

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

May 2, 2006

7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the April 18, 2006, meeting.
- 5) ***PRESENTATIONS:***
 - A) Proclamation in honor of Captain Thomas LaChausse, of the Fire Department.
 - B) Appreciation for support of St. Jude Children's Hospital fund raiser.
- 6) ***AUDIENCE REMARKS:***
- 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. 2006-104 authorizing the execution of a Supplemental Local Agency Program Agreement between the City and Florida Department of Transportation regarding the design and construction of sidewalks along North Ridgewood Avenue and North Yonge Street.

- B) Resolution No. 2006-106 authorizing the execution of an interlocal agreement between the City and the State Attorney of the Seventh Judicial Circuit.
 - C) Resolution No. 2006-107 authorizing the execution of the second amendment to the interlocal agreement providing for the establishment of the East Volusia Government Fire-Rescue and Emergency Medical Services Automatic Aid and Closest Unit Response System between the cities of Ormond Beach, Daytona Beach, Edgewater, Holly Hill, New Smyrna Beach, Port Orange, South Daytona and Daytona Beach Shores by adding Ponce Inlet and County of Volusia as participating agencies.
 - D) Resolution No. 2006-109 authorizing the execution of a Water Reuse Agreement between the City and RTH, Inc., d/b/a Tomoka Oaks Golf and Country Club.
- 9) **PUBLIC HEARING** for Resolution No. 2006-108 authorizing the execution of a non-exclusive franchise agreement between the City and Halifax Wrecking Company, Inc., regarding the collection of construction and demolition debris.
- 10) **SECOND READING OF ORDINANCES** relative to amendments to the General Employee, Firefighter and Police Officer pension plans:
- A) Ordinance No. 2006-05 of the City of Ormond Beach, Florida, relative to the General Employees' Pension Plan, amending Article I, In General, of Chapter 16, Pensions and Retirement, of the *Code of Ordinances*; amending Section 16-1, Definitions, by amending the definition of "credited service"; amending Section 16-3, Board of Trustees; amending Section 16-10, Optional Forms of Benefits; amending Section 16-15, Maximum Pension; amending Section 16-21.4, Direct Transfers of Eligible Rollover Distributions; amending Section 16-21.8, Deferred Retirement Option Plan; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date.
 - B) Ordinance No. 2006-06 of the City of Ormond Beach, Florida, amending Article III, Firefighters' Pension Trust Fund, of Chapter 16, Pensions and Retirement, of the *Code of Ordinances*, amending Section 16-40, Definitions, by amending the definition of "credited service"; amending Section 16-49, Optional Forms of Benefits; amending Section 16-55, Distribution of Benefits; amending Section 16-64, Direct Transfers of Eligible Rollover Distributions; amending Section 16-67, Deferred Retirement Option Plan; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date.
 - C) Ordinance No. 2006-07 of the City of Ormond Beach, Florida, amending Article IV, Police Officers' Pension Trust Fund, of Chapter 16, Pensions and Retirement, of the *Code of Ordinances*, amending Section 16-71, Definitions, by amending the definition of "credited service"; amending Section 16-80, Optional Forms of Benefits; amending Section 16-86, Distribution of Benefits; amending Section 16-96, Direct Transfers of Eligible Rollover Distributions; amending Section 16-98, Deferred Retirement Option Plan; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date.
- 11) **DISCUSSION ITEMS:**
- A) Appeal of the Planning Director's interpretation of the Land Development Code relative to property at 540 Leeway Trail.
 - B) Consolidation of emergency services.
 - C) Code enforcement process.
 - D) Request by Commissioner Kent to discuss parking at the "Birthplace of Speed" park.
 - E) Sign-in sheets for "Audience Comments" section of the agenda.
 - F) Summer meeting schedule.
- 12) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 13) Close the meeting.

Item #1 - Call to Order

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

Item #2 – Invocation

Mr. Isaac Turner, City Manager, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the April 18, 2006, regular meeting minutes had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

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

Item #5(A) – Captain Thomas LaChausse Proclamation

Mayor Costello acknowledged the following Ormond Beach employees who have served in military service in Iraq: Mr. Robert Arnold, Streets, served from February 2003 to November 2004, he was wounded and returned home; Mr. Joe Barnett, Police Officer, shipped out in December 2005; Ms. Tara Kissling, Police Dispatcher, served from September 2001 to November 2002; Mr. Chris Raley, Leisure Services, served from December 2002 to February 2003 and was wounded in Iraq; and Mr. Jesse Welch, Police Officer, served from May 2003 to September 2004.

Mayor Costello reported Thomas LaChausse had been a firefighter with the City of Ormond Beach since February 1997 and currently holds the position of Captain. He noted Captain LaChausse joined the United States Naval Reserve in August 1994, and he was currently a Damage Controlman Chief Petty Officer. Mayor Costello explained his unit will report to the Naval Reserve Operations Center on May 10, 2006, for active duty and undergo five weeks of training and certification for their mission, which was to provide physical security for high value assets. Mayor Costello stated that Captain LaChausse will be deployed to Bahrain for a year or more. He proclaimed May 2, 2006, as a day to pay tribute to Captain Thomas LaChausse and commend the unit and Captain LaChausse, as they risk their lives for our country, and to pray for their safe return.

On behalf of the men and women in the Ormond Beach Fire Department, Fire Chief Barry Baker presented Captain LaChausse with a gift certificate from Stonewood's Restaurant.

Item #5(B) – St. Jude Children's Hospital Fund Raiser

Mayor Costello acknowledged Sam West, a City employee and former Employee-of-the-Quarter, who has worked on a recent fundraiser for St. Jude Children's Hospital.

Mr. Sam West thanked Mayor Costello and the City for the proclamation of support for Bikes and Blues and the Mickey Jones Celebrity Golf Classic, which benefited St. Jude Children's Research Hospital. He stated due to that support, a check for \$26,341.17 was sent to St. Jude; and with the City's continued support, they will be able to increase their expectations next year. Mr. West presented an autographed copy of the proclamation with gratitude from Mickey Jones and the Bikes and Blues Committee.

Mr. Marvin Miller acknowledged Rock and Marsha Hartley and Benjamin Woffingdale for their efforts in the Bikes and Blues campaign. He advised there were no administration fees taken from the donations, so all the funds go to St. Jude.

Mayor Costello noted Mr. Miller had been working with the St. Jude charities for almost 40 years.

Item #6 – Audience Remarks

Mayor Costello asked those who wished to speak to raise their hands and be recognized during the audience remarks portion of the agenda. He stated Item #11(E) of the agenda was a

discussion regarding use of a sign-up sheet to be provided at the next meeting for speakers. He stated the City Commission wanted citizen input. Mayor Costello advised that, in some cases, responses would be placed in the Friday letter, or a staff member may provide their business card so the speaker could contact that staff member to have their problem addressed.

Commissioner Kelley noted that all of the issues mentioned during “Audience Remarks” at the last City Commission were addressed in depth in the Friday letter following the meeting. Commissioner Kelley assured the members of the audience that staff does respond to their concerns.

Truth

Mr. Lawrence Cook, 1529 North Beach Street, stated he received the City’s letter where Mayor Costello inferred that he went to Mr. Eugene Miller, former City Manager, when, in fact, he went to Code Enforcement; but these events occurred at different times. Mr. Cook reported he took a letter to Mr. Miller, and former Mayor Dave Hood stated Mr. Miller was not at the City at that time, labeling him a liar. He stated he took his complaint up the organizational chart but was not heard. Mr. Cook reported he met with Mr. Hood on three occasions. He stated he wanted the City’s officers to address his complaint. Mr. Cook stated the City Manager’s job was to correct his employees and acknowledge the lie, but he did not do so.

Mayor Costello stated the Commission has done the best it could to address Mr. Cook’s concerns which occurred over ten years ago.

Earth Day

Ms. Pat Behnke, 15 Malayan Sun Bear Path, stated the Earth Day program held at City Hall was very informative.

Building Height Limitation

Ms. Behnke noted she was very interested in the presentation made by Bray and Gillespie, but before any decisions were made several concerns should be addressed. She acknowledged that the three weeks Bray and Gillespie had to prepare information for presentation was short; but she stated they must have had some concept prior to purchasing the first property in Ormond Beach, and they were aware of the height restrictions. Ms. Behnke pointed out the tax base would be similar with the buildings either high or long. She noted long buildings without the 3.9 acres of park would not impose a maintenance cost for the City, and no or minimal extra revenue would be realized from the tall buildings. She questioned if the City had funds for the maintenance of the parks.

Ms. Behnke reported she questioned Mr. Doug Kosarek of Bray and Gillespie, asking who would be responsible for the replenishment of the park when a hurricane damaged it. She stated his response was that it would depend on whether the land was deeded to the City, in which case the City would be responsible, or if the developer would retain ownership, the developer would bear the responsibility. Ms. Behnke stated Mr. Kosarek indicated the developers may request further variances if they retained ownership. She questioned if the City could afford to replenish 3.9 areas of landscaping.

Ms. Behnke stated the structures could withstand Category 3 or Category 4 hurricanes due to the open garages at the lower levels, which would allow storm surges to flow through the building, eliminating the need for the residents to evacuate. She stated, however, the residents would not allow their vehicles to be washed away; and should they move their cars and come back, that activity would cause additional traffic. She stated she objected to being shown white concrete boxes as the only alternative to the plan since there were many attractive seven stories buildings. Ms. Behnke questioned if it was fair to place a parking garage in the back yards of the Ormond Parkway residents, even with the promise of security. She stated an open garage would allow breezes as well as exhaust fumes and car horns, while a closed garage would cut off all ocean breezes. Ms. Behnke pointed out the Daytona Beach garage was underused. She stated it was indicated that a precedent had been set by the Julian building, but that building precipitated the change in code to seven stories. She stated Commissioner Kelley and Mayor Costello assured the people no tax increase would be approved. Ms. Behnke reported there was a rumor that only those who live within walking distance of the beach opposed the tall buildings, but she noted over 400 people in Bear Creek also opposed the towers. She urged that all concerns be thoroughly researched before any decision was made.

Nova Landfill Fence

Mr. Mike Bavaqua, 1 Havenwood Trail, president of the Autumn Wood II homeowners’ association, stated the City was replacing a fence around the Nova landfill. He stated he requested the City to replace the section of fence abutting Autumn Wood II with a wood fence, and while Mr. Turner had been extremely responsive and was great to work with, he advised the

contract had already been put out to bid and would be awarded on May 16. He stated he hoped this could be worked out before that date; but should that not occur, he requested the opportunity to come before the Commission to prevent a chain link fence, which would not be appropriate in this neighborhood. Mr. Bavaqua requested a 30-day delay from May 16 for accepting the bid to allow more time to work out a solution.

Mayor Costello recommended not approving a contract before the next meeting; and if a solution could not be reached, Mr. Bavaqua could come back to address the Commission.

Mr. Turner stated the Commission awarded the contracts; and if the contract was not satisfactory on May 16, Mr. Bavaqua could come before the Commission at that time.

Mayor Costello agreed Mr. Bavaqua could address the issue at the meeting.

Disaster Preparedness

Ms. Elizabeth Book, 29 Rockefeller Drive, expressed concern regarding disaster preparedness, more particularly a pandemic, possibly compounded by a hurricane. She noted Ormond Beach had 40,000 people and 360 beds. Ms. Book asked if owners of warehouses or storefronts could donate their space for such an event.

Mayor Costello stated Fire Chief Barry Baker and Interim Police Chief Michael Longfellow have been involved in disaster preparedness. He recommended Ms. Book contact either Chief Baker or Chief Longfellow and either could provide her with that type of information.

Mr. Turner stated he and Assistant Fire Chief Skip Irby spoke with Ms. Book and recommended she contact the hospitals in that this was not in the City's purview. He offered to address this issue further in the Friday letter.

Charter Referendum

Mr. Jeff Boyle, 614 North Halifax Drive, asked if the City would challenge the CANDO Charter referendum. He stated if the City would not challenge the referendum, would the referendum be scheduled as a special election prior to September 5, for the primary election on September 5, or for the general election November 7.

Mayor Costello stated he has asked for an agenda item to discuss these issues at the next meeting.

Community Development Block Grant

Mr. Charles Carter, 212 Arlington Way, stated the Community Development Block Grant provides annual grants on a formula basis to local governments. He reported priorities were selected by the census considering only income. Mr. Carter explained these funds were for vital community needs such as housing, a suitable living environment, and other opportunities. He noted Ormond Beach received funding through the program from Volusia County. Mr. Carter explained the two priorities areas in Ormond Beach were US1 west and the beachside area from the ocean to the river from Rockefeller Drive to the Seminole and Willis area. He noted Arlington Way had 31 homes, seven of which have been totally rehabed, 20 that were maintained properly, three that need financial assistance, and a new unit that was nearing completion. Mr. Carter noted the residents of Arlington Way would fight to protect their way of life.

Pulling an Item from the Consent Agenda

Mr. Carter asked to speak to Item #8(D) on the Consent Agenda.

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

Mayor Costello stated he forwarded information regarding the Metropolitan Planning Organization (MPO) and Volusia Council of Governments (VCOG) to the Commission.

Item #7(C) – Water Authority of Volusia

Commissioner Kelley stated there was nothing new to present regarding the Water Authority of Volusia (WAV).

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 noted Item #8(D) would be pulled for discussion.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of the Consent Agenda minus Item No. 8(D).

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

Item #8(D) – Water Reuse Agreement with Tomoka Oaks Golf and Country Club

RESOLUTION NO. 2006-106

A RESOLUTION AUTHORIZING THE EXECUTION OF A WATER REUSE AGREEMENT BETWEEN THE CITY AND RTH, INC., D/B/A TOMOKA OAKS GOLF AND COUNTRY CLUB; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Resolution No. 2006-106, as read by title only.

Mr. Turner stated the Tomoka Oaks Golf and Country Club (Tomoka Oaks) and Ormond Beach have requirements to be met for their Consumptive Use Permit (CUP). He noted Tomoka Oaks was facing an August deadline and had been working on an agreement with the St. Johns River Water Management District (St. Johns) and the City for a number of years. Mr. Turner advised staff had objections to the language on page six, in the second sentence of section three and intended to delete that language from the agreement. He noted St. Johns also had objections that they outlined in letters dated April 12 and April 17 where they made it clear that neither the City nor Tomoka Oaks would be excused from their obligations and CUP agreements. Mr. Turner explained St. Johns indicated they were not accepting the explanation that Tomoka Oaks needed the revenue from the development project to fund the reuse infrastructure, and Tomoka Oaks would be obligated to provide that reuse infrastructure. He reported that in a fax on April 26 from St. Johns, they seemed to reverse their previous stance in that they indicated St. Johns would like the City and Tomoka Oaks to enter into a reuse agreement, although they were still objecting to the language. Mr. Turner stated staff was quite concerned regarding the implications of the language where Tomoka Oaks would be able to relinquish their agreement to pay the City for the reuse water or even refuse to take the reuse water. Mr. Turner explained staff recommended this sentence be deleted and the remaining agreement be approved. Mr. Turner noted the language did not serve the City or St. Johns. He stated should Tomoka Oaks wish to insert different language, the new language could be brought back to the Commission on May 16. Mr. Turner explained that this information was coming in late in the process.

Commissioner Kelley cautioned against trying to create a legal document “on the fly” and proposed tabling this to the next meeting to provide staff an opportunity to work with the representatives of Tomoka Oaks since the City was not under a crisis situation. He urged working with Tomoka Oaks before the fact rather than after the fact.

Commissioner Kelley moved to table.

Mr. Randall Hayes, City Attorney, advised that Tomoka Oaks has agreed to an amended agreement minus this language would be satisfactory, and that would cure the potential problems that were identified.

Commissioner Kelley noted he was not comfortable when the Commission was asked to make a decision where this was being tied to a Development Order not yet in existence, giving the public the perception that the Commission would be approving the development of a project that had not yet been presented. He stated he would prefer this be clarified in writing before Commission consideration.

Mayor Costello clarified the sentence in questions was as follows: “Provided, however, that the Club shall have no obligations under Sections 1D, E, F, and G, and the City shall have no obligation under Section 2B, C, and D, until the City shall issue a do for the multi-family development for which RTH, In. applied to the City on July __, 2005, which issuance is a legislative function solely within the City Commission’s discretion.” He stated he could not

support an agreement with that language included and suspected other Commission members shared his concern.

The motion to table died for lack of a second.

Mr. Charles Carter expressed concern where money and long-term deals are included in the consent agenda. He also noted concern when reports indicate mistakes were made. Mr. Carter stated reuse would be provided to the golf course and other common areas on the club's property, but no specifics were indicated. He reported if rates were reviewed, a different deal may be considered. Mr. Carter questioned if Tomoka Oaks was being given a good deal only to resolve the issue of the City dumping reuse water into the river, why all the details were not presented, why a comparison of the rates for Oceanside Country Club and Tomoka Oaks were not presented, if there was a difference between the two golf courses, what the plan was for the hot weather season, and who would shut off who's water. He stated the more water used, the less the cost; therefore, the City would not be conserving water. Mr. Carter noted that with this additional income, the City may be able to provide reuse to the south peninsula. He expressed agreement with Commissioner Kelley that this item should be tabled.

Mr. Turner stated information would be provided in writing.

Mr. Chris Challis, 150 Magnolia Avenue, Daytona Beach, Cobb and Cole, representing RTH, Inc., stated the agreement from which this agreement was modeled was the Oceanside Country Club agreement. He noted the rate, as well as all of the other financial terms, was the same as the Oceanside Country Club agreement. Mr. Challis offered to speak to Mr. Carter. He stated his project had been ongoing for quite some time, and Tomoka Oaks was a fantastic asset to the City. Mr. Challis reported Tomoka Oaks was struggling financially and was discussing taking on a significant capital outlay of assets to install the reuse system immediately without any conditions attached. He noted this condition being discussed was his idea, and it was designed to address a practical reality, which was that if Tomoka Oaks could not raise revenue through this development project, they would not be able to continue to operate and meet the St. Johns requirements for reuse. Mr. Challis advised that Tomoka Oaks was losing \$74,000 a year, on average, and the \$15,000 they would commit annually for reuse water would be 20% of the deficit. He stated it was a realistic approach to indicate that if this project could not go forward, Tomoka Oaks would have already committed to install the system and may be in litigation with St. Johns; therefore, it was not reasonable to commit to \$500,000 over a 30-year period. Mr. Challis explained St. Johns did not want to waive either party's obligations for their CUP. He reported he would prefer this condition remain, but he understood the Commission's position and could agree to strike out the condition. Mr. Challis stated it was important to approve this tonight because he had a great deal of work to do with St. Johns, and this agreement was an important part of that work.

Commissioner Kelley asked if the \$15,000 commitment was included in the \$74,000 deficit; whereby, Mr. Challis explained the \$74,000 was operating losses from 2002 to 2004, and the \$15,000 would increase the losses to \$90,000. Commissioner Kelley noted he understood the financial circumstances, but he did not believe the Development Order should be tied to the agreement. He preferred the agreement be clarified rather than addressed at this point.

Mr. Turner disclosed that all of the Commission members have expressed the same exact same concerns. He explained he was informed Tomoka Oaks would not sign the agreement if that sentence not included, but immediately prior to the meeting that changed. Mr. Turner reported there may be possible litigation where St. Johns may take action against Tomoka Oaks if they do not meet their CUP requirements. He clarified that having the reuse system operational was between Tomoka Oaks and St. John, not the City, and he cautioned the City from being placed in a position where they would be trying to help protect the developer from the cost of doing business. Mr. Turner explained this was between the developer and St. Johns, and the City should not become involved more extensively through an agreement where the City excused Tomoka Oaks from making certain provisions. He noted staff was suggesting a mechanism that would not endanger the City's position, provide St. Johns with an approved agreement, and be willing to talk with Tomoka Oaks regarding more appropriate language to meet everyone's needs.

Mayor Costello outlined the options available were to vote on the agreement as it was, delete the sentence, or table the agreement.

Commissioner Kent thanked Mr. Challis for taking total responsibility for adding the sentence and explaining why. He thanked Ted MacLeod, Assistant City Manager, for answering his

questions. Commissioner Kent concurred with Commissioner Kelley to table this and bring it back.

Mayor Costello noted removing the sentence and not replacing it would place the City in the best possible position.

Mr. Hayes stated due to timeline requirements, this had some urgency, and both staffs had worked very hard on the terms of this agreement. He explained immediately prior to this meeting Mr. Challis agreed that they could accept the agreement without the language; and if it were deleted, Ormond Beach would not be harmed. He concurred with Mr. Turner that the problems Tomoka Oaks had with St. Johns was their concern, but this agreement would help the City with its obligations with St. Johns. Mr. Hayes noted the time pressure was not on the City but on Tomoka Oaks.

Commissioner Kent noted he was comforted by Mr. Hayes' comments. He expressed concern with the condos.

Mr. Hayes stated this condition did not grant approval to a Development Order, and it was a unique situation.

Commissioner Partington stated he would favor voting on this tonight with the deletion of the sentence, but he understood Commissioner Kelley's concern. He reported he appreciated the City Manager's willingness to continue to negotiate to arrive at new language, but he would not recommend that be done, because the City should not be trying to alleviate problems between a private entity and a governmental agency.

Commissioner Gillooly agreed with Commissioner Partington, but noted she understood Commissioner Kelley's concerns.

Mr. Challis stated he fought for and believed in this provision, but the timing was important, and he must take an agreement to negotiate the Consent Agreement amendment with St. Johns.

Commissioner Kelley noted his major concern was that after striking the sentence, renegotiations would be needed; but if Tomoka Oaks would be willing to accept the deletion, he could accept the agreement. He stated he was not concerned by the St. Johns' threat.

Commissioner Kelley moved, seconded by Commissioner Kent, to delete the second sentence in Item 3.

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

Mayor Costello stated the Commission wished Tomoka Oaks well and wanted them to succeed in that they would be a great asset to the Community. He thanked staff for their diligence and trying to work with Tomoka Oaks.

Item #9 – Franchise Agreement with Halifax Wrecking Company, Inc.

RESOLUTION NO. 2006-108
A RESOLUTION AUTHORIZING THE EXECUTION OF A NON-EXCLUSIVE FRANCHISE AGREEMENT BETWEEN THE CITY AND HALIFAX WRECKING COMPANY, INC., REGARDING THE COLLECTION OF CONSTRUCTION AND DEMOLITION DEBRIS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-108, as read by title only.

Commissioner Kelley asked if Halifax Wrecking was being charged \$25,000 a year to do business in the City.

Mayor Costello explained the charge would depend on how much they would haul and explained the \$24,475 was the estimated pull charge.

Call Vote:	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.

Item #10(A) – General Employees’ Pension Plan Amendments

ORDINANCE NO. 2006-05
 AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, RELATIVE TO THE GENERAL EMPLOYEES’ PENSION PLAN, AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE *CODE OF ORDINANCES*; AMENDING SECTION 16-1, DEFINITIONS, BY AMENDING THE DEFINITION OF “CREDITED SERVICE”; AMENDING SECTION 16-3, BOARD OF TRUSTEES; AMENDING SECTION 16-10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16-15, MAXIMUM PENSION; AMENDING SECTION 16-21.4, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 16-21.8, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2006-05, 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 #10(B) – Firefighters’ Pension Trust Fund Amendments

ORDINANCE NO. 2006-06
 AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING ARTICLE III, FIREFIGHTERS’ PENSION TRUST FUND, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE *CODE OF ORDINANCES*, AMENDING SECTION 16-40, DEFINITIONS, BY AMENDING THE DEFINITION OF “CREDITED SERVICE”; AMENDING SECTION 16-49, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16-55, DISTRIBUTION OF BENEFITS; AMENDING SECTION 16-64, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 16-67, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-06, on second reading, as read by title only.

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

Item #10(C) – Police Officers’ Pension Trust Fund Amendments

ORDINANCE NO. 2006-07

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING ARTICLE IV, POLICE OFFICERS’ PENSION TRUST FUND, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE *CODE OF ORDINANCES*, AMENDING SECTION 16-71, DEFINITIONS, BY AMENDING THE DEFINITION OF “CREDITED SERVICE”; AMENDING SECTION 16-80, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16-86, DISTRIBUTION OF BENEFITS; AMENDING SECTION 16-96, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 16-98, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2006-07, on second reading, as read by title only.

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

Item #11(A) - Planning Director’s Interpretation Relative to Property at 540 Leeway Trail

Mayor Costello invited the applicant to explain why he wanted the Commission to reconsider this decision. He explained that should the Commission determine it appropriate to reconsider, the Commission would then discuss the merits of whether or not to overturn the Planning Director’s decision.

Mr. Peter Keating, 528 North Halifax Avenue, Daytona Beach, representing the applicant, stated this was on the agenda for the March 7 meeting, and his office received a call from the Planning Department indicating the item would not be heard because the agenda was too full; therefore, he did not attend the meeting.

Mr. Clay Ervin, Planning Director, stated this was a simple miscommunication. He explained the office manager contacted Mr. Keating’s office and left a message, asking if it was appropriate to reschedule the item for the March 21 meeting. Mr. Ervin noted upon receiving no response, they assumed Mr. Keating was hoping the meeting would be on March 7.

Commissioner Gillooly moved, seconded by Commissioner Partington, to reconsider.

Commissioner Gillooly urged a fax or some other method be used to confirm a communication in the future since either office could have misunderstood. She asked if all representatives were aware this could be discussed tonight.

Mr. Ervin noted he personally contacted the property owners of 520 Leeway Trail who made the complaint. He reported he contacted Ms. Hackler last night by telephone and e-mailed her a copy of the agenda packet.

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

Mr. Ervin stated the only remaining issue was the water treatment equipment, as all of the other issues had been adequately addressed. He explained the question related to the interpretation of the Land Development Code in regard to the water softening equipment located approximately four feet from the property line. Mr. Ervin stated the equipment was considered an accessory structure and was treated the same as an air conditioning compressor, which was allowed to go four feet into the required setback for an accessory use. Mr. Ervin pointed out a very clear definition in the code indicated this was not an air conditioning compressor, which was the only latitude provided for the four foot intrusion into the setback; therefore, this would have to meet the accessory use setback of seven and one-half feet. He noted the owner would

be required to dismantle and reinstall the equipment to meet the seven and one-half feet requirement.

Mr. Keating stated these were five-acre tracts on Leeway Trail which were, in essence, pasture land. He reported this property was purchased from the complainant, knowing a house would be built on the property. He reported this lot was serviced by a potable water well permitted from Volusia County and was permitted to be within five feet of the property line. Mr. Keating explained he was asking the Commission to interpret this ordinance keeping in mind the fact the well was permitted, and the expansion tank was part of the well. He stated the complaint regarded the expansion tank. Mr. Keating noted there was also a water softener, which was a minor piece of equipment. He reported this was comparable in terms of volume to a five-ton air compressing heat pump. Mr. Keating stated the water system was permitted by the County and the City, in a sense, because it was approved by granting a Certificate of Occupancy for the property. He asked the Commission to determine what harm was being done to the adjacent property owner as a result of the action of this expansion tank and well being within five feet of the property line. Mr. Keating pointed out a six-foot fence had already been erected on the entire property line, and the property owner could not possibly see the tank unless they came onto his clients' property. He reported the noise from the pump, expansion tank, and water softener were miniscule compared to the noise of an air conditioning compressor. Mr. Keating noted there was no harm other than to his client should he be forced to dig up the permitted well and expansion tank to relocate the equipment. He stated he did not interpret this to be an accessory use because an expansion tank was necessary for a pump. Mr. Keating submitted that the County preempts the City, and he urged the City to honor the Certificate of Occupancy the City approved and leave the equipment in place.

Mr. John Schmidt, 520 Leeway Trail, stated it was possible to have a well without an expansion tank on top of the well. He noted the water softener exudes salt water, which goes into the groundwater one foot from the property line. Mr. Schmidt questioned why the contractor located this system one foot from the property line. He pointed out that he brought this to the attention of the City before the Certificate of Occupancy was approved, and he trusted the City would not allow the equipment. Mr. Schmidt stated the well could be allowed in this position, but only the wellhead, with the water pumped to the proper location of the system. He noted when selling the property to Mr. Reeves, he offered him \$2,000 to move the equipment, but the offer was declined. Mr. Schmidt urged the City to enforce its codes.

Commissioner Kelley asked how far the system was from the property line; whereby, Mr. Ervin stated the wall was one foot from the property line and the equipment was approximately three to four feet from the property line. Commissioner Kelley stated the wall was permitted to be one foot from the property; therefore, the wall was not the issue, the issue was the softening equipment and the holding tank for the water, which did not have to be located where it was located. He questioned if it would that be satisfactory if the water softener and tank were moved.

Mr. Ervin stated the setback requirement was seven and one-half feet for the accessory structure, but that did not include the wellhead in that the wellhead was permitted through County standards. He noted the water softening equipment was not installed with a permit, and while a Certificate of Occupancy was issued, it may not have been done in accordance with the code.

Commissioner Gillooly stated if a permit for the well was granted by the County, what obligation did the City have to make certain everything was in order before the Certificate of Occupancy was issued.

Mr. Ervin stated what the City must inspect was not the well itself; therefore, the City would not necessarily be inspecting any appurtenances to the well because it was a private water supply. He noted City inspectors did not realize there was a violation because similar devices were permitted three to four feet from the property line for air conditioning compressors, and the inspector could assume it to be handled under the well permit, which led to the confusion.

Commissioner Gillooly questioned if the property owner was under any obligation to obtain a building permit from Ormond Beach for the water softening equipment and if this problem could have been avoided through the permitting process.

Mr. Ervin noted a permit should have been obtained, but he could not answer if the problem could have been avoided in that the City was having staffing problems, using contract plans examiners who may not have been familiar with the issue.

Commissioner Gillooly questioned if after the City issued a Certificate of Occupancy, the City would have the right to request modifications; whereby, Mr. Hayes indicated modifications could be required.

Commissioner Partington advised he supported Mr. Ervin's interpretation. He stated he could not possibly determine how loud the noise was, but the easiest remedy would be to move the equipment to comply with the code.

Mayor Costello outlined four possible options: support Mr. Ervin's interpretation, overturn Mr. Ervin's interpretation, require moving some of the equipment, or flip the fence with the solid side to the neighbor and the open side to the property owner who owned the equipment.

Mr. Hayes stated the task before the Commission was to uphold Mr. Ervin's interpretation or not uphold Mr. Ervin's interpretation, at which point this would go into code enforcement.

Mayor Costello and Commissioner Kelley stated they would uphold Planning Director's interpretation.

Commissioner Gillooly stated the City must be fair to all, which was why the codes existed; however, such cases are unfortunate for both parties. She advised she would also support the Planning Director's interpretation.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to uphold the Planning Director's interpretation.

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

Item #11(B) – Consolidation Of Emergency Services

Mr. Turner stated many efforts were going on thanks to the various public safety agencies, particularly the fire departments, to better utilize existing resources, better utilize taxpayer dollars, and provide better public safety services. He noted the service providers were working together more closely to achieve the best result, and staff urged this to continue.

Commissioner Gillooly stated the automatic aid agreement, Item No. 8© on the agenda, included a comment that there was strong evidence that the work of the Volusia Fire Chiefs Association in their respective jurisdictions had been successful in elevating the level of fire and EMS protection to its citizens where the agreement was in place. She reported she considered this to be a great compliment, and she hoped that the same spirit would continue.

Mayor Costello urged keeping this cooperative spirit.

Fire Chief Barry Baker stated Commissioner Gillooly mentioned what he wanted to emphasize, and he wanted the Commission to understand the significance of the consent agenda item, which would place Ormond Beach in the position where there was only one County station that did not meet that agreement terms, and that was Ormond-by-the-Sea. He noted they were working with Ormond-by-the-Sea on an agreement. Chief Baker advised this was great news because the entities provide comparable service levels.

Mr. Turner pointed out that this was a Commission goal, and he asked for concurrence with what was explained in the report.

Mayor Costello reported the consensus was that the Commission was in concurrence with the report, and he supported doing everything possible to improve service and cooperation.

Item #11(C) – Code Enforcement Process

Mr. Turner stated staff wanted to make the Commission aware of some of the issues and challenges in code enforcement. He noted staff was not asking the Commission to select one of the options because staff would provide options in the budget process that were different from the two options offered tonight.

Commissioner Partington recommended a volunteer program similar to the program DeLand was initiating. He stated he was not in favor of adding many more staff members or creating

more bureaucracy. Commissioner Partington suggested adding one or two more personnel to coordinate a volunteer program.

Commissioner Kelley noted he was not pleased with the wording of the report in that some wording was inaccurate where it indicated a 69% increase when it should have indicated 69% was complaint-driven. He noted the graphs were not clear.

Ms. Joanne Naumann, Neighborhood Improvement Manager, stated a calculation based on this year's activity indicated the code activity was currently 67% complaint driven and last year it was 43% complaint driven.

Commissioner Kelley noted the actual increase was 11%. He stated he considered this a request to ask for three new personnel, new furniture, and a new location. Commissioner Kelley noted a possible reason for the number of complain-driven incidences was because the City was finding people not in compliance, those people were being pursued, they become angered at their neighbors who were doing the same, and then they turn their neighbors in to Neighborhood Improvement.

Mayor Costello noted Commissioner Partington and Commissioner Kelley were not ready to approve the \$159,880.

Commissioner Kent concurred with Commissioner Kelley and Commissioner Partington and urged establishing a volunteer program.

Commissioner Gillooly stated her interpretation of this report was to provide the Commission with an understanding of what Code Enforcement was doing with the current staffing. She noted Ormond Beach was trying to insure a certain quality of life, and it was the Commission's responsibility to insure the code was being fairly used. Commissioner Gillooly stated code enforcement was trying to investigate thoroughly, hear the entire story, and address the Commission's concerns. She reported she was also concerned with the large amount of money mentioned in the report, but noted that would be only if all of the recommendations were accepted. Commissioner Gillooly stated the increase in citizen complaints was probably due to the fact the City could not be as proactive as they would like, but the Commission must be conscious of the funds being spent. She reported she would listen to Ms. Naumann before making any decision, but pointed out the Commission would not be voting tonight.

Mr. Turner clarified this was not a request for funding, and he explained the goal was to respond to the increasing number of requests for code enforcement activities from the Commission and from public. He stated staff was becoming increasingly more responsive and complaint driven. Mr. Turner noted when he first went with code enforcement personnel on a sweep, he expressed a desire to have more sweeps, ideally two City-wide sweeps per year; but this can not be done. He stated this would provide a greater equity in applying the code.

Mr. Turner advised the Commission expressed concern regarding the time it takes to achieve compliance. He explained there were numerous cases where staff had to spend an inordinate amount of time on a specific set of complaints. Mr. Turner pointed out the issue was not only locating the complaint, but a great deal of follow-up work and documentation was also involved. He stated staff would make some recommendations through the budget process. Mr. Turner noted when presented with the \$500,000 request, he informed Ms. Naumann that would not possibly be approved; but he does listen to department heads and take feedback. He explained code enforcement was moved under the Police Department to help augment their resources, and automation in the field was also being considered. Mr. Turner stated he would make a request for additional resources depending on the budget circumstances.

Commissioner Kent stated code enforcement needed a great deal of improvement. He noted areas in Zone 3 had a great deal of gated communities, which would need less sweeps because the homeowners' associations regulate their appearance, but Ms. Naumann indicated code enforcement activity was fairly equal amongst the zones. Commissioner Kent expressed concern that code enforcement was planning two sweeps a year, and they would only look for select violations. He noted people complain that code enforcement acts on certain infractions while driving past other violations without taking action toward those violators.

Commissioner Kent commended Neighborhood Improvement in that a citizen had informed him a staff member was very understanding when dealing with a code enforcement issue. He noted he was not ready to spend this money and asked if there was a better system that could be implemented. Commissioner Kent noted most people correct violations immediately upon notice of the violation, and he recommended calling people personally, which may be more

effective and efficient. Commissioner Kent stated driving through Zone 2 alone he could point out so many violations the Code Enforcement personnel would be busy all the time.

Commissioner Kelley agreed with Commissioner Kent the City should find a better way to achieve the goals, and spending a great deal of money was not the answer. He stated the fact that 69% of the activity was complaint driven had no relativity to the activity of the staff. Commissioner Kelley noted the total number of complaints only increased 6%. He stated there was a better way, such as contracting out duties, instituting a volunteer program, and making phone calls; but these would not solve the real problem, which was getting something done in less than a year on a contentious violator. Commissioner Kelley reported the habitual violators needed to be stopped, but he understood that was not Code Enforcement's fault. He noted if people are allowed to circumvent the laws, they would continue to do so.

Mayor Costello summarized the Commission wanted to promote the volunteer program, technology, and determine if any better "best practices" could be implemented. He noted he has been extremely frustrated by the system when violations continue for months, even though he understood Ormond Beach did not design the system.

Commissioner Partington stated Ms. Naumann had a thankless job with an enormous task. He asked if there was a code enforcement software program available.

Ms. Naumann stated staff was working toward that end and explained this was what the laptops were intended to provide. She reported work needed to be done on the system, and staff was in the process of updating the system. Ms. Naumann advised Code Enforcement recently received three laptops, and they would try to determine how much more efficient it could make the inspection staff if they were able to access permit information while in the field. She stated the laptops would provide the opportunity to enter inspection results immediately; however, the goal was not to move the inspectors' office from building to field, which would serve no purpose. She asked for support staff to enable the inspectors to do more inspections rather than research and office work. Ms. Naumann explained the report was lengthy, but her goal was to education the Commission as to the process and also provide the Commission with an idea as to the direction code enforcement was going to become more efficient. She reported recommendations were made to increase penalties for certain cases; however, the City must follow State statutes regarding how code cases are processed. Ms. Naumann noted staff was trying to expedite cases, get tougher, and get them resolved; but there were people who would not comply without going through the entire process. She stated she was working with Interim Chief Longfellow to consider a task force, a volunteer program, and other ideas.

Commissioner Partington noted the Commission was not asking Code Enforcement to get tougher but to catch more violations so enforcement could be equal for everyone. He stated he wanted to prevent degradation of the community.

Mr. Turner stated the more successful Ms. Naumann was about contacting people about violations, the more complaints he and the Commission would be getting. He pointed out Ms. Naumann was so concerned with the City that she has been instrumental in organizing projects with 60 to 70 volunteers to clean up neighborhoods on an annual basis. Mr. Turner noted this was a very non-threatening method of making improvements in neighborhoods. He noted the sweeps are important because they raise the consciousness of an area. Mr. Turner noted these were not the problem areas. He asked the Commission to allow staff to come back during the budget process to share thoughts.

Commissioner Kent stated he witnessed Ms. Naumann at the Osceola Neighborhood meeting where she did an excellent job partnering with the Police Department and targeting the audience, where she was very specific in the point she was making. He encouraged the City to do more educating in the community at neighborhood watch meetings. Commissioner Kent recommended people on light duty participate in this type of community education program.

Commissioner Gillooly reported she worked with many City staff members when she was Ormond Main Street director and in her current position with Halifax Habitat for Humanity as well as through her volunteer efforts. She pointed out that Ms. Naumann not only worked on projects, she initiated most of those projects on her own. Commissioner Gillooly stated the entire Commission appeared to be indicating they all respect Ms. Naumann's professionalism and integrity. She pointed out Ms. Naumann must follow legal requirements, and to be done correctly, the process takes time. Commissioner Gillooly urged her fellow Commission members to reconsider and give Ms. Naumann the opportunity to add staff. She noted she was not indicating she could accurately judge how much staff was actually needed, but she urged the Commission to seriously consider staff's recommendations. Commissioner Gillooly reported she was not recommending spending more money, but she was recommending examining

everything in the budget to find possible areas where cuts could be made to accommodate needs.

Commissioner Kelley stated the Commission indicated they would allow staff to bring back recommendations, but he would not personally approve additional staff.

Commissioner Kent stated that unless there was a solution to find the funding, approving additional staff would commit the Commission to increase taxes. He noted the City runs on a very lean budget.

Ms. Sandy Upchurch, Deputy City Attorney, noted she worked with Ms. Naumann to create the report, and they tried to shorten time off the process within the statutory parameters. She reported Ormond Beach's special master system has become a model where the court system had encouraged local communities to adopt Ormond Beach's system.

Mayor Costello stated he was proud of the Ormond Beach system but wanted to make it better. He noted at budget time Mr. Turner can make recommendations for the most pressing needs.

Mayor Costello called for a break at 9:30 p.m. and reconvened the meeting at 9:33 p.m.

Item #11(D) – Parking at the “Birthplace Of Speed” Park

Commissioner Kent stated he was aware of dedication markers and sentimental concerns about what was currently at the Birthplace of Speed Park; but people cannot park at Granada Plaza, and there was limited parking on the Granada approach. Commissioner Kent stated the park was underutilized, and he urged the Commission to explore options to create off-beach parking with Tax Increment Financing (TIF) funds. He reported he favored this option because it was on the beach, and people would not have to cross a State road. Commissioner Kent noted he did not favor the entrance and exit to be located on A1A, but it was possible to place the entrance and exit on the beach approach even if the restrooms needed to be relocated. He stated this would provide more access to Ormond's beach at Granada Boulevard. Commissioner Kent thanked Mr. Romano for providing the recommendations in his letter and stated he favored all of the recommendations, although he questioned to what Mr. Romano was referring in number four. He noted he was not satisfied with the answer that the City could not do anything about the Seabreeze High School parking lot and urged that everything possible be done by contacting the principle, the County, the School Board, and the Beach Patrol.

Commissioner Kelley stated parking was very inadequate for the Seabreeze students, and he did not believe the City could legally not allow them to park in those spaces. He noted the school should have provided adequate parking for its students. Commissioner Kelley stated students were previously permitted to park behind Bennigan's restaurant; but that was for only a one-year lease, and even then there was inadequate parking. He noted the City did have the ability to create parking areas to the north of the Granada approach, but at the present time people could not even walk in the sand. Commissioner Kelley reported he would not oppose moving the lifeguard training to provide parking. He stated the City had the opportunity to purchase two pieces of property at the Neptune approach; the County was willing to assist; but the City turned it down. Commissioner Kelley noted one of the two parcels was still for sale, and the other could possibly be for sale; therefore; he recommended the City consider purchasing this land as an alternative.

Commissioner Partington reported he would consider various configurations to allow parking at the Birthplace of Speed Park, but he wanted to study the possible cost and DOT issues. He noted he received the March 28 letter from Mr. Doug Thomas recommending the Commission ask staff to convey Mr. Romano's recommendations to the County and then report back to the Recreation Advisory Board and the Commission.

Commissioner Gillooly asked if Commissioner Kent's proposal was to remove the park or reconfigure the space for parking.

Commissioner Kent explained his recommendation was to keep the park, reconfigure it to gain parking spaces, retain the markers, and make it more accessible.

Commissioner Gillooly questioned if it would be feasibility to be done in house.

Mr. Ted MacLeod, Assistant City Manager, stated the Engineering Department could do a preliminary feasibility study in house.

Commissioner Kent stated Mr. Romano indicated beach patrol vehicles drive on the beach and questioned why he could not drive his four-wheel drive vehicle on the beach. He urged the letter be sent to the County and also that the County be lobbied to allow the beach to be opened to four-wheel drive vehicles.

Mayor Costello requested staff prepare a feasibility study for the park. He noted he had asked the beach ranger about four-wheel drive vehicles and did not get an answer he liked. Mayor Costello recommended the toll booth personnel provide a document for the driver to sign indicating they were entering the beach at their own risk and promising to pay a cost established if they had to be towed out of the sand. He noted he was told the rangers had to pull a number of four-wheel drive vehicles from the soft sand in the past.

Mayor Costello stated he was not certain if the County or the State had jurisdiction over the parking at Seabreeze High School. He recommended petitioning to make the Harvard approach a three-hour parking lot, which would put pressure on the School Board to find additional parking for the students. Mayor Costello reported he agreed residents need access to the beach and a place to park. He noted at least three Commission members indicated they were willing to consider the feasibility of reconfiguring the Birthplace of Speed Park. Mayor Costello requested a letter be written to the property owner of the land that Commissioner Kelley indicated was for sale at Neptune, as well as the adjacent property, to determine the possibility of this purchase.

Item #11(E) – Sign-In Sheets for “Audience Comments”

Mayor Costello clarified this sheet would be for audience remarks only.

Commissioner Kelley stated the recommended sign-in sheet did not include the time limit for speaking or what to do with the card after it was filled out.

Commissioner Kent stated he did not object to adding the time limit. He reported he considered Mayor Costello’s version more user friendly; however, the two items on Mayor Costello’s version he would prefer deleted were the “stand on the issue” and the “name of the group the speaker represents.”

Commissioner Kelley recommended moving the question, “staff members with whom you have talked” above “if you are requesting information, please provide.”

Mayor Costello thanked staff for providing numerous other entities’ forms. He noted he was not opposed to continuing without a form, but he could see some benefits in using the form.

Commissioner Partington noted he supported Mayor Costello’s form with the above-noted amendments. He recommended adding an abbreviated version of the rules on the back of the form.

Mayor Costello asked where the time limit should be listed.

Ms. Veronica Patterson, City Clerk, noted the time limit could be placed on the front.

Commissioner Partington concurred with Ms. Patterson and urged the abbreviated rules be placed on the back.

Commissioner Gillooly agreed she would like the stand on the issue removed; however, she considered the name of group to be helpful. She pointed out Ormond Beach had a very liberal policy compared to other cities.

Mayor Costello stated there were advantages and disadvantages to including the speaker’s stand on an issue, and he would be willing to delete it.

Ms. Patterson asked if the question, “Do you wish to speak with regard to an issue,” should remain on the form. She noted that to do so would include the Consent Agenda as an option on this question.

Commissioner Kelley noted he was not opposed to it being on or left off.

Commissioner Partington pointed out the question would make the Commission aware a citizen wanted an item to be pulled from the Consent Agenda for discussion.

Commissioner Gillooly agreed it would be helpful.

Mayor Costello stated the question should be included. He noted the form could be used and changed in the future if necessary.

Commissioner Kent asked if a separate item specifying "Consent Agenda" should be added under, "Do you wish to speak with regard to an issue."

Commissioner Kelley noted the sheet indicated, "Specify agenda item number," and the Consent Agenda had an item number.

Commissioner Kent reported he wanted the document as user-friendly as possible, without adding too much to make it confusing.

Mayor Costello stated the number could be indicated after "Specify agenda item number," which would identify it as a consent agenda item so it would not be necessary to add "Consent Agenda" on the form, and he would try to remind people to use the form to pull a Consent Agenda item.

Ms. Patterson asked if the phrase "not on the printed agenda" should be included.

Mayor Costello allowed the City Clerk the freedom to edit the form.

Commissioner Kent stated the first paragraph spelled out a person could only speak under "Audience Remarks" if the item was not on the agenda.

Commissioner Kelley recommended moving the paragraph, "Do you wish to speak with regard to an issue," directly under the first paragraph.

Item #11(F) – Summer Meeting Schedule

Commissioner Kelley recommended moving the July 5 meeting to July 11 and the June 6 meeting to June 13 leaving the June 20 meeting unchanged. He noted the September meeting could not be changed. Commissioner Kelley pointed out the Capital Improvements Project workshop scheduled for June 6 would also need to be moved.

Mr. Turner stated the September meeting could be moved from September 5 to September 6. He noted having two meetings a week apart in June would limit what staff could accomplish on June 20 regarding turning around requests made on June 13.

Mayor Costello summarized no objection was voiced, so the July 5 meeting would be changed to July 11, the June 6 meetings to June 13, and the September 5 meeting to September 6.

Mayor Costello requested Ms. Patterson e-mail the dates to the Commission tomorrow.

Ms. Patterson explained a resolution would be needed on the next agenda amending the meeting schedule, but she would e-mail the information for the convenience of the Commission.

Item #12 – Reports, Suggestions, Requests

A1A Visioning Plan On Line

Commissioner Kelley thanked the people at Bray and Gillespie for providing the visioning plan so it could be accessed on line, which was very helpful; however, he noted explanations were not included.

Mr. Cook

Commissioner Kelley stated the City would most likely never be able to solve Mr. Cooks' problem. He noted he spent two hours, Mr. Boyle spent six hours; Mayor Costello spent time; and former Mayor Persis spent time with Mr. Cook to resolve his problem; but what he was asking for was an apology from the former City Manager Eugene Miller who stated something in May of 1990 about an issue that took place January 19, 1990. Commissioner Kelley explained Mr. Miller apologized for anything to which Mr. Cook took offense but he had no control over. He stated he did not believe former Mayor Hood called Mr. Cook a liar, but Mr. Cook remained unconvinced. He noted this was an unfortunate situation, but he did not believe the issue could be resolved.

Planning Director's Interpretation Relative to Property at 540 Leeway Trail

Commissioner Partington noted he planned to tell Mr. Keating he did a good job for his client until his last comment, which may have been an expression of frustration which everyone has experience at some point.

Concerns for Frank Gillooly

Commissioner Gillooly thanked everyone for expressing their concerns for her husband and reported he was responding well to treatment.

Activities in the Community

Commissioner Gillooly stated she had a great opportunity to attend a number of community events. She noted she attended The Casements Volunteer Appreciation Luncheon, which highlighted the great relationship between the volunteers and the staff.

Commissioner Gillooly noted she attended the Citizens Police Academy graduation, and again, the relationship between the Police Department and volunteers was commendable.

Commissioner Gillooly stated in the last budget the Commission approved a one-time donation to a newly formed organization to help families in need called "Operation Caring through Sharing." She reported Ms. Brenda George saw a need and began this non-profit organization, and she was recently acknowledged and received a monetary grant for that project. Commissioner Gillooly noted she attended the event honoring Ms. George at the Anderson Price Museum. She expressed great admiration for the volunteerism, amount of generosity, and the large number of truly positive people in the community using their energy for positive endeavors.

Birthplace of Speed Park

Commissioner Kent thanked the Commission for their support relative to his request for the consideration of parking at the Birthplace of Speed Park.

Hedge at Ormond Parkway

Commissioner Kent reported he received a complaint regarding the hedge covering the signage for Ormond Parkway at Halifax Drive.

Beachside Development

Commissioner Kent stated that people have requested hard copies of the plan for the online beachside development. He noted he referred those constituents to the front desk at City Hall.

Coffee with the Commissioner

Commissioner Kent stated "Coffee with the Commissioner" has been growing, and the next meeting would be held on Monday, June 5, at 130 Magnolia Drive.

Nova Recreation Groundbreaking

Commissioner Kent reported he attended the Nova Recreation groundbreaking ceremony.

Mr. Cook

Mr. Turner stated he tried to apologize to Mr. Cook without assessing or taking responsibility for others whom Mr. Cook perceived were not telling the truth. He noted many have tried to accommodate Mr. Cook's need for an apology.

Code Enforcement

Mr. Turner stated what occurred tonight regarding the code enforcement issue before the Commission was a small glimmer of what Ms. Naumann addresses daily. He noted most people comply quickly when code violations are sited, and staff was good in finding commonalities for the more challenging cases; however, there were other circumstances that were extremely challenging with habitual violators.

PACE Center

Mr. Turner stated he toured the PACE center last week and noted they were doing an awesome job. He reported they were getting volunteer assistance and grant assistance, costing the City very little. Mr. Turner advised the situation regarding parking on City-owned property was nearly resolved.

Volunteerism

Mr. Turner stated volunteerism adds the flavor back into the governance process and helps augment what the City could not do without this volunteer assistance. He noted great relationships have developed through volunteerism.

Mr. MacLeod thanked Ms. Sloane for volunteering to do the engineering for the Birthplace of Speed Park feasibility study in house.

Response to Audience Remarks

Mayor Costello stated he was very uncomfortable when people speak during "Audience Remarks," that he may not respond. He requested that he be allowed to respond to certain comments.

Commissioner Kent noted he would not object to Mayor Costello responding as long as the Commissioners have that same opportunity. He stated if the Commission waits to respond to the end of the meeting, most people have left.

Commissioner Gillooly stated that responding by the Mayor was customer-friendly, but if the City Commissioners individually respond, it could lead to a long debate, thus defeating the purpose. She noted if the speaker does not stay to the end to hear the response, they could be directed to the public record.

Commissioner Kent noted there are times people state facts a Commission member may know to be untrue.

Commissioner Kelley stated responding was appropriate in some instances, and he would encourage Mayor Costello to respond at his discretion to clarify issues, but not to debate issues.

Commissioner Partington concurred with Commissioner Kelley. He stated he trusted the Mayor's judgment. Commissioner Partington pointed out some times people border on making impertinent or slanderous remarks, and he urged Mayor Costello to act on those remarks.

Growth

Mayor Costello stated there was a meeting scheduled on May 17 at DeLand and another on May 22 at Daytona Beach Community College regarding growth. He advised he would be out of State and unable to attend, but urged the Commission to attend if possible.

National Day of Prayer

Mayor Costello stated this Thursday was the National Day of Prayer.

The Casements Appreciation Luncheon

Mayor Costello read a letter from Ms. Ann Smoke thanking the City for the Appreciation Day Luncheon at The Casements. He thanked staff for making the affair festive.

Business Development Partnership

Mayor Costello provided a copy of an article from an April 2006 report entitled, "Best Performing Metro Areas for Job Creation," which indicated that Daytona/Deltona was number five in 2004 and in 2005. He noted this included cities throughout the country. Mayor Costello stated he was proud of the efforts of all the economic development people in the business community for creating jobs.

Ormond Beach Middle School

Mayor Costello stated Thursday at 4:30 the boys' Hinson versus Ormond Beach Middle School game would be held at Ormond Beach Middle School followed by the girls game at 6:00 p.m. He encouraged people to attend.

Height Limit

Mayor Costello stated he was hopeful that at the next meeting the Commission could come to a consensus on whether the Commission would take a position for or against the height limiting amendment, if the Commission would take a position in support of the proposal, whether to select a date to vote on the amendment, and whether to discuss if there were any decisions that needed to be made regarding the amendment. He reported he would like to provide answers to the questions Mr. Boyle brought up.

Item #13 – Close the Meeting

The meeting was adjourned at 10:31 p.m.

APPROVED: _____ May 16, 2006

BY: _____

City Commission – May 2, 2006

Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk