

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

June 28, 2005 7:00 p.m.

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

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Pastor Bud Murphy, Unitarian Universalist Society.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the June 14, 2005, meeting.
- 5) ***PRESENTATIONS:*** VCARD Citizen of the Year Award to Clay Ervin, Planning Director.
- 6) ***AUDIENCE REMARKS:***
- 7) ***INTERGOVERNMENTAL BOARD REPORTS:***
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Smart Growth Implementation Committee
 - D) 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. 2005-120 of the City Commission, also acting as the Community Redevelopment Agency of the City, authorizing the execution of a Property Improvement Grant Agreement between the City of Ormond Beach Community Redevelopment Agency and Bart A. Beninati d/b/a Lana Medical Care, P.A. (73 West Granada Boulevard - \$22,696) (Tabled from the 6/14/05 meeting.)
- B) Resolution No. 2005-132 authorizing the approval of a requisition for the purchase of three (3) dump trucks under Florida Sheriffs Association Bid Number 04-12-0823; authorizing the execution of a contract with Atlantic Truck Center; declaring certain dump trucks to be surplus property and authorizing the disposition thereof. (\$303,775)
- C) Resolution No. 2005-133 ratifying and approving the Mediation Compromise and Settlement Agreements for Case No. 2003-32091-CICI (Nevada 21) and Case No. 2003-32088-CICI (Player's Palace) pending in Volusia County Circuit Court; authorizing the City Attorney's office to take all action necessary to fulfill the requirements of the settlement agreements.
- D) Appointing a delegate to serve at the Florida League of Cities Annual Conference and approving travel by Commissioner Ed Kelley and City Manager Isaac Turner.

DISPOSITION: Approve as recommended in City Manager memorandum dated June 23, 2005.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2005-134 approving and authorizing the removal of an historic tree on a City right-of-way located at 15 Cypress Park Court.
 - B) Resolution No. 2005-135 approving and authorizing the removal of an historic tree located at 670 Hand Avenue.
 - C) Resolution No. 2005-136 approving and authorizing the removal of an historic tree on a City right-of-way located at 323 South Yonge Street.
 - D) Ordinance No. 2005-12 annexing certain real property into the City of Ormond Beach located one hundred fifty (150.0') feet west of Ocean Shore Boulevard at 2 Plaza Drive and a portion of Plaza Drive right-of-way; setting forth zoning, privileges, and obligations of said property; providing for transmission. (0.19 acres) (Second Reading)
 - E) Ordinance No. 2005-13 annexing certain real property into the City of Ormond Beach located one hundred fifty feet east of Cordova Avenue at 94 Plaza Grande Street; setting forth zoning, privileges, and obligations of said property; providing for transmission. (0.30 acres) (Second Reading)
 - F) Ordinance No. 2005-17 amending Ordinance No. 2004-28 pertaining to the Tomoka Holdings, L.L.C. (Ormond Crossings) annexation, by amending the legal description to correct a scrivener's error. (Second Reading)
 - G) Ordinance No. 2005-18 amending Paragraph C, Official Zoning Map, of Section 2-01, Establishment of Zoning Districts and Official Zoning Map, of Article I, Establishment of Zoning Districts and Official Zoning Map, of the Land Development Code, by amending the Official Zoning Map to rezone certain real property from B-4 (Central Business) to R-3 (Single-Family Low Density), authorizing revision of the Official Zoning Map. (65 Lucky Drive) (First and Only Reading)
- 10) **FIRST READING OF ORDINANCE** No. 2005-19 amending Section 15-6, Recreation Activities, of Article I, Operation of City Parks and Recreation and Cultural Areas and Facilities, of Chapter 15, Parks and Recreation, of the Code of Ordinances regarding the operation of personal watercraft.
- 11) **RESOLUTION** No. 2005-137 authorizing the execution of a Memorandum of Understanding between the City and River Bend Investment Group, Inc.

12) **DISCUSSION ITEMS:**

- A) Consideration of Charter and/or Election Code Amendments.
- B) Acquisition of a County-owned parcel on Highland Avenue.
- C) Update on Police Department investigations.
- D) Response to request by Commissioner Boyle relative to a request for retroactive pay/leave for Mike Lowe.
- E) Response to request by Commissioner Boyle relative to Police Department equipment for investigation of nighttime accident scenes.
- F) Donation in memory of Reverend Jesse Cotton.

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

14) Close the meeting.

Item #1 - Call to Order

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

Item #2 – Invocation

Pastor Bud Murphy, Unitarian Universalist Society, gave the invocation.

Mayor Costello reported Item #11 would not be heard tonight in that it was heard at the special meeting last night. He stated he would also be moving Item #12C to after the audience remarks portion of the agenda.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

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

Item #5 – VCARD Citizen of the Year Award to Clay Ervin, Planning Director

Mr. Hardy Smith, Volusia County Association for Responsible Development (VCARD) Chairman, announced Mr. Clay Ervin, Ormond Beach Planning Director, was the winner of their Citizen of the Year award. He noted VCARD annually recognized a person or organization that best exemplified the principle of responsible development. Mr. Smith stated VCARD noted Mr. Ervin's ability to balance the growth management needs of Ormond Beach with the reality of a growing city where development would continue to occur. He reported Mr. Ervin was a fair and responsible planning leader for the development of the community, and he commended Mr. Ervin for striving to be professional, efficient, and understanding of his applicants' concerns while looking out for the betterment of Ormond Beach.

Mr. Clay Ervin, Planning Director, thanked VCARD for this honor, and stated that a great deal of the credit was due to his department.

2005 FEDC Award

Mayor Costello stated that for the second year, the Florida Economic Development Council (FEDC) has recognized Ormond Beach for outstanding economic development promotional material. He stated the Economic Development staff and the Ormond Beach Chamber of Commerce cooperatively developed "Doing Business in Ormond Beach," which received the 2005 FEDC award for most outstanding promotional material. He advised the award was presented to Joe Mannarino, Economic Development Director, at the FEDC annual meeting on June 27 and will be presented to the City Commission at the first meeting in July.

Item #6 – Audience Remarks

Responsibility and Accountability

Mr. Glenn Wren, 27 South St. Andrews, questioned the accountability for the mistakes made on the Southeast Quad project. He stated the citizens will have to pay over \$600,000 for staff's mistakes and the apology that was given was that they made a mistake, and would try to do better.

Mayor Costello stated the Commission set aside \$700,000 for the airport years ago, and the funds would come out of that fund rather than costing the taxpayers additional funds. He reported that if the Commission should decide to invest in the airport fund in the future, that may cost taxpayer dollars.

Ormond Beach 2020

Mr. Brian Daly, 156 Magnolia Drive, representing Citizens for Ormond Beach (CFOB), stated the CFOB, in cooperation with City staff, was sponsoring Ormond Beach 2020, a series of vision sessions to answer the question: "What will Ormond Beach look like 15 years from now." He stated these sessions would be held in the City Commission chambers on July 13 when A1A and beachside would be addressed, July 20 when Ormond Crossings would be addressed, and July 27 when the downtown and mainland would be addressed. Mr. Daly invited all citizens to attend to ask questions, and he noted flyers were provided in the rear of the chambers.

Mayor Costello thanked the CFOB on behalf of the City Commission and Ormond Beach residents for hosting these sessions.

Renaming Ormond Beach

Mr. Adrian Thompson, 6 Dorado Beach Court, recommended renaming the City of Ormond Beach to the City of "Ormis Beach" because the prefix "mis" was used so frequently.

Item #12(C) – Update on Police Department Investigations

Police Chief Larry Mathieson read a statement relative to a case of sexual misconduct that he wrote to the Mayor, City Commission, residents, and staff of the Ormond Beach Police Department. He stated that neither he nor anyone in the organization had or would condone or tolerate this type of behavior. Chief Mathieson stated that while he was confident this case was an isolated event, training and other managerial actions have taken place at every level of the organization. He noted that the disciplinary process was well underway, and those responsible would be held accountable. Chief Mathieson stated he was disturbed and angered over the impact of this incident on the organization and community since the Ormond Beach Police Department was comprised of dedicated professionals who do their jobs with integrity and excellence every day. He took full responsibility for assuring that everything possible was being done to minimize the possibility of anything similar occurring. Chief Mathieson apologized to the community for any tarnish this incident has placed on the image of the City or the Police Department. He expressed appreciation for the support from the City Commission, the City Manager, and the community in these difficult times and stated he looked forward to providing an enhanced level of service and excellence.

Chief Mathieson reported that on December 21, 2004, an e-mail was sent by Ms. Bobbie Rosa to City Commissioners Troy Kent and Jeff Boyle containing allegations of improper conduct by members of the agency, including the assertion that the Police Chief condoned sexual misconduct between Sergeant George Coluccio and Victim Advocate Diane Carey while on duty and on City property. He noted there were also allegations that there were at least five cases of misconduct that had been squashed by Chief Mathieson, Officer Diana Price had been improperly denied a bulletproof vest, and other allegations. Chief Mathieson advised that upon receiving a copy of the e-mail, he immediately contacted Sergeant Kenny Hayes asking him to contact Ms. Carey to speak with him as soon as possible. He reported he confronted Ms. Carey on the phone with the allegations regarding sexual misconduct on City property. Chief Mathieson reported that during the ensuing investigation, it was advised that he believed this matter had been addressed by a division chief, and it was confirmed that there was no relationship between Ms. Carey and her supervisor, especially as it related to City property. He noted that when questioned directly regarding the allegation to verify that this denial had taken place, Ms. Carey would not confirm or refute the allegation. Chief Mathieson noted that at this time he was in route to a funeral in Miami and ordered an immediate investigation through his blackberry to Sergeant Hayes and then contacted Mr. Turner. He reported that he and Mr. Turner agreed that since his name was mentioned in the complaint, it would be appropriate to enlist the assistance of an outside agency, and Mr. Turner contacted Sheriff Ben Johnson and Lieutenant Bob Matusick as a lead investigator. Chief Mathieson pointed out that at no time during the investigation were steps taken relative to the investigative process without consulting

with Lieutenant Matusick, but investigators may have taken independent steps and reported the results at a later time to Lieutenant Matusick.

Chief Mathieson noted that seven primary allegations were explored in depth, and recommendations and findings were made on each allegation. He stated the primary allegation was that there was sexual misconduct, and it was proven that this allegation was true; therefore, there was obviously no cover-up in this instance. Chief Mathieson reported an allegation was made against him that he had squashed five cases of sexual misconduct, and the recommended finding was that the allegation was unfounded in that all of the information reviewed indicated the five allegations had been thoroughly investigated by the agency. He pointed out that very serious career-ending allegations were made that a police chief squashed serious complaints of misconduct. Chief Mathieson presented statements by Bobbie Rosa and Diana Price where, at the time of the complaint, it was acknowledged they had no direct knowledge of any wrongdoing in the agency, but had based their complaints on rumors. He pointed out that these women did not check their facts to discover each case had been thoroughly investigated before making their potentially career-ending accusations. Chief Mathieson noted that there was obviously no cover-up because the people making the complaint did not check their facts, and the allegations were completely untrue. He reported that while some may not have approved of the outcome or believed that someone else should have investigated, this was not the initial allegation. Chief Mathieson stated that upon conclusion of the investigation, these findings were reviewed by Sergeant Hayes, Lieutenant Matusick, Sheriff Johnson, Sheriff Johnson's chief deputy Bill Lee, and retired Chief of Police Dick Witt. He reported the Florida Department of Law Enforcement (FDLE) was contacted but declined to review the matter and advised that they do not review misconduct allegations unless criminal activity was alleged, and they saw no basis for an investigation.

Chief Mathieson reported Victim Advocate Diane Carey admitted under oath that she engaged in consensual acts with Sergeant George Coluccio on a number of occasions, and on one occasion their actions were witnessed by her friend, and this friend testified that she did witness Sergeant Coluccio engage in this act. He stated Ms. Carey stated that she knew what she was doing was wrong and she knew that the Chief would never condone such activity. Chief Mathieson reported the sexual contact began in late 2003 and continued to early 2004, but no specific knowledge of this was obtained until December 2004. He noted it was known that Sergeant Coluccio and Ms. Carey were having problems getting along in the workplace, and attempts were made on many occasions to try to discover what the problem was; but neither party wanted the administration to know the nature of the relationship. Chief Mathieson pointed out that Sergeant Collucio has continued to deny these allegations. He stated Sergeant Collucio gave a statement on the date of his retirement. Chief Mathieson explained Sergeant Collucio formally announced his retirement several weeks before the Rosa e-mail was received. He stated that Sergeant Collucio has been given three opportunities to provide a supplemental statement; and at the advice of the City Attorney, he would be provided with one final opportunity to do so on July 1.

Chief Mathieson reported the investigation also concluded that two supervisory managerial employees had knowledge of the exact nature of the relationship for some time and did not come forward. He stated that this failure to report was a policy violation. He noted the investigation contained other findings indicating that a division chief did not pursue this matter aggressively enough, but a subsequent review of the division chief revealed he spent a substantial amount of time and energy addressing discord which had developed between the two individuals and had no knowledge of sexual contact, and the word "sex" was never used in any correspondence until the e-mail was received in December 2004. Chief Mathieson pointed out that management cannot force employees to admit to something they do not wish to discuss. He stated the investigative summary was available for anyone to review at any time upon request. Chief Mathieson advised Sergeant Collucio was facing a decertification hearing with FDLE on August 3, 2005, and there would be someone from this agency in attendance.

Chief Mathieson stated an issue surfaced regarding former Sergeant Mike Lowe spurring complaints and allegations by him and his supporters. He reported that the finding was that as a former supervisor he had knowledge that the conduct was occurring and did not come forward. Chief Mathieson noted former Sergeant Lowe acknowledged in correspondence that he did not notify staff regarding his knowledge of this misconduct and offered his reasoning that he did not have confidence in the Chief to address the issues and chose to write a letter to the Department of Justice. He reported that despite his assertions, there were a number of other avenues that could have been pursued, such as notifying the City Attorney, the City Manager, the Human Resources Director, or the Commission. Chief Mathieson stated that since his name was mentioned in the allegations, he did not see the file until after its completion and it was reviewed by the Sheriff's office, a former police chief, and the City Manager. He reported that when he received the file, he discovered that he had a finding against him in the file, and he

should have an appropriate opportunity to come forward with a statement. Chief Mathieson offered to supply substantial correspondence between former Sergeant Lowe and Sergeant Hayes to show that opportunity was given and a decision was made to prepare a written statement and included this as an addendum to the file, which has occurred. He stated former Sergeant Lowe prepared a complaint letter to the FDLE, and a disposition letter was received indicating there was no basis to any of the allegations, and FDLE would not be proceeding with an investigation.

Chief Mathieson reported that included in the Commission packet of information was a list of actions taken by the City, generally, and the command staff of the Police Department, including training for all supervisors and corporals in ethics and responsibilities associated with reporting acts of misconduct, which was near completion. He advised that training on sexual harassment and reinforcement of supervisory responsibilities in terms of reporting and addressing issues before they occur, and what to do if they do occur, was scheduled for all City employees; disciplinary actions are being carried out for those who had responsibility and violated policy by their conduct or by failing to report; and the FDLE has been notified regarding the violations committed by the sworn officers, and a decertification hearing was being held regarding former Sergeant Coluccio.

Chief Mathieson reported that the quarterly update for the Criminal Justice Professionalism Program prepared by FDLE listed disciplinary proceedings from May 5, 2005, which contained 16 pages of law enforcement and corrections officers in Florida that have been disciplined for various offences. He stated that while this was certainly not good for the organization, it does happen in other places. Chief Mathieson noted that this report outlined that the profession was policing itself in that these individuals were investigated, wrongdoing was identified, and appropriate sanctions were taken, which was what occurred in this instance.

Chief Mathieson related the incidents regarding the prisoner escape investigation where on February 24, Mr. Lonnie Roberts, a prisoner being held in the Ormond Beach Police Department's holding facility, was able to escape from police custody. He stated the investigation indicated that during the time the prisoner was in custody, numerous personnel entered and exited the building with prisoners. Chief Mathieson reported staff was able to finalize the investigation, without interviewing several officers due to labor issues that were initially interviewed by a supervisor on duty at that time. He stated that, in this case, there was an error in policy which could be addressed through less strident discipline such as counseling and training. Chief Mathieson reported one or more Ormond Beach Police Department employees, through human error, poor safety practices, and violation of established departmental policy left the electronically controlled doors unsecured, but the investigators could not determine precisely which officer was responsible due to the amount of traffic going in and out of the facility at the time. He stated it was determined that the practices associated with the operation of the electronic doors was not being followed, and the lack of familiarity of a door mechanism outside the sally port facilitated the escape. Chief Mathieson reported it had become an accepted practice on the night shift that when an officer was bringing a prisoner in or out of the jail from the sally port area, that on occasion both the inner and outer doors would be tripped simultaneously by dispatch. He noted Mr. Roberts was allowed out of the jail because he was cold, and there was no blanket available. Chief Mathieson stated most of the officers testified it was a common practice to allow the doors leading from the jail area into the interior of the police station to be propped open to allow access to the copy machine and other areas such as the rest rooms.

Chief Mathieson reported several policy violations were discovered, but with stronger supervision, reinforcement of the policies, and additional training, the problems could be corrected. He stated training has been provided to all supervisors in the operation of the exit door locking mechanism, and daily inspections were required; the policies regarding locking and unlocking the jail doors have been revised so only one door can now be open at any particular time; all personnel have received this policy, and it will be strictly enforced. Chief Mathieson explained staff was exploring a technological improvement in the system so that when one door was open, the others would remain locked until that door was secure. He stated a design improvement of the jail was being explored that would allow officers to question prisoners without taking them out of the cell. Mayor Costello noted the two supervisors and officers identified were going through the disciplinary process, and the hearings have been concluded. Chief Mathieson reported policies have been changed regarding the handling of inquiry investigations so if there were a likelihood of discipline above the level of a reprimand, an internal affairs supervisor would automatically take a sworn statement. He stated he planned to bring all personnel in to do an "after action incident" critique to find out what went wrong and avoid it ever being repeated.

Mayor Costello stated that to assure continued community pride in the Police Department, he would call for the accreditation team from the Commission for Florida Accreditation (CFA) to include an independent examination of the City's entire Police Department including management practices, staffing, disciplinary policies, and internal investigation procedures in preparation for the City's application for re-accreditation in December. He also called for an independent audit of recently closed and ongoing cases so the entire community would have validated reason for continued faith in Chief Mathieson and the Police Department. Mayor Costello noted he was confident the Police Department would be able to come through these investigations without difficulty, but he pledged to the citizens that should the Police Department fall short of the mark of excellence this community mandated, the City would take whatever corrective action required to deserve the public's continued confidence and praise.

Ms. Diane Carey, Victim Advocate for the Ormond Beach Police Department, stated that while she was to address the Commission, this was a community issue, and she was also addressing the community with her remarks. She noted she has been vilified in the newspaper and now on the radio. Ms. Carey noted this incident seemed to be about blame, but admitted she was the one to blame in that what she did was wrong. She explained she started with the City in September 2003 under Division Chief Mark Walker, and in November or December, after only five days into her job under Sergeant Coluccio, this behavior started. Ms. Carey stated she was not placing all of the blame on Sergeant Coluccio because she played a part; however, to this day Sergeant Coluccio has accused her of "being crazy" and that she was lying. She admitted to mistakes by getting involved with Sergeant Coluccio and risking her career. Ms. Carey stated these incidents had occurred only a couple of times at the end of the day, and she was trying to please her boss in the wrong way. She urged people to see the good she had done as victim advocate. Ms. Carey stated she has been on call 24 hours a day for seven days a week for a year and one half and her work had never been questioned. She reported she brought Ormond Beach the nationally acclaimed SAFE Program, a rape prevention program, and she started a domestic violence support group. Ms. Carey apologized for violating the public trust.

Ms. Carey declared that she absolutely never told Division Chief Walker or Chief Mathieson what had occurred. She stated she hoped some good would come out of this incident through the implementation of additional training, more sensitivity, and a better awareness of women's issues. Ms. Carey reported she wanted to continue working while this investigation and disciplinary process was going on. She noted she was only hoping for a fair conclusion. Ms. Carey stated she supported the Police Department, and pointed out that there were many good people in the department. She reported this occurred in February and March of 2004, and she had received good evaluations in the interim; and while she knew she made an awful mistake, she tried to move on by placing herself into counseling. Ms. Carey stated she trusted and supported Chief Mathieson and the Police Department. She credited the Sheriff's Department for being professional and pointed out that people can be friends and still be objective. Ms. Carey stated she loved Ormond Beach and her job, which was why she ended 20 years in Broward County to move to Ormond Beach.

Mr. Mike Lowe, 407 Cherrywood Drive, stated a reference was made to a letter from FDLE, but the letter did not indicate his allegations were completely baseless as reported. He noted this was a form letter, identical to charges against him regarding this investigation. Mr. Lowe stated a citizen warned the City about what was occurring at River Bend, but no one would listen. He noted that at the last meeting the Commission asked people to come forward if they had facts relative to faults with the investigation, so he presented facts to Mayor Costello detailing specific instances where policies were broken and rights were violated.

Mayor Costello stated he did not pass on the information to the Commission because Mr. Lowe indicated he would provide the same information to each Commission member.

Mr. Lowe reported he did not have the opportunity to turn over that information; but if Mayor Costello no longer had the information, he would provide the information to the Commission.

Mayor Costello noted he had the information, but preferred Mr. Lowe provide the information to the Commission. He read the letter from FDLE which indicated they reviewed his complaint and had found no basis for any action by the Criminal Justice Standards and Training Commission based upon the finding that the alleged misconduct did not constitute a moral character standards violation as defined by the Florida Administrative Code. Mayor Costello noted the letter went on to state that this finding was separate and distinct from any employing agency action and in no way reflected upon their investigation, findings, conclusions, and/or disciplinary action.

Ms. Margaret Sharifi, 212 Valencia Drive, advised she was a member of the Citizens Law Enforcement Advisory Board. She asked the Mayor, Commissioners, and citizens to continue to honor the excellent record of the Ormond Beach Police Department and the ongoing professionalism exhibited daily by Chief Mathieson and his 98 employees. Ms. Sharifi pointed out that some of the Police Department's accomplishments include: a three-year accreditation by the Commission for Florida Accreditation (CFA) in 2002; litigation had not been filed against the department since 1998; the 2004 crime statistics showed a drop in the crime rate annually; recognition by the Community Policing Consortium of Washington D.C. for the Ormond Beach Police Department's policing programs that had been published nationally; an independent survey in 2003 stated the Ormond Beach Police Department rated good or better by 93% of its citizens; Chief Mathieson was currently the first vice-president of the Florida Chief's Association and would be president of the organization next year; Officer Lisa Rosenthal was recently named Crimestoppers Officer of the Year; and the daily performance of all of the officers. She explained all actions of the Police Department officers was documented daily including use of force, car chases, citizen complaints, and criminal activity. Ms. Sharifi reported written responses were always provided to citizen complaints after the completion of an investigation. She stated if a policy or procedure was not followed there were swift and concrete actions taken including counseling, retraining, probation, and termination. Ms. Sharifi noted hiring practices by the Ormond Beach Police Department are exemplary; however, two employees have tarnished the image of the department. She agreed what occurred was awful, but to allow this tide swell beyond its relevancy was unconscionable. Ms. Sharifi pointed out that some are calling for accountability from the Chief and indicating that the incident reflected the department's moral character, but she disagreed and noted the department record should speak for itself. She urged everyone to stick to the facts. Ms. Sharifi stated two people did a stupid thing, but Chief Mathieson was handling this situation, as he should as a personnel issue. She asked the public to let Chief Mathieson know they support him and the Police Department policies by honoring the other 96 employees who provide the City with a safe and secure Ormond Beach.

Ms. Patty Barker, 1105 Overbrook Drive, stated two weeks ago members of the Commission asked citizens to read the investigative report regarding sexual misconduct at the Police Department, which she subsequently did; however, she noted the investigation raised more questions than it answered. She noted the scope of the investigation was more than allegations of sexual misconduct, but included allegations that Chief Mathieson engaged in inappropriate personal conduct such as drinking alcohol and driving a City owned vehicle. Ms. Barker reported Chief Mathieson was interviewed twice, and the second interview caused her to question the validity of the investigation in that it was conducted after hours by Chief Mathieson's internal affairs officer with no Sheriff's office representative present. She stated that Chief Mathieson was asked a direct question under oath if he had drunk alcohol and then driven his City issued vehicle, and Chief Mathieson's response was that he had, on occasion, in connection with City functions, had a glass of wine at a banquet which was permitted by City ordinance. Ms. Barker pointed out Ormond Beach City policy 14.3 stated that being under the influence of alcohol while operating a City owned or leased vehicle was strictly prohibited. She challenged finding any policy allowing Chief Mathieson to drink and drive under any condition. Ms. Barker pointed out that no mention of this policy violation was noted and no disciplinary action was taken; however, two members of the Police Department received suspensions for violating a policy requiring them to report mere rumors. She stated this was an example of how the review of this case failed to find fault with some while sustaining policy violations against low-ranking members of the agency. Ms. Barker stated Division Chief Osterkamp issued a memorandum on December 21, 2004, the same day the Rosa e-mail was sent to the Commission, where he documented he had a meeting with Officer Diana Price on December 20, where she reported allegations of official misconduct, including that Chief Mathieson had been observed to have consumed alcohol and then driven a City vehicle and that Sergeant Coluccio and Diane Carey had engaged in sex acts on seven or eight occasions. She noted the memo confirmed Division Chief Osterkamp briefed members of the command staff on the morning of December 21, and rather than commissioning a formal investigation or contacting Mr. Turner, Chief Mathieson left town for a funeral in Miami. Ms. Barker reported that only when Chief Mathieson was informed the allegations were exposed outside of the department did he begin making inquiries. She stated it appeared that a double standard, a pattern of quibbling the facts, and a failure to bring forth the whole truth of what was known, by whom, and when, existed in the Police Department.

Mayor Costello noted that should the Commission concur, he has called for two investigations. He stated should anyone have any statements to be included in the investigations, they should be sent to Mr. Turner with a copy to the Commission.

Ms. Laura Jones, 59 Amsden Road, noted she was also on the Citizens Law Enforcement Advisory Board, and people have been led to believe that all board members agreed with the

disposition; but she and two other board members have questioned decisions. She stated that if someone lodges a complaint, it seemed that individual was investigated rather than the one who was accused.

Ms. Diane Voigt, 4037 Acoma Drive, stated that while this has been a difficult situation for everyone, it was in everyone's best interest to wait until all of the facts were known and all of the investigations completed before trying this case in the media. She noted it could cause irreparable harm to people when the situation may not be as clear as some may believe. Ms. Voigt urged the City to not release information too quickly until the blame could be placed accurately. She noted Chief Mathieson has taken responsibility, as he should, in that this was his department; however, this was not the only place this type of activity had ever occurred, and it will occur again in other places. Ms. Voigt stated what was important was to have facts established and the appropriate punishment given. She noted while she did not know Ms. Carey, she certain had courage to speak at this meeting, and she deserved consideration.

Reverend Charles Melvin, Pastor Ormond Beach Union Church, stated that as a retired Naval officer he had experienced a number of similar instances with people under his command, and it was unfortunate when people working under and for a supervisor fail to live up to the expected standards. He noted a supervisor's job was to elicit a loyal and faithful performance of their duties, but no supervisor could ever determine the outcome of people's actions. Reverend Melvin stated a track record reveals a pattern of leadership qualities, and Chief Mathieson has led this community through an ongoing, effective, outstanding process of law enforcement. He noted it was unfortunate that a referendum of Chief Mathieson's leadership would come in this context. Reverend Melvin pointed out this could happen to any supervisor. He declared that he felt safe and confident in Ormond Beach because of Chief Mathieson and the Ormond Beach Police Department.

Mr. Tom Burks, 212 Lynnhurst, stated Mayor Costello was the voice of reason on the Commission. He noted he was as disturbed about these problems as anyone; but if all Chief Mathieson's opponents could come up with was that he had a glass of wine and drove his vehicle, he recommended the chief pay the fine and get on with running the Police Department as he had done in the past. Mr. Burk pointed out that Chief Mathieson was not the first police chief trying to fire Mike Lowe, since this entire process was experienced years ago under Chief Stewart. He agreed Ms. Carey must stand accountable for her actions, but the bible teaches to have compassion and forgiveness. Mr. Burk stated that anyone who suggests, alludes to, or implies that the sheriff and police chief were in collusion to fix the results of these investigations was irresponsible and does a great deal of harm to the reputation of this City. He stated he was offended that Commissioner Boyle would insinuate that the sheriff, or anyone in his office, would compromise their position for Chief Mathieson. Mr. Burk reported this incident has gotten totally out of control, hurting the image and reputation of the City; but as long as people such as Commissioner Boyle go on the radio and in the news media and continue to embarrass the City, the situation would only get worse. He pointed out that Commissioner Boyle was the only Commission member who seemed to be quoted in the newspapers or heard on the radio, making people believe he was the spokesman for the City. Mr. Burk stated he felt badly for the victims, but urged the City to move on and protect the City's reputation.

Commissioner Boyle thanked everyone who addressed the Commission, noting this was an important part of the healing process. He stated the public statement made by Chief Mathieson helped in that it acknowledged that the Commission, the City Manager, and Chief Mathieson have a responsibility to assure this community everything possible would be done to assure this kind of situation would not recur, and it included a needed apology. Commissioner Boyle reported he never questioned the integrity of Chief Mathieson or Sheriff Johnson. He explained what he questioned from the outset was the potential for the perception of a conflict of interest, which occurred as he predicted. Commissioner Boyle noted what was needed from the outset was the type of investigations Mayor Costello suggested tonight. He noted the potential for the perception only existed because there was a pending dispatch agreement between Ormond Beach and the Sheriff's Department.

Commissioner Boyle stated there were still a number of unanswered questions, but there was a potential to obtain the answers with the investigations Mayor Costello recommended; and they would help the community and the Police Department. He noted he hoped to learn why the lead investigative agency did not write the customary report, why all employees in the Police Department were not interviewed, why there were discrepancies in testimony, why the Police Department signed off on the investigation on February 7 and the Sheriff's department signed off on March 15 yet interviews were still being conducted, and why three employees were sanctioned for not bringing knowledge of the misconduct to their superiors when two of those employees had negative experiences with previous complaints. Commissioner Boyle stated he

was on the Commission during Chief Stewart's tenure and was not aware of any attempt to fire Mr. Lowe. He explained that in 1994, after every superior failed to respond to the complaints of sexual harassment, Mr. Lowe stood up for two women at great personal risk and cost. He noted he admired Ms. Carey for her courage in coming tonight and for her apology to the community; but the public has asked why she was still on paid leave six months after admitted misconduct that would lead to termination anywhere else. Commissioner Boyle explained there was evidence provided that Mr. Coluccio was reporting and filing complaints of harassment earlier in 2004 prior to the Rosa complaint. He noted there were credibility issues for Ms. Carey because there were alleged e-mails sent, but they could not be produced. Commissioner Boyle stated the division chief at that time found reason for sanctioning Ms. Carey but did not go far enough because he misjudged the facts. He noted he questioned whether the facts were reported to the Chief, or if they were withheld. Commissioner Boyle reported employees working for the Police Department have come into his business fearful for their jobs, informing him the investigation was incomplete and flawed. He urged the Commission to examine the City's alcohol policy and make a blanket policy to not permit employees to consume alcohol at City functions prior to driving a City vehicle. Commissioner Boyle applauded Mayor Costello's appeal for the recommended investigations, the members of the Police Department, and the people of the community.

Commissioner Boyle stated there were 17 different problems that led to the prisoner escape, such as alarms where the batteries had worn out, a botched investigation, and design flaws in the jail and the doors. He pointed out that Ormond Beach must be the only City where their police station had doors where more than one door could be opened at the same time. Commissioner Boyle noted this raised questions about who should be checking security and if employees were properly trained. He noted that this police station was recently built, and he questioned the managers who oversaw the design of building if there were design flaws. Commissioner Boyle stated this escapee gave a violent resistance to his arrest. He noted this may have been overblown in the minds of some, but he urged the problems be solved. He reported he respected Mayor Costello and Chief Mathieson's leadership on this, and everyone needed to work together in order to heal.

Commissioner Kent thanked the citizens for coming, Mayor Costello for his leadership on this sensitive subject, Chief Mathieson for giving his statement, Ms. Carey for her courage, and the citizens who spoke. He stated the decision of what action would be taken relative to Ms. Carey was not up to the Commission, and he expressed confidence that Chief Mathieson and Mr. Turner's decision would be the right decision. Commissioner Kent thanked Chief Mathieson for his formal apology.

Commissioner Kent stated the City was extremely fortunate this prisoner that escaped did not perpetrate another crime. He noted the report indicated a breakdown in policy, but this made him question the head of the organization in this regard. Commissioner Kent reported he was pleased the Commission was addressing this, but he would have preferred this had never occurred and wanted to hear more about what would occur now that this did happen such as why the officers did not know the policy. He offered his support to Mayor Costello to proceed with the recommended investigations.

Commissioner Kelley noted he had previously made his feelings known about the sexual misconduct issue. He stated that it was unfortunate it occurred, but it does happen often, and nothing can stop it from occurring. Commissioner Kelley stated relative to the prison break, the problem has been corrected, and policies have been instituted. He pointed out what most disturbed him relative to this investigation was that the Police Benevolent Association (PBA) union did not want the investigation to even occur, and four people were unable to be questioned. Commissioner Kelley stated he believed these people should have been questioned. He stated the City should go forward with enacting the policies Chief Mathieson recommended.

Commissioner Partington expressed appreciation for Mayor Costello's letter and commended him for the recommendation to include an internal investigation as part of the City's re-accreditation as well as for the independent audit. He thanked Mayor Costello for his leadership on this issue. Commissioner Partington reported he continued to strongly believe it was not appropriate to comment on ongoing investigations. He explained the City had a very detailed process that must be followed, and some have not yet gone through the appeals process. Commissioner Partington pointed out that Ormond Beach has a Citizens Law Enforcement Advisory Board review, which many cities do not have, but this was another very important step in Ormond Beach's process. He reiterated his support for Mayor Costello's recommendations.

Mayor Costello stated Mr. Lowe was an outstanding officer. He noted he spoke to Sheriff Johnson regarding some actions for which Mr. Lowe was reprimanded, such as staying at the hospital with a person who had been arrested; but Sheriff Johnson explained this action

made the arrest bad because an Ormond Beach officer did not have jurisdiction at the hospital. Mayor Costello explained that many times people see issues differently than a paramilitary organization would see them, such as a police department. He pointed out that before he knew who was involved in this case he had advocated firing the parties involved, but he was glad this was not his decision to make because he considered Ms. Carey to be an outstanding victim advocate, and he would support Chief Mathieson's decision because he was not aware of the criteria needed to be used in discipline. Mayor Costello reported it was not the purview of the Commission to determine discipline with any employee. He requested Commissioner Boyle present the names of those people to whom he was referring that should have been interviewed to be provided to the investigators. Mayor Costello reported he considered Chief Mathieson to be a friend; however, when a grand jury investigation was requested, he asked that e-mail be sent to Sheriff Ben Johnson and State Attorney John Tanner because friendship would not get in the way of his doing the right thing. He stated he was extremely upset about the jailbreak, and he made Mr. Turner aware of his feelings because it was not up to the Commission to become involved with staff discipline in that this was the City Manager's responsibility. Mayor Costello pointed out that he was not satisfied with the explanation given. He stated corrective measures have been taken because Chief Mathieson knew it was the right thing to do, not because he was told to do so. Mayor Costello acknowledged that people have attended this meeting only because they care about Ormond Beach, and they have a right to say anything about anybody; but he urged they do so in the context that Ormond Beach was a fantastic place to live, and they may disagree with an individual. He noted there was a great deal of negativity, but the Commission and residents should be the cheerleaders for Ormond Beach and should not try to bring people down.

Mr. Isaac Turner, City Manager, thanked the community for expressing their opinions by attending meetings, calls, and e-mails. He apologized for these very serious issues, but assured the public that the message would be sent that these actions would not be tolerated within this organization. Mr. Turner cautioned that he could not guarantee negative actions would never happen again, but people would be held accountable. He stated each Commission member has made it very clear that these actions were not acceptable or indicative of the type of service the Commission expected the City to provide to its citizens. Mr. Turner explained there were certain processes and procedures that must be followed regarding investigations and disciplinary actions, particularly making adjustments to protect the City in terms of litigation; however, this in no way meant that actions would not be taken and accountability would not occur. He reported the organization provided for an appellate process in that when a decision had been made by the department, the boards and he would hear any appeals. Mr. Turner stated improvements would be made with Chief Mathieson and his command staff as well as improvements in communications and procedures that are followed.

Mayor Costello asked Mr. Turner and Mr. Hayes to work together to initiate the two investigations that he previously recommended.

Mayor Costello read a letter relative to an incident that occurred on June 26 to people vacationing in the area from Illinois regarding a missing four-year old boy. He stated that the Volusia Beach Patrol and Ormond Beach Police Department were extremely helpful and well organized in their search efforts, making them feel comforted in that they had the situation under control. Mayor Costello stated the Beach Patrol and Police Department worked as a team combing the area within minutes of their call. He reported the Beach Patrol and Police Department were unparalleled with the Chicago Police Department, and their efficiency and help were greatly appreciated.

Mayor Costello called for a short break at 9:08 p.m. and reconvened the meeting at 9:15 p.m.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization (MPO) met this morning.

Item #7(B) – Volusia Council of Governments

Mayor Costello reported the Volusia Council of Governments (VCOG) met last night while the Commission was meeting; therefore, he was unable to attend.

Item #7(C) – Smart Growth Implementation Committee

Mayor Costello reported the Smart Growth Implementation Committee met yesterday and would meet again July 25.

Mayor Costello noted he would forward the reports and indicated the Commission did not have to discuss these issues tonight.

Item #7(D) Water Authority of Volusia

Commissioner Boyle stated the Water Authority of Volusia (WAV) board had a special meeting on June 18 with very positive outcomes. He commended the chairmanship of Mr. Bob Apgar. Commissioner Boyle stated mid-term funding alternatives were made much clearer. He noted he debated the concept of using sales taxes to fund WAV and stated that he vehemently opposed this alternative. Commissioner Boyle stated while it would remain a possible option, he was hopeful it would not remain a consideration. He reported the WAV secretary prepared a summary of the last two meetings, and he would provide copies of that report to the Commission.

Mayor Costello stated an option to provide these reports orally was to provide written reports and allow any questions regarding the reports at the meetings.

Item #8 - Consent Agenda

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

Mayor Costello clarified that Item No. 8(A) was revised to read \$14,746.88 and Item No. 8(C) was to approve Option 1.

Commissioner Boyle noted Mr. Carter requested Item No. 8(B) be discussed separately.

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

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

Item #8(B) – Purchase of Three (3) Dump Trucks

RESOLUTION NO. 2005-132

A RESOLUTION AUTHORIZING THE APPROVAL OF A REQUISITION FOR THE PURCHASE OF THREE (3) DUMP TRUCKS UNDER FLORIDA SHERIFFS ASSOCIATION BID NUMBER 04-12-0823; AUTHORIZING THE EXECUTION OF A CONTRACT WITH ATLANTIC TRUCK CENTER; DECLARING CERTAIN DUMP TRUCKS TO BE SURPLUS PROPERTY AND AUTHORIZING THE DISPOSITION THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-132, as read by title only.

Mr. Charles Carter, 212 Arlington Way, stated this item was to purchase a truck for water and one for waste management at a cost of \$203,000, but the Vehicle and Replacement Fund only provided for \$180,000 for these vehicles; therefore, the City was over \$20,000 short, which would require a budget adjustment. He noted the second purchase was to be paid from the Stormwater Impact Fee Fund for \$99,000. Mr. Carter stated there were no expenditures listed on the Stormwater Impact Fee Fund on page 70 of the budget; therefore, he questioned why this was being purchased if it was not budgeted. He stated piggybacking allowed governments to obtain better costs and eliminate the need to bid, but the agency quoted was not a governmental agency. Mr. Carter questioned how the City could be involved in a bid with an association that was primarily a not-for-profit 501C corporation. He asked if the budget adjustment would be made before or after purchasing the equipment. Mr. Carter noted he personally did not believe this equipment was needed because of the number of vehicles the City already owned. He stated Ordinance 2-291 stated the City must have the money in the account before the money could be spent; therefore, he urged the City do what the State required and follow basic financial policies.

Mr. Tim Sheahan, Acting Public Works Director, stated the two vehicles for the water plant were definitely needed in that one was a 1989 vehicle and the other a 1992 vehicle that are needed to transport lime sludge from the water plant. He reported the vehicle for stormwater was a new vehicle needed to clean ditches. Mr. Sheahan stated the water plant trucks would be funded from the Vehicle Renewal and Replacement Fund where adequate funds were available. He explained that piggybacking was a normal method of soliciting bids.

Mr. Ted MacLeod, Assistant City Manager, stated staff has investigated the question of whether the Florida Sheriff's contract would meet the requirements of the competitive bid process, and it was determined that it did meet the requirements. He stated an amount was budgeted and listed of the numbers of vehicles, along with an estimated cost for each vehicle before the vehicles were bid. Mr. MacLeod stated the amount budgeted for vehicle replacement was what was maintained; and if that amount was exceeded, a budget adjustment would be needed. He stated the stormwater truck was not budgeted in the Renewal and Replacement Fund because it was a new vehicle rather than a replacement. Mr. MacLeod explained the responsibilities for the Stormwater Division have grown due to the maintenance required for the stormwater system due to the MPDS permit. He stated without this truck, the division would need to hire contract trucks, making this a cost efficient way of handling this need.

Mr. Turner stated staff should have included more detailed facts.

Commissioner Kent asked if all of the trucks were the same.

Mr. Sheahan explained the two water plant trucks had aluminum bodies, and the stormwater truck had a steel body.

Commissioner Kent asked how often the two water plant trucks would be used; whereby, Mr. Sheahan replied they would be used daily.

Commissioner Kelley asked if the \$5,000 to \$7,000 to be recovered was per vehicle, and Mr. Sheahan advised it was per vehicle.

Commissioner Kelley pointed out that considering this, the City would be only \$6,000 off the budgeted amount, which was not a significant amount considering the \$180,000 was only an estimate.

Mayor Costello urged clarification when estimates are provided indicating that they were not actual costs.

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

Item #9(A) – Removal of Historic Tree located at 15 Cypress Park Court

RESOLUTION NO. 2005-134

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE ON A CITY RIGHT-OF-WAY LOCATED AT 15 CYPRESS PARK IN THE ORMOND LAKES SUBDIVISION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2005-134, as read by title only.

Ms. Joanne Naumann, Neighborhood Improvement Manager, asked the Commission to consider withdrawing this request. She explained the Neighborhood Improvement Division was contacted by the Ormond Lakes Homeowners' Association because of a concern regarding this tree as a result of the hurricanes of 2004. Ms. Naumann stated their main concern was the one remaining branch that extended over the right-of-way and perched on a limb of another tree. She reported the concern was that sufficient damage occurred that would cause the limb to fall, possibly causing personal injury and property damage. Ms. Naumann reported the imminent threat was the tree limb. She noted the owner of the property adjacent to this right-of-way was not aware this tree was being considered for removal until today when he contacted the City. Ms. Naumann noted the tree was standing in front of Mr. Rogers property in the middle of a circular driveway designed around the house, and he was asking the City to remove the limb, but he would like the remainder of the tree to stay, and he would try to recover the tree. She

noted staff understood his request and advised they could monitor the tree and after removing the limb, if the trunk becomes further decayed, the tree would then need to come down.

Commissioner Partington asked if the City would incur any liability if the tree would remain.

Mr. Hayes stated he could not inform the Commission there would be no possibility of liability.

Commissioner Kent noted he was not comfortable with this in that the report indicated there was only one good limb, there was other decay, and there was concern about personal injury and property damage.

Ms. Naumann clarified that the immediate threat was the tree limb extending over the right-of-way, which would need to be removed. She stated staff did not believe the remainder of the trunk was imminent; however, staff did believe that over time it would probably decay. Ms. Naumann noted there was no immediate threat, and staff felt obliged to consider Mr. Rogers’ request. She pointed out that staff could not guarantee any tree, including a healthy tree, would not fall under undue pressure.

Mayor Costello noted the Chair would entertain a motion to table this to provide Mr. Hayes an opportunity to discuss this situation with Mr. Rogers.

Commissioner Boyle moved, seconded by Commissioner Partington, to table Item #9(A) to the next regular meeting.

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

Mr. John Rogers, 15 Cypress Park Court, asked when this matter would be heard.

Mayor Costello reported the next meeting would be held on July 12.

Mr. Rogers stated he only received notification because his neighbor brought him the public notice from the newspaper. He pointed out while the tree was in a City easement, it was in his front yard. Mr. Rogers reported when the house was being constructed, the City would not allow the tree to be cut down because it was a historic oak. He stated most of the damage to the tree existed prior to storms. Mr. Rogers noted the City’s tree expert, Mr. Tom Griffith, stated he believed the tree could be salvaged by cutting off the branch.

Mayor Costello noted no Commission member preferred to cut trees down.

Commissioner Kent expressed concern about this item. He agreed that no Commission member wanted to cut down trees, but the information provided indicated the tree was a hazard. Commissioner Kent stated considering the conflicting information, he had to be certain what information was correct before making a decision.

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

Item #9(B) - Removal of Historic Tree Located at 670 Hand Avenue

RESOLUTION NO. 2005-135
A RESOLUTION APPROVING AND AUTHORIZING THE
REMOVAL OF AN HISTORIC TREE LOCATED AT 670 HAND
AVENUE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-135, as read by title only.

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

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

Item #9(C) - Removal of Historic Tree Located at 323 South Yonge Street

RESOLUTION NO. 2005-136

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE ON A CITY RIGHT-OF-WAY LOCATED AT 323 SOUTH YONGE STREET; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-136, as read by title only.

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

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

Item #9(D) – Annexation of 2 Plaza Drive and a Portion of Plaza Drive Right-of-way

ORDINANCE NO. 2005-12

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED ONE HUNDRED FIFTY (150.0') FEET WEST OF OCEAN SHORE BOULEVARD AT 2 PLAZA DRIVE AND A PORTION OF PLAZA DRIVE RIGHT-OF-WAY; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-12, on second reading, as read by title only.

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

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

Item #9(E) – Annexation of 94 Plaza Grande Street

ORDINANCE NO. 2005-13

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED ONE HUNDRED FIFTY FEET EAST OF CORDOVA AVENUE AT 94 PLAZA GRANDE STREET; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-13, on second reading, as read by title only.

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

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

Item #9(F) – Tomoka Holdings, L.L.C. Annexation Scrivener's Error

ORDINANCE NO. 2005-17

AN ORDINANCE AMENDING ORDINANCE NO. 2004-28 PERTAINING TO THE TOMOKA HOLDINGS, L.L.C. (ORMOND CROSSINGS) ANNEXATION, BY AMENDING THE LEGAL

DESCRIPTION TO CORRECT A SCRIVENER'S ERROR;
REPEALING ALL INCONSISTENT ORDINANCES OR PARTS
THEREOF, AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-17, on second reading, as read by title only.

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

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

Item #9(G) – 65 Lucky Drive Rezoning

ORDINANCE NO. 2005-18

AN ORDINANCE AMENDING PARAGRAPH C, OFFICIAL ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE CERTAIN REAL PROPERTY FROM B-4 (CENTRAL BUSINESS) TO R-3 (SINGLE-FAMILY LOW DENSITY), AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-18, on first and only reading, as read by title only.

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

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

Item #10 – Operation of Personal Watercraft

ORDINANCE NO. 2005-19

AN ORDINANCE AMENDING SECTION 15-6, RECREATION ACTIVITIES, OF ARTICLE I, OPERATION OF CITY PARKS AND RECREATION AND CULTURAL AREAS AND FACILITIES, OF CHAPTER 15, PARKS AND RECREATION, OF THE CODE OF ORDINANCES REGARDING THE OPERATION OF PERSONAL WATERCRAFT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-19, on first reading, as read by title only.

Mayor Costello asked if the City was not permitted to have more restrictive regulations than State regulations.

Mr. Hayes explained the City was not permitted to discriminate against personal watercraft; therefore, if the Commission wanted to prohibit personal watercraft in certain areas, other vessels would have to be prohibited as well.

Mayor Costello stated some people may want to exclude all vessels in some areas in order to exclude personal watercraft.

Mr. Hayes reported this would be an option; however, it was a fairly aggressive option. He stated the Planning staff could investigate that possibility.

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

Item #12(A) – Consideration of Charter and/or Election Code Amendment

Mayor Costello asked if any member of the Commission disagreed with any of the minor amendments listed in the staff report. Hearing no comment, he advised the City Commission approved the minor amendments for the ballot.

Mayor Costello asked what the Commission preferred relative to the canvassing board. He advised the consensus was to approve Option #2 that called for one member of the City Commission, selected by a majority of the Commission, the City Clerk, and the City Manager (or his designee, who must be a department head) to comprise the canvassing board.

Mayor Costello reported that in the third section regarding the schedule of elections, Option #2 was to have all elections in October with the run-off in November.

Commissioner Boyle recommended an Option #3, which was to have all of the elections on the traditional date on the second Tuesday in November and any run-offs four weeks later. He stated this was the same as Option #2 only a month later. Commissioner Boyle clarified that this would include all referendums, questions, and elections on the second Tuesday in November, and any Commission member not receiving 50% of the vote would have the run-off four weeks later.

Mayor Costello stated should this option be selected, he questioned if Commissioner Boyle would agree to the first Tuesday in December for the run-off to avoid an election on Thanksgiving week; whereby, Commissioner Boyle agreed that would probably be preferable. Mayor Costello asked if this would incur an extra cost for the City.

Ms. Ronnie Patterson, City Clerk, stated it very possibly would incur an extra cost, but she was uncertain how it would affect the Uniform Municipal Elections Act, which calls for cities to hold elections in October and November.

Commissioner Boyle noted considering this information, he would favor the status quo. He stated a large number of residents do not return until October, and they would miss the election.

Mayor Costello asked Ms. Patterson to investigate the possibility of Commissioner Boyle's original suggestion for November and December should the Commission select another option tonight to determine if it was a viable option so it could be discussed at the next meeting.

Commissioner Kelley and Commissioner Partington noted they preferred Option #2. Commissioner Kent noted he was uncertain at this point and would prefer to hear his fellow Commission member's reasoning before making a decision.

Commissioner Kelley stated to run a campaign near the holidays was very difficult. He noted to have the most people involved would be where all offices would be running at the same time when all seats would be open. Commissioner Kelley pointed out if the mayor's seat was unchallenged, there could be only individual zones running. He stated there was also a possibility that all of the elections could be solved in October.

Commissioner Boyle noted this should not be about the cost or problems in campaigning. He stated the turnout at the September 30, 1997, election was less than that in 1995 and 2001. Commissioner Boyle reported it was difficult for him having to go out in the heat of August and September to campaign. He noted it would be awkward for people in a run-off to go out at Thanksgiving, but the election should not be geared toward worrying about a candidate who could not get 50% of the vote in the first election. Commissioner Boyle noted November was the traditional voting date, making it less confusing, and some people were still up north in October, which was why many cities, including Ormond Beach, requested going back to a different format.

Commissioner Kent thanked the Commission for their input. He expressed support for Option #2, because with the mayoral race there would be a better turnout.

Mayor Costello stated he favored Option #2; however, he had not considered Commissioner Boyle's option, which was why he asked Ms. Patterson to investigate that recommendation. He stated he favored everyone being up for election at the same time in that this would create less confusion.

Mayor Costello stated the fourth section relative to tie votes referred to casting a lot or flipping a coin for tie votes. He questioned the Commission on this issue and advised that the consensus was to accept this recommendation.

Mayor Costello summarized that all of the minor amendments were approved, Option #2 was selected for the canvassing board and the schedule of elections, and tie votes would be solved by a draw or coin flip.

Mayor Costello asked if the Commission preferred to delay charter amendments if there were no elections. He pointed out he did not believe this would occur, but staff needed to be given direction.

Ms. Patterson pointed out these amendments would not take effect this year.

Mayor Costello stated he favored the Charter amendments occur when everyone would vote rather than when only one or two zones would vote, but he did not want to delay the votes.

Ms. Patterson stated the election must be called before it was known whether there would be an election, which was the confusion with the current system since it was unknown when the mayor would have an election until the end of qualifying, which was September 8.

Commissioner Boyle noted he would prefer taking the chance the mayor would have one or less opponents and set a date.

Mayor Costello noted he agreed with Commissioner Boyle.

Ms. Patterson noted that the question was if Ormond Beach would not have a Citywide vote in November, should staff go forward with the Charter amendments.

Mayor Costello reported he favored going forward with the Charter amendments in November, and he received a consensus with his recommendation.

Commissioner Kent stated regarding the tie votes that he was not in favor of the flipping of a coin, and he indicated he would prefer a second election should a tie occur.

Commissioner Boyle agreed with Commissioner Kent, but noted a run-off would be held for the first tie vote and a coin flip would be done only for tie votes at the run-off.

Mayor Costello clarified that if there was a tie vote in October, there would be another election in November; but if there were a tie vote in November, there would be a coin flip.

Commissioner Boyle recommended a Charter amendment for a building height limit.

Commissioner Kent stated he agreed with Commissioner Boyle's recommendation, but Commissioner Kelley, Commissioner Partington, and Mayor Costello did not concur.

Mayor Costello noted he would have approved a greater height for the hospital and Ormond Crossings, and in the future there may be other areas where he may consider approving a greater height to be acceptable.

Commissioner Boyle stated this was an issue on which the people of this community have always wanted to have a say. He noted he was uncomfortable to have this or a future Commission making this type of decision. Commissioner Boyle reported there has been a long history as to why the seven-story height limit was instituted.

Commissioner Kent noted he was also not comfortable making this decision. He reported if the people voted they wanted to adhere to the seven story height limit, while he may not agree, he would vote as the people wanted. Commissioner Kent recommended changing the verbiage to allow an extension anywhere but on the beachside.

Commissioner Boyle stated he would agree to Commissioner Kent's compromise.

City Commission – June 28, 2005

Mayor Costello reported if a project anywhere in Ormond Beach would prove to have an overriding benefit to the City, the Commission should be able to consider it; therefore, he could not support the recommendation. He noted he would not have thought of the hospital or Ormond Crossings before they were considered, and it was unknown what other issues may come up in the future. Commissioner Kelley and Commissioner Partington concurred with Mayor Costello.

Commissioner Boyle suggested including the following language: “except for hospitals or enterprise zones such as Ormond Crossings.”

Mayor Costello noted the consensus was that this was also not acceptable.

Mayor Costello stated he believed Ormond Beach residents would be best served with four-year terms, except the Mayor would have two-year terms. He reported this would eliminate the potential constant turnover of a totally new Commission. Mayor Costello noted having the Mayor run every two years would have the mayoral race on the ballot along with two Commissioners so the citizens could eliminate two Commissioners and a Mayor, should they desire to do so; but there would not be a potential for a totally new Commission.

Commissioner Kent agreed with the four-year terms but did not agree for the mayor to serve only two years.

Mayor Costello explained that he favored two-year terms for the mayor because it would provide the community the opportunity to have a referendum on the Mayor, and it would be fair to all the Commissioners because for a Commissioner to run for Mayor, they must resign if it was not their turn to be running for re-election.

Commissioner Kent concurred with Mayor Costello.

Commissioner Boyle expressed his opposition to four-year terms. He stated when he came on the Commission in 1995, the City had started alternating four-year terms, but his was one of the two two-year terms. Commissioner Boyle stated that in 1997 he was elected to a four-year term, but only three Commission members finished their complete term. He noted Zone 1 and Zone 3 would never have the opportunity to run with the Mayor, which impacted turnout and the right of the Zone 1 and Zone 3 Commissioners to run for Mayor without the need to resign. Commissioner Boyle reported he believed the four-year terms were approved because people were misled by the ballot language. He stated when the issue went back on the ballot with correct language; the people voted 58% to go back to two-year terms. Commissioner Boyle reported some people would make a commitment to run for a two-year term but not for a four-year term. He stated two-year terms were healthy because those elected would be more accountable to the people. Commissioner Boyle noted until the community asked for four-year terms, he would prefer two-year terms.

Commissioner Partington concurred with four-year terms as Mayor Costello outlined.

Commissioner Kelley stated Mayor Costello’s plan would give the citizens the right to change the control of three votes every two years because it took three votes to effect a decision. He reported this would add a certain amount of stability by keeping at least two Commission members on the Commission for four-years. Commissioner Kelley stated having the Mayor run every two years would provide a greater turnout. He stated resigning a Commission seat to run has occurred numerous times even with two-year terms.

Mayor Costello asked for a call vote for a two-year term for the Mayor and alternating four-year term for Commissioners. He questioned who would start with two-year terms and who with four-year terms. Mayor Costello asked who started with four-year terms the last time.

Commissioner Boyle reported Zone 1 and Zone 3 were elected to two-year terms in 1995 and Zone 2, Zone 4, and the mayor were elected to four-year terms.

Mayor Costello recommended that Zone 1 and Zone 3 start with four-year terms, and Zone 2 and Zone 4 start with two-year terms.

Commissioner Boyle requested the Commission have the ability to review the ballot language.

Mayor Costello asked if the second meeting in July would allow adequate time to review the ballot language.

Commissioner Kelley asked if this would take effect in the 2007 election.

Mayor Costello recommended this would be implemented for the 2007 election, should it pass, in that this Commission should not make policy for its own election.

Commissioner Kelley noted he believed Holly Hill had a ballot question and election at the same time, and the Commission members did not know if they were being elected for two or four years. He pointed out he was not indicating he favored this scenario.

Commissioner Boyle noted he understood the Commission members knew their terms in Holly Hill before they were elected. He pointed out when bond issues or referendums were voted on, there would be confusion in that there may be zones that had no one up for election, and there would be a lower turnout on those important questions.

Mr. Hayes stated the Commission would have to pass an ordinance with specific language, and the Commission could fine tune that language when it comes back before them.

Mayor Costello clarified that in 2007, Zone 1 and Zone 3 would start with four-year terms and Zone 2 and Zone 4 would start with two-year terms, if the voters would approve the question.

| | | |
|------------|-------------------------|-----|
| Call Vote: | Commissioner Kelley | yes |
| | Commissioner Partington | yes |
| | Commissioner Boyle | no |
| | Commissioner Kent | yes |
| Carried. | Mayor Costello | yes |

Item #12(B) – Acquisition of a County-owned Parcel on Highland Avenue

Mayor Costello asked if the Commission concurred there was no need for the County-owned parcel on Highland Avenue. The Commission concurred.

Item #12(D) – Retroactive Pay/leave for Mike Lowe

Commissioner Boyle stated that he was unaware until recently that there was no retroactive pay for employees who terminate their employment with the City while a contract was being negotiated. He noted staff reported there were 11 employees who would meet this criterion. Commissioner Boyle recommended considering this policy. He pointed out that it was not a Commission action that created this policy, rather that it has been a longstanding practice. Commissioner Boyle stated this policy was questionable because 97% of the City employees upon retirement receive full pay including retroactive pay; however, 3% of the employees do not receive money they had legitimately earned while they were employed creating an inequity.

Mayor Costello stated he was initially in favor of approving this until he discovered 11 people would be affected. He noted this should provide the bargaining units incentive to have their contracts approved on time. Mayor Costello pointed out that this would lead to the retirement recalculation issue, and it has been done in this manner for many years. He questioned the remainder of the Commission and stated the consensus was to leave the policy unchanged.

Item #12(E) – Equipment for Investigation of Nighttime Accident Scenes

Police Division Chief Osterkamp displayed the items that were noted in the report. He stated the smaller traffic cones were readily available to the shift sergeants, and the larger traffic cones with the reflective tape were DOT approved and available at the Police Department and through Public Works for a major scene or event. Division Chief Osterkamp reported the blue lights on the police cars were state-of-the-art. He stated the flashlights were standard issue. Division Chief Osterkamp explained the weight of the flashlight and the battery life had been a problem when used for an extended period of time; therefore, staff recently obtained a smaller flashlight that was of a lighter weight, and the battery life was two to two and one-half times longer. He stated officers were required to wear reflective vests at all times while in traffic, and they are highly visible due to the yellow tape. Division Chief Osterkamp reported all of this equipment was available to any officer.

Commissioner Boyle asked how many police cars were on City streets at any particular time.

Division Chief Osterkamp replied there were six to 15 cars at any time on the streets.

Commissioner Boyle questioned how many cars would respond to a minor accident.

Division Chief Osterkamp explained the number of cars responding would depend on the circumstances. He stated for a road obstruction that can not be moved until a wrecker arrives there may be one to two cars responding, but it would be up to the officer on scene to determine whether assistance would be needed. Division Chief Osterkamp reported if police vehicles would be unavailable, Community Service Officers' vehicles with the amber strobe lights could be utilized. He noted the Community Service Officers are trained to direct and control traffic and have the same equipment available to them.

Commissioner Boyle reported he would prefer all of the equipment demonstrated be standard in every car if there was room for them in the trunk. He stated a judgment was made that flares were too dangerous to have in cars, but he questioned why Holly Hill, New Smyrna Beach, Volusia County, Daytona Beach, and Port Orange have them. Commissioner Boyle reported he would approve battery-operated flares. He stated Mr. Mike Lowe pleaded for equipment for several years, but was negatively written up in his evaluation for his persistence.

Mayor Costello reported he wanted more provided than what was done in the past considering the death of an Ormond Beach police officer. He challenged Chief Mathieson to consider obtaining battery operated strobe lights so the City could be assured the officers were as safe as possible.

Item #12(F) – Donation in Memory of Reverend Jesse Cotton

Commissioner Partington stated he attended Reverend Cotton's funeral. He reported Judge Grimes set up the Reverend Jesse Cotton Scholarship Fund. Commissioner Partington noted that Reverend Cotton served as the City's police chaplain and attended Commission meetings on a regular basis. He urged the City to honor him in some way, and recommended making a \$500 donation to Divisions Ministries Outreach.

Commissioner Kent concurred with Commissioner Partington. He noted that Reverend Cotton also went to Volusia County classrooms and gave powerful speeches to children. Commissioner Kent stated \$500 was acceptable, but he would prefer a donation of \$1,000.

Commissioner Boyle shared that Reverend Cotton was a part of Operation Breadbasket in the 1960's in Chicago, and he made quite an impression on this community helping the Commission with a number of issues. He stated Commissioner Partington had a great idea.

Commissioner Partington agreed with the \$1,000 donation Commissioner Kent recommended.

Commissioner Kelley noted he would accept the majority opinion as to the amount of the donation.

Mayor Costello noted this was not an issue of money in that the \$500 and the \$1,000 would send the same message. He pointed out that this was not done for everyone, but Reverend Cotton was the police chaplain and meant a lot to the community. Mayor Costello recommended a \$500 donation.

Commissioner Partington stated Reverend Cotton was often called out late at night in his duties as police chaplain to assist victims and their families. He noted this suggestion was to do something to honor Reverend Cotton's memory.

Mayor Costello stated many people have made positive impacts on the community, and he did not want anyone to feel slighted if the Commission could not honor each person.

Commissioner Kent explained his reason for the \$1,000 donation was because \$500 would not accomplish much for a scholarship, but he would accept the \$500 donation should that be the will of the Commission.

Commissioner Kelley questioned if the donation would go to a charitable institution or toward a scholarship.

Commissioner Partington stated there were two options: Vision Ministries Outreach (VMO), which was an outreach for disadvantage youth or a scholarship to a religious college. He reported he considered VMO to be the more appropriate donation since there may be implications regarding the separation of church and State for the scholarship.

Mayor Costello stated the consensus was to make a donation to VMO.

Reply to Mayor Costello's Comments

Mayor Costello reported he made some comments at last night's meeting and indicated the Commission could respond to those comments at either this meeting or at the August 16 focus meeting.

Commissioner Boyle stated he would be commenting tonight.

Commissioner Kent stated he was hoping this could be discussed on August 16, but if it was to be discussed tonight, he would prefer everyone comment before the Reports, Suggestions, and Requests portion of the meeting began.

Commissioner Boyle stated most of Mayor Costello's comments were directed at him, and he requested that if anyone had anything to say about him in the future that he be identified by name to eliminate any confusion as to who was being referenced.

Commissioner Boyle reported he was accused of improper involvement in the airport issue, undermining the City position, sowing seeds of discontent with and for private parties to the extent it was perceived as bordering on fiduciary irresponsibility, and scaring residents with exorbitant numbers. He stated he was asked a direct question from the media of the worst case scenario of the City's potential exposure, and he gave the figure of \$20 million. Commissioner Boyle noted the City had a letter from one of the parties asking for up to \$8 million, and he believed the potential exposure could be \$20 million. He stated he had indicated that this would be a very unlikely scenario involving FAA sanctions on some of the grant money, but his caution was edited out.

Commissioner Boyle stated regarding his relationship with the private parties, he indicated he did not know Mr. Lemke, but he counted Mr. Tony Lombardo, Mr. Adrian Thompson, and Mr. Ray Eddy as friends. He reported due to his friendship with Mr. Eddy, he may have to recuse himself from any vote involving a settlement with the Eddy's, but he would defer to the City Attorney's opinion to make that determination.

Mayor Costello reported he never questioned those relationships.

Commissioner Boyle stated Mr. Turner expressed discomfort that he had seemed to be making eye contact at the meeting where he was an observer with Mr. Eddy and/or Mr. Eddy's lawyer. He reported that he took two and one-half pages of notes, so he could not have been making much eye contact. Commissioner Boyle noted he was trying to obtain the facts, and he shared the same outrage as the parties with what had occurred. He stated he made it very clear that in all cases his ethical obligation was to defend the City. Commissioner Boyle reported he had never made a subjective comment about any member of the community or the City Manager. He stated he was on the radio often because, unlike the other Commission members who work early in the morning, he listens to the radio at his shop and often calls in to clarify positions, to defend the Commission, the City, or the City Manager, and to answer the questions honestly.

Commissioner Boyle reported he would not deny anyone's right to make comments about him or to have a perception, but he did deny every charge Mayor Costello made at last night's meeting. He stated he worked to heal the damage to this City and not to continue those damages. Commissioner Boyle noted Mayor Costello indicated that when any Commission member had questions or issues they should go to Mr. Turner or Mr. Hayes. He explained he called Mr. Turner on May 4 and asked that the tree clearing be stopped. Commissioner Boyle noted at first Mr. Turner resisted his plea, but later called to inform him he had placed a stop work order on the project; however, by Friday, May 6, the work continued again. He stated he made another visit expressing his concern, and a third trip was made on May 13 after he received a 9:00 a.m. call from the golf pro; but at noon nothing was done, and he discovered it was too late. Commissioner Boyle pointed out that he went to Mr. Turner three times, and each time the damage got worse. He stated there was other damage to the City as well. Commissioner Boyle noted there were tangible damages in the loss of a unique golf course in a nature preserve. He expressed concern about the intangible damage, which was the loss to the City's credibility where people question if Ormond Beach was a City that honored contracts and a City that kept its word. Commissioner Boyle questioned if Ormond Beach deserved to be considered a Tree City. He noted the City was also guilty of creating a double standard in development rules.

Commissioner Boyle reported Mayor Costello noted he would continue to do fact finding, which some people may interpret as negotiating. He stated he would gladly delegate these duties in that Mayor Costello was a proven leader and respected in the community; however, all of his negotiations would have to be in the sunshine and duly advertised. Commissioner Boyle reminded Mayor Costello that the Charter established him, absent that designation by the

Commission, as a ceremonial leader of the City and prohibited him from being a negotiator, although every Commission member was a fact finder. He noted part of the reason for the trouble the City was currently facing was that there was too much government going on behind closed doors, and the Commission had abdicated to staff too much authority to make decisions on the Commission's behalf without communicating all of the facts. Commissioner Boyle stated he had a very low level of trust at this point that facts would be communicated to the Commission. He noted a press release went out indicating the Commission had all of the facts when it was not true. Commissioner Boyle pointed out everyone was damaged by what appeared in the newspaper.

Commissioner Kent stated he received an e-mail from an unknown citizen who had sent terse e-mails in the past questioning Commissioner Boyle and indicating that Mr. Ray Eddy was his best customer in the baseball card shop, and this caused him some unease. He asked Mr. Turner to comment relative to discussions with various parties and his need to cancel a meeting, noting he considered it inappropriate for this instance to have occurred. Commissioner Kent requested Mr. Hayes also provide his opinion regarding this issue.

Commissioner Kelley stated he considered it was wrong for a member of the public to attend a negotiation without an invitation from the City Manager. He reported the public has no real reason to attend negotiations when the City was trying to conduct business, and he pointed out that this was not a public meeting. Commissioner Kelley noted there were public meetings where the public was welcome, but not when employees were conducting the everyday business of the City, and they should not interfere in those instances. He reported the perception of a Commission member attending the same negotiations did not seem appropriate and seemed to be micromanaging, even though he did not believe that Commissioner Boyle was negotiating. Commissioner Kelley noted he was not aware if the Commission was permitted by Charter to attend staff meetings. He stated the Commission was not provided the facts twice, and he believed there should be accountability. Commissioner Kelley noted the hysteria indicated on the radio from people on boards seemed to be authoritative; however, too many times the statements made were false. He stated for the past week, it was heard constantly on the radio that the money settlement would cost the citizens, including large tax increases, and facts rather than conjecture should be stated. Commissioner Kelley noted he was not prepared to discuss this at this point, and he may have additional points to bring up at the focus meeting.

Commissioner Partington concurred with Commissioner Kelley that he was prepared to provide his comment at the August meeting, and he would defer until then.

Mayor Costello stated he was trying to be courteous by not mentioning Commissioner Boyle's name, and he would do so in the future should that be Commissioner Boyle's desire. He pointed out that not all of what he stated was aimed at Commissioner Boyle, but for the entire Commission to publicly focus on the positive while they privately have discussions with Mr. Turner to voice their displeasure. Mayor Costello stated the Commission should make sure the public has confidence in their government, that the issues would be resolved, and to avoid the hysteria that occurred. He reported he was not indicating Commissioner Boyle created the hysteria, but he contributed to the hysteria whether directly or indirectly. Mayor Costello stated he knew Commissioner Boyle well enough to know that he would not be biased by his relationship with the Eddy's, but he did not believe that Commissioner Boyle would have gone to the negotiations with someone to which he was not as close. He stated he would not negotiate a position for the City, but he would also not hesitate to do as Commissioner Boyle had done, which was to discuss an issue that would be coming before the Commission to the point where some of the parties believed he was advocating for them. Mayor Costello reported that had he done the same thing, Commissioner Boyle would have challenged him for those actions.

Commissioner Boyle stated if there were any perception that there may be a conflict, he would yield to the City Attorney or the Commission and not vote. He clarified that Mr. Eddy was once a good customer; however, for the past four to five years there had not been as much business conducted and Mr. Eddy came into his shop maybe only once every three months. Commissioner Boyle noted he was not invited to the meeting by Mr. Eddy and did not attend because this involved Mr. Eddy. He stated that on the second occasion he asked Mr. Eddy if he would object to his attending the meeting and went only as an observer. Commissioner Boyle noted Mr. Turner could possibly perceive his attendance as micromanaging, but he only went to obtain the facts.

Item #13 - Reports, Suggestions, Requests

Inequity in Teachers' Pay

Commissioner Kent commended Mayor Costello for the letter he sent to Senator King relative to the inequity in teachers' pay was "awesome."

Coffee with the Commissioner

Commissioner Kent stated "Coffee with the Commissioner" would be changed to the second Monday in July, which was July 11 at 4:00 p.m. at 130 Magnolia Drive, due to the July 4 holiday.

Thanks and Congratulations

Commissioner Kent thanked Tim Sheahan for having answered numerous questions and always being prepared.

Commissioner Kent congratulated Mr. Ervin and Mr. Joe Mannarino for achieving their awards.

Florida League of Cities

Commissioner Kelley thanked the Commission for allowing him to attend the Florida League of Cities as a voting delegate. He stated he would have the opportunity to provide input on City issues and learn from others.

Flooding on Airport Road

Commissioner Kelley stated there was recently eight inches of rain across from the Creekside Subdivision on Airport Road, and he thanked Mr. Scott Vanacore for taking the positive lead in contacting the County to clean out two drainage ditches and then, at his own expense, hiring a grade-all to clear out a grate on private property to allow the water to flow.

Political Season

Commissioner Kelley reported the political season was now occurring and qualifying would soon begin.

The Casements Card Show

Commissioner Boyle thanked staff for their help at The Casements Card Show, which was enormously successful.

Weeds

Commissioner Boyle stated the sidewalk from The Casements to the tennis parking lot area had a great deal of weeds. He stated the sidewalks were immaculate from the MacDonald House to Billy's Tap Room.

Airport Noise Subcommittee or Permanent Task Force

Commissioner Boyle urged staff to either form an Airport Noise Subcommittee or a permanent task force as was suggested at the last meeting.

News-Journal Editorial Report Card

Commissioner Boyle stated regarding the News-Journal's report card on the police dispatch issue, all of his fellow Commission members made clear and cogent explanations and rationales of their vote; and this may be an issue that could possibly be revisited when the questions lodged were adequately answered. He stated there was to have been a review in three to five years, but it was revisited in only 21 months.

River Bend Issue

Commissioner Boyle stated he was confused relative to the lodge location at the River Bend Golf Course. He reported the City was willing to move three golf holes and allow the potential leaseholder to relocate those holes between Airport Road and the river. Commissioner Boyle stated he believed the holes would be placed where the holes were being vacated and supported that because it would preclude the development of anything between the river and the road of which he was opposed; however, he discovered his error that this was to be built on the river. He stated the City would then lose greenbelt buffer for three golf holes totaling a minimum of 11,000 to 12,000 yards. He requested this issue be clarified.

Negotiation Meetings

Mr. Turner noted he understood the Commission indicated they wished to discuss the participation at negotiation meetings at the August 16 focus meeting. He explained a citizen attended a prior negotiation session and another this week. Mr. Turner reported the morning after the prior negotiation session the citizen gave information and stated opinions on cost estimates on the radio that were misleading. He stated the City provided no indication it would pay \$8 million or \$20 million, so to hear this by a person indicating they attended the meeting

giving the public this erroneous information was alarming and not in the City's best interest. Mr. Turner noted at the negotiation meeting this week three citizens attended along with a court reporter; therefore, he cancelled the meeting. He pointed out negotiations should not be done on the radio or have misleading information presented. Mr. Turner noted people have urged him to call into the radio station to provide his input, but he arrives at City Hall between 6:30 a.m. and 6:45 a.m. and can not listen to the radio and get work done at the same time. Mr. Turner stated when he did listen to the show on WELE, there was some incorrect information given out on the radio, but to call in and correct the errors would cost 15 to 20 minutes of his time. He reported that regardless of the circumstances that led to this incident, upon arriving at negotiation meetings, his function was to bring the best outcome for the City as possible while being fair in the negotiations. Mr. Turner stated he shared his concern with Commissioner Boyle directly and did not go on the radio with his concerns. He noted it was not in the City's best interest; it was detrimental to the City; and it gave the citizens misperceptions by having the citizen attend the meeting. Mr. Turner pointed out that he allowed the one citizen to attend the first meeting; but when citizens and a court reporter attended the second meeting, he believed he had to cancel the meeting.

Mr. Turner explained what was agreed to was what the golf course could do, which was to submit plans through the system to build; but the Commission did not have to approve the plans, and no approval was guaranteed. He stated that plans would be submitted within 90 days, and the City would have 120 days after that to consider the plans.

Happy Fourth of July

Mr. Turner and Mr. MacLeod wished everyone a happy Fourth of July. Mr. Turner noted Ormond Beach had one of the best Fourth of July community events in the area.

Golf Course Lodge

Mayor Costello asked Commissioner Boyle to submit his concerns relative to the lodge to staff so they could be provided to the Commission.

Commissioner Boyle noted he already stated his concerns. He pointed out that if the golf course had the right, he questioned why it was not included in the agreement.

Conflict of Interest

Mr. Hayes advised that he was not concerned regarding a conflict of interest with Commissioner Boyle relative to Mr. Eddy from what he learned this evening. He offered to meet with Commissioner Boyle to obtain more information and do a further investigation.

Citizens and Commission Members Attending Meetings

Mr. Hayes stated the Charter gives Commission member the right to observe functions of the City; therefore, arguably, members of the Commission could attend a staff meeting, and this has occurred on a number of occasions. He reported the Commission could place restrictions on its conduct should it desire to adopt a rule. Mr. Hayes clarified the Charter did not prohibit or expressly allow attendance by Commission members. He stated, however, that citizens do not have the right to attend internal staff meetings unless invited. He pointed out Mr. Turner acted appropriately in canceling the meeting.

Conflict of Interest

Mayor Costello stated he did not consider selling cards to an individual would cause a conflict of interest any more than his doing dental work on an individual coming before the Commission.

Awards to Mr. Ervin and Mr. Mannarino

Mayor Costello stated he hears the term "best in the business" from many people regarding Mr. Ervin and Mr. Mannarino, and he commended them both for their achievements.

Next Meeting

Mayor Costello reminded everyone that the next meeting would be held on July 12.

Item #14 – Close the Meeting

The meeting was adjourned at 11:12 p.m.

APPROVED: _____ July 12, 2005

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk