

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

April 15, 2008 7:00 p.m.

Present were: Mayor Fred Costello, Lori Gillooly, Troy Kent, Ed Kelley, and Bill Partington, City Manager Isaac Turner, Assistant City Manager Ted MacLeod, City Attorney Randal Hayes, and City Clerk Veronica Patterson.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Dr. John Cole, Christ United Presbyterian Church.
- 3) Pledge of Allegiance.
- 4) **PRESENTATION:** Employee-of-the-Quarter award to Suzanne Holy, Community Service Officer.
- 5) **AUDIENCE REMARKS:**
- 6) **APPROVAL OF THE MINUTES** of the April 1, 2008, meeting.
- 7) **INTERGOVERNMENTAL REPORTS:**
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Water Authority of Volusia
- 8) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
 - A) Resolution No. 2008-90 amending the dates and times for the holding of regular meetings of the City Commission of the City of Ormond Beach, Florida, for the month of May 2008; providing for exceptions thereto. (Tuesday, May 20, 2008, to Wednesday, May 21, 2008)
 - B) Resolution No. 2008-91 approving the Community Development Block Grant Annual Plan for the 2008-09 Fiscal Year. (\$101,843)
 - C) Resolution No. 2008-92 authorizing the acceptance of an easement deed from Mackin Bradley, LLC, a Florida Limited Liability Company, in satisfaction of a condition in the Development Order for "Daytona College" to allow access for the maintenance of a public fire hydrant located on property located at 425/427 South Nova Road.
 - D) Resolution No. 2008-93 accepting a bid from Shrieve Chemical Company for the provision of sulfuric acid for the water treatment plant under Bid No. 2008-16; authorizing the execution of a contract and payment therefor. (\$44,919)
 - E) Resolution No. 2008-94 authorizing the execution of a Supplemental Local Agency Program Agreement No. 2 between the City and the Florida Department of Transportation regarding the construction of turn lanes and traffic signals on SR40 and Orchard Street.
 - F) Resolution No. 2008-95 authorizing the submittal of an XU Traffic Operations/ITS/Safety grant application to the Volusia County Metropolitan Planning Organization for funding assistance relative to improvements to the Hull Road/US1 intersection; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award. (\$75,000 total cost; \$56,250 MPO funding; \$18,750 local match)
 - G) FY 2007-08 budget results for the General Fund and the Water/Wastewater Fund.

DISPOSITION: Approve as recommended in City Manager memorandum dated April 10, 2008.

- H) Approval of travel to a “Fly-in” in Washington, D.C., sponsored by Congressman John Mica.

DISPOSITION: Approve as recommended in City Manager memorandum dated April 10, 2008.

9) **PUBLIC HEARINGS:**

- A) Ordinance No. 2008-19 amending the Future Land Use Element of the Comprehensive Plan by amending the Future Land Use Map to change the designation of one (1) parcel of real property totaling ±0.126 acres located at 245 Palm Place from “General Commercial” to “Medium Density Residential.” (First and Only Reading)
- B) Ordinance No. 2008-20 amending the Future Land Use Element of the Comprehensive Plan by amending the Future Land Use Map to change the designation of one (1) parcel of real property totaling ±0.768 acres located at 1110 John Anderson Drive from Volusia County “Urban Low Intensity” to Ormond Beach “Low Density Residential.” (First and Only Reading)
- C) Ordinance No. 2008-21 authorizing the execution and issuance of a Third Amended Development Order for the “Capital Plaza” Planned Business Development located at 298 and 300 South Nova Road, approving a Development Order for a Planned Business Development to be known as “Dunkin Donuts at Capital Plaza,” establishing conditions and expiration of approval.

- 10) **SECOND READING OF ORDINANCE** No. 2008-18 changing the subdivision name “Deer Creek,” Phase Two, of Hunter’s Ridge Subdivision of the “Hunter’s Ridge” Development of Regional Impact to “Cypress Place” of the “Hunter’s Ridge” Development of Regional Impact; repealing all inconsistent ordinances or parts thereof; providing for transmittal and recording in the public records of Volusia County.

11) **RESOLUTIONS:**

- A) Resolution No. 2008-96 affirming the accessory structure determination of the Planning Director regarding the structure located at 229 Ann Rustin Drive.
- B) Resolution No. 2008-97 authorizing the approval and execution of a Purchase Authorization (Requisition 0000004835) of twenty-two (22) laptop computers for police vehicles under State of Florida Bid Number 250-000-03-1; declaring certain laptop computers to be surplus property, and authorizing the disposition thereof. (\$42,944)

12) **DISCUSSION ITEMS:**

- A) IAFF Grievance – Pension.
- B) Affordable/Attainable Housing Task Force Study.
- C) Support of “Green” development standards.

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

14) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Mayor Costello introduced Paul Lane, Finance Director, who was greeting citizens coming into the meeting this evening.

Item #2 - Invocation

Ms. Jean Meredith, Christ United Presbyterian Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #4 - Employee-of-the-Quarter Award to Suzanne Holy, Community Service Officer

Mr. Isaac Turner, City Manager, reported Suzanne Holy, Community Service Officer, was dedicated to the care and well being of animals; and when not working for Ormond Beach, she worked with Animal Rescue Need and Intervention Foundation (ARNI). Mr. Turner reported that she and her coworkers have found homes for 70 stray or unwanted animals, saving the City approximately \$5,000. He congratulated Ms. Holy for being Employee-of-the-Quarter.

Mayor Costello congratulated Ms. Holy and presented her with plaques honoring her as the Employee-of-the-Quarter, along with a watch with the City seal on its face and a gift certificate to a local restaurant.

Ms. Pat Mihalic, 200 Highland Avenue, Concerned Citizens for Animal Welfare, congratulated Ms. Holy for receiving the Employee-of-the-Quarter award. She stated Ormond Beach had a wonderful Animal Control division setting the example in other cities.

Item #5 - Audience Remarks

Code Enforcement Issue

Mr. Lawrence Cook, 1529 North Beach Street, stated Mayor Costello led him to believe he was concerned regarding what had occurred with former Mayor Dave Hood and former City Manager Eugene Miller. He reported he only wanted the truth to be made known, but this has not happened.

Mayor Costello reported Mr. Cook was referring to an incident that occurred 16 years ago regarding people who were no longer with the City.

IAFF Grievance

Mr. Jim Shaw, 15 Lake Vista Way, president of the Ormond Beach Firefighter Association, reported his goal was to appeal to the Commission's sense of honor and righteousness and place the views of the Ormond Beach firefighters on the record. He stated the Commission had an obligation to stand by the contract the Commission ratified over three years ago. Mr. Shaw stated the collective bargaining agreement was a pact made on behalf of the Commission and the firefighters, and it was unfair to pick and choose which articles to honor. He asked the Commission not seek to vacate the arbitrator's recent unbiased ruling. Mr. Shaw reported he understood and accepted why the Commission would want to clarify the contract language, but since that was done by an arbitrator, the City should uphold their part of the bargain. He noted the \$5,000 estimated cost for litigation was a waste and it could easily be doubled. Mr. Shaw pointed out the firefighters understood the City's financial constraints and the difficult economic times as exhibited in the last negotiations, and the firefighters have made every effort to uphold their end of the bargain holding back excess state money earmarked for their pension enhancements in an attempt to completely comply with Article 34. He stated Article 34.1 indicates the City agrees to allow pension plan members to elect improvements to the pension plan, and it was expressly understood that any cost associated with such improvements would be the permanent obligation of pension plan members. Mr. Shaw noted the plan members have elected a benefit and accepted the cost so the City should allow them to make the improvement. He stated the firefighters believe in collective bargaining, not collective litigation. Mr. Shaw advised these issues should be handled within negotiations and not in the courts. He pointed out the firefighters were ready to begin the 2008-09 contract negotiations, but they cannot move forward with negotiations until this issue was resolved.

Notice in Water Bill

Ms. Pat Behnke, 15 Malayan Sun Bear Path, stated a notice would be going out in the water bills involving recycling and trash pickup. She pointed out Bear Creek does not get water bills and urged the City to develop some means to provide Bear Creek residents with this information.

Mayor Costello requested that each homeowner's association work with the City to provide such information in their newsletters.

Ms. Behnke advised Bear Creek has a newsletter; and once the City provides the information, she would see that is published in their newsletter.

Item #6 - Approval of Minutes

Mayor Costello advised the minutes of the April 1, 2008, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello reported Mr. Ric Goss, Planning Director, made a presentation to the Bike/Pedestrian Advisory Committee of the Metropolitan Planning Organization (MPO). He asked Mr. Goss to update the Commission on this in an e-mail or at the next meeting.

Item #7(B) – Volusia Council of Governments

Mayor Costello reported the mayors were asked to meet after the next the Volusia Council of Governments (VCOG) meeting to discuss the beach. He advised he was not planning on stating a position and would mainly listen to comments.

Item #7(C) - Water Authority of Volusia

Commissioner Kelley advised the Water Authority of Volusia (WAV) would have an important meeting tomorrow where they would be approving the budget. He stated WAV has the new assessments by city prepared. Commissioner Kelley reported Daytona Beach had opted out of WAV, but stated they would come back in after the budget was set. He reported Holly Hill and South Daytona opted out, but they did not formally opt out according to the interlocal agreement. Commissioner Kelley stated he was nominated to be the chairman for next year.

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 stated that Item No. 8(A) was being pulled for discussion.

Commissioner Gillooly requested Item No. 8(B) also be removed for discussion.

Commissioner Kent moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, minus Item Nos. 8(A) and 8(B).

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #8(A) – Amending Dates and Times for the City Commission Meeting

RESOLUTION NO. 2008-90
 A RESOLUTION AMENDING THE DATES AND TIMES FOR THE
 HOLDING OF REGULAR MEETINGS OF THE CITY
 COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA,
 FOR THE MONTH OF MAY 2008; PROVIDING FOR
 EXCEPTIONS THERETO; AND SETTING FORTH AN
 EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2008-90, as read by title only.

Commissioner Kelley stated a family situation would require him to be out of town on June 17; therefore, he recommended moving the June 17 meeting to June 24.

Mayor Costello noted he would be out of the country on June 17, so he would also like the meeting moved in that two Commission members would be absent. He noted he would not recommend moving the meeting if he were the only Commission member absent, but he would be pleased if he would not have to miss the meeting.

Commissioner Kelley moved, seconded by Commissioner Partington, to amend the motion by moving the June 17 City Commission meeting to June 24, 2008.

Commissioner Kelley stated there was a City Commission meeting scheduled for July 1, which was the Fourth of July week. He recommended eliminating the July 1 meeting, keeping the July 15 meeting, and since the Commission would be attending the July 28 special meeting to set the millage, the regular meeting be held on that same date.

Commissioner Kent advised he had a trip scheduled and that change would work out well for him as well.

Commissioner Gillooly stated she would go along with the consensus, and she understood moving the May 20 meeting to May 21 because all five Commission members would be out of town doing the City's business. She noted in that the Mayor and Deputy Mayor would be out of town on the same day, she understood the change from June 17 to June 24; however, she expressed a philosophical concern with moving meetings because of individual Commission members' schedules. Commissioner Gillooly questioned if that was a good precedent to set.

Commissioner Kelley stated moving the meetings was not a precedent as it started in 1995 or 1996, and it was the prerogative of the Commission to set the meetings. He advised he was trying to avoid the need for attending three meetings in July, which he believed should have been originally considered. Commissioner Kelley reported this would actually save staff and overtime for personnel working at the third meeting.

Mayor Costello stated the July 28 meeting was scheduled for budget hearings.

Commissioner Kelley revised his motion to include the elimination of the July 1 City Commission meeting. Commissioner Partington concurred with the revision.

Mayor Costello advised he agreed with Commissioner Gillooly's point, but when two Commission members would be absent and when three Commission meetings were scheduled in the same month, he could support changing the meetings. He noted there should be as few meetings as possible.

Call Vote on the Amendment:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes
Call Vote on the Motion as Amended:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #8(B) – 2008-09 Community Development Block Grant Annual Plan

RESOLUTION NO. 2008-91
A RESOLUTION APPROVING THE COMMUNITY
DEVELOPMENT BLOCK GRANT ANNUAL PLAN FOR THE
2008-09 FISCAL YEAR; AND SETTING FORTH AN EFFECTIVE
DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2008-91, as read by title only.

Commissioner Gillooly stated a portion of this plan was for a painting program for elderly residents, and similar projects were previously done as a Make-A-Difference Day project. She advised she understood the City's concern regarding the liability issue; but if working under a non-profit umbrella, that concern may be eliminated. Commissioner Gillooly reported she contacted Ms. Sue Darden, Executive Director for the Volusia Home Builders Association, who indicated they have a separate nonprofit organization named Builders Care. She stated Ms. Darden indicated they would be very interested in talking to the City regarding taking on this project. Commissioner Gillooly reported this could be approved tonight and amended in the future if the program was available and funding would be needed to support it.

Mr. Turner stated the proper staff member would contact Ms. Darden.

Commissioner Kelley stated there were several youth groups and church groups that would be willing to help paint.

Commissioner Gillooly stated Builders Care was an official 501C3. She reported she agreed it was important to spread the word and get as many groups as possible involved in making this a community-wide effort.

Mayor Costello stated what needed to be done was to figure out who could recruit applicants for the program, make suggestions, generate and send a list of people who can help to Builders Care, and the City could become the facilitators.

Commissioner Kent stated this program could be expanded, but he would help in the CDBG area.

Mayor Costello stated the Commission members could help Builders Care in their work, making it clear that they were not representing Ormond Beach.

Call Vote:	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
Carried.	Mayor Costello	yes

Item #8(H) - Fly-In

Mayor Costello stated a patient questioned him regarding the fly-in to Washington, D.C. He reported that he was proud of this Commission’s willingness to wake at 3:30 a.m. and to arrive at Orlando for the flight to lobby Congressman Mica and other staff members regarding Ormond Crossings. Mayor Costello pointed out this was not a party. He stated the hope was that with a unified Commission, the legislators would understand the significance of this project.

Commissioner Kent pointed out that each Commission member was taking a day off from work and their families for the good of the City.

Paint The Town Purple

Mayor Costello stated the purple ribbons around City Hall were for the Cancer Relay for Life. He noted he was wearing the purple tie he was given two weeks ago in honor of American Cancer Society month. Mayor Costello advised he would be out of town, but he encouraged everyone’s participation.

Item #9(A) – 245 Palm Place

ORDINANCE NO. 2008-19
 AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING ±0.126 ACRES LOCATED AT 245 PALM PLACE FROM “GENERAL COMMERCIAL” TO “MEDIUM DENSITY RESIDENTIAL;” REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2008-19, on the first and only reading, as read by title only.

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

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

Item #9(B) – 1110 John Anderson Drive

ORDINANCE NO. 2008-20

AN ORDINANCE MENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING ±0.768 ACRES LOCATED AT 1110 JOHN ANDERSON DRIVE FROM VOLUSIA COUNTY “URBAN LOW INTENSITY” TO ORMOND BEACH “LOW DENSITY RESIDENTIAL;” REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Gillooly moved, seconded by Commissioner Kent, to approve Ordinance No. 2008-20, on the first and only reading, as read by title only.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

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

Item #9(C) – Dunkin Donuts

ORDINANCE NO. 2008-21

AN ORDINANCE AUTHORIZING THE EXECUTION AND ISSUANCE OF A THIRD AMENDED DEVELOPMENT ORDER FOR THE “CAPITAL PLAZA” PLANNED BUSINESS DEVELOPMENT LOCATED AT 298 AND 300 SOUTH NOVA ROAD, APPROVING A DEVELOPMENT ORDER FOR A PLANNED BUSINESS DEVELOPMENT TO BE KNOWN AS “DUNKIN DONUTS AT CAPITAL PLAZA,” ESTABLISHING CONDITIONS THEREFORE; RATIFYING AND AFFIRMING THE DEVELOPMENT ORDERS; ESTABLISHING CONDITIONS AND EXPIRATION OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated the Planning Board approved this with a five-to-two vote. He noted some of the issues were the 24-hour operation, the drive through, the increased traffic, and the potential for noise.

Ms. Patti Ann Welter, 303 Forest Hills Boulevard, stated 139 residents of Forest Hills signed a petition opposing the Dunkin Donuts and any Type D restaurant open 24-hours with a drive through. She expressed concern that the Planning Board approved this after acknowledging there was a traffic problem and offered no solution. Ms. Welter stated the traffic lights at The Villages, Woodlands, and Division Avenue should not be moved. She noted the recommendation was to allow only left turns, but this would not solve the U-turn problem. Ms. Welter stated this was planned for office space, and a wall waiver was granted; but had all of the facts been known at the time, this waiver would not have been granted. She advised no buffer was being provided to protect the neighborhood. Ms. Welter stated the speakers would be located adjacent to Moreland Boulevard, and the sound would carry, particularly at night. She reported she had heard a Dunkin Donuts was wanted on the corner of Hand Avenue and Nova Road.

Mr. Tom Welter, 303 Forest Hills Boulevard, stated the wall waiver was given because there was going to be an office building; but it was changed to a Dunkin Donuts, which needed a buffer. He stated there was nothing to protect the subdivision from noise. Mr. Welter advised there was already a traffic problem at the corner. He expressed concern that the property values would be adversely affected.

Mr. Andy Thomas, 298 South Nova Road, property owner for Capital Plaza, stated there was a traffic problem because Nova Road was a six-lane road which generates a great deal of traffic; but there was less traffic since Clyde Morris Boulevard was expanded and Williamson Boulevard was opened. He explained the U-turn problem regarded traffic coming from the south into the Pickles Restaurant area, but that had nothing to do with Capital Plaza.

Mr. Thomas stated the Dunkin Donuts was structured so the entrance and exit were both on Nova Road and would not open onto Moreland Boulevard; therefore, it should not impact Moreland Boulevard. He reported the operator would have a night sensitive system lowering the decibel level at night, which could not be heard 40 feet away, and the homes were a good distance away from the property. Mr. Thomas advised that there was a Florida Power and Light easement which required the wall to be eliminated. He reported the building was a 16 to 18 feet high L-shaped structure which would offer a nice buffer. Mr. Thomas stated this would be a great addition to the community, and he asked it be approved.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2008-21, on first reading, as read by title only.

Commissioner Partington explained the he had a concern about the wall waiver and the traffic issue in that they have not been addressed satisfactorily.

Mr. Ric Goss, Planning Director, explained the wall was to be in the FPL easement, and FPL would not allow the wall to be built. He stated the wall could have been located somewhere outside of the easement, but the wall waiver was approved. Mr. Goss advised this property, other than the Planned Business Development, was previously zoned B-8, and Type B restaurants with drive throughs are permitted by special exception in the B-8 district. He reported the traffic study concluded there were problems at the intersection, and there would be more problems when the intersection was built out with any use. Mr. Goss advised a recommendation was made to relocate a traffic signal in that the current location may not be the best location for that signal; however, it was clear that the signal would not be relocated, but a bi-directional median and disallowing left turns would solve the problem. He reported the window faces Nova Road and the ordering would be around the corner, but the window would create 70 decibels decreasing by six decibels every time the distance was doubled. Mr. Goss explained between Dunkin Donuts and the beginning of the residential area was 450 feet, and the noise would be less than what would typically occur between commercial and residential areas.

Commissioner Gillooly reported people experience a level of frustration when situations change, as was the case when an office building was proposed and the wall waiver was approved and now there was a proposal for a much more intensive use. She expressed concern regarding the noise, 24-hours of operation, and traffic factors. Commissioner Gillooly expressed doubt that there would be 50 cars in line late at night, and she noted there was quite a distance between the business and the residential area; therefore, there were naturally occurring buffers. She noted there was an investment in the structure, and the improvements were beautiful, which would be a tremendous benefit over time. Commissioner Gillooly advised she believed the traffic issue needed to be addressed. She noted she would never vote to move a traffic light when all of the warrants were met and there was a need at its location, but she asked if there was a possibility of obtaining an additional traffic light. Commissioner Gillooly stated the larger issue was the process. She advised even with the FPL easement, she did not understand why there could not have been some accommodation to create the wall somewhere. Commissioner Gillooly stated people do not believe they were given the entire picture, but she did not believe that was done with a malicious intent. She reported in this economic time, Ormond Beach was in good shape if a business could be creative. Commissioner Gillooly advised her greatest concern was to find a more permanent solution to the traffic issue, but she considered this to be a good project.

Commissioner Kent reported he agreed with the concerns regarding the traffic, buffer, and the feelings of the people due to the wall waiver. He stated it was his understanding the Dunkin Donuts must be open 24 hours. Commissioner Kent reported he believed Dunkin Donuts would do a good business at 2:30 a.m., and they may be a rowdier group of people. He pointed out there was a petition with 139 names objecting to the project; and they did not seem to be objecting to the restaurant, but to a 24-hour restaurant with a drive-through. Commissioner Kent noted the design of the building would be a great addition to the community, and he believed the buffer was adequate; however, he would like a wall or shrubbery.

Commissioner Kelley stated this project would move Dunkin Donuts to a better location than it is currently, which would be better for the community. He noted it was unfortunate at times when the perception was worse than the reality. Commissioner Kelley pointed out a 24-hour restaurant was always allowed in the B-8 district by a special exception. He advised he understood peoples' concern when they, rightly or wrongly, believed the area would have an office; but the fact remains that there could have always been a restaurant. He pointed out this was a Planned Business Development which could be altered and adjusted according to market conditions; and because of that, the City was able to extract certain concessions from the developer. Commissioner Kelley stated if the building was facing the residents, he could

understand a buffer; but the building would be situated 450 feet from closest house. He asked if a hedge or plantings acceptable to FPL could be planted in the easement. Commissioner Kelley advised the wording was to suggest FDOT allow the bi-directional medians; but he noted the City could not force them to do so. He pointed out traffic on Nova Road can not be eliminated, but the traffic flows much more smoothly now than it ever has. He reported he appreciated the concerns of residents, but he also understood the rights of the property owner; and both must be balanced to make a viable project that would not be obtrusive to the residents while functional for the business. Commissioner Kelley noted with the speakers 450 feet away, they would not be a problem; and he expected the noise from Nova Road would be louder.

Mayor Costello stated he favored a landscaped buffer. He asked if the applicant would pay for the bi-directional median adjustment if FDOT would allow it.

Mr. Goss stated he did not know the answer, but he would find out.

Mayor Costello recommended including a stipulation in the agreement that the applicant would pay for the bi-directional median because he wanted the traffic as safe as possible, and he believed it would be safer with a bi-directional median with or without the Dunkin Donuts.

Mr. Goss advised additional language could be added similar to that added to the Ormond Medical Center project for buffering.

Commissioner Partington stated the buffer should be built on the side of the Welter's house because their house was primarily the only house affected by this development. He noted he would be satisfied if the Welters' could reach an agreement with the developer regarding buffering.

Mayor Costello reported any building would present some problem since the Welters could see any building at that location. He noted he would favor the buffer because when the wall was waived, it was not known that there would be a 24-hour restaurant.

Mr. Goss stated staff would find out from FDOT whether they would put in the median or if the City would put it in; but whoever would put it in, a credit could be obtained from the Transportation Impact Fee. He pointed out there was development across the street where there would eventually be 20,000 square feet developed, and they may be the ones warranting the directional median. Mr. Goss advised a count was completed from 11:00 p.m. to 5:00 a.m., and there were less than 30 cars.

Mayor Costello stated with a 24-hour facility open, that number may change.

Commissioner Gillooly asked if staff was certain the signal would definitely not be permitted.

Mr. Goss advised he could not answer definitely, but there was a spacing rule between signals, and that rule was now met, which was why the bi-directional median was recommended.

Commissioner Gillooly advised she agreed it was an issue of safety, and traffic would be impacted and needed to be addressed. She requested adding language to create the buffer and press for the median. Commissioner Gillooly stated it was not incumbent upon the City to find a better or safer location for the current Dunkin Donuts.

Mayor Costello stated it was not incumbent upon the City to find a better location, but it was incumbent upon the Commission to consider if it would be safer for the community as a whole. He advised he has witnessed people backed up on Granada Boulevard trying to turn into Dunkin Donuts.

Commissioner Gillooly reported she appreciated the residents' comments tonight and at the Planning Board meeting, but she hoped the additional buffering and median would make a better project and for this to be an asset to the City and residents in the future.

Commissioner Partington asked if the current location of the Dunkin Donuts would be demolished because if another similar restaurant moved in, the problem would still exist.

Mr. Goss stated if there was a change in use the City would have regulatory authority; but if the same use wanted to move in, he did not believe the City would have the authority to prevent it.

Mayor Costello recommended adding something in the code that if a business had a specific problem, when that business was vacated, the City may not entertain the same use again due

to that problem. He noted the owner of the property should be put on notice of this where such problems exist.

Mr. Randal Hayes, City Attorney, urged the Commission to focus on the task before them. He stated what existed on the site now should not enter into this equation.

Commissioner Partington advised he would vote “no” tonight, but if it was cleaned up, he may vote for it at the second reading.

Commissioner Kelley asked what the buffer would shield and where it would be located. He pointed out that any building would be visible. Commissioner Kelley questioned if it would accomplish what the residents desired.

Mr. Thomas stated there was an eight-foot landscaped hedge buffer in back of building, and the building acted as a massive buffer. He explained the dumpster was buffered by a wall and plants and only the roofline could be seen. Mr. Thomas reported the Planning Board required a landscape buffer, including oaks, around the area.

Ms. Welter requested the building plans be shown on the overhead screen. When the plans were displayed, she advised she was not concerned about seeing the building because this developer builds attractive buildings. She reported she believed a buffer was needed because the drive-through created noise from the speaker, the cars, and the people in the cars. Ms. Welter requested the buffer be located to buffer the cars from the neighborhood along Moreland Boulevard.

Commissioner Kelley stated he assumed the residents wanted the buffer on the north side, but Ms. Welter indicated she wanted the buffer in the parking lot, which could not happen. He reiterated he did not believe the noise would be an issue because there would be traffic with whatever would be built in that location.

Mayor Costello stated he also had believed the buffer was being requested on the north side.

Commissioner Gillooly asked why a buffer could not be added where Ms. Welter indicated.

Mayor Costello stated a buffer could be requested, but Ms. Welter wanted a buffer around the driving lane by the building, and he did not see that happening.

Commissioner Partington asked if there was a way to place a buffer between the parking area and where the curve begins for the driveway.

Mr. Goss stated he was not certain a buffer could be placed around the stacking lane, but it may be possible to place an enhanced buffer along Moreland Boulevard by the sidewalk; therefore, he recommended adding language similar to the language in the Ormond Medical Center project.

Mayor Costello stated he did not believe the City should have to pay for bi-directional medians.

Commissioner Kelley stated the development across the street would need the medians, and they should share in the cost.

Mr. Goss stated a provision could be made to collect from future development when it occurs.

Mayor Costello explained Dunkin Donuts would pay the entire fee now, and the new development would reimburse them half when they build. He clarified the City would lobby for a traffic light first, which he did not believe would be approved; and if that was not approved, the City would lobby for the bi-directional median.

Commissioner Gillooly moved to amend the motion to require the Planning Department to oversee an enhanced landscape development that would create a screening buffer on Moreland Boulevard and around the rear of the building plus request FDOT to consider a traffic light, or at a minimum, a bi-directional median to insure the safe flow of traffic in the area to be paid by the developer with the understanding the cost would be mitigated on the property across Nova Road when it was developed.

Commissioner Kelley seconded the motion if the word “screening” were removed because the word was subjective. Commissioner Gillooly agreed to remove the word screening.

Commissioner Partington asked if the motion would not take effect if FDOT would not approve either recommendation.

Commissioner Gillooly asked how long it would take to receive an answer to the request from FDOT.

Mr. Goss stated if FDOT did not approve either option, he was not certain the Commission would want such an intensive use. He clarified staff was indicating a Dunkin Donuts was a good use, but there was a traffic issue, and that issue would not change with or without the Dunkin Donuts; therefore, the signal or bi-directional median would be needed. Mr. Goss advised the Planning Department could not recommend more intensive development at an uncontrolled intersection, and he suggested another use if the intersection could not be improved.

Commissioner Gillooly clarified her motion was subject to a minimum of a bi-directional median. Commissioner Kelley concurred with the clarification.

Call Vote on the Amendment:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Call Vote on the Underlying Motion as Amended:	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
Carried.	Mayor Costello	yes

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

Item #10 – Changing the “Deer Creek” Subdivision Name to “Cypress Place”

ORDINANCE NO. 2008-18
AN ORDINANCE CHANGING THE SUBDIVISION NAME “DEER CREEK,” PHASE TWO, OF HUNTER’S RIDGE SUBDIVISION OF THE “HUNTER’S RIDGE” DEVELOPMENT OF REGIONAL IMPACT TO “CYPRESS PLACE” OF THE “HUNTER’S RIDGE” DEVELOPMENT OF REGIONAL IMPACT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR TRANSMITTAL AND RECORDING IN THE PUBLIC RECORDS OF VOLUSIA COUNTY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2008-18, on second reading, as read by title only.

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Item #11(A) – 229 Ann Rustin Appeal

RESOLUTION NO. 2008-96
A RESOLUTION AFFIRMING THE ACCESSORY STRUCTURE DETERMINATION OF THE PLANNING DIRECTOR REGARDING THE STRUCTURE LOCATED AT 229 ANN RUSTIN DRIVE; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello called for a break at 8:46 p.m. He reconvened the meeting at 8:51 p.m.

Commissioner Kent moved, seconded by Commissioner Gillooly, to approve Resolution No. 2008-96, as read by title only.

Mr. Jerry Jones, 229 Ann Rustin Drive, reported he applied for a variance in November where there was a two-to-two vote with one board member abstaining. He pointed out his property overlooks the parking lot and tennis courts of St. Brendan’s Catholic Church, and he had a letter

from Father Ryan expressing his approval. Mr. Jones reported his neighbors came to the February meeting in total support of his request. He explained this was described as a “room,” but it was actually an “accessory structure.” Mr. Jones noted this project has been completed for a year, and none of his neighbors complained. He reported he has done everything to comply with the City, but this was a unique situation.

Mr. Goss explained this was not an appeal of the Board of Adjustment and Appeals, but a challenge to the interpretation of the code. He advised the code was clear that an accessory use has to be detached from the principal use; therefore, this does not meet the definition of accessory use. Mr. Goss stated there was a provision in the code indicating that when a hard structure was built it must be treated as a principal use for setbacks requiring 25 feet rather than five feet. He advised this was a hard structure over the roof and must be treated as a principal use. Mr. Goss recommended the interpretation remain because the code was clear.

Mayor Costello reported he has indicated he supported allowing encroachments into setbacks for mother-in-law apartments and garages; however, the Commission has not rendered an opinion on this as a body to date. He advised he supported Mr. Goss’ interpretation, but asked if there was any way to allow this for Mr. Jones.

Mr. Goss stated the roof would need to be removed. He noted Mr. Jones has a hard roof with shingles, not a screen.

Mayor Costello asked if Mr. Jones should have asked for a variance.

Mr. Goss explained this was built without permits. He stated Mr. Jones could have applied for a variance to encroach into the setback, but it may or may not have been approved.

Commissioner Kelley agreed this was an attached structure with a hard roof. He stated he did not believe that if a structure has a hard roof and it was detached, it should be considered a principal use, but it was now and that can not be changed today. Commissioner Kelley stated he did not believe many people would want something encroaching within five feet of their property.

Commissioner Kent agreed he would not want this encroaching into a neighbor’s yard. He reported Mr. Jones was meticulous and did a wonderful job; but he should have gotten a permit before construction, and he would have known what was and was not acceptable. Commissioner Kent stated this was a different situation in that he had the blessing of the neighbor, which was the church. He advised he would not consider this if this was residential area, even if the neighbor had no problem, because the house could change ownership. Commissioner Kent questioned if this could be found acceptable with the stipulation that if the church was sold and another neighbor objected, it would have to go.

Mr. Goss stated the code allowed a screen enclosure, but not a hard roof structure five feet from the property line.

Commissioner Kent asked if it would be acceptable to remove the roof and replace it with screen; whereby, Mr. Goss advised that would be acceptable. Commissioner Kent advised the only reason he was considering remedy was because the neighbor was not a house, but was a parking lot, ditch, and church.

Mr. Hayes advised the Commission must approve or not approve the Planning Director’s interpretation based solely on the code provisions. He noted no other remedies were available to the Commission.

Commissioner Kent asked if there could be a remedy for Mr. Jones at a future time; whereby, Mr. Hayes stated he should have taken an appeal from the Board of Adjustment and Appeals to Circuit Court.

Commissioner Kent asked Mr. Hayes to contact him in the future if a similar situation should occur and explain the process.

Mayor Costello stated Mr. Goss interpreted the code correctly, but he wanted to give guidance to help Mr. Jones.

Ms. Sandy Upchurch, Deputy City Attorney, stated the only possible solution she could envision was for Mr. Jones to purchase the necessary 10 to 20 feet off of the unused area from the church, and then lease it back to the church for their use.

Mayor Costello and Commissioner Kent commended Ms. Upchurch for her idea and for trying to help a citizen.

Ms. Upchurch noted there was no way to know if the church would approve that plan. She noted this was the only way she could think of to honor the intent and language of the code and allow the structure.

Commissioner Partington asked how this incident came to the City's attention; whereby, Ms. Upchurch responded that there had been a complaint, but not by Mr. Jones' neighbors.

Mr. Jones explained the complaint originated from two Ormond-by-the-Sea residents.

Commissioner Partington stated the Commission took an oath to follow the codes of the City, not to be fair, so he would have to uphold the Planning Director's interpretation. He stated he was pleased the Legal Department was doing their best to work with Mr. Jones.

Commissioner Kelley stated the abutting property gives the Commission reason to allow this type of circumstance at a future time; but with the current codes, he supported the Planning Director's interpretation tonight.

Commissioner Gillooly agreed these issues are difficult, but the Planning Director did follow the City's codes. She noted had Mr. Jones followed the proper procedure, he may have received redress. Commissioner Gillooly explained she understood that Mr. Jones believed the contractor applied for the permits. She stated if Mr. Jones had documentation with the contractor, he may be able to seek satisfaction of his financial hardship. Commissioner Gillooly stated she had asked staff if Mr. Jones still had the option of appealing this decision through the circuit court but was told the appeal process route had passed because Mr. Jones chose this route.

Commissioner Kelley stated he served on the Board of Adjustment and Appeals in the past and realized Mr. Jones should have gone to the circuit court.

Call Vote:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Item #11(B) – Laptop Computers for Police Vehicles

RESOLUTION NO. 2008-97

A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF A PURCHASE AUTHORIZATION (REQUISITION 0000004835) OF TWENTY-TWO (22) LAPTOP COMPUTERS FOR POLICE VEHICLES UNDER STATE OF FLORIDA BID NUMBER 250-000-03-1; DECLARING CERTAIN LAPTOP COMPUTERS TO BE SURPLUS PROPERTY, AND AUTHORIZING THE DISPOSITION THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Option 2, Resolution No. 2008-97, as read by title only.

Mayor Costello clarified Option 1 was \$50,000 for the replacements; Option 2 was \$50,000 plus \$38,900 for the records management and \$17,000 for the Community Safety Officers, totaling \$106,000; and Option 3 was \$50,000 for the computers now and the remaining later. He advised he supported Option 2 because the City was doing so much with the records management, the automatic vehicle locator, and the Community Service Officers that it was appropriate to have the technology to allow them to do their jobs.

Commissioner Partington asked why these computers were \$2,000 each.

Mr. Ned Huhta, Information Technology Manager, reported the City would be purchasing the Panasonic Tough Books. He explained the City's Fleet Management Division has had some for two years and have had no problems. Mr. Huhta advised the Gateway computers were consumer grade and have had a great deal of problems in that they were never designed for the vibration and rough duty in vehicles.

Commissioner Gillooly asked if these new computers would provide additional life; whereby, Mr. Huhta replied they would absolutely provide greater life, noting the City's experience to date with the Panasonics had been great.

Commissioner Gillooly stated the new computers would offer extended life and more reliability which would provide better equipment for the police officers to do their job.

Mr. Huhta pointed out these were the same computers the Sheriff's Office was using.

Mr. Isaac Turner, City Manager, stated this was competitively bid from a State bid.

Commissioner Kelley asked if there was any other agency using the Gateway computers, and if they were, if they were having similar experiences.

Police Chief Michael Longfellow reported other chiefs were having similar experiences with off-the-shelf models, but he was not aware whether they were Gateway or not.

Commissioner Gillooly stated she had a concern regarding a competitive price, but Mr. Huhta assured her this State contract afforded a competitive price. She questioned if the City may do better working with a local company through the City's bidding process because they may wish to develop a relationship with the City. Commissioner Gillooly urged the City be more open to local vendors.

Call Vote:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Item #12(A) – IAFF Grievance – Pension

Mr. Hayes stated there were multiple issues, particularly legal and funding issues related to the firefighters' pension. He advised there is a provision in the union contract that allows the firefighters to elect pension enhancements after going through a specific process ending with Commission approval and implementation; however, in this instance the Commission believed the enhancement might result in additional cost to the City, and the Commission did not exercise its legislative authority to adopt ordinances presented to amend the pension. Mr. Hayes reported the union went to arbitration, but since the arbitrator was not a trained lawyer, he had difficulty grasping the legal principal behind the inability to contract away legislative police power and ordered the Commission to implement the changes in the ordinances. He explained the question for the Commission was whether the Commission would be willing to abide by the arbitrator's decision or authorize staff to file a petition to vacate the order in circuit court. Mr. Hayes stated the costs should be nominal, and he recommended the Commission authorize him to file the petition to vacate and to remove this language from the collective bargaining agreement in the future.

Mr. Turner stated his initial concern was to make certain there was no possibility of a liability at some time in the future. He reported staff also had concern over the Commission surrendering its legislative authority in this process. Mr. Turner noted the arbitrator's order calls for implementation of both ordinances, which he did not believe could be done.

Mr. Paul Lane, Finance Director, explained the first ordinance (Ordinance No. 2007-05) was promoting an increase in the multiplier from 2.97% to 3.14%, which included a back DROP and amended the definition of "average final compensation." He noted that ordinance was sent back to the pension board and the union, and a new ordinance (Ordinance No. 2007-10) changed the multiplier from 2.97% to 3.12% with a \$100,000 reserve to absorb any possible decline in premium tax revenues through the reduction in the multiplier from 3.14% to 3.12%. Mr. Lane reported there was an addition of another retirement option called a "Partial Lump Some Option Plan" (PLOP), which was offered in Ordinance No. 2007-11. He advised the first ordinance spent all the money they had available, but the second left \$100,000 reserve and agreed that if the \$100,000 would not cover the possible reduction in the premium tax, the firefighters would consider an increase in their contribution rate to make up the difference.

Mayor Costello stated one issue was whether the Commission should petition the circuit court to uphold its right to legislate. He noted he did not want an arbitrator telling the Commission what it has to vote on so he supported filing the petition; however, concurrent with that, he recommended the Commission make suggestions that the City and the union could agree upon so the Commission could approve something sooner. Mayor Costello advised he did not wish

to wait until the court action was concluded. He stated the union has worked well with the City, and he appreciated the tone of the letter. Mayor Costello advised the City was also willing to work well with the union. He stated if an agreement could be reached, there could be a possibility the union and the City could jointly vacate the order and avoid going to circuit court to vacate the order.

Mr. Hayes stated there was time before the City would need to file a petition. He noted the order required both ordinances be approved, which are mutually exclusive of one another; therefore, this portion of the order was flawed. Mr. Hayes noted if staff could determine the parameters, the Commission could accept it, and it may be possible to talk to the union and bring back something that may be palatable to the Commission and the union. He suggested if an agreement can not be reached, staff could then come back for authority to file the petition to vacate the order.

Commissioner Gillooly stated the second proposal allowed for a buffer of \$100,000 and stipulated the union would "consider" changing their contribution if the \$100,000 would not be adequate. She noted Mr. Shaw indicated the entire burden was on the firefighters; therefore, it was important to make sure the benefit would be borne by the firefighters and the State and not become an additional burden on the taxpayers.

Mayor Costello stated another question was whether the funding should be retroactive or prospective. He advised the people employed did not expect to get this enhancement; therefore, it should be prospective rather than retroactive. He stated, however, since this has been delayed for roughly four years, he recommended going back to 2004 when the money started to build up.

Mr. Lane explained the 3.12% multiplier was retroactive for all years of prior service.

Mayor Costello suggested it be 3.3% if starting at 2004 rather than 3.12% retroactive with the proviso that if the \$100,000 was not enough the union membership would make up the shortfall and a future union would not ask the City to make up the shortfall. He suggested a joint resolution be provided, with both the union and the Commission signing, to set aside the arbitrator's decision.

Commissioner Kelley agreed he could definitely support Mayor Costello's recommendation. He reported, once again, the state was making the taxpayer pay for an enhancement, and he favored setting aside the arbitrator's decision in that the arbitrator was not a lawyer.

Mr. Jim Shaw, president Ormond Beach Firefighters Union, advised he appreciated Mayor Costello for trying to build a consensus. He reported he agreed the arbitrator was not an attorney, but he explained his job was not to determine statute or law but to provide an unbiased examination of the collective bargaining agreement and its implementation. He stated the arbitrator determined the language was clear; the union followed the collective bargaining agreement; they elected a benefit; and the pension board agreed with the membership. Mr. Shaw pointed out the Commission voted on similar increases previously. He reported this was a partnership both the City and the members signed, and the membership complied.

Mayor Costello stated it was obvious the union tried very hard to comply with the bargaining agreement; but the Commission could not support that, and it was their option to do so. He advised he would fight to maintain that option to not have someone tell the Commission what it must approve. Mayor Costello noted he believed his recommendation was fair since the money was not there until 2004.

Mr. Turner informed Mr. Shaw and the union that the City appreciated the agreements that have been ratified, particularly recently. He stated the Commission was trying to find a way to honor what the firefighters wanted without having repercussions on the financial position of the City, which existed in the first and second agreements. Mr. Turner explained the Commission could not collectively bargain an issue at the dais, but there was an opportunity to dialogue on issues. He reported the order seemed to indicate that both ordinances had to be implemented, and that was not practical or possible.

Mr. Shaw stated it was always understood that if the state money fell below where they were expected, either the benefit would be reduced or the members would pay that portion.

Mayor Costello stated the Commission needed that to be stipulated.

Mr. Turner stated that could be specifically stipulated. He reiterated both ordinances would need to be implemented, and that could not occur.

Mr. Lane stated the second time this came back it came back as two ordinances: 2007-10 and 2007-11. He noted the arbitrator directed 2007-10 and 2007-11 would have to be implemented, but that had no bearing on the first ordinance, which was Ordinance No. 2007-05. Mr. Lane advised Ordinance No. 2007-05 came back as Ordinance No. 2007-10 and other changes were included in Ordinance No. 2007-11; therefore, they do not necessary conflict with each other.

Mayor Costello summarized he made a recommendation regarding prospective rather than retroactive and came up with a compromise. He noted others have stipulated that if there were ever a shortfall, the benefit would be reduced or the contribution would be increased; and Mr. Shaw indicated the union would accept that. He asked if there were any other stumbling blocks.

Mr. Hayes stated staff only needed general parameters and this would not be binding; but it would let the union know the Commission's position.

Commissioner Gillooly advised she made her position clear that she would oppose it if it would cause a burden to taxpayers. She noted she believed the membership understood the issues, and she hoped they could come to terms with them. Commissioner Gillooly noted the City did not have to file the appeal immediately but could in the future should legal action become necessary.

Mr. Hayes stated the Commission could give staff direction to file within the allotted 90 days; if there was no need to do so after dialogue with the union, he would not file; but if no agreement could be made, the issue of filing would have already been settled.

Mayor Costello clarified the Commission could authorize filing unless they could come to an agreement.

Commissioner Gillooly asked the City Attorney if he was comfortable with a written agreement that the City and the union were not accepting the decision of the arbitrator or if he believed this legal action would be needed regardless of a settlement with the union.

Mr. Hayes advised the City had the right to file a petition within 90 days to vacate the order; and if the City did nothing, the union had the right to file an order to have the order enforced. He noted this was a binding decision by the arbitrator, and the City had been ordered to follow the order. Mr. Hayes explained that if the City and the union could come to an understanding, it could be formed into a settlement agreement regarding the arbitrator's decision.

Commissioner Gillooly advised she considered that to be a more favorable situation than moving ahead with the petition.

Commissioner Kent reported he was pleased everyone was talking civilly about coming to a conclusion so this would not cost taxpayers. He commended Mr. Shaw for his dialogue, demeanor, professionalism, and comments.

Mayor Costello asked for clarification that Commissioner Kent would approve the retroactive 3.12% with the proviso it would not cost the City money; whereby, Commissioner Kent concurred.

Commissioner Kelley advised he believed the City needed to ask for the vacation; and if staff could come back with an agreement where the taxpayers could be assured they would not have to pay with a multiplier of 3.3% to 2004 or 3.12% retroactive, he could accept it.

Commissioner Partington stated his concern was to be certain this would not cost the taxpayers money. He stated he felt it was fairer to start from 2004 forward, but that was not the Commission's decision. Commissioner Partington advised he believed the City needed to vacate the order because it did take away the Commission's legislative authority, unless an agreement could be reached.

Mayor Costello advised he believed the Commission did have a reason to urge the 3.3% to 2004 because it would be a benefit to recruitment and retaining firefighters. He noted his plan was to benefit those here today from 2004 forward—not be a reward for those who did not know they would get an enhancement; however, he did not hear a majority agreement from the Commission.

Mr. Shaw stated there would be no new employees because the people would not be able to afford to leave.

Commissioner Gillooly stated she agreed that it would be up to the union to make the decision as to which multiplier to choose, but ideally Mayor Costello's suggestion of a 3.3% multiplier was the best option. She noted this may be something to discuss in future union negotiations.

Mayor Costello stated every time the union wanted increased salaries and pensions in the future, if the multiplier were at 3.12% versus 3.3%, it would place the City in an inferior bargaining position, and he would prefer using the money to place the City in the superior bargaining position. He considered setting the multiplier a responsibility of the Commission.

Commissioner Gillooly noted the City could not impose that decision upon the union.

Mayor Costello stated he believed the City could allocate the money however the Commission believed to be best.

Commissioner Gillooly reiterated her main concern was that the decision would not create an extra burden on the taxpayers.

Mayor Costello summarized by urging the negotiating team to come up with an agreement retroactive as was requested by the union, with no possibility the City would have to fund any future shortfalls, and to get the arbitrator's decision vacated. He stated if there was no agreement everyone was comfortable with, Mr. Hayes could proceed with vacating the order.

Item #12(B) – Affordable/Attainable Housing Task Force Study

Mayor Costello stated some of the items included in the report were a percentage of the density toward inclusionary zoning, a density bonus along with transfer of development rights, fill in the floodplain amendment, use of St. Johns River Water Management District standards, and legalizing accessory apartments with little or no exterior changes. He asked if the Commission would be willing to support this type of legislation to accomplish affordable/attainable housing. Mayor Costello advised that if the Commission was not willing to support this legislation when the citizens come and complain, they should not support it now. He stated this was not specifically related to the site selected earlier, but related to any site where affordable/attainable housing would be proposed.

Mr. Goss stated most of these recommendations were amendments to the code. He explained there was not much the City can do from a resource perspective, so the City must concentrate on reducing the land cost, the hard cost, and the carrying cost. Mr. Goss reported with the carrying cost, time was money; the hard cost was cash coming from the developers' pockets for development fees; and the land cost was expensive so the only avenue available would be to increase the density. He pointed out that some of these items were in the City's Comprehensive Plan, but they were never integrated into the Land Development Code. Mr. Goss advised he and the task force were seeking direction on whether to implement the action plan by starting the code amendments to effectuate the recommendations.

Mayor Costello reiterated the Commission should not even talk about this if they were not willing to support it when citizens protest.

Mr. Dwight Selby, 200 East Granada Boulevard, stated the Affordable/Attainable Housing Task Force spent almost a year in developing this report. He explained his frustration was that issues were discussed, but no action was taken. Mr. Selby advised he would prefer taking a specific project, determining what it would take to get the project done in light of the current codes, and then modifying the code. He noted there was a potential site, but no money to do a project because the City would have to pay the utility fund for the land that the City already owns. Mr. Selby stated a project could not occur unless the entire infrastructure was in place. He advised another hurdle was density.

Mayor Costello offered the example that if the City was doing a 20% density bonus, it would mean that for that 20% there was no land cost so those units would come in as affordable/attainable housing. He stated he considered 20% reasonable.

Mr. Selby stated the study included a pro forma about the Halifax site. He stated his goal was to get a project done rather than merely talking about a project. Mr. Selby recommended focusing on the result they want to achieve and determining how to get to that point.

Commissioner Kelley explained one of the suggestions on the Halifax site was to sell it as surplus and utilize those funds to purchase land to do a project.

Mayor Costello noted that suggestion to use the site was made before he discovered the utility would have to be paid back.

Mr. Goss stated placing the density bonus into the Land Development Code would offer an opportunity to approve a higher density than what was currently allowed in another location where it could work.

Mayor Costello stated the City needed more density in the downtown so it can be vibrant.

Mr. Selby advised Mr. Goss had stated what was currently allowed was not dense enough, so the City needed to raise the density and have a bonus on top of that increase.

Mr. Goss stated the idea of the density bonus was to offset the inclusionary.

Commissioner Gillooly stated this discussion was for each individual project after it was included in the Land Development Code because each situation would be different; therefore, it would be difficult to assign a certain percentage without having a specific project in mind.

Mr. Goss advised he was talking about a certain percentage of a density bonus, but the number of units would be based upon the site specific criteria such as location and zoning.

Mr. Turner advised this issue did not need to be decided tonight.

Mayor Costello noted he did not wish to become site specific tonight. He asked if there was anything on the list that the Commission could not accept. Mayor Costello recommended adding encroaching on or adjusting setbacks.

Commissioner Gillooly thanked Mr. Selby and the task force for the tremendous amount of work and dialogue on the board. She advised she spoke to the board members individually and noted they were disappointed that there was not more action taken. Commissioner Gillooly reported she believed it was important to have a blanket regulatory examination first, although it would be great to have a project go through. She stated this provided the Commission an opportunity to make a statement as a Commission that they were willing to make these changes to insure affordable housing. Commissioner Gillooly advised she was in favor of what the task force brought forward, but did not want it to stop at this point.

Commissioner Kelley concurred with Commissioner Gillooly and urged including Mayor Costello's recommendations.

Commissioner Partington concurred with Commissioner Kelley.

Mayor Costello advised he was not in favor of a blanket increase of overall density, but allowing not only for affordable housing, but for green housing and transfer of development rights from the rural core of the County to allow any transfer of density for any of the above-noted reasons to increase the density. He stated this would not allow additional density by right, but only under specific circumstances.

Mr. Goss advised there were errors in the report that would be corrected, but they were not substantive.

Item #12(C) – Support of “Green” Development Standards

Mayor Costello noted the Commission favored green development standards.

Item #13 – Reports, Suggestions, Requests

PAL Athletes

Commissioner Gillooly acknowledged the Police Athletic League (PAL) 14 and under athletes for their State division championship.

Mayor Costello pointed out these children were described as “the best behaved kids,” which he considered wonderful.

Overhead Displayed at Meetings

Commissioner Gillooly stated it would have been helpful to have the overheads for the Dunkin Donut development issue. She asked these be displayed as a matter of course.

River Grille Restaurant

Commissioner Gillooly stated on April 23 the River Grille Restaurant would be holding its sound test. She asked if the Commission would be able to go to the test as a group.

Mr. Turner advised the Commission could attend, but it was not a City Commission meeting so the City Attorney would provide a note on what would be acceptable.

Mr. Hayes stated the Commission would be merely observing and not discussing the issue.

Mayor Costello advised the Commission was to meet at 6:45 p.m. at City Hall on April 23.

July 4th Celebration

Commissioner Gillooly acknowledged she has been working with Mr. Abee. She reported years ago she proudly worked on the first "Four Corners" event. Commissioner Gillooly noted she spoke to the Convention and Visitors' Bureau regarding obtaining grant funding. She advised this was a wonderful attraction, but she could not get past the fact it cost \$80,000 for one day. Commissioner Gillooly reported people come for the fireworks, and the music was an added bonus; but it was not the draw, while it was more than half of the cost. She stated if the City did not receive answers to Mr. Abee's letters in a few weeks, she recommended reconsidering this issue and considering a more simple approach by only doing the fireworks. Commissioner Gillooly noted she was concerned with this large expenditure and asked if the City could afford this luxury when there were other serious needs. She urged the Commission to obtain as much community support as possible.

Beach Issues

Commissioner Kent stated Mayor Costello asked the Commission to bring up any beach issues. He stated the beach was free and was packed at times, and while the Ormond Beach Sports Complex and Nova Recreation Center were heavily used, they did cost. Commissioner Kent stated he was sincere in his letter relative to the speed trials that he believed Ormond Beach could do it better. He explained the major issues were that the beach was hardly ever open and nothing every changed. Commissioner Kent stated at times when the beach is closed due to soft sand, the sand was not soft, but the County did not have the personnel to open the approaches and move the barricades. He recommended that in order to fix the soft sand issue, fire pumps be used to spray ocean water on the soft driving lanes. Commissioner Kent expressed frustration in that it could work better. Commissioner Kent asked the City to express to the County to get rid of the tolls, open all approaches, and spray soft lanes with ocean water. He noted these were relatively easy fixes that would open up the beach for the residents.

Mayor Costello stated the County would say they spend \$13 million, receive \$10 million, and tolls equal \$3 million of that \$10 million. He reported he heard the County indicate that if the cities were to get rid of the tolls, they should pay for the shortfall.

Commissioner Kent reported the City could get creative and patrol the beaches as they did previously. He stated he was not committed to paying the \$3 million, but Ormond Beach could get creative.

Mayor Costello stated he agreed with Commissioner Kent, but he was trying to examine the issue as the County would; and he envisioned partnerships to some degree would occur in the future if the tolls were to be removed.

Commissioner Kent stated he did not believe it would be difficult if the approaches were open from the Granada approach to the Harvard approach.

Commissioner Gillooly stated the beach was an entity that encompasses the entire area, and it might be difficult to find those defining lines. She advised she wanted to explore this, particularly if one city was to opt out.

Mayor Costello reported it would cost Ormond Beach less money to partner with the County for a minimal share of taking the tolls off the beach than taking over the beach; whereby, Commissioner Gillooly concurred.

Commissioner Kelley stated the County needed to look at cost to see if \$3 million was accurate in that it seemed high. He expressed agreement that every Ormond Beach approach needed to be opened. Commissioner Kelley stated taking the beach back would run a great risk of environmental issues; therefore, he would oppose taking over ownership, but favored opening the approaches and doing away with the tolls.

4th of July Celebration

Commissioner Kelley stated if only the fireworks were to continue there would still be costs for personnel and other ancillary costs. He reported for some people this event was their quality of life, and he opposed changing it at this point.

State Government Listening to Local Governments

Commissioner Kelley advised he was very disappointed in State representatives and senators who were not listening to local governments, which was proven by their unfunded mandates.

Mr. Goss Commendation

Commissioner Partington commended Mr. Goss for the many issues he discussed and clarified tonight.

Beach Issues

Commissioner Partington stated he would consider anything that would open the beach.

4th of July

Commissioner Partington stated he appreciated Commissioner Gillooly's concern regarding the 4th of July celebration, but this was the largest City-wide celebration of the year. He noted there was a cost associated with this celebration; and while he did not wish to diminish the celebration, he would appreciate the City trying to reduce the cost if at all possible.

Relay for Life

Mr. Turner stated the Cancer Relay for Life would begin at 5:30 p.m. on Friday, May 18, at the Prince of Peace Church.

Item #14 - Close the Meeting

The meeting was adjourned at 10:38 p.m.

APPROVED: _____ May 6, 2008

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk