

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

**May 4, 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 Pinchas Ezagui, Chabad Lubavitch of Greater Daytona.
- 3) Pledge of Allegiance.
- 4) Approval of the Minutes of the April 20, 2004, meeting.
- 5) **PRESENTATIONS:**
  - A) Proclamation by Mayor Costello proclaiming May 6, 2004, as Jr. Wildcats Day in the City of Ormond Beach.
  - B) Proclamation by Mayor Costello proclaiming May 7, 2004, as a day to honor the members of the Sculpture Garden Committee in the City of Ormond Beach.
  - C) Proclamation by Mayor Costello proclaiming the week of May 8-16, 2004, as National Tourism Week in the City of Ormond Beach.
  - D) Proclamation by Mayor Costello proclaiming the week of May 16-22, 2004, as National Public Works Week in the City of Ormond Beach.
  - E) Proclamation by Mayor Costello proclaiming May 28, 2004, as Employee Appreciation Day in the City of Ormond Beach.
- 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. 2004-79 authorizing the execution of a Fireworks Display Contract with Fireworks by Santore, Inc. (\$36,500)
  - B) Resolution No. 2004-80 authorizing procurement of one (1) seized 2001 Chevy Silverado for use by the Police Department; authorizing the expenditure of funds from the Ormond Beach Federal Law Enforcement Trust Fund for the purchase thereof; authorizing the execution of all documents necessary thereto. (\$3,800)
  - C) Resolution No. 2004-81 authorizing the execution of a lease agreement between the City and The Casements Guild, Inc.
  - D) Resolution No. 2004-82 authorizing the acceptance of a subgrant from the State of Florida, Department of Community Affairs, Division of Emergency Management, under the Emergency Competitive Grant Program for the purchase of emergency radios; authorizing the execution of an agreement with the State of Florida, Department of Community Affairs. (\$64,684 funding - \$32,342 local match)

9) **PUBLIC HEARINGS:**

- A) Resolution No. 2004-83 affirming the expiration of a Development Order/Conditional Use Permit for the Laurel Creek Development approved by Resolution No. 2002-64. (Fraternal Order of Eagles facility and a real estate office)
- B) Resolution No. 2004-84 authorizing the execution and issuance of a First Amended Development Order regarding the “River Grille” Restaurant Planned Business Development (formerly known as “Tomoka Grille” Restaurant) located on the southwest bank of the Tomoka River between North US1 and the Florida East Coast railroad tracks (950 North US1); authorizing an increase in seating capacity from 227 to 292, inclusive of outdoor seating; ratifying and affirming the Development Order; establishing conditions and expiration of approval.

10) **RESOLUTION** No. 2004-85 appointing a member to serve on the Volusia Growth Management Commission; establishing term and conditions of service.

11) **DISCUSSION ITEMS:**

- A) Consideration of earlier actions concerning the FY 2004-2005 Community Development Block Grant Annual Plan.
- B) Holly Hill/Ormond Beach boundary issues.
- C) Ormond Crossings and related issues update.

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

Rabbi Pinchas Ezagui, Chabad Lubavitch of Greater Daytona 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 April 20, 2004, regular meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Commissioner Kent recommended the following correction be made on page 14240: “Commissioner Partington concurred with Commissioner Boyle and ~~Commissioner Partington~~ Commissioner Kent.”

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

Mayor Costello asked that the minutes from the April 20, 2004, workshop be amended where it stated there would be three units per acre on the Daytona Beach side of the project, to reflect that there would actually be two units per acre.

Item #5(B) – Sculpture Garden Committee Proclamation

Mayor Costello stated that the leadership and cooperative efforts of the Sculpture Garden Committee enabled public art projects to complement and add significant quality of life to citizens and that the Committee’s diligence has brought such fine works of art as “Tomoka River Dance” at the Ormond Beach Performing Arts Center, the sculpture in Fortunato Park, and the mural honoring African American heritage at the South Ormond Neighborhood Center. He proclaimed May 7, 2004, as a day to honor the Sculpture Garden Committee and asked all

residents to join with him in expressing appreciation to Dorothy Bannister, Sara Hart, John Heist, Gladys Holton, Gwendolyn Jackson, Doris Katz, Frances Massey, Adelaide Mathews and Elsa Wiedermann for their expertise on the Sculpture Garden Committee; to former members Paul Baliker, Howard Carrey, Jack Hunter, Judge David Monaco, and Evelyn Durkas Thompson; to Sylvia Frost and Karen Neill, who acted as facilitators to the Committee; and to former Mayor Dave Hood, who initiated the sculpture garden concept, to assure that art would continue to be a part of Ormond Beach.

Item #5(C) – National Tourism Week Proclamation

Mayor Costello advised that the week of May 8-16, 2004, has been proclaimed National Tourism Week in the City of Ormond Beach.

Item #5(D) – National Public Works Week Proclamation

Mayor Costello advised that the week of May 16-22, 2004, has been proclaimed National Public Works Week in the City of Ormond Beach. Utilities Manager Tim Sheahan accepted the proclamation on behalf of the Public Works Department.

Item #5(E) – Employee Appreciation Day Proclamation

Mayor Costello recognized and honored all City employees, as “ambassadors” who provide important community service on a daily basis. He stated Ormond Beach employees are the City’s most valuable assets. Mayor Costello proclaimed Friday, May 28, 2004, as City Of Ormond Beach Employee Appreciation Day and advised that City Hall, non-emergency facilities and facilities which do not require 24-hour operations would be closed at 12:00 noon, Friday, May 28, 2004, in honor of Employee Appreciation Day.

Item #5(A) – Jr. Wildcats Day Proclamation

Mayor Costello advised that the Police Athletic League’s (PAL) boys’ 12 and under basketball team, the “Jr. Wildcats,” placed first in the regional PAL tournament held in Flagler on February 21, 2004. He stated the Jr. Wildcats placed second in the State PAL basketball tournament that was held at the Disney Wide World of Sports Complex on April 2-4, 2004, which qualified them for participation in the upcoming national tournament. Mayor Costello reported the team was coached by Clay Walden, Pepper Johnson, and Avery Randolph, and Officer Greg Stokes attended the tournament as a chaperone. He advised the team organized a car wash to raise money to assist with some of the tournament expenses and continues to research avenues to earn funds to attend the national PAL tournament. Mayor Costello stated the City of Ormond Beach was very proud of the Jr. Wildcats’ accomplishments and was grateful to everyone concerned for their contributions to the success of the program. He proclaimed May 6, 2004, as Jr. Wildcats Day and urged all residents to pay tribute to Breon Allen, Elishua Briggs, Michael Cotton, Jordon Dukes, Latherius Giles, Scott Gould, David Jones, Trevis McCoy, Malcolm Postell, Dominique Roberts, Matthew Thompson, Torrian (Corey) Walden, Chaunce Williams and Matthew Wyatt as outstanding representatives of the youth of the City of Ormond Beach.

Item #6 - Audience Remarks

Replica Cars

Mr. Gordon Kipp, 182 Grove Street, President Ormond Beach Historical Trust, stated that based on what was reported to the Historical Trust of what occurred at the last City Commission meeting relative to the replica cars, it was determined to pole the Trust membership to determine if they would support bringing the replica cars back to Ormond Beach. He reported he sent a letter to the Trust asking them to sign a petition requesting the cars be sent back to the City and to request contributions to assist the City to retrieve the cars if the City would have to spend the \$2,000 to obtain the cars. Mr. Kipp advised that to date he received 43 member signatures and \$805 in donations, which would give strong evidence that the residents of Ormond Beach support having the replica cars returned. He noted he just learned that the company where the replicas were sent was making every effort to repair the cars and return them to the City, and he assumed the City Commission was unaware of that fact. Mr. Kipp reported he would make copies of the petitions and submit them to the City Clerk.

Mayor Costello thanked Mr. Kipp for his efforts and noted Mr. Kipp did not have all of the pertinent information. He reported that the City sent a letter indicating that if the repairs on the replica cars were not completed by June 30<sup>th</sup>, the City would do whatever was necessary to retrieve the cars. Mayor Costello advised that to allow the company the opportunity to complete the repair job would place the City on better legal standing.

### Airport Issues

Mr. Adrian Thompson, 4 Pine Look Pass, read a letter into the record advising that after serving on the Airport Advisory Board for many years he was removed because of an apparent conflict of interest resulting from his professional occupation as the president of Ormond Beach Aviation Inc., and Fixed Base Operator (FBO) at the Ormond Beach Municipal Airport. He noted Terry Perkins of Cavalier Aviation, Inc., obtained leases to build hangars with no requirement to pay rent until construction was completed, and many lots were left undeveloped for years until interested parties were willing to pay premiums for lease transfers. Mr. Thompson stated that by not collecting the rent, the financial benefit went to private individuals rather than the taxpayer in the amount of \$3,900 per acre per year. He pointed out that Mr. Perkins was an attorney in the same practice as the then Mayor David Hood, who built a hangar on one of the leased lots.

Mr. Thompson stated the lease to FBO 2 was secretly negotiated, and the availability of the land was never made public or offered to existing businesses. He reported the City Commission was advised to build an access road and taxiway to provide access to the leased property. Mr. Thompson noted the rental lease was \$14,878.80 or \$3,629 per acre, and current rent for commercial land was \$8,000 per acre and should be \$32,800.

Mr. Thompson stated the City was funding nearly \$300,000 with taxpayers' money and the financial return on this property made no commercial sense. He urged the lease be revoked and put out for commercial tender.

Mr. Thompson advised the Baggett lease required construction by February 1, 1998; but no construction commenced, and no rent had been paid causing a \$6,290 loss to the City. He questioned why that lease had not been revoked.

Mr. Thompson stated the rental premium for M.A.C. Charter, Inc. d/b/a Sunrise Aviation was \$912.09 per acre or \$9,668.12 per year. He noted the next lowest rental premium was at Ormond Airport Hangars (OAH) valued at \$3,050 per acre, and the Cavalier rent was \$3,900 a year. Mr. Thompson advised if Sunrise were paying rent based on OAH valuation, their rent would be \$32,330 per year, and if they were paying based on Cavalier valuation, the rent would be \$41,340 per year. He questioned why Sunrise was receiving such a low valuation and paying such low rent. Mr. Thompson stated the valuation should be \$4,473 or \$47,3413 per year, but Sunrise was only paying \$9,668.

Mayor Costello advised Mr. Thompson's time to speak was nearly ended, but he would have staff investigate these issues and report back to the Commission in 60 days.

Mr. Thompson reiterated that there were still members on the Aviation Advisory Board serving who were not disqualified for the same reasons he was removed from the board.

Commissioner Boyle suggested Mr. Thompson be allowed to finish his comments at the end of the meeting.

Mayor Costello advised he would allow Mr. Thompson to conclude his comments at the end of the meeting.

### Drug Abuse

Reverend Jesse Cotton, 528 Fred Gamble Way, advised that the previous night was the final class of the Citizen's Police Academy, which he has been attending; and while the entire ten-week course was interesting and vital, last night's class, relative to drug abuse, was extremely vital. He stated common household items are being inhaled by youth causing death or severe injury. Reverend Cotton urged everyone to be more vigilant to the behavior of youth and to do whatever is possible to curb drug abuse. He thanked Police Chief Larry Mathieson for having such a fine program for Ormond Beach citizens.

Mayor Costello asked that Chief Mathieson bring any information to the City Commission that could be of assistance to help get this message out to the youth.

### Request for Proposal for Solid Waste and Recycling Services

Mr. Robert Klenk, 409 Baywood Circle, Port Orange, owner of Halifax Wrecking and Dumpster Service, reported he e-mailed information to the Commission. He advised he was an expert on landfills, demolition, and recycling. Mr. Klenk stated the experts involved in landfills, demolition, and recycling were being excluded from responding in the request for proposal (RFP) process. He reported if staff were not willing to talk to experts in this field, it would be harder for the Commission to make the most appropriate decision. Mr. Klenk offered to speak to any Commission member at any time relative to this issue.

Mayor Costello advised he had planned to broach this subject in the Commissioner Comments section at the end of the meeting and recommended Mr. Klenk remain in attendance.

Mr. Andrew Hohner, 327 Marian Street, Daytona Beach, CEO of Halifax Wrecking, stated that the minutes from the last meeting indicated Halifax Wrecking would focus on containers that pick up garbage at the curbside; however, that was not accurate. He stated his company would deal with roll-off type issues. Mr. Hohner requested the Commission closely scrutinize the e-mail he sent because roll-off companies were special entities that haul a great quantity of recyclable materials. He urged this be a non-exclusive franchise, which would benefit Ormond Beach citizens.

#### Unsubstantiated Allegations

Ms. Elizabeth Robinson made allegations concerning various police officers relative to occurrences on her property while she was out of town.

Mayor Costello advised Ms. Robinson that the Commission would not hear her allegations as they were unsubstantiated, and the officers in question were not present. He reported Ms. Robinson had been offered various ways to address her concerns; however, they had seemingly not been acceptable to her. Ms. Robinson continued to speak and Mayor Costello asked her to leave the chambers.

#### Item #7(A) – Metropolitan Planning Organization

Mayor Costello advised a number of issues were discussed at the Metropolitan Planning Organization meeting such as LED conversions for signals at crosswalks for the blind, the fact that the resurfacing project for US1 would soon begin, bike trails on SR40, and scenic highway designation impacting road widening. He reported when questioning DOT relative to Nova Road, the following comment was made: "The contractor has broken our record for deficiency letters." Mayor Costello stated T21 was the previous transportation authorization with 90.5¢ of 93% of the fund or 84¢ on the dollar, and the new funding arrangement was 90.5¢ of 86% of the fund or 76¢ on the dollar; therefore, Florida was a donor state and becoming even more so.

#### Item #7(B) – Volusia Council of Governments

Mayor Costello reported the Volusia Council of Governments (VCOG) was working on the fireworks prohibition issue. He noted Daytona Beach Shores was concerned about this, and the City Attorney has provided them with the Ormond Beach ordinance. Mayor Costello advised VCOG was trying to determine whether it would be better to prohibit possession, such as Ormond Beach, or to make it illegal to sell without a permit.

Mayor Costello advised that VCOG was working on coordinated certification and accreditation training for building inspectors, and firefighters would be able to apply to a central agency where testing and screening would be done County-wide, increasing the number of firefighters who would apply. He stated unified dispatch was discussed, and the only increase would be for employee increases. Mayor Costello noted governance oversight was needed, existing employees need to be protected, and all public dispatch should be dispatched together, although they may not start out together. He reported urban growth boundaries were discussed, and he reported he had submitted a letter to the editor that explained this situation. Mayor Costello advised that VCOG was also working on unified standards for code enforcement.

#### Item #7(C) – Water Authority of Volusia

Commissioner Boyle advised the Executive Director, Bruce Mowry, of Water Authority of Volusia (WAV's) would be on WELE radio tomorrow at 9:00 a.m. He noted he would join Dr. Mowry at WELE where citizens could call in with questions. Commissioner Boyle reported he was unable to attend the April 21<sup>st</sup> meeting, and he expressed appreciation to Commissioner Kent for attending that meeting.

Commissioner Kent advised the meeting was enjoyable and enlightening. He stated the major topic of conversation affecting Ormond Beach was the desalinization plant. Commissioner Kent noted Ormond Beach would be the first municipality to construct a desalinization plant in this area. He stated some of the members seemed surprised to learn of this proposition; however, Dr. Mowry pointed out that this had been discussed two times prior to this discussion, that Ormond Beach was being very pro-active, that Ormond Beach would continue in this venture with or without WAV, and that this was an issue that WAV should support. He reported revenue sources were also discussed.

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 Boyle asked that Items #8(A) and #8(C) be discussed.

Commissioner Kent asked that Item #8(D) be discussed.

**Commissioner Selis moved, seconded by Commissioner Kent, for approval of Item #8(B) of the Consent Agenda.**

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

Item #8(A) – Fireworks Display Contract

RESOLUTION NO. 2004-79  
 A RESOLUTION AUTHORIZING THE EXECUTION OF A  
 FIREWORKS DISPLAY CONTRACT WITH FIREWORKS BY  
 SANTORE, INC.; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Partington, to approve Resolution No. 2004-79, as read by title only.**

Commissioner Boyle reported Ormond Beach has had a very good partnership with Santore, Inc., with very positive results. He noted in 1998 the fireworks had to be cancelled due to the firestorm, and the City was able to cancel the contract for that year; but fireworks were put on in October instead during a historic celebration. Commissioner Boyle reported he understood that costs increased; however, this increase was exactly 25%. He noted he was not disputing the increase, but urged staff to provide a more in-depth breakdown of the cost increases.

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

Item #8(C) – Casements Guild, Inc. Lease Agreement

RESOLUTION NO. 2004-81  
 A RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE  
 AGREEMENT BETWEEN THE CITY AND THE CASEMENTS  
 GUILD, INC., AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-81, as read by title only.**

Commissioner Boyle expressed appreciation to the Mayor for hosting the luncheon last Wednesday thanking the Casement’s Guild and for all of the other events he attends. He stated the contract did not prevent the Guild from opening the store whenever the building was open; however, in recent years there have been a number of events where the Guild was precluded from opening. Commissioner Boyle asked if an amendment needed to be made to stipulate the right to open the store whenever the building was open.

Randal Hayes, City Attorney, stated the contract could be amended; however, since there was no prohibition in the contract, the Guild could open the store whenever the building was open.

Commissioner Boyle reported he did not see the need to make an amendment. He pointed out he spoke to Mr. Alan Burton, Director of Leisure Services, relative to this issue, and this problem would probably not reoccur; but if it should, it could be handled.

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

Item #8(D) – Purchase of Emergency Radios

RESOLUTION NO. 2004-82

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A SUBGRANT FROM THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS, DIVISION OF EMERGENCY MANAGEMENT, UNDER THE EMERGENCY COMPETITIVE GRANT PROGRAM FOR THE PURCHASE OF EMERGENCY RADIOS; AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Resolution No. 2004-82, as read by title only.**

Commissioner Kent asked how many radios and walkie-talkies the City currently possessed.

Police Chief Larry Mathieson advised these 27 radios were for both the police and fire departments. He advised older radios would be taken out of service and dedicated to the command trailer, and the new equipment would be received at a reduced cost as a result of the grant. Chief Mathieson reported he did not have the total number available at this time, but would provide this information to the Commission.

Mayor Costello recommended including this information in the Friday letter.

Commissioner Boyle commended staff for including the account numbers and urged this information be included in future reports.

Mr. Isaac Turner, City Manager, reported staff would be more consistent in including this information after hiring a new budget director.

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

Item #9(A) - Fraternal Order of Eagles Facility and a Real Estate Office

RESOLUTION NO. 2004-83

A RESOLUTION AFFIRMING THE EXPIRATION OF A DEVELOPMENT ORDER/CONDITIONAL USE PERMIT FOR THE LAUREL CREEK DEVELOPMENT APPROVED BY RESOLUTION NO. 2002-64; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2004-83, as read by title only.**

Commissioner Boyle reported this resolution approved two separate commercial uses for the same property. He questioned if the two uses for this single site would be grandfathered in.

Mr. Clay Ervin, Planning Director, advised that any time two uses were proposed for a single structure, the applicant would have to go through a special exception process; therefore, two uses would not be grandfathered in.

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) - River Grille First Amended Development Order

RESOLUTION NO. 2004-84

A RESOLUTION AUTHORIZING THE EXECUTION AND ISSUANCE OF A FIRST AMENDED DEVELOPMENT ORDER REGARDING THE "RIVER GRILLE" RESTAURANT PLANNED BUSINESS DEVELOPMENT (FORMERLY KNOWN AS "TOMOKA GRILLE" RESTAURANT) LOCATED ON THE SOUTHWEST BANK OF THE TOMOKA RIVER BETWEEN NORTH US1 AND THE FLORIDA EAST COAST RAILROAD TRACKS (950 NORTH US1); AUTHORIZING AN INCREASE IN SEATING CAPACITY FROM 227 TO 292, INCLUSIVE OF OUTDOOR SEATING; RATIFYING AND AFFIRMING THE DEVELOPMENT ORDER; ESTABLISHING CONDITIONS AND EXPIRATION OF APPROVAL; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Partington, to approve Ordinance No. 2004-84, as read by title only.**

Mayor Costello reported this resolution addressed seating capacity only, not outdoor music. He advised the Development Review Board passed this four to one allowing 12 smaller and two larger tables on the outside deck, and the parking would be self-regulating in that illegally parked cars would be towed.

Ms. Lucille Bornmann, John Anderson Drive, advised the reason the City had ordinances was because when development took place, it would be orderly with everyone following the same regulations. She stated it was wrong for the City to allow developers to disregard ordinances. Ms. Bornmann pointed out that in previous meetings, citizens have made it clear that they want to retain their quality of life. She advised this applicant has been granted all of their requests; this was an additional request, and the music issue would come back at a subsequent meeting. Ms. Bornmann questioned why ordinances were written and staff spent time going through the process when applicants are excused from following those ordinances. She advised approving this could set a precedent. Ms. Bornmann pointed out people in the community were becoming very upset about what had been occurring in the last few months because they see the quality of life in Ormond Beach diminishing. She stated she opposed this because it was against City ordinances and against the plan approved by the City Commission. Ms. Bornmann urged the Commission to speak to their constituents rather than conduct one-on-one meetings with the developers.

Mayor Costello advised the issue of the number of seating being changed was debatable because parking was available for those additional seats.

Commissioner Boyle stated that at the Development Review Board meeting, the daughter of the owner of the adjacent property indicated a problem relative to the arrangement they had with the applicant regarding allowing overflow parking on this property. He asked if these issues were resolved.

Mr. Rob Merrell, 150 Magnolia Avenue, reported there had been an arrangement made with the previous tenant of the adjacent property relative to shared parking, but the daughter did not agree with this arrangement; therefore, the agreement was discontinued.

Commissioner Boyle advised the Commission approved the Development Order for 227 seats. He questioned how the outdoor seating issue could slip past City personnel, the applicant, and the Commission. Commissioner Boyle stated staff was recommending approval because under the City code, only 115 seats were required and 118 parking spaces were provided, including the extra 64 seats being requested tonight. He advised he made two visits to the restaurant with the first visit on Friday, February 27<sup>th</sup> at 6:15 p.m., which was after Race Week and before Bike Week. He stated he observed all of the adjacent commercial property's parking was utilized; every legal parking space in the River Grille's parking lot was taken; and 30 to 35 cars were parked illegally on the two properties. Commissioner Boyle reported he went back last Friday night at 6:00 p.m. without the "happy hour" banner in place, and he observed 14 empty parking spaces and a number of empty tables inside the restaurant. He noted this led to some conclusions. Commissioner Boyle reported he believed the current parking for the 227 seats was inadequate whether or not the code allowed seating for this number or greater.

Commissioner Boyle advised this would allow a 29% increase in the current seating capacity. He stated there was a previous parking arrangement; therefore, the applicant knew there were parking issues, which he considered proof that at peak times the parking was inadequate. Commissioner Boyle noted that without this agreement, there was now even less parking than previously. He reported the Commission was charged with interpreting and applying the code. Commissioner Boyle advised that in normal circumstances there were places for the excess parking such as adjacent parking lots and City streets, but River Grille was bounded by a superhighway, a river, a railroad track, and a commercial property that was not available for overflow parking since the agreement was dissolved. He expressed concern that if this Commission should approve outdoor music at a subsequent meeting, there would be many people patronizing this establishment who would not need a seat since they could stand on the deck, necessitating more parking. Commissioner Boyle advised that for these reasons he urged the Commission to deny this amendment.

Mr. Merrell distributed a page from the Development Order which he stated explicitly indicated uses as follows: "The Planned Business Development project consists of a 227 seat 6,780 square foot Type "A" restaurant overlooking the Tomoka River ... (a) the floor plan for the restaurant indicates a bar area with 45 seats on the north end of the building; (b) the main seating area consist of 110 seats, and the side seating area consisting of 72 seats; (c) there will be outdoor seating on a wood deck overlooking the Tomoka River ....." He advised the outdoor seating was not overlooked since it was explicitly written in the Development Order and part of the approved original request; but when the architect drew up the detailed plans showing all of the seating, the seats were not drawn on the deck. Mr. Merrell pointed out people were concerned relative to the noise that would be generated from people on the deck, and the question was whether people would be standing on the deck with beer and wine or sitting at tables having dinner. He noted some have considered this a bar being disguised as a restaurant. Mr. Merrell reported Sean Daly of the Development Review Board indicated he would prefer seating on the deck since it would guarantee this would be a restaurant and not a bar. Mr. Merrell advised this developer has tried hard to provide what was asked. He pointed out that adding the seats on subparagraph (a) and (b) equals 227 seats; but while subparagraph (c) did not have a number included, outdoor seating was obviously anticipated with no objections at the time the Development Order was approved. Mr. Merrell reported this project clearly demonstrated compliance with all criteria of Ormond Beach codes. He noted current standards may subsequently be determined inadequate relative to parking and may need to be changed, but this project abided by current standards as required. Mr. Merrell stated that during peak times, all of the parking may be used, and the next potential patron would observe this and go elsewhere. He reported the restaurant had been popular; however, a reason for this may be the newness of the restaurant. Mr. Merrell advised there were no public safety issues involved, and the additional seating would fill the deck with seat for people to eat dinner.

Commissioner Selis advised that based on the report, it would be fair to conclude that staff would have recommended the amount of seating currently before the Commission had it been clearly delineated when it originally came before the Commission, since they were now recommending approval. He noted this was not even an item of discussion during the meeting to approve the Development Order, and it was clear that the owner had always anticipated this number of seats because they built a sufficient number of parking spaces to accommodate this amount of seating. Commissioner Selis agreed this was an oversight that should be rectified. He commended Commissioner Boyle for his very persuasive argument, and he considered it a persuasive argument to consider amending the code to change the City's parking standards. Commissioner Selis recommended the Commission consider this at a subsequent meeting. Commissioner Selis advised he did not consider Commissioner Boyle's argument persuasive to deny this particular application because the argument was if tables were on the deck, more people would come, creating a need for more parking; but this argument was fallacious in that if there were no tables on the deck, more people would be able to stand on the deck with an even greater parking shortage.

Mayor Costello reported it was obvious that subparagraphs (a) and (b) in the Development Order equaled 227, and the number of seats the applicant was requesting matched the parking being provided. He noted every Development Order was based on parking, which convinced him this was truly an oversight. Mayor Costello agreed to consider an amendment to increase the parking requirements, but he did not consider this a change, but merely what was expected from the beginning; therefore, he supported this resolution.

Commissioner Boyle reported this was not an issue of seating, but adequate parking. He noted the question of where the people in those 65 additional seats would park still existed. Commissioner Boyle advised he voted on the Development Order with 227 seats and 118 parking spaces. He stated this site had unique constraints with no place for overflow parking that would be available for other restaurants. Commissioner Boyle noted there were fire safety

issues the night of February 26<sup>th</sup> with no way for a fire truck to enter the property or for people to get out. He submitted this was not an oversight. Commissioner Boyle reported he originally approved this because of the additional parking being provided for the 227 seats, and he understood the additional parking was provided because of its unique constraints. He pointed out ancillary parking was available through an agreement which no longer existed. Commissioner Boyle expressed concern cars would be parked on the shoulder of US1.

Mayor Costello reported the Commission shared Commissioner Boyle’s concern; however, the applicant would have to establish some sort of shuttle service or patrons’ cars would be towed away if parked illegally.

Commissioner Kent commended Commissioner Boyle for his argument. He stated that while he had not had the opportunity to patronize this establishment yet, he had heard great things about it; it seemed to be what the people want; and the owners were putting out a great product. Commissioner Kent reported with this in mind, and with the Development Review Board and staff approval, he was comfortable supporting this request.

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

Mayor Costello asked staff to consider parking requirement amendments on a future agenda.

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

Item #10 - Volusia Growth Management Commission Appointment

RESOLUTION NO. 2004-85  
 A RESOLUTION APPOINTING A MEMBER TO SERVE ON THE  
 VOLUSIA GROWTH MANAGEMENT COMMISSION;  
 ESTABLISHING TERM AND CONDITIONS OF SERVICE; AND  
 SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Selis moved, seconded by Commissioner Boyle, to approve Resolution No. 2004-85 appointing Mr. Gerald T. Brandon as a member to serve on the Volusia Growth Management Commission.**

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

Item #11(A) – 2005 Community Development Block Grant Annual Plan

**Commissioner Boyle moved, seconded by Commissioner Selis, to approve Option 2, to restore the \$10,000 funding as recommended by the Neighborhood Improvement Advisory Board.**

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

Mayor Costello advised the information provided by Ms. Lindsay Roberts of the Volusia/Flagler Coalition for the Homeless was very helpful, and it made a difference in reaching a decision.

Commissioner Kent thanked Mr. Charles Carter for the information he provided relative to this issue.

Commissioner Boyle concurred with Commissioner Kent noting Mr. Carter had the moniker “Homeless Charles” for a reason.

Item #11(B) – Holly Hill/Ormond Beach Boundary Issues

**Commissioner Selis moved, seconded by Commissioner Partington, to accept the report as submitted.**

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

Item #11(C) – Ormond Crossings Update

Mayor Costello reported staff provided a wonderful report on a project about which the Commission was extremely excited.

Mr. Turner reported more information would be provided in about one month.

Mayor Costello thanked the City Attorney for his efforts on this project.

Item #12 - Reports, Suggestions, Requests

Commendations

Commissioner Kent commended Mayor Costello for his integrity in dealing with Ms. Robinson and Commissioner Selis for speeding the process up at the end of the situation. He stated this type of incident tended to make people uneasy, but he would also refuse to allow someone to belittle and make untrue accusations about people who work for this City, especially one who puts on a bullet-proof vest to protect that very resident who was making false claims about them.

Mayor Costello reported the claims were at the very least unsubstantiated.

Fish Fry

Commissioner Kent advised the Main Street Fish Fry was incredible with the music, great food, and good southern hospitality. He commended Dorian Burt for her tireless efforts, and he also thanked the many volunteers.

Community Perception

Commissioner Kent reported a comment was made earlier in the meeting relative to the Commission not listening to the community; however, he advised he does listen to the community and has heard nothing but positive comments. He stated people have commended the unity of the Commission and that most decisions reached make good common sense.

Staff Response to Zone 2 Issues

Commissioner Kent thanked Mr. Turner and Mr. Ted MacLeod, Assistant City Manager, for the assistance they provided with Zone 2 issues he brought to their attention, particularly in the last few weeks. He reported he asked for assistance with approximately 15 different issues, and within four days, every question was answered.

Mayors' Golf Tournament

Commissioner Boyle reported this was the first time he participated in the Mayors' Golf Tournament, and he, Mayor Costello, and Commissioner Partington performed respectfully. He commended the Chamber of Commerce for their vitality and organization of this event. Commissioner Boyle advised that contrary to what some people may believe, Mayor Costello was ubiquitous, attending a great many events.

Urban Growth Boundaries

Commissioner Boyle reported Mayor Costello wrote a fine article on urban growth boundaries, which took a complicated issue and reduced it to language even a layperson could understand.

Baseball and Sports Card Show

Commissioner Boyle thanked Mr. Joe Radcliffe, Public Information Officer, for his efforts in preparing press releases for the 23<sup>rd</sup> Baseball and Sports Card Show to be held this Saturday. He noted this event made the front of the Orlando Sentinel bulletin board and the lead story in the Sunday Volusia section, which would be helpful. Commissioner Boyle reported since Mr. Radcliffe had gotten involved in this project, people on the west side of the County are coming to the show.

#### Portable Toilet at the Neptune Beach Approach

Commissioner Boyle stated the Friday letter provided a good report relative to the portable toilet at the Neptune beach approach where it was learned that the County Leisure Services Director, Mr. Bill Apgar, made the decision to install the portable toilet based on the proposed parking lots; however, he pointed out that this parking lot was only a proposal which had not been approved by Oceanside Country Club. He expressed concern that since the nearby homeowners had strong objections to the portable toilet, they may now be pressuring the officers and members of Oceanside Country Club not to approve the current application to construct this parking lot. Commissioner Boyle advised he noted the restroom has now been removed, and he was hopeful it was permanently gone. He reported this was another County decision in which the City had no input such as placing the poles on the Granada approach.

#### Political Signs

Commissioner Boyle thanked staff for providing material relative to political signs. He advised another Commissioner branded the political sign issue an oversight. He noted it was an oversight because staff did not alert the Commission that the rule was to be changed, and the second oversight was that the law was made at all. Commissioner Boyle reported there was a one sentence reference to this change made by a representative of VCARD based on a memorandum written in 2000 with no discussion or vote by any board or by the Commission.

#### Ormond Beach Historical Trust

Commissioner Boyle reported the Ormond Beach Historical Trust was now proposing to return the cars back to the Birthplace of Speed Park to be placed in a Plexiglas enclosure so the cars could be seen but not exposed to the elements or vandalism.

#### Consolidated Tomoka Land Company Service Issues Meeting

Commissioner Boyle stated the Commission discussed the Consolidated Tomoka Land Company (CTLC) service Issues at a meeting on April 20. He reported that it was a shock that a meeting that was designed to explore the landowner's reaction to the City's proposal opened with the Mayor and three other Commissioners immediately abandoning the City's previous consensus for settlement reached after three hours of thoughtful public discussion at a special City Commission meeting where a vote could be taken on Saturday, March 27<sup>th</sup>. Commissioner Boyle advised the Commission then took that unified consensus opinion to another public meeting with the Daytona Beach City Commission. He stated Ormond Beach residents applauded that position and the Commission's consensus; the Daytona Beach Commission appropriately advised they required time to consider the proposal; and the landowner indicated he had reservations relative to the stipulations that had been added to the agreement but was willing to discuss his objections with the Ormond Beach Commission. Commissioner Boyle reported that over the next 22 days, Mr. Bill McMunn of CTLC, invited the members of this City Commission to a series of one-on-one meetings. He noted that solely on the basis of these private meetings, with no public meeting, no public input, and no public interaction between Commissioners, the Mayor and three Commissioners each individually reversed their opinion from the previous consensus opinion reached by this Commission. Commissioner Boyle noted that setting aside the fact millions of dollars of service revenue was in question, whether or not a landowner would continue to make development rules for government, and where the City would find \$250,000 for a land development agreement that may not be possible under existing law, three important questions remain. He stated the first was what level of credibility Ormond Beach would now have with Daytona Beach; what level of credibility Ormond Beach would now have with Ormond Beach citizens; and what level of credibility each Commissioner would have with his fellow Commission members.

#### Airport Issues

Mr. Adrian Thompson, 4 Pine Look Pass, continued his previous statement by reading the remainder of his letter. He noted Sunrise should be paying \$9,669 based on a valuation of \$4,473 or \$47,413 per year. He reported staff was progressing an extension of the Sunrise lease for an additional 30 years past the 2013 expiration. He questioned the land value used for the rental calculations and indicated the current rental valuation would be \$8,000 per acre to equate to a rental of \$117,597 per year. Mr. Thompson stated that when Sunrise builds FBO2, their current lease provided for a reduction of 28% to \$6,961 per year.

Mr. Thompson advised the aforementioned demonstrated clear evidence of favoritism to Sunrise to the detriment to the taxpayer and the airport tenants. He noted this was arbitrary, discriminatory, actionable by law, and may bring into question eligibility for grant money from FAA and FDOT.

Mr. Thompson reported a 10,000-gallon fuel truck was parked on City property leased to Sunrise Aviation and used as a fuel storage tank with no Florida tag visible on the vehicle. He noted the tank does not comply with City code or meet US or Florida EPA requirements as a

storage tank. Mr. Thompson reported this was a safety hazard exposing the City to liability. He questioned if the City was ensuring that tenant buildings on City property was being maintained to a satisfactory standard and maintained according to the lease. Mr. Thompson asked when the buildings were surveyed, what repairs were required, and if they were carried out.

Mr. Thompson questioned when the City audited fuel flow surcharges paid by FBOs to the City; what was the surcharge currently paid by FBOs; was the surcharge to be paid on all fuel dispensed to all aircraft or only on fuel supplied to a third party aircraft; and by what means the City insured all surcharges due were being paid to the City.

Mr. Thompson stated there was no process or fairness in leasing land at the airport, and there were hundreds of thousands of dollars of possible revenue going into the hands of private individuals, which must be stopped.

Mayor Costello reiterated staff would provide a report in 60 days.

Commendations

Mr. Turner commended staff and the Commission for their participation in the Relay for Life event associated with the American Cancer Society that earned \$3,500 for this cause. He also commended those participating in the Run for the Torch supporting Special Olympics. Mr. Turner expresses pride in the employees who give back to the community through these types of events.

Tallahassee Trip

Mr. Turner stated last week a request was made to have staff presence in Tallahassee by Representative Pat Patterson and the City's lobbyist Sam Bell. He stated Economic Development Director Joe Mannarino, Planning Director Clay Ervin, and he went to Tallahassee on Tuesday April 27<sup>th</sup> to discuss the requested overpass for Ormond Crossings. Mr. Turner reported Ormond Beach has a regulation requiring prior approval for the City Manager for any overnight out of town stays; however, this request was received the previous Friday and sufficient time to request approval was not available. He advised he did contact each Commission member informing them of this request.

**Commissioner Partington moved, seconded by Commissioner Selis, to approve Mr. Turner's overnight April 27<sup>th</sup> trip to Tallahassee.**

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

Mayor Costello requested an item be included on an agenda in 90 days on how the Commission would like to handle this type of situation in the future. He noted he would prefer to give the City Manager authority to make this type of overnight trip without prior Commission approval.

Mr. Turner reported during this trip he met with representatives of DOT, Representative Joyce Cusack, the Chair of the Transportation Appropriations Committee David Russell, Representative Pat Patterson, Sam Bell, and a representative from Senator Evelyn Lynn's office.

Budget Review

Mr. Turner advised staff members would be meeting next week for budget review and certain staff members would not be available. He reported he would normally stop what he was involved in to take a Commission member call; however, he would not be taking calls during this critical time.

Mr. MacLeod advised staff would return any calls received during this time as soon as possible.

CTLC Agreement

Mayor Costello advised he considered the change in opinion relative to CTLC had enhanced the Commission's credibility for having put in the extra effort to make an agreement. He stated this was a three-party agreement, and the landowner had expressed concerns at the joint meeting about the amendments the City recommended. Mayor Costello reported that, absent the landowner's agreement, there would not be an agreement. He noted he may have moved too quickly in indicating he changed his opinion before welcoming anyone to inform him if they felt they were being rushed to a decision and he would allow discussion. Mayor Costello advised

he weighed the issues and made a decision others had also made. He reported the citizens he spoke to seem to want this agreement to come to fruition and supported this decision.

#### Relay for Life

Mayor Costello expressed pride in the City employees and the Chamber of Commerce when they participated in events such as the Relay for Life, and worked hard for a good cause.

#### Fish Fry

Mayor Costello reported he wanted to attend the fish fry; but due to his wife's birthday celebration, he was unable to attend. He noted he was pleased with the success of this event.

#### Community Perceptions

Mayor Costello thanked Ms. Bornmann for her comments, but reported he had received hundreds of positive comments from citizens on the direction this Commission had been taking. He requested Ms. Bornmann have those people she spoke of who were unhappy with the direction the Commission was taking, speak to him so he could hear their views. Mayor Costello noted he was blessed with an active practice where he sees many people each day, and 25% of those people express their opinion on some issue and approximately 10% have indicated they were pleased with what had been occurring in Ormond Beach.

#### Congressman Mica Support of Ormond Beach Art

Mayor Costello reported a Seabreeze student won Congressman John Mica's congressional art contest, and the student's art would be displayed in the Capital, with the student flown to the Capital. He noted he also saw Congressman Mica at Petals and Palettes. Mayor Costello advised Ormond Beach was blessed to have a congressman interested enough in the City to come to these events. He reported Congressman Mica was committed to do all he could at the federal level to assist in the Ormond Crossings interchange.

#### Police Accreditation

Mayor Costello congratulated the Port Orange Police Department for achieving full police accreditation and noted he looked forward to hearing where Ormond Beach was in that process.

Police Chief Larry Mathieson explained there were two versions of accreditation. He stated there was the Commission of Florida Accreditation (CFA), which was State accreditation, and the Commission on Accreditation for Law Enforcement Agencies (CALEA) was a national accreditation. Chief Mathieson advised Ormond Beach was accredited under CFA and in the process of obtaining CALEA recognition, which means that 20 additional standards on top of the 400 that the City was already under compliance with were needed to achieve national recognition. He reported Ormond Beach was accredited before Port Orange was accredited.

#### Impact Fees

Mayor Costello stated he was proud of the fact that Ormond Beach was a community working to make growth pay its own way through impact fees. He noted he favored impact fees being increased to assure that growth pays its own way, and he looked forward to receiving the study being prepared by staff.

Mr. Turner reported there was no plan to study impact fees at this point since a study was recently completed. He noted staff planned to study development related fees that may help augment needs in building inspections.

Mr. Ervin reported that the two major components were local roads and parks and recreation. He noted recommendations on parks and recreation impact fees could not be addressed until that study was completed as with the Citywide modeling. Mr. Ervin reported that when this was completed, staff would go through full capital improvement amendments.

Mayor Costello reported he did not need a response at this time but wanted to investigate all of the impact fees that were eliminated and the value of the existing impact fees in a workshop setting in the future.

Mr. Turner reported this may not be scheduled until the next fiscal year because of the enormity of the task; whereby, Mayor Costello advised that would be fine.

#### Roll-off Containers

Mayor Costello urged staff to talk with the representative of Halifax Wrecking to determine if the City could receive a better deal if there would be a contract exclusively for commercial solid waste recycling from roll-off containers. He questioned if the City should have a non-exclusive residential and an exclusive commercial contract. Mayor Costello reported he would like to know the costs and parameters involved. He clarified that he wanted to be certain staff

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provided an opportunity in the RFP to allow people to bid on a portion of the project rather than only accepting those bidding on the entire project.

Mr. MacLeod advised there would be a pre-bid conference on May 13<sup>th</sup>; and the bidders must bid on every portion of the bid. He explained that an ordinance sets forth the roll-off fee. Mr. MacLeod advised this RFP was the same as had been used for 15 years.

Mayor Costello noted that it was possible someone could be interpreting it differently. He advised he wanted to be certain these voices were being heard and the Commission would have the opportunity to address whether the City should continue to have private contractors that were not the City's exclusive contractor doing the roll-off containers.

Mr. MacLeod advised staff would investigate and provide a report.

Mayor Costello reported he was not guaranteeing he would support a particular option. He stated if this would cost the City money, the City would need a full contract.

Unified Dispatch

Mayor Costello reported he was pleased staff was working on unified dispatch and encouraged this to be continued. He stated he wanted people to be protected and the only increase would be the employee costs. Mayor Costello noted he saw no reason to wait.

Fire Fee

Mayor Costello asked that the Commission consider a revenue neutral fire fee. He stated the fire chiefs were already discussing consolidated fire service in the future; therefore, he would like to know exactly what Ormond Beach pays for fire services. Mayor Costello advised this may not be possible for this budget, but he wanted to know all of the fire costs so a number would be available to provide to the County when that unified fire service issue was broached.

Item #13 – Close the Meeting

The meeting was adjourned at 9:06 p.m.

APPROVED: May 18, 2004

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk