

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

**June 20, 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) **AUDIENCE REMARKS:**
- 5) **INTERGOVERNMENTAL REPORTS:**
  - A) Metropolitan Planning Organization
  - B) Volusia Council of Governments
  - C) Water Authority of Volusia
- 6) **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. 2006-131 authorizing the execution of an agreement between the City and the State of Florida Department of Community Affairs for the provision of grant funds in the amount of \$6,000 to be used for miscellaneous expenses associated with the Fire Corps Program; authorizing the execution of all documents necessary and incidental thereto. (\$6,000 in grant funds; \$0 local funds)
  - B) Resolution No. 2006-132 approving and authorizing an Assignment and Assumption of Contract to McLane Excavating, Inc., regarding the maintenance and cleaning of roadside swales, drainage ditches and ponds; authorizing the execution of a consent to assignment.
  - C) Resolution No. 2006-133 accepting a bid from Masci Corporation for construction services regarding the North US1 Force Main Extension project, under Bid No. 2006-20; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$1,097,300)
  - D) Approval for the Mayor and City Manager to forward a letter to WAV requesting the construction of an interconnect between Daytona Beach and Ormond Beach on Williamson Boulevard.

DISPOSITION:    Approve as recommended in City Manager memorandum dated June 15, 2006
- 7) **PUBLIC HEARINGS:**
  - A) Ordinance No. 2006-08 amending Subsection A, Zoning Map, of Chapter 1, Article II, of Section 2-03, Official Zoning Map and Zoning District, of Article I, Establishment of Zoning Districts and Official Zoning Map, of the Land Development Code, by amending the Official Zoning Map to rezone a 25.13-acre parcel of real property from SR (Suburban Residential) to PRD (Planned Residential Development), said real property being located approximately one mile north of Airport Road on the east side of Tymber Creek Road, north of the Southern Pines subdivision; establishing boundaries; authorizing revision of the official zoning map; approving a Development Order for "Enclave at North Pointe" Planned Residential Development (PRD). (First Reading)
  - B) Ordinance No. 2006-09 amending Subsection A, Zoning Map, of Section 2-03, Official Zoning Map and Zoning District, of Chapter 1, Article I, Establishment of Zoning Districts and Official Zoning Map, of the Land Development Code, by amending the Official Zoning Map to rezone a 46.24-acre parcel of real property from SR (Suburban

Residential) to PRD (Planned Residential Development), said real property being located at the northwest corner of Airport Road and Tymber Creek Road; establishing boundaries; authorizing revision of the official zoning map; approving a Development Order for “Marshside at Groover Branch” Planned Residential Development (PRD). (First Reading)

8) **RESOLUTIONS:**

- A) Resolution No. 2006-134 authorizing the submittal of a grant application to the Florida Department of Homeland Security under the Staffing Adequate Fire and Emergency Response (SAFER) grant program for assistance relative to funding two additional firefighter positions; authorizing the execution of all documents incidental thereto. (\$207,000 maximum funding)
- B) Resolution No. 2006-135 summarizing and defining policy directions of the City Commission to staff regarding transportation concurrency issues; identifying the need for additional coordination with adjoining cities and counties; authorizing the City Manager and his staff to take appropriate action to implement the policy directions.

9) **DISCUSSION ITEMS:**

- A) City position on signage for J&P Cycles project.
- B) Fleet operations evaluation report.
- C) Police Department staffing.
- D) Interim development controls.
- E) Continued Capital Improvement Program budget discussion (if needed).

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

11) Close the meeting.

Item #1 - Call to Order

Mayor Costello called the meeting to order at 7:05 p.m.

Item #2 – Invocation

Mayor Costello gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Five-Year Pin Presentation

Mayor Costello presented Mr. Turner with a certificate of recognition and a City five-year pin. He thanked Mr. Turner for his service to the City.

Emergency Preparedness Seminar

On behalf of the Citizens for Ormond Beach, Commissioner Partington announced the Citizens for Ormond Beach and the City of Ormond Beach would hold an emergency preparedness seminar on Saturday, June 24. He reported a forum would be held with a panel of experts from 11 to noon, and there would be a barbeque from noon until 2 p.m. Commissioner Partington advised emergency response equipment would be on display.

Chief Longfellow

Mayor Costello introduced Ormond Beach's new Police Chief Michael Longfellow and his wife Shannon.

Chief Longfellow thanked the Commission and Mr. Turner for the confidence they have placed in him, and he pledged to do the best he could to provide the highest level of service possible.

Item #4 – Audience Remarks

CAN DO Petition

Mr. Jeff Boyle, 614 North Halifax Drive, stated people were shocked by the City Commission's decision to file a lawsuit against its citizens, and it energized CAN DO with support, donations, and a sellout of their yard signs and bumper stickers. He noted the words "let the people vote" remain important to this community even as the Commission would move to prohibit that vote. Mr. Boyle advised CAN DO believed the people would ultimately determine future building heights, and this issue would impact every future election. He noted the Commission claimed their concern regarded potential lawsuits by landowners against the City when those landowners were not identified. Mr. Boyle reported Bray and Gillespie publicly announced they would build 75-foot buildings within Ormond Beach's rules; no landowner made a threat to file a lawsuit on the public record; and it seemed the Commission was more sensitive to outside corporate financial interests than to the will of their own constituents, creating new legal problems with lawsuit potential for the City. He pointed out the Commission never addressed the discrepancy between the Comprehensive Plan and the Land Development Code in that the Comprehensive Plan absolutely limited building heights to 75 feet without exception and the Land Development Code allowed up exceptions to 90 feet. Mr. Boyle reported Mayor Costello's concept of a 75-foot height limit existing everywhere in the City except where landowners could buy exemptions with land, parks, community centers, or underground utilities. He stated the City would be selling exemptions to its codes. Mr. Boyle reported the proposal to high rise the beachfront was the largest spot zoning in history, and the City would face lawsuits from property owners who already built under current rules and would claim the same rights as those paying the City with property for exemptions. He noted the City could face the same court ruling that required Martin County to tear down a multi-million dollar building because that government allowed a Land Development Code that was contradicted by their Comprehensive Plan. Mr. Boyle advised there was exponential legal liability in the Commission's public positions and in the decision taken last Tuesday and less liability in maintaining the historic building height standard.

Mr. Boyle stated Commissioner Partington perceived as arrogance the statement that the issue and CAN DO would not go away even if the judge would reject the petition. He explained this statement was meant to remind the Commission that there would be public hearings, new elections, and possibly new petitions such as requiring a unanimous vote for the City Commission to approve any changes to the Comprehensive Plan. Mr. Boyle stated there was also a charge that those who signed the petition were misled by "reckless lies with people riled up by one individual to accomplish that individual's goal." He submitted that people were "riled up" by disrespect and the tone and substance of the comments made. Mr. Boyle reported that if the chair would allow a general accusation against an unnamed individual, then that accusation indicted every unnamed member of CAN DO. He asked the Commission to name the targets of their accusations.

Mayor Costello stated the comments Mr. Boyle made fully support the reason for going to court to make certain these issues would not exist.

Beach Erosion

Ms. Lee Dunkel, 94 Ormond Parkway, presented a *New York Times* article to the Commission regarding global warming and beach erosion due to hurricanes where Florida, and Volusia County, in particular, were mentioned.

False Statements

Mr. Lawrence Cook, 1529 North Beach Street, stated he made no false statements as he was accused of doing. He advised people had the right to know who spoke the truth.

Mayor Costello stated he apologized to Mr. Cook for any wrong he believed occurred, but he could not go back 16 years with a Planning Director, City Manager, and City Attorney who are on longer with the City.

Water Issue/Moratorium

Mr. Charles Carter, 212 Arlington Way, stated the Environmental Advisory Board minutes of August 20, 2005, indicated for the past five years the water plant had been running maximum days exceeding 75% capacity, and a moratorium was recommended. He noted the reply was that the City relied on the revenue from the water, and this would halt the Ormond Crossings project causing the builder would find water somewhere else. Mr. Carter stated the minutes indicated the historical growth rate was 2%, but the City was now boxed in; therefore, the past figures would no longer be reliable. He pointed out the City was serving outside its boundaries. Mr. Carter reported in answer to the question what would the new monthly water and sewer rate be, was that staff did not anticipate the increase to be very high, but he considered 17% a great

deal. He noted on that date the plant was 30% complete and had been reviewed with comments sent back to Camp Dresser & McKee and the design should have been completed by January 1, 2006, and construction completed by the spring of 2007, which would not occur. Mr. Carter reported RO was questioned. He noted the minutes indicated growth was the main issue, but he believed the chlorine problem was the main reason the City was expanding the water plant. Mr. Carter stated when people were held accountable, he hoped not only the lower ranked employees would be found accountable, but the higher ranked personnel should also be held accountable.

#### Travel Policy

Mr. Carter stated travel was approved for the administration during the time of the water crisis. He urged providing a travel estimate in the budget. Mr. Carter reported he considered \$200,000 for travel to be a great deal of money for travel, and it could be cut. He expressed concern that the main staff would not be in town in a crisis.

Mayor Costello stated that may be why Mr. Turner came back from his planned trip early to handle the crisis.

#### Beach Access

Mr. Glenn Jaspers, 160 Ocean Terrace, stated comments were made by Mayor Costello regarding east and west Ormond Beach and beach access. He noted residents living in west Ormond Beach may not consider beach access a high priority since many houses were for sale on the beachside competitively priced and not behind gated entrances. Mr. Jaspers stated older Ormond on the beachside did not consist of expensive homes behind gates, but was a diversified community. He reported Volusia County provided fine parks north of Ormond Beach reflecting their efforts to do the best they could under a variety of circumstances, and this Commission should recommit itself to retain and improve the beach accesses that currently exist.

Mayor Costello reported the Commission and staff were working very diligently to increase driving and parking on the beach.

#### Fluoridation

Mr. Jim Schultz, 117 Harvard Drive, showed photos of dental fluorosis noting 3% to 4% of people in the minority communities have a condition resembling dental fluorosis with 1% being as severe as the photo he showed. He reported most people only know the positives of fluoride and are unaware of the negatives. Mr. Schultz stated the medical community had used fluoride to build up bone structure for many years, but within three years it was determined the rate of fracture was greater than it had been before adding the fluoride, and there were side effects such as gastro-intestinal problems and joint pain; therefore, the use for this purpose was discontinued.

Mayor Costello stated this was all about concentration. He reported fluoride at regulated levels did not cause what was depicted in the photo. Mayor Costello pointed out fluoride was heavily regulated by the Environmental Protection Agency, the Department of Health, and the Center for Disease Control.

#### Commission's Tone

Mr. Ron Richardson, 80 Rockefeller Drive, noted last week the Commission was highly criticized, but the citizens never attacked or had a demeaning tone, although the Commission could not make that assertion. He reported a citizen indicated there had been a "potential hazard," and Mayor Costello accused the citizen of calling the situation a "health hazard," asking her to get her facts straight. Mr. Richardson noted Commissioner Gillooly indicated she stood by her vote to pursue the lawsuit, but she seemed surprised at the legal cost. He asked how deeply the issue was investigated. Mr. Richardson noted this was described as a neutral suit, and he questioned the definition of a neutral suit. He asked if CAN DO could not raise the funds to defend the lawsuit, if the City would win by default, and if the City would reimburse CAN DO for their legal expenses if CAN DO should win the lawsuit. Mr. Richardson stated Commissioner Partington was excessively hostile and demeaning to the citizens by his remarks.

Commissioner Partington objected to Mr. Richardson's assertion because it was simply not true, and the comments Mr. Richardson made about him were personal. He stated he listened to the tape of the meeting, and he totally disagreed with Mr. Richardson's characterization.

Mayor Costello informed Mr. Richardson that he would not be permitted to make personal attacks. He reported Mr. Richardson could attack him, but no one else since they could not defend themselves. He apologized to the Commission for allowing this line of discussion to continue.

Mr. Richardson advised the Commission indicated if the petition was legal the citizens would vote; however, legality was a matter of opinion. He reported there was a statement made that there were “lies” told in regard to Ormond Parkway. Mr. Richardson pointed out that at the April 4 City Commission meeting, it was stated that the City would remove small pieces of land to add them to them tax rolls, and one of those parks was Ormond Parkway. He noted Mr. Boyle was accused of arrogant lawlessness.

Mayor Costello stated the Commission wanted to give the audience an opportunity to say whatever they wished, but he asked the people to present facts or opinions, but not speak about people in a negative fashion. He reported that because Commissioner Partington was specifically mentioned, he would provide him the opportunity to comment now.

Commissioner Partington stated accusations were made last week, and after listening to his comments twice, he was comfortable that his comments were accurate, and he would stand behind them 100%. He noted it was unfortunate people believed they could attack the Commission and silence what the Commission believed was important. Commissioner Partington explained the Commission was relying on a legal opinion from the City Attorney, which was the only prudent course of action the Commission could take, and he considered that course was the will of the people. He reported he heard from more people in favor than against the Bray and Gillespie project. Commissioner Partington advised he was representing the people who talk to him that reside in his zone. He noted there was a segment of the community who could not disagree with a person without having to destroy them.

Mayor Costello reported the goal was to have an interchange. He encouraged people to applaud when they agreed, but not to murmur and mutter when they disagreed with something that was said.

#### Firefighter Compensation

Mr. Phillip Maroney, 117 Atwood Lane, stated he investigated the \$19,882 figure for the compensation package for a 30-day period of time for the firefighter being deployed. He reported after hearing staff’s explanation of how they arrived at that figure, he could not agree with the figure. Mr. Maroney stated this issue related to the definition of what would be considered a working day, and he believed the interpretation was a vast departure of how the policy was designed. He expressed surprise the City Manager did not challenge the figure. Mr. Maroney requested that the City Manager and Commission readdress this issue.

#### CAN DO

Mr. Maroney thanked the Commission for their decision to obtain a legal opinion on the CAN DO issue, and he stated anyone without an agenda would see the wisdom in that decision. He stated, in his opinion, courage was typified by those who, regardless of the vocal opposition, were able to stand back and make the right decision for everyone rather than only those loudly expressing their opinion.

#### Commissioner Partington’s Remarks

Mr. Maroney advised that after listening to the recording a second time, he supported Commissioner Partington’s reference to lawlessness.

#### Parks and Recreation Facilities

Mr. Rick Lovell, 354 Applegate Landing, stated he believed the City was not adequately addressing the need for parks and/or recreation facilities along the Airport Road and Tymber Creek Road corridor. He pointed out that in the next three years there could be more than 4,000 homes with access to Airport Road and Tymber Creek Road; and while the planned improvements for Riverbend Park would provide some relief, it would not provide the open space he considered necessary. Mr. Lovell reported Riverbend Park was located away from most of the neighborhood and did not provide easy or safe access for children. He stated the impact fees from the existing homes along Airport Road and Tymber Creek Road have gone to expand and construct other facilities elsewhere in the City. Mr. Lovell reported that with over 1,000 new homes being built and over \$1 million in new impact fees, as well as the certainty of future expansion, he believed the Commission should commit to fund the development of a passive open field park and playground facility on the City-owned property on the corner of Airport Road and Leeway Trail. He advised that the Parks and Recreation Master Plan identified the City’s current deficiencies and needs for future recreation facilities. Mr. Lovell stated that while the unfunded West Ormond Community Center was a major facility, he was requesting the Commission only consider a half acre for open space and another half acre with playground equipment, covered picnic tables, and parking.

#### Water Issues

Ms. Pattie Barker, 1105 Overbrook Drive, stated she addressed the Commission last week about serious concerns and was personally attacked by Mayor Costello and Mr. Turner. She reported Mayor Costello bristled at her comment that the City was facing a “potential public health emergency,” and in his release to the media on May 28 Joe Radcliffe, Public Information Officer, stated, “The City’s Emergency Operations Center has been activated at Police Headquarters. Official are concerned that if water demand increases the water treatment plant will not be able to keep up. That would result in a severe loss of water pressure, a City-wide boil water advisory, and possible water shut offs in some areas. Residents in those subdivisions should not use their water for drinking until the boil water advisory is lifted hopefully within the next two to four days once tests confirm the water is safe to drink.” Ms. Barker noted most would agree to describe this as a potential health emergency would be completely accurate.

Ms. Barker stated last week a citizen was chastised who brought to the Commission’s attention that the City had water issues, informing her that a water main break was responsible for this boil water alert and that water main breaks were completely unavoidable. She stated the water main break was only a part of the problem, and the loss of pressure was a result of the improper operation of a valve that popped the cap off an improperly abandoned main, and the leak should have been recognized much sooner. Ms. Barker reported in the recent Sanitary Survey Report, the Volusia County Health Department pointed out that the lab was using outdated chemicals which may result in inaccuracies when testing the water; they had low confidence in the chemical residual numbers being reported; operation of a system in violation of State statutes or rules may result in liability for damages and restoration and the imposition of civil fines; and they had the right to file an injunction against the City to cease all operations and activities of the water plant until the reporting and monitoring requirements were in compliance with the law. She noted this sounded very serious. Ms. Barker pointed out that when mistakes are made, it cost money. Ms. Barker reported Ormond Beach purchased four million gallons of water from Daytona Beach costing over \$14,000. She stated she believed it was a citizen’s civic duty to speak out on issues of great concern to everyone.

Ms. Barker stated she took exception to Mayor Costello’s comments of last week when he characterized her statements as inaccurate without presenting competing information. She noted Mr. Turner did not respond to her concerns in the Friday letter as Mayor Costello directed. Ms. Barker reported their were problems in the Police Department, and the citizens were promised an independent review which never occurred. She stated maintenance issues at the water and sewer departments have resulted in potential health and safety issues; there was a major debacle at the airport; and there was a substantial tax increase.

#### High-rises

Ms. Alice Jaeger, 447 Triton Road, questioned why Mayor Costello, Commissioner Gillooly, Commissioner Kelley, and Commissioner Partington were so determined to “high rise” the City’s skyline. She asked if the citizens were requesting these high rises. Ms. Jaeger objected to being threatened with acceptance of developers’ plans for Ormond Beach or the City would lose. She questioned what would be lost since the City already had access to the beach, and people were able to park at some approaches or on the west side of A1A. Ms. Jaeger stated she did not favor parking garages for the beach. She noted there were no beachfront parks with parking, showers, bathrooms, picnic tables, and amenities similar to other cities. Ms. Jaeger questioned why the City was not working to get a beachfront park for the citizens and forcing it to depend on the generosity of developers to provide a park. She stated more opportunities to build additional high rises would appear along Granada Boulevard, Halifax Drive, John Anderson Drive, or Riverside Drive. Ms. Jaeger reported Mayor Costello’s promise of no increase in density would not be kept because density would grow and the small town character would be lost forever. She advocated the skyline reach no higher than 75 feet, and the Commission demand the County Council to work with Ormond Beach to purchase land for a park before it was too late. Ms. Jaeger stated the thousands of people who signed a petition to vote on high rises should get the respect they deserve, noting their efforts should not be demeaned by comparisons to Las Vegas comedian’s pranks.

#### Interim Development Controls

Ms. Rita Press, 875 Wilmette Avenue, stated a person could own land in the County, annex into the City with a rural County designation for one house per acre, and when annexed into the City, the designation would be changed to Urban Residential. She stated that designation could be one house per acre, but the developer could seek a Planned Residential Development (PRD) designation for more density. Ms. Press explained that under a PRD system, the number of units permitted would be compiled by acre using various methods such as the holding capacity of the land, and holding capacity could be up to six units per acre. She expressed concern that there was a great deal of land in the western portion of Ormond Beach and land west of Hunter’s Ridge that was now in Volusia County but could annex into Ormond Beach and

cause urban sprawl all the way down SR40. Ms. Press urged this process be reviewed. She stated she was pleased Mr. Ervin was placing this on the Planning Board agenda, and she was hopeful the issue would come before the Commission.

City/County Relationship

Ms. Press stated while she supported Mayor Costello, she had disagreed with him on many occasions. She reported she witnessed Mayor Costello at the MPO and many other places, and she could attest that it was due to the time he spent, more than anyone else, that a partnership was created with the County that could only help the City.

Timer

Mayor Costello stated he would like to have a discussion about timing speakers. He reported he may have been mistaken when he advised Ms. Barker her five minutes was up and apologized if that was the case.

Commissioner Partington stated the timer that Mr. Brian Nave donated was now available. He reported he met with Mr. Ned Huhta, Information Technology Manager, for a demonstration of the timer this morning.

Item #5(A) Metropolitan Planning Organization and Item #5(B) Volusia Council of Governments

Mayor Costello stated the Metropolitan Planning Organization (MPO) and Volusia Council of Governments (VCOG) had not met since he last reported.

Item #5(C) – Water Authority of Volusia

Commissioner Kelley stated there would be a very important Water Authority of Volusia (WAV) meeting tomorrow at 8:30 a.m. He advised that the budget would require approval by 11 votes, but New Smyrna Beach, Daytona Beach, and another city were asking to withdraw from WAV. Commissioner Kelley noted if a budget could not be passed, WAV could be disbanded. He reported it was unfortunate everyone could not work together for the good of all. Commissioner Kelley advised the major impacts on the water supply would come from the Volusia County area.

Mayor Costello stated the Commission appreciated Commissioner Kelley's efforts on the City's behalf.

Item #6 - 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.

Commissioner Kent requested Item #6(D)) be pulled for discussion.

**Commissioner Partington moved, seconded by Commissioner Kelley, for approval of the Consent Agenda minus Item No. Item #6(D).**

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

Item #6(D) – Interconnects with Daytona Beach

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Item No. 6(D).**

Commissioner Kent asked Commissioner Kelley what he thought of this item if WAV should cease to exist.

Commissioner Kelley stated this item was for the City to receive a grant to pay for the interconnect with Daytona Beach, which was needed. He noted the funds had already been allocated, and this would ask for a Change Order on a project picked up by WAV. Commissioner Kelley reported with this grant the interconnect would cost 47% less.

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

Enclave at North Pointe Development Order

ORDINANCE NO. 2006-08

AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF CHAPTER 1, ARTICLE II, OF SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICT, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE A 25.13-ACRE PARCEL OF REAL PROPERTY FROM SR (SUBURBAN RESIDENTIAL) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED APPROXIMATELY ONE MILE NORTH OF AIRPORT ROAD ON THE EAST SIDE OF TYMBER CREEK ROAD, NORTH OF THE SOUTHERN PINES SUBDIVISION; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR “ENCLAVE AT NORTH POINTE” PLANNED RESIDENTIAL DEVELOPMENT (PRD); REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Michael Boucher, Chief Planner, explained this and the next item on the agenda were related in that the same applicant was involved, but they were separate proposals requiring separate public hearings. He advised they were applications for rezoning from Suburban Low Density Residential (SLDR) in the Comprehensive Plan with Suburban Residential (SR) zoning to Planned Residential Development (PRD). Mr. Boucher reported it was specifically contemplated in the Land Development Code and Comprehensive Plan that where lands were zoned SR, a higher density than one unit per acre would be allowed; but the landowner would need to go through a planned development process, which would include a holding capacity analysis. He explained to accomplish that analysis, the land would be studied to determine what the land would be physically capable of holding, and the design would be based on that determination. Mr. Boucher reported all of the environmental factors and proposed lot layouts would be reviewed and the designed based on these factors. He advised planners are professionally charged to consider the public interest; and this may not be what was popular, but it was tied to sustainable development that was spelled out in the Comprehensive Plan and Land Development Code. Mr. Boucher reported his responsibility was to review proposals individually on their compliance to that code and to bring a professional recommendation to the Commission after going to the Planning Board and conducting public hearings.

Mr. Boucher reported the “Enclave” project was for 35 homes on a 25.13 acre parcel located north of Airport Road on Tymber Creek Road immediately north of the Southern Pines subdivision. He stated the holding capacity identified this parcel was capable of holding 55 units, or 2.19 units per acre in density, while the actual proposal was for 35 units or a density of 1.39 units per acre. Mr. Boucher reported of the 25.13 acres, 11 acres would be developed for roads, lots, and stormwater ponds, with the remainder of the property in a natural or improved state. He advised the proposal met the wetland standards with a total of 7.49 acres of wetlands with an impact of 0.56 acres. Mr. Boucher pointed out County standards would allow impacting the wetlands and mitigating for that impact; however, in Ormond Beach certain classes of wetlands allow a limited impact, but for the most part the wetlands cannot be impacted. He noted the Comprehensive Plan and Land Development Code required 3,060 square feet of outdoor recreation in lieu of a pool or indoor recreation; however, this development would be providing in excess of 12,600 square feet in the form of a neighborhood park. Mr. Boucher stated the requirement was to provide 1,020 square feet of common open space and the developer was proposing to provide 4,356 square feet of open space. He advised the requirement was to maintain 2.23 acres in a natural state, and the project would be providing 3.79 acres in a natural state.

Mr. Boucher stated the Planning Department reviewed the application, recommending approval, and sent the project to the Planning Board where it was recommended for denial in a three to two vote on June 8. He stated the conditions for approval were for 35 units as stated; provision of the outdoor recreation space in lieu of the indoor recreation space; the applicant agreed to

construct a sidewalk on Tymber Creek Road to address the School Board's concerns; and billboards on the site would be removed prior to any development.

Mr. Jim Morris, 420 South Nova Road, Daytona Beach, speaking on behalf of the applicant, Edward J. Speno, stated the request had a thorough review from City staff. He requested the staff report be entered into the record as evidence. Mr. Morris stated a threshold provision the City wished to employ was that when someone wanted to develop property in the County, if it was adjacent and contiguous to the City, the property should annex into Ormond Beach to make it subject to Ormond Beach development review and meet Ormond Beach standards. He reported it was misleading to believe anyone would annex into Ormond Beach to obtain better benefits. Mr. Morris noted this project lies on Tymber Creek Road adjacent to I-95 with Ormond Crossings to the north and various developments that were occurring to the south on SR40 and with Breakaway Trails and Hunter's Ridge to the west. He pointed out the number of units was less than what the holding capacity analysis would grant, and it preserved Ormond Beach wetland rules that were more stringent than those in the County.

Mr. Morris explained in the Planning Board meeting much concern was noted regarding the traffic condition of Tymber Creek Road and Airport Road. He pointed out all but one of the Planning Board members believed this project met the requirements of the City codes. Mr. Morris advised the board was sitting in a quasi-judicial capacity, and a quasi-judicial process required that if the criteria was met, it should be approved. He explained this request was delayed for one month because of concerns regarding school loading capacity, and at the Planning Board meeting the School Facilities Planner testified to the board that she did not have an objection from the School Board's perspective and that Pathway's Elementary School had excess capacity.

Commissioner Kent stated he taught at Pathway's Elementary School, and they had portables.

Mr. Morris advised he was merely stating the testimony given at the meeting and reflected in the minutes. He stated staff indicated there was adequate capacity for water and sewer, but some members of the Planning Board had issues with that statement. Mr. Morris explained the final vote was three to two, and he believed two board members found the concern related to traffic and other issues was a broader policy concern. He noted whether or not a request meets criteria should be based on substantial, competent evidence, which means there was evidence in quantity and quality to support a conclusion. Mr. Morris noted there was some discussion about drainage, and this property was within the drainage basin of the Tomoka River and an Outstanding Florida Water (OFW), which was normally twice the standard drainage retention, and this project met those provisions. He reported after the Planning Board hearing, his client agreed to build a sidewalk on the eastern side of Airport Road to connect to the Southern Pine sidewalk system; and considering the next item on the agenda, he agreed to build a sidewalk on the corner of Leeway Trail for 600 feet on his and the City's property, if the City would agree. Mr. Morris explained Sadler's Run had a sewage system that was unable, at certain times, to convey the sewage from Sadler's Run into the force main along Tymber Creek Road; and staff requested his client increase the size of the wet well in his development, which would take the overflow until other corrective measures could be undertaken by the City.

Mr. Morris reported staff provided a copy of the MPO budget under consideration, and this report indicated the County would be moving up the timetable for completion of the Tymber Creek Road four-laning project. He provided the Commission with a copy of traffic impacts of the two proposed developments. Mr. Morris stated the project showed 32 peak hour trips, which was slightly less than 2% of the overall traffic; and the evening statistics were for 36 trips or 1.85% of the overall traffic, leaving a very small impact on the roadways. He noted from a concurrency standpoint, a part of what must be considered was to examine the timing of the improvements. Mr. Morris stated the improvements for Tymber Creek Road under the adopted plan would call for the improvements to be completed, the road four laned, and the intersection to be improved within a reasonable time related to the overall build out of these projects. He noted that while it was a pending proposal, it would have completion of the improvements in July 2008. Mr. Morris reported Mr. Speno prepared an itemized construction list, and he anticipated to have 15 homes ready for certificates of occupancy by May of 2008. He stated whether bonding or building the subdivision, there would be a time lag due to development approvals and the actual construction. Mr. Morris pointed out this project met the criteria and concerns addressed by the Planning Board, which would be addressed by the change in the CIP program for road construction. He explained there would be fewer homes completed when the road improvements would be completed. Mr. Morris reported his client was willing to have the City employ its own independent consulting engineer, at his expense, to review the drainage plans; but the contract for the work and payment would be the City's responsibility.

Mr. Rick Lovell, 354 Applegate Landing, stated Mr. Morris did a good job explained there were no options in the decision-making process, but he believed there were options. He reported staff indicated the growth rate for the City was less than 2% per year. Mr. Lovell stated he requested the total number of existing homes along the Airport Road/Tymber Creek Road corridor including Hunter's Ridge as well as the number of new homes approved in the same location, but staff was unable to provide the number of existing homes, but he estimated that number to be 2,860. He noted the list of approved new construction indicated 1,477, and he estimated that number to actually be 1,217 homes because some of those on the approved list had already been built. Mr. Lovell advised this would result in a 42½% growth rate, and could be from 34¾% to 48½%. He stated last month the Tymber Creek Road widening was not scheduled for completion until the middle or end of 2009; and if that had been updated, he requested it be verified. Mr. Lovell reported this project could have homes completed by May 2008, which was a full year ahead of the Tymber Creek Road completion date he had; and while this project would certainly help to resolve current and future growth issues, it did nothing to relieve traffic on Airport Road. He stated the Public Works Department was hoping to replace a sewer force main in conjunction with the County's widening project and may need to relocate a water main depending on the final design and plans for Tymber Creek Road. Mr. Lovell reported traffic was only one of the important issues concerning this project. He stated he believed future development should be contingent upon the City committing to construct an open fill park and playground at the property located at Airport Road and Leeway Trail. Mr. Lovell noted he accepted that the majority of the residential growth would occur on Airport Road, Tymber Creek Road, and SR40 west of I-95 and that it would be beneficial to the City; however, a 34% to 42% growth rate was excessive, and the growth on this corridor was outpacing the City's ability to provide sufficient infrastructure to existing and future residents. He stated until the infrastructure was budgeted and scheduled, this Commission should reject new development.

Mr. Fred Hoffman, 1728 Derbyshire Road, Holly Hill, stated he owned the land immediately north of this proposed site. He recommended the Commission review the Planning Board meeting minutes. Mr. Hoffman indicated they approved the application with certain stipulations such as the requirement to widen Tymber Creek Road, school rooms needed to be added, and increased water and/or sewer capacity was required. He noted when he purchased his property the minimum to build was five to ten acres. Mr. Hoffman stated the land was rezoned to Residential Estate Agriculture (REA) where it was permitted to build on one-acre sites. He stated this project had 35 homes on less than 21 acres minus the wetlands. Mr. Hoffman noted the houses would be very close, and this would change the character of the neighborhood by increasing the density.

Commissioner Partington stated he reviewed all of the available evidence, such as the staff report, Planning Board minutes, e-mails, conversations with Planning Board members, a meeting with Mr. Morris and Mr. Speno, the site plan submissions, personal knowledge of the area as being a long-time resident, and traveling the area five to ten times per week with his school-age children. He reported he considered some of the improvements this project would bring such as the sidewalk, sewage improvements, and the lack of clear-cutting as had occurred in other subdivisions, and he elected to would follow staff's recommendation. Commissioner Partington reported he supported the recommendations numbered one through four plus, and additional conditions to include an independent review and approval of that review by the Commission on the stormwater engineering by an independent engineer and strict adherence to the timeline that was submitted into evidence. He pointed out should the four-laning not be done by July 2008, the project would have to be delayed. Commissioner Partington pointed out from a purely legal perspective, this met concurrency requirements; however, these two projects would be the last project he could approve. He requested a discussion to change the planning process to allow for a conceptual approval process. Commissioner Partington advised this would avoid developers spending hundreds of thousands of dollars to come to the Commission with a project that would be denied, and the cost would be a great deal less to be informed the project would not be approved, which was more reasonable than allowing an applicant to spend such a large amount of money with no hope of approval. He noted developers have property rights as well as residents.

Commissioner Kent regarding his earlier comment, he noted Pathways was slated to acquire nine classrooms next year, but more would probably be needed. He apologized for being unable to meet with the applicant. Commissioner Kent stated the capacity had already been exceeded in this area. He noted he was empathetic to Mr. Speno, but he could not support the Marshside and Enclave projects until after the four lanes were completed. Commissioner Kent cautioned there could be delays in the completion of the road, and he would not want additional homes occupied until that project was completed.

Commissioner Gillooly reported she reviewed the information, listened to those who spoke, talked to members of the Planning Board, and drove the road. She stated she found this issue to be many faceted. Commissioner Gillooly noted a developer followed the process, and she found some additions the developer was willing to make were commendable regarding the aesthetics. She stated Mr. Morris referred to the legalities, and the staff report showed concurrency; but she found a contradiction where a memorandum prepared by Mr. Clay Ervin, Planning Director, referred to the fact that the City had the infrastructure, but later in the packet, Mr. Ervin cited issues with water and traffic. Commissioner Gillooly reported at the workshop prior to this meeting on capital improvements projects an issue mentioned was the force water main, and the report indicated the water main on Airport Road needed to be improved to meet current and future needs. She pointed out that there was an incredible amount of work to do to bring a project to the City, and money must be spent; but the process called for staff review and then Planning Board review, and it was not the job of the Planning Board to rubberstamp staff's recommendations. Commissioner Gillooly stated the Planning Board was to add their own observations. She noted what concerned her about the report was that staff seemed to disregarded the Planning Board in the report.

Commissioner Gillooly stated the schools have more traffic because there had been more development. She reported Mr. Morris advised the issue was delayed going before the Planning Board for a month because of the school concurrency issue, but she had understood that Mr. Morris asked for the delay on behalf of his client.

Mr. Morris stated he requested the delay because he was advised the chairman wanted to have an inquiry regarding issues of concurrency; and in response to that request, he asked for the delay as a matter of courtesy. He pointed out Ms. Morrissey went to the board hearing and indicated that the interpretation that she saw in the request was that there would be no increase in the density, and from a school board perspective, there was no an objection. Mr. Morris advised there was a discussion regarding the number of classrooms.

Commissioner Gillooly pointed out the delay was not due to staff or the Planning Board. She reported Ms. Morrissey's letter indicated it was her understanding that the two projects would not constitute an increase in residential densities; however, there would be an increase in residential densities.

Mr. Morris indicated there would not be an increase in residential densities because the project would have less density than the holding capacity. He explained the overall goals and objectives of the PRD process was to allow smaller lots sizes that may be on a larger tract of land for the purposes of environmental preservation. Mr. Morris noted a developer could plat and fill wetland in the County, but in Ormond Beach this would not be permitted. He reported a balance had been struck in the ordinance where the City would allow, through the PRD process, lots of less than one acre providing the developer did other things such as preserve the flood plain and wetland corridors. Mr. Morris noted there was often a difference between true yield and computed density; but whenever anyone discussed density, what they were normally referring to was gross density.

Commissioner Gillooly stated that Ms. Morrissey's job was not only to think about the classroom, but the importance of the outside of schools and the safety a sidewalk could provide the children. She reported she still had concerns with the high amount of traffic on the roads. Commissioner Gillooly noted the timeline Mr. Morris presented would alleviate some of the problems mentioned at the Planning Board meeting; however, Mr. Speno could control most of the items on the list.

Mr. Morris assured Commissioner Gillooly that Mr. Speno could not control the items on the list.

Commissioner Gillooly pointed out Mr. Speno could not control how quickly the four-lane highway would be built. She pointed out many issues factor in, and unforeseen incidents could occur that could delay the project. Commissioner Gillooly stated her job in reviewing the conditions for approval was to determine if the proposed development conformed to the standards and requirements of the code and would not create undue crowding beyond the conditions normally permitted in the zoning district or adversely affect the public health, safety, welfare, or quality of life. She stated she believed that with the current infrastructure, this project would have an adverse impact. Commissioner Gillooly noted she was tasked to look at the issue from every citizen's point of view. She explained if a project had already gone through the process to the Planning Board, the code would allow for the developer to hold up a project for up to a maximum of one year before it would have to come to the Commission for a vote. Commissioner Gillooly noted it was uncertain the issues could be corrected within that timeframe, but the Commission may have a clearer understanding at that time. She reported the City could consider a temporary halt to development considering certain factors are present,

such as it must be contained in a specific area with a specific measurable and correctable problem; a plan of action would need to be in place; and a time certain would have to be known as to when those problems would be corrected. Commissioner Gillooly advised she understood totally that property owners had a right to develop their property within the confines of the zoning and codes that are in force in this area, but she must protect Ormond Beach; and she stated there are serious concerns with this project. She expressed concern that the Planning Director in one memo indicated this project passed all concurrency and a few pages later that it did not. Commissioner Gillooly reported she mentioned the holding issue so Mr. Speno would not lose his investment, because it could be reviewed at a later date; however, she could not support this project at this moment.

Mr. Randall Hayes, City Attorney, stated Commissioner Gillooly referenced a staff report that was not a part of the record for this proceeding that would be addressed later on the agenda. He requested that report be included in the record for this item.

Mr. Boucher noted that report dealt wholly with projects occurring outside of the City that were straining the capacity inside of Ormond Beach.

Commissioner Kelley questioned what the vote would have been if the two Planning Board members who were absent would have been able to hear the issue and cast a vote. He stated he considered this to be a nice project. Commissioner Kelley reported it was stated that the expanded water and sewer lines should relieve some of the problem at Sadler's Run.

Ms. Judy Sloane, Public Works Director, stated the City was constructing an additional force main on Tymber Creek Road, and it was currently under design and already budgeted, but there were no water main improvements anticipated. She noted a wet well would be constructed at Sadler's run to resolve the interim problems; but the longer term solution was the force main on Tymber Creek Road, which would be done before the widening of the road was completed.

Commissioner Kelley stated the offer to allow the excess capacity from Sadler's Run to this development would not be very important.

Ms. Sloane explained that the benefit would be that by doing the additional wet well, this new development's gravity system would allow additional storage, enabling the City to pump at off-peak times. She noted when the force main was in place, the City would not need the additional wet well at this development to solve the Sadler's Run problem.

Commissioner Kelley summarized that the additional force main would not necessitate the additional storage capacity, and the force main would be completed before the widening of the Tymber Creek Road. He stated he did not have a problem with the water issue, but that when I-95 would be widened, barriers would be requested. Commissioner Kelley noted he hoped people could be made aware of this when they purchase property next to an interstate. He stated the impact fees for schools for the two projects would produce \$560,000 and over a million dollars in impact fees. Commissioner Kelley pointed out traffic was already a problem. He stated the City could not have additional development in that area because the road can not handle the traffic. Commissioner Kelley pointed out this required two public hearings, and if the timeframe could be added and it be brought back without being considered a substantial deviation, he could consider approval, but only if the project was not done before the road was widened.

Mr. Hayes offered his assistance with wording if the Commission wanted to make a motion with conditions.

Mayor Costello reported he spoke to and e-mailed the developer, Planning Board members, and residents. He pointed out he asked for the interim development control item to be placed on this agenda because he would approve no more new residential development in the Airport Road/Tymber Creek Road area, but anything already permitted and commercial projects must be allowed. Mayor Costello advised he supported this project because, until the conceptual approval process Commissioner Partington recommended could be developed, he was not comfortable with the process allowing applicants to go through the entire process only to be denied at the end. He clarified that the staff recommended approval of this project, but the Planning Board actually denied the project in a three to two vote. Mayor Costello noted regarding the character of the neighborhood, that Durance Acres to the north was rural and had large lots, but immediately across the street there were manufactured mobile homes on small lots, making the area a blend or hybrid of different characters. He explained this would cause a 5% increase in traffic at peak hours; and he agreed 5% was too much. Mayor Costello stated that had the project not already been started, he would not support it, but Ormond Beach staff, because of Ormond Beach's regulations, told the developer there was adequate capacity;

therefore, he believed the City must honor staff's recommendation. He stated the Commission was basically telling anyone new not to bring any new residential development projects because they would not be approved. Mayor Costello reported he did not believe the road would be done even though the MPO moved up the schedule and would fund it earlier than originally anticipated. He stated he was comfortable approving a third of the homes to be built by December 2008 and a third by December 2009, noting in that way the developer would not have to rely on the completion of the road. Mayor Costello stated the independent review should not be subject to the Commission, noting that he preferred staff to accept the additional engineering plans. He reported he felt there was a sincere concern regarding drainage and that the applicant was were willing to pay to have an independent source verify the plan was viable.

Commissioner Kent explained his position as to why he could not approve another development until the road was completed. He explained he worked in the area and experienced the problems daily. He stated the improvements Mr. Speno was making carried some weight; but he was convinced the road could not handle the traffic that existed now, and he could not justify approval until the road was completed. Commissioner Kent noted after the completion of the road, he could justify a vote of approval. He reported he disagreed with a previous speaker in that he believed the Tymber Creek Road improvements would help the situation at Airport Road.

Mayor Costello stated while he agreed with Commissioner Kent's statement, he pointed out the intersection improvements would also help, and they would be completed very soon.

Mr. Hayes noted, procedurally, there should have been a motion before this discussion; however, if the Commission was now ready to make a motion, he recommended a motion to approve as recommended by staff, obtain a second to that motion, and then work through amendments.

Mr. Boucher stated staff did a conceptual review and turned down many projects before they ever go to the Planning Board and City Commission. He reported the procedure was to send a plan to the commenting agencies; comments are made and sent back to the applicant; and in many cases the applicant may decide at that point the project may not be feasible, and they drop the project. Mr. Boucher reported the next step for this applicant would be to do the detailed engineering drawings, and staff could incorporate the peer review in this process so it would not come to the Commission until after the peer review was completed.

Mr. Morris agreed the process was very important, which was to hear the evidence, hear the testimony from all sides, and then the Commission render an opinion, as opposed to rendering an opinion and then hearing the testimony. He noted his contention was that when the Commission had substantial, competent evidence, the decision should be based on that evidence.

Commissioner Partington stated for part of his decision he was drawing from his experience as a prosecutor when he handled a case between two property owners on a road in this area. He informed Mr. Boucher that his concept of a conceptual review and that of someone who had to pay \$500,000 for a review may differ greatly, but the Commission needed to discuss the matter.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2006-08 with the staff recommendations and conditions, on first reading, as read by title only.**

Mr. Hayes summarized that the applicant presented a proposed timeline that may be helpful. He reported helpful information to alleviate some concerns were for the completion of 15 homes by May 1, 2008. He summarized the conditions as follows: strict adherence to the timeline; if the four-laning of Tymber Creek Road was not completed by that timeline, no further construction above 15 units shall occur until the improvements were met; and an independent peer review and approval by the Site Plan Review Committee of stormwater, traffic concurrency, and drainage.

**Commissioner Partington moved, seconded by Commissioner Kelley, to amend the motion to add the following conditions: strict adherence to the timeline; if the four-laning to Tymber Creek Road was not completed by that timeline, no further construction above 15 units shall occur until the improvements were met; and an independent peer review and approval by the Site Plan Review Committee of stormwater, traffic concurrency, and drainage would be completed.**

Commissioner Kelley noted the timeline referenced both projects, which may cause a problem.

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Mr. Hayes clarified this would be only for the Enclave project.

Commissioner Gillooly reported the information provided indicated the projection was for both projects.

Commissioner Partington stipulated he had planned to allow no more than 15 homes for each project.

Commissioner Kelley clarified these homes could not receive Certificates of Occupancy any earlier than May 1, 2008.

Mr. Hayes clarified the timeline indicated completion by May 1.

Mayor Costello stated the amendment was for no more than 15 homes to be completed before May 1, 2008.

Commissioner Gillooly stated the City would not issue a Certificate of Occupancy until May 1; whereby, Commissioner Partington reported that was his intent.

Commissioner Kelley stated this would involve a three-year home construction averaging 33 homes a year, which was not a great deal when considering 67% would not be completed until the road was widened. He noted the Marshland project adjoined City-owned property at Leeway Trail and Airport Road.

Mr. Hayes stated, procedurally, the two projects should not be mixed.

Mayor Costello noted Commissioner Kelley's comments may have a bearing on this project as well as the next.

Mr. Hayes reported this was a public hearing for the Enclave project unless the applicant would give permission for the two projects to be discussed together.

Mr. Morris reported his client had no objection to addressing both items.

Commissioner Kelley stated if the developer was willing to allocate 16,000 square feet of recreational space for the two projects, he questioned if the developer could clear out one acre to accomplish open space adjoining their project, to serve their subdivision as well as the City.

Mayor Costello requested this be discussed under the "Marshside" subdivision since it was contiguous to City-owned land and this project was not.

Commissioner Gillooly asked if the motion would be legally binding. She noted for a development of this size, there would probably be construction in different phases. Commissioner Gillooly expressed concern the applicant may come back to the Commission stating they have all the money invested and would not be able to continue should the roadway timeline not be met, and she did not want any legal grounds for a conflict.

Mr. Hayes stated this Commission had the authority to impose reasonable conditions based on all of the testimony and evidence presented. He noted the Commission may allow a limited amount of development to occur during the time improvements to the infrastructure would be made and on condition that no Certificates of Occupancy may be issued until such time as those improvements would be completed. Mr. Hayes reported this would be enforceable and certainly a reasonable condition to impose as part of a Development Order; and Development Orders, once issued, are enforceable by Code Enforcement, affirmative injunctive relief, and rescinding the Development Order by the Commission.

Commissioner Kent stated he wanted to believe the timeline, but he could not approve one more home being built until the road was completed.

Call Vote on the Amendment:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	no
	Commissioner Kent	no
Carried.	Mayor Costello	yes

Commissioner Gillooly requested the sidewalk be required.

Mr. Hayes reported the sidewalk was included in the motion.

Call Vote to the Underlying Motion:	Commissioner Partington	yes
	Commissioner Gillooly	no
	Commissioner Kent	no
	Commissioner Kelley	yes
Carried.	Mayor Costello	yes

**Hearing no objection, Mayor Costello closed the public hearing on Item #7(A).**

Mayor Costello called a break at 9:50 p.m. He reconvened the meeting at 9:55 p.m.

Item #7(B) – Marshside at Groover Branch Development Order

ORDINANCE NO. 2006-09  
 AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICT, OF CHAPTER 1, ARTICLE II, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE A 46.24-ACRE PARCEL OF REAL PROPERTY FROM SR (SUBURBAN RESIDENTIAL) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED AT THE NORTHWEST CORNER OF AIRPORT ROAD AND TYMBER CREEK ROAD; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR “MARSHSIDE AT GROOVER BRANCH” PLANNED RESIDENTIAL DEVELOPMENT (PRD); REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated that anything that was placed in the public record on the “Enclave” project should be included in this item, and anything stated in that item relating to this item would not need to be repeated.

Mr. Hayes reported the applicant acknowledged this in the affirmative.

Mr. Boucher stated this project proposed 65 homes on a 42.64 acre site. He reported the holding capacity indicated 158 units or a density of 3 units per acre with the proposal at 65 units or 1.47 units per acre. Mr. Boucher reported there were 12.2 acres of total wetlands with an impact on 1.45 acres to be mitigated at a one-to-one ratio. He noted 12% of the property was in the floodplain, but there would be no development within the floodplain, while 20% fill would be allowed. Mr. Boucher reported 20 acres of the site would be developed for roads, ponds, and lots with the remainder of the property remaining in a natural, preserved, or improved condition. He noted 2,040 square feet of indoor recreation space was required and would be waived to provide additional outdoor recreation space. Mr. Boucher stated the total requirement would be 61.20 square feet, and this would be exceeded by providing 78.30 square feet in a neighborhood park. He explained there was a requirement for 2,040 square feet of common open space, but that was being doubled by providing 4,404 square feet, and 20% of the property, 4.09 acres, was required to stay in a natural state while the applicant would provide 4.66 acres. Mr. Boucher reported the tests for concurrency have been met. He explained staff recommended approval with four conditions as follows: 1) 68 units; 2) provision of the indoor recreational space was waived in lieu of providing the outdoor recreational space; 3) construction of the sidewalk; and 4) a billboard on the property would be removed. Mr. Boucher advised when the applicant did not propose to provide indoor recreation space, they would not be eligible to apply for recreation impact fee credits, and that money could be used for the adjacent City facilities.

Mr. Morris noted all discussion was incorporated by reference. He noted in the previous item Commissioner Kelley questioned the adjacent City property. Mr. Morris asked for clarification of the question at this time.

Commissioner Kelley stated the City had property adjacent to this project, and the developer was anticipating providing an open space area of approximately one acre in the future. He recommended meeting with staff before the next meeting to discuss a concept of what could be incorporated in the area with the possibility of using recreation impact fees.

Mr. Morris offered to do as Commissioner Kelley requested, but he asked that should there be a motion to approve, to avoid a substantive change, that there be some reference in the motion to include this and to ask the applicant to work with staff to fill in the details.

Mr. Edward Speno, 5454 Palm Lake Circle, Orlando, the applicant, stated for two years he was told this project met concurrency standards, and now the Commission seemed to be “holding him hostage,” which he considered was not fair.

Mr. Robert McCutcheon, 425 Leeway Trail, advised he owned lot next to the City and Mr. Speno’s property. He stated his biggest concern was that the water from the City property and the water from this development could cause a flooding problem. Mr. McCutcheon questioned if the City would address this or if Mr. Speno would address this issue. He stated the original plan called for 115 homes, and the proposal was for 68 on this property; however, Mr. Speno also owned the adjoining property, which would probably be slated for future development. Mr. McCutcheon reported Mr. Speno would probably want to develop this land in the next few years, which was his right; but he requested Mr. Speno clarify his intentions for that property. He questioned why two entrances and exits were needed to come off Airport Road.

Mayor Costello stated Mr. McCutcheon was the reason he wanted to have an outside engineering firm assure the Commission the stormwater drainage plan would work properly. He noted the flooding issues Mr. McCutcheon was experiencing would continue, but it would not have any bearing on this development in that this development was required not to add any water to Mr. McCutcheon’s property.

Mr. Boucher stated this property was designed with the site topography and the natural features in mind. He noted the City required two accesses for public safety purposes. Mr. Boucher advised this development must leave the site better than what currently existed regarding drainage.

Ms. Aiden Magee, 352 Golf Boulevard, Daytona Beach, representing Volusia/Flagler Environmental Action Committee, stated the proposed development would have a detrimental affect on the natural environment in the area and would impact the Volusia Natural Resource Management Area, which was in the immediate vicinity of the development. He urged the Commission to reject this proposal and demonstrate the City’s commitment in serving the natural environment by directing that this land retain the land use and density it was assigned before it was annexed into Ormond Beach at one unit per acre.

Mr. Magee stated to advocate that the City supported the flawed doctrine of the Smart Growth Committee was not acceptable because smart growth had many definitions applicable to many circumstances. He noted smart growth only supported land developers who want to exploit the natural resources and cities such as Ormond Beach who are intent upon expanding their service lines into rural Volusia County.

Mr. Magee stated this development would have impacts by placing increased pressure on the road system. He reported a meeting was recently held by concerned residents who were against this development since it posed a great danger to those using the road system. Mr. Magee noted Mayor Costello was present at that meeting and experienced the frustration of the people as a result of the Commission’s stance pertaining to this development. He stated a \$60 million bond was issued for road development on Tymber Creek Road, and he believed the developers who were causing the unprecedented use of this road should pay for improvements. Mr. Magee stated the school was already overcrowded, and no provision for the added influx of students was made as was required by concurrency. He reported the developers should pay for the total impact fees and not the taxpayers. Mr. Magee stated this project would destroy the natural wetlands, and no study was undertaken to identify the number of gopher tortoises residing in the area and how dependant they were upon their natural environment for their survival. He pointed out there were other threatened species on this property that would be exterminated due to unprecedented development. Mr. Magee noted no effort had been directed to preserve this rural environment by the City Commission, and it made no commitment to the residents of this area to preserve their way of life. He stated growth was a choice by the electorate and not inevitable. Mr. Magee noted growth was costly to the natural environment and the taxpayers of Volusia County.

Mayor Costello stated he was not certain if the road was being paid for by bonded gas tax or impact fee money, but he was certain it was not being paid for by property tax money.

Ms. Rita Press, 875 Wilmette Avenue, stated the Planning Board had a four hour meeting with only two items on the agenda, and all of her and other people’s comments were on the record for review. She stated the area to the west had City and County zoning. Ms. Press questioned

how many projects were in the pipeline and how many projects would be coming in from the County. She pointed out Ormond Beach could have a project and the County could have another project across the road, so the Commission should have a policy on how this should be handled.

Mayor Costello stated this would be discussed under Item #9(D).

Commissioner Gillooly stated she was looking at this project from a perspective of the rights of the landowner and the rights of people. She pointed out the code allowed an applicant a timeframe to keep a project in place before Commission action was necessary, which could help the Commission be assured the improvements would be in place. Commissioner Gillooly stated upon researching this project, the first thing that was glaringly obvious was that the Planning staff showed there was concurrency, but there was a memo later in the packet that dealt with the interim development controls that discounted that. She noted Mr. Boucher dismissed the point she made earlier by stating Mr. Ervin's memo related to concurrency outside of the City; however, Mr. Boucher was referring to the resolution in Item #8(B), discussing the policy and direction of the City Commission to staff regarding transportation concurrency, and the item she spoke of was the Discussion Item #9(D), which clearly talked about issues of water and traffic concerns with City development projects.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2006-09, on first reading, as recommended by staff with the four conditions indicated, as read by title only.**

Commissioner Kelley asked if the same amendments could be applied to this project that were in the previous item.

Mr. Hayes stated the same amendment could be incorporate by reference if the applicant had no objection; whereby, Mr. Morris stated he had no objection.

Mayor Costello clarified the Commission now had the motion with the incorporated amendments that were included in the previous item.

Commissioner Kelley requested adding a stipulation for the developer to work with staff to incorporate some type of open space when they install the sidewalks, possibly using the recreation impact fees.

Mayor Costello stated the impact fees generated from this project could be used on the City-owned property adjacent to this project, and the Commission encouraged staff to work with the developer to accomplish this goal.

Mr. Hayes stated staff needed to evaluate the ability to achieve this since there were a number of factors that needed to be considered.

Mr. Boucher stated his chief concern was that the impact fees would not be paid until the issuance of the Certificate of Occupancy, but the Commission could approve the capital projects to use impact fees for this use and reimburse the fund.

Mr. Turner clarified Commissioner Kelley wanted land made available for a passive park, and staff could meet with the developer to designate some amount of land that could be cleared for a passive park. He reported this could be brought back as a part of the second reading. Mr. Turner noted this would not involve the impact fees.

Mayor Costello reported if the applicant would agree to this, nothing would be needed in the motion tonight.

Mr. Morris stated he would agree to whatever method the Commission requested in dealing with this issue.

Mayor Costello stated he would entertain a motion to request the developer clear roughly one acre of land on the City-owned property adjacent to this project for public use.

Mr. Hayes stated it would be difficult to do this without knowing exactly what area was to be cleared, and planning would need more concrete evaluation before making this a part of the motion. He noted whether or not this would be material which would require a third hearing would be something that would have to be considered; and while it would probably not need the extra hearing, he could not be certain until some of the details were know.

Mayor Costello asked if Commissioner Kelley could make a motion to incorporate the clearing with the applicant and staff working on the details prior to the second reading; whereby, Mr. Hayes reported he would not be comfortable with that from a legal perspective, but staff would try to make it work if the Commission wished to make that part of the motion.

Mr. Boucher noted there may be issues such as wetlands or environmental concerns involved.

Commissioner Kelley stated he believed this could be done very simply, and the applicant had agreed to work with the City for a clearing of open space, to be determined by the City if workable.

Mr. Turner asked if the City Attorney was concerned about the specificity of the location.

Mr. Hayes stated he was concerned about the specificity of the location and whether or not it would be a material change. He advised there was too much subjectivity in the condition.

Mayor Costello recommended making this a condition tonight and at the second reading work on more specificity.

Commissioner Kelley stated the applicant agreed to work with the City staff to clear approximately one acre, to be determined by City staff, on the City-owned property adjacent to this project.

Mayor Costello called for a second to the motion.

Commissioner Partington stated he did not believe the Commission dealt with the motion to amend that he made earlier.

Mayor Costello noted Commissioner Partington's amendments were incorporated into the main motion and this needed to be separate.

Mr. Hayes advised there was a motion and second on the underlying motion and the same amendments previously made on the previous item.

Mayor Costello stated the amendments were incorporated into the main motion; whereby, Mr. Hayes stated Mayor Costello could handle the motion in that manner.

Mayor Costello recommended voting on each item separately. He stated the Commission would now vote on the timeline, sidewalks, and engineering second opinion as a separate amendment.

**Commissioner Partington moved, seconded by Commissioner Kelley, to incorporate Commissioner Kelley's request into his amendment.**

Mayor Costello clarified the Commission was now only voting on the four items in the motion to amend to include the timeline, sidewalks, engineering second opinion, and land clearing.

Call Vote on the Amendment:	Commissioner Gillooly	no
	Commissioner Kent	no
	Commissioner Kelley	yes
	Commissioner Partington	yes
Carried.	Mayor Costello	yes

Call Vote on the Main Motion as Amended:	Commissioner Kent	no
	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	no
Carried.	Mayor Costello	yes

**Hearing no objection, Mayor Costello closed the public hearing on Item #7(B).**

Item #8(A) – SAFER Grant Funding for Two Additional Firefighter Positions

RESOLUTION NO. 2006-134  
A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF HOMELAND SECURITY UNDER THE STAFFING ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT

PROGRAM FOR ASSISTANCE RELATIVE TO FUNDING TWO  
ADDITIONAL FIREFIGHTER POSITIONS; AUTHORIZING THE  
EXECUTION OF ALL DOCUMENTS INCIDENTAL THERETO;  
AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to approve Resolution No. 2006-134, as read by title only.**

Mr. Phillip Maroney, 117 Atwood Lane, stated at the last meeting Chief Baker asked for an additional firefighter, and the Commission was told it would help with the overtime issue. He reported with these two new firefighters, the City would not need to pay for the first few years; however, public money was being used to subsidize the cost. Mr. Maroney noted this overtime issue was despite the City having 53 full-time, trained firefighters. He stated the statistics show there was a reduction in the number of calls from 2003 at 6,078 to 4,983 in 2005, and of those calls in 2005 there were 2.3% related to a fire with 1.2% for structural fires. Mr. Maroney reported the "good intent" calls were 21%, which was increased 181% even though there was an 18% decrease in the total number of calls from 2003 to 2005. He questioned the value of "good intent" calls that was defensible related to its portion of overtime. Mr. Maroney pointed out there were 94 calls per firefighter per year with 1.8 calls per week, and one-fifth were good intent calls. He stated number eight on the grant request asked if the request for hiring firefighters was based on risk analysis and/or a staffing needs analysis, and the City answered it was not. Mr. Maroney expressed concern regarding making recommendations to add full-time employees when no analysis was done, particularly since the Commission approved an additional firefighter at the prior meeting. He recommended this request be strongly scrutinized.

Fire Chief Barry Baker stated in 2003 Ormond Beach had an agreement with Volusia County to staff two fire stations which no longer existed, which would explain the decrease in call volume due to the smaller service area. He reported the decision to seek this grant was strictly fiscal. Chief Baker advised he was charged with meeting the Commission's direction to reduce overtime, and a number of issues were examined, among which was to look very aggressively at the cause of overtime and how to reduce it long-term. He noted there was an average of 2.3 people off, in addition to the normally scheduled leave, costing overtime, and there had been as much as five people off at one time. Chief Baker explained last week's vote referenced a situation where a firefighter was deployed to the military, which was an anomaly and was not expected to recur. He stated this position was in addition to the analysis where the 2.3 average was determined. Chief Baker pointed out that the position last week would be released through attrition. He advised this request was to replace people costing overtime, and it was tied to the SAFER Act. Chief Baker noted the City would pay for a portion of that overtime and in the fifth year would pay the full cost. He stressed that even without the grant, this would be a savings, so the City could not loose on this, especially since the City may be heading into the next 10 years with a significant hurricane phenomena to contend with.

Mayor Costello reported the City would save \$150,000 over five years without the grant and \$360,000 with the grant. He pointed out there was mandatory overtime with the 24 hours on and 48 hours off shifts.

Chief Baker advised firefighters work 56 hours per week. He noted the Department of Labor determined that firefighters can only work safely 53 hours per week, and anything in addition had to be paid in overtime. Chief Baker reported under the City's rules for calculation it seemed to be paying three hours at time and one-half; therefore, rather than 2,912 annual hours there would be 2,756 annual hours and the difference was paid at time and one-half. He noted it was actually half time, but the calculation looked like time and one-half.

Commissioner Kelley stated mandatory overtime was \$360,000 per year.

Chief Baker reported he did not believe the mandatory overtime was that high.

Mr. Turner noted he thought the number was closer to \$200,000, but staff would have to provide the actual figure at a later time.

Mayor Costello reiterated that whatever the figure there was a significant amount mandated per the Department of Labor. He noted his point was that all of the overtime could not be cut, and Chief Baker was indicating that with 2.3 firefighters out at any particular time, with these additional firefighters Chief Baker could put someone into those slots at regular time rather than at time and one-half which would save money. Mayor Costello noted there were many issues such as replacing people with a certain rank that were difficult to understand. He advised he would support this even though he had been conservative regarding staffing, since when a new

position was approved, it was rarely lost. Mayor Costello pointed out Ormond Beach had less people out per shift than the national benchmark.

Chief Baker stated the national benchmark was 20% of the on-duty staff or 3 people for Ormond Beach.

Mayor Costello noted he did not believe Ormond Beach had a reasonable expectation the 2.3 figure would diminish significantly considering the national benchmark.

Chief Baker explained “good intent” calls were incidents such as when someone smelled smoke in a high rise, the Fire Department was called, but nothing was found; someone called when they see smoke on the roof of a house, but it was only the sun burning dew off the roof; and other incidents when people call and the Fire Department would check the situation, but no actual fires are detected. He reported these estimates he provided were conservative estimates, and the City may save even more because it was not certain if the federal government would pay for the additional Fair Labor Standards Act (FLSA) time.

Commissioner Gillooly noted Chief Baker had stated that the decline in call volume was directly related to the fact the service area shrunk. She asked if the staff also decreased.

Chief Baker reported staff went from 75 to 57 people.

Commissioner Gillooly asked if the built-in overtime the City was obligation to pay was in addition to the 2.3 people out each shift.

Chief Baker explained the 2.3 people may be out due to illness, injury, or possibly workers compensation type claims.

Commissioner Gillooly asked if the City could control the fact that if these staff members were approved there may still be an increase in overtime.

Chief Baker reported he was seeking all reasonable ways to limit overtime. He noted he was comfortable the costs would be covered.

Commissioner Gillooly questioned why the City was not looking at all of the positions at one time rather than one employee last week and two this week. She asked if it would have been feasible to fill these two positions and not the one last week, requiring only two new employees rather than three new employees.

Chief Baker reported the concern was tying these two employees to the SAFER Act and how that would be received by the Department of Homeland Security. He noted this may diminish the City’s chance to obtain grants because this was strictly about fiscal issues that could be directly tied to long-term 2.3 people being off at any given time when the issue with the military leave was terminal in that at some point that employee would return and the City would have to release that position.

Commissioner Gillooly recommended using that military leave position as one of these and have a net gain of two rather than three new employees.

Chief Baker stated that could be done.

Mr. Turner noted staff was trying to resolve two situations. He explained one issue was overtime necessitated by a long-term absence of a firefighter. Mr. Turner reported the other issue was that the City had this opportunity to reduce an average of annualized overtime that occurred on the portion of overtime that could be impacted. He stated overtime could be reduced by having more firefighters on duty to fill those overtime slots. Mr. Turner explained if the City only hired the two firefighters there would not be the same amount of savings because in addition to the overtime shown there would be additional the overtime created by the firefighter serving in the military.

Commissioner Gillooly stated the firefighter who was deployed was in a supervisory position. She asked if the City could fill this supervisory position amongst the current employees without using overtime.

Chief Baker reported he could not fill that position without overtime. He stated the SAFER Act was specifically designed to augment the firefighting force and did not speak to rank, but the regulations talk of the base pay of an entry-level firefighter, so he did not want to confuse the issue with a supervisory position. Chief Baker reported the union contract required a

supervisor, which would be accomplished by an acting position rather than by a promotion. He advised he was recommending a total of three firefighters to obtain the maximum benefit.

Commissioner Gillooly asked how many supervisors were needed per firefighter.

Chief Baker reported typically there were three to seven, but each unit of three required a supervisor.

Commissioner Gillooly summarized that Chief Baker was indicating to not have that position would impede what could be done; whereby, Chief Baker reported it would also violate the union contract.

Commissioner Partington stated he was surprised a starting firefighter earned \$38,000.

Chief Baker noted that would include the FLSA time.

Commissioner Partington noted with one year of fire school a firefighter could make \$38,000, while with seven to nine years of education at law school the person would make only \$37,000. He pointed out this did not include the benefits the firefighter would receive.

Chief Baker explained prior to 1986 the Fair Labor Standards Act only applied to private entities, and after 1986 it related to public entities. He stated the Department of Labor mandated 53 hours for firefighters and 48 hours for police officers, and anything beyond that required additional payment. Chief Baker stated the employees work 56 hours, but the half time difference had to be paid for the extra three hours.

Commissioner Partington questioned why the City could not have 53-hour shifts.

Chief Baker noted some departments run 53-hour shifts, but it required additional staff.

Commissioner Partington stated he would like to see a cost analysis for the 53-hour shift versus what the City paid in overtime. He noted, statistically, a police officer's job was a far more dangerous job than a firefighters' job.

Mayor Costello noted he would consider Commissioner Partington's proposal, but he requested the discussion center on approving or denying the request for two firefighters.

Commissioner Partington reported he would not support this tonight but may after receiving the abovementioned analysis.

Commissioner Kelley reported the Commission was in this position because of past Commissions' decisions, and it must be dealt with.

Chief Baker stated there were 14 people plus a Division Chief on any shift. He noted there were two extra people assigned to that shift that are normally on leave.

Commissioner Kelley noted 15% of the employees never show up every shift, and overtime must be paid to cover. He noted a business could not run if 15% also would not show up. Commissioner Kelley stated he was not being critical of Chief Baker, but he was critical of the situation that this was allowed to happen, especially since they work 24 hours and are off 48 hours. He reported it would reduce the overall cost with the SAFER grant. Commissioner Kelley noted his approval was subject to obtaining the grant.

Chief Baker noted the proposal was that the firefighters would be hired if the City received the grant or not.

Mayor Costello stated the report indicated that without the grant the City would save \$157,000 over five years and with the grant the City would save \$364,000.

Commissioner Kent stated Mayor Costello's comment was why he could support this because it saved money either way, but he agreed with Commissioner Kelley and Commissioner Partington regarding firefighter's salaries. He noted the unions, particularly the fire union, have done an excellent job procuring the large salaries for their representatives. Commissioner Kent stated the salaries should be distributed more evenly throughout the entire workforce.

Commissioner Gillooly stated she could support this if there was a way to get the work done without overtime or hiring another position.

Chief Baker stated there was one supervisor per unit per shift. He stated if a captain would take off, it would be unlikely another captain would fill that position. Chief Baker stated this would follow suit to the lowest level, and a person being hired would be hired at the lowest level. He explained he tried to his best ability to comply with reasonable and national standards, but Ormond Beach did not because they are short on staffing to meet the national standards. Chief Baker pointed Florida typically did not have a large amount of firefighters. He noted working with less than he requested would reduce the quality of service being provided, and professionally, he could not make that recommendation.

Mr. Turner noted when the overtime expanded and a number of individuals retired a few years ago, the City was greatly impacted by the contract. He reported the new union leadership had worked hard with Chief Baker to reduce the overtime numbers.

Mayor Costello stated the current contract was a great deal better than the previous contract, but some overtime was still mandated. He reported through VCOG and his role as mayor he would try to make certain the benefits Ormond Beach offered were similar to those offered by other entities, but Ormond Beach should not be paying retirement based on the amount of overtime which had been occurring. Mayor Costello agreed it was ludicrous to offer a 37% incentive to retire early. He noted in the projections to determine savings, staff used a 6% increase in 2007 because that was what the three year contract called for, but a 3% increase thereafter. Mayor Costello reported that management was indicating they believed 3% would be the approximate increase at the next contract, and he commended staff for this. He noted the Commission would determine the rate, but they needed to be prepared for the firefighters pleading for a larger increase. Mayor Costello reported the national standard of two in and two out would increase the number of firefighters needed exponentially.

Chief Baker stated the system was not designed to require more firefighters to be added to meet those standards.

Mayor Costello commended Chief Baker for figuring out how to accomplish that goal without hiring more firefighters. He explained Ormond Beach had an emergency medical system that was trained to fight fires.

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

Commissioner Kelley stated he did not agree with the numbers because they were based on previous overtime which could be maintained; therefore, he did not believe there would be savings.

Mayor Costello reported Chief Baker had worked very hard to minimize overtime, and he was convinced this would save overtime.

Item #8(B) – Transportation Concurrency Issues

RESOLUTION NO. 2006-135

A RESOLUTION SUMMARIZING AND DEFINING POLICY DIRECTIONS OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH REGARDING TRANSPORTATION CONCURRENCY ISSUES; IDENTIFYING THE NEED FOR ADDITIONAL COORDINATION WITH ADJOINING CITIES AND THE COUNTY; AUTHORIZING THE CITY MANAGER AND HIS STAFF TO TAKE APPROPRIATE ACTION TO IMPLEMENT THE POLICY DIRECTIONS; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Resolution No. 2006-135, as read by title only.**

Mayor Costello requested that whatever action the Commission would decide in Item #9(D) be incorporating by reference in this item.

Mr. Hayes stated a simple amendment to the resolution could be made to Section One as follows: “...impacted by new development, including consideration of interim development controls if necessary.”

Mayor Costello stated based on what had been stated, he believed the City would adopt some interim development controls.

Mr. Hayes explained there was a process that the Commission must follow before making that judgment.

**Commissioner Gillooly moved, seconded by Commissioner Partington, to amend Section One of the resolution as follows: “...impacted by new development, including consideration of interim development controls if necessary.”**

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

Mayor Costello asked the Commission to also consider incorporating the City’s adopted level of service and when that level of service was adopted for City roads so the City would have a stronger case when an entity outside the City’s border wanted Ormond Beach to accept more traffic because this would indicate Ormond Beach adhered to a lower level of service.

Mr. Hayes stated that would probably not matter since this was an expression of policy.

Mayor Costello reiterated he believed adding Ormond Beach’s level of service and when those levels were adopted for Granada Boulevard, Hand Avenue, Clyde Morris Boulevard, Nova Road, Williamson Boulevard, A1A, and US1 would make Ormond Beach’s case stronger. He stated other entities would then be aware that they know when anyone adds traffic to come to Ormond Beach, it would not be appropriate for that entity to increase the level of service if Ormond Beach cannot increase its level of service. Mayor Costello heard no motion for this so he asked the motion be called for the single amendment.

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

Item #9(A) – City Position on Signage for J&P Cycles Project

Mr. Jim Morris, 420 South Nova Road, Daytona Beach, speaking on behalf of the applicant, Mr. John Parham, stated this property had the Love’s Truck Stop sign, but J&P Cycles had nothing to do with that sign. He explained the building was consistent with the development standards, leaving signs as the only issue remaining. Mr. Morris noted they have not filed a PUD amendment with the County, but would need to do so.

Mr. John Parham, President, J&P Cycles, stated J&P Cycles was a mail order and retail business in Iowa, and this would be the first full-time retail store outside of Iowa. He reported J&P had been in Ormond Beach for two years and employed 24 people at \$11 to \$15 per hour, and they were anticipating having 60 employees by Bike Week next year. Mr. Parham stated J&P was committed to Ormond Beach and Destination Daytona. He noted in a short time, Destination Daytona had become known worldwide. Mr. Parham advised J&P also made a commitment to a 16,000 square-foot building at the Ormond Beach commercial park.

Mr. Morris stated when the sign was scaled to code, it was inappropriate for the size of the building presuming traffic traveling on the highway at 70 mph or 100 feet per second, and the sign can not be seen. He reported Mr. Parham’s business was nationally known, but it was also a retail operation that depended on people being attracted to that location. Mr. Morris stated the illustrations he was showing were in scale to the building. He noted the actual copy area was about 225 feet or 300 square feet. Mr. Morris pointed out Mr. Parham did not have an interstate highway sign. He noted under County rules, they would be permitted a monument sign, but they would surrender that right and simply go with the sign shown on the building. Mr. Morris noted there was one sign per wall, but the signs would be higher than the code would allow. He pointed out the Love’s sign infringed considerably on this property. Mr. Morris stated traveling at 100 feet per second would not allow a great deal of time for a traveler to notice the sign. He reported this qualified as an interchange business under Ormond Beach code provisions, but none of the codes actual fit this situation. Mr. Morris advised this was consistent with what was done on the other parts of the property.

Commissioner Partington stated the sign in one photo seemed to be too large and the sign in the other photo seemed too small; therefore, he recommended a sign sized somewhere between the two signs depicted.

Mr. Morris stated he understood the Commission had discretion, and if the decision was that the sign needed to be smaller, his client could compromise and accept a 10% reduction in size. He noted codes actually permit wall signs to be considerably larger than the 300-square foot sign, but the number was limited. Mr. Morris explained that due to the location and the configuration of the building, four signs would be needed. He pointed out the Harley Davidson Building actually had a larger sign. Mr. Morris advised the scale of building and the scale of the surroundings were considered in determining the size of the sign.

Commissioner Kelley stated the south-facing sign was for people already on the site rather than for people coming from the south and north because if people see that sign, they had already gone too far.

Mr. Morris explained the sign could be seen from the top of the hill, and the shape of the sign was important.

Commissioner Kent advised he could approve the requested size.

Mr. Parham stated he would prefer the original size, but would bend to the will of the Commission. He noted the logo was the third most recognized logo in the motorcycle industry.

Commissioner Gillooly commended Mr. Parham for the great marketing campaign they did. She noted this request did not meet the County or City standards. She noted she understood a business needed identification but considered the identification on the Harley Davidson building should be sufficient; therefore, she could not approve going higher than standard size. Commissioner Gillooly noted she hoped Ormond Beach standards were one reason this entire development moved to this location.

Commissioner Kelley advised he would support the sign as requested in that it was proportional. He stated having been in business, he was aware it was very important to market. Commissioner Kelley noted this business was bringing in quality jobs and being a good neighbor, which was indicative to why the Commission should support him in his endeavor, giving him every opportunity to succeed rather than force him to fail.

Commissioner Partington reported he still favored a 10% reduction on the north and south view; but if the majority would approve the request without this amendment, he would not oppose it. He noted he considered the east bound sign to be appropriate.

Mr. Morris stated the most significant side of the building to attract customers was the north facing sign. He noted other buildings to the north had signs as well as interstate signs. Mr. Morris stated the Harley store and logo were different from Mr. Parham's business.

Mayor Costello advised he would prefer a 25% reduction, but could accept a 10% reduction.

Commissioner Kent stated he could accept the 10% reduction, but he considered the sign to be appropriate. He concurred with Commissioner Kelley in that businesses need signage, and there was a difference between this business and the Harley Davidson business.

Mayor Costello stated he believed the sign would still be seen and people would come to the business because they know where the business was located rather than coming because they see the sign.

Commissioner Gillooly noted she would have supported Mayor Costello's 25% reduction, but there was no consensus.

Commissioner Partington asked if this item was to give staff direction and if it would come back to the Commission.

Mayor Costello reported this would go to the County.

Mr. Hayes pointed out this would be a directive policy from the Commission.

Mayor Costello stated he could support this because the applicant did adhere to Ormond Beach's standards for their building.

Commissioner Kent asked how much extra was allowed for the Harley sign.

Mr. Morris stated that quantitatively it would be difficult to tell, but the Harley sign went much further than what was being requested tonight.

Commissioner Kent stated his concern was being consistent among the applicants.

Mr. Morris noted while this was an item of direction, if the Commission directed a 10% reduction, the applicant would submit to the County with the reduction because they appreciated the working relationship they have with the City.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve a sign as presented with the exception of the north and south facing signs to be reduced by 10%.**

Commissioner Kent noted the Commission rarely voted on a discussion item and asked if the audience would be given an opportunity to speak.

Mayor Costello noted this item was to send a recommendation to the County, but he offered to allow anyone in the audience to speak on this matter. No one expressed a desire to speak. He asked Veronica Patterson, City Clerk, to either add a notation on the sign-in card or to remind him to announce that people should sign a card if they wish to speak on a discussion item should the Commission vote on the item.

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

Mayor Costello stated he wanted the Commission to send a strong message that they support the project, even though he believed the sign was too large.

Item #9(B) – Fleet Operations Evaluation Report

Commissioner Kelley advised he did accept the report, but he did not accept that this could not be done in a more efficient, fiscally responsible manner. He stated he could contract this out to be done for less money, but he would have to accept the way government worked.

Commissioner Gillooly reported she also believed these finances could be tighter. She noted she attended the Budget Advisory Board meeting at the Fleet Maintenance facility, and the board members studied a great deal of material, met with staff, and thoroughly researched the issue. Commissioner Gillooly stated she appreciated the Budget Advisory Board report. She reported on the fifth page of the report there was a question as to why this should not be tried, and the answer was that when the Commission requested an investigation to seek savings, it resulted in employee turnover. Commissioner Gillooly stated she considered this to be a management issue, where if the department manager and staff are confident in the work they do, whether the Commission tried to save funds should certainly not result in a situation where staff would try to find other jobs.

Mayor Costello noted the Commission accepted the report.

Item #9(C) – Police Department Staffing

Commissioner Gillooly noted she had a number of questions on this issue.

Mr. Turner stated, due to the hour, this could be held for the next agenda as the first discussion item. He reported it would also be discussed during the budget process.

Item #9(D) – Interim Development Controls

Commissioner Kelley stated the concept of interim development controls or a moratorium was predicated by the fact there was a water emergency, but it was proven that it was not the inability to deliver water that prompted the emergency. He stated the issue required further study before the Commission should decide to declare a moratorium. Commissioner Kelley noted there was a great deal involved. He stated this would involve setting parameters, such as was done tonight for the Tymber Creek Road/Airport Road corridor.

Mayor Costello stated he requested this item be placed on the agenda because he did not want another developer working in the Tymber Creek Road/Airport Road area believing a project would be approved until after the Tymber Creek Road improvements were completed. He reported his vision of an interim development control would be strictly for new residential development in the Tymber Creek Road/Airport Road area; lots currently platted of an existing development should be able to build; and commercial areas should be able to build. Mayor Costello requested staff evaluate this to determine appropriateness, if appropriate for how long, and to outline the exact area for the Commission to consider.

Mr. Turner reported he and Mr. Ervin also discussed issues regarding Granada Boulevard. He requested bringing a consideration for Granada Boulevard to the Commission as well.

Commissioner Gillooly requested incorporating the points Mr. Hayes brought up regarding the measurable and specific area.

Mayor Costello stated the Commission was directing staff to bring recommendations in the form of an ordinance after a public hearing which would address why, how long, and where interim development controls are indicated.

Mr. Turner requested flexibility as to how this was to be brought back because there were some codes now in place that may reduce the amount of development that would be allowed to occur in certain areas unless improvements were made.

Commissioner Partington stated whether the concurrency management system in the Land Development Code was adequate to handle the problem should be included. He noted if a report would be necessary to support interim development controls, questions such as what the cost would be and who would conduct the study needed to be answered.

Mayor Costello explained the goal he was seeking was that no one would believe they would be initiating a project that had a likelihood of being accepted when, in reality, it would not be accepted. He reported he would like the level of service of the roads and when the level of service was adopted included in a comparison with some of Ormond Beach's neighboring communities.

Mr. Turner noted the major problem with Granada Boulevard was not what Ormond Beach would approve, but what some of the neighbors would be approving that would affect Granada Boulevard.

Mayor Costello stated he would work to not allow any neighbor to approve issues that would add traffic to a road that would not hold any more capacity.

Mr. Turner noted staff needed to make certain the Commission would support this because it would probably be one of the next areas of consternation potentially between Ormond Beach and the neighbors to the south.

Mayor Costello reported all the neighbors would have to do would be to make the improvements necessary.

#### Item #9(E) – Continued Capital Improvement Program Budget Discussion

Mayor Costello noted this item was not needed in that the Capital Improvements Project budget discussion was completed at the workshop.

#### Item #10 – Reports, Suggestions, Requests

##### Citizens for Ormond Beach Forum

Commissioner Kent thanked Mr. Brian Daly for his work with the Citizens for Ormond Beach and reminded everyone to attend the Citizens for Ormond Beach forum and barbeque to be held this Saturday from 11:00 a.m. to 2:00 p.m.

##### Fluoride

Commissioner Kent stated Mr. Jim Schultz has been coming to the Commission for quite some time, and whether the Commission agreed with him or not, he commended anyone who would consistently plead their case under any circumstances. He noted he would do more research on the fluoride issue.

##### Policy on Active Duty Military Leave

Commissioner Kent stated Mr. Maroney had a good point regarding readdressing the City's policy for active duty military. He noted he would discuss this matter with Mr. Turner or have it come back for the Commission to discuss.

West Ormond Park

Commissioner Kent stated Mr. Lovell's description of a park was very different from the West Ormond Park described in the proposal.

Coffee with the Commissioner

Commissioner Kent invited everyone to "Coffee with the Commissioner" at his home on Monday, July 3 at 4:00 p.m. at 130 Magnolia Drive.

Addressing Audience Remarks

Commissioner Kelley stated when people make audience remarks that were misstatements and "out of bounds," Mayor Costello had, in a very limited scope, been addressing them at that time; but he encouraged Mayor Costello to broaden this scope because as soon as people make their remarks, a large portion of the audience leave. He noted if anything was to be refuted, it was not heard; and people leave believing whatever was said was the truth. Commissioner Kelley reported he did not want the entire Commission engaging in conversation; but it was appropriate for Mayor Costello, as chairman, to address situations as described, and he would support Mayor Costello for doing so.

Ace Hardware

Commissioner Kelley stated he attended the Ace Hardware tenth anniversary re-grand opening ceremony. He stated Ace had done a great job in the community.

League of Cities

Commissioner Kelley advised that he would not be able to attend the League of Cities meeting in August.

Timer

Commissioner Kelley urged the timer be utilized for the audience remarks.

Policy on Military Leave

Commissioner Partington agreed with Commissioner Kent regarding the review on the policy for military leave.

Intersection Improvements at Orchard Street and Granada Boulevard

Commissioner Partington reported a constituent requested an update on the intersection improvements at Orchard Street and Granada Boulevard. He requested this update be included in the Friday letter.

Planning Process

Commissioner Partington requested a review to consider changing the planning process to something similar to the Port Orange process with a conceptual design. He noted the Port Orange process may be similar to the Ormond Beach process, but he was not aware of the two processes; and he requested being educated on this issue.

Timer

Commissioner Partington reported he and Mr. Huhta tested the timer this morning, and it worked well. He urged it be put to use soon.

Hurricane Preparedness Seminary

Commissioner Partington thanked Commissioner Kent for mentioning the Hurricane Preparedness Seminar hosted by the Citizens for Ormond Beach and the City of Ormond Beach. He noted this should be a very informative and enjoyable event.

Ace Hardware

Commissioner Partington stated he was sorry he was unable to attend the Ace Hardware tenth anniversary re-grand opening celebration.

Citizens for Ormond Beach

Commissioner Partington announced Citizens for Ormond Beach would meet in his office on July 10 at 6:00 p.m.

Chief Longfellow

Commissioner Gillooly congratulated Chief Longfellow and apologized for the Commission not being able to attend the reception due to the workshop taking longer than anticipated.

Ace Hardware

Commissioner Gillooly congratulated Ace Hardware on their tenth anniversary. She noted the owners, Nick and Harriet, have been extremely generous to Halifax Habitat for Humanity, and she expressed appreciation for their support.

Policy on Military Leave

Commissioner Gillooly stated she agreed it was imperative to reevaluate the determination on the pay for the military leave and how it was calculated. She noted Ormond Beach should fulfill its obligation and even more, but it must also be cognizant of how the figure was being calculated.

Address Audience Remarks

Commissioner Gillooly agreed Mayor Costello should be able to respond and clarify issues mentioned in "Audience Remarks." She noted there were times people may make statements they believe to be true with good intent, but the statements needed to be clarified because people leave and the audience believes what was said. Commissioner Gillooly noted a speaker referenced the \$25,000 to \$50,000 legal fees, and he was obviously under the impression that amount would be CAN DO's obligation, which should have been clarified.

CAN DO

Commissioner Gillooly advised there have been many times people speak on the CAN DO measure, and she pointed out this amendment would not just affect the Bray and Gillespie proposal but would impact the entire City.

Ms. Barker Response

Mr. Turner stated the response to Ms. Pattie Barker's comments from the June 13 meeting was not completed, but it would be completed this week.

Ormond Crossings

Mr. Turner reported the City was at a very challenging stage with the Department of Community Affairs regarding Ormond Crossings, and members of the legislative delegation and some who are not member of the legislative delegation have been very helpful in trying to work to influence the Department of Community. He noted Senator Evelyn Lynn scheduled a conference call this Thursday with the Secretary of the Department of Community, and Representative Joyce Cusak would attempt to have the Secretary call him. Mr. Turner stated that should that occur, he would need to go to Tallahassee for a meeting. He pointed out staff had done a great job resurrecting this project a number of times, and it would probably need to be resurrected a few more times. Mr. Turner stated he hoped to have the Department of Community Affairs be fair and reasonable in what they were requiring in terms of transportation so the project could go forward.

Community Parks

Mr. Turner reported he would schedule an opportunity for Mr. Abee to discuss community parks with the Commission in the future, and specifically, what was envisioned for the West Ormond Community Park. He noted the concept and location may change since circumstances have changed since the concept was first conceived.

Citizens for Ormond Beach

Mr. Turner stated the efforts of Citizens for Ormond Beach were commendable in that this was a citizen-initiated organization that shared community information and provided a forum to discuss controversial issues.

Policy on Military Leave

Mayor Costello stated if a fire captain, a police officer, and a general employee were all called to active military duty simultaneously, the firefighter would get the pay he would earn in 90 days and the other two employees would get what they would earn in 30 days, which was just wrong. He agreed this issue needed to be addressed. Mayor Costello clarified he objected to the disparity amongst the employees.

Conceptual Approval Process

Mayor Costello stated he appreciated Commissioner Partington's recommendation regarding the conceptual approval process. He noted even though staff was conceptually telling people what they believe would and would not be approved, the Commission did not agree with what staff thought, and this discussion would solidify that knowledge.

Timer

Mayor Costello stated he wanted the timer to be run by whomever would be at the information technology seat so he would not need to worry about allowing the accurate amount of time to each speaker.

#### Audience Remarks

Mayor Costello reported he would do the best he could to try to respond to audience remarks, but he did not want to get into a discussion. He noted some people give a litany of so many issues it would be difficult to address each item. Mayor Costello expressed agreement it was awkward when numerous people have many issues, while the people attending the meeting to do business often may get a negative impression of the City. He noted this was one reason many communities place audience comments at the end of their meetings.

#### League of Cities

Mayor Costello asked Mr. Turner to inform him of the schedule to determine if he would be able to attend the August League of Cities meeting.

#### Disaster Preparedness Forum

Mayor Costello stated he was proud of Citizens for Ormond Beach for hosting the disaster preparedness forum, but he would not be able to attend.

#### Dispatch

Mayor Costello reported he spoke to Sherriff Johnson regarding dispatch.

#### Ormond Crossings

Mayor Costello thanked Senator Evelyn Lynn and Representative Joyce Cusak, along with the other legislative delegation, for working with Ormond Crossings.

#### Honoring Coach Piggotte

Mayor Costello reported the City of South Daytona scheduled a special day to honor Coach Piggotte on Tuesday, July 25 at 10:00 a.m. in South Daytona. He noted he would be unable to attend and requested the City send flowers or something to honor Coach Piggotte. He encouraged anyone who could go to the celebration to attend.

#### J&P Cycle Signs

Mayor Costello stated he voted for the motion for the J&P Cycle signs even though he preferred a 25% reduction because this motion would go to the County and the County had been good enough to indicate they were willing to work with Ormond Beach on the City's regulations on US1, and he did not want to forward a split vote which indicated the Mayor wanted one thing while the Commission wanted something else. He noted he did not consider this to be that critical an issue, and he wanted to send a united message, or as close to a united message as possible.

#### Relationship with Volusia County

Mayor Costello thanked whoever mentioned his work with the County. He stated he had worked very hard to build a relationship with the County that he hoped would pay off in gaining beach access and parking. Mayor Costello thanked Mr. Turner and the new County Manager for working diligently together.

#### Police Athletic League

Mayor Costello stated the Police Athletic League 12 and under boys' basketball team won the State championship. He requested an item be placed on the agenda to honor them. He requested the Commission donate \$1,000 for the trip to the nationals as had been done in the past when teams have an opportunity to progress to a state or national competition.

#### Code Enforcement on US1

Mayor Costello requested the City send a letter thanking the County for all of the work they did on code enforcement on US1.

#### State of the Zone

Mayor Costello requested the Commission consider a two-to five-minute presentation on the "State of the Zone" by each Commissioner at the "State of the City" meeting at the Chamber of Commerce.

#### SR40 Bike Trails

Mayor Costello requested an update on the SR40 bike trails, because the City would not get on the list for the MPO until certain obligations were met.

#### Endowments

City Commission –June 20, 2006

Mayor Costello reported he would be asking staff for assistance to create a civic foundation for endowments to the City. He requested the Commission consider who they would like to appoint to such a board. Mayor Costello stated if anyone objected to this action to let him know at the next meeting.

Item #11 – Close the Meeting

The meeting was adjourned at 12:29 a.m.

APPROVED: \_\_\_\_\_ July 13, 2006

BY: \_\_\_\_\_  
Fred Costello, Mayor

ATTEST:

\_\_\_\_\_  
Veronica Patterson, City Clerk