

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

**September 20, 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 Father Comforted Keen, Church of the Holy Child.
- 3) Pledge of Allegiance.
- 4) **SECOND PUBLIC HEARING – FY 2005-2006 MILLAGE RATES/BUDGET:**
  - A) Resolution No. 2005-185 establishing the final millage rates to be levied for Fiscal Year 2005-2006; directing certification; expressing legislative intent. (Operating millage rate of 3.61267; debt service millage rates of 0.49949 and 0.04100)
  - B) Second Reading of Ordinance No. 2005-30 adopting the Annual Budget for the 2005-2006 Fiscal Year beginning October 1, 2005, and ending September 30, 2006; repealing all inconsistent ordinances or parts thereof. (\$71,387,222)
- 5) Approval of the Minutes of the September 6, 2005, meeting.
- 6) **PRESENTATIONS:**
  - A) Chamber of Commerce “Positively Ormond” presentation, Lorry Garafolo, President.
  - B) Saralee Morrissey, Director, Site Acquisition and Intergovernmental Coordination, Volusia County Schools.
- 7) **AUDIENCE REMARKS:**
- 8) **INTERGOVERNMENTAL BOARD REPORTS:**
  - A) Metropolitan Planning Organization
  - B) Volusia Council of Governments
  - C) Water Authority of Volusia
- 9) **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. 2005-186 authorizing the execution of a service agreement between the City and Ormond Main Street, Inc. (\$24,000)
  - B) Resolution No. 2005-187 authorizing the execution of a service contract between the City and the Ormond Beach Chamber of Commerce. (\$29,000)
  - C) Resolution No. 2005-188 authorizing the execution of an agreement between the City and the Volusia County Metropolitan Planning Organization in support of planning and funding of Volusia County transportation system projects; authorizing the expenditure of funding. (\$3,833)
  - D) Resolution No. 2005-189 authorizing the execution of a Cooperative Business Development Agreement between the City and Daytona Beach/Halifax Area Chamber of Commerce, Inc. (\$18,150)
  - E) Resolution No. 2005-190 authorizing the execution of a Lease Agreement between the City and Ronald Jackson for the maintenance of certain City-owned real property.
  - F) Resolution No. 2005-191 authorizing the execution of a Letter Agreement between the City and Daytona USA; and authorizing the execution of an Artifacts Loan Agreement

between the City, the Amelia Island Concours d'Elegance Foundation, Inc., and the Stanley Museum regarding the Stanley Steamer replica.

- G) Resolution No. 2005-192 amending the Pay and Classification Plan. (Adding the position of Airport Manager)
- H) Resolution No. 2005-193 increasing the pay ranges and steps for non-bargaining unit classified and unclassified employees and officials by 3%; authorizing the implementation and granting of a one-step pay increase for all non-bargaining unit employees covered by a step plan; authorizing the implementation and granting of a 3% general wage increase to 500 series (managerial) employees and authorizing the City Manager to administer a merit plan for those employees providing for additional increases from 0% to 3.25%; authorizing a 6.25% general wage increase to all other non-bargaining unit employees and officials not covered by a step plan.
- I) Resolution No. 2005-194 authorizing the execution of Change Order Number Two (2) to that contract awarded to Masci Corporation regarding the Dormont Drive Drainage Improvement Project, by increasing the contract price by \$22,445 and increasing the contract time by seven (7) days.
- J) Resolution No. 2005-195 authorizing the execution of a Change Order Number One/Supplemental Agreement to that contract awarded to H.L. Pruitt Corporation regarding electrical improvements at the Ormond Beach Municipal Airport, by increasing the contract price by \$4,201.30.
- K) Resolution No. 2005-196 authorizing the execution of a Joint Project Agreement between the City and the County of Volusia regarding utility adjustments at the intersection of Tymber Creek Road and Airport Road. (\$200,000)
- L) Resolution No. 2005-197 authorizing the execution of a contract between the City of Ormond Beach and Hall Construction Company, Inc., regarding the South Ormond Neighborhood Center Restroom Renovation project. (Not-to-exceed \$45,026)
- M) Resolution No. 2005-198 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 GOSURF, Inc. (120 East Granada Boulevard - \$15,750)
- N) Closing of Riverside Drive for various special events during 2005-06.

DISPOSITION: Approve as recommended in City Manager memorandum dated September 15, 2005.

10) **PUBLIC HEARINGS:**

- A) Ordinance No. 2005-16 adopting certain amendments to the Future Land Use Element, Transportation Element, Conservation Element, Cultural Affairs Element, and the Future Land Use Map of the City of Ormond Beach Comprehensive Plan, providing when such amendments shall take effect. (First Cycle 2005 Comp Plan Amendments) (Second Reading) (Tabled from the 7/19/05 meeting.)

➤ Ormond Crossings

Future Land Use Map (Future Land Use Element)

- 1. Ormond Crossings, from Volusia County "Commercial," "Urban Low Intensity," "Agricultural Resource" and "Rural" to Ormond Beach "Activity Center" (3,095 acres)

Future Land Use Element (Text)

- 2. Amending Goal 1 of this element to establish an Activity Center land use to encourage the development of master planned, mixed use developments that serve as a catalyst for economic development opportunities.
- 3. Amending table 1, Distribution of lands uses by percentage, to include the Ormond Crossings project.
- 4. Amending Table 2, Comparison of updated resident population projections with adopted population projections.

5. Adding directive text for the activity center land use.
6. Amend Table 1, Future Land Use Element, Directive Text future land use area.

Transportation Element (Text)

7. Adding Objective 1.17 and related policies to ensure that all properties designated as “Activity Centers” on the Future Land Use Map shall be designed to internalize traffic impacts and reduce the average trip length of home to work and home to shop trips and the associated policies for this objective.
8. Amending Table 6, Future Roadway Functional Classification to add Ormond Crossings Boulevard as a divided principal arterial roadway.

Conservation Element (Text)

9. Amending Policy 1.1.7; amending Objective 2.4; adding Policy 2.4.1; amending Policy 5.2.3; amending Objective 5.4; amending Policy 5.4.16; amending Policy 5.4.11; and amending Policy 5.4.39 to allow for exemptions to the City’s wetland impact restrictions for “Commerce Park” designated properties within the Ormond Crossings Activity Center, subject to approval of a wetlands management master plan.

➤ River Oaks

Future Land Use Map (Future Land Use Element):

10. River Oaks (south of Airport Road, east of I-95, west of the Broadwater subdivision, and north of the Tomoka River.), from Volusia County “Urban Low Intensity,” “Low Impact Urban” and “Environmental Systems Corridor” to City “Suburban Low Density Residential.” (58.26 acres) This land use is proposed to be used once the subject property has been annexed into the City of Ormond Beach.

➤ Fire Station #91

Cultural Affairs Element (Text)

11. Amend Policy 1.2.10 by clarifying that use and maintenance of the “Old Coquina Firehouse” may be through private or public ownership.

➤ Future Land Use Map

12. The Planning Department requests 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).

- B) Ordinance No. 2005-28 vacating a portion of Fluhart Avenue right-of-way lying west of Riverside Drive; reserving certain easements. (First Reading)
- C) Ordinance No. 2005-31 approving the preliminary/final plat for the “Ormond Town Commercial Center,” Phase II, replat; establishing conditions and expiration dates of approval. (Second Reading)
- D) Ordinance No. 2005-32 amending Subsection A, Zoning Map, of Chapter 2, District and General Regulations, Article I, Establishment of Zoning Districts and Official Zoning Map, Section 2-03, Official Zoning Map and Zoning District, of the Land Development Code, by amending the Official Zoning Map to rezone ten (10) vacant parcels totaling 5.20 acres of real property from B-4 (Central Business) to PBD (Planned Business Development) and R-3C (Single-Family Medium Density) to PRD (Planned Residential Development), said real property being located on the east side of North Yonge Street/US1 between Highland and Dix Avenues; establishing boundaries; authorizing revision of the official zoning map; approving a Development Order for “The Courtyards at Ormond,” Planned Business Development and Planned Residential Development. (First Reading)
- E) Ordinance No. 2005-33 amending Subsection A, Zoning Map, of Chapter 2, District and General Regulations, Article I, Establishment of Zoning Districts and Official Zoning Map, Section 2-03, Official Zoning Map and Zoning District, of the Land Development Code, by amending the Official Zoning Map to rezone 3.36 acres of real property from B-6 (Oceanfront Tourist Commercial) to PBD (Planned Business Development), said real property being located at 51 South Atlantic Avenue/A1A; establishing boundaries; authorizing revision of the official zoning map; approving a

Development Order for the “Royal Floridian by Spinnaker” Planned Business Development. (First Reading)

- F) Ordinance No. 2005-34 annexing certain real property into the City of Ormond Beach located at the northeast corner of West Granada Boulevard and Tymber Creek Road; setting forth zoning, privileges, and obligations of said property; providing for transmission. (3.29 acres – CVS Pharmacy) (First Reading)

11) **RESOLUTIONS:**

- A) Resolution No. 2005-199 appointing a member to serve as a trustee of the City of Ormond Beach Firefighters’ Pension Trust Fund; establishing term and conditions of service. (William Heric)
- B) Resolution No. 2005-200 appointing a member to serve on the General Employees’ Pension Board; establishing term and conditions of service.
- C) Resolution No. 2005-201 authorizing the execution of a real estate lease between the City of Ormond Beach and Florida East Coast Railway Company for the use of right-of-way at the railroad crossing on Granada Boulevard.

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

- 13) Close the meeting.

Item #1 - Call to Order

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

Item #2 – Invocation

Father Comforted Keen, Church of the Holy Child, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello asked Mr. Zachary Burd to lead the Pledge of Allegiance. He advised that Mr. Burd was a resident of Ormond Beach who was in the Armed Services and home from Iraq on leave for two weeks. Mayor Costello noted during Mr. Burd’s nine months of service, he had been injured twice and lost four of his good friends. He read a letter Mr. Burd’s mother wrote expressing pride in her son for joining the service so his family would never have to be afraid in their own country again. Mayor Costello presented Mr. Burd with a “Key to the City” pin.

Item #4(A) – Establishing the Final Millage Rates for the 2005-2006 Fiscal Year

Mayor Costello reported per Florida Statute, he was required to state that the proposed millage rate for the City of Ormond Beach necessary to fund the FY 2005-2006 budget was 3.61267 mills. He noted this was a 23.58% tax increase over the rolled back tax rate of 2.9233. Mayor Costello stated the principal reasons for the increase were: increases in personal services of approximately \$1.2 million; increases in transfers out of approximately \$600,000; and increases in facilities renewal and replacement funding supported by tax revenue of \$500,001.

Mayor Costello asked the City Clerk to read Resolution No. 2005-185.

RESOLUTION NO. 2005-185  
A RESOLUTION ESTABLISHING THE FINAL MILLAGE RATES  
TO BE LEVIED FOR FISCAL YEAR 2005-2006; DIRECTING  
CERTIFICATION; EXPRESSING LEGISLATIVE INTENT; AND  
SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello advised that this was a public hearing and asked if there were any members of the public who wished to speak or ask questions prior to adoption of the tentative millage rate and budget.

Mr. Bob Evanoff, 8 Oak Knoll Way, reported the voters spoke in 2003 by turning down a plan to expand the recreational complex, but the Commission was now back with a plan to spend \$3

million to expand the recreational field and complex. He stated the City would not need tax increases if the City would cut back on spending and the funding for the employees retirement plans that would eventually bankrupt the City.

Mr. Emmett R. Crump, Jr., 1 Tomoka Oaks Boulevard, Unit 117, stated some taxes were being increased, but a fact that needed to be considered was that property values were increasing. He reported the City must keep its properties maintained and pay its employees. Mr. Crump noted money was needed to run the City properly.

Ms. Brenda Wesolowski, 6 Wayland Circle, stated the cleanup in gated communities after the hurricane was being paid by citizens through increased taxes because FEMA would not cover the expense, but she was forced to pay for her cleanup in Ormond Lakes. She questioned if the City would be considering a tax increase if it were not for this expenditure plus the error made at the airport. Ms. Wesolowski asked what was being done to prevent such expenditures in the future.

Mayor Costello asked Ms. Wesolowski to contact Mr. MacLeod or Mr. Turner so they could provide more information as to why she was required to pay for cleanup. He pointed out that the cleanup had nothing to do with the taxes in that the funding for that came from the Solid Waste Fund.

Mr. John Bornmann, 6 Windsor Drive, stated people complained last year and this year to no avail. He reported other cities have tried to make cuts such as going to smaller cars, but he did not see Ormond Beach making any cost cutting efforts and questioned why no efforts were being made.

Mayor Costello stated Ormond Beach had already passed a resolution to go to smaller cars for the police, and staff was seeking other cost saving possibilities.

Ms. Pat Otwell, 124 Ormond Parkway, commended the Commission for the proposed budget of 9.5% this year. She noted in that she was eligible for a homestead exemption, her tax increase would be negligible. Ms. Otwell stated homeowners were hit hard last year and face an additional increase this year; therefore, she requested holding taxes at this rate for at least five years and urged looking for other sources of revenue. She urged a larger tax burden be placed on tourists coming to the City for special events. Ms. Otwell recommended hiring additional retired law enforcement officials during special events to ticket those who violate speed, noise, alcohol, and drug laws. She suggested a major review be done relative to possible changes being made regarding building permits and code enforcement laws, which need to be enforced. Ms. Otwell stated while these additional personnel would cost more money, she believed the financial benefits would far exceed the costs.

Mr. Rick Lovell, 354 Applegate Landing, stated last week and tonight he was speaking as an individual citizen rather than as a member of the Budget Advisory Board, but any references he made to the views or opinions of the board were a matter in the public record and had previously been presented to the Commission as part of the board's annual report. He reported Commissioner Boyle responded to his comment of maintaining a 15% General Fund reserve by indicating the reserve was an arbitrary amount and that a 10% reserve in this year's budget would be the same dollar amount as the 15% reserve he advocated in 1996. Mr. Lovell stated it was true the dollar amount was an arbitrary number because of the need to change as the City's need for emergency reserves would grow. He explained a percentage, rather than a dollar amount, would handle that issue automatically. Mr. Lovell stated in 1998 Ormond Beach had nearly \$6 million in reserves, but since that time consecutive Commissions have chosen to use the reserves to pay for recurring expenses rather than adjust the millage rate. He noted the \$6 million had been spent down to \$3.2 million by funding those recurring expenses. Mr. Lovell explained the majority of this Commission had taken the necessary, and somewhat painful, steps to reverse this trend and insure the budget would pay for the City's recurring expenses rather than paying them out of the reserve. He noted only Commissioner Boyle had taken the position that it was appropriate to further reduce the City's reserve to create a minor reduction in the millage rate. Mr. Lovell stated this was the same philosophy that created many of the budget problems that the majority of this Commission was trying to correct. He expressed the importance of maintaining an adequate reserve should a catastrophic event strike Ormond Beach. Mr. Lovell reported anything below a 12% reserve of the General Fund budget would endanger the financial stability of the City, and any recommendation to do so would be ill advised. He asked that his e-mail address be placed on the City's website so any citizen could e-mail him to ask questions or offer suggestions. Mr. Lovell urged all citizens to come to Budget Advisory Board meetings to provide input.

Mr. Don Dewar, 15 Deerskin Lane, stated the City Manager was charged to manage the funds provided by tax dollars. He noted Ormond Beach was a beautiful City, and he wanted to see it supported properly. Mr. Dewar reported it was the Commission's responsibility to examine Mr. Turner's plans very carefully to be certain they were in line.

Mr. Charles Carter, 212 Arlington Way, thanked Mayor Costello for taking the time and interest to review the proposals he made at the last meeting. He stated Mayor Costello's review clearly indicated to him that his philosophy was to keep money in funds while placing new taxes and fees on lower income people in the City. Mr. Carter noted as long as money was in the accounts, the Commission could continue to spend. He stated the audit from 2003-04 cost more than \$50,000, and it should be respected. Mr. Carter pointed out that the report indicated the City's assets exceeded the liabilities by \$125,894 as of September 30, 2004. He noted \$87,625,000 reflected the City's investment in capital assets, which were not available for future spending. Mr. Carter stated another portion of the City's assets amounting to \$25,251,000 were restricted and could not be used, but the balance of \$13,018,000 could be used to meet ongoing obligations to citizens and creditors; therefore, the City had the money. He noted page 33 of the audit indicated the unrestricted net assets in the Enterprise Funds of Water, Sewer, and Solid Waste were \$7,465,000. Mr. Carter stated the fund balance in this fund was over \$27 million. Mr. Carter stated the auditors have indicated there were adequate funds to cover any emergencies and others that may be used to avoid new taxes and new fees.

Mr. Doug Thomas, 132 River Bluff, stated since 1975 he had been involved in City politics and had served on various City advisory boards. He reported for the first 28 to 30 years that he was a resident of Ormond Beach, the City took pride in the fact that the taxes were the lowest in the County, and during that time he watched the City facilities disintegrate or degenerate. Mr. Thomas urged everyone to understand that now it was the time Ormond Beach citizens had to pay for what was important to them, such as recreation for the children and the seniors. He noted he, as anyone, did not want to pay additional taxes, but he understood that it was necessary. Mr. Thomas thanked the Commission for their stand.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-185, as read by title only, adopting the proposed operating millage rate of 3.61267 and the debt service millage rates of 0.49949 and 0.041.**

Commissioner Boyle stated people were negatively impacted last year and would be negatively impacted by this proposed increase. He reported there was also a negative effect from the Gulf Coast disaster. Commissioner Boyle asked for a positive action in a reduced tax rate. He noted he favored a tax increase to address those items Mr. Thomas and others mentioned; however, he did not favor as large a tax increase as was being proposed. Commissioner Boyle stated Ormond Beach had higher assessments, and positive General Fund variances have occurred every year. He reported last year he indicated money would show up, and he was now positive it would occur again next year. Commissioner Boyle stated many people have sacrificed to help the Gulf Coast survivors, and he stated the government should make sacrifices demonstrating its sensitivity to the Gulf Coast survivors and to Ormond Beach citizens on fixed and low incomes.

Commissioner Kent stated it was difficult to fight the history of what had occurred in this City. He urged people to examine the trend the City had taken for the past ten years. Commissioner Kent noted last year he asked the finance director how many more years the City could continue with this trend before going bankrupt, and his reply was that the City could only continue between three to four years. He stated no Commission member wanted to approve a tax increase, but "band aide" fixes cost more money in the long run. Commissioner Kent reported he was prepared to do what was right for Ormond Beach.

Commissioner Partington concurred with Commissioner Kent. He stated the millage rate was a byproduct of the budget and the budget was 9½% less than last year. Commissioner Partington noted there were millions of dollars of un-funded items that were eliminated, although the most important items were included. He explained staff worked so hard to cut the budget that they may have crossed the line in their recommendations regarding health and safety issues, such as a chlorine issue where the Commission needed to remind staff that health and safety was more important than cost savings. Commissioner Partington reported the budget was very lean, and it was scrutinized a great deal over the past weeks through workshops and Budget Advisory Board meetings. He stated the Commission was doing the right thing for Ormond Beach by approving this budget and making up for lost time. Commissioner Partington pointed out that going to the rollback rate was a great misnomer in that it would keep politicians in office, but caused a crisis where two years of increases were needed that made everyone unhappy. He stated it would have been better to have had smaller increases each year than larger increases for two years, but the smaller increases did not happen. Commissioner Partington reported that

the City was now getting back on track thanks to Mayor Costello and the Commission's leadership, and continued small increases may keep the City on track in the future.

Commissioner Kelley stated for seven out of the past ten years the City had no tax increase or it went to roll-back using reserves to pay for ongoing expenses. He reported the "found money" Commissioner Boyle alluded to would allow the City to not go back into the reserves this year. Commissioner Kelley urged anyone who believed the City could use the funds Mr. Carter mentioned to please contact Mr. Paul Lane, Finance Director, who could explain that those funds could not be used in that they were obligated funds not to be used for the general operation of the City. He pointed out that many entities were proposing tax increases this year because costs were increasing, such as health insurance and employee benefits.

Commissioner Kelley explained to go to the roll back rate, would mean the City would generate the same amount of revenue as last year, but there have been cost increases that must be funded. He stated some costs are fixed, such as salaries, in that the contracts are signed. Commissioner Kelley noted 75% of the budget was to fund employees' salaries and benefits, and this could not be eliminated. He reported the Commission would challenge staff to go above and beyond to seek cost-cutting measures. Commissioner Kelley stated he believed the City could maintain the tax rate for the next five years, but it would be foolish to believe the City could ever go back to roll back every year. He noted over \$500,000 was allocated for the maintenance of facilities that have been neglected. Commissioner Kelley stated it was a travesty that a basketball game in Ormond Beach had to be cancelled due to rain because the Nova Recreation roof leaked. He reported funds have been designated in this budget to fix some of the problems that have deteriorated during the past seven years, which should have been taken care of previously, and this was where the majority of the tax increase money would be spent. Commissioner Kelley stated should he be reelected, next year he would guarantee the citizens he would not vote for a higher tax rate. He reported his mother living on a fixed income and would have to pay an additional \$12.42 next year, and his taxes would increase \$55.32 next year, and both he and his mother were willing to pay the extra money to take care of the City's facilities; however, he was not willing to pay any more if there would be waste that could be eliminated.

Mayor Costello commended staff for coming in \$700,000 under the budget this year, and he challenged them to do it again next year. He stated the 2005-06 budget would be 9.5% lower than this year's budget. Mayor Costello pointed out that the City Manager recommended a 3¼% staff increase, but the Commission passed a 6½% increase. Mayor Costello noted the City Manager recommended a budget with a lower tax rate, but the Commission passed raises; \$500,000 was appropriated for maintenance renewal and replacement of which he wholeheartedly supported; a decision was made to stop spending fund balance reserves, appropriating \$418,000 less from the fund balance this year than last year; and in 2005-06 the City would appropriate no funds from the fund balance. He stated he saw no reason to go over the existing rate next year, absent a catastrophe. Mayor Costello urged the citizens to consider that people live in Ormond Beach because of value. He stated because of the painful tax increases of last year and this year, the City was now at a millage rate of 4.15 while Port Orange was at 4.86 and Daytona Beach was at 7.11. Mayor Costello explained on a \$200,000 home, less the \$25,000 homestead exemption, in Daytona Beach the City taxes would be \$12,044; in Port Orange the City taxes would be \$841; and in Ormond Beach the City taxes with the increase would be \$727. He reported the percent of the tax bill for the municipality in Daytona Beach was 27.8%; in Port Orange it was 20.9%; and in Ormond Beach it was 18.4%. Mayor Costello stated of the \$1,477,993 increase in the General Fund, \$1.2 million was for salaries, insurance, and pensions, which the Commission had no control over because the three-year contracts were passed. He pointed out this did not include any additional employees. Mayor Costello explained the following figures from the sheet he provided: property rate change, City-wide pension costs where the Commission had no control, total of all employees as a percentage of the General Fund, total full-time equivalence per 1,000 population, appropriated fund balance, and Capital Improvements Project. He pointed out that in 2001-02 the City stopped investing in the City's facilities, so last year the City added a Capital Improvements millage, and this year it added a maintenance and renewal budget; therefore, he would go on record that this would be the final act to fix the budget. He stated he would challenge staff to keep the same tax rate or lower next year. Mayor Costello stated he was proud of what the Commission had done, but assured the public that no one wanted to increase taxes.

Mayor Costello stated the proposed operating millage rate was 23.58% over the rolled back millage rate. He explained the resolution also included adoption of the proposed debt service millage rates of 0.49949 for the 2002 General Obligation Bond Sinking Fund and 0.04624 for the 2003 General Obligation Bond Sinking Fund.

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

Item #4(B) – Adopting the Annual Budget for the 2005-2006

ORDINANCE NO. 2005-30  
AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE  
2005-2006 FISCAL YEAR BEGINNING OCTOBER 1, 2005, AND  
ENDING SEPTEMBER 30, 2006; REPEALING ALL  
INCONSISTENT ORDINANCES OR PARTS THEREOF; AND  
SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-30, on second reading, as read by title only.**

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

**Hearing no objection, Mayor Costello closed the public hearing on Item #4(B).**

Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the September 6, 2005, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

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

Item #6(A) – “Positively Ormond” Presentation

Ms. Lorry Garafolo, President, Ormond Beach Chamber of Commerce, presented a letter to the Commission and Mr. Turner which pointed out the negative aspects of life were continuously emphasized with no mention of the positive things that occur. She expressed appreciation for the efforts of the Commission and staff to not only preserve, but improve, the quality of life of the residents. Ms. Garafolo reported while they may not always agree with the positions ultimately passed, it was known that each Commission member had valid opinions that were intended to provide the residents with a superior place to live, work, and play. She stated in that no one was perfect, mistakes could be made, and when they were made, the Commission and staff were quick to consider solutions to correct the situation. Ms. Garafolo reported many positive steps have occurred such as the improved relationship with County government, improved cooperation between the City and civic organizations, and the partnership with Citizens for Ormond Beach. She noted the residents enjoy excellent recreational and youth activities, citizen advisory boards provide for significant input, and business and residents are flourishing in Ormond Beach. Ms. Garafolo thanked the Commission and staff for their service to the City.

Mr. Rick Frasier, past Chamber of Commerce president, stated the letter took approximately six meetings to draft and was a collaboration between the Ormond Beach Chamber of Commerce, Citizens for Ormond Beach, and Ormond Main Street. He reported these three organizations wanted to let the City know that their work was appreciated. Mr. Frasier provided 200 citizens' signatures who agreed with what this letter related. He also provided “Positively Ormond” buttons. Mr. Frasier noted two people would not sign the letter, one of whom explained he refused to sign because of the deteriorating condition of the recreation facilities.

Commissioner Kelley provided ten additional signatures.

Mayor Costello stated Ormond Beach was a fantastic community, but he acknowledged it had been difficult to lead through some of the issues before the Commission recently. He thanked the Chamber, Ormond Main Street, and Citizens for Ormond Beach.



Item #6(B) – School Board Report

Ms. Saralee Morrissey, Director of Site Acquisition and Intergovernmental Coordination for Volusia County Schools, 3750 Olson Drive, Daytona Beach, reported the School Board had been working as part of the Smart Growth effort, and the school board adopted a growth management policy entitled School Board Policy 613 that was adopted May 25, 2005, and had a top goal of increasing student achievement. She stated there was much to be proud of in Volusia County schools. Ms. Morrissey noted the School Board had no authority over land development, but the cities and school board were working together to review and evaluate the exiting school capacity as well as any planned expansion within the next five years. She explained that it was expected that with rezonings that increase residential density or land use map amendments where the ability for the School Board to address the increase in capacity would be exceeded, the School Board believed that the local government should publicly acknowledge that approval of the proposal would have an adverse impact on the educational services and facilities provided in the area. Ms. Morrissey clarified that the School Board believed that local government had a roll in helping to provide the educational services the School Board was required to provide.

Ms. Morrissey reported mitigation related closely to what came out of Senate Bill 360 where there was an expectation from the School Boards that local governments would require applicants to provide the School District with the means to mitigate the adverse impacts on area schools, but this was not defined in the policy and only somewhat defined in Senate Bill 360. She stated Volusia County must adopt the Public School Concurrency by February 2008, and it was not too early to begin working on this because it would take all of the two years to reach agreements with all of the municipalities in Volusia County and develop a workable system. Ms. Morrissey explained the level of service and proportionate share mitigation would be discussed extensively as well as the relationship to impact fees. She reported the Governor set up an Impact Fee Task Force to recommend how impact fees were to be calculated.

Mayor Costello stated his goal was for the Commission to realize what the School Board would be doing regarding the calculation of impacts and mitigation relative to how it would affect some of the projects under Commission consideration. He asked Ms. Morrissey to meet with Mr. Ervin and present in writing or at another meeting what sites Ormond Beach would need and what the City could do to help to maintain Ormond Beach and to co-partner with the School Board, because the schools were a mirror of the community. Mayor Costello clarified he was not indicating the City would provide funding, but could assist in facilitating private funding should the need arise.

Item #7 – Audience Remarks

Breakaway Trails

Mr. Bob Evanoff, 8 Oak Knoll Way, expressed concerned regarding e-mails sent by Mayor Costello regarding the Breakaway Trails, Phase III, swimming pool amendment to the Breakaway Trails Development of Regional Impact (DRI). He read the e-mails and asked that they be placed in the meeting record.

Mayor Costello stated the City would be happy to place anything Mr. Evanoff would like in the meeting record; however, he cautioned that if this was a homeowners' association issue, Mr. Evanoff had already been informed that the City did not get involved in homeowners' association issues.

Mr. Evanoff clarified this displayed Mayor Costello's involvement in the simple amendment to the DRI.

Mayor Costello asked Mr. Hayes to monitor Mr. Evanoff's comments and alert the Commission should he discuss something that should not be discussed at this meeting.

Mr. Evanoff stated that on May 10, Mayor Costello sent an e-mail to Mr. Ervin and Mr. Turner with a copy to Planner Doug Gutierrez, Murray Greenberg, and the president of the Breakaway Trails homeowners' association, Joe Daprile, regarding the revised DRI for Breakaway Trails where Mayor Costello questioned to whom he could appeal the need for the developer to go through the expense of the amendment to the DRI and where he asked if there was anything he could do to expedite it. Mr. Evanoff expressed concern that Mayor Costello was asking the Planning Director and City Manager to find a way to find ICI \$25,000 to amend the Breakaway Trails DRI.

Mayor Costello noted the e-mail spoke for itself.

Mr. Evanoff asked if Mayor Costello represented the City or the developers. He stated the amendment for the DRI was put to a ballot within Breakaway Trails, and it did not pass the 75% requirement.

Mayor Costello pointed out that Mr. Evanoff was delving into homeowners' association issues. He noted the homeowners' association ruled that it was a valid vote.

Mr. Evanoff stated the next e-mail was from Mayor Costello dated July 15 and sent to the Secretary to the City Manager, Jackie Burke, Mr. Hayes, Commissioner Kelley, Planning Board member Dr. Beverly Grissom, and Mr. Ervin with a copy to Mr. Turner regarding the Breakaway Trails guard shelter. He stated Mayor Costello thanked everyone in the e-mail and identified himself as a resident of Breakaway Trails. Mr. Evanoff stated the e-mail requested that necessary applications and requests be processed to the Breakaway Trails homeowners' association per the homeowners' association president and urged them to follow the president's directions without concern for his or any other resident's individual direction when it was contrary to the president's direction, leaving the homeowners' association issues internal to Breakaway Trails as Mr. Hayes suggested. Mr. Evanoff questioned if the e-mail was instructing Mr. Ervin, Mr. Hayes, Mr. Turner, and Commissioner Kelley to only listen to the president of the homeowners' association and ignoring other residents.

Mayor Costello confirmed he absolutely was asking these people to listen to the homeowners' association president in that the City did not become involved in homeowners' association issues.

Mr. Evanoff noted that he had made a request of Mr. Ervin regarding who at the State level would review the DRI, and Mr. Ervin sent him a reply documenting a position. He reported Mayor Costello sent a response to Mr. James Stansbury and Mr. Milch of the East Central Florida Planning Council.

Mayor Costello informed Mr. Evanoff that his time was up, but he advised the Commission would hear from him should he wish to wait until the end of the meeting.

#### Celebrate The Loop Day

Ms. Rita Press, 875 Wilmette Avenue, stated that when people work with the County, they could receive great results. She noted the "The Loop" was a very special place for all and the "Save the Loop" group had been working very diligently to see this pristine area could remain pristine. Ms. Press pointed out that because of the efforts of the "Save the Loop" group and activists in the community, that over 420 acres have been acquired through the Trust for Public Lands to be added to the State Park. She announced "Celebrate the Loop Day" would be held at Tomoka State Park, and the park would waive the admission fee for the celebration. Ms. Press reported Citizens for Ormond Beach would sponsor the VOTRAN trolley going from Tomoka State Park, up The Loop, and stopping at such sites as the Fairchild Oak and Ormond's tomb. She stated Citizens for Ormond Beach was working with the Ormond Beach Historical Trust. Ms. Press announced there would be live music courtesy of the Songwriters' Showcase of America, Birds of Prey by the Audubon Society, living history talks, canoe and kayak rentals, native plants, and a 5K and 10K run/walk.

Ms. Press pointed out that due to the "Save the Loop" group working with the County, the County allocated money to do the Corridor Management Plan. She stated the Corridor Advocacy Group (CAG) would give a scenic designation for The Loop providing added protection to the loop as well as possible funding. Ms. Press reported the County had also allocated \$18,000 for a consultant to complete this process. She stated 19 diverse people agreed to include in the Smart Growth document that places like The Loop were very special, and the County should add protection for such places in their Comprehensive Plan. Ms. Press provided literature in the rear of the chambers for this celebration scheduled for October 1.

#### Staff Commendations

Mr. Lynn McCoy, representing the Ormond Beach Chamber of Commerce, commended staff for assisting Ormond Beach in achieving the designation of being one of the top 100 places to retire in the United States. He reported in 2004 Ormond Beach Leisure Services was designated one of top four in the nation; in 2004 and 2005 economic development was awarded for the best promotions by the Economic Development Council; Fire Chief Barry Baker received designation as accredited Fire Chief Officer by the Commission on Fire Accreditation; Chief Baker was also awarded Fire Chief of the Year by the Fire Chief's Association; Police Chief Larry Mathieson was honored with the Presidents Choice Award from the Florida Police Chief's Association for service and dedication to the public in law enforcement; Planning Director Clay Ervin was recognized by VCARD as the Citizen of the Year for his efforts in working on the Land Development Code; Canine Officer Lisa Rosenthal was honored for her efforts in combating

illegal drugs and drunk driving; numerous employees were involved in restoration efforts in Hurricane Katrina; and employees were serving in the war efforts around the world.

Breakaway Trails

Mayor Costello asked Ms. Veronica Patterson, City Clerk, to prepare an e-mail stream relative to Breakaway Trails issues Mr. Evanoff discussed and have them available for public view to anyone interested in the matter.

Item #8(A) – Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization (MPO) would have a meeting at VOTRAN, and the Long Range Transportation Plan workshop would immediately follow that meeting.

Item #8(B) – Volusia Council of Governments

Mayor Costello reported the next Volusia Council of Governments (VCOG) meeting would have the Smart Growth Implementation Committee report. He urged the Commission to attend the meeting if possible on September 26 at 5 p.m. at the VOTRAN meeting.

Item #8(C) – Water Authority of Volusia

Commissioner Boyle stated the Water Authority of Volusia (WAV) board would meet tomorrow at 8:30 a.m. when they would continue to discuss the Daytona Beach concerns. He noted he would provide copies of a letter to the Commission sent by Daytona Beach City Commissioner Shiver.

Item #9 - Consent Agenda

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

Commissioner Boyle asked Item Nos. 8(D), 8(G), and 8(H) be pulled to be discussed separately.

Mayor Costello reported Item No. 8(F) would be removed in that minor changes were required.

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

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

Item #9(D) – Agreement with Daytona Beach/Halifax Area Chamber of Commerce, Inc.

RESOLUTION NO. 2005-189  
 A RESOLUTION AUTHORIZING THE EXECUTION OF A  
 COOPERATIVE BUSINESS DEVELOPMENT AGREEMENT  
 BETWEEN THE CITY AND DAYTONA BEACH/HALIFAX AREA  
 CHAMBER OF COMMERCE, INC.; SETTING FORTH AN  
 EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-189, as read by title only.**

Commissioner Boyle stated the Ormond Beach Chamber of Commerce had an allocation of \$29,000, and they quantified and documented the allocation very carefully. He noted the Ormond Beach Chamber of Commerce were providing the City with three times the amount paid in services. Commissioner Boyle reported the Daytona Beach/Halifax Area Chamber of Commerce was an area wide effort. He stated he would prefer this \$18,150 would go to the Ormond Beach Chamber of Commerce rather than have the two entities possibly work at cross purposes.

Mayor Costello stated the partnership brought the Germ Free Labs to Ormond Beach, and Germ Free Labs was now purchasing some of the Ocean Design buildings. He noted it would be worthwhile continuing the agreement merely for gaining this one entity, but the partnership was working on bringing others into Ormond Beach as well. Mayor Costello reported with the City's goal of creating living wage jobs in Ormond Beach, he considered this to be a good investment.

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

Commissioner Boyle noted Mayor Costello's comments may have influenced his vote, but he was not certain the City would not have gotten another company on that same site.

Item #9(G) – Pay and Classification Plan - Airport Manager Position

RESOLUTION NO. 2005-192  
A RESOLUTION AMENDING THE PAY AND CLASSIFICATION  
PLAN; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2005-192, as read by title only.**

Commissioner Boyle stated this resolution would cost an additional \$100,000 per year including pension, benefits, and office expenses, which would be a recurring expense for an airport generating no revenue, while the City had invested over \$1 million in Capital Improvements to the airport. He noted he had not seen any plan as to how this investment would be recovered. Commissioner Boyle reported he was told that if the City did not see a return in a year or two, the position could be eliminated, which concerned him. Commissioner Boyle pointed out the City now had two Chambers of Commerce, a lobbyist, and Mr. Joe Mannarino working for the City. He noted the recent problems were not caused because the City did not have an Airport Manager position, but because the project did not go through a public review process. Commissioner Boyle reported he believed the airport would succeed with clear direction from the Commission.

Commissioner Kelley urged listening to the advisory boards. He stated the Aviation Advisory Board had consistently asked the Commission to consider a full-time Airport Manager. Commissioner Kelley noted the City would never know if the problem would have existed with an Airport Manager, but some of the new procedures instituted may help. He reported some of the animosity between the FBO's was a shame and should correct itself. Commissioner Kelley noted some of the requirements of contracts and leases that were not completed may not have been a problem with the proper person in charge. He stated the focus for the remaining airport property was economic development of industries. Commissioner Kelley pointed out the City did not need any more flight schools, but the stress for airport was economic development. He concurred with Commissioner Boyle that Mr. Mannarino was the best in the business, and he had considered suggesting placing this position in the auspices of economic development. Commissioner Kelley questioned if the City could find someone with the aviation ability along with the economic development ability. He challenged that should this be passed, the City Manager not accept anyone without the expertise in development of airport facilities. Commissioner Kelley noted this person would develop the properties, manage the airport properly, deal with the FAA, maintain the airport properly, and handle citizen complaints. He pointed out the Commission could not control who the City Manager would hire, but he urged some type of screening be done with the assistance of the Aviation Advisory Board and Mr. Manarrino to assure the City hire the top person. Commissioner Kelley stated he was convinced the City needed an Airport Manager and economic development of the airport property, but Mr. Manarrino could not accomplish the goals by himself.

Mr. Isaac Turner, City Manager, stated the focus of the position would be to allow for the development of the airport to occur in a fashion that would reflect the values of Ormond Beach, and that person could spend their full time in that effort. He stated Mr. Tom Lipps had done an excellent job doing various jobs, but it was time to allow someone to focus on this full time. Mr. Turner concurred the City should focus on desirable economic development, and there was a need to try to improve relationships with operators at the airport. He noted there were a number of contracts and agreements at the airport that needed to be followed. Mr. Turner reported he would work on the objective of the airport to pay for its own costs. He stated he hoped he had demonstrated that in hiring personnel, public input was welcomed from the

boards as well as from the general public to discuss necessary skills and observe some of the actual interview process. Mr. Turner reported for the past four years he had not recommended hiring someone for this position; however, he considered it warranted at this time because of the issues and relationships along with the potential for economic development at the airport.

Commissioner Kent expressed agreement with Commissioner Kelley’s comments and was pleased to hear Mr. Turner advocate public input on this position. He questioned the \$8,000 allocated for office furniture.

Mr. Turner explained this figure included a computer, phone, equipment, and all furniture, but staff would spend as little as possible while providing the needed equipment for the Airport Manager.

Commissioner Kent noted his approval and challenged that the cost be cut as low as possible.

Mayor Costello stated Mr. Turner’s hires have been outstanding.

Mr. Turner stated the hiring process would include public input. He noted that eventually the right person would not be hired; however, he assured the Commission that should that occur, they would not be employed by Ormond Beach for long. Mr. Turner expressed appreciation for the Commission’s willingness to compete in the market. He noted some employees may have been brought in at a slightly higher rate, but they have been good people doing a good job.

Mayor Costello noted he preferred the airport business activity be increased and the flight school activity decreased. He explained his goal was for the airport land to be economically developed in such a fashion that it would augment the community and not detract from the community. Mayor Costello requested a future discussion item regarding the airport to be an enterprise-type fund in that dollars going into the airport would be considered loans that would come back to the General Fund. He noted the challenge to the Airport Manager would be to create a situation whereby those moneys could come back to the General Fund so the airport would be an asset to the community.

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

Item #9(H) – Increasing Pay Ranges and Steps for Non-Bargaining Unit Classified and Unclassified Employees

RESOLUTION NO. 2005-193

A RESOLUTION INCREASING THE PAY RANGES AND STEPS FOR NON-BARGAINING UNIT CLASSIFIED AND UNCLASSIFIED EMPLOYEES AND OFFICIALS BY 3%; AUTHORIZING THE IMPLEMENTATION AND GRANTING OF A ONE-STEP PAY INCREASE FOR ALL NON-BARGAINING UNIT EMPLOYEES COVERED BY A STEP PLAN; AUTHORIZING THE IMPLEMENTATION AND GRANTING OF A 3% GENERAL WAGE INCREASE TO 500 SERIES (MANAGERIAL) EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO ADMINISTER A MERIT PLAN FOR THOSE EMPLOYEES PROVIDING FOR ADDITIONAL INCREASES FROM 0% TO 3.25%; AUTHORIZING A 6.25% GENERAL WAGE INCREASE TO ALL OTHER NON-BARGAINING UNIT EMPLOYEES AND OFFICIALS NOT COVERED BY A STEP PLAN; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-193, as read by title only.**

Commissioner Boyle applauded the City Manager for his hires. He disclosed the City Manager had spoken to him privately prior to his hires and the Commission as a whole in public meetings where he reported he considered there was a need to go slightly higher than market for the starting salaries of the new hires, and he supported that request. Commissioner Boyle noted the City Manager’s and City Attorney’s salary would continue to be evaluated by the Commission as was done in the past. He stated he supported the cost-of-living adjustment

(COLA) for those at the managerial level and the Commission, but he did not support the step increase.

Commissioner Kelley stated that had he been on the Commission last year, he would not have voted for the 6½% increase; therefore, he could not support the current proposal.

Mr. Turner stated three unions had contracts that had previously been approved with a 6½% increase. He clarified this discussion was for non-union employees. Mr. Turner explained staff initially recommended a 3¼% increase, but the Commission made a different decision. He implored the Commission to treat all of the employees the same. Mr. Turner pointed out these employees could join unions or create unions; and should they be treated differently, he could not discourage them from becoming part of a union. He stated the managers and directors spearheaded a great deal of what this community was proud of, such as the Ormond Crossings negotiations and the Land Development Code. Mr. Turner hoped the Commission believed the level of responsibility was commensurate with the level of pay. He urged there be some correlation across the board between the various groups. Mr. Turner stated the top-level managers would receive the 3½% increase, and up to 3% above that would be based on merit and job performance. He noted he considered this a good compromise. Mr. Turner reported he had grave concerns about giving an advantage to an employee because they were a part of a union in that he would prefer to discourage the employees' need to have a union by treating the employees so well that there would not be a need for a union, or that the relationship with the union would be very cohesive.

Commissioner Kent concurred with Mr. Turner in that this was not the forum for Mr. Turner to try to influence how the Commission should vote on an issue.

Commissioner Partington supported the staff recommendation. He noted if the Commission was to begin with the notion that unions were "bad," these employees should be paid more to provide the union members a disincentive to be part of the union. Commissioner Partington stated keeping these employees equitable with their fellow workers would be reasonable and appropriate.

Mayor Costello expressed his support for this proposal because he wanted to treat union and non-union members the same and he did not want to foster class warfare giving some employees a greater increase than other employees. He reported he considered it to be appropriate for Mr. Turner to let the Commission know if he believed the Commission may be doing something that would not be in the City's best interest, and the Commission had the right to disagree with Mr. Turner's suggestions. Mayor Costello noted once the Commission voted, Mr. Turner then needed to support the Commission fully; however, until that decision was made, he considered it appropriate to provide whatever information Mr. Turner considered to be appropriate.

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

Mayor Costello called for a short break at 9:14, and he reconvened the meeting at 9:18 p.m.

#### Item #10(A) – First Cycle 2005 Comprehensive Plan Amendments

Mayor Costello reported this was a public hearing to adopt amendments to the City's Comprehensive Plan.

#### ORDINANCE NO. 2005-16

AN ORDINANCE ADOPTING CERTAIN AMENDMENTS TO THE FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, CONSERVATION ELEMENT, CULTURAL AFFAIRS ELEMENT, AND THE FUTURE LAND USE MAP OF THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN, PROVIDING WHEN SUCH AMENDMENTS SHALL TAKE EFFECT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Clay Ervin, Planning Director, reported staff received notice today from the Volusia County Growth Management Commission that this amendment had been found consistent by their staff

and a letter would be sent, so it could be included in the information to be provided to the Department of Community Affairs (DCA) to indicate Ormond Beach had met its local obligations.

Mr. Ervin explained that as part of the requirements of Chapter 163, a sign-up sheet and forms were placed in the rear of the chambers. He encouraged anyone interested in following through these Comprehensive Plan amendments as they track through DCA to fill out the form, and DCA would contact them and provide them with correspondence.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-16, 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 #10(A).**

Item #10(B) – Vacating a Portion of Fluhart Avenue

ORDINANCE NO. 2005-28  
AN ORDINANCE VACATING A PORTION OF FLUHART AVENUE RIGHT-OF-WAY LYING WEST OF RIVERSIDE DRIVE; RESERVING CERTAIN EASEMENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Roger J. Kelly, 275 South Halifax Drive, stated he strongly opposed giving away public property along the Halifax River. He noted while the property was not currently in public use, it could be useful in the future, and once the land was given away, it could no longer be retrieved. Mr. Kelly reported the fact that the owners adjacent to this property have cared for this land should have no bearing on the issue.

Mr. Joseph Warren, 175 Valencia Drive, stated he was opposed to this vacation because this land could provide a beautiful walking park to the river where citizens could access the river to watch a sunset or a place for a child to cast a fishing line.

Mr. John Bornmann, 6 Windsor Drive, stated after the property was given away, it was gone. He pointed out that riverfront land was too valuable to give away.

Mr. Sean Daly, member of the Development Review Board and Planning Board, stated the City had a number of pocket parks and some along the Halifax River. He questioned why this did not go through the advisory boards. Mr. Daly pointed out that this parcel was 35 feet wide and 270 feet long or 9,450 square feet of riverfront property. He stated the City just raised the taxes to pay for an affiliation to the Chamber of Commerce and pay raises, but now were proposing giving away valuable land without even offering to sell the land. Mr. Daly urged this land become a park so the City could get something from the land.

Mr. Lynn McCoy, representing the applicant, stated if a piece of property were to be abandoned as a right-of-way, it would have be returned to the parent parcels it was taken from originally per law. He pointed out the City had not purchased this land originally. Mr. McCoy explained the City had never occupied it or maintained this parcel, although there were utilities on the parcel. He stated this was not a legal stand-alone parcel and had a value of virtually nothing, but it would have value when attached to adjacent parcels, which would increase property taxes on those parcels.

Commissioner Boyle reiterated he would have preferred to have board review on this issue, which may have resolved some of the concerns mentioned at the last meeting.

**Commissioner Partington moved to approve Ordinance No. 2005-28, on first reading, as read by title only. The motion died for lack of a second.**

Item #10(C) – “Ormond Town Commercial Center,” Phase II

ORDINANCE NO. 2005-31  
AN ORDINANCE APPROVING THE PRELIMINARY/FINAL PLAT FOR THE “ORMOND TOWN COMMERCIAL CENTER,” PHASE

II, REPLAT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-31, 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 #10(C).**

Item #10(D) – “The Courtyards at Ormond”

ORDINANCE NO. 2005-32

AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICT, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE TEN (10) VACANT PARCELS TOTALING 5.20 ACRES OF REAL PROPERTY FROM B-4 (CENTRAL BUSINESS) TO PBD (PLANNED BUSINESS DEVELOPMENT) AND R-3C (SINGLE-FAMILY MEDIUM DENSITY) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED ON THE EAST SIDE OF NORTH YONGE STREET/US1 BETWEEN HIGHLAND AND DIX AVENUES; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR “THE COURTYARDS AT ORMOND,” PLANNED BUSINESS DEVELOPMENT AND PLANNED RESIDENTIAL DEVELOPMENT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-32, on first reading, as read by title only.**

Commissioner Boyle stated he was on the Commission when the first genesis of this project occurred and people noted concern about the size of the project and the impacts it would have such as drainage problems on the west end of the two streets involved. He noted the developer of the original project did a good job of meeting with the people and resolving the issues; however, that project was for a three-story building on US1 with five residential units and 12 townhouses in the center, and this project had a five-story building on US1 with 42 condominiums and 10 townhouses. Commissioner Boyle noted the Planning Board approved this six to zero. He asked if it was permissible to have a Planned Business Development (PBD) on the US1 frontage and a Planned Residential Development (PRD) for the townhouses on the same development.

Mr. Clay Ervin, Planning Director, reported this was acceptable because the Comprehensive Plan and Land Development Code specified a matrix as to what land use and zoning would be acceptable. He noted this project would accomplish what the City was previously trying to accomplish; however, there was more latitude with the old PBD overlay and a more exhaustive process was now required.

Commissioner Boyle stated this was twice as large a project as the previous project. He reported he would accept that a PBD and PRD were permitted on the same parcel, but he questioned how 42 condominiums could be considered business rather than residential.

Mr. Ervin explained a PBD specifically identified residential uses as an alternative. He noted this would allow transitioning from the uses already allowed into a separate type of use.

Commissioner Boyle stated he appreciated Mr. Ervin’s interpretation and explanation, but 42 condominiums was not business, it was residential. He noted considering the way the code was



written, a developer could make a choice between a PBD or a PRD according to what he would want to do on a parcel.

Mayor Costello urged this issue be discussed at another time.

Commissioner Boyle recommended dealing with this issue at another time in a workshop.

Commissioner Kelley stated he understood the issue by reading the background material provided by staff.

Commissioner Boyle reported he could support the original project, but he could not support this project.

Mayor Costello expressed his appreciation to the Planning Board for their review of this issue which helped him a great deal in his decision-making process.

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

**Hearing no objection, Mayor Costello closed the public hearing on Item #10(D).**

Item #10(E) – “Royal Floridian by Spinnaker”

ORDINANCE NO. 2005-33  
 AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICT, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE 3.36 ACRES OF REAL PROPERTY FROM B-6 (OCEANFRONT TOURIST COMMERCIAL) TO PBD (PLANNED BUSINESS DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED AT 51 SOUTH ATLANTIC AVENUE/A1A; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR THE “ROYAL FLORIDIAN BY SPINNAKER” PLANNED BUSINESS DEVELOPMENT; REPEALING ALL ORDINANCES OR PARTS THEREOF, AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-33, 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

Commissioner Kelley stated the Planning Board approved this project six to zero.

**Hearing no objection, Mayor Costello closed the public hearing on Item #10(E).**

Item #10(F) – CVS Pharmacy Annexation

ORDINANCE NO. 2005-34  
 AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED AT THE NORTHEAST CORNER OF WEST GRANADA BOULEVARD AND TYMBER CREEK ROAD; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-34, 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 #10(F).**

Item #11(A) – Appointing a Member to the Firefighters’ Pension Trust Fund

RESOLUTION NO. 2005-199  
A RESOLUTION APPOINTING A MEMBER TO SERVE AS A TRUSTEE OF THE CITY OF ORMOND BEACH FIREFIGHTERS’ PENSION TRUST FUND; ESTABLISHING TERM AND CONDITIONS OF SERVICE; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-199, appointing Mr. William Heric, as read by title only.**

Mr. Randall Hayes, City Attorney, advised there was a statutory obligation to approve this appointment.

Mayor Costello stated he would vote for this because it was mandatory, but pointed out that he considered it inappropriate that the board had three firefighters. He requested the City examine the composition of the pension boards in the future.

Commissioner Boyle supported Mayor Costello and noted this needed to be examined.

Mr. Hayes stated that the statute was clear in what had to be accepted.

Mayor Costello urged examining the statute to determine if the Commission could have input into selecting that fifth person on the board.

Mr. Hayes reported he would provide the Commission with options.

Commissioner Kent stated he objected to being told how he had to vote on any issue. He questioned why this was before the Commission if it was a ministerial duty and the Commission had no choice but to approve it.

Mr. Hayes explained the Florida legislature directed that this had to come back before the Commission.

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

Mayor Costello stated he was not opposed to this individual, but he considered it to be inappropriate in that Mr. Heric was a firefighter and union representative.

Item #11(B) – Appointing a Member to the General Employees’ Pension Board

RESOLUTION NO. 2005-200  
A RESOLUTION APPOINTING A MEMBER TO SERVE ON THE GENERAL EMPLOYEES’ PENSION BOARD; ESTABLISHING TERM AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-200, nominating Mr. Dominic Morgese.**

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

Item #11(C) – Lease with Florida East Coast Railway Company

RESOLUTION NO. 2005-201

A RESOLUTION AUTHORIZING THE EXECUTION OF A REAL ESTATE LEASE BETWEEN THE CITY OF ORMOND BEACH AND FLORIDA EAST COAST RAILWAY COMPANY FOR THE USE OF RIGHT-OF-WAY AT THE RAILROAD CROSSING ON GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2005-201, as read by title only.**

Commissioner Boyle stated the City incurred tremendous costs in repairing these railroad crossings, and the railroad selects the builder. He noted the builder could provide a poor product that would have to be redone, and the City would have to pay again with no voice in who would do the work.

Mayor Costello pointed out the City did not have the opportunity to say who, when, or how often the work was to be done. He stated the Metropolitan Planning Organization (MPO) has addressed this issue and had been told there was nothing that could be done about it. Mayor Costello commended Ms. Sloane for placing funds in the budget for one railroad crossing each year because there was seldom notice provided.

Commissioner Partington noted he could not vote for this because the legal effect could expose the taxpayers' to unlimited exposure for damages incurred by the railroad. He stated the negotiations with the railroad have just begun, and they need to be sent a message that the Commission would not vote for unlimited exposure for its citizens.

Mayor Costello asked Mr. Hayes if the Commission could oppose this with Commissioner Partington's reasoning.

Mr. Hayes stated there was very little leverage any governmental entity had with the railroad companies in Florida. He reported he sent a letter last year with objections, and they made some insignificant concessions. Mr. Hayes reported the options were for the Commission to not approve this, but then the railroad may tell the City to take out the plantings in the easement area at all 23 crossings. He noted this extended from Granada Boulevard to Division Avenue. Mr. Hayes noted the other option for not approving this was also not very attractive.

Mayor Costello asked if any other communities with agreements did not include the unlimited liability clause.

Mr. Hayes replied there were no communities without the unlimited liability clause of which he was aware. He noted this issue went to the Florida Supreme Court, and they issued a precedent setting law with far reaching ramifications for all governmental entities in Florida. Mr. Hayes noted that this decision was recent, and probably within the next several months the impacts would be evaluated on all types of contracts. He noted Ormond Beach would have to be extra vigilant about screening all contracts for these types of provisions.

Commissioner Partington requested sending another letter. He recommended absent the railroad's approval, the City could approve a version that was acceptable and send that version to the railroad. Commissioner Partington suggested contacting the Florida League of Cities, working with the City's lobbyists, working with VCOG, and involving Congressman Mica.

Mr. Hayes requested this be tabled, and he would write the General Council for FEC indicating the Commission considered this and raised concerns. He would then try to negotiate some concessions and bring the issue back for further update. Mr. Hayes stated if they refuse to move on their position, the Commission may wish to evaluate the possibility of obtaining additional insurance coverage as a stop gap measure.

**Commissioner Partington moved, seconded by Commissioner Kelley, to table Resolution No. 2005-201.**

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

Item #12 - Reports, Suggestions, Requests

Speeding on North Beach Street

Commissioner Boyle noted constituents have expressed concern relative to speeders on North Beach Street. He recommended the Police Department monitor the situation in this area and write tickets where necessary.

Gulf Coast Disaster

Commissioner Boyle stated the Commission's thoughts and prayers were with those on the Gulf Coast affected by the hurricane. He reported Mr. Doug Wilhite at WELE radio was the first person in this area to organize disaster relieve. Commissioner Boyle pointed out the views of the talk show personnel were not necessarily Mr. Wilhite's views.

Mayor Costello asked Ms. Patterson to gather information to prepare a proclamation for Mr. Wilhite's efforts.

Apology

Commissioner Kent apologized for his comment to Mr. Turner relative to the salary increase. He noted he had heard complaints that the Commission consistently agreed with Mr. Turner, and Mr. Turner's comments could leave the impression that he was instructing the Commission how it should vote.

Pavement Lines

Commissioner Kent expressed concern regarding the lines being striped on the pavement, and he noted the lines were nonexistent at A1A and Granada Boulevard.

Walking on Airport Road

Commissioner Kent expressed concern regarding the safety of individuals walking along the side of Airport Road. He stated the Friday letter indicated this does not occur; however, it occurred several times last week and again today.

"Coffee with the Commissioner"

Commissioner Kent thanked Ms. Parkerson for allowing him to have "Coffee with the Commissioner" at her home. He noted participants at the meeting expressed concern about the Fluhart Drive issue. Commissioner Kent invited everyone to attend the next "Coffee with the Commissioner" to be held at Ms. Parkerson's home on Monday, October 3, at 4:00 p.m.

Budget

Commissioner Kent commended the Commission for approving the budget, which was unpopular, but he considered it to be the right thing to do. He thanked Commissioner Kelley in particular since he did not approve of the pay increases.

Serving Ormond Beach Residents

Commissioner Kent thanked the citizens of Ormond Beach for allowing him the privilege to serve them for the next two years as Commissioner of Zone 2. He pointed out that he had monthly meetings and responded well to e-mails or telephone calls.

Hurricanes

Commissioner Kelley asked everyone to remember those who were devastated by Hurricane Katrina and for those in the path of the storm that was currently building.

Quick Response

Commissioner Kelley advised that he had been able to obtain quick action from questions or complaints from Mr. Ted MacLeod, Assistant City Manager. He also commended staff for doing a great job.

Coquina Rocks at The Trails and Tomoka Oaks

Commissioner Kelley stated coquina rocks were laying on the right-of-way in The Trails and Tomoka Oaks. He asked that Neighborhood Improvement investigate this situation when they were driving around on other calls. Commissioner Kelley noted these rocks were a danger in that some were on dangerous curves.

Apology

Mr. Turner noted Commissioner Kent did not need to apologize. He reported he continually tried to balance being an advocate for certain issues, but not to lecture the Commission, while providing the recommendations that were part of his job as City Manager.

Budget

Mr. Turner expressed appreciation for the discussion that occurred during the course of this budget. He thanked Finance Director Paul Lane, Accounting Manager Jackie Carkhuff, Budget Director Kelly McGuire, and staff for the work that had been done on the budget. Mr. Turner pointed out that staff continually sought savings for the City. Mr. Turner stated he clearly heard the Commission's concern at keeping the tax rate at the same level or lower next year, and staff would continue to seek savings whenever possible.

Perception of the Commission Agreeing with the City Manager

Mr. Turner stated that while some may perceive the Commission approved whatever staff offered, what may not be understood was that prior to that vote there are goal setting exercises, monthly meetings he conducts with the Commission members, and comments made by the Commission at the Commission meetings and the focus meetings. He noted by the time the Commission meets at the City Commission meetings, he should know what the Commission expected on the agenda items.

Budget

Mr. Turner offered that staff would talk to anyone who wished to discuss the budget in further detail.

Airport Road

Mr. Turner stated he had also seen people walking on Airport Road and informed Chief Mathieson about the problem.

Providing Information to the Commission

Mr. MacLeod stated the only reason he could provide the Commission information so quickly was because of the great staff.

Volusia League of Cities

Mayor Costello stated the Volusia League of Cities would be in Deltona at the Veterans Memorial Park on September 29. He encouraged attendance at this event.

Kiwanis Firefighter-of-the-Year and Officer-of-the-Year

Mayor Costello congratulated Officer Vince Champion and Driver Engineer Nathan Quartier for being named Firefighter-of-the-Year and Officer-of-the-Year by the Kiwanis organization.

Fluhart Drive

Mayor Costello stated the citizens did a great job advocating their position regarding the Fluhart Drive issue. He noted he was willing to consider the vacation, but in listening to the residents, he was convinced vacating the parcel would provide no public purpose.

Positive Campaign

Mayor Costello thanked everyone involved in the positive campaign. He urged everyone to be for something, but people could also be against something. Mayor Costello asked people not to be negative when other people were speaking in that they should be given respect even when that person may disagree with what was being said.

Budget

Mayor Costello commended everyone involved in the budget. He restated his stance that next year would be totally different because the difficult issues had been solved.

Support of Residents

Mayor Costello stated he did not take lightly the privilege of being able to serve the people as Mayor another two years. He noted people know that he was willing to make tough decisions even when they may not have agreed with him, but that the decisions were made for the right reasons. Mayor Costello reported he hoped people knew he has been honest and open and

City Commission – September 20, 2005

would continue to be so. He invited anyone to contact him advised he would listen to all opinions.

October 5 City Commission Meeting

Mayor Costello stated due to Rosh Hashanah, the Commission could meet at 7:30 p.m. rather than at 8:00 p.m. on Wednesday October 5, 2005. He stated sundown was at 7:07 p.m. Mayor Costello advised the consensus of the Commission was that the next meeting would begin at 7:30 p.m.

Item #13 – Close the Meeting

The meeting was adjourned at 10:13 p.m.

APPROVED: \_\_\_\_\_ October 5, 2005

BY: \_\_\_\_\_  
Fred Costello, Mayor

ATTEST:

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Veronica Patterson, City Clerk