

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

October 5, 2005 7:30 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the September 20, 2005, meeting.
- 5) ***PRESENTATIONS:***
 - A) Employee-of-the-Quarter award to Terry Shannon, Public Works Department.
 - B) Presentation of Medal of Valor to Officers Maurine Evans and Shawn McCook.
 - C) Smart Growth Implementation Committee Report – Clay Henderson.
- 6) ***AUDIENCE REMARKS:***
- 7) ***INTERGOVERNMENTAL BOARD REPORTS:***
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) 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. 2005-191 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.

- B) Resolution No. 2005-202 appointing Dr. Phillip Shapiro as member to serve on the Historic Landmark Preservation Board; setting forth term and conditions of service.
- C) Resolution No. 2005-203 appointing Tameka McDowell as a member to serve as a commissioner of the Ormond Beach Housing Authority; setting forth term and conditions of office.
- D) Resolution No. 2005-204 authorizing the purchase of various chemicals for the City's water and wastewater treatment plants under a cooperative bid solicited by several local cities; authorizing payment therefor.
- E) Resolution No. 2005-205 authorizing the execution of a contract between the City and Traffic Control Devices, Inc., for the purchase and installation of a traffic signal under Seminole County Contract No. IFB-3110-05/GMG. (Tymber Creek Road and Tymber Run/River Chase Way - \$97,042.21)
- F) Construction Management Service Agreements:
 - 1) Resolution No. 2005-206 accepting the proposal of Aviation Constructors, Inc., regarding Construction Management/General Contracting Services; authorizing the execution of a Continuing Services Agreement (Part A); rejecting certain other proposals.
 - 2) Resolution No. 2005-207 accepting the proposal of RW Contractors, Inc., regarding Construction Management/General Contracting Services; authorizing the execution of a Continuing Services Agreement (Part A); rejecting certain other proposals.
- G) Maude Lawrence Rigby School:
 - 1) Resolution No. 2005-208 authorizing the execution of a First Amendment to Lease Agreement between the City and Eddie James Byrd and Gwendolyn Byrd. (Property located at the southwest corner of Central Avenue and South Washington Street)
 - 2) Resolution No. 2005-209 authorizing the execution of a Lease Agreement between the City and the Pace Center for Girls, Inc. (150 South Washington Street)
 - 3) Resolution No. 2005-210 changing the name of the building known as "The former Rigby School/Ormond Beach Neighborhood Child Development Center" to "The Maude Lawrence Rigby School."
- H) Resolution No. 2005-211 approving and adopting Geographic Information System Standards.
- I) Resolution No. 2005-212 approving and authorizing the implementation of a flu shot program; authorizing the purchase of flu serum.
- J) Approval of travel by City Manager Isaac Turner to the Florida League of Cities Annual Legislative Conference in Orlando, Florida, November 17-18, 2005.

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

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2005-213 authorizing the execution and issuance of a Development Order for "Robert Burch, DDS" Special Exception on a site located at 925 West Granada Boulevard, within the B-1 (Professional Office/Hospital) zoning district; by authorizing a waiver of the masonry buffer wall requirements along the rear property line, by allowing the construction of a six-foot high wood fence in lieu thereof; establishing conditions and expirations of approval.
- B) 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. (Second Reading)

- C) 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. (Second Reading)
 - D) 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) (Second Reading)
 - E) Ordinance No. 2005-35 annexing certain real property into the City of Ormond Beach located west of Tymber Creek Road and north of Airport Road; setting forth zoning, privileges, and obligations of said property; providing for transmission. (37.9 acres – Paul-Speno Property) (First Reading)
- 10) **FIRST READING OF ORDINANCE** No. 2005-36 of the City of Ormond Beach, Florida, creating Chapter 23, to be hereinafter entitled “Sexual Offenders and Sexual Predators;” providing for findings and intent, definitions, residence prohibition, penalties and exceptions; providing that property owners are prohibited from renting real property to certain sexual offenders and sexual predators and providing for penalties; providing that property owners are prohibited from renting or leasing to sexual offenders and sexual predators convicted of crimes under certain Florida statutes any place, structure, trailer, vessel or part thereof located within 2,500 feet of specified locations within the City of Ormond Beach.

11) **DISCUSSION ITEMS:**

- A) Update on Biketoberfest activities.
- B) Streetlights on SR#A1A due to turtle ordinance violations.
- C) Debris removal in gated communities after the 2004 hurricanes.

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 7:30 p.m.

Item #2 – Invocation

Mayor Costello gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 - Approval of Minutes

Mayor Costello advised the minutes of the September 20, 2005, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

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

Item #5(A) – Employee-of-the-Quarter Award to Terry Shannon, Public Works Department

Mr. Isaac Turner, City Manager, announced that Mr. Terry Shannon was selected as the Employee-of-the-Quarter. He stated Mr. Shannon held the position of Systems Maintenance Foreman in the Water Distribution Section where he was responsible for the operation and maintenance of the City's water distribution system, the installation of all new water meters, and responses to customer requests for assistance and repair if necessary. Mr. Turner reported during the hurricanes of last year Mr. Shannon worked over 24 hours and had to be urged to go home to rest.

Mayor Costello congratulated Mr. Shannon and presented him with two plaques to be placed on display at City Hall honoring him as the Employee-of-the-Quarter, along with a watch with the City seal on its face. He stated the employees directly interact with the citizens, and the Commission appreciated the services rendered by the employees.

Item #5(B) – Presentation of Medal of Valor

Police Chief Larry Mathieson presented Medals of Valor, the highest award presented to police officers, to Officers Shawn McCook and Maurine Evans. He reported Officers McCook and Evans assisted in the rescue of an elderly man who was trapped in a burning home, placing their own lives at risk to save him.

Item #5(C) – Smart Growth Implementation Committee Report – Clay Henderson

Mayor Costello reported Mr. Clay Henderson helped preserve at least 250,000 acres of land for the State of Florida. He noted Mr. Henderson was spearheading the presentations for the Smart Growth Implementation Committee.

Mr. Clay Henderson stated Ormond Beach was further than most communities in Volusia County in implementing the Smart Growth Implementation Committee recommendations. He noted this was a year-long effort that followed two years of citizen summits trying to seek agreement between the stakeholders on how to go forward. Mr. Henderson advised Volusia County was growing by numbers no one predicted, and in the next two decades the population would exceed 650,000 to 700,000 people, and Central Florida's population would double to seven million people. He noted the growth rate was 136% compared to a national rate of 47%. Mr. Henderson explained smart growth was controlling sprawl, having viable communities, protecting the natural resources, and having a viable economy. He stated the legislature provided new tools, but the cities needed to adopt a vision, adopt Urban Services Boundary, and work with the School Board. Mr. Henderson noted Ormond Beach had the opportunity to set a template for the rest of the County or even for Central Florida since Ormond Beach had already begun by hosting the Citizens for Ormond Beach forums recently held.

Mr. Henderson reported the recommendations were to: protect the environmental core; direct development to appropriate locations by purchasing land, use transfer of development rights to protect the green areas, and promote clustering; enable land use to survive annexation to develop vibrant, livable and sustainable urban communities; ensure the continued existence of rural lands and agriculture; meet the infrastructure needs of smart growth; integrate education and smart growth; and integrate economic development and smart growth. He stated that next week he would be making recommendations to the Charter Review Commission and request changes in the home rule charter which would affect the relationships between the cities and the counties such as having the authority to create primary and secondary utility areas, joint visions in areas of influence, land use that would be the same unless an agreement to change the land use could be reached, and changes to the existing Growth Management Commission to include a panel of elected officials of equal stature who could have binding arbitration. Mr. Henderson reported it was hoped that this commission would never need to meet, but it would be an incentive to work out the issues.

Mr. Henderson stated those recommendations had been discussed with the County Council, Volusia Council of Governments (VCOG), and a number of cities, and they would be discussed next week with the Charter Review Commission and the School Board. He urged Ormond

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Beach to support this to set a course for the future, to define visions for the community, and to define tools to be smarter about growth in the future.

Mayor Costello asked this be placed on a future agenda for approval.

Mr. Henderson noted Ms. Mary Swiderski, Director of VCOG, was present. He stated VCOG had taken an important role as a facilitator in this endeavor.

Ms. Mary Swiderski, 1190 Pelican Bay Drive, Daytona Beach, stated she was representing the Florida League of Cities and was a representative of the Volusia Day Committee. She presented a sand globe to the City, which was their 2005 commemorative gift.

Mayor Costello thanked Mr. Henderson for his presentation. He noted the seven-member panel would consist of three members of the VCOG that the County Council could veto and three members from the County Council that VCOG could veto; therefore, he was hopeful there would be regional thinkers seeking what was best for the entire County. Mayor Costello reported the seventh member would be from the School Board.

Item #6 – Audience Remarks

Signage

Mr. Robert Jones, 319 Park Place West, expressed a complaint about the amount of signs. He provided a copy of the sign ordinance from another city and urged the Commission to glean ideas to amend the Ormond Beach sign ordinance. Mr. Jones commended Ormond Beach for having the best sports complex he had seen.

Police Department Issues

Ms. Pattie Barker, 1105 Overbrook Drive, noted she had been a vocal supporter of retired Sergeant Mike Lowe, Officer Diana Price, and other officers and staff members who had reported allegations of misconduct and mismanagement within the Police Department. She reported State Attorney John Tanner found no evidence in support of the criminal charges leveled against Officer Price, but she has now been formally suspended without pay as she faced another internal affairs investigation. Ms. Barker stated Mayor Costello ordered an independent investigation by Chief William Liquori and Chief Richard Overman; however, they were now forced to defend themselves against baseless allegations that they lack the proper professional credentials to conduct this review. She asked the Commission to direct Mr. Turner to intercede and order these investigations be tabled until Chief Liquori and Chief Overman have had the opportunity to conduct a thorough review of the department's disciplinary procedures and render their decisions and recommendations.

Mayor Costello noted everyone would be pleased when this matter was resolved and all of the facts were known.

FACTS PAC

Mr. Gregory Avakian, 161 Heritage Circle, reported a new Political Action Committee (PAC) was formed this week called "FACTS" of which he was the chairman. He noted there was a website under construction with the web address of OBFacts.com. Mr. Avakian reported this PAC opposed the following candidates: Jeff Boyle, Glenn Wren, and Elizabeth Robinson. He stated the reasons for these oppositions would be posted on the website, and it would contain actual documents and facts about these candidates. Mr. Avakian explained this grass roots PAC had no affiliations with any candidate. He stated this PAC would inform the voter of the facts; however, if any information posted on the website was considered not to be genuine, he urged contacting him and he would immediately verify the sources. Mr. Avakian stated that should anything be printed erroneously, it would be pulled and a retraction printed, but this should not occur in that all facts would be verified before posting.

Growth Management

Ms. Lucille Bornmann, 6 Windsor Drive, reported runaway growth without responsibility was occurring all over and it cannot continue. She stated taxes cannot continue to be increased to accommodate growth. Ms. Bornmann noted a crisis was occurring where development codes were being changed, increasing density and lessening the environmental rules. She stated people live in Ormond Beach because of its small town feeling, quality of life, and historical heritage, but this was being lost.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization (MPO) removed the pedestrian overpass from Clyde Morris Boulevard and International Speedway Boulevard from the plan and

approved a resolution keeping SR40 on the emerging Strategic Intermodal System list, which would allow funding from other sources. He stated he asked the MPO staff to research the railroad unlimited liability issue.

Item #7(B) – Volusia Council of Governments

Mayor Costello reported the Smart Growth Implementation Committee report was discussed in detail at the Volusia Council of Governments (VCOG) meeting. He stated disaster preparedness would be discussed at the next meeting.

Item #7(C) – Water Authority of Volusia

Commissioner Boyle stated the Water Authority of Volusia (WAV) board met, and he provided reports. He stated Daytona Beach was considering a lawsuit against WAV at their meeting tonight. Commissioner Boyle noted WAV was working very hard to address the Daytona Beach concerns. He reported the next meeting would be held on October 19.

Item #8 - Consent Agenda

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

Commissioner Kent asked that Item No. 8(G)(3) be pulled and discussed separately.

Mayor Costello recognized Mr. Dan Smith and Mr. Tim Sullivan, president, of the Motor Racing Heritage Association. He noted in that Item 8(A) would pass without discussion, he asked if Mr. Chris Hoyt wished to speak.

Mr. Chris Hoyt, Director of Operations for the Amelia Island Concours d'Elegance Foundation, Inc., stated the Stanley Steamer "Rocket" was pivotal to the show and expressed appreciation to the City for their help.

Mayor Costello stated Ormond Beach was honored to be a part of this operation. He stated this event would celebrate the 100-year anniversary of the Stanley Steamer. Mayor Costello reported the replica would be restored to operating condition. He stated this was a part of Ormond Beach's heritage.

Commissioner Kelley moved, seconded by Commissioner Boyle, for approval of the Consent Agenda, minus Item No. 8(G)(3)

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

Item #8(G)(3) – Changing the Name of the "Rigby School/Ormond Beach Neighborhood Child Development Center" to "The Maude Lawrence Rigby School"

Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-210, as read by title only.

RESOLUTION NO. 2005-210
A RESOLUTION CHANGING THE NAME OF THE BUILDING KNOWN AS "THE FORMER RIGBY SCHOOL/ORMOND BEACH NEIGHBORHOOD CHILD DEVELOPMENT CENTER" TO "THE MAUDE LAWRENCE RIGBY SCHOOL"; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent thanked Thelma Irvin, Joe and Elwillie Daniels, Sue Parkerson, Geneva Jackson, Mr. Turner and everyone involved for their assistance on this Rigby School project. He stated this was a great partnership with Pace and the City would benefit.

City Manager Mr. Isaac Turner thanked Acting Leisure Services Director Mr. David Abee and Deputy City Attorney Ms. Sandy Upchurch for working on these agreements. He also expressed appreciation for the work on the Stanley Steamer project, pointing out there would be no cost to the City for the project.

Commissioner Kent pointed out Mr. Abee had done a great job achieving results.

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

Mayor Costello explained he had not pulled Item 8(E) relative to approving the traffic signal because while he voted against that traffic signal being funded by the City, after the Commission approved it, he would support funding the contract.

Item #9(A) – “Robert Burch, DDS” Special Exception

RESOLUTION NO. 2005-213

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR “ROBERT BURCH, DDS” SPECIAL EXCEPTION ON A SITE LOCATED AT 925 WEST GRANADA BOULEVARD, WITHIN THE B-1 (PROFESSIONAL OFFICE/HOSPITAL) ZONING DISTRICT; BY AUTHORIZING A WAIVER OF THE MASONRY BUFFER WALL REQUIREMENTS ALONG THE REAR PROPERTY LINE, BY ALLOWING THE CONSTRUCTION OF A SIX-FOOT HIGH WOOD FENCE IN LIEU THEREOF; ESTABLISHING CONDITIONS AND EXPIRATIONS OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boyle, to approve Resolution No. 2005-213, as read by title only.

Commissioner Kent reported he would vote against this because he preferred a masonry wall to a wood fence.

Mayor Costello noted he would vote for this because the building immediately west of this site had a wood fence, and while he personally preferred a masonry wall, he would rather have consistency.

Commissioner Kelley concurred with Mayor Costello relative to the neighboring property’s wooden fence. He recommended when the property was grouped with other parcels, the situation may be revisited. Commissioner Kelley stated the individual living directly behind this property did not oppose the fence, and there was vegetation making the fence fit in more easily.

Mayor Costello explained that with any change of use or when more employees would be hired, the issue would have to be revisited.

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

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

Item #9(B) – “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.

Ms. Rita Press, 875 Wilmette Avenue, stated when Mr. Hoelle came before the Planning Board, he was asked to place a fountain in the retention pond, and he agreed to provide the fountain. She urged that all development with a pond of a certain size be required to provide a fountain in the retention pond for the health of the pond.

Commissioner Boyle reported he considered this project to be too dense considering the number of units and what would be placed on the property.

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

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

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

Item #9(C) – “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 second reading, as read by title only.

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

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

Item #9(D) – 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 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(D).

Item #9(E) – Paul-Speno Property

ORDINANCE NO. 2005-35

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED WEST OF TYMBER CREEK ROAD AND NORTH OF AIRPORT ROAD; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-35, 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

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

Item #10 – “Sexual Offenders and Sexual Predators”

ORDINANCE NO. 2005-36

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, CREATING CHAPTER 23, TO BE HEREINAFTER ENTITLED “SEXUAL OFFENDERS AND SEXUAL PREDATORS;” PROVIDING FOR FINDINGS AND INTENT, DEFINITIONS, RESIDENCE PROHIBITION, PENALTIES AND EXCEPTIONS; PROVIDING THAT PROPERTY OWNERS ARE PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS AND PROVIDING FOR PENALTIES; PROVIDING THAT PROPERTY OWNERS ARE PROHIBITED FROM RENTING OR LEASING TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES ANY PLACE, STRUCTURE, TRAILER, VESSEL OR PART THEREOF LOCATED WITHIN 2,500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF ORMOND BEACH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-36, on first reading, as read by title only.

Commissioner Boyle stated the 2,500 foot radius would create a 5,000 foot circle. He asked if there was anywhere in Ormond Beach that would not be encompassed in this circle.

Ms. Sandy Upchurch, Deputy City Attorney, reported the Police Department spent hours preparing a map; however, it was not completed in time to include it in the Commission packet.

Mr. Turner stated staff was working on a map, but it was not completed. He noted when the map was completed, it would be provided to the Commission.

Commissioner Boyle expressed concern that if there was a small enclave not in a circle, the effected residents should be notified.

Ms. Upchurch reported this was an enforcement issue that could be addressed.

Mayor Costello stated that this ordinance was a defensive posture because other communities were adopting this type of ordinance; and if Ormond Beach would not adopt it, Ormond Beach could draw predators into the City. He pointed out that the intent was not to direct predators to a specific area, but direct them away from where there were children.

Commissioner Partington thanked the City Attorney for the research and for the crafting of this ordinance to insure its constitutionality. He reported the Police Department would institute an enforcement program giving the responsibility of one offender or predator to one officer.

Ms. Upchurch explained that it was possible there were individuals who have been incarcerated for a long period of time before the sexual predator designation was adopted. She noted these people would not be included in this ordinance. Ms. Upchurch explained those released from prison for crimes committed before October 1, 1993, would not be included in this legislation.

Mayor Costello urged Ms. Upchurch to continue to work with FDLE and the District Attorney, and should a method be derived to accommodate this problem, the issue should be brought back to the Commission.

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

Item #11(A) – Update on Biketoberfest Activities

Police Chief Larry Mathieson reported key staff would meet on a daily basis during the event to review activities from the previous day to determine if any adjustments in personnel or strategy would be necessary. He noted a supervisor from the traffic unit had been assigned to work directly with his counterpart with Volusia County. Chief Mathieson stated in a conversation with Sheriff Johnson, he offered the availability of the City’s mobile command trailer. He noted Mr. Clay Ervin, Planning Director, was working to obtain estimates to determine costs of doing traffic counts at key intersections in the City, which could be valuable in the future to determine the total impact of these events. Chief Mathieson stated the City had two pieces of equipment to do electronic traffic measurement, and Ormond Beach would do before and after traffic counts to determine how much traffic could be attributed directly to Biketoberfest. He noted a concern was the movement of emergency vehicles through traffic during peek periods of activity, and the Police Department would be working with the Fire Department and Public Works to develop a system where, if necessary, the Police Department could intervene and provide escorts during emergency conditions. Chief Mathieson explained that the Police Department would document any issues encountered during the event to incorporate into an after action report. He reported the Police Department had been working closely with the Chamber of Commerce, the owner of Destination Daytona, and the Sheriff’s Office regarding the impact on the North US1 corridor.

Commissioner Kelley stated a problem of concern was the movement of traffic north and south being delayed for people crossing the street.

Chief Mathieson reported staff was working on alternatives such as a walkover. He stated much of the problem amounted to a volume delay in that there must be a safety component where the people would be able to cross the road in a safe and organized manner. Chief Mathieson noted a certain amount of traffic back up would be inevitable, but staff was continuing to work on alternatives.

Mayor Costello stated people trying to cross the street needed to wait longer to keep traffic moving better, possibly using a countdown timer, allowing people to know how long they would need to wait before they could cross the street. He stated people living in the area have a right to keep their quality of life, and this would also provide easier access for the emergency vehicles. Mayor Costello noted people could wait ten minutes rather than two minutes, allowing the vehicles to move more efficiently. He thanked the Civil Air Patrol who would be providing the City with pictures of the traffic. Mayor Costello urged Ormond Beach to set an example to other communities that when there were special events in and around Ormond Beach, the people who benefit would pay for the extra costs. He requested a Commission discussion after

the event to have the officers be more lenient on US1 with the loud pipes, but be more aggressive with bikers with loud pipes in the neighborhoods.

Commissioner Kent offered his support relative to businesses that make the money paying for the extra services.

Mr. Turner stated the Sheriff's Office was handling the pedestrian crossings, and the Commission's comments regarding this issue would be shared with the Sheriff's office. He expressed concern relative to the event holders contributing to the costs. Mr. Turner noted as much analysis as possible would be done during this event to obtain accurate data regarding the volume and delays. He stated with this information, the City may be able to ask the County and State to assist in easing the cost burden. Mr. Turner reported staff would have to check into the legality of enforcing noise in one area as opposed to in other areas.

Chief Mathieson stated the philosophy used mostly was the noise from the pipes would be used as a precursor to stop the person to check for illegal equipment, but the focus in the past years had been on the hazardous driving.

Mayor Costello stated if it were legal to do so, he would prefer it be known that the noise violations on US1 may not be as eagerly enforced as they would be in the neighborhoods. He urged everyone to go to Destination Daytona. Mayor Costello explained Destination Daytona was built in the County, and Ormond Beach inherited it, but it was a first class facility. Mayor Costello reported the service bays were visible through glass where one could watch while they work on the bikes. He stated Destination Daytona was catering to an upscale market for a year-round event. Mayor Costello noted the City could help guide this so it would not diminish the quality of life for its residents.

Item #11(B) – Streetlights on SR#A1A/Turtle Ordinance Violations

Mayor Costello asked if the Commission favored the shields over the lights option and Commissioner Kent, Commissioner Partington, and Commissioner Boyle concurred.

Commissioner Kelley noted the \$1,200 for the shields was much better than the \$3,000 option. He stated where the violations occurred, the turtle would have to climb over the seawall. Commissioner Kelley reported while the turtles should be protected, he questioned why the City should jeopardize human life. He noted he did not want the lights turned off.

Mayor Costello concurred he also did not want the lights turned off and favored the shields.

Mayor Costello clarified the Commission expressed support for Alternative #2.

Item #11(C) – Debris Removal in Gated Communities after the 2004 Hurricanes

Ms. Brenda Wesolowski, 6 Wayland Circle, stated that after Hurricane Charley Ormond Lakes was told it would take six to eight weeks before cleanup, and there were large trees across the road. She noted the homeowners' association had their landscaper start the cleanup. Ms. Wesolowski reported someone from City Hall stated that within 24 to 48 hours the City would clear the road, pushing the debris to the side; and they came back in 11 days, but they were told it would take six to eight weeks. She noted the City reported if the debris was on common ground, the City would not clean it up. Ms. Wesolowski reported that out of the \$100 assessment to each person, Ormond Lakes collected \$50,000 to \$55,000 and \$35,000 was spent. She explained the point she tried to make at the last meeting was that she was aware that her gated community would not be covered by any City maintenance, which was why she was upset to find out other gated communities received cleanup; and Ormond Lakes had to pay for their cleanup making Ormond Lakes doubly taxed.

Mayor Costello requested a copy of the documentation where she was informed that gated communities would not have the debris picked up, because debris had always been picked up previously. He stated he could not understand how she had foreknowledge gated communities would not be covered since gated communities pay the exact same stormwater and trash removal fee as non-gated communities. Mayor Costello clarified no tax dollars were involved in that this was paid by solid waste fees. He noted the streets were passable after 48 hours.

Commissioner Kelley stated all of Ormond Lakes was not gated. He reported his mother lived in a subdivision in the Trails and was assessed \$1,000 to take care of the trees. Commissioner Kelley stated this was necessary because people needed access in and out of their homes. He stated he lived in the Trails, which was not a gated community, and he paid \$40 for the tree removal. Commissioner Kelley noted Ormond Lakes was just taking over as a

homeowners' association with no reserve. He stated he did not believe Ormond Lakes was being penalized. Commissioner Kelley pointed out that everyone suffered under unusual times. He noted if it was proven that the City indicated it would take six to eight weeks, there was a problem, but he requested seeing that in writing.

Mayor Costello noted the newspapers indicated it would take six to eight weeks for the entire community's second or third pass.

Mr. Turner stated most of the homeowners' associations had to pay something to remove debris from the common areas. He noted there were many residents and homeowners' associations trying to remove trees the day after the storm, and the City was focused on trying to clear the roads as quickly as possible. Mr. Turner pointed out that all of the homeowners' associations and subdivisions were treated the same with the goal to first clear the roads and then to pick up the debris, making several passes. He stated it took six to eight weeks to reach the entire City, but shortly after Charley there was another hurricane and another shorter after Hurricane Frances. Mr. Turner explained the amount residents had to pay their homeowners' associations related more with the financial conditions and the rules of that homeowners' association than it had to do with the City, because the City did not charge additional fees for the debris removal. He reiterated this situation had nothing to do with the increase in taxes in that the funding came from the sanitation fund paid by sanitation fees.

Commissioner Boyle clarified that when he first questioned this issue, management believed he was questioning if the City should have picked up debris in the gated communities in the emergency; however, that was not the case because he believed that at all times the City should try to clear all of the streets in the City whether public or private. He stated the question involved the excess, because under the City contract with the residents, one cubic yard per week would be picked up and four cubic yards one time per year, but anything in excess of that amount would be billed. Commissioner Boyle noted the issue was who would pay for the excess: the City, the residents, or FEMA. He reported FEMA picked up a percentage of the excess of the public streets, but they do not intend to reimburse the City for the excess pickup on private streets. Commissioner Boyle noted based on Mr. Turner's comments, one could equate private streets with the common area such as in Ormond Lakes, which was not the City's responsibility. He pointed out that Tomoka Oaks and Ormond Lakes were heavily wooded subdivisions. Commissioner Boyle stated he did not favor a \$1 surcharge on all of the solid waste customers and preferred the Solid Waste fund be left short. He concurred this was not directly property tax dollars in that it was from the reserves of the Solid Waste Fund and these funds were correctly used for this purpose. Commissioner Boyle noted the City had previously used this fund as a "bank" to borrow from for other funds. He reported the federal government made a decision not to reimburse entities for the excess pickups on the private property in homeowners' associations. Commissioner Boyle stated he would favor billing people for the excess in homeowners' associations, as had been done in the past.

Mayor Costello stated he did not see similarities between common area and private streets because private streets have homes that pay the solid waste remove fee. He reported all people paying a solid waste remove fee should be treated the same, and all common areas inside or outside gated communities should be treated the same. Mayor Costello noted he favored Option #2 which was to absorb the non-reimbursed cost in the Solid Waste Fund. He pointed out that there could never be too much fund balance, but if the cost to the City was under \$700,000, he could approve the funds be used to pay for the Hand Avenue project because he would only favor using fund balance for one-time expenses that are of an unpredictable and unusual nature. Mayor Costello explained he did not wish to delay the Hand Avenue project. He reported the Commission may not be able to resolve Ms. Wesolowski's issues in that they may be homeowners' association issues.

Ms. Wesolowski reiterated the homeowners' association was given a blanket statement that it would take six to eight weeks and were not told they should not place the debris on common ground. She stated there may be a need for better communication.

Mr. Gregory Avakian, 161 Heritage Circle, stated hurricanes were not a one-time event, and the City should prepare by having a natural disaster reserve.

Commissioner Kelley noted Ormond Beach was not the only entity suffering from this new FEMA ruling and Ormond Beach may still be able to get some money back from FEMA. He pointed out that FEMA had been operating very inefficiently, and Ormond Beach was a victim.

Mr. Turner explained FEMA reimbursements were not guaranteed, and the rules can change as it did in this instance and could occur in the future. He stated the City's ability to remove the debris would primarily be based on the City's reserves and what it could do financially.

Mr. Turner noted storm events would recur. He pointed out that individual homeowners as well as homeowners' associations had to add funds to clear debris and have trees cut up and removed. Mr. Turner stated the City and the community worked together helping each other with the goal to get life back to normal as quickly as possible. He reported everyone was impacted and all were treated the same.

Mayor Costello noted the Commission must give staff direction for the future. He pointed out that he lived in a gated community and should Mr. Hayes urge him not to vote on this issue, he would abstain. Mayor Costello summarized Commissioner Boyle's position was that if the City was not reimbursed by FEMA, the City should not absorb the cost; however, he believed anyone who paid the solid waste removal fee should receive the same benefits. He explained staff would definitely pick up the debris first, but the Commission needed to let it be known to everyone impacted what would occur so proper plans could be made.

Mr. Hayes stated the underlying principal behind this quagmire was that public funds should not be spent for private purposes, which was why FEMA was backing away from its prior previous position. He noted he would examine the legal issues in conjunction with the direction the Commission would provide to staff.

Mayor Costello stated there were other issues in gated communities that may come before the Commission. He urged the Commission to remember the gated communities pay for their own streets saving the City a great deal of money, and he recommended a balance be considered.

Commissioner Boyle stated the City must consider that in the future FEMA may not reimburse payment for any clean up.

Commissioner Kelley noted this was all the more reason the City needed to keep the City's budget reserve as high as possible.

Mayor Costello stated at a future meeting, the Commission may need to consider a reserve for future non-reimbursed payments.

Mr. Turner stated the City already had the vehicle to accomplish this in the sanitation fee since the Commission had to approve what was spent from that fund.

Mayor Costello urged staff to bring this issue back so the Commission could provide direction in this matter.

Commissioner Kent stated he agreed that hurricanes were not one-time events, and when the fund balance was gone it was gone.

Mr. Turner stated one issue causing consternation was that the City had been borrowing from this fund.

Item #12 - Reports, Suggestions, Requests

Abandoned Boat

Commissioner Kent thanked Chief Mathieson for keeping him updated on the abandoned boat situation.

"Coffee with the Commissioner"

Commissioner Kent thanked Ms. Sue Parkerson for opening her home for his "Coffee with the Commissioner" where many more people have attended. He noted the next meeting would be held at Ms. Parkerson's home on the first Monday in November.

Officer Bob Grim Memorial

Commissioner Kent stated he would not be able to attend the Officer Bob Grim Memorial in that he would be attending the State of the City address.

Trees

Commissioner Kelley stated his subdivision lost over 150 trees. He asked if the City had any program where homeowners' associations or individuals could request trees be planted.

Retention Ponds on Nova Road

Commissioner Kelley thanked Ms. Judy Sloane, Public Works Director/City Engineer, for the beautiful retention ponds on Nova Road and pointed out that the City had to pay very little.

Ms. Judy Sloane, Public Works Director/City Engineer, reported the City had not yet been reimbursed.

Planned Business Development

Commissioner Kelley noted it was stated that whenever a zoning change was made from Tourist Commercial (TC) to Planned Business Development (PBD) the density always increased; however, on Item 9(C), relative to the “Royal Floridian by Spinnaker,” the plan could have produced 64 units per acre under its current zoning, but as a PBD they would be developing 49 units per acre. He urged the people not to confuse the issue that these changes were being made to give developers the advantage. Commissioner Kelley reported that in this instance the City would be getting a quality development with less density.

Baseball Card Show

Commissioner Boyle stated that Baseball Card Show #30 would be held at The Casements on Saturday, netting \$9,000 for The Casements.

Outdoor Music

Commissioner Boyle stated outdoor music at the River Grille Restaurant was permitted, and the applicant pointed out that another restaurant on US1 named Barry’s Patio also had outdoor music. He reported Barry’s Patio was holding Sunday jam sessions from 4 p.m. to 8:30 p.m. Commissioner Boyle noted Code Enforcement determined they would not shut this down until they had a complaint; but after a year and four months, it was shut down. He asked if another Commission member would like to revisit the idea of allowing outdoor music at restaurants for one event per week from 4 p.m. to 8:00 p.m. Commissioner Boyle stated he would support that as long as it would not disturb the residents.

Recognizing Armed Forces

Mayor Costello stated several Commissioners went to the Volusia League of Cities and visited the Veteran’s Memorial Park Deltona. He urged Ormond Beach do a better job of recognizing and supporting the Armed Forces.

Mayoral Institute for Weapons of Mass Destruction and Terrorism Preparedness

Mayor Costello noted he would be attending the Mayoral Institute for Weapons of Mass Destruction and Terrorism Preparedness, a six-hour seminar to be held on Monday, April 24, 2006. He requested Mr. Turner determine if this seminar was open to the Commission, and should they be able to attend, he would urge as many to attend as possible.

Retention Pond Fountains

Mayor Costello questioned what the cost of fountains would be for the Nova Road retention ponds. He noted the Commission approved \$170,000 to make parks out of the ponds, and while he was not now making this recommendation, he was interested in knowing the cost.

Honoring Doug Wilhite

Mayor Costello reported he attended Movie Mania and presented a proclamation to Doug Wilhite honoring him for the \$20,000 WELE radio raised and the truckload of supplies they sent to Hurricane Katrina victims.

Recreation Dollars

Mayor Costello stated the City was trying to examine a way to make recreation dollars go further and urged this be done as quickly as possible so it could be brought back to the Commission with any pros and cons.

Item #13 – Close the Meeting

The meeting was adjourned at 9:35 p.m.

APPROVED: _____ October 18, 2005

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk