

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

December 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.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the December 6, 2005, meeting.
- 5) **PRESENTATIONS:**
 - A) Employee of the Year Award to Bob Turi.
 - B) Volusia County School Board – Ormond Beach Middle School Redevelopment.
- 6) **AUDIENCE REMARKS:**
- 7) **INTERGOVERNMENTAL 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. 2005-267 authorizing the submittal of a grant application to the Florida Department of Agriculture and Consumer Services under the 2005 Emergency Hurricane Supplemental Urban and Community Forestry Grant Program for funding assistance relative to the purchase of replacement trees for homeowners and organizations. (\$55,000 total project; \$41,250 grant funds; \$13,750 local funds)
 - B) Resolution No. 2005-268 accepting a proposal from Midwest Employers Casualty Company to reduce the retention level for excess worker's compensation insurance for the City. (\$33,094)
 - C) Resolution No. 2005-269 authorizing the execution of a Joint Participation Agreement with the Florida Department of Transportation, regarding design services for the rehabilitation of Runway 17-35, at the Ormond Beach Municipal Airport. (\$99,530 total project; \$94,554 FAA funding; \$2,488 FDOT funding; \$2,488 City funding)

- D) Resolution No. 2005-270 approving Amendment No. 25 to the Professional Services Agreement between the City and Hoyle, Tanner & Associates, Inc., regarding design services for the rehabilitation of Runway 17-35 at the Ormond Beach Municipal Airport; authorizing payment therefor. (\$99,530 total project; \$94,554 FAA funding; \$2,488 FDOT funding; \$2,488 City funding)
- E) Resolution No. 2005-271 approving and adopting a Peacetime Emergency Plan.
- F) Resolution No. 2005-272 approving and authorizing the execution of a Mutual Aid Combined Operational Assistance and Voluntary Cooperation Agreement for Volusia County.
- G) Resolution No. 2005-273 authorizing the execution of a Release and Satisfaction of Special Master Administrative Fine/Lien for Code Violations on property located at 1138 West Granada Boulevard. (\$350)
- H) Request to authorize payment estimated at \$257,492 to the Florida East Coast Railway, L.L.C., for rehabilitation of the Division Avenue and Lincoln Avenue Grade Crossings.

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

9) **PUBLIC HEARINGS:**

- A) Ordinance No. 2005-57 amending the Future Land Use Element of the Comprehensive Plan by amending the Future Land Use Map to change the designation of one (1) parcel of real property totaling 3.54 acres located at 1425 Hand Avenue, from "Suburban Low Density Residential" (SLDR) to "Office/Professional Density Residential" (O/P). (Second Reading)
- B) Ordinance No. 2005-58 approving the preliminary/final plat for "Kelly's" Subdivision; establishing conditions and expiration dates of approval. (Second Reading)
- C) Advisory board nominations:
 - 1) Ordinance No. 2005-59 amending Section 1-15, Planning Board, of Article II, Administration and Enforcement, of Chapter 1, General Administration, of the *Land Development Code*, by revising criteria for the nomination and appointment of board members. (Second Reading)
 - 2) Ordinance No. 2005-60 Section 1-16, Board of Adjustment and Appeals, of Article II, Administration and Enforcement, of Chapter 1, General Administration, of the *Land Development Code*, by revising criteria for the nomination and appointment of board members. (Second Reading)
 - 3) Ordinance No. 2005-61 Section 1-17, Development Review Board, of Article II, Administration and Enforcement, of Chapter 1, General Administration, of the *Land Development Code*, by revising criteria for the nomination and appointment of board members. (Second Reading)
- D) Ordinance No. 2005-62 amending Paragraph C, Zoning Map, of Section 2-01, Establishment of Zoning Districts and Official Zoning Map, of Article I, Establishment of Zoning Districts and Official Zoning Map, of the *Land Development Code*, by amending the Official Zoning Map to rezone certain real property from Volusia County RPUD (Residential Planned Unit Development) to City of Ormond Beach PRD (Planned Residential Development). (First Reading) (River Oaks property)
- E) Ordinance No. 2005-63 amending Subsection A, Zoning Map and Zoning District, of Article I, Establishment of Zoning Districts and Official Zoning Map, of the *Land Development Code*, by amending the Official Zoning Map to rezone a 3.54-acre parcel of real property from SR (Suburban Residential) to PBD (Planned Business Development), said real property being located on the north side of Hand Avenue, south of The Falls manufactured home community, west of an existing mobile home park, and east of the Coquina Point Subdivision; establishing boundaries; authorizing revision of Official Zoning Map; approving a Development Order for "1425 Hand

Avenue Centre,” Planned Business Development; repealing all inconsistent ordinances or parts thereof. (First Reading) (1425 Hand Avenue)

- F) Ordinance No. 2005-64 amending Chapter 2, District and General Regulations, Article VI, Overlay District, Section 2-72, Airport Overlay District, of the *Land Development Code* by amending the Airport Overlay District; repealing all inconsistent ordinances or parts thereof. (First Reading)

10) **FIRST READING OF ORDINANCES:**

- A) Ordinance No. 2005-65 changing the names of “Lindenwood Circle East” and “Lindenwood Circle West” to “Lindenwood Circle South,” said street being located north of the intersection of McIntosh Road; repealing all inconsistent ordinances or parts thereof; providing for transmittal and recording in the public records of Volusia County.
- B) Ordinance No. 2005-66 naming the Wal-Mart secondary access road and the main access road for the Bermuda Estates Development to be “Bermuda Estates Drive.”
- C) Ordinance No. 2005-67 amending Sections 22-23, 22-24, and 22-71 of Chapter 22, Water and Sewers, the Code of Ordinances, by increasing the minimum water and sewer rates; repealing all inconsistent ordinances or parts thereof.

11) **DISCUSSION ITEMS:**

- A) Biketoberfest 2005 update.
- B) Knap Industrial Planned Unit Development (IPUD).
- C) DiSalvo Storage Business Planned Unit Development (BPUD).
- D) Appreciation of Commissioner Jeff Boyle.

- 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

Prior to giving the invocation, Mayor Costello read a poem written by Driver Engineer Jim Clements of the Ormond Beach Fire Department who was on the team “Operation Caring Through Sharing” relative to his experiences assisting Hurricane Katrina victims.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 - Approval of Minutes

Mayor Costello advised the minutes of the December 6, 2005, regular meeting have 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 Year Award to Bob Turi

Mr. Isaac Turner, City Manager, announced that Mr. Bob Turi, Maintenance Worker IV in the Street Maintenance Department, was selected as Employee-of-the-Year. He stated Mr. Turi had a Bachelors’ degree, served in the Army, worked for the Tucson Police Department for five years, and has a Masters’ degree in criminology.

Mayor Costello congratulated Mr. Turi and presented with him a plaque to be placed on display at City Hall honoring him as the Employee-of-the-Year, an individual plaque to keep, and a gift certificate to Billy's Restaurant. He stated Ormond Beach was about customer service, and Mr. Turi has helped perpetuate great customer service.

Item #5(B) – Ormond Beach Middle School Redevelopment

Ms. Pat Drago, Executive Director of Facilities for the Volusia County School District, stated the board was working through different concepts for the Ormond Beach Middle School. She noted the goal was to take a recommendation to the School Board by March and move on to the design phase with construction starting in 2007. Ms. Drago reported phasing would be the most difficult problem separating the students from the construction.

Mr. Bill Starmer, Starmer Ranaldi Planning and Architecture, Inc., explained his firm met with faculty, administration, the Parent Teachers Association, the school advisory committee, and City staff in their data collection phase. He reported safety and security were important, and congestion and parking problems would be solved through this construction. Mr. Starmer stated this was a unique campus and the building would probably have two stories fronting on Domicilio Avenue. He pointed out that the multipurpose spaces could be shared with the community. Mr. Starmer encouraged staff to continue to attend their meetings, and further meetings would be set up with City staff.

Mayor Costello stated he was pleased Mr. Starmer indicated the school would be designed with more community involvement, use, and access. He urged this school become a model that could be incorporated into other schools.

Commissioner Kent reported he was pleased to hear the traffic problem would be solved. He noted Mr. Starmer mentioned a number of stakeholders, but the immediate residents around Ormond Middle were not mentioned.

Mr. Starmer noted at one of the last meetings it was determined that a flyer would be sent out to the immediate residents inviting them to a meeting where they could be kept abreast of what was occurring.

Ms. Drago stated the board's philosophy at each school was to design the public elements on the perimeter and near the parking so they could better be used by the community. She noted the community would be invited to participate fully in future visioning meetings.

Mayor Costello recommended a fence be installed that would protect areas of the school when locked, but allow access to the gymnasium for community use.

Ms. Drago stated the board has been working with gated courtyards to facilitate the community involvement aspect.

Item #6 – Audience Remarks

Fluoridation

Mr. Jim Schultz, 117 Harbor Drive, stated new information indicated fluoride had increased greatly in the food over the past 40 years, and he urged the Commission to consider the additional fluoride in the water supply pushing the level to an unsafe level.

Mayor Costello thanked Commissioner Partington for forwarding an e-mail relative to a report that would be forthcoming in February regarding this matter.

Code Enforcement Issue

Mr. Lawrence Cook, 1529 North Beach Street, thanked Commissioner Boyle for his help. He also thanked Mayor Costello for meeting with him last week but questioned a comment he made regarding former Mayor Hood.

Mayor Costello stated Mr. Cook had told his side of this story multiple times very articulately, but neither he, nor any future mayor, could make a determination on the comments made by others in the past.

Honoring Commissioner Boyle

Ms. Terri Campbell, 533 South Halifax, thanked Commissioner Boyle for running for office and staying in office for ten years serving his constituents.

Police Issue

Ms. Pattie Barker, 1105 Overbrook Drive, reported she recently filed a complaint after Police Chief Larry Mathieson stated she presented inaccurate information to the Commission while speaking out against Officer Price's unpaid suspension. She noted she presented proof that it was Chief Mathieson who misled the Commission, but Mr. Turner found this to be another miscommunication. Ms. Barker pointed out that the Daytona Beach News-Journal printed an expose' in November detailing the circumstances surrounding Officer Bob Grim's death and Sergeant Mike Lowe's attempts to have basic emergency equipment provided to officers in the field, but Chief Mathieson still refused to allow officers to carry road flares. She stated she could only assume that the Commission and administration were aware of the facts and chose to ignore them.

Ms. Barker stated the Police Department was audited by a team of assessors from the Commission of Florida Law Enforcement Accreditation. She noted last week in Mr. Turner's Friday letter an e-mail sent by Chief Mathieson stated the assessment team's recommendation was for the Police Department be reaccredited. Ms. Barker reported the e-mail stated "they took the time to review several recent controversial cases in depth relative to concerns which have been raised by members of the community and found that the actions of the department were fully in compliance with applicable accreditation standards, department policies, and State law. They also reviewed disciplinary actions associated with those cases and concluded that the actions taken were appropriate to the circumstances." She noted Chief Mathieson also indicated the assessment team leader, Mr. Robert Garlow, stated he had reviewed dozens of agency procedures and case files while doing accreditation reviews and advised that those of the Ormond Beach Police Department were amongst the best he had ever seen. Ms. Barker stated Mr. Garlow never made that comment to anyone, and he indicated that his team was never charged with investigating these matters; they were only insuring that CSA compliant policies were in place or that evidence of corrective action had been taken for procedural violations. She acknowledged that Mr. Garlow did compliment staff on their openness and candor, but it was not his job to pass judgment on the legitimacy of internal affairs actions; therefore, once again Chief Mathieson misled the Commission.

Mayor Costello stated he wanted the Overman/Liquori investigation to proceed as soon as possible.

Mr. Turner reported this was not an investigation. He stated it was a management overview.

Honoring Commissioner Boyle

Mr. Glenn Jaspers, 160 Ocean Terrace, recognized Commissioner Boyle's ten years of service to the City. He thanked Commissioner Boyle for his accessibility, candor, directness, and factual presentations.

Item #7(A) Metropolitan Planning Organization

Mayor Costello reported there was no December Metropolitan Planning Organization (MPO) meeting; however, he met with the Department of Transportation District 5 Secretary George Gilhooley relative to the Ormond Crossings interchange. He stated he was trying to combine the Strategic Intermodal System and the Transportation Regional Incentive Plan to obtain matching grants for the interchange.

Item #7(B) Volusia Council of Governments

Mayor Costello reported there was no December Volusia Council of Governments (VCOG) meeting. He stated several of the members continued to work with the Smart Growth Initiative discussing it with various entities.

Item #7(C) – Water Authority of Volusia

Commissioner Kelley stated there were two Water Authority of Volusia (WAV) meetings. He explained a report was provided by CDM at the December 6 workshop meeting relative to the master plan for the interconnects and wells. He noted the regular monthly meeting was held last Wednesday where additional information was received. Commissioner Kelley noted if a master plan was not adopted by February 19, WAV would be in default and could cease to exist. He advised Daytona Beach has withdrawn their support from WAV. Commissioner Kelley noted while there were salvageable opportunities, it was currently looking bleak because it would be very expensive to produce what was needed. He stated he was hopeful more information would be available after the January meeting.

Mayor Costello thanked Commissioner Kelley for serving on this and the prior Water Alliance board.

Commissioner Kelley stated he chaired the Water Alliance in 1997 and served on its predecessor in 1994.

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 Kelley requested Item 8(C) be discussed separately.

Commissioner Kent moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, minus Item No. 8(C).

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

Item #8(C) –Design Services for the Rehabilitation of Runway 17-35

RESOLUTION NO. 2005-269
 A RESOLUTION AUTHORIZING THE EXECUTION OF A JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION, REGARDING DESIGN SERVICES FOR THE REHABILITATION OF RUNWAY 17-35, AT THE ORMOND BEACH MUNICIPAL AIRPORT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2005-269 as read by title only.

Commissioner Kelley explained that this item had nothing to do with any extension to the runway. He noted this was for the resurfacing of runway 17-35. Commissioner Kelley noted he was concerned regarding the cost of nearly \$100,000; however, he now understood that this cost was required by the FAA before any resurfacing could be done. He pointed out that the runway had not been resurfaced for the past 30 years, making it hazardous and dangerous.

Mr. Turner noted that in the future staff would do a better job of making that clear.

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

Item #9(A) – Future Land Use Map Change

ORDINANCE NO. 2005-57
 AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING 3.54 ACRES LOCATED AT 1425 HAND AVENUE, FROM "SUBURBAN LOW DENSITY RESIDENTIAL" (SLDR) TO "OFFICE/PROFESSIONAL" (O/P); REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Boyle, to approve Ordinance No. 2005-57, on second reading, as read by title only.

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

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

Item #9(B) – Preliminary/Final Plat for “Kelly’s” Subdivision

ORDINANCE NO. 2005-58
AN ORDINANCE APPROVING THE PRELIMINARY/FINAL PLAT FOR “KELLY’S” SUBDIVISION; ESTABLISHING CONDITIONS AND EXPIRATION DATES OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-58, on second reading, as read by title only.

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

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

Item #9(C)(1) – Nomination and Appointment of Planning Board Members

ORDINANCE NO. 2005-59
AN ORDINANCE AMENDING SECTION 1-15, PLANNING BOARD, OF ARTICLE II, ADMINISTRATION AND ENFORCEMENT, OF CHAPTER 1, GENERAL ADMINISTRATION, OF THE *LAND DEVELOPMENT CODE*, BY REVISING CRITERIA FOR THE NOMINATION AND APPOINTMENT OF BOARD MEMBERS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-59, on second reading, as read by title only.

Commissioner Kelley expressed the same concern he expressed at the last meeting relative to the wording, stating two-year terms should coincide with the terms of the Commissioner and that board members may be reappointed for successive two-year terms. He urged evaluating the possibility of striking that because it was not clear in that the board members assume they would automatically be reappointed. Commissioner Kelley noted he saw no value in having the fact stated that the board members could be appointed for a two year term.

Mayor Costello pointed out that this issue related more to how the letter was worded than the wording of the ordinance.

Mr. Turner reported staff would restructure the letter to better clarify that issue.

Commissioner Kelley stated he could accept this if his fellow Commission members were comfortable with it.

Mayor Costello stated he understood the Commission eliminated the language relative to the felony conviction and required the nominees to be voters.

Mr. Randall Hayes, City Attorney, explained the felony language had been struck. He noted it had been included in the summary document because these ordinances went before the Planning Board.

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 #9(C)(1).

Item #9(C)(2) – Nomination and Appointment of Board of Adjustment and Appeals Members

ORDINANCE NO. 2005-60

AN ORDINANCE SECTION 1-16, BOARD OF ADJUSTMENT AND APPEALS, OF ARTICLE II, ADMINISTRATION AND ENFORCEMENT, OF CHAPTER 1, GENERAL ADMINISTRATION, OF THE *LAND DEVELOPMENT CODE*, BY REVISING CRITERIA FOR THE NOMINATION AND APPOINTMENT OF BOARD MEMBERS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-60, 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 #9(C)(2).

Item #9(C)(3) – Nomination and Appointment of Development Review Board Members

ORDINANCE NO. 2005-61

AN ORDINANCE SECTION 1-17, DEVELOPMENT REVIEW BOARD, OF ARTICLE II, ADMINISTRATION AND ENFORCEMENT, OF CHAPTER 1, GENERAL ADMINISTRATION, OF THE *LAND DEVELOPMENT CODE*, BY REVISING CRITERIA FOR THE NOMINATION AND APPOINTMENT OF BOARD MEMBERS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-61, on second reading, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #9(C)(3).

Item #9(D) – River Oaks Property Zoning

ORDINANCE NO. 2005-62

AN ORDINANCE AMENDING PARAGRAPH C, ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE *LAND DEVELOPMENT CODE*, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE CERTAIN REAL PROPERTY FROM VOLUSIA COUNTY RPUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT) TO CITY OF ORMOND BEACH PRD (PLANNED RESIDENTIAL DEVELOPMENT;) REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-62, on first reading, as read by title only.

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

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

Item #9(E) –1425 Hand Avenue Zoning

ORDINANCE NO. 2005-63

AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP AND ZONING DISTRICT, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE *LAND DEVELOPMENT CODE*, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE A 3.54-ACRE PARCEL OF REAL PROPERTY FROM SR (SUBURBAN RESIDENTIAL) TO PBD (PLANNED BUSINESS DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED ON THE NORTH SIDE OF HAND AVENUE, SOUTH OF THE FALLS MANUFACTURED HOME COMMUNITY, WEST OF AN EXISTING MOBILE HOME PARK, AND EAST OF THE COQUINA POINT SUBDIVISION; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR “1425 HAND AVENUE CENTRE,” PLANNED BUSINESS DEVELOPMENT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-63, on first reading, as read by title only.

Mr. Clay Ervin, Planning Director, explained that this was a request to rezone property, and four specific waivers or deviations from the Land Development Code were being sought. He noted the first request pertained to the rear yard setback. Mr. Ervin noted this would traditionally be under the B-10 zoning district requiring a 20-foot rear yard setback, and the applicant was requesting a minimum of 19.33 feet rear yard setback. He stated in that this backs up to an area with residential uses, it would be required to have a six-foot high masonry block wall along the rear property line; however, the applicant has requested a waiver of the wall in lieu of a PVC fence. Mr. Ervin reported the applicant has also requested modification to the sign plan consistent with other plans approved in this area to allow two monument signs of 84 square feet exceeding the maximum height by two feet. He noted another issue was that perimeter planting would be required around the base of all buildings, and the applicant requested this be waived in lieu of additional hardscape and moving some of the landscaping out into the buffers along Hand Avenue. Mr. Ervin advised that staff and the Planning Board reviewed these requests and recommended approval. He noted the applicant had agreed to select a muted color for the fence, and the building architecture was consistent with requirements and included elements above and beyond what was minimally required.

Mayor Costello questioned if the Commission objected to the request for the perimeter landscaping, the rear yard setback, the sign request, or the fence.

Commissioner Partington noted two citizens expressed concerns relative to the fence. He reported Mr. Holub indicated these buildings would be at substantially higher elevation than the road grade of Hand Avenue. Commissioner Partington noted there was no access to the back of the development other than through doors going to a retention buffer area.

Mr. Ervin noted there was a required sidewalk with emergency access out the back of the building which was required by fire code.

Commissioner Partington questioned the impact of installing the masonry wall on the current vegetation.

Mr. Ervin displayed aerial photographs of the property in question. He explained digging a two-foot deep and two-foot high trench to build a six-foot high masonry wall would create a greater impact on the existing vegetation. Mr. Ervin noted the PVC fence would provide an opportunity to have a visual and noise screen with less of an impact on the natural environment. He showed a site plan displaying the buffer area being provided and pointing out that Hand Avenue would eventually be a four lane divided roadway with traffic volumes of 40,000 vehicles, but sufficient buffering was being provided.

Commissioner Partington noted in that Mr. Paul Holub was a good neighbor, he was convinced he would maintain the fence well; therefore, he could approve the PVC fence.

Commissioner Kent questioned if there was a response to the letter sent to the City of Daytona Beach relative to the water issue; whereby, Mr. Ervin noted there was nothing definitive at this time.

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(E).

Item #9(F) – Amending the Airport Overlay District

ORDINANCE NO. 2005-64
 AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE VI, OVERLAY DISTRICT, SECTION 2-72, AIRPORT OVERLAY DISTRICT, OF THE *LAND DEVELOPMENT CODE* BY AMENDING THE AIRPORT OVERLAY DISTRICT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Ms. Pat Behnke, 15 Malayan Sun Bear Path, questioned that this would not change the overlay map; whereby, Mr. Ervin concurred that was correct.

Ms. Mary Hansen, Suite 1, 4394 South Ridgewood Avenue, Port Orange, representing the owner and developer of Bear Creek, thanked staff for their assistance and urged adoption by the Commission.

Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-64, on first reading, as read by title only.

Commissioner Kelley thanked staff for the maps and information provided.

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(F).

Item #10(A) – Changing the names of “Lindenwood Circle East” and “Lindenwood Circle West” to “Lindenwood Circle South”

ORDINANCE NO. 2005-65
 AN ORDINANCE CHANGING THE NAMES OF “LINDENWOOD CIRCLE EAST” AND “LINDENWOOD CIRCLE WEST” TO “LINDENWOOD CIRCLE SOUTH,” SAID STREET BEING LOCATED NORTH OF THE INTERSECTION OF MCINTOSH ROAD; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR TRANSMITTAL AND RECORDING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-65, on first reading, as read by title only.

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

Item #10(B) – Naming “Bermuda Estates Drive”

ORDINANCE NO. 2005-66
 AN ORDINANCE NAMING THE WAL-MART SECONDARY ACCESS ROAD AND THE MAIN ACCESS ROAD FOR THE

BERMUDA ESTATES DEVELOPMENT TO BE “BERMUDA ESTATES DRIVE;” AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-66, on first reading, as read by title only.

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

Item #10(A) – Increasing the Minimum Water and Sewer Rates

ORDINANCE NO. 2005-67
AN ORDINANCE AMENDING SECTIONS 22-23, 22-24, AND 22-71 OF CHAPTER 22, WATER AND SEWERS, THE CODE OF ORDINANCES, BY INCREASING THE MINIMUM WATER AND SEWER RATES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-67, on first reading, as read by title only, changing the effective date from February 1 to January 17 on page 5, Section 4, which would be the date of adoption.

Commissioner Kelley stated incremental increases should have occurred in the past. He reported due to the WAV situation, the City would have opportunities to work with its neighbors. Commissioner Kelley urged the Commission to be mindful that if an opportunity were to occur to work with the City’s neighbors with interconnects, and savings could be generated that the Commission be willing to re-adjust the rate downward. He noted he still considered there was a question as to the necessity of this increase at this time; however, he did understand that if this was not done right now it would be more expensive later.

Mr. Hayes clarified that the ordinance would be effective on the date of adoption on second reading, which would be January 17, but the effective date of the water rate increase would be February 1, 2006. He noted this would be adjusted for the Commission on second reading.

Commissioner Boyle expressed opposition for the same reasons he had articulated earlier. He noted it had been stated that because the Commission did not increase the water rate and the taxes in previous years, larger increases were needed blaming past Commissions for the problem. Commissioner Boyle stated that other than the small increase last year, he did not recall rejecting any major increases in the past because there was always plenty of cash. He reported the tax increase was separate from the utility rate increase, but from a practical standpoint, people still needed to come up with the additional funds. Commissioner Boyle stated one reason the Commission rejected a small increase last year was because of the large property tax increase. He noted that even if the Commission could accept the figures, and he did not necessarily accept all of them, the water plant expansion seemed to have crept into this when it was not originally included. Commissioner Boyle stated that for some low income households, this utility rate increase would take more dollars than the property tax increase. He pointed out that 25% of the household incomes in Ormond Beach had less than \$25,000 total income. Commissioner Boyle stated when the water rate and property taxes are both increased, it had a regressive impact on the schools, hospitals, and churches. He recommended reconfiguring the increase to cushion the shock of the increase. Commissioner Boyle reported that when any government continues for many years without an increase because there was no need for an increase, and then large increases are levied without some major event triggering the need for the increase, the government has failed the people, and some of the public trust would be lost.

Mayor Costello stated his recollection was that for the past four to five years staff had been urging the Commission to increase the water rate, and the Commission avoided doing so. He reported the Department of Health had indicated that since the City was at the 75% of maximum capacity at the water plant that something had to be done. Mayor Costello noted Daytona Beach wanted no more interconnects. He stated that should the City be able to change the 75% daily capacity threshold and obtain interconnects with its neighbors, a number of cities would not need to expand their water plants; however, it was the law, and the City must work

within the law. Mayor Costello reported he would prefer to pay the price now than in the future when the costs were sure to increase.

Commissioner Kent reported no Commission member wanted increases, but the Health Department was making certain demands. He pointed out the people chose the Commission to be their leaders, and as such, the Commission must look to the future and not only be concerned with what was occurring today or what had occurred in the past. Commissioner Kent stated he considered this was needed now because of the increasing costs.

Mayor Costello stated this Commission could not commit a future Commission to anything, but he would look favorably next year upon a cost-of-living increase for the water and sewer rates to avoid this type of large increase in the future.

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

Item #11(A) – Biketoberfest 2005 Update

Mr. Ervin asked if there were any questions or changes to the letter to be sent to Volusia County.

Mayor Costello recommended a number of changes as follows. He noted the first line should read: “City Commission ~~for~~ of Ormond Beach” He suggested the third paragraph be amended to read: “The following are suggestions that we request that the County Council and staff review and implement in order to achieve the balance between residents and special events:” Mayor Costello recommended item number one include the following: “Establish a special overlay district or similar regulations incorporating Ormond Beach land use and development standards for the areas along US1 that are within the City of Ormond Beach utilities service area.” He suggested item number two read: “Within this overlay limit the ability of existing business to expand special event activities. ~~Unless the owners improve the site and buildings to comply with the US1 Greenbelt Corridor Overlay regulations.~~ Our respective staff members should also develop design standards that strive to limit external impacts on adjoining residential areas for existing uses.” Mayor Costello recommended amending item number five as follows: “Establish a definition for “biker bar or restaurant” and prohibit that use along US1 other than exiting ongoing businesses.”

Commissioner Kelley questioned the definition of “an existing ongoing business.”

Mr. Turner explained this would refer to no breaks in the business operation.

Mayor Costello noted he would favor eliminating any business on US1 that would have anything similar to a biker bar or biker venue if they did not operate year-round. He reported he would prefer this become Ormond Beach’s commercial corridor.

Commissioner Kelley stated he would support that, but doubted the County would support it.

Mayor Costello stated Ormond Beach could ask for it.

Mr. Hayes noted that when a business was a legally established lawful use, it could not be eliminated. He advised the terminology would have to be approved to send the letter out.

Mr. Ervin offered an option to reword item number five as follows: “Establish a definition for “biker bar or restaurant” and prohibit that use along US1. Any existing nonconforming legal use would be allowed to maintain consistent with the City standards.” He explained that this would allow an existing biker bar to continue to operate under the legal nonconformance of the Ormond Beach code; however, if the business would cease to operate for a period of six months or 18 months under a 24 month period, the use could not reopen. Mr. Ervin pointed out this was language from the existing Land Development Code for existing legal nonconforming uses.

Commissioner Kelley noted he understood that if a property was sold and was operating under a nonconforming use, the right to operate would be eliminated.

Mr. Ervin clarified the use could continue if picked up within six to 18 months. He noted if approved under a previous zoning or land use scenario, it would be able to continue to operate

as originally approved until it ceased to operate for six months or 18 months over a period over a 24-month period before being considered an abandoned use, and it could then not be reestablished.

Commissioner Kelley explained there was a mechanical shop a number of years ago that was not able to continue as a mechanical shop; whereby, Mr. Ervin offered to follow up with Commissioner Kelley on that specific matter.

Mayor Costello reported he favored year-round successful businesses, but not new businesses.

Commissioner Boyle commended Mayor Costello's amendments. He recommended including a new number eight to tighten the granting of permits for temporary campgrounds in that these people do not contribute to the economy.

Mayor Costello concurred with Commissioner Boyle's recommendation.

Mr. Ervin restated item number eight would be as follows: "Standards for temporary campgrounds need to be reviewed to ensure that they would not create additional negative impacts."

Mayor Costello clarified his intent was that there would be no campgrounds in the US1 corridor.

Commissioner Boyle stated in that Mayor Costello's amendment was stronger it may be difficult to achieve, but he would concur.

Commissioner Partington moved, seconded by Commissioner Kent, to approve the letter with the aforementioned amendments.

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

Item #11(B) – Knap Industrial Planned Unit Development (IPUD)

Mr. Ervin reported a request to postpone this item to the February 7, 2006, meeting was made. He noted the property owner and his representatives could not attend tonight's meeting.

Commissioner Partington moved, seconded by Commissioner Kent, to continue this item to the February 7, 2006, meeting.

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

Item #11(C) – DiSalvo Storage Business Planned Unit Development (BPUD)

Commissioner Boyle moved, seconded by Commissioner Kelley, to approve the 25-foot height for the sign.

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

Item #11(D) – Appreciation of Commissioner Jeff Boyle

Ms. Dorian Burt, Ormond Main Street Director, thanked Commissioner Boyle for his help with Ormond Main Street and the downtown businesses.

Mr. Glenn Wren, 5 Maplewood Trail, stated Commissioner Boyle has taken a lonely road, which he considered to be very motivational. He thanked Commissioner Boyle for his service to the City.

Ms. Pat Behnke, 15 Malayan Sun Bear Path, thanked the Commission for taking a stand on the US1 corridor.

Ms. Behnke stated Commissioner Boyle was one of the first people to help her and her husband through the Ormond Beach system. She thanked Commissioner Boyle for his assistance in opposing the extension of runway 17-35, and assured him that he would be missed and wished him well.

Mr. Harold Briley, 312 North Beach Street, stated he was one of Commissioner Boyle's students at Seabreeze High School in 1989. He noted he was elected to the Planning Board in 1996, the same year Commissioner Boyle was elected to the Commission; therefore, he and Commissioner Boyle saw a great deal of projects work through the City. Mr. Briley thanked Commissioner Boyle for his service.

Mr. Ed Burns, 148 Bearfoot Trail, stated Commissioner Boyle had the one voice of the people of Bear Creek at the January 4, 2005, City Commission meeting. He reported Commissioner Boyle inspired the residents and urged them not to give up. Mr. Burns thanked Commissioner Boyle for his efforts in that regard.

Mr. Roland Via, 534 Eagle Drive, Holly Hill, stated he served with Commissioner Boyle for eight years as a Commissioner in another City. He reported that during that eight-year period, with the assistance of Commissioner Boyle's efforts, a greater cooperation between the cities was forged. Mr. Via pointed out that Commissioner Boyle made radio interesting. He wished Commissioner Boyle the best of luck in the future.

Mr. Paul Holub, Holub Development, stated he and Commissioner Boyle started ten years ago on opposite sides of development, but over the years they both learned to compromise. He reported Commissioner Boyle encouraged him to provide a better product for the City, and he thanked him for his support.

Item #12 - Reports, Suggestions, Requests

Appreciation of Commissioner Jeff Boyle

Commissioner Kelley stated he served on the Commission when Commissioner Boyle made his first public appeal regarding water, and the last vote Commissioner Boyle made also related to water. He noted he served with Commissioner Boyle on the Commission in 1996 and 1997. Commissioner Kelley stated a letter Commissioner Boyle sent out last year relative to the tax increase inspired him to run for election. He pointed out that Commissioner Boyle has always been prepared and made him be better prepared. Commissioner Kelley noted that although he and Commissioner Boyle had not always agreed on all issues, they were both very passionate about many issues. He stated Commissioner Boyle made him a better commissioner by his questions. Commissioner Kelley thanked Commissioner Boyle for the time they served together and for his inspiration to run for election.

Commissioner Partington stated he and Commissioner Boyle have not disagreed as much as some people may believe. He reported he and Commissioner Boyle have agreed on many issues and hold the same values. Commissioner Partington stated he wished nothing but the best for Commissioner Boyle and his wife in the future. He pointed out that Commissioner Boyle could be effective on the Commission and in other positions in the community. Commissioner Partington stated ten years in elected office was a huge accomplishment to achieve.

Former Commissioner High

Commissioner Partington stated his thoughts and prayers were with former Commissioner Joyce High. He noted former Commissioner Joyce High was currently in Halifax Hospital.

Seminar for Newly Elected Officials

Commissioner Kent reported he had a great time attending the seminar for newly elected officials last Saturday along with Commissioner-Elect Gillooly and others in neighboring communities. He stated he learned a great deal. Commissioner Kent noted Mayor Costello was to be a speaker, but he did not attend. He reported Clay Henderson filled in for Mayor Costello and did a great job.

Voting on Discussion Items

Commissioner Kent reported he shared Commissioner Kelley's concern relative to voting on the discussion items.

Housing for the Main Street Director

Commissioner Kent urged that something be worked out with the Ormond Beach Chamber of Commerce to house the Main Street Executive Director at the Chamber of Commerce location.

Appreciation of Commissioner Jeff Boyle

Commissioner Kent stated he was also a past Seabreeze High School student of Commissioner Boyle. He noted he and Commissioner Boyle have agreed and disagreed on issues, but were gentlemen in both positions. Commissioner Kent reported he learned a great deal from Commissioner Boyle. He pointed out Commissioner Boyle was a great motivational speaker, encouraging people to feel passionate about issues. Commissioner Kent thanked Commissioner Boyle for the piece of the Berlin Wall he presented at a Commission meeting. He wished Commissioner Boyle the best for the future.

Seminar for Newly Elected Officials

Mayor Costello explained he did not attend the seminar for newly elected officials because he was in Washington, DC, attending the funeral of his uncle.

Discussion Items

Mayor Costello stated the ruling was that if the Commission voted on discussion items, the public would be permitted to speak on them.

Mr. Turner stated rules relative to discussion items would be included in the Friday letter.

January Meetings

Mr. Turner reminded the Commission of the upcoming January meetings: the organizational meeting on January 3; the focus workshop on January 5 and January 9; and the regular meeting on January 17.

Appreciation of Commissioner Jeff Boyle

Mr. Turner commended Commissioner Boyle for serving his constituents for ten years. He stated he and Commissioner Boyle have had spirited debates in his office, but when they were in agreement they were able to move projects along. Mr. Turner noted working with Commissioner Boyle had made him a better person, and he hoped Commissioner Boyle could say the same.

Ted MacLeod, Assistant City Manager, thanked Commissioner Boyle for providing the true meaning to the phrase "never a dull moment."

Discussion Items

Mr. Hayes stated discussion items could be voted on as long as there was a super majority. He noted it was important to vote on the Biketoberfest item tonight since the letter needed to be sent.

Appreciation of Commissioner Jeff Boyle

Mr. Hayes stated since he was always last to speak, everything had already been stated; therefore, he echoed everything previously said. He pointed out that he and Mr. MacLeod worked the entire ten years with Commissioner Boyle. Mr. Hayes stated everyone had learned a great deal from Commissioner Boyle, and he would be missed. He reported Commissioner Boyle could take great pride that Commissioner-Elect Gillooly, who would be taking Commissioner Boyle's seat, was a great candidate.

Mayor Costello stated he and Commissioner Boyle had been worthy adversaries many times, but he never doubted Commissioner Boyle's passion to make Ormond Beach the very best. He noted both he and Commissioner Boyle respected each other enough to listen to the other's views and not be disagreeable. Mayor Costello stated Commissioner Boyle was always extremely prepared and had dates in mind and readily available. He explained Commissioner Boyle taught him that one can not always look at the big picture, and that it was also important to look at the individual. Mayor Costello thanked Susan Boyle for her sacrifices.

Mayor Costello yielded the gavel to Commissioner Boyle to close out the meeting.

Commissioner Boyle's Closing Comments

Commissioner Boyle thanked everyone for their kind words and thoughts. He expressed appreciation to his wife, Susan Boyle, for her support and sacrifices and to his mother, Jean Boyle, as well. Commissioner Boyle stated that while he considered standing down in the past, he and his wife decided that once a commitment was made to this Commission, he needed to stay until he was released from that commitment. He pointed out that each person present was here tonight because they cared about the City of Ormond Beach, and each

Commissioner was part of a team that included the Commission, an excellent staff, board members, and citizens. Commissioner Boyle reported he would continue to be a part of that team and work for Ormond Beach. He noted over the past ten years he had never missed a meeting because of the respect he had for the Commission and the public trust he was given by the people of the community. Commissioner Boyle reported he was grateful to countless people who helped and supported him. He noted the greatest gift was the friendships that were made and that endured. Commissioner Boyle stated he was grateful for this last campaign and walking through his zone. He thanked his opponents who taught him that you must listen to everyone in the City and that perception was just as important as reality. Commissioner Boyle stated the greatest asset Ormond Beach had was the people who have a unique character and community spirit. He noted the City would need that spirit and motivation to preserve the Ormond Beach that defines its history and sense of place. Commissioner Boyle urged people to participate, communicate, and even agitate to help the Commission make the right decisions. He thanked the people for the opportunity of a lifetime for the past ten years and for tonight's thoughtful words.

Christmas Greetings

Each Commission member expressed Christmas wishes.

Item #13 – Close the Meeting

The meeting was adjourned at 8:56 p.m.

APPROVED: January 3, 2005

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk