

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

**December 19, 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 Ted MacLeod, Deputy City Attorney Sandy Upchurch, and City Clerk Veronica Patterson.

**A G E N D A**

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Father Comforted Keen, Holy Child Episcopal Church.
- 3) Pledge of Allegiance.
- 4) **AUDIENCE REMARKS:**
- 5) **APPROVAL OF THE MINUTES** of the December 5, 2006, meeting.
- 6) **PRESENTATIONS:**
  - A) Employee-of-the-Year award to Sam West.
  - B) Proclamation in honor of Ormond Beach Teacher of the Year 2008 nominees and Five Star Schools.
- 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. 2006-263 supporting the designation of the Ormond Scenic Loop & Trail as a Florida Scenic Highway and National Scenic Highway; supporting the Ormond Scenic Loop and Trail Corridor Management Plan (CMP); authorizing transmittal of said document.
  - B) Resolution No. 2006-264 authorizing the execution of an agreement between the City, Florida State Park Service, Volusia County, Florida Power and Light Company and Ormond Scenic Loop & Trail Corridor Advocacy Group in support of the Ormond Scenic Loop and Trail Corridor Management Plan; designating a City representative; authorizing transmittal.

- C) Resolution No. 2006-265 authorizing the sole source procurement of water meters from Sunstate Meter & Supply, Inc.; authorizing the execution of an agreement with Sunstate Meter & Supply, Inc.
- D) Resolution No. 2006-266 accepting a warranty deed from Wachovia Bank, National Association successor by merger to Southtrust Bank, an Alabama banking corporation, for property located along South Orchard Street for right-of-way purposes.
- E) Resolution No. 2006-267 approving the form, terms and conditions of a Water Impact Fee Financing Agreement between the City and Govinda, LLC; authorizing the execution of said agreement. (America's Best Value Inn motel at 1614 North US1)
- F) Resolution No. 2006-268 authorizing the execution of a contract between the City and Rep Services, Inc., for the purchase and delivery of playground equipment and wood fiber ground surfacing for the Ormond Beach Sports Complex, under City of Jacksonville Bid Number SC-0511-06. (\$66,804.46)
- G) Request to install an in-ground granite marker at the Birthplace of Speed Park by the Motor Racing Heritage Association.

DISPOSITION: Approve as recommended in City Manager memorandum dated December 14, 2006.

9) **PUBLIC HEARING:**

- A) Resolution No. 2006-269 of the City Commission of the City of Ormond Beach, Florida, also acting as the North Mainland/Ormond Crossings Redevelopment Agency, approving and authorizing the issuance and execution of a Development of Regional Impact Development Order for the "Ormond Crossings" project.
- B) Ordinance No. 2006-26 relative to transient lodging, amending Chapter 1, Article III, Definitions, Section 1-22 and Chapter 2, Article II, District Regulations, Sections 2-09 through 2-20 and 2-21 of the Land Development Code by amending regulations regarding the use of residential dwelling units for transient lodging. (Second Reading)

10) **SECOND READING OR ORDINANCES:**

- A) Ordinance No. 2006-27 amending Chapter 2, District and General Regulations, Article III, General Regulations, Section 2-50, Accessory Uses, of the Land Development Code by creating regulations to ensure proper placement and operation of donation bins used by charitable, non-profit organizations as accessory uses.
- B) Ordinance No. 2006-28 granting an economic development ad valorem tax exception to Hudson Tool & Die Company, Inc.; requiring annual filings; repealing all inconsistent ordinances or parts thereof.

- 11) **FIRST READING OF ORDINANCE** No. 2006-24 amending Section 22-115 and 22-165, of Chapter 22, Water and Sewers, of the Code of Ordinances, by imposing water and wastewater impact fees of \$2,000.00 and \$1,950.00, respectively, in a uniform manner throughout the City; providing for annual adjustments to said fees based upon capital costs; and providing appropriate legislative findings in support of the foregoing.

12) **RESOLUTIONS:**

- A) Resolution No. 2006-270 authorizing the execution of a lease agreement between the City and Tomoka Holdings, LLC.
- B) Resolution No. 2006-271 accepting the bid of Halifax Paving, Inc., regarding construction services for the Ormond Beach Sports Complex Phase 1 Improvements project, under Bid No. 2007-03; rejecting all other bids; authorizing the execution of an agreement between the City and Halifax Paving, Inc., and payment thereunder. (\$1,613,647)

13) **DISCUSSION ITEMS:**

- A) Reconsideration of ACT Corporation funding.
- B) John Anderson Drive collector road upgrade/corridor enhancement study.
- C) Destination Daytona/Coca-Cola Pavilion development.
- D) A1A redevelopment, implementation of Charter amendment, and off beach parking.

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

15) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Father Comforted Keen, Holy Child Episcopal Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 - Audience Remarks

Agenda Item #13D – Charter Amendment

Mayor Costello advised, unless objections were heard from the Commission, he would bring the implementation of the Charter Amendment portion of Item #13(D) forward to immediately follow the Consent Agenda.

Growth

Ms. Lucille Bornmann, 6 Windsor Drive, stated recent articles have indicated that millions of acres of land would be developed including a great deal of farm land. She questioned what would be done to provide water for all of these new residents and who would pay for the roads.

Ms. Bornmann noted development does not pay for itself and urged the Commission to allow Ormond Beach to remain unchanged and plan well.

Mayor Costello stated he believed everyone in the room, including the Commission, agreed with Ms. Bornmann, which was why he spent many hours on the Smart Growth Implementation Committee to try to preserve the rural heartlands. He noted he was proud of Ormond Beach's 1% to 1½% growth rate, showing other entities the right way to grow.

#### Walking on Public Golf Courses

Mr. Dan Zurla, 3751 Long Grove Lane, Port Orange, reported Ormond Beach, Daytona Beach, and Port Orange mandate that golfers ride a golf cart while playing golf at public golf courses, which he considered to be unconstitutional because it deprives people of the liberty to choose to walk on public land. He noted virtually every government in the United States complies with the constitution except these three cities.

Mayor Costello advised that Ormond Beach leases the golf course, and the people who run the golf course make their own choices.

#### Insurance Service Office Rates

Mr. Charles Carter, 212 Arlington Way, asked that the administration immediately address studies for Insurance Service Office rates since it had not been done since 2001.

Mr. Carter stated he called Animal Control leaving a message on a recorder at 2 p.m. regarding a cat that was hit on his street, and he had no response by 5 p.m. so he and neighbors took care of the problem.

Mayor Costello asked Fire Chief Barry Baker to update the Commission regarding the ISO rates in a Friday letter. He requested Mr. Turner inform the Commission as to what occurred regarding the animal control response issue.

#### Fluoridation

Mr. Jim Schultz, 117 Harvard Drive, provided a chart from the Center for Disease Control (CDC) showing the percentage of fluoridation within various states, indicating the relationship between fluoridation and good or excellent teeth was negligible. Mr. Schultz reported Ormond Beach would have a notification process to parents or caregivers of infants regarding fluoridated water and infant formula, and he recommended several options where information could be provided.

Mayor Costello stated Mr. Schultz accurately indicated the American Dental Association (ADA), in harmony with the Environmental Protection Agency (EPA) and the Department of Health, has recommended infant formula that is reconstituted from powdered milk should not routinely be used with fluoridated water at the same concentration that adults would use. He noted this was a concentration issue, and the City was supportive of that. Mayor Costello advised the Public Information Officer would make certain that information would go out to everyone. He requested Mr. Schultz provide him with the studies in that all of the studies he had seen did not agree with Mr. Schultz's assertions regarding the relationship between fluoridation and good or excellent teeth.

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Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the December 5, 2006, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

**Hearing none, Mayor Costello stated that the minutes were approved as submitted.**

Item #6(A) Employee-of-the-Year

Mr. Isaac Turner, City Manager, announced that Mr. Sam West, Senior Meter Reader, was selected as the Employee-of-the-Year. He stated Mr. West was known for his enthusiasm, community service, love for Ormond Beach, team spirit, and always being willing to help. Mr. Turner reported Mr. West volunteered and helped to raise money for several charitable causes.

Mayor Costello congratulated Mr. West and presented him with a plaque honoring him as the Employee-of-the-Year and a gift certificate to Mario's Restaurant.

Item #6(B) - Teacher of the Year 2008 Nominees and Five Star Schools

Mayor Costello read a proclamation in honor of Ormond Beach Teacher of the Year 2008 nominees and Five Star Schools. He noted the Florida Department of Education *Teacher of the Year* program recognizes and honors the contributions of outstanding classroom teachers who have demonstrated a superior capacity to inspire a love of learning in students of all backgrounds and abilities. Mayor Costello reported the Ormond Beach Teacher of the Year 2008 nominees are: Dana Silvernail at Hinson Middle, Germaine Moffett at Ormond Beach Elementary, Sandra Murray at Ormond Beach Middle, Bohnoosh Vasigh at Osceola Elementary, Cathy Dalton at Pathways Elementary, Phyllis Tabor at Pine Trail Elementary, Gwendolyn Coy at Seabreeze High, and Teresa Flanagan at Tomoka Elementary.

Mayor Costello reported the Florida Department of Education's *Five Star School Award*, was presented to those schools that have shown evidence of exemplary community involvement and have achieved 100% of the established criteria in the categories of business partnerships, family involvement, volunteerism, student community service, and school advisory councils. He stated the Ormond Beach schools that earned the 2006-2007 Five Star School Award were David C. Hinson Middle, Ormond Beach Elementary, Ormond Beach Middle, Osceola Elementary, Pine Trail Elementary, and Tomoka Elementary, and he recognized each of their principals: Ted Petrucciani, Marie Stratton, Carl Persis, Earl Johnson, Joseph Ronca, Barbara Paranzino, Bob Wallace, and Julie Johnson.

Mayor Costello advised the City recognized the contributions of these exemplary teachers and Five Star schools, as both have set high expectations for their students and inspire them to excel.

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

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

Item #7(C) - Water Authority of Volusia

Commissioner Kelley stated the last Water Authority of Volusia (WAV) meeting was cancelled and rescheduled for January 19, 2007.

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

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

Item #13(D) – Implementation of the Charter Amendment

Mayor Costello read a summary of the executive session meeting discussion that was held last night. He reported the appeal was based upon constitutionality and statutory issues. Mayor Costello noted the Commission agreed the citizens have every right to effect legislation equal to that of the Commission. He reported the statutory issues included: was the language clear and unambiguous; did it clearly state the 75-foot height limit; did the voters fully understand the issues; did the language disclose repeals of existing variance provisions; did the amendment include grandfathering; did the amendment include provisions for hardships or variances; did the amendment define where building measurement would begin and end; and did the amendment define building as opposed to structure. Mayor Costello explained while some statutory concerns may not be fully resolved, Mr. Thomas Pelham made two comments that brought the Commission to a consensus. He advised the first comment was, "It's hard to be optimistic about the City's chance to prevail," and "Whether the court upheld or overturned the appeal would not put the City in a better position to defend private property rights lawsuits alleging takings as previously expected by some Commission members." Mayor Costello stated this opinion agreed with City Attorney Randal Hayes' previous response that it depended upon which side of the issue the person was on as to the potential benefit of the appeal. He explained that when he had specifically asked Mr. Hayes what benefit the appeal would have to the City, he articulated that there would be no such benefit. Mayor Costello stated since no Commission member recommended continuing the appeal and since the Commission could not formalize any decisions made during a shade or executive session meeting, he would entertain a motion at this meeting to abandon the appeal during discussion item No. 13(D). He explained it was determined that the discussions held during the executive session could now be made public in that the appeal would be dropped so there was no need to withhold otherwise confidential attorney-client privileged information from the public. Mayor Costello reported the Commission asked Mr. Hayes to research and bring them a legal opinion regarding vesting and options regarding resolutions of private property rights issues.

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Commissioner Kelley reported the definitions of building heights and other issues were discussed, but there was no decision made as to the relevance or if they existed. He clarified the Commission recognized that these issues were not fully satisfied.

Mayor Costello concurred that some of the Commission recognized these issues were not fully satisfied.

**Commissioner Kent moved, second by Commissioner Gillooly, to abandon the appeal.**

Mr. Gregory Avakian, 161 Heritage Circle, Chairman of FAX PAC, objected to the Commission changing the language voted on to be placed in the Charter. He pointed out the City Attorney indicated there was no case precedence to change the ballot language.

Mayor Costello clarified he was in favor of changing the language because the ballot summary, which was also on the petition, stated what he believed the people voted on.

Mr. Phil Maroney, 117 Atwood Lane, thanked the Commission for doing the best they could do for the City and applauded the Commission's decision to drop the appeal that would result in additional legal costs. He noted he believed there would be plenty of opportunity for the Commission and taxpayers to experience the legal fallout as it was likely the verbiage would be challenged by private parties. Mr. Maroney stated it was unfortunate the CAN DO leadership was so careless in drafting the amendment petition. He pointed out that Mayor Costello and the CAN DO attorney recommended the ballot summary language be switched prior to going to the voters; however, the CAN DO leadership chose not to do so. Mr. Maroney requested the Commission reverse their decision to place the ballot summary in the Charter and simply place the flawed ballot language into the Charter, which was what the voters voted for as opposed to the ballot summary language. He noted the Commission could not state unequivocally that had the amended language been on the ballot that every voter would have voted in the same manner.

Ms. Marjorie Labar, 8 Mill Run Court, thanked the Commission for their decision not to continue the appeal. She agreed the initiative was flawed but stated that had the Commission not been so anxious to embrace such massive beachside development, there may have been more time to work out the issues. Ms. Labar stated she hoped, in the future, the City could proceed in a more thoughtful manner and not polarize the issue.

Mr. Jeff Boyle, 614 North Halifax Drive, stated the Commission made a wise decision to abandon the appeal. He stated it was always the responsibility of the Commission to "tweak" the language before or after the vote, which was clearly established in the hearing by the judge. Mr. Boyle stated the City was protected by the long-established Comprehensive Land Use Plan that limited building heights to 75-feet without exception and trumped any exceptions allowed by the Land Development Code and City Commission interpretation. He noted the rights of existing property owners to rebuild are clearly enumerated by Land Development Code provisions for nonconforming structures. Mr. Boyle stated when all of the legal issues are resolved, CAN DO looked forward to working together with the City to achieve the longstanding goal for beachfront parking on the east side of A1A.

Commissioner Kelley stated the decision for the appeal was based upon the recommendation from the City Attorney that the petition lacked legal sufficiency, and he followed the City Attorney's and other attorneys' advice. He noted he still believed the question was flawed, but he supported the decision by the City Attorney and Mr. Pelham to drop the appeal.

Commissioner Kelley advised the question of whether this was in conflict with the State constitution was still unanswered although it was affirmed by three district appeal courts. He noted the statement that the Comprehensive Plan would trump the Land Development Code was not factually based on the legal information the Commission was provided. He explained that when there was a difference between the Land Development Code and the Comprehensive Plan regulations, there was one year to file a challenge; however, the Land Development Code had been in conflict with the Comprehensive Plan since its inception in 1991 or 1992. Commissioner Kelley reported those powers should be inherit to anyone owning property, and the property owners have a right to base their claim on what was in the Land Development Code. He urged the CAN DO people to support grandfathering because development rights no longer existed if the structure was nonconforming, and he did not believe the voters wanted to take away property rights. Commissioner Kelley noted there has been no judicial legislation indicating the language was sufficient, and he expressed hope the inequities would be corrected, but the Commission could not do it alone.

Commissioner Gillooly stated a comment was made that it was a shame the issue became about fear and a rush to judgment about development, but she noted that was something she had addressed repeatedly. She stated this vote was never about a particular project, but whether or not the community would like to keep the opportunity to negotiate to develop property, and the City would be able to use the development process as a way to obtain what was wanted and needed for the community. Commissioner Gillooly stated the lawsuit to question the inequities in the ballot was legal advice recommended by the City Attorney to protect all of the citizens. She urged the people to remember that the Commission had a responsibility to represent every citizen. Commissioner Gillooly pointed out the lawsuit became more complicated by the filing of the lawsuit by CAN DO. Commissioner Gillooly advised there was an opportunity for the CAN DO leadership to correct the language, but they decided not to do so. She reported that after the vote, it was incumbent upon the Commission to insure that the City would tell the State how the Charter language would appear in the Charter. Commissioner Gillooly advised she did not believe she was determining intent by supporting the change in the ballot language. She noted that while the ballot language was a question, by their vote, the voters answered that question. Commissioner Gillooly reported had she not voted for this, the City would be left in "legal limbo" with no direction for staff. She reiterated that as a Commissioner it was her duty to do the right thing by all of the citizens. Commissioner Gillooly reported she asked Mr. Pelham this very question last night, and his answer was that the common sense answer was to correct the language to make the language enforceable.

Commissioner Gillooly reported the second issue after the vote was whether or not to drop the appeal; and it would have been easy to drop the appeal immediately. She pointed out at that point she did not believe the City would prevail, but she did believe it would give the City more legal standing when future lawsuits occur. Commissioner Gillooly stated it was her understanding, through conversations with the City Attorney, that there could be some legal ground to continue the appeal in that it may halt a lawsuit early on; however, last night she heard a change in that opinion. She requested the City Attorney to provide her with a written opinion regarding what, if any, benefit to the citizens there would be to continue the appeal; and she explained rather than the requested written answer, last night's meeting occurred. Commissioner Gillooly stated that while she was originally disheartened that she was not getting the report she requested, she was grateful because the meeting was very effective in that it allowed the Commission to talk directly with Mr. Pelham and Mr. Hayes and discuss the issue amongst themselves as well. She advised she would support dropping the appeal because there was no benefit to the taxpayers to pursue the appeal.

Commissioner Kent stated when the judge gave his opinion, the CAN DO attorney requested revising the language prior to the vote. He noted two Commission members favored that action, but three Commission members did not. Commissioner Kent stated he looked forward to moving on and coming together to make positive changes in Ormond Beach.

Mayor Costello reported Mr. Pelham stated changing the language did make common sense, but common sense and legal issues were not always in sync. He noted he believed the appeal would fail, and the only purpose for the appeal, in his mind, was that it would help support the coming property rights lawsuits because the City will have to defend those lawsuits.

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

Mayor Costello took a poll of the audience asking if they believed: 1) a “yes” vote would keep Ormond Beach height limits, 2) a “yes” vote would reduce Ormond Beach’s height limits; 3) a “no” vote would keep Ormond Beach’s height limits; and 4) a “no” vote would keep Ormond Beach’s height limits and continue to allow exceptions. He stated the reality was that it was incorrect to say a “yes” vote kept height limits because it actually reduced Ormond Beach’s height limits, while a “no” vote kept height limits and continued to allow for exceptions. Mayor Costello stated he considered that to be extremely misleading. He requested another agenda item to have subsequent Charter amendments, and he hoped CAN DO would support it in order to clarify the vote. Mayor Costello explained he questioned how many people voted “yes” expecting people living in buildings over 75-feet would have a major problem if a hurricane should damage their buildings over 50% in that, according to the code, the building could not be rebuilt. He described that as an unintended consequence. Mayor Costello advised he wanted a Charter amendment for the people to vote on issues such as rebuilding, allowing an elevator shaft above 75-feet, and other issues. He reported he believed there was confusion on multiple issues, and he hoped they could be clarified.

Mayor Costello reported he would move the A1A redevelopment and off-beach parking portion of this item to its proper position on this agenda.

Item #9(A)(1)(a) – Recess City Commission Meeting

Mayor Costello explained the City Commission served as the Community Redevelopment Agency of the City and must review this development order prior to the City Commission public hearing; therefore, he recessed the City Commission meeting at 8:15 p.m. and called the Community Redevelopment Agency meeting to order asking if anyone had any questions, comments, or concerns they wished to address to the Community Redevelopment Agency.

Item #9(A)(1)(b) – Review of the Development Order

Mr. Clay Ervin, Planning Director, stated Ormond Crossings was 6,000 acres expanding Flagler County and Volusia County and located generally at the interchange of I-95 and US1. He explained that in 1998 the former Economic Development Director, Mr. Fred Baughman, identified he was running out of space at the Airport Business Park and along other City’s corridors, and he investigated opportunities for the City to work with a property owner to provide for economic development in Ormond Beach. Mr. Ervin reported Mr. Baughman focused on

650 acres located on the east side of I-95 north of the Ormond Beach airport, south of the US1 corridor, and south of the railroad which was owned, at that time, by the Flagler Development Corporation (FDC). He pointed out FDC owned the entire 6,000 acres as well as additional holdings in the area. Mr. Ervin reported Flagler Development was willing to work with the City under certain conditions: they would not do a Development of Regional Impact (DRI), and they would have to investigate transportation issues to improve the accessibility to the property. He advised that in 2000 the City received a TOPS grant from the State of Florida and considered placing a new interchange at the southern tip of their property where Harmony Avenue comes into Pineland Trail. Mr. Ervin stated a consultant provided the data and analysis for this study and the potential traffic could qualify, but the location to the I-95/US1 interchange was too close and there was no primary arterial road that could feed into the area. He reported in 2001 Flagler Development's interest waned, and they wanted to sell the entire 6,000 acres and were willing to sell it in various sized parcels to assure it would be sold. Mr. Ervin noted the City had a good working relationship with Flagler Development, and potential buyers spoke to the City about the purchase.

Mr. Ervin reported the City worked on a visioning plan, and in 2002 the City Commission took a trip to Lake Mary/Heathrow because it was now understood that this was no longer about 650 acres, but all 6,000 acres and what could occur in the area. He stated based on Commission comments, a conceptual plan was developed. Mr. Ervin reported National Gardens was a 1926 subdivision plat involving 7,000 lots, and under the previously approved County land use four units per acre could be developed. He noted this area was located north of the airport, south of the railroad, south of US1, and east of I-95. Mr. Ervin advised that having residential zoning with four units per acre next to these type areas designated for economic development would be incompatible development. He advised this area was identified for economic development because it was in close proximity to the railroad, I-95, US1, and a vital part of Ormond Beach's infrastructure, which was the interchange onto I-95.

Mr. Ervin explained that in 2001-2002, Palm Coast Holding became interested in the property and laid out a plan which fairly closely followed the plan the City had envisioned. He reported for this partnership the City would need 1,000 acres to be guaranteed of the portion that could be annexed into Ormond Beach and identified for economic development use to generate jobs, and Palm Coast Holdings was in agreement. Mr. Ervin stated if something was not done now to diversify the land use, the City would not be able to see the area sustain itself, and sprawling growth would occur, placing the City in a severe financial situation. He noted through a series of public hearings with the City Commission and a joint meeting with the Commission and County Council, a Preliminary Impact Assessment was developed. Mr. Ervin reported the City worked with the County Council, DOT, and a variety of other agencies on a plan to accommodate the City's desire for economic development, respect of the natural resources, and consistency with and homogeneousness with existing developments. He stated the City wanted to balance the existing land use pattern and the environmental resources in the area to create a plan that would meld them together. Mr. Ervin advised what was approved by the County for one unit per five acre development would be the epitome of sprawl. He explained a large majority of the area was burned out in 1998, and much was being farmed. Mr. Ervin reported the plan would take potential development and compact it, place it in the correct locations, place it in a situation where the impacts to the natural resources were minimized, and they could be mitigated by protection and preservation in Flagler County. He stated one to one-and-one-half years ago staff had concerns regarding the cost of providing services to the residents crippling the City's budget. Mr. Ervin reported the Strategic Planning Group performed an economic impact assessment, and they determined this would not create a great impact. He clarified that one year there may be an initial deficit, but from that point on there would be ad valorem taxes,

franchise fees, and other transfers providing a net benefit of approximately \$64 million positive benefit to Ormond Beach at build-out. Mr. Ervin explained 30,000 employees were commuting from Volusia County to surrounding counties, and something must be done to stop that trend.

Mr. Ervin displayed a map of the entitlements identified through the DRI including five million square feet of office, business, light industrial, mini-warehouse, commercial, and institutional uses.

Mayor Costello asked what would have been the amount of residential if the other aforementioned uses were not identified.

Mr. Ervin reported there could be up to 5,000 residential units. He explained Ormond Beach would have 3,700, units and there was a pending application in Flagler County for 700 units. Mr. Ervin stated a critical concern identified by the Environmental Advisory Board, Planning Board, and City Commission was the wetlands system. He noted the majority of the wetlands located in the area were impacted by silviculture, conversion of the land to pasture, or fires. Mr. Ervin explained the development was being located where it should be, and it was protecting the birds and animals living in the area. He advised the wetland mitigation bank was 100% in Flagler County and could be used for future stormwater and floodplain mitigation.

Mr. Ervin reported a major problem in Florida today was road transportation, which was severely under-funded. He noted a DOT study completed three years ago entitled "Strategic Operation Assessment Report (SOAR)" identified that I-95 and US1 were failing; however, there were no funds for any improvement at this location. Mr. Ervin stated the only funding was for a study to determine if the proposed improvements with this project would be acceptable to the Federal Highway Administration. He advised timing from a local level and a DOT level was greatly different. Mr. Ervin stated the Interchange Justification Report the City must complete to obtain approval for the improvements would take at least 18 months to two years; and if Ormond Beach were able to build the interchange in 13 years, it would be considered a fast-tracked improvement.

Mr. Ervin stated the City successfully addressed one of the conditions of conditional blight by getting some dead titled properties through the CRA, and the City can now vacate that obsolete plat and remove the roads that would potentially be able to be built because the area platted those roads and they do have a right to develop them. He advised the developer would donate land for four lane arterial roadways, and the City would take Tax Increment Financing (TIF) funds to finance this road. Mr. Ervin explained TIF funds were funded by the property within the CRA; therefore, there would not be a diversion of any ad valorem taxes from the existing residents or businesses in Ormond Beach; but on the land currently agriculturally exempted, the increase in value would be captured and utilized to pay off this improvement once the development would start to occur. He stated the City and the CRA would not be taking on the bonding indebtedness in that the City would be working through an agreement with the developer where they would shoulder that indebtedness and the City would utilize the TIF to fund the bonds they would be issuing.

Mr. Ervin advised there was no place for the US1 interchange to be expanded. He reported he attended the Flagler County Commission meeting last night, and he e-mailed the Commission a summary of what had occurred. Mr. Ervin explained Flagler County staff made a presentation and a recommendation for approval for a Comprehensive Plan amendment and the development order for the Flagler County portion of this project consisting of 700 single-family homes subject to the conditions identified by the East Central Florida Regional Planning Council

and the Northeast Regional Council. He reported the top issue referred to stormwater where a property owner, Mr. Marcus Strickland, raised concerns that the study by the Tomoka Holdings' engineers was flawed, believing the basin used for the analysis of the amount of stormwater flowing through this project was underestimated. He identified that Ormond Beach was using an outside consultant because stormwater management and floodplain impacts was a detailed art and science. Mr. Ervin stated the consultant admitted he relied on St. Johns River Water Management District information that defined the basin, which the consultant believed was in error. He stated Mr. Gipe was correct, and he would work with Mr. Gipe. He urged the Commission to remember where the City was in the development process, noting the City was only on the Comprehensive Plan and DRI portion of the project and had not proceeded to the rezoning of the property to a PUD, not close to finalizing any environmental resource permits, and a great deal of development would have to occur.

Mr. Ervin pointed out there were specific restrictions in the development order such as the provision that no development shall commence until certain issues were adequately addressed. He reported Flagler County had two projects where access to the project was solely through Volusia County; therefore, they adjourned to hold a workshop to discuss how this and the existing project to Hunter's Ridge could be melded together to address the primary access issues. Mr. Ervin stated Flagler County had valid concerns, and they tabled this until additional information could be provided from their staff, and they could have a workshop. He noted Ormond Beach offered to lend assistance to Flagler County. Mr. Ervin advised the DRI application was initiated on May 6, 2005, with a public meeting held at the Ormond Beach Performing Arts Center where all of the reviewing agencies attended, and it was identified by Flagler County at that time that they would provide water and sewer service; however, a year later that decision was changed and they requested Ormond Beach provide the water and sewer service. He reported Ormond Beach would provide the water and sewer service; however, Ormond Beach had regulatory processes it must go through, and Ormond Beach had the same opportunity for fire and other services. Mr. Ervin explained there was a concern from the school boards in both counties. He stated there was an agreement between Flagler County and Volusia County, but that agreement had ended, and from this point on Volusia County would not accept any Flagler County students.

Mr. Ervin reported Ms. Isabelle Lopez, attorney for Mr. Strickland, identified a concern about the process being followed tonight in that adopting the development order prior to the remedy of the adopted Comprehensive Plan was in violation of State law. He noted staff had reviewed this issue with staff members at the Department of Community Affairs (DCA) and Ormond Beach's legal counsel Mr. Tom Pelham, who assured staff proceeding with the contingency of the effective date of the development order to when those remedial amendments are adopted and approve by DCA was an acceptable mode. Mr. Ervin reported the agreement addressed a variety of issues; however, it was an "agreement to agree" in some situations. He advised that this was merely the beginning of the development phase giving entitlement to certain developments, but each entitlement was conditioned. Mr. Ervin noted if the Commission was concerned about the stormwater issues, they could be addressed tonight as a condition to be added to the development order. He stated State, federal, and local regulatory frameworks were in place in regard to the stormwater issues that could address those concerns. Mr. Ervin indicated should the Commission wish to address this, he recommended that on page 24 and 25 under Item #3 of the development order, a "d" could be added to read as follows: "No development shall commence in the Ormond Beach portion of Ormond Crossings until the City Engineer has been able to review and approve a master stormwater and floodplain drainage improvement assessment that has been coordinated through all the appropriate State, regional, and local authorities." He reported this would insure the proper groups that need to review this

were included, and a stop gap would be available without an open-ended condition which could potentially linger.

Mr. Glenn Storch, Storch Morris Harris, stated this was a story of the power of an idea and how that idea became a shared vision. He reported the City came to FDC with an idea and requested FDC work with them to develop an economic development area as opposed to residential or what had existed. Mr. Storch pointed out that at that time there were biker bars, no real standards, and no thought of what the area could be. He stated FDC and Volusia County agreed with the City's concept. Mr. Storch reported Volusia County also agreed to create a corridor overlay zone along US1 implementing Ormond Beach standards; therefore, all development in the area had to meet Ormond Beach standards regarding landscaping and architectural standards. He stated through this shared vision people started to invest in this area such as Destination Daytona. Mr. Storch advised tremendous hurdles have been overcome between all of the stakeholders including Ormond Beach, St. Johns River Water Management District, the environmental community, Volusia County, every Volusia County Council, and every Ormond Beach City Commission for the past years. He pointed out the Volusia County Council awarded the first CRA delegation to Ormond Beach because of this project. Mr. Storch agreed this was merely the beginning of this extremely large, important project, and issues such as wetland, trails, schools, and Flagler County concerns must be dealt with as the process proceeds forward. He offered a guarantee that if there was a need for an independent stormwater review Tomoka Holdings would pay for it because they wanted to be assured the stormwater was provided for and the neighbors would not be negatively impacted. Mr. Storch noted he had no objection to adding Mr. Ervin's recommendation to the development order. He pointed out the easy thing to do was to divide the land up, but people were committed to do this the right way. Mr. Storch stated this plan would take longer, but it would be a model for the rest of the area, and everyone would gain. He advised a key element of smart growth was consensus building. Mr. Storch reported one advantage was that this was a DRI with a vision for the entire area where each element would be addressed, all of the impacts would be addressed, and there would be a financial plan for dealing with traffic, stormwater, and the environment. He explained this plan would have a fabulous habitat corridor, trails system, a premiere community, and the best economic development because of this cooperation. Mr. Storch requested adoption of this development order.

Mayor Costello called for a recess at 8:58 p.m. He reconvened the meeting at 9:02 p.m.

Mr. Charles Carter, 212 Arlington Way, stated Mr. Ervin and Mr. Turner were pushing this project, and he expressed concern with those involved in the project. He noted Mr. Ervin apologized to the Planning Board regarding the fact that they received the information less than 24 hours before a decision was to be made. Mr. Carter questioned why this had to be approved by December 31, 2006, and who set that deadline. He advised the DOT made no commitment and Ormond Beach would be building dead end roads in Phase I. Mr. Carter reported Volusia County indicated they would build no new schools next to a border line, and the School District did not agree with the numbers provided by the Strategic Planning Group. He stated Ormond Beach condemned property and sold or transferred lots to Tomoka Holdings and received no money. Mr. Carter advised this plan depended upon the bond issue that would be needed to comply with the CRA, and he questioned if the people would approve such a bond issue. He noted it would be 10 to 20 years before Ormond Beach would receive any funds, and the money may never come. Mr. Carter stated the Economic Development Director indicated the airport was critical to this project, yet there was currently a feud occurring at the airport between an operator, the City Manager, and the Legal Department; and this must stop. He reported the airport issues must be resolved. Mr. Carter stated while this was a good project, he

recommended the project not be approved for 60 to 90 days until these issues were fully addressed.

Mayor Costello clarified the Commission was pushing this project, and staff was responding to Commission direction. He reported the bond issue would be guaranteed by the developer, not the City; therefore, the City would not be financing this project.

Mr. Jeff Boyle, 614 North Halifax Drive, stated his primary question concerned the process. He questioned why this resolution was being fast-tracked when the City had been working with it for eight years. Mr. Boyle reported the Planning Board members complained about obtaining the information only 24 hours prior to the meeting, and the Commission had no minutes or written recommendation from the Planning Board for this meeting. He asked why the Development Review Board did not also review this issue in that this was such a massive project. Mr. Boyle advised this was one of the largest development projects in the entire area's history. He pointed out the contract names the monitoring agency to be the City Manager's position, but when the Land Development Code was rewritten this was a very sensitive issue, and it was determined the City Manager shall not have direct review or decision on development projects. Mr. Boyle stated Ormond Beach would provide utilities, police, and fire services to the Flagler County portion, but Flagler County had the sparsest population of the 67 counties, and was also the fastest growing county in the United States. He expressed concern about the School Board issues. Mr. Boyle noted this was a project straddling two jurisdictions and cautioned the Commission about what occurred with Aberdeen. He questioned the reimbursement method for utilities, police, and fire and if the method would have built-in adjustments for variables. Mr. Boyle noted once the 700 homes in Flagler County were constructed, it would be an incentive for more construction.

Mayor Costello stated if it were not for the fact that there would be a decrease in residential use overall, the Commission would probably share the outlined concerns. He noted he found it amazing this was being considered fast tracked when this was being worked on since 1999.

Mr. Isaac Turner, City Manager, stated staff recently learned that there had been a change in Flagler County's desire to provide services; therefore, Ormond Beach agreed to meet with Flagler County staff, and the Commission was advised of this fact in a recent Friday letter. He reported there had been no decision made to provide services to Flagler County, and staff would come before the Commission before any final decision would be made. Mr. Turner stated Hunters' Ridge was a great example of how that could work positively. He reported some of the problems with Aberdeen were that the entities were not communicating, recognizing that there were problems, and were not looking at possible solutions; however, Ormond Beach was talking to Flagler County. Mr. Turner clarified that the City was reimbursed for the actions taken in the eminent domain efforts in terms of acquiring the property and legal costs.

Mr. Ervin stated the City Manager position was the standard to do the monitoring in all DRI development orders because he was the chief executive officer of the City, and that was not inconsistent with the Land Development Code regulations in that the Land Development Code regulations stipulate that he, as Planning Director, was the official interpreter of the Land Development Code regulations. He concurred that the City utilized the "agree to agree in the future" philosophy. Mr. Ervin explained if Ormond Beach and Flagler County could not agree, nothing would be developed. He noted future expansion was a concern, but Plantation Bay was already being served by Flagler County utilities, and Halifax Plantation and Plantation Bay were being served by Volusia County utilities. Mr. Ervin stated that for Ormond Beach to go beyond Flagler County lines the City would need the permission of Flagler County, and they would need

to amend the Consumptive Use Permit and the agreement with WAV. He stated the service of water and sewer to Hunter's Ridge was originally the exempted part of the original resolutions WAV approved for each City. Mr. Ervin stated relative to rushing the project, he explained that as the Planning Director, he had to be objective making certain the project complied with City, State, and federal regulation; however, there was a potential for someone to file an appeal. He stated in 2004 the timeline was that by 2006 the development order should have been issued and the first phase of development started. Mr. Ervin explained the City spent two years dealing with the Comprehensive Plan amendment and a year and one-half with the DRI. He reported staff believed all of the regional and Comprehensive Plan issues have been addressed. Mr. Ervin explained the "meat" of this development order must be finalized to complete the Comprehensive Plan. He stated all conditions would be addressed. Mr. Ervin noted if the technical analysis was not resolved by the various reviewing agencies, this project would never occur.

Ms. Isabel Lopez, Lewis Longman and Walker, 245 Riverside Avenue, Jacksonville, Florida, representing Mr. Strickland, stated it appeared that the City was proceeding with this development order prematurely, which was not in the public interest. She noted pushing forward at this point would not help anyone. Ms. Lopez stated much evidence was offered at the Flagler County meeting, and they tabled the item indefinitely in order to address a plethora of issues and hold workshops. She reported flooding was a major issue, but many more issues were also noted. Ms. Lopez advised that this project cannot occur without Flagler County so there was no need to rush. She pointed out the mitigation bank for all of the wetland impacts in Volusia County are in Flagler County. Ms. Lopez explained the flooding issue was a public health, welfare, and safety issue and was paramount to the Flagler County Commissioners. She stated in the Ormond Beach Comprehensive Plan, Objective 2.2 Utilities, Policy 2.2.10 provided for the examination of this type of data prior to the project going forward; Policy 2.2.24 required environmental assessments; and Policy 2.2.25 indicated no development would be allowed that would pose a threat of releasing harmful quantities of pollutants to surface waters during flooding. Ms. Lopez questioned the legality of executing this development agreement, which grants specific vested rights, and urged the City to fully address the issues first.

Mr. Todd Gipe, Straightway Environmental, 513 South Nineteenth Street, Palatka, stated each of the parts such as the wetlands, water management facilities, and the developed areas in the plan fit together, each depended on the other, and each required space making the plan interdependent. He referred the Commission to the staff report that indicated the applicant had completed preliminary analysis and design of an integrated retention pond lake system for the entire project and that the size, depth, and location of the ponds and the connecting canals had been designed to accommodate the stormwater treatment and management requirements of Ormond Beach and the Water Management District. Mr. Gipe contended that the source of that analysis was flawed. He explained he worked for the Water Management District for 18 years where he worked as a technical program manager for mitigation banking and left 13 months ago. Mr. Gipe stated there were two places where the basin maps occur. He reported the expert consultants for the applicant looked on the website to find the basin line which was a reasonable action; however, it was incorrect in that the line would not block all of the water. Mr. Gipe noted there was a possibility this error would not have been found, approved by St. Johns, and flooding would occur. He advised he was in the process of preceded toward a rule change to fix the line prior to leaving St. Johns; but hundreds of corrections were needed, and there were a number of legal priorities that prevented this from occurring, and it was unknown when that would be completed. Mr. Gipe stated the mitigation bank proposal indicated the hydrology of the wetland would not be drained, but this would remove some of the water storage capacity from that portion of the project. He reported the additional volume of waters would

require the water management facilities to be designed in a different fashion, which would squeeze the wetlands making the ability to proceed with the developed area questionable. Mr. Gipe noted in that the foundational data was the problem, another review was not needed. He recommended obtaining the correct data and then having it come back up the chain with a real review. Mr. Gipe advised obtaining a conceptual permit to show the concept the project can be done.

Commissioner Kelley asked if Mr. Gipe's was an engineer or hydrologist.

Mr. Todd Gipe reported he was an environmental scientist, but not an engineer.

Commissioner Kelley asked who determined the basin line was flawed.

Mr. Gipe explained the technical program manager for mitigation banking and Mr. Strickland's son contacted him about the possibility of a mitigation bank, whereupon, a discussion brought to light a discrepancy, and an investigation was started. He reported St. Johns River Water Management District was required to place a map in the rule in 1993, and the staff obtained information from the United States Geological Survey (USGS) with revisions known at that time to comply with the regulation, but no one expected it was correct throughout.

Commissioner Gillooly stated Mr. Gipe indicated it was reasonable for the consultant to obtain the information as they had done, and she questioned if there was any disclaimer on the website that the information may be inaccurate.

Mr. Gipe indicated this map was never intended for that purpose; therefore, there would be an inherent disclaimer. He explained the purpose of the map was only for mitigation.

Commissioner Gillooly asked if this was an unusual situation where a consultant would use this information for this purpose.

Mr. Gipe noted it was not unusual; however, there was usually on-site data that would supersede it. He reported the geological survey was quite old.

Commissioner Gillooly asked if an onsite inspection would make it obviously discernable that the lines were incorrect.

Mr. Gipe stated it would be discernable if they did the amount of work necessary; however, typically that amount of work would not normally be done for a project.

Commissioner Gillooly questioned why the St. Johns River Water Management District had not made the necessary changes.

Mr. Gipe explained it was due to the magnitude of the job and the purpose. He stated the map was suitable for its purpose. Mr. Gipe advised St. Johns was in the updating process, but it was a low priority and a high magnitude of work.

Mr. Marcus Strickland, Flagler County, stated as a County Commissioner he never turned down a plat except one on the northeast corner of Flagler County, and he turned that down because it had no access just like this project. He reported the problem was that this basin drains only one place, and it could not run in any other direction. Mr. Strickland advised changes could be made to help the east side of the interstate, but not on the west side. He stated a water study

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had never been done, so this project needed a lot more study. Mr. Strickland explained there was not a great deal of flooding until FDC developed. He noted it was said that this project would create 3,200 jobs and 3,500 homes would also be built, but the area floods now and could not handle the additional runoff.

Mayor Costello encouraged an independent review of the stormwater plan paid for by Tomoka Holdings using the most current maps. He stated he found it hard to envision St. Johns starting work on a project in 2000, and it was not completed to date.

Mr. Ervin stated this was a DRI. He reiterated that in May 2005 representatives from St. Johns, the DEP, and other reviewing agencies went to the charette and a field inspection of the entire parcel. Mr. Ervin advised he clearly stated to the Flagler County Commission that this was a concern of the Ormond Beach City Commission as well. He explained that should this development order be granted and if they came in for a building permit tomorrow, it could not be granted unless there was an approval from St. Johns River Water Management District for an Environmental Resource Permit. Mr. Ervin clarified this would not provide Tomoka Holdings an inalienable development right to build.

Mayor Costello stated he wanted to go above and beyond to be good neighbors to Flagler County and Mr. Strickland; therefore, Ormond Beach needed to do everything possible to assure a problem would not be increased for Mr. Strickland or for Ormond Beach residents.

Commissioner Kelley stated Mr. Ervin indicated what would have to occur before anything could happen.

Mr. Ervin stated Ms. Lopez referenced a number of policies in the Utility Elements, and after review, he determined those policies were tied to specific objectives which pertained to site development. He advised this was not the appropriate time to go into a detailed analysis for each particular parcel.

Commissioner Gillooly asked how each phase would occur.

Mr. Ervin stated a condition would be added that the City would require a Master Stormwater Plan to be updated based on the information Mr. Gipe provided and reviewed by the appropriate agencies at a State, regional, and local level. He explained before continuing beyond that, the City would have to go through a rezoning process, and then site specific information would have to be consistent with the overall Stormwater Management Plan developed for the basin.

Commissioner Gillooly asked if that would provide vested rights for property development.

Mr. Ervin replied there would be conditional vested rights, and if the conditions were not met, they would not receive a development order. He noted affordable housing was identified as a critical issue, and an affordable housing study would be needed to be incorporated in Phases 2, 3, and 4, while Phase 1 would incorporate the minimum standards already identified. Mr. Ervin agreed entitlements have been identified, but all are stipulated with specific conditions being implemented.

Mayor Costello noted he would entertain a motion for the Community Redevelopment Agency to recommend approval of the DRI to the City Commission.

**Commissioner Partington moved, seconded by Commissioner Kelley, to recommend approval of the DRI to the City Commission.**

Commissioner Gillooly asked if this was the point to add the amendment discussed earlier.

Commissioner Partington reported Mr. Ervin indicated there was no need to add extra layers of conditions when this was already conditional.

Commissioner Gillooly noted she would prefer the amendment be added.

**Commissioner Gillooly moved to amend the motion, seconded by Commissioner Kent, to add a paragraph “d” in Section 3 on page 25 of the draft development order to state: “Development of the Ormond Beach portion of the project shall not proceed until the developer has completed a Stormwater Master Plan addressing water quality, quantity, and floodplain impact for all basins with the entire Ormond Crossings DRI. This study shall be coordinated with all effected parties at the State, regional, and local level and shall be based on updated information available through St. Johns and other parties. This would include an independent review with the updated information directly from St. Johns that addressed this issue.”**

Mr. Storch reported he would stipulate to the inclusion of the language in paragraph “d” as recommended by Mr. Ervin; however, he expressed concern in utilizing Mr. Gipe’s information in that this may not have been adopted by St. Johns. He stated he wanted accurate information.

Commissioner Gillooly clarified the information would have to be approved and accepted by St. Johns.

Mr. Storch pointed out Mr. Gipe indicated the procedure followed was correct and he merely wanted to make certain the correct information was being used. He noted St. Johns was instrumental merely in working with him.

Mayor Costello requested the amendment be reread.

**Mr. Ervin restated the amendment as follows: “New paragraph would be added: Development of the Ormond Beach portion of the project shall not proceed until the developer has completed a Stormwater Management Plan addressing water quality, quantity, and flood plane impacts. This analysis shall be funded by the developer and shall be coordinated with all effective governmental agencies as the State, regional, and local level and shall be based on updated data approved by St. Johns River Water Management District.”**

Ms. Sandy Upchurch, Deputy City Attorney, asked as of when this information would be approved; whereby, Mr. Ervin stated it would be approved at that time of review.

Mayor Costello noted Commissioner Gillooly and Commissioner Kent agreed to the rewording of the amendment.

Commissioner Kelley stated this seemed to be tying a decision of St. Johns when it was not known when they would make the decision and it could hold up the process.

Mayor Costello reported it would be using the information current at the time of the study.

Mayor Costello stated this would let Mr. Strickland know Ormond Beach would go the extra mile to protect him.

Commissioner Partington stated if St. Johns standards remain unchanged, it would be approved; therefore, this was just an additional layer the developer would need to go through, but if the developer had no problem with this condition, he could approve it.

Mayor Costello reported if St. Johns would adopt the new map, Ormond Beach must consider it; but if they do not adopt it, there must be a good reason since it was presented in 2000.

Commissioner Gillooly stated that extra layer would show a willingness to partner with Flagler County, which was a vital component of this project.

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

Item #9(A)(1)(c) – Adjourning the Community Redevelopment Agency and Reconvening the City Commission Meeting

Mayor Costello adjourned the Community Redevelopment Agency meeting and reconvened the City Commission meeting at 10:28 p.m.

Item #9(A)(2) - Development of Regional Impact Development Order for “Ormond Crossings”

RESOLUTION NO. 2006-269

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, ALSO ACTING AS THE NORTH MAINLAND/ORMOND CROSSINGS REDEVELOPMENT AGENCY, APPROVING AND AUTHORIZING THE ISSUANCE AND EXECUTION OF A DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER FOR THE “ORMOND CROSSINGS” PROJECT; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-269, as read by title only.**

**Commissioner Partington moved, seconded by Commissioner Kelley, to adopt the amendment as adopted in the prior item.**

Call Vote on the Motion as Amended:	Commissioner Gillooly	yes
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Carried.	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	yes
	Mayor Costello	yes

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

Mr. Clint Smith, Tomoka Holdings, thanked the Commission for their vision and hard work. He reported this was an important step, and he looked forward to continuing to work with the City. Mr. Smith specifically thanked staff, especially Mr. Ervin and Economic Development Director Joe Mannarino.

Mayor Costello recommended meeting with Flagler County to discuss this in a workshop or possibly appoint a representative to meet with them.

Item #9(B) – Residential Dwelling Units for Transient Lodging Regulations

ORDINANCE NO. 2006-26

AN ORDINANCE RELATIVE TO TRANSIENT LODGING, AMENDING CHAPTER 1, ARTICLE III, DEFINITIONS, SECTION 1-22 AND CHAPTER 2, ARTICLE II, DISTRICT REGULATIONS, SECTIONS 2-09 THROUGH 2-20 AND 2-21 OF THE LAND DEVELOPMENT CODE BY AMENDING REGULATIONS REGARDING THE USE OF RESIDENTIAL DWELLING UNITS FOR TRANSIENT LODGING; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2006-26, 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

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

Item #10(A) - Donation Bins

ORDINANCE NO. 2006-27

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE III, GENERAL REGULATIONS, SECTION 2-50, ACCESSORY USES, OF THE LAND DEVELOPMENT CODE BY CREATING REGULATIONS TO ENSURE PROPER PLACEMENT AND OPERATION OF DONATION BINS USED BY CHARITABLE, NON-PROFIT ORGANIZATIONS AS ACCESSORY USES; REPEALING ALL INCONSISTENT ORDINANCES AND PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN

EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-27, on second reading, as read by title only.**

Commissioner Gillooly reported at the first reading the Commission discussed adding a codicil relative to documentation that was needed and that it would need to be approved on an annual basis.

Commissioner Partington reported that information was included.

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

Item #10(B) - Economic Development Tax Exception to Hudson Tool & Die Company, Inc.

ORDINANCE NO. 2006-28

AN ORDINANCE GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXCEPTION TO HUDSON TOOL & DIE COMPANY, INC.; REQUIRING ANNUAL FILINGS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2006-28, 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 #11 – Imposing Water and Wastewater Impact Fees

ORDINANCE NO. 2006-24

AN ORDINANCE AMENDING SECTION 22-115 AND 22-165, OF CHAPTER 22, WATER AND SEWERS, OF THE CODE OF ORDINANCES, BY IMPOSING WATER AND WASTEWATER IMPACT FEES OF \$2,000.00 AND \$1,950.00, RESPECTIVELY, IN A UNIFORM MANNER THROUGHOUT THE CITY; PROVIDING FOR ANNUAL ADJUSTMENTS TO SAID FEES BASED UPON CAPITAL COSTS; AND PROVIDING APPROPRIATE LEGISLATIVE FINDINGS IN SUPPORT OF THE FOREGOING; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2006-24, on first reading, as read by title only.**

Commissioner Kelley questioned why a new house being constructed in an existing development would create future expansion costs when it was known that before a development or Certificate of Occupancy was issued, adequate water would be required. He stated the problem Ormond Beach would face would be to provide the Consolidated Tomoka Land Company (CTLC) property with wholesale water while experiencing all of the problems associated with that growth and Ormond Beach not receiving any impact fees.

Commissioner Gillooly stated the escalating cost of these impact fees directly affects the City's opportunities for development of affordable housing.

Mr. Paul Lane, Finance Director, advised Ormond Beach collected impact fees in Flagler County and would be collecting impact fees on the CTLC land since they both involved wholesale agreements.

Commissioner Kelley noted that information helped a great deal.

Mr. Lane stated this was calculated based upon a connection to the system and the unit cost for that connection. He reported affordable housing was considered a social issue, and the impact fees must be paid but could be paid from the General Fund as a contribution. Mr. Lane noted it may impact a bond covenant to waive an impact fee for one use and not another.

Mayor Costello noted the Commission was aware they could not waive the impact fees but could provide incentive grants to create attainable housing.

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

Item #12(A) – Lease Agreement with Tomoka Holdings, LLC

RESOLUTION NO. 2006-270  
A RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE  
AGREEMENT BETWEEN THE CITY AND TOMOKA HOLDINGS,  
LLC; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2006-270, as read by title only.**

Commissioner Gillooly asked for clarification of the effectiveness of the development order.

Mr. Ervin stated when the development order was found effective, the 17 acres subject to this lease would be deeded to the City. He noted staff was in the midst of negotiating the Proportionate Fair Share Agreement with DOT, Volusia County, and Flagler County. Mr. Ervin reported the City had 120 days to come up with that agreement, and if the City cannot finalize that agreement it would go to binding arbitration to finalize the improvements and costs. He explained the worst case would be that at 180 days out the Proportionate Fair Share Agreement

would be solved and during that time there would not be an effective development order and the lease was in place. Mr. Ervin reported he fully expected some legal challenges, which may prevail and delay obtaining the final deed on the property.

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

Item #12(B) – Construction Services for the Ormond Beach Sports Complex Phase 1 Improvements Project

RESOLUTION NO. 2006-271

A RESOLUTION ACCEPTING THE BID OF HALIFAX PAVING, INC., REGARDING CONSTRUCTION SERVICES FOR THE ORMOND BEACH SPORTS COMPLEX PHASE 1 IMPROVEMENTS PROJECT, UNDER BID NO. 2007-03; REJECTING ALL OTHER BIDS; AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY AND HALIFAX PAVING, INC., AND PAYMENT THEREUNDER; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kelley, to approve Resolution No. 2006-271, as read by title only.**

Mr. Rick Boehm, 5 Springwood Trail, Vice-Chairman of Recreation Advisory Board and Chairman of the Ormond Beach Pop Warner Organization, stated this was long overdue and was in the planning stage a long time. He urged the Commission to adopt the bid, but stated he appreciated the Commission asking staff to provide alternate bids. Mr. Boehm reported the Recreation Advisory Board unanimously supported the additional bid for paving and running water and sewer lines from the softball quad to Phase 1. He advised a private organization would like to build a concession stand/restroom at the new stadium, and without the extension of the water and sewer, that could not be done. Mr. Boehm stated staff recommended placing this project in next year's budget, but if that were done and the project had to be rebid postponing it to 2008, the earliest something could be built was for the 2008 season. He reported the Pop Warner Organization was moving out to the Sports Complex to start playing in 2007, and commitments were made, so they would prefer the facility to be as complete as possible. Mr. Boehm advised he did not believe the image Ormond Beach should convey was of port-o-potties and concessions being sold out of coolers.

**Commissioner Partington moved, seconded by Commissioner Kelley, to amend the base bid to include Alternate Bid Items 1 and 2 to be funded from the fund balance.**

Commissioner Partington advised that in light of the approximate \$300,000 surplus, he recommended funding this out of the fund balance as a one-time expense.

Mayor Costello stated he would support this because Ormond Beach had a private group that wished to add dollars to build facilities at the Ormond Beach Sports Complex. He reported he could think of no better investment than the \$15,000 for Pop Warner to help maintain some fields.

Commissioner Kelley stated this was a long time coming from 1994. He noted this was held up due to a creative master plan and was way overdue.

Commissioner Gillooly stated the lease that was just approved for this project and, hopefully, the subsequent deeding of the property to the City would occur once the development order was in place. She asked if staff was prepared to start work upon approval of this project tonight.

Mr. John Noble, City Engineer, reported the City would have to negotiate a contract with the bidder. He noted he was also awaiting the final issuance of the St. Johns River Water Management District permit.

Commissioner Gillooly asked what the City's protection would be when spending tax dollars on land the City does not yet own and what would occur if the City would not be deeded that land.

Mr. Turner reported the lease was written to stipulate the City would have the option, through a process defined in the lease, to acquire the property. He noted the lease would require the City to hire an appraiser to assess a value for the property, and Tomoka Holdings would have an option to hire a second appraiser. Mr. Turner pointed out there was a window of opportunity and a worse case scenario where the development order would not be completely executed or effective, and the Commission could then either purchase the property or lose the investment.

Commissioner Gillooly reported she completely favored this motion and agreed it was long overdue; however, she had grave concerns regarding building on land the City did not own, placing the City in a position where tax dollars were already invested and making it more difficult to walk away from that investment. She questioned if a delay would jeopardize the start for the next season.

Mayor Costello noted another perspective could be that by investing in this as recreational land the City would be helping to assure that the appraised value of the land would be based on recreation rather than industrial land use. He pointed out what would be placed on this new land was an entrance, driveway, and parking, while the bleachers, restrooms, and concession stand would be on City land.

Commissioner Gillooly advised that was another reason why this should have been included in the original bid plan as an alternate. She questioned if the roadway was necessary to accomplish the other named goals.

Mr. Turner acknowledged Commissioner Gillooly had a good point. He reported it was clear that more recreational land was needed in this area to provide the desired recreational opportunities. Mr. Turner advised that if Tomoka Holdings was not in the DRI process, the City would still be trying to acquire that land based on master plans. He explained because of the DRI, the City was trying to blend this into that process to the City's advantage. Mr. Turner noted this would provide an opportunity to get this land deeded.

Commissioner Gillooly asked if the change in land use would significantly lower the appraisal.

Mr. Turner stated it would probably not lower the appraisal value, but that would depend on the appraiser.

Commissioner Gillooly asked Mr. Boehm if there was a desire from the community to help raise the money privately for the restrooms and the concession stands, and he replied in the affirmative. She questioned if there would be an interest in purchasing the land if the land had to be purchased as a private/public partnership.

Mr. Boehm stated he could not state there would be no interest in the community; however, if the cost was \$1 million, it would be extraordinarily difficult. He reported it was evident upon reading the lease that Tomoka Holdings was doing everything possible to work with the City to make that land available to the City because the new entranceway, near their holdings, would create an attractive park that would benefit Tomoka Holdings by enhancing the value of their project. Mr. Boehm advised the City had taken this triangle into account for years, and Tomoka Holdings never had any plan to keep that land.

Mr. Turner stated Ormond Beach, as part of its vision, had always communicated to Tomoka Holdings that that land would be part of the Sports Complex.

Mr. Ervin stated staff informed Tomoka Holdings they could not develop the residential unless they gave the City the 17 acres because of a recreational deficiency in the City, and they would not receive impact fee credits. He reported Tomoka Holdings agreed to deed the land over to the City within 90 days of the effective date of the development order.

Mayor Costello stated the land can not be appraised as a different use, assuming it would be rezoned, but they could appraise it at the highest and best use of what it was now zoned.

Mr. Ervin referenced a DOT taking case where the idea of the highest and best use, regardless of zoning and land use in place, netted out additional money for Tomoka Holdings. He explained that if Tomoka Holdings could identify this as industrial property, even though the development order for the DRI had faded, it was reasonable to believe they could have a reasonable expectation of industrial land use.

Commissioner Gillooly reported she did support this, but could not agree to spend these tax dollars on land not in City ownership where the City may have to purchase the land at a higher price than the value should be.

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

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

Item #13(A) - Reconsideration of ACT Corporation Funding

Ms. Janet Miller, 395 South Atlantic Avenue, president and CEO of ACT Corporation, stated she fully understood the Commission had many obligations to consider and she appreciated the City's willingness to allocate dollars to ACT; however, she requested the Commission

reconsider the contingency placed on the allocation where the funds would be received only if all of the cities made a contribution to ACT. She reported she doubted ACT would realize contributions from all 16 cities. Ms. Miller advised they have received contributions from eight cities, and the majority of those cities were those with the largest populations or 63% of the population of the County. Ms. Miller reported Ormond Beach's contribution would add another 10%. She pointed out the dollars contributed would provide matching funds from the County turning the \$12,500 to \$25,000. Ms. Miller stated she believed the City understood what a community asset ACT was in providing services to the severely mentally ill in the community who were some of the least advantaged individuals and need help desperately.

**Commissioner Gillooly moved, seconded by Commissioner Kelley to reconsider the stipulation associated with the contribution to the ACT Corporation due to the new information recently obtained.**

Commissioner Gillooly explained when this was first considered the understanding was that the County would match dollar-for-dollar based on the combined contribution of \$200,000 from all of the cities; however, it was learned subsequently that the County was matching dollar-for-dollar based on each donation achieved. She pointed out this was a one-time situation; ACT was working very hard to correct their issues; and the needs of the people remain.

Commissioner Kent reported a certain dollar amount was determined in the budget for donations, and that amount was reached, so he could not support this motion.

Commissioner Gillooly pointed out there were surplus dollars found, and the prior vote indicated the Commission would support this expenditure with the condition all of the cities would contribute; but it was now understood the donation would be matched city-by-city.

Commissioner Partington stated this was a late request for funding, and the allocations agreed upon were already distributed. He noted he did not have enough information to make a decision that \$12,500 would help ACT to any great extent. Commissioner Partington reported he did not have information regarding the cost of psychotropic medications and why ACT was paying for these medications. He advised another problem was that this was another transfer from the State of their funding responsibility while they have billion dollar surpluses from transferring unfunded mandates to the County and local governments. Commissioner Partington reported when that occurs and other jurisdictions rally to make up the difference, it would give the State further incentive to continue to transfer their responsibilities. He recommended Ms. Miller, in a strong crisis position, go to the State legislature to plead for the funding that used to be funded by the State to be reinstated.

Ms. Miller noted she came on board on September 8 at a critical point, and she agreed she did miss the deadline for City funding. She reported this was the first time in 41 years that ACT had asked for funding from municipalities. Ms. Miller described this as an emergency request. She reported major reductions in operations had been made; their entire philosophy of treatment was changing, and they would continue to address these issues with the State. Ms. Miller explained ACT purchases in excess of \$3 million worth of psychotropic drugs, and the majority of clients are indigent with no employment, insurance, or means to pay for their medications. She explained coverage for psychological and mental health as opposed to physical health was greatly different. Ms. Miller advised they would be working with pharmaceutical companies to come up with patient assistance dollars. She explained if some people do not have their medications, they would impact the budget through the need for law enforcement and citizens bringing complaints.

Mayor Costello reported he would support this for one time only. He stated Ms. Miller and the board had done a great job to make certain the services continue.

Commissioner Kelley concurred with Commissioner Kent and Commissioner Partington that a schedule was set, but noted this was a very serious situation that was unknown at the time the allocations were made. He stated the City would be adversely impacted if people are not treated. Commissioner Kelley pointed out this involved a procedure or treatment where the benefit could not be readily recognized.

Commissioner Kent noted he agreed with a lot of what Commissioner Kelley indicated, but Commissioner Partington made him aware at budget time that the Commission would be giving the people's money to organizations when the residents may also be giving to those same organizations privately. He advised he could not approve expenditure above the cap set by the Commission.

Commissioner Kelley noted Ormond Beach was criticized for making charitable contributions for something that could ultimately benefit the Commission members in that those Commission members may receive money for their campaigns from those organizations. He reported this was so far removed from anything like this situation, and this was not the first deviation ever made this year from funding a budget item. Commissioner Kelley noted two or three deviations were made tonight.

Commissioner Gillooly stated there were more than 400 Ormond Beach residents who receive assistance from ACT. She reported in her position with Halifax Habitat for Humanity she speaks to many groups, and people support charities for many reasons. She stated that whether people support this because of the 41 years of ACT's service to the community and the residents that rely on the programs or they support it because of the impact to law enforcement, the ultimate budget was not as important as the fact that they do support charities such as ACT. Commissioner Gillooly reported from a business sense, this probably was the "best bang for the buck" the City would get this year.

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

**Commissioner Gillooly moved, seconded by Commissioner Kelley, to contribute \$12,500 to the ACT Corporation based on its understanding of the availability of surplus funds, and the fund balance was to be used to fund this expenditure.**

Commissioner Partington reported he would vote for this in that he did not see the point of voting against it with the understanding that this was a one-time expenditure.

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

Item #13(B) - John Anderson Drive Collector Road Upgrade/Corridor Enhancement Study

Ms. Judy Sloane, Public Works Director, stated alternatives have been presented to the Commission. She explained the original plan was to begin public meetings after completion of the study; but when the cost of the improvements were noted, staff decided to come back to the Commission for input before taking the alternatives to the public.

Commissioner Gillooly reported she favored the idea of the alternatives and the idea of receiving input from the public. She expressed concern regarding the trees that needed to be removed and noted she believed that would also be a concern of the people. Commissioner Gillooly stated she would prefer considering all of the options because the Corridor Advisory Group (CAG) plans need to be incorporated.

Mayor Costello stated the situation was that those who live on the road do not want trees to come down but others may want a sidewalk and bike path. He reported either the bike lanes and sidewalk are constructed so the entire community could use the Loop, or the sidewalk and bike lanes are not constructed and the trees are saved; but both can not occur simultaneously. Mayor Costello advised he favored Alternative No. 2 with 10 instead of 12-foot lanes and four-foot bike paths on each side and a sidewalk, which would allow the entire community to enjoy the route. He advised this alternative would cost more and may delay other projects.

Commissioner Kent concurred with Mayor Costello in that he also favored Alternative No. 2.

Commissioner Kelley stated he favored Alternative No. 4 because there has been an outcry from the people on John Anderson Drive who do not want a sidewalk because of the impact it would have on their way of life. He advised he doubted the sidewalk would be used. Commissioner Kelley reported that considering all of the other needs the City had, he would oppose delaying other road projects for this project that was not needed.

Mayor Costello stated this was not to approve any particular concept tonight but to simply inform staff that the Commission would be willing to fund a certain alternative if the people in the meetings would favor that alternative. He clarified that staff would not offer the option for the people to consider if the Commission was not willing to fund that option.

Commissioner Partington concurred with Commissioner Kent that he favored Alternative No. 4 depending on the CAG and the Loop Group's recommendations. He noted if the residents favor Alternative No. 2, he would support it; but Alternative No. 4 seemed to be the more realistic option.

Commissioner Gillooly reported she would not specify a preference for a specific alternative and would prefer all options go to the public for review and consideration.

Commissioner Kent stated he did not favor Alternative No. 4 because of the five to 10 year life of the road, and he noted costs would not become less expensive in the future. He advised he would be more comfortable with Alternative No. 3 if people did not want the sidewalk.

Mayor Costello stated the Commission would provide all of the options for consideration.

Commissioner Partington agreed all of the options should be considered and thoroughly explained to the different groups.

Item #13(C) - Destination Daytona/Coca-Cola Pavilion Development

Mr. Ervin stated this project was reviewed previously, and this was the final portion of the project. He noted Destination Daytona wanted to amend the site taking an open area currently used for itinerant vending and special exhibits and replacing it with a permanent structure, branding it by a specific corporation who would be funding the project. He reported signage exceeded requirements relative to the number of signs and the amount of area allowable. Mr. Ervin stated should the Commission decide this to be appropriate, staff would recommend the architecture would have to comply with Ormond Beach standards, which would eliminate the Coca-Cola columns while allowing flexibility regarding signage. He cautioned should this be considered, he recommended the Commission only allow this in this isolated location because banners and other types of signage could be approved which would normally be allowed in an itinerant vending situation.

Mr. Jim Morris, 420 South Nova Road, Daytona Beach, attorney for the applicant, stated there was a distance of 520 feet from the edge of I-95 into the property, which was located in a cove between J&P Cycle and the Harley Davidson store and 800 feet from US1 with other buildings between this parcel and US1. He reported there were 400 feet from the building to the road; therefore, this site was unique. Mr. Morris advised there were provisions in the Planned Unit Development (PUD) agreement that allowed for itinerant vending pursuant to the County's rules. He explained the object of the pavilion was to replace the possibilities for tents with a structure. Mr. Morris reported Coca-Cola would be sponsoring this pavilion, but the Coca-Cola columns could be removed if needed. He pointed out this structure would be interior and not seen from the street. He advised signage was approximately 1,000 square feet on a space of 30,000 square feet. Mr. Morris advised this would replace tents and banners that were permitted. He stated there was an annexation agreement where this property would become jurisdictional for Ormond Beach when Ormond Beach would become adjacent to the property. Mr. Morris reported this would offer an opportunity for people to gather in a sheltered space for outdoor activities. He noted civic groups would not be excluded from using the structure for a minimal charge.

Mayor Costello asked if this was approved, if it would remove the itinerant vendors.

Mr. Morris explained tents are presently permitted for itinerant vendors, and that was a permitted use in this area; however, with the approval of this building, there would not be tents because the vendors would be under the permanent shelter.

Mr. Chuck Strasser, 1316 John Anderson Drive, Destination Daytona, explained there would still be tents in other areas on the site such as in the parking lot, but this would be a permanent structure in this location.

Mr. Morris noted this would replace a significant quantity of tents. He explained this structure would be more in keeping with Ormond Beach standards than tents. Mr. Morris reported Coca-Cola would be sponsoring the cost, and he reiterated relative to signage, the site could not be seen due to its interior location on this property.

Mr. Ervin advised City standards would allow three signs of 180 square feet, and this request was for 10 times the sign area that would normally be permitted.

Commissioner Gillooly stated the County was working with Ormond Beach to insure the County was applying Ormond Beach standards on development in this area; therefore, the City needed

to consider what standards it wanted for future development since more development would be occurring in the area. She noted this would provide a more permanent structure, but she was concerned about the amount of signage requested.

Commissioner Kelley stated he did not have a problem with the Coca-Cola columns in that Ormond Beach had a heritage with the company through the Root family, and the image of the bottle was something wholesome that could be used for community activities. He noted the signage did seem excessive.

Commissioner Partington stated he could accept the Coca-Cola columns without the straws; he could accept the Coca-Cola sign, but not the additional signage. He reported he may be able to accept two or three times the sign allowance, but not 10 times the signage allowance. Commissioner Partington expressed a concern as to the material to be used on the roof. He pointed out he would have more comfort if the other itinerant vendors would be removed for this structure; but that was not the case, and both tents and the pavilion would be used.

Mr. Morris explained the covered structure would be located where vendors would have been. He pointed out this was not 10 times the amount permitted by code, but closer to five times what was permitted by code. Mr. Morris stated the roof material would be architecturally consistent with the other roofs in the area. He explained this would be metal tile which cannot be distinguished from the concrete tiles once they are in place. Mr. Morris advised these tiles appear and function the same as concrete tiles.

Commissioner Partington reported he realized that from a marketing perspective the applicant would want to attract people to the structure, but he would prefer to keep Ormond Beach standards as closely as possible. He noted this was too much signage and would probably allow twice what the code would allow as a maximum.

Mayor Costello recommended removing the four signs in the middle and leaving the two on each corner as well as the Coca-Cola signs, which may be closer to what the Commission could approve. He noted he personally liked the Coca-Cola columns in that they have a heritage in the community.

Commissioner Kelley asked if these signs were designated for all four or only on two sides of the structure.

Mayor Costello noted the signs would only be on two sides.

Commissioner Gillooly asked if a decision was to be made tonight on specific signage or if staff was merely seeking direction.

Mr. Ervin stated Volusia County has deferred to Ormond Beach in that they have adopted Ormond Beach's landscaping, signage, and architectural standards for greenbelt overlays. He noted this project was the first project at both the County and City level. Mr. Ervin reported the County was asking, through the Planned Business Development (PBD) process, if the Commission would support this waiver if it was being requested in the City. He advised that once a decision was made, he would send a letter to his counterparts at the County summarizing the Commission's recommendations, and it would then be included into the recommendations that would go to the Planning and Land Development Regulation Committee and the County Council.

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Commissioner Kelley reported what he found favorable was that it would be a permanent structure that appeared solid, making it less transient as opposed to erecting tents.

Mr. Morris stated this particular site would have tents. He noted the Development Agreement negotiated with the City Commission allowed tents. Mr. Morris advised, under the County rules, there could be tents all the way up to the edge of the right-of-way. He stated the City Commission requested the tents be set back into the interior with 150 feet of separation from the edge of right-of-way. Mr. Morris expressed concern that with Coke as a sponsor, they may not work with them on a reduction; and if they could not agree, they would not fund it, and it would probably not be built. He assured the Commission this would not set a precedent. Mr. Morris indicated each PUD would be an individual, independent agreement where various circumstances could be taken into account. He noted there would be very few instances where there would be a site removed from any road by a minimum of 400 feet. Mr. Morris advised this signage could not be seen unless a person would stop on I-95 or drive onto the site.

Commissioner Gillooly recommended a point to be negotiated with Coca Cola could be that the people who would see the signage would be inside the building so the extra signage could be located inside the structure.

Mr. Morris reported this entire area was established to work as a village so the signage was pedestrian level, and therefore, meant to attract pedestrians and as any other business; interior signage was not as useful. He advised the sign code was to avoid visual clutter, but visual clutter was not an issue in this instance on US1 or I-95.

Mr. Mark Dowst, 528 North Halifax, Daytona Beach, provided an alternative which would reduce the total signage to 645 square feet, which would include the circled signs, the five smaller signs on the front, the large Coke sign, and the two signs on the side with none on the rear along with the two on the other side. He noted he was not certain this would be acceptable to Coca Cola, but he believed they would have a reasonable chance it would be accepted.

Commissioner Partington recommended including a historical plaque explaining the significance of the bottles. He noted he could support this suggestion if it included the plaque.

Commissioner Kelley and Commissioner Gillooly noted they could support the proposal.

Commissioner Kent reported he liked the bottles, but agreed the signage was excessive. He pointed out that one of the signs was a beer sign.

Commissioner Kelley stated the beer sign must be removed.

Commissioner Kent reported this proposal was not perfect, but it was better than the original concept, and he could support it.

Mayor Costello reported he did not object to a sign indicating food or beer.

Mr. Morris reported he would send a revised depiction that would reflect the changes made tonight.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Exhibit A, removing the straws in the Coke bottles, and including a historic plaque to note the historic significance of the bottle.**

Mr. Morris noted they would contact the Root Company to obtain their approval before including a plaque.

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

Item #13(D) - A1A Redevelopment, Implementation of Charter Amendment, and Off Beach Parking

Mayor Costello recommended continuing the remainder of this item to a future meeting. No objection was heard.

Item #14 - Reports, Suggestions, Requests

First Anniversary

Commissioner Gillooly thanked the Commission for their patience with her for allowing her to speak on her first anniversary on the Commission. She thanked staff for their assistance in answering her questions.

Holiday Events

Commissioner Gillooly thanked the Police Department and Leisure Services for their work at the parade. She commended Kathleen Flynn and the Special Populations Project and offered to help in any way to show her support. Commissioner Gillooly wished everyone a very blessed holiday season and a wonderful New Year.

Coffee with the Commissioner

Commissioner Kent advised that the next Coffee with the Commissioner would be held on Monday, New Years Day, January 1, 2007, at 5 p.m. at his home.

Commendations

Commissioner Kent commended the two residents who stayed for the entire meeting until 12:01 a.m.

Commissioner Kent thanked Mr. Ervin for providing information in a way that makes dry data seem interesting.

Holiday

Commissioner Kent wished everyone a happy holiday.

Last Year and the Future

Commissioner Kelley stated this past year has been a learning experience for all of the Commission, and he hoped they could move forward to address the important issues facing the City.

Ad Valorem Taxes

Commissioner Kelley requested a discussion item or workshop on ad valorem taxes. He noted there was not a great deal the Commission could do, but they could be prepared because he

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was concerned with the possibility of needing to cut services, cut employees, and consolidate services in order to operate within the limits of what the State would do regarding passing along unfunded mandates. Commissioner Kelley stated the tax situation was not equitable. He reported another issue was a huge increase in homeowners and building insurance policy costs. Commissioner Kelley advised these issues would affect the future of economic development for a long time to come. He urged the City individually and collectively to work with the elected officials.

#### Goal-setting Objectives and Accomplishments

Commissioner Kelley noted he looked forward to the recap of the Commission's goal-setting objectives and accomplishments after the New Year.

#### Clarification Regarding Executive Session Comments

Commissioner Kelley asked that the City Attorney provide clarification at the appropriate time regarding questions that were asked of Mr. Pelham at the executive session relative to the changing of the wording of the recent Charter amendment.

#### Happy Holiday

Commissioner Kelley and Commissioner Partington wished everyone a happy holiday.

#### Events Attended

Commissioner Partington reported he went to Osceola Elementary to judge their fourth grade Social Studies fair with the theme "Triumph and Tragedy in History." He noted he judged 27 projects, and each was great.

Commissioner Partington commended those responsible for the holiday parade, the City Singers, and tree lighting event.

Commissioner Partington stated he had the opportunity to attend the Senior Games opening ceremonies where he was invited to a flag dedication ceremony of the Grand Villa Retirement Home on Nova Road. He reported 60 to 70 people were in at the attendance the flag dedication ceremony, and it was a moving experience.

#### Firefighter Overtime

Commissioner Partington stated staff monitors firefighter overtime carefully. He reported over the first four pay periods of the fiscal year the City budgeted \$60,000 and expended \$58,000. Commissioner Partington urged a sharp focus be kept on the trend of firefighter overtime. He requested an update on the granting situation regarding the new firefighter that the Commission approved. Commissioner Partington expressed a concern that the firefighter overtime seemed to be an entitlement that would continue every year, and requested comparing the fire, police, and general employees' overtime.

#### Working on the Commission

Commissioner Partington advised he was pleased over all that had been accomplished in his three years on the Commission and he looked forward to next year to accomplish even more. He stated it was a pleasure to work with staff and all of the volunteers on the City boards.

#### Happy Holidays

Mr. Turner wished everyone well over the holiday season.

Ormond Crossings

Mr. Turner expressed appreciation for the efforts of everyone in the community and the legislative delegation along with other legislators that worked to bring Ormond Beach to the point they were with the Ormond Crossings project. He noted Ormond Beach had overcome many hurdles, and this project exemplified the power of a vision. Mr. Turner thanked staff and the outside counsel that the Commission allowed him to hire to help keep this project alive.

Mayor Scarlett-Golden

Mr. Turner reported he received positive feedback regarding Mayor Costello's comments at the service for former Mayor Scarlett-Golden. He thanked Mayor Costello for representing the City extremely well.

Friday Letter

Mr. Ted MacLeod, Assistant City Manager, stated there would be no Friday letter until next year.

Holiday Greetings

Mr. MacLeod wished everyone a Merry Christmas and Happy New Year.

Ormond Crossings

Mayor Costello stated he was excited the Ormond Crossings item passed, but he was disappointed there were new issues he was unaware of. He challenged everyone to do everything possible to make certain Flagler County and Mr. Strickland were aware that the City's goal was to make this a project everyone could be proud of.

Charter Amendments

Mayor Costello requested a discussion regarding whether the City wanted to pursue Charter amendments such as grandfathering. He stated he wanted to do everything possible to make certain the community had every opportunity to make an informed decision on these issues.

Tax Reform

Mayor Costello requested a discussion and a resolution with recommendations relative to tax reform. He recommended a cap for non-homestead properties so the residents and businesses would be equal, where the taxes would be raised for some and lowered for others.

Ormond Crossings

Commissioner Kelley stated if Flagler County would have a workshop prior to January 1, he would attend to assure them of Ormond Beach's concerns and its willingness to work with them.

Mr. Ervin noted he understood a meeting was to be held on January 22.

Mayor Costello requested finding out if Flagler County would prefer meeting with the Commission or if they would prefer that Ormond Beach send a representative.

Mr. Turner stated a meeting was scheduled with Flagler County staff on January 19, and this issue could be discussed at that time.

Mr. Ervin stated staff would also identify this in an e-mail to the County Manager and Planning Director as he promised to provide a summary of what occurred tonight.

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Item #14 - Close the Meeting

The meeting was adjourned at 12:20 a.m.

APPROVED: January 16, 2007

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk