

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

August 16, 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 Reverend Peter Hauser, Ormond Beach Presbyterian Church.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the August 1, 2005, special meeting, and the August 2, 2005, regular meeting.
- 5) **PRESENTATION:** Proclamation by Mayor Costello in honor of Fire Chief Barry Baker, State of Florida Fire Chief of the Year.
- 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. 2005-149 authorizing the execution of a Florida Recreation Development Assistance Program project agreement between the City and the Florida Department of Environmental Protection. (Land acquisition for Central Park improvements; FRDAP Grant - \$112,500; \$37,500 matching funds) (Tabled from 8/2/05 meeting)
 - B) Resolution No. 2005-158 authorizing the execution of an amendment to a grant agreement between with the Federal Aviation Administration regarding the Runway Marking Project at the Ormond Beach Municipal Airport. (\$18,937 total project; \$17,990 FAA funding; \$473 FDOT funding; \$474 City funding)
 - C) Resolution No. 2005-159 approving the form of a Supplemental Joint Participation Agreement between the City and the State of Florida Department of Transportation regarding the Runway Marking Project at the Ormond Beach Municipal Airport; authorizing execution of a Supplemental Joint Participation Agreement. (\$18,937 total project; \$17,990 FAA funding; \$473 FDOT funding; \$474 City funding)
 - D) Resolution No. 2005-160 authorizing the execution of a Memorandum of Agreement between the City and the Federal Aviation Administration regarding maintenance of a tower display workstation at the Ormond Beach Municipal Airport.
 - E) Resolution No. 2005-161 authorizing the execution of a Joint Participation Agreement Termination between the City and the Florida Department of Transportation regarding an environmental assessment at the Ormond Beach Municipal Airport.
 - F) Resolution No. 2005-162 approving the execution of an amendment to the Memorandum of Agreement between the City and the Department of Agriculture and Consumer Services for the limited purpose of extending the completion date under the agreement. (Nova Road Medians project)

- G) Resolution No. 2005-163 authorizing the execution of a Renewal Agreement between the City and Sunstate Meter and Supply, Inc., for the purchase and delivery of 5/8-inch water meters.
- H) Resolution No. 2005-164 authorizing the execution of Quitclaim Deed in favor of Creekside Development LLC, releasing a portion of a ten-foot utility easement located on Lots 1-16, 24-42, 56 and 57, in the Creekside Planned Residential Development.
- I) Resolution No. 2005-165 authorizing the execution of Change Order Number Two (2) (increasing the contract price by \$55,080.50) to that contract awarded to Masci Corporation regarding the Benjamin Drive Drainage Improvements Project.
- J) Resolution No. 2005-166 authorizing the execution of a Lease Agreement between the City and the PACE Center for Girls, Inc. (150 South Washington Street)
- K) Police Department reports:
 - 1) Update on Police Department accreditation process.
 - 2) Review and evaluation of Police Department procedures.
 - 3) Traffic safety equipment.

DISPOSITION: Accept report in City Manager memorandum dated August 11, 2005.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2005-167 approving and authorizing the removal of an historic tree on a City right-of-way located on Ormond Lakes Boulevard adjacent to 9 Coquina Cliff Circle.
- B) Resolution No. 2005-168 approving and authorizing the removal of an historic tree on property located at 713 Virginia Terrace.
- C) Resolution No. 2005-169 approving and authorizing the removal of an historic tree on property located at 7 Archangel Circle.
- D) Ordinance No. 2005-16 adopting certain amendments to the Future Land Use Element, Transportation Element, Conservation Element, Cultural Affairs Element, and the Future Land Use Map of the City of Ormond Beach Comprehensive Plan, providing when such amendments shall take effect. (First Cycle 2005 Comp Plan Amendments) (First Reading) (Tabled from the 7/19/05 meeting.)

➤ Ormond Crossings

Future Land Use Map (Future Land Use Element)

- 1. Ormond Crossings, from Volusia County “Commercial,” “Urban Low Intensity,” “Agricultural Resource” and “Rural” to Ormond Beach “Activity Center” (3,095 acres)

Future Land Use Element (Text)

- 2. Amending Goal 1 of this element to establish an Activity Center land use to encourage the development of master planned, mixed use developments that serve as a catalyst for economic development opportunities.
- 3. Amending table 1, Distribution of lands uses by percentage, to include the Ormond Crossings project.
- 4. Amending Table 2, Comparison of updated resident population projections with adopted population projections.
- 5. Adding directive text for the activity center land use.
- 6. Amend Table 1, Future Land Use Element, Directive Text future land use area.

Transportation Element (Text)

- 7. Adding Objective 1.17 and related policies to ensure that all properties designated as “Activity Centers” on the Future Land Use Map shall be designed to internalize traffic impacts and reduce the average trip length of

home to work and home to shop trips and the associated policies for this objective.

8. Amending Table 6, Future Roadway Functional Classification to add Ormond Crossings Boulevard as a divided principal arterial roadway.

Conservation Element (Text)

9. Amending Policy 1.1.7.; amending Objective 2.4; adding Policy 2.4.1; amending Policy 5.2.3; amending Objective 5.4; amending Policy 5.4.16; amending Policy 5.4.11; and amending Policy 5.4.39 to allow for exemptions to the City's wetland impact restrictions for "Commerce Park" designated properties within the Ormond Crossings Activity Center, subject to approval of a wetlands management master plan.

➤ River Oaks

Future Land Use Map (Future Land Use Element):

10. River Oaks (south of Airport Road, east of I-95, west of the Broadwater subdivision, and north of the Tomoka River.), from Volusia County "Urban Low Intensity," "Low Impact Urban" and "Environmental Systems Corridor" to City "Suburban Low Density Residential." (58.26 acres) This land use is proposed to be used once the subject property has been annexed into the City of Ormond Beach.

➤ Fire Station #91

Cultural Affairs Element (Text)

11. Amend Policy 1.2.10 by clarifying that use and maintenance of the "Old Coquina Firehouse" may be through private or public ownership.

➤ Future Land Use Map

12. The Planning Department requests amending the format of the Future Land Use Map from the original hand-drawn version to a version generated from the City's Geographic Information System (GIS).

- E) Ordinance No. 2005-15 amending Paragraph C, 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 properties from Volusia County RPUD (Residential Planned Unit Development) to City of Ormond Beach PRD (Planned Residential Development). (River Oaks property) (First Reading) (Tabled from the 7/19/05 meeting.)
- F) Ordinance No. 2005-20 amending Subsection A, Zoning Map, of Section 2-03, Official Zoning Map and Zoning District, of Article I, Establishment of Zoning Districts and Official Zoning Map, of the Land Development Code, by amending the Official Zoning Map to rezone a 4.57-acre parcel of real property from B-8 (Commercial) to PBD (Planned Business Development), said real property being located on the south side of West Granada Boulevard (SR40) between "Ormond Towne Square" shopping center and the "Lowe's" home improvement store; establishing boundaries; authorizing revision of the official zoning map; approving a Third Amended and Restated Development Order for "Ormond Town Commercial Center," Phase II, Planned Business Development. (Second Reading)
- G) Ordinance No. 2005-26 amending Article III, Dogs and Cats, of Chapter 5, Animals and Fowl, of the *Code of Ordinances* by amending Section 5-81, Action to be Taken by Owners/Keepers of Dangerous Dogs; by repealing Section 5-82, Fee Required for Certificate of Registration; by amending Section 5-84, Violations. (Second Reading)
- H) Ordinance No. 2005-27 amending Sections 3.01, 3.02, 3.03, 3.07, 3.08, 5.02, 5.05, 5.06, 5.07, 6.02, and 6.08 of the *Charter* of the City of Ormond Beach, Florida, by providing citywide elections for all members of the City Commission; by providing requirements for qualifying; providing requirements for resignation from office; providing requirements for filling vacancies in office; repealing the requirement for holding an organizational meeting at a certain time; amending references to ballot style; clarifying the time by which to certify election results; amending terms of office to include staggered terms, four-year terms for City Commissioners and two-year terms

for Mayor; providing a schedule for staggering the terms of office; providing a procedure for determining the votes; amending the composition of the canvassing board. (Second Reading)

- I) Ordinance No. 2005-28 vacating a portion of Fluhart Avenue right-of-way lying west of Riverside Drive; reserving certain easements. (First Reading)
- 10) **FIRST READING OF ORDINANCE** No. 2005-29 of the City of Ormond Beach, Florida, relative to the General Employees' Pension Plan, amending Article I, In General, of Chapter 16, Pensions and Retirements, of the Code of Ordinances; amending Sections 16-6, Benefit Amounts and Eligibility. (Providing a 3% cost-of-living increase for current retirees)
- 11) **RESOLUTIONS:**
 - A) Resolution No. 2005-170 approving an amendment to the Amended Lease Agreement between the City of Ormond Beach and M.A.C. Charter, Inc., d/b/a Sunrise Aviation, Inc., revising the lease terms regarding FBO Area #1 and restating the lease terms regarding FBO Area #2; authorizing the execution of a Sixth Amended Lease Agreement relative thereto.
 - B) Resolution No. 2005-171 ratifying and confirming the execution of a Third Amendment to Ground Lease Agreement regarding the River Bend Golf Course.
- 12) **DISCUSSION ITEMS:**
 - A) Lobbyist program.
 - B) Ormond Beach Sports Complex Master Plan update.
 - C) Ormond Beach Sports Complex, Phase I alternatives.
 - D) Airport lease assignments.
 - E) Fire/EMS automatic aid with Volusia County.
- 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

Reverend Peter Hauser, Ormond Beach Presbyterian Church gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the minutes of the August 1, 2005, special meeting, and the August 2, 2005, regular meetings have been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

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 – Proclamation Honoring Fire Chief Barry Baker

Mayor Costello presented a trophy to Fire Chief Barry Baker and read a proclamation honoring him for being selected the State of Florida Fire Chief of the Year.

Fire Chief Barry Baker reported he would not be recognized if it were not for the Commission, management, and his staff for working so hard.

Item #6 – Audience Remarks

Candidate Questionnaire

Mr. Adrian Thompson, 6 Dorado Beach Court, chairman of the STORM (Stop Ormond Reckless Madness) political action committee, reported he has provided the City Clerk a letter along with a candidate questionnaire for each Commission member. He stated in that each Commission member has announced they would run for election in the October 11, 2005, election, he requested each Commission member answer the questions on the STORM questionnaire and include any subject not included that the candidate believed needed to be addressed within the next two year term. Mr. Thompson reported STORM would evaluate these responses and either endorse or oppose each candidate based on these answers. He explained STORM would automatically oppose any candidate who did not support the election referendum for any construction above 75 feet within 1,500 feet of any navigable waterway or shoreline in Ormond Beach. Mr. Thompson stated responses would be posted in full on STORM's website at stormbyvoting.com by August 21, 2005. He explained candidates who elect not to respond would automatically be opposed by STORM, and their refusal would be disseminated on the website. Mr. Thompson requested the responses be made in hard copy and electronically before August 24, 2005.

Intersection at North Yonge Street and Melrose Avenue

Mr. Robert Edwin Seibert, 376 North Yonge Street, stated he had met with government entities in other cities, and the response he received from the Ormond Beach Police Chief and City Engineer was much more forthcoming and favorable. He noted the stop sign he requested at the intersection of Melrose Avenue and North Yonge Street was installed, and he thanked Chief Mathieson and Ms. Sloane for their assistance.

Height Limitation

Mr. Glenn Wren, 27 South St. Andrews, stated the people of Ormond Beach have asked for the height limitation issue be placed on the ballot as a referendum question to amend the City Charter. He questioned why this was not important to the Commission.

Ms. Terri Campbell, 533 North Halifax, stated she, as most Ormond Beach residents, believed height restrictions already were a part of the City Charter. She reported she discovered it was not but must be in the Charter so the voters could waive the height limit on the merits of the individual project. Ms. Campbell explained she placed this issue in a petition, and 98% of those asked wanted to sign her petition. She noted this was a City-wide concern. Ms. Campbell noted the Land Development Code does not go far enough to protect the property rights of its citizens since only three votes of the Commission could change the code allowing high-rise buildings anywhere in the City. She reported the recent Supreme Court decision regarding eminent domain left every community in jeopardy. Ms. Campbell stated the only way to depoliticize this issue was if only the voters would have the authority to waive the height restrictions. She stated as a member and current president of the Sons of the Beaches, she has fought for public access to Volusia County beaches. Ms. Campbell noted limited trading of height limits on one or two oceanfront parcels in return for parks with a minimum of 200 feet may be what the citizens want; but if it was, the voters would vote it in after considering all the impacts. She recommended the City Charter be changed to require that all commercial and residential building heights would be restricted to a finished height of 75-feet within 15,000 feet of any navigable waterway shoreline within the corporate limits of the City of Ormond Beach without a public vote of approval in a public referendum. Ms. Campbell stated property rights of the citizens are at stake.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization (MPO) would meet August 23.

Item #7(B) – Volusia Council of Governments

Mayor Costello reported the Charter review suggested amendments would be on the next Volusia Council of Governments (VCOG) agenda.

Item #7(C) – Smart Growth Implementation Committee

Mayor Costello reported the Smart Growth Implementation Committee recommendations would be presented to the County Council in September. He noted Committee work was completed, and he would provide an electronic report as soon as he received the final document.

Mayor Costello explained the report would provide mechanisms to preserve the rural heart of the County and mechanisms to mandate resolutions on disagreements between cities or between cities and the County.

Item #7(D) Water Authority of Volusia

Commissioner Boyle stated the Water Authority of Volusia (WAV) board would meet tomorrow at 8:30 a.m. He stated two items of discussion would be the Daytona Beach letter indicating they did not desire any finished water interconnects and the amendment process for WAV agreements.

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 stated he was asked to pull Item 8(J) in that the agreement was not ready and Item 8(K) to discuss separately.

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

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

Item #8(K) – Police Department Issues

Ms. Patty Barker, 1105 Overbrook Drive, stated she supported Mr. Turner's decision to appoint Chief William Liquori and Chief Richard Overman to provide an independent assessment and evaluation of Police Department management and operations. She reported Chief Liquori and Chief Overman had unquestioned personal integrity and honor, and she asked the citizens to support their efforts to restore the public's faith and confidence in the Police Department. Ms. Barker stated Chief Liquori and Chief Overman should be given unfettered access and complete independence. She noted contrary to Mr. Turner's memorandum, it was not the policies and procedures in question; it was the failure of senior management to enforce and abide by those policies. Ms. Barker requested Mr. Turner remove any contractual obligations that would limit or narrow the focus of this assessment in any way. She asked all members of the agency be required to participate, protecting their anonymity. Ms. Barker questioned how citizens would be notified of how they would be able to participate in this process.

Mayor Costello stated he contacted Chief Liquori, and Chief Liquori decided what would be evaluated.

Mr. Mike Lowe, 407 Cherrywood Drive, stated he served in the Ormond Beach Police Department and was familiar with policies and procedure as well as how they are ignored or modified to suit the needs of command staff. He expressed support for the investigation, but noted reservations regarding the limitations of the scope and focus of the investigation. Mr. Lowe stated a memorandum indicated Sergeant Bayne and Chief Mathieson found no problems with the department's adherence to the professional standards governing the administration in disciplinary policies and procedures. He noted concern that the Commission was to believe there were no issues related to past disciplinary practices that might be subject to scrutiny by the accreditation assessors. Mr. Lowe explained he was found guilty of a policy violation for failing to report rumors of misconduct to the chain of command without the benefit of due process. He stated that after numerous attempts to correct this matter with no resolution, his friends and family have been retaliated against publicly and privately. Mr. Lowe pointed out that recent internal investigations have resulted in the disciplinary suspension of at least two female members of the agency, termination of the Victim's Advocate, criminal charges against another female member, an active civil suit against the City, admitted policy violations by the Chief of Police, an intense public media scrutiny of the Police Department, and an expensive pending investigation by an outside authority. He stated Sergeant Bayne and Chief Mathieson, should he concur with this assessment, were derelict in their duties to this community in that they were attempting to mislead the Commission. Mr. Lowe urged Mayor Costello to allow Chief Liquori and Chief Overman to be given the latitude to conduct this investigation as they

see fit including a thorough review of recent internal affairs investigations to include the allegations of personal and professional misconduct by Chief Mathieson.

Mr. Tom Bourke, 212 Lynhurst, stated that once the signatures appear on the contract for this investigation, he believed Florida law would have been broken. He stated Mr. Turner called this a review and evaluation, but it was actually an investigation.

Mayor Costello explained Chief Liquori worked with Mr. Turner to determine the scope of the evaluation, which included provisions for anonymous input from people in the Police Department as well as citizens. He asked that Ms. Veronica Patterson, City Clerk, be provided a copy of the minutes of what was presented by the audience so he could present it to Chief Liquori.

Mr. Turner concurred that Chief Liquori was intimately involved in discussions, setting the parameters of the review. He introduced Chief Liquori and Chief Overman, who were in the audience. Mr. Turner noted interviews would occur with complete autonomy. Mr. Turner noted this action was part of the City Manager's purview; but because of the high degree of scrutiny, this was brought to the Commission.

Mayor Costello stated he was seeking a thorough evaluation, but noted he was proud of the Ormond Beach Police Department and hoped this review would indicate that his pride was warranted.

Commissioner Boyle noted the Commission would be voting to accept the memorandum. He clarified that the decision to enter into this contract was in the purview of the City Manager.

Commissioner Partington moved, seconded by Commissioner Kent, to accept the City Manager memorandum.

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

Item #9(A) – Removal of a Historic Tree on a Right-of-way Adjacent to 9 Coquina Cliff Circle

RESOLUTION NO. 2005-167

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE ON A CITY RIGHT-OF-WAY LOCATED ON ORMOND LAKES BOULEVARD ADJACENT TO 9 COQUINA CLIFF CIRCLE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-167, as read by title only.

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(A).

Item #9(B) – Removal of an Historic Tree at 713 Virginia Terrace

RESOLUTION NO. 2005-168

A RESOLUTION APPROVING AND AUTHORIZING THE REMOVAL OF AN HISTORIC TREE ON PROPERTY LOCATED AT 713 VIRGINIA TERRACE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-168, as read by title only.

Commissioner Kent stated he would approve this request, but expressed concern that the health of the tree may have been compromised because of the way the concrete was poured.

Commissioner Partington stated he has denied the removal of a tree in the past because the tree was not being saved due to convenience. He recommended a change to the tree ordinance that would depoliticize the issue and not have these issues come before the Commission. Commissioner Partington suggested asking staff to approve tree removals with the Commission acting as the ultimate arbiter.

Mayor Costello noted this recommendation had been previously mentioned.

Commissioner Partington noted he believed this provision may be working through the process.

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 a Historic Tree at 7 Archangel Circle

RESOLUTION NO. 2005-169
A RESOLUTION APPROVING AND AUTHORIZING THE
REMOVAL OF AN HISTORIC TREE ON PROPERTY LOCATED
AT 7 ARCHANGEL CIRCLE; AND SETTING FORTH AN
EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-169, as read by title only.

Ms. Arbor Blastic, 212 River Bluff, asked what was considered an historic tree.

Mr. Clay Ervin, Planning Director, stated any hardwood species of tree of 36 inches in diameter or greater as measured four feet above grade would be considered a historic tree.

Ms. Blastic asked if citizens were required to come to the Commission to remove a tree on their own property; whereby, Mayor Costello concurred that Commission approval was needed to remove historic trees.

Commissioner Kent asked if the property owner was present for a question; however, the property owner was not present.

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

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

Item #9(D) – First Cycle 2005 Comprehensive Plan Amendments

ORDINANCE NO. 2005-16
AN ORDINANCE ADOPTING CERTAIN AMENDMENTS TO THE
FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT,
CONSERVATION ELEMENT, CULTURAL AFFAIRS ELEMENT,
AND THE FUTURE LAND USE MAP OF THE CITY OF ORMOND
BEACH COMPREHENSIVE PLAN, PROVIDING WHEN SUCH
AMENDMENTS SHALL TAKE EFFECT; REPEALING ALL
INCONSISTENT ORDINANCES OR PARTS THEREOF; AND
SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-16, on first reading, as read by title only.

Mr. Ervin stated that as part of the requirements of Chapter 163, a sign-up sheet and forms were placed in the rear of the chambers. He encouraged anyone interested in following these

Comprehensive Plan amendments as they track through the Department of Community Affairs to fill out the form.

Mr. Ervin reported he received a call from Mr. James Stansbury, a planner with the Florida DCA, who identified that the language needed to be clarified in the proposed amendment. He stated the primary concern pertained to the language in the Comprehensive Plan that required a Development of Regional Impact (DRI) and/or rezoning to planned development in order to develop the property designated as "Activity Center" on the Future Land Use Map. Mr. Ervin noted Mr. Stansbury wanted to make sure that this language did not pre-empt or conflict with statutory requirements known as the "aggregation rule." He stated Mr. Stansbury would be discussing these and other concerns with him, and he would address any changes at the second reading of the ordinance. Mr. Ervin noted this would not necessarily mandate a change to any of the language, but it may merely be clarified at a subsequent date.

Mayor Costello questioned if this should be amended now to clarify the item.

Mr. Ervin advised there was no significant issue at this time, but it may prompt specific language at the time of adoption.

Ms. Lucille Bornmann, 6 Windsor Drive, stated this had some good points, but she also had grave concerns. She stated that these issues have not been discussed at open meetings. Ms. Bornmann stated this development would take place under a Community Redevelopment Agency (CRA), which may not be replenished after a certain period of time. She questioned how long the CRA would last to receive Tax Increment Financing (TIF) money.

Ms. Bornmann stated the daily trips were quoted at 120,964, which sounded like an astronomical figure. She noted the agreement indicated the City would provide fire, police, emergency, facilities, and equipment to serve the property. Ms. Bornmann questioned where the facilities would be built; when they would be built; how the facilities would be paid for; if paid for by bond issues, would the City approve the bond issues; would TIF money pay for them; how many years would it take for the City to get tax money back; and if this would make the taxes escalate. She noted three elements would cost over \$145,810,000, which did not include overpasses or roadways. Ms. Bornmann questioned who would claim responsibility for the bond issues to cover these items, and she expressed concern that this would make it more difficult to obtain bonds for other City needs such as a water plant, sewage plant, or other needs. She asked if this development would receive free police, fire, and road maintenance, such as the deal made with the County regarding existing enclaves. Ms. Bornmann noted she assumed the City would purchase the enclaves, and this would also be on a bond issue. She asked if the deal the City made with the County for free fire and police would be null and void when the City purchased the enclaves. Ms. Bornmann questioned if the City could go bankrupt if the City obligated itself for millions of dollars in bond issues and the real estate market dived, slowing or closing the development.

Mayor Costello asked that the answers to Ms. Bornmann's questions be provided in a Friday letter. He noted the City was not considering bond issues.

Mr. Turner stated most of the answers could be provided in the Friday letter shortly. He explained the City was working with a private consulting firm to do some of the cost analyses.

Mayor Costello stated the Friday letter was posted on the internet; therefore, when he requested answers be provided in the Friday letter, they would be available to the public through the aid of the internet.

Ms. Brenda Wesolowski, 6 Wayland Circle, a member of the Ormond Lakes homeowner association, stated last spring the St. Johns River Water Management District indicated the area was in serious trouble regarding the amount of groundwater to water the vegetation and would have to consider reclaimed water or converting seawater into fresh water due to the salt from the water being pulled out of the aquifer. She stated concern that the Ormond Crossings project would add acres needing water, and she questioned how this issue would be addressed. Ms. Wesolowski reported she was informed that a stoplight would not be permitted at the egress of the Ormond Lakes subdivision. She asked how the addition of all of this traffic would impact this problem.

Mayor Costello stated the number of people would actually decrease with this project.

Mr. Ervin stated St. Johns River Water Management District was part of the review of this Comprehensive Plan amendment. He clarified that this was two years in the future in that this project must go through the DRI process where St. Johns River Water Management District, the

Florida Department of Environmental Protection, the Army Corps of Engineers, and Fish and Wildlife would all be involved in the review of the ultimate plan. Mr. Ervin explained these were the generalized land uses and intensities, but the City was required to go through another level of detail.

Mr. Ervin noted that regarding water capacity, Ormond Beach had done a good job of planning for future water needs. He stated the City had a Consumptive Use Permit (CUP) that was approved for 17 years, and the projection of the population base and non-residential uses identified in this was incorporated in the model utilized to obtain that CUP. Mr. Ervin noted the City already had in place infrastructure water and sewer lines along the US1 corridor, which were currently being underutilized.

Mr. Ervin explained relative to the traffic issue, that this project was identified to build out over 25 years, and it incorporated many non-residential uses. He stated the goal was to minimize the amount of external trips. Mr. Ervin explained the project would include residential, commercial, industrial, as well as institutional uses. He reported the developers would be required to pay into a proportional fair share fund that DOT established through the DRI. Mr. Ervin noted the developer would also contribute right-of-way for roads to be developed to address the internal accessibility and avoid additional trips to US1 and I-95. He pointed out that in the two years the City had worked with the private property owner, the City has worked with other regional and State authorities to make certain the Comprehensive Plan was addressing the initial concerns. Mr. Ervin noted the next level would involve more detail; and when the City progresses to the rezoning to planned development, there would be more finite details, but this was only one of the first steps to this goal.

Commissioner Kent reported while he understood Mayor Costello’s comment, he requested a clarification that there would be less people.

Mr. Ervin stated this would intensify development, but under the current County land use and zonings in this area, there was a potential for development of between 2,800 to 4,400 single-family homes on the 3,000 acres in Volusia County. He noted this was based on the 1926 subdivision plat that was still in place in this area. Mr. Ervin stated the residential component would be greatly reduced to approximately 3,700 homes at a maximum, and the key element was the integration of residential and non-residential in the same area lessening impacts external to the project.

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

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

Item #9(E) – River Oaks Property Rezoning

ORDINANCE NO. 2005-15
 AN ORDINANCE AMENDING PARAGRAPH C, 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 PROPERTIES FROM VOLUSIA COUNTY RPUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT) TO CITY OF ORMOND BEACH PRD (PLANNED RESIDENTIAL DEVELOPMENT); REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-15, on first reading, as read by title only.

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) – Ormond Town Commercial Center, Phase II

ORDINANCE NO. 2005-20

AN ORDINANCE AMENDING SUBSECTION A, ZONING MAP, OF SECTION 2-03, OFFICIAL ZONING MAP AND ZONING DISTRICT, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE A 4.57-ACRE PARCEL OF REAL PROPERTY FROM B-8 (COMMERCIAL) TO PBD (PLANNED BUSINESS DEVELOPMENT), SAID REAL PROPERTY BEING LOCATED ON THE SOUTH SIDE OF WEST GRANADA BOULEVARD (SR40) BETWEEN “ORMOND TOWNE SQUARE” SHOPPING CENTER AND THE “LOWE’S” HOME IMPROVEMENT STORE; ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A THIRD AMENDED AND RESTATED DEVELOPMENT ORDER FOR “ORMOND TOWN COMMERCIAL CENTER,” PHASE II, PLANNED BUSINESS DEVELOPMENT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2005-20, on second reading, as read by title only.

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) – Dangerous Dogs

ORDINANCE NO. 2005-26

AN ORDINANCE AMENDING ARTICLE III, DOGS AND CATS, OF CHAPTER 5, ANIMALS AND FOWL, OF THE *CODE OF ORDINANCES* BY AMENDING SECTION 5-81, ACTION TO BE TAKEN BY OWNERS/KEEPERS OF DANGEROUS DOGS; BY REPEALING SECTION 5-82, FEE REQUIRED FOR CERTIFICATE OF REGISTRATION; BY AMENDING SECTION 5-84, VIOLATIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2005-20, on second reading, as read by title only.

Ms. Janice Fitzgerald, 34 Charleston Square, encouraged the Commission and the public to visit the Obedience Club of Daytona Beach training program every Tuesday at 7:00 p.m. behind Books-A-Million at International Speedway Drive and Nova Road. She stated comments from Commissioners at the August 2 meeting appear to imply that responsible dog owners who attended the hearing were against stricter dangerous dog laws, but this was not the case. Ms. Fitzgerald noted the speakers favored stricter laws; however, they wanted to balance this with protection for responsible dog owners, which was why they requested a committee be formed to review the law to improve it. She stated the Commissioner who indicated when one dog injures another dog that dog was dangerous demonstrated her remarks regarding qualifications for an Animal Control Officer. Ms. Fitzgerald pointed out the Commissioner had no training in animal behavior, no experience dealing with animals, and did not own a dog. She pointed out that when dogs are classified dangerous or not dangerous the circumstances of the incident are irrelevant under this law. Ms. Fitzgerald explained a situation where a dog with an ear infection bit a child who hit the ear while playing and the dog was deemed dangerous. She pointed out accidents happen. Ms. Fitzgerald stated this law could victimize responsible dog owners. She reported Mayor Costello encouraged the dog owners to form an informal committee to review the law to include residents who spoke in favor of the law in March.

Ms. Fitzgerald stated Mayor Costello indicated the list could be obtained from the City Manager; however, on August 4 she sent an e-mail to Mr. Turner requesting the names but received no response to date. She presented a formal letter requesting this information in a timely manner.

Mayor Costello clarified he stated that the minutes would indicate the names of those people who spoke on the issue. He stated staff would provide the dates this issue was discussed so Ms. Fitzgerald could obtain those names.

Commissioner Partington stated that before a dog was determined to be dangerous, the City’s ordinance provided an opportunity for notice to have a full hearing before a Special Master who would learn the full history of the dog.

Commissioner Boyle stated the City had come far with this issue, and there were safeguards; but he hoped the citizens on both sides could meet before this was passed. He noted he understood this was merely “housekeeping” on the ordinance already passed, but he would have more comfort if people on both sides of this issue could meet and provide recommendations.

Commissioner Kent stated he appreciated Ms. Fitzgerald’s passion and the Special Master System where such cases could be heard. He stated if any animal would chase and attack another domestic animal or child, he would consider that animal to be dangerous regardless of the circumstances.

Mayor Costello stated he supported this ordinance but would be willing to listen to recommendations that citizens may bring forward in the future after both sides of the issue meet. He pointed out that any ordinance could be amended by a majority vote.

Mr. Turner reported he would provide Ms. Fitzgerald the minutes from previous meetings, but he could not presume to list all of the people who would support or oppose any particular ordinance.

Mayor Costello apologized for the misunderstanding and noted his intent was for Mr. Turner to provide minutes, which would include a list of the people who spoke on this issue.

Call Vote:	Commissioner Boyle	no
	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 #9(H) – Charter Referendum

ORDINANCE NO. 2005-27

AN ORDINANCE AMENDING SECTIONS 3.01, 3.02, 3.03, 3.07, 3.08, 5.02, 5.05, 5.06, 5.07, 6.02, AND 6.08 OF THE *CHARTER* OF THE CITY OF ORMOND BEACH, FLORIDA, BY PROVIDING CITYWIDE ELECTIONS FOR ALL MEMBERS OF THE CITY COMMISSION; BY PROVIDING REQUIREMENTS FOR QUALIFYING; PROVIDING REQUIREMENTS FOR RESIGNATION FROM OFFICE; PROVIDING REQUIREMENTS FOR FILLING VACANCIES IN OFFICE; REPEALING THE REQUIREMENT FOR HOLDING AN ORGANIZATIONAL MEETING AT A CERTAIN TIME; AMENDING REFERENCES TO BALLOT STYLE; CLARIFYING THE TIME BY WHICH TO CERTIFY ELECTION RESULTS; AMENDING TERMS OF OFFICE TO INCLUDE STAGGERED TERMS, FOUR-YEAR TERMS FOR CITY COMMISSIONERS AND TWO-YEAR TERMS FOR MAYOR; PROVIDING A SCHEDULE FOR STAGGERING THE TERMS OF OFFICE; PROVIDING A PROCEDURE FOR DETERMINING THE VOTES; AMENDING THE COMPOSITION OF THE CANVASSING BOARD; PROVIDING SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2005-27, on second reading, as read by title only.

Mr. Ray Blastic, 212 River Bluff Trail, asked if this ordinance would increase the Commission terms from two to four years.

Mayor Costello reported this was one of the potential items that, if passed, would be placed on the ballot for a vote by the citizens.

Ms. Peggy Farmer asked to make her comments after the Commission comments; whereby, Mayor Costello approved Ms. Farmer's request.

Commissioner Kelley stated he did not propose the four-year terms, but he did recommend the City-wide election. He noted the Commission may be moving too fast on this issue. Commissioner Kelley reported a Charter Review Committee brought the previous Charter amendments for four-year terms to the City. He recommended obtaining more citizen input and consider placing this on the 2006 ballot.

Commissioner Kelley moved to pull the four-year terms and City-wide election issues to be delayed so they could be sent to a citizen Charter review committee. The motion died for lack of a second.

Commissioner Boyle stated he provided alternate language on the City-wide election, increasing the terms, and changing the election date issues. He also suggested adding a question regarding building height limitations.

Mayor Costello stated the building height limitations would not be discussed tonight. He noted the City Attorney indicated that it could not be discussed because it had not been advertised, which was why he allowed people to speak on this issue during the audience remarks portion of the meeting.

Mr. Randall Hayes, City Attorney, clarified that he indicated height limitations could be treated as an amendment to the ordinance, but it was a substantive change to the ordinance, which would require an additional reading.

Mayor Costello stated many people would have attended this meeting had this issue been on the agenda.

Commissioner Boyle stated that in 1994, the City's Charter Review Committee recommended four-year terms, which was approved by 57%; but there was some confusion as to whether "alternating" was being used as a verb or an adjective. He reported six years completed one cycle of staggered four-year terms, and of the five who were elected; only three served their full four-year term. Commissioner Boyle stated that in February 1999, another referendum had 57% of the voters approve the two-year terms.

Mayor Costello clarified that vote in 1999 was not only for two-year terms, but it also removed the term limits, which was why many people supported the referendum.

Commissioner Boyle concurred that the term limits were removed with that referendum. He stated it may be less confusing to have four-year terms for all five seats to occur once every four years, removing the staggered terms. He reported the staggering term confuses people and create inequities. Commissioner Boyle stated going to City-wide elections may create additional problems. He reported Osceola County was sued for abolishing their single-member districts; therefore, Ormond Beach may be in a precarious situation with Citywide elections. Commissioner Boyle pointed out that over 90% of the City's African American population was in Zone 2. He cautioned that the courts have ruled that when single-member districts were abolished, it would weaken the representation of minorities. Commissioner Boyle requested considering minor language suggestions and the use of subheadings next to the question to better explain the question. He suggested that the order be revised to place the three major issues before the other six questions. Commissioner Boyle also requested the Commission consider a tenth question regarding height limits due to the tremendous public interest. He noted this would be a substantive change, and it could only be approved if another Commissioner agreed with this recommendation.

Mayor Costello asked if anyone supported Commissioner Boyle's wording or the elimination of Question 1 relative to City-wide elections.

Commissioner Kelley reported he supported eliminating Question 1.

Mayor Costello stated he favored sending this to a charter review committee, until he discovered the genesis was through a previous charter review committee. He stated City-wide elections would give the entire community the ability to shape their government; therefore, he supported City-wide elections.

Commissioner Kent clarified that Question 1 was actually Section 3.01. He supported Commissioner Boyle and Commissioner Kelley to eliminate this section.

Commissioner Boyle moved, seconded by Commissioner Kelley, to delete the amendments to Section 3.01.

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

Mayor Costello focused attention to Section 3.03 relative to terms of office.

Commissioner Boyle moved, seconded by Commissioner Kelley, to delete the amendments to Section 3.03.

Commissioner Boyle asked if he had support for all four-year terms to be held every four years.

Commissioner Kelley expressed agreement with Commissioner Boyle noting this would simplify the matter.

Commissioner Boyle moved to amend his motion, seconded by Commissioner Kelley, to allow the citizens to vote to have four-year terms on all five seats with elections to be held every four years.

Commissioner Kent stated he was in favor of the recommended amendment. He questioned if this could occur through an amendment or if another reading would be necessary.

Mr. Hayes stated this could be done through an amendment this evening.

Mayor Costello stated he favored staggered four-year terms with the Mayor to be elected every two years. He reported a benefit of serving on VCOG was the opportunity to speak with other mayors, and thus he learned New Smyrna Beach had this system. Mayor Costello pointed out that under this system, every two years with the City-wide election, the entire City would be able to vote in three new members if they chose to do so, thereby changing the majority and insuring continuity and experience on the Commission.

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

Mayor Costello stated he could not support Commissioner Boyle's wording on Section 5.06 because the term "regular election" implied that the City would be irregular. He reported his goal was to make all of the elections on the same day and a run-off would be on a subsequent date.

Commissioner Boyle stated this would entail a significant change, and the electorate should know the City was making this change.

Commissioner Boyle received no support for his wording change.

Commissioner Boyle recommended subheadings to the right of the questions and sequencing the questions with the terms of office and election date at the beginning to be followed by the six minor changes.

Mayor Costello reported he had continually concurred with that suggestion.

Commissioner Boyle recommended placing the terms of office as the first question and the election date as the second question, but he was not certain he had support for the subheadings he recommended.

Mayor Costello noted he supported adding the subheadings.

Ms. Veronica Patterson, City Clerk, advised only 15 words were permitted in the headings.

Commissioner Kelley stated people would know a change was being made in that it was on the ballot as an amendment.

Commissioner Boyle noted he was unaware of the 15-word limit, thereby precluding the helpful subheadings.

Commissioner Boyle requested a building height limitation question be added to indicate that all commercial and residential buildings to finished construction heights be no more than 75 feet within 1,500 feet of any navigable waterway shoreline. He noted the question should continue to state that this could be waived only by expressed voter approval in a public referendum with the cost to be paid by the applicant. Commissioner Boyle stated this would satisfy the question that had been raised to allow for exceptions yet preserve the mandate in the community.

Commissioner Boyle moved, seconded by Commissioner Kent, to include a question Number 10 that would state that all commercial and residential buildings to finished construction heights be no more than 75 feet within 1,500 feet of any navigable waterway shoreline and could be waived only by expressed voter approval in a public referendum with the cost to be paid by the applicant.

Mr. Hayes stated that if it were the will of the majority, he would provide language for this motion.

Commissioner Kent urged the Commission to support this motion to allow the people of Ormond Beach to make this decision.

Mr. Hayes clarified that by amending this ordinance, it would have to come back for a third reading. He mentioned an alternative, which would be to use a straw ballot; however, he was having difficulty fitting that concept into this ordinance.

Commissioner Kelley reported he considered the language to be unacceptable because it included residential buildings, and it was highly unlikely there would be a 75-foot house. He stated the language was too vague to be a valid issue. Commissioner Kelley noted the Land Development Code issues needed to be in the Land Development Code. He pointed out that any change to Land Development Code would require a public hearing process.

Commissioner Partington agreed that this should be dealt with in the Land Development Code. He pointed out that the 170 foot range was no higher than what currently existed on the beach, and this would only be permitted by transfer of development rights. Commissioner Partington noted with that amendment, he could probably support the motion. He noted the citizens could still follow the petition process.

Mayor Costello reported he favored this being placed in the Land Development Code and requested a separate ordinance asking for a straw ballot. He read Commissioner Boyle's proposed language. Mayor Costello reported this issue was not about building heights, but transfer of development rights, and it was too complicated to convey in a brief amendment with 75 words on a referendum. He urged this language be condensed to use on a straw ballot. Mayor Costello noted the advantage of a straw ballot was that should the community vote a certain way and the Commission did the opposite, the citizens could vote the Commission out of office. He stated the question should include: "Because Ormond Beach has inadequate beach access, no beachfront parks with public parking, and no permanent public off-beach parking, and therefore, Ormond Beach residents find it nearly impossible to see, park on or near, and/or enjoy our beach, do you favor maintaining our existing seven story height limitation except when transferring existing development rights density from one or more entire donor parcels, which would be given to the City of Ormond Beach residents for public use to one or more receiving parcels, which would result in fewer and taller buildings on A1A along with publicly owned beachfront City parks and public off-beach parking in Ormond Beach. "A 'yes' vote will allow transfer of development rights creating taller buildings and City beachfront parks and off-beach parking. A "no" vote will not allow transfer of development rights from donated land to taller buildings to create City parks and off-beach parking and will keep our current seven story height limit." Mayor Costello reported he could support a straw ballot that spelled out the question as he outlined, but would not support something that blatantly had nothing to do with what was being recommended. He clarified that there was no proposal to abolish the height limit, but to use the benefit the height limit provided in that it limited the density and clarified how many units

could be transferred. Mayor Costello pointed out that people cannot see the beach other than at the Granada approach and cannot park to access the beach. He noted he resented not having beachfront parks and wanted to create beachfront parks. Mayor Costello reported if someone has another way to achieve this, he would listen.

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

Mayor Costello asked if anyone would want Mr. Hayes to word an ordinance for a straw ballot to include the transfer of development rights with no additional density.

Commissioner Boyle stated he understood the concept of “transfer of development rights”; however, a 100-foot parcel in Daytona Beach Shores where a building was demolished was recently sold for \$3.5 million or \$35,000 per front foot; and he questioned why a developer would give up 100 feet of beachfront property for the right to take the allowable seven stories with some bonus.

Mayor Costello clarified no one proposed any bonus.

Commissioner Boyle withdrew the inference to the word “bonus.” He questioned trading the seven stories allowed to the developer and going higher for a 100-foot park with parking to access a beach that may then have a shadow problem. Commissioner Boyle stated the general conclusion on straw ballots was that they serve no value in that they do not commit government to anything. He noted the City had already had a straw ballot from the public outcry precipitated by Holly Hill’s approval of four 24-story towers. Commissioner Boyle opposed the straw ballot for a number of reasons and noted he was dubious about the concept of transfer of development rights in that he did not see the cost benefit.

Mayor Costello stated the cost benefit was to gain off-beach parking and parks.

Commissioner Kelley noted the Commission was being somewhat selfish if they did not want to acquire parking and beach access for future generations. He noted he did not go to the beach, but expressed concern for those who could not afford to stay on the beach to have access to the beach and have a place to park. Commissioner Kelley stated if Ormond Beach could gain a 300-foot park, maybe the County could fund the improvements when the City acquired the property. He noted he favored a straw ballot. Commissioner Kelley pointed out he was not in favor of 20 to 40-story buildings. He stated the current limit was 75 feet, and a review was required to change that limit. Commissioner Kelley questioned if the public wanted beach access and a park or preferred to allow individuals to purchase the land for houses to build \$10 million homes. He stated at that point, it would be extremely difficult to provide beach access.

Commissioner Kent stated he cared a great deal about the beach. He pointed out that people could not see the beach anywhere when driving because of buildings and high beach dunes. Commissioner Kent reported the shade from tall buildings would be exacerbated. He noted if an owner of a single-family home would restrict beach access, 75 owners of a condominium paying \$1.8 million each should be considered. Commissioner Kent reported he wanted beach access and parks.

Mayor Costello stated he could not get to the beach or park on the beach and wanted a beachfront park and off-beach parking in Ormond Beach.

Ms. Bornmann requested the opportunity to speak.

Mayor Costello stated he called for the public to speak earlier and Ms. Bornmann did not raise her hand.

Ms. Bornmann stated this issue was not advertised.

Mayor Costello concurred this was not advertised and should not have been discussed; therefore, he allowed it to be discussed during audience remarks. He asked Mr. Hayes if he should allow public discussion in that this was not advertised. Mayor Costello pointed out that this had only two votes and would not pass tonight.

Mr. Hayes noted his earlier discussion with Mayor Costello referenced a straw ballot and that would need to come back as a separate ordinance. He advised motions could be made to

amend the charter this evening; therefore, this could be considered. Mr. Hayes stated that since there was some confusion, he recommended allowing public debate.

Mayor Costello noted that the City had set a precedent that when only two Commission members were in favor of a motion and it was known what the vote would be, further debate was not necessary; but he would allow anyone speak at this time due to Mr. Hayes's recommendation.

Mr. Hayes stated in that only two Commission members were in favor of the motion, Mayor Costello had discretion to adopt his own rules.

Commissioner Boyle stated when there was a motion and a second, discussion was normally permitted. He noted a speaker may change someone's vote.

Mayor Costello asked who would like to speak to the possibility of a straw ballot. He reported they would be able to speak after the break.

Mayor Costello called for a break at 9:00 p.m. and reconvened the meeting at 9:05 p.m.

Mayor Costello explained this discussion was only to speak about the straw ballot.

Mr. Hayes stated there was confusion regarding the definition of a straw ballot. He explained a straw ballot was a non-binding referendum election that would allow the public to vote to tell the Commission how it felt on a particular item.

Ms. Lucille Bornmann, 6 Windsor Court, stated she did not want a straw ballot because the citizens should not have to bargain to obtain property especially since there would be no guarantee the property transferred would be on the ocean. She indicated the land could be from anywhere the developer owned property.

Mayor Costello clarified that could not occur under this proposal.

Ms. Bornmann reported there had been nothing in writing to that effect. She stated Ormond Beach should have access to the beach as other beachfront cities do since Ormond Beach taxpayers have paid millions to the County for the past 25 years.

Mr. Sean Daly stated he would prefer this item be on the ballot, but in lieu of that he would favor a straw ballot. He reported Mayor Costello's wording was equally as complicated as was Commissioner Boyle's language. Mr. Daly noted all the public has heard were vague assertions of what was planned. He reported a major concern was that the Commission had given up the citizen's rights to the beach. Mr. Daly stated the Commission was playing into the assertion that there would be no more driving on the beach because every parking lot added was an argument to not allow beach driving. He reported there would first be parking lots and then parking meters because the County could not function as it was now. Mr. Daly noted there were a very limited number of parking spaces. He pointed out that the City placed "no-parking" signs on A1A; therefore, the Commission must not be for beach access. Mr. Daly urged the Commission to fight for that beach access. He recommended two straw ballots: one on the development rights issue and one stating that there shall be no construction in the City that exceeds 75 feet. Mr. Daly questioned if the Commission would abide by a straw ballot. He recommended expanding this to possibly add an eminent domain or a density provision in the Charter that would lock in the Land Development Code at a certain level, and a provision would be included that before the Commission could increase density, a super vote of the Commission would be required. Mr. Daly questioned what the next Commission may do and reported the citizens wanted some level of protection.

Mr. Glenn Wren, 27 South St. Andrews, stated he opposed a straw ballot because it was non-binding. He pointed out that the City had no beach access because a past Commission decided the beach should be governed by the County.

Ms. Terri Campbell, 533 North Halifax, stated she was disappointed the Commission was not giving the public an opportunity to place a binding vote. She noted the only way a straw vote could be considered was if both the public's wording and Mayor Costello's wording would be included, but she would personally oppose either. Ms. Campbell stated she was told there was no possible way there could be a petition drive to place a referendum question on the ballot.

Mr. Hayes advised that Ms. Campbell was correct.

Ms. Patterson stated this could not be done in time for this election in that it was unlikely Ms. Campbell could prepare the petitions, go through the process, and complete two readings of an ordinance in time for the election; however, she advised she had not told Ms. Campbell she could not go through a petition drive.

Ms. Campbell requested clarification whether she could have a petition drive and place this issue on the ballot, if not for this election, then for the next election.

Mr. Hayes clarified that Ms. Campbell could do a petition drive, but there was no requirement that if they were to do one that it would be placed on a ballot in that there was no requirement for a citizens' initiative on a local issue such as this be placed on a ballot.

Ms. Campbell questioned that there was no way the citizens could make anything binding with the exception of three votes from the Commission; whereby, Mr. Hayes concurred that was correct.

Commissioner Partington clarified the citizens could do a petition drive, but it may not be able to be completed in time for this election.

Mayor Costello noted this could be researched.

Ms. Adrian Miles, 6 Tidewater Drive, stated she was against a straw ballot and favored Commissioner Boyle's recommendation with Mr. Hayes revising the language. She noted she resented the fact that the people have been asking for this vote for months, and the Commission was only now addressing it, not allowing enough time for a petition drive.

Ms. Sofia Kalapaca, 844 Marvin Road, reported she was opposed to a straw vote. She stated the Commission was supposed to be representing what the citizens wanted, and the majority does not want development and want to keep the 75-foot limit. Ms. Kalapaca reported people were not willing to trade for beach access. She noted it seemed the Commission was more interested in the developers than the citizens.

Ms. Brenda Wesolowski, 6 Wayland Circle, stated if the Commission was interested in public opinion, they should have had a public hearing on this issue. She noted the straw ballot had no value, but would cost money. Ms. Wesolowski reported the wording sounded like extortion because it was inferring that if the public wanted public access, they had to accept the shade and the buildings.

Mr. John Bornmann, 6 Windsor Drive, stated he was against a straw ballot. He noted the Commission had locked the public out because it was too late to place this on the ballot. Mr. Bornmann pointed out that with four-year terms the straw ballot would have no standing. He stated the City was selling its beach to developers. Mr. Bornmann questioned why the Commission was not going after the County like other municipalities have done successfully.

Ms. Jeannie Ball, 3 Eagle Drive, stated citizens came to the recent visioning sessions and listened to developers. She reported the people were demanding this issue be placed on the ballot because the developers have major hurricane damage on many properties, and within the next two years a developer would ask for a transfer of rights. Ms. Ball stated people wanted this in the Charter so the citizens know their rights would be insured. She noted it was the Commission's job to tell the County that Ormond Beach needed beach access now.

Ms. Peggy Farmer, Ormond Beach Chamber of Commerce, stated there was a public workshop on this issue, and it was determined that this was this one opportunity to be a quality community. She reported the City was to have a tour and evaluate good and poor projects. Ms. Farmer advised she was unable to provide a Chamber position because they did not have the opportunity to discuss it since it was not an item on the agenda.

Mayor Costello noted in that no one favored a straw ballot it would not be considered.

Mayor Costello called for a vote on the entire package as amended

Call Vote on the Underlying Motion:	Commissioner Boyle	no
	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(H).

Item #9(I) – Vacating a Portion of Fluhart Avenue

ORDINANCE NO. 2005-28
AN ORDINANCE VACATING A PORTION OF FLUHART AVENUE RIGHT-OF-WAY LYING WEST OF RIVERSIDE DRIVE; RESERVING CERTAIN EASEMENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved to approve Ordinance No. 2005-28, on first reading, as read by title only. The motion died for lack of a second.

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

Item #10 – Cost-of-living Increase for Current Retirees

ORDINANCE NO. 2005-29
AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, RELATIVE TO THE GENERAL EMPLOYEES' PENSION PLAN, AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENTS, OF THE CODE OF ORDINANCES; AMENDING SECTIONS 16-6, BENEFIT AMOUNTS AND ELIGIBILITY; PROVIDING SEVERABILITY OF PROVISIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Boyle, to approve Ordinance No. 2005-29, on first reading, as read by title only.

Mr. Ray Blastic, 212 River Bluff Drive, asked the cost of this proposal.

Commissioner Kelley stated he calculated the cost to be \$54,000 over three years when considering what would be offered in the future; however, the cost was \$18,000 per year.

Mr. Paul Lane, Finance Director, reported the first year cost would be \$15,849, and thereafter it would be .18% of payroll. He noted the actuary calculated that payroll would increase by approximately 5½% per year; therefore, this liability would create \$300,000 amortized with the greater contribution each year until it would be paid off.

Commissioner Boyle asked how many current retirees were on the pension roll; whereby, Mr. Lane replied he believed there were 98 retirees currently. Commissioner Boyle reported the total pay out to those 98 retirees per year was between \$900,000 to \$1,000,000 or an average of less than \$10,000 per year.

Mr. Lane reported the figure was \$836.00 per month.

Commissioner Boyle pointed out that the City did not make an adjustment in the past three years. He noted the last time the Commission made an adjustment, Mr. Lane recommended a 3% increase.

Mr. Lane stated the staff recommendation was not to give a cost-of-living adjustment, but the Commission gave a 3½% increase.

Commissioner Boyle stated six years ago staff recommended a 3% increase, and the Commission gave a 5% increase. He noted the total money in the pension was between \$24 and \$25 million; but if all of the 392 employees would leave immediately, those eligible for retirement benefits would require that money.

Mr. Lane stated the \$25 million would not be sufficient should that occur.

Commissioner Boyle stated he hesitated seconding this motion because this 3% would actually be only 1% per year, and the retiree's costs for prescriptions, gasoline, electricity, and other costs are increasing. He reported he would consider a fairer percentage would be closer to 5%, and he considered 5% to be very conservative.

Commissioner Kent questioned why people would question giving a 3% increase in that these retirees worked for the City for 20 to 30 year. He reported he would not support the 5%, but could support the 3% increase.

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

Mayor Costello reported he planned to make an affirmative vote before Commissioner Boyle or Commissioner Kent spoke because he opposed the 6½% increase for the general employees and favored a 3¼% increase; therefore, he stated he believed 3% was fair for the retirees.

Item #11(A) – Sunrise Aviation, Inc. Lease Agreement

RESOLUTION NO. 2005-170

A RESOLUTION APPROVING AN AMENDMENT TO THE AMENDED LEASE AGREEMENT BETWEEN THE CITY OF ORMOND BEACH AND M.A.C. CHARTER, INC., D/B/A SUNRISE AVIATION, INC., REVISING THE LEASE TERMS REGARDING FBO AREA #1 AND RESTATING THE LEASE TERMS REGARDING FBO AREA #2; AUTHORIZING THE EXECUTION OF A SIXTH AMENDED LEASE AGREEMENT RELATIVE THERETO; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Resolution No. 2005-170, as read by title only.

Mr. Adrian Thompson, 6 Dorado Beach Court, representing STORM, stated a memo was sent today from Mr. Turner stating he was attaching correspondence from Adrian Thompson; however, the correspondence actually came from STORM and was sent in his capacity as chairman of STORM. He asked Mr. Turner to be more careful to correctly identify from whom correspondence came from. Mr. Thompson stated the letter questioned this item, but the response was that it was too voluminous to answer; therefore, he asked the questions be answered now.

Mr. Turner stated the correspondence was signed by Mr. Thompson. He reported the item came to the City late Friday, and he received it Monday morning. Mr. Turner noted there were perhaps 50 to 60 questions in the letter. He stated staff did not have sufficient time to go through the questions, nor did he deem it to be the best use of City resources to try to provide those answers by today. Mr. Turner noted staff would go through the questions and try to answer some of them. He stated the Commission has discussed this issue at least three times in the past year; therefore, he provided the agenda sheets, the minutes from prior meetings, and related material in the information packet.

Mayor Costello stated the Commission would not go through 50 questions, but Mr. Thompson could make his comments and ask several questions.

Mr. Thompson pointed out the staff report was three and one quarter pages long, justifying what staff wanted, with three lines for an alternative. He questioned how much the rent would be for this property in 2013.

Mayor Costello stated the rent would be 10% of the appraised value; whereby, Mr. Thompson requested an actual dollar amount. Mayor Costello reported that in 2013, after the appraisal was completed, a dollar amount would be known. He explained there was a formula to calculate the rent.

Mr. Thompson stated as a tenant, he would prefer to know what the rent would be on a lease in dollars rather than in a formula. He questioned what was defined as “underlying land.”

Mayor Costello replied “underlying land” was land under improvement.

Mr. Tom Lipps, Support Services Director/Airport Manager, stated the basis of the appraisal would be the underlying land plus any publicly financed improvements excluding privately financed improvements.

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Mr. Thompson questioned if underlying land was the footprint of the building; whereby, Mayor Costello explained what would be assessed would be the footprint plus the public improvements.

Mr. Lipps clarified that the basis of the appraisal would be FBO Area 1 or 10.6 acres plus the value of any publicly financed improvement, should there be any improvements in 2013.

Mr. Thompson stated then this would not be on the footprint of the building as was the historic tradition of the airport, but would be the 10.6 acres plus publicly funded improvements. He reported the problem with that scenario was that on December 15, 2013, all of the property and improvements would become publicly owned property, and the City would be giving it away until 2053. Mr. Thompson stated in 1983 the Commission approved a lease and extended it in 2000, but when that lease would be completed in 2013, all of the property and improvements would revert to the ownership of the public; however, the Commission was not planning on charging rent on those improvements and only charge rent on the 10.6 acres. He reported the property in question has a value far in excess of the value of the land because the public would own the buildings in 2013, but the City was not charging rent on the buildings even though the City owned them. Mr. Thompson stated the land was currently appraised at \$9,000 per acre and at 10% the rent would be \$90,000.

Mr. Turner stated he found it interesting that Mr. Thompson found objection to the process when on April 27 he submitted an offer for his company to do the same thing, leasing the property for a slightly different dollar amounts.

Mayor Costello summarized that Mr. Thompson made a point he was concerned that the lease did not include the improvements that currently existed, and if the lease were not extended, it would revert to the City. He urged Mr. Thompson to proceed.

Mr. Thompson stated the current value per acre was \$9,000; therefore, the land would be appraised for \$90,000.

Commissioner Kelley stated that was not correct.

Mr. Thompson stated the Commission would not provide any indication of what the rent would be and was prepared to enter into a lease where the rental sum was unknown. He noted he would have to accept that the value of all of the property on the site would not be assessed for rent, so the lessee would receive the benefit of all of the property that they should have given to the public in 2013. Mr. Thompson stated the items listed as investments include replacing roofs and purlines to extend the life cycle of the building. He questioned if the cost to replace a roof, for example at the Nova Sports Complex, was in the maintenance or Capital Improvements budget.

Mayor Costello stated in the future it would be in the maintenance budget.

Mr. Thompson pointed out that of the \$6,000 to \$8,000 of investment, half was maintenance, which should have been carried out in accordance with the covenant on the lease since 1983. He stated the Commission was about to give away about \$1 million of taxpayer money.

Commissioner Kent stated Mr. Thompson indicated Mr. Turner erroneously stated the attachment was by him when it was actually by STORM.

Mr. Thompson urged the Commission to look at the letter signed by Adrian Thompson, Chairman, STORM. He stated the letter was faxed on Sunday evening and in the hands of staff by 8 o'clock Monday morning.

Commissioner Kent questioned how Mr. Thompson could criticize Mr. Turner for referencing his name to the document when he signed his name on the document.

Mr. Thompson clarified that the letter was signed as chairman of STORM with STORM letterhead. He stated he offered \$62,000 for this land in 2013, and several other people were interested in this property who would pay even more. Mr. Turner questioned if the City would be receiving \$62,000 in 2013.

Mr. Glenn Wren, 27 South St. Andrews Drive, asked if there was a current lease, when that lease would expire, and why the lease was being extended now.

Mayor Costello stated the lease would expire in 2013 and the lease was being extended in return for significant investments.

Mr. Wren asked if the City had advertised and taken competitive bids for this land. He questioned if the Commission was certain it was being provided the best deal possible. Mr. Wren asked if the new airport manager should be involved in this process.

Commissioner Kelley stated a 10% return on a land lease was very common, and an MAI appraisal was an accurate appraisal done by professionals, which was also very common.

Commissioner Partington reported he continued to support this lease amendment in that there was a fair amount of history with Sunrise Aviation. He explained Sunrise took over a lease that was not desirable. Commissioner Partington noted he was confused by the chairman of STORM and a competing business interest at the airport trying to interfere contractually with Sunrise's lease with the City. He mentioned this could be considered tortious interference with a business and a contract, with a history of this continuing for possibly the past year and one-half. Commissioner Partington pointed out that Sunrise has worked with the City significantly on a number of projects to the benefit of the City. He stated Sunrise had had some losses where they could have sued the City obtaining monetary damages, but they did not because they are good, quality people that the Commission wanted in Ormond Beach. Commissioner Partington stated the amendments were in exchange for some losses that would benefit the airport as a whole. He reported considering the amount of investment, along with the agreement to submit to a new appraisal in 2013, he considered this to be a good deal for the City. He stated this has been through the process many times, and the agreement reflected the elements discussed at a workshop.

Commissioner Boyle agreed Sunrise was a good corporate partner with the City. He stated the FAA recommendation for airports was to give incentive contracts to the first corporations coming into an airport, which was done many years ago; however, after there was more than one entity at the airport, it would no longer be necessary to offer those incentives. Commissioner Boyle thanked Mr. Tony Lombardo for spending many hours with him explaining the complexities of this business, this lease, and other issues. He stated this lease was recommended by Mr. Turner and Mr. Lipps, but this Commission had supported hiring an airport manager. Commissioner Boyle reported the premise for hiring an airport manager was that the recent City error on the Southeast Quad that would cost the City \$500,000 would not have occurred if an airport manager was in place. He questioned, considering this, why the City was not waiting until after hiring an airport manager since the lease would not expire for another seven and one-half years, while the lease before the Commission would commit the City until 2053.

Commissioner Boyle pointed out that on March 15 the Commission rushed a decision to obtain a grant with disastrous results. He questioned why the Commission would not merely wait until 2013 and put this out for bid. Commissioner Boyle noted the answer was stated that this good corporate partner was ready to make immediate significant investment on construction, but the improvements were for roofs and a fuel farm to replace the tanker when the City had a requirement for a fuel farm in 1994. He questioned if this was an amended lease or a new lease. Commissioner Boyle expressed concern regarding two 20-year extensions, the question of the definition of underlying property, and the new right to build and sell "condominium hangars." He noted he understood these good corporate partners had to risk their capital, gambling the corporate hangars would sell, but the City could build and sell the corporate hangars. Commissioner Boyle pointed out that the City just lost \$500,000 at the airport. He stated the City did not know what rent would be, but would be committing the City until 2053, without knowing how much rent would be paid when it was already known the City had a revenue stream problem where operations were barely breaking even. Commissioner Boyle reported the City was taking \$50,000 out of the City's recreation budget for rental for the fields. He noted taxpayers pay money for recreation, and the City transferred that money into the airport fund to balance the books at the airport. Commissioner Boyle noted he was not certain the revenue stream would be adequate in the future. He stated if the rationale to hire an airport manager was valid, with the increased labor cost, which would cost over a million dollars over ten years, then the City should at least wait for that person to be hired to avail itself of their expert advice.

Commissioner Kent agreed completely with Commissioner Partington's comments and the first portion of Commissioner Boyle's comments. He explained he understood the urgency since Sunrise has been waiting, as the labor and material costs have increased and it would cost considerably more now than it would have had they not been asked to wait. Commissioner Kent noted he was also concerned about the losses of which Commissioner Partington spoke. He stated these were men of great integrity and great business partners for this community. Commissioner Kent thanked them for their continued support of Ormond Beach and for the service they provide, which was a direct reflection on the

Commission and what Ormond Beach had to offer. He reported he would support this amendment.

Commissioner Kelley stated the airport manager situation should not enter into this discussion because this should have been done a year and one-half ago. He reported the Commission had a workshop on this issue in April. Commissioner Kelley stated another group constructed condo hangars in 1990 or 1991; therefore, this was not a precedent. He reiterated the 10% was a fair amount protecting the lesser and lessee.

Mayor Costello stated the condo deal was not a new deal Sunrise was being provided in that it was a right currently in their contract. He noted other cities have similar airport terms on their leases. Mayor Costello reported he would vote for this, not because of the aforementioned resolved issues, but because he was convinced the airport would be better off making these investments now than no investments being made and waiting to auction it off in seven years.

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

Item #11(B) – River Bend Golf Course Ground Lease Agreement

RESOLUTION NO. 2005-171

A RESOLUTION RATIFYING AND CONFIRMING THE EXECUTION OF A THIRD AMENDMENT TO GROUND LEASE AGREEMENT REGARDING THE RIVER BEND GOLF COURSE; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2005-171, as read by title only.

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

Item #12(A) - Lobbyist Program

Mr. Turner stated Mr. Doug Bell with Pennington, Moore, Wilkinson, Bell and Dunbar, P.A. in Tallahassee, was hired as the City's lobbyist. He noted he provided information regarding a firm that did federal lobbying; however, he did not consider federal lobbying appropriate at this time. Mr. Turner stated it may need to be considered in a few years as the City attempts to obtain funds relative to the interchange modifications.

Mayor Costello reported Mr. Turner indicated to him that the City could not have made the accomplishments it had without the assistance of a lobbyist. He noted that as administrations change, lobbyists come into or went out of favor; and this must be considered, and a different firm may be needed in the future. Mayor Costello clarified he had nothing but praise for the Bell's and what they have done for the City, but eventually the City may need to consider the benefits of the various lobbyists available.

Mr. Turner stated it was important to continue to have assistance with lobbying efforts at the State level. He noted staff did make efforts to contact legislative staff members at the State level, but the lobbyists' efforts were also needed to obtain resources for Ormond Beach.

Commissioner Partington stated this was a Republican firm with a Republican governor; however, the Governor did not "play politics" when making final decisions. He noted the difficulty was to pass the request through the legislature to actually make it to the Governor for a final decision. Commissioner Partington stated Doug and Sam Bell have built a relationship with the legislators as well as their staffs. He noted this City could not be better represented, and he hoped to continue with this representation.

Commissioner Kent noted Commissioner Partington spent quite a bit of time and effort in Tallahassee and Washington D.C.; therefore, he valued his opinion on this issue. He noted the City did not need representation in Washington as long as it had Mr. Turner to lead the charge.

Commissioner Boyle echoed the comments made by his fellow Commission members that this firm had served the City very well. He stated the return on investment of hiring this firm to date has been exponential.

Mayor Costello stated he did not want to approve this firm merely because they have ties to Ormond Beach. He noted he did not want Ormond Beach to be lacking in any way in the City's lobbying effort. Mayor Costello noted the City has been frustrated due to Governor Bush's vetoes, but would keep working for its goals. He reiterated that this firm had done an outstanding job.

Item #12(B) and #12(C) - Ormond Beach Sports Complex Master Plan Update/Phase I Alternatives

Mr. Turner stated he had provided alternatives to the \$17 million master plan. He noted this was certainly not the last opportunity the Commission would have to consider this issue. Mr. Turner commended Ms. Sloane, City staff, and the consultant for leading the effort to provide alternatives.

Ms. Judy Sloane, Public Works Director/City Engineer, asked for input on this draft so it could be finalized, brought back for approval, and ultimately placed in the Capital Improvements Program to accomplish one of the Phase 1 alternatives. She introduced the consultant Mr. Gary Warner of Glatting Jackson.

Mr. Gary Warner, Glatting Jackson (GJK), stated GJK first did a master plan for the sports complex in 1998, and they were recently asked to update that master plan. He displayed drawings of the current sports complex. Mr. Warner noted the fields were in great condition, but parking was disorganized and not very efficient, the roads were unpaved, there was a septic system rather than a sanitary sewer system, flooding was a problem, and the irrigation system was not functioning as efficiently as it could. He noted the Recreation Advisory Board and staff provided direction as to what type of improvements were anticipated, and one of the more expensive items was a community recreation building with a larger gymnasium with two full-sized basketball courts and four volleyball courts along with classroom space and office space. Mr. Warner reported there was a demand for a multipurpose field, girls' softball fields, a championship field with spectator seating for 1,200 to 1,500 spectators, seating for girls' softball, organized parking, better vehicular circulation, a new park entrance, stormwater improvements, and irrigation improvements. He stated his firm considered what was currently on the site and pointed out transitional wetlands by the airport. Mr. Warner stated the control tower and radar for the airport had to be taken into account in determining how facilities could be placed on the site.

Mr. Warner explained three concepts were developed and were taken to the Recreation Advisory Board where they recommended a fourth concept. He stated the Recreation Advisory Board recommended changing the name of the park to reflect its change to a community park with the addition of the extra elements. Mr. Warner reported the recreation building would make an attractive addition off Harmony Road, and it would become the main entrance to the park. He stated this would include playground areas, plaza areas for special events, a multipurpose field, parking for the multipurpose center and for the community center, and access and parking for the soccer fields. Mr. Warner pointed out that the championship field would include aluminum bleachers for 1,200 to 1,500 spectators under a covered roof and a concession building under the bleachers with restrooms and meeting rooms. He noted the goal was to improve vehicle circulation, placing the roads on the outside of the park and connecting with Hull Road, and all pedestrian access would be on the inside of the park. Mr. Warner stated a concept to tie the park together was to construct a promenade to run from the north to the south portions of the park. He recommended a "Plaza of Champions" to include new concession buildings with restrooms and meeting rooms and surrounding it would be an interactive water feature. Mr. Warner pointed out the area of the existing baseball fields and recommended improved parking off Hull Road with a grass berm, tying the two retention areas together for better drainage and irrigation, and removing the septic system. He stated there would be a playground on the edge of the lake, new T-ball fields, two of the four 300-foot softball fields would be changed into two 200-foot fields for the girls, and the softball field would be flipped to provide stadium seating behind it to turn it into the championship softball field. Mr. Warner noted the maintenance building would remain unchanged, and the plan would provide separate parking for tower employees.

Mr. Warner stated this would be a \$17.5 million project to do all of the aforementioned, but it could easily be phased in over the next five or more years. He reported in that the Pop Warner football program was a priority, he showed four possible concepts. Mr. Warner noted the first concept, Option A, would produce what was in the master plan providing the Bermuda grass

multipurpose field, parking, a portion of the new entrance way, retention, building the entry road, and the championship field with the seating and concession building in the first phase. He noted Recreation Impact fees would be able to be used. Mr. Warner stated this would have a cost of \$2.6 million.

Mr. Warner reported the next alternative, Option B, would be to keep the multipurpose field in the same location, although it would be with Bahia grass that would not be irrigated, culverting the channel, grass or stabilized gravel parking with an asphalt travel lane, complete entry road, and install the bleachers with the concession building to follow in a different phase. He reported the concession building alone would cost nearly \$1 million and the bleachers would cost \$250,000. Mr. Warner noted this concept cost would be \$1.4 million.

Mr. Warner explained Concept C would keep the multipurpose field. He reported the same parking and entrance would remain, but the road would stop at the bleacher area. Mr. Warner noted the new entrance would join the current dirt road transitioning from asphalt to dirt road. He stated the plan was to culvert the channel, have a Bahia grass playing field with no irrigation, and grass parking. Mr. Warner noted this concept would cost \$925,000.

Mr. Warner noted the last concept would not follow the master plan and all of the efforts would be concentrated on the northern 17 acre area with a Bahia grass multipurpose field that would not be irrigated, entrance and parking area for 120 spaces on grass with an asphalt travel lane, and a dry retention pond off Hull Road. He noted this concept would cost \$355,000.

Mayor Costello stated the Commission needed to decide whether staff should bring the master plan back, approve it, or adjust it, and they also needed to select which option the Commission would favor for Phase 1. He reported the Recreation Advisory Board recommended the master plan be approved and noted that they have worked very hard on this issue.

Commissioner Partington stated this master plan was a great plan, but he considered the airport to be the wrong place for this and recommended staff work with Ormond Crossings to find a better location to do this plan and fund it with a bond referendum or a combination of a bond referendum and impact fees. He reported he would consider this property better used as airport property. Commissioner Partington pointed out there were limitations on what could be done on this land because of the airport. He questioned why this had to be a community park. Commissioner Partington recommended having a separate community building and a sports complex, which may provide more opportunities for more people across the community to participate in the various activities rather than centralizing them all in one location. Commissioner Partington noted he would favor Option D to complete the project as quickly as possible. He reported he anticipated seeing how the school board would cooperate with the City. Commissioner Partington noted when the school board went to the new middle school system, they created the need for Pop Warner and took away many of the activities children were involved in through the middle school system as a feeder system for the high schools, but they have not come up with the money to replace those activities and forced the City to make provisions. Commissioner Partington reported funding was a huge concern. He stated he was not comfortable accepting this plan at this point.

Commissioner Kelley expressed concern regarding squeezing so much into a small area due to the airport constraints; therefore, the park would not operate to the best needs of the people. He concurred that upgrading the facilities was necessary. Commissioner Kelley stated there was too much planned for this constrained area at too great a cost. He expressed his main concerns were for safety and lack of finished product. Commissioner Kelley stated the flooding had to be corrected, and a facility must be provided for Pop Warner football. He noted the school board had indicated they would provide funding for Pop Warner, but he questioned how this complete project could be funded.

Commissioner Kent stated the Commission must decide where this recreation area should be located. He questioned if this was the proper location considering its proximity to the airport. Commissioner Kent expressed concern for the children accessing the park in that they would not be riding bikes to this or to the Ormond Crossings location. He stated should this location be selected, he urged this be done right and opted for Option B; but should this not be the ultimate location, he would recommend Option D.

Commissioner Boyle stated this plan had an ambitious design, and he agreed there was a great deal being placed on this land. He recommended a joint meeting with the Recreation Advisory Board to determine their greatest priority. Commissioner Boyle stated that \$17 million of today's dollars could be \$30 to \$40 million in 20 years. He expressed concern regarding maintenance costs. Commissioner Boyle pointed out that there were portions of the plan the Commission

could embrace, but the joint meeting could help determine which elements needed to be done immediately to meet the recreation needs of this City.

Mayor Costello stated this was an outstanding plan, but it was a long-range vision. He noted the Recreation Advisory Board had indicated this was what they recommended. Mayor Costello noted he favored many activities occurring in the same area, allowing different family members to utilize different portions of the park at the same time. He cautioned the cost of moving existing facilities may be very high.

Mr. Warner stated a new baseball field would cost \$175,000. He noted cost would depend upon what was being demolished and rebuilt.

Mayor Costello noted he was listening to the Recreation Advisory Board recommendation, but he was personally not concerned should this be built on this location or in the Ormond Crossings area. He reiterated he favored the concept of all the activities together. Mayor Costello summarized the Commission was not ready to accept the master plan tonight, and a joint meeting may be advisable. Mayor Costello asked how much the cost would increase for Bermuda grass as opposed to Bahia grass with irrigation in Option B. He stated the City could use impact fees and funds from the school board since they have made public commitments that they would be involved with the City's recreation needs. Mayor Costello noted the \$1.4 million plus grass and irrigation would answer the safety issue and Pop Warner issue, but nothing could be done until the Commission made a decision that it would keep a community sports park in this location.

Commissioner Kelley noted he was convinced the City needed a sports complex, but not that this area could meet the needs of an expanded community facility. He stated the last master plan had such a great expense that nothing other than building a softball quad and shuffleboard courts was accomplished. Commissioner Kelley reported something needed to be done to bring the facilities up to a level where the safety was improved, but he was not convinced all of the extra items were needed. He recommended Plan B. Commissioner Kelley stated Bahia did not work and concurred that using the Bermuda grass with the irrigation would be preferred.

Mayor Costello stated this would fit with the Master Plan while providing the safety and the ability to obtain the needed fields and the championship stadium without the concession stand. He noted should the park not have the promenade and other amenities that would be acceptable, but should a future Commission wish to add those amenities in 20 years that could be done.

Commissioner Kelley agreed to meet with the Recreation Advisory Board and propose the aforementioned scenario to obtain their input on that recommendation.

Mayor Costello asked when the next Recreation Advisory Board meeting was scheduled, and he was informed that the next meeting was scheduled for the second Wednesday in September. He asked if there was sufficient time to advertise a joint meeting.

Mr. Turner requested allowing staff to coordinate a joint meeting. He noted it may be necessary to schedule a special meeting. Mr. Turner stated he understood the need to expedite the meeting since the Pop Warner fields would be needed shortly.

Commissioner Kent stated the Commission may decide this was the best location, and should that be the case, he was prepared to move on this with Plan B, using the Bermuda grass. He concurred with Mayor Costello in that he favored many activities in the same area.

Mayor Costello stated basketball courts were needed. He summarized that at least three Commission members favored Plan B with Bermuda grass and irrigation if they decided this was the proper location.

Mr. Turner stated staff was in the negotiation and discussion stages with Tomoka Holdings, but the City would be gaining a substantial amount of land.

Mr. Warner stated the difference between the Bermuda and Bahia grass would add \$90,000 to \$100,000, and the irrigation would cost another \$75,000. He pointed out this plan was not adding many new elements to the park, and there was sufficient room. Mr. Warner pointed out this was a long-range plan to fit the City's growing demands.

Item #12(D) - Airport Lease Assignments

Commissioner Kelley questioned who the damaged parties were relative to the golf course situation. He noted he discovered that Ormond Airport Hangars, Inc., had voluntarily dissolved their corporation in March, and if they were not a corporation, they would not be a corporation for which the City had a lease. Commissioner Kelley reported they had also formed an additional corporation where they sought to transfer a for-profit company to a not-for-profit company. He stated this company operated without insurance, and the City had some liability. Commissioner Kelley urged the City to learn from this instance, the importance of being vigilant that the corporations have the necessary insurance and those corporations are filing. He noted this would be the only entity where the City had a lease with a non-profit entity. Commissioner Kelley asked why this corporation made this change.

Mr. Tom Lipps, Support Services Director/Airport Manager, stated that in a condominium situation the original corporation was for profit for the development of the property, and the intention was to transfer the assets to a not-for-profit, which had advantages for condominiums. He reported the City had a lease with Ormond Airport Hangars, Inc., which was a valid relationship with a valid corporation. Mr. Lipps noted if a transfer were requested at a future date, it could be processed; but the situation was currently appropriate. He explained it was discovered that there was an issue with a third entity that had to be resolved. Mr. Lipps stated staff would review all corporate filings annually to assure such an incident would not continue longer than one year.

Commissioner Kelley stated bringing this forward was helpful and noted that had this occurred with Sunrise Aviation, there would have been a huge outcry by some. He noted what was done was not correct and would hopefully be corrected.

Item #12(E) - Fire/EMS Automatic Aid with Volusia County

Fire Chief Barry Baker requested permission to discuss the Fire/EMS Automatic Aid with Volusia County in that he believed it would be to the City's advantage to do so at this time. He asked for any input or direction regarding those discussions.

Commissioner Kent urged Chief Baker to proceed and try to obtain the best deal possible for Ormond Beach.

Chief Baker noted anything discussed would be brought back to the Commission for approval.

Commissioner Boyle concurred that Chief Baker should enter into these discussions. He noted that the County had made little progress in raising their level of service, and he would have more comfort if the value of the County's aid to Ormond Beach citizens was even close to the value of Ormond Beach aid to County residents. Commissioner Boyle urged Chief Baker to discover what plan the County would have to improve the level of service.

Mayor Costello noted the consensus was to proceed with the discussions. He thanked Mr. Turner for asking Chief Baker to come to the Commission asking about this issue rather than proceeding without Commission approval. Mayor Costello stated 80% of the time the County had the same level of service Ormond Beach had. He pointed out his most important issue was the safety of Ormond Beach citizens, which would mean automatic aid regardless of the level of service.

Item #13 - Reports, Suggestions, Requests

Beach Access

Commissioner Kelley explained he was not as concerned about heights being limited to 75-feet as he was in having beach access. He stated he has fought for beach access for many years.

Tortoise Burrows

Commissioner Kelley thanked Mr. Adrian Thompson for the photographs that showed the marking of the gopher tortoise burrows because it saved the City money.

Florida League of Cities Meeting

Commissioner Kelley stated Mr. Turner would be leaving tomorrow for the Florida League of Cities meeting. He reported he would also be attending the meeting representing Ormond Beach. Commissioner Kelley expressed concern regarding certain issues such as eminent domain. He assured the Commission he would vote as he believed the majority of the Commission would want him to vote in that he was representing the Commission.

Congratulation Chief Baker

Commissioner Kelley and Commissioner Partington congratulated Chief Baker for the honor of being selected State of Florida Fire Chief of the year.

Accolades

Commissioner Partington thanked Clay Ervin, Planning Director, and staff for their achievements.

STORM Pack

Commissioner Partington expressed concern regarding the utilization of staff time responding to frivolous issues put forth by the STORM pack. He stated staff would need to address any public records request, but he urged staff not to be forced to deal with multiple questions every day requiring weeks of staff time dedicated to one individual who has already cost the City a great deal of money in staff time and attorneys' fees on frivolous issues.

Fire/EMS Automatic Aid with Volusia County

Commissioner Boyle stated he was concerned about the level of training, as he was uncertain the County had personnel with Advanced Life Support training.

US1 Reconstruction

Commissioner Boyle stated day after day it seemed no one was working on the US1 reconstruction project. He reported people risk damage to their cars making the right turn at Classic Car Wash from US1 on to Granada Boulevard.

Beach Access

Commissioner Boyle advised he had stated at the 2000 goal setting session that he recommended sending the County a bill for beach access.

Straw Ballot

Commissioner Boyle stated Mayor Costello's idea for a straw ballot was sincere. He reported in 1999 the two year-terms replaced the four-year terms through a ballot question as opposed to a straw ballot, and six years later this four-year term issue was again being considered.

Commission Meetings

Commissioner Boyle commended Mayor Costello for the way he ran the meetings and for his decisions. He noted he would support Mayor Costello in any call he would make.

Vacating a Portion of Fluhart Avenue

Commissioner Kent expressed appreciation to the Commission for not seconding Item No. 9(l) regarding vacating a portion of Fluhart Avenue. He stated Mr. Roger Kelly, a Zone 2 constituent, informed him of his concerns about this Fluhart Avenue easement, raising good questions. Commissioner Kent thanked Mr. Turner and Mr. MacLeod for spending time with him explaining this issue. He noted this would give away a large portion of riverfront property and recommended the possibility of building a small pocket park. Commissioner Kent pointed out that the pocket park at Ormond Parkway was used by a great number of people, and he requested a trash receptacle be placed in this area. Commissioner Kent noted concern that should the Commission approve this motion, it would set a precedent.

Ormond Main Street

Commissioner Kent provided a list of 29-30 items that were being worked on by Ormond Main Street along with the City's redevelopment program in the TIF district.

Coffee with the Commissioner

Commissioner Kent stated it would be impossible to continue to hold his "Coffee with the Commissioner" meetings at his home in the next two months since he would be working on adding an addition to his home. He reported he would speak to Ms. Sue Parkerson and request the meetings be held at her home.

Congratulating Staff

Commissioner Kent congratulated Chief Baker and Mr. Ervin for their achievements and commended staff for providing the banners of congratulations.

Summer Wardrobe

Commissioner Kent recommended extending the use of the summer wardrobe to the first meeting in November.

Historic Tree

Commissioner Kent explained the reason he voted in opposition to the removal of the second historic tree was because he did not consider the tree to be in a bad enough position that it had to come down.

Thanking Staff

Commissioner Kent thanked Mr. David Abee for stepping up as Acting Leisure Services Director. He thanked Ms. Kelly McGuire, Budget Director, for the tax information she provided.

School Board

Commissioner Kent stated Mr. Turner set up meeting with the school board regarding Osceola Elementary School, and he requested to be present to obtain a clearer understanding of what Ormond Beach was to be doing at the Osceola Elementary School and what the school board would be doing for Ormond Beach. He noted since Ormond Beach was paying money into the park, the citizens should be able to use it, and the gates should not be locked.

Airport Road

Commissioner Kent stated that in the morning, Airport Road was extremely dangerous as people were walking east on the edge of the road with no sidewalk, making cars swerve to avoid hitting them. He asked staff to investigate this situation.

Commission Chairs

Commissioner Kent asked if the Commission chairs could be reupholstered, cleaned, or new chairs purchased.

Police Accreditation

Mr. Turner stated he would be attending the Florida League of Cities meeting, and while he was in Orlando, he planned to meet with the staff from the police accreditation group to discuss expanding their role.

Fire/EMS Automatic Aid with Volusia County

Mr. Turner reported that relative to a contract for Fire/EMS Automatic Aid with Volusia County, Ormond Beach found itself in a situation where Ormond Beach resources were being sent into the County, which caused concern if there would be an emergency within the City limits. He noted improvements had been made.

Recreation Advisory Board Meeting

Mr. Turner reported he, Ms. Sloane, and Mr. Abee attended a Recreation Advisory Board meeting last week. He stated steps have been taken to enhance communication with that board. Mr. Turner noted staff would arrange for a joint meeting with the Recreation Advisory Board and the City Commission to proceed with the master plan discussions.

Thanking Staff

Mr. Turner thanked staff for their support in making this extensive agenda happen.

Osceola Elementary School

Mayor Costello stated he was hopeful that an agreement with Osceola Elementary School would be incorporated into all of the schools. He urged gaining opportunities for all of the residents and noted these facilities needed to be used. Mayor Costello stressed the need to have agreements to use these facilities.

Four-Year Terms with Term Limits

Mayor Costello challenged Commissioner Boyle that when even he discussed four-year terms being voted down to also mention term limits were also removed with that vote. He pointed out that he knew as many people opposed to the term limits as were opposed to the four-year terms.

Beach Access

Mayor Costello reported he was not comfortable with the way he handled the beach issue because the audience was here to respond to Commissioner Boyle's request to add the 75-foot height limit question on the ballot. He noted those in favor of the height limit were aware of the request and attended, but those opposed were not aware of Commissioner Boyle's request in that it was not advertised, so they did not attend. Mayor Costello stated he should not have allowed any discussion on the matter. He assured the public that each Commission member cared equally about the beach. Mayor Costello pointed out that Ormond Beach had no permanent public parking, and the beach was closed frequently due to soft sand. He noted some consider the seven-story height limit as paramount. Mayor Costello reported he was told that he favored tall buildings to bring more tax revenue into the City; however, tax revenue was

not his concern in this instance, but he was concerned with open space. He pointed out that a developer would not be granted one additional foot for only 15 feet. Mayor Costello urged people not to ascribe motives that are not accurate, such as that certain Commission members were in favor of big developers. He stated the Commission was either for a seven-story height limit or a transfer of development rights to gain open space. Mayor Costello explained he favored beach driving because of beach parking and emphasized that this was not a means to remove cars from the beach or turn the beach private. He noted staff was directed to start the process to go through the Planning Board for Land Development Code and Comprehensive Plan amendments. Mayor Costello noted these issues would be advertised so people on all sides of the issue could speak.

Wireless Internet Access

Mr. Turner stated he, Mayor Costello, and Information Systems Manager Ned Huhta met with people, including the Mayor of St. Cloud, relative to wireless internet access throughout the City. He reported this would come to the Commission shortly with a consulting group making a presentation.

Item #12 – Close the Meeting

The meeting was adjourned at 11:41 p.m.

APPROVED: _____ September 6, 2005 _____

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk