior to the FONSI, but would not obtain a reply until after the FONSI, in answer to Commissioner Selis' query.

Commissioner Selis stated that to the extent a great deal of time would not be involved to apply for the grants, the City would not be bound to any expenditures by simply applying for the funds; and by the extent that the FONSI would be decided before funds became available, he saw no reason why the City should not proceed on those particular items.

Commissioner Boyle stated he had always operated under the assumption that the FONSI would be obtained. He reported there was no ambiguity in what occurred at the January meeting, which was to approve a resolution to spend the money and apply for a grant to do the environmental assessment, which was irrevocable. Commissioner Boyle noted the Commission also reaffirmed a clear policy direction by a three-to-two vote to go forward with the runway extension, although the approval may have been conditional upon receiving the study. He pointed out that at any time someone on the prevailing side of the vote could move to reconsider and reverse that direction for a runway extension, or the new Commission member could initiate reconsideration on a vote of that policy direction. Commissioner Boyle noted he was curious about the timing of the clarification.

Mayor Costello stated the Commission should not apply for a grant that it was not certain it would want to accept, even if it would slow down the process. He noted he continued to believe that with the noise abatement work being done, the airport could become a good neighbor to the community. Mayor Costello reported he wanted to work with the community. He stated he believed the runway extension would be done in time, but it would be done “with the community” and not “to the community.”

Commissioner Kent concurred the clarification was definitely needed. He stated he spent four early evenings at the airport merely listening, and he recommended other Commission members do the same.

Commissioner Partington moved, seconded by Commissioner Kent, to not pursue the runway extension or apply for grants until such time that the results from the environmental assessment could be obtained, a FONSI could be obtained, and the Aviation Advisory Board would have the opportunity to review both.

Commissioner Boyle expressed concern regarding the insertion of the word “until.” He stated he opposed the runway extension in any form at any time; therefore, he would have to vote “no” on this motion.

Commissioner Selis stated there was no report with this item, and he believed the Thompson Rule would affect this motion. He stated the Commission may provide staff direction through a consensus, but a motion was not appropriate.

Commissioner Boyle concurred with Commissioner Selis.

Commissioner Partington stated he did not believe the Thompson Rule would apply in this situation because this was a continuation of a discussion and no money was being considered. He reported this was simply a clarification of a prior motion when all pertinent materials were provided.

Mayor Costello declared the Thompson Rule was not germane unless someone wanted to call the question of the Chair and have the City Attorney provide an opinion. He noted no funds were being expended, to which the Thompson Rule alluded.

Commissioner Boyle stated a four-fifths vote could waive the Thompson Rule. He reported there was a consensus on the Commission to direct staff without the need for a vote. Commissioner Boyle noted he was uncomfortable taking a vote on something without a staff report or any prior idea as to what the Commission would be asked to vote on until this discussion tonight. He stated the Thompson Rule would apply, and a four-fifths vote could overturn the Thompson Rule.

Mr. Hayes explained this was not a final non-binding policy directive. He noted it may help “sooth some wounds” to vote on the issue; but practically, it was not necessary to do so. Mr. Hayes stated if the Commission wished to invoke the Thompson Rule, the item could be scheduled for the next meeting.

Mayor Costello asked Mr. Hayes to explain the Thompson Rule.

Mr. Hayes read portions of the Thompson Rule as follows: “Whenever a matter is presented to the Commission under Audience Remarks, Discussion Items, or Reports Suggestions Requests portion of a City Commission meeting agenda without any factual documentation in support of the matter having been delivered to the members of the City Commission at least 72 hours prior to the meeting, the City Commission shall take no formal action thereon unless and until such supporting documentation is presented to and duly considered by the City Commission at a subsequent meeting. The foregoing notwithstanding if the matter presented is determined to be an emergency by a time deadline, then the City Commission may take formal action thereon, but only by an affirmative vote by four members of the Commission.” He noted the Thompson Rule had been interpreted a number of ways. Mr. Hayes stated when this was first adopted, it was literally applied; however, many items would come up where no documentation needed to be presented, and so previous Commissions relaxed the standards in that regard. He pointed out this body had the discretion to adopt whatever rules it wanted, and they could suspend the rules.

Mayor Costello asked if Mr. Hayes would rule that this would fall under the Thompson Rule or not.

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Commissioner Partington stated in that this was a continuation of a previous item on the agenda, materials were provided six and one-half weeks ago.

Commissioner Boyle pointed out that Commissioner Partington stated he was confused at what occurred at the January meeting, and he had no idea the Commission would be discussing the issue tonight; therefore, the Thompson Rule would apply.

Commissioner Partington stated no money was involved. He pointed out the “healing factor” the City Attorney alluded to was the important issue when a Commissioner attempted to work toward that healing which would benefit the entire community. Commissioner Partington noted it would be difficult for Commissioner Boyle to explain to his constituents why he would not let the vote proceed that would slow the runway extension down on an issue that he had opposed from the beginning.

Commissioner Boyle stated Commissioner Partington had just made a value judgment on what was good for this community, but the people make those judgments. He reported it had been stated no money was involved, but millions of dollars are involved.

Commissioner Partington pointed out the Commission would be voting not to spend that money.

Mr. Hayes stated that strictly applying the Thompson Rule, it would apply; however, it could be waived if the Commission chose to do so.

Mayor Costello asked if there was a motion to waive the Thompson Rule. He stated hearing no motion, the Thompson Rule would apply and the Commission would not be able to vote.

Mr. Hayes asked if this should be brought back on the next agenda for a formal vote.

Mayor Costello stated he would prefer a formal vote so the community would know the intent. He commended Commissioner Partington for bringing this item to the Commission tonight and noted that he also considered it to be a healing effort.

Mr. Hayes asked if providing the cover memo from December 30 would be sufficient.

Mayor Costello noted he did not need any further information.

Mr. Turner advised he would have the cover memo from December 30 and the minutes from the meeting as well.

Item #12 - Reports, Suggestions, Requests

Water Issues

Commissioner Kent stated he was pleased Mr. Joe Bourassa was here tonight and that they could arrange for a meeting because he had questions about some statements Mr. Bourassa made relative to the aquifer.

Recreation Facility Tour

Commissioner Kent thanked Mayor Costello for his e-mail relative to the recreation facility tour that he took, which was insightful. He noted he concurred with much of what was stated in the e-mail.

County Council Land Purchase

Commissioner Kent stated while he would have preferred the land be in Ormond Beach, he commended the County Council for purchasing land in Ormond-by-the-Sea for off-beach parking. He pointed out that the majority of the people who would use this parking lot would be Ormond Beach residents.

Coffee with Commissioner Kent

Commissioner Kent reported “Coffee with Commissioner Kent” was a great success with new people in attendance. He noted “Coffee with Commissioner Kent” would be held the first Monday of every month at 4 p.m. at 130 Magnolia Drive.

Commissioner Selis

Commissioner Kent noted he had a fond memory of Commissioner Selis coming up to him when he was running for Commissioner where he indicated that he thought one way, but after he heard Commissioner Kent speak, he had changed his mind. He stated while the Sunshine Law did not actually restrict Commissioners from meeting socially, there had been a hesitancy to do so because of the Sunshine Law, and he now looked forward to socializing with

Commissioner Selis. Commissioner Kent reported he appreciated Commissioner Selis' leadership.

City Manager Luncheon

Commissioner Partington noted he had his monthly lunch with the City Manager, and the topics of discussion were Central Park funding, firefighter pregnancy, and the strategy for their trip to Washington D.C.

Paintball Issues

Commissioner Partington reported on February 10 he met with the Brookwood Homeowners' Association relative to some unauthorized paintball issues. He thanked Chief Mathieson and Mr. Turner and their respective staffs for their assistance.

Missing Manhole Cover

Commissioner Partington stated a manhole cover was missing and within an hour of notification, staff handled the situation.

Winterfest Symphony Society

Commissioner Partington stated it was a pleasure to represent Ormond Beach last Friday at the Winterfest Symphony Society.

Noise at Coquina Point

Commissioner Partington stated that at the request of the Coquina Point residents, he walked their streets and listened to the noise problems they were experiencing. He noted staff was working on assessing the situation.

Ormond Beach Yacht Club

Commissioner Partington noted Mayor Costello received a letter from Secretary of State Glenda Hood advising him that the Ormond Beach Yacht Club was recommended by the Florida National Register Review Board to be placed on the National Register of Historic Places. He stated there was an opportunity for any person or organization to provide comments to the keeper of the National Register. Commissioner Partington asked if the Commission could direct staff to request letters of support from all applicable legislative sources. No objection to this request was noted.

Reflections Village Stormwater System

Commissioner Partington reported he had been in contact with the Reflections Village Homeowners' Association regarding their stormwater system. He stated staff would be receiving a report from the homeowners' association with six talking points, and he requested Mr. Turner respond to each of these items.

32174 Area Code Demographics

Commissioner Partington reported on February 10 he forwarded a memo to the Commission with statistical information regarding the 32174 area code and offered a copy for anyone interested.

Memory Tree Program

Commissioner Partington noted a constituent, Ms. Sue Drummond, recommended an automated system for ticketing those who run traffic lights; however, that was not allowed per Florida State statute. He reported Ms. Drummond also suggested a Memory Tree program that would promote cost benefits to the City regarding the planting of trees, beautification, fresh clean air, community involvement, and the honor and remembrance of others. Commissioner Partington stated he provided the Commission, staff, and the News-Journal reporter a complete packet on how Ms. Drummond established this program for the Winston-Salem Parks Department. He noted this program could be established at a low cost, and it would have many community benefits.

Commissioner Selis

Commissioner Partington noted he would miss Commissioner Selis. He stated Commissioner Selis was a tremendous public servant, and it had been a pleasure to serve with him and learn from him. Commissioner Partington reported Commissioner Selis had unparalleled intellect, particularly regarding the concepts of traffic issues.

Statistics

Commissioner Boyle stated that regarding the statistics quoted by Commissioner Partington, the average income of \$61,000 sounded excellent; however, one out of every four households in Ormond Beach had an income less than \$25,000.

Off-beach Parking

Commissioner Boyle stated he was not enthused by Volusia County's off-beach parking land purchase in Ormond-by-the-Sea because they paid \$3 million. He noted a few years ago the Royal Floridian property near the Granada approach was available for less than \$300,000. Commissioner Boyle pointed out that Ormond Beach was still the only coastal community in Volusia County that had not had a major construction project for an off-beach parking facility. He stated the pilings from the pier have still not been removed at the Ormond-by-the-Sea site, which would beg the question if the people parking in the new lot would be able to swim in that area.

Commissioner Selis

Commissioner Boyle thanked Commissioner Selis for acknowledging a respect that had always been mutual. He thanked Commissioner Selis' wife and family for the sacrifices they made. Commissioner Boyle stated he and Commissioner Selis agree 95% of the time, and when they did not agree, it was certainly entertaining. He noted if Commissioner Selis should become healthy again and wanted to run for the Zone 1 Commission seat, the debate would be healthy for the process, or he noted Commissioner Selis could give him his valued input as a constituent.

Archival E-mail Software

Mr. Turner reported that on the next agenda, staff would be bringing what may become an emergency item to the Commission because the City was having problems with the software that achieves the e-mails. He pointed out that the City was required by State law to maintain e-mail. Mr. Turner explained the current software was outdated and no longer supported by the vendor; therefore, there would be a need to either approve an upgrade of the software costing approximately \$20,000 or approve an emergency purchase for the same amount.

Commissioner Selis

Mr. Turner thanked Commissioner Selis for his years of service, sharing his family, and allowing him to learn more about Commissioner Selis' culture.

Mr. Ted MacLeod, Assistant City Manager, wished Commissioner Selis well and urged him to call any time.

Mr. Hayes echoed the comments made tonight, noting it had been a pleasure working with Commissioner Selis.

Commissioner Selis noted he was very touched by the sentiment expressed this evening.

Election Day

Mayor Costello noted next Tuesday was Election Day in Zone 3 and urged people to vote.

Mr. Avakian's Questions

Mayor Costello asked Mr. Avakian to contact him relative to the architect fee; and he asked him to send the two questions he spoke of so he could have them addressed.

County Council Land Purchase for Off-beach Parking

Mayor Costello stated he was excited about the County Council land purchase and noted he would use the parking lot.

Memory Tree

Mayor Costello encouraged staff to work on the Memory Tree suggestion. He noted he would personally purchase a tree when the program was established.

Recreation Facility Tour

Mayor Costello stated he would encourage the \$100 health and safety inspection and the establishment of a plan with answers relative to fencing issues, the sewage backup problems, and the mold issues at the Nova Recreation Center along with the associated costs as soon as possible. He urged staff to ask the Commission, even if money was not evidently available, for such important repairs and allow the Commission to approve or deny the request. Mayor Costello noted he would like the mold issue and the slippery floor issues addressed. He encouraged his fellow Commission members to take the recreation facilities tour.

Sheriff's Dispatch Facility Tour

Mayor Costello reported he also toured the Sheriff's dispatch facility and encouraged his fellow Commission members to take that tour as well. He noted the exact same software the City was using was being used by the Sheriff's office, and the consolidation would allow the officers to have laptops in their cars.

Replica Cars

Mayor Costello reported he was hoping to have the letter from Mr. Randy Crabtree, but it had not arrived as yet; however, he explained that Mr. Crabtree informed him the replica cars were not in as bad a condition as he originally thought, and he recommended placing the cars on the beach in the Birthplace of Speed Park. He stated Mr. Crabtree offered to inspect the cars annually and correct any problems at no charge to the City, painting them every three years. Mayor Costello urged the Commission to discuss this at a future Commission meeting.

Commissioner Selis

Mayor Costello stated he appreciated Commissioner Selis' passion even though there have been times he tried to bridle some of that passion. He noted he had tried to support each member of the Commission to provide their views. Mayor Costello reported no one could doubt that Commissioner Selis cared, and there was no better quality of a public official.

Item #13 – Close the Meeting

The meeting was adjourned at 9:59 p.m.

APPROVED: _____ March 1, 2005

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk

**ORMOND BEACH SPECIAL CITY COMMISSION MEETING
HELD AT CITY HALL COMMISSION CHAMBERS**

February 23, 2005 5:30 p.m.

Present were: Mayor Fred Costello, Commissioners Jeff Boyle, Troy Kent, and Bill Partington, City Manager Isaac Turner, Assistant City Manager Theodore MacLeod, Deputy City Attorney Sandy Upchurch, and City Clerk Veronica Patterson.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Resolution No. 2005-41 certifying the results of the Special Election held February 22, 2005.
- 3) Close the meeting.

Item #1 - Call to Order

Mayor Costello called the meeting to order at 5:30 p.m.

Item #2 – Declaring the Results of the Special Election

RESOLUTION NO. 2005-41
A RESOLUTION DECLARING THE RESULTS OF THE SPECIAL ELECTION CONDUCTED IN THE CITY OF ORMOND BEACH, FLORIDA, ON TUESDAY, FEBRUARY 22, 2005; AUTHORIZING THE ISSUANCE OF CERTIFICATES; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-41, as read by title only.

City Commission – February 15, 2005

Call Vote:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #3 – Close the Meeting

The meeting was adjourned at 5:33 p.m.

APPROVED: _____ March 1, 2005

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk