

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

**February 3, 2004**

**7:00 p.m.**

Present were: Mayor Fred Costello, Commissioners Jeff Boyle, Troy Kent, Scott Selis, 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 Rabbi David Kane, Congregation Bnai Torah.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the January 20, 2004, meeting.
- 5) **PRESENTATIONS:**
  - A) Employee-of-the-Quarter Award to Marty Hayes.
  - B) Presentation of Plaque to Jane Robinson for service on the Historic Landmark Preservation Board.
  - C) Presentation of "HOMe for the HOLIDAYS" President's Cup award.
  - D) Recognition of Community Emergency Response Team member graduates.
- 6) **AUDIENCE REMARKS:**
- 7) **INTERGOVERNMENTAL BOARD REPORTS:**
  - A) Metropolitan Planning Organization
  - B) Volusia Council of Governments
  - C) Water Authority of Volusia
- 8) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
  - A) Resolution No. 2004-40 appointing Mary Ellen Speidel as a member to serve on the Quality of Life Advisory Board; setting forth term and conditions of service.
  - B) Resolution No. 2004-41 of the City of Ormond Beach, urging members of the Florida Legislature to support municipal issues during the 2004 legislative session.
  - C) Resolution No. 2004-42 declaring various items of City property to be "surplus property"; authorizing the sale of such property by competitive sealed bids or public auction; directing the deposit of proceeds derived from such sale.
- 9) **PUBLIC HEARING** on Ordinance No. 2004-01 amending Section 2-220, Aviation Advisory Board, of Article VI, Boards, Commissions, Committees and Other Agencies, of Chapter 2, Administration, of the *Code of Ordinances*, by changing the board membership from seven to five members; providing criteria for the appointment of board members; providing terms and conditions. (Second Reading)
- 10) **FIRST READING OF ORDINANCE** No. 2004-02 amending Section 2-205, Consideration of Conflict Prior to Appointment, of Article VI, Boards, Commissions, Committees and Other Agencies, of Chapter 2, Administration, of the *Code of Ordinances*, by providing that individuals may not serve on a City advisory board which regulates their business or their employer's business; providing that individuals may not serve on a City advisory board if their business or their employer's business has a contractual relationship with the City; allowing for a waiver from such prohibitions; and allowing individuals to serve on City advisory boards if they purchase in a private capacity goods or services at a price and upon terms available to similarly situated members of the general public from a business entity which is doing business with the City.

11) **DISCUSSION ITEMS:**

- A) Additional memberships to the Recreation Advisory Board and Historic Landmark Preservation Board.
- B) Appointment process to the City's advisory boards.
- C) Extension of utility lines to the Tuscany subdivision.
- D) FY 2004-05 budget calendar and process.
- E) River Grille development.
- F) Temporary parking during special events.
- G) Fire service to Volusia County properties in the Ormond Crossings area.
- H) Off-beach parking.
- I) Harley-Davidson site approval and permitting.
- J) Removal of oak trees around a Nova Road stormwater pond.

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

13) Close the meeting.

Item #1 - Call to Order

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

Item #2 - Invocation

The invocation was given by David Kane, Congregation Bnai Torah.

Item #3 - Pledge of Allegiance

Mayor Costello led the Pledge of Allegiance.

Item #4 – Approval of Minutes

Mayor Costello advised the minutes of the January 20, 2004, meeting had 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(A) – Employee-of-the-Quarter

Mr. Isaac Turner, City Manager, announced Mr. Marty Hayes began his career with the City in 1984 as a Utility Service Helper I in the Wastewater Section of the Utilities Division and has advanced to his current position of System Maintenance Foreman. He stated Mr. Hayes was responsible for the day-to-day activities as they relate to the low pressure sewer and irrigation systems in Breakaway Trails, Hunter's Ridge, Saddler's Run, and Tymber Crossings subdivisions. Mr. Turner advised Mr. Hayes leads by example and was truly an asset to the Utilities Division.

Mayor Costello congratulated Mr. Hayes and presented him with two plaques to be placed on display at City Hall honoring him as the Employee-of-the-Quarter, along with a watch with the City seal on its face.

Item #5(B) – Plaque Honoring Jane Robinson

Mayor Costello presented Ms. Jane Robinson with a plaque honoring her for her many years of service on the Historic Landmark Preservation Board.

Commissioner Selis advised when he discovered his appointment to the Historic Landmark Preservation Board could not serve due to illness, he nominated Ms. Robinson to that board.

Item #5(C) – “HOMe for the HOLIDAYS” President’s Cup

Mr. Brian Daly presented the “President’s Cup” award to the Good News Puppeteers from the Center Calvary Christian for their float in the HOMe for the HOLIDAYS parade. He noted the President’s Cup was sponsored by the Chamber of Commerce and would be passed on to the winner each year.

Item #5(D) – Community Emergency Response Team Member Graduates

Fire Chief Barry Baker introduced the graduates of the Community Emergency Response Team (CERT). He reported this program was funded by FEMA. Chief Baker stated these individuals had completed a three-month training course and a practical exercise. He advised these graduates would assist in managing utilities and putting out small fires, provide basic medical aid, search for and rescue victims safely, and organize spontaneous volunteers. Commissioner Boyle introduced the CERT leader, Captain Ron Chamberlain.

Presentation from Stanley Museum

Ms. Susan Davis, president and CEO of the Stanley Museum, presented the City with a poster of a painting of a Model K Stanley Steamer, which set the land speed record in 1904, one of the most significant records. She advised this painting would be reproduced on the cover of a book coming out this spring.

County Councilman Joe Jaynes advised this helped to commemorate Ormond Beach’s rich heritage.

Mr. Dan Smith advised seven world records were set on the beach in Ormond Beach. He presented the Commission with a book of pictures and text.

Mayor Costello reported the cup awarded 100 years ago in Ormond Beach, won by William K. Vanderbilt, was on display at the Vanderbilt Museum.

Item #6 - Audience Remarks

Trails Redevelopment

Mr. Richard Jaffe, 300 North Nova Road, requested permission to address the Commission at the end of the meeting; whereby, Mayor Costello advised he would call Mr. Jaffe to the podium at the end of the meeting.

Educating Children

Reverend Jesse Cotton, 528 Fred Gamble Way, expressed concern relative to children’s education. He recommended urging youth to obtain library cards and to read.

Mayor Costello’s Mother’s Memorial Service

Reverend Jesse Cotton reported he attended Mayor Costello’s mother’s memorial service where many genuine tributes were paid.

Mayor Costello thanked everyone for their expressions of sympathy in the form of cards, prayers, and phone calls.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello advised the MPO updated their vision statement as follows: “Our future regional transportation system will be an integrated multimodal network that includes safe and efficient roadways, commuter rail, air service, improved bus service, and is supportive of a bicycle and pedestrian network. These systems will provide for economic development that will allow for an effective movement of people, goods, and services.”

Mayor Costello noted he spoke to Mr. Mike Snyder relative to bike paths on SR40 by Tymber Creek Road, and a report would be provided.

Item #7(B) – Volusia Council of Governments

Mayor Costello reported the Volusia Council of Governments (VCOG) was aware of some of the discussions Ormond Beach has had with Volusia County. He advised VCOG may be a better forum for such discussions.

Item #7(C) – Water Authority of Volusia

Commissioner Boyle advised the Water Authority of Volusia (WAV) discussed a request for proposal (RFP) for consultants to assist in writing a master facilities plan at a cost of approximately \$1 to \$1.5 million. He stated WAV was already offered \$.5 million in funding, and there was reason to believe another \$.5 million would be offered in the subsequent year. Commissioner Boyle advised the vote was 12 to three to go forward to set up a process for selecting a consultant. He reported he voted for this motion. Commissioner Boyle advised a workshop was scheduled for tomorrow at 3:30 p.m. to discuss interlocal agreement amendments and the masters facilities plan consultant election process.

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.

Commissioner Kent requested Item No. 8(C) be discussed separately.

**Commissioner Selis moved, seconded by Commissioner Partington, for approval of the Consent Agenda, minus Item #8(C).**

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

Item #8(C) – Sale of Surplus Property

RESOLUTION NO. 2004-42  
 A RESOLUTION DECLARING VARIOUS ITEMS OF CITY PROPERTY TO BE "SURPLUS PROPERTY"; AUTHORIZING THE SALE OF SUCH PROPERTY BY COMPETITIVE SEALED BIDS OR PUBLIC AUCTION; DIRECTING THE DEPOSIT OF PROCEEDS DERIVED FROM SUCH SALE; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kent moved, seconded by Commissioner Selis, to approve Resolution No. 2004-42 as read by title only.**

Commissioner Kent advised the report indicated that the proceeds of the sale for surplus property would be delivered to the Finance Director for deposit to the funds utilized to purchase the prospective items. He asked if there was an estimate of how much money this sale could generate for the City.

Mr. Isaac Turner, City Manager, advised he would provide a report tomorrow of how much was generated last year; however, it was not known how much would be generated this year.

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

Item #9 - Aviation Advisory Board

ORDINANCE NO. 2004-01  
 AN ORDINANCE AMENDING SECTION 2-220, AVIATION ADVISORY BOARD, OF ARTICLE VI, BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES, BY CHANGING THE BOARD MEMBERSHIP FROM SEVEN TO FIVE MEMBERS; PROVIDING CRITERIA FOR THE APPOINTMENT OF BOARD MEMBERS; PROVIDING TERMS AND CONDITIONS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Partington, to approve Ordinance No. 2004-01, on second reading, as read by title only.**

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

Mayor Costello reported the City Clerk had advised him both Commissioner Boyle and Commissioner Partington have made a nomination for the same person to this board.

Commissioner Partington advised he would be happy to appoint someone else to the board before the next meeting.

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

Item #10 – City Advisory Board Membership

ORDINANCE NO. 2004-02

AN ORDINANCE AMENDING SECTION 2-205, CONSIDERATION OF CONFLICT PRIOR TO APPOINTMENT, OF ARTICLE VI, BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES, BY PROVIDING THAT INDIVIDUALS MAY NOT SERVE ON A CITY ADVISORY BOARD WHICH REGULATES THEIR BUSINESS OR THEIR EMPLOYER'S BUSINESS; PROVIDING THAT INDIVIDUALS MAY NOT SERVE ON A CITY ADVISORY BOARD IF THEIR BUSINESS OR THEIR EMPLOYER'S BUSINESS HAS A CONTRACTUAL RELATIONSHIP WITH THE CITY; ALLOWING FOR A WAIVER FROM SUCH PROHIBITIONS; AND ALLOWING INDIVIDUALS TO SERVE ON CITY ADVISORY BOARDS IF THEY PURCHASE IN A PRIVATE CAPACITY GOODS OR SERVICES AT A PRICE AND UPON TERMS AVAILABLE TO SIMILARLY SITUATED MEMBERS OF THE GENERAL PUBLIC FROM A BUSINESS ENTITY WHICH IS DOING BUSINESS WITH THE CITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Boyle moved, seconded by Commissioner Partington, to approve Ordinance No. 2004-02, on first reading, as read by title only.**

Commissioner Selis reported subsection (b) and (c) specified exclusions and questioned if this would exclude a subcontractor from being appointed to the Aviation Advisory Board. He stated the City Attorney advised him it was not the intent to exclude a subcontractor; therefore, he recommended an amendment to subsection (b) as follows: “An individual may not be appointed to an advisory board which regulates their business or their employer’s business, but that this provision does not apply to subcontractors.” Commissioner Selis requested subparagraph (c) also contain this amendment

Mr. Randal Hayes, City Attorney, advised this would be acceptable as long as the subcontractor did not have a contract with the City as well.

**Mayor Costello advised Commissioner Boyle and Commissioner Partington concurred with Commissioner Selis’ recommendation; therefore, this amendment would be considered as part of the main motion.**

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

Mr. Hayes advised the motion had been approved as amended.

Item #11(A) – Recreation Advisory Board and Historic Landmark Preservation Board Membership

**Mayor Costello explained the recommendation was to add one appointment to be filled by a representative of the Ormond Beach Historical Trust and one representative of the Casements Guild to be members of the Historic Landmark Preservation Board.**

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

Commissioner Boyle clarified the City Commission would not select the representatives to serve on the Historic Landmark Preservation Board for these two positions; the Ormond Beach Historical Trust and the Casements Guild would select who would serve as their representatives.

Mayor Costello explained his recommendation was to add one position on the Recreation Advisory Board to be a representative selected by Pop Warner. He noted he would then transfer his appointee to that slot and would make Harry Wendelstedt his appointment.

**Commissioner Selis moved, seconded by Commissioner Kent, to expand the Recreation Advisory Board by one position, which would be a designated position for Pop Warner.**

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

Mr. Hayes advised staff would need to amend the ordinance to create a position for Pop Warner’s designee.

Mayor Costello reported since Mr. Rick Boehm was his designee with a two-year term, he would need to resign and then he would appoint Mr. Wendelstedt to the board.

Item #11(B) – Appointment Process to the City’s Advisory Boards

Commissioner Boyle stated that staff has summarized some of the suggestions he had made, and unless the Commission would like to amend them, he was ready to approve staff recommendations.

Commissioner Kent commended Commissioner Boyle for his leadership in this matter. He questioned the second bullet point recommending Commissioners personally call or write any board member whose services were no longer required. Commissioner Kent cautioned this call may turn confrontational and suggested staff make the phone call.

Mayor Costello concurred the Commissioner calling may not be the best method of informing people their services would no longer be needed. He advised he would amend the first bullet as follows: “After the election, staff should send a letter to each board member asking if that member wished to continue service and suggesting they contact all Commissioners and the Mayor.” Mayor Costello stated each Commissioner was encouraged to appoint within their zone; however, that was not mandatory. He recommended the board members be proactive by letting the Commission known they would be interested in serving rather than the Commission contacting the board members. Mayor Costello advised that if the people who were not reappointed had contacted him, it would have made a difference to him. He reported that because so many people did contact him, he inaccurately assumed those who did not contact him were not interested in being reappointed.

Mr. Hayes expressed concern relative to a citizen speaking to numerous Commissioners and advised the same purpose could be accomplished by staff sending a letter asking the board member to contact the City Clerk they wished to continue to serve. He stated a list could then be compiled of interested board members.

Mayor Costello advised this method would be acceptable, noting his point was that the board members should not only contact the Commission member who appointed them, but the entire

Commission should be aware of their interest since any Commission member could appoint them.

Commissioner Boyle reported he concurred with all of the aforementioned refinements. He noted the communication to board members and the list may remove the need for the first bulleted item providing Commissioner Kent with a higher level of comfort.

Mayor Costello stated he did not have a strong opinion on whether to provide names before the meeting or at the meeting. He advised that the consensus was to submit the names at the meeting. Mayor Costello requested the Mayor be permitted to submit his appointments after all of the Commissioner have submitted their appointments.

Commissioner Boyle recommended the meeting be held earlier, and suggested mid-December. He advised he preferred to work off of the list of existing board members rather than creating a new list as was done this year.

Mayor Costello urged the Commission to work instead from the list of people who would indicate an interest and the names of those generated by the members of the Commission; whereby, Commissioner Boyle advised that would be acceptable.

#### Item #11(C) – Extension of Utility Lines to the Tuscany Subdivision

Ms. Judy Sloane, Public Works Director/City Engineer, stated the City requested a 10-inch force main be constructed from this 53-unit subdivision south of Breakaway Trails to Interchange Boulevard. She advised the City would benefit not only from possessing a relief valve for the Breakaway Trails and Indian Springs low pressure sewer system, but it would also provide a relief force main for Airport Road. Ms. Sloane stated that due to the regional benefits in an area that was currently under-serviced by sewer, staff was recommending the City cost participate with the developer to install the line. She reported the staff report recommended splitting the project into two categories. Ms. Sloane explained one category would be for a Capital Improvements Project (CIP) project from Tymber Creek Road to Interchange Boulevard where the City would pay for construction and pay for the common elements on the Tuscany site that would be used to support the regional nature, specifically the pump station, interconnection of the low pressure sewer, and engineering costs. She reported the first alternative references the difference between a four-inch line required to serve the subdivision and the 10-inch line the City was requesting be included in an impact fee reimbursement agreement. Ms. Sloane advised the upfront cost would be \$316,000 that the developer would pay along with \$89,500 for the four-inch force main that would not be reimbursable. She explained the second alternative would include the \$89,500 as being impact fee reimbursable. Ms. Sloane advised the developer's consultant had provided a third option that calculated the difference in a pump station that would serve only the Tuscany development and the cost to serve the regional system equaling \$72,000. She noted this included the \$53,000 which was the difference between the four-inch and 10-inch force main from the development to Tymber Creek Road, and split the engineering services bringing the total cost to the City to \$463,500 and the cost to the developer up front at \$155,500 with an additional \$89,500 of non-reimbursable four-inch force main. Ms. Sloane reported the total developer cost would be \$245,000.

Commissioner Boyle advised that he had not received an e-mail that had been sent earlier explaining this issue. He disclosed, however, that he had a one-hour meeting with the applicant and was aware of the proposal, if not the actual figures; therefore, he was prepared to continue the discussion.

Ms. Sloane reported staff reviewed this proposal, and while it contained a different method of structuring the funding, it would be possible to permit under the code.

Mayor Costello questioned if any member of the Commission wished to speak against this proposal or had questions at this point.

Commissioner Selis expressed concern relative to the budget impact since it was not in the CIP. He stated while he would prefer to vote in favor of this since it seemed to be a fair deal, he did not want to have staff indicating money was available now, and then at the end of the process, the Commission be informed there would be insufficient funds and/or cuts would be needed. Commissioner Selis related concern that this project may take funding from currently existing projects.

Mr. Bob Bentkofsky, Budget Director, stated this would not impact the General Fund since it would be funded from the wastewater impact fees. He explained while this was not budgeted for this fiscal year, funds could be absorbed in the impact fee fund and would not affect future

projects in the wastewater impact fee. Mr. Bentkofsky clarified this expenditure was restricted to the wastewater impact fee fund.

Commissioner Boyle questioned how this would impact the projects not currently budgeted but established as Commission goals such as sewer service for properties in the City currently not served by sewer.

Mr. Bentkofsky reported this question would be difficult to answer in that no decision had been made relative to who would pay for extending sewer service.

Commissioner Boyle questioned that if the decision were made to have the City bear a greater responsibility than had been suggested by staff relative to extending service to Ormond Beach locations without sewer service, if this decision would impact that responsibility negatively.

Mayor Costello followed by asking if impact fees could be used to provide sewers to existing facilities.

Mr. Bentkofsky deferred to Ms. Sloane as to whether or not the extension of the sewer line could be paid by wastewater impact fees.

Commissioner Boyle stated if Commissioner Selis was satisfied with the staff response, the question of sewer service could be addressed another way.

Commissioner Selis reported he was satisfied with staff's answers, and while he was uncomfortable, he would not oppose this request.

Commissioner Kent disclosed he met with the applicant. He stated there was no doubt that relief must be given to the homeowners. Commissioner Kent reported funds were available, but there were other needs for the City as well. He noted he was not interested in any deals with developers, but developers should not be held responsible for the mistake Ormond Beach had made. Commissioner Kent reported that based on the information provided, he would support this project.

Mayor Costello reported that if the funds would be from any source other than impact fees, he may have concerns, but impact fees were designed to pay for new growth.

Commissioner Partington disclosed he also met with Mr. Viscomi.

**Commissioner Partington moved, seconded by Commissioner Boyle, to approve Option 3 as presented in the e-mail from the developer.**

Mr. Hayes advised staff would need to prepare an agreement to bring to the Commission for formal approval.

Commissioner Boyle reported this would facilitate more growth to the west, but what was important to him was that this would make the system better for the City's current residents.

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

Mr. Vince Viscomi, developer and owner of the property, publicly thanked the Commission and staff for working with him to create what was best not only for the public, but for the developer as well.

Mayor Costello reported he spoke to Mr. Viscomi approximately six months ago and Mr. Merrell recently, who advised that an e-mail was being sent with current figures.

Item #11(D) – FY 2004-05 Budget Calendar and Process

Mr. Bentkofsky reported staff's goal was for the Commission to consider that they have had sufficient involvement and understanding of the budget at the conclusion of this process and that they were able to influence the budget decisions. He advised staff would determine if the dates selected would be convenient for the Commission. Mr. Bentkofsky explained the first key date would be for the financial trends workshop scheduled for February 23<sup>rd</sup>, and a second day would be scheduled if necessary where a three-year projection would be provided with the focus

on the 2004-05 year. He reported the intent of this meeting would be to provide staff with policy direction. Mr. Bentkofsky stated February 25<sup>th</sup> was noted to review dedicated funding source options for Capital Improvement; however, that may not occur on that date since staff would be coming to the Commission relative to that issue at the February 17<sup>th</sup> City Commission meeting. He noted if no decision was made on February 17<sup>th</sup>, discussion could continue on February 25<sup>th</sup>.

Mr. Bentkofsky reported the next key date would be the week of March 22<sup>nd</sup> or March 29<sup>th</sup> for a series of workshops involving the review of current programs and services along with the costs to provide the services. He explained this was new to the budget process; however, he considered this important since some City Commission members have been through a number of budget cycles while others have not been through this process. Mr. Bentkofsky noted questions arose last July relative to the cost of providing services, and he hoped to avoid this occurring at the end of the process. He noted this process could also determine if the Commission wished to alter the services the City currently provides.

Mr. Bentkofsky advised the remaining calendar was somewhat standard. He noted on June 1<sup>st</sup> and July 6<sup>th</sup> staff would provide updates on the operating budget. Mr. Bentkofsky reported on June 1<sup>st</sup> the City would know what the taxable value would be from the property appraiser, and on July 1<sup>st</sup> he would submit a certification of the taxable value. He advised the first week in June was set aside for workshops to review the five-year CIP. Mr. Bentkofsky reported workshops would take place on July 26<sup>th</sup> and July 27<sup>th</sup> to set the tentative millage rate followed by the two public hearings in September.

Mayor Costello reported he strongly supported the recommendation for a review of services. He stated there was a VCOG board meeting on February 23<sup>rd</sup>; therefore, he could not attend the financial trends workshop on that date until perhaps 6:30 p.m. or 7:00 p.m. Mayor Costello advised the Planning Board joint workshop was scheduled for February 24<sup>th</sup>, but he was available for the February 25<sup>th</sup> meeting. The Mayor reported his schedule for the period of time suggested to hold additional workshops, noting he would be on vacation after the first meeting in June.

Commissioner Selis advised he needed to check his calendar to determine any conflicts.

Commissioner Boyle reported he had the same vacation conflict as Mayor Costello.

Commissioner Selis questioned if the workshop to review programs would be held in the training room; whereby, Mr. Bentkofsky reported he envisioned the workshops being held in the training room in an informal manner. Commissioner Selis recommended a mobile workshop be considered on days convenient to each Commission member in the mid or late afternoon, early morning, or lunch time where the Commission would go to the facilities to speak with the department heads, department managers, and staff members to let them know the Commission was available for the citizens and staff members as well.

Mayor Costello supported Commissioner Selis' recommendation; however, he stated he preferred one day be set aside for this purpose. He stated the meeting should be advertised, and staff should provide a bus or van large enough for the public to attend. Mayor Costello advised this way discussion could occur; however, no votes would be taken. He stated on the day after the tour, a meeting could be scheduled to fully discuss the issues.

Commissioner Boyle reported he had attended three tours with new Commissions to visit all of the City facilities; and while he was quite familiar with the facilities, he agreed three of the Commission members should tour the facilities. He stated the workshop and discussion of the money issues needed to be discussed in a public forum.

Commissioner Boyle asked when the labor contracts would be discussed; whereby, Mr. Bentkofsky explained the labor contracts would be discussed at the financial trends workshop at the beginning of the budget process.

Commissioner Kent expressed support for Commissioner Selis' recommendation and Mayor Costello's suggestion to take the entire day to visit all of the facilities.

Mr. Turner summarized the Commission was recommending a tour of City facilities, followed by a workshop to provide some direction to staff relative to the budget.

Commissioner Selis reported he considered the tour an opportunity to meet with the employees in the field; and while he understood Commissioner Boyle had already made this tour, he expressed hope that Commissioner Boyle would find it beneficial to participate since changes occur from year to year.

Mayor Costello requested Mr. Turner provide several options for days to take this tour on a weekday to be assured the employees would be working. He asked that enough notice be provided to allow him to clear his schedule.

Item #11(E) – River Grille Development

Mr. Clay Ervin, Planning Director, reported the River Grille restaurant was approved in April 2002 for a type “A” restaurant. He explained this discussion would relate to certain prohibitions that were contained in the Development Order relative to outside music and site development issues. Mr. Ervin stated the outdoor music issue went through scrutiny at the Development Review Board and City Commission public hearings, and a condition for approval of the Development Order was an outright prohibition of outside music. He reported in order to amend that Development Order, a formal process of review through the advisory boards and then the City Commission would be necessary. Mr. Ervin stated that with the adoption of the new Land Development Code, the projects previously approved as overlay districts would now be treated as rezonings; and this would add another hearing to the process. He noted the rezoning would be handled administratively, but the amendment aspect would be the responsibility of the applicant. Mr. Ervin reported that due to the noise concerns raised by the residents at the Development Review Board and the City Commission, a technical analysis of the noise levels occurring would be needed to be certain they would be in compliance with the City’s Land Development Code and Code of Ordinances, and that adequate staff was available at the Police Department to enforce these standards. He advised he received a report relative to noise studies conducted on January 27<sup>th</sup> and January 28<sup>th</sup> along with a formal application to amend the Development Order. Mr. Ervin reported staff did not recommend the Commission take any formal action until the application had been through the administrative procedures previously outlined.

Mr. Ervin reported another issue was the maximum amount of seating allowable. He explained a specific number of seats were identified when presented to the Development Review Board and City Commission and incorporated into the Development Order. Mr. Ervin stated the site engineer identified the maximum number of seats at 227 requiring 84 parking spaces, and 118 spaces were provided on site; therefore, the parking would accommodate the parking demand for the additional seating based on the code. He advised the applicant was now seeking occupancy of 290 seats with 190 interior and 100 on a deck located on the north side of the building facing the river. Mr. Ervin explained that because of the specificity of the Development Order, staff could not deviate from what was approved; therefore, the remedy would be to seek an amendment to the Development Order relative to seating.

Mr. Ervin pointed out some architectural issues on photographs that were provided. He stated that while there were numerous changes, the changes provided a generalized improvement because they were consistent with the overall architectural style developed, relocation of previously approved elements, or making accommodations for design issues not evident prior to construction. Mr. Ervin noted that, unfortunately, the applicant did not notify staff immediately upon making these changes; therefore, staff was now trying to work with the applicant. He reported staff opposed issuing a Certificate of Occupancy until all of the improvements identified as part of the Development Order had been completed. Mr. Ervin advised there was a concern relative to the quality and care that would be used in building on the riverbank; however, the minimal clearing performed on the bank was accomplished with hand equipment.

Mr. Ervin reported the site plan indicated docks were to remain and be refurbished. He stated the applicant had received permits to initiate site construction, but had encountered difficulties in obtaining approval from State agencies for the refurbishing of the dock. Mr. Ervin advised staff would not be able to issue a Certificate of Occupancy because they would not have all permits in hand and all work completed by their targeted opening date of February 7<sup>th</sup>. He stated the Commission must determine if these were life safety type issues and if flexibility could be used to allow a Certificate of Occupancy to be provided.

Mr. Ervin summarized that there were two separate issues. He noted the first issue related to the Development Order which indicated outdoor music was not permitted and seating capacity was restricted to 227. Mr. Ervin recommended this go through an administrative procedure applied to all Planned Business Developments. He pointed out it was clear to note why the error was made relative to the 227 seating restriction because it was determined solely by the footprint of the building; there was no accommodation for the potential for outside seating. Mr. Ervin reported the parking provided on site exceeded the demand as stated in the Land Development Code for either 227 or 290 seats. He explained the second issue related to the Certificate of Occupancy for the facility. Mr. Ervin stated there have been architectural changes, but they were consistent with standards and in some cases beneficial; therefore, he would

identify them to be considered non-substantial. He reported it was for the Commission to decide if the dock improvements were merely enhancements to the structure.

Mayor Costello asked if the Commission concurred with staff that the architectural changes were non-substantial as noted in Option #2.

Commissioner Boyle concurred that the parking of 118 spaces would be suitable for a seating capacity of 227 or 290; however, if music for the deck were approved, there would be a strong likelihood of having patrons on the deck not requiring a seat and the parking may then be inadequate.

Mr. Ervin reported he would defer to building and fire code regulations. He stated staff could set the maximum capacity at the number of seats or total number of persons to establish parking calculations.

Commissioner Selis asked if this was not always true in that people standing on the deck would impact the parking; however, that was more a code related issue than a site specific problem.

Mr. Ervin advised the City had established capacities; and in the Site Plan Review process, staff would consider the proposed maximum seating compared to the fire code and building code. He explained the footprint included storage, kitchen, office management, waiting area, preparation area, as well as seating area. Mr. Ervin stated all of these areas must be considered in determining maximum seating.

Mayor Costello recommended that if music were ever considered, the maximum capacity would also be considered.

Commissioner Boyle advised he could not be comfortable with the 290-seat capacity until the issue of music was resolved.

Mr. Ervin advised the Development Order could not be modified tonight relative to seating since it was not advertised.

Commissioner Kent expressed disappointment that there were deviations from the original plan without the proper procedure being followed. He noted he trusted staff; and if staff considered the changes non-substantive, he would not oppose them; however, he expressed concern that this may be setting a precedent for other developers to not follow proper procedures.

Mr. Ervin stated the seating changes and outdoor music could not be made tonight since it would have to go through the formal amendment process. He noted he was asking the Commission for policy direction as to the minor architectural changes to the building and the ability to issue a Certificate of Occupancy for the docks. Mr. Ervin advised he understood the concern regarding the architectural changes; however, the results did not diminish the project and may have enhanced the project. He reported that relative to the dock, this amenity was pre-existing and involved dealing with an outside reviewing agency. Mr. Ervin stated this issue was not directly a life/safety issue, but refurbishing the docks was clearly identified in the Development Order.

Mayor Costello reported he understood the seating issue had to go through the process, but he considered it important to provide the applicant with a sense on the Commission's thoughts relative to that issue. He advised he would support Option #2 that indicated the changes were non-substantive and Option B that indicated the docks would be considered an accessory use allowing the applicant to obtain the Certificate of Occupancy while the permitting process continued.

Commissioner Selis concurred he supported the architectural changes. He questioned whether the Planning Director could have approved these architectural changes without bringing it to the Commission.

Mr. Ervin reported that based on the approved Development Order, the Planning Director may approve minor modifications which typically mean a change in landscaping plans when a certain material was not available or shifting some architectural elements. He advised this project has made substantial changes; however, they were still consistent with the architectural theme; they enhanced the value of the structure; and they were generally consistent with what was approved by the City Commission.

Commissioner Selis pointed out the seating and parking conformed to the code requirements; therefore, he questioned what would be gained by going through the process other than delay.

Mr. Ervin explained that the maximum number of seats specified in the Development Order was identified as 227; and during the public hearing process, the number was included in all advertisements. He stated with this level of specificity, any change could be subject to challenge.

Commissioner Selis stated he understood the Commission could make the determination that this was a non-substantial change.

Mr. Ervin advised consulting with the legal staff before making that determination.

Commissioner Selis advised when a mistake had occurred and the codes were met, the Commission should consider this a non-substantial change. He stated the Commission should lead and work with people who were bringing in good products and jobs to the community.

Commissioner Kent concurred with Commissioner Selis that the City needed to be more business friendly; however, he was uncomfortable not following the proper procedures. He stated he was comfortable with the additional seating and architectural changes. Commissioner Kent noted his concern was with the safety of the docks. He reported a pathway would be built to the docks that could cause a serious safety issue.

Mr. Ervin advised that if the City Commission considered it appropriate to allow for a Certificate of Occupancy prior to the docks being refurbished, it would be incumbent on the developer to close off access to the area to the docks and dock house with a physical barrier.

**Commissioner Partington moved, seconded by Commissioner Selis, to approve Option #2 on page 5 of the City Manager memorandum regarding the architectural changes to the site.**

Commissioner Selis disclosed he met with the developer at the site.

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

**Commissioner Partington moved, seconded by Commissioner Selis, to approve Option B on page 6 of the City Manager memorandum regarding the docks.**

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

Mayor Costello encouraged numerous options be considered for the music and the seating.

Mr. Hayes advised the staff recommendation was the best package, in his opinion, relative to what should be considered non-substantive changes and substantive changes; and these issues must proceed through the formal development review process. He pointed out that throughout this process, the public would have the opportunity to participate.

Mayor Costello called for a break at 8:50 p.m. and reconvened the meeting at 9:00 p.m.

Mayor Costello reported that unless there was an objection, he would rule the number of seating would not be discussed tonight since it was not included in the motion.

Commissioner Partington reported it was not his intent to exclude the seating issue when he made his motion.

Mayor Costello retracted his earlier statement relative to not discussing seating tonight.

Mr. Turner explained the seating issue would come back to the Commission, and staff should provide a recommendation to be considered at that time.

Mayor Costello asked Mr. Turner to provide a staff recommendation at this time.

Mr. Turner reported he made a strong recommendation that the seating issue be considered a substantive change that should go through the development process.

Mr. Hayes concurred with Mr. Turner. He stated staff had been working with the developer on these issues. Mr. Hayes urged the Commission to protect the process and the public's right to participate through the public hearing process. He expressed concern that if the Commission would deviate from that process and a challenge were made, it may not be defensible.

Mayor Costello reported that seating would not be discussed and asked the applicant to speak on the music issue.

Mr. Rob Merrell, 150 Magnolia Avenue, representing the River Grille restaurant, stated he would not express his opinion on the seating issue or the music issue tonight, yielding to Mr. Hayes' counsel. He noted a formal process must be followed to amend the Planned Business Development. Mr. Merrell advised an application for amendment was submitted today. He reported Mr. Raymond Barshay spoke to the Commission at the last meeting indicating a sound test would be administered on site asking anyone who wished to attend do so. Mr. Merrell stated his goal for this evening was to distribute the results of that test for informational purposes. He advised this would come before the Development Review Board in March and back to the City Commission in April. Mr. Merrell stated he would not discuss the music tonight as it would be appropriately discussed at the public hearings and has already been discussed for four hours at a previous City Commission meeting. He offered to answer any questions and thanked the Commission for the action they had already taken tonight.

Mayor Costello stated he would allow a few people to speak since they came to the meeting to be heard, especially those who attended the sound test.

Mr. Merrell stated he had a great deal to discuss relative to this issue but was planning on waiting to discuss it at the Development Review Board meeting; however, if it were the will of the Commission, he would discuss the issue tonight.

Mayor Costello questioned whether the public would be best served to have a few people speak now or to wait for the public hearings.

Commissioner Selis asked Mr. Merrell if he would rather this not be discussed tonight.

Mr. Merrell replied that would have to be the Commission's decision, but he pointed out there would have to be three public hearings on this subject, and he would not address the issue because he did not consider it appropriate at this time since it was not before the Commission in the proper procedural forum.

Commissioner Selis requested clarification in that if the Commission would decide tonight to allow outdoor music during the period the issue was pending before the Development Review Board that Mr. Merrell would still concur with Mr. Hayes that this would not be following the appropriate process.

Mr. Merrell advised that Mr. Hayes had pointed out that because of the very specific conditions in the Development Order dealing with outdoor music, there was no question that the Commission would then be condoning a violation of the code if it were to permit the music without following the proper procedure.

Commissioner Selis concluded the comments should be permitted at a public hearing since no decision would be made on the issue tonight.

Commissioner Boyle concurred this must go through the process; however, he noted people had attended this meeting because this issue has now come back. He urged a brief discussion be permitted tonight, but noted that if three members of the Commission wished to uphold the prohibition in the existing Development Order against outdoor music, then the public hearing process could be eliminated.

Mr. Merrell reported that would not be a fair process since an application had been filed and a fee had been paid; therefore, the process had already begun and should be permitted to continue.

Mayor Costello stated in April 2002 and today he supported the proper screening should be on the deck so the Commission could know what would occur rather than imagining something theoretical. He advised he would support going through the process and finding out the exact

impacts. Mayor Costello reported if the impacts were negative, he would oppose it; however, he could not know the impacts until the facilities and screening were completed.

Commissioner Selis disclosed that he spoke to a Mr. Wells relative to this subject. He noted he would not support or object to hearing the comments; however, it would be unfair to make any decision when no facts were provided and no public notice advertised.

Mr. Hayes concurred with Commissioner Selis' comments. He noted the same process that protected the public's right to participate also protected the applicant's right to submit an application and go through the process. Mr. Hayes reported it would be inappropriate to have a quasi-informal discussion on the issues that would eventually come back to the Commission.

Mayor Costello reported he would allow a limited number of people to speak on the subject of outdoor music.

Commissioner Partington disclosed he met with the developers and a Tomoka Oaks resident, Adelaide Matthews. He opposed hearing from a large number of residents tonight since it would go through the public hearing process; however, he announced he would later personally listen to anyone to hear their concerns.

Commissioner Kent concurred with Commissioner Selis and Mr. Hayes relative to the process. He disclosed he met with the developer and owner, and he witnessed the sound test. Commissioner Kent advised he read the minutes from the last meeting where this issue was discussed. He stated he favored having a restaurant in this location as well as the architectural design. Commissioner Kent reported the trains and airplanes passing through the area were much louder than the music, and the homeowners purchased their homes knowing about the trains and airplanes, but they did not know about the music. He advised he enjoyed restaurants with music, but standing in Mr. Lowman's yard he would agree the noise level was unacceptable. Commissioner Kent reported he was hopeful the speakers could be moved or other changes made so the impact could be reduced since if a vote were taken tonight, he could not support permitting the outdoor music.

Commissioner Boyle advised he did not participate in the sound test because a sound test on any given day would only provide one-dimensional information since many variables were involved and what could not be heard under certain circumstances could be heard under other circumstances. He stated the issue was not always the decibel level, but the impact on the quality of life of the residents. Commissioner Boyle reported a sound test could not duplicate the music along with the sound of 100 to 150 patrons on the deck. He stated this restaurant could be the best restaurant in the area, causing another concern regarding the people waiting to be seated impacting the parking. Commissioner Boyle commended Mr. Barshay for his patience and thoroughness in researching all of the variables. He stated he envisioned a more passive restaurant as opposed to a "night spot."

Mr. Gregg Wynn, 38 Pebble Beach Drive, stated when the idea for this restaurant was first conceived, it became obvious with the developers that some contention with the homeowners existed. He stated the restaurant was to have been in operation for one year before the process could be started again; therefore, he questioned why this was occurring now. Mr. Wynn questioned whether this was a restaurant as indicated or actually a bar since restaurants close by 9 p.m. to 10 p.m. and bars are open much later. He stated this operation now seeks to expand one-third its allowed size. Mr. Wynn pointed out music would continue for hours while a train lasts one and one-half minutes and an airplane less than one minute.

Mr. Richard Osterndorf, 48 South Saint Andrew Drive, requested a court reporter to produce a detailed record for the final City Commission public hearing since these issues were significant. He asked the Commission to come out to Tomoka Oaks at 10 p.m. during Bike Week and hear the music from the Iron Horse Saloon. Mr. Osterndorf stated if this were approved, this type of music would be brought south of the Tomoka River into his neighborhood. He reported he noted Mayor Costello's vision printed in the newspaper; however, there was no comment on how the City would address the problems north of the Tomoka River.

Ms. Jeannie Ball, 3 Eagle Drive, pointed out no one in Tomoka Oaks tried to deny this applicant their restaurant. She stated she attended the sound test and expressed concern relative to the way the test was done. Ms. Ball encouraged the Commission to read Section 14-30.1 of the City code in its entirety. She noted while an acoustical guitar was played, the meter registered approximately 60 on the deck, and the sound increased when the CD was playing. Ms. Ball noted the speaker system was placed on the deck facing US1. She advised she read the meter on the deck at 65 and 88 at the edge of the property. Ms. Ball reported the meter did not change when placed behind the large oak tree. She stated she respected Mayor Costello's

assessment that it would be difficult to determine the impacts until the system was set up properly. Ms. Ball noted she was informed speakers would be placed on the railing at the edge of the deck as well as on the building pushing sound into the building which would then be pushed back out in the opposite direction; however, the sound test was completely opposite. She stated the code indicated if the sound was audible 100 feet from its source, there would be a violation.

Mr. Robert Thames, 16 Fairview Avenue, reported he was a musician who has worked and played in many venues in and around Ormond Beach. He stated the type of music and volume levels played at the Iron Horse Saloon and night clubs during Bike Week was completely different, perhaps half, from the type of music played on a deck to patrons eating dinner.

Mr. Mike Stone, 92 Loyola Drive, Stone and Associates, stated when Ms. Ball took the meter away from the music, the register of traffic noise from US1 increased. He stated when Ms. Ball took the reading behind the tree, she was actually reading the reflected traffic noise off US1, not from the music on the deck.

Item #11(F) – Temporary Parking During Special Events

Mr. Ervin reported notices of violations were sent to various property owners indicating they could not park trailers during times of special events.

Mayor Costello questioned if the Commission would support Option #3 of the City Manager memorandum on this item.

Commissioner Selis stated he did not favor parking on A1A.

Mayor Costello concurred other Commission members did not actually favor parking on A1A, but there were reasons why they were willing to consider it.

Mr. Ervin reported there was an error in the staff recommendation on the last sentence: “Staff further recommends that all enforcement actions be held in abeyance for Bike Week 2004 and that enforcement, depending on the option selected, begin with Biketoberfest 2004.” He stated that if such directive were given and a tragedy were to occur due to a violation, the City would potentially be held liable for implementing such an abeyance policy that may have caused or contributed to such an accident; therefore, that recommendation was unacceptable. Mr. Ervin noted anyone who had a parking lot with excess parking could not utilize it without a specific Conditional Use Permit in place.

Mayor Costello clarified that would be Option #3 with enforcement beginning during Bike Week, not Biketoberfest.

**Commissioner Boyle moved, seconded by Commissioner Kent, to approve Option #3.**

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

Item #11(G) – Fire Service to Volusia County Properties in the Ormond Crossings Area

Mayor Costello asked if there were any objections to providing services to the pocket of land adjacent to the Ormond Crossings area.

Commissioner Boyle questioned how the calculation was derived for the County fire station that indicated a 3.4 miles drive had a response time of 6.8 minutes and Ormond Beach Station #94 with a 3.8 mile drive had a 6.1 minute response time.

Fire Chief Barry Baker reported staff actually drove those routes a number of times during different traffic conditions and considered the number of turns and other issues associated with the physical proximity of the stations and calculated an average. He stated the City had the Opticom System, which allowed lights to change upon an emergency vehicle approaching an intersection, but Volusia County did not have that system. Chief Baker noted that was not factored in, but it would allow the City to move more quickly.

Commissioner Boyle reported the County has imposed service of these enclaves upon the City as a condition of their approval of the Ormond Crossings economic development, Community

Redevelopment Agency, and annexation agreement. He noted he may not have opposed this if it were not imposed as a condition for something entirely different. Commissioner Boyle pointed out he would be more comfortable if the County provided approximately the same level of service that Ormond Beach provided. He stated while the number of calls was low, he objected to a situation where there could be even one incident where the City may be delayed for a City call because they were providing assistance in the County.

Mayor Costello stated the City continues to ask the County and Daytona Beach for favors on numerous issues benefiting Ormond Beach, and Ormond Beach should be willing to favor these entities when they ask for favors, when possible. He noted he considered this a small price to pay for what the County would be doing for Ormond Beach.

Commissioner Kent concurred with Mayor Costello's comments. He questioned how many of the 28 calls were fire and how many were medical calls.

Chief Baker reported 26 were medical and two were fire calls. He noted that traditionally 75% to 80% of the calls would be medical calls.

Commissioner Partington questioned if this contract would be reviewed after a year. He stated a clause where the parties could drop out would give impetus to both parties to make the contract work.

Chief Baker stated if the development processed as anticipated, the City would have to closely examine the impact it would have on the City's fire service. He reported the County fire service's physical facility that services this area was not owned by the County, and there had been discussion of moving that station; therefore, the City would want to examine all factors associated with this geographic area regarding fire services. Chief Baker noted this was relatively a residential area; therefore, most calls would be EMS related calls.

Mr. Turner reported he was not certain if a cancellation clause was in the agreement, but he would be certain it was included. He stated the City had been discussing the County increasing their level of service.

Chief Baker reported the more recent agreements have always included a six-month termination clause.

Commissioner Partington urged the termination clause to be included.

**Commissioner Kent moved, seconded by Commissioner Selis, to allow the City to negotiate an agreement for the City Commission to consider.**

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

Item #11(H) – Off-beach Parking

Commissioner Boyle stated the staff letter was extremely well written. He recommended an amendment on page 2 regarding compensation to the City. Commissioner Boyle advised the County may consider they have compensated Ormond Beach with the Tom Rennick parking lot located 1.1 miles north of the Ormond Beach City limit; therefore, he recommended indicating the City was hopefully seeking its first off-beach parking partnership with the County in that it would be stronger and less threatening and accusatory.

Mayor Costello expressed support for the aforementioned amendment. He received a consensus to accept the letter with the amendment.

Item #11(I) – Harley-Davidson Site Approval and Permitting

Mr. Ervin reported this Harley-Davidson project was identified for the northwest corner of I-95 and US1. He noted this development would consist of a Harley-Davidson dealership, specialty retail stores, two out-parcels designated for restaurant use, and a related adjacent site for a truck service plaza. Mr. Ervin advised Ormond Beach staff met with County staff to review these parcels where three issues were outlined. He stated the County staff has not delineated the next step since the applicant was to respond relative to the use of the specialty retail facilities. Mr. Ervin noted after this was accomplished, the County would establish a

determination as to the proper administrative procedure. He stated he received information from the County's Growth Management Director that this project would have to go through a Planned Business Development (PBD) process before any further activity could occur. Mr. Ervin advised there was an opportunity, if after receiving the information from Mr. Morris, to make an interpretation that this was not the case, and the process could then continue.

Mr. Ervin advised another issue was whether the City's corridor standards would apply, specifically the City's Greenbelt Preservation Overlay District. He stated it was determined yesterday that this property would qualify, and as such, the frontage on US1 and I-95 would be subject to the City's Greenbelt standards as regards to buffering, signage, and architectural treatments. Mr. Ervin reported along US1 there was currently a 20-foot buffer with only one-third of the landscaping the City would require, but a 36-foot buffer with more landscaping would be required under the Greenbelt standards. He advised the signage would be limited to a monument sign of 64 square feet or 80 square feet for two signs. Mr. Ervin reported that along I-95, the buffer would increase to 60 feet; however, this could be reduced to 25 feet if a frontage road were provided. He explained the proposed Harley-Davidson dealership was approximately 20 feet from the right-of-way line of I-95. Mr. Ervin reported an existing hotel would be renovated and some improvements would be made to accommodate landscaping. He stated the applicant asked if he would send a letter to the County staff indicating they have met all of the City's standards if they modify their site plan to accomplish this, and he had agreed to do so. Mr. Ervin advised this item was being brought to the Commission at this time to determine if there were any concerns with the site plan that was currently under review and to make the applicant aware of those concerns.

Mr. Ervin stated the Love's Truck Center was on a ten-acre parcel of the 33 acres originally identified as the special exception in 1996 and was subsequently approved and modified. He reported this would include a restaurant, convenience facility, gas pumps in the front, and parking and service facilities for semi trailers in the rear. Mr. Ervin explained they would use wetland mitigation on another project.

Mr. Ervin stated staff had requested the applicant try to meet Ormond Beach standards and staff would work with them; however, there was a time constraint involved. He advised the applicants were facing an October deadline for the Harley-Davidson facility to be operational. Mr. Ervin asked if the Commission would provide any flexibility of if any issues needed to be emphasized. He noted that as part of the 1991 service agreement along US1, projects developing along this corridor were exempt from meeting all City standards with the exception of the most recently approved corridor standards. Mr. Ervin advised the property was within Ormond Beach's service area; therefore, there would be a requirement for annexation as soon as possible. He noted annexation would not be possible at this time because they were not currently contiguous with Ormond Beach's boundaries.

Mr. Jim Morris, 4320 South Nova Road, Daytona Beach, representing Harley-Davidson, reported he wished to work with City and County staff in a cooperative effort. He provided illustrations of the existing site along with renderings of the facilities proposed for the site. Mr. Morris stated the pallet of colors selected for the hotel and architectural standards were those known to be acceptable in Ormond Beach. He noted the applicant was making an effort to do as much as possible voluntarily to comply with Ormond Beach standards. Mr. Morris stated the Harley-Davidson and Love's parcels were separate, currently zoned for the proposed uses, but Harley-Davidson and Love's were working together. He noted he was not required to do a Business Planned Unit Development (BPUD) although it was anticipated this would be done in the future.

Mr. Morris pointed out a common access way placed at a median opening that was a good design principle from a traffic management standpoint, a connection to circulate traffic through the property, a cross access easement to allow a minimization of traffic on the highway for traffic using the sites, open spaces that were internalized, and a DOT stormwater pond. He stated Mark Dowst and Associates would be doing the Harley-Davidson design, and Zev Cohen and Associates would be doing the Love's design. Mr. Morris reported this project could meet the 36-foot buffer along US1; and where it could not be done, the same intensity of planting the City required would be done. He stated the 60-foot buffer could be met on the majority of the site except in the northeastern corner. Mr. Morris advised this condition could not be met because to do so would require a 40-foot shift of the building interrupting the driveline circulation plan, creating significant difficulty in the traffic pattern. He pointed out the area where the loading docks would be located and the one-way lane circulating around the building. Mr. Morris noted he would refer to Chuck Strasser, the builder, when answering design questions from the Commission. He advised there would be no problem providing the number of trees required.

Mr. Morris reported he would come back to the Commission with a proposed sign package, as relief in this area would be necessary. He stated there would probably not be difficulty complying with the US1 frontage monument sign, but signage on I-95 was very important.

Mayor Costello summarized the applicant could meet the 36-foot buffer on US1, could meet the 60-foot buffer along I-95 except the corner area where it would have a 20-foot buffer, landscaping codes would be met, the signage issue would be deferred at this time, the monument sign regulations on US1 would be met, and an interstate pole sign would be requested. He reported that had the applicant not met the landscaping requirements, monument sign requirements, and the setback on US1, he would have been more critical of the building; however, after seeing the rendering of the building, he considered the front of the building to be a showcase entrance, particularly since it was adjacent to the pond. Mayor Costello advised he was now more willing to yield on the smaller setback on the corner. He stated if Harley-Davidson and Love's combine on a single interstate sign as opposed to two signs, he would personally be inclined to approve it.

Mr. Mark Dowst, project engineer, reported he would be seeking some type of signage up front identifying the users in the rear since those businesses would not have exposure. He pointed out the existing hotel would keep the access around the building and would remain since it was a critical circulation element. Mr. Dowst stated landscape islands would be created within the parking, and landscaping would be added, but there were deficiencies where construction currently existed.

Mr. Doug Daniels, attorney representing Love's Travel Plaza, stated the Love's project differed from the Harley-Davidson project. He noted Love's obtained the special exception from the County first; they then applied for site plan approval; they combined with Harley-Davidson; and only two to three weeks ago discovered the County was passing this ordinance that would substantially impact their project. Mr. Daniels advised Love's would need flexibility relative to signage, noting something other than a monument sign seen from US1 was critical for the business. He reported there were statistics proving that a monument sign would impact the economics of the facility dramatically. Mr. Daniels noted US1 signage was probably more important than anything else to Love's.

Mr. Rick Sheffield, representing Love's, reported the interstate sign was the most important, but they would use billboards to direct people into the site off I-95. He stated Love's moved their site plan to accommodate the larger development under the premise that they would be able to pull traffic off US1 as well. Mr. Sheffield noted if they were only allowed a monument sign on US1 considering how far back the business was located, it would be difficult for the travelers to recognize them. He advised they could probably accept a smaller height requirement, but not a 64-square foot sign to advertise the gas and the Arby's Restaurant.

Mayor Costello advised he would not support any billboard anywhere.

Mr. Sheffield reported they were planning on taking down two billboards and erecting a single billboard.

Mr. Morris acknowledged that Love's business needs were different than Harley-Davidson's business needs, but the Harley-Davidson portion would not object to a difference in treatment since there was a difference in the businesses, and the compromise would be up to the City Commission and County Council.

Commissioner Partington reported he had no objections to the landscaping issues but would await judgment on signage until the signage proposals would be presented.

Commissioner Selis thanked the applicants for their flexibility and for working with Ormond Beach on this project.

Commissioner Kent advised he was very comfortable with the buffers although he questioned if in the area where they would not be able to meet the 60-foot buffer would actually be 20 feet or closer to five to 10 feet.

Mr. Morris explained the code indicated a 60-foot buffer was required in most circumstances, but it allows a reduction to 20 or 25 feet for other circumstances. He stated the buffer would be 20 feet.

Commissioner Kent concurred he must consider the signage issue when the plan was presented; however, the plan looked great, and he was excited to have these businesses in the area.

Commissioner Boyle echoed everything previously stated and expressed appreciation for the time the applicant had taken to be present and discuss these issues. He thanked them for their sensitivity to Ormond Beach standards and noted they have come as close to meeting all Ormond Beach standards as they possibly could. Commissioner Boyle stated at an interstate interchange, signage was important, and the City may need to apply a more liberal standard as a safety issue.

Mayor Costello stated a tile roof was mentioned, and considering the lack of comment he understood it to mean the Commission had accepted the metal roof as long as it would be eclectic Spanish. He pointed out the metal roof was an option in the Greenbelt district.

Mr. Ervin stated staff had made comments relative to the architectural treatment, specifically regarding the hotel conversion. He reported a metal roof would not be permitted since it was not part of the Mediterranean design and noted a barrel tile roof would have to be used.

Mr. Morris stated this would not be a problem anywhere other than the re-roof of the existing hotel. He pointed out that the tile would require a different engineering standard for the roof structure, but tile would be used in the other areas.

Mr. Ervin reported there were alternatives that could be used, and staff would work with the applicant on this issue.

Mayor Costello noted the Commission was sensitive to the fact that the same things could not be done on a re-roofing project that could be done on a new roofing project.

Item #11(J) – Removal of Oak Trees Around a Nova Road Stormwater Pond

Mayor Costello reported the Commission approved an unfunded budget of \$170,000 for landscaping around the Nova Road stormwater pond. He recommended reducing that figure to \$150,000 and to utilize the \$20,000 for Option #4 so there would be no fence to maintain. Mayor Costello obtained a consensus agreeing with Option #4.

Ms. Sloane stated Option #4 required a budget amendment, and the City would have to contract directly with the contractor because it was not part of a utility relocation or expansion where the City already had a joint participation agreement. She reported staff would have to contract with Modern Continental South and determine if this additional work would have anything to do with the delays with DOT. Ms. Sloane noted this was the most complicated option, but staff would work on the issue.

Mayor Costello reported the Commission would be sensitive if staff discovered problems, but the Commission wanted to keep the trees, decrease the amount that was to be spent on landscaping elsewhere, and the Commission did not want a fence the City would have to maintain.

**Commissioner Partington moved, seconded by Commissioner Selis, to approve Option #4.**

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

The Trails Redevelopment Project

Mr. Dick Jaffe, 300 North Nova Road, stated that on January 28<sup>th</sup> he received a letter from the Planning Department regarding the completion of the latest complex at The Trails Shopping Center. He advised he was looking forward, within the next couple of weeks, to the opening of the Jos. A. Bank men's clothing store. Mr. Jaffe read a portion of the letter indicating a requirement to obtain a Certificate of Occupancy as follows: "the exterior of the entire building is completed and comply with the approved building plans and PBD." He advise he would be applying for the Certificate of Occupancy in 10 to 12 working days, and the roof would be completed, the scaffolding removed, the building painted, and the building would be accessible with code satisfying entries; however, what would not be completed would be the landscaping and decorative issues.

Mr. Jaffe explained that approximately three months ago he had ordered a trim package that would add a concrete product on top of the foam providing stability and longevity to the trim. He

advised he requested a sample of the trim to match the tones of the trim to the paint; however, when the sample arrived, the quality proved to be quite unacceptable with extremely poor workmanship. Mr. Jaffe stated after speaking to the manufacturer and receiving two more samples, he was convinced it would take time to obtain trim that would come close to the standards being set in the other portions of the shopping center. He stated the Jos. A. Bank clothing store had been stocking the store with inventory to arrive tomorrow morning, and due to this problem, a potential existed where there would be one of the largest seasonal inventories sitting in a store that may not open for four to 10 weeks because of City staff's insistence of the satisfaction of all of the decorative elements. Mr. Jaffe noted he respected staff's dedication to protecting the codes of Ormond Beach, and they were sympathetic to his plight and supportive of the project. He described the philosophical difference between his position and staff's position was that he believed the Commission understood that along with the amendment to the PBD and the identified timetable, which this was only a portion of an ongoing five-year project, and most of these buildings should not be judged as single-entity buildings. Mr. Jaffe pointed out all health and safety issues would be satisfied by the time he would seek the Certificate of Occupancy, but the decorative aspects would be subject to the availability of a very select group of products. He asked the Commission to reinforce their understanding with staff that this was an ongoing process.

Mayor Costello asked if Mr. Jaffe would be satisfied if the Commission allowed for a Certificate of Occupancy absent the decorative items and on the stipulation that Mr. Jaffe would not receive another Certificate of Occupancy in the Trails until these items were completed. He noted this would protect the Commission in that it would assure the project would be completed, and it would protect Mr. Jaffe to allow the clothing store to open.

Mr. Jaffe explained that in three to four weeks, he anticipated the ladies shoe store on the northern section of that same building would be seeking its Certificate of Occupancy, and he could not provide an accurate estimate of when the trim package would be available.

Commissioner Boyle advised the last time Mr. Jaffe spoke to this Commission the citizens gave him a standing ovation for the extra resources he had committed to this project. He reported a previous Commission provided Mr. Ervin flexibility to make decisions, and the Commission urged as much flexibility as possible be applied to these types of essential redevelopment projects. Commissioner Boyle stated the question was not if Mr. Jaffe would meet the code, but when he would meet the code. He stated that as soon as a temporary access for handicap could be obtained, he urged the clothing store be granted its Certificate of Occupancy, allowing Mr. Jaffe to work through the problems to make this a project exceeding standards by an exponential degree. Commissioner Boyle reported since the Commission allowed the changes on the River Grille, although a totally different project, this project also deserved a waiver.

**Commissioner Boyle moved, seconded by Commissioner Kent, to approve a waiver of the decorative items granting the Certificate of Occupancy conditional upon providing permanent handicap access for the Jos. A. Bank men's clothing store.**

Mr. Jaffe advised the handicapped access would be moved one to two times before the project would be completed; therefore, requested the word "permanent" be replaced by "temporary." He noted each time the handicapped access would be built out of concrete and would meet or exceed the City codes.

Mayor Costello advised that would be acceptable

Mr. Hayes advised the code did not allow the issuance of a Certificate of Occupancy unless all of the standards were met, and staff was obligated to enforce the code as written. He stated the question of the Commission permitting a temporary Certificate of Occupancy had been discussed, but no policy had been made. Mr. Hayes cautioned the Commission that applying the code consistently was important.

Mayor Costello requested considering an amendment allowing the Commission to make adjustments with ongoing redevelopment projects involving multiple buildings covering redevelopments of this nature.

Mr. Turner advised staff had tried to demonstrate flexibility and be responsive to the project in working with Mr. Jaffe. He concurred this was a "prize project."

Mr. Ervin questioned how one project could be differentiated from another and what would merit a waiver in some circumstances and would not merit a waiver in another. He reported because of these questions, staff could not approve a waiver in its application of the code. Mr. Ervin noted Mr. Holub was refused a Certificate of Occupancy for his Seminole Center because he

did not have the decorative lights as shown on the site plan. He cautioned that approving this type of request may proliferate similar requests; and whenever the Commission makes exceptions from the dais, it makes it harder for staff to justify differences in the field.

Mr. Turner stated before the Commission sets up a conditional or temporary Certificate of Occupancy, he recommended a discussion on where such exceptions should apply in great specificity since every situation would be unique and may be compelling. He advised that inevitably there would be an incident were the applicant would not meet the second deadline for the temporary Certificate of Occupancy, and once a business opens, it would be unlikely the Commission would want staff to force the business to close. Mr. Turner reported allowing a temporary Certificate of Occupancy was a big precedent-setting step and should be considered very seriously.

Commissioner Selis stated it was an appropriate function of the City Commission to fashion a rule to help relieve stresses when the City's codes were so strict as to cause an injustice. He reported what was done in this and the River Grille incident was that when there was a change that would not impact the safety, health, or welfare of the project, then it would be acceptable for the Commission to issue a Certificate of Occupancy. Commissioner Selis urged a list of Commission created exceptions to some of the City's rules be developed so the Commission could stay consistent. Commissioner Selis concurred with the remaining Commission members to approve Mr. Jaffe's request.

Commissioner Partington stated Mr. Jaffe wanted to complete this project the correct way, but the rules would not allow him to do so. He recommended on non-life/safety issues, the Commission should find a way to overrule the requirements, perhaps by ordering a performance bond. Commissioner Partington concurred with Commissioner Selis that this would be an appropriate function of the Commission. He stated he was confident the finished product would be great and the decorative aspects should not justify a Certificate of Occupancy being denied. Commissioner Partington noted staff may be frustrated, but the rules should be changed so there could be appropriate discretion if approved by the Commission.

Commissioner Kent reported he was pleased with this project and empathetic with staff. He observed staff was doing what was right; however, he concurred with his fellow Commission members that this should be permitted.

Mr. Jaffe requested the final Certificate of Occupancy be tied to the building.

Mayor Costello clarified Mr. Jaffe could not obtain a Certificate of Occupancy for the next building until this building was completed.

**Commissioner Selis moved, seconded by Commissioner Kent, to issue a Certificate of Occupancy without the decorative features, but no Certificate of Occupancy would be approved on any other separate building in the project until the Development Order was satisfied on this building.**

Mr. Jaffe noted he would be content to have no other Certificate of Occupancy approvals until the final Certificate of Occupancy for the final tenant of this building.

**Commissioner Selis and Commissioner Kent concurred with Mr. Jaffe.**

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

Mayor Costello requested a discussion item on what the Commission could do for ongoing redevelopment projects that have multiple Certificates of Occupancy, allowing the developer to continue if there were items the City Commission deemed unique. He stated he wanted the highest standard, but to make them easy for the developer to attain.

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

##### Expressions of Appreciation

Commissioner Partington thanked the Commission for their continued leadership and the staff for their hard work.

#### Development and Redevelopment Projects

Commissioner Boyle reported he did not believe staff lost tonight as the River Grille and The Trails were unique projects. He stated The Trails redevelopment was so unique it had never occurred in the past and would probably not occur again, and the Commission must trust Mr. Jaffe. Commissioner Boyle concurred that if the Commission was planning on making these types of exceptions, there needed to be language specifying this in the code, and he hoped this would not cause a proliferation of these types of requests.

#### Baseball Card Show

Commissioner Boyle thanked Mr. Joe Radcliffe, Public Information Officer, who helped with a press release for the 22<sup>nd</sup> Baseball Card Show that had approximately double the amount of attendees as had previously attended.

#### Expressions of Appreciation

Commissioner Boyle thanked Ms. Sloane for the concise and helpful answers to the questions the Commission posed to her at the goal setting meeting. He stated the staff reports prepared for this meeting made the options clear on very complicated issues. Commissioner Boyle reported the Commission had a difficult job made easier by the information they were provided.

Commissioner Boyle thanked the Mayor and his fellow Commission members noted a meeting such as this would have taken much longer in the past. He stated the questions and comments helped clarify the complex issues facing the Commission tonight.

#### Financial Issues Board

Commissioner Kent requested a discussion next month relative to the possibility of creating a Financial Issues Advisory Board to assist and review the financial transactions of the City.

#### Mentoring Program

Commissioner Kent advised that at the last meeting Commissioner Partington reported the death of Mr. Sutton who was a decorated military veteran serving in the Gulf War. He noted he taught Mr. Sutton's son, Zack, two years ago and was working on a mentoring program with Zack's mother for Zack.

#### Proclamation Honoring Al Matthews

Commissioner Kent reported that on Friday, January 23<sup>rd</sup> he presented a proclamation to Al Matthews who turned 101 years old.

#### Sunshine Law Seminar

Commissioner Kent reported he attended a seminar relative to Florida's Sunshine Law with Mayor Costello and Commissioner Partington which was informative and made him feel freer to speak to his fellow Commission members on issues not related to City business.

#### Newspaper Article

Commissioner Kent commended Commissioner Boyle for the article on off-beach parking that appeared in the newspaper.

#### Reuse Grants

Commissioner Kent stated the City applied for two grants for a reuse system, and one was approved. He asked why the second grant was not approved.

Mr. Ted MacLeod, Assistant City Manager, explained the reason the City did not receive the grant was that basically one grant would be approved per community.

#### Schedule of Events

Commissioner Kent reported he attended the Birthplace of Speed dinner at the Women's Club and the dedication of the First Measured Speed Mile in Florida. He stated he attended the historic time trials, riding in the "Green Dragon" with the top speed of 52 miles per hour on the beach. Commissioner Kent advised he witnessed why Stefan Sibley was selected as the Employee-of-the-Year in that he goes out of his way for any resident of Ormond Beach as well as the new Commissioners to help them in any way possible. He thanked Mr. Sibley for all his help and support.

#### Delay on Receiving Reports

Mr. Turner apologized for the delay in receiving certain reports on Monday rather than Friday. He reported staff had a meeting on Thursday night with the residents in the pocket area south of Harmony, a meeting with the County on Friday morning, and many other meetings interspersed making it difficult to gather the information for the Friday packet.

Fire Services

Mr. Turner reported the proposed Fire Service Agreement would come back to the Commission with the annexation agreement relative to Ormond Crossings since the issues were tied together.

Off-Beach Parking

Mr. Turner stated the County staff had committed to bringing the off-beach parking issue to the County Council no later than March; therefore, the City may hold off sending the letter to the County Council until late February to allow it to have a greater impact.

Certificate of Occupancy

Mr. Turner advised he looked forward to discussing the Certificate of Occupancy issue. He stated the developers control the time schedule, and staff reacts to that schedule. Mr. Turner reported many developers communicate with staff well while others do not.

Protecting the Code

Mayor Costello advised staff and boards protect the code, and he urged that this never stop; however, he asked staff not to feel betrayed if the Commission made exceptions to that code in that he considered that part of their responsibility. He stated the business community should know that the staff would uphold the code; but where the Commission considered it appropriate, the Commission would make allowances to achieve high standards while being business friendly.

Summarization

Mayor Costello reported a number of times tonight he summarized what was being stated in order to shorten discussions; however, should he do so and any Commissioner disagreed, that Commissioner should make that fact known, and he would allow discussion to continue.

Financial Board

Mayor Costello concurred with the recommendation to establish a Financial Board; however, he stated it should be an ad hoc committee with a time certain access to staff so as not to tie up staff unnecessarily. He stated this should be done now, and he asked the Commissioners to provide names at the next meeting to serve on the board. Mayor Costello asked staff to provide guidelines on a mechanism for appointing such a board. He reiterated he did not want this board to abuse staff's time.

Mr. Hayes reported he would prepare a resolution similar to the City Manager ad hoc committee selection process defining the responsibilities and parameters of the committee members setting a time limit of the duration of the board.

Mr. Turner asked the Commission to send him or Mr. Bentkofsky any specific responsibilities or duties they would like to consider for this board.

Item #13 – Close the Meeting

The meeting was adjourned at 11:02 p.m.

APPROVED: \_\_\_\_\_ February 17, 2004

BY: \_\_\_\_\_  
Fred Costello, Mayor

ATTEST:

\_\_\_\_\_  
Veronica Patterson, City Clerk