

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

April 19, 2005 7:00 p.m.

Present were: Mayor Fred Costello, Commissioners Jeff Boyle, Troy Kent, Ed Kelley, 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 April 5, 2005, meeting.
- 5) **PRESENTATION:** Police Department recognition of outstanding performance.
- 6) **AUDIENCE REMARKS:**
- 7) **INTERGOVERNMENTAL BOARD REPORTS:**
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Smart Growth Implementation Committee
 - D) Water Authority of Volusia
- 8) **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. 2005-81 authorizing the execution of an ECHO Grants-in-Aid Letter Contract between the City and the County of Volusia regarding improvements to Central Park. (\$205,000 in grant funding)

- B) Resolution No. 2005-82 authorizing and directing the submittal and execution of amendments to the Community Development Block Grant Subrecipient Agreements for Fiscal Years 2003-2004 and 2004-2005 between the City of Ormond Beach and the County of Volusia.
- C) Resolution No. 2005-83 approving the Community Development Block Grant Annual Plan for the 2005-2006 fiscal year and the Five-year Community Development Block Grant Program schedule for the 2005-2006 through 2009-2010 fiscal years (\$125,819/Yr.)
- D) Resolution No. 2005-84 accepting a bid from Professional Highway Maintenance, Inc., for installation of light poles and fixtures for the Granada Boulevard Streetscape project, under Bid No. 2005-17; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$130,950.60 – Washington Place, Palm Place, Willow Place, Selden Avenue and Tomoka Avenue)
- E) Resolution No. 2005-85 authorizing the execution of a Joint Participation Agreement with the Florida Department of Transportation regarding the Southeast Quad Development and Run Up Area project at the Ormond Beach Municipal Airport. (\$4,923 in FDOT funds; \$4,923 in City funds)
- F) Resolution No. 2005-86 accepting the proposal of Utility Service Co., Inc., regarding maintenance of ground storage water tanks; authorizing the execution of an agreement and payment therefor; rejecting all other proposals. (Not-to-exceed \$248,141 over a 5-year period)
- G) Resolution No. 2005-87 authorizing the execution of an Annexation Agreement between the City of Ormond Beach, Florida, and Love's Travel Stops & Country Stores, Inc., Having Fun, LLC, Having Fun II, LLC, J. Parham Rentals, LLC, Strasser Development Parcel C, LLC, and Strasser Development Parcel D, LLC. (Harley Davidson Dealership and Love's Travel Plaza)
- H) Request to authorize payment to the Florida East Coast Railway, L.L.C., for rehabilitation of the Lincoln Avenue Grade Crossing. (Estimated at \$55,744)

DISPOSITION: Approve as recommended in City Manager memorandum dated April 14, 2005.

- I) Review of FY 2004-05 budget status.

DISPOSITION: Approve as recommended in City Manager memorandum dated April 14, 2005.

- J) Submittal of an Edward Byrne Justice Assistance Grant for a fiber link between the City Hall and the Police Department. (\$18,000 in grant funds; \$0 local match)

DISPOSITION: Approve as recommended in City Manager memorandum dated April 14, 2005.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2005-88 approving and authorizing the removal of an historic tree on a City right-of-way located at 3 Arrowhead Drive.
- B) Ordinance No. 2005-04 approving the preliminary and final plat for "Tymber Creek Plaza," Planned Business Development; establishing conditions and expiration dates of approval. (Second Reading)
- C) Ordinance No. 2005-05 amending the annual budget for the 2004-2005 fiscal year relative to the General Fund; Downtown Redevelopment Trust Fund; Capital Improvements Fund; Tax Increment Financing Construction Fund; Local Roads Impact Fee Fund; Water and Wastewater Fund; Water and Wastewater Equipment Replacement Fund; Water and Wastewater Renewal and Replacement Fund; and Solid Waste Fund. (Second Reading)

10) **RESOLUTIONS:**

- A) Resolution No. 2005-89 accepting the bid of P&S Paving, Inc., regarding the provision of construction services on Division Avenue under Bid No. 2005-05; rejecting all other bids; authorizing the execution of a contract between the City and P&S Paving, Inc., and payment thereunder. (\$423,418.20)
- B) Resolution No. 2005-90 rejecting all proposals for construction manager services; authorizing the re-solicitation of additional proposals.
- C) Resolution No. 2005-91 accepting a proposal from Camp Dresser & McKee, Inc., to provide engineering services for the design of the Water Treatment Plant Expansion project; authorizing the execution of a work authorization thereto. (\$567,814)
- D) Resolution No. 2005-92 amending the dates and times for the holding of regular meetings of the City Commission of the City of Ormond Beach, Florida, for the months of June and July 2005.

11) **DISCUSSION ITEMS:**

- A) Cost allocation study - General Fund support for the Water / Wastewater Fund.
- B) Implementation of an employee incentive program.
- C) Overview of transportation improvements.
- D) Removal of John Anderson Drive from the Sidewalk Master Plan.
- E) Review agenda for a joint meeting with the Volusia County School Board.
- F) Osceola Elementary School racquetball courts.
- G) Acquisition of the triangle parcel north of the Airport Sports Complex for a championship sports field.
- H) Liability claim at 578 Riverside Drive.
- I) Letter of support for the location of the NASCAR Hall of Fame in Daytona Beach.

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

Reverend Charles Melvin, Ormond Beach Union Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the minutes of the April 5, 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.

Item #5(A) – Police Department Recognition of Outstanding Performance

Police Chief Larry Mathieson expressed pride in recognizing the accomplishments of a number of police officers. He introduced Division Chief Henry Osterkamp and Sergeant Kenny Hayes who assisted in presenting awards.

Division Chief Henry Osterkamp awarded Sergeant James Crimins and Corporal Brent Hodge the Chief's Commendation for their actions during an attempted suicide on May 8, 2004. He noted Sergeant Crimins and Corporal Hodge were credited in saving an armed man's life as well as preventing injury to the officers on scene because of the diligence, compassion, empathy, and professionalism they displayed.

Division Chief Osterkamp awarded Community Service Office Suzanne Holy the Chief's Commendation for assisting in the capture of a robbery suspect on December 28, 2004.

Division Chief Osterkamp awarded Sergeant James Crimins and Sergeant James Gogarty with the Department's Medal of Honor for disarming a suicidal subject who was armed with a shotgun on January 4, 2005. He reported Sergeant Crimins and Sergeant Gogarty's actions in the face of imminent threat to their personal safety prevented the loss of life and resulted in a successful resolution of the standoff.

Division Chief Osterkamp awarded Officer Michelle Gaden, Officer Matt Karparis, Officer Justin Mount, Mr. Jagade Iverson and Mr. Dale Cole the Chief's Commendation for their actions during a robbery of Coquina Bank on August 6, 2004. He reported the citations for Mr. Iverson and Mr. Cole honored them for their willingness to get involved by reporting a bank robbery in progress with a detailed description of the suspect that was critical to the successful apprehension of the suspect and recovery of \$86,000 in cash. Division Chief Osterkamp stated the citations for the officers honored them for responding to an armed robbery in progress where their exemplary service resulted in the successful apprehension of the suspect and the recovery of \$86,000 in cash.

Division Chief Osterkamp awarded Sergeant Tony Corn and Officer Justice Mount the Police Department's Medal of Honor and Sergeant James Gogarty and Corporal Brent Hodge the Chief's Commendation for their actions on April 18, 2004. He stated the Medal of Honor citation was presented for extraordinary gallantry displayed while disarming a suicidal man armed with a handgun, and their actions in the face of imminent threat to their personal safety, which prevented loss of life and resulted in a successful resolution of the standoff. Division Chief Osterkamp stated the Chief's Commendation citation was presented for their resourcefulness and effective communications skills while serving as hostage negotiators during an armed standoff that occurred on April 18, 2004.

Chief Mathieson thanked the Commission for this opportunity to share in these accomplishments.

Mr. Joseph Upton, Cypress Coquina Bank, presented Mr. Jagade Iverson and Mr. Dale Cole gift certificates for \$100 each at the Outback Restaurant for taking notice of what was occurring at the bank robbery and for their willingness to get involved. He commended the Police Department for their quick response. Mr. Upton requested permission to add a personal note in the Police Officer's files commending them for their actions.

Item #6 – Audience Remarks

Mayor Costello explained anyone wishing to speak to any issue not on the printed agenda or an item that was on the agenda as a discussion item would be recognized.

Commissioner Kelley stated the Commission previously made a decision that any item on the discussion portion of the printed agenda would not be heard until it was brought back to the Commission for consideration unless a vote would be taken by the Commission on that item.

Mayor Costello questioned if the Commission wanted the public to address discussion items during the audience remarks portion or when the issue would come back for a vote.

Commissioner Boyle stated that if there would be a subsequent public discussion, the public could speak at that time; however, if the Commission would drift toward making a policy, it would have to be opened up for public discussion.

Commissioner Kent concurred with Commissioner Boyle.

Mayor Costello rephrased his comment to state that if an item was on the agenda, the public would not be permitted to address the issue during audience remarks.

Speaking on Agenda Items

Ms. Laura Jones, 59 Amsden Road, reported that she attended the April 5 City Commission meeting and wanted to speak relative to a discussion item on the agenda. She pointed out that previously the public was told that no comments could be made during audience remarks if that item appeared on the agenda, and she believed she could speak on the item during the time the discussion items were being considered. Ms. Jones reported she was unaware that the Commission voted at a 5:30 meeting that the public could not address a discussion item. She noted this decision was not announced at beginning of the meeting. Ms. Jones stated she believed she had been denied her right to speak and asked when the residents would be permitted to address the issues that appear on the agenda.

Mayor Costello stated that anytime the Commission would vote on an item, people could speak on that item. He pointed out that the Commission was not permitted to communicate with one another anytime other than when they were gathered as a body in meetings; therefore, the Commission decided to reserve the discussion items portion for Commission discussion unless the goal was to make a decision on that item. Mayor Costello noted that should this occur, discussion would stop and resident comment would be heard.

Code Enforcement Issue

Mr. Roy Pearson, 75 Lincoln Avenue, asked that an e-mail he sent to the Commission referring to customer and communication antennas be corrected to reference the 2004 Land Development Code.

Mr. Pearson questioned the actual reason why canopy carports were not permitted in Ormond Beach. He noted the canopies at the ball fields were supposedly permitted because they were not within the residential area; however, the structure would have to comply with the Florida Building Code, and he was not aware of any provision that would exclude government property from this regulation in that these structures would be equally as vulnerable in a hurricane. Mr. Pearson reported he requested Ms. Joanne Naumann, Neighborhood Improvement Manager, come to his home to explain what type of structure would be acceptable, but she advised him she saw no purpose in the meeting and recommended he contact the Planning Department. He recommended the permitting of carports should be determined on a case-by-case basis following certain guidelines. Mr. Pearson pointed out that carports were temporary structures and could be removed quickly as opposed to a permanent structure. He reported if carports were not permitted for aesthetic reasons, pool enclosures were a greater eyesore and could be more dangerous in hurricanes than carports. Mr. Pearson noted many areas of the City were not included in the Neighborhood Improvement's wind shield inspection.

Mayor Costello asked Mr. Turner or a representative to meet with Mr. Pearson and provide the Commission a report. He stated that after receiving the report, should any Commission member wish to revisit this issue, they could bring it to the Commission.

Citizen Comments on Discussion Items

Ms. Nancy Edwards, 260 North Edwards, noted she wished to speak on a discussion item.

Mayor Costello advised she would not be permitted to speak on a discussion item. He reported Ms. Edwards would be permitted to speak to the Commission when the item came back to the Commission for a vote.

Commissioner Partington stated that his understanding of the Commission decision was that people could discuss any topic during audience remarks, even if it referred to a discussion item. He noted the public was not permitted to speak during the discussion item portion because that was the only time the Commission had the opportunity to discuss issues, but the audience remarks portion was open to discuss any issue.

Mayor Costello noted that at the meeting Commissioner Boyle, Commissioner Kent, and Commissioner Kelley indicated that if an item was on the agenda, it was not to be discussed during audience remarks.

Commissioner Boyle reported he would amend his previous indication and agree with Commissioner Partington. He concurred that Mayor Costello was correct in his assessment of the decision; however, he preferred the approach Commissioner Partington recommended.

Mayor Costello noted Commissioner Boyle was now changing his opinion and questioned where the remaining Commissioners stood on the issue.

Commissioner Partington stated the public should be able to make any comments during audience remarks, but no citizen comment would be allowed during discussion items unless the Commission was planning on taking a vote.

Commissioner Kelley noted he saw no value in the public speaking about discussion items since there would be plenty of time for public input at the proper time.

Mayor Costello recommended amending the policy to allow discussion on a trial basis of any issue during audience remarks other than items on the printed agenda excluding discussion items. He suggested reevaluating the policy at the next focus workshop. Mayor Costello offered Ms. Jones the opportunity to speak since the policy had been changed; however, Ms. Jones advised she had no desire to speak at this time.

Acquisition of the Triangular Parcel North of the Airport Sports Complex

Ms. Nancy Edwards, 260 North Halifax, Ormond Beach Soccer Club representative, reported the Ormond Beach Soccer Club fervently supported the acquisition of the proposed triangle property. She pointed out that over 500 Ormond Beach children participated in soccer throughout the year. Ms. Edwards reported each year the soccer club hosted a tournament over the Martin Luther King holiday where hundreds of people come to the facility to play. She stated last year the parking lots and fields were flooded, and parking was deficient. Ms. Edwards urged the Commission to purchase this property and build the new entrance to the sports facility if the funding was available. She stated the value of this property could be understood on many levels, and safety of the children was an important value to consider. Ms. Edwards reported this was the time to make good on the plans laid several years ago for a paved entrance, shaded pavilions for spectators, and additional restrooms.

Citizen Comment

Ms. Lucille Bornmann, 6 Windsor Drive, objected to the Commission shutting the people out of the ability to participate in their government by not allowing citizen comment on discussion items. She stated while the Commission did not vote at workshops, it was quite evident how they would vote on any issue being discussed. Ms. Bornmann noted the Attorney General's office advised the public should be afforded a meaningful opportunity to participate at each stage of the decision-making process, including workshops. She reported the purpose of a notice of a meeting subject to the Sunshine Law was to apprise members of the public of the opportunity to appear and present their views.

Mayor Costello noted the correction in the policy made tonight should cover Ms. Bornmann's concern on this issue.

Fences on Andalusia Avenue

Mr. Jerry Staton, 14 Charleston Square, thanked the City for paving Andalusia Avenue because it helped the businesses with parking, considering the loss of parking on US1. He reported the road was completed on January 28, and on January 31 his neighbor constructed a six-foot high stockade fence one and one-half feet from the side of the concrete curb, causing a visual hazard for motorist trying to pull out onto the street. Mr. Staton reported he met with Ms. Joanne Naumann, Neighborhood Improvement Manager, who sent a letter to the property owner regarding the fence, and the property owner's reply was that the fence was replaced after the prior fence was destroyed in the hurricane. He concurred the original fence was destroyed in the hurricane; however, at that time the road was a dirt road and was now a paved road where the speed of the vehicles increased greatly. Mr. Staton reported he discussed his concerns with various City staff to have the fence removed in that it was constructed on City right-of-way. He stating there were three fences in violation of City Codes on the 500 block of Andalusia Avenue. Mr. Staton requested assistance in having these fences removed.

Mayor Costello asked Mr. Turner and Mr. Hayes to do what was necessary to remove the fences. He noted in that the fence had been constructed in January and was on City right-of-way, he did not believe the City needed the homeowner's permission to remove the fence. He requested Mr. Hayes bring back information within 60-days relative to how the City could improve its code enforcement more quickly, particularly relative to safety issues.

Football Practice Fields

Mr. Rick Boehm, 5 Springwood Trail, Chairman of the Ormond Beach Youth Football and Cheerleading Association better known as Pop Warner, stated he represented 300 families. He noted that through an interlocal agreement, Pop Warner was permitted to practice and play at Ormond Beach Middle School. Mr. Boehm stated this private organization spent several hundred thousand dollars upgrading the fields to create the finest football practice and playing facility in the mid-Florida conference. He reported there was a plan in 2006 to gut Ormond

Beach Middle School and place portable classrooms on the football fields while they were rebuilding the administrative portion of the school. Mr. Boehm stated he later learned that Ormond Beach Middle School would be completely rebuilt on the football fields, and the classes would continue at their present location until the new school was built, which would destroy the football fields and take at least two years. He reported Pop Warner had never charged a child who could not afford to play, and while physicals were required to play, no child had to pay for their physical. Mr. Boehm noted Pop Warner also had an after school program because the organization was committed to have no child left behind. He reported all Pop Warner received from Ormond Beach was \$15,000 per year. He requested the City consider creating a home for Pop Warner. Mr. Boehm pointed out that the City owned five acres adjacent to the triangle, which would be addressed in a discussion item. He noted the City’s Master Plan designated that five acres for multipurpose fields, which could be Pop Warner’s home, and it would only be used by them in the fall. Mr. Boehm pointed out that obtaining an area for unstructured play had been discussed, and this would be the perfect place for this because he was not seeking developed fields. He stated as far back as 1998 this triangle was identified in the Recreation Master Plan, but it had not yet been acquired by the City.

Item #7(A) (B), and (C) – Metropolitan Planning Organization, Volusia Council of Governments, and Smart Growth Implementation Committee

Mayor Costello noted he reported on the Metropolitan Planning Organization (MPO), the Volusia Council of Governments (VCOG), and the Smart Growth Implementation Committee at the last meeting, and they have not met since that meeting.

Item #7(D) – Water Authority of Volusia

Commissioner Boyle stated the Water Authority of Volusia (WAV) would meet at 8:30 a.m. tomorrow and discuss the Master Facilities Plan and the election of new board officers. He noted he suspected discussion would be held on issues raised by the City of Daytona Beach as reported in the April 16 *Daytona Beach News-Journal*. Commissioner Boyle explained Daytona Beach City Manager James Chisholm would apparently ask the Daytona Beach City Commission to approve seeking changes in WAV, and if WAV would not agree to the changes within 30 days, he would recommend Daytona Beach to pursue “legal remedies.” He reported the demands were as follows: a new formula for the assessment of cities be used, voting power of member governments to be weighted by size, the interlocal agreement be amended only by a unanimous vote, and cities without water utilities would lose their membership. Commissioner Boyle stated until now 13 other member governments had approved the rules; therefore, unanimous or majority approval of the changes sought by Mr. Chisholm seemed to be highly unlikely at this point. He expressed concern as a WAV board member that WAV’s future was equally jeopardized by the demands of Daytona Beach or its threat to secede from WAV. Commissioner Boyle stated the function and purpose of the City Manager’s Advisory Committee was also now in serious question since Mr. Chisholm was making a number of policy demands. He noted he would report to this Commission on this critical WAV meeting and work with Mr. Turner to provide the report in the City Commission packet prior to the next meeting.

Commissioner Partington expressed his appreciation for Commissioner Boyle’s service on this board. He noted a great deal of deliberation went into setting up WAV, and he would object to any changes in the way WAV currently functions.

Commissioner Boyle pointed out that all four suggestions were discussed and rejected early in the process and development of WAV.

Item #8 - 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.

Commissioner Boyle requested Item Nos. 8(G) and 8(H) be pulled for discussion.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of the Consent Agenda, minus Item Nos. 8(G) and 8(H).

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

Item #8(G) – Annexation Agreement with Love’s Travel Stops & Country Stores, Inc.

RESOLUTION NO. 2005-87

A RESOLUTION AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT BETWEEN THE CITY OF ORMOND BEACH, FLORIDA, AND LOVE’S TRAVEL STOPS & COUNTRY STORES, INC., HAVING FUN, LLC, HAVING FUN II, LLC, J. PARHAM RENTALS, LLC, STRASSER DEVELOPMENT PARCEL C, LLC, AND STRASSER DEVELOPMENT PARCEL D, LLC; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2005-87, as read by title only.

Commissioner Boyle stated a constituent had a concern about this item. He explained this was an annexation agreement where the applicant, Harley Davidson Dealership and Love’s Travel Plaza, agreed that if the property would ever become contiguous they would come into Ormond Beach and the City would provide water and sewer service as part of that agreement. Commissioner Boyle pointed out that there was a water line on US1 that had been losing money for a number of years. He stated many citizens believe that in order to receive City water and sewer services there should be an annexation first or that the applicant completely develop under Ormond Beach standards. Commissioner Boyle explained that in this instance, the applicant fully met approximately 95% of Ormond Beach standards. He pointed out the sale of water and sewer service allowed the City some negotiations from its standards. Commissioner Boyle stated that while this may not be perfect, it came as close as possible to what the City was trying to accomplish.

Commissioner Partington reported he would vote for this for many of the same reasons mentioned by Commissioner Boyle, but he had grave concerns relative to the traffic situation. He questioned how this would fit in with the Ormond Crossings development. Commissioner Partington pointed out that Ormond Beach was working hard to complete the traffic study in order to have the interchange modification to resolve some of these traffic issues. He reported three-laning I-95 would not resolve all of the issues, and he encouraged the applicant to continue to work with the City to do everything possible to relieve the potential traffic congestion.

Mayor Costello reported the project was developed in the County and could have been developed without Ormond Beach water and sewer service. He explained Ormond Beach received some concessions because it would be providing the water and sewer and some day, when it becomes contiguous, it will be annexed into Ormond Beach.

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

Item #8(H) –Rehabilitation of the Lincoln Avenue Grade Crossing

Commissioner Boyle stated the Lincoln Avenue railroad crossing was last rehabbed in 1999. He asked for clarification that the City was required to pay all future maintenance. Commissioner Boyle stated the railroad would determine what maintenance would be necessary, they would hire contractor to do the work, and then send the bill to the City.

Ms. Judy Sloane, Public Works Director/City Engineer, stated this was the same procedure followed for all railroad crossings.

Commissioner Boyle asked how many railroad crossings were in Ormond Beach.

Ms. Sloane stated there were crossings at Hull Road, Wilmette Avenue, Nova Road, Lincoln Avenue, Division Avenue, and Hand Avenue, but Airport Road was in the County. She noted the City already rebuilt Division Avenue and Lincoln Avenue. Ms. Sloane stated Division Avenue was already budgeted this year because last years’ inspection indicated it would need to be rebuilt. She reported Hand Avenue was rebuilt last year, but Lincoln Avenue was not expected. Ms. Sloane noted the recent inspection indicated Lincoln Avenue had to be rebuilt immediately, and work was planned to begin on May 2 or May 3.

Commissioner Boyle questioned if six years was normal.

Ms. Sloane noted six years appeared to be normal from past history. She reported the rails were the main cost source, and FEC contractors must be used in their right-of-way.

Commissioner Boyle stated the Commission was probably anticipating another \$75,000 per year for railroad crossings.

Ms. Sloane noted the FEC would not announce their results until June 1, 2005; therefore, she planned to add another \$50,000 to \$60,000 for an unidentified railroad crossing in the Capital Improvements Project budget to be prepared for the additional cost, and she would propose the same be done on an annual basis.

Commissioner Boyle moved, seconded by Commissioner Kelley, for approval as recommended in the City Manager memorandum dated April 14, 2005.

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

Item #9(A) – Removal of Historic Tree at 3 Arrowhead Drive

RESOLUTION NO. 2005-88
 A RESOLUTION APPROVING AND AUTHORIZING THE
 REMOVAL OF AN HISTORIC TREE ON A CITY RIGHT-OF-WAY
 LOCATED AT 3 ARROWHEAD DRIVE; AND SETTING FORTH
 AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-88, as read by title only.

Commissioner Partington stated the tree appeared to be incredibly healthy except for the large cavity in the tree, which gave clear indication that the tree would eventually fail. He noted in that the tree had been identified in the public record that it could not be saved, due to liability issues, the tree must come down.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #9(A).

Item #9(B) – “TyMBER Creek Plaza” Planned Business Development

ORDINANCE NO. 2005-04
 AN ORDINANCE APPROVING THE PRELIMINARY AND FINAL
 PLAT FOR “TYMBER CREEK PLAZA,” PLANNED BUSINESS
 DEVELOPMENT; ESTABLISHING CONDITIONS AND
 EXPIRATION DATES OF APPROVAL; REPEALING ALL
 INCONSISTENT ORDINANCES OR PARTS THEREOF; AND
 SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-04, on second reading, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #9(B).

Item #9(C) – Amending the Annual Budget

ORDINANCE NO. 2005-05

AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR THE 2004-2005 FISCAL YEAR RELATIVE TO THE GENERAL FUND; DOWNTOWN REDEVELOPMENT TRUST FUND; CAPITAL IMPROVEMENTS FUND; TAX INCREMENT FINANCING CONSTRUCTION FUND; LOCAL ROADS IMPACT FEE FUND; WATER AND WASTEWATER FUND; WATER AND WASTEWATER EQUIPMENT REPLACEMENT FUND; WATER AND WASTEWATER RENEWAL AND REPLACEMENT FUND; SOLID WASTE FUND; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-05, on second reading, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #9(C).

Item #10(A) – Construction Services on Division Avenue

RESOLUTION NO. 2005-89

A RESOLUTION ACCEPTING THE BID OF P&S PAVING, INC., REGARDING THE PROVISION OF CONSTRUCTION SERVICES ON DIVISION AVENUE UNDER BID NO. 2005-05; REJECTING ALL OTHER BIDS; AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND P&S PAVING, INC., AND PAYMENT THEREUNDER; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-89, as read by title only.

Commissioner Kelley asked what advantages the City would obtain from this paving project.

Ms. Sloane replied this was a continuation of the City's Collector Road Upgrade. She noted the road was currently a substandard two-lane road, which was slightly offset with no curb and gutter and in poor condition because of the delay due to the Nova Road work. Ms. Sloane stated this was actually improving the entire Division Avenue corridor so it would function as a collector road, which was what it was designated to be.

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

Item #10(B) – Construction Manager Services

RESOLUTION NO. 2005-90

A RESOLUTION REJECTING ALL PROPOSALS FOR CONSTRUCTION MANAGER SERVICES; AUTHORIZING THE RE-SOLICITATION OF ADDITIONAL PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-90, as read by title only.

Mayor Costello stated the City had a similar problem previously where vendors did not receive the notice. He urged the City do more to encourage contractors to bid.

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

Item #10(C) – Design of the Water Treatment Plant Expansion

RESOLUTION NO. 2005-91

A RESOLUTION ACCEPTING A PROPOSAL FROM CAMP DRESSER & MCKEE, INC., TO PROVIDE ENGINEERING SERVICES FOR THE DESIGN OF THE WATER TREATMENT PLANT EXPANSION PROJECT; AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kent, to approve Resolution No. 2005-90, as read by title only.

Ms. Sloane stated the City did a Water Systems Facilities Plan in 1994 and a Water System Evaluation in 1997 which dictated the type of process the City would use for the expansion of the water plant, and the basis for this was the requirement in the City's Consumptive Use Permit (CUP) that the City use the lowest quality water before the highest quality water could be used. She reported the City programmed, spent, or budgeted between \$1 million and \$2 million to improve the Division Avenue Wellfield. Ms. Sloane noted the membrane process was decided to be the best choice considering the requirements imposed on the City. She noted using this process, the City could blend the water and have the best quality product. Ms. Sloane pointed out this process had been used for a number of years, and the cost had decreased making the price comparable to the lime softening process. She explained the City originally budgeted for a one mgd expansion; however, the new regulations from the Florida Administrative Code required that when an entity could determine they would exceed the maximum day demand within the next five years by using 75% of the capacity, the entity must be underway with a planned expansion. Ms. Sloane noted this regulation dictated the City's decision to build a two mgd plant. She explained that last year the City was approached by WAV requesting the City make the plant capable of expanding to four mgd in the future, and the City Commission committed the funds for the redesign and permitting for approximately \$20,000 for the consultant to change what was already committed and another \$600,000 to \$800,000 additional cost for the water plant to be expanded to four mgd. Ms. Sloane stated the WAV intervention cost the City approximately six months delay. She reported the City received a letter from the Health Department on February 15, 2005, stating general permits may be granted for the construction of water main extensions provided that the water system had the capacity necessary to meet the design water demands of all customers and was in compliance with the previous rule. She noted the letter went on to state that unless the City of Ormond Beach or professional engineering consultant could clearly demonstrate that the maximum day demand of the water system did not exceed 75% of the rated treatment capacity, the Health Department may have to implement a moratorium on the acceptance of future general permits. Ms. Sloane stated the permitting and approval of new water main extensions may still be granted by the use of a specific permit application which could include special provisions stating that the new water main extensions would not be cleared for active use until such time that the demand versus capacity deficiency could be satisfactorily resolved. She reported staff met with the regulatory agency and presented the current schedule. Ms. Sloane explained the City could not risk having inadequate water for its customers, and regulatory requirements would have to be met. She recommended the City proceed with this design for the four mgd with two mgd being built with an addition two mgd capability for the future.

Mr. Joe Bourassa, 801 Lewis Drive, Daytona Beach, provided graphs indicating that from 1996 to 2000 there was no average day water usage increase in Ormond Beach, which made him question the necessity to double the capacity. He showed a second graph depicting Ormond Beach per capita, which had decreased due to conservation efforts as the population had increased. Mr. Bourassa pointed out a plant capacity was based upon average daily demand, but all plants could exceed their average daily on a short-term basis. He stated there were various ways of meeting the maximum daily demand, such as through the WAV interconnect program which should be installed within the next year eliminating the need for this extension. Mr. Bourassa reported Ormond Beach could purchase water from Daytona Beach for the few days each year it was needed. He stated Daytona Beach had a 24 mgd plant running at 13 mgd and could easily pump water to Ormond Beach at a minimal cost. Mr. Bourassa pointed out that another method could be to add a tank for more capacity to carry the City through the

maximum demand days. He noted either suggested method would be much less expensive than expanding the water plant.

Mr. Gregory Avakian, 161 Heritage Circle, questioned how much more room Ormond Beach had for growth.

Mr. Clay Ervin, Planning Director, reported that water demands are based on population, and in 2025 the population was projected to be at 60,000, and the current population was approximately 39,000.

Commissioner Boyle stated that when all the areas that could legally be developed were fully developed, the population would reach 100,000 to 120,000.

Mr. Ervin concurred that when all of the vacant lands were developed and the Ormond Beach service areas in the County were included, the population would be 120,000.

Mayor Costello expressed concern because he understood WAV was working on interconnects so the City could start providing water at average daily uses instead of peak daily uses, but he was not aware that the Health Department had sent the aforementioned letter. He noted staff explained that one issue driving this was that since Ormond Beach was over 75% of the capacity in the peak daily use and WAV did not yet have the interconnects, that the City needed to meet that peak demand. Mayor Costello reported Ormond Beach was well along the way to plan, fund, design, and build this plant, and it did not need help from another entity. He stated Ormond Beach had stepped up committing the extra funding to try and help WAV be successful if they needed to use lower quality water. Mayor Costello voiced his objection that he did not want St. Johns River Water Management District to permit anyone else using cheap western water while Ormond Beach was forced to use expensive eastern water. He challenged WAV to work on the interconnects so other municipalities would not have to build to that peak capacity, and they could build to the average daily use instead. Mayor Costello noted he did not believe Ormond Beach had a choice but to approve this resolution considering the Health Department letter; however, he was hoping that by the time this was designed in six months that WAV would obtain agreements with other communities where they could meet the City's peak daily demand and the Health Department would accept that alternative, allowing the City to delay construction for a time.

Commissioner Kelley stated no one had ever exceeded or reached the usage the models St. Johns River Water Management District ran since 1990. He reported he fought this before, and he knew that the City could not win. Commissioner Kelley noted objection that Ormond Beach was being forced to blend the water and use the poor quality water when it had water, and he also objected to spending \$7.5 million or more likely \$8 million to build and supply an extra two to four million gallon tank when it was extremely doubtful it would be needed. He stated if the City could not supply the water, this would be a good way to control growth. Commissioner Kelley concurred that people were more conserving of the water than they used to be, cutting the consumption.

Ms. Sloane explained that the Health Department administered all of the permitting for the Department of Environmental Protection (DEP) for the City. She pointed out that the City exceeded capacity, not strictly on special events, but through droughts and other times. Ms. Sloane noted the City could not afford to run out of water on any day. She reported the peak reached this year was at eight mgd, which was far beyond the 75%.

Commissioner Boyle noted this was an age-old debate. He stated what this was measured on was peak draw-downs, droughts, and contamination of aquifer sources, specifically by salt-water intrusion. Commissioner Boyle reported that by virtue of excessive drawdown of Daytona Beach's wellfields, St. Johns River Water Management District denied their CUP application, and they were still dumping 15 million gallons each day into the Halifax River. He pointed out Daytona Beach had not paid their WAV assessment or their interconnect fees. Commissioner Boyle reported the water supply was much more fragile than some believed, and the contamination factor must be considered; therefore, the City should err on the side of caution and think 20 years ahead, making commitments to the City's water resources now.

Commissioner Kent advised he had Mr. Joe Bourassa make a presentation at his home at a "Coffee with Commissioner Kent" meeting. He asked Ms. Sloane to define her statement that the City was over the 75% "quite often."

Ms. Sloane stated the City had been exceeding the six mgd since 1989. She noted generally the peak problem time period was in May or June before the summer rains although she could

not tell the Commission exactly how many days per year this occurred. Ms. Sloane noted the City had been planning this process since 2002.

Commissioner Kent questioned if the charts Mr. Bourassa presented were accurate.

Ms. Sloane stated the charts included incomplete data for 2004. She noted every year the City increased its usage. Ms. Sloane pointed out that Mr. Bourassa was presenting average annual data. She concurred that Ormond Beach had done good a job in lowering per capita demand, but the City continued to add population, and additional water was used each year.

Commissioner Kent noted he shared Commissioner Kelley's concern about the sheer volume of dollars at stake. He requested Dr. Mowry to expand on the interconnect situation, discuss the feasibility of purchasing water from Daytona Beach when needed, and if Daytona Beach was able to produce 24 mgd while they were only using 13 mgd.

Ms. Sloane stated the Environmental Protection Agency (EPA), the ultimate regulatory agency, defined capacity in three categories: technical, managerial, and financial. She stated the technical capacity was the treatment storage and distribution structure such as the source of water. Ms. Sloane reported managerial capacity was the ability of a water system to conduct its affairs such that the system achieves and maintains compliance with requirements. She stated that managerial capacity could be assessed by evaluating such issues as staffing in relationship with customers and other outside entities. Ms. Sloane reported financial capacity was the ability of a water system to acquire and manage sufficient financial resources to enable the system to achieve and maintain compliance with requirements. She stated it was staff's opinion that the interconnects would not alleviate the City from the requirement of meeting capacity; therefore, interconnects would not be the ultimate solution. Ms. Sloane reported the City was still in negotiations over 3,000 acres with Daytona Beach; and if the City could not prove it had adequate capacity, it may not be able to claim the area as Ormond Beach service area.

Commissioner Kent noted he found it baffling that neighboring cities were trying to work together to solve problems and one City had an extra 11 mgd, but that capacity could not be used for other cities. He stated the Commission must consider the enormity of the cost of the expansion.

Ms. Sloane stated another issue that must be considered was that construction costs were not decreasing.

Commissioner Partington asked at what percentage over technical capacity could the water plant go and for how long.

Mr. Tim Sheahan, Utilities Manager, stated the plant was rated at eight mgd. He explained that the plant was not designed to be high rated without bypassing units, and the City did not have that capability or was it permitted to do so. Mr. Sheahan stated the maximum use on a one-day use was at 7.88 or 7.9. Regarding the issue of water storage, Mr. Sheahan noted the City currently had adequate storage, but more water was going out than the City was able to produce. He noted the City had approximately 4.7 million gallons of storage.

Mr. Turner stated the storage issue was completely separate in that part of the storage was firefighting capacity and part was pressurizing the system. He asked if Mr. Sheahan had any idea how many days the City peaked in May and June above 75%.

Mr. Sheahan reported several days in each month the City exceeded 75%.

Mr. Turner stated many issues were involved such as the ability to have drinking water and the ability to maintain the integrity of the system relative to firefighting ability. He reported Ormond Beach worked with and supported WAV and would continue to do so. Mr. Turner stated that while Daytona Beach may have a 25 mgd capacity, their CUP was not near that amount. He reported that if Daytona Beach did have that capacity, there would be no need for Ormond Beach to be discussing an expansion. Mr. Turner pointed out that it would take seven to nine months to complete this design. He urged the Commission to not consider a moratorium or further conflict with Daytona Beach, but proceed with this item tonight, and should another method of resolving the issue be discovered in the next seven to nine months, the Commission could consider that method at that time.

Dr. Bruce Mowry, Executive Director WAV and Ormond Beach resident, expressed his appreciation for Ormond Beach's support of WAV. He reported he publicly supported this project in the past and continued to support the project in that the treating of brackish groundwater was in the future of Volusia County. Dr. Mowry noted it had been discussed that

this would be a WAV project as opposed to an Ormond Beach project. He pointed out that WAV invested \$10,000 into hiring a consultant to look at the facility. Dr. Mowry noted the method on which Ormond Beach staff was presenting to deliver the project was not a method by which he was particularly fond because he was aware of a number of shortcomings. He noted the consultant investigated alternatives such as the interconnect capacity. Dr. Mowry stated the concept of whether this plant needed to be built immediately or delayed was considered since WAV was a new organization. He pointed out that WAV did not have a track record or project delivery experience. Dr. Mowry reported the membrane technology was the right technology, and he recommended replacing the City's lime softening plant with a membrane plant in the future.

Dr. Mowry stated that when Ormond Beach went to the WAV board, they indicated that Ormond Beach would go ahead with or without WAV's assistance, and this gave WAV an opportunity to delay a commitment. He noted he had identified the board as "the next year board" because this was how the board was perceived in that the board postponed all of its actions for "next year." Dr. Mowry stated Ormond Beach could exercise an option as a WAV member to obtain water since the organization guaranteed water would be provided. He concurred an interconnect alone would not meet Ormond Beach needs. Mr. Mowry reported Daytona Beach had infrastructure capacity of 24 mgd on production on the ground in treatment and delivery, but they do not have permitting capacity. He stated Daytona Beach had only 16.16 mgd capacity, and they were using less than 13 mgd. Dr. Mowry pointed out all of these figures were on an annual average basis.

Dr. Mowry reported that for an interconnect to work, not only were pipes necessary, an assured contractor agreement would also be necessary. He stated any municipality with extra capacity may provide the water, and Daytona Beach may not be the source of that water. Dr. Mowry reported he had not taken any action to negotiate terms with WAV members to make this water available. He stated it would have been preferable to have the WAV meeting and the Daytona Beach meeting prior to this meeting so he may have more confidence that WAV would be a strong organization that could deliver by next year. Dr. Mowry noted another reason no action was taken was that until the Master Facilities Plan would be completed in February 2006, and WAV did not have a good road map of what needed to be done to satisfy all the demands.

Dr. Mowry pointed out Chelsea Place on Granada Boulevard was asking for 100,000 gpd from the Florida aquifer. He noted Holly Hill had a permit application in for a CUP to pump groundwater and treat it through conventional technology at a lower cost. Dr. Mowry stated one reason WAV was created was to discuss alternative water supplies, of which brackish water was, and this project fell right into the mission of WAV. He noted WAV could not oppose Ormond Beach constructing the two mgd plant due to the interlocal agreement. Dr. Mowry reported that should the plant be build in conjunction with WAV, the water would cost the consumers more.

Mr. Turner stated Chelsea Place was actually in the County not Ormond Beach, although Ormond Beach has an annexation agreement with Chelsea Place. He stated WAV had some development that needed to occur. Mr. Turner reported Ormond Beach had tried to work with WAV and with Dr. Mowry. He stated it was not a fault in the strategy when Ormond Beach indicated they would do the expansion because the City should not turn the future of the utility system to an organization that had not demonstrated an ability to provide the critically needed issues of a community.

Mr. Randy Brewer, 524 Arroyo Parkway, reported he was honored to serve on the Water Policy Review Committee. He noted a vote was taken to the electorate as to whether to go forward and create this entity, and in Ormond Beach the vote demographic was 71%. Mr. Brewer stated that, as a member of the Water Policy Review Committee, he spent a year listening to these issues, and some issues that were a certainty were that the water shortage occurred 10 years ago; the committee got bogged down in the political arguments; and the Commission unanimously approved the creation of WAV. He reported it was known that Ormond Beach would be worse off short term but better off long term. Mr. Brewer stated the Commission had made commitments. He pointed out that if the City could not protect its service area, it may have to give the service area up. Mr. Brewer explained the Health Department was not the issue; the Water Management District was the issue, and it was clearly laid out what must be done. He reiterated the City was already committed, and it had opportunities it had not yet explored.

Commissioner Kelley stated he served on the Volusian Water Alliance, predecessor to WAV, where they discussed interconnects, and the greatest problem was that people would have to give up the ability to produce and sell water, which would be a moneymaker. He noted, however, that it needed to occur for the good of all of the people. He pointed out it took money

and years to apply for a CUP. Commissioner Kelley noted a great deal could be accomplished working with WAV, but every city would need to agree. He stated Ormond Beach did not have a water shortage.

Mayor Costello explained the Commission was only voting on the engineering design phase, and during that six to nine months, if WAV could bring something that could benefit the City, it could be considered.

Commissioner Partington reported that while he appreciated Mr. Bourassa’s input, he was satisfied with staff’s explanation. He noted he would be willing to try to save money in many areas, but not with a basic necessity such as water. Commissioner Partington reported it was the Commission’s responsibility to protect this resource, and there was no cheaper time to do this than right now.

Commissioner Kent asked how important it was to approve this resolution tonight rather than at the next meeting.

Ms. Sloane stated she would have preferred this had been approved six months ago and construction was imminent. She advised she was very uncomfortable with the current situation.

Commissioner Boyle stated as a WAV member, he represented the water consumers of Volusia County. He explained Ormond Beach had and would continue to wait for WAV, since it made a commitment, and he was ready to move forward.

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

Mayor Costello urged Dr. Mowry to take a message to the WAV board that Ormond Beach could and would proceed alone, but would welcome WAV to do what was best for all of Volusia County, which was to come up with a mechanism by which no one must design to peak capacity but design to average use as well as use the interconnects. He urged WAV to work for equity amongst all rate payers.

Mayor Costello called for a short break at 9:16 p.m. and reconvened the meeting at 9:21 p.m.

Item #10(D) – Amending the Dates and Times for Meetings of the City Commission

RESOLUTION NO. 2005-91
 A RESOLUTION AMENDING THE DATES AND TIMES FOR THE
 HOLDING OF REGULAR MEETINGS OF THE CITY
 COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA,
 FOR THE MONTHS OF JUNE AND JULY 2005; PROVIDING
 FOR EXCEPTIONS THERETO; AND SETTING FORTH AN
 EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-90, as read by title only.

Commissioner Boyle objected to this resolution on three levels. He stated the first objection was that the proposed scheduled would mean that subsequent to the regularly scheduled May 17 meeting, the next three meetings would occur at the following intervals: no meeting for four weeks, two meetings at two-week intervals, and only one week between the proposed July 12 meeting and the regularly scheduled July 19 meeting. Commissioner Boyle submitted that this would actually provide less flexibility, not more. He reported that for staff, applicants, boards, and the public, a one-week interval was not adequate. Commissioner Boyle noted he had no objection to the two meetings in the middle, but he did object to the four week interval in the beginning and a one-week interval at the end. He pointed out that over a two month period, applicants who go through the City’s boards would face a minimum one-week delay in approval and noted the adage that “time was money.”

Commissioner Boyle reported his second objection was that the calendar in the Community Update that was distributed to 22,000 people each month indicated that the City Commission meetings would be held on the first and third Tuesdays of each month at 7 p.m. He stated moving these meetings would create confusion for the public.

Commissioner Boyle repeated what he stated at the last meeting, which was that these were public meetings to serve the public, not for the Commission's courtesy or the Commission's convenience. He apologized for misstating that the Charter dictated the meetings had to be on the first and third Tuesday of each month; but the Charter did require a quorum, and only three Commission members were required for a quorum. Commissioner Boyle noted meetings had occurred successfully with only three members in the past. He reported he had still not heard the rationale as to why this was being done; it was the worst thing the Commission could do; and it sent a bad message to the public.

Commissioner Kent agreed that these were the public's meetings. At the last meeting Commissioner Kent stated he had said he was frustrated at himself for not suggesting such a great plan because he did not want to have to miss a meeting, and should the schedule not be changed he would have to miss a meeting and would not have the opportunity to represent his constituents at that meeting. He noted he struggled with the possibility of needing to miss a meeting and commended Commissioner Kelley for his leadership on this issue. Commissioner Kent reported while he would prefer to make the changes, because he made a public statement that this decision would affect him, he would not be comfortable voting approval of this resolution.

Commissioner Partington stated the people who care about City government and were involved know when meetings occur. He indicated he believed Commissioner Boyle had blown this out of proportion when it was not such a big issue. Commissioner Partington stated as a courtesy to Commissioner Kent and Commissioner Kelley he would vote for this resolution.

Commissioner Boyle reported he did not believe this was as small an issue as Commissioner Partington was making it. He noted he had never seen anything in this government function so badly as two public meetings one week apart. Commissioner Boyle reported this was very discourteous to staff, the boards, and the applicants. Commissioner Boyle stated he did not believe the Commission had to be courteous to one another, and that the first obligation was to the people. He reiterated that this would send a very bad message to the community and to the Commission.

Commissioner Kent noted he disagreed with Commissioner Boyle's statement that the Commission did not need to be courteous to each other. He stated a large part of this Commission's problem was that some of the Commission members were not courteous to the other Commission members. Commissioner Kent recommended that the same courtesousness afforded the constituents by Commissioners be afforded to those on the Commission.

Mayor Costello reported he would vote for this resolution. He stated that he would be affected by this and did not want this to be strictly for him, but he also wanted to be present so he could represent the City. Mayor Costello noted that some on the Commission have commitments where the dates could not be changed to suit the Commission schedule.

Commissioner Kent noted he would do what was right.

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

Item #11(A) – General Fund Support for the Water/Wastewater Fund

Commissioner Boyle reported he found it amazing that the calculation of the indirect cost exactly equaled the amount of money the City was appropriating from one fund to another.

Mayor Costello reported staff had direction to proceed with the indirect cost.

Item #11(B) – Implementation of an Employee Incentive Program

Mayor Costello stated the Employee Incentive Program was a wonderful recommendation.

Commissioner Partington stated he recommended this program and was pleased with the draft.

Commissioner Kelley noted the City previously had a similar program, and it worked well in the past and could be very effective again. He stated the program could build loyalty and appreciation to those with cost-saving ideas.

Mayor Costello provided Mr. Turner direction to proceed.

Item #11(C) – Overview of Transportation Improvements

Mr. Clay Ervin, Planning Director, stated an item that was inadvertently omitted from the City Manager report and would be incorporated in the recommendation to MPO and Volusia County was for the proposed collector distributor system which was needed for the Ormond Crossings project.

Mayor Costello encouraged the Commission to examine Item No. 8 regarding SR40 from I-95 to US1. He stated the Commission was on record supporting this roadway going to six lanes, although very few people in the community would like this to occur. Mayor Costello noted the report indicated that 60% of the traffic was external, and this would allow more residential to the west because the City would be increasing the capacity of SR40 from I-95 to US1. He reported he was strongly in favor of keeping SR40 four lanes and keeping Ormond Beach's gateway. Mayor Costello stated that if anyone on the Commission would agree with that assumption, he urged them to inform staff.

Commissioner Kelley expressed a desire to discuss this issue because making SR40 would still bottleneck the traffic at I-95.

Mr. Ervin concurred that there would be constraints whenever a six-lane road diminishes to a four-lane road. He pointed out that the model showed the road would be able to provide for accessibility between Williamson Boulevard, Clyde Morris Boulevard, and Nova Road so those needing north/south arterial as an alternative to I-95 would be able to arrive quicker.

Commissioner Kelley reported this would only bring more cars to bottleneck more quickly.

Mr. Ervin explained this would be a matter of dissipating the cars throughout, and the models were showing that as the road would expand, it would increase the capacity and the amount of trips on the road.

Commissioner Kelley stated that with 50% more cars from Williamson Boulevard to I-95 heading west at 5 p.m. the traffic would back up even more.

Mr. Ervin stated models were provided to give a projection, but it was up to the Commission to place a policy constraint on a roadway if they so desired. He reported the model indicated that when the change would be made, it would increase the capacity and make the road more attractive.

Mayor Costello requested this be placed on a future agenda for discussion.

Mr. Ervin clarified that any final recommendations the Commission wanted staff to follow should be provided fairly quickly because staff would be submitting this to the MPO and would prefer it be submitted by the May 23 deadline.

Mayor Costello asked this factor be taken into consideration when scheduling this item.

Commissioner Boyle stated he had a problem with Item Nos. 10 and 11. He reported that relative to Item No. 11, he had a small problem with a four-lane Wilmette Avenue between two two-lane roads, which would be Wilmette Avenue east of US1 and The Trails entrance, which would never be four lanes. Commissioner Boyle recommended the bridge between Nova Road and A1A also be discussed at a later date.

Mayor Costello reported the Granada Bridge fails even with this new bridge, and it would be worse without a new bridge.

Commissioner Boyle reported even with a new bridge, he would continue to use the Granada Bridge as would all of those living south of him. He noted the cost and disruption would be enormous, and taking a few cars off the Granada Boulevard would not be sufficient rationale to support the bridge.

Commissioner Partington concurred with Commissioner Boyle.

Commissioner Kelley requested this be pulled off for discussion.

Mayor Costello requested Item Nos. 8 and 10 be pulled.

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Mr. Ervin asked if Item No. 11 was to be pulled.

Commissioner Boyle reported he did not understand the need for this item.

Commissioner Kelley noted should Commissioner Boyle sit at a traffic light on this road he could then understand the situation better.

Commissioner Boyle withdrew his objection to Item No. 11.

Item #11(D) – Removal of John Anderson Drive from the Sidewalk Master Plan

Commissioner Boyle noted the problems associated with sidewalks that had to be retrofitted into the existing roadway such as with Northbrook, Ann Rustin, Ocean Terrace, and Amsden Road. He encouraged the Commission to drive down John Anderson Drive and consider the trees that would have to be removed and the location of the fire hydrants. Commissioner Boyle pointed out the citizens to the north did not want the sidewalk. He reported this was an expense that could be deferred to another area where the residents wanted a sidewalk.

Commissioner Kelley noted agreement with Commissioner Boyle and stated this was too small a street for a sidewalk.

Mayor Costello recommended sending letters to those on John Anderson Drive indicating when it would be discussed whether or not to construct the sidewalk.

Ms. Sloane reported the plan was to do this design in two phases with one phase being the survey and the layout to improve the road, do the drainage, and underground the utilities. She requested the Commission allow staff to put out Request for Proposals (RFP) for the first phase study so staff could have something to show the alignment at the public meetings, which would be the second phase. Ms. Sloane noted there was no significant increase in the cost for the engineering design to indicate where the sidewalk would be located in the study.

Mayor Costello noted the consensus was to go ahead with Ms. Sloane's plan. He pointed out that item number two in the Recreation Master Plan was for paved bike trails and sidewalks.

Item #11(E) – Agenda for a Joint Meeting with the Volusia County School Board

Commissioner Boyle reported he was pleased to see the discussion of joint development to provide recreational opportunities at every school site in the City, but he offered caution relative to Hinson Middle School because this would require children to be driven to utilize the facility. He noted he would be willing to proceed and see where this discussion would lead.

Mayor Costello advised that Hinson Middle School would have a bike trail on Clyde Morris Boulevard, Hand Avenue, and LPGA allowing many children to access the school by bicycle.

Commissioner Kelley expressed disappointment that Pat Drago, Executive Director of Facilities Services for the Volusia County School Board, would not be at the meeting because he considered it important she attend.

Commissioner Boyle recommended inviting Ms. Drago to a City Commission meeting.

Mayor Costello noted the consensus was to approve the proposed agenda.

Item #11(F) – Osceola Elementary School Racquetball Courts

Mayor Costello stated the basic question was whether there should be four or two racquetball courts. He questioned if there was room for four racquetball courts. Mayor Costello pointed out the courts could be used for sports other than racquetball, such as tennis and volleyball.

Commissioner Kent shared his concern regarding the fence around the tennis court. He stated the former four racquetball courts were smaller than regulation size, and all four courts were rarely used; however, for such a small amount of money, the City could have the two extra courts.

Mr. Alan Burton, Leisure Services Director, stated the site was small, and two courts would not lose any play value since there was not the large number of people in a neighborhood park as would be in a sports complex or community park. He reported there was adequate room for four courts, but from a design standpoint, two standard size courts would make the space less intimidating and more inviting.

Commissioner Kent stated he would prefer four courts.

Commissioner Kelley reported he was not intimidated by the size of a court, and as long as space was available, he would prefer four courts. He recommended creativity be used, such as platform tennis for the smaller tennis court.

Mayor Costello reported the consensus was to proceed with the four courts.

Item #11(G) – Acquisition of the Triangle Parcel for a Championship Sports Field

Mayor Costello stated Ormond Beach would eventually obtain this parcel whether the City purchased it, traded for it, or whether it was donated. He stated Pop Warner needed to start building the fields as Mr. Boehm mentioned earlier this evening. Mayor Costello reported the landowner was willing to lease the land to the City immediately and work out the details later.

Mr. Turner provided a letter from Mr. Bill Livingston dated today to Mr. Ervin and Mr. Joe Mannarino, Economic Development Director.

Mr. Ervin stated he received this letter from Mr. Livingston, President of the Tomoka Holdings Limited Liability Corporation, and it indicated Tomoka Holdings' willingness to work with the City on various options. He noted a concern regarding the inclusion of road donations into a sale or lease agreement. Mr. Ervin stated that at this time it was not known what type of requirement would be instituted, but Tomoka Holdings was identifying a need for a right-of-way reservation and impact fee credits for valuation of the land. He pointed out they did not specify a lease amount but suggested the value could be in the range of \$1 to \$1.5 million. Mr. Ervin stated the money allocated in the Capital Improvements Project was approximately 10% of this estimated value of the property.

Mayor Costello noted the letter discussed a discounted price of \$200,000. He suggested \$1 per year for five years, which would provide an opportunity to use the site; and during the interim, negotiations could begin. He pointed out that industrial land in this area would be worth a great deal of money. Mayor Costello asked if any Commission member opposed the acquisition of the triangular parcel that the City had been discussing for years. He noted money was allocated in the budget toward this acquisition, although the entire \$200,000 was not budgeted; but this could be worked out within the next five years.

Mr. Turner reported that staff had not negotiated with Tomoka Holdings regarding this parcel; therefore, the figures in this letter were not "locked in." He stated the City had \$135,000 budgeted for this parcel. Mr. Turner pointed out that it was hoped that this site may be a portion of the property provided to the City for a park as part of development of the Development of Regional Impact (DRI.) He noted the question at hand was whether the Commission wanted staff to proceed to aggressively acquire this parcel.

Commissioner Kelley urged staff to pursue acquisition of the parcel.

Mayor Costello directed staff to pursue acquisition of the parcel and get it under contract so it could be used for Pop Warner.

Mr. Turner pointed out the City did not have funds for development of the site.

Mayor Costello challenged Pop Warner to help develop the acreage to the specifications of the master plan.

Item #11(H) – Liability Claim at 578 Riverside Drive

Commissioner Boyle asked the City Attorney to outline any potential Commission options.

Mr. Hayes reported the options would be provided in the confidential cover memorandum. He explained the options would be to do nothing or to award the Sandbergs some level of compensation for the claim. Mr. Hayes stated this would become a public record when the claim was closed out.

Commissioner Boyle noted there were unique and extenuating circumstances that the Commission may wish to consider. He reported the hurricane caused the power outage that caused the lift station to shut down, that caused the sewage to back up into a residents' home. Commissioner Boyle noted staff had resolved the problem after Hurricane Charley, and this incident occurred during the second hurricane, Hurricane Frances. He stated FEMA estimated

the damage to the home at \$36,000 and offered the homeowners loans to address those damages. Commissioner Boyle reported two items make this situation unique: there were no other claims of this type made, and the Commission approved the purchase of emergency generators for seven lift stations, which would preclude future claims for a similar situations and beachside evacuations. He noted this family was on a fixed income, and there were health issues involved. Commissioner Boyle urged the Commission to approve the \$7,455 in exchange for a full release on this active claim.

Commissioner Kelley questioned if the homeowner was reimbursed by insurance or FEMA.

Commissioner Boyle explained FEMA offered loans. He noted the homeowner paid for the remedies themselves.

Commissioner Partington expressed concern about the precedent in that he had seen no evidence to support Commissioner Boyle's statements. He noted this claim had been through the entire process, and a request was now being made to go outside of that process. Commissioner Partington noted he would need more information.

Mayor Costello indicated he was not hearing the Commission indicate they would support paying this sum. He asked Mr. Hayes to inform the Commission if other options were available. Mayor Costello also expressed concern about precedent.

Mr. Hayes stated each claim was evaluated on its own merit. He noted he could not assure the Commission that if this were approved that others would not request similar compensation; however, the Commission would not be obligated to treat other claims in the same manner.

Commissioner Boyle noted he would defer to the City Attorney and the Commission. He stated at some time in the future the receipts may be made available to the Commission, and this could be reconsidered.

Commissioner Kelley stated if the Commission could be provided whatever documentation they may legally have in order to make an informed decision, consideration may be given.

Commissioner Boyle reported he would provide the information, and the Commission could proceed from that point.

Item #11(l) – NASCAR Hall of Fame

Mayor Costello commended staff for the well written letter and noted he would sign the letter.

Item #12 - Reports, Suggestions, Requests

Commission Meetings

Commissioner Kent thanked all those who give their time on this Commission. He noted a citizen expressed amazement relative to the amount of time Commission members must spend in regular meetings and workshops. Commissioner Kent noted this citizen had been known to not provide the Commission with positive comments in the past, and Commissioner Kent urged him to share his positive comments with the Commission and staff from time to time. He thanked each Commission member for their time, effort, and tenacity.

Citizen Comment

Commissioner Kent expressed embarrassment on the confusion regarding the public discussion tonight relative to when citizen comment would be permitted and urged the Commission to make their decisions more clear in the future to avoid such awkward moments.

Coffee with the Commissioner

Commissioner Kent advised the May "Coffee with Commissioner Kent" would have to be cancelled because the Commission had a meeting scheduled with the school board at 4:30 p.m. on the first Monday in May. He stated the next "Coffee with Commissioner Kent" would be held on the first Monday in June at 4:00 p.m. at his home.

City Commission Time Spent on City Business

Commissioner Kelley stated Mr. Art Giles indicated he also had put a great deal of time in City business, but Commissioners are aware of the time needed to spend on City business before they decide to run for office.

Change Order Seminar

Commissioner Kelley reported he received information relative to a change order seminar but would not be attending. He noted it may be worthwhile for someone to attend if it would show how change orders could be avoided.

Friday Letter

Commissioner Kelley commended staff for e-mailing him his Friday letter.

Recycling

Commissioner Kelley explained he recently experienced the hazardous material recycling effort at the Public Works Department and noted it was run very efficiently. He reported he never had to exit his car, as the employees took the material out of the vehicle for him. Commissioner Kelley stated it should be emphasized how very easy the process was so the public would not hesitate to participate.

Meetings

Commissioner Kelley thanked staff for making the Commission meetings enjoyable. He reported a great deal of debate occurred at workshops, and while the Commission disagreed, they were not disagreeable.

Summer Wardrobe

Commissioner Kelley advocated a summer wardrobe of City of Ormond Beach short sleeve shirts, possibly from Memorial Day to Labor Day. He noted he would start wearing a summer wardrobe as soon as his City of Ormond Beach shirts were delivered.

Complaint of Board Member

Commissioner Kelley stated he received a couple of complaints from a chairman of a board relative to the treatment of those who come before boards. He stated the Commission did not mistreat people who come before them, and it was inherent upon those who represent the Commission on the boards that they be courteous and polite. Commissioner Kelley noted that should such an incident recur, he would bring it to the Commission. He questioned if a letter should be written to remind board members that they were representing the City.

City Attorney Increase

Commissioner Partington recommended the Commission approve a salary increase of 3.25% for Mr. Hayes. He stated Mr. Hayes displayed leadership by not asking for an increase while he received an excellent review. Commissioner Partington requested this be placed on an agenda for discussion.

Earth Day

Commissioner Partington announced that this Thursday, April 21, was Earth Day, and a celebration would be held in the City Hall plaza from noon to 4 p.m.

Citizen Comments

Commissioner Partington stated he believed the Commission made the right decision tonight relative to allowing citizen comment. He reported it was appropriate to limit when people could speak, but it would never be appropriate to silence or limit what a citizen could say.

Lobbying in Tallahassee

Commissioner Partington stated he spent a couple of days lobbying for the City in Tallahassee last week. He reported he was joined by his wife, Support Services Director/Airport Manager Tom Lipps, Economic Development Director Joe Mannarino, Executive Director of the Chamber of Commerce Peggy Farmer, and Chamber of Commerce President Lorry Garafolo. Commissioner Partington noted the City's lobbyists, Sam and Doug Bell, escorted them throughout the capital visiting 15 to 20 senators and representatives, advocating for Ormond Beach projects such as the Ormond Crossings interchange modification project, reuse water on the South Peninsula, support for County financing for the northern basin project, and Central Park. He reported if everything was appropriately funded, the City had a good opportunity to receive another \$100,000 for Central Park. Commissioner Partington stated the City had been receiving good support from Senator Lynn, Representative Patterson, and the full delegation. He noted he believed the City would receive approval from the legislature; however, funding was dependent upon the Governor's actions. He pointed out there was at additional \$2.2 billion available, but it was unknown how it was to be expended. Commissioner Partington commended staff for the great job in preparing information for the legislators, and he thanked the lobbyists for speaking to the legislators in advance of this visit about Ormond Beach issues. He noted this visit was in conjunction with the Countywide effort known as "Volusia Days," and he pointed out that Ormond Beach was a sponsor of Volusia Days.

Board Members

Commissioner Boyle recommended starting with the offended party making a complaint to the chairman of the board and/or to the person who was perceived to have offended that party. He stated the offended party could also put the complaint in writing to the Commission. Commissioner Boyle reported that once a person was placed on a board, the issue was not if that board member agreed with his or her appointing Commission member or their philosophy. He stated that board member should be fairly well insulated.

Commission Calendar Change

Commissioner Boyle apologized to Commissioner Partington for making the change in the calendar such a large issue. He noted he may have been confusing his own values on this issue and imposing them on the other Commission members because in ten years he had never missed a meeting or workshop, been tardy, or missed a roll-call vote.

Commissioner Partington accepted Commissioner Boyle's apology and noted he appreciated Commissioner Boyle's passion. He also apologized if he was out of bounds.

Courtesy

Commissioner Boyle stated he had no doubts about courtesy amongst the Commission. He pointed out that this was the most professional Commission, especially in terms of shared leadership.

Commissioner Kent's Marriage

Commissioner Boyle congratulated Commissioner Kent on his upcoming marriage. He paid tribute to each life partner of each Commission member for their support, and he expressed how important they were to success in this sometimes difficult job.

Commission Procedure Booklet

Mr. Turner reported staff prepared a brochure regarding when people may speak during City Commission meetings; however, based on the actions taken tonight, the brochure would have to be revised. He stated it would be provided by the next meeting and would be placed in the rear of the chambers.

Earth Day

Mr. Turner reported Earth Day was a family event, and he urged families to attend.

Volusia Days

Mr. Turner stated Ormond Beach had a wonderful delegation attending Volusia Days on April 12 and 13. He reported he received an e-mail from those City representatives attending the event that indicated a meeting had been arranged with the Governor's Chief of Staff, which he felt compelled to attend. Mr. Turner stated the Commission and staff had done an outstanding job with the legislature, and funding has passed each of the houses, but the question was what would occur when it would go to Governor's office; therefore, communication with the Governor's office was critical. He advised he joined the delegation on the discussion at the Governor's office, and another trip to Tallahassee may be necessary. Mr. Turner commended the City's lobbyists for their efforts.

Summer Wardrobe

Mr. Turner appreciated the recommendation for a summer wardrobe.

Citizen Comment

Mayor Costello apologized if he confused people regarding citizen comment at meetings.

Police Commendations

Mayor Costello stated while the police commendations took some time, he believed it was important to recognize these officers as a community.

Summer Wardrobe

Mayor Costello stated a Commission vote was not necessary relative to a summer wardrobe. He asked for a reminder of the days this would be in effect and those who wished to participate may do so.

Board Members

Mayor Costello reported he disagreed with Commissioner Boyle relative to his comment that board members were insulated. He stated the Commission may vote however they choose on approving a board member, but the board members served at the Commission's pleasure and as a representative of the City. Mayor Costello pointed out that in the past he sent a civility letter to board members. He recommended sending a letter thanking board members for their

service, asking them to let the person who appointed them know if they were interested in continuing to serve next year, and reminding them about civility. Mayor Costello noted he did not wish to send a personal letter on this single issue.

Tallahassee Trip

Mayor Costello thanked Pamela Dana, Office of Tourism, Trade, and Economic Development (OTTED) Director for the State. He expressed appreciation to Commissioner Partington for taking his time to make the trip to Tallahassee and noted he was unable to make the trip this year.

Homeless Center

Mayor Costello stated he wanted to be certain the City helped the coordinated effort to combat the problem in Daytona Beach for the homeless center rather than facing the problem coming to Ormond Beach.

Acquisition of the Triangular Parcel

Mayor Costello reported he would appreciate any commendations the City could give Tomoka Holdings for taking the initiative to provide the City with the triangular parcel of land even though the City did not have a definitive price for the land or a definitive mechanism by which the City would gain title to the land to date. He noted Tomoka Holdings had been outstanding partners with Ormond Beach.

Legislative Assistance

Mayor Costello stated Ormond Beach was blessed to have Senator Lynn working for Ormond Beach. He noted she was tenacious in her pursuits. Mayor Costello also thanked Representative Patterson for his efforts.

Item #14 – Close the Meeting

The meeting was adjourned at 10:32 p.m.

APPROVED: _____ May 3, 2005

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk