

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

**June 14, 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 by Rabbi Barry Altman, Temple Beth-El.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the May 17, 2005, meeting.
- 5) ***PRESENTATIONS:***
  - A) Proclamation in honor of the Plein Air artists and Joyce Ebbets High.
  - B) Proclamation in honor of the Great Kids Explorer Club.
  - C) Presentation of the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2004 (Annual Report).
- 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. 2005-116 accepting the bid of Aabot Fence, Inc., regarding the installation of fencing at the Ormond Beach Municipal Airport and at the Nova Road Landfill under Bid No. 2005-25; authorizing the execution of a contract between the City and Aabot Fence, Inc., and payment thereunder. (\$47,767 total project; \$26,177 FDOT grant funding)
- B) Resolution No. 2005-117 accepting the bid of Cruisecam International, Inc., for the purchase of in-car video camera systems under Bid No. 2005-18; rejecting all other bids; authorizing the execution of a contract between the City and Cruisecam International, Inc., and payment thereunder. (\$36,408 total project; \$36,400 FDOT grant funding; \$8 City funding)
- C) Resolution No. 2005-118 authorizing the approval of a requisition for the purchase of nine (9) patrol vehicles under State of Florida Bid No. 070-001-05-1; authorizing the execution of a contract with Garber Chevrolet-Buick-Pontiac-GMC Truck, Inc.; declaring certain patrol vehicles to be surplus property and authorizing the disposition thereof. (\$210,125)
- D) Resolution No. 2005-119 of the City Commission, also acting as the Community Redevelopment Agency of the City, authorizing the execution of a First Amended Property Improvement Grant Agreement, by authorizing a sixty (60) day extension between the City of Ormond Beach Community Redevelopment Agency and Michael W. Oakley and Mark G. Oakley d/b/a Granada Dry Cleaners; ratifying and confirming the agreement. (52 Bovard Avenue - \$22,404)
- E) Resolution No. 2005-120 of the City Commission, also acting as the Community Redevelopment Agency of the City, authorizing the execution of a Property Improvement Grant Agreement between the City of Ormond Beach Community Redevelopment Agency and Bart A. Beninati d/b/a Lana Medical Care, P.A. (73 West Granada Boulevard - \$22,696)
- F) Resolution No. 2005-121 accepting a proposal from Strategic Planning Group, Inc., to provide consulting services regarding a Strategic Economic Development Plan; rejecting all other proposals; authorizing the execution of an agreement thereto. (\$25,000 total project; \$7,000 Volusia County Economic Development grant funding)
- G) Resolution No. 2005-122 authorizing the renewal of a Right-of-way Maintenance Memorandum of Agreement between the City of Ormond Beach and the Florida Department of Transportation; authorizing the execution of a renewal agreement therefore. (Maintenance of State roadways and right-of-ways within the City and environs - \$219,522 reimbursement per year.)
- H) Resolution No. 2005-123 authorizing the execution of an Emergency Relief Program Agreement between the City and the State of Florida Department of Transportation. (\$1,367,500 in federal funding for hurricanes Charley, Frances and Jeanne)
- I) Resolution No. 2005-130 authorizing the execution of a letter approving the distribution of \$291,475 of Fiscal Year 2006 Federal Anti-drug Abuse Act funds within Volusia County.
- J) Approval of travel by City Attorney Randy Hayes to attend the Annual Florida Municipal Attorneys Seminar July 21-23, 2005, in Amelia Island, Florida.

DISPOSITION: Approve as recommended in City Attorney memorandum dated June 2, 2005.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2005-124 approving and authorizing the removal of an historic tree located at 411 Cherrywood Drive.
- B) Resolution No. 2005-125 approving and authorizing the removal of an historic tree located at 682 Hand Avenue.

- C) Resolution No. 2005-126 approving and authorizing the removal of an historic tree located at 334 Tropical Lane.
  - D) Ordinance No. 2005-07 amending Section 1-22, Article III, Chapter 1, Sections 2-17, 2-18, 2-19 and 2-44, Article II, Chapter 2; Section 2-57, Article IV, Chapter 2; and Section 3-26, Article III, Chapter 3, of the *Land Development Code*, by allowing townhouses as a conditional use in the R-4, R-5 and R-6 zoning districts and by creating standards for townhouse developments. (Second Reading)
  - E) Ordinance No. 2005-08 amending Section 2-50, Accessory Uses, of Article III, General Regulations, of the *Land Development Code* by amending regulations regarding pool enclosure setbacks. (Second Reading)
  - F) Ordinance No. 2005-09 amending Chapter 1, Article III, Section 1-22 of the *Land Development Code* by amending the definition of kennel. (Second Reading)
  - G) Ordinance No. 2005-10 amending Section 5-14 of the *Code of Ordinances* relative to the spaying and neutering of animals. (Second Reading)
  - H) Ordinance No. 2005-11 amending Chapter 22, Article II, Division 2, Harmful or Industrial Wastes, of the *Code of Ordinances* by amending pollutant limitations. (Second Reading)
  - I) Ordinance No. 2005-12 annexing certain real property into the City of Ormond Beach located one hundred fifty (150.0') feet west of Ocean Shore Boulevard at 2 Plaza Drive and a portion of Plaza Drive right-of-way; setting forth zoning, privileges, and obligations of said property; providing for transmission. (0.19 acres) (First Reading)
  - J) Ordinance No. 2005-13 annexing certain real property into the City of Ormond Beach located one hundred fifty feet east of Cordova Avenue at 94 Plaza Grande Street; setting forth zoning, privileges, and obligations of said property; providing for transmission. (0.30 acres) (First Reading)
  - K) Ordinance No. 2005-14 annexing certain real property into the City of Ormond Beach generally located south of Airport Road and west of Interstate 95; setting forth zoning, privileges, and obligations of said property; providing for transmission. (River Oaks Planned Residential Development - 58.28 acres) (First Reading)
  - L) Ordinance No. 2005-15 amending Paragraph C, Zoning Map, of Section 2-01, Establishment of Zoning Districts and Official Zoning Map, of Article I, Establishment of Zoning Districts and Official Zoning Map, of the Land Development Code, by amending the Official Zoning Map to rezone certain real property from Volusia County RPUD (Residential Planned Unit Development) to City of Ormond Beach PRD (Planned Residential Development). (River Oaks property) (To be Tabled)
  - M) Ordinance No. 2005-16 adopting certain amendments to the Future Land Use Element, Transportation Element, and Conservation Element of the City of Ormond Beach Comprehensive Plan. (First Cycle 2005 Comp Plan Amendments) (First Reading) (To be Tabled)
    - River Oaks: Amending the Future Land Use Element (Map), relative to property to be annexed into the City of Ormond Beach, said property being located south of Airport Road, east of I-95, west of the Broadwater subdivision and north of the Tomoka River.
    - Fire Station #91: Amending the Cultural Affairs Element (Text), by clarifying that use and maintenance of the "Old Coquina Firehouse" may be through private or public ownership.
    - Citywide: Amending the Future Land Use Map, by amending the format of the Future Land Use Map from the original hand-drawn version to a version generated from the City's Geographic Information System (GIS).
- 10) **FIRST READING OF ORDINANCE** No. 2005-17 amending Ordinance No. 2004-28 pertaining to the Tomoka Holdings, L.L.C. (Ormond Crossings) annexation, by amending the legal description to correct a scrivener's error.

11) **RESOLUTIONS:**

- A) Resolution No. 2005-131 authorizing the execution of a Memorandum of Understanding and a Police and Fire Dispatch Services Agreement with the Volusia County Sheriff's Office.
- B) Resolution No. 2005-107 approving an Employee Hurricane Assistance Program; authorizing the City Manager to include an employee hurricane assistance program as part of the City's Peacetime Emergency Plan. (Tabled from 5/17/05 meeting)
- C) Resolution No. 2005-127 approving the preliminary plat for the "Deer Creek" portion of the "Hunter's Ridge" Development of Regional Impact; establishing conditions and expiration date of approval.
- D) Bon Terre Fuel Adjustments for 2003:
  - 1) Resolution No. 2005-128 approving and authorizing the payment of special compensation to Bon Terre Group, Inc., associated with the unusual cost of providing services under the right-of-way mowing services agreement. (\$3,463 – 2003 Calendar Year)
  - 2) Resolution No. 2005-129 approving and authorizing the payment of special compensation to Bon Terre Group, Inc., associated with the unusual cost of providing services under the grounds maintenance agreement. (\$8,476 – 2003 Calendar Year)

12) **DISCUSSION ITEMS:**

- A) Airport Southeast Quad project update.
- B) Fleet maintenance program.
- C) Beach approach enhancement.
- D) South Ormond Neighborhood Splash Park.

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

14) 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 asked for a moment of silence in honor of Flag Day, the country, and the troops. He reported an active Ormond Beach citizen, Reverend Jesse Cotton, passed away recently. He urged Reverend Cotton be remembered for trying to make a difference.

Rabbi Barry Altman, Temple Beth-El, 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 May 17, 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.**

Mayor Costello noted he would be moving Item #11A up on the agenda to after the "Audience Remarks" section unless an objection was voiced. No objection was indicated.

Item #5(A) – Plein Air Artists and Joyce Ebbets High

Mayor Costello recognized the Plein Air artists and Ambassador Joyce Ebbets High and read a proclamation honoring them for their work at several environmental and recreational Central Park locations. He noted Ms. Barbara Perotti, a well-known Ormond Beach artist, was the leader of the Plein Air artist group. Mayor Costello also honored Joyce Ebbets High, a photographer, environmentalist, and former City Commissioner, for her photographs documenting some of the natural elements found in Central Park. He proclaimed June 18, 2005, as a day to recognize the Plein Air artists and Joyce Ebbets High for their contributions to the City.

Item #5(B) – Great Kids Explorer Club

Mayor Costello recognized members of the Great Kids Explorer Club, a faith-based non-profit organization whose mission is to help at-risk, low-income, and disadvantaged children recognize their talents and value accomplished through academic and bible-based education. He reported this program has helped children make positive changes in academics and personal growth. Mayor Costello recognized the importance of the Great Kids Explorer Club, celebrated their successes, and recognized the community resources that supported and strengthened this worthwhile program.

Item #5(C) – Comprehensive Annual Financial Report

Ms. Suzanne Forbes, CPA, Managing Partner, James Moore & Company, stated the audit report was an unqualified opinion, which means that the City's financial statements were in accordance with all of the accounting standards and disclosures. She recommended the Commission focus on pages 25 to 35 entitled "Management Discussion and Analysis," which was a summary with explanations of the technical information in the report. Ms. Forbes explained the General Fund was for the general operations of the City. She noted the fund balance accounted for the difference in timing as to when the money that came in and was paid out for that year. Ms. Forbes reported the total fund balance in the General Fund was \$4,692,000. She noted the City had some legally required reserves of \$177,000, and a designated fund balance for the airport, which was dropped from \$938,000 to \$712,000. Ms. Forbes advised the unreserved fund balance was \$3,931,000. She explained that the accounting standards calculation was 16% fund balance, but the City calculations differed in that the City subtracted any money allocated in the 2004-05 budget from that number; therefore, the City calculations were closer to the 12% City goal. Ms. Forbes reported that under the same accounting standards calculation, last year the City was at 17%; therefore, the City eroded some of that fund balance. She stated the City budgeted to spend \$1 million of the fund balance, but actually spent only \$583,000 leaving a positive variance of \$487,000 or slightly less than 2% of the total expenditures. Ms. Forbes stated should the City have spent the \$1 million, the City would have been at 13% using accounting standards and under 12% using City standards. She reported the 2004-05 use of fund balance was budgeted at \$710,000 and would bring the fund balance below the 12% goal. Ms. Forbes stated fund balances vary, but the standards for the Government Finance Officers Association (GFOA) recommend two to three months worth of expenditures or 16% to 25%.

Mayor Costello stated the City's goal was not 12%. He clarified that the minimum fund balance was 12%.

Ms. Forbes stated the City was having large decreases in the funded ratios in the pension funds. She explained this was due to changes in the assumptions on investment returns and salary increases. Ms. Forbes urged the City to concentrate on this area.

Commissioner Kelley stated that last year the City placed \$1,853,000 into the pension fund, but in 2000 the City placed only \$697,000 in the pension fund. He noted a great deal more money was being placed in the pension fund, and the fund was still low; therefore, the City must find some way to budget more money for that purpose.

Ms. Forbes reported page 82 provided the funded ratios separating the general employees, firefighters, and police officers.

Mayor Costello stated the assumption was for an 8% return, but it only received a 5½% return, and the salary estimate for increase by the actuary was 4% to 5% rather than the 6½%.

Ms. Forbes stated the assumptions were difficult because they are long term; therefore, she would be looking for trends.

Mayor Costello asked if Ms. Forbes witnessed this in other governmental entities.

Ms. Forbes replied that she did witness this in 2001 and 2002 because of the large drop in the stock market, but the numbers were starting to increase in other entities while Ormond Beach was still dropping.

Ms. Forbes stated there were fairly large losses in the self-insurance fund. She noted the City had a \$2 million reserve for these losses, and the City was in a deficit position of \$300,000. Ms. Forbes reported this would be funded by paying \$100,000 each year for the next three years. She noted large swings were possible in this fund; however, she would have to report that the City had a deficit in that fund to the Auditor General.

Ms. Forbes stated the impact on the financial statement due to the hurricanes was that the City had a \$4 million receivable in the Solid Waste Fund, although approximately \$4.5 million was due to the City from FEMA. She noted a contingency was included because of the private road issue in that this \$4.5 million would assume the City would receive the money for private roads. Ms. Forbes pointed out that most of the money would be paid back by FEMA or the State of Florida, but the City would pay 5% of the cost.

Ms. Forbes reported her firm must test any money received from federal grants, and no instances of noncompliance or internal control problems with the grant process was found. She stated that with the Finance Department being taxed this year due to lack of Budget Director and the hurricanes, this report was delayed, and she noted she would have preferred to have submitted this report much earlier. Ms. Forbes stated the Finance Department did a great job, but these circumstances made it difficult to assure mistakes were not made. She noted she was pleased the Budget Director was on board and another employee would be starting on Monday.

Ms. Forbes stated that in the management comments the firm must address any management comments made in the previous year. She reported the Accounting Procedures Manual was in process, and it was completely understandable that this was not the top priority. Ms. Forbes explained the Stormwater Drainage Fund had a deficit, which she must report on, but it would be repaid by future revenues. She reported the Auditor General no longer allowed the auditors to make verbal comments and required all comments be included in the Auditor General letter for even minor recommendations. Ms. Forbes explained the City's policy did not require people in financial positions to take vacations and have other employees fill in during their absence as a system of cross training. She pointed out that there were voided checks that could not be located. Ms. Forbes stated automating the Governmental Fund Fixed Asset schedules was more of an efficiency recommendation.

Commissioner Kelley stated that last year the City's revenues had increased 13.93% and 45.24%, and some were due to unforeseen circumstances. He stated the property tax revenue only increased \$594,000. Commissioner Kelley stated that without that extra \$594,000 and the transfer from the reserve, the City would not be in a good financial condition.

Ms. Forbes stated that without the tax increase there would have been only two choices, which would be to cut services or to use additional fund balance. She reported there was a significant amount of money, approximately \$8 million, in special revenue funds, but that money was specifically restricted and could not be used for general operations.

Mayor Costello pointed out that in spite of the tax increase, the City was further behind in funding the pensions and the self-insurance; therefore, those two areas needed to be addressed.

Commissioner Boyle stated that when that millage was set, the Commission was told that the City would be fortunate to be at a minimum of the 12% undesignated fund balance, but the City has nearly an extra million dollars that appeared through positive variances and the conservatism of the staff. He noted this troubled him because the numbers given unequivocally were not accurate.

Mayor Costello noted that a 2% variance was very close.

Ms. Forbes offered to answer any questions on a one-on-one basis with the Commission.

Item #6 – Audience Remarks

Fluoridation of the Public Water Supply

Mr. Jim Schultz, 117 Harbor Drive, spoke about his concerns regarding the fluoridation of the City's water and requested a moratorium be set on its use. He reported the last study done in 1986-1987 determined that there was no benefit by ingesting fluoride in the reduction of cavities and was statistically irrelevant.

Mayor Costello stated the Center for Disease Control, Department of Health, American Medical Association, American Dental Association, Surgeon General, and EPA concur that at appropriate levels fluoride was not harmful. He offered to meet with Mr. Schultz to review this issue. Mayor Costello pointed out that the Department of Health had described fluoride as the most outstanding public health measure.

Ethical Principals at the Police Department

Mr. Lamar Donaldson, 46 Plaza Drive, stated that according to recent press reports it appeared there were potential ethics violations in the leadership of the Ormond Beach Police Department. He questioned why the City Commission was not requiring an independent board of inquiry to investigate potential ethics violations.

Mayor Costello reported he had asked Sheriff Ben Johnson to present a summation of the actions taken, and he read experts from a June 13 letter from Sheriff Johnson responding to that request. He noted the letter indicated the Sheriff's office was asked by the City Manager to investigate allegations in conjunction with Ormond Beach Police Department Internal Affairs where the Sheriff's office took the lead in the investigation, and the findings of the internal investigation, as well as the report prepared by Lieutenant Bob Matusick of the Volusia County Sheriff's Office and Sergeant Kenny Hayes of the Ormond Beach Police Department, were turned over to Mr. Turner on January 31, 2005. Mayor Costello stated the letter reported that while no cover-up or favoritism was discovered, there was information uncovered indicating that three Ormond Beach police officers were told of alleged sexual encounters, and none followed up on the allegations by reporting the information through proper channels to the appropriate authority. He pointed out that the internal affairs report was reviewed by the Volusia County Sheriff's office, the Ormond Beach Police Department, and a retired chief of police, Dick Witt, with all reaching the same conclusion. Mayor Costello stated the Florida Department of Law Enforcement (FDLE) and the State Attorney's office will not get involved with this type of investigation in that there was no violation of criminal law. He explained the process of investigating internal complaints was dictated by the FDLE, Florida State statutes, and the policies established by the Commission for Florida Accreditation (CFA) from which the Ormond Beach Police Department had received accredited status. Mayor Costello reported the letter reported there was no contact between Chief Mathieson and Sheriff Johnson during the course of this investigation.

Mayor Costello reported he personally asked Sheriff Johnson about this matter, and Sheriff Johnson stated he would not tolerate any ethical violations in his department, and he certainly would not tolerate any ethical violations in any department that he was investigating. He asked Sheriff Johnson to address the issue.

Sheriff Ben Johnson stated his integrity, and the integrity of his office had been impugned. He reported that since he had become Sheriff of Volusia County, he had not hidden anything from the citizens relative to what occurred in his department, and he certainly would not cover up anything in someone else's department, thereby risking his integrity. Sheriff Johnson stated he liked Chief Mathieson, but he and Chief Mathieson had never met socially, and he would certainly not risk his credibility for anyone else.

Commissioner Boyle stated that since the article appeared in the newspaper on May 28 there was a need for someone, such as the City Manager and the Police Chief, to make a statement to the community covering three elements: taking responsibility, providing assurances to the community that nothing like this would ever happen again, and providing a public apology. Commissioner Boyle noted that instead of this, the first public statement was an editorial from the Police Chief where he indicated that unnamed people were attacked, and people no longer with the Police Department were singled out as distorting the truth. He reported this could implicate every person who had ever left the Police Department. Commissioner Boyle stated that an unedited version of Chief Mathieson's editorial stated that "as Chief of Police and CEO, the buck stops here," but Commissioner Boyle suggested that the buck stops with the five Commission members. Commissioner Boyle stated this letter went out without any input or approval from Mr. Turner, with the implication that the department was being run without review. He noted Chief Mathieson made a comment on the radio that all of the individuals involved in the 1994 sexual harassment sanction from the Justice Department were no longer with the

department; however, a division commander was still employed with the City, and he was a central figure in the sanction. Commissioner Boyle stated he still believed that the investigation was flawed, and it opened the City to lawsuits and exposure. He stated a new investigation was needed.

Police Chief Larry Mathieson stated Mr. Turner did not review the unedited version of the article. He explained someone had placed information in an earlier editorial that was absolutely untrue, and this person, whom he had never met, insulted him and his integrity without any knowledge of these cases. Chief Mathieson reported he would go over each case showing point by point what was done, and he assured the Commission that everything done was done in a factual and professional manner. He stated the Police Department did not retaliate against people, but it did hold people accountable. Chief Mathieson reported that he would hold people accountable, and they would be disciplined; and if that was not what the City wanted, someone else should be the police chief.

Commissioner Kelley pointed out that if anyone knew for a fact of a cover-up within the Police Department, they would have the responsibility to come forward; but if they did not know facts, they should not make suppositions. He reported the material he read accused Chief Mathieson of actions based on what they heard as rumors, with nothing substantiated. Commissioner Kelley stated he did not condone the actions of the two people involved, but no amount of counseling or punishment would stop it from happening since it has happened in every level of government. He explained the City could not stop people from misbehaving, but it could educate and put in place policies to deal with such actions. Commissioner Kelley noted it was upsetting that people would accuse the Police Chief without having the facts. He explained this was a reflection on the Commission that some are saying the Commission was also guilty. Commissioner Kelley noted Commissioner Boyle indicated the Commission was responsible for this, but he assured the people he was not responsible for what happened. He stated the Commission was responsible to determine if there was a cover-up, but not for the actions of the officers.

Mayor Costello clarified for those in the audience who may not be aware of the circumstances that two consenting adults in the Police Department acted inappropriately and unethically at the Police Department. He noted he had urged that both employees be fired before he was even aware of who was involved. Mayor Costello pointed out that one of the individuals had retired, and the other individual's fate had not yet been determined. He noted his comment was to make sure the person who retired should not be able to work anywhere else as a police officer ever again. Mayor Costello stated the Police Department must set a higher standard than was expected of the public. He explained it was not up to the Commission to decide the punishment. Mayor Costello stated the decision was the responsibility of the City Manager and Police Chief since they have the facts, and the Commission could support or not support that decision.

Mr. Isaac Turner, City Manager, stated this was a very embarrassing and unfortunate incident, but it was certainly not typical behavior of City employees. He noted the employees work hard for the citizens every day to provide services. Mr. Turner reported that with 400 employees, he could not absolutely guarantee no one would ever break any rules; but he could assure the public that if someone should violate procedures, that an appropriate investigation would occur and appropriate actions would be taken. He advised that due process must be followed, and actions can not take place as quickly as some may wish. Mr. Turner thanked Sheriff Johnson and his office for doing this investigation for the City without charge. He stated he read all of the verbatim interviews, and Chief Mathieson was purposely "left out of the loop" because comments were made about Chief Mathieson, and he wanted to assure that Chief Mathieson would not be involved. Mr. Turner assured everyone that strong disciplinary actions have occurred and would occur. He reported the City does not tolerate this kind of behavior. Mr. Turner noted the investigation was multi-layered with many thorough reviews. He advised post reports would be prepared for the Commission on June 28.

Commissioner Partington asked if the Citizens Law Enforcement Advisory Board had reviewed these files.

Chief Mathieson explained that disciplinary actions must go through the full appeal process prior to a board hearing. He stated that by City Charter, the Citizens Law Enforcement Advisory Board was a review body only.

Commissioner Partington noted he had served on the Citizens Law Enforcement Advisory Board in the past. He pointed out Chief Mathieson welcomed further review, which was an action he appreciated. Commissioner Partington stated he agreed with Commissioner Boyle, and the first step should be to have the Citizens Law Enforcement Advisory Board review this



incident, and any recommendations they may have could be brought to the Commission if they find it necessary.

Chief Mathieson stated that over the years of his tenure there have been dozens of investigations covering a variety of topics, and every case has gone to the Citizens Law Enforcement Advisory Board. He reported that without exception the board had voted unanimously to support the disposition rendered by the Police Department.

Mr. Turner offered to meet with citizens who had concerns so they could have a full understanding of the incident.

Mayor Costello concurred with Commissioner Kelley that he was only interested in the facts.

Commissioner Kent stated this was a serious problem and must be addressed. He noted he had spoken to members of the community at his "Coffee with Commissioner Kent," and this topic was discussed with great hesitation in that it was very upsetting. Commissioner Kent reported that upon learning of this incident, he contacted the City Manager and informed him he would not micromanage, and he was assured the City Manager would handle the situation. He apologized to Chief Mathieson and Sheriff Johnson because their integrity and credibility had been questioned, causing a great unfair stigma on them, and he knew both men had integrity and credibility. Commissioner Kent concurred the incident was unfortunate, embarrassing, and a blemish on the City's record, and he reiterated his apology to the Chief and the Sheriff.

Mayor Costello stated that anyone who would have any factual information could present it to Mr. Turner or any Commission member because he wanted Ormond Beach's reputation to be that the City would not tolerate inappropriate behavior.

Ms. Lucile Bornmann, 6 Windsor Drive, objected to the City Commission speaking before the public had a chance to speak. She stated the Police Department has been publicly embarrassed by the reported events, hurting the dedicated officers and their families and enraging many citizens. She noted this has not been the first problem at the Police Department. Ms. Bornmann stated the public deserved to be told in a public meeting and not in the newspaper what was in the report, if anyone was fired, and if any policies have been created that if a similar violation were ever reported, that those involved would be dismissed immediately when found guilty by an outside impartial legal or law enforcement agency. She stated the City needed a City Manager who could manage, department heads that do their duty the right and responsible way, and a City Commission that listens to the citizens.

Ms. Patty Barker, 1105 Overbrook Drive, expressed concern about the direction of the Police Department and support for her friend, Mike Lowe, and other dedicated men and women who had served with the Ormond Beach Police Department, such as Diane Price. She questioned why Sergeant Lowe was never provided the opportunity to present evidence to investigators and noted he went outside the Police Department when he felt he had no other alternative. Ms. Barker asked why Corporal Millie Doubleday was found guilty when she reported rumors to her supervisor. She pointed out that some female officers and a civilian staff member believed their complaints of sexual harassment were not being adequately addressed. Ms. Barker stated consistency was the key to instilling confidence in the process and questioned what this scandal had done to the morale of the Police Department as well as their effectiveness with these unanswered questions. She noted disagreement with Chief Mathieson that this situation was being made worse by disgruntled former employees pursuing a personal agenda.

Mayor Costello encouraged Ms. Barker to talk to Mr. Turner. He reported that while he understood this investigation was closed, he asked Sheriff Johnson if he would accept any facts the public wished to present to him regarding this matter.

Sheriff Johnson reported the Sheriff's office was not involved with doing a survey of the Ormond Beach Police Department. He noted he was provided with specific allegations to investigate, which was done; but he would definitely listen to any facts relative to those particular allegations.

Mr. Mike Lowe, 407 Cherrywood Drive, stated he had served honorably in positions of increasing responsibility until his retirement in November 2004. He reported an investigation was conducted with allegations of sexual misconduct, rumors that Chief Mathieson had engaged in inappropriate personal behavior, and that Chief Mathieson had mishandled sexual harassment complaints. Mr. Lowe stated he learned he was found guilty of failing to report rumors of this misconduct to Chief Mathieson, which may have allowed the matter to be addressed sooner by command staff. He reported that in 1995 the United States Department of Justice brought suit against the Ormond Beach Police Department for a pattern of sexually

offensive and discriminatory conduct on the part of senior management, and he had assisted the victims with their complaint. Mr. Lowe reported this lawsuit resulted in a federal consent decree designed to stop discrimination and harassment and to protect employees who assisted victims in the complaint from retaliatory practices by establishing department policies.

Mr. Lowe noted that prior to his retirement, female employees reported that their reports of sexual harassment were being ignored or given superficial treatment by Chief Mathieson. Mr. Lowe stated that at this time he was also informed of sexual misconduct by two members of the agency, which Chief Mathieson either knew or should have known as early as July 2004. He reported he was placed in the position of making Chief Mathieson aware of the complaints against him, leaving these employees vulnerable to possible retaliation. Mr. Lowe stated that based upon his past experience, he doubted Chief Mathieson's ethics and integrity on a number of levels and reported the allegations outside the agency to the United States Department of Justice. He noted that during the following investigation, this information was never brought to light before he was found guilty and sentenced to having his good name smeared. Mr. Lowe reported he was denied the rights of fair process as follows: the right to timely notice, the right to prepare a defense, the right to confront one's accuser, and the right to a fair and impartial hearing of the facts. He urged the Commission to ask Mr. Turner to have this incident fully investigated by an independent outside authority. He offered to discuss this investigation with Commissioner Kelley or anyone else.

#### Arlington Way Right-of-way Project

Mr. Charles Carter, 212 Arlington Way, reported a construction project was taking place on Arlington Way, and a toilet was placed on the City right-of-way, removed once, and been returned. He stated this toilet had not been serviced by anyone. Mr. Carter requested this project be stopped or completed without delay.

Mr. Richard D'Amico, representing Ms. Carswell and Ms. Gray, who live next to the project, reported the issue was that the building permit was not validly issued. He reported he wrote a letter to Senior Planner Steve Spraker, and the deeds seemed to indicate that this was a non-conforming lot. Mr. D'Amico noted he did not receive a response to his letter. He questioned if a variance was required on this property.

Mr. Randall Hayes, City Attorney, stated the Planning Department consulted with him on this issue, and it was determined that a permit could be validly issued. He offered to do further review of this issue.

Mayor Costello urged Mr. D'Amico to talk to Mr. Hayes regarding this matter.

Commissioner Kent stated the actual address being discussed was directly behind his home. He reported this was a wooded area where more trees were removed than should have been, and mitigation would have to be done. He noted fill dirt was placed five feet higher than at the neighbors' properties; staff placed a stop work order; and subsequently fill dirt was removed and, brought back. Commissioner Kent reported he and Mr. Turner have been working on this issue, and Mr. Turner has been out to the site many times. He stated the lot was 47½ feet wide, and it should be 50 feet wide. Commissioner Kent noted there was a rumor of a sewer or water line in the middle of property, and he voiced concern that a building would be built on lot making the line inaccessible. He assured the Commission that Mr. Turner indicated he would make this situation right.

#### Accountability

Mr. Glenn Wren, 27 South St. Andrews, stated Ormond Beach has had many problems over the past year, such as the problems with the Police Department, City employees working on each others' houses preparing for hurricanes, and airport problems. He noted no one was willing to accept accountability for his actions. Mr. Wren stated there was a process problem in Ormond Beach due to a lack of planning.

#### Canopy Carport

Mr. Roy Pearson, 75 Lincoln Avenue, requested the Commission direct staff to review canopy carport regulations. He questioned if public meetings were advertised where input from the public could be heard on this issue. Mr. Pearson reported carport canopies were restricted due to safety reasons per the State hurricane standards; however, he questioned if these standards should apply for an item of a temporary nature that could be taken down when a hurricane was predicted. He stated the implication was made that the standards do not apply to commercial, religious, or government entities, causing inconsistencies.

Mayor Costello asked if any member of the Commission would like this to be placed on a future agenda.

Commissioner Kent stated he and Mr. Pearson had discussed this issue. He reported he understood Mr. Pearson's concern; and while he disagreed with it, Mr. Pearson understood the City's point of view. Commissioner Kent advised he would be willing to bring this issue to the Commission for consideration.

Commissioner Boyle concurred he would consider the issue as well.

Mayor Costello asked that this be placed on a future agenda.

Police Department Issue

Mayor Costello advised he would talk to Mike Lowe relative to the issues at the Police Department.

Item #11(A) – Police and Fire Dispatch Services Agreement

RESOLUTION NO. 2005-131

A RELIATION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING AND A POLICE AND FIRE DISPATCH SERVICES AGREEMENT WITH THE VOLUSIA COUNTY SHERIFF'S OFFICE; AND SETTING FORTH AN EFFECTIVE DATE.

**Mayor Costello ruled in that no motion was made to discuss this issue, the Commission was thereby indicating there would be no agreement with the Sheriff's office, and the City was not interested in improving technology, achieving a superior the level of service, and saving \$229,000 annually.**

**Commissioner Kelley moved, seconded by Mayor Costello, to approve Resolution No. 2005-131, for discussion purposes.**

Commissioner Kelley stated that this issue needed to be discussed. He expressed extreme concern that the police union sent incorrect information in a flyer to citizens stating the City was dismantling the Police Department which was absolutely not true. Commissioner Kelley stated 91% of the calls coming into Ormond Beach are non-emergency calls, which was a waste of taxpayers' dollars. He noted that in Volusia County, 86% of the calls are non-emergency calls. Commissioner Kelley reported this Commission can do something to improve the services for, the citizens of Ormond Beach by consolidating the dispatch services. He stated if the citizens did not want this, he would accept that decision; however, the citizens need the accurate facts, such as the fact that this would increase response time to an emergency with better dispatch, better service, better protection for the law enforcement officers, and better technology. Commissioner Kelley pointed out the Police Department would not recommend this if it would be detrimental to the City.

Mayor Costello stated there were four parts to this issue: 1) service, 2) employee impact, 3) cost, and 4) technology. He explained that in Daytona Beach the calls have decreased from 90 seconds to 60 seconds. Mayor Costello reported the employees would be protected; the City would save \$229,000 annually with a 5% annual increase cap; and the City could cancel the agreement in 90 days, while the Sheriff's office must give nine-month notice to cancel the agreement. He reported the Volusia County average was 32 seconds for priority one calls; and it used to be one minute and 38 seconds, while the Ormond Beach average was 48 seconds. Mayor Costello explained Ormond Beach would have approximately \$300,000 to \$500,000 worth of technology upgrades for \$50,000 because Ormond Beach would be a site license of Volusia County. He noted officers would have laptop computers with maps in their cars. Mayor Costello reported this would be superior service and an outstanding way to increase the City's level of service by decreasing response time, and it would be more accurate due to the better technology, as well as the fact that it would save money. He concurred that Volusia County had cancelled a fire contract with Ormond Beach, which was why protections were built into this contract to act as safeguards. Mayor Costello expressed pride in the City's management team for the negotiations to protect the City should Sheriff Ben Johnson not be re-elected. He reported he was confident this was in best interest of the citizens.

Commissioner Kent stated he agreed with Mayor Costello except for one item. He reported he had the opportunity to go to the Sheriff's communication operations center and then went to the Ormond Beach Police Department communications center.

Mayor Costello and Commissioner Kelley noted they also visited the Sheriff's communication operations center.

Commissioner Kent thanked Major Sanders from the Sheriff's Department, Division Chief Cuddy with the Ormond Beach Police Department, the residents, and the employees. He reported it sounded great to consolidate services, and this was a very difficult decision. Commissioner Kent noted Sheriff Ben Johnson stated he had to make this work, and this weighed heavily in his decision. He expressed disagreement with Mayor Costello in one issue he mentioned, and that was the superior service the City would receive, because he believed Ormond Beach already had superior service. Commissioner Kent stated the employees do not want to leave because no one liked change, and he believed that now was not the right time for this consolidation. He noted he would vote "no" on this issue, but it was not because of anything he saw at the Sheriff's communications center. Commissioner Kent stated Sheriff Johnson, Chief Mathieson, Mr. Sanders, and Mr. Cuddy all have integrity, were professional, and all of his questions were answered; however, he was convinced the City had superior service now.

Commissioner Boyle questioned if the Commission had enough information to enter into this contract. He stated that in September 2003, the Commission made a decision to keep the City dispatch and was told the City dispatch would continue for three to five years and then would consider consolidation; however, it was now only 21 months later and consolidation was again being considered. Commissioner Boyle expressed doubt that 21 months was a fair time to evaluate the situation. He questioned if the County was still short 25 dispatchers, and he pointed out that Daytona Beach firefighters were paid overtime to fill in for that shortfall. Commissioner Boyle asked if there would be a lower service level because of this shortfall, especially for non-emergencies. He stated that on the priority one calls, the Commission was told last March that the relay time was one minute and 38 seconds and now that number has been reduced to 38 seconds. Commissioner Boyle questioned why this contract only required response to be under two minutes 90% of time. He asked if Ormond Beach would have a stable level of service during special events. Commissioner Boyle questioned if there would be a greater chance of error by dispatchers unfamiliar with Ormond Beach streets. He reported there were questions considering the history with Volusia County in that they reneged on a fire station deal, and Ormond Beach had to take over dispatch for fire calls. He questioned the integrity of the first offer for \$250,000 for the dispatch.

Commissioner Boyle stated the reason the Commission went for the fire station deal was to provide the best possible service for people in between the jurisdictions; but it was stopped because of the money, which made him question if the emergency response system was about service or dollars. He recommended that research should have included asking Ormond Beach firefighters about what County dispatch for fire calls was like two years ago. Commissioner Boyle noted it seemed to be a totally new dispatch today, but it was considered to be less than professional two years ago. Commissioner Boyle pointed out the reverse 911 mistake in April, and in February there was a national study commissioned by the Boston Globe which identified Volusia County as having the fourth worst emergency response time in the nation. He urged the County to address this problem before embarking on the unified countywide business. Commissioner Boyle stated this agreement would require the City to close police stations at night or hire several more people, but the public expected the police station to remain open. He questioned why the City would give up accountability, control of a critical emergency service, a record of calls, and easy access to the records. Commissioner Boyle asked why dispatch for hundreds of thousands of people would be more responsive and efficient than a system for 37,000 people. Commissioner Boyle reiterated the City would be giving up control, accountability, emergency records, and a high level of citizen satisfaction to a governmental agency with a poor track record in emergency services for dollars. He pointed out the contract would only last 33 months, at which time the costs could double.

Commissioner Partington concurred with Commissioner Kent stating this was a difficult decision because statistically this contract makes a great deal of sense, but that would depend on what level of confidence one would have in statistics. He stated this government worked best when it worked with the citizens, and the citizens do not want to give up the current service. Commissioner Partington noted that at some point that may change, possibly after a proven track record of performance. Commissioner Partington noted he went to the dispatch center and appreciated the Sheriff's time. He reported he also took a tour of the Ormond Beach facilities and talked to Ormond Beach employees along with employees from other agencies and received mixed reviews.

Mr. Turner reported he appreciated the Ormond Beach and Sheriff staffs' efforts in researching this issue. He noted this was brought forward because he thought it an outstanding opportunity to improve the services and avoid cost increases.

Sheriff Ben Johnson reported he was not trying to take over services, and he noted he was asked do a presentation. He assured everyone that he was certainly not attempting to take over the Ormond Beach Police Department. Sheriff Johnson stated the City has many fine people who work for the Ormond Beach Police Department.

Mr. Gary Hughes, Daytona Beach Deputy Fire Chief, stated that last October Daytona Beach transitioned to the Sheriff's Department for dispatch; and with any new program there were small issues; but the issues were addressed in a professional manner, and they responded to any inquiries made. He assured Commissioner Boyle that Daytona Beach firefighters were not working overtime in the Sheriff's dispatch center. Deputy Fire Chief Hughes reported the Sheriff's department performed very well during the last special event.

Mayor Costello noted that Volusia County was larger than the State of Rhode Island, and in the rural portions of Volusia County, the response times would be much longer than in urban areas. He reported that taking an average, including the rural areas would not seem to be good, compared to national normal averages. Mayor Costello noted the Budget Advisory Board recommended the City go from 75% of employee costs to 65% employee costs as it had previously, and this was an outstanding mechanism to achieve that goal. He stated that in his opinion, the Commission had decided to turn this down because of fear tactics on the union flyer that was sent to the residents when it could be statistically proven that the response times would not be longer and that since there would be more people on duty at any particular time, if the City received multiple calls, response time would improve. Mayor Costello explained the policy of reconsideration was that at any time in the future a member of the Commission on the prevailing side could readdress the item should they obtain new information.

Commissioner Kent clarified the scare tactics did not affect his decision on his vote. He explained that he was as unhappy about this flyer as Commissioner Kelley was because no one ever indicated the Ormond Beach Police Department was "for sale." Commissioner Kent reiterated that this flyer really bothered him since it could not be further from the truth.

Mayor Costello clarified he was not implying the Commission had used scare tactics, but he was "livid" when he saw the flyer with its distortions, and it made him very angry. He noted he realized all Commission members were making their own decisions on this issue. Mayor Costello pointed out Commissioners Boyle, Kent, and Partington had articulated valid reasons for not supporting this proposal.

Chief Mathieson commended the Ormond Beach dispatch personnel for performing in an exemplary fashion during this stressful period.

Mayor Costello asked that the vote be called.

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

Mayor Costello called for a break at 9:15 p.m. and reconvened the meeting at 9:23 p.m.

#### Item #7(A),(B),and (C) – MPO, VCOG, and Smart Growth Implementation Committee Reports

Mayor Costello stated there was nothing new to report on the Metropolitan Planning Organization (MPO), Volusia Council of Governments (VCOG), and Smart Growth Implementation Committee at this time.

#### Item #7(D) Water Authority of Volusia

Commissioner Boyle stated the Water Authority of Volusia (WAV) board would meet tomorrow at 8:30 a.m. He stated he mentioned the nickel surcharge idea at the last meeting and borrowed Commissioner Partington's diplomacy method by providing each member a framed nickel; and while it did not accomplish a decision on the surcharge, it did accomplish the setting of a special meeting on Saturday to discuss mid-term funding. Commissioner Boyle reported Mr. Mitt Tidwell, Daytona Beach Utilities Director, wrote to Dr. Bruce Mowry, Executive Director WAV, stating, "the City of Daytona Beach will not agree to interconnect our utility with Ormond Beach until the service area dispute is resolved." He stated this would cause a loss of a great deal of federal money; therefore, he believed WAV would simply direct their interconnect attention elsewhere.

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.

Mayor Costello noted he was asked to pull Item No. 8(E) for discussion.

Commissioner Boyle requested Item Nos. 8(A) and (C) be pulled for discussion.

**Commissioner Kent moved, seconded by Commissioner Partington, for approval of the Consent Agenda, minus Item Nos. 8(A), (C), and 8(E).**

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

Item #8(A) – Installation of Fencing at the Ormond Beach Municipal Airport

RESOLUTION NO. 2005-116

A RESOLUTION ACCEPTING THE BID OF AABOT FENCE, INC., REGARDING THE INSTALLATION OF FENCING AT THE ORMOND BEACH MUNICIPAL AIRPORT AND AT THE NOVA ROAD LANDFILL UNDER BID NO. 2005-25; AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND AABOT FENCE, INC., AND PAYMENT THEREUNDER; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-116, as read by title only.**

Commissioner Boyle stated he was assuming that combining the bidding under a single contract was legal, but he questioned how fencing could be installed at the airport when there was no survey to tell where the fence should be placed.

Ms. Judy Sloane, Public Works Director/City Engineer, stated the City had surveyed the area where the fence was to be placed.

Commissioner Kelley asked if it would be correct to assume the fence would be going in the right place; whereby, Ms. Sloane noted this could be assumed and noted the fence at the landfill was a replacement fence removed by the hurricanes, although replacement was anticipated before the hurricanes.

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

Item #8(C) – Purchase Nine Patrol Vehicles

RESOLUTION NO. 2005-118

A RESOLUTION AUTHORIZING THE APPROVAL OF A REQUISITION FOR THE PURCHASE OF NINE (9) PATROL VEHICLES UNDER STATE OF FLORIDA BID NO. 070-001-05-1; AUTHORIZING THE EXECUTION OF A CONTRACT WITH GARBER CHEVROLET-BUICK-PONTIAC-GMC TRUCK, INC.; DECLARING CERTAIN PATROL VEHICLES TO BE SURPLUS PROPERTY AND AUTHORIZING THE DISPOSITION THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-118, as read by title only.**

Commissioner Boyle questioned why this was not done sooner and why the City was not purchasing diesel. He recommended re-examining the policy where officers take police vehicles home. He stated he was pleased about the cost savings.

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

Item #8(E) – First Amended Property Improvement Grant Agreement with Lana Medical Care

RESOLUTION NO. 2005-120

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY, AUTHORIZING THE EXECUTION OF A PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE CITY OF ORMOND BEACH COMMUNITY REDEVELOPMENT AGENCY AND BART A. BENINATI D/B/A LANA MEDICAL CARE, P.A.; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2005-120, as read by title only.**

Mayor Costello asked for a motion to table this item. He stated the roof was included in this, but it should not be included as part of the grant.

Mr. Michael Boucher, Chief Planner, stated part of the roof was a decorative parapet wall to hide the air conditioning equipment and should have been separated out in the total cost; therefore, the recommended grant would come back to the Commission for slightly less than the current grant recommendation.

**Commissioner Kent moved, seconded by Commissioner Kelley, to table the resolution.**

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

Item #9(A) – Removal of Historic Tree located at 411 Cherrywood Drive

RESOLUTION NO. 2005-124

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE LOCATED AT 411 CHERRYWOOD DRIVE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-124, as read by title only.**

Commissioner Kelley stated staff recommended removal of this tree in that 75% of the tree was overhanging the residence, and the interior of the tree was dying. He recommended an amendment to the Land Development Code to stop trees coming to Commission that need to be removed for safety and damage reasons.

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(A).**

Item #9(B) - Removal of Historic Tree Located at 682 Hand Avenue

RESOLUTION NO. 2005-125

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE LOCATED AT 682 HAND AVENUE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-125, as read by title only.**

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

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

Item #9(C) - Removal of Historic Tree Located at 334 Tropical Lane

RESOLUTION NO. 2005-126

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE LOCATED AT 334 TROPICAL LANE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2005-126, as read by title only.**

Commissioner Kelley reported 90% of this tree was already gone.

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 #9C.**

Item #9(D) – LDC Townhouses Standards

ORDINANCE NO. 2005-07

AN ORDINANCE AMENDING SECTION 1-22, ARTICLE III, CHAPTER 1, SECTIONS 2-17, 2-18, 2-19 AND 2-44, ARTICLE II, CHAPTER 2; SECTION 2-57, ARTICLE IV, CHAPTER 2; AND SECTION 3-26, ARTICLE III, CHAPTER 3, OF THE *LAND DEVELOPMENT CODE*, BY ALLOWING TOWNHOUSES AS A CONDITIONAL USE IN THE R-4, R-5 AND R-6 ZONING DISTRICTS AND BY CREATING STANDARDS FOR TOWNHOUSE DEVELOPMENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-07, on second reading, as read by title only.**

Ms. Mary Ellen Speidel, 860 Arroyo Parkway, stated the Planning Board recommended a minimum of 40 feet with a two-car garage, but the Commission made a compromise of 30 feet with a two-car garage. She noted this decision had a far-reaching impact beyond the zoning decision, such as the migration of wildlife, the taking of large hardwood trees, traffic impacts, and stormwater issues. Ms. Speidel reported she supported this ordinance, and while she would have preferred the 40 feet with a two-car garage minimum, this was a good compromise. She urged the Commission to keep the impact on the community in mind when rezoning property. Ms. Speidel stated she understood that the Commission must balance the needs of the developer who had the right to develop with that of the impact on the community. She thanked the Commission for coming to a good compromise and urged this be approved.

Mayor Costello pointed out that for a single-family residence, the City required a one-car garage and parking for a second car; and for condos, a garage was not required at all. He noted requiring a two-car garage for a townhouse was a bit incongruous.



Commissioner Kent thanked Ms. Speidel for the manner in which she presented her view.

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

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

Item #9(E) – Amending Regulations Regarding Pool Enclosure Setbacks

ORDINANCE NO. 2005-08  
AN ORDINANCE AMENDING SECTION 2-50, ACCESSORY USES, OF ARTICLE III, GENERAL REGULATIONS, OF THE *LAND DEVELOPMENT CODE* BY AMENDING REGULATIONS REGARDING POOL ENCLOSURE SETBACKS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-08, 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(E).**

Item #9(F) – Amending the Definition of Kennel

ORDINANCE NO. 2005-09  
AN ORDINANCE AMENDING CHAPTER 2, ARTICLE II, SECTION 1-22 OF THE *LAND DEVELOPMENT CODE* BY AMENDING THE DEFINITION OF KENNEL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-09, on second reading, as read by title only.**

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

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

Item #9(G) – Limitations on Domesticated Animals

ORDINANCE NO. 2005-10  
AN ORDINANCE AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 5, ANIMALS AND FOWL, OF THE *CODE OF ORDINANCES* BY AMENDING SECTION 5-11, LIMITATIONS ON DOMESTICATED ANIMALS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-10, on second reading, as read by title only.**

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(G).**

Item #9(H) – Amending Pollutant Limitations

ORDINANCE NO. 2005-11  
 AN ORDINANCE AMENDING DIVISION 2, HARMFUL OR INDUSTRIAL WASTES, OF ARTICLE II, SEWERS OF CHAPTER 22, WATER AND SEWERS, OF THE *CODE OF ORDINANCES* BY AMENDING SECTION 22-86, REGULATIONS; PROVIDING FOR SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Boyle, to approve Ordinance No. 2005-11, on second reading, as read by title only.**

Mayor Costello pointed out that cyanide was being cut by 80% and mercury by 50%.

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(H).**

Item #9(I) – Annexation of 2 Plaza Drive and a Portion of Plaza Drive Right-of-way

ORDINANCE NO. 2005-12  
 AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED ONE HUNDRED FIFTY (150.0') FEET WEST OF OCEAN SHORE BOULEVARD AT 2 PLAZA DRIVE AND A PORTION OF PLAZA DRIVE RIGHT-OF-WAY; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-12, on first 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(I).**

Item #9(J) – Annexation of 94 Plaza Grande Street

ORDINANCE NO. 2005-13  
 AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED ONE HUNDRED FIFTY FEET EAST OF CORDOVA AVENUE AT 94 PLAZA GRANDE STREET; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Boyle, to approve Ordinance No. 2005-13, on first reading, as read by title only.**

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

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

Item #9(K) – Annexation of Property South of Airport Road and West of Interstate 95

ORDINANCE NO. 2005-14  
AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO  
THE CITY OF ORMOND BEACH GENERALLY LOCATED  
SOUTH OF AIRPORT ROAD AND EAST OF INTERSTATE 95;  
SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS  
OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND  
SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Boyle, to approve Ordinance No. 2005-14, on first reading, as read by title only.**

Mr. Michael Boucher, Chief Planner, asked this item be tabled and brought back on July 19 as a consolidated effort with the Comprehensive Plan amendments so some of the County provisions may be incorporated in the annexation agreement.

**Commissioner Boyle moved, seconded by Commissioner Kent, to table Item 9(K) to the July 19, 2005, meeting.**

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(K).**

Item #9(L) – River Oaks Property Rezoning

**Commissioner Boyle moved, seconded by Commissioner Kent, to table Item 9(L) to July 19.**

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(L).**

Item #9(M) – First Cycle 2005 Comp Plan Amendments

**Commissioner Boyle moved, seconded by Commissioner Kent, to table Item 9(M) to July 19.**

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(M).**

Item #10 – Tomoka Holdings, L.L.C. Annexation Scrivener's Error

ORDINANCE NO. 2005-17  
AN ORDINANCE AMENDING ORDINANCE NO. 2004-28  
PERTAINING TO THE TOMOKA HOLDINGS, L.L.C. (ORMOND  
CROSSINGS) ANNEXATION, BY AMENDING THE LEGAL

DESCRIPTION TO CORRECT A SCRIVENER'S ERROR;  
 REPEALING ALL INCONSISTENT ORDINANCES OR PARTS  
 THEREOF, AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-17, on first reading, as read by title only.**

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

Item #11(B) – Employee Hurricane Assistance Program

RESOLUTION NO. 2005-107

A RESOLUTION APPROVING AN EMPLOYEE HURRICANE ASSISTANCE PROGRAM; AUTHORIZING THE CITY MANAGER TO INCLUDE AN EMPLOYEE HURRICANE ASSISTANCE PROGRAM AS PART OF THE CITY'S PEACETIME EMERGENCY PLAN; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-107, as read by title only.**

Commissioner Boyle recommended removing Section #1, Item #3, as he considered this a form of solicitation. He stated that businesses would still have the right to provide discounts, but he would prefer removing any mention of potential discounts.

**Commissioner Boyle moved to amend the resolution, seconded by Commissioner Kent, by removing Section #1, Item #3.**

Mr. Turner stated that as long it would be acceptable to notify employees that discounts were available when offered, he would not have a problem deleting this section.

Commissioner Boyle pointed out that the motion to delete this section would not remove the inherent right to offer discounts.

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

Commissioner Partington stated the budget impact of Hurricane Frances would have been approximately \$900. He stated the expenditure of public funds was a primary benefit to the public at large, and any personal benefit derived by the employee would be of an incidental or secondary nature pursuant to the City Attorney memo of November 10, 2004. Commissioner Partington stated if an employee was concerned about their private residence, they would not be able to focus on the City's needs. He requested an appropriate waiver or release be required if the employee would be on private property prior to the assistance being rendered.

Mayor Costello noted the employees would be on personal leave status; therefore, there would be no Workers Compensation or liability issues involved.

Mr. Hayes concurred there should not be any liability; but if there were an issue, the City could administratively handle this by obtaining a release.

Mayor Costello stated if releases were necessary they should be obtained, but if they were not needed they should not be obtained because this may slow down the process.

Call Vote on the Underlying Motion:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #11(C) – Preliminary Plat for the “Deer Creek”

RESOLUTION NO. 2005-127

A RESOLUTION APPROVING THE PRELIMINARY PLAT FOR THE “DEER CREEK” PORTION OF THE “HUNTER’S RIDGE” DEVELOPMENT OF REGIONAL IMPACT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2005-127, as read by title only.**

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

Item #11(D)(1) – Special Compensation to Bon Terre Group, Inc. for the Right-of-way Mowing Services Agreement

RESOLUTION NO. 2005-128

A RESOLUTION APPROVING AND AUTHORIZING THE PAYMENT OF SPECIAL COMPENSATION TO BON TERRE GROUP, INC., ASSOCIATED WITH THE UNUSUAL COST OF PROVIDING SERVICES UNDER THE RIGHT-OF-WAY MOWING SERVICES AGREEMENT; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-128, as read by title only.**

Commissioner Boyle stated this 2003 issue was different from the issue voted on at the last meeting. He noted the City asked that this fuel adjustment provision be in the contract in order to seek lower bids; and for the first five years, the City saved a great deal of money. Commissioner Boyle pointed out that in 2003, Volusia County added an additional nickel to the gas tax, and the contractor absorbed that cost. He reported this government committed to this process, and the adjustment had been approved annually. Commissioner Boyle noted these amounts were calculated by City staff and recommended for approval. He stated staff delayed bringing this to the Commission for eight months.

Commissioner Kelley stated this should have come to the Commission earlier. He reported this method was set up to allow people to bid on a process that had saved the City millions of dollars, and it has served the City well; therefore, he would support it.

Commissioner Kent stated his biggest problem was with Mr. Sharkey when he indicated “this is the only way I get extra money out of the City,” which made him question if this should continue. He asked Mr. MacLeod how many other contracts the City had that do this type of work.

Mr. Ted MacLeod, Assistant City Manager, reported Bon Terre and Servello and Sons do this type of work.

Commissioner Kent asked if Servello and Sons had the opportunity to ask for a fuel adjustment.

Mr. MacLeod reported Servello and Sons did not have that ability. He explained that Mr. Sharkey may sometimes seem to be abrupt at times, but what he meant by that comment was that the City was so tight with the money, that if he tried to obtain any additional funds, the contract manager would not allow it.

Commissioner Partington asked if the new contract included the fuel adjustment; whereby, Mr. MacLeod noted the new contract would not include the fuel adjustment language.

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

Item #11(D)(2) – Special Compensation to Bon Terre Group, Inc. for the Grounds Maintenance Agreement

RESOLUTION NO. 2005-129

A RESOLUTION APPROVING AND AUTHORIZING THE PAYMENT OF SPECIAL COMPENSATION TO BON TERRE GROUP, INC., ASSOCIATED WITH THE UNUSUAL COST OF PROVIDING SERVICES UNDER THE GROUNDS MAINTENANCE AGREEMENT; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-129, as read by title only.**

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

Item #12(A) – Airport Southeast Quad Project Update

Mr. MacLeod reported the questions provided by Commissioner Boyle and answers to those questions, along with a history, was included in the Commission’s information packet. He stated the City intruded on the golf course; and although there had been discussions with golf course personnel, there was nothing in writing, and the City may not have met with the correct people. Mr. MacLeod noted staff proceeded with the belief the proper golf course personnel reviewed the plans and had no objections; however, it was later learned this was not the case. He stated since this time, staff has been meeting with the Eddy’s and the new potential leaseholder, Mr. Hal Layman, to mitigate what had been done and to recommend changes to the lease that governs the allotted activities in the greenbelt buffer area of the golf course. Mr. MacLeod reported a list of elements discussed was prepared and presented to the Eddy’s and Mr. Layman. He noted a letter was received from the Eddy’s attorney, but he did not have the opportunity to review it as yet. Mr. MacLeod stated the Eddy’s were not in full agreement with the City’s proposals; therefore, a meeting would be held on Tuesday to further discuss the issues.

Mr. Thomas Hart, attorney with Cobb and Cole, 150 Magnolia Avenue, Daytona Beach, stated discussions had taken place alerting representatives that he found activities in that quadrant there had been in breach of the lease, and the proposals presented were found to be inadequate to address the seriousness and materiality of those breaches; therefore, they were asserting there had been a major default by which a series of processes flow with timelines for the party to cure. He pointed out the proposals do not provide a golf course that finishes in a nature preserve, as existed previously, as opposed to finishing in a warehouse district as it does today. Mr. Hart noted another issue was the question of an access road, which was also an incursion into the leased land, and a relocation of the road was requested along with the reconstitution of the greenbelt buffering. He pointed out the Eddy’s have the responsibility under the agreement to maintain and preserve the greenbelt area along the entire perimeter of the golf course.

Mayor Costello stated options were discussed, but there was no way the trees could possibly be put back.

Mr. Hart stated the proposed plan that was communicated was inadequate.

Mayor Costello recommended a high berm with plantings to restore the golf course, such as that done at the Oceanside Golf Course. He asked Mr. Hart and Mr. Eddy to be as flexible and reasonable as possible.

Mr. Hart stated Mr. Ray Eddy and Mr. Mike Eddy have been citizens for 40 years and operated this golf course for more than 15 years. He noted they were patient people but had to consider what was in their best interest.

Mayor Costello urged the City be given the opportunity to make something work for everyone, understanding what was lost can not be replaced.

Mr. Adrian Thompson, 6 Dorado Beach Court, representing Ormond Airport Hangars, stated that at the meeting on Friday it was mentioned that the City would take over his private sewer line because the City was not proposing a lift station to River Bend taking over their sewer line. Mr. Thompson noted that today City trucks were in front of his sewer line, which connects to the River Bend lift station, and he questioned how the City was planning to connect to their private sewer line. He pointed out that, as an association with Ormond Airport Hangars, he paid \$30,000 to install their private sewer line and connect to the River Bend sewer. He stated the City appeared to be accepting to take over liability to take over the River Bend lift station and sewer, but it did not address the private line; and he was unable to obtain a reply to his inquiry on this matter. Mr. Thompson reported the City must mitigate with him in that this was not the City's sewer to connect to. He stated he made a public information request which primarily related to the sewer connection, but there did not appear to be much of a plan to connect to the sewer line, no tree removal permits, no tree surveys, tree mitigation; and the information was scant and did not come close to compliance to codes. Mr. Thompson stated he discovered that in June 2003 a Protected Species Survey was carried out on the property, and while the conclusion indicated that prior to any construction, a further survey of the property was to be made to ascertain the number of protected species of gopher tortoises on the property, but he could not find another survey.

Commissioner Boyle thanked staff for the answers to his questions. He noted there were two sets of problems: the River Bend problem and a problem with the City's own process. Commissioner Boyle noted there were ten points staff was now acknowledging: 1) the City proceeded without written approval from River Bend representatives; 2) the Commission never saw plans showing proximity to or impacts on the golf course at any time; 3) the project went forward without a survey of the greenbelt buffer zone; 4) the Airport Manager asserted at an Aviation Advisory Board meeting that he had never been aware of the existence of any greenbelt buffer zone until Wednesday, May 4, 2005; 5) trees were removed without a tree survey or normal tree removal review process; 6) the size and caliper of the trees removed was in dispute; 7) there may be large caliper and historic trees that suffered root damage; 8) Sunrise Aviation was granted development rights within the buffer zone in 1994 without written communication to the golf course; 9) the Commission was precluded from any public review and discussion of the key issues because staff alerted the Commission to a deadline of the grant application, and the Commission was misled; and 10) staff released a public statement to the press on May 6 that he believed falsely claimed the project was approved by the City Commission on March 15, because the project the Commission approved was not what had occurred.

Commissioner Boyle asked the City Attorney if he had been consulted regarding the City's ability to exempt itself from its own rules and review; if the City Manager consulted with him regarding the exemption status for the southeast quad; if any staff member contacted him regarding exemption status for this project; if the Legal Department had the power to grant development review exemptions; and if he could be directed by the Commission to grant development review exemptions. Mr. Hayes replied "no" to each question.

Commissioner Boyle asked Mr. Turner if the City followed its own rules; whereby, Mr. Turner stated he believed the City did follow its own rules. Commissioner Boyle questioned who was responsible if the City did not follow its own rules.

Mr. Turner stated the answer to Commissioner Boyle's question was that it would be dependent upon which rules were not followed.

Commissioner Boyle stated if the City was out of compliance and did not follow the rules, would it behoove the City to issue an immediate stop work order on this project.

Mr. Turner stated he would not speculate without finding out specific issues.

Commissioner Boyle asked if the City materially breached its agreement with River Bend Golf Course.

Mr. Turner stated the City had some impact on the golf course, and that impact was being mitigated; but he did not believe the City damaged the golf course beyond repair. He noted this was a leveraging point. Mr. Turner reported he had discussed this issue with the City Attorney.

Commissioner Boyle pointed out the leaseholder believed he had been materially breached. He stated that there were now two areas of mitigation with a cost of approximately \$100,000. Commissioner Boyle asked Mr. Turner how this mitigation should be funded.

Mr. Turner reported he was trying to arrive at a solution first. He noted one option was to use the funds designated for airport improvements. Mr. Turner advised the negotiations were not completed.

Commissioner Boyle noted during the break he asked Mr. Paul Lane, Finance Director, about the City's cost in acquiring the private sewer infrastructure, and he was told the cost could run to approximately \$100,000. He stated the City now has millions of dollars of exposure to damage claims by three to four private parties. He expressed concern as to the FAA, environmental issues, and that the City ignored its own rules creating a double standard for development review. Commissioner Boyle reported construction began without a survey, site plan, board review, tree removal and other permits, and without a final wastewater plant in place. He stated that even if he accepted staff's explanation, the City needed at the very least a tree survey, tree removal permits, and land and grade clearing permits that do not exist. Commissioner Boyle reported he believed the City had broken the law with disastrous environmental and financial consequences. He noted the City was fortunate the Eddy's were involved, and they would be amenable to finding a solution.

Mayor Costello stated the City erred, but the issue was not how, or who, or when, or why, but what to do now. He reported the 1994 land swap with Sunrise Aviation showed an area that was to be developed, and staff, in good faith, found a way to develop that area and brought it to the Commission; but the Commission did not know staff did not have a survey indicating that area was in the buffer zone. Mayor Costello admitted he probably would have made the same mistake in that this was being paid for in a lease for 11 years by an airport tenant; therefore, it would seem that tenant had the right to use that land. He urged the staff to "go the extra mile to make the golf course whole," and he believed this could be accomplished. Mayor Costello apologized to everyone involved. He noted staff was not as vigilant as they should have been, since they should have known this was a buffer area. Mayor Costello stated there was no survey, and these items must be addressed in the future. He stated he would gladly speak to Mr. Hart or Mr. Layman at any time, noting he has stayed away from the situation because, in the past, he had been accused of negotiating when he went to people to try to work out resolutions to problems.

Commissioner Kelley questioned the purpose of Commissioner Boyle and Mr. Thompson attending a meeting with City staff and the lessee. He stated there was no due diligence done in this project. Commissioner Kelley stated the Commission assumed this project had been ongoing since 2001, and he questioned why there was no plan. He stated the initial contract was vague as to where the green belt area was located, but a survey was to be developed subsequent to that contract. Commissioner Kelley reported someone was responsible since the Commission was not given adequate information from staff. He pointed out the Commission did not have the time, desire, or responsibility to oversee every project, and this was something the Commission can insure would never occur again. Commissioner Kelley stated he was upset because of the processes that were not followed and because the Commission assumed the proper process would have been followed. He noted some damage may have been caused by the removal of the barriers and survey stakes by golf course personnel. Commissioner Kelley agreed that now was the time to fix the problem, if that was possible, and the present and future lessee should not need to suffer from this incident. He reported he believed a remedy could be found. Commissioner Kelley stated the lessee and the City should have known that the acres that were cleared were to be developed, but the tree line should not have been taken down.

Commissioner Boyle explained no one invited him to the meeting between staff and the lessee. He stated he learned of the meeting and informed staff he would attend as an observer. Commissioner Boyle reported that at the meeting, staff had answers to his May 17 questions in a handout. He stated no Commission member was precluded from attending the meeting, and Mr. Thompson attended because he had a vested interest.

Commissioner Kent concurred with Commissioner Kelley's comments. He stated he now favored the rent relief proposed earlier.

Commissioner Partington agreed with Mayor Costello and asked where the City should go from here.

Mr. Hal Layman, 96 North St. Andrews Drive, stated he held a contract to purchase the River Bend Golf Course and was pleased to hear the concern of the Commission. He reported it was important to understand that along with the remediation of the instant issues, there were other issues, more specifically the process being used. Mr. Layman expressed optimism that this could be worked out.



Mayor Costello stated that as soon as this issue was resolved and Mr. Layman became the lessee, he challenged Mr. Layman and staff to have a workshop to study the entire layout of the golf course where Mr. Layman could be shown areas where future incursions may occur to avoid this ever happening again. He reported the City had the right to develop the airport in certain areas, but Mr. Layman had the right to be assured the golf course would not be harmed by that development. Mayor Costello noted he was willing to go further than staff was to resolve this issue, but he was pleased that staff was “tight” with City dollars. He stated he was open and ready to talk with River Bend and resolve this issue quickly.

Commissioner Boyle asked if it was possible to move the road.

Mr. Turner stated moving the road was probably not possible with the information they possessed at this time.

Commissioner Boyle asked if staff was aware that if the road could not be moved that, at a minimum, the 18<sup>th</sup> hole would have to be redesigned and the green moved.

Mr. Turner stated the dialogue he heard to date did not indicate this; however, he stated the list of actions being asked of the City was growing to the point that it has nothing to do with the clearing of the trees. He reported staff would bring this list to the Commission. Mr. Turner noted the information received from the FAA and the engineers indicated the road could not be moved.

Commissioner Boyle noted the road could not be moved unless they would move the hangars on the security fence line.

Mr. Turner stated Commissioner Boyle was correct in that statement. He pointed out the City had lease agreements with Sunrise Aviation, and Mr. Lombardo would want some compensation for lease areas not part of the FBO Area 2 in that Sunrise had been making lease payments for that area.

Mayor Costello stated the City caused this problem, and the City needed to solve the problem.

Mr. Turner noted staff had been working on this, but cautioned that issues were being brought up that had nothing to do with this issue.

#### Item #12(B) – Fleet Maintenance Program

Commissioner Boyle stated the report answered many of his questions. He expressed shock to realize the City had 20% more rolling stock now than in 1997 and 1998.

Mr. Turner reported staff could provide some assessment on the rolling stock, but he pointed out that the rolling stock did not include vehicles alone, but other apparatus on wheels as well.

Commissioner Kelley asked how much space the City was using for storage.

Ms. Sloane explained there was 2,000 square feet of storage for records, and the 4,000 square foot north bay was used to store equipment such as the mobile command center and portable generators. She stated 15,000 square feet of the 21,000 square feet was actually used for the fleet operation. Ms. Sloane noted that while the mobile command center and portable generators could be stored outside, the space was available and it was being utilized.

Commissioner Kelley stated the revenue that could be produced from leasing this out would probably not generate a great deal of revenue.

Ms. Sloane stated attempts had been made to lease a portion of the facility to no avail. She explained one of the problems was that there would be shared restroom and office facilities.

Commissioner Kelley recommended the possibility of leasing the area for storage of large recreational vehicles.

Ms. Sloane pointed out the area would not accommodate very many recreational vehicles. She stated the exterior of the building was well used by City vehicles.

Commissioner Kent stated there were beach vendors who have difficulty storing their equipment, and they might be interested in leasing space.

Commissioner Kelley stated that when this facility was first constructed in 1993, it was overbuilt.

Mayor Costello stated as a Planning Board member at the time it was built, he was very upset the City did not follow its own regulations regarding fill in the floodplain.

Mr. MacLeod explained that at the time this facility was built, the City provided the solid waste collection in house.

Mayor Costello summarized that no one was asking that privatization be investigated at this time.

Item #12(C) – Beach Approach Enhancements

Ms. Sloane stated the County had a program of offering \$50,000 per year, and the funds were still available; however, the funds would require a City match.

Mayor Costello stated he favored seeking the funds. He noted the County should be providing the beach enhancements, but they were not. Mayor Costello recommended seeking ECHO grants to help with the match. He stated he sent a letter to Volusia County Council Chairman Bruno indicating Ormond Beach's lack of parking and maintenance on the beach. Mayor Costello challenged the Commission and the Chamber of Commerce to find property for off-beach parking and possibility convert the beach approaches to parking areas if they would no longer be opened. He recommended starting with the \$50,000 to beautify Granada Boulevard, where the Tax Increment Financing (TIF) funds could be used. Mayor Costello urged steps be taken to make the beach more usable and attractive to the residents.

Commissioner Kent expressed agreement with Mayor Costello. He stated the City paid approximately \$11,000 to paint stripes on the lot for off-beach parking next to the ABC Liquor store, but it was not being used. Commissioner Kent reported there was no signage so people were unaware the parking was available. He asked if the City could obtain signage to inform people of the parking availability.

Mayor Costello noted signage may be the place the first \$50,000 should be spent.

Commissioner Kent stated he preferred Mayor Costello's suggestion of using TIF funds for a match for Granada Boulevard, but he did not favor bringing in new sand.

Commissioner Boyle reported he disagreed with spending money to beautify before receiving off-beach parking. He noted he appreciated the memo Mayor Costello sent to Chairman Bruno. Commissioner Boyle pointed out that Ormond Beach was the only coastal city where the County has never lived up to the promise that off-beach parking would be provided.

Commissioner Partington expressed agreement with Mayor Costello's position. He asked if the City could take the beach back from the County.

Ms. Sloane explained that action was done by referendum and charter revision. She reported this was voted on Countywide, and no opt out provision was included.

Commissioner Partington requested a report as to whether or not this was a possibility.

Mayor Costello stated if this was investigated, the Commission must also consider the cost, which would be millions of dollars.

Commissioner Boyle stated should the City take control of the beach, the take permit would be gone, and the ability to drive on the beach would be lost.

Commissioner Kelley reported the Commission investigated this possibility in 1990, and at that time, the County was willing to share 50% of the revenue; but the City would be short in the cost of maintaining and patrolling the beach. He stated he would have preferred the City take back the beach in 1990; but at this point, it did not seem possible.

Mayor Costello noted he believed the City was better served using political influence with the County Council in reminding them that they had invested in other areas on the beach, and Ormond Beach was due. He urged the Commission to find property for sale to give the County options; and until that was done, the County could rightfully imply that they did not know of anything that was available; therefore, they were not shirking their responsibility in Ormond Beach.

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Commissioner Partington stated people would walk to the beach if they had a safe place to park.

Ms. Sloane stated the County was actively pursuing the property on Cardinal.

Mayor Costello summarized that there was a consensus to investigate using TIF funds for a match for the County grant to be used at Granada Boulevard.

Commissioner Kent asked if the Commission would support directing staff to obtain a sign for the ABC parking; whereby, Mayor Costello stated the Commission would support that.

Item #12(D) – South Ormond Neighborhood Splash Park

Commissioner Kent displayed a photograph from the News-Journal depicting a splash park. He stated that the concept of an aquatic center has been discussed for years, and it seemed unlikely it would ever occur due to the liability and cost; therefore, a splash park seemed to be a good option. Commissioner Kent noted he was not asking for \$150,000 for the construction of a splash park, but for the Commission members to use their contacts to urge various entities to contribute to a splash park to help the community. He stated rather than approaching these entrepreneurs with a photograph, he was recommending the City invest \$20,000 to \$30,000 for the engineering and cost assessment.

Mayor Costello recommended placing this option in the Capital Improvements Project budget where the Commission could vote it up or down. He noted he would support Commissioner Kent in his request for the engineering.

Commissioner Partington reported he was originally indifferent to this concept; but after seeing his child at the splash park at Sea World, he came to appreciate its worth and would support the concept.

Commissioner Kelley reported the theme parks could afford to support a splash park. He stated he would prefer a conceptual drawing rather than spending \$25,000 for engineering. Commissioner Kelley offered to solicit donations in the community, but he would first want to know the cost of maintaining the park. He stated this was a great idea, but every aspect should be considered. Commissioner Kelley urged the Commission to take the time to do this right.

Mayor Costello recommended Mr. Alan Burton, Leisure Services Director, write a letter, signed by Commissioner Kent, contacting all of the pool contractors in Volusia County offering them an opportunity to design and build a splash park, submitting the cost of the park and the cost of maintenance.

Mr. Alan Burton, Leisure Services Director, reported he had some conceptual drawings. He cautioned against going to a perspective donor without the idea well thought out and well engineered. Mr. Burton stated good planning and good design provided good maintenance. He noted he believed investing the dollars for the engineering was critical to the ability to ask for the donations.

Mayor Costello stated he could not believe the design would cost \$25,000.

Mr. Burton explained engineering for a \$150,000 project would cost 10% to 20% of the \$150,000.

Mayor Costello reported he did not accept that statement and urged obtaining an estimate from a contractor as to the cost of the design.

Commissioner Kelley stated the City pays too much for consultants to design items that the City may or may not construct. He noted he did not need a full set of plans to sell a concept. Commissioner Kelley stated he could not support spending \$30,000 to create full plans for something that may or may not be constructed.

Mayor Costello urged Mr. Burton to obtain the actual cost, not a percentage, and bring it to the Capital Improvements Project meeting.

Commissioner Kent expressed appreciation for Commissioner Kelley's comments.

Item #13 - Reports, Suggestions, Requests

Friday Letter Issues

Commissioner Boyle stated the May 27 Friday letter included the topic of the decrease in revenue from Police Department citations from 2004 to 2005 where staff speculated on causes. He pointed out that none of the factors provided were present when the citation revenue dropped \$70,000 from 2003 to 2004.

Commissioner Boyle offered a correction for the June 10 Friday letter item that indicated that Mike Eddy was identified as attending the meeting that he attended as an observer. He reported Mr. Eddy was not in attendance at that meeting.

Request for Agenda Items

Commissioner Boyle requested two June 28 agenda items for discussion. He noted the first request was the apparent denial of Mike Lowe's retroactive pay increase between October 1 and his retirement date. Commissioner Boyle noted the total amount of money in dispute was \$760 before taxes. He noted his second request was for a discussion of the police car equipment for night time accident scenes, particularly what the City had in their City cars, what was standard, what other jurisdictions have, and if the City needed to make any improvements.

Union Flyer

Commissioner Boyle stated he was also appalled by the union flyer. He stated the newspaper has put rumors out that the ultimate goal was consolidation of all of the public safety services in the area. Commissioner Boyle reported he was not defending the flyer and it was a horrible mistake. He stated Ann Clinton wanted him to share with the Commission that the General Employees Association did not support or assist with the creation of the flyer.

Amsden Road

Commissioner Boyle stated Amsden Road was reconstructed with a drainage project a few years ago, and it was a horrible contract where the City finally walked away from its rights of liquidated damages. He explained that between Halifax Drive and A1A there were three large dips that kept sinking because the substructure of the road was not properly rebuilt. Commissioner Boyle requested staff address this issue.

Drainage Ditches

Commissioner Boyle stated staff subcontracted a company that damaged drainage canals on Dr. Speidel's property, mistakenly believing they were on County property. He pointed out this was another minor incursion on private property, and he asked that a report on this incident be presented to the Commission.

Noise Management Task Force

Commissioner Boyle stated there has been a request by people serving on the Noise Management Task Force to create a permanent committee. He suggested forming a subcommittee of the Aviation Advisory Board where each Commission member appoint one person. Commissioner Boyle noted this subcommittee could provide periodic reports to the Aviation Advisory Board on the progress of noise issues. He reported Commissioner Kelley suggested that on each agenda of the Aviation Advisory Board, noise issues be discussed, and this suggestion had been implemented. Commissioner Boyle explained this committee dissolved on June 1.

Food Lion Entrance

Commissioner Boyle reported the vegetation needed to be pruned at the Food Lion entrance to prevent a hazard for vehicles at the intersection of Halifax Drive and Granada Boulevard.

Integrity

Commissioner Boyle stated he believed that a person could only be discredited by his own actions or inaction. He noted the only questions and answers about a person's integrity are the ones they ask themselves. Commissioner Boyle expressed appreciation for Mayor Costello's very skillful handling of a sensitive and difficult issue as well as for the leadership of the Commission.

Two Agenda Items

Mayor Costello started the two issues for which Commissioner Boyle requested agenda items may be handled adequately in a Friday letter; but if the report was not acceptable, it could then be placed on an agenda. He asked Commissioner Boyle if he would accept this arrangement. Mayor Costello clarified that he was trying to avoid items being placed on an agenda if a report would adequately address a Commissioner's concern. Mayor Costello also urged the

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Commission not request items on specific agendas as it was not known what other items would be on that agenda.

Commissioner Boyle stated the discussion would not have to be on the June 28 meeting. He reported he would expect these items to not take longer than five minutes each. Commissioner Boyle advised he would not be satisfied with Mayor Costello's alternative.

Mayor Costello requested a report prior to the item being placed on the agenda as a discussion item. He stated this item would be on an agenda, but urged such items be handled by a report whenever possible in the future.

Commissioner Boyle stated the interaction of ideas between the Commission members was critical on topics such as those he had requested.

#### Noise Management Task Force

Mayor Costello requested the Commission address Commissioner Boyle's recommendation relative to the Noise Management Task Force issue as they gave their comments.

Mayor Costello stated in that the Aviation Advisory Board was addressing this issue, the people on the noise committee could attend the Aviation Advisory Board meeting at any time and discuss the issue. He noted he would hesitate establishing more boards or committees.

Commissioner Kent stated he favored Commissioner Kelley's recommendation to keep the topic a part of the discussion at the Aviation Advisory Board meeting.

#### Rigby School

Commissioner Kent stated that at the last "Coffee with the Commissioner," the playground equipment at Ormond Beach Elementary was discussed. He noted the School Board had already placed another playground behind Ormond Beach Elementary to make up for the one they will lose due to the addition of the parking lot. Commissioner Kent reported he did not want that playground equipment taken out of Zone 2. He advised the Rigby School was the perfect location for some of this playground equipment, and the rest could be placed at the South Ormond Neighborhood Center. Commissioner Kent requested, if necessary, this be placed on an agenda for discussion.

#### Coffee with the Commissioner

Commissioner Kent stated the first Monday of July was a holiday; therefore, "Coffee with the Commissioner" would be changed to the second Monday in July, which was July 11 at 4:00 p.m. at 130 Magnolia Drive.

#### Beach Street Construction

Commissioner Kent stated there was a six-inch water line that broke during the construction on Beach Street, and the water was flowing into the Halifax River. He noted a citizen asked if the pipe would be capped, and he was told by the workers that they would deal with it the next morning because they did not want to shut off everyone's water. Commissioner Kent questioned how much water was dumped into the Halifax River because of that incident. He requested staff comment on the issue in the Friday letter.

#### Display Cases at the Rigby School

Commissioner Kent stated he was consulting with Pace regarding using two rooms in the Rigby School to place display cases for memorabilia.

#### The Casements Grants

Commissioner Kent reported he spoke to Loretta Moio, Grants Coordinator, relative to the possibility of seeking grants for The Casements such as the Special Category ECHO grant.

#### Moving Items on Agendas

Commissioner Kent reported he promised to mention a suggestion made at his "Coffee with the Commissioner" meeting which was to move agenda items up when a crowd of people were attending for that item as Mayor Costello did this evening. He noted this was recommended because the night the Rigby School and Pace were discussed, the people had to wait to nearly 10:00 p.m.

#### Plaque at City Hall

Commissioner Kent requested an agenda item to discuss placing a plaque at City Hall containing the names of all of the Commission members who have ever served Ormond Beach. He noted he mentioned this idea before but received no response.

Retention Ponds at Nova Road

Commissioner Kelley thanked Ms. Sloane and her staff for the quick action on the retention ponds at Nova Road across from Tomoka Oaks.

Drainage Problems

Commissioner Kelley stated he had eight inches of rain in his yard, and many roads were washed out. He reported he removed some debris that was blocking storm drains, and the County promised to come within two days to clear the obstruction. Commissioner Kelley noted the work of individual citizens and County staff helped solve this problem.

Commissioner Kent Nuptials

Commissioner Kelley congratulated Commissioner Kent on his wedding this Saturday.

Commissioner Partington wished Commissioner Kent well on upcoming nuptials.

Customer Service

Commissioner Partington thanked Ms. Sloane and the stormwater employees for displaying great customer service.

Handing Out Coins

Commissioner Partington stated the idea of handing out coins was borrowed from J. D. Rockefeller, and he was pleased Commissioner Boyle used the idea and hoped it was effective.

Noise Management Task Force

Commissioner Partington stated he would be satisfied to allow the Aviation Advisory Board hear the noise complaints.

Mr. Turner thanked Commissioner Boyle for his comments on the Noise Management Task Force and noted he was pleased it worked out well. He explained the reason this task force was dissolved was because it was designed to be dissolved and because, in this way, the people who share an interest on the issues would be able to meet without the formal requirements of a board, such as advertising and formally calling the meetings. Mr. Turner advised that he met with the chairman of the Aviation Advisory Board to share some of the issue the task force discussed, and he informed him that some of the task force members may come to the Aviation Advisory Board meetings to address their concerns in the future.

Playground Equipment

Mr. Turner stated he would work with the Parks Director and would seek opportunities to keep the playground equipment in Zone 2.

Plaques in City Hall

Mr. Turner advised the recommendation of the plaques in City Hall had not been forgotten. He reported options would be presented with the budget as an unfunded item.

Drainage Report

Mr. Turner reported staff would have a drainage report to be included in the Friday letter. He urged the Commission or the public to report any drainage problems so they are included in the system.

Commissioner Kelley stated staff arrived at the site very quickly, worked with citizens, and took a report.

Expressions of Appreciation

Mr. MacLeod thanked Mr. Burton and his staff for the great Memorial Day celebration and Ms. Sloane and her staff for the great job they did during the storm.

Golf Course Property

Mayor Costello stated he looked forward to the report relative to the sewer line at the airport and on the protected species on the golf course land.

Moving Items on the Agenda

Mayor Costello stated most times he would be able to sense when an item should be moved up on an agenda; however, he urged the Commission to recommend moving an item if they are aware a number of people were present to discuss a certain item.

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Off-Beach Parking

Mayor Costello reported he was doing everything possible to work on off-beach parking, but he needed assistance in finding property so the City could place the onus on the County Council to provide off-beach parking.

Marriage

Mayor Costello congratulated Commissioner Kent on his upcoming wedding.

Drainage

Mayor Costello urged Commissioner Kelley to follow up with the Commission with Francis Bailey and Mr. Vanacore. He stated this area included I-95 and Pineland Trail. Mayor Costello commended staff for having so few drainage complaints considering the large amount of water that has fallen in such a short time span.

Donations

Mayor Costello stated he wanted the splash park, but had been working on a plan that he would present to the Commission regarding requesting donations relative to a Casements endowment, aquatic center, beach park, stadium, community center/gymnasium, and bike trail through the community. He noted there were people living in Ormond Beach who would be able to help should they desire to do so.

Item #14 – Close the Meeting

The meeting was adjourned at 11:40 p.m.

APPROVED: June 28, 2005

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk