

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

June 24, 2008 7:00 p.m.

Present were: Mayor Fred Costello, Lori Gillooly, Troy Kent, Ed Kelley, and Bill Partington, City Manager Isaac Turner, Assistant City Manager Ted MacLeod, City Attorney Randal Hayes, and City Clerk Veronica Patterson.

A G E N D A

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation by Father Bill Zamborsky, Prince of Peace Catholic Church.
- 3) Pledge of Allegiance.
- 4) ***AUDIENCE REMARKS:***
- 5) ***APPROVAL OF THE MINUTES*** of the June 3, 2008, meeting.
- 6) ***INTERGOVERNMENTAL REPORTS:***
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Water Authority of Volusia
- 7) ***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. 2008-113 accepting a bid from P&S Paving, Inc., for construction services regarding the 2008 Roadway Resurfacing project under Bid No. 2008-22, authorizing the execution of a contract and payment therefor; rejecting all other bids. (\$300,583.65)

- B) Resolution No. 2008-114 rejecting all bids in response to Bid No. 2008-17 for the purchase of mobile lifts for the Fleet facility; authorizing the approval and execution of a purchase authorization (Requisition 0000005008) for the purchase of a mobile lift assembly under State of Florida Alternate Contract #075-490-07-ACS. (\$49,801.90)
- C) Resolution No. 2008-118 ratifying the execution of a grant agreement with the Federal Aviation Administration regarding the Runway 17-35 light design and installation project at the Ormond Beach Municipal Airport. (\$94,250 FAA funding; \$2,481 FDOT funding; \$2,481 City funding)
- D) Resolution No. 2008-119 ratifying the execution of a Joint Participation Agreement between the City and Florida Department of Transportation regarding the airpark development project at the Ormond Beach Municipal Airport. (\$181,500 FDOT funding; \$181,500 City funding)
- E) FY 2007-08 budget results for the General Fund and the Water/Wastewater Fund.

DISPOSITION: Approve as recommended in City Manager memorandum dated June 19, 2008.

8) **PUBLIC HEARINGS:**

- A) Community Redevelopment Agency grant application:
 - 1) Review by the Community Redevelopment Agency.
 - a) Recess the City Commission meeting and convene as the City of Ormond Beach Community Redevelopment Agency.
 - b) Appoint Chair and Vice Chair of the Ormond Beach Community Redevelopment Agency.
 - c) Review Property Improvement Grant application for recommendation to the City Commission.
 - d) Adjourn as the Community Redevelopment Agency and reconvene the City Commission meeting.
 - 2) Resolution No. 2008-115 of the City Commission, also acting as the Central Business District Community Redevelopment Agency of the City of Ormond Beach, Florida, authorizing the execution of a Property Improvement Grant Agreement between the Agency and Florida Retail Development, LLC. (274 West Granada Boulevard - \$50,000)
- B) Resolution No. 2008-116 authorizing the transmittal of amendments to the Future Land Use, Capital Improvements, Conservation and Utilities Elements thereto of the City of Ormond Beach Comprehensive Plan.
- C) Ordinance No. 2008-28 adopting certain amendments to the Future Land Use Element, Coastal Management Element, Transportation Element, and Conservation Element, of the City of Ormond Beach Comprehensive Plan; providing when such amendments shall take effect. (First Reading)
- D) Ordinance No. 2008-29 amending Paragraph C, Official Zoning Map, of Section 2-01, Establishment of Zoning Districts and Official Zoning Map, of Article I, Establishment of Zoning Districts and Official Zoning Map, of Chapter 2, District and General Regulations, of the Land Development Code, by amending the Official Zoning Map to rezone certain real property totaling ±2.10 acres located at 500 West Granada Boulevard from B-9 (Boulevard) and R-4 (Single-Family Cluster & Townhouse) to Planned Business Development (PBD); authorizing revision of the Official Zoning Map; approving a Development Order for "Ormond Park Plaza" Planned Business Development; establishing conditions. (First Reading)

9) **SECOND READING OF ORDINANCES:**

- A) Ordinance No. 2008-26 amending Section 7.01, Maximum Height Limits, of Article VII, Building Height Limits and Restrictions, of the Charter of the City of Ormond Beach,

Florida, establishing an exception for multi-family and non-residential buildings taller than seventy-five (75) feet that existed on November 14, 2006, and development orders that received final development approval before November 14, 2006, for the construction of multi-family and non-residential buildings over seventy-five (75) feet in height; allowing those buildings to be maintained, repaired, constructed and reconstructed; protecting vested rights of landowners; providing for and calling a Special Referendum Election of the registered electors of the City of Ormond Beach, Florida, to be held November 4, 2008.

- B) Ordinance No. 2008-27 amending Chapter 20, Traffic, by amending Section 20-13, Parking Prohibited for Certain Purposes.
- 10) **FIRST READING OF ORDINANCE** No. 2008-30 relative to elections; exempting the City from the provisions of the Uniform Municipal Elections Act of Volusia County; amending Sections 3.05, 3.08, 5.03 and 5.06 of the *Charter* of the City of Ormond Beach, Florida, by amending the qualifying periods for candidates for municipal office; by amending election dates; by amending terms of office necessitated by such changes; by providing severability; by repealing all inconsistent ordinances or parts thereof; and setting forth an effective date.
- 11) **RESOLUTION** No. 2008-117 authorizing the execution of a Proportionate Fair Share Agreement between the City, the County of Volusia, the Florida Department of Transportation, and Tomoka Holdings, LLC, regarding phases 1 and 2 of the Ormond Crossings Development of Regional Impact.
- 12) **DISCUSSION ITEMS:**
- A) Feasibility of implementing a traffic calming program in the City.
- B) Capital Improvements Program workshop follow-up.
- 13) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 14) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Mayor Costello introduced those on the dais and Mr. John Noble, Acting City Engineer, who was greeting citizens coming into the meeting.

Item #2 - Invocation

Father Bill Zamborsky, Prince of Peace Catholic Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #4 - Audience Remarks

Boil Water Notice

Mr. Ted MacLeod, Assistant City Manager, reported at about 1:15 p.m. yesterday there was a storm that caused a power outage at the lime softening portion of the water plant, including the high presser service pumps that feed the water into the distribution system. He reported the emergency generator started within 15 seconds as it should have; however, it stopped within 15 minutes. Mr. MacLeod advised that upon inspection it was determined a check valve on the fuel line failed, which drained the fuel line, siphoning gas from the tank, allowing the generator to run out of fuel. He stated the fleet mechanics arrived at the scene quickly and provided an alternative fueling procedure, restarting the generator; but it went down again in approximately 20 minutes. Mr. MacLeod reported staff was dispatched to Daytona Beach at Williamson to open the interconnect; however, the Daytona Beach employee was reluctant to open the interconnect in that Daytona Beach had two broken river crossings. He advised staff was able to open the Holly Hill interconnect, which was a much smaller interconnect. Mr. MacLeod noted the City finally did receive authorization for the Daytona Beach interconnect, but by that time the generator was back in service. He advised with the high pressure pumps down for 20 to 25

minutes the pressure went to 16 pounds per square inch; and if pressure drops below 20 pounds per square inch, the State requires a boil water notice. Mr. MacLeod explained with such low pressures, it was possible that if there was a crack in the distribution system, a contaminant could enter into the pipe, spreading throughout the system. He noted this was normally a greater concern if a water main break were to occur. Mr. MacLeod advised the City received calls from the mainland reporting no or low pressure. He stated Florida Power and Light restored power two and one-half hours after the power went out.

Mr. MacLeod stated the City was installing a low fuel alarm on the small tank that feeds the generator to warn operators if the small tank was not being refueled as it should be and that there was a malfunction. He noted the fleet manager was providing a check list and supplemental training for all plant personnel on generator preventive maintenance and fueling tank procedures so no one would rely on gauges to determine whether the tanks were full or not full. Mr. MacLeod stated the plant has two electrical feeds in the site; one for the new plant, and one for the old lime plant. He reported that both feeds will be interconnected so that either feed could be used for either side of the plant, providing additional redundancy and flexibility. Mr. MacLeod advised the other generator that supplies power for the membrane plant would be connected to two of the high service pumps, which would provide enough pressure to allow time to resolve the problem. He stated as an interim measure, staff has hardwired a spare generator to one of the high service pumps that could be used to provide pressure if the primary generator fails before the problem could be resolved. Mr. MacLeod advised there would be a meeting at 9:00 a.m. tomorrow with the City's electrical contractor to initiate the above-noted changes. He noted staff would also review the interconnect procedure with Daytona Beach's protocol for activating interconnects to provide for more rapid response in times of an emergency. Mr. MacLeod stated due to lack of data points within the water system, the City cannot precisely define areas where pressure was below 20 psi; however, staff has already authorized a purchase order that would add all of the data points to the system, which would be completed by the end of July so, in the future, the City would have a better knowledge of what the pressures are throughout the system. He advised staff provided approximately 3,000 cases of water to residents.

Mr. Isaac Turner, City Manager, apologized to the Commission and members of the public in that the City should have handled this in a better fashion, and he assured everyone that there would be four to five levels of redundancy built into the system in the future. He stated Ormond Crossings would provide a separate feed into the system when it was developed. Mr. Turner reported he recognized this performance was not acceptable. He advised a myriad of instances occurred at the same time that caused the calamity and a 15 minute window to react to the crisis, which he considered too small, so procedures are being implemented to prevent this in the future.

Mayor Costello stated Mr. MacLeod's report was one of the best reports explaining what occurred and what would be done about the situation. He advised Ormond Beach has spent millions of dollars on the water system, and he was definitely not pleased the incident occurred; but he understood the confluence of events that caused this breakdown. Mayor Costello commended staff for itemizing what occurred and for coming up with solutions. He urged that all systems act as though a catastrophic event has occurred to correct the problems before they can occur.

Commissioner Gillooly stated she did not understand why consultants are paid to be involved in these projects, and these issues are not considered prior to such an incident. She noted Mr. MacLeod indicated the City needed a protocol, but a protocol should already have been in place.

Mr. Turner stated there were plans to provide a portable generator, which did occur. He stated the interconnects were supposed to help through Ormond Beach's problems, particularly since Ormond Beach helped Daytona Beach last week through its water problems. Mr. Turner advised the 15 minute window was not planned for well enough. He stated he spoke to the consultants regarding this issue.

Commissioner Kent advised he believed the City was delinquent the last time there was a problem at the water plant; but lightning occurs in Florida, and no one knew it would put the water plant off line. He stated there was a plan for a backup generator, and no one knew the check valve for the fuel line would go bad. Commissioner Kent reported when faced with the problem, staff tried to resolve the issue by going to Daytona Beach and succeeded to open the interconnect with Holly Hill. Commissioner Kent commended staff for providing the bottled water for the residents. He thanked Mr. MacLeod for the great report.

Commissioner Kelley stated the generator was tested over the past weekend and incidents like these do happen. He reported the staff responded well. Commissioner Kelley advised he received a call from a shut-in, and staff sent someone to provide her with water. He noted while no one was pleased it happened, mechanical items can fail; and it was important to learn from such incidents.

Mr. Turner advised the Commission has had very poignant and terse questions for him, and he understood this was not acceptable. He committed to have at least four levels of redundancy to improve the system. Mr. Turner reported staff takes this incident very seriously.

Mayor Costello asked that the media help the City inform people to register with Code Red.

Commissioner Partington thanked Mr. MacLeod for the report and requested more information regarding the generator, the check valve, how the tests were done, what policies were in place, and how the policies were improved. He questioned if the problem where Ormond Beach did not obtain water from the Daytona Beach interconnect right away were because of an Ormond Beach employee or a Daytona Beach employee. Commissioner Partington asked why it took an inordinate amount of time for the media to be notified. He noted the City did not have a full-time Public Information Officer. Commissioner Partington expressed concern and requested a report as to how storm issues would be addressed in the future. Commissioner Partington stated he appreciated the opportunity to learn from this incident in that acts of God do occur; however, this was such a critical system that redundancies should have been in place. He reported he appreciated staff's response to date.

Procedural Comments

Mayor Costello advised if all of the audience remarks have not been heard within the allotted half hour, they would be continued to the end of the meeting. He reported he had 25 cards on one issue so those not heard in the early part of the meeting would have to wait to the end of the meeting. Mayor Costello noted he was hopeful after the first speaker was heard on that issue all of the other people who wished to speak on the same issue would be willing to be heard at the end of the meeting to allow the other speakers who wished to discuss other issues to be heard at the beginning of the meeting.

Insurance Benefits

Mr. Tony Grippa, 12 Old Port Circle, Brown and Brown, stated Brown and Brown was located 6.7 miles away from Ormond Beach and had 230 employees living in Ormond Beach. He reported Brown and Brown recently unsuccessfully participated in a request for qualification (RFQ) for agent of record. Mr. Grippa stated in the objective grading, Brown and Brown received a grade of 93 out of 100, and the nearest competitor received a 73 out of 100. He reported the City hired a consultant who was involved in the objective portion, but not the second part of the process. Mr. Grippa pointed out the winning bidder did not meet one of the requirements in that they did not include a valid business license. He advised Brown and Brown was removed from two bids for not signing a page or including a page. Mr. Grippa noted the successful agent did not have one client for Florida Health Care, and no municipal client within 90 miles, while Brown and Brown was the largest writer with the City's carrier.

Mayor Costello urged everyone who wished to speak to indicate the subject matter on their card. He suggested delaying the remainder of the speakers from Brown and Brown until after the discussion items on the agenda, and the Commission would consider this a third discussion item. Mayor Costello advised he did not envision the Commission making any decisions or changes tonight, but this would provide an opportunity to gather the information. No objection was voiced.

Water Pressure

Mr. Gregory Avakian, 161 Heritage Circle, asked if there was a recommended procedure for flushing the water system. He stated lightning does occur and systems fail, but repeating emergency measures allows people to know what to do in the case of an actual emergency; and having redundant systems should be second nature. Mr. Avakian questioned what procedure he should follow, such as flushing, when the water comes back on.

Mayor Costello questioned what should occur if there was a problem when the testing results came back.

Mr. MacLeod stated that if there was a problem, the City would have to sample again until a good reading was obtained. He reported the water in the tanks and in the lines could be used, and there would be no need to flush. Mr. MacLeod noted he would not release the boil water notice until all of the tests would indicate the water was clear.

Commissioner Partington asked if there would be more bottled water available for residents if the boil water notice would have to continue. He questioned how the City would tell people that the City was sorry about this incident.

Mr. Turner stated an apology would be included in the notification through Code Red and in the press releases. He noted when all was clear, a Code Red would be done throughout the system.

Mayor Costello recommended including Mr. MacLeod's report and an apology in the water bill.

Commissioner Kelley recommended an additional statement indicating if people did not receive a call, they should sign up for Code Red.

Hazard at Nova Community Park

Mr. Alan Burton, 915 Oceanshore Boulevard, stated there was an electrical hazard at Nova Community Park with overhead lines that are 10,000 to 13,000 volts. He noted these lines could kill people. Mr. Burton reported the City Manager has had personal knowledge of this hazard for at least three years, and the work was not done. Mr. Burton reported there was no remedy in the budget for this hazard.

Mr. Turner stated these lines have been up for many years, even while Mr. Burton was Leisure Services Director. He reported there was not a situation where families were in danger of being electrocuted. Mr. Turner advised improvements are being made to the Nova Community Park, but this was not a safety issue. He expressed concern that such types of alarmist presentation would be made before this body.

Mayor Costello recommended having an electrician inspect the lines and provide a report to the Commission in an attempt to err on the side of safety.

Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the June 3, 2008, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Mayor Costello stated that the minutes were approved as submitted.

Item #6(A) – Metropolitan Planning Organization

Mayor Costello reported the Metropolitan Planning Organization (MPO) met this morning. He stated Volusia County would have bumper stickers stating "It's the Law – Three Feet," and he would provide some of the bumper stickers for City vehicles. Mayor Costello explained this urged people to allow three feet for bikers. He asked staff to contact Volusia County and the MPO to inform them that Ormond Beach supported the campaign.

Mayor Costello stated only one community has adopted the Transportation Impact Analysis "TIA," and he was not aware if Ormond Beach had adopted it. He asked that if Ormond Beach had not adopted the TIA, that it be placed on an agenda for consideration. Mayor Costello advised Ormond Beach was very involved in supporting a uniform methodology. He stated the MPO discussed the East-West Commuter Rail connectivity and made a recommendation. Mayor Costello noted there was a possibility DOT would help fund an alternative analysis, making the trip to Washington D.C. very productive. He stated they were working on a 12-foot bike trail from Clyde Morris Boulevard from International Speedway Boulevard to Beville Road. Mayor Costello explained the goal was to have a bike trail on Clyde Morris Boulevard from Dunlawton Avenue to Granada Boulevard some day in the future, and the largest problem would be from International Speedway Boulevard to Mason Avenue. He noted this would provide north/south connectivity on the west side. Mayor Costello asked staff to start researching what the City could do to promote this goal. He noted he wanted a plan in the code that would allow people to provide the right-of-way for a bike trail where they would not lose any of the use of the setback. Mayor Costello requested the status of the SR40 bike trail from I-95 to Hunter's Ridge. He offered to ask residents for the land when the codes were in place so that residents would not lose any use of their land.

Mayor Costello reported the signs going out of the Orlando Airport to Daytona Beach were still not installed where 436 splits heading north to 528 and then from 528 splitting to 417 where it should say, "Cocoa Beach along the beach line" and "Daytona beaches along the greenway." He noted the secretary of District Five would speak to Mr. Mike Snyder tomorrow.

Mayor Costello provided a list of bicycle/pedestrian paths that are before the MPO. He pointed out Ormond Beach needed a lot more bicycle paths. Mayor Costello advised the issue was matching funds; therefore, it was up to the Commission to fund. Mayor Costello noted there was a lot of money for bike trails, and Ormond Beach was a family community that values bike trails, so the Commission must prioritize for what bike trails they want to provide the matching funds.

Item #6(B) – Volusia Council of Government

Mayor Costello reported the Volusia Council of Governments (VCOG) discussed the Smart Growth Committee which was trying to create standards that could be agreed upon. He noted the homeless issue will come before Ormond Beach in that VCOG will be asking for funds from all communities relative to that problem. Mayor Costello advised the homeless issue was a universal issue. He reported VCOG would try to have a response to the *News-Journal* regarding the property tax amendment issue.

Item #6(C) - Water Authority of Volusia

Commissioner Partington reported he attended the Water Authority of Volusia (WAV) meeting as the alternate for Commissioner Kelley on June 18. He stated WAV has gone through difficult years, but with Commissioner Kelley as chair, and now Ms. Lindsey Roberts as the new executive director, WAV has found new life. Commissioner Partington stated pictures were selected from an art contest to create a calendar on water conservation, which will be available soon. He advised there was an irrigation rules resolution that stated the WAV's participating cities' position on the St. Johns River Water Management District's agenda scheduled for July 1. Commissioner Partington stated Commissioner Kelley and Ms. Roberts would go to St. Johns to present the resolution signed by all of the participating cities. He reported the Flagler County Coalition was creating plans for a desalinization plant in Flagler County/Palm Coast. Commissioner Partington stated the Water Management District was interested in supporting the desalinization concept. He noted Volusia County and DeLand have joined that coalition, and a discussion ensued regarding whether WAV should join the coalition. Commissioner Partington reported it may be advantageous if the City of Ormond Beach had access to the water on the north side of the City in a pipeline along US1 in the future. He advised the water well report from the Volusia County environmental manager indicated that 29 out of 44 wells were below baseline in May 2008, but last year there were 35 out of 45 wells that were below baseline County-wide. Commissioner Partington pointed out the rains have started; they are forecast to continue; there will probably be dramatic improvements over the next couple of months; and July will be cooler than in previous years.

Commissioner Kelley thanked Commissioner Partington for attending and making a contribution. He advised that he and Ms. Roberts would meet tomorrow with Mitt Tidwell and Jim Chisholm of Daytona Beach. Commissioner Kelley advised he was hopeful Daytona Beach would rejoin WAV. Commissioner Kelley noted on July 1 he would be going to Jacksonville to present the WAV position on irrigation in that the St. Johns's position would adversely impact Ormond Beach. He stated the calendars would be distributed to every student in Volusia County; therefore, 65,000 families would have the calendar relative to conservation. Commissioner Kelley advised he would make sure the Commission received calendars.

Mayor Costello stated the desalinization plant makes the Ormond Beach reverse osmosis plant decision look good.

Commissioner Kelley stated WAV would become an ad hoc member of the group with Ms. Roberts attending the meetings so the local cities would not need to send representatives, which would be a cost savings in personnel and in time.

Mayor Costello requested that Daytona Beach be thanked for the interconnects and that they know who they need to contact in Ormond Beach and who Ormond Beach needs to contact in Daytona Beach.

Item #7 - 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 Kelley moved, seconded by Commissioner Kent, for approval of the Consent Agenda as presented.

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

Item #8(A)(1) – 274 West Granada Boulevard - CRA

Mayor Costello recessed the City Commission meeting and convened a meeting of the City of Ormond Beach Community Redevelopment Agency (CRA) at 7:55 p.m. He advised that the first order of business of the CRA was to elect a chair and a vice-chair.

Commissioner Gillooly moved, seconded by Commissioner Partington, to nominate Mayor Costello as chair. The motion passed unanimously.

Commissioner Partington moved, seconded by Commissioner Gillooly, to nominate Commissioner Kelley as vice-chair. The motion passed unanimously.

Ms. Tanya Gerhartz representing the applicant and Mr. Carlos Barrios, the applicant, advised they were available for questions; however, Mayor Costello advised if they objected to the results they would be allowed to voice an objection and be heard.

Commissioner Kelley moved, seconded by Commissioner Partington, to recommend the City Commission approve this grant application.

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

Mayor Costello adjourned the Community Redevelopment Agency and reconvened the City Commission meeting at 7:58 p.m.

Item #8(A)(2) – 274 West Granada Boulevard

RESOLUTION NO. 2008-115

A RESOLUTION OF THE CITY COMMISSION, ALSO ACTING AS THE CENTRAL BUSINESS DISTRICT COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORMOND BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A PROPERTY IMPROVEMENT GRANT AGREEMENT BETWEEN THE AGENCY AND FLORIDA RETAIL DEVELOPMENT, LLC.; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve, Resolution No. 2008-115, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #8(A).

Item #8(B) – Transmittal of Amendments of the Comprehensive Plan

RESOLUTION NO. 2008-116

A RESOLUTION AUTHORIZING THE TRANSMITTAL OF AMENDMENTS TO THE FUTURE LAND USE, CAPITAL IMPROVEMENTS, CONSERVATION AND UTILITIES ELEMENTS THERETO OF THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated there were sign-in sheets at the back of the room that people could sign if they wished to have the Department of Community Affairs (DCA) send them all of the official

correspondence regarding the Comprehensive Plan amendments. He noted this list would be sent to DCA as part of the transmittal.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve, Resolution No. 2008-116, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #8(B).

Item #8(C) – Adopting Amendments of the Comprehensive Plan

ORDINANCE NO. 2008-28
AN ORDINANCE ADOPTING CERTAIN AMENDMENTS TO THE FUTURE LAND USE ELEMENT, COASTAL MANAGEMENT ELEMENT, TRANSPORTATION ELEMENT, AND CONSERVATION ELEMENT, OF THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN; PROVIDING WHEN SUCH AMENDMENTS SHALL TAKE EFFECT; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello advised there has been a question regarding moving proposed language from a goal to a policy.

Mr. Steve Spraker, Senior Planner, reported the Department of Community Affairs (DCA) approved leaving it as a goal; therefore, staff recommended leaving it as it was.

Mayor Costello noted as long as DCA approves, it would remain. He noted no citizens filled out cards to speak.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-28, on the first reading, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #8(C).

Item #8(D) – “Ormond Park Plaza” Rezoning

ORDINANCE NO. 2008-29
AN ORDINANCE AMENDING PARAGRAPH C, OFFICIAL ZONING MAP, OF SECTION 2-01, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE I, ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, OF THE LAND DEVELOPMENT CODE, BY AMENDING THE OFFICIAL ZONING MAP TO REZONE CERTAIN REAL PROPERTY TOTALING ±2.10 ACRES LOCATED AT 500 WEST GRANADA BOULEVARD FROM B-9 (BOULEVARD) AND R-4 (SINGLE-FAMILY CLUSTER & TOWNHOUSE) TO PLANNED BUSINESS DEVELOPMENT (PBD); AUTHORIZING REVISION OF THE OFFICIAL ZONING MAP; APPROVING A DEVELOPMENT ORDER FOR “ORMOND PARK PLAZA” PLANNED BUSINESS DEVELOPMENT; ESTABLISHING CONDITIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2008-29, on the first reading, as read by title only.

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

Hearing no objection, Mayor Costello closed the public hearing on Item #8(D).

Item #9 – Special Referendum Election Relative to Building Height Limits

ORDINANCE NO. 2008-26

AN ORDINANCE AMENDING SECTION 7.01, MAXIMUM HEIGHT LIMITS, OF ARTICLE VII, BUILDING HEIGHT LIMITS AND RESTRICTIONS, OF THE CHARTER OF THE CITY OF ORMOND BEACH, FLORIDA, ESTABLISHING AN EXCEPTION FOR MULTI-FAMILY AND NON-RESIDENTIAL BUILDINGS TALLER THAN SEVENTY-FIVE (75) FEET THAT EXISTED ON NOVEMBER 14, 2006, AND DEVELOPMENT ORDERS THAT RECEIVED FINAL DEVELOPMENT APPROVAL BEFORE NOVEMBER 14, 2006, FOR THE CONSTRUCTION OF MULTI-FAMILY AND NON-RESIDENTIAL BUILDINGS OVER SEVENTY-FIVE (75) FEET IN HEIGHT; ALLOWING THOSE BUILDINGS TO BE MAINTAINED, REPAIRED, CONSTRUCTED AND RECONSTRUCTED; PROTECTING VESTED RIGHTS OF LANDOWNERS; PROVIDING FOR AND CALLING A SPECIAL REFERENDUM ELECTION OF THE REGISTERED ELECTORS OF THE CITY OF ORMOND BEACH, FLORIDA, TO BE HELD NOVEMBER 4, 2008; PROVIDING FOR SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated in a discussion with Mr. Hayes today he did not receive a strong recommendation that paragraph “d” could not be deleted; therefore, he recommended deleting paragraph “d.”

Commissioner Kelley advised he opposed deleting paragraph “d”.

Mayor Costello requested changing the title in Option “B” as follows: “AN ORDINANCE AMENDING SECTION 7.01, MAXIMUM HEIGHT LIMITS, OF ARTICLE VII, BUILDING HEIGHT LIMITS AND RESTRICTIONS, OF THE CHARTER OF THE CITY OF ORMOND BEACH, FLORIDA, ESTABLISHING AN EXCEPTION FOR MULTI-FAMILY AND NON-RESIDENTIAL BUILDINGS TALLER THAN SEVENTY-FIVE (75) FEET THAT EXISTED ON NOVEMBER 14, 2006, AND THE ONLY DEVELOPMENT ORDERS THAT RECEIVED FINAL DEVELOPMENT APPROVAL BEFORE NOVEMBER 14, 2006, FOR THE CONSTRUCTION OF MULTI-FAMILY AND NON-RESIDENTIAL BUILDINGS OVER SEVENTY-FIVE (75) FEET IN HEIGHT.” He noted the name Royal Floridian cannot be placed in the ordinance, but since people are concerned, he would specify there was only one development order. No objection was heard to the amendment.

Commissioner Gillooly noted in the interest of bringing everyone together on this issue she would accept the amendment.

Commissioner Kelley recommended having someone move to amend the ordinance as above-noted.

Mr. Randal Hayes, City Attorney, urged the motion be made and seconded, and then amendments could be made.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-26, on the second reading, as read by title only.

Commissioner Kent moved, seconded by Commissioner Partington, to amend by deleting paragraph “d,” and to add the words “to add exceptions” at the end of the question, and amend the title as outlined by Mayor Costello.

Mr. Hayes noted the amended title would be reflected in paragraph “b” of the ordinance.

Commissioner Kelley stated he believed it was important to keep paragraph “d” in that there was no valid objection to it and it clarified the remainder of the ordinance. He reported he has asked other attorneys, and they agreed paragraph “d” solidified what was stated in paragraphs “a” and “b.” Commissioner Kelley noted the objection made was ridiculous by a group who wants to stop people from having their house rebuilt. He stated this does not open the property owner to any other rights than the specific right to rebuild to the same extent that existed before a catastrophe. Commissioner Kelley reported this would provide the City a better position in the event of a lawsuit brought against the City in the future.

Mr. Hayes stated he favored keeping the paragraph in for all of the reasons Commissioner Kelley articulated, but it was not needed because of what was included in paragraph “b.” He noted paragraph “b” provides rights to property owners that had been stricken of their rights by the height limit exception. Mr. Hayes reported it helped to provide guidance if it should go to court.

Commissioner Kelley stated for a group of people to insinuate that this was more than it actually was concerned him. He reported if it was not for three members of this Commission who changed the vote of the people and took a question out and made a statement to place in the Charter, this would not be an issue because there would be no height limit in the Charter. Commissioner Kelley stated this same group caused the City to create a definition for “average median.” He advised that if the group wanted to oppose the rights of the people and take away the protection this would afford, it would be up to them.

Commissioner Kent stated what Commissioner Kelley indicated may be true; however, the Board of Realtors wanted to make sure the City could protect the landowner’s rights; and paragraph “d” was not necessary. He stated that deleting it may help it pass, which would still accomplish the goals. Commissioner Kent reported this deletion would insure CAN DO working with the City to get something passed that should be passed.

Commissioner Gillooly concurred with Commissioner Kent and Commissioner Kelley. She reported the City immediately started to work with the leadership of CAN DO in order to address their concerns. Commissioner Gillooly noted agreement with Commissioner Kelley that this Commission has proven they were open and would insure the vote was valid because if the wording were not changed in the Charter, the restriction would not exist today. She stated she appreciated the will of the Commission to work with every group, but the bottom line was to protect the property owners’ rights when they were stripped from them from the vote. Commissioner Gillooly questioned if this would make the City vulnerable if paragraph “d” were removed.

Mr. Hayes stated the City would not be vulnerable, but it would create a little extra cushion to keep it in. He pointed out this type of language existed in other Charters around the State.

Mayor Costello stated he wanted to select what battles to fight and favored building coalitions. He reported the goal was to fix a flawed amendment that took away the rights of people who were living in a building over 75 feet.

Call Vote on the Amendment:	Commissioner Kelley	no
	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
Carried.	Mayor Costello	yes

Mr. Louis Lumaghi, 1 Cliffside Drive, secretary of CAN DO, stated CAN DO rejected and opposed all sections of the amendment in that sections “b” and “c” seek to legitimate vested rights that are illegal. He reported the City’s 1986 Comprehensive Plan prohibited construction of structures over 75 feet, and the 1992 Land Development Code allowed exemptions to this height restriction, which should not have occurred. Mr. Lumaghi advised a Land Development Code regulation cannot contradict a Comprehensive Plan; thus all exemptions to the Comprehensive Plan regarding the 75-foot height limit from 1992 to 2006 are illegal. He stated all vested rights based on these exemptions are also illegal; however, sections “b” and “c” of the proposed amendment maintain these vested rights, which CAN DO cannot support. Mr. Lumaghi stated their legal council advised them that there should be further discussion between their council and Mr. Hayes before any further action was taken.

Mayor Costello stated that statement showed that the Commission was willing to work with CAN DO, but CAN DO was not willing to work with the Commission. He reported he gladly

anticipated the press reporting how people would oppose grandfathering in and protecting the rights of people who already live in buildings over 75 feet.

Mr. Alan Burton, 915 Oceanshore Boulevard, questioned the definition of average median height and suggested the City site the source of the definition. He pointed out the difference between landowner and property owner. Mr. Burton advised he lived on the seventh floor of a condominium, which would probably be above the 75-foot limit. He requested including 915 Oceanshore Boulevard as one of the buildings above 75 feet.

Mayor Costello stated the group that wrote the amendment defined average median, not the City. He advised everyone had the same property rights after 2009 whether they had brought the City the information that they are above 75 feet or not, in that there was no penalty for passing the date established. Mayor Costello urged Mr. Burton or his homeowners' association to come to the City to register that they are over 75 feet because it would make it easier to sell the condo title to that the building after it was grandfathered in.

Ms. Alice Jaeger, 447 Triton Road, asked Mr. Hayes if he received the e-mail from Norman Lane; whereby, Mr. Hayes stated he did not receive the e-mail. She asked if the Comprehensive Plan would trump the development code of regulations.

Mr. Hayes explained the Comprehensive Plan was the broad policy-setting document, and the Land Development Code was to be consistent; but the Charter trumps both. He reported if the Comprehensive Plan and Land Development Code are inconsistent with the Charter; they need to be amended to become consistent.

Ms. Jaeger asked if the Comprehensive Land Use Plan had a provision for variances with respect to building heights.

Mr. Hayes stated he did not recall such a provision.

Ms. Jaeger asked if the proposed amendment, with its scheme for variances in height, would trump the Comprehensive Land Use Plan.

Mayor Costello stated there was absolutely no scheme for variances in the proposed amendment.

Ms. Jaeger read a letter from Mr. Norman Lane, CAN DO president, stating CAN DO learned a lot about the history and potential ramifications of the proposed amendment and can no longer support it even with the deletion of paragraph "d" because the amendment cannot be reconciled with Comprehensive Land Use Plan in that it creates a variance procedure where under the Comprehensive Plan no variance can be allowed with respect to building heights. She stated CAN DO believes the purpose of this amendment was to undermine or nullify the current height limit, creating vested rights for certain properties when the law stated vested rights cannot be created based on an illegal action of a local government. Ms. Jaeger reported the variances granted to the original height limit were not supported by the Comprehensive Plan. She stated the Charter amendment passed in 2006 was consistent with the Comprehensive Plan, but what was proposed offends the Comprehensive Plan and the amendment by creating procedures which contradict it. Ms. Jaeger advised CAN DO believes there was no good reason for this amendment; and it goes against the will of the people, but CAN DO would discuss alternatives that may protect the City while maintaining the height limit; however, they will oppose the amendment as written.

Mayor Costello advised he looked forward to the debate. He asked to go on record saying that anyone who votes against this amendment was saying to anyone living in a building over 75 feet that they do not care about what happens to them in a hurricane. Mayor Costello recommended consulting another attorney because any attorney stating this creates a variance was absolutely wrong, since this only protected people living in a building over 75 feet and the single development order that was issued prior to the date of the election.

Mr. Phil Maroney, 117 Atwood Lane, Daytona Beach Area Association of Realtors, stated he was astonished that after the provisions CAN DO objected to were amended, they would still not support it. He reported he was hopeful the Commission, with the changes recommended, would approve this and the vote would pass to protect the citizens that were disenfranchised as a result of the vote. Mr. Maroney urged the City to work with interested parties to educate people to understand the actual limitations of this amendment.

Commissioner Kent thanked his fellow Commission members for supporting him in trying to make some appeasements. He read section "a" and part of section "b" into the record clarifying

what was actually in the amendment. He stated he was “blown away” by what had just occurred. Commissioner Kent reported he supported and fought for CAN DO’s movement for a height limit, but he questioned who gave the two CAN DO members who spoke this evening counsel because he believed they received very poor counsel. He stated there was a great opportunity tonight to protect people living in existing buildings over 75 feet; but CAN DO listened to someone they should not have listened to, which saddened him because he would personally fight against CAN DO on this issue. Commissioner Kent advised he would go door to door, and he hoped the reputation and integrity he had established would carry some weight. He urged CAN DO to rethink this issue and that some day a CAN DO representative would come forward and admit they were mistaken and would support this amendment.

Commissioner Gillooly commended Mr. Maroney for bringing this forward. She stated she did not favor the height limit for a number of reasons, including this issue of grandfathering; but it passed. Commissioner Gillooly advised there was a concerted effort with the Board of Realtors, Mr. Maroney, the Commission, and particularly Commissioner Kent, who was in favor of the height limit, to pull CAN DO into discussions on the issue to come up with something everyone could agree to support for the people of the community who lost property rights in this situation. She reported she was extremely disappointed and would do all she could to insure this passed because her zone and Commissioner Kent’s zone were the zones most affected by this amendment. Commissioner Gillooly noted it was sad when the Commission, the City Attorney, the City Manager, and individuals in the community reached out to make certain all of CAN DO’s concerns were addressed, and they had already had their decision made regardless of the compromises made.

Commissioner Kelley stated the Commission should, perhaps, not have removed paragraph “d” in that it made no difference to CAN DO. He noted he hoped the City would not be ordered to pay monetary compensation as damages; however, a plaintiff lawyer would likely seek to recover monetary damages on top of the other remedy. Commissioner Kelley stated the Commission could have kept the paragraph in and prevented a lawsuit for someone having to go to court to seek something they were entitled to. He reported it was unbelievably sad CAN DO was not willing to work to give people their rights. Commissioner Kelley stated CAN DO purposely left out the grandfathering clause when it was originally offered so people would not be able to rebuild.

Mayor Costello stated he was glad paragraph “d” was removed because this Commission has worked hard to build bridges, and he believed CAN DO simply “imploded” tonight. He summarized that what the CAN DO members were saying was that because of what they believe about the Land Development Code or Comprehensive Plan, if a person purchased in a building over 75 feet, they should not be able to rebuild, which he considered heartless. Mayor Costello reported this Commission voted to change the language so there would not be a question in the Charter after the community voted to place a question in the Charter, which would have had no power, because they believed that was the intent of the voters. He advised he was proud of taking paragraph “d” out so people understood this Commission went the extra mile over and over again to appease CAN DO. Mayor Costello asked citizens to imagine how they would feel if someone opposed a law that would allow them to rebuild if their home was destroyed.

Call Vote on the Motion as Amended:	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes
Carried.	Mayor Costello	yes

Mayor Costello called for a short break at 8:50 p.m. He reconvened the meeting at 8:55 p.m.

Mayor Costello stated this amendment would be on this November’s ballot.

Item #9B – Parking Prohibition

ORDINANCE NO. 2008-27
AN ORDINANCE AMENDING CHAPTER 20, TRAFFIC, BY AMENDING SECTION 20-13, PARKING PROHIBITED FOR CERTAIN PURPOSES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kent, to approve Ordinance No. 2008-27, on second reading, as read by title only.

Commissioner Kent stated many people are taking advantage of this parking.

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

Item #10 – Elections

ORDINANCE NO. 2008-30

AN ORDINANCE RELATIVE TO ELECTIONS; EXEMPTING THE CITY FROM THE PROVISIONS OF THE UNIFORM MUNICIPAL ELECTIONS ACT OF VOLUSIA COUNTY; AMENDING SECTIONS 3.05, 3.08, 5.03 AND 5.06 OF THE CHARTER OF THE CITY OF ORMOND BEACH, FLORIDA, BY AMENDING THE ELECTION DATES FOR MUNICIPAL OFFICE, AND TERMS OF OFFICE, QUALIFYING PERIODS FOR CANDIDATES, AND THE ORGANIZATIONAL MEETING DATE NECESSITATED BY SUCH CHANGE IN ELECTION DATES; PROVIDING SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-30, on first reading, as read by title only.

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

Mayor Costello stated there would be an ordinance calling for the Charter referendum on the next agenda if this was approved so the Commission can make a decision as to having the referendum on the November 2008 ballot or the August 2010 ballot. He explained if it was on the August 2010 ballot it would take effect 2012.

Ms. Rita Press, 875 Wilmette Avenue, reiterated Mayor Costello’s statement that if this passed, it would be on the 2008 ballot. She quoted the *News-Journal* reporter, Ms. Pamela Hasterok, where she wrote: “They’ve got to be kidding. It’s not enough that we have to vote for president, congressmen, State house members, senators, state attorney, judges, County Council, sheriff, property appraiser, supervisor of elections, hospital authority, soil and water board, State constitutional amendments, and local Charter revisions this year.” Ms. Press noted the article did not mention that some would also have to vote for committeemen and woman. She pointed out there were nine ballot amendments, each having 75 words or 675 words a voter must read on the ballot. Ms. Press noted the 2008 election would attract a record number of voters, and a huge ballot would create long lines. She noted this did not seem to be a good time to add an issue that would have such drastic effects on the City at the bottom of the ballot. Ms. Press stated she guaranteed there would be a record number of under-votes. She noted the height limit question was extremely important, and she totally supported the Commission on the issue; but it was confusing and would be on the bottom of a huge ballot. Ms. Press noted there was no time to discuss this issue.

Ms. Press advised Ordinance No. 2008-30 proposed major changes to the Charter, such as changing the date of the election from odd to even numbered years, granting the current Commission an additional year to their term, and changing the qualifying dates and the dates of the organizational meeting. She reported these were substantial changes with far reaching implications and consequences for the City. Ms. Press stated a Charter should contain details which are of such importance that they should not be subject to change simply by ordinance, without public referendum, to insure that provisions cannot be changed without public consent. She pointed out this Commission prides itself in the fact they believe citizen input is important, and they have exhibited that many times; but she questioned this decision would be rushed without any opportunity for real participation and input. Ms. Press reported there had been a great deal of discussion about the money saved by moving the elections from odd to even numbered years, but these changes should not be made solely to save money, especially since the savings may be negligible. She expressed concern as to what effect these changes would

have in attracting new candidates that would have to raise large sums of money to compete in local elections. Ms. Press stated changing to even numbered years reduces the number of audits, which serves as a system of checks and balances that insures the voter the election system was working correctly. She advised the Supervisor of Elections verbally promised the cost of combining municipal elections with other elections would be \$1,000, but nothing was in writing. Ms. Press noted that this ordinance would take place in 2010, and it did not seem feasible that anyone could verbally commit to a financial situation that would take place in two years. She advised she opposed this ordinance because she believed local issues were important enough to stand alone while this ordinance diminishes the importance of electing local representatives and the issues that affect the quality of life. Ms. Press pointed out in a year with so many people seeking office, and so many issues on the ballot, the very people and issues that have the greatest effect on the local people's lives will be given short shrift. She urged allowing sufficient time for study and to receive input from the citizens that would be affected.

Mayor Costello offered Ms. Press the opportunity to come back to the podium after the Commission discussion.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2008-117, as read by title only.

Commissioner Kelley stated his opinion that by going to the even numbered years, voter turnout being greater was a fact, allowing more people to participate in the electoral process. He stated an increase in the under-votes may also be a fact; however, considering that, the facts support that with even with the under-votes, the larger turnout would increase the number of votes in the election. He stated raising money to run an election should not be a problem of this Commission and should be up to the individuals who seek election. Commissioner Kelley advised money was important, but not the primary reason. He noted, collectively, throughout Volusia County over \$300,000 of taxpayer dollars would be saved, which was a significant savings. Commissioner Kelley reported by not having an election in 2009, Ormond Beach would save \$30,000 and possibly another \$30,000, or \$60,000 total, before the first election in 2010. He stated there would be a great deal to vote on, so people would have to take more of an interest. Commissioner Kelley reported the City has the opportunity to have more people become involved in voting, which was important, and saving money was a byproduct. He stated if this ordinance passes on the first and second reading, and if the referendum for staggered terms fails, the City would still have the election in the even numbered years except they would be for two year terms. Commissioner Kelley noted the Commission had the right and responsibility to set election dates. He noted that anyone could contact him and discuss the issues, and he would listen; but he would hold to his position based on what he knew to be facts and his beliefs. Commissioner Kelley stated he may be dissuaded on some issues, but on this issue he felt he addressed all of Ms. Press's and Ms. Hasterok's positions.

Commissioner Gillooly stated part of her decision was about money, which was important since the City must cut back and this addresses that money issue. Commissioner Gillooly advised she concurred that all of the municipal seats and issues were very important, but it was incumbent upon anyone who runs for office to inform the community about themselves. She stated the greatest gain by moving to the even numbered years was more involvement. Commissioner Gillooly recalled there were discussions about the dismal turnout in the odd numbered years, and this would provide a great opportunity to have many more people involved. She noted she fully understood there would be under-votes. Commissioner Gillooly pointed out the City followed its policy on this public hearing so she did not believe it was a fair assessment to conclude the public was not being heard. She agreed there would be a certain number of people who would not go to the end of the ballot, but the larger number of voters would outweigh that problem; and those who want to participate in the municipal portion of the ballot would make certain to vote. Commissioner Gillooly stated the Supervisor of Elections brought this to all the cities, and nearly every city was going on this schedule. She advised she would go with the consensus for the people to vote to change the terms of office, but she personally favored the two-year term.

Commissioner Partington advised he was considering the convenience of the voter. He noted the efficiency made sense, and this would eliminate the clutter of signs every year, improving the aesthetics. Commissioner Partington reported it was up to the candidate to urge people to go out and vote for them. He expressed his appreciation for Ms. Press' concerns but stated he found good reason and logic behind this ordinance.

Commissioner Kelley stated by having the additional voters there was a greater hope they would be educated with facts rather than fiction.

Commissioner Kent concurred with his fellow Commission members.

Mayor Costello noted he would be willing to invest \$30,000 to have a higher voter turnout, and he was glad there would be a savings of \$30,000 instead. He agreed there would be more under-votes, but there would also be more total votes. Mayor Costello noted he believed this would help switch to a mail vote, which would eliminate the lines; and the people could spend as much time as they wanted considering how to vote.

Ms. Press stated she would like to see everything in writing that the Supervisor of Election has stated verbally. She explained municipal elections would be turned over to the County. Ms. Press urged the City do their due diligence having the Supervisor of Election's responsibilities written down regarding what the City's responsibility would be and the actual cost.

Mayor Costello noted he considered it fair to ask the Supervisor of Election to delineate the responsibilities and cost.

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

Item #11 – Phases 1 and 2 of the Ormond Crossings Development of Regional Impact

RESOLUTION NO. 2008-117

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROPORTIONATE FAIR SHARE AGREEMENT BETWEEN THE CITY, THE COUNTY OF VOLUSIA, THE FLORIDA DEPARTMENT OF TRANSPORTATION, AND TOMOKA HOLDINGS, LLC, REGARDING PHASES 1 AND 2 OF THE ORMOND CROSSINGS DEVELOPMENT OF REGIONAL IMPACT; SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve, Resolution No. 2008-117, as read by title only.

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

Item #12(A) –Feasibility of Implementing a Traffic Calming Program in the City

Mayor Costello advised this traffic calming program regarded only streets maintained by the City. He offered his willingness to form partnerships to accomplish this, if necessary. Mayor Costello questioned how to expand, not to limit, local and minor roads. He expressed concern regarding the need for primary emergency evacuation routes on Beach Street, Division Avenue, John Anderson Drive, or New Britain. Mayor Costello noted he wanted to calm the traffic anywhere there were scenic areas not intended to become shortcuts.

Commissioner Kelley questioned why the Commission should spend \$50,000 for a consultant and \$50,000 for road calming at this time of budget crunching. He stated this issue was not on a list, and it was not the right time to spend this money on traffic calming issues. Commissioner Kelley reported he personally did not see the value in traffic calming devices.

Mayor Costello advised that he would support the study, but now may not be the time. He advised he favored traffic calming, but he did not have enough knowledge to know what type of devices to use and where to use them, which would be why the consultant would be helpful.

Mr. Turner stated Commissioner Kelley asked when this was initiated, and he explained that while he did not have a specific answer to that at this time, staff did receive a number of concerns regarding various traffic issues.

Commissioner Gillooly stated she often called the City Manager and Police Chief with concerns from citizens regarding traffic issues. She noted she favored any traffic calming but not hiring a consultant at this point. Commissioner Gillooly urged asking staff to perform this service when feasible.

Commissioner Kent advised he favored this, but not at this time; however, he would not support tasking staff with the study. He stated he would recommend hiring a consultant later.

Commissioner Partington concurred that he would not support a consultant now, but he would favor a choker, raised crosswalk, or median crosswalk on Hand Avenue, Division Avenue, and Hammock Lane so people can safely cross between the parks in Central Park.

Mayor Costello summarized that four Commission members were not ready to proceed with a consultant at this time. He pointed out this had nothing to do with the expertise of the consultant and had everything to do with the budget. Mayor Costello urged staff to begin evaluations. He expressed agreement with Commissioner Partington's concerns regarding the Central Park crossings.

Mr. John Noble, Acting City Engineer, advised staff would finalize the report so it would be available when the Commission wished to consider this in the future.

Mayor Costello urged placing this in the unfunded portion of the budget so the Commission could consider the expenditure each year.

Item #12(B) – Capital Improvements Program Workshop Follow-up

Ms. Kelly McGuire, Budget Director, stated staff needed answers tonight on the chiller at City Hall, the City Hall parking lot, Hand Avenue Resurfacing, and the Vehicle Replacement Program. She advised these would be included in the proposed budget; and if the Commission did not want them included, staff would need to be informed at this time.

Commissioner Kelley and Commissioner Gillooly advised they wanted to take the chiller out of the budget. Commissioner Kelley stated that when the coils were last replaced they had lasted 11 years, and the replacements should last another 11 years; therefore, it should be sufficient for another four years. He noted this \$30,000 did not include the extra work to make certain the air conditioning could go into different areas with different temperatures. Commissioner Kelley reported the turn-key cost was too great an expense. He pointed out between this item and the next item, the City Hall parking lot, it equaled half of the funding the Commission allowed for renewal and replacement.

Commissioner Kent concurred with Commissioner Kelley.

Mayor Costello stated he was hopeful that in two to three years there would be more efficient chiller units at less cost.

Commissioner Kelley stated there was damage in the City Hall parking lot where the roots were located. He noted he was informed the parking lot would be resurfaced; but now he understood it would be sprayed for \$60,000, while the resurfacing would cost \$130,000. Commissioner Kelley noted the spray does not last; roots would come back again; and it would eventually need to be redone.

Mr. Noble stated root barriers would prevent the roots from coming back. He noted parking lots are not used to the same degree as roads are used, and when asphalt was not in use, it tends to dry out, becomes brittle, cracked, water enters, and creates more damage. Mr. Noble stated the sealing was for preventive maintenance, and there were areas where the parking lot was cracked. He reiterated it was a preventive maintenance procedure to prevent the costly reconstruction if it should dry out.

Commissioner Kelley recommended waiting five or six years and then investing in the resurfacing. He noted the cracks would not be sealed.

Mr. Nobel stated a sealant would be used to seal the cracks with special material so water could not penetrate it. He concurred that resurfacing was the better alternative, but more costly.

Mayor Costello recommended placing half of the money aside toward resurfacing the parking lot in three years.

Commissioner Kelley concurred with Mayor Costello, but suggested fixing the areas where the roots were coming up now.

Commissioner Partington noted the Commission discussed delaying the Hand Avenue resurfacing project again. He pointed out the stormwater component was unfunded and the

transportation portion would need to be funded through bond proceeds at a cost of \$1.8 million. Commissioner Partington advised he did not see the point in proceeding with this project at this time in that he did not have any requests for it to go forward. He stated the ultimate goal was to develop the road to collector road status. Commissioner Partington noted since he had concerns from citizens opposing that, favoring keeping it a quiet residential street, he would prefer traffic calming.

Mayor Costello stated he would not recommend the resurfacing without the stormwater component at the same time. He advised Hand Avenue would go from Beach Street all the way to Tymber Creek Road some day, and Hand Avenue would get busier at some point. Mayor Costello reported he favored traffic calming, but it must be built to accommodate the people who would use the portion of Hand Avenue that was four lanes from Nova Road west.

Mr. Noble stated staff applied for FEMA grant a few years ago, which recently indicated they were coming close to the end of the review, and it looked favorable that they may provide the \$1.3 million for which the City applied.

Mayor Costello suggested leaving the money in the budget, but not proceeding until the grant money would be received.

Mr. Noble pointed out the FEMA grant would not pay for the entire road. He stated it would cover only a portion of the improvements.

Commissioner Kelley stated the City was replacing vehicles with less than 100,000 miles, and vehicles should last longer than that. He questioned what the expenses were.

Mr. Tom Mulligan, Fleet Operations, reported staff was currently preparing that information for the Commission. He stated the Vehicle Replacement Program enforces his responsibility to provide vehicles that would deliver the services that are needed. Mr. Milligan advised that at 80,000 to 100,000 miles replacement should be considered. He noted staff can give the vehicles personal attention. Mr. Mulligan reported that even if a vehicle was on the Capital Improvements Project plan for replacement, unless it would pass all of the criteria for replacement, it would not be replaced. He pointed out that in the past, Fleet has not spent money approved by the Commission each year for replacements. Mr. Mulligan stated this plan was vital in order to keep their standards of dependable vehicles.

Commissioner Kelley reported he disagreed that vehicles should be considered for replacement at 80,000 to 100,000 miles. He questioned how much the City was spending to maintain a vehicle. Commissioner Kelley stated the City may need to reevaluate the replacements considering the budget difficulties.

Mayor Costello recommended taking six vehicles Commissioner Kelley did not believe needed to be replaced, keeping the replacement money in the budget but set aside, and next year examining those same vehicles to determine how much it cost to keep them, at which time the Commission could make an informed decision.

Commissioner Kelley stated this scenario would accomplish what he was suggesting which was to reevaluate the replacement schedule.

Mayor Costello asked Mr. Turner to work with Mr. Mulligan to select four to six vehicles to set aside, inform the Commission which vehicles were selected, and next year the Commission would reevaluate the situation.

Commissioner Kelley asked how Fleet arrived at the maintenance and repair cost.

Mr. Mulligan stated all of the vehicles are tracked for every dollar spent regarding parts, labor, preventive maintenance, repairs, and overhead. He advised the total picture of the fleet operation needs to be understood, and he would share that information with the Commission.

Mayor Costello stated the Commission was proud of the City's award winning Fleet Department, but money was tight; and he challenged Mr. Mulligan to show them how to keep vehicles an extra year or two. He noted he believed anything related to energy would be more efficient in years to come.

Mayor Costello reported The Casements stage funding would come out of Tax Increment Financing (TIF) funds, so it could be done. He stated City-wide landscaping was already funded in the General Fund, so it should not be in Capital Improvements Project fund. Mayor Costello

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advised he favored the \$35,000 from reserve funds for the Nova Road passive parks in that the City has discussed this for possibly four years.

Commissioner Kent agreed this was a good use of the reserve funds. Commissioner Kelley and Commissioner Partington agree with Mayor Costello and Commissioner Kent.

Mayor Costello recommended a \$1 million place holder be considered for off-beach parking with the remainder over ten years. He stated he hoped the City would have an opportunity, after the appraisals were received and negotiations completed, to partner with the County on a fifty/fifty basis. Mayor Costello urged this money be placed in the budget.

Commissioner Kent noted he agreed with Mayor Costello.

Commissioner Partington advised he did not support this at this time without a clear message from the electorate that they would agree with the expenditure.

Mayor Costello stated some of Daytona Beach was being shut down from University Boulevard north due to red sand, and there may come a time Ormond Beach will not allow parking on the beach because of nature. He advised that Commissioner Gillooly and Commissioner Kelley did not comment so the \$1 million would not be earmarked for off-beach parking. Mayor Costello stated the Performing Arts Center had a great location and was highly utilized, and there was an opportunity for signage; therefore, he favored the \$42,000 for the marquee signage.

Commissioner Gillooly expressed agreement with Mayor Costello, but not at this time.

Commissioner Kent asked staff to meet with him to explain the \$42,000 cost.

Mayor Costello explained a less expensive sign could be used, but this was for an electronic sign. He stated staff indicated the road resurfacing on Brookwood Drive and Druid Circle could be moved to 2008-09 and 2009-2010. Mayor Costello advised the Commission concurred with that recommendation. He reported if the Senior Center sprinklers were scheduled for 2009-2010, the City should loan the money to do the project now and have it repaid in 2009-2010.

Commissioner Gillooly expressed agreement with Mayor Costello, noting this was vitally important since it would be run by the Council on Aging.

Mayor Costello noted the codes indicate it must be done, and it would never be cheaper than it was now.

Commissioner Partington expressed agreement.

Mayor Costello reported he supported the South Ormond Neighborhood Center gym floor being moved to 2009-2010.

Ms. McGuire stated in that the Commission took two items out of the Renewal and Replacement Fund, they could move this to next year if it were the priority.

Mayor Costello stated he believed 2009-2010 was acceptable. He recommended fronting the money for the Sunshine Boulevard improvements. Mayor Costello noted the cost would be paid for by the sale of the lots, but the business park needed those improvements at that entrance.

Ms. McGuire advised staff expected the deal would be closed by the end of the year, so that would not be an issue.

Commissioner Kelley and Commissioner Gillooly expressed agreement with Mayor Costello.

Mayor Costello recommended spending \$120,000 in 2008-2009 and \$120,000 in 2009-2010 for the hardened data center/server virtualization because the City should do everything possible regarding redundancy and protecting the hardened data center.

Commissioner Kelley reported he agreed and clarified that it would not start until the second year.

Mayor Costello stated the hardened data center could be done one year, and the server virtualization could be done the next year.

Commissioner Kelley recommended getting started on the hardened data center with the server on the second year.

Commissioner Gillooly concurred with Mayor Costello and Commissioner Kelley.

Mayor Costello reported he favored delaying the Tomoka Road paving project in the transportation sidewalk program. He stated if the area would annex into Ormond Beach, the City would consider paving, but it was not prudent with the large County land. Mayor Costello recommended setting the \$210,000 aside for sidewalk and trails.

Commissioner Gillooly and Commissioner Partington offered their support.

Ms. McGuire stated staff did not need any specific direction regarding the City Hall generator in that they were merely providing the Commission additional information.

Mayor Costello advised he wanted to keep the Osceola renewal and replacement projects in the budget. He noted even though there were issues with the school board this was not a large amount of money, and there were not many play areas on the beachside.

Commissioner Gillooly reported this may help in the future with some of the projects. She noted Commissioner Kent advised Osceola was well used.

Commissioner Kelley noted he would yield to Commissioner Kent on this issue. He stated he did not favor spending money for the County school system.

Commissioner Gillooly pointed out the money would be spent for Ormond Beach residents.

Commissioner Kent reported over a three or four year period this would be \$100,000, and over ten years it would be \$200,000. He stated twice a week the City pays to have the restrooms cleaned. Commissioner Kent advised he was not advocating eliminating this because there were not many open spaces on the beachside. He questioned if it would be locked up if the City would not do the renewal and replacement. Commissioner Kent pointed out Ormond Beach did not have to do the renewal and replacement, but they did have to keep the site clean. He pointed out the renewal and replacement was above and beyond what was required.

Mayor Costello asked Commissioner Kent to determine the condition of the playground equipment and the basketball courts. He noted if they would be in adequate condition, they would not be replaced.

Commissioner Kent reported he would gladly perform that task. He stated he agreed this would be for Ormond Beach children, but it was mostly used by the school.

Mr. Turner requested allowing staff to assist Commissioner Kent in that there were some contractual obligations the City must fulfill.

Mayor Costello stated, regarding the reuse system expansion, it seemed that FEMA was finally coming through with a grant for Hand Avenue. He recommended going to St. Johns River Water Management District to show them the City did not have \$4 million to try to use less potable water, but they could assist the City in the expansion of the reuse system. Mayor Costello urged the City to start to apply for some grants.

Mr. Noble advised the City was actively pursuing grants.

Mayor Costello stated \$300,000 each year was recommended for the water main replacement which was totally unfunded. He requested information as to how critical it was to fund that. Mayor Costello advised the Commission discussed that it was critical, but he did not know where the money would come from. He stated he did not want water mains breaking and citizens complaining the City was not keeping up with old infrastructure.

Mr. Noble advised this was a problem that was coming of age.

Mr. Turner stated staff would share that information with the Commission again. He pointed out that this was an issue across the country, not only in Ormond Beach.

Mayor Costello reported he favored considering a tax on water with 100% of the revenue being used for to water main replacement. He noted this could be a health issue. Mayor Costello stated Ormond Beach had old infrastructure.

Commissioner Kelley stated a street in Tomoka Oaks has a two inch water main in a curve that affects six or eight houses. He noted the pipe in one section goes from six inches, to two inches, and back to six inches.

RFQ for Health Insurance Services - Continuation

Mr. Turner advised that a major concern he had about this discussion was the process. He advised staff has had many discussions with Brown and Brown representatives. Mr. Turner stated in a meeting on June 14, a booklet was provided to him from Brown and Brown, and letters were sent to him last week. He stated responses to these will be provided tomorrow, and questions from tonight's meeting would be provided by the end of the week. Mr. Turner noted the Commission would be provided Brown and Brown's viewpoint tonight, but staff's goal was to provide the best product available at the lowest cost.

Mr. Hayes stated the City was in the midst of a bid protest, and there was a process that should be followed. He noted he informed the people from Brown and Brown that he believed it was not appropriate to have a detailed discussion before the Commission at this time. Mr. Hayes advised that staff needed to respond to the points of issue raised by Brown and Brown, and if it could not be resolved at that level, the issue would then come to the Commission for a final decision; however, the situation had not arrived at that point yet. He expressed concern about getting into the details of the issue at this time, which was not appropriate.

Mayor Costello asked if Mr. Hayes would be more comfortable if the people who signed cards spoke, and the Commission did not respond.

Mr. Hayes replied the process should continue before coming to the Commission. He explained in a protest, what was evaluated was what occurred in the course of the evaluation process. Mr. Hayes advised the proposers do not receive a second chance to supplement their information or make changes. He noted the information was studied, and a decision rendered based on that information. Mr. Hayes advised what was also considered was the process utilized in the course of events and the staff decision.

Mayor Costello offered to allow Brown and Brown to present any information they chose, and he encouraged the Commission not to respond.

Mr. Turner stated staff has bent over backwards trying to make sure communications occur. He advised there were more entities than Brown and Brown who were involved, and staff must be careful the other participants were treated fairly. Mr. Turner noted if there was a bid protest, and he believed he received a letter last week that they were filing a formal bid protest, there was a process for the bid protest, which included an opportunity for the Commission to review staff's work relative to the issue.

Commissioner Gillooly advised there was a clear indication these individuals came to speak at audience comments. She pointed out if 20 people wished to speak on separate issues, some would not be able to speak at the beginning of the meeting and would have to wait to this point of the evening, and all wishing to speak on this issue waited. Commissioner Gillooly noted this was an open forum; and they should have the right to speak to the Commission as anyone else would, and Mayor Costello should not have to give them that right, as it should be an automatic right.

Commissioner Kelley stated he could not speak to his fellow Commission members tonight, but at some point he wished to discuss this issue with them.

Mayor Costello stated what he envisioned was to invite other parties and have a discussion item where the interested parties and the Commission can comment whenever Mr. Hayes deemed it to be appropriate, but he did not believe it was appropriate to respond tonight when other parties were not invited to the meeting.

Mr. Tony Grippa, 12 Old Port Circle, Brown and Brown, advised the individuals in the audience were all Ormond Beach residents. He noted there were 220 Ormond Beach residents in Brown and Brown, including their chairman. Mr. Grippa advised he has had a dialogue with everyone at the dais except Mr. MacLeod, and he hoped to have a dialogue with him. He questioned that a firm ranked 73 was selected over another ranked 93 through an interview process. Mr. Grippa advised he still did not know if an award had been made. He advised Brown and Brown was not officially protesting because the purchasing rules indicate a protest must be made five days after the award, which would be in writing. Mr. Grippa noted he asked Mr. Hayes how to address this issue, and he recommended preserving their right by sending a letter for the Commission, which would start a dialogue.

Mr. Grippa stated what seemed to be occurring was that Brown and Brown must have done something wrong in the past, but no one was telling them what it was, because their score was the highest, yet they lost. He reported staff has been very generous with their time. He explained he was informed Brown and Brown's customer service under their property and casualty was not good as a reason for this loss; however, this should not enter into a benefits request for qualification (RFQ). Mr. Grippa stated if there was a problem, staff could call and voice their concerns, and the problem would be remedied. He reported another reason provided was that the competition had a better information technology program, which would interface, and that program was proprietary and would save work for an employee; however, Brown and Brown had the same system, and it was not proprietary. Mr. Grippa noted he was told he did not provide that information, but he noted that nowhere on the RFQ was it requested. He pointed out Brown and Brown actually graded higher comparing the proprietary program versus their program. Mr. Grippa explained a proprietary system would belong to that company, and the City could never leave the company; but Brown and Brown used the industry standard. He advised another reason given was that Ormond Beach did not want to be "a small fish in a big pond." Mr. Grippa questioned how the customer service could be better from 194 miles away versus 6.7 miles away, and he questioned why an employee would embarrass a City where their Chairman lived.

Mr. Grippa pointed out the RFQ indicated the award "shall be in writing" and he did not see any award in writing. Mr. Grippa advised he learned the consultant did not recommend Brown and Brown only to discover the consultant was a part of the objective portion, but not in the meeting for the subjective portion. He stated they believed they would have the ability to appeal to the City Commission since the RFP indicated the award "shall be done upon City Commission approval" and "the agreement will commence the date the City Commission receives and approves the recommendation of the insurance program." The insurance program was an agent of record for health insurance. Mr. Grippa reported a decision was made at the staff level and communicated to Brown and Brown that it would not go to the City Commission because it did not exceed the \$25,000 discretion of the City Manager. He noted the agent made in excess of \$125,000 last year; however, that money could have been saved by going directly to Florida Health Care.

Mr. Grippa advised the second argument was that the Commission would approve the agent, but they would approve it when they approved the entire program. He questioned when Brown and Brown could disagree. Mr. Grippa noted this was when this should stop and go before the City Commission because that was what the RFQ indicated. He noted they had to go before the City Commission for approval, and he was not aware of any other public entity that would proceed without City Commission approval. Mr. Grippa pointed out this was not an RFQ for the insurance program, but the agent of record for health insurance. He requested the City follow the process for this \$2.3 million expenditure with \$125,000 or more in commissions. Mr. Grippa noted it was not only the City Commission's right to make a decision, but a necessity considering the amount of money involved. He advised what he found egregious was that they were removed from two RFPs because they did not sign a page or include a fee page while the company selected did not have a valid business license, which was a requirement. Mr. Grippa reiterated there was a provision indicating the City would give special consideration to their ability to do business with Florida Health Care, and Brown and Brown was Florida Health Care's largest agent, while the entity that was selected had none. He thanked the Commission for their consideration.

Mayor Costello asked if anyone else who signed cards wished to speak. No one else requested to be heard. He stated based on the concerns, he asked Mr. Turner to place this on an agenda and invite other interested parties to discuss this issue.

Commissioner Partington requested staff hold off awarding the bid until after the discussion.

Commissioner Kelley asked if staff had already awarded the bid.

Mr. Turner pointed out that this was one side of an issue, and there were other sides to this issue. He expressed concern that this was a bid protest process. Mr. Turner advised the Commission would be provided information tomorrow. He noted the Commission has shared their concerns, and he was hopeful they would continue to do so. Mr. Turner requested the Commission allow staff to discuss an appropriate process that would be fair to everyone.

Mayor Costello reiterated his request that all interested parties be invited to a meeting where the Commission would be able to interact openly.

Mr. Turner reported the plan always had been for the Commission to make a decision after they were provided with all of the information.

Mayor Costello stated the agent of record decision needed to be made long before any other decision, not concurrent with the health insurance decision. He noted he considered this a valid concern.

Mr. Turner stated that if everything stated at the podium was accurate, he would agree with Mayor Costello; but there was some additional information the Commission should have before making a decision.

Mayor Costello advised he has never favored an agent of record.

Mr. Turner stated the RFPs had already been sent out.

Mayor Costello asked if the agent of record had been selected.

Mr. Turner stated the agent of record had been designated, but that was not a complete selection process until the Commission awards the contract. He clarified other brokers can submit proposals in that process.

Ms. Lorenda Volker, Human Resources Director, reported the City published an RFQ to prequalify for agent of record because Ormond Beach has a small Human Resources Department. She advised the agent of record was always brought to the Commission as part of the process. Ms. Volker pointed out when Brown and Brown was selected the agent of record for property insurance it was not brought to the Commission separately, but was run as part of an RFQ/RFP process similar to this, and no objection was made. She advised when the Commission purchases the insurance they would affirm the agent of record. Ms. Volker explained the reason for this was that once the City publishes the RFP for the actual coverage the City would accept proposals from anyone. She reported to date 29 firms have downloaded the RFP the City published, and ten were brokers. Ms. Volker noted Brown and Brown did not download this, and they could have done so in that it has been published in the newspaper just as any other RFP. She pointed out this was an established process.

Mayor Costello asked that this be on the next agenda, and he instructed Mr. Turner to make certain all of the interested parties receive all of the information.

Mr. Turner strongly suggested the Commission allow staff to discuss this issue with them after they receive the information just as the Brown and Brown staff discussed the issue with the Commission. He stated he understood Mr. Hayes' desire to more fully explain the issue, but he did not believe the entire issue could be presented tonight.

Mayor Costello stated he would use his power as mayor to set the agenda for July 15 to have a complete discussion with all of the companies invited. He reported the RFPs were already out and anyone could submit proposals, but staff was not to approve, accept, or authorize anything further.

Mr. Turner stated the RFPs would be in on July 16. He noted staff would only accept the RFPs prior to the meeting.

Commissioner Gillooly stated nothing was to commence until it was brought to and approved by the Commission; however, it has already commenced. She asked why the City should have an agent of record if anyone could submit a bid. Commissioner Gillooly questioned why the City did not follow their own rules.

Mr. Turner explained the City did follow their own rules.

Mayor Costello requested the information being provided by staff be sent to everyone concerned, and on July 15 he wanted an explanation of how the agent of record process was handled and the benefit of having an agent of record. He instructed staff to place this item early on the agenda.

Item #13 – Reports, Suggestions, Requests

Splash Park

Commissioner Kent reported there was a soft opening of the splash park on Saturday at the South Ormond Neighborhood Center. He reported it was “awesome” and a jewel in the City. Commissioner Kent commended Mr. Turner and the Leisure Services Department for doing a great job.

Police Presence

Commissioner Kent stated he went to the Memorial Gardens to view a surfing movie, and it was a great event. He recommended that for any event with more than 50 people, there should be a police officer nearby. Commissioner Kent pointed out there were between 500 and 600 people in attendance; alcohol was brought in; and he had to call the police because an individual was getting out of control. He expressed concern for the welfare of people on such events as well as on Halloween on Riverside Drive. Commissioner Kent asked that a police presence be seriously considered for such large events.

Beaches

Commissioner Kent expressed concern regarding the response the City received from the County indicating the City would not be permitted to place water on the beach's driving lanes. He advised it disturbed him the County could pump sand, during turtle season, on the beach in New Smyrna Beach, but Ormond Beach was not permitted to pump seawater on the driving lane. Commissioner Kent reported in the driving areas of Ormond Beach, he found only nine turtle sites. He stated he was ready to stand up for people rather than the environment. Commissioner Kent noted he was awaiting a staff response as to which rule Ormond Beach would be breaking by pumping seawater on the driving lane. He questioned what harm seawater would do to the driving lane, especially when New Smyrna Beach was allowed to pump sand during turtle nesting season.

WAV

Commissioner Kent stated he was excited Commissioner Kelley was in charge at WAV in that he was a great leader. He asked to be better educated on the water levels. Commissioner Kent explained seven feet down on his beachside property he hit water before the rains. He noted he thought it was a great expense to build a desalinization plant with all of the springs pumping out millions of gallons of water each day that flush into the St. Johns River. Commissioner Kent stated if Commissioner Kelley did not feel comfortable discussing this, he asked for web sites where he could become better educated on the matter.

Commissioner Kelley stated he could have a hydrologist come to speak to the Commission on a slow agenda night. He stated the aquifer fluctuates through the years, but the Florida aquifer goes down as deep as 1,200 feet. Commissioner Kelley reported on the mainland there would be water that was not salty from ten to twelve feet down. He offered to provide any information to assist Commissioner Kent in his understanding of the issue.

Beaches

Commissioner Kelley stated in August at a certain time the moon does not rise in the east and set in the west but actually goes north and south. He noted when the turtles were getting hit by the cars, the moon was out, disturbing the turtles rather than the lights on Granada Boulevard. Commissioner Kelley stated there were 100 turtles per nest. He expressed agreement it was time to take the beach back.

Agent of Record Process and Procedures

Commissioner Kelley expressed concern regarding the City's processes and procedures. He noted he did not believe the City followed the process for selecting the agent of record. Commissioner Kelley stated the RFQ did not state the Commission would only approve the agent of record after the insurance carrier was selected. He reported he spoke to Ms. Volker and Risk Manager Ms. Christina Hannon, and he appreciated the time they spent with him. Commissioner Kelley stated he believed if anything had been done, it needed to be stopped; and if an employee could save 10% on their insurance premiums, that would save a great deal of money in this time of budget cuts. He noted, regardless of who should receive the contract, he expressed concern regarding the way this was handled, and he could not accept that the Commission needed to speak only to Mr. Turner and not their fellow Commission members. Commissioner Kelley stated he believed the Commission needed to hear from the recommended company as well. He noted this may not have been as serious had it not been for the incident that occurred with Maryam Ghyabi. Commissioner Kelley advised he believed Brown and Brown to be an upstanding firm that would abide by the Commission's ruling as long as the process was properly followed.

Florida City of Excellent Awards

Commissioner Kelley urged the Florida League of Cities of Excellent forms be completed to nominate Mayor Costello as Mayor of the Year, Mr. Turner as City Manager of the Year, Ms. Patterson as City Clerk of the Year, Mr. Hayes as City Attorney of the Year, Mr. Lane or Ms. McGuire as Finance Official of the Year, and Marvin Miller as Citizen of the Year. He noted they would not all be selected, but if they are not nominated they can not possibly win. Commissioner Kelley pointed out that Mayor Costello serves on MPO, VCOG, and attends many other meetings for the City.

Speedway Event

Commissioner Kelley stated Ormond Beach was involved in the Halifax Habitat for Humanity speedway event on Saturday, July 5. He noted this was a great event and a great way to support the Halifax Habitat for Humanity. Commissioner Kelley thanked Commissioner Gillooly for what she does to help make these events possible.

RFQ/RFP Process

Commissioner Partington stated what has been described as the RFQ/RFP process was “a mess,” but he would listen to all sides of the issue before making a decision; and he was hopeful the City could find a resolution to the issue.

Homeless

Commissioner Partington stated that seeing so many homeless people was a sign of the economic times. He stated when making financial decisions on the Commission he was factoring in people’s struggles, and he wanted to be a part of the solution while also being fiscally responsible.

Fourth of July Celebration

Commissioner Partington stated he was looking forward to the Fourth of July celebration. He thanked Commissioner Gillooly for working with Mr. David Abee, Leisure Services Director, on this event to make the celebration be as self-sustaining as possible.

Boil Water Notice

Commissioner Partington asked if bottled water would be available tomorrow if the boil water notice was not rescinded.

Mr. Turner stated a decision would have to be made tomorrow regarding that issue. He noted there were no plans to distribute water at this time because staff believed the boil water notice would be rescinded. Mr. Turner reported staff expected to have the decision by 9:00 a.m.

Beach

Commissioner Partington stated he believed the beach was fairly well packed compared to how it had been at other times this summer. He urged a test of pumping water on the driving lanes be done in a small section of the beach if the County would permit it. Commissioner Partington advised that Thompson Pump in Port Orange could loan Ormond Beach a pump to perform this test. He noted he did not see how a sea turtle could survive what was occurring in New Smyrna Beach.

Minutes

Commissioner Partington stated the best evidence of what occurs at the City Commission meetings was the recorded minutes that could be digitally stored. He noted the public records laws have not kept up with the technology. Commissioner Partington urged the City’s lobbyist to broach this issue to allow the City to digitally store the minutes for the required amount of time they must be kept to relieve some of the pressure to provide and review the detailed minutes.

Maintenance on the Granada Boulevard and Boardwalk Areas Underneath the Bridge

Commissioner Partington stated Granada Boulevard was the central part of town that was seen every day, and it was starting to become run down. He questioned what entity was responsible for this maintenance and when the maintenance was scheduled.

Local Preference Law

Commissioner Partington stated Port Orange has a Local Preference Law allowing the Commission to spend up to 3% more with a local vendor. He noted with everything else equal, a local vendor should have priority. Commissioner Partington stated if the Commission concurred, they should let Mr. Turner and Mr. Hayes know of that agreement.

Commissioner Kent expressed agreement.

Mayor Costello asked staff to provide a copy of the Port Orange resolution to the Commission.

Commissioner Gillooly stated on her second meeting as Commissioner she questioned this and was informed by staff there was no mechanism for local preference.

Commissioner Gillooly advised that she received a call from Mr. Lydecker, and she met with Mr. Grippa and Mr. Lydecker to discuss the agent of record issue. She noted she has always believed it was incumbent upon the Commission to consider local companies due to job issues

and keeping tax dollars in the area. Commissioner Gillooly advised she spoke to former Mayor Dave Hood regarding this issue, and he stated he believed there was a mechanism for that in the system as long as it was part of the initial criteria package. She noted she considered that wise use of Ormond taxpayers, and she urged pursuing that issue.

Beach

Commissioner Gillooly stated Thompson Pump sponsored a house with Halifax Habitat for Humanity providing the funding and the labor. She reported she would be at Thompson Pump tomorrow and would gladly mention the trial as Commissioner Kent suggested.

Fourth of July

Commissioner Gillooly stated she was excited about the Fourth of July celebration.

Ormond Beach Historical Trust

Commissioner Gillooly stated the Ormond Beach Historical Trust would start their first in a series of four jazz concerts through the summer on Friday at the Anderson Price House. She reported on Saturday evening there would be a historic night with Mr. Flagler scheduled. Commissioner Gillooly noted on the Fourth of July the Ormond Beach Historical Trust had an event planned for the afternoon that would be free to the public, and they would sell hot dogs in an effort to promote the preservation of history in the City.

Ormond Main Street

Commissioner Gillooly reported she was proud of Dr. Mike Rodriguez for his leadership and Ms. Maggie Sacks for pursuing the aims of the Ormond Main Street Board. She stated Mr. Joe Mannarino, Economic Development Director, and Mr. Steve Spraker, Senior Planner, attended the meeting to review the entire Capital Improvements Project proposals. Commissioner Gillooly advised she was glad to see there were more opportunities to use the Tax Increment Financing (TIF) funds. She stated there was a great deal of volunteerism on this board with tremendous energy and a desire to move forward. Commissioner Gillooly reported she was pleased to be serving on this board.

Citizen Involvement

Commissioner Gillooly reported how proud she was of two young ladies who persisted to capture two dogs that were loose and returned them to their home.

Halifax Habitat for Humanity and Star Shelter

Commissioner Gillooly stated Daytona International Speedway has helped a great deal of organizations, such as "Start to Finish" which was a unique event that would jointly support Halifax Habitat for Humanity and the Star Shelter for the homeless in the community. Commissioner Gillooly stated Halifax Habitat for Humanity and other affordable housing entities have always had an informal relationship with the homeless, such as with the Family Renew Community. She advised a family may need a shelter's services to start, but the ultimate finish line was sustainable affordable housing such as through Halifax Habitat for Humanity. Commissioner Gillooly noted every entity was dealing with the issues of the economy with the dollars shrinking because people are concerned about their own welfare before they can afford to give to charities. She reported this was a true need to allow people to move out of homelessness, become members of the community, and achieve goals. Commissioner Gillooly stated it helped the taxpayer in the long run to make sure the City was part of the solution whether it be because it was the right thing to do or because of the potential police issue. She advised she was not totally opposed to using Community Development Block Grant (CDBG) money for this purpose.

Mr. Burton

Commissioner Gillooly expressed a concern that the audience was not generally aware that Mr. Burton was the City's former Leisure Services Director. She stated if the lighting and the other issues he brought up were of concern, he should have brought them up when he was the Leisure Services Director. Commissioner Gillooly reported there was no basis to the issues Mr. Burton has brought to the Commission; and while it was clear each had to be investigated, it did not seem right that a disgruntled employee should make alarmist comments without objection.

Agent of Record Process and Procedures

Commissioner Gillooly thanked the citizens for remaining to the end of the meeting. She expressed concern that staff may not have followed the procedure, but advised she would listen to what Mr. Turner had to say on the issue. Commissioner Gillooly noted red flags have been raised. She questioned why the City should have a consultant who would be involved in the objective portion; and where an independent entity was most needed, they were not involved. Commissioner Gillooly reported she agreed this brought the Maryam Ghyabi incident to mind.

She pointed out she was concerned about the specific situation, but ultimately concerned about the overall process in how the City was being viewed in its integrity and following its own rules. Commissioner Gillooly stated she hoped this could be resolved once and for all so the Commission does not need to keep apologizing for the City not following its own rules.

Water Plant Issue

Mr. Turner expressed appreciation for the Commission stating their concerns regarding the issues at the water plant in that it was important to have dialogue when the Commission was pleased with staff as well as when they were not pleased with staff. He thanked the Leisure Services, Police Department, Public Works Department, and volunteers who were passing out the bottled water. Mr. Turner expressed appreciation to those at operations such as Support Services Director Mr. Tom Lipps, Ms. Volker, Mr. MacLeod, and Ms. Hannon who were trying to get the system back on line and minimize the impact to the citizens.

Commissioner Kelley's Absence

Commissioner Kelley apologized for not being available to attend the July 28 City Commission meeting. He reported the meeting schedule was changed; but there were four other families involved in his situation, and he did not realize that he would not be available for that date. Commissioner Kelley advised he hoped he would not miss anything critical, and he was willing to attend another meeting, if necessary, if there was something urgent.

Mr. Turner reported staff had the option of moving a preliminary budget vote to July 15 with the subsequent approvals later, and that was staff's intention. Mayor Costello expressed his agreement to Mr. Turner's recommendation.

Bike Trails

Mayor Costello stated Tymber Creek Road was to be improved from Airport Road to US1 with the interconnects with Ormond Crossings Boulevard. He urged staff to include bike trails along both Tymber Creek Road and Pineland Trail on both sides of I-95. Mayor Costello noted the many people living in the west could access areas such as the Ormond Sports Complex if bike trails were available. He reported if a four-foot sidewalk was planned, he wanted the City to add to it making it a 10 to 12-foot trail for people to exercise; and considering the economy, more and more people would be riding bikes.

Insurance

Mayor Costello stated he would not be ready to vote for any insurance program until he had time to study the issue, discussed the issue with people, and he was certain the City had the best plans presented by multiple entities. He noted he understood anyone could present a bid whether they were agent of record or not. Mayor Costello advised the City may have less service and will have less cost if he were to make the decision. Mayor Costello noted staff may have to work more. He reported the Commission may select a program that they were not as comfortable with because the customer service they have had in the past was different between companies. Mayor Costello explained he wanted to see a different plan, why one was recommended over another, what the shortcomings were, and have time to study it, and not just from Thursday to Tuesday. He advised when this issue was completed he requested a survey on how other entities do their RFQs, RFPs, agent of record, and interviewing for consultants. Mayor Costello noted he wanted to make certain Ormond Beach had what the Commission believed to be the best process. He advised if staff believed the current system was the best process, he would have to disagree in that there have been two instances where there have been process issues. Mayor Costello reported Ormond Beach staff had the highest integrity, and he had no doubt that what they stated was accurate or what they believed to be accurate, and they have a desire to be open, honest, and wish to serve the residents; however, he could still disagree with the process.

Item #14 - Close the Meeting

The meeting was adjourned at 11:47 p.m.

APPROVED: _____ July 15, 2008

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk