

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

April 17, 2007 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.

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.

4) **AUDIENCE REMARKS:**

5) **PRESENTATION:** Proclamation in honor of the Pop Warner 1st and 2nd Team Scholastic All American participants.

6) **APPROVAL OF THE MINUTES** of the April 4, 2007, 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. 2007-43 authorizing the execution of a Fireworks Display Contract between the City of Ormond Beach and Fireworks by Santore, Inc., accepting a certificate of general liability insurance. (\$36,500)

B) Resolution No. 2007-44 authorizing the execution of an amendment to the Edward Byrne Memorial Justice Assistance Grant Subrecipient Agreement regarding the Teen Scene program at the Ormond Beach Middle School. (Reallocation of \$1,000 from instructor fee to equipment acquisition)

C) Resolution No. 2007-45 authorizing the execution of Change Order Number One (1) to that contract awarded to Golf Specialties, Inc., regarding the Airport Sports Complex Softball Quad project; by increasing the contract amount by \$8,883.75. (Provides for the purchase of an extra 345 tons of clay over the original estimate of 1,400 tons to complete the project - \$44,933.75 total contract price)

D) Resolution No. 2007-46 appointing Charles Engemann to serve as a trustee of the City of Ormond Beach Firefighters' Pension Trust Fund; establishing term and conditions of service.

E) Review of FY 2006-07 budget results.

DISPOSITION: Approve as recommended in City Manager memorandum dated April 12, 2007.

9) **PUBLIC HEARING:** Ormond Crossings Comp Plan. (To be continued to second meeting in July)

10) **DISCUSSION ITEMS:**

A) Options for John Anderson Drive sidewalks.

B) Vacant beachside property.

C) Beach parking special election.

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

12) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Commissioner Gillooly gave the invocation.

Mayor Costello thanked everyone for the support offered to his family, former Mayor Hood and his family, and those lost at the Virginia Tech shooting.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #4 - Audience Remark

Runway Extension

Mr. Louis Lumaghi, 1 Cliffside Drive, Ormond Lakes, displayed a map of the proposed 17/35 runway extension the City put out in December 2004. He reported that proposal was opposed by the Ormond Lakes and Bear Creek residents, and the City later withdrew the proposal to extend the runway. Mr. Lumaghi stated four weeks ago there was a question about the extension of the runway, and the City made a statement that they were applying for withdrawal of the runway extension permanently in 2009 when the Airport Master Plan was to be renewed. He advised two weeks ago the City announced the extension of a secondary route to the Airport Sports Complex. Mr. Lumaghi stated the secondary route would be one mile five hundred feet longer in length from US1 and involved additional undetermined costs. He reported the City argued this route was necessary for more access to the sports complex; however, the present Hull Road route would not be expanded from its current two lanes which would lead one two-lane road into two two-lane roads and cause a bottleneck.

Mayor Costello stated there were absolutely no plans for a runway extension. He reported the Master Plan for the sports complex had existed for years, and he was excited about it especially in view of all of the youth in attendance tonight.

Downtown

Ms. Rita Press, 875 Wilmette Avenue, commended Mr. Bill Jones for the beautiful renovation to his building which was moving toward revitalizing the downtown.

Mayor Costello stated the downtown was starting to be revitalized, and he thanked those responsible for that revitalization.

Recommended Deductions

Mr. Glenn Jaspers, 160 Ocean Terrace, requested that he be allowed to finish his comments at the end of the meeting; whereby, Mayor Costello advised he would allow that tonight and then the Commission would make a decision if this would be permitted in the future. Mr. Jaspers reported he read the memo regarding recommended deductions should a tax be imposed by the State, mandating the City to economize. He questioned the use of the word "staff" in the memo as it did not specify exactly who was making the specific recommendations for the cuts. Mr. Jasper noted the report was a good start, but it did not go far enough.

Commissioner Kelley stated it was not determined what cuts would need to be made because no word had come down from Tallahassee yet, and it would be a waste of time to define cuts until more was known.

Mayor Costello explained the report was not a recommendation from staff but merely a list of items that could be considered if cuts would be necessary.

Mr. Turner stated the Commission asked for this list to be created to start dialogue and discussion regarding the severity of a "worst case scenario" of what may occur in Tallahassee.

Making Records Available to the Public

Mr. Jim Schultz, 117 Harvard Drive, stated the Florida State Newspaper Association had 75 articles regarding making records available to the public with the least amount of effort. He noted Jacksonville was determined to have achieved this better than anyone else. Mr. Schultz reported Jacksonville found a method to separate privileged e-mail from those that should be easily accessible. He advised several cities had a terminal available for any citizen to use to find any appropriate records. Mr. Schultz noted he had not had a major problem obtaining information from Ormond Beach, but he understood how time consuming the prospect was for everyone involved.

Mayor Costello asked the City Clerk to check into the Jacksonville method to determine if Ormond Beach could provide requested information better.

CANDO Legal Fees

Mayor Costello reported Mr. Skip Fowler, the attorney representing CANDO, requested the opportunity to speak five minutes rather than the three normally allotted, and he advised he would permit Mr. Fowler to speak at this time rather than making him drive over from Orlando to ask for a discussion item at another time.

Mr. Skip Fowler, 28 West Central Boulevard, Orlando, representing CANDO, requested the City reimburse CANDO for their expenses incurred to establish their right to have the petition brought before the electorate and to establish the validity of the position they hoped to present to the electorate. He noted the Commission determined it was necessary to have judicial review of the issue, but the CANDO supporters were nervous they would miss the time for submitting the referendum for the general election. Mr. Fowler reported CANDO filed the action to obtain a judicial determination. He pointed out that a judicial review typically involved only one party. Mr. Fowler characterized what CANDO provided as a public service by doing what the City had elected to do on a more expedited timeframe and with more validity to the process.

Mayor Costello stated he would allow the Commission to decide if the issue would be discussed at this time, scheduled as a discussion item for a future meeting, or not brought up at all.

Commissioner Kent stated the Commission was planning to seek judicial review to determine if the ballot language was constitutional; it went to court, and a judge agreed Mr. Carter was right and the Commission was wrong; the Commission decided to appeal the decision; but in the eleventh hour the Commission decided to drop the appeal. He stated last Friday the Commission was willing to pay compensation and legal fees when that person filing the lawsuit was wrong without going to court. Commissioner Kent reported to deny compensation to Mr. Carter and CANDO for their costs could be interpreted as nothing short of hypocrisy. He stated it was time to heal the City and admit the Commission made a mistake.

Mayor Costello stated Commissioner Kent was obviously prepared to present comments, but he was not certain the other Commission members were prepared; therefore, if the Commission requested this be discussed at another time when they had the opportunity to prepare their comments that could be done.

Commissioner Kelley stated the City had already filed for clarification to determine if the ballot question was correct, but Mr. Carter filed for injunctive relief and a writ of mandamus. He explained one was to place the item on the ballot, and the other was to claim CANDO was being harmed by not being placed on the ballot expeditiously. Commissioner Kelley reported those were far different from what the City was asking, which was for clarification of the legal sufficiency. He advised that had Mr. Carter not filed the injunctive relief and writ of mandamus there would still have been a ruling as to whether the sufficiency of the language would have been correct. Commissioner Kelley noted what the City did at the meeting on Friday was to save the City up to \$500,000 by not exposing the City to a jury trial by a person he believed to be wrong; but it would have gone to federal court, and the City could have been sued for damages, the employee's legal fees, plus punitive damages. He explained the City would have had to spend \$25,000 for the attorney to represent the City just to go to trial, and the City settled the lawsuit for \$50,000. Commissioner Kelley reported he did not favor spending the additional \$25,000; but considering the risk of the unknown, the \$50,000 was better than \$500,000.

Commissioner Gillooly stated legally these are totally different situations. She expressed agreement with Commissioner Kelley regarding the settlement of the \$50,000 lawsuit strictly on a financial basis. Commissioner Gillooly reported Commissioner Kent indicated the Commission decided to give up the appeal in the eleventh hour, but actually the Commission gave up the appeal because they finally received legal assurance that the citizens were protected. She reported Mr. Fowler just stated that normally these cases were one entity going to court, and the City was already in the process of going to court. Commissioner Gillooly stated it was Mr. Carter's choice to file the suit, which she considered to be politically motivated, and the citizens should not bear the cost or burden of that decision.

Commissioner Partington advised he concurred with Commissioner Gillooly and Commissioner Kelley. He asked how Commissioner Kent was aware this would be on the agenda and the other Commission members were unaware. Commissioner Partington stated without information or a staff report he would not recommend considering this tonight. Commissioner Partington questioned what the additional cost would be to the taxpayer and where the money would come from, particularly in a tight budget year.

Mayor Costello stated Mr. Fowler informed him he wished to speak, and he took the responsibility of placing this on the agenda. He noted had he become aware

Commissioner Kent had been informed, he would have asked Mr. Turner to make certain the entire Commission was made aware Mr. Fowler was coming.

Commissioner Kent reported Mr. Fowler did not speak to him regarding attending this meeting. He stated he had this information prepared for whenever Mr. Fowler came to the meeting.

Mayor Costello noted he did not want to delay this issue. He noted Commissioner Kelley and Commissioner Gillooly indicated they were not prepared to fund this, and he would be the third vote. Mayor Costello clarified the court stated the item must be placed on the ballot; but they did not indicate the wording was good, which was what the City was questioning. He advised the CANDO attorney asked the Commission to change the wording after the fact, which should be a good indicator that there was an issue with the wording. Mayor Costello reported he had taken criticism from both sides of the issue because he voted to change the wording to insert the summary rather than the ballot language to attempt to give the people what he believed they wanted. He noted the Commission had sought declarative wording; it was hastened; and because of that, the amendment was now in the Charter with no grandfathering and with significant issues for people living in buildings over 75-feet. Mayor Costello reported had the City been allowed to correct that wording and allow the people to vote on something that would have covered these issues; the City would have been better served. He summarized three Commission members have determined not to pay CANDO expenses, and the issue would be dropped.

New Planning Director

Mayor Costello introduced the City's new Planning Director, Mr. Ric Goss. He noted planning was of vital importance to the City.

Boy Scout Troup 403

Mayor Costello acknowledged the members of Boy Scout Troup 403 who were in attendance to earn their Communications and Law merit badges. He encouraged the scouts to work toward their Eagle badges.

Item #5 – Pop Warner 1st and 2nd Team Scholastic All American Proclamation

Mayor Costello read a proclamation honoring Pop Warner 1st and 2nd Team Scholastic All Americans. He reported Pop Warner was the nation's largest youth football and cheerleading organization with nearly 400,000 participants from every state promoting integrity, leadership, excellence, and academics as it requires participants to maintain academic standards in order to participate. Mayor Costello stated Pop Warner selected 35 young men and 25 young women to be 1st Team Scholastic All Americans, who represent the top 140 young men and top 100 young women out of the nearly 400,000 participants. He noted three Ormond Beach participants were awarded 1st Team Scholastic All American: eighth grader Connor Meneough, seventh grader Danielle Andrade, and sixth grader Jacob Beck.

Mayor Costello stated Pop Warner selected 250 young men and 200 young women to be 2nd Team Scholastic All Americans, who represent the next 1,000 young men and 800 young women. He reported 38 Pop Warner participants were awarded 2nd Team Scholastic All American: eighth graders John Boehm, Sebastian Caliendo, John Christopher, Seth Furman, Josh Griffith, James Lee, Brian Wittenberg, Kelly Begnoche, Darcie Bland, Devin Cary, Caitlin Chalkey, Taylor Cornelison, Alexandra Crotts, Alyson Hoskin, Victoria Mitchener, Samantha Romanelli; seventh graders Chris Banks, Wallace Combs, Alexander Dann, Perry Kostidakis, Taylor Lloyd, Matthew Warren, Daniel Wigley, Ashley Chambers, Emily Durant, Jacquelyn Garcia, Erin McKernan, Katherine Wilson; sixth graders Alexander Kagle, John Mulvaney, Richard Williamson, Chelsea Padgett; and fifth graders James Combs, Clayton Dansby, Raul Gonzalez, Brendan McKernan, Connor Mitchener, and Issac Wagner. Mayor Costello reported 41 Pop Warner 1st and 2nd Team Scholastic All American awards represent an Ormond Beach record, and one of the highest in Florida. Mayor Costello pointed out that these young people have a 96 grade point average and participate in a number of other non-football and non-cheer related community activities. He proclaimed April 18, 2007, as a day to recognize Pop Warner's 1st and 2nd Team Scholastic All Americans.

Item #6 - Approval of Minutes

Mayor Costello advised the minutes of the April 4, 2007, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Commissioner Gillooly stated Page 15470, first paragraph, stated "report to the Planning Director" and should have stated "report to the Planning Director."

Mayor Costello stated that the minutes were approved as amended.

Item #7(A) - Metropolitan Planning Organizations and Item #7(B) - Volusia Council of Governments

Mayor Costello reported there was no new information to report regarding the Metropolitan Planning Organization (MPO) and the Volusia Council of Governments (VCOG).

Item #7(C) - Water Authority of Volusia

Commissioner Kelley stated the Water Authority of Volusia (WAV) would have a meeting tomorrow.

Item #8 - Consent Agenda

Commissioner Kent moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, as presented.

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

Item #9 - Ormond Crossings Comp Plan

Commissioner Kelley moved, seconded by Commissioner Partington, to table this item to the second meeting in July.

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

Item #10(A) - Options for John Anderson Drive Sidewalks

Mayor Costello reported he would allow the people to speak to the discussion items tonight in that he was not certain when items would be voted on, but he believed the Commission would be giving direction to staff tonight. He asked the Commission to provide their opinion at the end of the meeting as to whether he should allow such comment in the future and if he should allow additional comment at the end of the meeting from the three minutes allowed in the Audience Remarks section of the meeting.

Mr. Jeff Boyle, 614 North Halifax Drive, stated on February 15, nearly 100 people attended a public meeting on this issue, and they sent a strong message to the Commission that they did not want bike paths or trees cut on John Anderson Drive. He noted only a few people supported the sidewalk concept that staff acknowledged would require the removal of trees. Mr. Boyle reported it was not a “split consensus” as was suggested in the staff report. He stated given the curves and nature of the road, it could be argued that a sidewalk within the City’s established right-of-way would place people at risk. Mr. Boyle reported there was a concession by some that if a sidewalk was to be built, the private property owners should allow the sidewalk to be built winding through the private property beyond the City’s right-of-way to address the safety factor and the tree problem; however, liability would be an issue. He stated there were five streets that connect with A1A with safe sidewalks. Mr. Boyle recommended the winning bidder should be required to meet a strict construction timeframe because there had been a history of projects with difficulties. He suggested the contractor be required to pay liquidated damages if the project was delayed or the work failed to meet specifications.

Mr. Warren Cobb, 751 John Anderson Drive, stated he concurred with Mr. Boyle’s comments. He noted the report was incorrect when it stated it reflected the will of the community because the majority of opinion was to not widen John Anderson Drive; they did not want a sidewalk; and they did not want a bike path, while they did want the sewage and drainage improved. Mr. Cobb reported the message was clear the people basically wanted John Anderson Drive left alone.

Mr. Lee Strong, 803 John Anderson Drive, stated there was a great deal of concern at the public hearing, and the question of the bike path was not address in that there already was a bike path

established. He reported there was a great deal of opposition to changing John Anderson Drive. Mr. Strong pointed out John Anderson Drive was part of Ormond Beach's scenic route. He urged the City to leave John Anderson Drive alone.

Ms. Paige Cohen, 135 John Anderson Drive, reported when she moved to John Anderson Drive she wanted a sidewalk and considered it important. She noted she could not allow her two and one-half year old child play in her front yard as traffic travels at a very fast pace on the street. Ms. Cohen recommended stop signs to slow the traffic. She noted with the plans she saw for a sidewalk, the majority of her front yard would be taken for a sidewalk. Ms. Cohen reported if a sidewalk was to be considered, she urged the Commission to consider the size of the sidewalk in that the recommended size was excessive.

Mayor Costello reported a card from Mr. Joe Jaynes came in late, but Mr. Jaynes was chair of the Scenic Loop Corridor Advocacy Group (the CAG) and he would recognize him since he was extremely involved in The Loop.

Mr. Joe Jaynes, Scenic Loop CAG, stated in June there would be a Florida Scenic Highway designation and the CAG would roll over to the Corridor Management entity. He reported CAG wants to help and partner with the City. Mr. Jaynes noted the ultimate decision would rest with the Commission, but he offered to assist in arriving at possible alternatives.

Mayor Costello stated he was not at the meeting, but from the minutes he understood that there was a problem with the trees slated to be destroyed. He stated based on his experience with the MPO, he would consider a sidewalk to be safer than no sidewalk. Mayor Costello reported it was clear the residents did not want an eight-foot sidewalk and a 10-foot bike path, but design Alternative 1 was for a five-foot sidewalk, which would take only 12 palm trees and no hardwood trees. He questioned the difference between Alternative 1 and Alternative 2.

Mr. Isaac Turner, City Manager, reported Alternative 1 was for reconstruction and Alternative 2 was milling.

Mayor Costello clarified that Alternative 2 would not include stormwater, but it would include re-milling and a bike path. He noted Alternative 4 was for resurfacing with no bike path. Mayor Costello reported Alternative 1 and Alternative 3 had stormwater; Alternative 1 had a bike path; and Alternative 3 had no bike path.

Mr. John Noble, City Engineer, clarified Alternative 2 would address stormwater in problem areas where there was street flooding, but it would not include a full stormwater collection system with curbing.

Mayor Costello advised he wanted John Anderson Drive redone with complete stormwater. He agreed with Mr. Boyle that the contract needed to include a provision regarding expeditiously accomplishing the work because there have been multiple issues with various projects on the north peninsula.

Commissioner Gillooly stated she attended the meeting and noted the staff report did reflect that there were a number of people who spoke on behalf of their desire to have a sidewalk. She reported beyond the discussion at the meeting she spoke to numerous people who believed a sidewalk was important. Commissioner Gillooly concurred that the opposition at the meeting came from the fact that the first design indicated that nearly 200 trees would be lost for a sidewalk, and no one agreed with that loss. She advised the stormwater issue was extremely important. Commissioner Gillooly asked if those people who spoke at the February 15 meeting were notified this would be discussed tonight, and she was told staff requested obtaining direction from the Commission, and another public hearing would follow thereafter before the Commission would proceed with any definitive action.

Mr. Noble advised the thought was that staff would obtain direction after bringing back the results of the public meeting, and the results could be sent instructing the people to contact engineering directly or another public meeting could be held.

Commissioner Gillooly asked for clarification that every John Anderson Drive resident and interested City resident would have numerous opportunities to speak to the Commission before anything was passed. She asked if the speed on the road, stormwater, or safety issues had been addressed to date.

Mr. Noble reported staff was in the preliminary conceptual phase. He noted the high back curb was envisioned for John Anderson Drive if a sidewalk was to be built. Mr. Noble pointed out

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John Anderson Drive had a 25 miles per hour speed limit; therefore, with the high back curb, the City would be well within safety standards.

Mayor Costello requested investigating additional stop signs in that this was a scenic drive and should not be used as a short cut.

Commissioner Gillooly stated she wanted to be assured the citizens would have the opportunity to continue to be a part of this process. She reported there was a split consensus over the desire for a sidewalk, but the loss of the trees was a definite concern. Commissioner Gillooly pointed out the loss of the trees was not the same under the new plan, and there was an opportunity for a meandering sidewalk which she believed would cause a greater interest in a sidewalk.

Mayor Costello concurred many people opposed the sidewalk due to the loss of the trees.

Commissioner Partington recommended Option 3 and recommended phasing in a sidewalk at a later date if the people want the sidewalk.

Mayor Costello stated he believed the sidewalk should either be done now or not at all due to the cost factor.

Mr. Noble reported when a contractor was present doing a large job such as a roadway the cost for a sidewalk would be less in that the equipment and cement would already be at the job site. He noted prices also increase with time.

Commissioner Kelley thanked Commissioner Gillooly for attending the neighborhood meeting. He noted he purposely did not attend the February meeting to avoid any appearance of a Sunshine Law problem. He noted Option 3 did not include the sidewalk, but he asked if it addressed stormwater.

Mr. Noble stated Option 3 was for full reconstruction and a full stormwater system and Option 1 was the same without the sidewalk.

Commissioner Kelley stated a sidewalk on the east side would effectively save the trees other than 12 palm trees. He noted most concerns articulated were relative to traffic and stormwater issues. Commissioner Kelley reported the stormwater issue needed to be corrected. He recommended sending letters to people on the east side to determine if the homeowners would be willing to grant an easement for a sidewalk. Commissioner Kelley advised the City should inform the public that what was being considered was not the original plan. He noted it made little sense to spend \$2.5 million to mill and surface a street to last only five to ten years, and he preferred it be fixed to last 20-30 years. Commissioner Kelley noted the City did not have the option to leave John Anderson Drive untouched as some requested, because it needed to be repaved and the stormwater corrected.

Commissioner Kent expressed concern regarding the financing because stormwater fees would need to be increased to cover the debt service. He noted he wanted to know how people would feel about sidewalks with the new plan rather than what was recommended at the meeting, which would have lost 200 trees. Commissioner Kent noted this factor could have a great impact on the will of the people. He reported he agreed sidewalks were safer, and the City could not leave John Anderson Drive untouched. Commissioner Kent asked if the blueprint of the road would remain the same if it were redone.

Mr. Noble advised the same footprint would remain, and depending on the option chosen, there would be curbs.

Commissioner Kent recommended allowing the people to have another opportunity to speak on this issue although he was concerned about funding. He stated this project would reduce the amount of funding for future transportation projects.

Mayor Costello stated most Commission members agreed with Option 3 or Option 1. He recommended sending out information to those who attended the meeting and those living on John Anderson Drive. Mayor Costello asked Mr. Turner to advertise in the *News-Journal* and on the internet that the Commission was considering a complete rebuild including stormwater for \$4,600,000 without sidewalks or a complete rebuild including stormwater with an additional \$268,000 for a single five-foot sidewalk that would take out 12 palm trees and no hardwood trees. He reported five hardwood trees would be lost for the stormwater, but no additional trees for the sidewalk.

Commissioner Partington stated the difference between Option 1 and Option 3 was \$321,000, but the sidewalk construction was \$268,000. He asked why there was a difference.

Mr. Ted MacLeod, Assistant City Manager, explained the additional funds would be used for a different type of curb.

Mayor Costello stated the cost of the easement must be added to the cost of the sidewalk so the \$321,000 figure should be used as the additional cost of the sidewalk.

Commissioner Partington stated he could support Option 1 or Option 3 knowing the Capital Improvements Project (CIP) was a five year document and it could be changed later. He noted it may make sense to plan and budget for the most it could cost.

Mayor Costello reiterated he favored Option 1, but could accept Option 3 and allow people to come back and discuss the matter.

Commissioner Kelley urged waiting to hear from the property owners of the easements and allow the residents to have either a public hearing or comment on the revised situation. He pointed out John Anderson Drive was not the average street, and a sidewalk would add to having it become a correctly functioning roadway.

Mayor Costello recommended bringing this back in six weeks and letting the community comment on Option 1 and Option 3.

Commissioner Gillooly asked how long this project has been “on the books.”

Mr. Noble stated the collector road program started in 1997 and these costs were from 2005, but there has been a 35% to 50% increase in road costs since 2006.

Commissioner Gillooly stated this stormwater work was overdue. She reported residents have already indicated they have a great interest in this, and she urged a post card be sent to all John Anderson Drive residents indicating this would be discussed and to contact the Commission or staff prior to the meeting, at which time a complete discussion could be held.

Mr. Noble asked what type of meeting was being recommended. He asked if a workshop, special meeting, or agenda item should be scheduled.

Mayor Costello stated this would be an advertised agenda item. He noted the post card should list the two possibilities: \$4,609,000 for a complete rebuild or an additional \$321,000 for a five-foot sidewalk that meanders, taking only 12 palm trees and no hardwood trees.

Commissioner Kent stated this was a \$5 million project, and the beachfront park was a \$3 million project. He stated the \$3 million project would be going to the people for a vote, but this \$5 million project would not. Commissioner Kent asked if the people should vote on this item as well.

Commissioner Gillooly stated this was a “need,” and a beachfront park was a “want,” and they were two separate issues.

Mayor Costello stated the City had a budget for roads, and this had reached the top priority on the list. He noted this would delay a number of other roads because this project had risen to the top of the list, and it was a costly project.

Commissioner Partington stated if the people would vote, all would vote; whereas, the way the City was currently handling this issue was to listen to those on living John Anderson Drive, who were most impacted. He noted it may be more appropriate to allow the entire City to vote.

Mayor Costello expressed opposition to a vote because the City should not be voting on which roads to repair, since residents would not do the research to find out why staff would recommend which roads to repair. He noted the Commission had been trying to de-politicize road repair.

Commissioner Partington asked for staff to provide a report explaining these issues.

Mayor Costello summarized the Commission would be considering Option 1 or Option 3 in approximately six weeks and information would be sent to John Anderson Drive residents, and all the residents would be encouraged to write, e-mail, call, or speak to staff and/or the Commission.

Item #10(B) - Vacant Beachside Property

Mr. Clay Ervin, Chief Planner, stated staff had four basic questions for the Commission relative to the former Seaside Inn. He reported the property owner, Bray and Gillespie, was planning to expend additional funds for beautification of the site to consist of a white picket fence and landscaping. Mr. Ervin asked if the Commission felt the standards should apply Citywide.

Mayor Costello reported the consensus was the standards should apply Citywide.

Mr. Ervin reported the second question was whether there should be different standards for residential and non-residential.

Mayor Costello stated he believed commercial standards should be higher.

Mr. Ervin stated staff recommended different standards because when dealing with a commercial property there was a considerable lag of six to nine months for approvals; whereas, for a single-family home the time lag may not exist. He noted there may also be differing standards regarding insurance. Mr. Ervin advised these properties would have been either burned, damaged through storm or other acts of God that have resulted in the existing structure needing to be demolished. He pointed out there was a lag time from when a claim was filed to when the owner would receive the cash.

Commissioner Kelley reported he was not in favor of someone losing their home through fire or other destruction having to landscape their home before they could rebuild. He noted it was also not fair to ask a commercial property owner to landscape before they could rebuild.

Mayor Costello noted the Commission may not require landscaping. He stated he wanted the property to be presentable to the community after a certain amount of time.

Commissioner Kelley stated there were properties not destroyed by tornados, hurricanes, fires, or storms that look worse than some that have been.

Commissioner Kent stated this was just being a good neighbor by making the property look good. He noted he would be more comfortable with a timeframe being added for the commercial developments. Commissioner Kent stated three years after the fact was excessive.

Commissioner Partington asked if staff had asked for this item to be added to the agenda.

Mayor Costello stated he asked for this item a long time ago because he believed the City needed a mechanism to make sure the community presented its best face, there were no eyesores, and safety issues were considered. He requested the best practices in other communities be investigated.

Commissioner Partington asked if there was anything in the Code of Ordinances to address eyesores and safety issues.

Mr. Ervin explained there were two separate issues. He stated there was a building next to City Hall that was demolished; it was made safe and secure and could be left as a vacant lot; however, the property owner had an approved site plan. Mr. Ervin clarified there was nothing in the current code to mandate the property owner to beautify the site if they did not plan on developing the site. He reported the Surfside Inn was in the middle of an insurance issue; but the City sent a letter indicating the structure was unsafe, and the owner was required to make it safe. Mr. Ervin stated the letter of the law was not met; but the building was still standing, and it was secured, not allowing the public to access the building. He noted the building was now safe, but the question remains if it was an eyesore. Mr. Ervin reported the City did not have a specific requirement to address the eyesore issue.

Commissioner Partington stated everyone's idea of an eyesore may be different. He asked if other communities have defined an eyesore.

Mr. Ervin reported different areas have different standards. He asked what standards staff should be looking for to apply in Ormond Beach.

Commissioner Partington stated he would be willing to investigate the issue, but it should apply equally across the board.

Ms. Rita Press, 875 Wilmette Avenue, stated when the CANDO amendment came before the public for a vote many people warned that the passage of that Charter amendment would have unfavorable consequences for the City. She advised that shabbiness and blight with empty businesses were a direct consequence of that vote. Ms. Press stated that there were many aspects of the Bray and Gillespie concept that she considered unacceptable, but she questioned how much better off the City would have been if the City could have gone forward, changed, and negotiated for those aspects the public would have preferred. She asked how much better off would the City have been if those planning stages were left to citizen input and boards' direction. Ms. Press noted the "quick fix" to place the height limit in the Charter without considering all of the aspects that make a development attractive and viable was an act of "fuzzy thinking," and now the same people will be clamoring to make these vacant properties more attractive. She stated these CANDO people "killed" the opportunity, and it was now too late; but they now want the taxpayers to buy the most expensive property in Ormond Beach when the residents had the possibility of receiving a "free" beachfront park. Ms. Press reported this Charter amendment lowered the 75-foot height limit and discouraged investment in bringing quality businesses, restaurants, and housing to Ormond Beach. She stated good redevelopment would come only when there were financial rewards. Ms. Press reported to attain a revitalized beachside, the City must create the kind of atmosphere that encourages that effort.

Mr. Jeff Boyle, 614 North Halifax Drive, stated CANDO unanimously resolved that they formally request the City seek and secure documented information on the status and potential availability of the Surfside Inn property. He noted to date that information was not available through a staff report. Mr. Boyle stated it was not accurate to take the leap from the height issue to blight and blame 10,000 voters. Mr. Boyle reported there were five vacant properties beside his business and two additional vacant businesses across the street with no idea when they would be redeveloped. He stated none of the eight vacant properties had anything to do with height or the vote. Mr. Boyle reported the parks were not "free" when there was a tradeoff involved. He stated after waiting ten years for the off-beach parking promised in 1996 people believe they have already paid their taxes to that end.

Mr. Gregory Avakian, 161 Heritage Circle, advised he completely concurred with Ms. Press's statements. He noted he agreed with Commissioner Partington that if anything should be done, it should be done uniformly for both residential and commercial.

Mayor Costello requested information regarding how other communities handle this situation. He asked if the Commission had an interest in pursuing this issue.

Commissioner Kelley stated he was not interested in pursuing this in that this situation would correct itself. He noted he did not care for unsightly properties destroyed or damaged by fire any more than he cared for properties that were not being maintained properly; however, defining an eyesore would be difficult.

Commissioner Kent encouraged this be pursued and all options investigated.

Commissioner Gillooly stated everything currently in the code should be applied uniformly. She cautioned targeting specific areas. Commissioner Gillooly pointed out many issues have arisen due to the storms of 2004. She urged being cognizant of the insurance issues; but code enforcement should be applied, and any code enforcement letter may make the insurance company settle more quickly. Commissioner Gillooly urged the City to not hold back on any code enforcement but also not seek new code enforcement.

Commissioner Partington agreed with Commissioner Gillooly and Commissioner Kelley not to pursue this issue; therefore, Mayor Costello stated the consensus was not to pursue this any further.

Mayor Costello stated that despite CANDO's chair, Mr. Boyle, asking the Commission to consider using eminent domain, he would not support it; and unless another Commission member would indicate interest, he did not wish staff to investigate any property with unwilling sellers such as the Surfside property.

Mr. Ervin stated after Mr. Carter's presentation, staff sent an e-mail to the attorney for Ocean Waters Management, Bray and Gillespie, requesting information as to whether they would consider entering into negotiations, but staff has not received a formal response. He reported he received a phone call last night that, based on their current financial situation, they were not interested into entering into any sale at this time.

Mayor Costello stated all property owners on A1A should be informed the City would like to negotiate for the purchase of land; but if the property owner was not willing to sell, the City would go no further.

Item #10(C) - Beach Parking Special Election

Ms. Judy Sloane, Public Works Director, stated the Commission gave staff direction to negotiate contracts on five properties. She reported staff had a contract on the 442 South Atlantic Avenue site at Rockefeller. Ms. Sloane stated staff was nearing completion with the contract at the 620 South Atlantic Avenue site, the Ellinor Village site, having agreed upon a price, and they were refining the contract language. She explained offers were made to the two residential property owners at the 321 and 325 South Atlantic Avenue sites, and staff was awaiting responses. Ms. Sloane advised staff contacted the owner of the 305 South Atlantic Avenue site and inquired what their asking price would be, and staff was informed the price would be \$3 million, which was considerably higher than the adjacent residential property. She noted the City did not have an appraisal on that property, so the City would not proceed on that property at this time. Ms. Sloane reported staff worked with the County regarding the monetary split, and it was determined the County would pay up to 65% and the City would pay 35%, up to \$5 million. She noted the County was concerned with the high price per parking space at the 321 and 325 South Atlantic Avenue sites and want these sites along with the Rockefeller site as a package, which would lower the overall cost per parking space. Ms. Sloane explained when staff brings this back at the next meeting there would be two options offered: Option 1 would be the 321 and 325 South Atlantic Avenue sites along with the Rockford site; and Option 2 would be the 620 South Atlantic Avenue site. She noted she hoped to have contracts for these four properties at the next meeting for discussion. Ms. Sloane reported staff was providing the Commission with an update and was not seeking direction tonight. She stated staff was unable to have the contracts at a stage where they were comfortable bringing them to the Commission tonight.

Mayor Costello reiterated no decision would be made tonight, so he would not allow people to speak at this time.

Mr. Turner stated at the next meeting staff would have contracts signed and ballot language could be discussed.

Mayor Costello recommended discussing a third and fourth option for the ballot: Option 3 would ask if the voter would support, with or without County assistance and with or without grants, purchasing additional property on the east side of A1A; and Option 4 would ask if the voter would support, with or without County assistance and with or without grants, purchasing additional property on the west side of A1A. He noted the people he spoke to have indicated they would be willing to pay for beachfront parking and parks, but would be interested to know what the majority of the voters would prefer. Mayor Costello pointed out people may vote against the purchase of the 321 and 325 South Atlantic Avenue sites but for investigating other land that may come on the market. He clarified that he did not want people to extrapolate from this vote that in the future the people do or do not want other purchases investigated.

Item #11 - Reports, Suggestions, Requests

Wants and Needs

Commissioner Gillooly explained that repairs of a roadway, especially where stormwater would affect the safety of that roadway, did not need debate or discussion. She stated she favored sidewalks for the public good, but she wanted to hear input from the citizens on John Anderson Drive regarding the sidewalk. Commissioner Gillooly agreed with Mayor Costello that there were people who wanted a beachfront park. She explained the reason she asked for a referendum on the beachfront park was because it was not a necessity and was unlike a water system, sewer system, safe roadways, police service, and fire service.

Affordable Housing

Commissioner Gillooly asked for clarification that there was no mechanism in the Land Development Code to allow for a waiver or credit in an affordable housing development.

Mr. Ervin concurred that the Land Development Code or Code of Ordinances did not have a specific provision that would allow for the Commission to grant a waiver. He stated Port Orange had a method where they could pay out of the General Fund for impact fees, and this was what Ormond Beach was working towards. Mr. Ervin noted this would be discussed at the Affordable/Attainable Housing Task Force meeting.

Commissioner Gillooly asked if the permitting fees would also be included; whereby, Mr. Ervin responded that it would be included.

Corporate Sponsorship

Commissioner Gillooly stated an item on tonight's consent agenda was to approve the purchase of fireworks for the July 4th celebration. She reported Ormond Beach was generating less than 5% funding from corporate sponsors, and she believed there may be a greater opportunity for participation. Commissioner Gillooly offered to work with staff to involve more corporate partners in large events to help the City bear the costs. She noted she would meet with David Abee, Leisure Services Director, if there were no objections.

Mayor Costello commended Commissioner Gillooly for this offer and encouraged her to proceed.

Volunteerism

Commissioner Gillooly acknowledged Mr. Rick Boehm, Mr. and Mrs. Aaron Phillips, and all those who volunteer so much time working with children and coaching.

Former Mayor Dave Hood's Surgery

Commissioner Gillooly stated former Mayor Dave Hood was undergoing surgery on Thursday, and she asked that he remembered on that day.

Audience Comments Extended to the End of the Meeting

Mayor Costello noted he meant to recognize Mr. Jaspers before asking Commissioner Gillooly for her comments, but requested Mr. Jaspers finish his comments at this time. He asked the Commission how he should be handling a request to continue speaking at the end of a meeting in the future. Mayor Costello noted he would also ask how he should handle allowing the public to speak when there may or may not be a vote.

Police Department

Mr. Glenn Jaspers questioned who he would talk to when he dials 911. He stated during the hurricane, he called the non-emergency Police Department phone number and received a spurious answer to his question. Mr. Jaspers reported a few weeks ago he called the Police Department asking what was occurring on his street, and he did not receive an answer. He noted after numerous phone calls about the bumper-to-bumper traffic on his street to the Police Department, he contacted the City Manager's office. Mr. Jaspers commended the person he spoke to who passed his call on to Mr. Turner. He stated Mr. Turner indicated he would look into the matter, and eventually a police officer arrived on the scene.

Staff

Mr. Jaspers stated when the term "staff" was used a name should be identified as the responsible party. He noted Ms. Kelly McGuire, Budget Director, quoted numbers to the reporter that did not jive with the numbers in the report.

Mayor Costello stated "staff" means Mr. Turner.

CANDO

Mr. Jaspers stated he heard people say that CANDO took authority away from the Commission, but there was an inherent right for the people to generate a vote.

Biking Rules

Mr. Jaspers stated the bike riders go through traffic lights, hold up traffic on two-lane roads, and are a hazard. He stated bikers should be educated as to how they should conduct themselves.

Homeowners

Mr. Jaspers stated that all of the people who signed the CANDO petition were homeowners, and homeowners have an inherent interest in the City that renters do not. He stated homeowners were the stalwart of the City.

Mayor Costello stated all residents care about the City, or they would not attend the meetings.

Wants and Needs

Commissioner Kent asked what the difference was for the large "want" for beachfront parking where a vote was needed and the larger "want" for the championship field at the Airport Sports Complex where there would not be a vote.

Mayor Costello's Granddaughter

Commissioner Kent stated Mayor Costello and his family were in his thoughts and prayers. He noted he appreciated the reports Mayor Costello was providing about his granddaughter's condition.

Recreation for Youth

Commissioner Kelley stated he attended the groundbreaking for the Airport Sports Complex and was pleased the Commission decided to move forward to utilize impact fees and creative funding to expand the facilities for the youth and seniors using these facilities. He noted Commissioner Kent made it obviously clear he did not support this recreation for thousands of Ormond Beach's youth, which was a surprise in that he was a teacher. Commissioner Kelley noted Commissioner Kent continually compared 30 to 100 parking spaces versus hundreds of parking spaces and a facility that thousands could utilize. He stated he considered this a bad comparison. Commissioner Kelley reported the Commission was elected to serve, and he believed the Commission served the City well by providing the facility for the residents. He pointed out 43 children just became academic All Americans as a result of these fields. Commissioner Kelley stated the Commission was building the future of the community by expanding this facility. He advised the two issues were not comparable in that the recreation facility would serve thousands of people, whether they were homeowners or not, versus 30 to 100 parking spaces that the City would have no control over and could be used by residents of other cities.

Mayor Costello noted that whenever one Commission member speaks about another Commission member, he would allow an opportunity to respond since the Commission cannot discuss such items in any other venue.

Commissioner Kent stated he supported the Airport Sports Complex improvement and the youth and attended the groundbreaking. He reported there were more people who use the beach and a larger age range than would use the Airport Sports Complex. Commissioner Kent again questioned why the people have to vote on a large expenditure on the beachfront, and a larger expenditure in Commissioner Kelley's zone did not require a vote.

Police Department

Commissioner Partington commended the two officers in Ormond Beach who stopped the chase at precisely the correct moment to protect lives. He reported the incident ended in a horrible crash in Daytona Beach. Commissioner Partington pointed out it was a difficult policy to stop a chase, but it was the right decision.

Public Comment

Commissioner Partington stated he believed three minutes was sufficient for public comment, and the speaker did not need to continue at the end of the meeting. He reported unless the Commission was to take a vote that would expend funds or create an action at that moment, a public discussion was not necessary because the item would come back, at which time the public could discuss the item. Commissioner Partington pointed out the discussion items were a time for the Commission to discuss the issue.

Commissioner Kelley advised he concurred with Commissioner Partington's opinion on both accounts. Commissioner Kelley emphasized Commissioner Partington's statement did not include votes on policy measures or decisions that would come back.

Commissioner Kent concurred that if there was a vote the citizens should be able to speak, and if there was no vote the citizens would not speak. He reported he would not oppose a speaker to come back at the end of the meeting.

Commissioner Gillooly stated she would support the three minute time limit, and if a vote was taken the citizens should have the opportunity to speak.

Mayor Costello noted the Commission gave staff direction regarding the John Anderson Drive issue, but there may not have been a vote.

Commissioner Partington reported, in that case, the issue was coming back and the public could speak at that time.

Mr. Randal Hayes, City Attorney, advised the consensus was fairly consistent with current rules.

Prayers

Mr. Turner offered his thoughts and prayers to Mayor Costello and former Mayor Hood.

Medallion of Excellence

Mr. Turner reported his son, Joshua Turner, was awarded the Medallion of Excellence presented by the *News-Journal*.

Traffic Problems

Mr. Turner stated due to Mr. Jaspers' and other calls, staff became aware of the traffic problems. He noted Mr. Jaspers spoke highly of Ms. Jackie Burke's actions. Mr. Turner noted due to this awareness, officers were dispatched to assist in the situation.

Focus Meeting

Mr. Turner advised that staff would contact the Commission regarding scheduling a focus meeting.

Price Settlement Agreement

Mr. Randal Hayes, City Attorney, stated in finalizing the settlement agreement with Ms. Price, it came to his attention that Ms. Price requested the word "resignation" be included in the settlement agreement. He noted staff would stand by the decision taken for the termination, which was for legitimate non-discriminatory reasons; however, his staff was investigating ways of massaging the language to enable her to tender a letter of resignation. Mr. Hayes advised Ms. Price was terminated and that would not change, but this may and may not be a "deal breaker" for her.

Mayor Costello stated that including the word "resignation" would be a deal breaker for him.

Mr. Turner stated a termination did occur, and it would be improper to undo that; however, the wording that could be added was that she would be permitted to submit a letter of resignation. He explained people submit a great deal to the City, but the letter would not necessarily be accepted or acted upon. Mr. Turner advised he would not request the Commission to act on the letter of resignation, but she could submit the letter with the Commission's approval.

Mayor Costello stated any citizen not employed by the City of Ormond Beach could send a letter of resignation to the City, but it would be irrelevant. He reported the City should not make any reference to it, authorize it, discuss it, or condone it because she was terminated. He considered it unethical and a lie to have her say she submitted a letter and the City accepted it or acted upon it.

Mr. Hayes stated the original language was that Ms. Price would desire to resign effective with the agreement, which was a deal breaker to him and Mr. Turner; however, in order to salvage the settlement agreement he investigated ways to give it less meaning and arrive at something that could possibly be accepted. He noted allowing her to submit a letter of resignation without the City accepting it was a method that may or may not be acceptable in that the letter would not affect the termination.

Commissioner Gillooly asked if the letter of resignation language would be within the settlement agreement itself.

Mr. Hayes advised there would be a provision within the agreement.

Commissioner Gillooly stated that having a letter submitted and not acted on would be one scenario, but to have a legal conversation with the City Attorney to add a provision inside an agreement was entirely different in that it would add weight and change the perspective.

Mr. Hayes noted Ms. Price's perception of the intent was clear, and the action that was taken was also clear.

Commissioner Gillooly reported she agreed with Mayor Costello that this would be a deal breaker.

Mr. Hayes advised the actual language that was received read as follows: "Price desires to resign her position effective the date of this agreement," and he and Mr. Turner vehemently objected to that language. He stated the wording would be changed as follows: "Price desires to submit a letter of resignation." Mr. Hayes reported the Federal Department of Law Enforcement (FDLE) form included the term "termination" rather than "resignation." He stated this would give the impression she was allowed to resign; therefore, the change in wording in the agreement would not change the character of the action taken. Mr. Hayes pointed out he was not certain Ms. Price would accept the change in the language.

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Commissioner Kelley stated he would not agree to create something that was not true. He noted calling the Commission into a meeting for a 4:30 p.m. special meeting on a Friday and then being informed about this change tonight was wrong. Commissioner Kelley reported the Commission came to the meeting, changing their plans in order to arrive at a settlement, and then learned that the trial had been delayed and the discussion could have occurred tonight.

Commissioner Partington agreed with Commissioner Kelley. He noted Ms. Price sued the City for wrongful termination, not for a voluntary resignation; therefore, he would not support any reference to resignation.

Mr. Turner explained the trial was not delayed until after the meeting was set.

Commissioner Kelley stated the City could have asked for a delay to discuss this issue at this meeting tonight.

Mr. Turner advised staff asked for a delay and was informed a delay would not be acceptable.

Commissioner Gillooly stated if this would have to go to court would the information that Ms. Price wanted to change her termination into a resignation be able to be submitted in the City's case; whereby, Mr. Hayes indicated it could not be submitted.

Mayor Costello stated the final conclusion was that if Ms. Price wanted to add something that would make the agreement an illegal document, the City would prefer to go to trial.

Medallion of Excellence

Mayor Costello commended Joshua Turner for achieving the Medallion of Excellence award.

Former Mayor Hood

Mayor Costello requested staff send something to former Mayor Hood on behalf of the City and City Commission.

Representing Ormond Beach

Mayor Costello reported he would be out of town and asked the Commission to represent the City in various upcoming events. He requested Commissioner Kelley or Mr. Turner represent the City at the American Cancer Society Relay for Life Kickoff on Friday. Mayor Costello asked Deputy Mayor Kelley to represent the City at 6:30 at the Blue and Gold ICI Center at Embry Riddle, if possible. He asked Commissioner Gillooly to represent the City on Saturday at 10:00 a.m. at the MPO Awareness Day where wheelchair races would be an event. Mayor Costello stated the MPO was working on traffic signalization for the blind. He asked for City representation at the Petals and Palates at the Memorial Art Museum on Sunday; whereby, Commissioner Kent offered to attend.

Mayor Costello's Granddaughter

Mayor Costello stated the community support he had received for his granddaughter, who suffered an accident, broke her neck, and underwent surgery, was overwhelming. He thanked the community for their support, prayers, cards, and letters.

Item #12 - Close the Meeting

The meeting was adjourned at 9:37 p.m.

APPROVED: _____ May 1, 2007

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk