

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

June 15, 2004 7:00 p.m.

Present were: Mayor Fred Costello, Commissioners Jeff Boyle, Troy Kent, Scott Selis, 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 June 1, 2004, meeting.
- 5) ***PRESENTATIONS:***
 - A) Julia Ware, School Readiness Contract Specialist, the Healthy Start Coalition of Volusia and Flagler Counties.
 - B) Florida City and County Management Association Innovation in Communications and Technology Award.
- 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. 2004-96 appointing Charles Carter as a member to serve on the Airport Advisory Board; setting forth term and conditions of service.

- B) Resolution No. 2004-97 terminating the service of Larry Volenec from, and removing him as a member of, the Airport Advisory Board.
- C) Resolution No. 2004-98 terminating the First Response Agreement to Structural Fires between the City of Ormond Beach and the City of Holly Hill.
- D) Resolution No. 2004-99 declaring the intention of the City Commission to consider vacating that portion of the Old Tomoka Road right-of-way abutting the “Tuscany” Planned Residential Development; establishing a time certain for a public hearing.
- E) Resolution No. 2004-100 authorizing the execution of Change Order Number Two (2) to that contract between the City of Ormond Beach and St. Johns River Water Management District regarding the construction of a reclaimed water distribution system to be located in the Breakaway Trails subdivision, by increasing the contract time by five (5) months.
- F) Resolution No. 2004-101 authorizing the execution of a Joint Participation Agreement between the City and Florida Department of Transportation regarding the provision of \$200,000 in grant funds to be used for the Nova Road Median Landscaping Project along Nova Road from Arroyo Parkway to US1.
- G) Resolution No. 2004-102 authorizing the execution of an Urban and Community Forestry Grant Memorandum of Agreement between the City and the Florida Department of Agriculture and Consumer Services. (\$10,000 Forestry Grant - \$10,000 City funds for the Gateway Beautification project relative to the Nova Road medians)
- H) Resolution No. 2004-105 authorizing the execution of a Highway Maintenance Memorandum of Agreement between the City of Ormond Beach and the Florida Department of Transportation. (Maintenance of State roadways and right-of-ways within the City and environs - \$219,522 reimbursement per year.)
- I) Request to authorize payment estimated at \$56,368 to the Florida East Coast Railway, L.L.C., for rehabilitation of the Hand Avenue Grade Crossing.

DISPOSITION: Approve as recommended in City Manager memorandum dated June 10, 2004.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2004-103 authorizing the execution and issuance of a Conditional Use Permit to allow the construction of a 27,135 square foot single-story medical office building on a 3.31-acre site located at 725 West Granada Boulevard within the B-9 (Boulevard) zoning district; establishing conditions and expirations of approval.
- B) Ordinance No. 2004-20 approving the final plat of “Daprile’s Subdivision”; establishing conditions and expiration dates of approval. (Second Reading)

10) **FIRST READING OF ORDINANCES:**

- A) Ordinance No. 2004-21 amending Chapter 2, Administration, Article VI, Boards, Commissions, Committees and Other Agencies, Division 2, Enumerated, of the Code of Ordinances, by adding a new section to be numbered and entitled Section 2-227, Goodwill Ambassador Program; by creating a Goodwill Ambassador program; establishing terms and conditions of membership; establishing powers and duties; and setting forth an effective date.
- B) Land Development Code amendments:
 - 1) Ordinance No. 2004-22 amending Section 3-67, In General, of Article VI, Architectural Design Standards, of Chapter 3, Development Design and Construction Standards, of the *2004 Land Development Code*, providing architectural standards for development improvements.
 - 2) Ordinance No. 2004-23 amending Section 1-16, Lot Splits, of Article II, Subdivision, of Chapter 4, Site Plans, of the *2004 Land Development Code* by clarifying the criteria and requirements for a lot split.

- 3) Ordinance No. 2004-24 amending Section 2-50, Accessory Uses, of Article III, General Regulations, of the *2004 Land Development Code* by amending regulations regarding existing non-conforming pool screen enclosures.
 - 4) Ordinance No. 2004-25 amending Section 1-26, Application Processing Fees, of Article IV, Schedule of Development Review and Impact Fees, of Chapter 1, General Administration, of the *2004 Land Development Code* by establishing fees for the extension of public hearings and for lot split applications.
 - 5) Ordinance No. 2004-26 amending Section 3-47, Business Premises Identification Signs, of Article IV, Sign Regulations, of Chapter 3, Performance Standards, of the *2004 Land Development Code* by deleting regulations regarding the B-1, B-9 and B-10 zoning districts.
- 11) **RESOLUTION** No. 2004-104 authorizing the execution of an agreement between the City and Hall Construction Company, Inc., regarding construction of a City welcome sign at the intersection of Williamson Boulevard and Granada Boulevard. (Not-to-exceed \$66,975)
- 12) **DISCUSSION ITEMS:**
- A) Update on the provision of reuse water on the South Peninsula.
 - B) Provision of Citywide sewer service.
 - C) Airport issues.
- 13) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 14) Close the meeting.

Item #1 - Call to Order

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

Item #2 - Invocation

Commissioner Selis advised that Ms. Leighann Kennedy died tragically in an automobile accident over this past weekend. He stated his eldest daughter was Ms. Kennedy's classmate and friend. Commissioner Selis asked for a moment of silence to pray for the Kennedy family.

Ms. Joyce High 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 June 1, 2004, regular 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) – Healthy Start Coalition of Volusia and Flagler Counties

Ms. Julia Ware, School Readiness Contract Specialist, distributed information regarding three programs: "Healthy Start" to reduce infant mortality by facilitating healthy pregnancies and healthy babies through care and coordination services; "Healthy Families" to prevent child abuse and neglect before it occurs; and the "School Readiness Program" to be certain children were socially, emotionally, and educationally ready to learn upon entering kindergarten. She reported these programs have been able to reduce infant mortality, reduce the number of low birth weight babies, improve the health and wellbeing of young children, prevent the abuse and neglect of children, and assist in preparing children for school. Ms. Ware noted the coalition manages contracts, but performs no direct services. She reported funds were expended mid-year, and the Volusia County Health Department lent assistance through a small grant to cover

the costs for the remainder of this fiscal year. Ms. Ware stated funding was cut and then reinstated with non-recurring dollars making it possible cuts would be made next year. She advised local matches were needed, which has been accomplished through in-kind donations and services, but they were experiencing increasingly unmet needs.

Item #5(B) – Florida City and County Management Association Innovation in Communications and Technology Award

Mr. Isaac Turner, City Manager, recognized Accounting Manager Jackie Carkhuff, Finance Director Paul Lane, Support Services Director Tom Lipps, Public Information Officer Joe Radcliffe, Purchasing Coordinator Jim Tew, and Information Systems Specialist Ken White. He reported that over the past few years the City had made a number of improvements to the City's website to enhance the services being provided to the citizens. Mr. Turner noted Ormond Beach now provided online services similar to those provided by larger cities including access to water utility accounts and online payment, the ability to apply for building applications and submit forms through the website, making payment for building applications, requests for inspections, renewing business licenses, online notification of all bids and requests for proposals, distribution of bid documents, and access to the agendas, minutes and the entire agenda packet for City Commission meetings. He reported the efforts of Ormond Beach have been recognized by the Florida City and County Management Association, and the Communications and Technology Award was presented to the City at the FCCMA meeting. Mr. Turner thanked staff for their efforts in updating and improving the City's website, and he thanked the Commission for providing the resources to achieve this accomplishment.

Mayor Costello thanked staff for their efforts in making Ormond Beach a quality City with a quality website.

Item #6 - Audience Remarks

Aviation Advisory Board Member Termination

Mr. Todd Phillips, 123 North Orchard Street, requested that Item 8(B) be pulled from the Consent Agenda for discussion. He stated he served as Commissioner Selis' appointment on the Aviation Advisory Board. Mr. Phillips advised that although he only knew Mr. Larry Volenec in context with the Aviation Advisory Board, he knew that Mr. Volenec was a strong supporter of the Ormond Beach Municipal Airport and Ormond Beach in general. He reported Mr. Volenec was a man of intelligence and integrity. Mr. Phillips stated that after reviewing the information Commissioner Boyle put forth, he found no evidence for cause to remove Mr. Volenec from the Aviation Advisory Board.

Commissioner Boyle stated that Mr. Phillips' remarks should be made when this item is discussed on the agenda; whereby, Mr. Phillips advised he would hold his remarks until that time. Commissioner Boyle stated he would pull this item from the Consent Agenda for discussion.

Ballfield Condition

Mr. Jeff King, 1298 Wandering Oaks Drive, stated renovations were started approximately four years ago on the youth baseball fields on the west side of Nova Road. He advised the money for the renovation had already been appropriated. Mr. King reported four years ago the amount appropriated to renovate Field #2 was \$250,000; however, these funds were not put to the best use. He stated while the field was adequate for nine and ten year old play, for the amount of money spent, there were omissions, there was little planning done, and there was no liaison between the contractor and the Recreation Department. Mr. King offered to provide evidence of the flaws at this field. He reported demolition was currently underway at Field #3, and an additional \$250,000 was appropriated with \$25,000 more requested for Field #3. Mr. King noted he could better explain what needed to be done if he could walk the site with the Commission and explain his vision. He stated he represented a group of people who were seeking a voice in what was to occur at the ballfields. Mr. King reported if the mistakes that were made on Field #2 are not corrected, they may recur on the remaining fields. He questioned why Field #2 was chained and padlocked after spending so much money to renovate the field.

Mayor Costello stated he would meet with Mr. King, the Commissioner of Youth Baseball Mr. Doug Wigley, and the Director of Leisure Services Alan Burton to discuss this issue. He noted other Commission members may also wish to arrange a meeting with Mr. King as well.

Item #7(A) - Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization held a workshop and an executive committee meeting yesterday. He stated the future urbanized area was discussed.

Mayor Costello reported he was working for sidewalks and bike paths along SR40, but was not extremely optimistic. Mayor Costello stated the engineering for Tymber Creek Road from SR40 to Airport Road was scheduled for FY 2004-05, the right-of-way was scheduled for FY 2005-06, and FY 2006-07, and the construction was scheduled for FY 2007-08. He advised the County was planning to bond the road to accelerate the project to the above-noted timeframe. Mayor Costello stated that while the road would be four years from completion, in the transportation field, this project had been on an extremely accelerated timeline. He publicly thanked the County Council for the acceleration of this project.

Item #7 (B) – Volusia Council of Governments

Mayor Costello reported Morgan Gilreath, Volusia County Property Appraiser, would make a presentation to the Volusia Council of Governments (VCOG) at their next meeting regarding what the impact of an additional \$25,000 homestead exemption would be. He explained the need for a 14% tax rate increase in Ormond Beach was estimated should this legislation pass.

Mayor Costello stated the University of Central Florida Conflict Resolution Consortium would make a presentation relative to the Smart Growth initiative. He noted a recommendation would be made that \$4,000 to \$6,000 would be requested to participate. Mayor Costello reported this presentation would be made to the City Commission at the second regular meeting in July. He advised the committee would include representatives from the County and four City officials (the mayors were recommended) that VCOG would appoint. Mayor Costello stated he considered it imperative for Ormond Beach to participate in this committee.

Item #7(C) – Water Authority of Volusia

Commissioner Boyle deferred to Commissioner Kent who attended the Water Authority of Volusia (WAV) workshop in his absence.

Commissioner Kent reported he had the opportunity to meet with WAV members on June 2nd to discuss providing and preserving water in Volusia County. He stated WAV members discussed their FY 2004-05 budget. Commissioner Kent reported the decision for the T1 line to stay was made after much debate and discussion; Option #4 was approved; and \$90,000 was cut from that option.

Mr. Ted MacLeod, Assistant City Manager, advised WAV would be meeting again tomorrow to discuss the same issues.

Commissioner Boyle stated the agenda for tomorrow included examining the responsibilities and micromanaging of the executive committee. He advised the bylaws stipulate the executive committee approve or disapprove agenda items that are recommended by the executive director, but these items have been discussed by the executive committee for three to four hours at a time.

Commissioner Boyle advised the fee from Ormond Beach would be increased \$7,000 to \$8,000 for next year making Ormond Beach's fee total \$53,000. He noted he would be questioning why WAV was delaying and deferring projects and why the RFQ process for the master plan consultant was cancelled to start anew. Commissioner Boyle reported he met with Dr. Bruce Mowry, WAV Executive Director, to discuss tomorrow's WAV agenda.

Item #8 - Consent Agenda

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

Mayor Costello reported Item #8(B) would be removed for discussion.

Commissioner Boyle requested Item #8(I) be discussed.

Commissioner Kent moved, seconded by Commissioner Selis, for approval of the Consent Agenda, minus Items #8(B) and #8(I).

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

Item #8(B) – Airport Advisory Board Member Termination

RESOLUTION NO. 2004-97

A RESOLUTION TERMINATING THE SERVICE OF LARRY VOLENEC FROM, AND REMOVING HIM AS A MEMBER OF THE AIRPORT ADVISORY BOARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved to table Resolution No. 2004-97 to the July 6th City Commission meeting.

Commissioner Boyle advised he made this motion per the recommendation of the Deputy City Attorney.

The motion died for lack of a second.

Commissioner Boyle moved to approve Resolution No. 2004-97, as read by title only.

Commissioner Boyle requested a second to his motion for the purpose of discussing the item.

Mayor Costello passed the gavel to Deputy Mayor Boyle in order to second the motion for the purpose of discussion.

Mayor Costello advised he favored Deputy Mayor Boyle having the right to unilaterally remove his appointment of Mr. Volenec if he served at Deputy Mayor Boyle's pleasure; however, he did not believe there was cause for Mr. Volenec's removal. He stated he believed Mr. Volenec went beyond his responsibilities, showing good faith in contacting the City Attorney to be certain he had no conflicts. Mayor Costello reported Mr. Volenec had a partnership in ownership of an airplane with an employee of a fixed base operator (FBO), but had no interest in that FBO. He explained he would prefer to support Deputy Mayor Boyle as the Commission member making the appointment in allowing him to choose whom he would appoint, but his understanding of the Deputy City Attorney opinion was that the Commission could not remove a member from a board without cause, and he could not find cause; therefore, he could not support removing Mr. Volenec. Mayor Costello reported board appointments do not serve at the pleasure of the appointing Commission member but at the pleasure of the entire Commission.

Deputy Mayor Boyle thanked Mayor Costello for seconding his motion for this important discussion.

Commissioner Selis advised he also had planned to table this motion; however, he received a call from Mr. Volenec today who indicated he no longer wanted this item to be tabled and urged it be decided tonight. He stated when the Commission discussed the conflict of interest situation on the Aviation Advisory Board, this situation was used as an example of not being a conflict of interest. Commissioner Selis reported for this reason, he saw no cause for dismissing a board member. He stated Mr. Volenec has served this City admirably, ably, and well.

Deputy Mayor Boyle stated that from what two members of the Commission had indicated and by the silence of the remaining two members, he deduced that their understanding of the facts was sufficient for them to make this judgment before they even heard what he would say on the issue.

Deputy Mayor Boyle reported Mr. Volenec had served the City well as an at large appointment in 2003 and after the board was reconstructed, as his appointment. He explained Mr. Volenec requested he be appointed as the Zone 1 appointee after Mr. Adrian Thompson was removed at the recommendation of the City's Legal Department because Mr. Thompson was an FBO. Deputy Mayor Boyle stated as a result of City Commission discussions, it was determined that tenants would be eligible, and anyone with a clear conflict could be granted a waiver as long as it was not necessary for the member to frequently abstain from voting. He advised he requested this be tabled because Mr. Turner advised him of a letter where Mr. Volenec requested this be tabled, and he had not spoken to Mr. Volenec on the matter.

Deputy Mayor Boyle explained he called Mr. Volenec after the Commission decided who would be eligible, informing him he would appoint him as his Zone 1 appointment; however, he explained to Mr. Volenec that there was a great sensitivity at the airport relative to Sunrise Aviation. He stated he explained to Mr. Volenec that a tenant that made decisions impacting that tenant's landlord would probably communicate and represent the interest of that landlord. Deputy Mayor Boyle reported that he then asked Mr. Volenec if he had any other associations

or ties with Sunrise Aviation, and the answer he received was that he did not. He advised he accepted that answer and appointed Mr. Volenec to the board only to learn there was a corporate partnership in which Mr. Volenec was co-owner of an airplane, which was another association. Deputy Mayor Boyle reported when he learned this, he called the Deputy City Attorney to determine the procedure for removal of this individual. He concurred that the board members serve at the collective pleasure of the Commission. Deputy Mayor Boyle pointed out Section 220 that related to the Aviation Advisory Board was incorrect and had to be corrected. He also agreed there had to be cause to remove a board member, but two Commission members had already made judgments as to what they would consider the definition of the word "cause" to be. Deputy Mayor Boyle explained his issue with Mr. Volenec remaining on the board was not whether he had a conflict, but that he misrepresented his association. He reported misrepresentation was cause for termination in any organization. Deputy Mayor Boyle stated that the Deputy City Attorney, unaware of this association, was unable to inform Mr. Volenec when he needed to recuse himself from a vote.

Ms. Sandra Upchurch, Deputy City Attorney, stated she had conversations relative to conflicts of interest around November, December, or January; and, at that time, Mr. Volenec called to ask her a general question, which was whether a relationship with an employee of an FBO would constitute a conflict of interest and if he could still serve on the Aviation Advisory Board. She clarified that conversation was months ago, and it was not in the context of the current conversations.

Deputy Mayor Boyle reiterated that misrepresentation was considered cause by any standard; and if this Commission would decide there was no cause, this could only be for one of two reasons: either the Commissioner doubted the integrity of the facts he had presented tonight or misrepresentation was acceptable in Ormond Beach. He respectfully asked the Commission to remove this individual from this board for the above-noted reasons.

Mayor Costello advised there was a third reason for not removing Mr. Volenec from the board in that Ms. Upchurch just reported Mr. Volenec did check with her to determine if there was a conflict; therefore, he had not misrepresented himself. He recalled the Commission's discussion was relative to an FBO owner, but Mr. Volenec did not have a relationship with an FBO owner; he merely shared ownership in an airplane with an FBO employee, which was a significant difference. Mayor Costello pointed out more significant was the fact that Mr. Volenec took the proactive step to ask the Deputy City Attorney if this was a conflict, and he was informed it was not a conflict. He stated he totally trusted and respected the comments made by Deputy Mayor Boyle; however, his vote in opposition to this resolution was not that he did not believe Deputy Mayor Boyle, rather that Mr. Volenec did what he should have done.

Mayor Costello asked the City Clerk to read the letter sent by Mr. Volenec relative to this matter.

Deputy Mayor Boyle asked to whom the letter was addressed and what the date of the letter was.

Ms. Ronnie Patterson, City Clerk, advised she received the letter this evening addressed to the City Commissioners, Mayor Costello, and residents of Ormond Beach.

Deputy Mayor Boyle asked if Mayor Costello saw the letter.

Mayor Costello advised he first saw the letter a few minutes before the beginning of the meeting. He reported Mr. Volenec called, asking him to read a letter, but Mayor Costello recommended it would be more appropriate for the City Clerk to read the letter.

Deputy Mayor Boyle questioned how long the letter was; whereby, Ms. Patterson advised that the letter was two and a quarter pages long. Deputy Mayor Boyle stated he considered that a rather long letter. He stated that while Mayor Costello did not consider Mr. Volenec's actions to be a misrepresentation because he called Ms. Upchurch, Mr. Volenec did not call him. Deputy Mayor Boyle reported he asked Mr. Volenec a direct question as to whether he had any other ties with Sunshine Aviation other than being a tenant, to which Mr. Volenec stated he did not. He stated Mr. Volenec was advised this was a clear and direct question and his appointment hinged on the answer to that question. He stated that Mr. Volenec gave a false answer, and he received the appointment on the basis of that false answer. Deputy Mayor Boyle stated Mr. Volenec was a corporate partner with a corporate officer and operating manager of Sunrise Aviation.

Commissioner Selis stated there had recently been a great deal of reading letters into the record. He reported that to the extent that it would be part of the record, there would be no point in reading letters into the record unless someone thought reading it would be helpful.

Commissioner Selis reported he completely concurred with Mayor Costello in that his vote did not reflect that Mr. Volenec was being honest and Deputy Mayor Boyle was not being honest. He stated that Deputy Mayor Boyle had a perspective, but his perspective was that Mr. Volenec may have inadvertently misrepresented something. Commissioner Selis explained that as Ms. Upchurch indicated, Mr. Volenec called asking if his situation would be a conflict in December or January; and because of her answer, when Deputy Mayor Boyle asked if there were any other relationships, Mr. Volenec thought he was actually asking if he had any other conflicts, which he did not have. He advised he was not speculating on this point since he spoke to Mr. Volenec on this issue. Commissioner Selis reported for the Commission to remove a board member for misrepresentation, the Commission should establish, by clear and convincing evidence, that there was a knowing misrepresentation with the intent to defraud or injure the City. He stated after hearing Deputy Mayor Boyle's comments in other meetings, reading the packet, and hearing Mr. Volenec's appraisal of the situation, he concluded Mr. Volenec made a mistake, but not a mistake worthy of dismissal. Commissioner Selis expressed concern that any board member should not need to fear that if they make an innocent mistake, they would be removed from the board. He stated board members must be able to act freely, without fear of retribution because of mistakes.

Deputy Mayor Boyle asked if anyone other than Mayor Costello wished the letter to be read. Hearing none he asked that the letter not be read. (Letter attached as a public record to the official copy of the City Commission packet for this meeting.)

Deputy Mayor Boyle continued with the chronology of events. He stated Mr. Volenec called him on May 21st and read from a prepared statement, at which time he stopped Mr. Volenec and stated that he had asked him a direct question in January and his answer had been "no"; therefore, he requested his resignation from the board immediately. Deputy Mayor Boyle reported Mr. Volenec's response was that he needed an opinion from Ms. Upchurch first. He stated he informed Mr. Volenec that Ms. Upchurch's opinion may be valid as to whether the conflict was enough to remove him, but the issue was misrepresentation, not whether he had a conflict of interest. Deputy Mayor Boyle advised he offered that either Mr. Volenec provide the letter of resignation, or it would be done through a public hearing, which would be more problematic; however, he did not hear from Mr. Volenec again. He explained in 2002 Mr. Volenec formed a corporate partnership with Greg Schauman, secretary of Sunrise Aviation and operating manager. Deputy Mayor Boyle reiterated that he had asked if Mr. Volenec had any other ties with Sunrise Aviation other than being a tenant, and Mr. Volenec had answered "no," which was clear and convincing evidence. He reiterated that if this Commission accepted Mr. Volenec to stay on the board, it would be accepting a misrepresentation.

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

Deputy Mayor Boyle returned the gavel to Mayor Costello.

Mayor Costello urged Commissioner Boyle to show the same graciousness he tried to demonstrate in seconding this motion. He noted he found it incumbent to allow Commissioner Boyle to express his views on this issue and urged Commissioner Boyle not to "hold it against" the Commission members who did not support his view since they merely had a different view of what occurred than Commissioner Boyle had. Mayor Costello reported when Commissioner Boyle asked Mr. Volenec if he had any other associations or relationships with Sunrise Aviation, Mr. Volenec answered correctly when he answered that he had not since he merely had a partnership with an employee of Sunrise Aviation. He advised that Mr. Volenec went to the City Attorney, and from that conversation, he did not believe he had a relationship. Mayor Costello urged Commissioner Boyle not to cast the idea that the Commission was approving misrepresentations as being an acceptable practice, since there was a simple disagreement on this particular issue.

Commissioner Boyle expressed appreciation to Mayor Costello for seconding his motion so this discussion could take place and pointed out that the discussion of this issue was healthy. He stated he would not hold anything against the Commission; however, he was deeply disappointed for the Commission and for the City.

Item #8(l) – Hand Avenue Grade Crossing Rehabilitation

Commissioner Boyle stated there were seven railroad crossings in the City, but for the last three crossings Florida East Coast Railroad hired the company to do the work, that company “botched” the work, and the City had to have the job redone, paying the bill for both jobs. He noted he was hopeful Ms. Sloane could offer some encouragement that this would not recur.

Ms. Judy Sloane, Public Works Director/City Engineer, stated the City’s contract with the Florida East Coast Railroad required the City to pay for improvements that Florida East Coast Railroad determined needed to be done on their own schedule. She advised that the Hand Avenue project was the first project where the City was actually notified as to when the project was to be done, pointing out that prior to this, the City did not know what year the Florida East Coast Railroad had planned to do any of the projects. Ms. Sloane reported staff was recently notified work would be done on Division Avenue next year. She pointed out not all of the crossing work had to be redone; however, she could not provide concrete assurance the work would not need to be redone.

Mayor Costello asked that a vote be called to approve the City Manager memorandum dated June 10, 2004, relative to the authorization of payment to the Florida East Coast Railroad for rehabilitation of the Hand Avenue grade crossing.

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

Item #9(A) – Medical Office Building CUP

RESOLUTION NO. 2004-103

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A 27,135 SQUARE FOOT SINGLE-STORY MEDICAL OFFICE BUILDING ON A 3.31-ACRE SITE LOCATED AT 725 WEST GRANADA BOULEVARD WITHIN THE B-9 (BOULEVARD) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATIONS OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2004-103, as read by title only.

Mayor Costello reported the Ormond Beach Historical Trust signed off of their access for this project.

Mr. Gordon Kipp, Ormond Beach Historical Trust, thanked the Planning Department for their assistance.

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

Mayor Costello reported he would have preferred the Mediterranean style architecture with the barrel tile, but another acceptable material would be used. He urged a member of the Commission to amend the regulations to make siding more in harmony with the rest of Granada.

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

Item #9(B) – Daprile’s Subdivision

ORDINANCE NO. 2004-20

AN ORDINANCE APPROVING THE FINAL PLAT OF “DAPRILE’S SUBDIVISION”; ESTABLISHING CONDITIONS AND EXPIRATION DATES OF APPROVAL; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Partington, to approve Ordinance No. 2004-20, on second reading, as read by title only.

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

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

Item #10(A) - Goodwill Ambassador Program

ORDINANCE NO. 2004-21
 AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VI, BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES, DIVISION 2, ENUMERATED, OF THE CODE OF ORDINANCES, BY ADDING A NEW SECTION TO BE NUMBERED AND ENTITLED SECTION 2-227, GOODWILL AMBASSADOR PROGRAM; BY CREATING A GOODWILL AMBASSADOR PROGRAM; ESTABLISHING TERMS AND CONDITIONS OF MEMBERSHIP; ESTABLISHING POWERS AND DUTIES; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Selis, to approve Ordinance No. 2004-21, on first reading, as read by title only.

Mayor Costello advised that due to the change made at the last meeting where the Mayor would make the appointments to the Ambassador Program, he would submit five names.

Ms. Upchurch advised the appointments would be more appropriate during the second reading and final approval of this ordinance. She stated she could take the names from Mayor Costello and incorporate them into the second reading.

Mayor Costello stated the five citizens who have agreed to serve as ambassadors were: Mr. Rick Frasier, Ms. Doris Katz, Mr. Bob Coleman, Ms. Joyce High, and Ms. Rita Press. He explained that when he would not be available to attend a function, he would ask the City Manager’s secretary to contact the Deputy Mayor first, the Commission next, and then an ambassador to attend the event. Mayor Costello reported he would ask each ambassador to inform him of each meeting or activity they would be attending so, when appropriate, he could ask them to bring greetings from the City.

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

Mayor Costello noted all City zones were represented by his selection, although this was not a criterion stipulated in the selection process. He advised he would be open to any recommendations for alternate appointees.

Item #10(B)(1) – Architectural Standards for Development Improvements

ORDINANCE NO. 2004-22
 AN ORDINANCE AMENDING SECTION 3-67, IN GENERAL, OF ARTICLE VI, ARCHITECTURAL DESIGN STANDARDS, OF CHAPTER 3, DEVELOPMENT DESIGN AND CONSTRUCTION STANDARDS, OF THE 2004 LAND DEVELOPMENT CODE, BY PROVIDING ARCHITECTURAL STANDARDS FOR DEVELOPMENT IMPROVEMENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SERVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-22, on first reading, as read by title only.

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

Item #10(B)(2) – Criteria and Requirements for a Lot Split

ORDINANCE NO. 2004-23
AN ORDINANCE AMENDING SECTION 1-16, LOT SPLITS, OF ARTICLE II, SUBDIVISION, OF CHAPTER 4, SITE PLANS, OF THE 2004 LAND DEVELOPMENT CODE BY CLARIFYING THE CRITERIA AND REQUIREMENTS FOR A LOT SPLIT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SERVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-23, on first reading, as read by title only.

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

Item #10(B)(3) – Non-Conforming Pool Screen Enclosures

ORDINANCE NO. 2004-24
AN ORDINANCE AMENDING SECTION 2-50, ACCESSORY USES, OF ARTICLE III, GENERAL REGULATIONS, OF THE 2004 LAND DEVELOPMENT CODE BY AMENDING REGULATIONS REGARDING EXISTING NON-CONFORMING POOL SCREEN ENCLOSURES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SERVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-24, on first reading, as read by title only.

Mayor Costello questioned why staff was suggesting pool enclosures be limited to 14 feet. He advised he had an existing pool enclosure approximately 20 feet tall on the lot line abutting a several hundred-foot greenbelt buffer for which he received permission from the Board of Adjustment and Appeals. Mayor Costello expressed concern that he would not be able to replace the enclosure if it were destroyed by a hurricane since it would be considered an existing non-conforming screen enclosure.

Mr. Michael Boucher, Senior Planner, advised the recommendation was made because some enclosures exist within ten feet of a lot line. He stated restricting the height would limit the impact on the adjacent property. Mr. Boucher reported Mayor Costello could go through the variance process again if his enclosure was destroyed.

Mayor Costello advised that while he did not believe he should have to go back for another approval to the Board of Adjustment and Appeals, he would vote to approve this ordinance since he also wanted to limit impacts on adjacent properties.

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

Item #10(B)(4) – Fees for the Extension of Public Hearings and for Lot Split Applications

ORDINANCE NO. 2004-25
AN ORDINANCE AMENDING SECTION 1-26, APPLICATION PROCESSING FEES, OF ARTICLE IV, SCHEDULE OF

DEVELOPMENT REVIEW AND IMPACT FEES, OF CHAPTER 1, GENERAL ADMINISTRATION, OF THE 2004 LAND DEVELOPMENT CODE BY ESTABLISHING FEES FOR THE EXTENSION OF PUBLIC HEARINGS AND FOR LOT SPLIT APPLICATIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SERVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-25, on first reading, as read by title only.

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

Item #10(B)(5) – Business Premises Identification Signs

ORDINANCE NO. 2004-26

AN ORDINANCE AMENDING SECTION 3-47, BUSINESS PREMISES IDENTIFICATION SIGNS, OF ARTICLE IV, SIGN REGULATIONS, OF CHAPTER 3, PERFORMANCE STANDARDS, OF THE 2004 LAND DEVELOPMENT CODE BY DELETING REGULATIONS REGARDING THE B-1, B-9 AND B-10 ZONING DISTRICTS; BY REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SERVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-26, on first reading, as read by title only.

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

Item #11 – Construction of a City Welcome Sign

RESOLUTION NO. 2004-104

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY AND HALL CONSTRUCTION COMPANY, INC. REGARDING CONSTRUCTION OF A CITY WELCOME SIGN AT THE INTERSECTION OF WILLIAMSON BOULEVARD AND GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2004-104, as read by title only.

Commissioner Selis stated he favored a welcome sign; however, the artist rendering of the proposed sign looked rather busy.

Ms. Sloane explained Commissioner Selis was referencing what was in the uniform signage standards, but the actual sign that staff was proposing was labeled “Staff Welcome Sign Concept.” She reported that the dolphins would be included, even though they are not shown in the rendering.

Commissioner Partington asked if there was a picture of the proposed sign.

Ms. Sloane reported the proposed veneer brick for the welcome sign and the tower was included in the packet. She stated a proposal for a bronze statue of two dolphins was also included, but there was no rendering of all of the elements in the sign.

Commissioner Partington asked if the Quality of Life Advisory Board approved this proposal.

Ms. Sloane explained the Quality of Life Advisory Board approved the concept and recommended adding the words “welcome to” to the sign. She stated the site for this sign was not at the entrance to Ormond Beach. Ms. Sloane advised the site was selected approximately eight or nine years ago. She reported this was more of a gateway feature since it was eight miles from the City limits in certain directions, which was why the “welcome to” was not included on the sign in the rendering.

Mayor Costello explained his vision was that the word “welcome to” would be the same width as the word “Ormond” and be in wrought iron aluminum letters. He stated he opposed the particular dolphins that were recommended. Mayor Costello advised he asked Mr. Paul Baliker, the artist who created the dolphin fountain for City Hall, what the cost of an eight-foot statute would be, and he was quoted a price of \$20,000. He stated the dolphins recommended by staff cost \$5,000. Mayor Costello suggested privately raising the \$15,000 for the dolphin family that says, “Ormond Beach,” to those who live in the City. He stated the other signs the City may erect in the future could use stamped concrete forming the dolphins. Mayor Costello sought approval from the Commission to postpone purchasing the dolphins recommended by staff to allow for funding to be privately raised for the statue that would better suit this sign and Ormond Beach.

Commissioner Boyle stated this started out as a Chamber of Commerce sign costing \$4,000; the project expanded, and then the Chamber of Commerce shifted its focus to its new facility. He concurred with Commissioner Selis that the sign was very busy and noted he opposed fountains. Commissioner Boyle reported this would be placed at the busiest intersection in Ormond Beach with eight lanes, and no one would take their eyes off the traffic to look at the sign. He advised he had always opposed this proposed location for the sign. Commissioner Boyle pointed out there was a green sign at that location stating, “Ormond Beach four miles, Holly Hill seven miles, and Daytona Beach nine miles”. He suggested, at a minimum, replacing the sign with one listing only Holly Hill and Daytona Beach or removing the sign completely.

Commissioner Kent concurred with Commissioner Boyle’s assessment that the green sign would be confusing if the welcome sign were to be placed in that location. He expressed concern regarding the \$70,000 cost for a sign when the City was having financial difficulties.

Commissioner Selis reported he completely agreed with Commissioner Kent that the cost was exorbitant. He stated Ormond Beach needed welcome signs, but a great deal less grandeur would serve the City just as well.

Commissioner Partington stated he wanted to confirm the views of those on the Quality of Life Advisory Board who approved this project, although he also questioned the placement of the sign. He concurred the cost was enormous and encouraged the concept be in cooperation with civic organizations. Commissioner Partington recommended obtaining four signs for all of the entrances with the same money being recommended for this one sign, possibly in cooperation with neighboring cities using the opposite side for their welcome sign. He suggested reworking the concept and possibly sending it back to the Quality of Life Advisory Board.

Commissioner Partington reported he did not thoroughly understand the construction management process with Hall Construction.

Ms. Sloane explained the City had a continuing contract with Hall Construction. She noted the City would accept the low bid for the elements. Ms. Sloane advised the City had an established fee it would pay Hall Construction to act as a general contractor; Hall Construction would obtain the bids; and the City would follow its procurement process in that manner. She noted this had been an extremely challenging project to obtain all that was approved in the uniform signage concept that was approved by the previous Commission.

Commissioner Kent advised he was very empathetic to Ms. Sloane and staff for the time and effort put into this project. He stated the project was beautiful, but he would have difficulty approving this project when certain streets in Ormond Beach were still not paved and there was no reuse water on the South Peninsula.

Ms. Sloane reported staff was merely trying to meet the Commission goals; and if this was not satisfactory, staff would follow Commission direction.

Mr. Turner asked for direction from the Commission as to whether they would like to eliminate the sign completely or set a minimum fee for the sign.

Mayor Costello called for a vote on the proposed sign.

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

Ms. Sloane noted some welcome signs at various locations were recommended in the unfunded CIP projects.

Mayor Costello asked staff to wait for further direction by the Commission relative to welcome signs, which may occur at the next CIP meeting.

Item #12(A) – Update on the Provision of Reuse Water on the South Peninsula

Ms. Sloane reported staff provided a preliminary report on South Peninsula reuse. She advised the City contracted with Quentin Hampton to accelerate the deadlines provided in the goal setting meeting, and additional information was expected within the next 30 days. She explained staff would be examining what measures could be taken to reallocate the current reuse water and obtain additional storage. Ms. Sloane advised staff was concerned that the connection rate in the South Peninsula would be less than the 70% achieved in the North Peninsula; therefore, they tried to determine the revenue stream. She reported the revenue from the reuse system would not pay the cost of the construction and would have to be subsidized from the utility.

Mayor Costello advised he had gone on record multiple times in his belief that the City could not accept this subsidy and it would have to pay for itself through impact and user fees. He pointed out that with the two proposed 750,000-gallon storage tanks at Neptune and the 3 million gallon storage tank at Orchard Street, there would still not be adequate storage. Mayor Costello noted that at peak times, the City would be 48% short, and the average use would be 57% to 72%. He expressed concern that there was no funding mechanism other than charging existing users. Mayor Costello concurred the South Peninsula needed reuse water, but funding was a major concern.

Commissioner Kent stated the survey was done in 1988, but a different attitude existed today. He stated the homes and socio-economic status of the individuals south of Granada Boulevard may be less than those north of Granada Boulevard, but treatment needed to be equitable and fair to all. Commissioner Kent reported the effluent reuse probably came into the North Peninsula because of the golf course. He stated he would continue to pursue this issue as long as he would remain in office and would do what was necessary to achieve this goal.

Mayor Costello reported he was 100% in favor of reuse; however, it had to be tied in with some sort of St. Johns River Water Management District program to keep the water out of the Halifax River and the Tomoka River so the City could provide this service while it was upgrading the overall system. He reiterated his concern that if this was done without assistance, the cost would be too high for the City to afford. Mayor Costello explained the reason the North Peninsula received the reuse was because the City was looking for places to use the water, and the golf course could use the water no one else wanted at that time.

Commissioner Kent explained he did understand the circumstances.

Commissioner Boyle stated that this issue went back to 1995. He noted the issue was not to make the lawns on the golf course greener at the expense of other homeowners not as affluent, but that the golf course had elevated coquina and could accept 2.2 million gallons of effluent in a single day. Commissioner Boyle reported when water was surplus and people would not demand the water, the water would then not have to be placed in the river because it could go on the golf course. He stated he observed eight or nine projects ahead of the South Peninsula project and requested a sequential list of anticipated projects. Commissioner Boyle recommended Ormond Beach start considering placing limits on demand for reuse. He expressed opposition to a rate increase since there had always been an inequity between the smaller homes and the larger homes. Commissioner Boyle advised the City made a commitment to charge the \$16 fee.

Commissioner Boyle reported that in January this Commission indicated their goals were to finish Central Park for Commissioner Partington, work on Citywide sewer service for Commissioner Selis, work on reuse in the South Peninsula for Commissioner Kent, and all he

wanted was a parking lot for the beachgoers. He stated Mayor Costello divided his points, but his goals were not in the top four goals. Commissioner Boyle advised that since that time, the Commission amended its priorities, moving the runway extension, a football stadium, and a fire station to the top of the list. He submitted that when these items went to the top of the list, reuse for the South Peninsula went to the bottom of the list.

Commissioner Selis urged Ms. Sloane to help the Commission find a way to accomplish this goal.

Item #12(B) – Provision of Citywide Sewer Service

Ms. Sloane reported that in answer to a request at an April meeting, staff provided a priority list for the provision of Citywide sewer service, ranking projects based on certain criteria. She advised the commercial area inside the City would rank as the highest priority, followed by older subdivisions such as Bonita Place and Oak and Magnolia Avenues that were in the County when the Citywide sewer was complete in the 1960s. Ms. Sloane reported the ranking would continue with US1 outside of the City limits where the City provided water service, the Hidden Hills area, Moss Point, Broadwater and Durrance Acres. She advised the Land Development Code stipulated special assessment districts should be used to provide this service.

Mayor Costello advised he continued to favor special assessment districts to provide sewer, and he opposed the paying to extend sewer to those who did not pay for it when they bought their lot. He advised he favored the expenditure to extend sewer to the businesses on US1. Mayor Costello stated he considered South Yonge Street, south of Granada Boulevard, to be ripe for development when the road was completed and the medians installed. He advised these sewers would be an economic development investment, but this would be discussed at the CIP workshop.

Item #12(C) – Airport Issues

Mr. Tom Lipps, Support Services Director, stated the report provided to the Commission attempted to address a myriad of issues that have been raised relative to the Ormond Beach Municipal Airport. He advised there were numerous FAA policies that dealt with leases, allowing a great deal of latitude to the City's operation of the airport, and staff believed the past operations were consistent with those policies. Mr. Lipps pointed out that there were also business practices defined in ground leases that would be changed in the future, but FAA regulations were silent on those issues. He explained some of the changes would involve environmental regulation, the duration of leases, and the language within the lease outlining when rents would become payable. Mr. Lipps stated a number of issues in the most recent memo from Mr. Adrian Thompson were not in the City Manager memo. He advised Cavalier Aviation received four leases from 1994 to 1996, and in that same timeframe, the City issued eight other leases; therefore, there was no monopoly to any one entity. Mr. Lipps reported the fuel flowage was currently five cents for both Sunrise Aviation and Ormond Aviation. He explained staff located a memo that indicated Sunrise's rate was raised in 1990 from three to five cents per gallon; however, he did not have actual worksheets from 1990 to stipulate that as fact. Mr. Lipps stated the lease should have been amended to reflect this in 1990, but it was not. He advised auditors never requested fuel flowages be audited, and no audit was done. Mr. Lipps reported the Finance Director was instituting a number of policies and reviewing documentation relative to this issue.

Mr. Lipps stated his May 28th memo indicated that the City could initiate activities to terminate the lease with Filetech, but the tenant must be provided with notification and an opportunity to correct their conditions of default. He reported the Runway 17-35 extension project was just begun, and the Commission had authorized and directed staff to proceed with a number of activities to accomplish that runway extension. Mr. Lipps stated the Commission would have a number of opportunities to revisit this project in the future.

Fire Chief Barry Baker stated the Commission received a comprehensive report on the Fire Department's investigation of the airport. He noted there were still private hangars the Fire Department has not gained access to as yet, and there were outstanding issues with buildings that would be investigated in a historical perspective. Chief Baker advised this investigation was more difficult since some codes were retroactive and some were not. He reported both the tanker and fuel farm at Sunrise Aviation comply with the fire prevention codes. Chief Baker stated the tanker was a mobile unit that could be single walled, and the fuel farm was a double walled fixed facility, and both have been approved. He reported extensive staff time had been expended on these issues speaking with the FAA, EPA, other airports, State Fire Marshal's office, and they met with Mr. Thompson. Chief Baker advised the definitions of the terms "right-of-way," "stable," and "non-stable fuels" had been thoroughly researched. He stated the

“warehouse separation” regulation referenced combustibles such as wood and paper combustibles, not fuels or liquids. Chief Baker reported the City could not exceed the regulations that were required, but they could offer alternatives that provide the same degree of safety.

Chief Baker advised that staff had reviewed the fuel farm at Ormond Aviation and reviewed it relative to location and aircraft movement. He stated the fuel farm was not in the aircraft movement area, but adjacent to the aircraft movement area; therefore, assumptions must be made as to what type of protection would be required, and that falls under another section of the code. Chief Baker advised that a previous inspector did not take adequate measures to assure this fuel farm was protected; therefore, he was requiring two additional sides to be protected. He stated what was required was relatively minor in substance. Chief Baker explained the City was asking for bollards on two sides facing the aircraft movement area. He reported the question why this was previously approved was asked; and in his professional judgment, it should not have been approved, adding that the inspector who did approve it was removed from his position the first year of his tenure. Chief Baker advised that his job was to try to correct these situations in such a way the owners would not find the corrections overwhelming, which was what they had done with all of the incidents at the airport.

Ms. Upchurch reported she would rely on the City Attorney opinion dated June 4th, but would provide clarification on certain issues. She advised there was a reference from Mr. Thompson in a memo dated June 13th implying the City was required to bid out any available area; however, the City was not required to bid out property to the highest bidder, especially at a time when there perhaps would not have been any bidders. Ms. Upchurch stated times and market conditions change, and the City had the discretion as to how it chose to dispose of or lease real property. She advised there were different provisions for the contracting and the purchasing of property. She explained there was currently a demand for property at the airport; therefore, a bidding process would be utilized to lease six to seven lots that would be available, while there was no bidding process in the past due to the lack of demand. Ms. Upchurch concurred that there were a great deal of changes necessary in current leases; however, in ten years when these new leases would be examined, with hindsight, people may question why certain provisions were written. She reported that there were no perfect leases, and Ormond Beach was learning through past leases; but this did not mean that the provisions in those leases were illegal, inappropriate, not in the best interests of the City at the time they were written, or revocable. Ms. Upchurch advised that when a breach in a lease would occur, it did not automatically mean the City would give notice to the tenant and begin the termination process. She reported some breaches were understandable, and the City had the right to decide if they wished to enforce that provision of the lease. Ms. Upchurch stated some breaches should be enforced, and there were others that the City may decide not to enforce; however, she clarified that did not indicate breaches existed.

Mayor Costello called for a break at 9:02 p.m. and reconvened at 9:08 p.m.

Mayor Costello asked that any new issues be discussed or any disagreements with staff comments be highlighted at this time, but asked the speakers to refrain from repeating issues already discussed.

Mr. Adrian Thompson, 4 Pine Look Pass, stated that in the early 1990s he made application to be an FBO, but he was refused because he did not have adequate space to meet ordinance requirements. He reported that even though the City was aware he wanted more space, others were obtaining space, and no one offered the space to him. Mr. Thompson advised this delayed his becoming an FBO until 1996 since he had to wait until he was able to purchase additional already constructed hangars.

Mayor Costello offered that the City would agree mistakes may have been made in the past, but a decision needed to be made as to where to go from here.

Mr. Thompson concurred that the City could operate its airport as it wished; but as the City was the recipient of federal funds, if the City did not follow FAA policies and the Airport Compliance Manual, it would no longer be able to obtain funds and may be required to repay them. He stated the memorandum of understanding signed by Mr. Ted Kramer, the Airport Manager at that time, was probably not within his authority to sign; and this was the basis of all negotiations. Mr. Thompson noted the land in the swap was never in the FBO master plan to be an FBO. He reported the FAA was very clear on how airports were to allocate space, and airports could not allocate space years in advance to particular operators; allocations could only be made on demonstrated need. Mr. Thompson advised there was a complete saturation of this type of space given to one operation at the airport since they would be the only operator who would have T-hangars available for lease, which would create a monopoly. He reported the City had a

lease with Filetech since 1996 requiring development in 1998, but no development had occurred to date.

Mr. Thompson stated that if the FAA would determine that the FBOs at the airport are making the same or similar use of airport facilities, then such leases or contracts entered into by an airport owner subsequent to July 1, 1975, shall be subject to the same rates, fees, rentals, and other charges. He reported Ormond Beach made an agreement on December 15, 2000, but did not charge the FBOs the same rates, which was a breach of policy. Mr. Thompson stated the last memo he saw on fuel flow surcharges indicated "some time in the past" and now a memo was located from 1990. He advised the increase to five cents occurred a significant amount of time after the time reported by Mr. Lipps. Mr. Thompson stated Ordinance #93-50 raised the rate, which would indicate the increase occurred in 1993.

Mr. Thompson advised he asked for records regarding fuel flow, which he knew existed, but he was not provided those records. He stated keeping these records from him was clearly in breach of the Public Information Act.

Mr. Thompson stated the FAA policies can be interpreted and are subjective and arbitrary; therefore, perhaps the FAA should decide what they would do to implement the policy based upon the findings he had provided. Mr. Thompson reported the City's codes and ordinances were clear, and a failure to comply with City Ordinance No. 93-50 stating "store fuel in aboveground tanks to provide and maintain an adequate supply for each grade of aviation fuel" was a minimum requirement. He stated when he was approved as an FBO in 1996, he was required to spend \$180,000 to install two above ground tanks to comply with City ordinances, yet Sunrise Aviation was not in compliance with this ordinance today, and they have not been since 1993. Mr. Thompson reported the City could have waived the regulations since they were the only FBO in the past; but as soon as additional FBOs were permitted, the City could no longer waive the minimum standard. He advised the City had selectively enforced minimum standards and had not made this FBO come into compliance with FAA policies or City codes. Mr. Thompson stated selective enforcement creates unfair competition and has potential to be antitrust, and he was forced to make a \$180,000 capital investment where the other party was not forced to make that capital investment. He reported M.A.C. Charter should not be allowed to sell petroleum products until they come into compliance with City ordinances.

Mr. Thompson advised that on June 25th Mr. Lipps sent a memo indicating the structures at the airport were maintained. He distributed pictures that were taken that day at the airport and asked the Commission to consider if they believed the structures were being maintained properly. Mr. Thompson reported structural "I" beams were rotted more than half way through, and some roofs had holes. He questioned if the City was in compliance with FAA policy on inspecting and maintaining structures at the airport. Mr. Thompson pointed out the City had no cost in maintaining these structures because the leasees were required to maintain the structures. He reported the City had clearly failed in its obligations to inspect the structures at the airport.

Mr. Thompson reported he found it amazing that his business was not in compliance, but every other FBO was in compliance. He stated he became a member of the NFPA. Mr. Thompson advised Chief Baker was correct that it was acceptable for a fuel storage tank to be within five feet of a building and 15 feet of a public right-of-way, but not if it was an aircraft hangar per NFPA Code 5.3. He reported he asked Mr. Mark Conroy, Technical Advisor for the NFPA, if it were in accordance with the NFPA code that a 12,000-gallon aviation fuel storage tank containing Avgas could be eight feet from a building; whereby, Mr. Conroy indicated it would be a complete violation of the code. Mr. Thompson stated he was told his operation was in compliance. He noted he asked the head of the Airports Division at the FAA in Washington for a definition of an airport movement area and was quoted federal regulations 139.3 and indicated he was not in a movement area. Mr. Thompson reported this division head stated there was a specific clearance where there could be no obstruction; but if his fuel farm was an obstruction, the FAA would never have approved the plan, and he pointed out that they did approve the plan. He stated no one could find the definition of an "aircraft service area" other than NFPA 409, which indicated that it was an area of a hangar used to service an aircraft. Mr. Thompson advised there was no hangar near his fuel farm. He reported his fuel farm was self-service and specific regulations apply. Mr. Thompson objected to paying \$20,000 to place bollards around his fuel farm when they were not needed.

Mr. Thompson advised he was not trying to make more money or damage other businesses because he was already successful, but the City had an obligation to realize its best investments from its properties for the taxpayers and to treat people fairly. He stated the past must be examined, because things done in the past were affecting the present and would affect the future. Mr. Thompson reported the City had made mistakes in the past, but he would be

willing to help the City correct those mistakes and provide impartial advice. He stated the City must enforce its own codes and ordinances, take corrective action, have the FAA make a serious review of what occurred in the past, and review the legality of those actions, because if the actions were not legal, then those contracts would be void because the City could not go into a contract that was negotiated illegally.

Mayor Costello requested Mr. Thompson be provided whatever public records he had requested immediately. He stated the same maintenance requirement required elsewhere in the City needed to be enforced at the airport. Mayor Costello advised the Commission must decide if all grades of fuel must be stored and the 50-foot issue be researched. He asked Chief Baker to investigate the code Mr. Thompson provided relative to the taxiway. Mayor Costello reported he was satisfied with the staff report and was ready to send this information to the FAA. He noted he was comfortable that no illegal, improper, or impartial actions occurred, but he wanted the City to do a better job in the future. Mayor Costello advised he was convinced that years ago there may have been inadvertent favoritism shown, but it would not happen again. He reported when leases were renewed, they would have to be brought up to standards, which staff had already indicated they were doing.

Mr. Turner reported all questions asked have been answered. He advised staff was asked for an inordinate amount of information, and they have informed Mr. Thompson that the files would be made available to him at City Hall where he may peruse the files and copies would be made.

Mr. Turner stated the FAA would not go through the same exercise Ormond Beach staff had gone through; therefore, if questions were to be asked, they need to be pointed and limited. He recommended selecting three to five questions with Mr. Thompson's assistance. Mr. Turner advised staff received numerous questions, answered those questions, received more questions, and the cycle repeated itself to the point they that may not be able to keep up the pace.

Mayor Costello reported he was satisfied with Mr. Turner's explanation in that it was incumbent upon Mr. Thompson to come into City Hall to look through the files and request copies at that time.

Commissioner Selis stated questions come to staff and staff answers the questions, but when Mr. Thompson disagrees with the answers, he poses more questions. He advised he was sensing a great level of distrust from Mr. Thompson towards staff, which was something he could not personally tolerate. Commissioner Selis reported that he worked with staff frequently, and while he may not always agree, staff has always been truthful. He reported he would not tolerate attacks on staff and snide remarks from Mr. Thompson regarding the way issues had been handled. Commissioner Selis noted at the last meeting he recommended an independent investigation of the allegations, but staff had already investigated every allegation and answered each satisfactorily. He reported Mr. Thompson may not have felt he received as good a business deal as others, but the leases were entered into at different times under different circumstances. Commissioner Selis recommended a decision be made on what action to take to proceed forward and not to rehash past events. He stated he told Mr. Thompson at a previous meeting that he would meet with him, but this did not occur. Commissioner Selis reported he did meet with Mr. Todd Phillips of the Aviation Advisory Board on several occasions and met with representatives from Sunrise Aviation, although he did not initiate any of the requests for the above-noted meetings, he only initiated a meeting with Mr. Thompson that did not occur. He advised he sensed a vendetta, and this was not productive for the airport or the City. Commissioner Selis stated he supported specific questions being sent to the FAA, and then moving forward to put this behind.

Commissioner Boyle thanked staff, specifically Mr. Lipps, for the staff report and other documents to answer the questions that had been raised. He expressed appreciation to Mr. Turner, Chief Baker, and Mayor Costello for taking the time to meet with Mr. Thompson to resolve airport issues and to Mr. Thompson for working with the system. Commissioner Boyle stated Mr. Thompson did a great deal of research, citing chapters of federal and national regulations, and he failed to see any evidence of a vendetta. He reported many important issues have been raised; Mr. Thompson researched information from the regulatory agencies relative to the questions that contradicted staff's answers, and now a final decision was needed from the proper authority. Commissioner Boyle reported some answers were subjective in that Chief Baker had the latitude to interpret whether fuel operations were in compliance or not in compliance. He advised Mr. Thompson understood this airport took 20 years to grow, and the current staff inherited most of the leases. He questioned the agreement signed by Mr. Ted Kramer rather than the Mayor, City Manager, or City Attorney. Commissioner Boyle stated there may not have been a resolution or a contract prepared after that memorandum of agreement; and since none was produced, he assumed it did not exist. He recommended

preparing the specific questions along with a schematic of the entire airport to present to the FAA and the NFPA. Commissioner Boyle concurred grants could be in jeopardy if these questions were not answered or the FAA would not approve what had occurred at the airport. He stated after reading the objective standards, he believed some actions were seriously in question. Commissioner Boyle noted he understood no one on staff had the compliance manual 30 days ago.

Commissioner Boyle stated he had a number of questions that would not require outside assistance. He advised he asked staff last year if Sunrise complied with contract requirements for hangar maintenance, and on June 25, 2003, he received an answer that they were in compliance. Commissioner Boyle stated the lease required the premises and all structures, buildings, and improvements to be maintained in good order in a clean, safe, and sanitary condition. He reported staff replied that recognizing this was somewhat subjective, and they believed Sunrise generally met the standard; however, the deterioration in the pictures distributed tonight did not occur in one year's time. Commissioner Boyle noted he accepted staff's report last year, but the hangars had clearly never been inspected. He advised that these inspections need to occur immediately, because at the end of the lease, the property would revert back to the City.

Commissioner Boyle reported Ordinance No. #93-50 passed 11 years ago stated anyone selling fuel at the airport had to have an above ground fixed storage tank, but there was an operation still not in compliance 11 years later.

Commissioner Boyle advised the answer was provided tonight as to when the rate was increased from three to five cents. He stated if the rate changed after Mr. Thompson started operations, there was a problem. Commissioner Boyle asked what happened to the letter staff sent indicating the rate change.

Commissioner Boyle stated the FAA compliance manual stipulated that cities were not permitted to make future commitments such as the 1994 memorandum of agreement. He stated Mr. Thompson came to the City for a constructive purpose, noting he could have gone directly to the FAA, but instead he chose to work with the City and the other FBOs. Commissioner Boyle again recommended Mr. Turner, Chief Baker, Mr. Lipps, Mr. Hayes, and Mayor Costello meet with Mr. Thompson and Sunrise Aviation and examine the fuel operations and the hangars, and then follow the tour up with a conference to try to resolve as many issues as possible.

Mayor Costello requested staff select up to five questions that reflect the issues Mr. Thompson had proposed; allow Mr. Thompson to examine the questions for suggested modification; and after the answers are received, the City would then move on. He asked Mr. Lipps to come to the Commission when leases are renegotiated to determine what they want contained in those leases. Mayor Costello stated he personally would not want an old fuel tanker storing fuel. He reported since Ormond Beach may not mandate more stringent standards than what the law would allow, this may not be possible; but if it were possible, he would prefer more stringent standards. Mayor Costello advised the past could not be changed, but he would gladly change what would be required in the future to improve the situation at the airport. He stated the Commission must decide how many grades of fuel must be stored in the future. Mayor Costello reported even if staff determined the structural integrity would be considered acceptable, he was highly supportive of upgrading maintenance standards because he considered rusted areas to be a maintenance problem. He advised he appreciated the fact this information had been brought forward since the City would improve because of it.

Chief Baker questioned what action the Commission was requesting he take relative to the Notice of Violation with Ormond Aviation regarding their fuel facility. He stated it was his professional view that this was an unsafe operation because it was not properly protected on both sides and there were aircraft movement areas on both sides of the fuel facility. Chief Baker reported the normal procedure would be to enforce this Notice of Violation; however, there was an opportunity within the code to contest this violation following a prescribed procedure. He advised the Commission was provided a copy of NFPA 409, which did not cover flammable and combustible liquids, rather it dealt with separation of hangars, making it the improper code to apply in this instance. Chief Baker explained the facility at Sunrise was a fixed facility raised two and one-half feet with a fence around it and a three and one-half foot abutment, and it met the NFPA code.

Commissioner Boyle asked if this violation had occurred since the facility was built; whereby, Chief Baker replied the violation had occurred since 1996. Commissioner Boyle reported this violation had been present for the past eight years; and since the time Mr. Thompson has raised

questions about the other fuel farms at the airport, the City now finds this violation on Mr. Turner's fuel farm.

Chief Baker advised this review of the airport was a healthy exercise in that a comprehensive evaluation was done. He reported the majority of the violations found were similar to those found in most establishments, but some need further scrutiny. Chief Baker explained that through this exercise, the City had become aware of a violation that posed a safety risk.

Commissioner Boyle stated if Mr. Thompson built the fuel farm and safety measures as prescribed by the City, the cost of those safety devices should be borne by the City.

Mr. Turner explained when these airport issues were raised, Chief Baker did a comprehensive examination of the entire airport where violations in various degrees were discovered at numerous facilities. He noted one specific business was not investigated; all operations were thoroughly examined. Mr. Turner reported the vast majority of the violations were already corrected, and many more were being corrected. He cautioned the Commission not to advocate staff not enforce its codes in this situation.

Commissioner Boyle advised he completely concurred with Mr. Turner, but questioned why the City did not inspect the airport for eight years considering the highly volatile fuel that was being stored there.

Mr. Turner stated the inspection was done and the City needed to work to achieve compliance on a unilateral basis. He reported he was not certain this type of inspection had been done previously, but everyone was treated the same. Mr. Turner advised code compliance was done on a complaint driven basis throughout the City; but when violations are noted, the owners are notified, and the City works with them to try to get the violation resolved, which was exactly what had occurred in this instance. He stated the City did not, on a routine basis, pay for the correction to violations once noted; therefore, staff recommended that not be done in this case.

Mayor Costello suggested Mr. Thompson contest the violation through the proper procedure, and he urged Chief Baker to reexamine the situation. He reported if Chief Baker would continue to believe a violation had occurred, he should then proceed with the code violation process. Mayor Costello advised he was hopeful that, with the new information Mr. Thompson had brought forward, Chief Baker could legitimately interpret that his operation was not in violation.

Ms. Upchurch summarized that the Commission was instructing her and staff to come up with five FAA appropriate questions gleaned from the memos that were submitted, which were unanswered or unclear.

Mayor Costello advised the number should be a maximum of five questions, and if there were no unclear questions, the Commission would provide questions to be submitted.

Ms. Upchurch assured Mayor Costello she could find three to five questions noting staff would also like closure on this issue.

Mayor Costello reported his goal was to allow everyone to be heard since this was a very important issue.

Chief Baker assured Commissioner Boyle that staff had inspected the airport. He stated inspectors would be examining typical violations and would make the assumption that the tank farm was appropriate and had been approved appropriately, which had occurred for years. Chief Baker advised this comprehensive review took a closer examination of everything occurring at the airport in an entirely new light.

Commissioner Boyle expressed concern that Mr. Thompson brought whistle-blower type issues to the Commission in the last 30 days, and the City then found him in violation. He stated there may be a perception of selective enforcement.

Chief Baker recommended looking at the comprehensive report where a number of violations were cited throughout the airport, and Mr. Thompson's facility had relatively few violations. He stated there were multiple ways to protect this area such as fencing, bollards, or Jersey barriers.

Commissioner Partington urged Chief Baker to enforce this ordinance as he would with anyone else.

Mayor Costello advised the Commission concurred the codes needed to be enforced; but he added a request for Chief Baker to examine the additional information provided, and if that

City Commission – June 15, 2004

information should shed new light on the situation that Chief Baker be as liberal as possible to something permitted years ago while still enforcing City codes.

Commissioner Boyle concurred the City must enforce its codes, but questioned why the 1993 ordinance was not being enforced that stated fuel could not be sold from a truck.

Ms. Upchurch reported she could not comment on this because this was the first time she heard this information. She noted the provision cited was from a Commander Aviation lease. Ms. Upchurch advised Commander Aviation was one of the original tenants; therefore, the lease had gone through many permutations.

Commissioner Boyle asked if an ordinance would trump a lease, or if there could be a contradiction.

Chief Baker stated the tanks at Sunrise are in compliance.

Commissioner Boyle advised the ordinance approved by the City Commission stated the FBOs had to have fixed storage tanks, and this company has been in violation of that ordinance for 11 years. He reported he did not believe a lease could trump Ordinance No. 93-50.

Mayor Costello reported staff would provide an answer.

Mr. Glenn Jaspers, 160 Ocean Terrace, stated he regretted pleading with the Commission to create the Aviation Advisory Board because they have not done their job. He advised this was and remains a “good old boy” airport and described it as a “money pit.” Mr. Jaspers reported he complained to the past City Manager about the blimp deal, which was an abuse of lease granting. He stated asking the FAA questions would not yield answers because the City could run their airport as they wish to a certain point.

Mayor Costello stated the Commission wanted equity, and the new leases would be competitive. He reported he was proud of staff’s efforts.

Ms. Upchurch stated it was represented tonight that Ordinance No. 93-50 required storage in above ground tanks. She stated Section 3.3-60 of the Code of Ordinances, concerning FBOs, was changed in 1998 to require fuel be stored in above ground tanks, but it did not specify the tanks had to be fixed, leaving considerable room for interpretation. Ms. Upchurch advised Ordinance No. 93-50 may have indicated fixed, but the revision did not.

Item #13 - Reports, Suggestions, Requests

Handling Issues

Commissioner Boyle thanked Mayor Costello for his handling of the Airport issue and all of the other issues tonight.

Mr. Turner’s Third Anniversary

Commissioner Boyle advised June 11th was Mr. Turner’s third anniversary with the City. He congratulated Mr. Turner and thanked him for the professionalism he displayed on his good and bad days. He stated that professionalism has earned Mr. Turner the respect of Ormond Beach citizens and the community at large.

City Stationery

Commissioner Boyle reported the City stationery had changed three times since he was on the Commission, and he showed a sample of each. He noted when the latest stationery was copied, it tended to smudge and look unprofessional. Commissioner Boyle proposed a report be prepared for an agenda item at a subsequent meeting to discuss City stationery. He reported he was not advocating replacing the last stationery with the dolphins, in that it has a place for certain correspondence, but to return to using the white stationery as well so Commissioners and staff members have the option to select which would be more appropriate.

Baseball Fields

Commissioner Boyle advised he spoke to Mr. Jeff King who was a world-class professional baseball player. He reported he concurred with Mr. King that Ormond Beach had experts in the community who would be willing to help the City with its ballfields. Commissioner Boyle urged the City to make certain the next fields were built correctly. He thanked Mayor Costello for his generous commitment to meet with Mr. King.

Citizen Advisory Board Appointments

Commissioner Boyle reported citizen advisory board appointments should be de-politicized. He stated at one time Commissioners had the power to take people off boards if they were opposed to the decisions the board members made. Commissioner Boyle reported the Commission took the proper steps to de-politicize boards; however, the Commission was now about to change the rules again. He stated the Deputy City Attorney urged the Commission to change the rules because a board member was declaring conflicts of interest; the change was made; and now it was discovered those rules were not correct and other changes were needed. Commissioner Boyle reported that it became very clear that before tonight's meeting intense discussions had taken place. He advised he knew prior to this meeting that a member from the audience would pull this item from the Consent Agenda. Commissioner Boyle reported three weeks ago the Deputy City Attorney speculated that the two attorneys on this Commission would not find cause. He apologized for showing emotion on this issue, which may have been due to his shock and disappointment because members of this Commission prejudged this issue solely on the basis of public input away from the meeting, and he noted that was even more disappointing than the actual vote. Commissioner Boyle reported that when there was no second and the Commission did not want to table the issue, those actions told him that the Commission had their discussions with people in the community, and their decision was already made. He stated the intensity of the behind-the-scenes discussion on this issue spoke volumes as to whether conflicts of interest and cause existed. Commissioner Boyle advised that without the graciousness of Mayor Costello, there would have been no public discussion. He stated it was unfortunate that question had become politicized.

Commissioner Boyle reported that last January two Commission members who were reelected eliminated a number of long-standing advisory board members without the courtesy of a phone call or letter. He stated he respected those Commission members' reasons for making the change without question. Commissioner Boyle expressed disappointment in what he perceived to be a double standard in the Commission's rejection for cause to remove a board member he asked be removed.

Beach Access

Commissioner Kent stated Ms. Peggy Farmer, Ormond Beach Chamber of Commerce, attended the Tourism of Coastal Communities meeting where a number of community representatives gathered to make tourism better for everyone. He reported Joie Alexander, a Volusia County Council member, attended this function, and he expressed his deep concern relative to beach access. Commissioner Kent advised he subsequently received a phone call indicating Councilwoman Alexander researched the issue and would provide answers, especially relative to the Granada approach.

City Stationery

Commissioner Partington reported he concurred with Commissioner Boyle relative to the City stationery. He advised he considered the official City seal more appropriate for Commission correspondence.

Removal of Mr. Volenec from the Aviation Advisory Board

Commissioner Partington reported he said little during the discussion of removing Mr. Volenec from the Aviation Advisory Board because he mostly concurred with Mayor Costello and Commissioner Selis. He advised Commissioner Boyle set up an analytical paradigm for that issue, which did not apply to his thoughts. Commissioner Partington explained he was not prepared to insinuate Commissioner Boyle or Mr. Volenec had lied, and with no independent evidence, the Commission was placed in a stalemate-type situation. He advised the cause requirements in the statutes were far more serious than the allegations. Commissioner Partington noted he disagreed with Commissioner Boyle's definition of "misrepresentation." He reported if one is to be held to a strict standard, better documentation was necessary. Commissioner Partington recommended that if a Commissioner has specific questions, the answers should be sworn to, and returned; whereby, independent evidence would exist if there were a conflict.

Tymber Creek Road

Commissioner Partington thanked Mayor Costello for his response on the Tymber Creek Road issue. He advised a citizen e-mailed a question today relative to two tragic deaths within a short time period, and Mayor Costello answered her question immediately, stating that while Tymber Creek Road was not a City road, Ormond Beach has done a great deal to make the road safer such as the traffic light, and he advised her that the County had improvements scheduled for the next few years. Commissioner Partington stated thoughts and prayers go out to the Kennedy family for their loss. He advised Ms. Leighann Kennedy was a member of his church, this community, and a City employee working with children in gymnastics.

Rottweiler Issue

Commissioner Partington thanked the Police Department for its help on a situation that occurred in his neighborhood. He noted this issue would probably come before the Commission in the future to make potential changes in the City's animal ordinance to prevent five large, aggressive animals from living in one home. Commissioner Partington advised staff was examining other ordinances to determine if existing ordinances would address this issue. He thanked staff for their assistance and hard work.

Runway Extension

Commissioner Partington reported he was excited about the potential for the Ormond Beach Airport, and he looked forward to the runway extension. He advised he was pleased the funding had been budgeted, and this long awaited project was moving forward.

City Stationery

Mr. Turner stated that whatever stationery the Commission wished to use would be provided. He stated a report would not be necessary, but staff would continue to use the current stock.

Runway Extension

Mr. Turner clarified that the City had the matching funding for the runway extension, but the grant to fund the majority of the project had not yet been received.

Meeting Schedule

Mr. Turner reported the next City Commission meeting was scheduled for June 29th at 5:30 p.m. with Dr. Larry Ritcey.

Commissioner Boyle asked if the traffic analysis workshop was still scheduled for June 24th.

Mr. Turner concurred the traffic analysis workshop was scheduled for June 24th at 5:30 p.m.

Kennedy Tragedy

Mr. Turner advised staff members have been in contact with the Kennedy family, and the City would express its condolences to the family.

Budget Preparations

Mr. Turner expressed his appreciation to the staff for their efforts in preparing the budget along with all of their other duties.

Removing a Member From a Board

Ms. Upchurch offered an explanation relative to Commissioner Boyle's comment that she stated she knew how two of the Commissioners felt on the issue of removing a member from a board. She clarified that when Commissioner Boyle called and explained his justification for removing Mr. Volenec from the Aviation Advisory Board, she asked him to consider that there were two attorneys on the Commission, and they may want something more substantial to remove a member from a board. Ms. Upchurch reported she had no conversations with the Commission regarding their feelings on this issue. She stated she was merely indicating that as an attorney, she understood how attorneys may think.

Commissioner Partington concurred he had no conversations with Ms. Upchurch regarding this issue.

Airport Issues

Mayor Costello thanked Mr. Thompson for bringing the airport issues forward because the City would be better for it. He stated Mr. Thompson may not like all of the answers, but he hoped Mr. Thompson would know the City had done the best job it could and be open about the issue.

Passionate Discussions

Mayor Costello stated passionate discussions were healthy, but he cautioned the Commission not to make them personal. He stated Commissioner Boyle may have gone too far making it personal by giving the Commission a choice to believe either him or Mr. Volenec. Mayor Costello advised that Commissioner Boyle could plead his case, but he should not make it personal. He stated issues should be decided based on the facts presented.

Minutes

Mayor Costello reported when words are said they do not always come out as they were intended, and when they are put in print that becomes obvious. He advised that at the last meeting he had stated that once the Commission votes on an issue, everyone should support that decision. Mayor Costello reported he would not object to any Commissioner bringing new information to the Commission at a meeting asking for a reconsideration of an issue. He

clarified that he had meant to say that this Commission could create the culture where no Commission member would go out and try to accuse the remaining Commission members relative to how they voted or why they voted a certain way, subverting the process.

Placing Items on Agendas

Mayor Costello urged the Commission to discuss Mr. Turner’s June 9th letter to Mr. Volenec at the June 29th workshop with Dr. Ritcey. He stated the item indicated each Commissioner may request an item be placed on a specific agenda. Mayor Costello advised he preferred the Commission be able to request an item be on a future agenda, not a specific agenda, since it should be up to the City Manager to schedule the items depending on what other issues were on that agenda.

School Board Meeting

Mayor Costello recommended the City agree to the joint meeting requested by the School Board.

Mr. Turner stated he and Mayor Costello would meet with the Superintendent and School Board chairman to determine what issues would be discussed.

Mayor Costello reported the above-described meeting would be a good place to start.

Smart Growth Conflict Resolution Consortium

Mayor Costello requested a discussion in a forum prescribed by Mr. Turner regarding the Smart Growth Conflict Resolution Consortium. He stated this was one of the issues Ormond Beach residents were most concerned about, and this would present an opportunity to make decisions that would greatly impact the future growth in Volusia County.

Comprehensive Plan Amendment

Mayor Costello advised he had the draft resolution for opposition to the proposed Florida Hometown Democracy Constitutional Amendment. He stated if this were to be on the ballot, the Commission should discuss whether it would favor Comprehensive Plans being voted on by the residents or the elected bodies. Mayor Costello advised he favored this be a decision made by the elected bodies since the Commission would better know the pros and cons involved. He noted he did not believe this should be discussed unless it was placed on the ballot.

Item #14 – Close the Meeting

The meeting was adjourned at 10:40 p.m.

APPROVED: _____ July 6, 2004

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk