

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

November 16, 2004

7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the November 3, 2004, meeting.
- 5) **PRESENTATIONS:**
 - A) Proclamation by Mayor Costello proclaiming November 18, 2004, as "Make-A-Difference Day" in the City of Ormond Beach.
 - B) Presentation by Marian Strong Tomblin regarding literacy and storytelling programs at the Casements.
- 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. 2004-193 authorizing the execution of a Utility Work Agreement between the City and the Florida Department of Transportation regarding the relocation of City of Ormond Beach utilities relative to the safety modifications at the intersection of SR40 and Orchard Street.
 - B) Resolution No. 2004-194 authorizing the execution of a contract between the City of Ormond Beach and Beverly Ann Hadee for the sale and purchase of a vacant parcel of real property located on Live Oak Avenue; declaring the parcel to be surplus property; authorizing the conveyance of the parcel to Halifax Habitat for Humanity, Inc.; establishing terms and conditions of the conveyance. (\$15,000)
 - C) Resolution No. 2004-195 authorizing the acceptance of an emergency access easement from Wal-Mart Stores, Inc., on property located within the "Wal-Mart Supercenter" Planned Business Development located at 1521 West Granada Boulevard; authorizing the execution of an indemnification agreement between Bermuda Estates @ Ormond Beach, L.L.C., and the City concerning the duties and obligations under the emergency access easement.
 - D) Resolution No. 2004-196 authorizing the execution of a Joint Participation Agreement with the Florida Department of Transportation regarding the obstruction removal at the Ormond Beach Municipal Airport. (\$16,000 in FDOT funds; \$4,000 in City funds each year for three years)
 - E) Resolution No. 2004-197 declaring fourteen (14) bulletproof vests to be "surplus property"; authorizing the donation of such property.
 - F) Request for approval for the use of two temporary structures during the construction of Fire Station #92 at 189 South Nova Road.

DISPOSITION: Approve as recommended in City Manager memorandum dated November 11, 2004.

- G) Report on the estimated results of the fiscal year 2003-2004 budget.

DISPOSITION: Approve as recommended in City Manager memorandum dated November 11, 2004.

- 9) **PUBLIC HEARING** on Ordinance No. 2004-50 regarding the office of City Commissioner, Zone 3, providing for and calling a Special Primary Election of the registered electors residing in Zone 3 of the City of Ormond Beach, Florida, to be held, if necessary, on January 25, 2005; providing for and calling a Special Election of the registered electors residing in Zone 3 of the City of Ormond Beach, Florida, to be held on February 22, 2005; providing for qualifying and election procedures; establishing a date for taking office; designating the location of polling places; providing for severability; and setting forth an effective date. (Second Reading)
- 10) **FIRST READING OF ORDINANCE NO.** No. 2004-51 amending Sections 15-3 and 15-8 of Chapter 15, Parks and Recreation, of the City of Ormond Beach *Code of Ordinances*, to provide for the regulation of smoking in parks and at other municipal facilities.

11) **RESOLUTIONS:**

- A) 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 11/03/04 meeting)
- B) Resolution No. 2004-160 amending the Pay and Classification Plan. (Tabled from the 11/03/04 meeting)
- C) 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 11/03/04 meeting)
- D) Resolution No. 2004-198 authorizing execution of an agreement between the City and Hall Construction Company, Inc., regarding construction of the Fire Station No. 92 replacement. (Not-to-exceed \$1,251,515)

12) **DISCUSSION ITEMS:**

- A) North and South Peninsula reuse systems.
- 1) Reuse system status and feasibility study.
- 2) 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 10/5/04 meeting)
- B) Tree replacement options.
- C) Granada Boulevard concurrency issues.
- D) Reduction in airport reserve funds.

- 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

Mayor Costello gave the innovation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Funeral Services for Officer Bob Grim

Mayor Costello advised that Officer Bob Grim was in law enforcement for 36 years and touched many lives.

Police Chief Larry Mathieson reported the services for Officer Grim would be held on November 19th at the Ocean Center, 101 North Atlantic Avenue, Daytona Beach. He stated the family extended an invitation to everyone to attend. Chief Mathieson reported a Catholic Mass would be conducted at the Ocean Center followed by interment in the new "Our Hero" section at Daytona Memorial Park, 1423 Bellview Avenue, Daytona Beach. He stated that at approximately 9:45 a.m. hundreds of law enforcement officers would gather from around the State of Florida and the country at Riverbend Community Church. Chief Mathieson reported the officers would escort the family from the funeral home to Riverbend Community Church where a procession would begin eastbound on Granada Boulevard to A1A, then southbound to the Ocean Center. He stated the family requested, as a show of respect, that the community stand on the sidewalk or on the Granada Bridge as the procession passes by.

Chief Mathieson reported Bob Grim was the first to call him upon joining the Ormond Beach Police Department. He stated Bob Grim impressed him and many others with his warmth, good humor, positive spirit, and dedication to his family. The Chief noted and he was a born again Christian and a good friend, mentor, and fellow officer to those in the Police Department. He expressed pride in the Police Department for the way they were continuing to provide service while experiencing grief. Chief Mathieson reported the family expressed thanks to the community for the outpouring of support. Chief Mathieson thanked the Mayor, City Commission, City Manager, and all the members of the City family who have stepped forward to express their condolences and give their assistance.

Commissioner Boyle stated Bob Grim was a friend for 30 years. He reported he was a great teacher, and a man who took his work very seriously, but never took himself seriously. Commissioner Boyle stated he was thankful he knew Bob Grim and that he touched many lives.

Mayor Costello reported Bob Grim touched him most when he heard him sing Amazing Grace at the Law Enforcement Appreciation Day.

Daytona Beach City Commissioner Charles Cherry

Mayor Costello extended his appreciation to Reverend Dr. Jesse W. Cotton for being at the home of Daytona Beach City Commissioner Charles Cherry to offer his family support at the death of Commissioner Cherry. He offered condolences to his family and the Daytona Beach City Commission.

Item #4 – Approval of Minutes

Mayor Costello advised the minutes of the November 3, 2004, regular meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

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

Item #5(A) - "Make-A-Difference Day"

Mayor Costello asked everyone participating in "Make-A-Difference Day" to come to the front of the chambers to be recognized as he read the proclamation. He urged everyone to visit Memorial Gardens to see the work that was done.

Mayor Costello stated the proclamation indicated that the United Way urged community groups, businesses and individuals to get involved on the largest day of volunteering, "Make A Difference Day 2004". He reported this year's project was the restoration of Memorial Gardens. Mayor Costello noted that the Ormond Memorial Art Museum and the Memorial Gardens were opened in 1946 by Ormond Beach residents to exist as a living monument to freedom and to commemorate the service of World War II veterans who fought valiantly for that ideal. Mayor Costello explained that the hurricane season caused devastation within the gardens, but business sponsors made a difference on October 23, 2004, by providing a landscaping plan, trees, plants, materials, supplies, professional services, food, and beverages. He stated many individuals took part by volunteering their time and energy to assist in the restoration of the

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gardens by grinding stumps, removing debris from felled trees and dead vegetation throughout the gardens, planting new trees, plants, sod and placing mulch in the area near the gazebo.

Mayor Costello proclaimed November 18, 2004, as a day to recognize those who made a difference on “Make A Difference Day” and urged all citizens and visitors alike to thank the community, businesses and organizations for their support of “*Make A Difference Day 2004, Bringing Back the Memories.*”

Mayor Costello presented the proclamation to Janette Van Wicklen who thanked the Commission and the community.

Item #5(B) - Literacy and Storytelling Programs at the Casements

Mr. Michael Sanden, Cultural Center Coordinator, stated it was a pleasure working with Marian Strong Tomblin, combining the arts with a very important part of the children’s environment.

Ms. Marian Strong Tomblin stated that “One Book One Community Ormond Beach” was her first attempt at a community-wide literacy campaign. She reported a writing contest was held answering the question “where was Capone’s cash.” Ms. Tomlin explained that Al Capone visited Ormond Beach and rumor has it that while in Ormond Beach he lost a briefcase containing \$10,000. She introduced the three winners of the contest and indicated that she received over 100 entries from all over the United States. Ms. Tomblin stated the winners won prizes from the business community and the three top entries would be included in her sequel to the “Mystery at the Ormond Hotel.” Ms. Tomblin introduced the winners in the art contest from over 100 entries throughout the community, and she invited everyone to view the art work on display in the Children’s’ wing of the Ormond Beach Library. Ms. Tomblin thanked the City Commission, the community, Peggy Farmer of the Ormond Beach Chamber of Commerce, Michael Sanden, and the Ormond Beach Library.

Mayor Costello congratulated the winners.

Boy Scout Troup 447

Mayor Costello welcomed Boy Scout Troup 447 to the meeting and thanked Mr. Robert Hernandez for working with the Boy Scouts.

Commissioner Kent noted Mr. Robert Hernandez was his science teacher at Ormond Junior High School.

Item #6 – Audience Remarks

Veterans Celebration

Mr. Donald J. O’Lone, 60 Mayfield Terrace, stated that last Friday, *Seniors Today* sponsored a salute to the veterans at the Hampton Inn with many in attendance. He informed Commissioner Kent that the Halifax Area Veterans’ Council had voted to place his grandfather’s photograph on the Wall of Honor at the Veterans Nursing Home. Mr. O’Lone explained that Commissioner Kent’s grandfather flew one of the six B-17 airplanes out of Hickam Field during the Japanese attack on Pearl Harbor on December 7, 1941.

Lohman Family Contributions

Mr. O’Lone commended the Lohman family for underwriting the cost of the funeral of Officer Robert Grim. He thanked WELE 1380 radio for bringing this fact to the public’s attention. Mr. O’Lone noted the Lohman family also gives funds to sponsor the Memorial Day events in South Daytona.

Runway Extension

Mr. Lee Fannell, 182 Bear Foot Trail, Bear Creek Homeowners’ Association, stated he opposed the runway extension. He requested a vote on the runway extension be tabled until after the new Commissioner in Zone 3 would take office.

Mayor Costello reported this request would be discussed at the end of the meeting.

Pulling an Item from the Consent Agenda

Mr. Glenn Jaspers, 160 Ocean Terrace, requested Item No. 8(D) be pulled for discussion.

Runway Extension

Mr. Jaspers advised he had tried to present facts relative to the proposed runway extension, but he has heard assumptions, rationalizations, predictions, and comments from special interests relative to this issue. He stated the newspaper article regarding the runway extension in

Sunday’s paper mentioned safety as a factor, but he assured the Commission that a longer runway did not increase the safety.

Taxes

Mr. Jaspers stated 40 capable people asked the Commission not to raise taxes, but the plea was ignored followed by a prompt response from the Budget Advisory Board to raise taxes. He noted he hoped the response would be equally fast on recommendations to cut expenses.

Pulling an Item from the Consent Agenda

Mr. Charles Carter, 212 Arlington Way, requested Item No. 8(G) be pulled for discussion.

Commission Procedure

Mr. Carter stated that Mayor Costello had expressed concern relative to the way he was handling the Audience Remarks portion of the agenda. He thanked Mr. Randal Hayes, City Attorney, for the time he spent assisting him. Mr. Carter noted that on January 6, 2004, the City Commission passed Resolution No. 2004-02, which confirmed the manner and procedures that the City Commission would follow which related to Roberts’ Rules. He stated the Mayor was to conduct the meeting in a fair and just manner, and the agenda should be followed unless a two-thirds vote was provided to change the agenda. Mr. Carter related various rules, which he felt should be followed for City Commission meetings, and provided copies of those rules to the Commission.

Mayor Costello stated he would speak to Mr. Hayes to discuss what rules supersede other rules and determine if anything needed to be brought before the Commission or if any changes need to be made.

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

Mayor Costello stated he reported last month on the Metropolitan Planning Organization (MPO) and Volusia Council of Governments (VCOG) and had no new information to present.

Item #7(C) – Smart Growth Implementation Committee

Mayor Costello reported the Smart Growth Implementation Committee would be formulating the transmittal recommendations to the Volusia County Council regarding urban service areas and urban growth boundaries at their next meeting on December 8th.

Item #7(D) – Water Authority of Volusia

Commissioner Boyle advised the Water Authority of Volusia (WAV) board would meet tomorrow. He reported Dr. Bruce Mowry, WAV Executive Director, was still encouraging the water plant partnership between WAV and Ormond Beach. Commissioner Boyle noted the members have indicated that they were gradually warming to the concept. He stated he met with Dr. Mowry and discussed the News-Journal editorial of November 15th urging the water authority to move more quickly relative to funding and a County-wide approach to water resources.

Item #8 - Consent Agenda

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

Mayor Costello asked that Item Nos. 8(D) and (G) be pulled.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of the Consent Agenda, minus Item Nos. 8(D), and 8(G).

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

Item #8(D) – Obstruction Removal at the Ormond Beach Municipal Airport

RESOLUTION NO. 2004-196
A RESOLUTION AUTHORIZING THE EXECUTION OF A JOINT
PARTICIPATION AGREEMENT WITH THE FLORIDA

DEPARTMENT OF TRANSPORTATION REGARDING THE
OBSTRUCTION REMOVAL AT THE ORMOND BEACH
MUNICIPAL AIRPORT; AND SETTING FORTH AN EFFECTIVE
DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-196, as read by title only.

Mr. Glenn Jaspers, 160 Ocean Terrace, asked what exactly this agreement was. He also questioned if this three year agreement was for clear zone maintenance, and if a slope was required for all runways or only for certain runways.

Mr. Tom Lipps, Support Services Director, stated funding has typically been placed in the airport fund for tree removal and obstruction removal for the clear zones for the existing runway. He reported that this year the DOT was providing three years of funding in a single grant. Mr. Lipps noted that it had been approximately 12 years since substantial clearing had occurred, and encroachment had begun. He stated that this would widen the path to address some issues identified in the last inspection. Mr. Lipps noted there were some line-of-sight issues that were identified when the tower was completed. He advised this was totally related to maintaining the airport in its current position. Mr. Lipps reported that if the grant would not be needed in years two and three, the funds would not be used.

Mr. Jaspers asked which runways were being cleared. He noted that if the growth was not cleared in 12 years, it was unlikely it would need to be cleared again in year two and three.

Mr. Lipps reported the runway clearing would be primarily at the north end of runway 17-35, and at the west end of runway 8-26. He reiterated that there were some line-of-sight issues that were identified when the tower was completed. Mr. Lipps stated that clearing was obviously an ongoing maintenance function. He noted that he had considered investigating the possibility of applying some type of chemical or herbicides on the approach if appropriate for an out year.

Commissioner Boyle urged this not be considered.

Mr. Lipps stated the DOT would normally provide individual yearly grants but tied them together for administrative reasons this year. He reported that before chemicals would be utilized, the Commission would be notified; whereas, Commissioner Boyle urged chemicals not even be considered.

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

Item #8(G) – Estimated FY2003-04 Budget Results

Commissioner Partington moved, seconded by Commissioner Kent, to accept the Estimated Results of the Fiscal Year 2003-2004 Budget Report.

Mr. Charles Carter, 212 Arlington Way, stated a concern was expressed relative to using money from enterprise funds to balance the General Fund budget, yet these funds were needed to balance the budget even with the tax increase the City had imposed on the residents.

Mayor Costello clarified that this referred to last year's budget, not this year's budget.

Mr. Carter stated the Commission makes approvals but cannot identify how, when, or why. He reported that Roberts Rules clearly indicated that in approving reports, it would open the door for future approvals not subject to a vote or review. Mr. Carter noted he opposed the interfund transfers. He requested all paperwork justifying the amount being charged to this fund and copies of Commission discussions on the issue.

Mayor Costello reported that the discussion relative to the support of this material would occur through the Budget Advisory Board process.

Mr. Paul Lane, Finance Director, reported the franchise represented a 6% fee against the revenues of the utility.

Mayor Costello stated as noted in previous workshops, the Commission understood and supported the franchise fee, but the Commission wanted staff to justify the transfer.

Mr. Lane noted that staff was working on an analysis for the indirect cost to compare against the actual cost.

Commissioner Boyle reported that the franchise concept was first discussed this year. He stated he could accept everything in the report except under the Water and Wastewater Utility Fund operating revenues where interfund transfers were for the franchise. Commissioner Boyle requested documented information as to how the franchise concept worked and how it was calculated.

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

Item #9 –Special Primary Election

ORDINANCE NO. 2004-50

AN ORDINANCE REGARDING THE OFFICE OF CITY COMMISSIONER, ZONE 3, PROVIDING FOR AND CALLING A SPECIAL PRIMARY ELECTION OF THE REGISTERED ELECTORS RESIDING IN ZONE 3 OF THE CITY OF ORMOND BEACH, FLORIDA, TO BE HELD, IF NECESSARY, ON JANUARY 25, 2005; PROVIDING FOR AND CALLING A SPECIAL ELECTION OF THE REGISTERED ELECTORS RESIDING IN ZONE 3 OF THE CITY OF ORMOND BEACH, FLORIDA, TO BE HELD ON FEBRUARY 22, 2005; PROVIDING FOR QUALIFYING AND ELECTION PROCEDURES; ESTABLISHING A DATE FOR TAKING OFFICE; DESIGNATING THE LOCATION OF POLLING PLACES; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-50, on second reading.

Commissioner Boyle stated three Commission members would be required for canvassing on January 25th at 6:00 p.m. and January 26th at 3:00 p.m. He advised he would be available for January 25th, but not for January 26th.

Mayor Costello asked Ms. Ronnie Patterson, City Clerk, to e-mail the pertinent dates to the Commission so they could check their schedules.

Call Vote:	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.

Item #10 – Smoking Ordinance

ORDINANCE NO. 2004-51

AN ORDINANCE AMENDING SECTIONS 15-3 AND 15-8 OF CHAPTER 15, PARKS AND RECREATION, OF THE CITY OF ORMOND BEACH *CODE OF ORDINANCES*, TO PROVIDE FOR THE REGULATION OF SMOKING IN PARKS AND AT OTHER MUNICIPAL FACILITIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-51, on first reading.

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

Item #11(A), #11(B), and #11(C) – Firefighters' Bargaining Agreement, Pay and Classification Plan, and Increasing the Pay Ranges and Steps

Mayor Costello asked the City Attorney if he had the prerogative to adjust items on the agenda or if it was necessary to receive a motion to do so.

Mr. Randal Hayes, City Attorney, stated Mayor Costello has the prerogative to adjust the agenda unless an objection was voiced.

Mayor Costello stated baring objection from the Commission, he would move Item #11(A), #11(B), and #11(C) to the end of the meeting since they would probably be tabled if Commissioner Selis was unable to attend the meeting to break the tie.

Mr. Hayes stated the City had a "house rule" that stated that if a deadlock were to occur, the item would be continued, but this was not a "Robert's Rule." He noted the Commission did have the ability to suspend that rule by motion if they wanted to do so.

Mayor Costello noted no Commission member indicated they wanted to suspend that rule.

Commissioner Boyle noted he was moving toward that position as time passed. He stated considering the fact that the agenda was nearly completed and only a few minutes would be involved, he recommended these items not be moved.

Mayor Costello advised that based on the workshop relative to this bargaining agreement held prior to this meeting, the Commission was headed for a two-to-two vote; therefore, he recommended a motion be made to table this issue. He asked the City Clerk and City Attorney to set a special meeting to discuss just these items.

Mr. Isaac Turner, City Manager, noted that staff was working on this and was aware of the Commission's desire in this matter.

Commissioner Boyle moved, seconded by Commissioner Partington, to table Item Nos. 11(A), 11(B), and 11(C) to the next regular meeting or next special meeting.

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

Item #11(D) – Construction of Fire Station No. 92 Replacement

RESOLUTION NO. 2004-198

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY AND HALL CONSTRUCTION COMPANY, INC., REGARDING CONSTRUCTION OF THE FIRE STATION NO. 92 REPLACEMENT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-198, as read by title only.

Mr. Charles Carter stated the voters approved the fire station in June 2003. He questioned why the City was just now awarding the contract to build the fire station.

Mayor Costello stated the fire station must go through the same process that any other developer would have to go through to construct a building.

Ms. Judy Sloane, Public Works Director/City Engineer, stated that there were budgetary issues that caused a delay of several months. She noted that additional delays occurred due to the hurricane damage at the architect's office.

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

Item #12(A)(1) – North Peninsula Reuse System Status

Commissioner Boyle asked whether the reuse extension to Tomoka Oaks would be surface or a tower.

Ms. Sloane stated one portion of the pond would be lined and another portion of the pond would be unlined, and Tomoka Oaks would be responsible for their irrigation system tying into the pond.

Mayor Costello reported he would support the pond at Oceanside Country Club if the club would give the City the option to build the tanks should they be needed in the future if the pond concept did not work properly. He noted the pond cost more and would not provide the same quality of water.

Commissioner Kent asked Mayor Costello why he felt there was a possibility that the pond may not work properly; whereby, Mayor Costello explained this would use a relatively new technology.

Ms. Sloane suggested a short presentation might answer some of Mayor Costello's questions and concerns.

Commissioner Boyle asked if anything would be included in the presentation that was not in the information provided in the packet; whereby, Mr. Richard Fernandez, Quentin Hampton Associates, Inc., reported that there would be no new information presented.

Mayor Costello stated the report was outstanding. He noted he did not want to locate all of the piping on the peninsula when an unforeseen problem could arise in the future.

Mr. Fernandez stated that with the addition of the filtration step at the pump station site, the distribution system to the individual property owners could be protected. He pointed out this would represent additional operation maintenance expense and would impact utility operations. Mr. Fernandez explained that an advantage would be to have additional storage volume over the limited amount that could be stored in the concrete tanks. He noted that by expanding the lakes, additional water storage could be provided, which would assist in the irrigation program and would help keep water from being dumped into the Halifax River.

Mr. Bill Loucks, 410 Riverside Drive, representing Oceanside Country Club, reported Oceanside Country Club was vitally interested in seeking a resolution to this issue and thanked City staff for working very closely with them. He noted he was confident a solution could be worked out on this issue. Mr. Loucks reported the Oceanside Country Club Board of Directors met tonight at 5:00 p.m. and voted unanimously to relay the message to urge the City Commission to direct staff to pursue the pond for surface water storage as opposed to the vertical tanks. He noted a feasibility study was completed and sent to a Jacksonville engineer; therefore, Oceanside Country Club's questions had already been answered. Mr. Loucks pointed out that the capital costs were virtually the same. He noted the pond would be peculiarly useful because there was a natural berm to the east of the pond where nothing was added that would adversely impact the quality of the water. Mr. Loucks pointed out that they could adequately berm the westerly, northerly, and southerly edges to prevent any adulteration of the water. He reported Oceanside Country Club can reduce the operational cost to the City since they would pay the cost of maintaining all landscaping surrounding the pond; however, this would not apply if the vertical tank storage were built. Mr. Loucks stated Oceanside Country Club offered to increase the storage capacity to 1,600,000 gallons as opposed to 1,500,000. He noted Oceanside Country Club favored the pond storage because there would be minimal construction interruption of the use of the course with substantially less impact, and because it would be invisible to the golf course users and surrounding residents. Mr. Loucks pointed out that several residents voiced objections at the Development Review Board meeting to the vertical tanks. He noted a tank would be very difficult to conceal, but the filter and pump house could be effectively concealed.

Mr. Loucks stated the difficulty in any agreement was in the details. He noted there would have to be an easement around the pond provided for access for repair and maintenance. Mr. Loucks stated he had gained a degree of confidence the pond would work properly since the design was exemplary.

Commissioner Boyle thanked Mr. Loucks and Mr. Fernandez for their work and Mayor Costello for his leadership. He concurred with Mr. Loucks that there was no need for the qualifier since the City was already committed to a pond at Tomoka Oaks. Commissioner Boyle pointed out that although there was an additional expense, Oceanside Country Club would help meet that expense.

Commissioner Partington asked if there was any possibility to obtain St. Johns River Water Management District grants or other grants for the \$316,000 additional design cost and the additional \$52,000 per year.

Ms. Sloane stated the \$52,500 appeared to be an error and pointed out the difference in the operating cost, as reported on page 8 of the study, was \$91,597 above the operating cost of tanks. She noted the line item to treat backwash for \$23,000 per year was the cost to re-treat the water if the City would need to backwash the water from the filter discharge into the wastewater treatment plant; however, if the water could go into the ponds, operating costs could be reduced from \$91,597 by \$23,000, leaving the actual cost at approximately \$67,000 per year. Ms. Sloane pointed out that this would obviously require a rate increase because it would represent an additional operating cost. She explained the design cost was approximately \$40,000 to select the pond concept. Ms. Sloane reported that the current grant was for two 750,000-gallon storage tanks; and through discussions with St. Johns River Water Management District, the indication was that modifying the plan to a lesser size storage tank would not jeopardize the grants. She stated that further discussions would be needed to determine grant eligibility if the project were to be modified to a pond storage concept, but typically the pond storage concept was preferred over tanks. Ms. Sloane noted this would be approved by Kirby Green rather than having to go back to the governing board as long as more money was not being requested; however, if the City was seeking additional funding, it would need to go back through another grant cycle. She explained staff's recommendation was to have the grant language changed to use the pond storage and apply in a subsequent year for additional money for the difference in cost to do the pond.

Commissioner Boyle moved, seconded by Commissioner Kent, to proceed with the pond storage option.

Mayor Costello explained he requested a backup in order to do due diligence; however, if everyone was convinced there would be no problems with the pond, he had no desire to complicate the issue. He noted on the mainland there were more potential sites that could be used, while the beachside had limited areas to use the water.

Ms. Sloane stated a reason a site in this particular vicinity was important was because of all of the piping and infrastructure already in place. She noted while pond storage was routinely acceptable for golf courses because of the large size irrigation heads, the concern here was that the residential irrigation systems were not designed to handle this, which was why the filtration system was needed.

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

Item #12(A)(1) – Feasibility Study for Reclaimed Water to the South Peninsula Area

Mr. David King, Quentin Hampton Associates, Inc., reported four major aspects were examined to evaluate feasibility: supply and demand, hydraulics, construction, and cost and funding. He stated that there were potentially 1,700 customers in the South Peninsula area, and assuming the high North Peninsula usage rates of 2.2 inches per week for average months, a similar demand in the South Peninsula was projected. Mr. King reported that if the City should pursue connection with the South Peninsula, and there was a 75% or greater connection rate, in 2015, there could be a shortage; but certain actions could combat this problem such as seeking additional sources, interconnects with other cities, metering with a conservation base user charge, and stormwater augmentation. He stated that this would be a pressurized distribution system and would reach the peninsula via the Melrose pump station and the existing 16-inch river crossing. Mr. King reported 3.5 million gallons of storage and a pump station would be necessary with typical construction with pressurized pipelines within the public rights-of-way and easements, and a ground storage pump station would be constructed on property currently owned by the City north of Cardinal. He stated a phased construction approach was recommended with the distribution, ground storage, and pump station in the first phase. Mr. King explained the second phase would be everything south of Ormond Shores and west of A1A, and the last phase would include everything between Granada Boulevard and Ormond Shores, including the properties on the east side of A1A. He stated the total construction cost was estimated at \$9.47 million. Mr. King reported funding sources available were impact fees and reserves, but they would not be sufficient to completely cover construction costs. He noted St. Johns River Water Management District grants could be sought, and he pointed out that other cities have been successful in acquiring Florida Forever funds for the storage, but they

would not pay for pipes and pumps. Mr. King reported loans may be available, and loan repayment could be accomplished by increased user charges for the immediate area or for the entire water and sewer system.

Ms. Sloane stated the Capital Improvement Program showed funding of \$500,000 per year, but the cost would be significantly higher. She noted the effluent reuse system has not been run where the user fees have fully supported the system requiring the water and wastewater systems to subsidize them. Ms. Sloane recommended placing some design money into the next Capital Improvement Program budget, but this could not be done over a five-year period with available funding. She asked how aggressively the Commission wanted staff to program this project.

Commissioner Partington asked if WAV would help fund such a project. Commissioner Boyle replied WAV would absolutely fund such a project; however, it was not yet funding itself at this point.

Commissioner Kent thanked the individuals who provided the reports and Commissioner Boyle for helping to champion this cause along with Mayor Costello and other Commissioners. He reported he has and would continue to champion this cause for the Zone 2 residents because it was important to him and to his constituents. Commissioner Kent noted he was pleased WAV wanted to help Ormond Beach with this project. He questioned how much the City could obtain from Florida Forever. Commissioner Kent encouraged the use of low interest State revolving fund loans for this new construction project. He asked if it would be advisable for the City to ask Representatives Pat Patterson and Joyce Cusack for assistance.

Ms. Sloane stated the City could request line item appropriations.

Commissioner Kent also recommended seeking federal revenues and appropriations. He stated he could not accept the South Peninsula users being charged \$45 or a water rate increase of 5.2%.

Mayor Costello asked what Commissioner Kent would favor to pay for the project if the City could not get grants.

Commissioner Kent noted he was confident the City could get grants; but if the City should fail to obtain the grants, the City would have to examine other alternatives.

Mayor Costello stated he was optimistic about a St. Johns River Water Management District grant, but not about a line item in the State budget.

Commissioner Boyle expressed optimism to receive grants if the project was started now. He stated that in 1995, this City made a commitment that the South Peninsula would be the next area to receive reused water, and it was time to keep that promise.

Commissioner Partington noted the Commission recently received a presentation relative to underground utilities, and he noted he felt the peninsula should receive this type of protection from hurricanes first if it should ever be accomplished. He asked if it were possible to add PVC for underground utilities should this project be done when construction begins, and he questioned if the routes planned for the pipes would be consistent with where underground electric service would be needed.

Ms. Sloane stated that this could be included in the project and could also be considered in the John Anderson Drive project since the roadway would be totally reconstructed.

Commissioner Partington noted he agreed with Mayor Costello's recommendation to place PVC whenever the ground was opened to maximize cost benefit to the City.

Mayor Costello asked that this option be investigated. He reported he concurred with everything that had been stated, but noted the Commission must be willing to designate a funding source if grants could not be obtained. Mayor Costello pointed out he had favored ceasing the dumping of water into the Halifax River for at least 15 years. He reported this was a City issue, not only a Zone 2 issue.

Ms. Sloane proposed that the Commission approve programming the Capital Improvement Program to do the construction plans for Phase 1.

Mayor Costello recommended seeking grants now while preparing the construction plans. He noted if the grants do not materialize and the Commission was willing to do a loan over a number of years for Phase 1 charging the users, the plans could then be accelerated.

Mr. Fernandez stated the State Revolving Fund was perfectly suited to the type of program the City was seeking for this project. He explained the interest rate was currently fewer than 3% making the cost to borrow \$1 million only \$67,000 a year; therefore, if the City kept the \$500,000 per year allocation for the duration of the loan, it would fund \$8 million worth of construction. Mr. Fernandez noted that with the amount the City would be paying, the St. Johns River Water Management District would probably pay the remainder of the funds. He reported that St. Johns River Water Management District had money available for this type of project. Mr. Fernandez noted that a planning design loan could be sought with no money down where money could be provided to plan the system and design it with a follow-up loan for construction.

Mayor Costello stated he just wanted to find a way to pay the loan.

Mr. Fernandez stated that since the Consumptive Use Permit (CUP) required the City to reclaim water and a discharge permit discourages dumping into the river, this would be considered a general cost of the water and wastewater system that all users should pay.

Mayor Costello noted he concurred with Mr. Fernandez; however, there had been difficulty adjusting the rates in the past.

Commissioner Boyle noted difficulty adjusting the rates in the past did not necessarily mean there would be difficulty in the future.

Commissioner Kent concurred with Commissioner Boyle. He explained he felt optimistic about the federal appropriations because the packet information noted that several local governments had been successful in recent years in obtaining direct congressional appropriations for water projects. Commissioner Kent reported his concern regarding the 5.2% rate was that word had already spread that there would be a 7% water rate increase next year. He questioned if the 5.2% was already calculated in the 7% or was the 5.2% above the 7% recommended increase.

Ms. Sloane reported her understanding was that it would need to be greater than 7% because the 7% increase was based on balancing the operating budget, and the water treatment plant expansion would have to be calculated into any increase next year.

Commissioner Boyle stated he was opposed to the proposed water rate increase for the reasons he previously articulated, but he would favor a water rate increase for this purpose.

Mr. Turner reported staff clearly understood that this was a priority and the Commission wanted staff to aggressively pursue financing options. He noted staff would bring alternatives that the Commission could consider.

Mayor Costello noted the Commission would accept this report with the abovementioned instructions.

Item #12(A)(2) – Region Aquifer Management Program Agreement

Commissioner Partington moved, seconded by Commissioner Boyle, to table Resolution No. 2004-155.

Mr. Hayes questioned if the motion was to table the item for a time certain or indefinitely.

Mayor Costello recommended tabling the item until staff had a report to present. Commissioner Partington and Commissioner Boyle concurred with Mayor Costello.

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

Item #12(B) – Tree Replacement Options

Mayor Costello encouraged staff to do whatever was possible to obtain as many grants as possible.

Item #12(C) – Granada Boulevard Concurrency Issues

Mr. Clay Ervin, Planning Director, reported staff notified the Commission in a Friday letter that there were traffic concurrency issues with two segments of SR40 from Tymber Creek Road to I-95 and from I-95 to Clyde Morris Boulevard. He advised that these road segments were projected to be over capacity based on existing traffic and projected traffic from projects yet to be built. Mr. Ervin noted concern regarding projects occurring south of Ormond Beach in Daytona Beach; specifically, the proposed expansion and new site for Florida Hospital. He reported staff had discussed these issues with Daytona Beach, Volusia County, and the Florida Department of Transportation. Mr. Ervin stated a large study would be conducted for Tymber Creek Road to Clyde Morris Boulevard on SR40 that would consider options such as four-laning Hand Avenue to Nova Road as a relief valve to SR40 as well as examining other intersection improvements along Hand Avenue, Clyde Morris Boulevard, Nova Road, Williamson Boulevard, and SR40 to accommodate additional traffic. He noted this would gain enough capacity for three to four years, but long-term solutions would involve assistance from Holly Hill, Volusia County, and Daytona Beach to create a roadway network that would accommodate this future growth.

Mr. Ervin explained staff was working through the long-range transportation plan currently with the Volusia County Metropolitan Planning Organization. He advised funding on the State and federal level will become very tight in 2010 when many funding sources for local roads would be drying up; therefore, staff would push to include projects in the closer years to increase the likelihood of success. Mr. Ervin stated this was a continuation of the message provided at the presentation of the City-wide traffic study, and staff was working through the Commission recommendations provided at that time. He noted that, hopefully, this study would free up some capacity for a few projects and provide time to work on long-range solutions.

Mayor Costello requested Mr. Ervin to provide the Commission with the map he and Mr. Ervin were working on to describe some of the issues that were being worked toward, followed by a discussion in possibly three months after staff received a response from the preliminary study the hospital was preparing.

Mr. Ervin reported the study should be completed within the next 30-day; therefore, staff would bring this back as a discussion item.

Mayor Costello noted SR40 was one of the only roads that were on the Strategic Intermodal System (SIS), other than the two interstates, which would allow that to be eligible for funding for which other local roads would not be eligible.

Item #12(D) – Reduction in Airport Reserve Funds

Commissioner Boyle thanked Mr. Lipps for the great report. He recommended Option #2 which would revert the money back to the General Fund where it came from. Commissioner Boyle stated he would have hoped this would have automatically been done. He reported that if, at some time a contingency was needed or there was a new airport project, the Commission could appropriate those funds again. Commissioner Boyle pointed out Commissioner Selis was very uncomfortable with the reserve balance figure. He noted the money would remain in the general fund; but by moving these funds, the reserve would increase to 12.45% leaving the Commission with a higher level of comfort.

Mr. Tom Lipps, Support Services Director, reported the Finance Director had to leave due to a family matter but had asked him to correct an error on the report. He stated the report indicted 11.45%, but it should be amended to 11.55% and the reserve was stated to be \$3,247,000 and was actually \$3,149,000. Mr. Lipps explained these funds have never been transferred out of the General Fund to the Airport Fund and have been drawn down only if necessary. He reported airport funds were always the first place where funds were taken when needed. Mr. Lipps pointed out that many of these projects were for future years, and inflation would be a factor; therefore, the match requirements could be higher. He noted the Commission would need to approve every project requiring funds numerous times.

Mayor Costello reported he would support Option #2. He stated his concern was that since the airport seemed to become extremely controversial, the Commission setting aside these funds may have displayed wisdom by minimizing the potential controversy. Mayor Costello applauded Commissioner Boyle's creativity and the investigation he displayed; however, if there were projects that benefit the airport and the community, the Commission must realize that these funds may be necessary.

Commissioner Boyle concurred that inflationary factors would affect these costs, but it was not known whether future Commissions would delete or add projects. He reported the money was added because of the proposed blimp deal years ago. Commissioner Boyle expressed concern that the Commission was asked by staff to place \$240,000 into the General Fund to raise the reserve and used a tax increase to do so. He noted he was sorry this solution was not found sooner. Commissioner Boyle stated for this reason, it was important to place the money back into the General Fund, and this or a future Commission would take care of the contingencies as they would arise.

Commissioner Kent offered support for Option #2 and noted he was pleased the reserve would be increased to over 12%.

Commissioner Partington expressed disappointment that Commissioner Boyle needed to ask three separate ways to obtain the needed information on this issue. He stated that the Commission was struggling to find funds when citizens were upset about a tax increase, but staff did not offer this solution. Commissioner Partington stated he had expressed suspicion that there was money available to reduce that tax increase, and this confirmed that suspicion and also raised the question of what other money was hidden away. He recommended a simplified accounting process where a citizen could see exactly what funds were available, and that the City not have tools to hide funds that appear to be currently in place. Commissioner Partington reported the accounting system was extremely complicated. He noted this was an issue of truthfulness and honesty where this Commission was searching for money to avoid a tax increase, and months later these funds were discovered. Commissioner Partington stated that unless a Commission member asks an exact and specific question, staff would not provide an answer.

Mayor Costello asked staff to provide a report with all of the reserve funds and set time aside to discuss the report. He commended staff, noting Ormond Beach wins awards for budget preparation. Mayor Costello reported there were specific ways the City must perform certain tasks. He stated there was no intent to hide money, only to plan for the future.

Mr. Turner stated one of staff's greatest responsibilities was to be stewards of the public's finances, and staff took that responsibility very seriously. He reported the financial staff was very meticulous about assuring funds are appropriately accounted for. Mr. Turner concurred the budget was incredibly confusing; but he noted in a \$100 million budget, providing resources for many different types of services was bound to be difficult. He noted opportunities to pursue fresh approaches may be needed. Mr. Turner apologized for any confusion and noted staff would try to answer questions and examine issues in a new manner. He assured the Commission staff was not trying to hide anything, but to follow the Commission's direction.

Commissioner Partington stated while he would not want to accuse anyone of anything improper, this seemed to be a game where the citizen loses. He reported this lessens the public's faith in government, and he looked forward to staff's improvement in that aspect.

Commissioner Kent stated he was thinking along the same lines that Commissioner Partington just articulated. He noted he was not pointing fingers or insinuating that staff was doing these things on purpose or trying to hide anything, but he also questioned how many more funds were there with money that could have been used, especially after the Commission stated in workshops that they would consider anything before considering a tax increase. Commissioner Kent reported he understood that staff worked hard and that this was a \$100 million budget, but \$100,000 was still a great deal of money. He noted sometimes the material presented was not user friendly and could be simplified. Commissioner Kent stated the Commission spends a great deal of time studying the material provided. He noted while he was not stating staff was not doing their job, he shared Commissioner Partington's opinion in this matter. Commissioner Kent applauded Commissioner Boyle for finding this money, but again questioned how much more was available. He stated the Commission would ultimately be held responsible.

Commissioner Boyle noted it took him nine years to find the funds.

Commissioner Boyle moved, seconded by Commissioner Kent, to accept Option #2.

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

Runway Extension

Mayor Costello stated a request was made to table the runway extension vote. He requested the Commission allow him to forego Roberts Rules at this point to discuss the issue. Mayor Costello asked Mr. Hayes if this could be discussed this evening.

Commissioner Boyle moved to waive the Thompson Rule.

Mr. Hayes stated the Commission could probably entertain such a motion.

Mayor Costello asked if anyone would like to make a motion to table the vote on the runway extension until the first meeting in March.

Commissioner Boyle moved to table the vote on the runway extension until the first meeting in March.

Mayor Costello explained he would not second the motion because he questioned where the line would be drawn: one, three, four, or six months remaining in a Commission member's term. He stated the Commission should proceed as planned.

Commissioner Partington pointed out that he did not second the motion because the Commission had already approved the runway extension at least twice, and he questioned why there was a third vote anticipated. He stated the Commission was too gracious and accommodating. Commissioner Partington questioned why it seemed that nothing got accomplished in government since the losing party in a vote could bring an item up numerous times.

Mayor Costello explained the motion scheduled to come before the Commission in January would be to approve all aspects of the runway extension subject to acquiring the grants and the environmental assessment so it would not need to come back to the Commission repeatedly.

Commissioner Boyle stated this issue received a negative vote for eight years, and it kept coming back until they got a positive vote. He reported the Mayor asked for a firm vote to be made in January to proceed with the grants and the process. Commissioner Boyle noted the runway extension would be a major issue for the residents running in Zone 3, and the wishes of that new Commissioner were something to which this Commission should be pragmatic. He reported this runway extension had waited for many years, so he questioned why it needed to be rushed now.

Mayor Costello respectfully disagreed with Commissioner Boyle's assessment. He stated he made a point of providing plenty of opportunities for citizen input. Mayor Costello pointed out that had the Commission not agreed to delay this issue to January, it would have been decided tonight.

Commissioner Boyle stated new facts had come to light. He noted cities in Florida who approved abatements forfeited any rights to FAA grants. Commissioner Boyle reported Ormond Beach may be facing huge lawsuits where everywhere in the country the people filing the lawsuits on noise issues have prevailed. He pointed out these issues were never factored into the decision to extend the runway.

Mayor Costello reported that the motion died for lack of a second.

Item #13 - Reports, Suggestions, Requests

Condolences

Commissioner Partington sent his and the Zone 4 residents' condolences to the Grim family and the Cherry family. He reported while he did not know Bob Grim personally, as a prosecutor at the State Attorney's office, he had worked with his son.

Conference

Commissioner Partington reported he attended a conference on behalf of the City at Bethune-Cookman's new Performing Art Center sponsored by Ormond Memorial Hospital regarding healthy families and healthy marriages.

Thanksgiving

Commissioner Partington wished everyone a happy Thanksgiving.

Well Wishes for Commissioner Selis

Commissioner Partington sent Commissioner Selis his wish to feel better and return to the Commission as his guidance relative to the traffic issue was sorely missed.

Civility Memorandum

Commissioner Boyle thanked Commissioner Partington for his memorandum appealing for civility. He noted he did not believe there was much the Commission could do relative to the civility or lack thereof from the citizens who come to the podium, but if the Commission continued to work hard to reduce the issues concerning the citizens, the negativity would be reduced. Commissioner Boyle commended Commissioner Partington, Commissioner Kent, and Mayor Costello for being models of civility.

Irrigation Spray on Nova Road

Commissioner Boyle stated irrigation water was being sprayed on the Nova Road pavement at all times of the day. He noted he understood taking the water only where needed to irrigate medians was problematic; but this was causing a safety issue on Nova Road, and it needed to be fixed.

SR40 Medians

Commissioner Boyle stated on October 19th he requested an agenda item relative to the contract for the SR40 medians west of Nova Road. He reported staff asked for and was granted a 30-day delay. Commissioner Boyle noted staff never informed the Commission when the window opened for the alternative to cancel and rebid the contract. He stated he was certain the City would obtain the same services for which the City was paying \$125,000 for only \$75,000. Commissioner Boyle requested conformation that this issue would be included on the December 6th City Commission meeting agenda; whereby, Mr. Turner confirmed this would be placed on the December 6th City Commission meeting agenda.

Lightning Detection System

Commissioner Boyle reported a prominent citizen asked to include the lightning detection system in the budget. He expressed concern relative to the process that this item took in that the Commission never received a staff report, it was never included on a public agenda, and the Commission never had an opportunity to provide input. Commissioner Boyle stated the item was included in the budget; and when the Commission approved the budget, they automatically approved the item. He reported this method had been used many times in the past. Commissioner Boyle pointed out that he still did not have an explanation as to the question of why the City was placing the lightning detection system at the Airport Sports Complex but at no other public sports complex in the community. He stated he presented this question in writing and expected it answered by the next meeting.

Police Training

Commissioner Boyle reported he asked the City Manager a question several weeks ago and requested it be answered at the next meeting either affirmatively or negatively. He stated the question was if Ormond Beach had any contracts to provide or receive police training.

Police Officer Retirement Agreement

Commissioner Boyle stated he heard that the Police Department, Human Resources, and labor counsel had offered an agreement and release of contract as conditions of the retirement of a police officer. He asked the City Attorney the following five questions: 1) Did Mr. Hayes prepare the agreement or review it prior to its offer? Mr. Hayes stated he did not. 2) Was Mr. Hayes aware of the agreement now? Mr. Hayes stated he was now aware of the agreement. 3) Do the parties with the Ormond Beach Police Department have the authority to enter such an agreement in the context of Section 262(B)(2) of the City code? Mr. Hayes replied no one had authority to enter into such a contract without authority from the City Commission. 4) If the contract had a confidentially provision, would that provision be legal? Mr. Hayes indicated it probably would not be legal; and 5) If a "hold harmless" agreement between an employee and the Ormond Beach Police Department were proper, would the City then still be potentially liable for legal actions by the employee? Mr. Hayes stated the City could possibly be held liable. Commissioner Boyle reported that based on the answers to the above questions, he requested a discussion item at the next meeting.

Code Enforcement at Ormond Beach Aviation

Commissioner Boyle pointed out a copy of a notice to Ormond Beach Aviation was found on the dais tonight relative to code violations from June 2nd. He questioned who caused this memo to be placed on the dais; whereby, Mr. Turner advised he requested the memo be placed on the dais. Commissioner Boyle stated this was not an agenda item. He reported that as of November 11th, the City had reopened Ormond Beach Aviation's possible violations. Commissioner Boyle noted he understood that all of the issues had been satisfied in June other

than the placement of Jersey barriers around the fuel farm. He stated he was troubled by this action nine years after the City permitted the fuel farm, which met every City specification and was built according to City, NFPA, and FAA requirements. Commissioner Boyle expressed concern relative to the City's potential legal position, which this code enforcement decision by the Fire Chief may be placing the City in; therefore, he requested another written explanation as to why the fuel farm was required to install the Jersey barriers. He noted there was a strong perception that a code enforcement action on a condition that had existed for nine years, seven of which existed while Chief Baker was with the City, had suddenly become a problem.

Mayor Costello stated the request was to address this issue in writing, but he offered Mr. Turner or Chief Baker the opportunity to respond verbally at this point.

Fire Chief Barry Baker stated in May the Commission received a report of a comprehensive inspection performed at the airport following allegations that there may be safety violations at the airport. He reported, in an attempt not to show any favoritism, the Fire Department did a comprehensive inspection of every facility at the airport, and that report indicated there were a number of violations at a number of facilities, including Ormond Beach Aviation. Chief Baker pointed out that Ormond Beach Aviation had very few violations, and the vast majority were minor violations and were immediately corrected. He reported there were two outstanding violations which staff was currently following up on, but staff probably should have followed up on these violations sooner. Chief Baker stated this fuel farm was approved prior to his tenure with the City; and upon comprehensive review of the NFPA codes, a determination was made that there needed to be some refinement of the protection around the tanks.

Commissioner Boyle questioned how this violation was not noted for seven years. He asked why a comprehensive inspection of the airport was not done sooner.

Chief Baker replied that an inspection would be done when an occupancy permit was being processed, and a semiannual inspection was done on normal commercial occupancies. He reported a comprehensive inspection was rarely done on major complexes such as the airport, mostly because Ormond Beach does not have staff to accomplish that task well. Chief Baker noted this particular review was done because it was stated that there were problems at the airport. He stated it would not be proper to inspect one or two facilities when there were multiple facilities at the airport. Chief Baker reported this required a comprehensive overview with a great deal of research requiring weeks of staff time. He stated the State Fire Marshal's office, the Department of Environmental Protection, and the FAA were contacted regarding this inspection. Chief Baker reported safety was the main issue, and he displayed a photograph of Ormond Beach Aviation's self-service facility located in an area along two areas where aircraft fuel. He stated this was the only self-service facility located at the airport. Chief Baker pointed out the yellow polls protecting the front of the tanks, but there was no protection on two sides. He stated the inspector originally required protection all around the facility; but after he went out to the site at Mr. Thompson's request, he determined there was no need for protection in the rear since there was no aircraft movement around the rear of the facility. Chief Baker explained a simple inexpensive fix would be acceptable, such as installing four polls ten feet apart, three Jersey barriers, or a fence to provide protection for the tanks from an aircraft that could strike the tanks while fueling. He expressed frustration that this was being taken out of context when a simple inexpensive solution could reduce the risk at the airport, which was his job, and nothing less should be expected of him.

Commissioner Boyle stated he did not expect less from Chief Baker, but should the City be taken to court, the fact that it took seven years to become aware of this violation and that it was only noted when the same company filed a whistle-blower complaint would seem to be subjective and arbitrary, caused by the situation that the FAA and the City approved nine years ago.

Chief Baker stated this did not have to go to court since there was an appeals process. He noted he believed it was his obligation to point out what he considered a risk to the City. Chief Baker reported he did not "play favorites" and was only interested in what was best for the City.

Mayor Costello asked why Jersey barriers or polls were needed around these tankers when the semi-truck tanker did not need barriers.

Chief Baker explained these two operations were completely different fueling operations. He noted Ormond Aviation was a self-service facility where the aircraft approaches the facility; and in the other situations, the aircraft stops, and the truck comes out to the plane for fuel. Chief Baker stated there were four tankers at the airport, one 8,000 gallons along with smaller

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tankers, and two containing Jet A fuel, while the other was a smaller aviation fuel tanker. He reported each go out to fuel the aircraft.

Mayor Costello asked Mr. Thompson to provide his comments in an effort to dispense with this issue tonight.

Mr. Adrian Thompson, 6 Dorado Beach Court, reported he had no desire to discuss this matter tonight and would deal with the matter through the legal system, indicating he would sue the City. He stated the Fire Chief was completely and utterly selectively and arbitrarily in imposing codes. Mr. Thompson noted there was an 8,000 gallon jet truck that routinely fuels airplanes. He stated the truck makes one circuit a week to circumvent environmental protection rules, but normally sits at the end of an active ramp with aircraft taxing directly at it at 90 degrees and does not meet City codes and ordinances.

Officer Grim

Commissioner Kent stated he had been shocked at hearing the news of losing Officer Grim in the line of duty. He stated while he did not know Officer Grim, he went to high school with his daughter. Commissioner Kent offered his thoughts and prayers to the Grim family.

Daytona Beach Commissioner Cherry

Commissioner Kent noted he did not know Daytona Beach Commissioner Charles Cherry, but sent his condolences to his family and to the City of Daytona Beach.

Commissioner Selis

Commissioner Kent wished Commissioner Selis well and hoped for a quick return to the Commission.

Mothers Against Drunk Driving Award

Commissioner Kent congratulated Tom Larson for receiving the Mothers Against Drunk Driving Award for his consistent work on the beachside DUIs.

Christmas Walk

Commissioner Kent noted he was pleased to have attended The Casements Guild Christmas Walk on Friday.

Veterans Day Lunch

Commissioner Kent reported he attended the Veterans Day lunch at the Hampton Inn to recognize and honor the veterans and to celebrate the heroes who helped provide the freedom everyone enjoys today.

Coffee with Commissioner Kent

Commissioner Kent stated that the second "Coffee with Commissioner Kent" would be held on Monday, December 6th at 4:00 p.m. at his home, 130 Magnolia Drive.

Civility Memorandum

Commissioner Kent commended Commissioner Partington for his memo on civility. He stated should the negative energy that occurred at the beginning of meetings be turned around, great things could be done.

Thanksgiving

Commissioner Kent wished everyone a happy and safe Thanksgiving.

Officer Grim

Mr. Turner stated the staff and community have certainly embraced the Grim family offering numerous support efforts that will never come to light. He reported he would call the Commission to provide a synopsis of some of the support being provided to the family.

Daytona Beach Commissioner Cherry

Mr. Turner commended Reverend Cotton and others for embracing people who were hurting such as the Cherry family. He asked Reverend Cotton to share his and the Commission's condolences to the Cherry family.

Civility Issue

Mr. Turner reported staff was researching what some other communities were doing regarding the civility issue Commissioner Partington brought to light. He concurred that merely mentioning it as an issue was important and may have an effect. Mr. Turner noted staff was considering a facilitator to assist the Commission in their goal-setting and their ability to interact with one another.

Christmas Walk

Mr. Turner reported he attended The Casements Guild Christmas Walk, which was truly beautiful with decorations and crafts. He encouraged anyone who missed this year's event to attend the event next year.

Anderson-Price Memorial Open House

Mr. Turner noted he attended an open house at the Anderson-Price Memorial Building. He stated the goal was to have people view the facility and utilize it to a greater extent. Mr. Turner suggested holding a future workshop at the facility to provide the building more exposure.

Thanksgiving

Mr. Turner wished everyone a happy Thanksgiving.

Providing the Commission Information

Mr. Ted MacLeod, Assistant City Manager, thanked staff for all of the work involved in putting the agenda out. He reported staff tries to provide the Commission with all of the information possible. Mr. MacLeod noted staff would never try to hide pertinent information or not provide everything needed.

Thanksgiving

Mr. Hayes wished everyone a happy Thanksgiving.

Condolences

Mayor Costello again offered condolences to the Grim and Cherry families.

Runway Extension

Mayor Costello urged those concerned about the runway extension to speak to Mr. Turner to plan a time to discuss the issues, and if questions remained, he urged the public to call him.

Village Drive

Mayor Costello stated Commissioner Partington was doing a great job on the Village Drive issue. He noted he had not been involved in this issue to any great extent due to the Sunshine Law restrictions. Mayor Costello reported he wanted to assure the public that he would support them in having good visibility at their access point.

Medians Discussion

Mayor Costello requested a notation in the Friday letter informing the Commission as to when the medians discussion would be held. He stated staff had committed to have something prepared for the next meeting, but he requested to be informed as to why staff felt they were not prepared. Mayor Costello again requested the Commission not dictate what issues should come up at specific meetings and allow staff to place the requested items on the agenda when they feel prepared to present them to the Commission.

Police Contract

Mayor Costello noted he had no knowledge as to what Commissioner Boyle was alluding to relative to the police contract but would wait to hear from the City Manager about the issue.

Fire Chief Decision

Mayor Costello stated he was proud of Chief Baker for doing what he believed was right, and he appreciated his passion. He noted he did not personally like the tanker at the airport; but he respected Chief Baker's background, knowledge, and impartiality, and should the City have to go to court to defend that, he would be willing to do so. Mayor Costello stated that even when he did not like a ruling, he did not have the expertise Chief Baker had, and he would support his decision.

Item #14 – Close the Meeting

The meeting was adjourned at 9:44 p.m.

APPROVED: _____ December 6, 2004

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk