

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

October 3, 2006 7:00 p.m.

Present were: Mayor Fred Costello, Lori Gillooly, Troy Kent, Ed Kelley, and Bill Partington, City Manager Isaac Turner, Assistant City Manager 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) **APPROVAL OF THE MINUTES** of the September 19, 2006, meeting.
- 6) **PRESENTATIONS:**
 - A) Employee-of-the-Quarter award to Pete Connelly, Matt Conover, Randy Iglesias, Keith Roeper, Ryan Roessler, Kenneth Russell, Terry Shannon, and Michael Wallace.
 - B) Proclamation in honor of Officer Joe Barnett, Ormond Beach Police Department, returning from military service in the Middle East.
- 7) **INTERGOVERNMENTAL REPORTS:**
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Water Authority of Volusia
- 8) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
 - A) Resolution No. 2006-209 authorizing the execution of an agreement between the City and the State of Florida, Office of the Attorney General, regarding the City's Victim's Advocate Program. (\$47,379 total project; \$37,903 grant funds; \$9,476 matching City funds)
 - B) Resolution No. 2006-210 authorizing the submittal of a grant application to the State of Florida Department of Transportation under the Highway Safety Grant Program for the purchase of a portable variable message sign; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award. (\$20,000 grant funds; no matching local funds)
 - C) Resolution No. 2006-211 authorizing the purchase of various chemicals for the City's water and wastewater treatment plants under a cooperative bid solicited by several local cities; authorizing payment therefor.
 - D) Resolution No. 2006-212 accepting the bid of Hancock Bank of Florida to finance the acquisition of an Aerial/Quint fire truck, under Bid No. 2006-29; rejecting all other bids; authorizing the execution of a Lease Purchase Agreement and all other papers necessary and incidental thereto. (Borrowing \$518,831 at 3.87%)
 - E) Resolution No. 2006-213 reappointing Ken Artin and Al Zipperer to serve as trustees of the City of Ormond Beach Municipal Police Officers' Pension Trust Fund; setting forth terms and conditions of service.
 - F) Resolution No. 2006-214 reappointing Keith Jones to serve as a trustee of the City of Ormond Beach Municipal Firefighters' Pension Trust Fund; setting forth term and conditions of service.

- G) Resolution No. 2006-215 accepting a proposal from Quentin L. Hampton & Associates, Inc., to provide engineering services regarding the reuse storage and pumping facility; rejecting all other proposals; authorizing the execution of a contract. (Not-to-exceed \$233,690)
- H) Resolution No. 2006-216 authorizing the execution of Change Order No. 1 (Final) to that contract awarded to McMahan Construction Co., Inc., regarding the Hunter's Ridge Irrigation and Fire Protection Ground Storage Tank Expansion project; by increasing the contract price by \$10,674 and increasing the contract time by 49 days. (\$808,674 total contract price; 249 total contract days)
- I) Resolution No. 2006-217 amending the Pay and Classification Plan.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2006-218 approving and authorizing the removal of an historic tree located at 1930 West Granada Boulevard.
- B) Resolution No. 2006-219 approving and authorizing the removal of an historic tree located at 7 Cypress Park Court.
- C) Resolution No. 2006-220 authorizing the execution and issuance of an amended and restated Development Order for "Sparkle-N-Shine Car Wash" Special Exception located at 49 South Yonge Street within the B-5 (Service Commercial) zoning district; approving the construction of a 37-foot by 57-foot canopy in the front of the building; establishing conditions and expiration date of approval.
- D) Resolution No. 2006-221 authorizing the execution and issuance of a Development Order for "Visterra Office Building" Special Exception on a site located on the south side of Granada Boulevard, approximately one-half mile west of Orchard Street within the B-9 (Boulevard) zoning district; approving the construction of a three-story office building with a total floor area of 19,761 square feet on a 3-acre site; establishing conditions and expirations of approval.
- E) Resolution No. 2006-222 authorizing the execution and issuance of a Development Order for "Ormond Grande" Special Exception on a site located on the east side of US1, approximately one-half mile south of Ormond Lakes Boulevard within the R-5 (Multi-Family Medium Density) zoning district; approving the construction of a 60-unit townhome project on a 8.2-acre parcel within the project; establishing conditions and expirations of approval.
- F) Resolution No. 2006-223 authorizing the execution and issuance of a Development Order for "Ormond Beach Commercial Complex" Special Exception on a site located at 500 West Granada Boulevard within the B-9 (Boulevard) zoning district; by authorizing a waiver of the masonry buffer wall requirements along the rear property line, by allowing the use of an existing six foot high wood fence in lieu thereof; establishing conditions and expirations of approval.
- G) Ordinance No. 2006-17 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 147-acre parcel of real property from R-2 (Single-Family Low Density) to PRD (Planned Residential Development), said real property being located within the limits of the existing Tomoka Oaks Golf Course; establishing boundaries; authorizing revision of the Official Zoning Map; approving a Development Order for "The Tomoka Oaks Golf Village" Planned Residential Development (PRD). (First Reading)

10) **SECOND READING OF ORDINANCES:**

- A) Ordinance No. 2006-15 approving the preliminary/final plat for the "Airport Business Park, Tower Circle Extension," a replat of "Airport Business Park," Phase II; establishing conditions and expiration date of approval.
- B) Ordinance No. 2006-16 amending Chapter 23, Sexual Offenders and Sexual Predators, of the Code of Ordinances of the City of Ormond Beach, Florida, by amending Section 23-3, Sexual Offender and Sexual Predator Residence Prohibition; Penalties; Exceptions, to include out of state offenses.

- 11) **FIRST READING OF ORDINANCE** No. 2006-18 amending Chapter 10, Waste, Yard Waste and Recyclables*, of the Code of Ordinances of the City of Ormond Beach, Florida, by amending Article I, In General, Section 10-1, Definitions; and by amending Section 10-18, Reserved, to provide for the collection, removal, and disposal of debris upon private roads and within private gated communities during a declared state of emergency.
- 12) **RESOLUTION** No. 2006-224 approving the preliminary plat for the “Ormond Grande” subdivision; located on the east side of US1, approximately one-half mile south of Ormond Lakes Boulevard; establishing conditions and expiration date of approval.
- 13) **DISCUSSION** regarding the sunset of advisory boards.
- 14) **AUDIENCE REMARKS** (if not completed at beginning of meeting):
- 15) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 16) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Commissioner Partington reported Chief Warrant Officer and Senior Instructor Pilot Tim Breneman, an Ormond Beach resident for almost 40 years, and his co-pilot, perished on September 19 in an Apache helicopter accident in Southern Germany during live night-fire training exercise. He sent the Commission’s condolences and deepest sympathies to the families of those who died in the accident. Commissioner Partington requested a proclamation be prepared and a Key to the City be presented to Mr. Breneman’s wife to honor his service. Commissioner Partington read a poem, asked for a moment of silence, and then gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 - Audience Remarks

Height Petition

Mr. Doug, Kosarek, 501 North Atlantic Avenue, Senior Vice President of Bray and Gillespie, stated there had been a great effort expended in February and March on the part of the CAN DO people to solicit signatures for a petition to be placed on a ballot, and the judge ruled the question must be placed on the ballot. He noted he felt it was important to go into the community to truly determine the will of the people. Mr. Kosarek reported in the early part of the year the Commission received comments from citizens regarding the means by which the CAN DO advocates solicited signatures, and the Bray and Gillespie petition drive recently received those same kinds of complaints. He explained these allegations were investigated by tracking the solicitor back by address; and whenever the complaints had merit where the canvasser was not adhering to a strict code of conduct, the solicitor was dismissed. Mr. Kosarek apologized to anyone who was offended by any actions his organization may have taken. He reported he witnessed overwhelming support for what Ormond CAN BE, and he advised 6,250 petitions had been signed, which he displayed but did not submit. Mr. Kosarek noted they have not completed their canvass of many areas.

Ms. Pat Behnke, 15 Malayan Sun Bear Path, reported that when the CAN DO petition was circulated a statement was made from the dais that people were being misinformed. She stated that the people soliciting the CAN BE petition were not only being misinformed but were providing totally false statements. Ms. Behnke submitted ten letters from Bear Creek residents outlining some of the false statements being made, such as referring to this petition as an addendum to the issue already on the November ballot, and the CAN BE petition would place the building height issue on the ballot. She stated the petitioners were soliciting signatures in Bear Creek without permission.

Mayor Costello reported he received calls from disappointed citizens regarding the petition drive similar to those he had received from the earlier petition drive. He asked all of the residents to judge this issue on the merits rather than the overzealous people from either side of the issue.

Ms. Linda Kane, 78 Ivanhoe Drive, stated she recorded a conversation with a CAN DO solicitor who advised her that Mayor Costello, other Commission members, and Representative Joyce Cusack supported the CAN DO effort. She noted Representative Cusack already publicly stated she never authorized her name to be listed as a supporter. Ms. Kane asked Mayor Costello if he authorized his name to be used as a supporter of the CAN DO effort.

Mayor Costello stated he never authorized anyone to use his name to support any petition.

Remote Parking Permit for Special Events

Mr. David Mikiewicz, 71 Caladium Drive, requested a remote parking permit for Biketoberfest and the Turkey Rod Run.

Mayor Costello reported Mr. Mikiewicz would have to speak to staff and go through the permit process.

Mr. Clay Ervin, Planning Director, advised that Mr. Mikiewicz requested a remote parking permit. He explained Mr. Mikiewicz leases the property, but the property owner with whom he leases the property did not proceed to obtain the Special Exception grant and was now running into a tight time frame. Mr. Ervin stated he advised Mr. Mikiewicz there was nothing staff could do in that he was following the direction given by the City Commission, and Mr. Mikiewicz needed to implement a Land Development Code regulation change which would have to be done through the City Commission. He stated while the Commission did not have the authority to grant any approval tonight, a Land Development Code change could be implemented for the future should the Commission wish to make such a change.

Mayor Costello recommended a system where either the tenant or landowner with the landowner's approval could apply. He stated nothing could be done tonight, but he would be receptive to trying to figure out a solution for Mr. Mikiewicz if the request would have been otherwise approved.

Petition Soliciting

Ms. Laura Jones, 59 Amsden Road, stated on September 22 an individual, refusing to provide his name, indicated he worked for the National Voters Outreach. She reported this individual asked her to sign a petition so the City could have parks; however, when she asked to read the petition and make a copy, the individual grabbed the copy, wrestling the paper away from her, grabbing her arm and not letting go until she threatened to call the police. Ms. Jones asked if Bray and Gillespie performed a background check on their solicitors expressing concern for children's welfare. She asked if Mayor Costello and Mr. Turner supported this type of action. Ms. Jones advised she received a thank you note for her signature on the petition when she most certainly did not sign the petition.

Mayor Costello stated he had nothing to do with this effort, but apologized for what occurred. He advised he had made his sentiments known with those involved.

Mayor Costello stated in that additional time was taken discussing Mr. Breneman, he would allow the remaining two speakers to speak now rather than wait until the end of the meeting. He noted normally he would keep the comments to the 7:30 p.m. limit, but there would only be one additional speaker after that time and he would allow Ms. Bornmann to speak rather than make her wait to the end of the meeting unless an objection was raised by the Commission.

Mr. Gregory Avakian, 161 Heritage Circle, FACTS PAC chairman, advised that people were having a hard time understanding what was being debated relative to the building heights issue. He provided a picture from the CAN DO website depicting a seven story building next to a huge skyscraper with 43 stories on one side and 42 stories on the other, which he stated was not being proposed in Ormond Beach. Mr. Avakian displayed an actual photograph of the skyline of Ponce Inlet with their six to seven story building height limit. In an effort to demonstrate the transfer of development rights using existing buildings, he showed what Ponce Inlet could have been had they implemented the concept of transfer of development rights. He pointed out the open space that would have been available using the same density showing a more accurate comparison.

Ms. Lucille Bornmann, 6 Windsor Drive, reported having people from outside of Ormond Beach paid to find out how Ormond residents feel was not the same as Ormond Beach residents determining the will of the people. She noted many other cities have passed height limits of

only three or four stories such as Cocoa, Edgewater, New Smyrna Beach, Flagler, and Jacksonville; therefore, the developers should be pleased to be able to develop seven-story buildings in Ormond Beach.

Mayor Costello stated everyone wanted to preserve the quality of life in Ormond Beach, but different people have different views of how that should be done. He pointed out none of the cities Ms. Bornmann mentioned had the transfer of development rights provision, and some are beginning to examine this concept as a way of gaining open space.

Item #5 – Approval of Minutes

Mayor Costello advised the minutes of the September 19, 2006, meeting have been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Mayor Costello stated that hearing none, the minutes are approved as submitted.

Item #6(A) – Employee-of-the-Quarter

Mr. Isaac Turner, City Manager, reported eight employees who are part of a team were chosen as Employees-of-the-Quarter.

Mayor Costello presented plaques and watches to Mr. Pete Connelly, Mr. Matt Conover, Mr. Randy Iglesias, Mr. Keith Roeper, Mr. Ryan Roessler, Mr. Kenneth Russell, Mr. Terry Shannon, and Mr. Michael Wallace.

Mr. Turner reported on Sunday, August 20, at about 4 p.m. this team was called to the water treatment plant when a water main broke. Mr. Turner stated after many attempts to close this main, the Fire Department brought a pumper truck and a large crack in the pipe was found. He explained this team worked to repair the pipe completing the job at 11 p.m., restoring the water to normal, and the team left at 1 a.m.

Mayor Costello thanked this team for their efforts and presented the plaque with their names and the plaque with their photo to be placed on display at City Hall honoring them as the Employees-of-the-Quarter.

Item #6(B) – Honor to Officer Joe Barnett

Mayor Costello read a proclamation honoring Officer Joseph P. Barnett, an Ormond Beach police officer since June 2002. He explained Officer Barnett joined the Navy right out of high school, was called to active duty from July 1992 until September 2001 serving as an Intelligence Specialist, was separated from the Navy full-time and joined the Naval Reserves, and moved to Florida. Mayor Costello reported Officer Barnett recently returned from Kuwait where he served for the past year as Petty Officer 1st Class, Intelligence Specialist, attached to Naval Coastal Warfare Squadron 26, collecting and disseminating classified information. He welcomed Officer Barnett home and proclaimed October 3, 2006, as a day to honor Officer Barnett for his actions and sacrifices for this country. Mayor Costello presented Officer Barnett with a plaque and gift certificate at a local restaurant.

Item #7(A) Metropolitan Planning Organization

Mayor Costello stated the Metropolitan Planning Organization (MPO) passed a resolution requesting the Putnam County Wal-Mart distribution center not be allow to move forward until there was transportation infrastructure in place.

Item #7(B) Volusia Council of Governments

Mayor Costello reported the Volusia Council of Governments (VCOG) discussed beach sand noting it was viewed as infrastructure. He advised VCOG was involved in land purchases, and he requested an investigation be conducted to determine if the City could use VCOG resources to partner with Ormond Beach in an effort to work with Volusia County to obtain beachfront land.

Item #7(C) - Water Authority of Volusia

Commissioner Kelley stated he provided the minutes of the Water Authority of Volusia (WAV) board to the Commission. He noted the next three months would be critical to WAV.

Item #8 - Consent Agenda

Mayor Costello advised that the action proposed for each item on the Consent Agenda was so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any one or more of the items separately.

Mayor Costello reported he was asked to remove Item No. 8(C) from the consent agenda to be adjusted and brought back at a future meeting.

Commissioner Kelley requested removing Item No. 8(I) for discussion.

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

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

Item #8(I) - Amending the Pay and Classification Plan

RESOLUTION NO. 2006-217
 A RESOLUTION AMENDING THE PAY AND CLASSIFICATION
 PLAN; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2006-217, as read by title only.

Commissioner Kelley expressed concerns about the new positions being created, although not referring to the newly approved position of a sludge hauler. He stated he had concerns about laterally moving someone, assigning the engineer to do the administrative work of the Utilities Director, and creating another position of a maintenance supervisor. Commissioner Kelley questioned adding additional supervisory personnel.

Ms. Judy Sloane, Public Works Director, stated that as a result of the evaluation recently conducted staff considered what would be the best organizational structure. She explained the attempt was to remove a level of supervision between the Utilities Manager and the sections under his supervision. Ms. Sloane noted the Superintendent of Operations would be retitled Utilities Engineering Manager carrying many of the same duties including direct supervision of all of the sections. She reported the new position Commissioner Kelley referenced was the Supervisor Equipment Maintenance which was added into the budget as a direct result of the independent evaluation from Camp Dresser and McKee (CDM) who recommended maintenance be consolidated under a working supervisor. Ms. Sloane advised this employee would be over maintenance crews at the water plant, wastewater plant, lift station and the utilities electrician. She noted she considered the current system to be very inefficient in that there was not a good parts inventory or blanket purchase agreement. Ms. Sloane reported these maintenance crews are currently supervised by the Chief Water Plant Operator in the Water Division, the Chief Wastewater Plant Operator in the Wastewater Division, and the lift stations were under the Collections Supervisor. She noted in light of all that occurred this year she believed the operators needed to focus solely on operating the plant.

Commissioner Kelley stated he did not believe the organization needed to be built, rather it should have people who could do the job. He noted the Utilities Engineering Manager would manage only three people and be paid up to \$83,000 per year when that slot previously managed the entire Utilities Department. Commissioner Kelley recommended having the Utilities Manager handle the administrative duties and eliminate the engineering maintenance position; therefore, he could not support this change.

Mr. Turner stated the management structure was created by examining the organizational needs rather than who would fill the positions. He reported staff believed it needed someone who would be responsible for compliance issues, reporting issues, analysis and assessment of the paperwork, and oversight of major contracts. Mr. Turner supported Ms. Sloane's request for the additional employee. He stated the Commission members were duty bound and obligated to do their jobs and fulfill their responsibilities, but staff also had responsibilities. Mr. Turner noted this was the same staff that continues to save money by not spending their budget year after year, found savings this year, and tried to reduce the tax rate. He reported this was not a staff who finds ways to spend money. Mr. Turner advised staff determined this was the best

way to insure the treatment facilities would be shored up and the facilities would be state of the art and properly operated.

Commissioner Gillooly reported she talked to Ms. Sloane regarding some concerns that this may be creating a position to fit an individual, but she was convinced that was not the case and it was necessary for the overall management of the plant to insure that the same issues that faced the City would not recur. She noted these positions' job responsibilities may grow in the future. Commissioner Gillooly offered her support for this today, but she requested a tight spotlight be placed on the operations and the positions that were newly created as well as the exiting positions.

Mayor Costello stated the engineering firm who did the analysis of the water plant indicated staff was low on employees, which probably stemmed back from when the Water Department had to bid to keep the department within the City rather than privatizing the service. He noted the department was so lean that issues were being overlooked. Mayor Costello reported he was committed to making certain there were no water issues in the future, and he would support this resolution.

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

Item #9(A) - Removal of Historic Tree at 1930 West Granada Boulevard

RESOLUTION NO. 2006-218

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE LOCATED AT 1930 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Resolution No. 2006-218, as read by title only.

Commissioner Kent requested a color photograph be included in the packet for any future request for historic tree removals.

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

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

Item #9(B) - Removal of Historic Tree at 7 Cypress Park Court

RESOLUTION NO. 2006-219

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE LOCATED AT 7 CYPRESS PARK COURT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-219, as read by title only.

Commissioner Kent stated the tree looked healthy in the one photograph, but at closer inspection he could see the carpenter ants and hollowed trunk where a color photograph would have been helpful. He asked if mitigation was required to remove this tree.

Mr. Turner stated in cases where there was a safety issue, the tree would cause property damage, or the tree would die, no mitigation was required; however, mitigation would be required if the property owner wanted to take the tree down for aesthetic reasons.

Commissioner Gillooly asked if staff considered the entire property to determine if it had the appropriate number of trees onsite.

Ms. Sloane stated the property must meet the requirement for a minimum number of trees.

Commissioner Kelley reported the City Attorney had continued correspondence with the County last year to determine why the Commission needed to approve the removal of historic trees rather than allow staff to make that determination. He asked about the status of that debate.

Mr. Randal Hayes, City Attorney, reported he had not received a response after many requests. He advised he would make another attempt; but if he did not receive a reply, the Commission may need to take action.

Mayor Costello explained the Commission would prefer to save every tree, but when a tree dies and becomes a safety hazard, the Commission would prefer to depend upon the experts.

Commissioner Gillooly noted people do not come to the Commission lightly with requests to remove trees.

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

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

Item #9(C) - "Sparkle-N-Shine Car Wash" Special Exception

RESOLUTION NO. 2006-220

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF AN AMENDED AND RESTATED DEVELOPMENT ORDER FOR "SPARKLE-N-SHINE CAR WASH" SPECIAL EXCEPTION LOCATED AT 49 SOUTH YONGE STREET WITHIN THE B-5 (SERVICE COMMERCIAL) ZONING DISTRICT; APPROVING THE CONSTRUCTION OF A 37-FOOT BY 57-FOOT CANOPY IN THE FRONT OF THE BUILDING; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-220, as read by title only.

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

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

Item #9(D) - "Visterra Office Building"

RESOLUTION NO. 2006-221

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR "VISTERA OFFICE BUILDING" SPECIAL EXCEPTION ON A SITE LOCATED ON THE SOUTH SIDE OF GRANADA BOULEVARD, APPROXIMATELY ONE-HALF MILE WEST OF ORCHARD STREET WITHIN THE B-9 (BOULEVARD) ZONING DISTRICT; APPROVING THE CONSTRUCTION OF A THREE-STORY OFFICE BUILDING WITH A TOTAL FLOOR AREA OF 19,761 SQUARE FEET ON A 3-ACRE SITE; ESTABLISHING CONDITIONS AND EXPIRATIONS OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-221, as read by title only.

Commissioner Gillooly asked for clarification regarding traffic concurrency. She stated there may not be a problem now with concurrency, but she believed all of the problems on Granada Boulevard would have relevance to each other.

Mr. Ervin stated traffic concurrency was done segment by segment. He explained the segment between Orchard Street and Nova Road may be approaching capacity, but the segment from Orchard Street to US1 may be over capacity; therefore, depending on where traffic would go from a particular project would dictate whether or not they would have to enter into a proportionate fair share agreement under the proposed regulations. Mr. Ervin noted that in this situation, staff did a traffic distribution and assignment study, and there was currently no additional traffic going on the segments that were over capacity. He reported the segment over capacity was Tymber Creek Road to Clyde Morris Boulevard and when that expands, projects in the pipeline could be held up until a solution could be found for the capacity on the roadway.

Commissioner Gillooly stated every development must have an impact on the traffic. She noted Mr. Wigley indicated that due to the size of the structure, there may be a problem in the next development slated for this area.

Mr. Ervin explained that Mr. Wigley was going under the misunderstanding that the 10,000 square foot requirement for a special exception meant that no one was permitted to develop a property over 10,000 square feet. He reported the only reason this provision was in the code was so projects over 10,000 square feet would have to go through the public hearing process to make people aware it was being proposed. Mr. Ervin stated this was not a limitation and the special exception was not to allow projects to go over the 10,000 square feet, but to make certain the project complied with the City's standards. He reported a special exception could not be rejected because it was over 10,000 square feet unless there was adequate justification for the rejection. Mr. Ervin pointed out there was nothing that could disallow this particular project at this time to alleviate congestion on an over capacity road. He stated if staff would receive notice in the future that the segment from US1 to A1A was over capacity the City could then withhold building permits until a solution could be reached.

Commissioner Gillooly stated should this project be approved and as the project developed a need was demonstrated, could the fair share regulations be imposed.

Mr. Ervin explained that after issuance of a development order the project would be vested; however, if the developer does not proceed with the development or it should lapse for some reason, the project would not be vested, and the developer would be subject to any traffic concurrency problems at that time.

Commissioner Gillooly stated it would be unfair to go into a project believing everything was in place only to impose concurrency regulations later in the development process. She reported the aesthetics of the building seemed to show this would be a quality project.

Mayor Costello stated the traffic concurrency issues, level of service, and fair share mitigation would be one of the "thorniest" issues municipalities would face. He explained if this were approved tonight but was not signed and the concurrency changes tomorrow, the project would not be approved. Mayor Costello advised there was a great need to move the vesting earlier in the project so hundreds of thousands of dollars would not be spent where the project could be rejected.

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

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

Item #9(E) - "Ormond Grande"

RESOLUTION NO. 2006-222

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR "ORMOND GRANDE" SPECIAL EXCEPTION ON A SITE LOCATED ON THE EAST SIDE OF US1, APPROXIMATELY ONE-HALF MILE SOUTH OF ORMOND LAKES BOULEVARD WITHIN THE R-5 (MULTI-FAMILY MEDIUM DENSITY) ZONING DISTRICT; APPROVING THE CONSTRUCTION OF A 60-UNIT

TOWNHOME PROJECT ON A 8.2-ACRE PARCEL WITHIN THE PROJECT; ESTABLISHING CONDITIONS AND EXPIRATIONS OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Ervin reported this was a special exception because the project would involve more than one building on a development site. He pointed out that the project had a land use category of Open Space/Conservation and Medium Density Residential and a zoning of R-5 (Multi-family Medium Density) and SE (Special Environmental). Mr. Ervin stated this project was presented to the Development Review Board, and based on comments by the citizens, seven comments were identified as a result of that meeting. He explained the issues discussed were buffering the property adjacent to Deerskin Lane where a masonry wall would be constructed in the uplands; verification flooding would not occur on adjoining properties; buffering to screen out lights from adjacent Ormond Lakes, specifically, the roadway leading into the project where the applicant agreed to fence and use landscaping; the Development Review Board recommended the outside pool and pavilion be deleted while the applicant provided an alternative request for an indoor pool; airport impacts where the applicant agreed to place a notification on the face of the plat that the project was within a set distance from the airport and under the flight pattern of the airport; seeking a deceleration lane on US1, and working with staff to either relocate or eliminate dumpsters and go to single can service for the project.

Mr. Scott DuPont, 1326 South Ridgewood Avenue, Daytona Beach, representing Mr. William T. Moore, an adjacent property owner, reported he informed the City Attorney today that Mr. Moore would pursue any and all legal avenues if this special exception were approved. He read a letter into the record dated October 3 to inform the Commission the August 17 staff report contained grievous factual errors and misstatements regarding the recommended approval of the Ormond Grande special exception and to request the special exception be denied and not be reconsidered by the Commission. Mr. DuPont stated the letter did not attempt to address all of the factual errors and misstatements in the staff report, but it did provide sufficient evidence on which to deny this special exception. He reported Mr. Moore would be most impacted by this project in that he had the largest property abutting the subject property which lies on the southern border of the proposed Ormond Grande.

Mr. DuPont reviewed the exceptions in the August 17 staff report. He stated the first page of the staff report bears the date August 17, 2004, while all other pages reflect the date August 17, 2006. He noted page four included a section titled "Wetlands/Flood Zone" with the first sentence reading: "The site is not located within the 100-year floodplain, and there are no wetlands on site." Mr. DuPont provided a map that confirmed at least four combined areas of wetlands and connected service waters on the site of the proposed development totaling approximately three acres. He noted the wetlands were not inconspicuous, difficult to identify, herbaceous wetlands, but were cypress wetlands which could be readily identified from a great distance, and the cypress swamp near the western boundary of the property was adjacent to and visible from US1. Mr. DuPont reported a photograph of the sign announcing the development clearly showed the cypress wetland in the background. He stated the existing land cover map was included in and obtained from the official permit application filed for the development submitted to the St. Johns River Water Management District, and Mr. Ervin should have reviewed those project documents which could be easily downloaded from the District's website. Mr. DuPont reported the notes stated: "Wetlands classification based upon Article II, Chapter III, of Ormond Beach's Land Development Code." He noted the staff report entitled "Vegetation" made no reference to the cypress trees throughout the site and stated: "The site is vacant land and has large amounts of pine and associated groundcover." Mr. DuPont pointed out it was well known within the scientific community that cypress was a habitat for endangered species, which had not been addressed to date. He stated a soils map was provided showing extensive hydric wetlands soils on the site according to the Army Corps of Engineers and St. Johns River Water Management District criteria, and a copy of this map could have also been downloaded from the St. Johns River Water Management District website. Mr. DuPont reported the first entry under the notes section stated: "Soils delineation from USDA, NRCS Soils Survey of Volusia County, Florida, provided in GIS format by the St. Johns River Water Management District 2001." He advised the staff report made no reference to the tributary of the Tomoka River, an Outstanding Florida Water (OFW) that flows through the site, while numerous readily available documents identify that body of water as a tributary as opposed to Mr. Ervin's definition of a ditch, probably because less standards would apply to a ditch than a tributary. Mr. DuPont cautioned that Ormond Lakes residents do not understand the severity of blocking this water source which was what the developer was proposing. He expressed concern that this would cause severe flooding problems which occurred after the construction of Ormond Lakes.

Mr. DuPont stated that the information provided to St. Johns River Water Management District and the Army Corps of Engineers was significant in that there were less standards applied to a ditch than a tributary. He stated Mr. Ervin should have been able to recognize wetlands and

tributaries of the Tomoka River were located on the site, which were grievous factual errors misleading the Site Plan Review Committee and the public. Mr. DuPont reported actual conditions on the site fail to support the Land Development Code requirements for special exception in that it would create undue crowding normally permitted in the district or would adversely affect public health, safety, welfare, or quality of life due to flooding. He advised the plan was not consistent with the Comprehensive Plan and the Conservation Element Policy 1.1.8 in that it would adversely impact environmentally sensitive lands or natural resources included but not limited to the water bodies, wetlands, endangered species, and animal life. Mr. DuPont stated this use would substantially depreciate the value of the surrounding property and create nuisances. He noted the development did not provide for the safety of occupants and visitors. Mr. DuPont noted a theory was that the Florida fires came through the area a few years ago due to the human consumption of the underground reservoirs that drew the reservoirs down causing the plant life to lack adequate water, increasing the possibility of fires.

Mr. DuPont stated failure of the staff report to provide adequate, timely, clear, and accurate information precluded testimony to be provided at the public hearings causing many people in Ormond Lakes to be unaware of the circumstances. He asserted this application had not been reviewed at a public hearing, and no public testimony had yet been provided. Mr. DuPont questioned how the planner could approve an application without hearing testimony by the public. He asked that this be denied and, at the very least, the special exception be removed from the document until the study could be completed. Mr. DuPont pointed out many people were unaware of the change made last week. He stated the board approved the project, being told there were no wetlands; but last week the report indicated there were wetlands, and the board may have had a different opinion had they known there were wetlands and the issue of the tributary being blocked had not been addressed. Mr. DuPont stated the St. Johns River Water Management District and Army Corps of Engineers approval was obtained based on misinformation provided by the City.

Mr. Hayes stated the information binder provided by Mr. DuPont must be marked and introduced into evidence. He noted neither he nor the Planning Director had copies of the document presented to the Commission. Mr. Hayes reported if the maps shown were separate from the binder, they also needed to be separately marked and introduced into evidence. He asked if Mr. DuPont had any expert witnesses he wished to produce to support the allegations or any written reports to submit.

Mr. DuPont stated if this were sent back to the board allowing more time, he would provide expert testimony.

Mr. Hayes explained the evidentiary standard for the Commission was substantial, competent evidence, which meant the Commission must sift through all of the evidence, written reports, and expert testimony; and should there be any disputed issues of fact, the Commission must weigh the credibility of the evidence and resolve the issues. He advised commentary from lawyers was typically not considered evidence. Mr. Hayes reported the Commission may consider hearsay evidence, but only the Commission could determine how much credibility to give any piece of evidence.

Ms. Carol Mullin, 23 Blockhouse Court, Ormond Lakes, recommended this be postponed and the project be denied. She noted should this project be approved, she requested her property be provided maximum protection. Ms. Mullin stated the Land Development Code read as follows: "The proposed use will not substantially or permanently depreciate the value of surrounding property, create a nuisance, or deprive adjoining properties of adequate light and air, create excessive noise, odor, glare, or visual impacts on the neighborhood or adjoining properties." She reported the road would run directly behind her lot. Ms. Mullin expressed concern that the headlights from people entering and leaving the project would impact her property with both lights and noise. Ms. Mullins noted the staff report indicated appropriate screening and landscaping, and she believed the plans were revised to include a wall. She questioned if this wall would be wooden or masonry and the height of the wall. Ms. Mullins advised the Ormond Grande property would be at least four feet higher than her property, which would impact the height of the wall needed and would add a concern regarding stormwater runoff. She also expressed concern regarding the intrusion of light from the streetlight which was proposed directly behind her property.

Mr. Eric West, 119 Pine Tree Drive, the Village of Pine Run, noted when he purchased his property from Mr. Moore the tributary was actively running, but the homeowners have all filled in the tributaries. He stated cypress domes are usually connected, and if this cypress dome were allowed to be degraded or anything were done to cut across from it to the next cypress dome, the cypress dome downstream from it would be killed. Mr. West reported the tributary drains

into the Tomoka River, and it was illegal to stop water flowing into an OFW. He urged postponing this decision until all of the facts were known.

Mr. Daniel Ruttan, 7 Indian Bow Lane, Ormond Lakes, stated the developer offered to remove the swimming pool due to noise concerns expressed at the board meeting. He reported that after the meeting he was told the developer would have to go to the Planning Board for approval of anything to replace the pool. Mr. Ruttan questioned if the indoor pool would address all of the issues. He noted this project had created many problems with the Ormond Lakes residents and asked the issues be resolved before allowing the development to continue.

Mr. Parker Mynchenberg, 1729 Ridgewood Avenue, stated Mr. DuPont painted a picture that he was trying to fool people by indicating there were no wetlands. He explained there was a Scribner's error in Mr. Ervin's report indicating there were no wetlands on the site; however, two years ago he presented documents such as an aerial photograph of the site showing the project's proximity to Ormond Lakes. Mr. Mynchenberg reported he supplied wetland reports years ago when the area was rezoned to conservation, not multi-family, and the wetlands were being protected in a conservation easement. He advised that Mr. DuPont inferred there was a higher standard for a tributary than for a ditch, but there was no difference. Mr. Mynchenberg stated Mr. DuPont reported the Army Corps of Engineers did not come onto the site, but they typically do not come on sites; however, St. Johns River Water Management District visits every site, as they did for this project, before issuing a permit. He reported an endangered species report was provided and nothing other than gopher tortoise were found. Mr. Mynchenberg advised he permitted numerous tributaries to the Tomoka River, and he would be using the same expertise and standards to design this project and meet all codes. He explained a swimming pool was proposed 60 feet from the property line and people expressed concern regarding noise. Mr. Mynchenberg reported eliminating the pool was discussed at the board meeting, but it was also mentioned that this would be a top end project. He stated after taking the noise issue into account, a recommendation was made to add an indoor pool with a swim-out and an exercise room, and the plans were submitted a week to 10 days ago. Mr. Mynchenberg noted he considered this pool would resolve the noise issues and add a higher value to the property. He reported he would prefer a shadowbox fence, but was not opposed to a masonry wall. Mr. Mynchenberg noted on the top property line there was a 50-foot setback and for 25 feet they would be keeping the existing vegetation to satisfy screening. He reported his new proposal was to eliminate the dumpsters and include a tote in each of the garages. Mr. Mynchenberg stated while there were many comments made about Mr. Ervin's staff report, he believed Mr. Ervin did an outstanding job even though he had a typo indicating there were no wetlands, but it was obvious there were wetlands because he submitted a wetlands surveys and reports.

Mr. Hayes requested copies of Mr. Mynchenberg's exhibits as well.

Mr. Mynchenberg advised staff had copies in the Commission packet, but his copy was in color.

Mr. Hayes explained all information presented needed to be identified to provide a very clear record.

Mr. Ervin explained the reason for the special exception was not because of the SE zoned property, but because of the R-5 property which accounted for 8.2 acres of the site, and that was what was being referenced. He pointed out that in the presentation staff made to the Development Review Board staff displayed aerials identifying the situation and clarified that the industrial parcel on US1 had wetlands, but the special exception being considered tonight had nothing to do with that proposed parcel. Mr. Ervin stated he identified that the SE zoned property would be maintained as wetlands, and he identified potential impacts resulting from the project. He acknowledged that the staff report erred in stating the entire site was void of wetland impacts, but the original staff report presented to the Development Review Board referenced that there was an environmental study done to analyze the impacts. Mr. Ervin reiterated that the reason for the special exception was not because of the environmental land or the industrial land, but because of the R-5 zoned property.

Mr. Ervin explained staff reports are provided to the Development Review Board prior to public hearings and are revised after public hearings so they could be presented to the City Commission to enable the Commission to have the full picture of what occurred prior to the application and during the public hearing process at the advisory board stage. He stated the issue of the tributary was a technical issue reviewed by the Engineering Department in cooperation with St. Johns River Water Management District. Mr. Ervin explained the concern regarding an OFW pertained to the quality of the stormwater flowing off the site, which would dictate the amount of stormwater that would have to be detained and treated on site. He advised he in no way dictated to the Engineering staff whether or not to designate a tributary,

but it would go through a technical review. Mr. Ervin pointed out this property was originally zoned industrial and could have been developed for industrial use without any public hearings. He explained that through a request of the property owner, the City processed a Comprehensive Plan amendment and rezoning to bring the property to the Medium Density Residential, which was a standard planning process whereupon greater density was used to serve as a screen. Mr. Ervin reported Medium Density Residential buffering would act as a transition zone between the higher density development that occurred in Ormond Lakes to the industrial properties in US1 which would provide for sound planning in a transitional use. He pointed out that if this did not include more than one building and more than 10,000 square feet, the City would not be going through this process.

Mr. Ervin reported a number of issues were discussed at the public hearing such as Ms. Mullin's concern regarding the location of the roadway in proximity to her property, and as a condition of the Development Order, the Development Review Board recommended that if the existing vegetation did not meet the City's minimum buffering requirements, the applicant would be required to provide a fence and landscaping adequate for screening. He stated a vinyl PVC stockade or shadow box fence was referenced to withstand many years of the elements. Mr. Ervin noted the wall was referenced along the northern property line based on comments from residents on Deerskin Lane concerned about the noise impact from the pool. He clarified the board recommended the pool be deleted because of the outside play area around the pool and the applicant proposed an alternative on which the Commission may act. Mr. Ervin stated regarding the allegation that no public testimony was allowed, he advised that staff followed all advertising requirements, more specifically all residents within 300 feet were mailed a notice, the property was posted, and it was advertised in the *News-Journal*. He reported anyone interested could have met with him as Ms. Mullins and several other residents had done where he provided copies of the plans and all information in the office was open to the public. Mr. Ervin advised staff reports were provided a week before the meeting to the board members and to the Commission on the Thursday prior to the meeting. He noted the information was also available on the internet and would have been provided to anyone requesting the information. He stated the environmental assessment was provided to the Engineering and Planning Department where staff reviewed the documents for compliance with its consistency with the Land Development Code and Comprehensive Plan. Mr. Ervin reported staff also coordinated with data sources such as the St. Johns River Water Management District and the Volusia County Soils Report. He advised staff was required to study the application, and if the specific issues pertaining to the 8.2 acres of R-5 zoned were proper and complied with codes, staff must identify that fact to the boards, which was done.

Commissioner Gillooly stated the zoning was originally industrial one and one-half years ago, and that public hearing was also publicly advertised. She asked what would have been allowed on this property as an industrial site.

Mr. Ervin replied any distribution, manufacturing, or warehousing type of use would have been allowed by right.

Commissioner Gillooly stated she met with some residents and homeowners' association members at Ormond Lakes relative to their concern, but Mr. DuPont's information was new even though he appeared at the Development Review Board meeting. She asked what authority could make a definitive determination as to whether the property had a ditch or tributary and what impact that would have on flooding.

Ms. Judy Sloane, Public Works Director, stated staff would rely on the St. Johns River Water Management District to designate whether there was an OFW or not. She pointed out she, personally, was not familiar with this particular site plan.

Commissioner Gillooly clarified staff would have made their determination based on what was provided to them by the St. Johns River Water Management District.

Ms. Sloane stated at the same time that staff was doing reviews the applicant was requesting permitting from the St. Johns River Water Management District, and staff routinely coordinates with the District.

Mr. Ervin stated when dealing with OFW, impacts must be outlined. He explained this concerned water that had to cross under US1 and then cross further south before arriving at the Tomoka River. Mr. Ervin noted the City must defer to the St. Johns River Water Management District to determine if this was impacting an OFW because they would examine the concept on a regional perspective. He noted regardless of whether this was a tributary or a ditch, if the water flows on the property and the St. Johns River Water Management District believed there was an impact, they would require the property to meet the minimum requirements for an OFW.

Mr. Ervin explained the post development rate and quantity of runoff must not be greater than the pre-development rate and quantity. He stated the lighting would be the standard lighting required in any residential development, and a requirement was added that the lights be directionally lit with glare guards to prevent spill-off onto adjacent properties.

Commissioner Gillooly noted the issue of flooding was addressed and would not affect the Ormond Lakes residents. She asked for clarification regarding the emergency access gate, noting residents feared this would become a regular access into Ormond Lakes.

Mr. Ervin explained Deer Skin Lane dead-ended into the property with a cul-de-sac, and the City required an emergency access for any cul-de-sac of that length. He reported the access would be off Deer Skin Lane, but it would not be a paved access and it would have a breakaway wood fence to provide an opaque screen, while emergency vehicles could access the area when needed. Mr. Ervin noted the residents could also use the access in the case of emergency.

Commissioner Gillooly stated the report staff provided was very extensive. She reported the homeowners' association representatives asked her to specifically thank the Planning and Engineering Departments for helping citizens by explaining the issues when asked. Commissioner Gillooly reported property was sometimes purchased with the assumption the abutting property would never be developed. She stated she believed staff and the applicant made a concerted effort to address and mitigate all concerns.

Commissioner Kent stated Mr. DuPont may not be aware that Mr. Ervin was the “best in the business,” and he appreciated his reports and professionalism. He noted Mr. Mynchenberg indicated there was no difference between a ditch and a tributary and asked staff if that was a correct statement.

Mr. Ervin stated anything flowing into an OFW would have to meet OFW requirements; therefore, he did not find it significant if this was a ditch or a tributary.

Ms. Sloane stated a ditch can be an OFW, but both are treated the same way wherein if it was designated an OFW, the requirements must be met on site.

Mr. Mynchenberg advised that Ormond Grande was designed to be an OFW discharge.

Commissioner Kent asked if it was true that the Development Review Board approved this project under the premise there were no wetlands, and that was only corrected last week.

Mr. Ervin stated the staff report indicated there were no wetlands onsite referencing the R-5 zoned property, but where the wetlands were located in the SE and I-1 zoned property on site was identified in the presentation at the board meeting.

Commissioner Kelley stated he was on the Commission when the Ormond Lakes subdivision was approved in 1996 or 1997, and there were many complaints and concerns voiced regarding what he considered to be a quality project. He pointed out there could have been industrial and manufacturing on this site. Commissioner Kelley stated headlights will commonly reflect in people's houses when a vehicle makes a turn, but he did not know how that could be prevented. He stated he considered this to be a quality project. Commissioner Kelley noted the Commission was not approving the project, but the change in classification to allow the project to go forward.

Mr. Ervin clarified the zoning and land use was in place and this was to stipulate that this type of use, given the conditions identified in the Land Development Code for multi-family uses in the R-5 zoning district, was appropriate at this location.

Commissioner Kelley reported the dumpsters situation would be under staff authority and would be based upon the Development Review Board recommendations.

Commissioner Partington thanked the residents for voicing their concerns because those efforts have made this a better project. He reported that based on available evidence, he found there was substantial competent evidence to vote in favor of this special exception. Commissioner Partington agreed this was certainly a less intensive use than there could have been on the site. He stated the courts do not care if the area had a ditch or tributary and rather focused on where the water would go. Commissioner Partington agreed that Mr. Ervin was “the best in the business, but he noted that Mr. DuPont had done a good job representing his client.

Mayor Costello stated whatever name was attached, be it a ditch or tributary, what was important was that this project can not stop water flowing onto the land. He asked if the height of the fence would be at a low point compared to the road.

Mr. Ervin stated the maximum height of the fence would be six feet along the property line. He explained the industrial parcel closest to US1 would have an extensive amount of fill and would be four feet higher at a finished floor elevation than the homes in Ormond Lakes, and the project would have a six foot wall at that location along with landscaping with the finished grade approximately two to three feet below the top of the wall. Mr. Ervin recommended a condition be added to correlate the fencing to the elevation of the roadway.

Mayor Costello advised it was very dark in front of the McDonalds west of I-95 where the lights were shielded, but was very bright after passing the screening which proved the screening does work well.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Resolution No. 2006-222, approving the Special Exception to include the indoor pool as presented and the wall height to extend six feet above the elevation of a road entering or surrounding the property.

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

Mayor Costello called for a short break at 9:30 p.m. and he reconvened the meeting at 9:37 p.m.

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

Item #9(F) - "Ormond Beach Commercial Complex"

RESOLUTION NO. 2006-223

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A DEVELOPMENT ORDER FOR "ORMOND BEACH COMMERCIAL COMPLEX" SPECIAL EXCEPTION ON A SITE LOCATED AT 500 WEST GRANADA BOULEVARD WITHIN THE B-9 (BOULEVARD) ZONING DISTRICT; BY AUTHORIZING A WAIVER OF THE MASONRY BUFFER WALL REQUIREMENTS ALONG THE REAR PROPERTY LINE, BY ALLOWING THE USE OF AN EXISTING SIX FOOT HIGH WOOD FENCE IN LIEU THEREOF; ESTABLISHING CONDITIONS AND EXPIRATIONS OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-223, as read by title only.

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

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

Item #9(G) – "The Tomoka Oaks Golf Village"

ORDINANCE NO. 2006-17

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 147-ACRE PARCEL OF REAL PROPERTY FROM R-2 (SINGLE-FAMILY LOW DENSITY) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT), SAID REAL

PROPERTY BEING LOCATED WITHIN THE LIMITS OF THE EXISTING TOMOKA OAKS GOLF COURSE; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR "THE TOMOKA OAKS GOLF VILLAGE" PLANNED RESIDENTIAL DEVELOPMENT (PRD); REPEALING ALL ORDINANCES AND PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mr. Ervin stated this was a rezoning for a 147 acre parcel from R-2 to Planned Residential Development (PRD). He noted there was a revised development order on the dais that identified the three items from the Planning Board recommendation that could be incorporated into the final development order. Mr. Ervin pointed out many comments from the Planning Board were recommendations for staff to check certain items such as water pressure and landscaping; therefore, they could not be identified in the development order; but the City Attorney culled through those comments to come up with specific requirements that could be incorporated into the development order, and they were addressed by staff. He stated the reuse availability, which was a major capital undertaking, was not feasible at this time. Mr. Ervin reported the landscaping plan was reviewed, and many of the trees being planted were already above and beyond the minimum requirement. He stated traffic improvements would be incorporated into site plan, and the applicant had agreed to those improvements. Mr. Ervin noted these improvements would include striping, signage, and cautionary signage. He advised staff contacted the Utilities Department regarding water pressure concerns at least three times to verify whether or not water pressure problems were being experienced in the Tomoka Oaks area; but the pressures were meeting minimum requirements, and no specific problems were identified. Mr. Ervin stated there would not be any dead-end systems and would actually loop back into the existing system; therefore, water pressure should be maintained.

Mr. Ervin advised the development order would include notification to purchasers by a note on the plat that they were within proximity of the airport and within the flight plan of the airport. He stated the golf course shall remain a golf course and would not be able to be converted to any other use without approval by the City Commission. Mr. Ervin reiterated this property was Low Density Residential with an R-2 zoning; therefore, a developer could, in theory, develop the entire golf course for 600 homes, but considering the contours 300 single-family homes would be more realistic. He explained the proposal was for multi-family homes consisting of three and four story condominiums, town homes, and three single-family homes.

Mr. Rob Merrell, 1638 John Anderson Drive, representing the applicant, provided a visual presentation of the project. He reported he would rely on Mr. Ervin's conclusions in his staff report concerning Comprehensive Plan consistency, compliance with all of the City's Land Development Code requirements, and other issues. Mr. Merrell pointed out the Planning Board recommended unanimous approval with conditions that they have accepted. He stated there were issues everyone agreed on regarding some Smart Growth principles, and this project represented some of those principles such as the concept of urban renewal, proximity to services, clustering development, and the preservation of open space. Mr. Merrell explained this project was for 122 residential units, a new club house, pro shop, tennis center, tennis courts, and many amenities. He stated the property owner made a concession to cluster a lower number of units that would allow a great deal of open space. Mr. Merrell reported there would be a total of 84 condominium units, 35 townhouse units, and three residential units. He presented a computer rendering of the development proposed superimposed on the aerial photograph and pointed out the various elements of the proposed plan along with renderings of the buildings and landscaping. Mr. Merrell reported there would be considerable improvements to the lake system and the green for the golf course as a result of retrofitting the golf course for reuse water. He advised this request was for a planned redevelopment rezoning.

Mr. Harry Wendelstedt, 88 South St. Andrews, stated he has been a resident of Tomoka Oaks for 35 years, which was one of the finest residential developments in Volusia County. He stated he believed this would adversely affect the residents who live along the golf course. Mr. Wendelstedt reported people were told when purchasing their property that this golf course would remain for 99 years. He expressed a concern regarding property values; however, he has been informed that should not be a concern. Mr. Wendelstedt stated Tomoka Boulevard was two lanes, and he expressed concern regarding what would happen should another natural disaster occur such as the fires of 1998. He recommended placing a traffic light at the end of Tomoka Boulevard and Nova Road. Mr. Wendelstedt noted residents may have had a different view if the renderings and information were made available to the people earlier than this evening. He stated he opposed the development because the homeowners would lose the site of the rolling green fairways.

Ms. Joan Deemer, 86 South St. Andrews Drive, stated she lived in Tomoka Oaks for 28 years and opposed the recommended changes. She expressed concern that this would adversely affect the area with too many people and too many cars taking away the charm of Tomoka Oaks.

Ms. Zella Wilen, 48 Oakmont Circle, stated in the Fall of 1970 a request to rezone this property to R-5 was rejected at the Planning Board and in October 6, 1970, the Land Use Map was adopted by the Commission and that map showed Tomoka Oaks, including the golf course and undeveloped wooded areas, to be Single-family Residential Low Density zoned R-2, making Tomoka Oaks some of the largest lots in Ormond Beach. She reported that at the recent Planning Board meeting she objected to the entire rezoning change, stating Tomoka Oaks Boulevard should not be approved for an extension or a connection to any planned or named street within this area. Ms. Wilen voiced an objection to any overnight lodging should that be considered. She stated she opposed the increased traffic through Tomoka Oaks to the South St. Andrews area and noted this would add additional traffic to the Trails as well. Ms. Wilen reported the City Attorney in 1970 talked about spot zoning, cautioning the Planning Board that the golf course was a conditional use and would be able to request certain updating and remodeling, and that statement was relevant today. She noted restrooms were a problem due to vandalism, but were needed. Ms. Wilen pointed out the club house and garage areas could have been upgraded at any time in the past 36 years. She reported this change would impact the entire Tomoka Oaks area, not only those living on the golf course or within the 300 foot notification area. Ms. Wilen equated the 1970 R-5 request to this PRD request and opposed the change. She advised part of the selling point for homes in this area was that this would remain a golf course for 99 years, and she urged the zoning remain the same and the project be stopped.

Mr. Rob Merrell stated the property owner made a commitment to maintain the open space of the golf course in perpetuity. He pointed out the entire property was currently zoned for home sites; however, the development order under this proposal would indicate that the golf course would remain open space, and the City would then be able to enforce that as an element of the development order. Mr. Merrell reported speakers mentioned a 99-year provision, but there was no such covenant; however, this proposal would include a commitment to cluster 122 units in areas designed to be the least intrusive along with a recorded covenant to keep the golf course.

Mr. Hayes concurred that there was no covenant of record regarding the golf course; therefore, the applicant had a right to request this redevelopment of the Commission. He noted the City could now go back to try to do what some of the homeowners believed they already had for some 30 years.

Mr. Merrell advised the Commission received a complete traffic report in their information packet, and no failures in the transportation network were found, but several improvements were being proposed. He reported he met with as many people as possible prior to this meeting. Mr. Merrell advised that many people saw the pictures in advance of the Planning Board meeting, and there was a full-house at the Planning Board meeting. He noted many of those people did not come to make an objection tonight because they went away from the meeting satisfied that their questions and concerns were answered. He reported a DOT warrant would be needed for a traffic light, but the requirements for a light would not nearly be met. Mr. Merrell stated this was very different from what occurred in the 1970s because what was being shown now was what would occur if approved by the Commission, and it could not be changed.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-17, on first reading, as read by title only.

Commissioner Kent reported he met with the developers a year ago, and the plans had not changed a great deal. He expressed concern regarding buffering for the current residents; however, the presentation showed this was addressed, and he could support this proposal.

Commissioner Gillooly stated the concept had merit, but she questioned what protection the people who purchased a home on a golf course would have. She noted people needed to be aware when purchasing a home what could occur to the property surrounding their home. Commissioner Gillooly pointed out nothing was uncovered that would protect the people to have this remain a golf course. She stated Tomoka Oaks was and remains a premier community in the City, but the golf course had not keep up to that premier status. Commissioner Gillooly suggested this development would bring in new residents, but at a greatly reduced rate than was permitted. She noted the design was thoughtful in that it kept the buffer, and the improvements may help bring the premier status back to the homes, increasing the value of the

existing homes. Commissioner Gillooly informed Mr. Merrell that she would like to assure the residents this would be the last residential plan for the Tomoka Oaks community. She advised she also told Mr. Merrell that she noted the developer planned the project with surrounding green space and improvements to the golf course, but she needed additional assurances that this would remain intact. Commissioner Gillooly reported the reply she received was an iron clad commitment. She stated the developer had a right to develop this property in a residential manner, and all of the above-noted improvements would to be made, which would make the overall project better.

Commissioner Partington advised he met with the developer last year and would vote for this for some of the same reasons as Commissioner Kent and Commissioner Gillooly previously mentioned. He noted this project would improve the entire subdivision, and this development set the standard for developments in other areas. Commissioner Partington reported he was comfortable this developer would make this project as high a quality, if not a higher quality, than he had done previously.

Commissioner Kelley reported he also met with the developer and saw a presentation last year. He stated this answered many questions; and while it would not answer the questions of those who want the land to stay exactly as it was, it did answer the question of whether there would be residential buildings constructed directly behind someone who now had a golf course view. Commissioner Kelley advised the placement of the development would not adversely impact the visual effect. He pointed out this would provide assurance that this would never come back to an R-2, R-3, or R-4 and would be dedicated. Commissioner Kelley reported the owner had prospective buyers come to him years ago to develop the property, but chose not to sell because he wanted to keep the golf course. He advised the proposal would only improve the value of all of the property in the area. Commissioner Kelley stated he shared a concern relative to the traffic, but was convinced the people would not come through the Trails because it would be faster to go to Nova Road and turn west to Clyde Morris Boulevard. He noted the only difficulty he could envision was the time it would take to exit on to Nova Road, particularly eastbound. Commissioner Kelley reported this project would be an improvement to the entire neighborhood, and it would assure the golf course would remain.

Mayor Costello reported he met with the developer a year ago, and the reality of the situation was that this was a residential piece of land that could hold 600 units and could realistically only hold 300 units without a golf course, but this proposal was for 122 homes with a golf course. He stated the choice was that in order to keep the golf course, the owner would have to make some money. Mayor Costello explained the alternative was, because the land was poorly permitted years ago, a developer had the right to construct 300 single-family homes and remove the golf course. He pointed out that in this development order the only thing permissible was the golf course open space. Mayor Costello recommended the developer set aside the finances for a traffic light even if it was not warranted at this point in that he believed traffic to be a valid concern. He asked if DOT would permit a light if the money was available.

Mr. Sans Lassiter, Traffic Engineer, replied if a traffic light was installed that does not meet the DOT warrants and an accident was caused by the fact the signal was installed, it would make the one installing the light liable. He explained traffic lights are a major liability issue because they increase rear end accidents and are meant to avoid right angle accidents which are more severe. Mr. Lassiter advised that due to this particular entrance on this particular road, most of the turns from Nova Road would be northbound left turns entering the parcel and most exiting from this project would be eastbound or outbound right turns, and those movements do not conflict with each other; therefore, this would not meet DOT's requirement for a traffic signal, and they would not allow it to be installed without a significant change in development such as a build-out of area. He reported the count at the peak hours did not meet the warrant, and the requirement was to meet eight hours to warrant a signal.

Mayor Costello stated the City had hired Mr. Lassiter on numerous occasions, and he was known to be honorable and would not state anything that could later be refuted. He assured Ms. Wilen the plan did not include any hotel/motel type proposal.

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

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

Item #10(A) - "Airport Business Park, Tower Circle Extension" Preliminary/Final Plat

ORDINANCE NO. 2006-15

AN ORDINANCE APPROVING THE PRELIMINARY/FINAL PLAT FOR THE "AIRPORT BUSINESS PARK, TOWER CIRCLE EXTENSION," A REPLAT OF "AIRPORT BUSINESS PARK," PHASE II; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2006-15, on second reading, as read by title only.

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

Item #10(B) - Sexual Offender and Sexual Predator Residence Prohibition, Penalties, and Exceptions

ORDINANCE NO. 2006-16

AN ORDINANCE AMENDING CHAPTER 23, SEXUAL OFFENDERS AND SEXUAL PREDATORS, OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH, FLORIDA, BY AMENDING SECTION 23-3, SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS, TO INCLUDE OUT OF STATE OFFENSES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, for approval of Ordinance No. 2006-16, on second reading, as read by title only.

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

Item #11 - Collection, Removal, and Disposal Of Debris Upon Private Roads and within Private Gated Communities During a Declared State of Emergency

ORDINANCE NO. 2006-18

AN ORDINANCE AMENDING CHAPTER 10, WASTE, YARD WASTE AND RECYCLABLES*, OF THE CODE OF ORDINANCES OF THE CITY OF ORMOND BEACH, FLORIDA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 10-1, DEFINITIONS; AND BY AMENDING SECTION 10-18, RESERVED, TO PROVIDE FOR THE COLLECTION, REMOVAL, AND DISPOSAL OF DEBRIS UPON PRIVATE ROADS AND WITHIN PRIVATE GATED COMMUNITIES DURING A DECLARED STATE OF EMERGENCY; PROVIDING FOR SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-18, on first reading, as read by title only.

Commissioner Kelley stated that this was attempting to make certain the City complied with all of the acts necessary to make legitimate claims to the Federal Emergency Management Agency (FEMA) for reimbursement of removing waste in gated communities in the event of a declared state of emergency and to make certain the services for the protection of life, emergency services, and endangerment people may suffer should be covered should they be in a gated community or not. He noted there were situations where trees fall making it impossible for emergency vehicles to access an area. Commissioner Kelley reported he favored this to enable

the City to apply for reimburse from FEMA. He expressed hope the City would still be reimbursed for the prior storm where FEMA funds were questionable.

Mr. Paul Lane, Finance Director, stated staff was still working on obtaining the abovementioned reimbursement.

Mayor Costello noted the key was that this would increase the probability that debris removal costs would be reimbursed.

Mr. Lane advised FEMA would still consider each application on a case-by-case basis, but this would set the groundwork to proceed through the FEMA process in the event of another storm.

Commissioner Gillooly stated the City needed to respond to gated communities in that they were also a part of the community as a whole. She asked if a gated community would have to privately pay for debris removal, or would the City remove the debris and charge the homeowners.

Mr. Lane explained some communities did not go into gated communities to remove debris, but Ormond Beach always removed debris from gated communities in emergency situations.

Commissioner Gillooly asked if the City had ever charged a nominal fee to cover the cost if the City was not reimbursed.

Mr. Lane advised the City would have that option but had never done so in the past.

Mayor Costello stated that whether the community was gated or not, all residents pay the solid waste removal fee.

Mr. Hayes stated the law in Florida was that the roads in gated communities are private and deemed to be private property. He explained to use public money for a private benefit there typically had to be some return on that expenditure; therefore, the law required the City to be reimbursed for the expense. Mr. Hayes reported this provision recognized there was a superior public need or purpose behind going into the gated communities, and it set the framework to pursue reimbursement through FEMA.

Commissioner Kent agreed with Mayor Costello that these citizens pay the same fee.

Commissioner Partington stated everyone should be taken care of after a storm, and these people were paying the same fees and taxes and not producing as much of a drain on the City as public roads.

Mr. Lane reported these residents were also paying the same income taxes to fund FEMA.

Mr. Turner stated when paying the additional disposal charges to pick up the debris it would come from the Sanitation Fund balance as opposed to the general tax dollars where everyone pays the same fees whether that resident lived in a gated community or not. He noted FEMA would decide whether they would reimburse or not reimburse costs. Mr. Turner pointed out FEMA reimbursed cities differently from Hurricane Charley to Hurricane Wilma. He explained this was to be the best position to be reimbursed by FEMA, but it had nothing to do with the way the City structured the payment of regular disposal pickup or the reserve funds that are kept to pick up debris on an emergency basis.

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

Item #12 - "Ormond Grande"

RESOLUTION NO. 2006-224

A RESOLUTION APPROVING THE PRELIMINARY PLAT FOR THE "ORMOND GRANDE" SUBDIVISION; LOCATED ON THE EAST SIDE OF US1, APPROXIMATELY ONE-HALF MILE SOUTH OF ORMOND LAKES BOULEVARD; ESTABLISHING CONDITIONS AND EXPIRATION DATE OF APPROVAL; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-224, as read by title only.

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

Item #13 - Sunset of Advisory Boards

Mr. Tom Lipps, Support Services Director, noted staff was seeking direction from the Commission as to which way they wished to proceed and noted this must be resolved by the end of the year.

Commissioner Gillooly asked what mechanism should be used to add a board or a committee. She recommended a board or a committee, perhaps within the Quality of Life Advisory Board, to address issues regarding handicap accessibility in order to give a greater voice to disabled people.

Mr. Hayes stated any existing board could form their own subcommittee and address any item the Commission asked them to address. He advised a new board could be created by amending an ordinance, but the existing board structure could also be used.

Commissioner Gillooly recommended involving people with various disabilities to provide recommendations.

Mr. Hayes reported the committee would be made up of the board members, but they could always invite public participation, particularly those from the disabled population.

Commissioner Gillooly requested a committee through the Quality of Life Advisory Board be formed.

Mayor Costello stated he considered this an outstanding idea and recommended involving people who are blind, in a wheelchair, hearing impaired, and other disabilities be represented.

Commissioner Kelley stated the Commission could make better use of some boards by providing them with specific issues to consider.

Mayor Costello asked the Commission if any boards should be sunsetted or should all current boards be approved for another four years.

Mr. Hayes stated another option was to amend the ordinance to eliminate the sunset requirement.

Mayor Costello advised he would not favor eliminating that requirement.

Commissioner Kent and Commissioner Gillooly recommended continuing to examine the possibility of sunseting the boards every four years.

Mr. Hayes explained the Commission could discontinue any board at any time. He noted this would merely offer the opportunity to examine the boards every four years; and if nothing were to be done, the boards would sunset after the four year period.

Commissioner Kelley recommended giving the boards more specific challenges. He reported the Budget Advisory Board accomplished the mandate of their original charge and asked for specific challenges from the Commission. Commissioner Kelley recommended the Budget Advisory Board examine the flow from a business organizational standpoint of the entire City, examining all of the positions in terms of functionality, effectiveness, and seeking opportunities for consolidation of positions.

Mr. Turner stated the Budget Advisory Board was working with staff to make improvements wherever they could be found, but they could consider the functions and operations of the City, employees. He pointed out the board already did a study division-by-division including site visits relative to the operations last year, but they could examine positions overall.

Commissioner Gillooly recommended examining the boards every two years when appointing board members to the boards. She noted at that time a set of tasks could be devised similar to the goals set by the Commission.

Mayor Costello concurred with Commissioner Gillooly's recommendation and encouraged the Commission and staff to provide Mr. Turner with ideas, and he asked Mr. Turner to provide a compilation of those ideas for the Commission to consider. He recommended inviting the Budget Advisory Board to offer suggestions on the hypothesis that the Commission would eliminate six positions and the board would be tasked to provide suggestions as to which positions would be cut. Mayor Costello stated the charge to the Quality of Life Advisory Board was for the City to be as responsive, receptive, and sensitive to the physically challenged people, and they would make recommendations to achieve that goal.

Commissioner Kelley stated when the people spoke on the tax increase they did not ask their services be cut to save money; therefore, the only other way to save would be to be more efficient. He noted he considered it key to save money while not adversely affecting the level of service.

Mr. Turner stated the Budget Advisory Board clearly understood their function was to save money and assure tax dollars be wisely spent. He advised against selecting an arbitrary figure to cut a present number of employees. Mr. Turner stated expenses could definitely be cut, but those cuts would impact the level of service. He advised he would direct the Budget Advisory Board to do an assessment of upper management positions, but he reiterated his concern regarding setting an arbitrary figure. Mr. Turner stated he wanted to find some efficiencies without the loss of service.

Commissioner Kelley clarified he was not suggesting cutting services, but wished to present a challenge to save money without the loss of service.

Mayor Costello recommended Mr. Turner present the ideas to the Commission to discuss in a couple months in a discussion item. He asked staff when the board appointments were made at the goal-setting session to recommend specific challenges.

Item #14 - Audience Remarks

There were no additional audience remarks.

Item #15 - Reports, Suggestions, Requests

Chili/Chowder Cook-off

Commissioner Kent stated a Chili/Chowder Cook-off, sponsored by the Main Street organization, would be held on October 14 at 11 a.m.. He asked if the Commission would judge the contest. Commissioner Kent noted there would be a first place, second place, and peoples' choice award given.

Mayor Costello stated at 10:30 a.m. the Ormond Beach Historical Trust would be dedicating the copula, and he would be available directly after the dedication.

Commissioner Gillooly, Commissioner Partington, and Mayor Costello stated they would judge the contest. Commissioner Kelley stated he would have to make certain he was available.

Education Center at Central Park

Commissioner Kent requested an update on the education center at Central Park.

Audience Remarks

Commissioner Kent urged Mayor Costello to continue to use common sense in deciding whether to allow a speaker to provide their audience comments after 7:30 p.m. as he did this evening.

Cell Phones

Commissioner Kent stated at the beginning of each meeting Mayor Costello asks that cell phones be turned off; however, someone on the dais was not turning off their cell phone because the frequency can be heard over the speakers. He requested everyone turn off their cell phones in the future.

Byron Eleanor Sober House

Commissioner Kent stated he received messages regarding the Byron Eleanor Sober House. He noted staff was examining this issue. Commissioner Kent reported he was informed the

number of people was greater than two per unit, and the amount of money each were paying per week was different.

Parking Lot Lights

Commissioner Kent noted people were fearful after the last Commission meeting because the lights in the parking lot were so dim. He asked the lights be on brighter in the City Hall parking lot.

Cell Phones

Commissioner Kelley stated he no longer brings his blackberry to the dais to avoid the interaction with the microphones.

Audience Remarks

Commissioner Kelley stated Mayor Costello made the right decision to extend the audience remarks for the last speaker. He recommended Mayor Costello use his discretion in such matters. Commissioner Kelley pointed out the other Commission members do not know how many speakers were remaining, and he would much prefer to hear the final speaker at 7:35 p.m. rather than for one person to have to wait to the end of the meeting.

Building Heights

Commissioner Kelley stated the more political action committees that are formed, the more vitally important it was to properly educate the people on the facts regarding the building heights issue. He reported he listened to the people, but could not possibly please 100% of the people.

County Charter Informational Piece

Commissioner Kelley stated the County Charter information piece was well done. He reported he believed there was a great need for the people to understand that this was all about taking the power away from the cities and giving it to the County.

Audience Remarks

Commissioner Partington reported the question of allowing additional audience comments after 7:30 p.m. was within the Mayor's discretion, and Mayor Costello handled it well tonight.

Cell Phone

Commissioner Partington stated he also did not have his cell phone, and he was not certain why the feedback was occurring or if it could be prevented, but he agreed it was distracting.

County Charter Amendments

Commissioner Partington stated taking the power from the cities was actually taking the power away from the citizens. He hoped people would read and understand the informational piece that was distributed.

Audience Remarks

Commissioner Gillooly concurred with Mayor Costello's decision regarding allowing the final speaker to comment rather than make them wait to the end of the meeting.

Mr. Tim Breneman

Commissioner Gillooly thanked Commissioner Partington for his words and the invocation. She stated she learned Mr. Tim Breneman's family's service to the community, and their generosity of spirit was well entrenched in this community. Commissioner Gillooly advised Mr. Breneman's mother and father were instrumental in the beginnings of the Habitat affiliate. She expressed sorrow for Commissioner Partington's and the community's loss.

State of the City

Mr. Turner reported the State of the City would be held on October 10 at 11:30 a.m. at Oceanside Country Club.

Mayor Costello stated if any Commission member had anything they wanted him to include he would evaluate the item, and he urged the items be e-mailed to Mr. Turner.

Audience Remarks

Mayor Costello thanked the Commission for the latitude to allow people to speak after the 7:30 p.m. deadline. He noted he would not do so when there were several speakers, but would use his discretion and try to live within the adopted guidelines to the greatest extent appropriate.

Sober House

Mayor Costello stated he wanted to be certain the City would do everything possible to the codes to make certain cars would not be permitted to park in front yards, rights-of-way, or on

streets overnight in order to limit the amount of people in a single dwelling place. He asked the codes be examined to limit the impact to the neighbors.

Petition Solicitation

Mayor Costello apologized to Ms. Jones for her experience with the petition solicitor, and he assured her that this type of action was not acceptable, and he had voiced this opinion. He advised that he was told that people were fired when this type of action was discovered.

Item #16 - Close the Meeting

The meeting was adjourned at 11:24 p.m.

APPROVED: _____ October 17, 2006 _____

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk