

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

**September 7, 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 by Reverend Jesse W. Cotton, African Methodist Episcopal Church.
- 3) Pledge of Allegiance.
- 4) First Public Hearing to adopt the FY 2004-2005 proposed millage rates and budget.
  - A) Motions to adopt the proposed operating millage rate of 3.52866 (2.84558 General Fund, 0.275 Transportation Improvements Fund, and 0.40808 Capital Improvements Fund) and debt service millage rates of 0.56283 and 0.04624.
  - B) First Reading of Ordinance No. 2004-38 adopting the Annual Budget for the 2004-2005 Fiscal Year beginning October 1, 2004, and ending September 30, 2005; repealing all inconsistent ordinances or parts thereof. (\$77,722,603)
- 5) Approval of the Minutes of the August 17, 2004, meeting.
- 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. 2004-131 declaring the real property located at Forest Hills Boulevard owned by the City of Ormond Beach to be "surplus property"; authorizing the execution of quit claim deeds to abutting property owners.
  - B) Resolution No. 2004-132 reappointing Clister Pelote and Jack Newman as members to serve as commissioners of the Ormond Beach Housing Authority; setting forth terms and conditions of service.

- C) Resolution No. 2004-133 renewing an engagement letter between the City and Samuel P. Bell, III, of Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., regarding legislative lobbying services for the 2005 Florida legislative session; authorizing the execution thereof. (\$30,000 plus expenses not-to-exceed \$750)
- D) Resolution No. 2004-134 authorizing the execution of a Model Airplane Facilities Lease Agreement and an Access Agreement between the City and Ormond Beach Radio Control Club, Inc.
- E) Resolution No. 2004-135 declaring the City's official intent to seek reimbursement for certain capital expenditures made and to be made by the City with respect to renovations to Fire Station No. 91 located on East Granada Boulevard in the City of Ormond Beach from the proceeds of tax-exempt debt anticipated to be issued by the City. (\$107,341)

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2004-136 authorizing the execution and issuance of a Second Amended Development Order regarding the "River Grille" Restaurant Planned Business Development (formerly known as "Tomoka Grille" Restaurant) located on the southwest bank of the Tomoka River between North US1 and the Florida East Coast railroad tracks (950 North US1); authorizing outdoor music under specific conditions; ratifying and affirming the Development Order; establishing conditions and expiration of approval.
- B) Ordinance No. 2004-35 amending Section 8-3, Schedule of Permit Fees, of Article I, Chapter 8, Buildings and Construction Regulations, of the City of Ormond Beach Code of Ordinances. (Second Reading)
- C) Ordinance No. 2004-36 amending the annual budget for the 2003-2004 fiscal year relative to the Water System Impact Fee Fund. (\$463,500 increase for The Tuscan, LLC, Utility Service Joint Participation Agreement) (Second Reading)
- D) Ordinance No. 2004-37 enacting temporary emergency administrative procedures to provide for the expeditious and coordinated management of building permit applications and fees; waiving specific permits and fees issued for the removal of certain trees; establishing a method of enforcement of the Florida Building Code such that on-site permits may be issued by appropriate City staff for repair of damage caused by Hurricane Charley. (Second Reading)

10) **FIRST READING OF ORDINANCES:**

- A) Ordinance No. 2004-39 amending Sections 22-23, 22-24, and 22-71 of Chapter 22, Water and Sewers, the *Code of Ordinances*, by increasing the minimum water and sewer rates; repealing all inconsistent ordinances or parts thereof.
- B) Ordinance No. 2004-40 relative to schedule of development review and impact fees; amending Article IV of the *2004 Land Development Code* by amending fees relating to development activities; repealing all inconsistent ordinances or parts thereof.

11) **RESOLUTIONS:**

- A) Resolution No. 2004-137 accepting the proposal of Brown & Brown Insurance, regarding property insurance services; authorizing the execution of an agreement and payment therefore, rejecting all other proposals. (\$212,944)
- B) Resolution No. 2004-138 appointing a member to serve as a trustee of the City of Ormond Beach Firefighters' Pension Trust Fund; establishing term and conditions of service. (Keith Jones)
- C) Resolution No. 2004-139 appointing members to serve as trustees of the City of Ormond Beach Municipal Police Officers' Pension Trust Fund; establishing term and conditions of service. (Ken Artin and Al Weingartner)
- D) Resolution No. 2004-140 of the City Commission of the City of Ormond Beach, Florida, authorizing the issuance of not to exceed \$2,650,000 in aggregate principal amount of its Water and Sewer Refunding Revenue Bonds, Series 2004; determining certain details of said bonds; providing for the security of said bonds; awarding the sale of said

bonds to the successful proposer for said bonds; appointing a paying agent and registrar for said bonds; authorizing proper officials to do all things deemed necessary in connection with the issuance, sale and delivery of said bonds; and providing for an effective date.

E) Acceptance of airport grants:

- 1) Resolution No. 2004-141 approving the form of a grant agreement between the City and the Federal Aviation Administration regarding the extension of Runway 17/35 at the Ormond Beach Municipal Airport, authorizing the execution of an agreement. (\$38,673).
- 2) Resolution No. 2004-142 authorizing the execution of a Joint Participation Agreement between the City and the Florida Department of Transportation to perform an updated environmental assessment at the Ormond Beach Municipal Airport. (\$625).
- 3) Resolution No. 2004-143 authorizing the execution of a Supplemental Joint Participation Agreement between the City and the Florida Department of Transportation to construct electrical and signage improvements at the Ormond Beach Municipal Airport. (\$392).

F) Resolution No. 2004-144 authorizing the execution of Change Order Number One (1) to that contract awarded to Masci Corporation, regarding the A1A Reuse/Water Main Extension Project, by increasing the contract price by \$42,242.37; and increasing the contract time by nine (9) days.

G) Resolution No. 2004-145 ratifying and confirming the execution of a Subordination Agreement regarding the Water and Sewer Connection and Impact Fee Financing Agreement for 735 Garden Lane.

12) **DISCUSSION ITEMS:**

- A) Review of ordinances relative to nuisance animals.
- B) Pond maintenance at 49 Pine Trail.
- C) ABC eminent domain.
- D) Central Park Upcoming Grant Applications

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

Before Reverend Jesse W. Cotton, African Methodist Episcopal Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Hurricane Frances

Mayor Costello advised that Mr. Robert Coleman, Regional Manager, Florida Power & Light Company (FP&L), reported recovery from Hurricane Frances would be slower than recovery from Hurricane Charley because staging could not be done since the storm was so large.

Item #4 – (A) – Adoption of the FY 2003-2004 Proposed Millage Rates

Mayor Costello advised that the proposed millage rate necessary to fund the budget of 3.52866 mills was a 43.67% tax increase over the rolled back tax rate. He stated this was a public hearing and asked if any members of the public wished to speak or ask questions prior to adoption of the tentative millage rate and budget.

Ms. Elizabeth Caven Wilhelm, 20 Tomoka Avenue, questioned what happened to the \$50,000 that was given for a Three Chimney's restoration and if it was ever restored. She questioned a proposed statute of J.D. Rockefeller for a beachside park, the cost of the two replica cars, and the cost of renovating the park on the beachside. Ms. Wilhelm noted she was told the cars were to be used for interior decorations in a beachside restaurant and questioned who owned the restaurant. She asked the Commission to stop wasting taxpayers' money.

Mr. Morris Greenberg, 47 Carriage Creek Way, stated the 44% tax increase advertised represented a 15% increase, while the rate of inflation was only 2% or 2½%. He stated the 15% increase was excessive.

Mr. Fred Vonderlage, 42 Sandcastle Drive, questioned why such a large rate increase was needed when Ormond Beach has many home sales, and the new owner has to pay increased taxes when purchasing a home. Mr. Vonderlage noted most middle class taxpayers are on relatively fixed incomes, and he objected to tax increases relative to the airport, the Birthplace of Speed, the Nova Sports Complex, and a stadium but supported funds for police and fire.

Mr. Helmut Rothenbuecher, 387 Muddy Creek Lane, objected to the tax increase and urged the Commission inform people of the amount of money they would have to pay rather than assigning a percentage. He stated that the residents refused to support the bond issue, so the Commission was trying to fund those projects another way. Mr. Rothenbuecher stated that Mayor Costello pointed out that Ormond Beach had the second lowest tax rate; however, he neglected to state that Ormond Beach had the highest assessments in Volusia County for business and residential property.

Mr. Adrian Thompson, 6 Dorado Beach Court, stated it was completely inappropriate that this meeting was being held this evening since thousands of citizens have evacuated, and everyone was subject to a curfew at 8:00 p.m.

Mayor Costello advised the curfew would not begin until 11:00 p.m.

Mr. Thompson complained that the Commission was increasing taxes to pay for items the citizens had voted down with the bond issue. He stated that many residents had suffered personally and professionally through the past two hurricanes, and it was inappropriate, under the circumstances, that the City should contemplate a tax increase.

Mr. Glenn Jaspers, 160 Ocean Terrace, objected to funding of projects supported by small special interest groups, to the News-Journal involvement in Ormond Beach business, to the extension of the airport runway, to the renovation of a beachside park that no one visits, to the constant repairing and upgrading of Granada Boulevard, and the proposed welcome signs.

Mr. Don Bostrom, 274 Cumberland Avenue, commended the Commission for the courage displayed by proposing this increase and stated he hoped that people misguided by misinformation would not adversely influence them. He stated Ormond Beach staff has been doing a great job but they need to have funds to continue to provide the citizens with a high quality of life. Mr. Bostrom reported a 44% tax increase was totally inaccurate and urged an explanation be provided, noting the average increase was \$100 to \$200. Mr. Bostrom pointed out that gas and cable costs increase, but no objection to those costs was heard. He explained the tax increase represented one-fifth of what a resident pays for cable television, one-half of what was spent for internet service, and less than the daily newspaper or two pairs of shoes. Mr. Bostrom noted some expenses could and should be challenged; however, if the citizens want to continue enjoying the current quality of life, they must pay for it.

Ms. Rita Press, 875 Wilmette Avenue, representing the board of Citizens for Ormond Beach, stated the proposed tax increase issue was discussed, and a consensus of the board was that listening to the citizens would provide the Commission with a clear direction as to what concerns them most and would provide the opportunity to set the record straight on the facts. Ms. Press explained the board determined the City could no longer put off maintenance of its facilities, noting cost could only increase if not attended to promptly. She stated the board agreed that a substantial tax increase was necessary but recommended projects not immediately necessary be deferred to later years. Ms. Press noted the board had serious reservations relative to the

6% employee increases at a time of tight budget constraints and low inflation rates and pointed out that every wage increase added additional dollars in pension and other benefits. She stated no other item in the budget would have such a lasting affect on the City's financial circumstances than the wage benefit package.

Ms. Samantha McLaughlin, 7 Lake Trail, expressed dissatisfaction that the Commission was going against the desires of the voters by funding the projects they had opposed.

Reverend Jesse Cotton, 528 Fred Gamble Way, pointed out staff spent many hours working on preparing this budget. He noted two hurricanes have hit Ormond Beach within one month, costing the City money that was not budgeted. Reverend Cotton noted people want the services but do not want to pay for them. He stated he would be willing to pay for an increase only if it were truly necessary.

Mr. Ed Connor, 1010 John Anderson Drive, objected to the size of the increase and noted that there had been an increase in each of the ten years he has lived in Ormond Beach. He noted a reason given for the increase was that the pension benefits had declined due to poor market performance, but he pointed out that the portfolio he depended on for his retirement had also decreased.

Ms. Jeannie Ball, 3 Eagle Drive, objected to the Commission adopting a new millage and a new budget when the citizens of Ormond Beach had just recently experienced the trauma of two hurricanes, leaving many without electrical power. She requested the Commission postpone and reschedule this hearing when all of the residents could attend.

Mr. Mike Demchak, 71 Saunders Trail, stated that 50 residents use the airport while the remaining residents pay for it. He stated the City has provided 308 permits for new homes and collected \$190,000 as of July, turning vacant land into taxable land. Mr. Demchak recommended privatizing the Casements and the airport, and he objected to the number of trips taken by staff. He urged the Commission to provide ways to balance the budget by not increasing expenditures.

Ms. Lucille Bornmann, 6 Windsor Drive, objected to proceeding with this meeting, noting everyone should have had the opportunity to be heard. She thanked Commissioner Boyle for preparing facts and figures to distribute to the public and for providing solutions. She objected to the City's explanation that the need for the increase was due to the employee costs and pointed out that she would not mind paying City employees. Ms. Bornmann opposed providing free fire protection to people who live outside of the City, adding density on Ormond Beach's borders, giving Ormond Beach service area to Daytona Beach, and a runway extension.

Ms. Josephine Marone, 238 Redwood Circle, thanked fire, police, and EMS personnel for taking care of the residents during the two hurricanes and offered support to provide raises for these people to show the City's appreciation. She stated a 44% increase would be fiscally and morally irresponsible with elderly residents on fixed budgets. Ms. Marone objected to the sports complexes, the runway extension, and the football stadium.

Mr. Alan Jorc Zack, 679 North Beach Street, stated that a 6% pay increase was excessive. He stated that attracting business to the current and new business parks was a long-term effort to help alleviate the tax burden to residents; therefore, he urged the Commission to continue to pursue these efforts. Mr. Jorc Zack pointed out the City could sell the airport to private developers, and a runway extension would be a very good development tool to fill the new business park. He noted it would be inconvenient to the business owners to use the Daytona Beach airport because Embry Riddle occupies so much of the flight activity at Daytona Beach International Airport. He explained that comparing the incremental cost to the City relative to the FDOT and FAA investment to allow the support of light jet aircraft, which was the way every small and medium business was leaning regarding travel, the City's contribution was relatively small for a long-term investment if the City wanted an airport. Mr. Jorc Zack cautioned that if that resource were taken away, it would affect how fast the City would be able to fill the industrial park, and those businesses would pay the higher taxes.

Mr. George Yetter, 8 North Ravensfield Lane, urged the increase be reduced. He noted a previous speaker indicated the increase would be \$100; however, his previous tax bill was \$3,600 and under the proposed rate, it would be increased to \$5,200.

Mr. Pete Ludwin, 709 Orchard Avenue, stated he would support the increase if it could be justified, but he was personally aware that the City tended to waste money.

Mr. Tony Welch, 81 Dianne Drive, with WROD Radio, stated the dilemma the City was currently in was inherited from past City Commissions that did not do their duty to keep pace; however, this action was wrong. He stated that Mayor Costello had indicated the Commission would listen to the people and then pass the ordinance with no indication that it might not be passed. Mr. Welch found it dishonest that the Commission did not tell the public that the water and sewer rates would be increased at least 8% on top of the 44% increase. He stated he admired the Commission for their work, but they were being misled by staff who had no incentive to cut budgets or had any interest in efficiency. Mr. Welch questioned why the City spent \$300,000 for a stoplight at Neptune and A1A for beach parking that never materialized. He stated many projects were opposed in the bond issue but were brought to the Commission by staff merely to keep them busy. Mr. Welch noted this hearing should have waited until more people could be present.

Mayor Costello explained the City was having this meeting at this time because it was legally required to be held, but that Governor Bush had been approached. Mayor Costello reported that had the meeting not been scheduled for September 16<sup>th</sup>, it could possibly have been changed.

Mayor Costello advised that the proposed millage rate necessary to fund the budget of 3.52866 mills was a 43.67% tax increase over the rolled back tax rate. He stated the public hearing was now concluded and asked for a motion to adopt the proposed millage rate.

**Commissioner Boyle moved, seconded by Commissioner Kent, to adopt the proposed operating millage rate of 3.52866.**

Commissioner Boyle advised he prepared a flyer that was sent to the community, and the staff and Mayor had produced a flyer responding to his flyer.

Mayor Costello advised that staff did not prepare his document. He clarified he asked staff questions, and he included staff's replies in the flyer.

Commissioner Boyle stated that the flyer he circulated was an honest attempt to share budget information with the community, and all of the information was taken from public documents. Commissioner Boyle noted he tried to avoid making editorial comments or reach conclusions, allowing the citizen to draw their own conclusions. He stated the documents he produced have been labeled as partial truths, misperceptions, misstatements, inaccuracies, omissions, misinforming, distortions, and scare tactics. Commissioner Boyle noted the issue was not about him or whether he tried to mislead the public, since there was nothing distorted about the Truth in Millage (TRIM) notice. He thanked everyone for their civility, ideas, patience, and strength in dealing with the recent hurricanes and asked for their continued civility. Commissioner Boyle stated the residents were shocked, angry, and hurt by this proposed property tax increase because unequivocally this government had failed. He explained he was also responsible for that failure as he participated in every public meeting, voted for some of the spending, and must now support a minimum tax increase. Commissioner Boyle stated Ormond Beach had the highest assessed property value with real estate and new construction markets reaching record highs in one of the most preferred locations on earth. He questioned why Ormond Beach now needed \$2.6 million more in revenue than last year from property taxes, \$800,000 more from water revenue, and \$1 million more transferred from transportation and Solid Waste funds. Commissioner Boyle stated the numbers directly refute the claim that the proposed 44% tax increase was caused by previous City Commissions that did not raise taxes to pay for employee pay raises. He noted the new salary survey proved that with the new pay increases, non-management salaries have only kept pace with other cities. Commissioner Boyle stated documented evidence proved that budget shortfalls were caused by too much spending on too many projects in too short a period of time. He pointed out labor costs were impacted by too many employees, by huge automatic pay raises for managers and department heads, and by giving every employee a full year salary credit every October 1<sup>st</sup> rather than on their anniversary date. Commissioner Boyle reported that over the past seven years while the City's population increased 11%, the City added 66 employees or 20%. He pointed out he voted for fair pay raises for front-line employees to avoid the cost of employee turnover, recruitment, and retraining. Commissioner Boyle noted the City raised taxes the past two years. He stated on September 6, 2001, the Commission tentatively approved a 6% increase, but it was cancelled due to 911 and the uncertainties about a national economy. Commissioner Boyle reported that since two hurricanes have imposed hardships on Ormond Beach's local economy, this City Commission should now rethink this increase.

Commissioner Boyle stated previous Commissions rejected runway extensions and other marginal projects that did not provide a primary economic public benefit. He questioned the need to pave a road and parking lot at the Nova Sports Complex costing \$920,000 without

providing any additional recreation for a child and suggested these funds be use to abolish the \$30 to \$50 fees for children to play baseball and \$150 to play Pop Warner football, reaching all of the children rather than the economically advantaged ending the de facto segregation that exists at all of the City's recreation programs. Commissioner Boyle stated that the quality of life was defined by people, not by asphalt paving or shrubs in the middle of highways. He reported it was disturbing that, at the Mayor's request, the City spent \$7,000 to mail an informational spin letter that attempted to justify the 44% and the projects the residents rejected in the bond issue. Commissioner Boyle stated the election cost \$25,000; \$17,000 was spent on campaign literature, and a total of \$49,000 of taxpayer money was spent for a message sent by the citizens that the City now chose to ignore. He pointed out 5,000 of these letters were sent to the North Peninsula where residents do not live in Ormond Beach or pay Ormond Beach taxes. Commissioner Boyle questioned the timing of this mailing suggesting that Commission minds were made up before this public hearing occurred.

Commissioner Boyle stated many seniors live in beautiful homes paid for with their life savings but have very low income and liquidity. He offered the following statistics: half the population was 50 years old or older, and one of four households had incomes of \$25,000 or less. Commissioner Boyle stated the City Commission approved additional homestead exemptions for low-income seniors, limiting assessed value increases to 3%; therefore, he questioned what gives Ormond Beach the right to impose a 44% tax increase. He stated that this was morally irresponsible. He expressed disappointment that the Commission endorsed this huge increase with no discussion of alternatives, no sense of urgency or concern, no search for new revenue, or no cuts in expenditures when good government was about constant change and adjustment. Commissioner Boyle stated the City could reduce the millage to what was paid last year with significant revenue to balance a smaller budget with an 18% to 22% increase, but a goal should be set to make the budget smaller for next year. He quoted Mayor Costello from a July 26<sup>th</sup> newspaper article as follows: "We didn't get elected to please you; we got elected to do the right thing for the City." Commissioner Boyle stated he rejected that since the elections were entirely about pleasing the citizens, and the direction to do the right thing for the City comes from its citizens. He stated the Commissioners were public servants given a public trust to serve the public.

Commissioner Selis thanked the audience for attending and urged them to keep an open mind. He reported he was disturbed about being unfairly accused of raising taxes by 44% when that was not occurring. Commissioner Selis offered the following analogy to explain the increase: "An employee asks for a raise, and the employer indicates he would receive a 50% increase, but when the employee receives his check, it was only 10% more in gross wages. Commissioner Selis noted the employer then explained to the employee that the 50% increase was against the rate of pay the employee was receiving 10 years before." Commissioner Selis stated this was what the 44% was based upon—a millage rate that did not exist within the past ten years. Commissioner Selis stated the actual millage against the current millage rate was 23.9%, which was not included in Commissioner Boyle's letter. He explained this would cost approximately \$1.60 per week or \$80 per year. He urged Mr. Yetter to question his bill since there was no reason his Ormond Beach tax bill should be increased as he described. Commissioner Selis pointed out that the Commission must certainly justify that there were legitimate expenses requiring these extra funds.

Commissioner Selis stated for the past ten years the Commission had been using \$1 million of reserve funds to pay for regular recurring expenses, and his goal was to make certain this City becomes fiscally responsible and stops that action, which would mean raising taxes. He reported that under the budget proposed by Ormond Beach's City Manager, which Commissioner Boyle supported, Ormond Beach would reduce its reserve fund to 11%; however, Commissioner Boyle had always indicated it should not drop below 12%. Commissioner Selis stated the millage rate over the past four years has been 3.38 mills, and in 1995 it was 3.4. He pointed out Commissioner Boyle's appointment to the Budget Advisory Board, Mr. Randy Brewer, stated the City was running a 2004 operation at 1995 prices, causing the current financial situation. Commissioner Selis stated the Budget Advisory Board, composed of a prominent CPA, a president of a local bank, an air traffic controller, a retired general contractor, and a former Ormond Beach city manager voted for a 36% tax increase against the roll back rate after spending many hours examining the City's budget. He noted after another meeting, the Budget Advisory Board came up with only \$150,000 to \$200,000 in possible cuts they could recommend. Commissioner Selis stated he recommended \$1 million in cuts, but Commissioner Boyle did not support most of those cuts.

Commissioner Selis clarified that their had never been a Commission discussion of a stadium, noting he would not support one; but Commissioner Boyle indicated in his letter that the Commission was likely to spend money on that in the future. He stated when the facts given were wrong, the resulting opinion should be reconsidered. Commissioner Selis stated he

continued to propose \$1 million in tax cuts, but should they not be considered, he offered an additional \$290,000 in cuts as follows: landscaping improvements on Granada Boulevard saving \$53,500; Osceola School and the MacDonald House improvements could wait another year; sealing and painting the parking lots could wait; and the welcome signs could surely be delayed, totaling \$153,000. He noted that additionally, the Commission recently approved the acquisition and moving of Fire Station #91, which could save \$137,000. Commissioner Selis stated the Commission had never formally discussed from where the funding would be derived for the fire station.

Commissioner Selis reported Ormond Beach had maintained the same millage rate seven out of ten times, saving the City's taxpayers \$4.4 million by not keeping pace. He noted gas, electric, insurance, and other expenses increase for everyone, including the City. Commissioner Selis stated Commissioner Boyle had agreed to much of the expenditures to which he now objects. He pointed out that if this budget was not passed, the City would have to close the Casements because it was becoming too unsafe, close the Nova Recreation Center because of leaks in the roof, close the Senior Center, and close the ballfields. Commissioner Selis stated Commissioner Boyle's letter opposed a \$20,000 lightning protection system for the ballfield when children were playing ball in one of the most lightning rich areas of the world. He pointed out Commissioner Boyle's letter indicated he opposed paving the Nova Recreation Center when in a recent workshop he supported the paving. Commissioner Selis agreed with Mr. Greenberg that the City should not grade that road three times a week; it should have been done years ago but had to wait for other projects in Zone 2. Commissioner Selis stated the Commission was spending money legitimately. He pointed out that the City had fewer employees than similar cities its size in Volusia County; and even with this tax increase, Ormond Beach would have the lowest tax rate amongst similar size cities in Volusia County and the fourth lowest of 18 municipalities. He noted the people with the more expensive homes would pay for this increase, yet they were not complaining. Commissioner Selis responded to those who stated this meeting should have been postponed for the opponents to be heard, that the same holds true for the proponents of the increase as well.

Mayor Costello referred to a green sheet, which he provided, and advised that copies were available in the rear of the chambers. He pointed out that no Commission member wanted to increase taxes, but this sheet attempted to explain the situation and come to the best compromise possible. Mayor Costello stated he never accused Commissioner Boyle or anyone else of purposefully misleading anyone; however, when Commissioner Boyle included a stadium in the list of likely projects, it could only be considered either a scare tactic or inadvertent misleading of the public because the Commission never voted on a stadium, and he had never advocated City funding of a stadium through the General Fund. He stated he had suggested a stadium be considered through a private enterprise with ECHO funds and School Board funds. Mayor Costello stated the stadium has nothing to do with this budget, but it does tend to upset people.

Mayor Costello reported the airport was basically an enterprise fund, and in the past years Ormond Beach has invested \$120,000 with the remaining coming from airport profits being reinvested; therefore, a great deal of money was not being spent at the airport for only a few people as was implicated. He stated in 1997, 65% of the City's budget was employee-related costs, and in 2004, 75% was employee-related costs, which would lead to the fact that there was 10% less dollars that could be spent on other projects that the City could invest in such as maintenance, repairs, and capital investment. However, he stated he was not now and had not stated that Ormond Beach employees were overpaid. Mayor Costello reported the Nova Recreation Center had 210,000 visits the last fiscal year for which the City has a number available, which seemed significant. He stated the Airport Sports Complex had 327,000 visits, which impacted a tremendous amount of Ormond Beach residents, and The Casements had 41,860 visits. Mayor Costello stated he voted against the 6% employee pay increase, the 37% incentive to the firefighters, and the raises given three years ago; but he considered these as appropriate because the majority of the Commission approved them. He noted, however, these costs must be paid, and the funds should not come from other portions of the budget. He directed attention to the last line of the green sheet stating "Total Transfers to the Capital Projects Funds annual General Fund Capital Expense as a percent of the General Fund" that read 4.94%, to 3.99%, to 3.71%, to 0.79%, to .33%, to 0% for two years which should clarify that the City has neglected to maintain the City's facilities. Mayor Costello reported that if it was the decision of the citizens not to maintain these facilities, the Commission must make a decision based on what the public tells them and what the Commission member believes would be best for the City of Ormond Beach. He pointed out only six employees were added in one year to the Fire Department; however, the percentage increase went from -0.17%, to 23.6%, to 8.83%, to 5.37%, to 6.69%, to 11.94%, to 11.87%, and to 7.86%. Mayor Costello clarified his position was that Ormond Beach firefighters were worth the money, but the City was paying for these increases in other funds rather than raising the millage to pay the increased costs. He



stated the City could do so when the economy was doing well, but the City had to add \$1 million per year to balance the budget, and the fund balance went from over 20% to 11% for this year with the current budget unless an adjustment would be made. He pointed out Citywide pension costs in 1999-00 were \$448,000, and the proposed budget for 2004-05 was \$2,030,168, which needed to be funded.

Mayor Costello stated for \$58 million worth of new growth, including new construction and annexation, the City collected \$160,000 for the General Fund last year. He pointed out pensions have increased \$1 million, and the total staff costs have increased \$1,600,000 with only one-half of a new employee; therefore, it was obvious that the \$160,000 of new growth could not balance those costs. Mayor Costello reported Port Orange firefighters have had 36% raises in the past seven years while Ormond Beach firefighters have had 55% raises; and assuming these raises were appropriate, they must be funded.

Mayor Costello reported the Save Our Homes (SOH) amendment was the property tax exemption benefiting many Ormond Beach residents, and the \$25,000 exemption was the window into the SOH amendment because the \$100,000 home purchased three years ago that was now worth \$300,000 would be assessed only an additional 3% per year maximum. He noted that when that home was sold, it would be brought up to fair market value. He stated for that reason the money lost to the SOH amendment must also be calculated. Mayor Costello advised he was for quality growth, and no one has pushed impact fees as much as he has for the past 15 years, noting he helped to push through 11 to 13 impact fees as a Planning Board member. He urged that "spin doctoring" stop on all sides, noting that he tried very hard to tell the public the facts. Mayor Costello reported that looking back, the Commission could state the \$50,000 spent on the Birthplace of Speed cars may not have been the investment it was hoped to be because the contractor did not seemingly perform up to the specifications; however, during the Birthplace of Speed celebration, Ormond Beach received wonderful public relations from the thousands of people who attended. He stated the helicopter pad and runway extension have no bearing on this discussion because neither was involved in the General Fund.

Mayor Costello reported the Budget Advisory Board recommended delaying four items for \$97,000, and he would support the recommendations to delay City welcome signs for \$24,000, Granada Boulevard landscape replacement for \$40,000, and landscaping at Granada Bridge approaches for \$13,500. He stated, however, he could not support delaying the lighting protection/covered pavilion at the Airport Sports Complex for \$20,000. He directed attention to the second page of the report delineating a few items from the list of maintenance and capital improvements items such as the Casements basement waterproofing and storm pumps at \$165,000, which was long overdue, pointing out that this was the cultural center of Ormond Beach; \$875,000 for the Nova Recreation Center for drainage, paving, field recon, and gym roof, plus \$350,000 from Solid Waste funds. He explained that the sports complex was constructed on a landfill, and some of the garbage must be taken out and replaced in order to stabilize it. He noted that if this could be phased over two years, he could support it; but it needed to be done. He pointed out funding of \$78,000 for the South Ormond Neighborhood Center roof replacement, \$25,000 for the MacDonald House improvements, and \$295,000 for the Ormond Beach Sports Complex. Mayor Costello stated that while the money for the Ormond Beach Sports Complex and the Nova Recreation Center were the most controversial, there were 327,000 visits to the Ormond Beach Sports Complex and 210,000 to the Nova Recreation Center, which got his attention. He noted that phasing some of these projects was definitely an option. Mayor Costello reported no Commission member wanted the residents angry with them, but he would vote for a 44% tax increase before he would vote for a 22% tax increase that would be status quo plus raises. He explained staff recommended a 15% increase, indicating it would only be status quo with 3¼% raises, but the Commission accepted 6% raises with no funds at all for capital investment, improvements, and maintenance. Mayor Costello clarified that the fire service for outside of Ormond Beach referred to the Ormond Crossings enclaves, which was unanimously approved because it was considered a business investment to provide fire protect for a small pocket so the County would approve the Community Redevelopment Agency (CRA) for the spine road to encourage the development of Ormond Crossings. He explained the fire services costing the City \$53,000 would give the City billions of dollars of investment over the next 20 years; and even if the project was not 100% successful, it would still bring in millions of dollars. Relative to the service area in Daytona Beach, Mayor Costello expressed confusion because for years he had favored providing water and sewer services to projects on Ormond Beach's borders, and previous Commissions had voted against that even though they would still be built and Ormond Beach would have the impacts. He stated that because Ormond Beach was unwilling to serve them, they were able to go to a competing service, which stimulated diminished standards. He stated now the concept has changed, and some want to serve this area in Daytona Beach; but this situation would not have even existed if the City Commission would have made a business decision that those

3,000 acres would have been developed under St. Johns River Water Management District standards.

Mayor Costello noted the phrase “fiscally and morally irresponsible” was used frequently, but he considered fiscal responsibility to mean paying for what was spent, not borrowing from the past or the future; and he noted that it was fiscally irresponsible to use something today and not maintain it. He stated if the roof on the Senior Center and the rafters rot, the repair cost would be greater later; however, if the public wanted to cut this facility, that would be fiscally responsible, although he could not support cutting the Nova Recreation Center or The Casements, which people treasure. Mayor Costello reported that if someone wanted to cut something, they had the right to indicate they did not want to pay the tax; but if they did not see anything to cut, the tax increase would be needed. Relative to an 8% increase in the water and sewer rate, he advised he had advocated indexing that rate to inflation for years but was not supported on the Commission. He stated Commissioner Boyle wanted the traffic light on Neptune so the City could have access to a “hoped for” parking area that did not materialize, but the City was working with Grace Lutheran Church to have parking for the residents, which was a wise investment. Mayor Costello reported he voted against the Tymber Creek traffic signal at Breakaway Trails even though he was a Breakaway Trails resident because he believed the Homeowners' Association should have paid for the signal; however, the Commission wisely decided it was a safety issue and would pay for the signal. He stated this was not about doing something to the public; it was about having the information as to what would be best for the community. He advised that what would be passed tonight may not be the final ordinance. Mayor Costello challenged the public to take his information and Commissioner Boyle's information, study both, and come back on September 16<sup>th</sup> with specific items, not generalities, and not including items that are not related to the budget, such as the stadium and the runway extension.

Commissioner Partington advised he could support a 15% to 18% millage rate over the roll back rate, and considering the hurricanes, he would consider an 18% to 22% increase. He stated one option was to do everything with a 44% increase and another was a 22% increase this year and 0 millage next year. Commissioner Partington reported he wanted to take care of the facilities and adequately fund items not funded previously over a number of years. He stated his understanding of what occurred at the last budget meeting was not that the Commission was supporting a 44% increase, but that the Commission set a tentative maximum millage rate of 44%, which could be decreased. Commissioner Partington reported he asked staff at that meeting to prepare an alternate plan that would phase in the increase over two to three years. He stated it was fair to describe the City as “financially sick,” and rather than a quick fix in one year, he recommended a “shot in the arm” this year with another next year. He stated that by the third year, with cuts, the City would have recovered.

Commissioner Kent reported he did not favor a 44% or an 18% increase, but would favor a 32% to 36% increase. He stated the City was in this position because it went to the roll back rate seven of the past ten years bringing the reserve rate from 29% to 11%. Commissioner Kent noted pension costs, gas, insurance, and salaries all have increased, and anything not bought today would cost more tomorrow. He concurred the bond issues were refused, and he contended they failed because they were not joined together as a single question, and each group voted only for their particular portion. Commissioner Kent related a story he had told to a business owner questioning him about what would occur to his business if he never raised his prices to cover costs, with the answer being that the business owner would go out of business. He stated he asked Mr. Paul Lane, Finance Director, how long it would be before the City would go out of business if it kept going to rollback, and Mr. Lane's reply was four years, which made this very serious. He assured Reverend Cotton he would not raise taxes unless it was necessary. Commissioner Kent reported Mr. Connor indicated he had a tax increase for the past ten years; however, seven of those ten years the City went to the roll back rate, so the increase was not from the City of Ormond Beach but could have been from Volusia County, the hospital, and the School Board. Commissioner Kent pointed out the Ormond Beach staff was professional, and they deserve the 6% increase. He related a story where his grandfather had counseled him that if he wanted to stay in office, he could never raise taxes. He questioned, however, how he could not raise taxes if he stayed on the Commission forever; and his grandfather's reply was to do as the others do and lie. Commissioner Kent reported he did not lie to his students and his family, and he would not lie to the citizens. He stated he would do what he thought was right to solve a problem of Ormond Beach.

Mayor Costello asked what would be the impact on the millage rate if the recommended deletions of the Budget Advisory Board minus the \$20,000 for the lightning protection were accepted for a total of \$77,500, and the Nova Recreation Center improvements for \$875,000 were split into two years.

Commissioner Selis reiterated his recommendation to delete the Osceola School park improvements.

Mayor Costello reported he favored the Osceola School Park improvements remain. The Mayor noted that two other Commission members were indicating they concurred, so it would remain.

Commissioner Selis recommended delaying the MacDonald House improvements for \$25,000.

Mayor Costello noted only he and Commissioner Kent preferred the MacDonald House improvements remain, so he instructed Mr. Lane to remove that item.

Commissioner Selis suggested delaying the sealing and paving of parking lots for a savings of \$23,000.

Mayor Costello noted the consensus was to delay the sealing and paving of parking lots, and he asked Mr. Lane to delete it from the budget.

Commissioner Selis recommended the welcome signs be delayed.

Mayor Costello advised the consensus was to delay the welcome signs. He noted the welcome signs were already considered under the Budget Advisory Board recommendations.

Commissioner Selis reported the final item was the debt service on the fire station at \$137,000.

Mayor Costello asked that the discussion be delayed on the fire station until the adjustment could be calculated. He summarized the list of deletions should include \$25,000 for the MacDonald House improvements, \$23,000 for the sealing and paving of parking lots, \$77,500 for the Budget Advisory Board recommendations, and the \$437,500 for the Nova Recreation Center improvements.

Mr. Lane reported the deletions equaled \$563,000, representing 23.06 cents of millage and making the new millage rate 3.29801 mills. He reported the tax increase would be 34.28% against roll back.

Commissioner Selis stated the majority of the Commission had decided to proceed with the fire station.

Commissioner Kent and Mayor Costello advocated proceeding with the fire station.

Commissioner Partington questioned if the fire station cost could be spread over two years.

Mr. Isaac Turner, City Manager, reported it could not be spread over two years since it would be the debt service.

Mayor Costello indicated three Commission members had indicated it should be kept in, so it would remain.

Commissioner Boyle apologized if anything he said or if his tone appeared to be offensive, and he urged everyone to stick to the issues. Relative to his board appointments, he noted he did not advise his appointments on how to advise him, noting he disagreed with Mr. Brewer frequently. He stated every tax decision each year was based on the reserves on hand and the expenditure planned at that point. Commissioner Boyle reported he did not believe he could ask for more taxes when the City was flush with reserves, particularly when investments were booming. He pointed out the workforce was 20% less at that time than today. Commissioner Boyle clarified that he voted for 15 of the 41 items he referenced in his letter to the taxpayers. He stated items were not included on the list because he opposed them. Commissioner Boyle questioned why lightning protection was to be put at only one field and not the other fields, noting he did not know enough about lightning protection. Regarding the fire station, Commissioner Boyle reported the City had two public referendums, and both agreed to a new fire station while the voters opposed other projects in this budget. He stated he did support the paving of the Nova Recreation Center at one time when the cost was \$300,000, but that was not in the context of rebuilding three fields at \$300,000 each. Commissioner Boyle reported he included the stadium on the list because it was contemplated at public meetings, but he did not mean to imply that the cost would come direct from property taxes; however, he noted it would use grant opportunities that could go for other projects and would require a large maintenance expense.

Commissioner Boyle stated the bond referendum included 12 projects. He noted that some wanted a single question while he wanted 12 questions, but the compromise was for six questions. He noted if a referendum question was legitimate, it should be able to stand on its own merit. Commissioner Boyle stated many people receive only a 3% increase in wages; however, a young worker trying to build a dream needed a 6% increase. He stated Mayor Costello praised the Commissioners who had the courage to vote for this tax increase, and that made him feel he needed to defend himself, since he did not vote for the increase and implied he lacked courage. He reported each Commission member tried to do the right thing, and courage was not an issue.

Commissioner Boyle stated Mayor Costello indicated the City could not “rob” other funds for employee pay raises. He stated he believed the pay raises should be done first, and then the Commission should decide what to fund. He urged the residents to study all of the documentation noting there was common ground. Commissioner Boyle applauded Commissioner Partington’s spirit of compromise and apologized to him for appearing to ascribe a tax position to him that was not correct.

Mayor Costello concurred the City may need the lightning protection at all of the fields, but he was curious to determine if it worked as well as it was supposed to work; and if it should, he would recommend it be used elsewhere. He stated it was inadvertently misleading to tell people it was wrong to use the fund balance stating he had no problem having used the fund balance when it was over 20%, but the issue was that it was used for recurring expenses such that when the fund balance was gone, an astronomical tax increase would be needed to make up for the fact that the fund balance was not available to use any longer. Mayor Costello stated the \$14.2 million failed bond issue was not in this budget stating \$1 million was certainly not \$14.2 million. He reported this would only maintain and preserve what the City already has. Mayor Costello explained that Commissioner Boyle indicated he wanted some of the projects voted on tonight to remain; therefore, he could not be for a 22% increase unless something else was removed.

Commissioner Partington recommended deleting the contingency in the General Improvement Fund of \$31,480, and \$150,000 for the Station 91 construction fund contingency since this was what the reserve was meant for.

Mayor Costello explained the \$150,000 would come from the total bond fees and would not affect this year’s budget.

Mr. Lane advised it took the \$1 million contingency to finish City Hall.

Commissioner Partington stated he did not see the need to budget the \$250,000 under the water and wastewater fund since the settlement was very unlikely, and should it occur, there were adequate sources to fund it.

Mr. Lane stated this was in the Water and Sewer budget, not the General Fund budget.

Mr. Isaac Turner, City Manager, stated this would clarify that if the settlement should occur, it would come out of the fund balance for the Water and Sewer fund, but it would not impact what was currently being voted on.

Commissioner Partington recommended forgiving the debt to the Solid Waste Fund and eliminating the interfund transfers since the City would probably never go back into the garbage collection business.

Mr. Lane explained this would have no impact on the general fund. He stated the \$350,000 was a transfer and would not be paid back. Mr. Lane noted the \$3.5 million was from the Transportation fund to Solid Waste Fund to Transportation and Stormwater.

Mayor Costello stated he favored contingencies. He noted staff was chastised for going over budget, and he would prefer the contingency be built in; however, the consensus was to delete \$31,000 for the contingency for the General Improvement fund. He instructed Mr. Lane to add that figure to the deleted list. Mayor Costello suggested a vote be taken on the rate with the deletions mentioned this evening to use as a starting point.

Commissioner Boyle reported he included recommendations on his sheet as a plan for remedy and would have more for the next meeting. He noted he could now support a 22% increase, but he believed the City could find further deletions during the coming year.

Mayor Costello noted he respectfully disagreed, noting items were added previously in this meeting that should be considered in Commissioner Boyle’s acceptable rate of increase. He

explained his goal was that whatever the Commission approved needed to be funded and not have it come out of reserves.

Mr. Lane reported the new figure was 3.28531 mills with a 33.766% increase over the roll back rate.

Mayor Costello asked for a motion to adopt the amended operating millage rate of 3.28531, which was a 33.766% increase over the roll back rate.

**Commissioner Kent moved, seconded by Commissioner Selis, to adopt the amended operating millage rate of 3.28531.**

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

Mayor Costello asked for a motion to approve the proposed debt service millage rate of .56283 for the 2002 General Obligation Bond Refunded Bond Sinking Fund and .04624 for the 2003 General Obligation Bond Sinking Fund.

**Commissioner Boyle moved, seconded by Commissioner Selis, to adopt the proposed debt service millage rate of .56283 and for the 2002 General Obligation Bond Refunded Bond Sinking Fund and .04624 for the 2003 General Obligation Bond Sinking Fund.**

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

Item #4(B) - Annual Budget

Mr. Turner explained that this staff was very frugal and would be even more frugal in the future. He noted Ormond Beach had fewer employees than most cities, certainly per capita, and would produce more work than other cities. He applauded the efficiency displayed in cleaning the streets of debris, cleaning the storm drains, restoring services, and the planning involved in assuring the residents' safety during and after Hurricane Charley and Hurricane Frances. Mr. Turner pointed out staff cared about the money being spent and worked hard to serve the City proudly. He thanked the Commission for making the salaries generous, which made the employees want to work harder; however, he noted the City must also assure its facilities were properly maintained. Mr. Turner reported crews were sent to the beachside to assess the damage during the storm crossing the Granada Bridge with winds of over 50 mph.

Mayor Costello commended staff for doing an incredible job. He asked the City Clerk to read Ordinance No. 2004-38 to adopt a tentative budget of \$92,698,326.

ORDINANCE NO. 2002 - 38  
 AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE  
 2003-2004 FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND  
 ENDING SEPTEMBER 30, 2005; REPEALING ALL  
 INCONSISTENT ORDINANCES OR PARTS THEREOF; AND  
 SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Kent, for approval of Ordinance No. 2001-38, on first reading, as read by title only.**

Mayor Costello asked for a motion to amend Ordinance No. 2004-38 to adopt a tentative budget of \$92,104,326, which included the deletion of the items previously mentioned.

**Commissioner Kent moved, seconded by Commissioner Selis, to amend Ordinance No. 2004-38 to adopt a tentative budget of \$92,104,326.**

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

Mr. Hayes advised that amendment would include deleting the projects previously discussed.

Mayor Costello noted the Commission had a lengthy agenda to work through, a curfew was scheduled for 11:00 p.m., and this item would be discussed again at the September 16<sup>th</sup> meeting.

**Commissioner Boyle moved, seconded by Commissioner Selis, to close the public hearing.**

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

Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the August 17, 2004, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

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

Item #6 - Audience Remarks

Airport Issues

Mr. Adrian Thompson, 6 Dorado Beach Court, stated Mayor Costello made a statement on the radio indicating that all future airport expansion would be funded by profits from the airport.

Mayor Costello explained the intent of his statement was that the Airport Enterprise Fund would eventually stand alone.

Mr. Thompson reported it was stated tonight that the City has paid \$128,000 for airport improvements generated by revenues from the airport.

Mayor Costello advised staff would provide Mr. Thompson that information.

Methods of Saving Money

Ms. Sue Drummond, 751 Calle Grande, offered three suggestions to save money: discontinuing sending utility bills in window envelopes; consider self-insurance rather than purchasing insurance for the City; and install cameras at the traffic lights so when people run red lights they would be fined.

Replica Cars

Mr. Randy Crabtree, 86 South Yonge Street, stated he discovered a method of making repairs on the replica cars through the Dupont Paint Company, which would donate the materials. He offered to have students repair the cars at his auto body shop at no charge.

Mayor Costello requested that Mr. Ted MacLeod, Assistant City Manager, discuss this offer with Mr. Crabtree. He thanked Mr. Crabtree for his generous offer.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello stated that due to the hour, he would dispense with the Metropolitan Planning Organization (MPO) report.

Item #7(B) – Volusia Council of Governments

Mayor Costello stated that due to the hour, he would dispense with the Volusia Council of Governments (VCOG) report.

Item #7(C) – Water Authority of Volusia

Commissioner Boyle requested Mr. MacLeod ask Dr. Bruce Mowry, Water Authority of Volusia (WAV) Executive Director, to send the City all of the contemplated assessment possibilities for Ormond Beach.

Mayor Costello requested a item be added in future agendas to include a report on the Smart Growth Implementation Committee.

Item #8 - Consent Agenda

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

Commissioner Partington requested Item No. 8(A) be pulled for discussion.

**Commissioner Partington moved, seconded by Commissioner Boyle, for approval of the Consent Agenda, minus Item No. 8(A).**

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

Item #8(A) – Declaring Property to be “Surplus Property”

RESOLUTION NO. 2004-131

A RESOLUTION DECLARING THE REAL PROPERTY LOCATED AT FOREST HILLS BOULEVARD OWNED BY THE CITY OF ORMOND BEACH TO BE “SURPLUS PROPERTY”; AUTHORIZING THE EXECUTION OF QUIT CLAIM DEEDS TO ABUTTING PROPERTY OWNERS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Kent, to approve Resolution No. 2004-123, as read by title only.**

Commissioner Partington asked if the property owners wanted the parcels in question.

Ms. Judy Sloane, Public Works Director/City Engineer, stated all but one of the property owners abutting the residential area wanted the property, and that portion was then given to the neighboring adjacent property owner.

Commissioner Partington stated that considering this tight budget and that the people’s properties were benefiting, he questioned why the property was not being sold.

Ms. Sloane explained the County declared this property surplus, and the only interest the City had in the property was that the City did not have an easement over one of the City’s utility mains. She reported this was not a developable parcel of property, and it was discovered that the only way the City could obtain the utility easement was to accept the property, at which time the City was approached by some of the property owners who were concerned that something objectionable would be placed on the rear of their yards. Ms. Sloane pointed out that the land would be transferred from public land to taxable land, which would benefit the City. She stated this land could not be sold since it only consisted of a few feet on the rear of each property.

Mr. Randal Hayes, City Attorney, reported a reservation of an easement and quit claim deed was inadvertently omitted; therefore, the motion to approve should include a reservation of the easement.

**Commissioner Selis moved to adopt the resolution to include the City Attorney’s comments. Commissioner Kent seconded the motion.**

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

Item #9(A) – “River Grille” Restaurant Planned Business Development

Mayor Costello asked if any Commissioner had any concerns with the Development Review Board test.

Commissioner Boyle reported he had concerns, but did not wish to expound on them tonight in that he had a sense his position was not shared. He stated he did not believe the sound test would duplicate people on the deck of the restaurant.

Commissioner Kent stated at the last meeting he had asked to be invited to the next sound test, but he was not notified when it occurred.

Mr. Rob Merrell, 150 Magnolia Avenue, stated staff was invited because it was determined their testimony would be more meaningful. He noted the Development Review Board expressed a desire to hear from staff.

RESOLUTION NO. 2004-136

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SECOND AMENDED DEVELOPMENT ORDER REGARDING THE "RIVER GRILLE" RESTAURANT PLANNED BUSINESS DEVELOPMENT (FORMERLY KNOWN AS "TOMOKA GRILLE" RESTAURANT) LOCATED ON THE SOUTHWEST BANK OF THE TOMOKA RIVER BETWEEN NORTH US1 AND THE FLORIDA EAST COAST RAILROAD TRACKS (950 NORTH US1); AUTHORIZING OUTDOOR MUSIC UNDER SPECIFIC CONDITIONS; RATIFYING AND AFFIRMING THE DEVELOPMENT ORDER; ESTABLISHING CONDITIONS AND EXPIRATION OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2004-136, as read by title only.**

Commissioner Selis commended the landowner on this project for displaying incredible flexibility.

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

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

Item #11(A) – Property Insurance Services Agreement

Mayor Costello reported a consultant from Tampa was present relative to Item #11(A); therefore, he moved that item to this portion of the agenda. He noted the City was paying for this consultant.

RESOLUTION NO. 2004-137

A RESOLUTION ACCEPTING THE PROPOSAL OF BROWN & BROWN INSURANCE, REGARDING PROPERTY INSURANCE SERVICES; AUTHORIZING THE EXECUTION OF AN AGREEMENT AND PAYMENT THEREFORE, REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2004-137, as read by title only.**

Commissioner Selis congratulated Lorenda Volker, Human Resources Director, for saving the City money and thanked Brown & Brown Insurance.

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



Item #9(B) – Schedule of Permit Fees

ORDINANCE NO. 2004-35  
AN ORDINANCE AMENDING SECTION 8-3, SCHEDULE OF PERMIT FEES, OF ARTICLE I, CHAPTER 8, BUILDINGS AND CONSTRUCTION REGULATIONS, OF THE CITY OF ORMOND BEACH CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-35, 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 #9(C) –Water System Impact Fee Fund

ORDINANCE NO. 2004-36  
AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR THE 2003-2004 FISCAL YEAR RELATIVE TO THE WATER SYSTEM IMPACT FEE FUND; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Partington, to approve Ordinance No. 2004-36, on second reading.**

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

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

Item #9(D) - Enacting Temporary Emergency Administrative Procedures

Mayor Costello advised this Ordinance did not require a second reading.

Mr. Hayes reported this was a single reading emergency ordinance. He stated another ordinance similar to this would be brought back at the next meeting relative to Hurricane Frances.

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

ORDINANCE NO. 2004-39  
AN ORDINANCE AMENDING SECTIONS 22-23, 22-24, AND 22-71 OF CHAPTER 22, WATER AND SEWERS, THE *CODE OF ORDINANCES*, BY INCREASING THE MINIMUM WATER AND SEWER RATES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Selis, to approve Ordinance No. 2004-39, on first reading.**

**Commissioner Selis moved to table Ordinance No. 2004-39 and the remaining items on the agenda.**

Commissioner Selis stated it was 10:25 p.m. and there was a curfew imposed due to Hurricane Frances for 11:00 p.m. He noted there was nothing critical from this point on in the agenda.

Mr. Paul Lane, Finance Director, requested the bond refunding item be voted on since a closing was scheduled at 11:00 a.m. tomorrow. He noted if the City would not close on this tomorrow, the rate would increase approximately 13 basis points.

Commissioner Boyle reported he would support Commissioner Selis' motion if the meeting would continue until 10:45 p.m.

Commissioner Selis concurred and requested Item #12(C) be discussed.

**Commissioner Selis withdrew the motion.**

**Commissioner Selis restated the motion to table Item 10(A) until the next regular City Commission meeting. Commissioner Boyle seconded the motion.**

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

Item #11(D) – Authorizing the Issuance of Water and Sewer Refunding Revenue Bonds

RESOLUTION NO. 2004-140

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,650,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS WATER AND SEWER REFUNDING REVENUE BONDS, SERIES 2004; DETERMINING CERTAIN DETAILS OF SAID BONDS; PROVIDING FOR THE SECURITY OF SAID BONDS; AWARDED THE SALE OF SAID BONDS TO THE SUCCESSFUL PROPOSER FOR SAID BONDS; APPOINTING A PAYING AGENT AND REGISTRAR FOR SAID BONDS; AUTHORIZING PROPER OFFICIALS TO DO ALL THINGS DEEMED NECESSARY IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF SAID BONDS; AND PROVIDING FOR AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-140, as read by title only.**

Commissioner Boyle asked if the \$24,000 per year in savings could be counted toward the tax rate the Commission was discussing earlier.

Mr. Lane advised it could not be counted toward the tax number.

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

Mayor Costello asked if there was anyone in the audience present for a particular item to avoid the need for them to come back to another meeting.

A member of the audience advised he was interested in Item #12(B); however, the consensus was that item would take some discussion and should be rescheduled.

Mr. John Upchurch advised he was present relative to Item #12(C).

Commissioner Selis noted there was some urgency relative to Item #12(C) in that the offer of judgment was dated August 18<sup>th</sup> and a response was needed before the next regular meeting.

Item #12(C) – ABC Eminent Domain

Mr. Hayes advised this negotiation has been difficult to obtain primarily because the property owner was trying to leverage as much as it could for its client and wanted certain things to be done that the City could not do. He noted various concepts were entertained that were explained in the cover memorandum.

Mayor Costello explained a dollar amount was offered higher than the City may find reasonable versus a court settlement.

Mr. John Upchurch reported the Offer of Judgment would bring the attorney's fees into question. He explained attorney's fees were paid based on benefit; however, if ABC would put forth an Offer of Judgment that they then defeat, they would go to an hourly time with a specific blended rate causing the attorneys to be paid a great deal more. Mr. Upchurch noted the City put an Offer of Judgment for \$22,300, and ABC made a counterproposal to accept the \$22,300 plus some of the property the Commission did not agree to deed to them because of the parking situation. He stated they came back with a figure of \$29,500 as their Offer of Judgment. Mr. Upchurch pointed out that regardless of what the City would pay, fees and cost are associated with an eminent domain. He noted the settlement offer was the amount of the Offer of Judgment, plus the land, plus \$11,000 for fees and costs. Mr. Upchurch reported ABC indicated they would settle for a straight fee of \$29,500 plus the fees and costs.

Mayor Costello asked if anyone favored a settlement of \$29,500 plus the fees and costs. He advised he was not comfortable to go to court and pay attorneys' fees, but deferred to Commissioner Partington.

Commissioner Partington asked for Mr. Upchurch's advice.

Mr. Upchurch advised the Commission to accept the Offer of Judgment plus possibly \$11,000 to settle the fees and costs. He noted if ABC was not willing to settle for the \$29,500 for the land plus the \$11,000 for fees and costs, then there would be no deal.

**Commissioner Partington moved, seconded by Commissioner Boyle, to settle for the \$29,500 for the land plus the \$11,000 for fees and costs.**

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

Item #10(B) – Development Review and Impact Fees

ORDINANCE NO. 2004-40  
 AN ORDINANCE RELATIVE TO SCHEDULE OF DEVELOPMENT REVIEW AND IMPACT FEES; AMENDING ARTICLE IV OF THE 2004 LAND DEVELOPMENT CODE BY AMENDING FEES RELATING TO DEVELOPMENT ACTIVITIES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-40, on first reading.**

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

Item #11(B) – Appointing a Member to Firefighters' Pension Trust Fund

RESOLUTION NO. 2004-138  
 A RESOLUTION APPOINTING A MEMBER TO SERVE AS A TRUSTEE OF THE CITY OF ORMOND BEACH FIREFIGHTERS' PENSION TRUST FUND; ESTABLISHING TERM AND CONDITIONS OF SERVICE; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-138 appointing Keith Jones.**

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

Item #11(C) – Appointing Members to Municipal Police Officers’ Pension Trust Fund

RESOLUTION NO. 2004-139

A RESOLUTION APPOINTING MEMBERS TO SERVE AS TRUSTEES OF THE CITY OF ORMOND BEACH MUNICIPAL POLICE OFFICERS’ PENSION TRUST FUND; ESTABLISHING TERM AND CONDITIONS OF SERVICE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-139 appointing Ken Artin and Al Weingartner.**

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

Item #11(E)(1) – Airport Grants

Commissioner Boyle suggested Items #11(E)(1), #11(E)(2), and #11(E)(3) until the City would receive some resolution of the complaint in that this may affect the grant.

Mayor Costello recommended these items be discussed.

Item #11(F) – A1A Reuse/Water Main Extension Project

RESOLUTION NO. 2004-144

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT CONTRACT AWARDED TO MASCI CORPORATION, REGARDING THE A1A REUSE/WATER MAIN EXTENSION PROJECT, BY INCREASING THE CONTRACT PRICE BY \$42,242.37; AND INCREASING THE CONTRACT TIME BY NINE (9) DAYS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-144, as read by title only.**

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

Item #11(G) – Water and Sewer Connection and Impact Fee Financing Agreement

RESOLUTION NO. 2004-145

A RESOLUTION RATIFYING AND CONFIRMING THE EXECUTION OF A SUBORDINATION AGREEMENT REGARDING THE WATER AND SEWER CONNECTION AND IMPACT FEE FINANCING AGREEMENT FOR 735 GARDEN LANE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Kent, to approve Resolution No. 2004-145, as read by title only.**

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

Mayor Costello asked if the remaining issues could be discussed tomorrow at 7:00 p.m.

Ms. Veronica Patterson, City Clerk, advised there was an Aviation Advisory Board meeting scheduled in the City Commission chambers tomorrow evening.

Commissioner Partington reported there were still people out of town who may wish to speak on some of these issues.

Mayor Costello recommended discussing the remaining items on Thursday, September 16<sup>th</sup> after the second reading of the budget items; whereby, the Commission concurred. He asked staff to prepare new sheets so the Commission would know what items were necessary to address.

Mr. Hayes requested a motion be made to continue the remaining items.

Ms. Patterson noted the remaining items would consist of Items #11(E)(1), #11(E)(2), #11(E)(3), #12(A), #12(B), and #12(D).

**Commissioner Boyle moved, seconded by Commissioner Selis, to continued Items #11(E)(1), #11(E)(2), #11(E)(3), #12(A), #12(B), and #12(D) to the September 16<sup>th</sup> City Commission meeting following the budget portion of the meeting.**

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

Item #14 – Close the Meeting

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

APPROVED: \_\_\_\_\_ September 21, 2004

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

ATTEST:

\_\_\_\_\_  
Veronica Patterson, City Clerk