

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

April 20, 2004 7:00 p.m.

Present were: Mayor Fred Costello, Commissioners Jeff Boyle, Troy Kent, 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.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the March 27 and March 29, 2004, special meetings and the April 7, 2004, regular meeting.
- 5) **PRESENTATIONS:**
 - A) Proclamation by Mayor Costello proclaiming April 24, 2004, as Shawn Briese Day in the City of Ormond Beach.
 - B) Proclamation by Mayor Costello proclaiming the month of May as Civility Month in the City of Ormond Beach.
 - C) Presentation by Nancy Christman, Intergovernmental Coordinator, St. Johns River Water Management District.
- 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. 2004-68 authorizing the execution of an interlocal agreement between the cities of Daytona Beach, Port Orange and Ormond Beach, providing for the reciprocal use of certain recreational facilities of the respective cities, including a jointly-sponsored summer therapeutic recreation program for special needs children with disabilities; authorizing the expenditure of funds for the City of Ormond Beach's share of program costs; providing for a payment schedule; establishing administration and personnel staffing arrangements; adopting a resident fee schedule.
- B) Resolution No. 2004-69 authorizing the execution of a Release and Satisfaction of a Real Estate Mortgage and Security Agreement between the City of Ormond Beach and Ocean Design, Inc.
- C) Resolution No. 2004-70 authorizing the execution of Change Order Number One (1) to that contract awarded to Professional Highway Maintenance, Inc., regarding the South Ridgewood Avenue Lighting Improvements project; by increasing the contract price by \$4,054.33. (Total Contract - \$66,603.33)
- D) Resolution No. 2004-71 accepting a bid from Servello & Son, Inc., for landscape installation and irrigation improvements along Granada Boulevard from Orchard Street to Beach Street under Bid No. 2004-13; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$59,249.10)
- E) Resolution No. 2004-72 accepting a bid from Wiring Technologies, Inc., to replace water main crossings along US1 between Castilla Street and Hernandez Avenue under Bid No. 2004-17; authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$249,986)
- F) Resolution No. 2004-73 accepting the bid of Masci Corporation regarding the Benjamin Drive Drainage Improvements Project (Bid No. 2004-18); rejecting all other bids; authorizing the execution of a contract between the City and Masci Corporation, and payment thereunder. (\$1,152,883)
- G) Resolution No. 2004-74 authorizing the execution of an agreement between the City and Hall Construction Company, Inc., regarding installation of fiber optic lighting control cable for the air traffic control tower and taxiway lighting duct work at the Ormond Beach Airport. (\$74,200 total project – FAA funding of \$66,780, FDOT funding of \$3,710, and City funding of \$3,710)
- H) Resolution No. 2004-75 authorizing the execution of a Quitclaim Deed in favor of Roderick B. Gammon, Jr., and Sheila G. Gammon, releasing a portion of a ten-foot utility and drainage easement located on Lot 13, Breakaway Trails, Phase III, Unit 1 (12 Tomoka Cove Way).
- I) Approval of travel by City Manager Isaac Turner to attend the Florida City and County Management Association Annual Conference in Palm Beach Gardens, Florida.

DISPOSITION: Approve as recommended in City Manager memorandum dated April 15, 2004.

- J) Review of FY 2003-04 budget status.

DISPOSITION: Approve as recommended in City Manager memorandum dated April 15, 2004.

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2004-76 approving and authorizing the removal of two historic trees on property located at 34 Lakecliff Drive in the Ormond Lakes subdivision.
- B) Resolution No. 2004-77 authorizing the execution and issuance of a First Amended Development Order for the “Capital Plaza” Planned Business Development located at the northwest corner of Nova Road and Moreland Boulevard (1105 Moreland Boulevard) by authorizing a waiver of the masonry buffer wall requirements along the west property line; by requiring a landscape buffer in lieu thereof; ratifying and affirming the development order; establishing conditions and expiration of approval.
- C) Ordinance No. 2004-16 approving the preliminary and final plat for the “Creekside Subdivision” Planned Residential Development; establishing conditions and expiration dates of approval; authorizing the placement of official traffic control devices. (Second Reading)

10) **RESOLUTION** No. 2004-78 expressing support for certain transportation projects to be placed on the Transportation Improvement Program Project Priority List for Surface Transportation Program Funding in Fiscal Year 2009-2010; authorizing the City’s representative and alternate representative to the Volusia County Metropolitan Planning Organization to take action consistent herewith; authorizing transmittal.

11) **DISCUSSION ITEMS:**

- A) Request for proposal for solid waste and recycling services.
- B) Analysis and development of wholesale utility rate.
- C) Status of the Birthplace of Speed Park antique automobiles.
- D) City Commission members support of candidates.
- E) Standish, Triton and Royal Palm drainage improvements project.
- F) Ban on smoking in public facilities.
- G) Electronic participation in City Commission meetings.

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

Mayor Costello 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 March 27 and March 28, 2004, special meetings and the April 7, 2004, regular 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.

“Make a Difference” Award

Mayor Costello read an e-mail from Ms. Rita Press stating that the Halifax Urban Ministry's project undertaken by City staff, Citizens for Ormond Beach, Halifax Habitat for Humanity, and the Ormond Beach Citizens Police Academy won the “Make a Difference” award for Volusia County. He advised Ms. Press reported she witnessed City staff on numerous occasions giving of their time to make Ormond Beach a better community. Mayor Costello continued that staff, working with citizen volunteers, truly made a difference on this project and the Washington Street project. He reported Ms. Press urged the City Commission to honor staff for “going that extra mile.”

Mayor Costello thanked the employees for this extra effort. He asked that anyone who worked on the “Make a Difference” project stand and be recognized.

Item #5(A) – Shawn Briese Day Proclamation

Mayor Costello read a proclamation honoring Shawn Briese, noting that he earned a hero's medal from the Boy Scouts, the Distinguished Eagle, for saving a girl from drowning. He advised Mr. Briese earned the Eagle Scout rank by the time he entered college and has remained active in scouting for more than 25 years in a leadership role. Mayor Costello proclaimed April 24, 2004, as Shawn Briese Day in the City of Ormond Beach, urging all citizens to pay tribute to Shaw Briese for his outstanding contribution and service to our youth and community.

Item #5(B) – Civility Month Proclamation

Mayor Costello proclaimed the month of May 2004 as Civility Month in the City of Ormond Beach and urged all residents to adopt a pledge of civility in their businesses, neighborhoods, and in their personal lives.

Item #5(C) – St. Johns River Water Management District

Ms. Nancy Christman, Intergovernmental Coordinator, St. Johns River Water Management District (District), provided a packet of information including activities available on District owned lands, recreation possibilities, an overview of the District highlighting some of the projects the District was currently working on, and a Water-wise Guide for water conservation. She explained Ormond Beach was successful in funding a stormwater cost share program this year and last year with the District. Ms. Christman reported the governing board wanted to focus on helping local governments with water quality improvements; therefore, \$2.2 million was placed in the stormwater cost share program. She advised these funds would be allocated for construction projects that were ready to be implemented and where the local government had already budgeted the funds, such as the Ormond Beach projects where grants were recently approved.

Ms. Christman explained another program the District had available was alternative water supply funding to help reduce groundwater use and to use alternative sources of water or to increase reclaimed water lines. She advised this was geared for a construction program.

Ms. Christman reported another program where the District was seeking partners was where the District would acquire land for the local governments on which to do a stormwater project. She noted water conservation money was also available for smaller projects that promote demonstration projects for water conservation such as xeriscaping.

Mr. Paul Hayde, Northern Coastal Basin Program Manager, reported City staff had done a great job partnering with the St. Johns River Water Management District. He stated his program had been elevated to a SWIM priority basin for the District mostly due to local support.

Ms. Ann Moore, a District governing board member, presented Mayor Costello with a ceremonial check for \$80,000 toward the Live Oak Avenue and Lorillard Place baffle boxes. She stated baffle boxes work well to keep the pollution out of the river and also help with flooding. Ms. Moore commended Ormond Beach for moving forward in the reuse of reclaimed and stormwater.

Mayor Costello thanked the St. Johns River Water Management District representatives. He stated if Ormond Beach could obtain land to the west or could partner with the landowner, there was a possibility St. Johns River Water Management District could purchase the land and Ormond Beach could add the pipes for a lake for storage to provide reuse to the South Peninsula and other areas rather than dumping the water into the Halifax River. Mayor Costello

thanked the St. Johns River Water Management District for protecting a resource paramount to people's existence.

Item #6 - Audience Remarks

Coalition for the Homeless

Ms. Dottie Lewis, Chairman of the recently created Substance Abuse and Mental Health Corporation for the State of Florida and Assistant Director of Project Care Inc. working with the mentally ill in Volusia and Flagler Counties, reported she wished to speak for the Coalition for the Homeless rather than for those organizations with which she was affiliated. She stated there was a desperate need for the management information system because it was almost impossible for the homeless to obtain any medication without some sort of photo identification. Ms. Lewis reported many people cannot function without psychotropic medications.

Mayor Costello reported this issue had been forwarded to the Neighborhood Improvement Advisory Board.

Mr. Isaac Turner, City Manager, reported the Neighborhood Improvement Advisory Board met last night and would be sending a letter with its recommendation; whereby, Mayor Costello asked if the City Manager could report what the recommendation of the board was.

Mr. Turner reported the Neighborhood Improvement Advisory Board was recommending restoration of the funding, and they would be providing justification for that restoration. He stated the letter would be forwarded to the Commission; and if the Commission would like further action, it could be placed on an agenda for discussion.

Mayor Costello advised he voted for the extra \$5,000; however, to be fair to everyone, it needed to be placed on the next agenda to vote on the recommendation from the Neighborhood Improvement Advisory Board. He asked Ms. Lewis to come back on May 4th for the next meeting.

Mr. Turner urged Ms. Lewis to forward any information in writing relative to this issue to the City Manager's office prior to the meeting so it could be made available to the City Commission.

Fred Gamble Way Code Violations

Ms. Phyllis Davis, 484 Fred Gamble Way, advised that Fred Gamble Way was a lovely street with well-maintained homes and lawns except for the property on the corner of Hand Avenue and Fred Gamble Way, which has become blight on the neighborhood. She advised neighbors had contacted Neighborhood Improvement, but the problem remains. Ms. Davis noted another building in that area that used to sell automobiles has also become unsightly; and a recreational vehicle has been sitting on the corner of the street; and the Neighborhood Improvement and Police Department have not been able to correct this situation. She advised a trailer camp was being established in this residential area.

Mayor Costello directed staff to provide the Commission with a report and options on how to handle this situation. He requested Ms. Davis contact Ms. Judy Sloane, Public Works Director/City Engineer, in approximately ten days to allow time to work on this issue.

Coalition for the Homeless

Mr. Charles Carter, 212 Arlington Way, stated all of the paperwork for the 2004-05 CDBG cycle must be in DeLand by April 16th or the \$125,000 funding would be lost. He reported there was a total misunderstanding of the Community Development Program and the board's responsibility. Mr. Carter advised the homeless center in Daytona Beach had far exceeded the expectations of the community. He reported the Coalition for the Homeless was already receiving a donation from Ormond Beach's General Fund of \$2,500. Mr. Carter stated the director of the coalition hoped to retain that donation for fiscal year 2004-05, but was somehow urged to go to the Community Development Board for the federal tax dollars. He questioned if the shelter should be able to request the \$2,500 donation from the City of Ormond Beach after receiving funding from the Community Development Program. Mr. Carter urged clarification of any misunderstandings.

Mayor Costello asked staff to inform Mr. Carter when requests for donations would be considered during the budget process.

Mr. Turner reported that any group requesting money from the General Fund had traditionally sent a letter requesting the funding prior to the end of June. He advised staff had already received some letters. Mr. Turner stated he was not certain of the exact date the donations would be discussed, but he would provide the information to Mr. Carter.

Mayor Costello recommended that if any Commission member wished to go forward with any request not recommended by staff, that Commission member could bring up that request during the budget discussions.

Request for Consent Agenda Items to be Discussed

Mr. Carter asked to comment on Item #8(F) at the appropriate time.

Fred Gamble Way

Reverend Jesse Cotton, 528 Fred Gamble Way, concurred with Ms. Davis relative to the condition of the property on the corner of Hand Avenue and Fred Gamble Way. He pointed out the vehicles had been present for months.

Mayor Costello requested staff be allowed to research these issues and provide a report, and he asked staff to provide a copy of the report to Reverend Cotton when it becomes available.

Coalition for the Homeless

Ms. Diana Christen, 5808 Wales Avenue, Port Orange, President of the Volusia/Flagler County Coalition for the Homeless, expressed her appreciation for the \$5,000 and asked the Commission to reconsider providing the additional \$5,000.

Mayor Costello requested Ms. Christen come back on May 4th and provide any written information prior to that meeting.

Item #7(A) – Metropolitan Planning Organization

Mayor Costello reported he provided his report on the Metropolitan Planning Organization (MPO) at the last meeting.

Item #7(B) – Volusia Council of Governments

Mayor Costello reported he provided his report on the Volusia Council of Governments (VCOG) at the last meeting. He requested these reports be placed on the agenda monthly.

Commissioner Boyle stated he had something to report relative to the Water Authority of Volusia (WAV) at every meeting.

Item #7(C) – Water Authority of Volusia

Commissioner Boyle advised WAV's monthly board meeting was scheduled for tomorrow where the board would begin discussion of funding alternatives and approval of a coastal desalinization plant; however, he advised he would not be able to attend that meeting. He reported he was unaware that the Sunshine Law trial would extend into tomorrow, and he asked if the alternate to the WAV could attend the meeting.

Commissioner Kent reported he was scheduled to work, but that he could take the day off to attend since he was the alternate.

Commissioner Partington offered to forego a purely ceremonial building opening in order to attend the meeting.

Mayor Costello advised since Commissioner Kent was the alternate member, Commissioner Partington would probably not be permitted to vote; therefore, it would be best if Commissioner Kent would be able to attend.

Commissioner Kent thanked Commissioner Partington for the gesture, but noted he would be able to attend.

Mayor Costello instructed Mr. Turner to leave the MPO and VCOG reports on the agenda for consistency and stated that sometimes he would have a report, but other times he would not have a report.

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 asked that Items #8(F) and 8(J) be discussed.

Commissioner Kent asked that Items #8(C) be discussed.

Commissioner Boyle asked that Items #8(D) be discussed.

Commissioner Partington moved, seconded by Commissioner Kent, for approval of the Consent Agenda, minus Items #8(C), #8(D), #8(F) and 8(J),

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

Item #8(J) – Review of FY 2003-04 Budget Status

Mayor Costello requested that Mr. Bob Bentkofsky, Budget Director, come forward, stating that he had done an excellent job of explaining municipal finances over the past nine years. He reported this was Mr. Bentkofsky's last meeting, since he was leaving to take a job as Assistant City Manager in Oviedo, Florida. Mayor Costello noted he welcomed the opportunities for Mr. Bentkofsky, but advised he would be missed by Ormond Beach.

Commissioner Partington advised he was disappointed he only had the opportunity to work closely with Mr. Bentkofsky for four months, but he was aware of Mr. Bentkofsky's work for some time. He reported he was impressed with Mr. Bentkofsky's professionalism and brilliance. Commissioner Partington thanked Mr. Bentkofsky for the insight he had offered and for his in-depth explanations of the City budget. He wished Mr. Bentkofsky the best in his new endeavor.

Commissioner Selis stated Mr. Bentkofsky would be an excellent assistant city manager. He thanked Mr. Bentkofsky for answering all of his questions to his satisfaction.

Commissioner Kent described Mr. Bentkofsky as "tenacious" and thanked him for going through the budget, answering all of his questions meticulously and thoroughly. He wished Mr. Bentkofsky the best in his new position in Oviedo.

Commissioner Boyle reported that Mr. Bentkofsky had shown professionalism throughout his entire tenure. He stated Ormond Beach had more money in the correct places because of Mr. Bentkofsky's efforts, and he was pleased Mr. Bentkofsky had this well-deserved opportunity. Commissioner Boyle advised Mr. Bentkofsky would leave behind a great legacy.

Mayor Costello asked Mr. Bentkofsky to prepare a list of all of the items he would have liked to tell the Commission to do, but felt constrained to tell them.

Mr. Turner advised Ormond Beach had an extremely small budget department, and Mr. Bentkofsky had been very diligent in producing a budget document that has grown in intricacies and sophistication while staying on solid footing; and due to his efforts, Ormond Beach had not reached the financial crises other communities had experienced. He thanked Mr. Bentkofsky for the nights he spent working on the budget documents and helping to enable the City to obtain GFOA awards.

Mr. Bentkofsky reported he had thoroughly enjoyed his nine years working in the City of Ormond Beach for this Commission, the previous Commissions, and with his co-workers. He advised Ormond Beach was a great community in which to live and work, possessing great potential, and he was assured that the Commission had the wisdom to harness that potential. Mr. Bentkofsky thanked everyone for their comments.

Item #8(C) – South Ridgewood Avenue Lighting Improvements Project

Commissioner Kent advised he received a phone call from a constituent living on Ridgewood Avenue who had objected to the quality of the landscaping around the lights. He stated the lights were great, but all of the grass was completely dead. Commissioner Kent advised he mentioned this problem to Mr. Turner right before this meeting, and he stated he would investigate the issue.

RESOLUTION NO. 2004-70

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT CONTRACT AWARDED TO PROFESSIONAL HIGHWAY MAINTENANCE, INC., REGARDING THE SOUTH RIDGEWOOD AVENUE LIGHTING IMPROVEMENTS PROJECT; BY INCREASING THE CONTRACT PRICE BY \$4,054.33; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2004-70, as read by title only.

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

Item #8(D) – Landscape Installation and Irrigation Improvements along Granada Boulevard

RESOLUTION NO. 2004-71

A RESOLUTION ACCEPTING A BID FROM SERVELLO & SON, INC., FOR LANDSCAPE INSTALLATION AND IRRIGATION IMPROVEMENTS ALONG GRANADA BOULEVARD FROM ORCHARD STREET TO BEACH STREET UNDER BID NO. 2004-13; AUTHORIZING THE EXECUTION OF A CONTRACT AND PAYMENT THEREFOR; REJECTING ALL OTHER BIDS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Selis, to approve Ordinance No. 2004-67, as read by title only.

Commissioner Boyle asked if the City would be working on the irrigation system.

Ms. Judy Sloane, Public Works Director/City Engineer, explained the City would be completely replacing the irrigation system, the planter, and the tree area.

Commissioner Boyle advised he was hopeful this would solve the longstanding problem of the planter in front of the business located next to his business so it would no longer leak. He reported he noticed that 75% of the medians west of Nova Road to I-95 were leaking water onto the pavement in the middle of the night; however, he mentioned this to staff yesterday, and staff had already requested the professionals address the problem.

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

Item #8(F) – Benjamin Drive Drainage Improvements Project

RESOLUTION NO. 2004-73

A RESOLUTION ACCEPTING THE BID OF MASCI CORPORATION REGARDING THE BENJAMIN DRIVE DRAINAGE IMPROVEMENTS PROJECT (BID NO. 2004-18); REJECTING ALL OTHER BIDS; AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND MASCI CORPORATION, AND PAYMENT THEREUNDER; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Selis, to approve Resolution No. 2004-73, as read by title only.

Mr. Charles Carter, 212 Arlington Way, stated this project would finally be started after a number of difficulties. He noted the project started at \$900,000 three to five years ago and would now be costing \$2.5 million. Mr. Carter expressed concern relative to the location of the City pipes in the ground, which has led to extensive change orders to many projects. He urged that this issue be addressed before another project was started. Mr. Carter stated former

Commissioner Privett and the residents of the Benjamin Drive area would be very pleased this project would soon be started, and he recommended the Commission approve this project.

Mayor Costello asked if there was any way to have a better idea as to where the pipes were located.

Ms. Sloane advised some pipes were 50 to 60 years old, and the older pipes did not have locator tapes so the alignment could not be followed. She reported later in the agenda there was a similar item in that until an area was excavated, it was not clear where the pipes were located. Ms. Sloane noted staff does their best to estimate the location of the pipes, but it was very difficult to determine the exact location of the pipes at all times. She reported as each job continues, staff does more surveys, but pipes are only located at certain points and assumptions have to be made. Ms. Sloane reported it would be very expensive to do extensive excavation. She pointed out all of the newer pipes were locatable; therefore, the problems lie in the older areas where the pipes were not locatable.

Commissioner Boyle advised that five to six years ago Ms. Sloane came to the Commission to encourage them to allow mapping the infrastructure at a cost of \$500,000 to \$600,000, and the Commission rejected the idea.

Ms. Sloane concurred she had recommended more extensive surveying be done.

Commissioner Boyle pointing out that the \$600,000 that was not spent six years ago was being paid in a number of smaller increments as Ms. Sloane predicted.

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

Mayor Costello recommended contacting former Commissioner Privett to let him know this resolution had passed, as he had an interest in this project.

Item #9(A) – Removal of Two Historic Trees at 34 Lakecliff Drive

RESOLUTION NO. 2004-76
 A RESOLUTION APPROVING AND AUTHORIZING THE
 REMOVAL OF TWO HISTORIC TREES ON PROPERTY
 LOCATED AT 34 LAKECLIFF DRIVE IN THE ORMOND LAKES
 SUBDIVISION; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Boyle moved, seconded by Commissioner Partington, to approve Ordinance No. 2004-76, as read by title only.

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

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

Item #9(B) - Capital Plaza Planned Business Development

RESOLUTION NO. 2004-77
 A RESOLUTION AUTHORIZING THE EXECUTION AND
 ISSUANCE OF A FIRST AMENDED DEVELOPMENT ORDER
 FOR THE “CAPITAL PLAZA” PLANNED BUSINESS
 DEVELOPMENT LOCATED AT THE NORTHWEST CORNER OF
 NOVA ROAD AND MORELAND BOULEVARD (1105
 MORELAND BOULEVARD) BY AUTHORIZING A WAIVER OF
 THE MASONRY BUFFER WALL REQUIREMENTS ALONG THE
 WEST PROPERTY LINE; BY REQUIRING A LANDSCAPE
 BUFFER IN LIEU THEREOF; RATIFYING AND AFFIRMING THE
 DEVELOPMENT ORDER; ESTABLISHING CONDITIONS AND
 EXPIRATION OF APPROVAL; AND SETTING FORTH AN
 EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-77, as read by title only.

Mr. Curtis Burkett, Project Manager with Zev Cohen and Associates, 55 Seton Trail, reported staff had done a good job in presenting the requested amendment. He advised a great deal of work had been done to arrive at this point. Mr. Burkett advised he had the executed agreements from FP&L based on the latest plans; the owner executed the agreements, and they have been transmitted back to FP&L for execution.

Mayor Costello reported he would reluctantly vote against this because he did not wish to waive a masonry wall; however, this was FP&L land, and they approved it.

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

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

Mayor Costello advised that while he had indicated he would vote against the resolution, what he meant to say was that he opposed waiving masonry walls, but would vote for it in this instance because the applicant had done all they could.

Item #9(C) - Creekside Subdivision PRD

ORDINANCE NO. 2004-16
AN ORDINANCE APPROVING THE PRELIMINARY AND FINAL PLAT FOR "CREEKSIDE SUBDIVISION" PLANNED RESIDENTIAL DEVELOPMENT; ESTABLISHING CONDITIONS AND EXPIRATION DATES OF APPROVAL; AUTHORIZING THE PLACEMENT OF OFFICIAL TRAFFIC CONTROL DEVICES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Selis moved, seconded by Commissioner Boyle, to approve Ordinance No. 2004-16, on second reading.

Call Vote:	Commissioner Selis	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(C).

Item #10 - Transportation Improvement Program Project Priority List

RESOLUTION NO. 2004-78
A RESOLUTION EXPRESSING SUPPORT FOR CERTAIN TRANSPORTATION PROJECTS TO BE PLACED ON THE TRANSPORTATION IMPROVEMENT PROGRAM PROJECT PRIORITY LIST FOR SURFACE TRANSPORTATION PROGRAM FUNDING IN FISCAL YEAR 2009-2010; AUTHORIZING THE CITY'S REPRESENTATIVE AND ALTERNATE REPRESENTATIVE TO THE VOLUSIA COUNTY METROPOLITAN PLANNING ORGANIZATION TO TAKE ACTION CONSISTENT HERewith; AUTHORIZING TRANSMITTAL; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2004-78, as read by title only.

Commissioner Selis asked if the list was ranked in the priority by which the Commission considered appropriate or would the list be ranked by MPO.

Mr. Clay Ervin, Planning Director, reported these projects would be submitted to the MPO where they would apply criteria and rank Ormond Beach’s recommendations with the other cities and Volusia County’s recommendations.

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

Item #11(A) – Request for Proposal for Solid Waste and Recycling Services

Ms. Sloane reported staff was now ready to put out the RFP for solid waste and recycling services because the contract with Waste Management was coming to a close. She advised staff had been pleased with Waste Management’s service. Ms. Sloane stated staff would request the base proposal be the current level of service that now exists. She advised staff was requesting approval to include alternates to enable staff to present the Commission with options.

Mayor Costello advised this item related to forming the RFP, not to making any final decisions as to what company would be providing the service.

Mr. Andrew Hohner, 327 Marian Street, Daytona Beach, CEO of Halifax Wrecking, advised that he e-mailed a letter to the Commission, and he distributed a hard copy to Mr. Turner, Mr. MacLeod, and Mr. Hayes. He stated there were people in the community who involved themselves with recycling of construction demolition debris making up over 45% of solid waste. Mr. Hohner reported Waste Management was a multi-million dollar conglomerate, and they had done a great job; but his company would focus on the containers that pick up garbage at the curbside. He stated he recently visited a city that showed his company how to recycle 98% of all household curbside garbage and turn it into a material that could be sanitized and made into extruded lumber and a compost material. Mr. Hohner pointed out this would reduce the landfill size tremendously. He stated his company was working with the Department of Environmental Protection to introduce a bill to change legislation relative to what was occurring in landfills as well as in recycling. Mr. Hohner explained as technology improves, changes were imminent in many arenas, and solid waste collection was an area that would be impacted. He requested permission to discuss this with the interested parties and serve the City.

Mr. Turner requested the representative provide staff a courtesy copy of the material provided to the Commission at the time it was provided to the Commission.

Commissioner Boyle asked Mr. Hohner if his company had any affiliation with the landfill in South Daytona off Nova Road.

Mr. Hohner reported there was no longer a landfill off Nova Road in South Daytona because there had been a final closure on the issue.

Commissioner Boyle advised there was a controversial situation at that landfill, but it was now resolved; whereby, Mr. Hohner concurred that all of the issues were resolved.

Mr. Charles Merkley, District Manager, Waste Management, advised his company was the City’s current service provider; and they were doing a good job. He stated that they were proud to be the City’s service provider and would like to continue providing that service.

Mayor Costello encouraged Mr. Merkley to speak to Mr. Hohner and work with staff because recycling more material would benefit everyone.

Mr. Ted MacLeod, Assistant City Manager, advised he had met with representatives of Halifax Wrecking and explained how they could become a part of the process, beginning with obtaining the proper licenses. He stated when they met the qualifications, the City would support this; however, this was a different issue than what was being discussed this evening.

Mr. Turner reported this would be a highly competitive bid process, which was good for the City, and no one was being excluded.

Mayor Costello stated he favored Ormond Beach being in the forefront of how the City uses recycling material. He reported he wanted the bid to be competitive and include as much future thinking activities as possible.

Item #11(B) – Analysis and Development of Wholesale Utility Rate

Mr. MacLeod reported staff was working with Volusia County relative to providing water and sewer services north of Ormond Beach. He stated the County asserted that they would be the retail provider of services to Plantation Oaks and requested Ormond Beach provide wholesale services so they would not need to duplicate the building of treatment plants. Mr. MacLeod reported a wholesale rate would be charged for this service. He advised that in order to determine what that rate should be, staff proposed to engage Quentin L. Hampton Associates at a cost of \$3,872 to do an analysis and make a recommendation. Mr. MacLeod pointed out it was within the City Manager's authority to order this study without Commission approval; however, since this would involve providing wholesale service outside of the City limits, it would not make any sense to proceed with the study if the City Commission were not interested in pursuing providing those services.

Mr. Turner reported City staff had been discussing this possibility along with other major projects such as Ormond Crossings with County staff. He pointed out the County requested the City to consider this proposal.

Mayor Costello clarified that if approved, a study would be completed to provide information as to what was an appropriate wholesale rate to be charged; however, staff would not proceed without clear direction from the Commission that if a rate were determined, that the Commission would be approving providing the service.

Commissioner Boyle reported he would accept a study.

Commissioner Partington moved, seconded by Commissioner Selis, to approve a study to determine an appropriate wholesale rate to provide water and sewer services to the Plantation Oaks and Halifax Plantation area.

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

Item #11(C) – Status of the Birthplace of Speed Park Antique Automobiles

Mayor Costello thanked staff for the thorough report provided.

Commissioner Boyle stated that based on the report, the cars worth \$48,000 of City money were taken off the beach and shipped to Oregon a year ago where they remain with no indication as to when they would be returned. He recommended having the cars returned quickly and asking someone in the community to pay to complete the repair at a company located in Cape Kennedy. Commissioner Boyle noted the cars would not be able to be moved back to the park causing a problem since there were two concrete slabs at the park for the cars. He suggested staff make a recommendation as to what use could be made of the slabs.

Mayor Costello advised he would favor allowing the company in Oregon to try to finish the job, but asked the other Commission members for their views.

Commissioner Selis reported he shared Commissioner Boyle's concern relative to the cars. He noted there was not a great deal of security garnered when a company reduced its workforce from twelve to four employees; however, he questioned if in bringing the cars back, the City would, in effect, be waiving its legal rights should the company survive.

Mr. Randal Hayes, City Attorney, advised the owner of the company has been making an effort to restore the vehicles, and he was cautiously hopeful a finished product would be provided within the next couple of months. He stated Commissioner Boyle and Commissioner Selis' concerns relative to security were quite understandable, and additional information could be brought back to the Commission. Mr. Hayes noted there was a good possibility the City would waive its legal rights if the cars were brought back early; however, if the business failed, it would not be realistic to file suit against an insolvent company.

Commissioner Boyle stated the cars were only in place three to four weeks before the problems were noted, and the company has had the cars for 10 months, which was certainly adequate time to complete the repairs. Commissioner Boyle stated legal rights against a bankrupt company would be worthless. He noted the company would pay for the shipping, costing

\$2,000 one way; and if the company would become insolvent, the City would have the added problem of retrieving City property and paying to bring the cars back.

Commissioner Selis recommended sending a letter to the company with a notification that if they could not cure the problems within the next 30 days, the City would then insist on the Company returning the property, and the company would be responsible for any additional costs the City should incur. He agreed with Commissioner Boyle that 10 months was absurd, especially after the product was not originally designed or manufactured in the manner for which it was intended.

Ms. Sloane advised staff removed the cars from the park quickly; however, they were not sent to the company until August when an agreement was reached with the manufacturer.

Commissioner Selis noted that even with the reduced period of time, his point was still valid.

Mr. Turner reported the company indicated the job would be completed in June and requested the Commission consider sending them the aforementioned letter, but making the June date the absolute deadline as opposed to the 30 days Commissioner Selis recommended.

Commissioner Selis advised he was comfortable with the June date with no extensions granted; and at that point, the cars would be shipped back if not completed, and any additional costs to complete the work would be the responsibility of the company. The remaining members of the Commission concurred with Commissioner Selis.

Item #11(D) – City Commission Members Support of Candidates

Commissioner Selis advised he previously asked that this item be included on an agenda, and it prompted Commissioner Boyle to make comments on the issue, which he appreciated and accepted, but regretted that Commissioner Boyle felt this item was requested to shed ill light on him when that was not the intent. He stated during his campaign, there was confusion regarding who could openly and/or actively support a sitting Commissioner. Commissioner Selis reported it was important for this Commission to set a policy with regard to County Council or City Commission races, although not with a written ordinance. He stated that since this item was limited to the City Commission, he would limit his comments to the City Commission.

Commissioner Selis stated this was a free speech issue, whether it entailed making one phone call, putting up signs, helping with strategy, working behind the scenes, or working openly for a candidate. He advised any sitting Commissioner should be able and allowed to support the opponent of another sitting Commissioner at their own peril. Commissioner Selis explained that if they support the opponent, and the sitting Commissioner was re-elected, there may be hard feelings; however, for the betterment of the City of Ormond Beach, that re-elected Commissioner should put those feelings behind him and work with each Commission member. He stated sitting Commission members have enough restrictions on their ability to speak that when elections could affect the future of Ormond Beach, Commission members should be able to participate in those elections.

Commissioner Boyle thanked Commissioner Selis for his remarks and noted he agreed completely. He stated while there could never be any rule of law prohibiting a Commission member's participation, there has been an unwritten protocol for each individual to determine to what extent they should participate. Commissioner Boyle stated that if the Commission openly supported a fellow Commission member, this could create a problem where citizens may perceive alliances being formed.

Mayor Costello reported shortly after he was elected to the Commission, he was given counsel to not openly support a candidate for the Commission opposing a sitting Commissioner, and he took that advice. He explained a person he appointed to the Planning Board ran for City Commission, and he had to inform that candidate that he would not openly support his candidacy. Mayor Costello stated for that reason, he was pleased this was discussed and he could now be free to openly endorse any candidate he chose.

Item #11(E) – Standish, Triton and Royal Palm Drainage Improvements Project

Ms. Sloane reported there were three pipes on Standish Drive at the intersection of John Anderson Drive that did not follow the alignment shown in the as-builts, and the utility locates were based on the as-builts. She stated that in order to keep this job proceeding and not keep John Anderson Drive closed for an extended period of time, staff permitted the contractor to

begin this work. Ms. Sloane noted the formal change order would be brought to the Commission in May.

Commissioner Boyle advised this problem was due to the incorrect infrastructure mapping. He questioned if this project was related to the Neptune Drainage Project.

Ms. Sloane stated this was not related to the Neptune project. She noted that when the Oak Drive project was deleted from the Standish job, the Neptune job was still in the CIP, but it had been adjusted on the schedule since it was not as imminent as it would have been if Oak Drive would have been connected to Neptune. Ms. Sloane reported Neptune was not being done as a drainage project, rather it was being done as a collector road upgrade.

Commissioner Boyle asked if the City informed the Neptune residents as to when the project would be done; whereby, Ms. Sloane advised the Neptune residents were not notified of any particular schedule.

Item #11(F) – Ban on Smoking in Public Facilities

Mayor Costello advised that Mr. Hayes had provided options relative to banning smoking. He stated the City Commission was not authorized to regulate any indoor smoking since the State has that jurisdiction.

Dr. Charlene Evans-Thomas, 26 Lake Walden Trails, reported she utilized a great deal of time and effort in selecting Ormond Beach to be her home because she was an asthma patient, which was the same reason J. D. Rockefeller chose Ormond Beach. She stated breathing was a necessity of life. Ms. Evans-Thomas described herself as handicapped because when a person who was smoking passed her outside a building, she could have a life-threatening asthma attack. She stated that these places are public, but only for people who can tolerate smoke. Ms. Evans-Thomas urged the Commission to make these public events and not permit smoking.

Commissioner Kent expressed empathy for Ms. Evans-Thomas's situation since he also had asthma as a youth. He asked if Ms. Evans-Thomas was allergic only to cigarette smoke or also to truck exhaust and sparklers.

Ms. Evans-Thomas stated she was allergic to pesticides, insecticides, and chemicals. She explained tobacco smoke contains 30 compounds with arsenic being plentiful.

Mr. Stan Lee, 465 South Nova Road, stated while the agenda specified no smoking on public property, he understood the Mayor's proposal was to ban smoking on private property as well.

Mayor Costello explained his concept was to regulate smoking within 20 feet from an entrance on private property to enable anyone to access any public facility, which excluded private homes.

Mr. Lee reported there was a need to differentiate between the concept of public property and private property. He noted the Commission had the authority to legislate what should occur in front of City owned property such as the library, parks, and other public lands; however, it would be a violation of property rights to take away the ability of a property owner to determine what should occur on his particular property. Mr. Lee advised the market could regulate itself in that if a private business owner would realize they were losing business due to people being offended by smoking, the patrons would not patronize that business. He stated the City did not need a resolution to stop this type of smoking or to make law enforcement officers issue citations to smokers. He stated the business owners should be able to make their own decisions as to whether to allow smoking or not; and if the patrons did not wish to come in contact with smoke, they had the right to not patronize that business.

Mayor Costello advised he would never want citations issued for smoking. He stated most people are courteous; and if there would be regulations relative to smoking, people would obey the regulations.

Ms. Joan Casey, 32 Pebble Beach Drive, stated she had been the facilitator for the freedom from smoking clinic offered by the American Lung Association for 12 years, working with hundreds of people who have tried to stop smoking. She reported most smokers have tried to stop and want to stop smoking; and while some can be successful, some cannot. She reported if Ormond Beach enacted regulations on smoking, they should offer something to the smokers. Ms. Casey stated she suspected the American Lung Association would work with the City to offer freedom from smoking clinics, a very successful program with a 60 to 65% success rate.

Mr. Raymond Blastic, 212 Riverbluff Drive, advised he had been a smoker for 50 years. He noted regulating smoking in restaurants, airplanes, and public buildings may be reasonable; however, banning smoking in public outdoor facilities would go too far. Mr. Blastic noted if smokers were to be excluded, there should be user fees for the facility use rather than the facilities being tax supported.

Ms. Elizabeth Book, Old King Road, stated it was too easy to create laws that regulate every aspect of people's lives and the Commission should focus on taking outdated laws off of the books first.

Mr. Ralph Betancourt, former Daytona Beach Shores Mayor, advised he was making a film regarding smoking to be shown to students that demonstrated how addictive smoking could be and the dangers involved, because the answer to a smoke-free society was in the youth.

Mayor Costello reported when Mr. Betancourt finished the film, it would be placed on the agenda at 6:30 p.m. before a City Commission meeting for anyone interested in viewing the film. He noted he would prefer this regulation be complaint driven. Mayor Costello stated his vision was an ordinance similar to the Port Orange ordinance with any additions the Commission would like to include. He advised asking smokers to stay 20 feet from building entrances would not be an imposition to most people. Mayor Costello reported it was difficult to legislate courtesy; but when health was involved, it was appropriate to consider.

Commissioner Boyle advised he appreciated Mayor Costello's courage in advancing this issue for public examination and the speakers for providing insight on both sides of this issue. He reported he lost his father to tobacco. Commissioner Boyle reported he supported the Port Orange ordinance since something should be done at the playgrounds, fields, grandstands, concession stands, and restrooms. He noted he considered the rule for Rockefeller Gardens, but this would be difficult. Commissioner Boyle advised he recently learned only five states banned indoor smoking in restaurants and bars, 101 countries have signed treaties relative to cigarette smoke, and even third world countries have smoking policies advanced further than those in the United States. He reported smoking was still the leading cause in the United States of preventable death. Commissioner Boyle stated he supported the ban on smoking at the youth recreation sites and facilities.

Commissioner Kent thanked the audience for their keen insight and agreed it was brave of Mayor Costello to forward this issue. He stated being an educator, he agreed to the dangers of cigarette smoke, but noted alcohol, too much fatty food, and many other things were also dangerous. Commissioner Kent advised he could not support Option 3, but could support Option 2, only if the City were to provide an outlet for the smokers. He stated people should not have to walk through smoke to enter a building, but he questioned how he could tell someone what to do on private property. Commissioner Kent advised he too was concerned about protecting the youth, but he was also concerned about protecting the elderly. He reported education was the key. Commissioner Kent reiterated he could support Option 2 if the City were to designate smoking areas.

Commissioner Selis thanked everyone for speaking. He advised he was not a smoker, and he was asthmatic. Commissioner Selis stated he needed to measure these factors against the likely damage to the public if outdoor smoking were allowed to continue. He reported he agreed with Mr. Lee that the Commission should not regulate on private property, such as a restaurant that places its smoking section out-of-doors, where the public could choose not to patronize that restaurant. Commissioner Selis advised the Commission should be able to limit smoking at public facilities, whether youth related or not, since there was competent substantial evidence of the damage that could be done and there was clearly a legitimate public interest.

Commissioner Kent reported he preferred Option 2 limited to youth activities and parks, but also to provide courtesy smoking zones well away from entrances with seating and receptacles for the cigarette butts.

Mayor Costello advised he and Commissioner Selis agreed, but three other Commissioners preferred the Port Orange ordinance; therefore, the consensus was for the Port Orange ordinance with the caveat Commissioner Partington mentioned keeping smokers away from public entrances.

Commissioner Kent indicated a designated area where smoking was permitted needed to be provided before he could approve this option.

Commissioner Boyle stated there was a model for Option 2, but when provisions were added, different factors had to be considered. He advised there were many public entrances in Ormond Beach. Commissioner Boyle noted the Commission would rely to a large degree on human courtesy and could not proceed further without more information as to the logistics and costs involved.

Mayor Costello stated if there was a designated area where smokers could smoke away from public entrances, then the majority would support a ban on smoking by entrances to public buildings.

Commissioner Boyle stated signage would be needed.

Mayor Costello reported he did not believe signage, enforcement, or penalties were necessary, and the courtesy of people should be relied upon. He noted if it was discovered in a year that more would be necessary, this could be reconsidered.

Mr. Hayes clarified that this referred to outdoor smoking at public facilities, not private property, and it was modeled after the Port Orange ordinance with caveats, one of which was consideration of designated smoking areas. He noted he was unclear if it should include anything other than youth sports areas. Mr. Hayes advised staff would prepare a working draft of an ordinance for the Commission to discuss. He reported staff would have to do a survey of all of the public facilities, parks, and recreation areas, which would take time to prepare.

Mayor Costello advised he would prefer this be kept simple without the specificity Mr. Hayes had indicated; however, if it should become a problem, that specificity could be added at a later date.

Mr. Hayes stated ordinances needed to be legally sufficient and legally defensible; therefore, it was important to establish a reasonable basis for the ordinance.

Commissioner Boyle agreed that working with a draft would be advisable.

Commissioner Selis reported signs would be needed. He stated signs could be purchased cheaply.

Mr. Hayes concurred signage would be necessary. He requested the Commission consider what kind of enforcement they would prefer since if there was no enforcement, there was really no purpose to the ordinance.

Mayor Costello advised he wanted no enforcement. He stated he would prefer it be a reminder to be courteous.

Commissioner Partington advised Port Orange's ordinance had no enforcement.

Item #11(G) – Electronic Participation in City Commission Meetings

Commissioner Selis stated that in this world of technology, when a quorum was present and a family emergency arises, an illness occurs, or other exceptional circumstances occurs, and the privilege had not been abused, that a Commission member should be permitted to attend a meeting electronically. He commended Commissioner Boyle for his good health and the fact that he had never missed a meeting, but stated he did not always enjoy good health. Commissioner Selis reported the Commission could determine whether that participation should be voting or non-voting participation. He advised there would have to be a way for each Commissioner and the public to interact with the Commissioner appearing electronically. Commissioner Selis noted members of State agencies are permitted to attend meetings by telephone per statute, and there was no prohibition against this per home rule. He clarified he was not proposing electronic attendance due to scheduling conflicts or if the Commission member would be absent due to vacations or other personal reasons. Commissioner Selis advised he supported this only for documentable and legitimate reasons, particularly for workshops.

Commissioner Boyle stated he had a nine-year attendance record where he had been, fortunately, able to attend due to good health, no children, and an understanding wife. He reported he made no judgment relative to any Commission member who had to be absent. Commissioner Boyle stated electronic participation in a workshop would be unnecessary because the City Manager's secretary took great pains to schedule dates that are convenient to the entire Commission, and vacations are scheduled around public meetings. He reported that when people are too ill to attend a meeting, they are most likely also too ill to participate.

Commissioner Boyle noted he had not been aware of a problem in this regard. He pointed out the Attorney General opinion indicated that only for serious medical condition and only when attendance was necessary for a quorum would electronic attendance be permitted. Commissioner Boyle stated the United States Congress and the Florida House and Senate must physically be present to vote. He advised this Commission functions quite well with four or three members present. Commissioner Boyle reported the City Charter indicated a quorum would consist of three Commission members. He stated these are public meetings because they belong to the people, and if Commission members could appear electronically, would the Commission then allow the public to appear electronically as well. Commissioner Boyle advised the Commission should not have any privilege that the citizens do not have. He stated that a great deal of the communications that occur during meetings are nonverbal. Commissioner Boyle advised he had reversed a very important decision based on what he saw on peoples' faces rather than the words they spoke. He reported when a Commission member was elected, the residents expect them to appear at the meetings. Commissioner Boyle stated that if this would be approved, it would diminish what all five Commission members do.

Commissioner Kent reported he had given a great deal of thought to this issue. He noted he was very empathetic that emergencies do occur and the Commission member would not be able to attend; however, the people who elected him, expect him to attend and this may not always be possible. Commissioner Kent pointed out that nonverbal communication was so important Commissioner Partington suggested changing the form of the dais to better interact with one another. He advised he observed that when Ormond Beach and Daytona Beach met, the seating was interspersed with both Commissioners from each City Commission causing very positive results. Commissioner Kent stated he could not support electronic attendance.

Commissioner Partington concurred with Commissioner Boyle and Commissioner Partington. He noted that only in documented serious medical conditions or the need for a quorum so government could proceed with business would it be wise from a government perspective to allow a phone-in procedure, and only for those extremely limited situations.

Mayor Costello stated he would never be in favor of electronic attendance to make a quorum. He advised if he would be convinced to approve this, it would have to be after a physical quorum was present. Mayor Costello noted he may be convinced in the future to approve electronic attendance, but only if the Commission member would not be permitted to vote. He stated if an issue arises where a Commission member could not attend and wanted to express his opinion on the issue, they could present it in written form, and it could be read for the remaining Commission members to consider. Mayor Costello reported if there was ever a problem that a Commission member would hesitate sending a position paper due to the Sunshine Law, he may reconsider.

Commissioner Selis advised he appreciated everyone's comments and made it clear that the Zone 3 voters wanted him to attend the meetings as well, but he explained that this was a big issue in his campaign. He reported he thought the voters in Zone 3 were open to a limited opportunity to attend meetings electronically for legitimate documentable reasons. Commissioner Selis stated he would be present as much as he possibly could.

Mayor Costello reported he attended as many meetings as he possibly could; and through his concept for the Ambassador Program, people had the idea that he was trying to avoid attending meetings, which was not the case at all. He explained his concept was that if he was already planning to attend one event and was invited to another event, this program would allow him the opportunity to have someone else attend the second event.

Mr. Don Bostrom, 274 Cumberland Avenue, agreed with Commissioner Boyle wholeheartedly. He expressed a concern that some day the meetings would consist of five recording machines and no physical participation. Mr. Bostrom reported the citizens elected the Commission members to attend the meetings; and if they are unable to attend physically, they should not be able to participate.

Item #12 - Reports, Suggestions, Requests

Sunshine Law Trial

Commissioner Boyle stated the Sunshine Law trial would probably be completed tomorrow, and he apologized to the Commission and the residents for being involved in a trial or for any embarrassment it may have caused. He reported he had never, unequivocally, in his nine years as City Commissioner, violated the Sunshine Law or even come close to violating the Sunshine Law.

Medians

Commissioner Boyle reported Rochester, Minnesota, had medians in its main street by the high rises, such as the Mayo Clinic, that were currently dirt patches but would probably be planted in the near future.

Ambassador Program

Commissioner Boyle stated the Mayor had been treated unfairly relative to the Ambassador Program. He noted he had not known anyone more tireless in attending every event to which he was invited. Commissioner Boyle reported Mayor Costello succeeded in juggling the demands of a busy dental practice and caring for his family, and still attended all of these activities representing the City, and he thanked Mayor Costello for his efforts. He reported that because of this, if Mayor Costello wanted an ambassador or a number of ambassadors, he would certainly not oppose the concept; however, he would not personally appoint an ambassador for himself. Commissioner Boyle stated he preferred the program be informal and that Sunshine Laws not apply. He pointed out the Mayor's job was much larger than that of a Commissioner.

Political Signs

Commissioner Boyle reminded staff that he had still not been provided with a written record of any public discussion indicating the change relative to the political sign issue. He noted he was aware staff was investigating this issue, but he would continue to remind staff of this until he was provided the information or was told the information did not exist.

Neptune Approach

Commissioner Boyle stated the County placed a portable toilet at the Neptune approach. He pointed out the ramp at the Neptune approach was not ADA compliant. Commissioner Boyle advised the Commission never asked for the portable toilet, and it was never discussed or documented on any proposal. He stated there have not been any substantive changes; therefore, it was not needed yet. Commissioner Boyle noted that if and when the parking lot was constructed, and if it was decided public restrooms were needed, something permanent should then be built by the County on the lot. He urged staff to determine on what basis the portable toilet was installed and to remove it as quickly as possible.

Ormond Main Street

Commissioner Kent advised Ormond Main Street was holding a fish fry this Sunday, April 25th, from 2:00 p.m. to 5:00 p.m. at Fortunato Park at a cost of \$10.00 per person, and live entertainment would be provided.

Commissioner Kent reported that at the Ormond Main Street meeting, Ormond Main Street planned to spend \$100,000 on building signs, \$35,000 to pave Cassen Park, and \$65,000 to begin road improvements on New Britain Avenue and Tomoka Road. He stated also being considered were street lighting and brick medallions to begin a unification theme in the downtown area.

Respect

Commissioner Kent reported as a member of the Respect Task Force, that there were no problems in Zone 2 during the last Black College Reunion.

Jazz Ensemble

Commissioner Kent reported he regretfully was unable to attend the jazz ensemble on Saturday, April 18th.

City Commission Packet

Commissioner Selis thanked staff for providing the well-prepared packet of information for tonight's meeting.

State Basketball Tournament

Commissioner Selis congratulated the Police Athletic League boys team, 12 and under, for coming in second place in the State basketball tournament. He noted this victory enabled the team to proceed on to the national championships.

Tour and Workshop

Mr. Turner reminded the Commission of the tour and workshop at the Fleet Service Center on Orchard Street on Thursday, April 22nd at 5 p.m.

Mr. Hayes reported he had to attend a Development Review Board meeting on Thursday and would be unable to attend the tour and workshop.

Make a Difference Day

Mayor Costello informed Mr. and Mrs. Press that he read the letter they sent relative to “Make a Difference Day” before they arrived at tonight’s meeting, and he thanked them for their continued support and interest in Ormond Beach.

Budget Advisory Committee

Mayor Costello requested the Budget Advisory Committee be provided with the report prepared by the group of private CFO’s appointed by the Daytona Beach City Commission and the report prepared by the consultant, Larry Arrington, relative to Daytona Beach finances. He stated there may not be anything germane to Ormond Beach, but there may be something that could be gleaned from the reports.

Fire Department Overtime

Mayor Costello requested assistance in determining what could be done relative to Fire Department overtime. He stated in FY 2002-03, overtime was \$633,000 and in 2003-04, the overtime could approach \$860,000. Mayor Costello noted he wanted to provide top-level service without paying \$860,000 in overtime. He requested to be informed if it would be helpful to hire more employees, change the equal rank substitution clause, or any other suggestion to reduce this figure.

Fence on Mirror Lake Drive

Mayor Costello stated the building at Mirror Lake Drive had a chain link fence around their garbage bins, which faced Granada Boulevard. He stated the fence should be replaced with a masonry wall to match the building.

St. Johns River Water Management District Partnership

Mayor Costello stated Ormond Beach was in a great position to proceed with some initiatives that would improve the environmental aspects of Ormond Beach working with WAV and the St. Johns River Water Management District. He noted he was still disturbed to be dumping effluent into the Halifax River. Mayor Costello reported Consolidated Tomoka Land Company stated in the workshop prior to this meeting that they would be willing to work with Ormond Beach, St. Johns River Water Management District would be willing to purchase land, and WAV was also interested in partnering with Ormond Beach; therefore, a project should be initiated to partner with these entities. He noted Zone 2 wanted the reuse, which was a City Commission goal.

Neptune Parking Lot

Mayor Costello asked if a date was selected as to when Oceanside Country Club would inform the City as to their decision relative to the Neptune parking lot; whereby, Mr. Turner reported there has been communication made to Oceanside Country Club by the County and the City.

Jazz Ensemble

Mayor Costello advised he attended the jazz concert, and it was outstanding.

Sunshine Law Trial

Mayor Costello wished Commissioner Boyle good luck with the Sunshine Law trial, noting while he may not have agreed with what happened, he did not believe there was a Sunshine Law violation.

Ambassador Program

Mayor Costello reported he agreed with Commissioner Boyle relative to the Ambassador Program, which was meant to be a simple program to use “ambassadors” when he was unable to attend a function to honor whatever group had invited him. He noted he never intended for this to be a liability issue. Mayor Costello stated if the only way possible was to have the structured method following the Sunshine Law, he may reconsider his support of the concept.

Item #13 – Close the Meeting

The meeting was adjourned at 9:50 p.m.

APPROVED: _____ May 4, 2004

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk