

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

October 5, 2004

7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Father Stephen Morris, St. James Episcopal Church.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the September 16, 2004, Special City Commission meeting and the September 21, 2004, regular meeting.
- 5) ***PRESENTATIONS:***
 - A) Employee-of-the-Quarter award to April Martti.

- B) Proclamation by Mayor Costello proclaiming October 8, 2004, as a day to honor State Senator Evelyn J. Lynn.
- C) Proclamation by Mayor Costello proclaiming October 9, 2004, as a day to honor State Representative Pat Patterson.

6) **AUDIENCE REMARKS:**

7) **INTERGOVERNMENTAL BOARD REPORTS:**

- A) Metropolitan Planning Organization
- B) Volusia Council of Governments
- C) Smart Growth Implementation Committee
- D) 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. 2004-163 authorizing the submittal of a grant application to the Florida Department of Environmental Protection under the Florida Recreation Development Assistance Program for funding assistance relative to land acquisition for Central Park improvements; authorizing the execution of all documents incidental thereto. (FRDAP Grant - \$150,000 Total Project; \$37,500 matching funds)
- B) Resolution No. 2004-164 authorizing the execution of an easement deed in favor of Florida Power & Light Company granting a ten-foot wide easement within the Ormond Beach Municipal Airport for Taxiway "D."
- C) Resolution No. 2004-165 appointing Thomas J. Leek as a member to serve on the Human Resources Board; setting forth term and conditions of service.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2004-166 authorizing the transmittal of various amendments to the City of Ormond Beach Comprehensive Plan. (First Cycle 2005 Comp Plan Amendments)
 - 1) Ormond Crossings: Amending the Future Land Use Element (Map), Future Land Use Element (Text), Transportation Element (Text), and Conservation Element (Text).
 - 2) River Oaks: Amending the Future Land Use Element (Map), relative to property to be annexed into the City of Ormond Beach, said property being located south of Airport Road, east of I-95, west of the Broadwater subdivision and north of the Tomoka River.
 - 3) Citywide: Amending the Future Land Use Map, by amending the format of the Future Land Use Map from the original hand-drawn version to a version generated from the City's Geographic Information System (GIS).
- B) Special event remote parking special exceptions:
 - 1) Resolution No. 2004-167 authorizing the execution and issuance of a Development Order for a Special Exception located on "The Bank of America" site, abutting Coquina Court on the north and west property boundaries; authorizing temporary remote parking during Bike Week and Biketoberfest; establishing conditions and expiration date of approval.
 - 2) Resolution No. 2004-168 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest at "Souvenir City" retail store parking lot located at 198 South Atlantic Avenue within the B-7 (Highway Tourist Commercial) zoning district; establishing conditions and expirations of approval.
 - 3) Resolution No. 2004-169 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest

at the Beninati Realty Group rear parking lot located at 216 South Atlantic Avenue within the B-7 (Highway Tourist Commercial) zoning district; establishing conditions and expirations of approval.

- 4) Resolution No. 2004-170 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest at a vacant lot across from the "Makai Hotel" located at 656 South Atlantic Avenue, within the B-7 (Highway Tourist Commercial) zoning district; establishing conditions and expirations of approval.
 - 5) Resolution No. 2004-171 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest at the "Olive Garden" parking lot located at 880 South Atlantic Avenue within the B-7 (Highway Tourist Commercial) zoning district; establishing conditions and expirations of approval.
 - 6) Resolution No. 2004-172 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest at the "Bennigan's Tavern" parking lot located at 890 South Atlantic Avenue within the B-7 (Highway Tourist Commercial) zoning district; establishing conditions and expirations of approval.
 - 7) Resolution No. 2004-173 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest at the "Oak Pointe" Business Park located at 880 Airport Road within the I-1 (Light Industrial) zoning district; establishing conditions and expirations of approval.
 - 8) Resolution No. 2004-174 authorizing the execution and issuance of a Special Exception to allow temporary remote parking during Bike Week and Biketoberfest at the "US1 Business Park" located at 1024 North Highway US1 within the B-8 (Commercial) zoning district; establishing conditions and expirations of approval.
- C) Ordinance No. 2004-42 approving the final plat of "Southern Pines," Unit III, Planned Residential Development; establishing conditions and expiration dates of approval; authorizing the placement of official traffic control devices. (Second Reading)
- D) Ordinance No. 2004-43 amending the Future Land Use Element of the Comprehensive Plan by amending the Future Land Use Map to change the designation of a 0.44-acre parcel of real located at 160 East Granada Boulevard (SR40) from "Recreation/Open Space" to "General Commercial." (Fire Station 91 Property) (First and Only Reading)
- 10) **FIRST READING OF 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. (Tabled from the 9/21/04 meeting)
- 11) **RESOLUTIONS:**
- A) Resolution No. 2004-155 authorizing the execution of a Regional Aquifer Management Program Agreement between the City and the St. Johns River Water Management District. (\$1,276,000 total project cost; \$638,000 in funding assistance) (Tabled from the 9/21/04 meeting)
 - B) Resolution No. 2004-159 authorizing the execution of a Collective Bargaining Agreement between the City and the Ormond Beach Firefighters Association (Local 3499, IAFF, AFL-CIO, CLC). (Tabled from the 9/21/04 meeting)
 - C) Resolution No. 2004-160 amending the Pay and Classification Plan. (Tabled from the 9/21/04 meeting)
 - D) Resolution No. 2004-161 increasing the pay ranges and steps for non-bargaining unit classified and unclassified employees and officials by 2.75%; authorizing the implementation and granting of a one-step pay increase for all non-bargaining unit employees covered by a step plan; authorizing the implementation and granting of a 6% general wage increase to all other non-bargaining unit employees and officials not covered by a step plan. (Tabled from the 9/21/04 meeting)

12) **DISCUSSION ITEMS:**

- A) Pond maintenance at 49 Pine Trail.
- B) Neighborhood Child Development Center status.
- C) Firefighter overtime.
- D) Consideration of an ordinance to ban smoking on public property.
- E) Hurricane victims' assistance concept.

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

Father Stephen Morris, St. James Episcopal Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the minutes of the September 16, 2004, Special City Commission meeting and the September 21, 2004, regular meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Mayor Costello recommended the minutes from September 21st be amended on page 14455, the second paragraph, as follows: "Deputy Mayor Boyle stated the Oceanside Country Club was currently meeting ~~relative~~ relative to this issue..."

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

Item #5(A) - Employee-of-the-Quarter

Mr. Isaac Turner, City Manager, advised that Ms. April Martti, Project Coordinator in the Engineering Department of the Public Works Department, was chosen as the Employee-of-the-Quarter. He noted that after the loss of the City's budget director, Ms. Martti worked on obtaining and coordinating the Capital Improvement Program portion of the budget displaying a commendable willingness and positive attitude.

Mayor Costello recognized Ms. Martti by presenting her with a plaque bearing her picture to be placed in City Hall during the quarter, a second plaque with her name engraved on it to be permanently placed in City Hall, and a watch with the City logo on its face. He thanked Ms. Martti for a job well done on behalf of the City.

Item #5(B) - Proclamation to Honor State Senator Evelyn J. Lynn

Mayor Costello recognized State Senator Evelyn J. Lynn for providing many years of dedicated effective leadership. He noted Senator Lynn served Ormond Beach as an Ormond Beach City Commissioner from 1991 to 1994. Mayor Costello thanked Senator Lynn for her support in Ormond Beach's attempts to achieve its primary goal, that of seeking funding for transportation improvements for the Ormond Crossings project and thereby proclaimed October 8, 2004, as a day to honor Senator Lynn for the valued and distinguished community service she has provided to the citizens of Ormond Beach, the County of Volusia, and the State of Florida.

Senator Lynn thanked Mayor Costello, the Commissioners, and the citizens of Ormond Beach. She stated it was an honor serving as a Commissioner and an even greater honor to live in this beautiful community.

Item #5(C) - Proclamation to Honor State Representative Pat Patterson

Mayor Costello stated that State Representative Pat Patterson has provided many years of dedicated effective leadership to this community as a former educator and for his community service. He reported Representative Patterson offered exemplary support for Ormond Beach's primary goal, seeking funding for Ormond Crossings. Mayor Costello proclaimed October 9th as a day to honor Representative Patterson in Ormond Beach for the valued and distinguished service he has provided to the citizens of Ormond Beach, the County of Volusia, and the State of Florida.

Representative Patterson thanked Mayor Costello and the Commissioners for this honor, noting it was an honor to represent Ormond Beach in the legislature.

Item #5(D) – Customer Service Week

Ms. Lorenda Volker, Human Resources Director, reported that since 1992 the first week in October has been recognized as National Customer Service Week, and it has since gone international. She noted this week focuses on how important customer service and the City's customers are.

Item #6 – Audience Remarks

City's Liability

Mr. Pete Ludwin, 709 Orchard Avenue, questioned the extent of the City's liability after the installation of the Commission approved lightning protection device should a child be injured either at the Airport Sports Complex or at another field that did not have the same protection. He suggested there was currently no liability, but the City would be creating a liability.

Mr. Ludwin reported the trees on US1 and Granada Boulevard were another liability created by the City where none previously existed. He pointed out that the trees were planted under power lines.

Assistance to Financially Disadvantaged Citizens

Mr. Ludwin urged the City to assist people financially disadvantaged, such as boarding up their homes before the hurricane. He noted he followed two City employees, who on City time, in a City vehicle, and probably using City material boarded up the City Manager's home prior to the hurricane.

Mayor Costello asked Mr. Randal Hayes, City Attorney, to provide a report relative to the liability issues Mr. Ludwin addressed.

Runway Extension

Mr. Glenn Jaspers, 160 Ocean Terrace, displayed a photograph of the "corporate aircraft of the future" with an FAA take off balanced field length gross weight of 35,085 and an FAA certified landing distance of 27,080 feet. He noted these are well under the existing runway lengths at the Ormond Beach airport. Mr. Jaspers questioned when the extension increased from 500 feet to 1,400 feet. He stated a longer runway was not necessarily a safer runway.

Pond Maintenance

Mr. Mark Apicella, 49 Pine Trail, expressed concern relative to the erosion of the pond on his property noting he lost a number of trees and a fence.

Mayor Costello reported that issue was scheduled for discussion on Item No. 12(A), but he intended to move it forward for discussion immediately after the Consent Agenda portion of the meeting since it had been postponed twice.

Introduction of Raw Sewage into Homes

Mr. Chas Folcik, 402 Oceanshore Boulevard, complained of an incident where a member of his family had been sprayed with raw sewage that was introduced into his home on September 13th because of Ormond Beach employees working on Neptune Avenue. He stated City employees to whom he spoke about this incident had been discourteous and had not offered assistance. Mr. Folcik questioned how many times this has occurred in the past; how much money in claims had been paid by the City; why this was occurring; and why preventative measures were not implemented.

Proposed Beach Parking Lot

Mr. Folcik complained about the treatment he had received from officials at City Hall when he called about the proposed beach parking lot adjacent to Oceanside Country Club. He stated that City employees using City equipment on City time had decimated the canopied forest on this private property, which was never authorized. He suggested a buffer had been left so it could not be seen from the street.

Fire Station Neglect

Mr. Folcik questioned who was responsible for allowing the City's fire stations to deteriorate to the point where they needed replacement. He stated the concept of a single central fire house could have been studied at the time the station was build on Wilmette, creating savings to the taxpayers.

Political Signs

Mr. Folcik stated regulations relative to the timing or placement of political signs appeared out of nowhere with no proposal, no motion, no discussion, and no vote. He questioned who was responsible for this underhanded attempt to usurp the authority of the voters of Ormond Beach.

Customer Service

Mr. Folcik stated the public had a right to expect a "square deal" from its employees, but they were not receiving it in that shoddy and outrageous performance existed in all levels of City government. He implored the Commission to put a stop to this brazen, arrogant, rude, and self-serving behavior.

Mayor Costello requested Mr. Folcik call him at his office to arrange a meeting to discuss these issues.

Assistance to Residents

Mr. Adrian Thompson, 6 Dorado Beach Court, congratulated the City on the initiative taken at the suggestion of one of the Commissioners to provide assistance to hurricane victims as indicated in Item No. 12(E) on the agenda. He provided a video, which he stated showed City resources being used to help a citizen prepare for the most recent storm. Mr. Thompson requested the City Manager make this video available to all Commissioners so they could see how the City really works. He also requested that the Commission advise all residents, via the Public Information Officer, how citizens can avail themselves of City resources during difficult times and disasters. Mr. Thompson asked if the assistance of the type shown in the video was means tested by income, age restricted, or had any other qualification criterion that had to be met for the use of taxpayers' resources.

Item #7(A) and 7(B) – Metropolitan Planning Organization and Volusia Council of Governments

Mayor Costello reported the Metropolitan Planning Organization (MPO) and Volusia Council of Governments (VCOG) did not meet last month due to hurricanes.

Item #7(C) – Smart Growth Implementation Committee

Mayor Costello reported the Smart Growth Implementation Committee would meet on Monday, October 11th. He advised that the discussion would focus on urban growth boundaries.

Item #7(D) – Water Authority of Volusia

Commissioner Boyle advised that the Water Authority of Volusia (WAV) met last Wednesday and marked WAV's first anniversary. He reported that at the September 29th special meeting four board actions occurred: 1) ranking of consultants for the master plan and authorization provided for the executive director to execute a contract; 2) beginning the process for a funding mechanism known as a Municipal Service Taxing and Benefit Unit; 3) considering a request from the City of Deltona for a feasibility study for a water supply model in partnership with WAV; and 4) submitting an application to the St. Johns River Water Management District for WAV's Consumptive Use Permit for five million gallons per day.

Commissioner Boyle reported this was probably the most optimistic and positive WAV meeting held to date.

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 Boyle moved, seconded by Commissioner Partington, for approval of the Consent Agenda.

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

Item #12(A) – Pond Maintenance at 49 Pine Trail

Mayor Costello stated Item #12(A) was being moved to this point on the agenda since it was on two previous agendas and not discussed.

Ms. Judy Sloane, Public Works Director/City Engineer, displayed a map showing the existing seawall and the proposed seawall. She noted Mr. Apicella purchased this property from Mr. Dean Reasy, who complained to the Commission about pond erosion, and the Commission authorized staff to do erosion protection around the pond. Ms. Sloane reported that since that time, Mrs. Robinson at 31 Lake Park Circle and Mr. D. W. Smith at 35 Lake Park Circle requested a seawall be built to improve the erosion protection. She explained the staff's position was that this was a private pond where City drainage entered the pond from City streets. She noted the City had a drainage easement in which the City was allowed to maintain the pond. Ms. Sloane pointed out that the City was doing pond maintenance, but the maintenance did not include erosion protection. She stated pictures were provided showing the condition of the pond when Mr. Reasy owned the property. Ms. Sloane advised that Mr. Reasy had installed a fence on top of the erosion protection the City installed; however, the fence was now leaning with trees over the pond. She reported that staff determined the pond was not constructed properly in that it was built with steep side slopes causing the erosion. Ms. Sloane advised Mr. Apicella was requesting the same assistance be provided to him that had been provided to Mrs. Robinson and Mr. Smith. She continued to express staff's concern regarding spending public funds on this private pond.

Commissioner Kent asked if this pond had coquina rock installed; whereby, Ms. Sloane explained staff previously installed the coquina rock. Commissioner Kent advised Mr. Smith indicated that after the seawall was erected for Mrs. Robinson, erosion occurred on his property.

Mayor Costello reported he was originally opposed to providing assistance on a private pond; however, since the City has already built one seawall, he favored a seawall be approved for Mr. Apicella.

Mr. Mark Apicella, 49 Pine Trail, stated that since he had moved onto this property, the erosion problem had become dire. He explained the bank of trees serving as a privacy barrier have all been destroyed except for those on the corner of the property, and they are now falling and lifting his back yard. Mr. Apicella reported his fence fell into the lake, and to replace it, he would have to put the fence on 39 Lake Park Circle's property as opposed to his property. He stated the coquina rocks have become treacherous.

Mayor Costello stated that when one wall was built, problems were created everywhere else in the pond.

Commissioner Boyle provided a copy of the private report prepared for this property by the former owner. He stated the pond was incorrectly constructed and approved by the City with City stormwater coming into the private pond. Commissioner Boyle pointed out that this would not put the City in a position of liability for other ponds in the City in that the other ponds were all constructed in the 1980s or 1990s and constructed correctly relative to slope and depth, making this a unique situation. He stated Ormond Beach collected \$72 per household for stormwater in Ormond Beach; therefore, the funds to remedy this situation should come from that fund.

Commissioner Partington recommended including the funds to approve remedy for the two remaining property owners as well, saving money by doing the complete project at the same time rather than doing the projects individually and costing more. He noted that when this property was corrected, the remaining two property owners would be following suit very quickly if the entire pond was not done corporately.

Mayor Costello concurred with Commissioner Partington and noted that he made the same comment the last time this situation was discussed.

Commissioner Partington moved, seconded by Commissioner Boyle, to construct the seawalls on the entire Lake Park Circle pond.

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

Item #9(A) – First Cycle 2005 Comp Plan Amendments

RESOLUTION NO. 2004-166

A RESOLUTION AUTHORIZING THE TRANSMITTAL OF VARIOUS AMENDMENTS TO THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kent, to approve Resolution No. 2004-166, as read by title only.

Mr. Clay Ervin, Planning Director, stated that as part of the requirements of Chapter 163, a sign-up sheet and forms were placed in the rear of the chambers, and he encouraged anyone interested in following these Comprehensive Plan amendments as they track through the Department of Community Affairs (DCA) to fill out the form so they could be provided with the Objections, Recommendations, and Comments reports. He noted that if anyone listening over the Internet would like to receive this information, they could contact the Planning Department to be included on the list of recipients.

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

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

Item #9(B) – Temporary Remote Parking During Bike Week and Biketoberfest

Item #9(B)(1) – The Bank of America

RESOLUTION NO. 2004-167

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR A SPECIAL EXCEPTION LOCATED ON “THE BANK OF AMERICA” SITE, ABUTTING COQUINA COURT ON THE NORTH AND WEST PROPERTY BOUNDARIES; AUTHORIZING TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-167, as read by title only.

Mr. Ervin advised staff received calls from concerned citizens regarding temporary remote parking during Bike Week and Biketoberfest on two sites not included on the agenda tonight, specifically the Shell Gas Station and the ABC Fine Wine and Spirits located on South Atlantic Avenue. He reported these sites were not incorporated into this application because the applicants had not made a formal request. Mr. Ervin noted staff also received calls relative to the Charlie Horse, Steak and Ale, and the vacant portions of Bennigan’s regarding temporary remote parking, which was also not a part of this application as they were withdrawn.

Commissioner Boyle stated the Commission received a letter from Dr. Morjon opposing this resolution, citing congestion on Vining Court. He reported Dr. Morjon opposed this because of the many businesses that rely on this street.

Commissioner Kent reported this area had many homes as well as small businesses that would be adversely affected by this proposal.

Mayor Costello stated he would support Dr. Morjon and agreed that this was not the best site for temporary parking.

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

Item #9(B)(2) – Souvenir City

RESOLUTION NO. 2004-168

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT "SOUVENIR CITY" RETAIL STORE PARKING LOT LOCATED AT 198 SOUTH ATLANTIC AVENUE WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-168, as read by title only.

Ms. Lucille Bornmann, 6 Windsor Drive, reported her comments were relative to all of the temporary remote parking applications being discussed this evening. She questioned when the majority of the Ormond Beach residents had decided they wanted Ormond Beach to take over what Daytona Beach was trying to eliminate. Ms. Bornmann pointed out that the motels were supposed to have adequate parking for the rooms that they rent. She questioned if this request was a forerunner of a request to allow vendors to operate in Ormond Beach. Ms. Bornmann urged caution in bringing this type of activity into downtown Ormond Beach.

Mayor Costello clarified that this remote parking would not provide the right to have any additional people in the motel rooms; it simply would provide room for some of the trailers coming into town and keep them off the street. He pointed out the bikers were coming; they were renting rooms; and they must find parking. Mayor Costello stated that the goal was to find parking areas less intrusive on the residents. He asked whether the Commission favored the staff or the Development Review Board recommendation.

Commissioner Partington asked for conformation that this would not invite open-air markets or vendors operating on A1A.

Mr. Ervin confirmed that this would not and indicated outdoor vending was not allowed, and there was no indication that the policy would be changed. He reported that this item was basically an accommodation for the hoteliers on A1A; however, there were two sites located on US1 abutting larger complexes in Volusia County attempting to address overflow parking from the Iron Horse and similar establishments.

Commissioner Partington stated that the main thrust of these requests was to prevent a problem that had existed where people were parking on the streets causing problems on A1A.

Mr. Ervin explained that the typical Bike Week and Biketoberfest participant had changed from someone coming in a motorcycle to several people possessing a large vehicle towing a trailer with two or more motorcycles; therefore, if the hotels meet the current parking standards, it would be doubtful that they could be accommodated because of the larger tow vehicles, the trailers, and the motorcycles. He stated this would establish alternative sites where the City could minimize the impacts and keep these vehicles off the City streets.

Commissioner Boyle stated that this was a safety consideration in that excess parking was spilling out onto A1A and creating a hazard for motorists.

Mayor Costello advised he would favor the staff recommendation to allow both the tow trailer and the tow vehicles. He noted he favored allowing access to the trailers from 8:00 a.m. to 8:00 p.m. rather than allowing no access at all. Hearing no comment, he advised the Commission would be voting for the resolutions as outlined in the resolution.

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

Item #9(B)(3) – Beninati Realty Group

RESOLUTION NO. 2004-169

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT THE BENINATI REALTY GROUP REAR PARKING LOT LOCATED AT 216 SOUTH ATLANTIC AVENUE WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-169, as read by title only.

Reverend Jesse Cotton, 828 Fred Gamble Way, asked approximately how long this area has had Bike Week and Biketoberfest.

Mayor Costello stated Ormond Beach technically does not have Bike Week and Biketoberfest events; however, as the event increases, bikers come to Ormond Beach motels.

Reverend Cotton noted last year it was reported that there were 500,000 bikers. He stated these events are constantly increasing and bringing money into the area. Reverend Cotton urged patience since these events are short term. He pointed out that these resolutions were only for temporary parking, and these people should be accommodated as much as possible.

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

Item #9(B)(4) – Vacant Lot Across from the “Makai Hotel”

RESOLUTION NO. 2004-170

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT A VACANT LOT ACROSS FROM THE “MAKAI HOTEL” LOCATED AT 656 SOUTH ATLANTIC AVENUE, WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kent, to approve Resolution No. 2004-170, as read by title only.

Ms. Lisa Doak representing the Makai Hotel stated the Makai Hotel had been cooperating with the City and would appreciate the Commission approving this resolution so they can stay in business and accommodate the people who come into town for these events.

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

Item #9(B)(5) – Olive Garden

RESOLUTION NO. 2004-171

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT THE “OLIVE GARDEN” PARKING LOT LOCATED AT 880 SOUTH ATLANTIC AVENUE WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kent, to approve Resolution No. 2004-171, as read by title only.

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

Item #9(B)(6) – Bennigan’s Tavern

RESOLUTION NO. 2004-172

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT THE “BENNIGAN’S TAVERN” PARKING LOT LOCATED AT 890 SOUTH ATLANTIC AVENUE WITHIN THE B-7 (HIGHWAY TOURIST COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-172, as read by title only.

Mayor Costello clarified that this resolution did not include the vacant lot.

Mr. John Bornmann, 6 Windsor Drive, stated no explanation was provided relative to the expense associated with enforcing the conditions attached to these resolutions such as any overtime for police officers.

Mr. Ervin stated that with any special exception approved by the City Commission, enforcement would be provided in combination with the Neighborhood Improvement Department and Police Department as part of their normal routine operations. He pointed out this issue was thoroughly discussed by the Development Review Board. Mr. Ervin reported that if any of the terms would be violated, the privilege would be revoked. He noted the conditions have been thoroughly explained to the applicants. Mr. Ervin stated should a violation occur during normal business hours, the Neighborhood Improvement Department would respond to the complaint, and after business hours, the Police Department would respond to the complaint. He explained the violation would go through the City’s code enforcement procedure involving a Special Master, which would not generate overtime or additional staffing.

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

Item #9(B)(7) – Oak Pointe Business Park

RESOLUTION NO. 2004-173

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT THE “OAK POINTE” BUSINESS PARK LOCATED AT 880 AIRPORT ROAD WITHIN THE I-1 (LIGHT INDUSTRIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-173, as read by title only.

Mr. Ervin advised that this item and the next item pertained to sites located on US1 and not associated with hoteliers but with the operations of the other Bike Week and Biketoberfest activities such as the Iron Horse; therefore, staff requested the sunset provision not be incorporated into the resolution, while the Development Review Board requested the one-year sunset provision be imposed for each. He noted these types of sites would assist in removing some of the traffic off Airport Road, making the pedestrians safer.

Commissioner Boyle moved, seconded by Commissioner Kent, to amend the resolution to eliminate the sunset provision.

Call Vote on the Amendment:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes
Call Vote on the Underlying Motion:	Commissioner Kent	yes
	Commissioner Partington	yes
	Commissioner Boyle	yes
Carried.	Mayor Costello	yes

Item #9(B)(8) – US1 Business Park

RESOLUTION NO. 2004-174

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A SPECIAL EXCEPTION TO ALLOW TEMPORARY REMOTE PARKING DURING BIKE WEEK AND BIKETOBERFEST AT THE “US1 BUSINESS PARK” LOCATED AT 1024 NORTH HIGHWAY US1 WITHIN THE B-8 (COMMERCIAL) ZONING DISTRICT; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Partington, the resolution to approve Resolution No. 2004-174, as read by title only.

Commissioner Boyle moved, seconded by Commissioner Partington, to eliminate the sunset provision.

Call Vote on the Amendment:	Commissioner Partington	yes
	Commissioner Boyle	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes
Call Vote on the Underlying Motion:	Commissioner Boyle	yes
	Commissioner Kent	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Hearing no objection, Mayor Costello closed the public hearing on Item #9(B)(1) through Item #9(B)(8).

Item #9(C) — “Southern Pines,” Unit III, Planned Residential Development

ORDINANCE NO. 2004-42

AN ORDINANCE APPROVING THE FINAL PLAT OF “SOUTHERN PINES,” UNIT III, PLANNED RESIDENTIAL DEVELOPMENT; ESTABLISHING CONDITIONS AND EXPIRATION DATES OF APPROVAL; AUTHORIZING THE PLACEMENT OF OFFICIAL TRAFFIC CONTROL DEVICES; REPEALING ALL INCONSISTENT ORDINANCES AND RESOLUTIONS OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-42, on second reading.

Call Vote:	Commissioner Kent	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) – Fire Station 91 Property Future Land Use Map Amendment

ORDINANCE NO. 2004-43

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF A 0.44-ACRE PARCEL OF REAL LOCATED AT 160 EAST GRANADA BOULEVARD (SR40) FROM "RECREATION/OPEN SPACE" TO "GENERAL COMMERCIAL;" REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-43, on first and only reading.

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

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

Item #10 – 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 Boyle, to approve Ordinance No. 2004-39, on first reading.

Commissioner Boyle moved to amend, seconded by Commissioner Partington, to replace the 7% water rate increase with a 3½% water rate increase.

Mr. Paul Lane, Finance Director, read the calculations amending the 7% increase to a 3½% increase into the record for water rates as follows: residential rates inside City limits monthly usage 2,000 gallons or less at \$8.55, excess over 2,000 gallons \$2.15, each monthly bill shall be rendered for not less than \$8.55; for 2,000 gallons of water outside City limits \$12.53, excess over 2,000 gallons \$3.24; commercial rates inside City limits \$8.55 for the first 2,000 gallons, \$2.66 per 1,000 gallons used in excess of 2,000 gallons; commercial rates outside City limits at \$12.53 for the first 2,000 gallons, \$3.98 per 1,000 gallons over 2,000; multiple minimum charges inside City \$8.55 for the first 2,000 gallons, \$8.03 for each subsequent thousand gallons; all water used in excess of 2,000 gallons per unit per months shall be billed at the rate of \$2.15 per 1,000 gallons; outside City each monthly minimum charge would be \$12.53 for the first unit and \$12.00 for each subsequent unit; and all water used in excess of 2,000 gallons shall be billed at the rate of \$3.24 per 1,000 gallons. He read the following increases in the sewer rates: residential rates inside City limits monthly usage for 2,000 gallons or less at \$11.16, excess over 2,000 gallons \$3.01; outside City limits 2,000 gallons or less at \$16.73, over 2,000 gallons at \$4.52; commercial rate inside City limits 2,000 gallons or less at \$11.16, excess over 2,000 gallons \$3.74; outside City limits for 2,000 gallons or less at \$16.73, excess over 2,000 gallons \$5.58; multiple minimum charge inside the City where meter installation serves more than one equivalent living unit would be allowed to use 2,000 gallons per unit per month under the minimum charge of \$11.16 for the first unit and \$10.42 for each additional unit served from a single meter, all water use in excess of 2,000 gallons per month shall be at the rate of \$3.01 for each 1,000 gallons; and outside the City each monthly multiple minimum charge would be \$16.73 for the first unit and \$15.99 for each additional unit; and all water used in excess of 2,000 gallons per unit per month shall be at the rate of \$4.52 per 1,000 gallons.

Mayor Costello summarized that this was the consensus arrived at the workshop prior to this meeting. He reported a goal was to assure the public there were no "hidden" taxes in Ormond Beach; therefore, the Commission has decreased staff's recommended 7% increase to 3½% and decreased the amount transferred for overhead as an interfund transfer from the Water and Sewer Fund into the General Fund. Mayor Costello explained that over the next year the Budget Advisory Board and the City Commission would be studying the overhead, those funds

the General Fund charges for supervision, and working with the Water and Sewer Department, to justify what those figures should be. He stated that if those figures are justified to the satisfaction of the Budget Advisory Board and City Commission, the City Commission would increase that figure to where it had been historically. Mayor Costello noted that for Renewal and Replacement, with the expansion of the water treatment facility, there would probably be a significant water increase next year; however, the Commission did not believe those rates had to be increased this year. He stated staff provided a chart indicating the CPI from 1994 at a rate of \$31.07, and following that through would have been \$39.52; but with the 7% increase, the rate would have been \$36.39, which was well below that rate. Mayor Costello reiterated that if the figures for Renewal and Replacement and operating the water facility indicate an increase would be needed next year, the Commission would approve that increase.

Commissioner Kent commended Mayor Costello for summarizing the meeting accurately. He noted he has struggled with this issue for some time, and he stated he could not approve any type of increase when the City was taking money out of this fund to balance the General Fund budget.

Commissioner Boyle concurred with Commissioner Kent; however, he stated he assumed the Commission left the workshop with a consensus for a 3½% increase. He noted if the vote was not unanimous, he would also not approve the increase. Commissioner Boyle noted that the vote would now be two to two.

Mayor Costello noted his assessment of the workshop was that there was a three to one in favor of the 3½% increase with Commissioner Kent opposed.

Commissioner Boyle stated he indicated more than once that he would approve the 3½% increase only for the sake of unanimity.

Commissioner Partington noted that there was no voice vote taken at the workshop in that a workshop had a less formal setting. He stated no one favored any type of increase; he considered 7% too high; and he favored the 3½% increase as a compromise position. Commissioner Partington pointed out the Budget Advisory Board was comfortable with the 3½% increase, and it would not harm the City.

Commissioner Boyle moved, seconded by Commissioner Partington, to table Ordinance No. 2004-39 to the next meeting.

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

Item #11(A) – Regional Aquifer Management Program Agreement

RESOLUTION NO. 2004-155

A RESOLUTION AUTHORIZING THE EXECUTION OF A REGIONAL AQUIFER MANAGEMENT PROGRAM AGREEMENT BETWEEN THE CITY AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-130, as read by title only.

Mayor Costello recommended this be tabled for one month in that he had communicated with the president, director, and attorney for Oceanside Country Club and was confident the City would receive formal notification that they would extend the 15-year window to allow the City to investigate the possibility of using smaller tanks with or without using the existing lakes as storage. He noted Oceanside Country Club has been working with the City.

Commissioner Boyle noted he also spoke to the Oceanside Country Club attorney today. He stated the Commission was to execute a grant tonight before the public hearing process had occurred, and he cautioned this must never happen again. Commissioner Boyle reported he discovered that staff made a verbal agreement to Oceanside Country Club to reduce the tanks to a certain size; and while he applauded the concept, staff should have informed him about this. He pointed out that if this would occur, the granting agency would have to start the process over. Commissioner Boyle urged staff to never again enter into an agreement with a private entity without informing the Commission in the future. He stated people wanted to participate in

this public hearing process and have valuable information for the Commission; therefore, he urged they be provided a definitive schedule for this public hearing process since this had been delayed previously. Commissioner Boyle reported the Development Review Board meets on October 28th; therefore, the City Commission would not be able to hear this item until the November 16th meeting.

Mayor Costello explained the Commission was provided three options, but he agreed the public hearings were needed before grants could be accepted.

Commissioner Boyle moved to table, seconded by Commissioner Kent, to the November 16th City Commission meeting.

Mayor Costello apologized to those who wanted to speak on this issue for another delay and stated that if for some unforeseen reason a vote would not be taken on November 16th, he would allow the public to be heard on that date.

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

Item #11(B) – Ormond Beach Firefighters Association Collective Bargaining Agreement

RESOLUTION NO. 2004-159

A RESOLUTION AUTHORIZING THE EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE ORMOND BEACH FIREFIGHTERS ASSOCIATION (LOCAL 3499, IAFF, AFL-CIO, CLC); SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-159, as read by title only.

Commissioner Boyle moved to amend Article 28.1 on page 70 of the agreement where it indicated that wage increases would be effective October 1, 2004, October 1, 2005, and October 1, 2006, and he would replace that language with “Wage increases effective on each employee’s hiring anniversary date.”

Commissioner Boyle advised that this agreement had been discussed previously and noted that the September 16th minutes indicate Commissioner Selis stated the following: “He suggested saving the \$318,000 for anniversary date pay raises, a new methodology for overtime for firefighters saving \$120,000, and \$450,000 for pay increases for a total of \$888,000.” He reported this motion would provide equity within the bargaining unit. Commissioner Boyle explained the current situation would allow an employee to qualify for the next year’s pay raise after one month of service, and another employee hired 11 months earlier must wait for that qualification. He stated management put this into the contract; and if this was not corrected now, it would not be corrected for another three years. Commissioner Boyle reported he was aware that the bargaining unit had indicated that this would be a deal breaker in that it would dilute the raise in the first year from 30% to 50%. He stated this should have been corrected long ago; however, in light of the recent property tax increase, it must be done now.

Mr. Randal Hayes, City Attorney, stated that the Commission had a final contract package before them for ratification. He noted the provisions in Article 28 had been in the contract historically for some time and would have to be negotiated at the bargaining table. Mr. Hayes stated a unilateral decision could not be made this evening to change this without going back to the bargaining unit. He recommended the management team take this item back to the table to renegotiate the terms.

Commissioner Boyle withdrew his motion to amend in that the contract must be voted up or down as it existed now.

Mr. Turner stated that the Commission had directed staff to present this proposal to the various bargaining units, and this has been done, resulting in the e-mails sent to the Commission indicating that this would be a deal breaker and impasse issue. He pointed out that implementing such a plan would be extremely labor-intensive and less automated than the current system, but it could be done. Mr. Turner pointed out that this would be a one-time savings.

Commissioner Boyle stated that Mr. Lane testified that there would be some recurring expenses.

Mr. Lane stated that if this provision would mean that every future raise was delayed by six months, there would be an ongoing savings.

Mayor Costello asked if there was any other issue the Commission wanted to make to the contract that should be taken to the bargaining unit.

Commissioner Boyle reported he was not satisfied with the language in the overtime clause; therefore, he would oppose this contract on two counts.

Mayor Costello noted that he had spoken for the anniversary date every time it had been mentioned, and he commended Commissioner Boyle for introducing the concept. He asked that a number of items be outlined in the minutes relative to overtime. Mayor Costello stated the Fire Department had done an outstanding job of negotiating and had negotiated in good faith, but there were some problems he had with this and the previous contracts with the way overtime had to be managed in that staff did not have the choices that they should have had. He recommended page 50, item 21.6, on the last sentence should read: "Such scheduled Personal Leave Time will be considered as "time worked" for the purposes of computing time worked, but not for overtime purposes under Article 22." Mayor Costello suggested amending the top of page 55 as follows: "For purposes of computing hours worked, jury duty, paid FMLA, bereavement leave, compensatory time and ~~scheduled Personal Leave Time~~ under Section 21.6 shall be considered as "time worked" for overtime purposes." He stated he did not believe scheduled personal leave time should be included in calculating for overtime. Mayor Costello recommended the following change on the same page under item "C": "If an employee covered by this Agreement is called in to work at a time outside the employee's normal working hours, unless the hours are to fill in for scheduled leave time of another employee, the employee shall receive a minimum of four (4) hours pay at the rate of time and one-half (1 ½) the employee's regular straight time rate and may be required by the Chief or his designee to remain on duty for a minimum of four (4) hours." He explained his purpose of this recommendation was to encourage employees trading with each other to avoid overtime, and management must be able to schedule that overtime.

Mayor Costello recommended item "D" on the same page be amended as follows: "Any ~~No~~ Supervisor or official may ~~shall~~ take any action to cause the non-payment of time and one-half in circumstances in which an employee covered by this Agreement has been directed by a person in a supervisory position of Division Chief and above, to perform work which entitles the employee to payment of time and one-half." He stated this would enable any supervisor to minimize overtime. Mayor Costello's next recommended change was item "G" on page 57 as follows: "Unlimited shift swaps that do not cause overtime per shift will be permitted except during pre-designated training events or other special events at the Fire Chief's discretion. Swaps may be requested with no advance notice if both employees have agreed to no overtime because of the swap." He noted Ormond Beach would be paying over \$800,000 in overtime this year.

Mayor Costello stated the Fire Department had worked with management to decrease this so they deserve a great deal of credit, but further decreases must be made in the future considering firefighters with a salary of \$62,000 were making \$117,000 due to overtime, and the third highest paid person in the City was a firefighter because of overtime. He recommended the following change be made further down on the same page: Paramedic for paramedic swaps will be permitted regardless of rank as long as they don't generate overtime. Additional swaps will be permitted between individuals of the same rank ..." Mayor Costello suggested page 58 be amended as follows: "Where employees swap, and the employee working is temporarily assigned to a higher classification, the temporarily assigned employee will not be paid the rate of a higher classification provided the employee *is* qualified for higher pay in accordance with Article 7, Section 7.2." He directed attention to page 59 and recommended removing item "I" and replacing it with the following: "When schedule adjustments are necessary, after assuring adequate paramedic coverage, minimizing overtime will be a major consideration in determining who is called to fill an open shift." Mayor Costello reported the current policy of coverage was determined solely by rank, and this assured the rank and leadership needed would be provided, but it also skewed the retirement making the last five years incredibly high salary years impacting the pensions. He suggested amending item "J" on the same page as follows: "No overtime shall be mandated until all available trades that will minimize overtime are exhausted ~~without exhausting the call out list of those in the eligible rank for the needed position.~~"

Mayor Costello reported he had not planned on making any of these suggestions if the contract would have been passed. He stated he would merely have voted against the contract; however, since it would have to be examined again anyway, he decided to voice his recommendations. Lastly, Mayor Costello recommended page 80 be amended as follows: “The City and Union agree to establish a pension review committee for the purpose of assessing City pension benefits ~~and comparing those to comparable jurisdictions in preparation for future plan improvements.~~ Further, the City agrees to retain the services of a pension review expert during FY 2004-05 for the purpose of assessing the City of Ormond Beach Pension Plan. The City will make a good faith effort to have the study completed by April 2005. The City further agrees to share the results of this assessment with the IAFF. The parties agree to re-open this article for the purpose of addressing the results provided by the pension review expert and creating a long-term strategy regarding any recommended benefit enhancements or reductions. Any ~~These~~ enhancements considered will not necessarily be the sole financial responsibility of the City to fund.” He stated he was not interested in comparing Port Orange or any other municipality; his concern was whether Ormond Beach firefighters were being treated fairly. Mayor Costello explained he did not want to be locked into enhancements although it may be enhanced, but enhancements and reductions should be examined.

Mayor Costello stated that if this Commission did not wish to consider these recommendations, the firefighters have negotiated in good faith and it was, overall, a good contract. He noted he considered these items needed to be examined for the firefighters as well as all the other bargaining unit contracts. Mayor Costello reported management needed to adjust shifts to minimize overtime and have the ability to hire part-time employees.

Commissioner Kent commended Commissioner Boyle for his recommendation relative to the anniversary date, and he stated he would support the recommendation except for the late date that it had been presented. He concurred with Mayor Costello that the union negotiators worked in the interest based bargaining agreement, and this proposal was just now made. Commissioner Kent stated that he could not vote for these amendments at this time; however, he was extremely uncomfortable with \$800,000 for overtime. He reiterated that he favored many of the recommendations made, but at this late date it was not appropriate. Commissioner Kent commended Mayor Costello for mentioning his recommendations, as they were issues to consider. He reported the firefighters he had spoken with were very conscious of the problem and did not want the overtime to be as large as it was currently. Commissioner Kent noted that there was \$100,000 to \$200,000 in overtime that was worked into the firefighter contract because they work 24-hours on and 48-hours off. He pointed out the firefighters could not do anything about this, and he could accept that; however, he could not accept \$800,000 in overtime.

Commissioner Boyle stated the Commission did not propose a 34% property tax increase on the community until the “eleventh hour,” and the employees of this City had been unfairly blamed for the tax increase. He reported he was also outraged over \$750,000 of overtime that was not caused by the employees or the bargaining unit, but introduced at the “eleventh hour” by management, and for that reason he considered the anniversary date change necessary.

Mayor Costello stated he had never blamed employees for the tax increase; he blamed the Commission for the increase because the Commission funded the employees’ raises with non-recurring dollars. He pointed out employee costs went from 65% to 75% of the budget. Mayor Costello clarified that he never said employees were overpaid. He stated the Commission was to blame for not preparing people for the fact that when the fund balance ran out, taxes would have to be increased to make up for what was being funded with the fund balance.

Commissioner Boyle noted he and Mayor Costello would respectfully disagree on this issue. He stated every City should pay its employees and pay raises first, and then allocate funds and fund balance for the expenditures.

Commissioner Partington stated he would vote for the contract because it was too late for the recommended changes, although Commissioner Boyle made an excellent suggestion. He expressed concern relative to the way this had developed, and these changes would bring the contract to an impasse with all of the bargaining units. Commissioner Partington noted that along with all of the time-consuming legal costs, there would also be changes in software and additional staff time to implement the changes. He reported that considering the above, he did not see much cost savings. Commissioner Partington stated the firefighters should reap the benefit of the interest based bargaining. He noted the firefighters have a contract ready for settlement, and this contract would set the precedent for what would occur with the other contracts. Commissioner Partington pointed out that he considered this should be passed as soon as possible because the City should keep its word and not change course once a decision

had been made. He stated the Commission made a decision with the information presented, but the Commission did not have all of the information. Commissioner Partington considered settling the contract would be the cheapest thing the City could do in this instance.

Commissioner Kent stated accusations had been made relative to a tax increase, and he noted that there was a tax increase; but if \$400,000 to \$600,000 could have been saved from the firefighter overtime, it may have made a difference. He reported the bargaining unit in the previous contract negotiated a fantastic deal for their employees and retirees considering the salaries versus the take-home pay after overtime and retirees were earning over \$90,000. Commissioner Kent stated he would prefer to be a solution to a problem, but he could not be silent while being attacked. He asked the public to remember who voted for that contract allowing this to happen. Commissioner Kent stated some Commission members were not present when that contract was negotiated, but they are here now to clean up the mess. He reported it was indicated that the Commissioners knew that the Mayor reported he would take the heat for them for the tax increase; however, he requested it be placed on the public record that he never wanted the Mayor to take any heat for him in that he was a man of his word and he did the right thing in his mind for the residents of Ormond Beach.

Mayor Costello reported he never meant to put any Commissioner in a poor light by that comment.

Commissioner Boyle noted that while he respected Commissioner Kent's passion, he clarified that he had proof that the \$500,000 excess overtime was not caused by the contract or the union.

Mayor Costello reported he had opposed this contract from the beginning because he preferred the 3½% increase, which placed him in a dilemma since he planned to vote against all of the 6% increases from all of the bargaining units. He stated the firefighters did a good job; and he wanted to reward them, but he could not vote for a contract at 6% when he has consistently opposed a 6% increase. Mayor Costello noted this may need to be tabled for a five-member Commission since it appeared to be a two-to-two vote, and typically such a vote would be brought back.

Commissioner Boyle noted that, procedurally, a vote must be taken first, and then it would come back to the Commission.

Mayor Costello stated that if the vote is taken and it should be a two-to-two vote, the custom has been to bring it back for a vote from the entire Commission. He stated that in the interim, staff could mention some of these issues to the bargaining unit to determine if they would be willing to make some adjustments.

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

Mr. Hayes officially advised that since this was a two-to-two vote, the custom has been to table the issue to the next meeting with a full Commission.

Item #11(C) – Amending the Pay and Classification Plan

RESOLUTION NO. 2004-160
A RESOLUTION AMENDING THE PAY AND CLASSIFICATION
PLAN; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Partington, to approve Resolution No. 2004-160, as read by title only.

Commissioner Partington moved, seconded by Commissioner Boyle, to be tabled this to the October 19th meeting.

Commissioner Partington reported he preferred all of these salary issues be discussed at the same time.

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

Item #11(D) – Increasing Pay Ranges and Steps

RESOLUTION NO. 2004-161

A RESOLUTION INCREASING THE PAY RANGES AND STEPS FOR NON-BARGAINING UNIT CLASSIFIED AND UNCLASSIFIED EMPLOYEES AND OFFICIALS BY 2.75%; AUTHORIZING THE IMPLEMENTATION AND GRANTING OF A ONE-STEP PAY INCREASE FOR ALL NON-BARGAINING UNIT EMPLOYEES COVERED BY A STEP PLAN; AUTHORIZING THE IMPLEMENTATION AND GRANTING OF A 6% GENERAL WAGE INCREASE TO ALL OTHER NON-BARGAINING UNIT EMPLOYEES AND OFFICIALS NOT COVERED BY A STEP PLAN; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-161, as read by title only.

Commissioner Boyle moved to amend by deleting the 2.75% pay raise adjustment for the 500 series.

Commissioner Boyle stated the 500 series would include department directors, division managers, and supervisors leaving them with a 3.25% step increase. He reported the rationale behind this motion was that the salary survey revealed that the 500 series employees were already above average in the area. Commissioner Boyle pointed out the pay ranges could be revisited in three years.

The motion died for lack of a second.

Commissioner Boyle moved to amend by deleting the City Manager and the City Attorney from the 500 series pay raises, awarding their salary increases separately as part of their annual evaluation review process.

Commissioner Boyle pointed out the City Manager and the City Attorney were the only two employees appointed by this Commission; their salaries were established by the Commission in public meetings; and this was standard operating procedure in most municipalities in Volusia County and for the Volusia County Council.

Mayor Costello passed the gavel to Deputy Mayor Boyle and seconded the motion.

Mr. Turner advised that this proposal would be a violation of his contract in that it stipulated that he be allowed the same increases as general employees. He stated the reason for this clause was so the increase for the City Manager would not become a political issue.

Commissioner Boyle noted he read Mr. Turner's contract very carefully and recommended it be reexamined and debated another time with the contract at hand.

Mayor Costello stated he would have no problem evaluating the two people the Commission hired and giving or holding a raise publicly; however, he was not certain this would save any money. He asked the City Attorney to review Mr. Turner's contract to determine if the Commission had the ability to make such a change, not whether it was advisable.

Mr. Turner stated he would prefer being present when these issues were discussed, and he planned to attend a previously approved conference on October 19th. He reported one reason a city manager has a contract was because many issues could become political; and without the contract, he would not have even the basic protections that a line employee would have, making the contract critical. Mr. Turner stated if it were necessary, he would make arrangements to come back from his trip early to attend. He requested that all of the items being tabled in Item No. 11 be heard at the November 3rd City Commission meeting.

Commissioner Boyle reported he would not object to Mr. Turner's request since a full Commission was needed to discuss these issues. He explained this proposal was not about saving money but about procedure. Commissioner Boyle noted that any raise the City Manager would receive was always political.

Mr. Turner stated he had discussed the possibility of the organization receiving increases on a merit system but was told many times that a merit system would not work since a step plan would be something the employees could count on for an increase.

Commissioner Boyle reiterated that there were only two employees that the Commission hires and evaluates placing these two positions in a different category.

Mayor Costello withdrew his second to the motion to amend.

Mr. Hayes reported he would include his contract in the review as well.

Commissioner Boyle moved, seconded by Commissioner Partington, to table Item 11(D) to the November 3, 2004, meeting.

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

Commissioner Partington moved, seconded by Commissioner Kent, to table Item Nos. 11(A), 11(B), and 11(C) to November 3, 2004.

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

Item #12(B) – Neighborhood Child Development Center Status

Mayor Costello received a consensus to proceed with the City Attorney's recommendation relative to the Neighborhood Child Development Center.

Item #12(C) – Firefighter Overtime

Fire Chief Barry Baker stated the memorandum provided attempted to answer the questions raised at the last Commission meeting. He noted the sums reported on the third page of the document were approximations in that a number of the items fall into multiple categories. Chief Baker reported that at the request of Commissioner Boyle, he shared this with the union leadership, and he believed that they were comfortable with the document.

Mr. Turner stated the management and union leadership clearly understood the overtime figure was too high and had to be reduced to at least \$500,000 or less.

Commissioner Boyle asked how much better the City could expect for next year than the last figure of \$748,000.

Chief Baker replied approximately \$200,000 in cuts were anticipated. He noted this was a three-fold issue. He stated approximately \$500,000 to \$540,000 was anticipated being spent in the coming budget year for firefighter overtime.

Commissioner Boyle asked how much overtime was triggered by the illness of the Assistant Chief; whereby, Chief Baker replied approximately \$96,000 to \$100,000 was due to the Assistant Chief's illness. Commissioner Boyle stated the bargaining unit did not provide a report; therefore, he asked if the bargaining unit concurred with the staff report.

Chief Baker explained the \$75,000 figure attributed to the union contract was last year's figure because as of October 1st, due to the early retirements, the City had positions it could not fill due to lack of qualified personnel, and the City actively worked to fill those positions. He reported the City did not have the ability to fill those positions with existing personnel; but had the City had that ability, the union contract provision would have prevailed. Chief Baker stated it was difficult to chart as of October 1, 2003.

Commissioner Boyle stated the most telling information was the chart that showed the overtime from 1997-98 through 2003-04. He pointed out that this time span coincided with Chief Baker's tenure with the City and with Mr. Turner's tenure where in 2001-02 the figure jumped from \$375,000, then \$632,000, and this year was at \$748,000. Commissioner Boyle reported the excess sickness and other leave of \$280,000 was primarily on the management level. He stated he was astounded the younger staff was not trained in time to replace the retirees in that it was known these retirements would be occurring. Commissioner Boyle stated the excess generated from three items on the list equaled \$492,000, which was the difference between the 3½% to 6% figure the Commission debated as appropriate for pay increases. He read the

following from the September 16th City Commission minutes: “Mr. Turner suggested a reasonable goal for overtime would be \$400,000 to \$500,000.” Commissioner Boyle pointed out Chief Baker just testified that would be the best they could do. He reported Mr. Turner noted there was a medical vacancy in the Fire Department, and he explained management did not have control over overtime; however, these statements were unacceptable since this had been a total management failure. Commissioner Boyle submitted management controls the following: 1) staffing levels that impacts overtime and not having people ready to substitute; 2) the management decision not to allow substitutions at a higher rank; 3) minimal management coverage of management vacancies; 4) training for early retirement vacancies; and 5) medical vacancy. He stated there were two people on the Firefighters Pension Board who earn enormous amounts of overtime; therefore, he hoped they would not have a vote on this matter. Commissioner Boyle stated the contract worked fine until 2001-02 and could still be corrected.

Mayor Costello stated he respectfully disagreed with Commissioner Boyle's second point where he indicated the contract did not cause the higher rank to substitute for the higher rank because that was one of the provisions that he railed against in 2001, but it was not received by any other Commission member. He stated he pointed out these concerns with provisions in that contract at that time.

Commissioner Boyle noted someone negotiated that contract.

Mayor Costello pointed out that the Commission passed the contract even though he spoke against it. He explained the reason there was a problem replacing the early retirement personnel was that certain people had to be called in due to the contract provisions. Mayor Costello noted the Assistant Chief's illness caused the need for overtime, and the contract caused which person management could call in and did not allow them to call in other people.

Commissioner Kent thanked Chief Baker and the union negotiators. He stated Mr. Turner started working for the City in May 2001; the terrorist attack occurred on September 11th of that year; shortly after that there was an election in Ormond Beach where the firefighters won a “sweetheart deal” in their contract along with the retirements all occurring in the same year. Commissioner Kent commended Mr. Mandarino for negotiating this interest based bargaining. He pointed out that the retirement deal was approved by a sitting Commission at that time, providing a great deal of money for these retirees. Commissioner Kent expressed disappointment that Mr. Turner was being blamed for the huge increases, noting that he, as one of Mr. Turner's five “bosses,” did not blame him whatsoever.

Mayor Costello stated with this contract Mr. Turner cannot manage overtime.

Mr. Turner stated while staff tried to negotiate a contract in 2001, the vast majority of the staff recommendations were not accepted, and the recommendations that were accepted came directly from the union. He reported the union negotiators for this contract were fair, but very tough, as they would not back down. Mr. Turner noted the contract before the Commission tonight was a negotiated contract, which was different from the previous contract.

Commissioner Boyle stated the 2001 contract was delayed by staff and settled in March for more than the union was willing to accept in September. He reported an early retirement was accepted because they were loyal to the young firefighters that were hired for a failed contract with County government. Commissioner Boyle stated Ormond Beach was paying younger firefighters less than those that retired. He noted that the pay steps that were put back in 1998 that had been taken away cost the firefighters \$450,000 that the City had banked. Commissioner Boyle pointed out he had no idea that what was in that contract would lead to tripling the amount of overtime three years later. Commissioner Boyle reported staff should have warned the Commission about this.

Commissioner Partington stated he was trying to prevent history from repeating itself as in the last contract when the firefighters settled in March for more than they were offered in September. He requested a workshop relative to all employee salaries as well as this overtime issue to afford the Commission an opportunity to thoroughly discuss the issues and come to a consensus, which does not currently exist.

Commissioner Kent concurred with Commissioner Partington's recommendation.

Mr. Turner advised a meeting was already planned for November 3rd for a discussion on the union contracts, and the overtime issue could be included in that discussion.

Chief Baker stated had the City not retired 16 employees, younger employees would have had to be laid off. He noted he was proud of that decision, but he advised at that time that it would cost money; however, it did cost more than he anticipated. Chief Baker wholeheartedly agreed overtime was too high, but it was not a management problem or an employee problem. He explained the overtime was a process problem driven by three items: 1) excessively high workers compensation claims that are not anticipated to continue; 2) a provision in the labor contract which has been worked out in the new contract; and 3) the early retirements. He reported staff worked with the previous union leadership to get turnover of employees to work the higher positions before October. Chief Baker stated he and the union could not reach an agreement relative to the bridge test, a test given between normally advertised tests which occurs every two years, because he refused to give the test to someone simply due to seniority, and he was willing to only give the test to those qualified, but using seniority as a criteria not the sole criteria. He reported he refused to allow people to work in those positions who had either failed the test or refused to take the test, which would indicate that they would not be qualified to serve in that position. Chief Baker explained that this was why it took so long to replace those officers. He pointed out there were a number of people failing the driver engineer test after going through months of training. Chief Baker reported the City has a young group of people that has to be brought up, and a portion of the \$500,000 for next year included a continuation to replace the 16 retirees.

Commissioner Kent thanked Chief Baker for his courage in explaining some of these issues.

Mayor Costello stated there were disagreements amongst the Commission, but he urged the Commission to keep focused and not accuse one another. He explained when Commissioner Boyle offers his historical perspective, he sometimes felt the need to give his historical perspective, which may be different. Mayor Costello pointed out that he heard the “red flags” raised by staff in 2001, and he raised them himself in meetings, but four Commission members did not agree with him; therefore, staff did their job since they brought up issues that the Commission did not support, accepting the union’s position. He stated Commissioner Boyle had a right to express his perspective, but he also had the right to express his perspective of the events.

Commissioner Boyle stated he may have missed the mechanics of the overtime, but that 2001 contract was delayed seven months, five months after the elections. He noted there was a perception in the community that staff was waiting to determine the results of the elections before agreeing on a contract, and the Commission was under pressure to finalize an agreement in March of 2002.

Mayor Costello reported he never heard the contract was delayed because of the elections, but the actual reason it was delayed was unknown. He noted the result was that the Commission agreed with the union position, and the union achieved more, which was a partial reason for the situation today. Mayor Costello agreed that this Commission should be about solutions so he urged the historical perspectives cease. He stated that if any Commission member had a problem with the management team, they should be overt about that disagreement. Mayor Costello pointed out that when Commissioner Boyle noted the problems started when Chief Baker and Mr. Turner were hired, he neglected to include the component of the contract, which was an extremely key component.

Item #12(D) – Consideration of an Ordinance to Ban Smoking on Public Property

Mayor Costello recommended deleting Item #4 relative to signs. He stated he opposed signs, and they could be added later if there was an enforcement issue. Mayor Costello noted he opposed any form of enforcement. He explained his goal was to provide people the legal authority to courteously ask a smoker to not smoke under certain circumstances. Mayor Costello recommended a new Item #4 be added as follows: “The City encourages private property owners to also prohibit smoking within 25 feet of any entrance.” He pointed out this encourages compliance; it does not mandate compliance.

Commissioner Kent and Commissioner Boyle concurred with Mayor Costello’s suggestions. Commissioner Boyle noted his only concern was that without signs, enforcement would be difficult, and he questioned the penalty for noncompliance. He noted that encouraging people to enforce themselves was a noble concept, but it may fail.

Mayor Costello stated it may fail, but his goal was not to have more government, merely to attempt to protect the person who was adversely affected by smoke.

Commissioner Partington asked if there was a penalty provision in the ordinance.

Mr. Hayes explained that there were two provisions. He stated there was a generic provision in Chapter 1 or Chapter 2 which classified any violation as a minor misdemeanor to a maximum of \$500 fine and/or 60 days in jail. Mr. Hayes reported these violations are not normally imposed, and it was not a provision the City has ever used. He stated that when the City adopted the special master system, a predetermined classification system was adopted that applies to every chapter and ordinance in the Code of Ordinances; and this would fall under that parameter, but it would not necessarily ever be utilized or enforced. Mr. Hayes reported that this would be considered a Class 1 violation, which would carry an initial fine for first time violators of \$50, and repeat violations could be given a citation for \$100. He noted the Special Master has the ability to deviate from that fine schedule up to \$250 for the first offense and \$500 for repeat offenses. Mr. Hayes noted there were not specific penalty provisions in this particular ordinance.

Commissioner Partington asked whether not tying the ordinance to the penalty provision had been effective.

Mr. Hayes stated Section 2-257 specifically addresses each chapter of the code and the fine schedule was located in Section 2-262 and Chapter 15-8 in the Code of Ordinances. He advised it was specifically mentioned within the special master ordinance, but the City does not go through the entire code referencing the special master system.

Commissioner Partington noted he never envisioned this ordinance to encompass jail time. He stated he considered the maximum penalty a fine.

Mr. Hayes reported the general penalty provision was in Chapter 1-9 of the code. He noted most municipalities have such language; however, very few offences, if any, are prosecuted under this section.

Mayor Costello clarified his vision was that there would be no signs or fines, and it would rely on courtesy; however, absent courtesy, this would provide some clout that an ordinance could provide.

Mr. Hayes noted that an ordinance drafted without signs would be difficult to successfully prosecute because notice had not been adequately provided.

Commissioner Kent moved, seconded by Commissioner Partington, to accept Mayor Costello’s amendments.

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

Mr. Hayes noted this was a discussion item tonight; therefore, he would bring an ordinance back for first reading and a formal vote.

Item #12(E) – Hurricane Victims’ Assistance Concept

Mayor Costello noted no additional suggestions were made for addition to the Volusia County program.

Item #13 - Reports, Suggestions, Requests

Flooding

Commissioner Partington reported Ms. Judy Sloane, Public Works Director/City Engineer, met with him and a number of residents at Oak Park Circle who were having problems with flooding. He thanked staff for being responsive to the needs of the public. Commissioner Partington noted Mr. Hayes was responsive in helping a citizen obtain relief from FEMA.

Tree Ordinance Review

Commissioner Partington noted a News-Journal article relative to tree ordinances needing modernization. He requested staff examine Ormond Beach’s tree ordinances to make pruning or trimming easier in light of the hurricanes and power outages recently experienced. Commissioner Partington urged a balance be achieved between the interest of the trees and the interests of the residents.

Commendation

Commissioner Partington commended Commissioner Boyle for the great job he did in running the last meeting in Mayor Costello's absence. He stated Commissioner Boyle was a professional and cares about doing a good job for the City.

Budget

Commissioner Partington requested the Commission receive a status update for each of the approximately 35 funds no less than quarterly showing the income to the fund, expenses paid from the fund, a comparison between the income and expense numbers to the budget amount for that time period, and what was actually budgeted. He noted he provided staff with examples of possible reports so it would be easy to read and understandable. Commissioner Partington reported the Commission should have a better idea as to how the money comes in and goes out, and this report would assist in this educational process. He stated the citizens demanded the Commission know more about this process.

Commissioner Partington also requested access to the computerized financial management system. He stated if the Commission was to be held responsible for the finances, they should be able to have access to this information real time.

Commissioner Partington suggested an incentive plan for employees to offer new and innovative cost-saving recommendations. He urged staff create a program to pay employees 10% of the savings after the funds have been realized for the first year up to \$5,000.

Friday Letter

Commissioner Partington recommended the Friday letter be posted on the internet.

Book Recommendations

Commissioner Partington recommended two books: "*The Life and Times of a Country Jurist*" regarding the life of a man in the law who grew up in the Gainesville area and Crescent City, and "*The Wild Heart of Florida*" containing essays on the natural environment and the effects that growth was having on the environment.

Collective Bargaining

Commissioner Boyle stated his decision relative to restarting collective bargaining was not easy.

Flooding

Commissioner Boyle noted as he built a home on Oak Park Circle in 1972, he could attest to flooding problems at that time.

Card Show

Commissioner Boyle noted the card show would be held this Saturday at The Casements.

School Board Joint Meeting

Commissioner Boyle urged the joint meeting with the School Board be rescheduled.

Concern Over City Projects

Commissioner Boyle noted concern regarding two projects: the dirt road paving and the lift station rehabilitation. He asked that a report be provided on these issues. Commissioner Boyle stated he assumed the Fire Station 91 project was delayed due to the weather events.

Lightening Detection System

Commissioner Boyle asked the City Attorney to provide a report relative to the City's potential liability with the lightening detection system since it would be on only one field and not all of the fields.

Towers

Commissioner Boyle stated the City of Holly Hill was in the process of approving four towers on the river. He noted two towers would be 23 stories and two would be 27 stories. Commissioner Boyle requested a memo as to whether Ormond Beach planners were going to make comments about these towers or if they were seeking Commission direction.

US1 Resurfacing

Commissioner Boyle stated he received an alarming memo from Ormond Beach Construction Engineer Geoff Webster relative to the US1 resurfacing project. He noted FDOT had no plans for any public notification or notification to business owners. Commissioner Boyle questioned if there was something Ormond Beach could have done regarding this matter.

Fire Station Land Swap

Commissioner Boyle stated the City Attorney memorandum indicated more appraisals and possibly another public vote for the fire station land swap may be needed. He requested a report in the Friday letter be provided regarding this possibility, informing the Commission as to the timetable involved.

Hurricane Overtime Pay

Commissioner Boyle reported there was a rumor that a number of employees were asked to work on the day before the hurricane, and as an inducement, they were promised to be paid two and one-half times their normal salary but were told after the work was done that that pay rate could not be applied. He requested a response to this rumor in the Friday letter.

City Manager/City Attorney Evaluation

Commissioner Boyle stated the Commission had the City Manager evaluation forms in hand in mid-September of 2002 and early-October of 2003; therefore, he requested the forms be provided for this year's evaluation. He noted two weeks after the City Manager evaluation, the City Attorney would then submit his evaluation form.

Airport Fuel Tank Truck

Commissioner Boyle stated the City Attorney memo regarding the Florida Department of Environmental Protection (FDEP) inquiry for the airport fuel tank truck explained that while FDEP was not pleased with the situation, the City's determination would prevail. He expressed concern and asked for a City Attorney opinion to respond to the following scenario: If the 8,000 gallon truck was to leak and the fuel would spill into the pervious surface, clearly the first responsibility would be the business owner; however, he questioned whether the City would be liable for the cleanup should that business owner go bankrupt.

Relations with Commissioners

Commissioner Boyle commended Commissioner Partington for not "pointing fingers," and he stated he would try to curb this action on his part in the future, but he felt he needed to defend the distinguished colleagues he served with.

Overtime Costs

Commissioner Boyle urged each Commission member to aim high and not fear failure on everything the Commission was trying to accomplish. He noted he may be incorrect in the cause of overtime, and it would not be possible to bring it down to \$200,000 and \$300,000 or \$400,000 as a more reasonable figure; but he urged the Commission to aim high and work together.

Commendations

Commissioner Kent thanked those listening on-line and all of the residents who stayed for the entire meeting. He thanked Mr. Adrian Thompson and Mr. Glenn Jaspers for consistently attending each meeting and staying for the entire meeting no matter how long they last.

Meeting Constituents

Commissioner Kent reported he had the pleasure of meeting Ms. Sue Parkerson who shared a number of great ideas. He stated former Commissioner Thelma Irvin had "Coffee with the Commissioner," where the Zone 2 Commissioner met with constituents on a monthly basis to share issues and concerns in an informal setting. Commissioner Kent reported that he was starting a new policy that the first Monday of every month at 3:30 p.m. he would host informal meetings with his constituents where they could air their thoughts at his home located at 130 Magnolia Drive.

Historic Cars

Commissioner Kent noted Ms. Parkerson offered a number of great ideas regarding where to place the historic cars where the residents could see and appreciate them.

Expression of Appreciation

Commissioner Kent thanked Mr. Don O'Loone and Mr. Rick Lovell who were great supporters and have helped him with numerous issues and problems.

Commissioner Kent thanked Commissioner Boyle for his leadership at the last meeting, Mayor Costello for his leadership at every meeting, and Commissioner Partington for his interest in helping people. He concurred with Commissioner Partington that the tree ordinance should be examined in that it may be too restrictive.

Name Badges

Commissioner Kent questioned the status of Mayor Costello's request for Commission identification badges.

Mr. Turner reported the identification badges would be provided.

New Notebook

Commissioner Kent requested a new notebook be provided as his was broken.

Commissioner Selis

Commissioner Kent sent his thoughts and prayers to Commissioner Selis and hoped he would return to the Commission shortly.

Hurricane Overtime Pay

Commissioner Kent reported he too heard time and one-half was promised for service during the hurricane, and then it was not following through. He noted he looked forward to Mr. Turner's report in the Friday letter.

Meeting with Dr. Ritcey

Mr. Turner reported Dr. Larry Ritcey would be contacting each Commission member to arrange a visit.

Thanking Staff

Mr. Turner thanked staff for all of the work they did during the recent hurricanes and for the preparation work for the City Commission meetings.

Next City Commission Meeting

Mr. Turner reported he would not be attending the next City Commission meeting, but Mr. Ted MacLeod, Assistant City Manager, would be available.

Beach Approaches

Mr. Ted MacLeod, Assistant City Manager, reported staff inspects the beach approaches on a quarterly basis and reports to Volusia County to assist in their maintenance efforts. He distributed a copy of the most recent report, which contained photographs of some of the storm damage.

Fuel Storage Tanks

Mr. Hayes stated before the hurricanes Commissioner Boyle requested information relative to the above ground fuel storage tanks at the airport. He reported the memo of September 15th outlined the City's code requirements, which prohibited underground storage tanks and allowed above-ground storage tanks. Mr. Hayes advised the memo referenced the NFPA provisions, which are quite voluminous, and addressed requirements for above-ground tanks, fixed tanks, underground storage tanks, and mobile tanks. He noted that as long as the requirements of the code and other requirements are met, the permitting authority or fire chief has discretion. Mr. Hayes explained Chapter 376 of the Florida Statutes gives the Department of Environmental Protection (DEP) broad oversight, but not specifically as it relates to airports and aviation matters. He noted that this statute would come into play with the request Commissioner Boyle made this evening relative to liability should a spill occur. Mr. Hayes stated he would examine that question, but his initial impression was that the DEP would step in and make the party responsible for the tank to be cleaned of the hazard. He advised he did not believe the City would incur any liability unless the City fostered the spill, but he would do further research on this issue.

Daytona Beach/Consolidated Tomoka Land Company Agreement

Mr. Hayes advised he has been spending a great deal of time working with Daytona Beach and Consolidated Tomoka Land Company on the documentation for the proposed settlement, and the plan was to bring back some the documents in some final form for consideration by November or December.

Dedication of the Police Gymnasium Weight Room

Mayor Costello reported the dedication of the police gymnasium weight room in memory of Corporal O'Donnell would be held tomorrow at 4:00 p.m.

Last City Commission Meeting

Mayor Costello stated he took a wonderful trip, but was glad to come home. He thanked Commissioner Boyle for chairing the last City Commission meeting in his absence.

Customer Service

Mayor Costello reported he was proud of Ormond Beach’s staff. He stated his goal was to display exemplary customer service at all times. Mayor Costello acknowledged that an employee could not give everyone whatever they wanted at all times, but staff should give every answer as graciously as possible.

Tax Increase

Mayor Costello explained what he meant by his comment “take the heat” relative to the tax increase. He stated he and Commissioner Boyle had been on this Commission a number of years, and he did not feel that those Commissioners who were not part of the decision that he perceived caused the budget problems should “take the heat” for the decision they were forced to make during this budget cycle.

Fire Station Appraisal

Mayor Costello concurred with Commissioner Boyle that he also wanted two appraisals for the fire station and an agenda item to discuss if it was of critical importance to acquire that piece of property.

Mr. Hayes stated two appraisals would be sufficient.

Mr. Turner stated staff would let the Commission know what their options were as well as the timeframes.

Commissioner Selis

Mayor Costello noted he hoped Commissioner Selis was feeling better and could return soon.

Budget

Mayor Costello urged all personal attacks to cease over the budget decision that was made. He stated it was said that only Commissioner Partington did not make any personal attacks; and by that statement, he concluded that all of the other Commission members did make personal attacks. Mayor Costello stated he tried very hard not to attack anyone personally.

Commissioner Boyle clarified he mentioned “finger pointing” not “personal attacks.”

Mayor Costello noted he considered the two to be synonymous. He reiterated he tried not to “point fingers” at people but at situations and apologized if he failed to do so. Mayor Costello noted for this reason, he would not respond to the last set of issues Commissioner Boyle set forward because he did not want this type of situation to continue even though there were issues on which he and Commissioner Boyle disagreed. He stated the budget was completed, and it was incumbent upon the Commission to find the cuts so the City could live within its means next year, so it did not have to expand its means while maintaining the quality of the assets that the City already possessed.

Mayor Costello stated each Commission member can be passionate about issues, but they should collaborate in a fashion that the entire Commission feels as if they were all working toward the same goal.

Item #14 – Close the Meeting

The meeting was adjourned at 10:36 p.m.

APPROVED: _____ October 19, 2004

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk