

ORMOND BEACH CITY COMMISSION MEETING  
HELD AT CITY HALL COMMISSION CHAMBERS

November 14, 2006 7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Reverend Sharon Dey, Tomoka United Methodist Church.
- 3) Pledge of Allegiance.
- 4) AUDIENCE REMARKS:
- 5) PRESENTATIONS:
  - A) Proclamation in honor of the Daytona Beach Amateur Radio Association.
  - B) Proclamation in honor of "Make a Difference Day."
- 6) INTERGOVERNMENTAL REPORTS:
  - A) Metropolitan Planning Organization
  - B) Volusia Council of Governments
  - C) Water Authority of Volusia

- 7) **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. 2006-245 adjusting the compensation for Special Masters of the City's Special Master code enforcement system; setting forth terms and conditions of service.
  - B) Resolution No. 2006-246 authorizing the submittal of a grant application in the amount of \$7,749 to the Florida Department of Law Enforcement, Office of Criminal Justice Grants; authorizing the execution of all documents incidental thereto, including any contract necessary for the City to accept the grant award.
  - C) Resolution No. 2006-247 approving and ratifying an Interim Field Change Agreement Number 1 to that contract between the County of Volusia and Halifax Paving, Inc., regarding the provision of construction services for utility adjustments at the intersection of Tymber Creek Road and Airport Road; by increasing the contract price by \$24,138.50. (\$468,898.50 total contract)
  - D) Resolution No. 2006-248 accepting the bid of Thad Construction Co., Inc., regarding construction services for the Autumnwood Drainage Improvements Project under Bid No. 2006-23; authorizing the execution of a contract and payment thereunder. (\$76,760 total contract)
  - E) Resolution No. 2006-249 accepting the proposal of McMahan Construction Co., Inc., regarding construction services for the Water Treatment Plant Filter Replacement Project under RFP No. 2006-28; authorizing the execution of a contract and payment thereunder. (\$3,250,000)
  - F) Resolution No. 2006-250 authorizing the execution of a Work Authorization with Quentin L. Hampton Associates, Inc., to provide engineering services for the Water Treatment Plant Filter Replacement Project. (Not-to-exceed \$72,040)
- 8) **PUBLIC HEARINGS:**
- A) Ordinance No. 2006-09 amending Subsection A, Zoning Map, of Section 2-03, Official Zoning Map and Zoning District, of Chapter 2, District and General Regulations, Article I, Establishment of Zoning Districts and Official Zoning Map, of the Land Development Code, by amending the Official Zoning Map to rezone a 46.24-acre parcel of real property from SR (Suburban Residential) to PRD (Planned Residential Development), said real property being located at the northwest corner of Airport Road and Tymber Creek Road; establishing boundaries; authorizing revision of the official zoning map; approving a Development Order for "Marshside at Groover Branch" Planned Residential Development (PRD). (Second Reading)
  - B) Resolutions to adopt the Ormond Crossings Development of Regional Impact Development Order and Comprehensive Plan Amendments. (Development Order tabled to 12/19/06 and Comprehensive Plan Amendments tabled to 2/6/07)
- 9) **SECOND READING OF ORDINANCES:**
- A) Ordinance No. 2006-19 amending Chapter 3, Performance Criteria, Article IV, Sign Regulations, Section 3-48, Specialized Sign Standards, of the Land Development Code by allowing for additional signage for professional office uses in the Greenbelt Overlay District, subject to minimum criteria.
  - B) Ordinance No. 2006-21 amending Section 2-209, Sunset Review of Boards and Committees, of Article VI, Boards, Commission, Committees and Other Agencies, of Chapter 2, Administration, of the Code of Ordinances, by establishing sunset review dates for boards and committees.
  - C) Ordinance No. 2006-22 amending Chapter 2, Administration, Article VII, Code Enforcement, by amending Section 2-251, Definitions; by amending Section 2-255, Enforcement Procedure; by amending Section 2-258, Administrative Fines and Liens; by amending Section 2-262, Schedule of Civil Fines; by amending Section 2-265, Notices; by amending Section 2-267, Duration of Lien.

- D) Ordinance No. 2006-23 amending the annual budget for the 2005-2006 fiscal year relative to the Pension Contribution Pass Through Fund and the Solid Waste Fund.
  - E) Ordinance No. 2006-25 amending Section 1-32, Article V, Chapter 1; Section 1-22, Article III, Chapter 1; Section 1-26, Article IV, Chapter 1; and Section 3-53, Article V, Chapter 3, of the Land Development Code by creating a proportionate Fair Share Program for the City of Ormond Beach, eliminating inconsistent transportation concurrency study area references, by revising definitions and identifying a new fee for processing fair share agreements.
- 10) RESOLUTION NO. 2006-251 affirming the certification by the Volusia County Canvassing Board of the results of the Referendum Election conducted in the City of Ormond Beach, Florida, on Tuesday, November 7, 2006, regarding a proposed amendment to the City Charter as a result of a citizens' initiative; declaring the results of the election; providing for transmittal.
- 11) DISCUSSION ITEMS:
- A) Airport lease reappraisal process.
  - B) Legislative priorities.
  - C) Future A1A redevelopment process.
  - D) Leeway Trail park design and construction. (Tabled from 11/7/06 meeting)
- 12) REPORTS, SUGGESTIONS, REQUESTS: Mayor, City Commission, City Manager, City Attorney.
- 13) CLOSE THE MEETING.

Item #1 - Call to Order

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

Item #2 - Invocation

Reverend Sharon Dey, Tomoka United Methodist Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Moving Agenda Items

Mayor Costello advised he would be moving Item Nos. 10 and 11(C) to directly before the Consent Agenda and after the Intergovernmental Reports.

Item #4 - Audience Remarks

Beach Parking

Ms. Lucille Bornmann, 6 Windsor Drive, thanked all of the citizens who voted their conviction on what they wanted for Ormond Beach. She stated the cost of a proposed community center, including staffing, maintenance, and custodial care would have run the City \$400,000 to \$450,000 per year. Ms. Bornmann recommended taking a portion of those funds to work with Volusia County for a park. She reported she and Ms. Alice Jaeger wrote a letter to Volusia County on behalf of CAN DO, and the reply they received was that Volusia County was actively pursuing the purchase of property for off-beach parking in Ormond Beach, and they hoped to make an announcement of a purchase in the near future. Ms. Bornmann stated the letter advised County ordinance prohibits the giving up of any beach access, and her suggestion of opening up approaches for parking had merit. She stated County staff would be evaluating approaches in Ormond Beach, and they would continue to strive to make the beach accessible to persons with all physical abilities.

Mayor Costello stated he had been working very hard to obtain off-beach parking for a number of years. He pointed out the Commission funded \$300,000 in this year's budget as the first payment on the expected amortization of the Ormond Beach share.

Fluoridation

Mr. Jim Schultz, 117 Harvard Drive, stated the American Dental Association (ADA) provided notification of a regulation on children 12 months or under where they want a reduction in the fluoride intake, noting the best choice for babies was mothers' milk, formulated formulas already hydrated, or non-fluoridated or very low fluoridated water.

Mayor Costello advised the ADA recommended using the less concentrated fluoridated water when reconstituting powdered milk, but they did not indicate City water had too high a concentration. He explained the warning was to be careful in naturally fluoridated areas that have a high level of fluoride.

Mr. Schultz stated Nestle has recommended no fluoridated water be used in reconstituting their formula. He reported the early studies were altered by reversing the findings.

Airport Hangars

Mr. Richard Lemke, 2 Springwood Trail, requested the Commission provide the Airport Manager direction to build more hangars at the airport. He noted the City could build hangars for \$.20 on the dollar. Mr. Lemke recommended the very least that should be done was to conduct a study.

Mayor Costello asked Mr. Hernandez to report the parameters of what was being offered at the other airports regarding building hangars.

Beachfront Property

Mr. Norman Lane, 1314 Northside Drive, asked if the City had any plans to generate the funding to match what the County would provide for beachside parking.

Mayor Costello advised there were no formalized plans, but the discussion indicated the City may want to do a bond referendum. He asked Mr. Turner to add a discussion item to an agenda to discuss this issue; however, it may be discussed under Item No. 11(C) tonight.

Item #5(A) - Daytona Beach Amateur Radio Association Proclamation

Mayor Costello proclaimed November 14, 2006, as a day to recognize the members of the Daytona Beach Amateur Radio Association in the City of Ormond Beach and urged all residents to join in supporting the Daytona Beach Amateur Radio Association for its service and dedication to the community.

Item #5(B) - "Make a Difference Day" Proclamation

Mayor Costello advised the United Way urged community groups, businesses, and individuals to get involved on the largest volunteer day, "Make a Difference Day 2006." He proclaimed November 14, 2006, as a day to recognize those who made a difference on "Make A Difference Day 2006" in the City of Ormond Beach by providing enhancements to the grounds such as landscaping, mulching, and painting picnic tables, benches, and directional stripes in the hallways at Ormond Beach Middle School. He reported Lowe's Home Improvement Warehouse, Winn-Dixie Supermarkets, and Einstein Bagels made a difference by providing landscaping, painting material and supplies, food, and beverages; and the City of Ormond Beach employees, the Ormond Beach Police Athletic League, residents of the city, and students from the Ormond Beach Middle School and Seabreeze High School made a difference by volunteering their time and energy.

Item #6(A) Metropolitan Planning Organization

Mayor Costello reported he had no new information regarding the Metropolitan Planning Organization (MPO).

Item #6(B) - Volusia Council of Governments

Mayor Costello reported the Executive Committee of the Volusia Council of Governments (VCOG) met last Thursday. He advised the top goal for next year was to complete the Smart Growth Implementation Committee guidelines to work with the County so there was some reciprocity regarding what would occur with treasured lands.

Item #6(C) - Water Authority of Volusia

Commissioner Kelley stated Water Authority of Volusia (WAV) had a meeting tomorrow. He thanked the cities for their efforts to maintain control of the water and destiny of WAV, and WAV

may be reborn. Commissioner Kelley reported he hoped the cities would understand there was a sole source aquifer.

Item #10 – Certification by the Volusia County Canvassing Board Regarding a Proposed Amendment to the City Charter

RESOLUTION NO. 2006-251

A RESOLUTION AFFIRMING THE CERTIFICATION BY THE VOLUSIA COUNTY CANVASSING BOARD OF THE RESULTS OF THE REFERENDUM ELECTION CONDUCTED IN THE CITY OF ORMOND BEACH, FLORIDA, ON TUESDAY, NOVEMBER 7, 2006, REGARDING A PROPOSED AMENDMENT TO THE CITY CHARTER AS A RESULT OF A CITIZENS' INITIATIVE; DECLARING THE RESULTS OF THE ELECTION; PROVIDING FOR TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

Ms. Caj Piñero, 176 Seminole Avenue, reported she moved to Ormond Beach from New York City to get away from high rise buildings, smog, and everything associated with mass population and growth. She thanked Commissioner Kent for his support in representing the community. Ms. Piñero asked if the Commission would abide by and enforce the people's choice. She requested the Commission let the peoples' voice count by letting the issue stand as it was voted on by the people.

Mr. Patrick Dougherty, 30 Dix Avenue, stated last Tuesday's mandate was clear with every zone carrying the "yes" vote. He urged this matter be put in the past. Mr. Dougherty stated the building height issue should never again be political or legal. He noted all details of future development should be resolved administratively. Mr. Dougherty reported the expensive waste of legal and political fighting on this matter should stop now, and all resources should be joined to move forward for the future betterment of the City. He urged the appeal be dismissed. Mr. Dougherty advised he believed this vote was not only about building heights, but the use of power. He stated the voters were uncomfortable with placing such vast financial power in the hands of so few people, and this applied not as much to the present Commission as it did to unknown future Commissions.

Mr. Glenn Jaspers, 160 Ocean Terrace, expressed concern regarding the City making issues intentionally or unintentionally unclear. He stated the word "shall" referenced in Mr. Hayes' letter was an imperative, but the Commission was provided with four options. Mr. Jaspers reported the issue was clear to the voters. He urged the Commission to transfer the height limitation in Item E of the Land Development Code into the Charter.

Mr. Philip Maroney, 117 Atwood Lane, thanked the Mayor and Commission for trying to educate the public on the building heights issue in the face of constant criticism and undeserved ridicule. He stated Mayor Costello and the Commission do the City a favor with their dedication to public service, and it does not go unappreciated. Mr. Maroney reported he favored the appeal a few months ago, but the outcome of the vote changed his opinion. He stated regardless of the tactics employed by some of the CAN DO supporters including fear mongering, exaggeration, distortion of the truth, and intellectual dishonesty, the outcome of the vote was convincing. Mr. Maroney stated the City would be best served if the Commission dropped the appeal. He concurred that the amendment language was flawed, but the intent was obvious. Mr. Maroney stated if, after adopted, a private property owner came forward because their property rights had been unjustly compromised, they could pursue a lawsuit, and they would bear the costs. He reported he fully suspected lawsuits would be forthcoming against which the City would have to defend; however, continuing the appeal would result in the taxpayers shouldering the financial burden of the appeal and the additional legal costs to defend the amendment when and if the City were sued by a private party.

Mr. Martin Jackson, 78 Highland Avenue, reported he wrote an editorial and would like to read it to the Commission. He asked if the Commission would need to vote to move the language from the Land Development Code to the Charter.

Mr. Randal Hayes, City Attorney, stated it would be great if the issue were as simple as it was portrayed. He explained the Charter was a complex document, and the law allows the Charter be amended either by ordinance from the Commission or by circulating petitions by the people. Mr. Hayes reported the City did not have the authority to take something other than what was voted on in the petition to be placed in the Charter.

Mr. Jackson stated he opposed placing a static height restriction in the Charter at the expense of individual liberties. He contended that the confusion of the issue was a decisive factor. Mr. Jackson noted the proponents pushed distrust of public officials, dislike of individual rights other than the right to petition, and distain for developments. He noted the CAN DO movement was emotionally driven against what they considered corrupt elected officials and vile capitalistic developers. Mr. Jackson explained the government's role was to protect the people, and the people entrust them with police power to make decisions on their behalf. He stated people have traded away the burden of individuality for the comfort of the consensus. Mr. Jackson reported the Commission did not have any other option other than to place the amendment into law until the people understood the consequences such as the buildings on the beachside would continue to deteriorate and the taxes would increase when someone may eventually initiate a change.

Mr. Hayes requested, procedurally, that a motion and a second to approve the resolution be made, and then amendments could be made to that motion for various options.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2006-251, as read by title only.**

**Commissioner Kent moved to amend the motion, seconded by Commissioner Gillooly, to approve Option No. 1.**

Commissioner Kent reported Option No. 1 was a permanent fix effective when filed with the Florida Department of State. He noted the language of the ballot summary could be substituted for that of the full text of CAN DO's amendment. Commissioner Kent stated the City Attorney had advised that while the Commission was required to correct defects in a ballot summary, he found no specific legal authority that required a City Commission to correct defects in a charter amendment proposed by petition of the electorate.

Mr. Hayes read the text of the actual amendment for the record, which would be substituted in Section 3 of the resolution on page four.

Commissioner Kent stated those who placed the Commission in office had spoken with a record turn out, and 59% of the voters agree they do not want buildings over 75 feet in the City. He noted it was time for the City to heal and come back together.

Commissioner Gillooly stated that in light of the audience remarks, the Commission could debate the merits of the vote, but that was not her intent. She noted Mr. Jackson made a good point, which was a concern she shared regarding this vote not being about a single project, but that message got lost. Commissioner Gillooly reported it was incumbent upon her to respect and honor the vote made by the people. She pointed out there was a great flaw in how this was voted for, and she believed it was her responsibility to fix that language to keep the intent of the voters.

Commissioner Partington stated he would vote "no" on the amendment, but "yes" on the resolution. He stated if a developer would come to the City presenting a project, this language would not prevent approval of a building over 75 feet because the language was flawed, a fact the CAN DO attorney admitted to when he asked the Commission to do something they could not legally do, which was to change the language. Commissioner Partington agreed the Commission needed to honor the intent of the vote. He noted the City was legally required to place this language into the Charter, but the City should take the initiative to include a proper 75-foot height limit amendment and come up with a new Charter referendum for a special election or at the next general election to withdraw the language and replace it with something legally enforceable. Commissioner Partington advised he understood why the Commission would want to do the popular thing, but the City must follow the law. He recommended approving the language as the petition was presented and following the proper order.

Commissioner Kelley asked if the Commission would be guilty of malfeasance, misfeasance, or neglect of duty if any of the options provided were to be adopted; whereby, Mr. Hayes advised his opinion was that the Commission would not be guilty of the aforementioned if any option was approved.

Commissioner Kelley stated he received letters and e-mail suggesting a recall or asking for a resignation if he would not vote as some would have him vote, and it was unfortunate the incident had become so political. He reported the Commission made every effort to try to educate the public that the language that would be placed in the Charter was a question. Commissioner Kelley pointed out that the people legally voted for a question, and there was every opportunity to correct that issue. He stated the Commission would be creating further

legal challenges by changing what the public knew they were voting on. Commissioner Kelley advised it was legally difficult to determine intent. He reported he spoke to six people this past week who believed they were voting for the Bray and Gillespie proposal with a “yes” vote. Commissioner Kelley stated it would be prudent and fiscally responsible to adopt the resolution and continue the appeal, because if the City’s position prevailed as to the lack of legal sufficiency, the City would be where it was before November 7. He stated that would not produce any lawsuits, giving the City the opportunity to place corrected language on the ballot to amend the Charter. Commissioner Kelley noted if the City failed, it would help the City’s position in defending possible future lawsuits. He reported he sought the advice of political experts, and the consensus was that it would be expedient to vote politically, but he had never voted politically and chose to vote only on what he believed was right.

Commissioner Gillooly asked if there were a vote to correct the flawed language and it were placed in the Charter, and if the City continued the appeal but the appeal determined the amendment to be unconstitutional, how that would affect what would be placed in the Charter.

Mr. Hayes stated an unconstitutional determination from the courts would likely invalidate the amendment, which would be accomplished through a judicial procedure. He noted at some point thereafter the City would officially remove the item from the Charter.

Commissioner Gillooly stated the easy and political position would be to drop the appeal. She reported she believed it was important to pursue the appeal because the vote did not answer all of the questions. Commissioner Gillooly advised the City could possibly be placed in a position of legal challenges, and these challenges would have definite financial consequences. She reported should the decision of the appeals court affirm the first court’s ruling, when the lawsuits occur, the City could be able to prove it went through the processes. Commissioner Gillooly noted she would support changing the ballot language to place it in the Charter, but she would also favor following through with the appeal because the Commission owed every taxpayer the responsibility of following through with the appeal. She urged the politics be taken out of the issue. Commissioner Gillooly pointed out that she never stated she was in favor of the Bray and Gillespie proposal. She clarified Bray and Gillespie had a proposal or concept, not a plan, and the people were not voting on the plan, but rather they were voting on an opportunity to consider choices. Commissioner Gillooly noted there was obviously an interest in off-beach parking and parks, but she questioned if there would be financial support by the taxpayer.

Commissioner Kent stated he was pleased Commissioner Gillooly would support Option No. 1, but displeased she would support the appeal. He noted he planned to make a motion to drop the appeal in order to start the healing process. Commissioner Kent reminded the Commission this vote carried in every zone, and the people knew what they were voting on and what they wanted. He pointed out this issue had divided the City. Commissioner Kent stated last August former Commissioner Boyle offered three options and all were refused: a 75-foot limit everywhere except I-95 and US1, restricting the 75-foot limit to 1,500 feet adjacent to a navigable waterway, and a 75-foot limit only on the barrier island. He advised for the healing process to start, the Commission should approve Option No. 1 and drop the appeal.

Mayor Costello asked Mr. Hayes what the benefit to the City would be to continuing the appeal.

Mr. Hayes stated these issues were cropping up all across the State with this new area of law only starting to develop and not fully understood, and Ormond Beach was on the forefront of the issue with questions not fully explored in any of the previous cases. He reported the benefit would be that the City would obtain definitive answers to the lingering questions. Mr. Hayes advised there was no way to clean this up, and there were also practical and political issue. He stated, as a lawyer, he wanted answers; however, he took direction from the Commission. Mr. Hayes reported he could not give a definitive answer to Mayor Costello’s question.

Mayor Costello stated because he was unable to obtain a good answer to his question and because it was right for the City, he would vote to stop the appeal because he heard nothing from the City Attorney that convinced him that it would benefit the City by continuing the appeal. He expressed his concern at some of the proponents of this issue as to what they said, did, and promulgated, but he would continue to do what was right for the City. Mayor Costello stated he would prefer to continue the appeal so the legal issues could be resolved, but there were other methods to accomplish that more quickly and at less cost. He recommended getting people together from all sides of the issue and asking what would be acceptable such as church steeples, antenna, air conditioning units, and grandfathering to protect the current residents.

Mayor Costello stated he was angered that people have accused him of “being in bed with developers.” He reported he told his son he should not take a job with a developer because of the perception. Mayor Costello advised his daughter was in a line at the movies hearing people

talk about how “crooked” the Mayor was, and this was the type of talk that was dividing the City because of people who promulgate this type of nonsense. He noted he had no problem with people discussing if they favor or oppose the height limit, but people need to stop discussing issues they know nothing about. Mayor Costello stated Ms. Piñero spoke about growth as follows: “to get away from high rise buildings, smog, and everything that comes with the mass population and growth.” He noted this fear mongering about mass population and growth was being discussed when these buildings would incur absolutely no increase in population. Mayor Costello stated people discussed growth, population, traffic, and all of the other fears of growth when the proposal was to place the same number of people in fewer buildings. He advised that he supported the people’s right to oppose tall buildings, but not to instill fear in other people that there would be more people on the beachside, more traffic, and more problems due to the tall buildings bringing in more people. Mayor Costello reported people on both sides of the issue exaggerated and made political statements to support their side. He noted he was displeased with some of the things the developer did which he acknowledged publicly. Mayor Costello pointed out there was now a hard 75-foot firm height limit, and he would enact that; but the accusations, conjecturing, and assigning motives to people must stop.

Mayor Costello reported if the straw ballot he requested were approved, this could have been avoided. He note he tried to flip the language the night the language was presented, and the appeal could have been avoided; but CAN DO did not want it touched. Mayor Costello stated while he favored enacting this rigid height limit in the Charter, Land Development Code, and Comprehensive Plan as soon as possible in response to the vote, he most certainly did not favor the rigid height limit in that it would cause many problems, and he believed it would be amended by the voters in the future. He reiterated his recommendation and he challenged Commissioner Kent to help in bringing people on both sides of the issue to help prepare a cleanup amendment to be places on the ballot that the entire Commission could support that would incorporate grandfathering and other acceptable items that could exceed the 75-foot height limit. Mayor Costello asked what the cost of a special election was versus the appeal.

Mr. Hayes stated the cost of a special election would depend upon whether it was a special election or it included in a general election. He reported the appeal would cost approximately \$20,000 to \$30,000.

Ms. Veronica Patterson, City Clerk, stated a special election would cost approximately \$35,000.

Commissioner Partington asked how much had already been spent on the appeal; whereby, Mr. Hayes replied the total figure was approximately \$25,000. He noted the preliminary filings for the appeal have been completed.

Mayor Costello stated many people did not intend to create non-conforming buildings by this vote. He commended Commissioner Kelley for making what he believed was the right decision and stated he was also making his decision based on what he believed to be right for the City.

Commissioner Partington stated he believed the appeal should continue, especially since the City was well into the appeal. He reported the City would have to pay to defend a lawsuit which could be very costly, particularly with multiple parties. Commissioner Partington would not oppose coming up with an amendment that would enact the will of the voters. He expressed doubt that there would be any lawsuits while the appeal was pending.

Mayor Costello asked if Commissioner Partington was indicating a benefit to the City for an appeal would be that during the appeal process, the lawsuits would be held off.

Commissioner Partington noted he believed a developer wanting to come to Ormond Beach would wait for the appeal.

Commissioner Kent asked if outside council was hired to assist in the appeal, and if the City were sued, would outside council be hired.

Mr. Hayes advised that Mr. Pelham was assisting in the appeal. He noted the City was self-insured for liability purposes, and there were many “what ifs” with no way to predict with any certainty what would occur in the future; but if the City was sued, Ormond Beach would have to defend the Charter amendment. Mr. Hayes reported outside council was used for litigation purposes. He stated it was possible some developers may not have submitted development applications, but this was not a certainty, and some may apply merely to challenge the issue. Mr. Hayes noted this law as any other law should set forth standards, conditions, terms, and how the law should be applied because without these standards staff would have nothing to implement or enforce. He reported to place the language in the Charter as indicated there would be nothing for the staff to implement, and if staff would try to apply the law based on what

they believed the intention to be could create problems for the City; therefore, he provided the Commission options. Mr. Hayes noted all of the options had inherent risks.

Commissioner Partington asked where the legal authority was for a Commission to assume intent and change the language; whereby, Mr. Hayes reported there was no legal authority directly on point in that this was another area of the developing law. He noted it seemed to be a reasonable fix, but he could not guarantee that it would not create an additional problem; however, he could also not guarantee that if the Commission did not try to accommodate the intent and the will of the people, that the City may receive an adverse ruling.

Commissioner Gillooly agreed there was no guarantee; however, following through with the appeal would give the City some credence for future lawsuits relative to the City’s due diligence.

Mr. Hayes stated this could possibly give some credence, but that would depend on the nature of the lawsuit filed. He reported there may be a different type of lawsuit filed such as a suit proposing the City had a regulation in its Charter which would constitute a regulatory taking of property rights and the City may have to compensate the party for what they took away, and this appeal would not help in that type of litigation.

Commissioner Gillooly stated she would like to change the language to reflect the intent, but she noted there were unintended consequences that occurred with the “yes” vote. She reported while she was not an attorney, logically, the more the weighted questions are answered, the better the City would be if those lawsuits should occur.

Commissioner Kelley concurred with Commissioner Partington to approve Option No. 4 with the appeal and in the meantime, to prepare language which would transfer what was in the Land Development Code into the Charter so as soon as the ruling was made, everything could be cleared up, reducing the possibility of lawsuits. He noted people on a radio talk show indicated they believed the language from the Land Development Code would be transferred into the Charter; and had that been the case, there would not have been an appeal.

Commissioner Kent noted there were risks for all of the options. He reported the intent of what the people wanted was clear, and Option #1 was the permanent fix.

Commissioner Kelley stated the risk of approving Option No. 1 was that the City would be altering what the court ruled was correct; and if it were changed, it could have a bearing on the appeal.

Call Vote on the Amendment for Option No. 1:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	no
	Commissioner Partington	no
Carried.	Mayor Costello	yes

Mayor Costello clarified that whenever an amendment should come that would gain open space, off-beach parking, parks, and beautification of A1A at no increase in density by going higher, he would champion it again. He stated that with the vote he just made he did not want anyone to think he no longer supported the Commission having an opportunity to gain amenities without paying for them; but the people voted, and he would do whatever was necessary to follow their wishes. Mayor Costello advised the motion passed to approve Option No. 1.

**Commissioner Kent moved to direct the City Attorney to drop the legal appeal.**

**Mayor Costello noted the motion died for lack of a second.**

Mr. Hayes reported approving the underlying motion would affirm the election results and cause the amendment to go to the Department of State for incorporation into the City’s Charter.

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

Item #11(C) – Future A1A Redevelopment Process

Mayor Costello noted he asked for this item to be placed on this agenda. He wanted the people to understand the entire Commission would adopt what the people voted for no matter what

option each Commission member favored or if they favored appealing or not appealing. Mayor Costello explained the issue was what should be done from this point. He stated this was to determine what some of the factions would be willing to approve such as if the west side parking were removed or possibly eliminating the Community Center. Mayor Costello noted his goal was to determine exactly what the people want so there would not be any more fights to revitalize A1A while there was an opportunity, before the developer sells off the property and a massive wall as in Ponce Inlet was built.

Commissioner Kent stated it was good news that Mayor Costello was ready to move forward without waiting until January. He noted this displayed good leadership. Commissioner Kent reported the issues were: 1) securing property on the east side of A1A by partnering with the County; 2) allowing redevelopment of A1A at the 75-foot height limit; 3) continuing to work with the County Beach Manager to open the beach; and 4) using the Birthplace of Speed Park for real beach parking and accessibility using Tax Increment Financing (TIF) funds.

Mayor Costello stated the County would try to have land gifted from the Royal Floridian or purchase enough property for angled parking on the approach. He noted he did not oppose a discussion about the Birthplace of Speed Park, but he had a different view of parks. Mayor Costello reported he preferred open space on the beach. He agreed the City would have relatively attractive 75-foot rectangles on the beach, but it would not gain any open space. Mayor Costello noted no one would give the City that open space if they were not able to transfer the density, so he respectfully disagreed that the City could get the type of redevelopment they want on A1A with 75-foot buildings. He explained the development would be acceptable, but it would not be world class, upscale, or reduce the taxes. Mayor Costello expressed frustration by the statement that condominiums in Daytona Beach had a higher tax rate than in Ormond Beach because that was not relevant. He explained that the tax generated on lower buildings was much less than that on higher buildings because the value of the condominiums on the higher floors was much greater; therefore, taller buildings would generate more taxes thus reducing the taxes being paid by all of the residents. Mayor Costello reported he favored the taller buildings because the same amount of people would be added with more tax revenue with upscale buildings.

Commissioner Kent noted Mayor Costello had repeatedly indicated there would be no more people than what was currently allowed; however, he considered the transfer of development rights from the west side of A1A to the east side. He noted there was nothing on the west side. Commissioner Partington stated Mayor Costello indicated a four-story condominium could be built, but he questioned who would want to build a four story building on the west with a seven story building on the east; therefore, there would be an increase in density. He reported there would also be a possibility of transferring density from one side of the City to another and while Mayor Costello indicated he would not allow that to happen, it was not known who would be on the Commission at that time.

Mayor Costello reported that could be addressed in the Charter amendment for the people to decide. He noted one possible outcome would be to oppose the transfer from the west to the east, but he continued to favor the transfer from the west to the east because the west side of A1A was not one of the City's highest assets, and he would prefer the west side have parking, open space, parks, and a community center rather than restaurants that go into and out of business as they do now. Mayor Costello agreed he would not wish to purchase a condominium with four stories across from a seven story condominium, but he was certain that people would purchase them if they were priced at a much lower rate than those on the east side by people wanting to be close to the beach but not able to afford the more expensive condominiums.

Commissioner Kelley recommended holding workshops rather than discussing this tonight.

Commissioner Gillooly concurred with Commissioner Kelley. She recommended discussing this at the focus meeting on December 5.

Mayor Costello recommended beginning discussion at the focus meeting and then having a forum or workshop with both sides represented.

Commissioner Partington stated the Citizens for Ormond Beach was a non-political organization, and they may want to do a forum early next year.

Mayor Costello called for a short break at 8:52 p.m. He reconvened the meeting at 9:00 p.m.

Item #7 - Consent Agenda

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

Commissioner Kent requested removing Item No. 7(D) for discussion.

Commissioner Partington moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, minus Item No. 7(D).

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

Item #7(D) - Construction Services for the Autumnwood Drainage Improvements Project

RESOLUTION NO. 2006-248

A RESOLUTION ACCEPTING THE BID OF THAD CONSTRUCTION CO., INC., REGARDING CONSTRUCTION SERVICES FOR THE AUTUMNWOOD DRAINAGE IMPROVEMENTS PROJECT UNDER BID NO. 2006-23; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREUNDER; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-248, as read by title only.**

Commissioner Kent questioned why staff recommended accepting the bid with a deductive change order when he thought there was normally a deductive change order after approving a bid. He reported he spoke to Ms. Sloane who indicated Mr. Hayes wanted this done in this fashion.

Mr. Hayes stated that was not the way he would have preferred this be done.

Ms. Judy Sloane, Public Works Director, stated she understood Mr. Hayes wanted this done in this manner rather than for a negotiated bid.

Mr. Hayes noted there was a miscommunication. He stated the goal would be accomplished either way, but it would be more appropriate to award the contract based on the accepted bid.

Mayor Costello clarified Commissioner Kent's concern was not the project, but how it was handled.

Mr. Isaac Turner, City Manager, stated he and Mr. Hayes could discuss this as well as why there were no contingencies for these projects. He noted his goal was to get the job done on time and under budget, and that could be done in a different way.

Mayor Costello stated he was excited this was negotiated down from \$96,000 to \$77,000, but disappointed it was \$17,000 more than the estimate; however, everything cost more and no contingencies were added.

Mr. Turner stated staff would explain what the process was on this item and what the process should be in the future.

Mr. Hayes reported this was a miscommunication between the Legal and Engineering Departments. He pointed out the resolution simply awarded the bid for the stated price without any mention of adopting a change order. Mr. Hayes recalled suggesting the cover memo be changed, but staff would work through the issues.

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

Item #8(A) - "Marshside at Groover Branch"

ORDINANCE NO. 2006-09

AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICT, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE A 46.24-ACRE PARCEL OF REAL PROPERTY FROM SR (SUBURBAN RESIDENTIAL) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED AT THE NORTHWEST CORNER OF AIRPORT ROAD AND TYMBER CREEK ROAD; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR "MARSHSIDE AT GROOVER BRANCH" PLANNED RESIDENTIAL DEVELOPMENT (PRD); REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent to approve Ordinance No. 2006-09, on second reading, as read by title only.**

Mr. Clay Ervin, Planning Director, stated this project was continued from July. He noted the developer had been working with staff regarding the transportation and park issues and has been very cooperative. Mr. Ervin reported the County identified the Tymber Creek Road widening project as a partial project in that from SR40 to Peruvian Lane would be four laned within the next five years and the second portion would continue in the tenth year of the ten year work program. Mr. Ervin stated the needed analysis would be to determine if there was capacity of SR40 and Tymber Creek Road for the additional 68 units as part of this rezoning. He explained that just because there may be capacity problems on the roadway did not mean that the Commission could not approve this development because the project would just be subject to meeting the concurrency requirements in order to accommodate those trips. Mr. Ervin reported, in this way, this project would get in line so as capacity occurs on either of the roadways to accommodate the 68 units or satisfactory mitigation was offered, the developer could proceed with the project. He explained a full review of the information was not provided regarding the transportation. Mr. Ervin reported the applicant was working with staff to do whatever the City Commission believed was appropriate regarding a park. He explained the ordinance reflected the conditions in place in July, and there may need to be an amendment regarding the 68 units.

Mr. Ty Harris, Storch Morris and Harris, 420 South Nova Road, Daytona Beach, reported this was continued on second reading from July in order to work out the park issue and obtain more traffic detail at Tymber Creek Road and determine what impact this project would have. He explained the applicant was willing to develop the site plan attached to the November 2 memo for impact fee credits in that the developer could do the job for less than the City would be able to do it. Mr. Harris stated the impact on Tymber Creek Road, according to the traffic study, was slight. He noted the Durrance Lane to Airport Road section had a projected traffic increase of seven trips; Airport Road to Tymber Run projected 24 trips; Tymber Run to SR40 projected 20 trips; and SR40 to Riverbend Road projected a single trip. He advised a video was prepared at the primary peak period during the school drop off time and the school pick up time. Mr. Harris started the video which indicated the camera was positioned to film south along Tymber Creek Road, followed by it panning east and then west on Airport Road to document the traffic conditions.

The narrator indicated the taping took place on Monday, October 16, a non-school day, and October 17, a school day, starting at 7:15 a.m. and ending at 6:00 p.m. After the video ran, Mr. Harris reported this video demonstrating what was occurring now. He stated when schools were letting out and opening up there was a backup of about 15 minutes with the traffic flowing well the remainder of the day. Mr. Harris stated his concern with the staff position was that the traffic improvements at this intersection would come on line before this project was completed, and he requested this project be on line by the time those improvements were in place. He expressed concern this project would be tied to the four laning of Tymber Creek Road. Mr. Harris requested the Commission approve this project without the condition this be tied to the improvements of four laning Tymber Creek Road.

Commissioner Kent stated he was vocal when this was first brought to the Commission that he would not approve this until Tymber Creek Road was improved. He noted Mr. Speno called and spoke to him and then met with him to discuss the project and answer his questions. Commissioner Kent advised had an opportunity to join Mr. Speno during the filming of this video, which gave him a new perspective and understanding of how minimal an impact his project would have on the roadways. He stated the problem was caused because the school board placed two elementary schools in such close proximity. Commissioner Kent commended Mr. Speno for his valiant efforts to try to find a resolution to this problem such as switching one of the elementary schools to a middle school or starting classes a half hour later than the other school. He advised he would support this project.

**Commissioner Kent moved to amend the motion, seconded by Commissioner Partington, to approve the project with the 68 units and without a timeframe.**

Mayor Costello asked for clarification whether a motion needed to be made to allow the developer to build the park for impact fee credits or if that would have to be addressed separately.

Mr. Ervin noted this was an option available through the Code of Ordinances which could be incorporated in the development order if the Commission deemed it to be important.

Mayor Costello recommended addressing this amendment first, and then before voting on the overall amendment, he would entertain a motion to incorporate the park into a motion.

Commissioner Gillooly explained there were initially two projects that received a majority Commission approval, although she opposed the motion. She explained the original plan was to have 15 sites in each development, but Mr. Speno displayed a great spirit of cooperation to the Commission and staff with the offer to construct sidewalks and a park. Commissioner Gillooly reported the Commission allowed the Enclave project to move forward with 35 sites; but the Commission would not approve the Marshside project due to the traffic issues, and those issues have not dissipated. She asked what other projects were approved and in the building construction process in the area that may be impacting that roadway and not visible in the video.

Mr. Ervin stated the largest was Dear Creek with approximately 380 single-family homes, Briargate with 60 single-family homes, Pineland with 199 single-family homes, as well as the build out of the Enclave, and Southern Pines, and Creekside subdivisions. He noted Creekside would have 68 single-family homes surrounding Pine Trails.

Commissioner Gillooly stated, in theory, all of the aforementioned projects could possibly be completed before the impact of Mr. Speno's second project was realized. She noted the staff memo indicated Mr. Speno would present a traffic study, and a request was made by staff to formally review the study before making a recommendation.

Mr. Ervin noted staff's concern was that Tymber Creek Road was a County road, and should there be a capacity issue, he wanted to be assured the City was sharing the information with the Volusia County traffic engineering staff.

Commissioner Gillooly urged the Commission to consider the staff's request. She noted the presentation was quite effective, but staff should provide a definitive answer and have time to speak to Volusia County.

Mayor Costello asked if Commissioner Gillooly was concerned regarding the proportionate share issues.

Mr. Ervin reported any time staff was presented a traffic study that had an impact on a County road it was important to make certain the County staff would agree with the analysis, assumptions, and conclusions from the traffic analysis. He noted the traffic analysis originally submitted indicated the four-laning of Tymber Creek Road would be completed within the first three years of the five-year work program, and since that was no longer the case, staff wanted to determine if there were any improvements or proportionate share that could be identified by the County.

Mayor Costello stated Ormond Beach had hired Mr. Sans Lassiter in the past, and he was comfortable with Mr. Lassiter's transportation study; therefore, he would support a motion conditioned upon Volusia County accepting the study. He stated when the developer originally came to the City, he was told by staff that they met concurrency.

Mr. Ervin clarified Mr. Speno came in the same time they were processing the Pineland planned residential development, and staff identified that there were traffic problems on Tymber Creek Road, which would be a considerable issue that would come forward in the public hearing process, and improvements may be required to have the project approved.

Mayor Costello stated he lived in the area and believed the intersection improvements would make a great improvement to the area and would be completed in the next few years, but the four-laning may take ten years. He noted had the applicant not believed there was capacity; they would not have proceeded with the project. Mayor Costello advised that he would support the amendment because the problems were only at school times at the intersections. He noted he considered it to be inappropriate to make this developer wait; however, he would not approve any additional residential development until the traffic studies would warrant any new project. Mayor Costello advised he may approve commercial in that commercial was needed.

Commissioner Gillooly stated the developer knew this would go to the Planning Board that spoke directly about this issue. She reported she was concerned that staff, in the third step of the process, did not incorporate the Planning Board's concerns. Commissioner Gillooly suggested it may be prudent to wait for the intersection improvements to occur.

Mr. Turner stated as requests for development come to the City, staff would assess the information and provide assistance to meet Ormond Beach standards; but all developer know that the Commission had the discretion to make the decisions which may be different from the staff recommendation. He noted all developers know there are risks in the process. Mr. Turner pointed out there had been substantial changes in the four-laning program, which altered the situation. He advised the City pressed the County and Daytona Beach to be assured they share what was occurring that may affect Ormond Beach's roads with the City; therefore, he hoped the Commission would support directing staff to communicate with the County.

Mayor Costello stated he wanted to support Volusia County and recommended the motion include sharing the information with Volusia County.

Commissioner Kent stated he had no problem sharing this information with the County.

Mr. Ervin stated the original traffic study was submitted under the assumption certain improvements would be in place and the City needed an updated study submitted to the City and Volusia County to insure the findings and conclusions would be agreeable. He reported in that the four laning was not in the five-year work program, the City wanted to be certain the proposed widening would be acceptable to Volusia County. Mr. Ervin recommended the Commission base the approval upon the traffic analysis and validation that the level of service on Tymber Creek Road was addressed.

Commissioner Kent reiterated his original motion.

Mayor Costello clarified the motion was to approve the 68 units.

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

Mayor Costello reported he would support this amendment, but he would want to reconsider it if the motion was not subject to Mr. Ervin's request. He noted he would entertain a motion that the traffic study be submitted to Volusia County.

Mr. Ervin stated in order to obtain the driveway permits, the applicant would need to do an abridged traffic study. He noted this could be included in the final subdivision plat. Mr. Ervin explained that before the City would process the subdivision plat, the updated study would be reviewed by the County.

Mayor Costello stated he would entertain a motion to approve the developer building the park in return for impact fee credits.

Commissioner Kelley stated if the applicant would do the project, he should get the credits.

Mr. Ervin clarified this would allow this developer to do improvements in lieu of impact fees allowed by the Code of Ordinances, and those improvements would be part of the subdivision plat improvements.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve the developer paying for the completion of the park in lieu of impact fees.**

Mayor Costello asked if anyone wished to move the park to the corner of Leeway Trail and Airport Road. He advised he was not in favor of this until the workshop where the engineers explained that if there would ever be wastewater treatment facility, it would be enclosed and appear as a building with zero to minimal odor. Mayor Costello noted it was also indicated that there would be no difference if the facility were on the northern or southern aspect of the land. He reported he preferred the park at Leeway Trail and Airport Road rather than north on Leeway Trail.

**Commissioner Partington moved, seconded by Commissioner Kelley, to move the park to Leeway Trail and Airport Road.**

Call Vote to move the park:	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
Carried.	Mayor Costello	yes

Call Vote on the development of the park in lieu of impact fees:	Commissioner Kelley	yes
	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

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

Hearing no objection, Mayor Costello closed the public hearing on Item #8(A).

Item #8(B) - Ormond Crossings Development of Regional Impact Development Order and Comprehensive Plan Amendments

**Commissioner Gillooly moved, seconded by Commissioner Kelley, to table the Ormond Crossings Development of Regional Impact Development Order to December 19, 2006, and to table the Comprehensive Plan Amendments to February 6, 2007.**

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

Item #9(A) - Additional Signage for Professional Office Uses in the Greenbelt Overlay District

ORDINANCE NO. 2006-19  
 AN ORDINANCE AMENDING CHAPTER 3, PERFORMANCE CRITERIA, ARTICLE IV, SIGN REGULATIONS, SECTION 3-48, SPECIALIZED SIGN STANDARDS, OF THE LAND DEVELOPMENT CODE BY ALLOWING FOR ADDITIONAL SIGNAGE FOR PROFESSIONAL OFFICE USES IN THE GREENBELT OVERLAY DISTRICT, SUBJECT TO MINIMUM CRITERIA; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-19, on second reading, as read by title only.**

Mayor Costello reported would this allow a developer with one large building to be treated the same as if they had a hallway between two buildings with the same amount of space. He questioned if this was for the approval of two signs with six or eight panels.

Mr. Ervin stated this was for six panels. He noted the developer requested eight panels, but this was to approve six panels.

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

Item #9(B) - Sunset Review of Boards and Committees

ORDINANCE NO. 2006-21  
AN ORDINANCE AMENDING SECTION 2-209, SUNSET REVIEW OF BOARDS AND COMMITTEES, OF ARTICLE VI, BOARDS, COMMISSION, COMMITTEES AND OTHER AGENCIES, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES, BY ESTABLISHING SUNSET REVIEW DATES FOR BOARDS AND COMMITTEES; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2006-21, 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 #9(C) - Code Enforcement Amendments

ORDINANCE NO. 2006-22  
AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE VII, CODE ENFORCEMENT, BY AMENDING SECTION 2-251, DEFINITIONS; BY AMENDING SECTION 2-255, ENFORCEMENT PROCEDURE; BY AMENDING SECTION 2-258, ADMINISTRATIVE FINES AND LIENS; BY AMENDING SECTION 2-262, SCHEDULE OF CIVIL FINES; BY AMENDING SECTION 2-265, NOTICES; BY AMENDING SECTION 2-267, DURATION OF LIEN; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2006-22, on second reading, as read by title only.**

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

Item #9(D) - Amending the Annual Budget

ORDINANCE NO. 2006-23  
AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR THE 2005-2006 FISCAL YEAR RELATIVE TO THE PENSION CONTRIBUTION PASS THROUGH FUND AND THE SOLID WASTE FUND; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2006-23, on second reading, as read by title only.**

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

Item #9(E) - Creating a Proportionate Fair Share Program

ORDINANCE NO. 2006-25

AN ORDINANCE AMENDING SECTION 1-32, ARTICLE V, CHAPTER 1; SECTION 1-22, ARTICLE III, CHAPTER 1; SECTION 1-26, ARTICLE IV, CHAPTER 1; AND SECTION 3-53, ARTICLE V, CHAPTER 3, OF THE LAND DEVELOPMENT CODE BY CREATING A PROPORTIONATE FAIR SHARE PROGRAM FOR THE CITY OF ORMOND BEACH, ELIMINATING INCONSISTENT TRANSPORTATION CONCURRENCY STUDY AREA REFERENCES, BY REVISING DEFINITIONS AND IDENTIFYING A NEW FEE FOR PROCESSING FAIR SHARE AGREEMENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2006-25, 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 #11(A) – Airport Lease Reappraisal Process

Mr. Robert Hernandez, Airport Manager, stated the City was reappraising 12 parcels, which were to be done every 10 years to determine the land value. He reported a 10% increase was added to the appraisal to determine the rent for the property. Mr. Hernandez advised notices were sent the first quarter of the year to the tenants, and then staff went through the process of selecting the appraiser. He reported no opposition was noted from any of the tenants regarding the selection of the appraiser. Mr. Hernandez explained the appraisal was approximately \$3 per square foot and the fuel farm was appraised at \$2.50 per square foot in that the fuel farm parcel was slightly different in character. He reported a meeting was set to gather all of the tenants and the appraiser where specific issues were discussed. Mr. Hernandez advised that there were three areas of concern: 1) what airports were being used for comparison; 2) the mix of commercial properties to airport properties; and 3) how the appraiser evaluated the tenants at the airport. He reported the appraiser reappraised the property, and the results were \$2.25 per square foot and \$1.75 per square foot for the fuel farm. Mr. Hernandez stated a second meeting was held, and there was disagreement with the figures. He requested the Commission approve sending the letters to the 12 parcels with the appraisal results.

Mr. Steve Searle, 3949 Tand Drive, asked that the appraisals include the rest of the properties at the airport in that those properties would have a dramatic affect on the results, but that had not been done. He noted a lease was yet to be signed, and one lease that was just extended to 2013 was not included in the appraisal. Mr. Searle reported four or five leases were not reviewed in the proper year, and the only increases were the Consumer Price Index (CPI) increases. He noted he did not want to speak of litigation, but that was being considered.

Mr. Adrian Thompson, Ormond Beach Aviation, 6 Dorado Beach Court, stated the appraisal was done backwards by starting with the figure the City wanted and then the appraisal made to fit that number. He questioned what property on Hull Road had to do with the value of land at an airport in that these were entirely different types of land. Mr. Thompson noted this land was not fee simple title land, but City land where at the end of the lease period, the buildings would revert back to the City. He reported his lease started in 1996 with CPI increases being paid annually on 19,600 square feet of land, and he was paying \$2,327. Mr. Thompson noted this lease would increase his rent to \$3,430, and with the first appraisal, it would have increased his rent to nearly \$5,000. He reported he had a problem paying \$3,430 for .45 of an acre while Ormond Beach was renting 11 acres to a similar business at the airport at \$900 an acre. Mr. Thompson pointed out that in 2000 the City had the opportunity to increase the rent of that tenant, but did not do so and extended the lease by 10 years. He advised he was told by Mr. Hernandez that his competitor did not use all of the land, and they were being charged for the footprint of building; therefore, there was only three and one-half acres. Mr. Thompson noted he had 19,600 square feet of land, while his fuel tanks only occupied 2,500 square feet of that land. He asked for a level playing field for everyone. Mr. Thompson stated he was paying

5.7 times more than his competitor and being asked to pay 8.5 times what his competitor paid. He reported he was paying 11.9 cents per square foot, and it would be increased to 17.5 cents per square foot.

Mayor Costello stated the City paid professions for the appraisals. He noted people who purchased homes after their neighbors who had the Save Our Homes provision and paid one third of what they paid in taxes, probably also wanted a level playing field. Mayor Costello stated that was the way the leases were written.

Mr. Larry Stout, 677 North Beach Street, reported he was a member and Chairman of the Aviation Advisory Board, but he was not speaking in that capacity. He stated he was a shareholder of Cavalier Aviation who had a hanger lease at the Ormond Beach airport. Mr. Stout explained the basic method the appraiser used was from a comparable market approach. He noted on page 31 of the appraiser's report the four pieces of property primarily used as comparison were the commercial properties on US1 and Hull Road which were zoned industrial, but those do not relate to airport property. Mr. Stout reported the first number was \$3 per square foot or \$130,680 per acre. He advised he then came back with \$2.25 per acre, which was \$98,000 per acre. Mr. Stout stated the appraiser chose not to consider the Sunrise property where the City placed infrastructure to place T-hangars valued at \$40,000 per acre. He noted Sunrise would not pay rent at that level until the first 13 hangars were constructed when the \$40,000 would then be used as the value, so they pay 9% while the other tenants pay 10%. Mr. Stout pointed out the other tenants pay \$98,000 per acre. He reported the southeast quad was valued at \$88,000 per acre for those properties, but there was no one interested at that price. He advised an appraisal would need to reflect the market. Mr. Stout reported based on these appraisals, this was the most valuable property at the airport. He stated there had to be a better approach to the appraisal of the airport property to select a reasonable rent. Mr. Stout advised the tenants were not opposed to paying rent, and the CPI increases were reasonable. He noted the CIP increases should bring the cost close to the proper rental cost.

Mr. Terry Perkins, 108 Heritage Circle, stated the tenants were not disputing the City's right to appraise the property or for them to pay rent; but the appraisal was supposed to determine the fair market value, and when paying rent plus a CPI adjustment, an increase of 250% would certainly not be expected. He reported the City set the price at \$88,000 per acre, and there was no interest at that cost. Mr. Perkins stated the appraisal was flawed in a number of respects. He recommended a good appraisal, adjustments made, and then the tenants would respond more favorably.

Mr. Peter Gagne, Southern Appraisal, stated to come up with a value of the property a market value of the property must be determined. He reported he examined other industrial sites with similar zoning in the area. Mr. Gagne pointed out there were very few airports in the area that sell land on the taxiways. He noted Spruce Creek Fly-In was one, but the land values were substantially higher at that airport, so he did not use it as a comparison. Mr. Gagne stated absent sales of property on taxiways he sought other light industrial properties and made adjustments. He reported he surveyed other area airports such as Daytona Beach International, DeLand, New Smyrna Beach, and Bunnell. Mr. Gagne advised he correlated the value of the appraised value based on those two approaches. He stated after the first meeting he revisited the issues and placed more emphasis on the rental survey of other airports; but he still considered the sales comparison approach in the appraisal, which was appropriate, while weighting the analysis of other airports more heavily. Mr. Gagne reported the DeLand Airport had longer runways and different amenities with land values between \$3.25 and \$3.50 per square foot for prime sites. He noted a lease was negotiated on a larger parcel at DeLand last year at \$1.95 per square foot, but it was in a remote location. Mr. Gagne stated the New Smyrna Beach Airport, within the past five years, negotiated two leases for 10,000 square foot sites at \$3.75 per square foot, and there were many older buildings at substantially less. He pointed out they were locked into long term lease rates at the low market rents. Mr. Gagne advised New Smyrna Beach also had a longer runway than Ormond Beach. He reported the Flagler County Airport had recent sites ranging from one to one and one-half acres that were \$2 per square foot. Mr. Gagne explained the survey indicated for the northeastern portion of the State, of which Ormond Beach was included, the low was \$.07 per square foot, the high of \$.34, and a mean of \$.17 per square foot. He noted New Smyrna Beach Airport had rents at the low end for long-term leases that could not be raised rapidly and are not indicative of current market value.

Mayor Costello asked if Mr. Gagne relied more on other airports or industrial lands off site.

Mr. Gagne replied he relied more on the airport's comparables, making adjustments for various factors.

Mayor Costello stated fee simple title buildings can be sold; but at the end of the airport leases, the properties would go back to the City.

Mr. Gagne stated this was comparable to other airports. He explained utilizing fee simple sale was an acceptable appraisal practice. He questioned the length of the leases.

Mr. Hernandez reported the leases were written with three 30 year terms, and the new leases were 30 year leases with two 20 year renewals.

Mr. Turner asked for clarification regarding what had to occur for the renewals to occur.

Mr. Hernandez stated the tenant had to be a good tenant, maintain the property, and request further renewal. He explained the tenant had the right to ask for a renewal.

Mayor Costello stated the longer the lease, the closer it would compare to fee simple property.

Mr. Gagne stated the typical life for metal buildings was between 30 and 40 years. He reported the Volusia County Property Appraiser's office had reassessed for tax purposes at \$1.65 for the eleven parcels. Mr. Gagne reported the fuel farm was assessed separately. He noted based on the land only, their assessment was currently \$1.65 per square foot, which was the same from 1997 to 2004; however, property values changed in that time period. Mr. Gagne advised that did not include the cost of sale, which was typically 15% or \$2 per square foot.

Commissioner Kelley stated Mr. Stout had a 30 year lease, and 2006 was the first appraisal. He pointed out Mr. Stout had 20 years left on the lease with an option to renew it for two additional 20 year periods.

Mr. Tom Lipps, Support Services Director, stated he believed the option years were 30 and 30 for these leases.

Commissioner Kelley pointed out Mr. Stout would have at least 80 years left on the lease.

Mr. Stout agreed this was a long-term lease, but the comparables looking at fee-simple land do not fit this circumstance.

Commissioner Kelley stated the tax assessor was using \$1.55 to \$1.60 at the Airport Industrial Park, and he did not consider that comparable.

Mr. Stout stated the Sunrise lease for the new area was the same as his land, and Sunrise was at \$40,000 per acre while his land was \$98,000 an acre.

Mr. Hernandez stated the lease negotiations were started in 2000, and the \$40,000 was agreed upon at that point. He noted the Commission had a workshop last year regarding this issue.

Commissioner Kelley noted five years ago \$40,000 was probably fair.

Mr. Hernandez agreed the problem was inflation.

Commissioner Kelley reported he just got a 230% to 240% increase in taxes for a piece of property he owned. He noted real estate increased exponentially in the past three years, and the CPI had not kept up with the property value; but it was not fair to use fee simple property as a comparison. Commissioner Kelley stated he believed it was fair to compare other airports and make adjustments for the differences such as the length of the runway and age of the buildings.

Mayor Costello stated the Commission could accept the appraisals, ask for a new appraisal, or ask the tenants to bring a new appraisal for Commission consideration.

Commissioner Kelley stated the property could not be leased at \$2.25.

Mr. Joe Mannarino, Economic Development Director, stated the southeast quad had one proposal at \$2 per square foot. He noted there had been problems regarding the infrastructure that needed to be placed on hold. Mr. Mannarino stated a survey was required for the golf course property, which held up the development of the area. He noted this was being finalized now, and the property would soon be marketed. Mr. Mannarino advised there was an offer of \$2 which would be negotiated, but any other parcels in the southeast quad would go for \$2.25.

Commissioner Kelley stated the current tenants should be treated fairly according to their situation and the terms of their lease.

Ms. Mannarino reported staff followed what the leases direct must be done, which was to do a reappraisal every ten years with an MAI appraiser using fair market land value. He reported a subjective number cannot be used.

Mr. Turner stated staff listened and tried to respond. He noted if the tenants wanted another appraisal staff would not object. Mr. Turner reported staff or the Commission could be subjective, and the appraisals must come from a credentialed appraiser. Mr. Turner stated the property owner and leaser would have different rates depending on the terms of the lease. He offered to have additional dialogue with the tenants should they wish to have an appraisal. Mr. Turner advised there was an appraisal that was to be done in 2000, and no one who was on staff at that time was currently employed with the City. He noted one of the first issues he asked Mr. Hernandez to work on after he met the tenants was to address the leases to make certain the City was in complete compliance. Mr. Turner pointed out Mr. Hernandez discovered three or four leases that were past due relative to the appraisals; therefore, the process being used was not to hold the tenant responsible for the time the City missed, but to update the lease to the current market values.

Commissioner Kent stated this did not sound fair. He pointed out three of the members of the Aviation Advisory Board stated that the appraiser chose to leave out the Sunrise lease as a comparison as it was not a like lease, but the tenants believe there were enough similarities to use it in the appraisal. Commissioner Kent reported Mr. Behnke stated the appraiser may not have taken into consideration the airport's lack of marketability. He stated the appraisal may be flawed. Commissioner Kent noted Mr. Lemke indicated this was affecting his business, and he may have to relocate to another airport, which weighs heavy with him because Mr. Lemke was a good man trying to do the right thing. He stated he did not want to change Sunrise's lease because he came in early and got the deal he had, but the Sunrise lease would come up for reappraisal in 2013. Commissioner Kent pointed out some of the appraisals were due in 2000 and not done; therefore, it may be best to wait for 2013 for all of the appraisals. He noted adding the Sunrise rent may make a difference, but this did not feel right. Commissioner Kent recommended either waiting until 2013 or to do another appraisal.

Mr. Stout stated Mr. Lipps indicated since an MAI appraisal was needed, it would be cheaper in the long run to do it in the aggregate, and the tenants did not object to that as long as the appraisal was not flawed.

Commissioner Kent stated rather than making the tenants pay for the appraiser, the City should join with the tenants and include certain variables such as the Sunrise lease.

Mayor Costello clarified Commissioner Kent recommended the City pay 50% and the tenants aggregately come up with the other 50% for an additional MAI appraisal.

Commissioner Kent stated he also recommended the Sunrise lease be included.

Commissioner Kelley reported the Commission cannot dictate what to include in that MAI appraisers have structures they must follow.

Mr. Turner recommended a workshop to share the ground rules by which the airport operators must operate to maintain the grant status with the FAA.

Mayor Costello stated the parameters were that the parcels must be appraised every ten years; the appraisal had to reflect the market rate; and the appraisal had to be done by an MAI appraiser. He reported he wanted to be responsive; the Commission understood the concern; and they were willing to partner in a new appraisal; but they could not dictate how it was done.

Commissioner Partington cautioned the new appraisal could come in higher.

Mr. Mannarino stated staff did not have an issue as to having another appraisal. He noted the question was what assumptions were being made in that Commissioner Kent indicated past leases should be used, but that cannot be done.

Commissioner Kent stated other airports were used. He asked if the Ormond Beach airport was used as a comparable.

Mr. Mannarino stated Ormond Beach land could not be used because the leases are old.

Mr. Turner stated appraisers are responsible for filtering out and placing less weight on issues that are not comparable. He noted the staff and Commission had a fiduciary responsibility to

make certain a fair market value was found and to inform the FAA. Mr. Turner explained the appraisers have the responsibility of doing analytical assessments of the properties they are appraising. He reported it may seem unfair, but a fair market value was needed for the time the lease was signed.

Commissioner Gillooly stated the question was equity. She noted the advisory board's role was to look at issues in greater depth than the Commission would, and the points made by the Aviation Advisory Board were something that could not be ignored. Commissioner Gillooly noted she understood the City had certain obligations relative to the way this was structured with the FAA, but staff was in place assigned to managing the airport; some tenant's appraisal times were past, and timing was important in terms of market value. She stated if it was the City's mistake the tenant should not be penalized. Commissioner Gillooly noted it was obvious there was some miscommunication, which may be due to the fact this was a new position; therefore, the minimum the Commission should consider was a reappraisal. She advised the equity issue must be addressed. Commissioner Gillooly stated she was not certain how marketability would affect this issue, but the City was trying to grow this airport and did not want to lose any tenants.

Mayor Costello summarized Commissioner Kent indicated he would support partnering with the tenants for another appraisal, which he could support; however, arbitrary numbers could not be used. He favored authorizing staff to pay for half of another AMI appraisal with an appraiser acceptable by both sides.

Commissioner Partington stated he was not opposed to another appraisal. He asked how much an appraisal would cost; whereby, Mr. Hernandez replied another appraisal would run from \$4,000 to \$9,000.

Commissioner Kelley stated marketability must determine the value of the property.

Mr. Searle stated the Sunrise lease was negotiated last year.

Mayor Costello noted negotiations for the Sunrise lease started in 2000.

Mr. Searle stated Sunrise should be included in the calculations.

Mayor Costello reported that would be at the discretion of the appraiser in that he could not dictate what should be included.

Mr. Searle stated including Sunrise was a request, and he would not try to dictate anything. He advised he understood the FBO 2 asked for extensions to the lease, which were not finalized; therefore, they were renegotiating a brand new lease asking for another 20 years at \$40,000 an acre. Mr. Searle noted if this were delayed to 2013, everyone would be consistent.

Mr. Thompson stated his business and Sunrise were judged on a double standard. He noted staff missed the appraisal times for Sunrise and Ormond Airport Hangars in 2000. Mr. Thompson advised the first appraisal time was missed, and the next time was not due until 2010, but he was being reappraised in 2006 while Sunrise was not.

Mr. Turner commended Mr. Hernandez for establishing a relationship with the tenants, and he commended the tenants for continuing to speak with Mr. Hernandez even when they disagree. He noted there was a change of environment at the airport with the majority of the people.

Mayor Costello stated the Commission unanimously supported the fact that they were concerned that the values did not seem to jive, and the only solution he could find was to do another MAI appraisal because of the FAA issues. He recommended discussing this at a 5:30 p.m. workshop after the appraisal was completed. Mayor Costello requested the appraisal be discussed by the Aviation Advisory Board before coming back to the Commission.

Mr. Lemke stated the airport was currently unbalanced. He noted Commissioner Kent recommended postponing all appraisals until 2013. Mr. Lemke stated someone at the City determined not to have any more appraisals for Sunrise. He stated the lease indicated appraisals were "if necessary" and not mandatory from the FAA.

Mayor Costello stated he was not aware of what stipulations were included in all of the leases.

Commissioner Gillooly asked if there were local appraisers that could be used.

Mr. Turner stated there were many appraisers. He reported staff was instructed to meet with the tenants and select an agreeable appraiser.

Commissioner Kent reported a meeting had been called with the appraiser, but there was such short notice only five could attend. He requested staff make certain proper notice was provided in the future.

#### Item #11(B) – Legislative Priorities

Mayor Costello recommended challenging all of the local municipalities and counties to start identifying the unfunded mandates and the shifts from State to local governments so it could be presented through the League of Cities to the State. He noted the message must be sent that if the State wanted to cap expenses, they need to include a mechanism to fund those items they have shifted to the cities. Mayor Costello noted that a cap on an increase in the budget was probably one of the most critical issues to come before the City next year. He stated this needed to be brought to the State's attention.

Mr. Turner stated he was a member of the Florida League of Cities Stewardship Council, and the group was crafting a response to the tax reform for consideration by the Florida League of Cities general body. He reported the unfunded mandates were discussed, but a figure of what unfunded mandates have cost cities needed to be determined. Mr. Turner advised that he was attending the meeting Thursday and Friday because of the reform of the tax structure. He noted this would have a tremendous impact on cities.

Commissioner Kelley stated Senate Bill 360 was an unfunded mandate. He noted he did not believe everyone knew the details of what it would accomplish, and it should be given special attention by the lobbyist.

#### Item #12 - Reports, Suggestions, Requests

##### Bubba Gump's Building Block Party

Commissioner Gillooly stated the Halifax Habitat for Humanity had its fifth annual Bubba Gump's Building Block Party. She reported that Ormond Beach Middle School attended the event representing Ormond Beach, and they received a prize.

##### Veterans Day Ceremonies

Commissioner Gillooly stated attending the Bubba Gump's Building Block Party made it impossible to attend the Veterans Day ceremonies; however, she heard wonderful things about the event.

##### Election Vote

Commissioner Gillooly reported an unintended consequence of the election vote was that there seemed to be a greater opportunity for discussion tonight. She thanked Mayor Costello and Commissioner Kent for that opportunity to allow a greater flow of discussion with the Commission. Commissioner Gillooly stated she believed the town hall forum was very effective and she encouraged similar events. She reported she was impressed by the depth of the conversation, the opportunity for public debate, and Mayor Costello's willingness to discuss the issues from all facets. Commissioner Gillooly noted Mr. Dick Jaffe reminded the public this was not about anything other than having an opportunity to consider options in what the community could become. She reported she was not prepared tonight to support Mr. Speno's second project, yet she was willing to negotiate, and the result was a park and sidewalk. Commissioner Gillooly explained the City received enhanced benefits because of the negotiations. She reported she hoped there would be more opportunities for this type of negotiation in the future. Commissioner Gillooly thanked the community for voting and urged the community to come together, hopefully through a general town hall meeting. She concurred with Commissioner Partington that the Citizens for Ormond Beach should host the forum rather than the City Commission or groups with a definitive position. She noted what was witnessed tonight may be possible with the community at large with some of the emotion removed.

##### Airport

Commissioner Kent stated he appreciated Mr. Hernandez and noted he came into a very difficult position.

##### Coffee with the Commissioner

Commissioner Kent stated the next "Coffee with the Commissioner" would be held on Monday, December 4 at 130 Magnolia Drive.

#### Grants

Commissioner Kelley commended Ms. Loretta Moisiso, Grants Coordinator, for bringing in \$4.193 million in grants to the City.

#### Veterans Day

Commissioner Partington stated he attended a seminar and celebrated Veterans Day in Pensacola for the 60<sup>th</sup> anniversary of the Blue Angels which was a great way to salute the veterans.

#### Mr. Tim Breneman

Commissioner Partington stated he went to Washington D.C. for Mr. Tim Breneman's burial at Arlington National Cemetery and presented Mr. Breneman's wife a plaque from the City. He explained the plaque represented 40,000 people who appreciated her husbands' service. Commissioner Partington thanked Congressman Mica for attending the funeral despite the fact he had a busy reelection campaign that he needed to run.

#### New Orleans

Commissioner Partington stated upon leaving Pensacola, he went to New Orleans and witnessed the spirit of the city recovering from Hurricane Katrina; however, there were still some devastated areas in the city.

#### A1A Redevelopment

Mr. Turner stated he was looking forward to the opportunity to support the Commission's efforts in having a dialogue in the community regarding A1A redevelopment.

#### Airport Issues

Mr. Turner stated he appreciated the discussion on the airport issue. He noted it was challenging to deal with the federal rules and adhere to the provisions of the lease agreements. Mr. Turner reported staff respected the Aviation Advisory Board and the tenants, and he wanted to do the right thing for all involved.

#### Health Fair

Mr. Turner stated the City employees held a health fair, which was successful to help insure the employees were even more health conscientious than they would be otherwise. He noted the City Santa and United Way programs were well under way. Mr. Turner stated as the employees give to these types of organizations, it displays how much the employees value being a part of the community, how much they value the people in the community, and how much they are willing to help those needing assistance.

#### Grants

Mr. Turner thanked Commissioner Kelley for acknowledging the amount of grants Ms. Moisiso was able to obtain for the City.

#### Ground Zero

Mayor Costello stated he understood Commissioner Partington's experience in Arlington National Cemetery in that he first visited Ground Zero this past weekend, and it was an amazing experience.

#### Healing The City

Mayor Costello asked Commissioner Kent what he and the Commission could do to hasten the healing process in the City.

Commissioner Kent stated dropping the appeal would do a lot to start the healing process.

Mayor Costello stated he would not go backward, but questioned what could be done now. He challenged Commissioner Kent to make suggestions at the December 5 meeting to help the people understand there was no Commission member who wanted to refute the vote, but they believed there were constitutional issues involved. Mayor Costello reported some of the issues to be discussed at the meeting could be adding a Charter amendment with input from CAN DO and anyone else to fix the grandfathering issue and other issues.

#### Thanksgiving

The entire Commission and staff wished everyone a happy Thanksgiving.

#### Item #13 - Close the Meeting

The meeting was adjourned at 11:22 p.m.

City Commission – November 14, 2006

APPROVED: December 5, 2006

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk