

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

December 6, 2004 7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Reverend Virginia Barnes, Grace Lutheran Church.
- 3) Pledge of Allegiance.

- 4) Approval of the Minutes of the November 16, 2004, regular meeting and the November 29, 2004, special meeting.
- 5) **PRESENTATIONS:**
 - A) Presentation of Plaque to Dennis Kennedy for service on the Human Resources Board.
 - B) Presentation of Plaque to Gordon Kipp for service on the Environmental Advisory Board.
- 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. 2004-199 authorizing the execution of an agreement between the City and Council on Aging of Volusia County, Inc., for the use of a site at the Senior Center for a nutrition program.
 - B) Resolution No. 2004-200 authorizing the execution of a Contract for Services between the City and Halifax Humane Society, Inc.
 - C) Resolution No. 2004-201 authorizing the operation of utility vehicles by Hunter's Ridge Homeowners' Association of East Florida, Inc., within Hunter's Ridge subdivision.
 - D) Resolution No. 2004-202 amending Resolution No. 2004-156; authorizing the submittal of a grant application to the County of Volusia under the ECHO Grants-In-Aid Program for funding assistance relative to Central Park improvements; authorizing the execution of all documents incidental thereto. (\$205,000 in grant funding)
 - E) Resolution No. 2004-203 authorizing the submittal of a grant application in the amount of \$9,090 to the United States Department of Justice, Bureau of Justice Assistance; authorizing the expenditure of \$1,020 from the Federal Law Enforcement Trust Fund (112) as the City's local match.
 - F) Resolution No. 2004-204 authorizing the execution of a grant agreement with the Federal Aviation Administration regarding erosion repair to the apron/spillway area at the Ormond Beach Municipal Airport. (\$5,000 grant; no local fund match.)
 - G) Resolution No. 2004-205 authorizing the submittal of a grant application to the State of Florida Department of Transportation under the Highway Safety Grant Program for the purchase of in-car video systems; authorizing acceptance of a grant award. (\$36,400 grant; no local fund match.)
 - H) Resolution No. 2004-206 authorizing the execution of a loan agreement between the City of Ormond Beach and American Legion Post 267 for the repayment of roof repair costs to municipally owned premises located at 156 New Britain Avenue.
 - I) Resolution No. 2004-207 authorizing the execution of a lease agreement between the City and C. Fred Hudson, III, Trustee of the amended and restated C. Fred Hudson, III, Trust dated May 23, 1990, and amended and restated on July 16, 1996. (Fire Station #91)
 - J) Resolution No. 2004-208 approving Amendment No. 24 to the Professional Services Agreement between the City and Hoyle, Tanner & Associates, Inc., for an evaluation assessment regarding the Runway 17-35 Extension project at the Ormond Beach

Municipal Airport; authorizing payment therefor. (\$31,825 FAA funding; \$625 FDOT funding; \$1,050 City funding)

- K) Resolution No. 2004-210 accepting a proposal from Zev Cohen & Associates, Inc., to provide consulting engineering services for the extension of Tower Circle Drive at the Airport Business Park; rejecting all other proposals; authorizing the execution of a work authorization thereto. (Not-to-exceed \$52,150)

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2004-209 approving and authorizing the removal of an historic tree located at 43 West Granada Boulevard.
- B) Ordinance 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. (Second Reading)

- 10) **FIRST READING OF ORDINANCE** No. 2004-52 amending Chapter 10, Garbage, Refuse, and Yard Waste, of the *Code of Ordinances* of the City of Ormond Beach, by changing the title of the chapter to "Solid Waste, Yard Waste and Recycling"; by amending Section 10-1, Definitions, Section 10-2, General Authority to Regulate, Section 10-4, "Who May Collect and Dispose, Section 10-5, Refuse and Garbage to be City Property, Section 10-7, Unauthorized Accumulations, Section 10-8, Accumulations subject to Scattering by Elements, Section 10-9, Placements other than in Containers; Placing in Waters, Section 10-11, Frequency of Residential Collections, Section 10-12, Frequency of Commercial Collections, Section 10-13, Limitations on Quantity Collected by City, Section 10-14, Contagious Disease Refuse, Section 10-15, Flammable or Explosive Refuse, Section 10-16, Fees for Collection and Disposal Established, Section 10-17, Billing for Fees, Section 10-29, Separation of Garbage, Yard Waste and Ashes, Section 10-31, Scattering Prohibited Generally, Section 10-34, Preparation of Garden Trash, Section 10-35, Containers Required; Substandard Containers, Section 10-36, Construction of Garbage Container Cans, Section 10-37, Gross Weight of Garbage Container Cans, Section 10-38, Large Containers for Commercial Establishments, Section 10-40, Placement for Collection from Residences; Exceptions, Section 10-41, Placement of Commercial Containers, Section 10-42, Time for Placement, Section 10-56, Regulations Authorized, Section 10-57, Disposal by Producer or Property Owner Authorized; Permit Required; Fee, Section 10-58, Hauling over City Streets Authorized, Section 10-59, Permit Required for Premises from which Collected, Section 10-60, Permit Required for Collector or Disposer; Application, Section 10-61, Requirements for Vehicles, Section 10-62, Place of Disposal, Section 10-65, Construction Debris, and Section 10-66, Debris From Clearing of Vacant or Occupied Lots; by renaming Section 10-5, Refuse and Garbage to be City Property, Section 10-14, Contagious Disease Refuse, Section 10-15, Flammable or Explosive Refuse, Section 10-29, Separation of Garbage, Yard Waste and Ashes, Section 10-34, Preparation of Garden Trash, Section 10-36, Construction of Garbage Container Cans, Section 10-37, Gross Weight of Garbage Container Cans, and Section 10-44, Curbside Recycling; by adding Article IV, Sections 10-67 through 10-82, Construction and Demolition Debris Collection Franchises; establishing terms and conditions.

11) **DISCUSSION ITEMS:**

- A) Legislative priority list for FY 2005-2006.
- B) Fire Department overtime.
- C) State Road 40 median contract.
- D) Update on the replica cars.
- E) Police officer resignation agreement.
- F) City Manager evaluation.
- G) Donation to the Police Academy Scholarship Fund in memory of Officer Bob Grim.

- 12) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.

- 13) Close the meeting.

Item #1 - Call to Order

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

Item #2 - Invocation

Reverend Virginia Barnes, Grace Lutheran 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 November 16, 2004, regular meeting and the November 29, 2004, special 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) - Presentation of Plaque to Dennis Kennedy

Mayor Costello presented a plaque to Dennis Kennedy for his service on the Human Resources Board from May 21, 1991, to July 28, 2004.

Item #5(B) - Presentation of Plaque to Gordon Kipp

Mayor Costello presented a plaque to Gordon Kipp for his service on the Environmental Advisory Board from December 16, 1986, to January 31, 1992, and from October 7, 1998, to August 10, 2004.

Mr. Gordon Kipp stated he appreciated the opportunity to serve with such a hard-working group of citizens. He reported a great deal was accomplished on the Environmental Advisory Board in the past few years.

Item #6 – Audience Remarks

Runway Extension

Mayor Costello advised that he would pull Item #8(J) from the Consent Agenda for discussion. He asked the City Attorney how much discussion regarding the runway extension would be appropriate considering this was scheduled for the January 4th City Commission meeting.

Mr. Randal Hayes, City Attorney, advised that since the runway extension was not on this agenda, citizens could speak on that subject during Audience Remarks portion of the meeting.

Commissioner Selis explained the item removed from the consent agenda related to a contract for an environmental assessment. He noted the only issue that should be discussed under Item #8(J) was whether to proceed with the environmental assessment that would include such issues as noise and impacts on the surrounding neighborhoods; however, the Audience Remarks section was the appropriate place to hear their general approval or disapproval of the runway extension.

Mr. Hayes reported the chair has some discretion in determining how he wished to deal with this issue, but people should confine their remarks to the items on the agenda other than in the Audience Remarks section of the agenda.

Mayor Costello stated if anyone wished to make comments on the runway extension, they were to make those comments now. He noted, however, if what they wanted to say had already been stated, it did not have to be repeated; and if someone said something tonight, he may not allow as much time for that speaker in January to repeat the same issues. Mayor Costello reported he wanted to hear citizen comments. He noted if the people wished to speak on the environmental assessment, they should wait until that item was being discussed.

Commissioner Boyle stated if the Commission approved the contract in Item #8(J), then the Commission would be committing to a course of action that the Commission would be deciding on at the January 4th meeting.

Mayor Costello questioned Commissioner Boyle's position when the original environmental assessment was done in 1995 and the runway extension still had not been done.

Commissioner Boyle explained the original environmental assessment had expired. He stated it was a controversial issue, and he questioned how the Commission could spend money on a contract tonight for a decision not yet formally made. Commissioner Boyle noted any comments received tonight should have no impact on the right of the same citizen to make comments at another meeting.

Mayor Costello noted he certainly did not agree that comments received tonight should have no impact on the right of the same citizen to make the same comments at another meeting, but that could be discussed with the Commission at another time.

Ms. Pat Behnke, 15 Malayan Sun Bear Path, representing the Bear Creek Committee Opposed to Airport Expansion, urged the Commission to table the decision on the runway extension until the March City Commission meeting. She reported that repeated efforts to e-mail Commissioner Selis had failed, and she has been unable to obtain complete information. Ms. Behnke stated if it were impossible to table this issue, she requested the Commission hold a special meeting, possibly on January 11, to discuss only this one issue. Ms. Behnke presented a petition signed by 722 members of the Bear Creek community opposing the airport expansion.

Mayor Costello urged all 722 members to attend the Bear Creek homeowners' executive committee meeting tomorrow night where the City Manager would provide information.

Commissioner Selis urged residents to call him on his cell phone at 527-1479 and noted he could not explain why e-mails had been returned undeliverable. He stated the reason he did not resign earlier was so he could speak to people who need to have their commissioner involved in issues.

Mr. Charles Ford, 123 Three Bears Trail, thanked Commissioner Selis for his response to his e-mail last week. He stated the last environmental assessment was done before his section of Bear Creek existed, and he expressed hope that a new environmental assessment would realize how close the houses were to the proposed runway extension, recognizing the impact the runway extension would have on the residents. Mr. Ford explained the extension would be within 200 to 250 yards of the homes in the northwest corner of Bear Creek. He pointed out that Hull Road and Airport Road have been incorrectly labeled on a 1999 aerial photo. Mr. Ford stated it would be difficult to prevent flight training day and night, and he questioned if another dirigible company would be attracted to the airport. He questioned if the development of a heliport would result from an increase in air traffic. Mr. Ford reported he would listen to both sides of this issue, but the arguments for the extension do not seem to be compelling enough. He stated the weight of public opinion should leave the Commission to pursue development strategies for Ormond Beach that do not include the runway 17-35 extension.

Commissioner Selis provided phone numbers where he could be contacted as follows: cell phone 527-4109, home number 673-5529, and business number 671-1664. He stated his City e-mail address was selis@ormondbeach.org, and his professional e-mail address was sselis@selislaw.com.

Mr. Adrian Thompson, 6 Dorado Beach Court, reported information from the FAA website indicated the airport manager was Fred Bachman, and this should be corrected. He stated the pavement strength of the existing runway was stressed for a maximum weight of 40,000 pounds for a double-wheel landing gear and a maximum weight of 30,000 pounds for a single-wheel landing gear aircraft. Mr. Thompson pointed out that some of the types of aircraft the City planned on operating at the airport would not be able to operate due to the weight of the aircraft. He stated that fact was never mentioned in the Hoyle Tanner report. Mr. Thompson reported Hoyle Tanner did not include Daytona Beach International Airport in the comparison of airports.

Ms. Adrian Miles, 6 Tidewater Drive, urged the Commission to listen to the people and reconsider tabling this vote to a special meeting in March allowing the new Commissioner to cast this vote.

Mr. John Mendez, 109 Heritage Circle, stated he was a hangar owner at the Ormond Beach Airport. He reported the hangar owners were looking for business-type jets to rent their

property. Mr. Mendez pointed out that he has been supporting the airport for the past ten years and wanted the kind of customers who could make it worth the investment they have already made.

Mr. Glenn Jaspers, 160 Ocean Terrace, stated he had previously provided a list of aircraft capable of operating within the field length of the existing runways.

Budget Savings

Mr. Glenn Jaspers noted the City Manager stated the City would economize when the Commission approved the 34% tax increase; however, no economizing was done by staff since Commissioner Boyle found the \$226,000 savings. He urged the departments to cut their budgets by 10%. Mr. Jaspers asked what initiative would be taken to cut expenses since the Budget Advisory Board had not offered any suggestions other than raising taxes.

Mayor Costello stated the Budget Advisory Board was working very hard, and he urged patience.

Runway Extension

Mr. John Bornmann, 6 Windsor Drive, stated a great deal of knowledgeable people have spoken at City Commission meetings, and none have recommended this runway extension.

Consulting Engineering Services for the Extension of Tower Circle Drive

Mr. Bornmann reported that in Item #8(K) the City was proposing hiring a consulting company relative to the extension of Tower Circle Drive at the Airport Business Park. Mr. Bornmann questioned how many engineering personnel are currently on staff and why they could not provide these services.

State Road 40 Median Contract

Mr. Bornmann pointed out the City accepted bids that were not the lowest, and the Bahia grass was taken out even though it required less water and maintenance, replacing it with St. Augustine grass.

Mayor Costello reported staff would provide the answer to the above questions. He stated one reason the grass was replaced was because the Bahia grass had to be replaced numerous times, and the St. Augustine was actually more economical.

Ormond Beach Airport

Mr. Larry Volenec, 77 Sycamore Creek, reported that for the past few months aircraft were flying over neighborhoods that they were not previously flying over because the controllers at the tower were directing the air traffic to fly in different patterns. He stated the controllers use the airspace very efficiently to maximize the number of aircraft in the pattern; however, he recommended the City provide the controllers maps of the noise sensitive areas so the controllers could modify their procedures to eliminate this concern. Mr. Volenec noted he felt much safer with the control tower, and they were making it easier to fly out of Ormond Beach.

Mayor Costello requested Mr. Volenec contact Mr. Tom Lipps, Support Services Director. He stated he would like to go out to the airport with Mr. Volenec and Mr. Lipps regardless of the decision on the runway extension, noting the situation Mr. Volenec pointed out may be a part of the problem.

Runway Extension

Mr. Jean Jenner, 11 Pine Valley Circle, concurred with Mr. Volenec that the pattern had changed. He pointed out that the King Air and most turboprop aircraft can currently land at the Ormond Beach Airport, but there are aircraft currently landing that should not be landing. Mr. Jenner stated he did not consider it viable to extend the runway by 1,000 feet because the older jets would then be relocating to the Ormond Beach Airport, and some of these are being banned from other airports. He reported Stage 2 aircraft could be banned, but the City would be sued, and the FAA would pull its funding. Mr. Jenner stated there was a perception in the community that at least two Commission members had made up their minds to approve the runway extension. He assured the Commission that this was also not a safety issue. Mr. Jenner reported that at the April 27th meeting, the Aviation Advisory Board recommended quickly proceeding with the extension of runway 17-35 to the north, and a motion was made to recommend the City Commission begin the planning process for future expansion of runways 08-26 and 17-35 by 350 feet to the south. He questioned if the Commission would accept both recommendations of the Aviation Advisory Board. Mr. Jenner reported he was on the Aviation Advisory Board and served as chairman, but there were never discussions such as those that were occurring in the past year.

Mayor Costello explained he was not advocating banning anything, just what could be based at the airport.

General Comments

Mr. Pete Ludwin, 709 Orchard Avenue, stated at the September 16 City Commission meeting he mentioned the City purchased a very expensive truck, and he just learned that the City contracted out a job that this truck could have done at Seminole and Amsden. He asked if the Commission was aware of a program that hires private investigators to follow City employees during the workday when the City police could do the job. Mr. Ludwin reported Mr. Ted MacLeod, Assistant City Manager, made a rule that anyone leaving the employment of the City for any reason was not to be rehired, and he questioned if this was meant for everyone or for only certain people.

Nova Road Widening

Mr. Ludwin stated a couple of meetings ago Mayor Costello indicated the Nova Road widening project would be completed by Thanksgiving, but the project has still not been completed.

Mayor Costello stated he indicated the lanes would be open, not that it would be completed; however, it was true that all of the lanes were not open as promised. He reported answers to many of the questions asked at these meetings are provided in the Friday letter, which can now be accessed via the internet on the City's website.

Runway Extension

Ms. Lucille Bornmann, 6 Windsor Drive, expressed concern that the Commission does not seem to listen to the citizens. She pointed out other Commissions have rejected the runway extension. Ms. Bornmann reported many people have provided good reasons why this should not be done, but it has made no difference. She stated that when the taxes were raised 34%, the additional funds were to be used for those items that had not been done previously, some of which were safety related. Ms. Bornmann noted the water was not being pumped out of The Casements, City building repairs were not being done, and firefighters were not being hired to cut the overtime problem; but this runway extension was placed on a fast track. She reported tax money has helped to support the airport, which was not supposed to occur. Ms. Bornmann stated it was uncertain if the airport would make any money or if it would break even. She stated if this runway extension should go forward, she would do everything possible to insure there were security and inspections at the airport since it would increase the chance of terrorism.

Roberts Rules

Mr. Charles Carter, 212 Arlington Way, stated all boards, including the City Commission, are ruled by "Roberts Rules of Order." He reported in reviewing the Aviation Advisory Board minutes, he discovered an absence of following the procedures in Roberts Rules. Mr. Carter pointed out that when minutes are approved, a board member can not change what was stated at a late date. He challenged the City Attorney's office to find where a proper motion was made and passed approving the runway extension on the Aviation Advisory Board. Mr. Carter stated it would not be advisable to gag the citizens and not allow them to have their say.

Runway Extension

Mr. Stan Driscoll, 10 Sandalwood Lane, stated he reserved his right to speak on this issue now and any other time it should come before this board. He stated the City, as the airport operator, has not demonstrated good custody of the residents' quality of life. Mr. Driscoll stated he was amazed that this was the first the Commission was aware that the traffic patterns had changed. He stated he had tried to report aircraft over his home by calling the control tower that referred him to Orlando, and Orlando only gave the opportunity to leave a message. Mr. Driscoll asked for a phone number for citizens to lodge complaints. He noted he tried unsuccessfully to contact Commissioner Selis so he contacted Mayor Costello. Mr. Driscoll pointed out there was no community support for this runway extension, and he questioned from where the support for this runway extension was coming. He urged no action be taken on this issue until there was a new Zone 3 City Commissioner seated.

Mr. Richard Asnip, 17 Indian Bear Path, stated that ten years ago a drag strip was proposed for bike week, but it was denied. He reported the kind of planes that the City was trying to attract is for chief executives, but they could drive 12 miles from Daytona Beach to Ormond Beach, and residents should be the City Commission's first consideration.

Mr. Jeff Lefever, 490 Grandview Avenue, encouraged the Commission to vote while Commissioner Selis was present since he started the project. He pointed out Commissioner Selis has always been available when he has tried to reach him. Mr. Lefever

stated Mr. Lipps has contacted his flight school to inform him he was working with the tower relative to the patterns. He urged the Commission to listen to their staff and not the misinformation that has been forthcoming in order to make an intelligent decision.

Mayor Costello advised that Mr. Lipps, the City's airport manager, has had a family emergency and was unable to attend this evening, but he would receive this information upon his return. He stated there has been appropriate information and misinformation; therefore, he urged everyone to attend the Bear Creek executive committee meeting to obtain information. Mayor Costello stated it was indicated that certain Commission members had made up their minds, but he assured the public that he had not yet made a final decision.

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

Mayor Costello stated he brought his packets of information from the Metropolitan Planning Organization (MPO) and Volusia Council of Governments (VCOG) should anyone be interested in examining them. He noted the Commission had received copies of his closing comments of what was accomplished this year and his suggestions for the future.

Item #7(C) – Smart Growth Implementation Committee

Mayor Costello reported the Smart Growth Implementation Committee meeting would be held this Wednesday at the Port Orange library where they would be formulating the transmittal recommendations to the Volusia County Council to be incorporated into the urban growth boundaries discussion.

Item #7(D) – Water Authority of Volusia

Commissioner Boyle advised the Friday letter included all of his information relative to the Water Authority of Volusia (WAV). He reported Dr. Bruce Mowry, WAV Executive Director, met with City staff and then met with him relative to the water plant expansion.

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 advised Item No. 8(J) had already been pulled.

Commissioner Selis requested Item No. 8(I) be pulled for a voice vote.

Commissioner Partington moved, seconded by Commissioner Boyle, for approval of the Consent Agenda, minus Item Nos. 8(I) and 8(J).

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

Item #8(I) – Fire Station #91 Lease

RESOLUTION NO. 2004-207

A RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY AND C. FRED HUDSON, III, TRUSTEE OF THE AMENDED AND RESTATED C. FRED HUDSON, III, TRUST DATED MAY 23, 1990, AND AMENDED AND RESTATED ON JULY 16, 1996; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Kent, to approve Resolution No. 2004-207, as read by title only.

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

Item #8(J) – Evaluation Assessment Regarding the Runway 17-35 Extension Project

RESOLUTION NO. 2004-208

A RESOLUTION APPROVING AMENDMENT NO. 24 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY AND HOYLE, TANNER & ASSOCIATES, INC., FOR AN EVALUATION ASSESSMENT REGARDING THE RUNWAY 17-35 EXTENSION PROJECT AT THE ORMOND BEACH MUNICIPAL AIRPORT; AUTHORIZING PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2004-208, as read by title only.

Mr. Adrian Thompson, 6 Dorado Beach Court, questioned why this item was on the agenda when the Commission was not to make the final vote until January. He stated some of the funding would be approved before the vote on the project.

Mayor Costello stated the assessment would have an impact on whether some Commission members would support the runway extension or not. He reported the runway extension motion would include the caveat that the assessment would determine there were Findings of No Significant Impacts (FONSI); however, it was possible the City would not obtain the FONSI.

Mr. Charles Carter, 212 Arlington Way, stated the minutes of the February 24, 2004, Aviation Advisory Board meeting indicated that the runway extension was not on the Comprehensive Improvement Program for 2004-05. He reported the Aviation Advisory Board directed Mr. Lipps to move the project forward with the acquisition and design scheduled in 2005-06 and then to construct the taxiways. Mr. Carter stated Mr. Lipps requested working with Hoyle Tanner to work out the details for submission in March. He questioned how the consultants were selected. Mr. Carter noted he expected Hoyle Tanner had a deal with the City that they would receive all of the jobs. He strongly recommended these jobs be bid out and not chosen arbitrarily.

Commissioner Selis thanked everyone for attending tonight and reiterated that he was not aware of any problems with his e-mail address. He stated he would be at the 3 p.m. executive meeting with the Bear Creek Homeowners' Association. Commissioner Selis reported that some have suggested he not vote on this issue or other issues pertaining to the runway extension; however, he was elected by the citizens of Zone 3 not to make the easy decisions, but to make all of the decisions, and he would not avoid accountability by tabling the issue. He explained that when all of the facts are known and the fears dispelled, the people may understand why, in the past, he has voted for this runway extension. Commissioner Selis noted the prior votes were not final; they were merely to go forward with the proceedings to have a runway. He explained he was told the runway extension would increase the attractiveness of bringing high income paying businesses to Ormond Crossings, and to date he has seen no information to refute that claim; but he has seen information that supports that claim. Commissioner Selis pointed out that all he could do was to rely on information provided to him from neutral third parties. He reported he was also advised that the type of aircraft that would land on the runway, jet aircraft, were quieter than the prop aircraft because the landings and takeoffs would take a shorter period of time and the decibel levels would be lower. Commissioner Selis stated that as he obtains more information, if his thoughts need to change, they would change.

Commissioner Selis noted he objected to the misinformation involving this runway extension and the tax increase. He stated he understood that if this runway was completed and the other runway was not expanded, the air traffic could be routed from the north to the south in connection with the prevailing southeasterly winds. Commissioner Selis reported he would happily listen to information to the contrary, but he would not happily to listen to information based on emotion and baseless fears. He stated he was informed that there would be reduced flight training as a result of this expanded runway; however, that may not be true, and he would welcome documentation to show that. Commissioner Selis reported he found it bothersome when people attribute decisions to him that have not been made final. He stated Commissioner Boyle has indicated that a decision was never final until the final vote, and the most courageous thing for any Commission member to do was to hear all of the facts and then change a decision that they had been leaning toward based on those new facts. Commissioner Selis assured the public he was not certain how he would vote on this issue at this point.

Commissioner Selis stated the environmental assessment would examine the impact of noise. He reported the original assessment generated noise contours for 1995 and 2005 using the FAA's Integrated Noise Model (INM), and these noise contours will be compared to noise contours generated for 2001 and 2021; therefore, in approving this, the Commission was seeking more information to decide whether to go forward with this runway extension or not. Commissioner Selis pointed out that social impacts were the third item on the list of 20 items, and the 250 yards between the residences and the runway would be considered in this section. He stated induced socioeconomic impacts would be studied, such as what this impact improvement would have relative to bringing in businesses to Ormond Crossings. Commissioner Selis noted a portion of the price the City would be paying for this environmental assessment would be to accommodate the potential need to hold public workshops in association with the revalidation process and to meet with any concerned citizens to discuss issues related to airport noise. He pointed out he lived in Tidewater and noticed the increased noise. Commissioner Selis reported he would be open-minded and hoped the residents would also be open-minded on this issue.

Commissioner Boyle concurred that the most difficult thing an elected official could do was to reverse a vote. He thanked Commissioner Selis for articulating his views, and he thanked the people who came out for this meeting for their passion, emotions, and fears. Commissioner Boyle noted there have been numerous questions as to why this was on the agenda. He praised Mayor Costello for his action months ago when he stated that before the Commission proceeded with grant applications and consultant contracts that another vote was needed. Commissioner Boyle reported the Commission voted in May to resuscitate the long dormant runway extension and again in August to start the grant process, and the Commission would probably need to have another eight to ten more votes. He noted Mr. Turner indicated this item was on the agenda because staff received direction from the Commission to place it on the agenda. Commissioner Boyle questioned why this issue had to be heard on January 4, pushing this grant process and pushing this consultant process tonight. He stated that this company would study the noise issue; however, the assessment of 13 to 14 subdivisions that surround the airport was also important. Commissioner Boyle questioned if a FONSI study could be completed in 30 days, particularly considering the holiday season. He stated there was a growing public perception that it seemed transparent that a vote tonight to spend money may influence the subsequent vote on whether or not to proceed with the runway extension at all.

Commissioner Boyle noted that Hoyle Tanner has always performed well for the City in the past and has earned \$1 million in the past ten years for the Ormond Beach airport alone, although he conceded the City had only paid one-eighth of that cost from tax dollars with the remaining being paid by grants. He stated the Commission heard vital new information tonight regarding runway strength of the existing runway precluding the larger aircraft that the Commission was trying to attract. Commissioner Boyle questioned if Hoyle Tanner merely omitted this information by design or if it was overlooked; and in either case, it would raise questions about their qualifications. He recommended, at a minimum, tabling this for a time to validate or refute the information Mr. Thompson provided tonight. Commissioner Boyle concurred with the speaker who urged the Commission to postpone this decision, with a final decision made at a special meeting in March after the new Commission member would take office. He stated that even though Commissioner Selis was not present at recent meetings, he was assured that Commissioner Selis was current on every fact, but the public has been questioning the four candidates on this issue, proving the importance of the issue. Commissioner Boyle reported there had been a great deal of new information presented since the votes were taken in May and August. He pointed out that the economic study provided was flawed in that the operations figure was incorrect, and it did not factor in the existence of a full service international airport seven and one-half miles away. Commissioner Boyle stated the City has received many e-mails and a petition. He noted that in October Mr. Driscoll pointed out that this would put Pine Trail Elementary School into a zone where they would be out of compliance with State mandates disallowing them to make any additions or rebuilding on that property, and no staff member had refuted that information to date. Commissioner Boyle stated the courts had ruled that the cities had the right to extend runways and expand their airports, but they also had an obligation to pay for the soundproofing. He reported the City failed to consider the current and future generation of corporate jets would not require a runway extension. Commissioner Boyle noted some members of the Commission supported the runway extension because they believed it would lure businesses to Ormond Crossings; however, he was told this was a neutral issue to the representatives of the landowners. He stated when he indicated that the runway extension could inhibit the sale of the residential property west and north of I-95, this was acknowledged; therefore, Ormond Crossings should provide their opinion on this issue. Commissioner Boyle pointed out that the north-south runway was a navigational contradiction to what existed in Daytona Beach and Flagler County, and planes landing in Ormond Beach would have to wait for clearance from Daytona Beach to use the north-south runway at certain times.

He stated he had yet to identify the advocate groups or positive rationales in favor to this extension, other than hangar owners. Commissioner Boyle reported there would be negative impacts and risks for the Airport Sports Complex, even if they would be reconfigured and moved. He urged any Commission Member to make a motion to stop this runway extension tonight; but if that were not forthcoming, he would move to table this to at least January, preferably March, and if it must be in January, to a special meeting.

Mayor Costello stated no one had indicated the study would be completed in 30 days. He reported the vote scheduled for January would have a caveat that if there were no Findings of Significant Impact that changed the environmental assessment, that the runway could be approved. Mayor Costello noted he preferred an east-west runway. He reported the City could not stop planes from landing since they are landing now, but he hoped to work on guidelines regarding where the planes would go. Mayor Costello stated that lease agreements with hangar owners could include that they not lease to a Stage 1 or Stage 2 jet, stopping the larger jets from being based at the airport. He noted Commissioner Boyle had unfairly attacked the person from Embry Riddle relative to the count because the ERAU consultant had updated his figures. Mayor Costello noted the goal was to obtain new studies with new information. He reported the best case scenario was less than one-half of one percent increase in flights. Mayor Costello noted he was interested in more Florida Production Engineering-type facilities that would bring tax revenue equal to 238 homes. He reported that he was not certain how he would vote because neither Ormond Crossings, Economic Development Director Joe Mannarino, the Chamber of Commerce, or the people from the business development partnership have lobbied him for the runway extension. Mayor Costello pointed out his issue was jobs and economic development so the citizens would not have to pay for additional taxes as recently occurred. He stated he would vote for the environmental assessment whenever it should come up for a vote, but that vote would not mean he would vote for or against the runway extension.

Commissioner Boyle moved to table Item #8(J) until after the January 4th meeting. The motion died for lack of a second.

Commissioner Boyle moved, seconded by Commissioner Selis, to table Item #8(J) to the January 4th meeting.

Mr. Turner reported that on May 18, 2004, staff received direction from the City Commission to move forward with the runway extension, and approval to accept the grant from FDOT was received on September 16, 2004. He noted staff mentioned on October 27 that this would be bought back. Mr. Turner reported the overall issue would be brought back in January, and Mayor Costello indicated it would be permissible to bring the environmental assessment back sooner so the Commission could have information prior to major votes relative to the airport. He clarified that the environmental assessment would not be completed by the January meeting, and it could be delayed.

Commissioner Selis asked if tabling this would have any impact on the Commission’s ability to vote on the other issues on January 4; whereby, Mr. Turner reported it would not.

Commissioner Boyle requested a special meeting to be held on January 11; whereby, Mayor Costello requested the issue on the floor be voted on before that was discussed.

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

Mayor Costello noted he agreed with Commissioner Partington and Commissioner Kent, but was for obtaining all the information possible. He stated he would be willing to place this item as the first item of business on the January 4 meeting.

Commissioner Boyle stated this would be unfair for those who would come for the regular business in that he expected a large crowd.

Mayor Costello reported he had moved items where large crowds were in attendance to the beginning of meetings in the past, and he informed the public this item would be first on the agenda.

Commissioner Boyle moved to discuss Item #8(J) any day in January after January 4 that would be amenable to the members of the Commission for a separate one-issue special City Commission meeting. The motion died for lack of a second.

Mayor Costello asked staff to place all airport related issues ahead of everything else on the January 4 agenda, including the Consent Agenda items.

Item #9(A) – Removal of an Historic Tree at 43 West Granada Boulevard

RESOLUTION NO. 2004-209
A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE LOCATED AT 43 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Kent, to approve Resolution No. 2004-209, as read by title only.

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

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

Item #9(B) – 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 Kent, to approve Ordinance No. 2004-51, on second reading.

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

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

Item #10 – Amending Garbage, Refuse, and Yard Waste

ORDINANCE NO. 2004-52
AN ORDINANCE AMENDING CHAPTER 10, GARBAGE, REFUSE, AND YARD WASTE, OF THE *CODE OF ORDINANCES* OF THE CITY OF ORMOND BEACH, BY CHANGING THE TITLE OF THE CHAPTER TO “SOLID WASTE, YARD WASTE AND RECYCLING”; BY AMENDING SECTION 10-1, DEFINITIONS, SECTION 10-2, GENERAL AUTHORITY TO REGULATE, SECTION 10-4, “WHO MAY COLLECT AND DISPOSE, SECTION 10-5, REFUSE AND GARBAGE TO BE CITY PROPERTY, SECTION 10-7, UNAUTHORIZED ACCUMULATIONS, SECTION 10-8, ACCUMULATIONS SUBJECT TO SCATTERING BY ELEMENTS, SECTION 10-9, PLACEMENTS OTHER THAN IN CONTAINERS; PLACING IN WATERS, SECTION 10-11, FREQUENCY OF RESIDENTIAL COLLECTIONS, SECTION 10-12, FREQUENCY OF COMMERCIAL COLLECTIONS, SECTION 10-13, LIMITATIONS ON QUANTITY COLLECTED BY CITY, SECTION 10-14, CONTAGIOUS DISEASE REFUSE, SECTION 10-15, FLAMMABLE OR EXPLOSIVE REFUSE, SECTION 10-16, FEES FOR COLLECTION AND DISPOSAL ESTABLISHED, SECTION 10-17, BILLING FOR FEES, SECTION 10-29, SEPARATION OF

GARBAGE, YARD WASTE AND ASHES, SECTION 10-31, SCATTERING PROHIBITED GENERALLY, SECTION 10-34, PREPARATION OF GARDEN TRASH, SECTION 10-35, CONTAINERS REQUIRED; SUBSTANDARD CONTAINERS, SECTION 10-36, CONSTRUCTION OF GARBAGE CONTAINER CANS, SECTION 10-37, GROSS WEIGHT OF GARBAGE CONTAINER CANS, SECTION 10-38, LARGE CONTAINERS FOR COMMERCIAL ESTABLISHMENTS, SECTION 10-40, PLACEMENT FOR COLLECTION FROM RESIDENCES; EXCEPTIONS, SECTION 10-41, PLACEMENT OF COMMERCIAL CONTAINERS, SECTION 10-42, TIME FOR PLACEMENT, SECTION 10-56, REGULATIONS AUTHORIZED, SECTION 10-57, DISPOSAL BY PRODUCER OR PROPERTY OWNER AUTHORIZED; PERMIT REQUIRED; FEE, SECTION 10-58, HAULING OVER CITY STREETS AUTHORIZED, SECTION 10-59, PERMIT REQUIRED FOR PREMISES FROM WHICH COLLECTED, SECTION 10-60, PERMIT REQUIRED FOR COLLECTOR OR DISPOSER; APPLICATION, SECTION 10-61, REQUIREMENTS FOR VEHICLES, SECTION 10-62, PLACE OF DISPOSAL, SECTION 10-65, CONSTRUCTION DEBRIS, AND SECTION 10-66, DEBRIS FROM CLEARING OF VACANT OR OCCUPIED LOTS; BY RENAMING SECTION 10-5, REFUSE AND GARBAGE TO BE CITY PROPERTY, SECTION 10-14, CONTAGIOUS DISEASE REFUSE, SECTION 10-15, FLAMMABLE OR EXPLOSIVE REFUSE, SECTION 10-29, SEPARATION OF GARBAGE, YARD WASTE AND ASHES, SECTION 10-34, PREPARATION OF GARDEN TRASH, SECTION 10-36, CONSTRUCTION OF GARBAGE CONTAINER CANS, SECTION 10-37, GROSS WEIGHT OF GARBAGE CONTAINER CANS, AND SECTION 10-44, CURBSIDE RECYCLING; BY ADDING ARTICLE IV, SECTIONS 10-67 THROUGH 10-82, CONSTRUCTION AND DEMOLITION DEBRIS COLLECTION FRANCHISES; BY ESTABLISHING TERMS AND CONDITIONS RELATIVE THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-52, on first reading.

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

Item #11(A) - Legislative Priority List for FY 2005-2006

Mayor Costello asked if there were any items the Commission wanted to add or delete from the legislative priority list.

Commissioner Boyle reported he would favor deleting items #1 and #6 from the regional list. He stated the first item would amend the Florida bond election requirements. Commissioner Boyle noted that the Commission was told that it would be impossible to supply the voters with valid impact information on a referendum using a single hypothetical home value. He explained this would be more misleading than informative.

Commissioner Selis stated a perfect example of why this legislation was needed was what occurred relative to the Florida Speed Rail where the issue was placed on the ballot with no indication of the cost to the taxpayer, and when that information was provided to the taxpayers, it provided sufficient information to repeal the law. He explained he believed that had the City's bond issues reflected accurately that the cost per homeowner was under or slightly above a dollar that the outcome may have been different. Commissioner Selis reported there was no harm in including this on the list.

Mayor Costello determined that only Commissioner Boyle advocated deleting item #1; therefore, it would remain on the list.

Commissioner Boyle stated item #6 related to the Truth in Millage (TRIM) law defining what would be considered a tax increase. He explained anything involving the City obtaining more revenue would be considered a tax increase in his opinion. Commissioner Boyle stated this had been the law for a long time and recognized by most of the cities, governmental agencies in Florida, and the legislature. He noted this change would be so the City would not be unfairly accused of raising taxes when they did not raise taxes, but he believed anything over roll back was a tax increase. Commissioner Boyle expressed concern what people would think of Ormond Beach for the suggestion.

Commissioner Selis stated the reason he wanted this on the list was so people would know the truth about how much of the tax increase was because of their property values increasing and how much was because of the millage increasing. He reported he could not see how this could possibly be harmful to anyone except the property appraisers' office who would not want it known that their actions result in payment of more taxes when the millage stays the same. Commissioner Selis stated people deserve the truth, not politics.

Mayor Costello reported he supported this remaining on the list. He explained he considered Jim Ward a very honorable man, but in his campaign he stated Dorothy Hukill raised taxes when she was on the Port Orange Commission or as Mayor, and Ms. Hukill wrongly said she did not. Mayor Costello noted that technically she did raise taxes because Port Orange stayed at the same tax rate and this created confusion. He reported this was the only instance in the entire State government where this was done, and it sends the wrong message. Mayor Costello explained he would tell anyone why he supported increased revenues, but this system was confusing to most people. He noted he continued to support putting the truth back into the TRIM.

Commissioner Kent reported Commissioner Selis clarified this issue for him months ago when he explained that when a car costs \$30,000 one year and \$35,000 the next year and the sales tax stayed at 6.5% on both cars, while the person would be paying more taxes, the rate had not increased. He stated he would support this item remaining on the list.

Commissioner Partington concurred this item should remain; however, to facilitate a compromise between Commissioner Boyle and Commissioner Selis he suggested allowing an inclusion in the definition in the TRIM law that would allow for no more than the rate of inflation for that particular year to be included in the definition to not be considered a tax increase since this would treat the municipality as fairly as the individuals are treated. He reported through talking to legislators he could assure the Commission that this would not be passed this year; however, it was good to keep the issue open and to allow debate.

Mayor Costello stated that if 75% of a budget consist of staff costs and the salaries increase by 6% and inflation was 2%, he asked if the budget should be raised by 4.5% to pay only the salaries without having any money for any new projects. He reported this created a conflict with public officials, which was what occurred in Ormond Beach. Mayor Costello explained six years ago there were significant increases in staff salaries, appropriately given, but the funding mechanism was not put in place. He noted taking money from the fund balance paid for the increases the first year, but in the next year double the fund balance was needed. Mayor Costello stated these needed funds increased exponentially since a funding source was not delineated and because the Commission members did not want to go on record raising taxes to pay for the increase. He reported the TRIM creates the problem where Commissions do not want to pay for raises given.

Mayor Costello stated hearing no other support for removing this item, it would remain on the list. He reported he would like to add an item. He explained he was frustrated that he was uninvited to go to The Village when Commissioner Partington met with the DOT and when Commissioner Boyle would attend the Bear Creek homeowners' meeting. He recommended asking the State legislature to amend the Sunshine Law to allow more than one Commission member to attend a group meeting such as a Rotary Club, homeowners' association meeting, or similar type meeting, and express their opinion.

Commissioner Boyle respectfully opposed Mayor Costello's recommendation. He stated while the homeowners' associations meeting was a public meeting, it was being held in a gated community. Commissioner Boyle reported he was invited several weeks ago. He stated there was a clear distinction between an advertised public government meeting and a meeting with groups, and he did not recommend amending the rule.

Mr. Hayes stated anything could be added to the list, but it would not mean it would be passed. He reported relative to group meetings, Commission members may attend, but should not

participate because it would create a potential risk. Mr. Hayes advised the only other method that could be used was to publicly advertise the meeting.

Mayor Costello reported he would not attend a meeting and not be able to speak.

Commissioner Selis questioned when the Bear Creek meeting was being held because he noted he would like to attend in that it was in his zone. He noted he would like it advertised so he could participate.

Commissioner Boyle reported the Bear Creek board requested him to attend to answer questions after their regular meeting on December 15 at 7 p.m.; therefore, he would probably be speaking around 7:30 p.m.

Commissioner Selis stated he intended to attend that meeting and asked the City Clerk to advertise the meeting so he may participate.

Ms. Ronnie Patterson, City Clerk, explained the meeting would have to be advertised, recorded, and available to the public. He stated that in that this was a gated community, accessibility may be a problem.

Commissioner Selis stated he will be at the meeting and participate, but he did not want there to be any Sunshine Law violations and requested Mayor Costello, Mr. Turner, and Mr. Hayes insure that would occur.

Commissioner Boyle stated he hoped Commissioner Selis would receive an invitation as he had. He reported he supported the City Attorney that only one could speak because if either one responds to the other, that would be a violation of the Sunshine Law. Commissioner Boyle pointed out he did not believe the City had the authority to publicly advertise a private homeowners' association meeting.

Commissioner Selis reiterated he would attend and request staff insure the Sunshine Law provisions were protected.

Mayor Costello stated Commissioner Boyle has spoken about zones more than any other Commission member; therefore, he respectfully requested Commissioner Boyle would yield to Commissioner Selis on this in that Commissioner Boyle's opinion had been previously well articulated, and Bear Creek was in Commissioner Selis' zone.

Commissioner Boyle requested a copy of the materials the City Manager was taking out to the executive committee on December 7. He stated he was invited to the December 15 meeting three to four weeks ago when the discussions began because at that time Commissioner Selis was unavailable for any public meeting. Commissioner Boyle reported he told those who invited him to speak that normally he did not have the protocol right to go into Zone 3 to answer questions; however, since the Zone 3 Commissioner was unavailable, had already announced his resignation, and was not certain he would be able to attend the meeting, he agreed in good faith to attend the meeting and answer the questions, and that decision was irrevocable.

Mayor Costello stated he had never cared a great deal about zones, but he recommended that in the future, he should have been contacted as Mayor.

Commissioner Boyle stated telling these people to contact the Mayor was a Sunshine Law violation.

Mayor Costello advised it would not be a violation of the Sunshine Law to inform him of a meeting not in Commissioner Boyle's zone, and he should have been invited.

Commissioner Boyle reported this was a unique situation and would not recur.

Commissioner Selis stated the protocol was clear. He pointed out that the City has ambassadors and a clearly set out history. Commissioner Selis explained that if he were unable to attend that meeting, the only representative should be Mayor Costello. He stated it was incredibly inappropriate and disrespectful of Commissioner Boyle to go into his zone and lobby against something when a fair and impartial accounting should be given.

Commissioner Boyle stated it was totally disrespectful to question his integrity. He reiterated he had an invitation, and he also represented those people as an elected official with the right to go to any meeting he chose.

Mayor Costello asked Mr. Hayes if there were a way, should the Bear Creek homeowners' associations allow their gate to be open, for the public to attend the meeting that it could be advertised and have a recording secretary attend.

Mr. Hayes stated it could be advertised and held on City property.

Mayor Costello noted the meeting would have to be at Bear Creek.

Mr. Hayes explained he was merely providing the Commission with options. He noted assuming Bear Creek would allow the City to hold a public meeting on their grounds, it could be held at Bear Creek, but it would need the same formalities that would be required on City property.

Mr. Turner stated he was meeting with the Bear Creek executive board tomorrow to see if staff would be able to attend their general meeting on November 15. He pointed out a letter has been distributed to numerous homeowners' associations in an attempt to meet with their general bodies. Mr. Turner reported staff would have to examine the facility's logistics to determine if a public meeting would be possible relative to recordation issues and ADA accessibility issues. He noted staff would pursue this if the Commission directed staff to do so.

Mayor Costello stated considering the comments, he asked Commissioner Selis if he would be willing to forego attending the meeting and rely on staff to present as much neutral information as possible. He reported Commissioner Boyle was invited, and this protocol situation could be discussed in a workshop setting.

Commissioner Selis reported he would consider Mayor Costello's request but was leaning toward deciding to attend, and he hoped staff could protect the Commission on this issue. He pointed out this was the zone he was elected to represent. Commissioner Selis stated he would have no problem with this situation had it not been for the misinformation put out by Commissioner Boyle in connection with the budget. He reported that knowing how strongly Commissioner Boyle feels about opposing this runway extension, he had no trust that Commissioner Boyle would present a fair and impartial view.

Mr. Turner clarified that staff had not been invited to the December 15 meeting but was attempting to obtain an invitation to that and other meetings. He stated staff was in a difficult position, and he asked for direction.

Mayor Costello reported the Commission was directing staff to do whatever they could to make this a legal public meeting; however, if the criteria could not be met, he would ask Commissioner Selis not to attend even though he should actually be the person attending.

Commissioner Boyle stated if the executive board of Bear Creek were to uninvite him to allow Commissioner Selis to attend, he would then yield to Commissioner Selis since he would then not be breaking his word.

Mayor Costello requested staff to investigate the aforementioned possibility. He recommended the possibility of asking Commissioner Boyle to speak at 7:30 p.m. and Commissioner Selis to speak at 8:00 p.m. Mayor Costello suggested staff find a creative solution.

Mayor Costello reported he received no support for his recommendation to attempt to amend the Sunshine Law; therefore, it would not be added to the list. He noted that if the State House and State Senate had to live by the same rules, he would not have made the recommendation; however, they exempted themselves.

Item #11(B) - Fire Department Overtime

Fire Chief Barry Baker stated that Commissioner Boyle asked for this item at the November 3 City Commission meeting. He explained the chairman of the Budget Advisory Board had recommended the Fire Department overtime be capped at \$400,000; however, he would not be able to limit the overtime to \$400,000 this year and still maintain the same level of service that was currently being provided. Chief Baker reported that \$748,000 was spent this past year after aggressively working on lowering the \$1 million figure that was projected. He agreed that this figure was too high, but the reality was that the salaries were under, and the overtime was over. He stated that in 2001-02, prior to the retirement of the 16 senior members, the overtime was \$375,000, and the following year it was \$632,961. Chief Baker reported the \$375,000 should probably be the benchmark. He noted taking the figures from 2001-02 and adding the pay increases, the figure would be above \$450,000, and this would not take into consideration the problems relative to workers compensation or the additional training the City was trying to

provide. Chief Baker stated that the Fire Department was making significant headway with providing training. He noted the Fire Department was now almost at full staff, but there were two outstanding workers compensation issues that remained a problem.

Chief Baker stated he had been working with the City Manager and the Finance Director almost on a weekly basis seeking opportunities to reduce overtime. He pointed out that reductions of 45% were realized in the figures from October 1 to the present; however, his concern was additional workers compensation injuries. Chief Baker requested the Commission continue with the projected \$527,000, and he advised that everything that could possibly be done was being done to reduce that figure. He stated the approval of the union contract eliminated the contract provision that required the highest paid person, saving the City money.

Chief Baker explained that one option to reduce overtime was to allow the hiring of three employees at \$45,000 per person. He stated the Fire Department would promote people who are prepared to do so and add a third person to each shift, which would reduce overtime. Chief Baker reported that another option, his least favored, was to close a fire station. He stated those employees could then be reassigned; however, this would increase response times, change the City's ISO rating, increasing insurance costs, and would require more aid from surrounding jurisdictions increasing the cost per call. Chief Baker reported these were the only two options he could see that were viable to reduce the overtime.

Mr. Turner assured the Commission that the cost would be reduced to the greatest extent possible, but staff did not want to set up an expectation of an unachievable result.

Mayor Costello recommended getting more creative, such as hiring two part-time firefighters to fill in where necessary, offering no benefits, but they would receive training with an outstanding Fire Department, and it would look good on their resume for future employment.

Chief Baker reported he could not state Mayor Costello's recommendation would not work; however, he did not believe it would be optimal since he had seen other departments attempt that method. He explained the top people were being hired in Volusia County by municipal fire departments, and the people available would not be of the same high quality that were currently employed. Chief Baker expressed concern relative to the level of training these employees would have and what kind of service could be provided. He reported he was currently involved in situations where risks were being taken that he would normally not take in an effort to reduce these costs. Chief Baker pointed out this option was not overlooked, but there would be pros and cons for every approach.

Mayor Costello stated if the Commission would not give staff the tools to accomplish the tasks given, they could not hold staff accountable.

Commissioner Boyle stated the \$748,000 overtime figure at the time the millage rate was being increased caused a public outrage, especially since the same 10 to 12 people were receiving all of the overtime funds. He reported the second page of the February 12 staff report indicated the higher than anticipated overtime costs were attributed to the cumulative effect of the following factors (in order of the highest overtime impact); however, that was incorrect information. Commissioner Boyle stated the actual order was the reverse of what was printed. He reported the position vacancies for the Division Chief and Assistant Chief that were filled on a temporary basis were actually this highest causative factor.

Chief Baker stated there were three significant factors involved, but he concurred the highest impact would be those two workers compensation issues.

Commissioner Boyle requested this error be corrected. He stated Chief Baker explained that there were other causative factors such as training that had now been corrected. Commissioner Boyle reported that there was a management position vacant in City Hall and salaried employees covering that vacancy, and he did not understand why that could not be repeated in the Fire Department. He stated that in the first four years the figure was \$250,000. Commissioner Boyle reported the special personal tests Chief Baker gives to qualify for overtime positions are unique. He noted he understood that there was hope that the pension board would be able to resolve the Assistant Chief problem.

Chief Baker explained that this issue was being resolved. He stated that someone was promoted to that position, and the other position was being filled in mid-January; and it was being paid out of a workers compensation fund. Chief Baker noted that the City was doing this against the advice of the retirement attorney; however, the overtime was too high not to take this action.

Commissioner Boyle pointed out that the two firefighters on the pension board were the two of the largest recipients of the overtime.

Chief Baker stated one pension board member was on the list of overtime recipients.

Commissioner Boyle stated this Commission should direct that the overtime not exceed \$400,000, no matter what it would take to accomplish that. He reported he believed that could be accomplished by having the managers do whatever they needed to do. Commissioner Boyle stated that if the efforts made to date could cut the overtime \$200,000, he questioned why the overtime could not be cut another \$150,000.

Commissioner Kent stated the Budget Advisory Board recommended a 36% tax increase, and the Commission approved a 34% tax increase. He reported the Budget Advisory Board recommended firefighter overtime not exceed \$400,000, and he was leaning toward accepting that figure but would accept a compromise of \$450,000. Commissioner Kent stated that he believed management was somewhat to blame for this problem, but not completely because others were also to blame such as those who voted for the contract. He reported the contract required the highest rank to cover for overtime. Commissioner Kent stated someone was collecting a pension of over \$90,000 a year, and a select few employees were banking on what a Commission did years ago, but blaming Chief Baker was not right.

Commissioner Partington and Commissioner Selis stated that they could support the \$450,000.

Mayor Costello stated that three Commission members concurred with \$450,000. He requested Chief Baker come back to the Commission with a plan on how he planned on accomplishing that goal. Mayor Costello stated his concern was that if the pension board would not allow replacing the Assistant Chief and another workers compensation claim should come in, the goal may not be achievable. He challenged Chief Baker to accept some actions where he may not have a high degree of comfort. Mayor Costello stated the situation may not be ideal to have new qualified firefighters to fill in some of those positions, but with 85% of the calls being medical, qualified EMTs and paramedics could go out that may not be full-time firefighters, which would save the City money.

Mr. Turner stated that staff was monitoring this item as it does with other budget items, and this item even more so. He noted that beginning in January staff would provide monthly reports on the budget, and this item would be a highlighted item.

Mayor Costello urged staff to inform the union that the Commission appreciated them working with management, and that overtime was to be limited to \$450,000. He urged continued cooperation.

Chief Baker asked for clarification that the Commission wanted to maintain the current level of service and limit the overtime to \$450,000; whereby, Mayor Costello concurred that was correct. He reported he would do his very best.

Mr. Turner noted a discussion of creative options would be necessary, and he did not want to preclude coming back to the Commission with options.

Mayor Costello stated that the contract required certain people to replace other certain people; therefore, when someone was out they had to be replaced with higher salaried employees.

Commissioner Boyle stated it was his understanding that management put that provision in the contract; whereby, Chief Baker clarified that was a provision that management agreed with, but it was not a management provision.

Commissioner Kent supported Mayor Costello's idea relative to hiring part-time employees; and while they may not be the best applicants, he was confident Chief Baker could soon make them the best. He stated that he and a constituent, Ms. Sue Parkerson, were glad that there would be help for those individuals taking the test making a quicker turnaround. Commissioner Kent recommended help be available for these applicants before taking the test to reduce the failure rate.

Chief Baker reported the failure rate had improved over the past years. He noted while the applicants were being held to a higher standard, it was a common standard; he did not introduce something new. Chief Baker stated he would come back with creative ideas, but if he was uncomfortable with them, he would want specific documented direction from the Commission to proceed. He reported that he would provide his professional advice but implement whatever the Commission directed.

Commissioner Selis

At 9:35 p.m. Commissioner Selis reported that he would have to leave the meeting and requested the Commission's indulgence in making his comments on the remaining agenda items.

Mayor Costello reported he believed he had the discretion to indulge Commissioner Selis' request and urged him to make his comments.

Commissioner Boyle called a point of order indicating this was not a reasonable request.

Commissioner Selis stated he would not want to do anything inappropriate and asked the remaining Commission members how they felt on the issue.

Mayor Costello stated he found it incredulous that this was not acceptable, but asked Commissioner Kent and Commissioner Partington to express their views.

Commissioner Kent and Commissioner Partington both advised they would welcome Commissioner Selis' comments. Commissioner Kent pointed out Commissioner Selis was the elected official from Zone 3, and he respected Commissioner Selis' opinion.

Commissioner Selis stated relative to the SR40 median contract that he saw no harm in rebidding this contract, and he applauded Commissioner Boyle for the recommendation.

Commissioner Selis reported that regarding the replica cars issue, he was not convinced the cars could not return to the Birthplace of Speed Park in that fencing could be built for \$1,500 and the cars could be cleaned frequently. He stated Mr. Dan Smith of the racing association offered to clean the cars for the City at no charge. Commissioner Selis noted that should this not be an acceptable position that he would then prefer the cars be sold.

Commissioner Selis noted regarding the Police Officer resignation agreement that he was hopeful staff was mindful of what the Legal Department's position in this should be to eliminate any further difficulties.

Commissioner Selis stated that relative to the City Manager evaluation, there was a definite bias regarding the City Manager. He reported he performed a statistical analysis, and it demonstrated that Commissioner Boyle's scores were consistently lower than all of the other Commissioners and Mayor Costello. Commissioner Selis stated the other Commission members were within a standard margin against the average, but Commissioner Boyle consistently had percentages well below average. He pointed out that it was harder to assess another Commissioner's scores because there were pluses or minuses, and he was using a rounding analysis.

Commissioner Selis thanked the Commission for their support.

Item #11(C) - State Road 40 Median Contract

Mayor Costello stated this item was recommended by Commissioner Boyle, and he wholeheartedly supported the recommendation. He asked if staff was suggesting the City wait to issue Requests for Proposals (RFP) until after September 2005.

Ms. Judy Sloane, Public Works Director/City Engineer, stated that there were three grounds maintenance contracts, and she was suggesting lining them all up at the same time since the other two would be expiring next year. She noted the goal was to realign the scope of work and have a median contract, a facility maintenance contract, and a right-of-way mowing contract.

Mayor Costello asked if the City had the option of giving a 60-day notice to the current company to rebid this one contract at this time.

Ms. Sloane stated a 45-day notice would be required to terminate this contract.

Mayor Costello reported that Commissioner Boyle indicated he was aware of people who wanted to fulfill this contract at a significantly lesser cost. He noted he did not see a problem rebidding this now with a month-to-month contract and a 45-day notice up to September 2005. Mayor Costello reported that if the new company would do a good job and come in at a reasonable cost, the Commission would look favorably on that company. He noted that there

had been low bidders who were rejected because staff had concerns that they could not do the job.

Commissioner Boyle stated staff's recommendation was to wait until next year to bill all three contracts at the same time, which may explain why this agenda request was delayed. He noted there was information not in the staff report that should have been included. Commissioner Boyle explained the first contract was for \$50,000 per year and was done for five years by a company that had been performing beautifully on all of the other City buildings and grounds. He pointed out that at the end of that period of time, the City substituted the grass and made a number of changes in the scope of the contract. Commissioner Boyle noted this company was never invited to rebid, and the Commission accepted the second highest bid with a three-to-two vote at 12:30 a.m. or 1:30 a.m. He stated he was upset that staff did not inform the Commission when this window opened immediately without Commission prompting. Commissioner Boyle reported there was an opportunity to obtain the same level of service with less money. He stated he meant no disrespect for the current company, but he believed the City overpaid the contract.

Mr. Turner explained that a number of years back the City was having severe problems with the median maintenance, and at Commissioner Boyle's request the City solicited assistance from Mr. Richard Truitt, a local landscape architect. He reported that as a result, the City upgraded its landscaping requirements.

Ms. Sloane reported the City increased the requirements when the contract was bid out. She noted that it was an open bid, no one was precluded from bidding, and the City also did not solicit any bids.

Commissioner Kent asked if any company was solicited; whereby, Ms. Sloane replied no company was solicited to bid.

Commissioner Boyle stated that the change out of the sod costing \$35,000 was broken into three separate contracts under the \$25,000 limit requiring City Commission approval, and it was placed in the budget process with no discussion at a Commission meeting. He reported there were some intangibles to be considered regarding the original company that performed the bid faithfully for the first five years. Commissioner Boyle pointed out that jumped the contract from \$50,000 to \$117,000. He noted while the medians do look better, the additional \$67,000 per year was not justified.

Mr. Turner pointed out that the City was not receiving service at the level required by the previous contractor, partly based on specifications and partly based on performance. He stated the contract was rebid, and the service has improved. Mr. Turner noted that staff would have no problem in rebidding the contract should the Commission provide that direction. He explained staff was simply suggesting rebidding the entire mowing services to package it in such a manner as to try to achieve some economy of scale.

Ms. Sloane stated while it could be rebid, it would be a six-month contract, and it was doubtful the City could obtain a good monthly rate for a short-term contract; whereby, Commissioner Boyle indicated he was willing to wait since he agreed a six-month contract would be problematic, but he stated he was questioning the original contract and its scope the first year.

Mayor Costello stated while he would prefer it be rebid now, he was convinced there would not be sufficient votes; therefore, he reported the City would rebid in September 2005.

Item #11(D) - Update on the Replica Cars

Mayor Costello stated he was prepared to approve a year's trial allowing the cars to be replaced at the Birthplace of Speed Park urging the Historical Trust to raise money to pay for the fence and to take Mr. Dan Smith up on his offer to wash the cars on a weekly basis.

Commissioner Kent reported he walked the area with Mr. Turner and Ms. Sue Parkerson who offered great suggestions. He stated the weather was problematic since rust and deterioration had to be expected. Commissioner Kent reported there were several areas in the breezeway and even the City Commission chambers where the replica cars could be displayed such as hanging them on the walls or from the ceiling so everyone could enjoy them. He recommended this suggestion be considered before asking someone to wash and wax the cars on a weekly basis. Commissioner Kent requested Ms. Parkerson be allowed to speak; whereby, Mayor Costello asked Ms. Parkerson to come to the podium.

Ms. Susan Parkerson, 110 North Beach Street, stated she served on the Historic Landmark Preservation Board, and the board opposed the staff's recommendation the replica cars be given to a private individual for display in a restaurant. She noted the board had six inexpensive suggestions to display the cars for the enjoyment of the entire community and as a great tourist attraction. Ms. Parkerson reported the cars are a symbol of Ormond Beach and should be kept by the City and not given away.

Commissioner Kent noted he opposed the cars being given to the private restaurant. He stated he would prefer placing the cars in front of City Hall rather than at the Birthplace of Speed Park because they could be better preserved on the mainland than directly by the ocean.

Commissioner Boyle stated that if the cars were placed on the beach, they would need to be washed daily due to the salt air, and damage could occur in only a few hours. He reported the Historical Trust caused the City to obtain the cars; therefore, he would be willing to allow the Historical Trust and Historic Landmark Preservation Board to help make the decision as to where to place them.

Commissioner Boyle moved, seconded by Commissioner Partington, to ask the Historical Trust and the Historic Landmark Preservation Board to provide a recommendation.

Commissioner Boyle clarified that his motion was to ask the Historical Trust and the Historic Landmark Preservation Board to provide one recommendation rather than six recommendations. He stated it would be the responsibility of those making the recommendation to be certain the cars would not deteriorate.

Commissioner Partington reported he would not second Commissioner Boyle's clarified motion.

Commissioner Partington advised he would prefer studying options, but could not automatically approve whatever recommendation was made.

Mayor Costello recommended this be brought back to the second meeting in January after the Historical Trust, Historic Landmark Preservation Board, and possibly the Quality of Life Advisory Board offer a united recommendation, and if that would not be possible, to limit the recommendations to as few as possible. He noted his concept of allowing the cars to return to the beach did not receive Commission support. Mayor Costello noted a motion was not needed in that staff understood the direction the Commission was giving.

Commissioner Kent stated he could not support Mayor Costello's idea because once the damage had been done, the City would be back in the situation of questioning how long it would take to repair them since Mr. Crabtree, who has offered to repair them, may be busy, and the project may have to be delayed.

Mr. Hayes advised the second by Commissioner Partington to Commissioner Boyle's motion was withdrawn so effectively there was no motion on the table.

Commissioner Partington clarified that actually Commissioner Boyle changed his motion and he did not receive a second to the new motion.

Item #11(E) - Police Officer Resignation Agreement

Police Chief Larry Mathieson reported the referenced retirement agreement was withdrawn by the employee who submitted an unconditional retirement.

Commissioner Boyle asked Chief Mathieson if he was familiar with the requirements and obligations of the Code of Ordinances and the Charter as they relate to the Police Department. Chief Mathieson replied affirmatively. Commissioner Boyle reported that in a September 2003 memo the City Attorney outlined the proper procedure to follow whenever contemplating the serious discipline of an employee. He asked Chief Mathieson if he communicated with the Legal Department before, during, or immediately after the predetermination hearing with the officer on October 25.

Chief Mathieson explained that no disciplinary decision was made at the point of the predetermination hearing. He reported the purpose of the predetermination hearing was to allow the employee the opportunity to explain his position prior to any action being taken, and the Legal Department was typically not involved at that stage.

Mayor Costello noted that the memo indicated that this action was acceptable to this point.

Mr. Hayes stated that historically, the Legal Department has participated in predetermination hearings depending on the seriousness and gravity of the issues.

Chief Mathieson noted to further clarify the process was that typically, if the issues would be complex or there would be a substantial degree of severity involved, then a contact would be made with the Human Resources Director, the Legal Department, or both. He explained that in this case, during the course of the predetermination hearing, the employee raised the issue of submitting a retirement, which added a completely new dynamic to the process. Chief Mathieson reported that given the fact that the employee was a 23-year veteran of the organization, he felt obligated to honor or at least consider that suggestion. He informed the employee that he would discuss the situation with the Human Resources Department and legal counsel to determine what was appropriate. Chief Mathieson stated what occurred from that point would be best categorized as a miscommunication. He noted that he contacted Lorenda Volker, Human Resources Director, and Mr. Turner, explaining the situation. Chief Mathieson stated that Ms. Volker informed him she would contact the contract counsel who handled labor issues for the City. He noted that it may have been an invalid assumption on his part, but he assumed that during the course of that process the Legal Department would have been notified; however, that did not occur. Chief Mathieson stated the City Manager reported there was subsequently a meeting with Mr. Hayes clarifying the issue relative to the hiring and assignments associated with outside counsel.

Mayor Costello asked that, in the future, Chief Mathieson get the City Attorney involved much sooner; whereby, Chief Mathieson agreed he would.

Commissioner Boyle stated that the memo in 2003 indicated that before a predetermination hearing that the Legal Department should be involved when considering serious discipline. He asked if Chief Mathieson was aware that he had no authority to negotiate a drop plan in answer to the employee's request to retire with the retirement benefits that would accrue from the new contract.

Chief Mathieson stated he was aware he could not negotiate a drop plan, and he was not trying to do so.

Commissioner Boyle noted the report indicated that Chief Mathieson was "receptive" to that suggestion, and he placed it in the agreement.

Chief Mathieson clarified that he placed nothing in any agreement; the agreement Commissioner Boyle referred to was drafted by labor counsel. He noted the offer was proposed by the employee, and his response was that it sounded like a reasonable proposal; but he knew that he did not have the authority to authorize an agreement.

Commissioner Boyle noted that adjustment somehow got into the agreement. He explained the rationale for using outside labor counsel was that Chief Mathieson called this a collective bargaining issue, but only the City Attorney can utilize outside counsel. Commissioner Boyle stated the first problem led to the second and then the third problem.

Chief Mathieson reported he would generally agree with Commissioner Boyle's assessment; however, relative to giving the employee approval, it was clearly communicated to the employee at the time of the discussion that it was only a discussion and no formal approval was involved until it went through the proper channels.

Commissioner Boyle clarified that in the future, the draft agreement should go to the City Attorney, not the outside counsel.

Chief Mathieson stated the communication was transmitted to the Human Resources Director. He noted it had been the practice that the information would be communicated through the Human Resources Director and, he assumed, through the City Attorney as well to labor council; but that obviously did not occur.

Commissioner Boyle asked if the confidentiality requirement on the part of the employee was standard.

Chief Mathieson stated this would need to be discussed with counsel.

Commissioner Boyle asked if Chief Mathieson was aware that this employee provided testimony and support for police employees who were victims of sexual harassment and discrimination by other Ormond Beach police officers in the early 1990s. He questioned if Chief Mathieson considered it possible that history may have affected this officer's performance evaluations by superiors.

Chief Mathieson stated he never heard any allegation that had occurred. He reported this employee had a fairly good 23-year career but experienced problems toward the end.

Commissioner Boyle asked if Chief Mathieson was aware the man he promoted to Division Commander was a subject of that Justice Department complaint who then became the supervisor of his accuser.

Chief Mathieson reported he was aware that one of the Division Chiefs had serious discipline issues at one time.

Mr. Turner stated the appellate process for disciplinary action goes to his level and could go beyond. He pointed out he visited with this employee relative to two separate issues. Mr. Turner noted a responsibility that both he and Chief Mathieson have was to assure that the employees' behavior was appropriate, particularly in sensitive areas. He concurred that there was a misstep in communication, but people were not attempting to circumvent the system. Mr. Turner pointed out a number of people review documents before they are finalized. He noted there was an attempt to try to accommodate an employee experiencing performance issues in a reasonable manner. Mr. Turner apologized for the missed step, but explained that it would not have been signed without the City Attorney's office seeing the document.

Mayor Costello directed staff to send such documentation to the City Attorney's office before it would go to the labor counsel in the future.

Mr. Hayes stated that whether or not a determination was made to use labor counsel would be made by him and his staff. He explained that when Fred Disselkoen was the City Attorney, he and Mr. Disselkoen handled the labor matters and determined which to farm out and which to handle; but after Mr. Disselkoen's death, the Legal Department had only himself and one other employee, so he began to utilize labor counsel services, granting Human Resources and the City Manager more latitude at that time with the caveat that the Legal Department was to be notified before and during the process. He explained the problems that the Legal Department has encountered have exacerbated over the past three to four years. Mr. Hayes stated the Legal Department has made reasonable efforts to work with staff unsuccessfully. Mr. Hayes stated since he was accountable, he needed to regain control, and he would not delegate that authority to anyone.

Mayor Costello stated he had no problem with the intent of what Chief Mathieson did, and he hoped this issue would not recur.

Commissioner Kent asked if the labor counsel was paid when he was contacted.

Mr. Hayes stated the labor counsel was paid an hourly rate of about \$175 to \$200 per hour.

Commissioner Kent asked if Mr. Hayes would have farmed this issue out or handled it himself.

Mr. Hayes stated he probably would have handled the issue.

Commissioner Kent stated his feeling on this issue was that there was a problem with the City Attorney's office and he was skipped on purpose, which has been occurring for years. He noted this was very unsettling.

Mr. Hayes stated he was not pleased when a Commission member asked him for information or advice about a legal issue and he had no knowledge about that issue. He noted there was a total lack of communication, and this was only one of many incidents. Mr. Hayes assured the Commission that the issue was not that he was merely skipped; it was a much larger issue.

Mr. Turner asked permission to share correspondence with the Commission that had occurred during and prior to his tenure. He pointed out he was aware there was friction between the City Manager's office and the City Attorney's office before he came to Ormond Beach, and he has tried very hard to improve communications to the point of having Monday morning meetings to share information and to discuss concerns. Mr. Turner assured the Commission he does not plan and plot vendettas. He reported he invited the City Attorney's office to more meetings than they cared to attend. Mr. Turner admitted a step was missed in this instance, but to insinuate

that the City Manager's office was trying to skip anyone was not accurate. He stated he was more inclusive than he really needed to be. Mr. Turner reported that since Mr. Hayes has made certain comments, he would like to share some information regarding what he was dealing with relative to process issues.

Commissioner Kent noted he was not trying to insinuate anything, it was just a feeling he had; and he admitted it may be incorrect. He stated he was pleased this feeling was inaccurate, and he looked forward to hearing the information.

Mayor Costello stated regardless of how the information was perceived, this incident did not occur as it should, and should be corrected in the future. He reported he wanted solutions.

Commissioner Boyle stated the City Manager has a management style where he gives his department heads a very high level of autonomy, and most of the time this is healthy, but sometimes the departments have gotten into the bad habit of doing their own legal work. He stated the Commission could accept the word and spirit, which we was willing to do, of the report by the City Manager that the same problem would not recur. Commissioner Boyle pointed out that Mr. Turner acknowledged having input and review in this document. He stated the actions of the Police Chief, the Human Resources Director, the labor counsel, and the City Manager unequivocally violated the City codes and charter in that no one other than the City Attorney has the authority to collective bargain employee retirement compensation and no authority to utilize outside labor counsel. Commissioner Boyle pointed out that there have been a number of issues with Chief Mathieson that have been on the public record or documented, such as the three accidents with City cars that have occurred in a short period of time. He stated he considered this issue resolved and noted he was convinced this would not recur.

Mayor Costello reported he was not convinced that there had been any violations of Charter; merely a timing sequence that was out of order that needed to be corrected. He noted everyone involved indicated it would go to Mr. Hayes, but it needed to go to him earlier.

Item #11(F) - City Manager Evaluation

Mr. Turner thanked the Commission for completing the evaluation. He reported after the Commission has made their comments he would prepare a response with action items for next year. He urged the use of a facilitator to discuss this evaluation process and to do a mid year check.

Mayor Costello stated he supported Commissioner Boyle's right to make the comments he made in that they were thoughtful and incisive, although he did not agree with all of the comments. He reported every Commission member needed to be as transparent as possible. Mayor Costello noted he considered the City Manager and City Attorney to be of the highest integrity. He pointed out that both have disagreed with him privately and publicly for good reasons, and he was pleased they had the confidence and rapport that they were willing to do so.

Commissioner Boyle reported that before Commissioner Selis left he had accused him of bias and being strikingly below the rest of the Commission with his rating of the City Manager. He noted the total point score calculation of his range was 159, which was not significantly lower than another Commissioner who scored 169.

Commissioner Boyle thanked Commissioner Partington for his detailed and instructive comments, and he regretted that he did not do something similar. He pointed out the grading system was between 10 and 30 which tended to dilute the strengths and the weaknesses. Commissioner Boyle concurred that the Commission should examine this instrument. He stated this City Manager has embraced this community and has a high level of energy, but there was nothing in this evaluation to measure that positive impact. Commissioner Boyle pointed out that there had been many issues occurring in a short period of time. He noted the City has been understaffed where things have gone wrong, but he was confident that these issues could be corrected. Commissioner Boyle reported he would stand by his scoring, and he indicated it was not biased. He asked at what point the Commission would set the City Manager's salary. He noted this could not be done tonight in that the entire Commission was no longer present.

Mayor Costello stated the Commission could decide to set the salary tonight if it decided to do so.

Commissioner Kent stated everyone was entitled to his opinion, and no one should be ridiculed for voicing their opinion. He noted he enjoyed Commissioner Partington's comments. Commissioner Kent reported it was obvious which areas Mr. Turner needed to work on and in

which areas he excelled. He commended Mr. Turner for the last questions which asked what the City Manager does that he should continue to do and something that he did not currently do that he should be doing.

Commissioner Partington reported he would rely on his written comments.

Mayor Costello stated he originally favored the 3.25% increase for everyone so he could approve a 3.25% increase for Mr. Turner.

Commissioner Boyle reported he would prefer waiting to set a salary until the entire Commission was present.

Mayor Costello summarized that he preferred to set the rate tonight and Commissioner Boyle opposed that; therefore, he asked Commissioner Kent and Commissioner Partington what they would prefer.

Commissioner Partington reported he would accept a 3.25% increase.

Commissioner Kent noted he would favor discussing the issue this evening. He stated he would support a 3.25% increase. Commissioner Kent explained that if firefighter overtime was not a problem and the City had used in house sources for items he believed should have been done in house, he could have supported a 6% increase.

Commissioner Boyle stated Mr. Turner had been with the City three and one-half years tonight and had received 18% increases due to the previous system. He noted that three Commission members have supported the 3.25% increase leaving him no reason to voice what he would have recommended.

Mayor Costello stated he would vote for the 3.25% increase, but he did not favor giving certain employees a different increase because they were paid a higher salary. He reported he recommended the 3.25% because that was the staff recommendation for everyone. Mayor Costello noted everyone's expenses had increased proportionally and selecting certain employees, such as the 500 series, for different increases bordered on class warfare in his opinion.

Commissioner Partington moved, seconded by Commissioner Kent, to approve a 3.25% salary increase for the City Manager.

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

Commissioner Boyle stated Mayor Costello voted against separating the 500 series last week. He reported these are recurring labor costs. Commissioner Boyle pointed out that Mayor Costello had the opportunity to make adjustments, but he passed.

Mayor Costello stated he believed all employees should be treated equally.

Commissioner Boyle pointed out that a 3.5% increase for this employee would cost approximately \$5,000.

Item #11(G) - Donation to the Police Academy Scholarship Fund in Memory of Officer Bob Grim

Mayor Costello asked if the fund that was set aside by a previous Commission still existed where the Commission could donate \$1,000 for a band or ball team to travel to a championship out of town.

Mr. Paul Lane, Finance Director, reported that such expenditures are normally appropriated out of the contribution section of the General Fund. He explained the City used to have a line item for that purpose, but that had been eliminated. Mr. Lane reported there were sufficient funds for this scholarship.

Mayor Costello stated that considering Bob Grim's impact on the entire community, a scholarship fund would be advisable. He reported this would also benefit the City. Mayor Costello noted he would be comfortable utilizing the funds if some were set aside, but he was not certain as to his position if no fund existed.

Commissioner Boyle, Commissioner Kent, and Commissioner Partington supported a \$1,000 donation.

Item #13 - Reports, Suggestions, Requests

Holiday Harmony Celebration

Commissioner Partington reported he, Mayor Costello, and Commissioner Kent attended the Ormond Main Street/Leisure Services Holiday Harmony celebration at City Hall. He stated it was a great event. Commissioner Partington noted his wife participated by singing with the City Singers. He pointed out that there were three times as many people attending the event this year as there was last year. Commissioner Partington stated the Daytona Beach Concert Band, Ormond Elementary School Bell Ringers, and the City Singers performed.

The Village

Commissioner Partington stated the entrance at The Village on Nova Road was extremely dangerous as a result of the improvements to Nova Road. He reported he had been working with staff and DOT to try to improve that situation, and he hoped he could receive some answers this week.

Hanukkah

Commissioner Partington wished those of the Jewish faith a Happy Hanukkah.

Bear Creek Meeting

Commissioner Boyle stated he was not as concerned that Commissioner Selis did not trust him as he was for giving invalid reasons on the public record for distrusting him. He reported 722 names on a petition made their own statement. Commissioner Boyle noted he never intended to go to Bear Creek to lobby since their position was clear.

Lightning Detection System

Commissioner Boyle stated the Commission budgeted \$20,000 for the lightning detection system, but the November 19 Friday letter placed the cost at \$10,400 to \$13,000. He requested staff provide a written clarification for this discrepancy. Commissioner Boyle noted the Commission had received the information on this item in four stages. He stated issues such as this required staff reports, public discussion, and should not be included as a budget line item. Commissioner Boyle pointed out that this was now, for the first time, being called a pilot program. He stated this system was to go to the Airport Sports Complex, and he questioned why it was not at the Nova Recreation Center based on the fact that every child using the Airport Sports Complex must do so with transportation from an adult and not bicycle to the park while those at the Nova Recreation Center would walk or bike to the park. Commissioner Boyle pointed out that he was still not informed as to why one park was selected over the other and what the additional liability was to the City as a result.

Firefighter Contract

Commissioner Boyle noted he understood some of the frustrations of Commissioner Kent relative to the firefighter contract, but he had a chance to vote the contract down with the same contract language. He noted he still was unclear what the language was that specifically triggering overtime. Commissioner Boyle contended that there was no language triggering the overtime, and it was the same language that had been in the contract for eight or nine years.

Police Training Seminars

Commissioner Boyle stated the police training seminars sounded like a good deal for the City as reported in the November 19 Friday letter where the City would allow the company to use the training room, and the company would provide three to five seats at \$600 per seat. He noted in looking the company up on the internet, he learned the cost for the course was \$395; therefore, he asked for a report explaining the discrepancy in the cost.

Nova Road Medians Irrigation

Commissioner Boyle stated he appreciated the staff report in the Friday letter relative to the Nova Road median irrigation, but all of the information was unacceptable since there should be no water going onto the road creating a hazard known as "Florida ice."

Packet Deadline

Commissioner Boyle reported the packet deadline was missed. He stated that for a Monday meeting, the Commission must have the packet by Wednesday night. Commissioner Boyle noted he had no explanation or understanding why the two items were delayed. He stated two items were delivered at 4:20 p.m. on Friday. He stated key items were not in the packet at the library and on the internet.

County Funding of the Airpark

Commissioner Boyle stated he learned about the County funding of the airpark in the November 19 Friday letter. He reported the City staff contacted the County staff to invite them into a partnership with Ormond Beach, and meetings had been ongoing since April with no policy direction or awareness by the City Commission. Commissioner Boyle stated this may be a good deal, but direction should have been given by the City Commission before talking to the County.

Board of Adjustment and Appeals Supermajority

Commissioner Boyle requested reconsideration on the issue of a supermajority being needed for the Board of Adjustment and Appeals. He noted the chairman informed him that since this was the only board where the next appeal would be to a court, that three-to-two votes place the City in a less advantageous position in court. Commissioner Boyle pointed out that this rationale was never explained previously. He noted he was now ready to reinstitute the four-to-one supermajority requirement to overturn a staff recommendation to the Board of Adjustment and Appeals.

Advisory Board Training

Commissioner Boyle commended Commissioner Partington relative to the advisory board training opportunity. He noted 15 individuals would be taking advantage of the training.

2005 Goal Setting

Commissioner Boyle stated that he did not favor the use of a facilitator; however, if the remaining Commission members wanted one, he would accept that decision. He stated he assumed goal-setting would not begin until March after the new Commissioner was seated.

Granada Bridge Lights

Commissioner Boyle reported there were two stanchions with four lights in the center on the top of the Granada Bridge that had been out since the hurricanes.

Labor Counsel

Commissioner Boyle requested an agenda item relative to examining options regarding the City's labor counsel. He noted the labor counsel must travel from Tampa and be put up overnight, causing high billings.

Chlorination of Potable Drinking Water

Commissioner Boyle reported he spoke to Dr. Bruce Mowry, WAV Executive Director, regarding the chlorination of potable drinking water. He noted Ormond Beach shocks the system for a month every six months. Commissioner Boyle urged other options be examined even if the cost would be higher.

US1 Billboards

Commissioner Boyle requested a status report relative to the US1 billboards damaged by hurricanes. He reported he understood that once the billboard was to come down, it would not be allowed to be rebuilt. Commissioner Boyle stated the billboards made the City look like a "war zone," and Ormond Beach has been always concerned about aesthetics.

City Santa

Commissioner Boyle thanked staff for the "City Santa" program for the needy children.

Fire Contact

Commissioner Kent stated he disagreed that this fire contact was the same as the one voted on by another Commission.

Remembering Pearl Harbor

Commissioner Kent recognized that in one-hour and 20 minutes it would be December 7, Pearl Harbor Day, and he thanked the veterans who risked their lives on that day 43 years ago in Pearl Harbor and all other servicemen and women who are keeping democracy safe in the United States.

"Coffee with the Commissioner"

Commissioner Kent stated "Coffee with the Commissioner" went well today, and the next session would be at his home, 130 Magnolia Drive, on January 3 at 4:00 p.m.

Water Bills

Commissioner Kent reported he was receiving calls from constituents complaining they have been receiving water bills late with only two to three days before the bills were due. He asked that this be investigated.

Recreation

Commissioner Kent stated he had questions relative to recreation issues, and he would contact Mr. Alan Burton, Director of Leisure Services, to discuss the issues before he would come before the Commission to ask for discussion items.

Holiday Harmony Celebration

Commissioner Kent stated this was the first "Holiday Harmony" ceremony he had attended, and it was great.

Hanukkah

Commissioner Kent wished those of the Jewish faith a Happy Hanukkah.

Holiday Celebration

Mr. Turner noted he also enjoyed the holiday celebration and was looking forward to the holiday remaining events.

Holiday Harmony Celebration

Mayor Costello requested staff prepare a proclamation honoring the Daytona Beach Concert Band and the Ormond Beach Chimers for performing at the Holiday Harmony celebration. He stated he was singing with the City Singers to support this event, bringing the community together.

SR40 at Hunter's Ridge

Mayor Costello reported there was a death of a jogger on SR40 at Hunter's Ridge. He stated that as chairman of the Metropolitan Planning Organization, he would continue to push for bike trails on SR40 and a warrant study at Hunter's Ridge so a traffic signal could be installed to make the area safer. Mayor Costello noted that while this would not be the ultimate main entrance to Hunter's Ridge, it could be changed later.

Robert's Rules

Mayor Costello stated that whatever Mr. Charles Carter was indicating he was not doing correctly relative to Robert's Rules he wanted to correct. He asked Mr. Hayes to inform him what he was doing wrong.

Voting Machine Testing and Canvassing Dates

Mayor Costello noted the Commission needed to inform the City Clerk when they were available to go for the voting machine testing and canvassing. He stated he could attend the Monday, January 10th at 9:00 a.m. meeting.

Commissioner Boyle noted he would volunteer for the both Monday and Friday mornings.

Mayor Costello stated he could attend Monday, but not Friday. He reported he could attend the January 25th date at 6 p.m. in DeLand, but not the Wednesday, January 26th at 3 p.m. meeting. Mayor Costello requested that date, time, or location be changed. He summarized that Commissioner Boyle would attend the January 10th and January 21st; he, Commissioner Boyle, and Commissioner Partington would attend the January 25th at 6 p.m.; and Commissioner Kent and Commissioner Partington could attend January 26th at 3 p.m. Mayor Costello asked Ms. Patterson to check with Commissioner Selis to determine if he could attend January 26th at 3 p.m., and if not, it would need to be rescheduled.

Lightning Detection System

Mayor Costello reported that he was elated the cost for the lightning detection system was less than anticipated. He stated he remembered indicating on several occasions that he supported this, and while he may not have called it a pilot project, he did refer to it as a test where if it worked well, it could be used in other areas. Mayor Costello advised he supported it being at the location with the most number of children, but had Commissioner Boyle mentioned that some children come on bicycles to Nova Recreation Center and not the Airport Sports Complex, that may have made a difference since he had not considered that fact.

Firefighter Contract

Mayor Costello stated he pointed out that he would have liked to change numerous items in the language for the firefighter contract, but it was too late.

County Partnership

Mayor Costello requested a discussion item regarding the County partnership issue. He highly commended staff for trying to persuade the County economic development agency to help the City obtain grants to help the viability of the Airport Industrial Park, but he did not want any

Commissioner feeling that staff was not doing something they should be doing. Mayor Costello noted the Commission holds staff accountable when they give clear direction, but staff currently does not have clear direction. He stated some Commissioners want staff to obtain all of the grants they could get, and others believe staff should obtain Commission permission first.

Board of Adjustment and Appeals

Mayor Costello noted he continued to favor the three-to-two votes for the Board of Adjustment and Appeals, but asked the other Commission members to give this issue some thought so it could be discussed at a later date.

Labor Counsel

Mayor Costello asked Mr. Turner to meet with Mr. Hayes and decide who should be the lead on providing the advantages and disadvantages of staying with the current labor counsel and how the City would invite others to participate.

US1 Billboards

Mayor Costello stated that he would welcome a motion to condemn the US1 billboards. He noted it was possible lawsuits would be filed, but the City regulations state that if the billboards were destroyed they could not be rebuilt. Mayor Costello requested a staff report on the legality of condemning these billboards.

Gun Sales in a Residential Area

Mayor Costello stated there was a report in the Friday letter from Joanne Naumann, Neighborhood Improvement Manager, relative to a residence retailing guns from their home. He urged Chief Mathieson, with Mr. Hayes's consultation, to confiscate the guns. Mayor Costello noted Ormond Beach has an ordinance against the sale of guns in a residential area with or without federal approval. He reported he did not believe the federal regulations would supersede the local ordinance in this instance.

Item #14 – Close the Meeting

The meeting was adjourned at 10:54 p.m.

APPROVED: December 21, 2004

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk