

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

July 15, 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 Reverend Mike Foley, Ormond Beach Presbyterian Church.
- 3) Pledge of Allegiance.
- 4) **PRESENTATIONS:**
 - A) Employee-of-the-Quarter award to Randy Iglesias, Chief Operator, Water Treatment Plant.
 - B) Budget Advisory Board Presentation by Jerry Kane, Vice-chairman.
- 5) **FIRST PUBLIC HEARING - FY 2008-2009 TENTATIVE MILLAGE RATES:**

Resolution No. 2008-120 adopting proposed millage rates for the 2008-2009 fiscal year; establishing the date, time and place for the first public hearing on the proposed millage rates and the tentative budget; directing communication; expressing legislative intent; and setting forth an effective date. (3.38884 for General Fund Operations, Facilities Renewal and Replacement, Capital Improvements and Transportation Improvements; 0.38550 for the 2002 Refunded General Obligation Bond Issue and 0.03534 for the 2003 General Obligation Bond Issue).
- 6) **AUDIENCE REMARKS:**
- 7) **APPROVAL OF THE MINUTES** of the June 24, 2008, meeting.
- 8) **INTERGOVERNMENTAL REPORTS:**
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Water Authority of Volusia
- 9) **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. 2008-121 consenting to the assignment of a Continuing Engineering Services Agreement from Tomoka Engineering Associates, Inc., to Wade Trim, Inc.; approving and authorizing the execution of an amendment to the Continuing Engineering Services Agreement between the City of Ormond Beach and Wade Trim, Inc., for the limited purpose of acknowledging the correct identity of the entity providing professional survey and related services under the agreement.
 - B) Resolution No. 2008-122 authorizing the renewal of a Right-of-Way Maintenance Agreement between the City of Ormond Beach and the Florida Department of Transportation; authorizing the execution of a renewal agreement therefor. (\$132,000 payment to City)
 - C) Resolution No. 2008-123 authorizing the execution of Change Order Number Five (5) to that contract awarded to Meadors Construction Company, Inc., regarding the Water Treatment Plant Expansion project, by increasing the contract time by thirty-one (31) days; decreasing the contract price by \$67,612.58. (\$10,254,811.42 total contract)
 - D) Resolution No. 2008-124 authorizing the execution of Change Order Number Two (2) to that contract awarded to McMahan Construction Co., Inc., regarding the Water Treatment Plant Softening Area Modifications project, by increasing the contract time

by seventy (70) days; by decreasing the contract price by \$10,303. (\$2,717,483 total contract)

- E) Resolution No. 2008-125 authorizing the execution of Change Order Number One (1) to that Joint Project Agreement between the City and the County of Volusia regarding the utility installation and road construction on Clyde Morris Boulevard from Aberdeen to Fallsway Boulevard, by increasing the contract price by \$60,068. (\$870,613 total contract)
- F) Resolution No. 2008-126 accepting a proposal from Glatting Jackson Kercher Anglin, Inc., for engineering services regarding the Central Park Master Plan, authorizing the execution of a Work Authorization and payment therefor. (\$33,000)
- G) Resolution No. 2008-127 authorizing the execution of a Unity of Title Covenant unifying parcels owned by the City that were acquired from the Florida Department of Transportation, said parcels being located along South Old Kings Road.
- H) Resolution No. 2008-128 authorizing the execution of a Quitclaim Deed in favor of Christopher Vorhees, releasing a portion of a ten-foot drainage and utility easement located along the rear of Lot 34, Hickory Village Subdivision (7 Trina Street).
- I) Resolution No. 2008-129 authorizing the execution of a Collective Bargaining Agreement between the City of Ormond Beach and the Coastal Florida Police Benevolent Association (P.B.A.).
- J) Appointing a delegate to serve at the Florida League of Cities Annual Conference.

DISPOSITION: Approve as recommended in City Manager memorandum dated July 10, 2008.

10) **PUBLIC HEARINGS:**

- A) Community Redevelopment Agency grant applications:
 - 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) Review Property Improvement Grant applications for recommendation to the City Commission.
 - c) Adjourn as the Community Redevelopment Agency and reconvene the City Commission meeting.
 - 2) Resolution No. 2008-130 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 The Highlander Corporation, a Florida corporation. (44 West Granada Boulevard - \$12,647.83)
 - 3) Resolution No. 2008-131 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 Miss Priss, LLC, a Florida Limited Liability Company. (152 West Granada Boulevard - \$946.26)
- B) Resolution No. 2008-132 authorizing the transmittal of various amendments to the City of Ormond Beach Comprehensive Plan. (2nd Cycle, 2008)
- C) Ordinance No. 2008-22 amending the Future Land Use Element of the Comprehensive Plan by amending the Future Land Use Map to change the designation of one (1) parcel of real property totaling ±2.53 acres located at 1287 West Granada Boulevard from "Suburban Low Density Residential" to "Office/Professional." (Tabled from 5/6/08 Meeting)
- D) 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. (Second Reading)

- E) 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. (Second Reading)
- 11) **SECOND 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.
- 12) **FIRST READING OF ORDINANCES:**
- A) Ordinance No. 2008-31 amending Sections 3.03, 5.06, and 6.02 of the *Charter* of the City of Ormond Beach, Florida, by providing for four (4) year staggered terms for the members of the City Commission elected by zone; by providing a transition election schedule; by eliminating the requirement for a run-off election; by providing for one regular election for City Commissioners and the Mayor; providing for and calling a Special Referendum Election of the registered electors of the City of Ormond Beach, Florida, to be held on November 4, 2008.
 - B) Ordinance No. 2008-32 relative to definitions, Chapter 1, Article III, Section 1-22, Definition of Terms and Words, of the *Land Development Code* by amending regulations to add a definition for accessory dwelling units and Chapter 2, Article III, Section 2-50, to allow detached accessory dwelling units on properties of two acres or greater under certain conditions.
 - C) Ordinance No. 2008-33 amending Chapter 2, District and General Regulations, Article III, District and General Regulations, Section 2-50, Accessory Uses, Subparagraph T, Outdoor Activities, and Chapter 3, Performance Standards, Article IV, Sign Regulations, Section 3-45 (E), Temporary Signs, of the *Land Development Code* by clarifying regulations concerning temporary signage during outdoor activities and special events.
 - D) Ordinance No. 2008-34 amending Chapter 2, Article VI, Overlay Districts, Section 2-71, Historic Landmarks and Districts, of the *Land Development Code*, amending Subsection F, Maintenance, concerning the demolition of historic structures as a result of neglect and the maintenance of historic structures.
 - E) Ordinance No. 2008-35 of the City of Ormond Beach, Florida, amending Article I, In General, of Chapter 16, Pensions and Retirement, of the *Code of Ordinances*, by amending Section 16-6, Benefit Amounts and Eligibility.
- 13) **DISCUSSION ITEMS:**
- A) Employee benefits Agent of Record.
 - B) CDBG redistribution of funds.
 - C) Public notice signage for development applications.
- 14) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 15) **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. Joe Mannarino, Economic Development Director, who was greeting citizens coming into the meeting.

Item #2 - Invocation

Commissioner Gillooly introduced Reverend Mike Foley and reported that the Ormond Beach Presbyterian Church has consistently provided Halifax Habitat for Humanity a monthly donation. She advised she would be on the Big John show on WELE radio tomorrow afternoon at 5:00 p.m. to discuss the project Reverend Foley will explain.

Reverend Mike Foley, Ormond Beach Presbyterian Church, stated that as part of his church's 50th anniversary in 2009 the church established a goal to build a Habitat house in Ormond Beach. He explained the \$80,000 to build the Habitat house was raised in just 12 weeks. Reverend Foley gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #4(A) – Employee-of-the-Quarter Award to Randy Iglesias, Chief Operator, Water Treatment Plant

Mr. Isaac Turner, City Manager, announced that Mr. Randy Iglesias had been selected as the Employee-of-the-Quarter. He stated Mr. Iglesias was a Chief Operator at the water treatment plant. Mr. Turner reported Mr. Iglesias was key in making the transition from the lime treatment plant to the reverse osmosis plant and instrumental in uplifting morale at the plant.

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

Item #4(B) – Budget Advisory Board Presentation by Jerry Kane, Vice-chairman

Mr. Jerry Kane, 78 Ivanhoe Drive, Vice-chairman, Budget Advisory Board, thanked staff for their hard work and timely response for all of the board's inquiries and requests. He reported 36 ideas came out of the budget forum, of which 15 had already been discussed by the Commission and the Budget Advisory Board, and seven of which were researched, such as once a week garbage pickup, police ghost car program, and fleet services operations. Mr. Kane advised two ideas, removing beach tolls and cutting the budget an equal percentage in all departments, were out of the board's purview. He explained the following six items would be discussed in the future after receiving information: contracting out of all maintenance, consideration of a four-day work week, eco-friendly plants for landscaping; providing an avenue for people to use community service hours, purchasing of tax certificates, and fees for utilities used after-hours. Mr. Kane stated some people believed there was too much budget information and some believed there was too little budget information on the website. He explained the following four items were recommended: whenever possible, only one representative of the City would travel to events; the board supported the fiber optic project; the board supported moving the elections to the presidential years; and the board supported providing an electronic option to anyone who wanted to receive agendas and packets on the website. Mr. Kane reported the board recommended discontinuing the contributions, and they strongly encouraged the Commission to take a position on freezing pensions. He pointed out salaries and pensions were the City's largest expenditure. Mr. Kane advised the fire pension would require a state mandated increase; therefore, a pay freeze may be useful. He noted the board realized this would be an unpopular decision, and that the pay and compensation was compared to other cities; however, this issue must be addressed before the City faces financial instability.

Item #13(A) – Employee Benefits Agent of Record

Mayor Costello advised he would allow comment on Item #13(A), regarding employee benefits agent of record, even though public discussion was not normally permitted for discussion items. He asked that a card be completed so staff could provide follow-up.

Item #5 - First Public Hearing - FY 2008-2009 Tentative Millage Rates

Mayor Costello stated this was a public hearing to adopt the proposed millage rates and a tentative budget for the 2008-2009 fiscal year. He reported the City's budget involved a 0% increase in property tax revenue. Mayor Costello advised the City was contemplating a 6% increase in the water and wastewater fees, leaving Ormond Beach with the lowest rate in the Halifax area. He noted there was a reduction in the General Fund of approximately \$76,000 leaving the City at \$28.4 million. Mayor Costello reported personnel services or staff cuts came to a reduction of \$966,000 through the elimination of 12 full-time positions, restructuring two full-time positions to part-time positions, and the elimination of six part-time positions. He stated the Airport Fund would have a \$47,000 surplus, which would be used to repay some of the loans fronted for capital improvements in the past. Mayor Costello advised the taxable value was \$3.4 billion; last year it was \$3.7 billion; and the prior year, it was \$3.5 billion of the gross taxable value, which involves exemptions from Amendment 1 and reassessing of values from the property appraiser. He stated, of the overall net budget of \$99 million including Water, Wastewater, and the General Fund, \$19 million was the water and wastewater plant expansion. Mayor Costello reported without this expense, the City would be \$6 million below last year. He explained property tax was now 32% of the General Fund. Mayor Costello reported in 1999 there was a per capita debt of \$352 and in 2007 the per capita debt was \$143. He advised this Commission was committed to "pay as you go" as much as possible. Mayor Costello reported the Commission has worked hard to reduce the per capita debt.

Mr. Gregory Avakian, 161 Heritage Circle, chairman FACTS PAC, reported the state definitions are somewhat deceiving in that last year when he wrote a smaller check it was called a tax increase and this year he may be writing a larger check and it would not be considered an increase. He expressed appreciation of Ms. Kelly McGuire, Budget Director. Mr. Avakian questioned how this would affect homesteaded and non-homesteaded residents. He stated the County assessor was marking down the over-inflated real estate, and some out of state homeowners kept their homes through the period with high taxes when the assessed values were high hoping the taxes would decrease when the market brought the values back down. He questioned how this rate that was proposed would impact these homeowners compared to those over the past three to four year period. Mr. Avakian noted economic development was discussed last evening at the budget workshop regarding non-homesteaded properties and businesses. He pointed out the millage rate would impact economic development in the future.

Mayor Costello stated a \$125,000 house last year with a 3% increase in value due to "Save Our Homes" has capped in the past, and this year there was a new \$25,000 exemption. He advised this homeowner would pay \$42 less for that home. Mayor Costello reported for a \$225,000 home, the homeowner would pay \$3.70 more; but commercial property with a value of \$150,000 would have no exemption, and the taxes were shifted to non-residential statewide. He noted for the value of \$150,000 commercial property, the property owner would pay \$54 more than last year, and for a \$225,000 commercial value the property owner would pay \$75.64 more. Mayor Costello explained homeowners with value up to \$225,000 would pay less, and over \$225,000 or non-residential would pay more. He stated he was proud the Ormond Beach rate was lower than anyone in Volusia County other than DeBary, Deltona, and Pierson. Mayor Costello reported in 2002 only 22% of the property was exempt from the tax roll, but in 2007 there was 36% of the property exempt because of the increased exemptions that state residents voted for. He stated for this reason, this Commission was committed to Ormond Crossings to increase the amount of non-exempt property so residents could pay less.

RESOLUTION NO. 2008-120

A RESOLUTION ADOPTING PROPOSED MILLAGE RATES FOR THE 2008-2009 FISCAL YEAR; ESTABLISHING THE DATE, TIME AND PLACE FOR THE FIRST PUBLIC HEARING ON THE PROPOSED MILLAGE RATES AND THE TENTATIVE BUDGET; DIRECTING COMMUNICATION; EXPRESSING LEGISLATIVE INTENT; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Resolution No. 2008-120, as read by title only.

Mayor Costello advised the proposed millage rate reflects no tax increase and was the rolled back rate. He noted the proposed millage rate can be reduced after approval, but can not be increased.

Commissioner Kelley stated he did not support Amendment 1 because it was a tax shift.

Mayor Costello stated he did support Amendment 1 knowing it was a shift because he favored Amendment 5 which substituted a sales tax for property tax. He reported the Commission has had multiple meetings to arrive at this agreement tonight. Mayor Costello advised the Commission decided to fund some of the contributions such as the Ormond Beach Historical Trust, Ormond Memorial Art Museum, Chamber of Commerce, Business Development Partnership, Meals on Wheels, and Caring Through Sharing. He pointed out the City had no authority over beach tolls, but the Commission included \$75,000 in the budget as its estimated City share if the coastal cities decided to split the cost with the County to eliminate the beach tolls.

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

Item #6 - Audience Remarks

Property and Casualty Insurance

Mr. Todd Phillips, 27 Rio Pinar Trail, stated the Florida League of Cities insurance program could potentially save Ormond Beach several hundred thousand dollars. He explained he sent a proposal from the Florida League of Cities on May 6 to the Commission, and since then, he reported he felt he was being stonewalled by staff in trying to promote the plan. Mr. Phillips stated he was forwarded an e-mail last week from Mr. Turner with two attachments, one which was a memo from Waters Risk Management responding to Commissioner Partington’s and Commissioner Kelley’s inquiry regarding how much they had been paid. Mr. Phillips stated he was shocked the City had to go to its vendors to find out how much the City paid them. He reported there was no backup or contract in place. Mr. Phillips reported that as of noon today, after requesting this last week, there was still no reply. He advised from that memo he learned the City paid \$28,500 to Waters Risk Management, which was beyond the \$25,000 limit staff was permitted to pay. Mr. Phillips explained this was all for property and casualty insurance and was one project with more bills coming in. He stated there was no bill for the health insurance yet. Mr. Phillips expressed concern that Waters Risk Management has been tracking their hours; but the City does not have a bill; no bill was paid; the City does not know what was owed; and there was no contract.

Height Limit

Mr. Lucille Bornmann, 6 Windsor Drive, stated that at the last shade meeting with Attorney Tom Pelham regarded allowing some developers to have 15 additional feet in height over the 75 feet, clearly stated that was not allowed in the Comprehensive Development Plan. She reported the Commission voted in violation of the Comprehensive Plan, and that was an illegal act according to Mr. Pelham. Ms. Bornmann advised Mr. Pelham stated if the Commission does that, they will open the door for every developer to come in and want the extra 15 feet the City gave these developers. Ms. Bornmann stated Mr. Pelham stated the Commission has put the taxpayers in Ormond Beach in a terrible position because the Commission broke the law and they now want to make it legal. She noted when the 15 feet was allowed, it was supposed to be for antennas and air conditioners on their roof, and not for additional condo units; therefore, she questioned why condo units were affected. Ms. Bornmann stated the public was left in a perilous position by the illegal action by others that Mr. Pelham indicated violated the law. She reported some CAN DO members do not agree with violating the Comprehensive Plan and do not want to be a party to these actions. Ms. Bornmann stated Mr. Pelham indicated vested rights can not be established upon an illegal action.

Mayor Costello stated what had just been stated had inaccuracies. He reported the Commission has done nothing to break the law. Mayor Costello advised the ordinance on the ballot stated that any building currently existing over 75 feet tall may be rebuilt to its exact current specifications if a disaster strikes. He pointed out it was totally irrelevant if the Land Development Code or the Comprehensive Plan was interpreted differently ten years ago because the building exists today. Mayor Costello clarified that if the building was built legally or illegally was irrelevant because the building exists, and this Commission urged the people to support those people who live in those buildings to be able to continue to obtain insurance, have a mortgage, and be able to sell their homes because it should be known that the building could be rebuilt to its prior footprint if it was destroyed. He explained there was one valid legal development order agreed upon prior to the election for 75 feet including architectural embellishments and elevator shaft. Mayor Costello stated the Commission was encouraging the residents to pass a referendum allowing only what he just explained.

Mr. Norman Lane, 1314 Northside Drive, Chairman CAN DO, thanked the Commission for their cooperation in cleaning up the amendment addressing all of their concerns. He stated he sent the Commission an e-mail clarifying CAN DO's position that they supported the final version approved June 24, 2008, trusting that this new amendment in no way weakens the 75-foot height limit approved by the voters in 2006 with respect to any future construction other than the single development order it referenced. Mr. Lane advised CAN DO looked forward to working with the City Commission in remaining true to the Comprehensive Plan which emphasizes keeping Ormond Beach a beautiful low-rise community.

Mayor Costello stated he personally appreciated the CAN DO reversal of opinion.

Property and Casualty Insurance

Mr. Isaac Turner, City Manager, stated the proposal for property and casualty insurance referenced was not actually a proposal and rather a slide show presentation the Florida League of Cities offered. He advised that staff did not receive the attachment until the first part of July. Mr. Turner reported staff had been in contact with the Florida League of Cities who agreed to participate in the bid process when it came up. He stated staff verified the items from Waters were accurate and received the invoices today, which were e-mailed and placed on the dais for each Commission member. Mr. Turner advised these were distinctively separate projects, and information would be provided relative to this issue in the Friday letter.

Mayor Costello reported the City many times uses a single vendor for different projects, and the question of whether the sums should be added together for a bid should be discussed to provide staff parameters. He advised the information was provided this afternoon.

Item #7 - Approval of Minutes

Mayor Costello advised the minutes of the June 24, 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 #8(A) – Metropolitan Planning Organization and Item #8(B) – Volusia Council of Government

Mayor Costello reported he had nothing new to report on the Metropolitan Planning Organization (MPO) and the Volusia Council of Governments (VCOG).

Item #8(C) - Water Authority of Volusia

Commissioner Kelley reported he attended a St. Johns River Water Management District workshop concerning the new regulations on treated reuse irrigation laws. He advised the Water Authority of Volusia (WAV) received a comment from St. Johns that they would not be penalizing the City for using its reclaimed water; however, they would word it strongly. Commissioner Kelley noted almost every speaker agreed that was ridiculous. He explained there was a review committee within St. Johns that had to do something, and so they created this paperwork. Commissioner Kelley reported this was a bureaucratic method of trying to force unfunded mandates on local governments. He noted it would go before the St. Johns' board in September and October, and he and/or Ms. Lindsey Roberts would be in attendance.

Item #9 - Consent Agenda

Mayor Costello advised that the action proposed for each item on the Consent Agenda was so stated on the agenda. He asked if any member of the Commission had questions or wished to discuss any one or more of the items separately.

Mayor Costello stated that he had a request to pull Item No. 9(F) for discussion.

Commissioner Kent requested removing Item No. 9(E) for discussion.

Commissioner Kent moved, seconded by Commissioner Partington, for approval of the Consent Agenda, minus Item Nos. 9(E) and 9(F).

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

Item #9(E) - Utility Installation and Road Construction on Clyde Morris Boulevard

RESOLUTION NO. 2008-125

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE (1) TO THAT JOINT PROJECT AGREEMENT BETWEEN THE CITY AND THE COUNTY OF VOLUSIA REGARDING THE UTILITY INSTALLATION AND ROAD CONSTRUCTION ON CLYDE MORRIS BOULEVARD FROM ABERDEEN TO FALLSWAY BOULEVARD, BY INCREASING THE CONTRACT PRICE BY \$60,068; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve, Resolution No. 2008-125, as read by title only.

Commissioner Kent stated he opposed change orders; and while this road needed to be improved, he would prefer Ormond Beach dollars not be paying for it since it was a County road.

Mayor Costello reported the County was basically building roads where local entities were willing to partner with them, and Ormond Beach desperately needed the Clyde Morris Boulevard project. He advised he was hopeful the County would see the benefit to resurface the road all the way to Granada Boulevard.

Commissioner Kent stated he agreed Mayor Costello made sense in his comments, but the City should not be paying for County work.

Mayor Costello noted he could not argue with that comment.

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

Commissioner Kelley stated the change orders are generated because of unforeseen problems due to the location of the pipes. He stated the manhole cover and the utilities were the City's responsibility. Commissioner Kelley reported he has received compliments from people on how nice it would be when this area was completed.

Item #9(F) - Central Park Master Plan

RESOLUTION NO. 2008-126

A RESOLUTION ACCEPTING A PROPOSAL FROM GLATTING JACKSON KERCHER ANGLIN, INC., FOR ENGINEERING SERVICES REGARDING THE CENTRAL PARK MASTER PLAN, AUTHORIZING THE EXECUTION OF A WORK AUTHORIZATION AND PAYMENT THEREFOR; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello advised no motion was made to approve Resolution No. 2008-126; therefore, Resolution No. 2008-126 failed.

Commissioner Gillooly stated to consider spending \$33,000 on a study at this time was ludicrous, particularly when a recreation manager position was being eliminated. She recommended that person do this study. Commissioner Gillooly stated she was informed there was no staff member with expertise in park planning or design, and she found it difficult to believe the City could not help staff expand their knowledge and make some assertions about what was needed.

Mayor Costello stated he assumed that this was to be discussed at a future time.

Mr. Turner stated the Commission directed staff to bring a different option than eliminating the recreation manager position; therefore, a building maintenance supervisor was on last night's list. He reported the incumbent recreation manager would have taken that position; however, the recreation manager position was kept, the building maintenance supervisor position removed, and some duties were switched.

Commissioner Partington urged the City to retool how issues are dealt with. He noted this should be common sense in that it was already known what should be done in Central Park, and he would rather use this money to make the improvements than to pay for a study. Commissioner Partington stated this was the type of work that a well-qualified citizen advisory board could do, and the City could still qualify for grant money. He noted this item magnified what he considered was wrong with “business as usual” in the City.

Commissioner Kelley reported he found it hard to believe part of the justification for this was that the 2007-2008 budget for \$50,000 to be funded from impact fees had already been used as part of a project, and it was left in the budget. He agreed with Commissioner Partington to find out what needed to be done, spend the \$33,000, do the engineering study, and then contract out the work. Commissioner Kelley advised he did not want to see consulting fees on items such as this, particularly where a meeting could be conducted of those who use Central Park to express their opinion on what they believe would be needed.

Mayor Costello stated Mr. Bill Dodson submitted ideas to him and requested a meeting be arranged with him, Mr. Turner, and Leisure Services Director David Abee, along with anyone else interested in Central Park. He agreed to the thought of arranging a meeting with a group of interested citizens to see what they can come up with. Mayor Costello urged Commissioner Partington to be in charge of it since Central Park was in his zone.

Item #8(l) – Police Contract

Mayor Costello reported he was pleased Ormond Beach had been able to come to an agreement with the fire, general employees, and now the police union. He advised all three unions understood they would receive no increase this year with management and the Commission at no increase and other employees receiving a \$500 one-time bonus. Mayor Costello noted next year the bottom three levels were eliminated for entry level police officers in that the Commission believed them to be too low. He stated the following year there would be a significant raise, followed by a two percent raise that could be renegotiated. Mayor Costello advised the Commission was fair to the police, but all of the unions understood a zero percent increase was necessary this year due to the tax situation.

Officer Vince Champion, 35 Nightingale Lane, president of the Police Benevolent Association, expressed appreciation to all of those who were involved in the negotiations.

Item #10(A)(1) – CRA Property Improvement Grants

Mayor Costello recessed the City Commission meeting and convened a meeting of the City of Ormond Beach Community Redevelopment Agency (CRA) at 8:05 p.m.

Commissioner Kent moved, seconded by Commissioner Gillooly, to recommend the City Commission approve the grant application for 44 West Granada Boulevard.

The motion carried unanimously.

Commissioner Gillooly moved, seconded by Commissioner Partington, to recommend the City Commission deny the grant application for 152 West Granada Boulevard.

Mayor Costello explained the owner of the property at 152 West Granada Boulevard did a good job, but made the improvements before the grant was approved.

The motion carried unanimously.

Mayor Costello adjourned the Community Redevelopment Agency and reconvened the City Commission meeting at 8:10 p.m.

Item #10(A)(2) – 44 West Granada Boulevard

RESOLUTION NO. 2008-130

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 THE HIGHLANDER CORPORATION, A FLORIDA CORPORATION; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2008-130, as read by title only.

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

Item #10(A)(3) – 152 West Granada Boulevard

RESOLUTION NO. 2008-131

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 MISS PRISS, LLC, A FLORIDA LIMITED LIABILITY COMPANY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, to accept the recommendation of the CRA and deny the application in Resolution No. 2008-131, 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 #10(A).

Item #10(B) – Transmittal of Amendments of the Comprehensive Plan – 2008 Second Cycle

RESOLUTION NO. 2008-132

A RESOLUTION AUTHORIZING THE TRANSMITTAL OF VARIOUS AMENDMENTS TO THE CITY OF ORMOND BEACH COMPREHENSIVE PLAN; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello reported this received a unanimous approval of the Planning Board. He 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. 2008-132, 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(B).

Item #10(C) – 1287 West Granada Boulevard - Future Land Use Map Change

ORDINANCE NO. 2008-22

AN ORDINANCE AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY TOTALING ±2.53 ACRES LOCATED AT 1287 WEST GRANADA BOULEVARD FROM “SUBURBAN LOW DENSITY RESIDENTIAL” TO “OFFICE/PROFESSIONAL;” REPEALING

ALL INCONSISTENT ORDINANCES OR PARTS THEREOF;
AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-22, on the first and only reading, 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 #10(C).

Item #10(D) – Amendments to 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 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 Ordinance No. 2008-28, on the second reading, 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 #10(D).

Item #10(E) – “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.

Mayor Costello stated this item received unanimous approval from the Planning Board.

Commissioner Kent moved, seconded by Commissioner Kelley, to approve Ordinance No. 2008-29, on the second 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 #10(E).

Item #11 – Exempting the City from the Uniform Municipal Elections Act

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 Gillooly, to approve Ordinance No. 2008-30, on second reading, as read by title only.

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

Mayor Costello explained this would provide the residents to have a much higher voter turnout in even numbered years.

Commissioner Gillooly reported there was a possibility, but not a probability, that there would be a greater cost if a third page to the ballot was necessary. She noted that has never occurred, and it was not anticipated, but could occur. Commissioner Gillooly advised that even with this additional cost there would still be a significant savings of close to \$25,000.

Mayor Costello reiterated the City may only save \$25,000 as opposed to \$30,000 should this occur.

Item #12(A) – Calling a Special Referendum Election

ORDINANCE NO. 2008-31
 AN ORDINANCE AMENDING SECTIONS 3.03, 5.06, AND 6.02 OF THE CHARTER OF THE CITY OF ORMOND BEACH, FLORIDA, BY PROVIDING FOR FOUR (4) YEAR STAGGERED TERMS FOR THE MEMBERS OF THE CITY COMMISSION ELECTED BY ZONE; BY PROVIDING A TRANSITION ELECTION SCHEDULE; BY ELIMINATING THE REQUIREMENT FOR A RUN-OFF ELECTION; BY PROVIDING FOR ONE REGULAR ELECTION FOR CITY COMMISSIONERS AND THE MAYOR; PROVIDING FOR AND CALLING A SPECIAL REFERENDUM ELECTION OF THE REGISTERED ELECTORS OF THE CITY OF ORMOND BEACH, FLORIDA, TO BE HELD ON NOVEMBER 4, 2008; PROVIDING SEVERABILITY; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello requested a motion to include the following corrections: “The proposed amendments would increase and stagger...” in question one, and “the outcome of a tie vote shall be decided by lot..... ~~in a runoff election~~” on question two.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-31 as amended by Mayor Costello above, on first reading, as read by title only.

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

Mayor Costello explained Commissioner Gillooly was on record as not favoring some of the portions of this ordinance, but favored placing it before the voters.

Commissioner Gillooly concurred with the Mayor's assessment.

Mayor Costello reported he favored the referendum providing the voters to have an opportunity to have four-year staggered terms for the Commissioners and two-year terms for the mayor. He advised in that way the residents could elect a new majority in that three Commission members would be on the ballot, but the continuity would be upheld. Mayor Costello stated this concept had not been before the voters previously.

Item #12(B) – Definition for Accessory Dwelling Units

ORDINANCE NO. 2008-32
AN ORDINANCE RELATIVE TO DEFINITIONS, CHAPTER 1, ARTICLE III, SECTION 1-22, DEFINITION OF TERMS AND WORDS, OF THE *LAND DEVELOPMENT CODE* BY AMENDING REGULATIONS TO ADD A DEFINITION FOR ACCESSORY DWELLING UNITS AND CHAPTER 2, ARTICLE III, SECTION 2-50, TO ALLOW DETACHED ACCESSORY DWELLING UNITS ON PROPERTIES OF TWO ACRES OR GREATER UNDER CERTAIN CONDITIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Gillooly moved, seconded by Commissioner Kent, to approve Ordinance No. 2008-32, on first reading, as read by title only.

Mayor Costello stated the Planning Board approved this on a four-to-two vote and recommended allowing only up to 49% and eliminating the minimum lot size.

Mr. Dave Neubauer, 487 John Anderson Drive, advised he appreciated the attention his request received and the time spent by Senior Planner Steve Spraker and Commissioner Gillooly. He stated this meets a multitude of needs from the handicapped person to an aging person. Mr. Neubauer noted the Commission's decision was to decide if it should be on a large lot or all lots in the City.

Commissioner Kelley questioned if this ordinance contained the recommendation of the Planning Board.

Commissioner Gillooly agreed it should include the Planning Board recommendation.

Mr. Ric Goss, Planning Director, stated the ordinance was written with the staff recommendation, but the Commission could substitute the Planning Board recommendation. He noted staff would not oppose that option; however, he wished to explain the possible unintended consequences of approving this with the provision that would eliminate the minimum threshold acreage. Mr. Goss explained it would be possible to have two structures of equal size on smaller lots, although they would have to be within the setbacks. He noted staff was trying to insure the larger lots would have the ability to have the larger buildings and maintain the current standards for those lots less than two acres.

Commissioner Gillooly reported her home was much more modest than Mr. Neubauer's home, and she would not have the land to duplicate her home up to the 49% allowed. She advised she met with Mr. and Mrs. Neubauer and commended them for their personal issue as well as the larger discussion this initiated. Commissioner Gillooly pointed out the Neuberger's had a fairly unique situation considering the amount of land they own, but this ordinance affords the possibility, as the population ages, for the City to offer that same opportunity to other residents in the community on a much smaller scale, and she did not foresee that as a problem.

Mr. Goss reiterated staff did not have an objection; however, on a three-quarter acre lot there could be two structures with one principle of 2,000 square feet and another only 1% less on the same lot that may not fit into the existing area.

Commissioner Kelley stated this was to be limited to 49%. He explained for a 15,000 square-foot lot with a 2,400 square foot house it would be difficult to fit another structure in with the setbacks.

Mr. Goss stated that would apply for those lots beyond the 15,000 square foot lot.

Commissioner Kelley stated he did not see the value of placing equal size houses on a lot, and this was restricting it to 49%.

Mr. Goss indicated lot coverage would still be controlling.

Mayor Costello advised that what was before the Commission was the staff recommendation with a minimum lot.

Commissioner Gillooly moved, seconded by Commissioner Kelley, to amend the motion to utilize the Planning Board’s wording.

Mayor Costello reported he favored this amendment in that he has consistently favored opportunities for mother-in-law apartments. He noted this was for family and not renting it out. Mayor Costello advised he saw this as a great thing that would help people.

Call Vote on the Amendment:	Commissioner Partington	Yes
	Commissioner Gillooly	Yes
	Commissioner Kent	Yes
	Commissioner Kelley	Yes
Carried.	Mayor Costello	Yes

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

Item #12(C) – Clarifying Regulations Concerning Temporary Signage

ORDINANCE NO. 2008-33
 AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE III, DISTRICT AND GENERAL REGULATIONS, SECTION 2-50, ACCESSORY USES, SUBPARAGRAPH T, OUTDOOR ACTIVITIES, AND CHAPTER 3, PERFORMANCE STANDARDS, ARTICLE IV, SIGN REGULATIONS, SECTION 3-45 (E), TEMPORARY SIGNS, OF THE *LAND DEVELOPMENT CODE* BY CLARIFYING REGULATIONS CONCERNING TEMPORARY SIGNAGE DURING OUTDOOR ACTIVITIES AND SPECIAL EVENTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-33 on 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

Item #12(D) – Demolition of Historic Structures as a Result of Neglect

ORDINANCE NO. 2008-34
 AN ORDINANCE AMENDING CHAPTER 2, ARTICLE VI, OVERLAY DISTRICTS, SECTION 2-71, HISTORIC LANDMARKS

AND DISTRICTS, OF THE *LAND DEVELOPMENT CODE*, AMENDING SUBSECTION F, MAINTENANCE, CONCERNING THE DEMOLITION OF HISTORIC STRUCTURES AS A RESULT OF NEGLECT AND THE MAINTENANCE OF HISTORIC STRUCTURES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2008-34, on first reading, as read by title only.

Mayor Costello explained the Historic Landmark Preservation Board approved this unanimously and the Planning Board denied it on a three-to-three vote.

Dr. Philip Shapiro, 140 Old Mill Run, chairman of the Ormond Beach Historic Landmark Preservation Board, stated owning an historic building was not a burden but an honor and a privilege. He explained this ordinance addressed demolition by neglect of structures on the local landmarks list as well as on the Lincoln Avenue Overlay District. Dr. Shapiro reported this proposed ordinance was fair with no unreasonable provisions and did not pursue subjective issues such as beautification or landscaping, but dealt objectively with protection of the basic structural integrity of an historic structure. He pointed out without this ordinance, the City had no clear path to begin proceeding when a landmark structure falls into serious neglect and becomes at risk for demolition. Dr. Shapiro reported this was long overdue.

Mr. George Rousis, 104 South Beach Street, stated he was not arguing the societal value of maintaining historic properties, but was concerned about having an ordinance that could potentially victimize the well-meaning homeowner. He noted, for the most part, City staff was very reasonable; however, the language would empower complainants to lodge complaints where the City would have to investigate even minor defects. Mr. Rousis pointed out a bad ordinance can victimize well-meaning people. He requested the City Commission consider the necessity of this ordinance and its true benefits to the citizens. Mr. Rousis noted he would not favor this ordinance forcing people into time consuming and resource-intensive due process. He reported he would have liked to have seen in the staff report a history and frequency of problems that this ordinance was intended to address and how those problems had been addressed in the past. Mr. Rousis stated there has not been sufficient evidence to justify this ordinance.

Commissioner Kelley questioned if this was creating an unfunded mandate upon the residents. He reported he did not want to create a hardship on people. Commissioner Kelley reported when regulations are made, people do not often look at the intent, but what the ordinance actually indicates. He noted it would be expected that the Historic Landmark Preservation Board would support this, but he expressed concern that the Planning Board denied this on a split vote. Commissioner Kelley pointed out that he did not want people to allow their house go into total disrepair with the intent of tearing it down in that there was a procedure to demolish a house.

Commissioner Gillooly stated she appreciated Mr. Rousis' comments regarding the hard number of times this issue came up, but as a former Historic Landmark Preservation Board member she assured him it came up a number of times. She reported the Historic Landmark Preservation Board had very little authority to insure this would not occur, and it had occurred on a number of structures. Commissioner Gillooly noted Mr. Rousis purchased the house knowing it was historic, and he was proud of that fact. She advised the Commission received a letter from Snell Legal who welcomed the ordinance. Commissioner Gillooly explained the ordinance was not designed to create burdens for someone who was taking care of their historic property. She noted this came to the Historic Landmark Preservation Board through Neighborhood Improvement Manager Ms. Joanne Naumann to combat these issues. Commissioner Gillooly expressed agreement that she did not want to take away people's property rights, but there was a responsibility in owning a historic property. She advised she favored the ordinance, but would not be opposed to continue it to the next meeting to provide the requested data.

Commissioner Partington reported he supported this ordinance. He stated he received a letter from Mr. John Adams and Mr. Greg Snell who asked the Commission to support the ordinance. Commissioner Partington stated the letter from Mr. Snell indicated he owned a property designated as a historic landmark; Ormond Beach had a wonderful history; and it needs to be preserved in every way reasonably possible, particularly in that the City has regrettably lost numerous historic treasures in the past few decades. He noted Mr. Snell stated the City can not afford to lose more historic structures through neglect than it already has lost.

Commissioner Partington stated Mr. Snell noted if the City would package and promote its history, it could be a tremendous asset. He reported Mr. Snell stated when someone acquires a historic property, along with it comes an obligation to maintain and preserve it for future generations, and only those who were prepared to do so need to own such properties. Commissioner Partington stated Mr. Snell did not believe there was anything particularly onerous and or unfair about the ordinance. He advised he agreed with Mr. Snell's sentiments, and would support this ordinance as it was a step the City needed to take.

Commissioner Kent thanked Mr. and Mrs. Rousis for coming out and complimented them on their beautiful home. He advised he would support this ordinance. Commissioner Kent noted he spoke to Ms. Sue Parkerson who knows a great deal about historic preservation, and he reported he did not believe this would impose an undue burden or be onerous.

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

Item #12(E) – Pensions and Retirement

ORDINANCE NO. 2008-35

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING ARTICLE I, IN GENERAL, OF CHAPTER 16, PENSIONS AND RETIREMENT, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 16-6, BENEFIT AMOUNTS AND ELIGIBILITY; REPEALING ALL INCONSISTENT ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2008-35, on first reading, as read by title only.

Mayor Costello called for a short break at 8:45 p.m. He reconvened the meeting at 8:58 p.m.

Commissioner Kelley clarified his motion was for Option 1 and Commissioner Partington advised his second was for Option 1 as well.

Commissioner Gillooly stated she favored the early retirement and expressed appreciation to Commissioner Kelley for all of the work he had done on this, but she believed it was incumbent upon the City Manager to use this as a tool to help realign and eliminate some positions. She reported she believed there was enough incentive built with the \$250 a month for 36 months as a general help toward health insurance costs because there were some individuals who would be able to obtain insurance through a spouse's plan, some would be eligible for Medicare, and some would be eligible for Social Security.

Mayor Costello requested Mr. Lane explain the early retirement 5% penalty if this was not passed. He questioned if the penalty was a one-time occurrence, or if it would occur each year.

Mr. Paul Lane, Finance Director, explained the 5% was a reduction for each year short of the multiple of 80 and this proposal was for a multiple of 70. He noted for each year short of the normal retirement age there would be a 5% reduction.

Mayor Costello stated he did not favor Options 1 or 2, but would favor eliminating the 5% penalty without the \$250 or the \$500 per month.

Mr. Lane explained the closer the employee was to normal retirement the more significant the \$500 would be as an incentive to induce the employee to leave since some may already meet the normal retirement criteria.

Mayor Costello stated the 5% would help some and not others. He reported he was not convinced early retirement would save money.

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

Commissioner Kelley stated he could show the savings in the Fire Department. He stated what occurred years ago in the Fire Department was different from this circumstance, and he would guarantee there would be savings to the City rather than forcing these employees to have to face additional cuts next year. Commissioner Kelley stated this was a much better way than cutting next year with people going on unemployment compensation. He noted through this additional benefit people will retire.

Mayor Costello asked if Commissioner Kelley wanted to show the Commission how this would save money, he would schedule a workshop prior to the next Commission meeting.

Commissioner Kelley stated the money could be saved through the early retirement making necessary adjustments. He noted if that did not occur, the Commission would be faced with doing it next year.

Mayor Costello asked if Commissioner Kelley was referring to the "Cavanaugh Plan." He noted some Commission members were interested in examining that plan, but there were "red flags" relative to the level of service. Mayor Costello pointed out this was not about the retirement, but the level of service adjustment because the retirement alone would not solve the problem. He urged this be discussed at another time.

Commissioner Partington noted he understood that issue was being postponed to next year.

Commissioner Kelley stated he believed the City had an opportunity to reevaluate the situation and provide the service to the residents where 75% was for Advanced Life Support (ALS) and re-examine the plan from the Fire Chief. He noted the service level would not be reduced for 75% of the calls.

Mayor Costello stated the Commission had decided they were not ready to go with a level of service adjustment. He asked Mr. Turner to place an item on a future agenda within the next few months to discuss how the Commission wished to address this over the next year.

Item #13(A) – Employee Benefits Agent of Record

Mayor Costello noted the only time the Commission has to discuss items was at City Commission meetings during the discussion items portion of the meeting, and public discussion was not normally allowed; however, he would allow public comment on this important item tonight. He noted Mr. Roland Via, Holly Hill Mayor, was in the audience and welcomed him.

Mr. Dave Hood, 801 Westlake Drive, representing Maryam Ghyabi, stated people must have faith and trust in their government, and to achieve that trust, accountability, cost efficiency, and transparency was needed. He advised Ms. Ghyabi believed that because of what had happened to her and what had transpired here that if something was not done, Ormond Beach would lose all of the trust and faith of its citizens. Mr. Hood reported Ms. Ghyabi indicated that in her dealings with the City there had been inaccurate conclusions, the record disappeared, there were no minutes kept, and there were factual conclusions that someone who was a professional in the community and offered on numerous occasions to bring benefits and money to the transportation needs of Ormond Beach, yet never received a phone call to avail themselves. He urged the Commission to examine what seemed to be a pattern where the City does not have transparency, accountability, or focus on cost efficiency.

Mr. Charlie Lydecker, 18 Broadriver Road, Brown and Brown, stated Brown & Brown has officially withdrawn from this process, but this was an issue they felt strongly about because they believed the process was severely flawed. He noted Brown and Brown works with 240 public entities and had not experienced the need to come before a City Commission to challenge a process in the past as they have in this instance. Mr. Lydecker noted the procurement process was one of the most basic processes that City management can provide on behalf of its citizens. He advised Brown and Brown was prepared to volunteer and support a process the City would establish to the extent that Brown and Brown's internal employee benefits expert could provide the City that expertise on behalf of the City of Ormond Beach. Mr. Lydecker advised Gehring and Associates was selected, and he would not put Gehring and Associates down in that they have good people; but he would reference them in order to put everything into context. He reported the process was designed to provide staff maximum flexibility in the procurement process. Mr. Lydecker reported there was an objective portion and a more important portion that was more subjective; however, there was no documentation associated with the subjective process. He stated he believed the process was prone to manipulation, bias, costly to the taxpayers, fraught with misinformation, information has been

inconsistent, difficult to reconcile one statement from another statement, and there a high degree of incompetence on the part of City staff.

Mr. Lydecker explained Brown and Brown received a score of 93 out of 100 in the objective portion and Gehring and Associates received a 73 out of 100; therefore, Brown and Brown thought they were doing well, but they were not selected. He questioned why they were not selected and were informed that the consultant made the selection only to discover the consultant was not involved in the second portion; they were informed they were a “big fish in a small pond”; and then there was a software issue with BenTek provided by Gehring and Associates versus Brown and Brown’s Benergy indicating BenTek was far superior to Benergy. Mr. Lydecker stated the City never received information on Benergy, and Brown and Brown immediately sent a letter; but the City did not want it to be addressed even though it was not asked for in the RFQ. He reported Brown and Brown was called a franchise and told they could not provide the service despite the fact there was no record of problematic service with the handling of the property insurance.

Mr. Lydecker advised that he went to the Mayor to ask advice and was told to see the City Manager, so he called the City Manager; and within a week, he met with Mr. Turner for three hours, which he appreciated. He noted after a private meeting, Brown and Brown team members, Human Resources Director Ms. Lorenda Volker, and Risk Manager Christina Hannon met in what appeared to be a very open meeting. Mr. Lydecker pointed out Brown and Brown’s chief counsel, Mr. Lloyd, sent a letter indicating “during the meeting I believe that a candid and professional give and take discussion occurred regarding the selection process of the City’s decision.” He noted when leaving he asked the City to consider the nine points that were raised, which had backup information. Mr. Lydecker reported a week or week and one half later he discovered that an agent of record letter had been issued three weeks prior. He noted the verbiage in the request for qualifications (RFQ) was explicit when it indicated this would have to come to the City Commission for final approval. Mr. Lydecker advised he considered this a big omission from the meeting. He pointed out Gehring and Associates was non-compliant in that their business license was out of date; and while it was probably a technical deficiency, that was not what the RFQ typically allows. Mr. Lydecker noted after their meeting the license problem was fixed, and the request for proposal (RFP) was immediately issued designating Gehring and Associates as the agent of record. He questioned what the bias was. Mr. Lydecker stated the RFP stated, “Questions of a technical nature may arise as submitters are preparing their responses. Please direct such questions to the City agent of record, the Gehring Group” and “It is the City’s intention to deal directly with all insurance carriers via its appointed agent of record. The City’s agent of record is the Gehring Group.” He noted the contact person was designated as the Gehring Group, and all quotes were to be submitted payable to Mr. Kurt Gehring. Mr. Lydecker reported the RFP indicated the City would be implementing BenTek for the 2008 plan year. He stated it was then explained to him that this would not go before the City Commission because the commission of \$100,000 was from a third party, the insurance company, who pays that commission. Mr. Lydecker advised he was then told it would come before the City Commission, but not until the product they plan on purchasing had been identified. He noted this would come to the Commission in September and renews on October 1 when the Commission would approve the insurance company and the broker.

Mr. Lydecker stated the RFQ has changed and was now an open RFP when the RFQ has not been concluded. He questioned why the City would go through the expense of going through an RFQ process. Mr. Lydecker stated there were many other smaller issues other than what he just mentioned, but Mr. Bob Lloyd expressed the issues well in his letter dated July 7. He advised some issue arose that were hurtful to his company. Mr. Lydecker stated he was not making the point that all things being equal the City should go with a local company, but Brown and Brown has demonstrated there has been unfair bias against them. He reported the City Manager sent a letter along with a staff letter which provided some justification as to why Gehring and Associates was selected. Mr. Lydecker stated one of the conclusions was that Brown and Brown was “out for itself” while Gehring and Associates from Palm Beach was “out for the best interest of the City of Ormond Beach,” which was a strong statement, particularly when over 200 Brown and Brown employees live in Ormond Beach and the chairman of the company also lives in Ormond Beach. He advised that Brown and Brown had a great deal of pride in Ormond Beach and were good corporate citizens. Mr. Lydecker stated Brown and Brown believed, while it was not pleasant, basic rights in the procurement process were worth fighting for in this case. He questioned how Brown and Brown could be called a franchise when 30% of the 141 million shares publicly traded on the New York Stock Exchange were owned by Brown and Brown employees. Mr. Lydecker explained the basis for the reference to franchise was that Brown and Brown was not able to provide the type of service that would meet the demands of the City of Ormond Beach. He reported the memo indicated Gehring and Associates provided great service; however, how would staff know that to be true in that this would be the first time they would be handling the benefits. Mr. Lydecker pointed out he did not doubt they do give great

service, but that observation seemed to be a bit presumptuous and unfair. He continued that the memo indicated Brown and Brown had more clients with the Florida Health Care Plan, but he advised the Gehring does not have any accounts with the Florida Health Care Plan.

Mr. Lydecker stated when the City Manager called on behalf of Gehring and Associates to personally facilitate meetings with individual Commission members, he considered it borderline advocacy for a company in an open process. He noted Mr. Turner called Commission members to meet with Gehring representatives to obtain an additional perspective, and he wrote in a memo that staff would consider possible modifications to the process to accommodate potential Commission redirection and that they should expect to receive calls from Gehring Group representatives. Mr. Lydecker stated Mr. Turner encouraged individual Commissioners to meet with them to gain another perspective. He pointed out Brown and Brown representatives can call a City Commissioner and ask for an appointment, and Gehring and Associates could also call for an appointment. Mr. Lydecker noted this was a concerning and disturbing issue for Brown and Brown.

Mr. Lydecker provided a displacement analysis which was a report of the implications to the employees of moving from one carrier to another carrier. He noted this was part of the grading process on the objective portion of the RFQ, and Brown and Brown and Gehring both received 10 points for it. Mr. Lydecker took exception to Gehring receiving 10 points because Brown and Brown outlined the specific displacement analysis and was responsive to the RFQ, outlining the impact to the City of Ormond Beach, while Gehring merely sent a sample from Martin County. He reported the RFQ allows the City to waive any minor irregularities or technicalities in the submittal process, but the RFQ also states the area of greatest concern to staff was transition of care; therefore, this could not be a minor irregularity or technicality.

Mr. Lydecker thanked Mayor Costello for stepping in. He stated this has been so “messed up,” he recommended the Commission not accept any staff recommendation and ask for an extension from Florida Health Care Plan. Mr. Lydecker suggested starting this process over from scratch, and Brown and Brown would no longer be a part of it but would offer assistance to the City on a voluntary basis.

Mr. Tony Grippa, 12 Old Port Circle, Brown and Brown, offered to yield the time from his firm’s employees to the end of the discussion and then consolidate their time to respond in less than five minutes to help move the process along.

Mr. Glenn Vincent, 1522 North Halifax Avenue, Daytona Beach, advised he was the current agent of record. He pointed out this was important in that this represented employee’s health, lives, and security. Mr. Vincent noted he has held this position for quite a while, and he consolidated insurance companies into one account and improved the coverage over the years. He advised he went through an RFQ process and was appointed in 2004. Mr. Vincent stated he believed Mr. Lydecker’s comments regarding staff were unfounded, and he believed staff to be very objective and fair. He pointed out staff did not call him or Brown and Brown and was trying to be objective, and they had good intentions of obtaining the best for the employees. Mr. Vincent stated what should have occurred was that the City should have appointed an agent to get the prices, and that may be the part of the process that failed. He advised that if there were any public records requests received, he was hounded by staff to provide the information quickly. Mr. Vincent advised for any public records requests staff tries to respond quickly. He pointed out he sat through the meeting when qualifying the agents was discussed because he cares about Ormond Beach. Mr. Vincent noted he did not receive any points for a displacement analysis because he did not include a copy of his displacement analysis; however, he offered to call physicians to transition care for employees. He stated these issues are sometimes arbitrary. Mr. Vincent advised the City did not play any favorites. Mr. Vincent explained two years ago Daytona Beach decided to go self-insured, left Florida Health Care Plan, gave the employees the option; and it turned into a nightmare with all the employees currently back to Florida Health Care Plan. He stated Florida Health Care Plan compensates him for everything he does for Ormond Beach; therefore, he does not bill the City for anything. Mr. Vincent reported he agreed the process was probably flawed, but Ormond Beach had a great staff. He stated he believed the worst thing the City could do was to change the plan year. Mr. Vincent advised he was prepared to do an open enrollment if the City would like him to do so, and it usually occurs the second week in August. He suggested allowing the RFP to proceed and to make a decision based on the results. Mr. Vincent advised he would submit a bid through the RFP process. He stated the City can meet with the top Chief Executive Officer and the Chief Financial Officer at Florida Health Care, which was not possible in most cities for other insurance companies.

Mr. Greg Avakian, 161 Heritage Circle, stated he was embarrassed about what was occurring with the management, and this was not a good trend. He asked the City Attorney if the City

broke its own rules in the RFQ process; and if the answer was “no,” to what degree of certainty would Mr. Hayes be in his answer, and if the answer was “yes” what was the liability of the City.

Mr. Randal Hayes, City Attorney, stated this was not a “yes” or “no” question. He advised the process can and should be improved. Mr. Hayes noted the question was whether or not the irregularities were material enough that it would taint or poison the entire process. He reported there were multiple issues, and he would not address each one tonight; but he believed it was defensible if it were litigated, although he could never guarantee an outcome on any litigation. Mr. Hayes noted each question would need to be evaluated on its merits. He stated the first question was whether or not to have an agent of record.

Mr. Kurt Gehring, President and Chief Executive Officer of the Gehring Group, expressed appreciation for going through the process of hearing all of the information. He stated his firm specializes in the public sector in Florida. Mr. Gehring reported proof the procedure was fair was that staff voted Brown & Brown a 93 and Gehring a 73 in the first portion; and if there was bias, the Gehring Group would have been first in that as well as the verbal portion of the procedure. He provided a public document from the Lake County School District outlining their process, which was similar to Ormond Beach’s process. Mr. Gehring directed the Commission’s attention to the ranking of the written proposal which had the Gehring Group and Brown and Brown both at 57, and the next page listed the verbal rankings with the Gehring Group at 18 and Brown and Brown at 19. He advised many statement made tonight were inaccurate, but whatever the Commission chose to do, he would respect their decision. Mr. Gehring reported one inaccuracy was his company’s name was not Gehring and Associates but the Gehring Group. He pointed out there was an anti-collusion statement in the RFQ; but he discovered the Commission was contacted last month when the process was still ongoing, and then he asked the City Manager for the phone numbers of the City Commission but was still concerned about contacting the Commission. Mr. Gehring reported after contacting Mayor Costello he was gracious enough to meet, but he was not certain of the process in that he was concerned if the process was still ongoing. He pointed out there were several places where Brown and Brown was also non-compliant, but that was not the point. Mr. Gehring asked the Commission if they believed the process was fair. He noted the Gehring Group went through the process doing their best, committing to an electronic process, committing to cost, and now the competition could examine the information and make changes.

Mr. Gehring explained this process was equally unfair. He noted there were inaccuracies regarding BenTek being a proprietary system explaining they were a sole provider, but they sell it to insurance carriers, brokers, and payroll vendors. Mr. Gehring commended Ormond Beach staff because the way they sent the bid out it was obvious something different was needed. He reported Ormond Beach staff was one of the most professional, proud staffs he works with, and he thanked the Commission for listening to this issue. Mr. Gehring advised the Gehring Group belongs in this recommendation, and they have been recommended in other places as number one as well, and recommendations change from the written to the verbal presentation. He stated the Gehring Group’s references were strong.

Mr. Tony Grippa, 12 Old Port Circle, Brown and Brown, thanked the Commission for spending so much time on this issue. He noted certain issues were in writing and not debatable, such as when the RFQ specifies that the Commission shall approve the RFQ winner. Mr. Grippa noted had that occurred, and Mr. Gehring was selected, it would be completely appropriate for him to represent the City’s interest; however, a mistake was made, and instead of admitting a mistake was made, there was a rush to get an RFP out. He questioned why an RFQ would be done if an RFP was to be sent that anyone could respond to. Mr. Grippa pointed out there was a scoring analysis of the verbal portion in the Lake County document; but after a public information request was made for Ormond Beach’s scoring analysis for the verbal portion of the RFQ, none was forthcoming. He advised the only documentation they received was the scoring of the objective portion. Mr. Grippa noted a letter was sent by a consultant indicating they verify the recommendation, when the consultant was not even in the room. He advised Brown and Brown was next told the problem was that the Gehring Group had BenTek. Mr. Grippa pointed out the trademark, which means proprietary, and their website stated “BenTek, a proprietary system.” He advised Brown and Brown got a 13 on this, and the Gehring Group got 10; therefore, he questioned how BenTek was the reason Brown and Brown was not selected. Mr. Grippa reported every objective piece of material examined favored Brown and Brown. He stated at this point Brown and Brown had no financial gain in that they pulled out, but the issue was greater than this particular incident.

Mr. Grippa advised he had never seen such a comment by an independent staff person be forwarded to many other people indicating that Brown & Brown did not care about Ormond Beach and Gehring did care during an open RFP. He pointed out that comment was just wrong. Mr. Grippa noted Brown and Brown invests a great deal of money, pays taxes, and does a great

deal for Ormond Beach. He stated Brown and Brown takes pride in their company and even more pride in living in Ormond Beach. Mr. Grippa pointed out he was with a Commissioner when a call was made from the City Manager asking the Commissioner to meet with Mr. Gehring, and that was wrong during an open RFP. He stated this was not about money but about the public trust.

Mayor Costello thanked everyone for coming this evening. He advised Mr. Butch Simpson, Chief Financial Officer for Florida Health Care Plan, was present if anyone had a question.

Mayor Costello called for a short break at 10:22 p.m. He reconvened the meeting at 10:28 p.m.

Commissioner Gillooly thanked Mr. Gehring for his comments, but stated this was no longer about the Gehring Group or Brown and Brown but about the City's integrity and how it was going through its own processes. She expressed appreciation of Mr. Vincent's generous comments about Ormond Beach's staff, but noted he also made clear points about the process. Commissioner Gillooly reported she never met Mr. Lydecker prior to this issue, but Mr. Lydecker and Mr. Grippa called and asked her to meet with them because they are residents of the community with concerns about the process; and in all of her discussions with them, they spoke highly of Mr. Gehring's firm. She stated Mr. Lydecker made some very clear points that go beyond the pale regarding this process. Commissioner Gillooly noted Brown and Brown's letter discusses the troubling issues they have had throughout this process, and it was very difficult for her because she ran for this Commission seat to be a fair representative and to protect the City. She stated that every employee needs to be a manager of risk in any organization, and the most troubling concern was placing her in a position of helping a case or a concern against the City. Commissioner Gillooly stated she can not ignore facts that have been brought out combined with Brown and Brown's decision to exit from the entire process. She reported the City has a staff position of a risk management professional. Commissioner Gillooly stated the City Manager memorandum included a list of the in-house capability, limited capability, and those items that staff was not able to perform in house in that staff does not have the training or industry expertise to perform the service. She pointed out one of the items where the memo indicated the City had limited capability was to review or create a spreadsheet, and she questioned that statement. Commissioner Gillooly advised she requested resumes of the Human Resources Director and risk management professional and noted that if neither of these employees can do a spreadsheet to show the differences between the plans, the City had a huge problem. She stated it was difficult to discuss personnel issues, but it must be done in an open forum.

Commissioner Gillooly reported she received a call from the City Manager regarding meeting with the Gehring Group and her response was she had no problem with the Gehring Group, but there was a problem with Mr. Turner and staff and how this issue had transpired. She noted the City Manager kept insisting this was important; and she informed him that she was not going to do research, and he was to provide her answers to her questions. Commissioner Gillooly advised anyone had the right to call her, but she would not meet with someone where Mr. Turner sets up the meeting. She reported in the letter from Mr. Lloyd it mentioned Brown and Brown's reputation, and the most important thing an insurance company could offer was its reputation in the community. Commissioner Gillooly advised the City's risk manager stated that Brown & Brown demonstrated their commitment to their firm and the Gehring Group demonstrated their dedication to the City through their service, and she believed that comment put the City in a position of risk.

Commissioner Gillooly stated this was becoming a tremendous pattern. She noted former Mayor Hood referenced the issue with the Ghyabi firm, which concerns her still today. Commissioner Gillooly reported she knew Ms. Maryam Ghyabi, and Ms. Ghyabi called her to discuss the issue, noting she asked for a tape only to discover there was no tape, then no notes, then nothing. She reported regarding the report on the water issue at the last meeting, she considered the report to be a report of a blunder, after a blunder, after spending considerable tax dollars on consultants and staff training. Commissioner Gillooly questioned why staff was not ready for an emergency for something as important as the City's water supply.

Commissioner Gillooly reported Mr. Lydecker sat in a meeting for three hours with the understanding there was an open communication; and at the last City Commission meeting the Commission pressed for an answer as to whether or not staff issued the agent of record letter, and the Commission was lead to believe that it had not happened, only to discover after the meeting, that it had been issued. She noted this was an issue of integrity and trust, and she has lost a great deal of confidence. Commissioner Gillooly reported she had a very high regard for certain staff members she had worked with, but there were some extremely serious issues that go beyond the selection of agent of record. She pointed out in Mr. Lloyd's letter he mentioned the advocacy of the City Manager in trying to facilitate meetings describing a misuse of public

position in terms of making the City's arrangement with the Gehring Group voidable. She recommended throwing the entire process out because this process did not work. Commissioner Gillooly advised it was not the right of staff to send that letter that referred to the agent of record to the Gehring Group; and when this was brought to Mr. Turner's attention, rather than Mr. Turner fixing the problem, the Commission was sent volumes of information defending everyone. She noted every question Mr. Turner has answered begged yet another question. Commissioner Gillooly asked the City Attorney as to whether the City Manager has misused his public position.

Commissioner Gillooly reported the risk manager indicated in her resume that she had 13 years of progressive experience in benefits management and administration and in planning, bidding, and maintaining and evaluating employee benefits programs inclusive of an IRS Section 125 cafeteria plan including medical, vision, dental, short and long term disability, flexible spending accounts, life and accidental death insurance, cafeteria plan administration, Preferred Provider Organization (PPO), Certified Participating Option (CPO,) and Health Maintenance Organization (HMO) networks, and utilization management. She questioned why she could not do a spreadsheet if she could do all she just mentioned.

Commissioner Kent reported he met with two members of Brown & Brown; he met Mr. Vincent just tonight; and he thanked Mr. Gehring for being here tonight. He advised he had to agree with some of what Commissioner Gillooly stated. Commissioner Kent reported he spoke to Mr. Turner regarding the 93 versus the 73, which concerned him greatly. He stated if there was a scoring system, the winner should be selected; and if it was subjective, there should be no score. Commissioner Kent advised he was not upset the local group did not get the contract in that he wanted the best deal for the residents in any situation. He stated when someone asks for tapes or minutes and they do not exist, it was a pattern that he was not comfortable with. Commissioner Kent questioned how much longer he could hear staff was sorry and that they would do better when they should do better now. He recommended staff go to Florida Health Care Plan, get an extension, come back with an action plan, and then the City Commission should make a decision.

Commissioner Kelley stated he has known Mr. Decker Youngman of Brown & Brown for 25 years, and Mr. Youngman asked him why his firm lost the bid. He reported he called and asked Mr. Turner what occurred, and he arranged a meeting for himself, Mr. Turner, Ms. Volker, and Ms. Hannon on June 4. Commissioner Kelley advised he was informed Brown & Brown lost the verbal portion on service and about the experience they had with the property and casual contract where the representative was not always available and was on a plane trying to increase his business while the Gehring Group had a better reconciliation computer process that would save two to four days per month of reconciling the billing. He explained he then learned the agent referenced had two plane trips the entire year. Commissioner Kelley questioned how a business with 93 points could lose to one with 73 points. He stated the question Mayor Costello asked, whether an agent of record was appointed, required a simple "yes" or "no" answer. Commissioner Kelley explained the agent of record letter was issued by the risk manager, which was obligating the City to \$100,000. He stated the Ben Tex system would cost \$46,000 to save a few hours of reconciliation, when the City was dealing with Mr. Vincent who did not have a software program. He noted the Brown and Brown system may have worked, or the City could hire that one employee or contract it out and still save money. Commissioner Kelley stated the Commission has tried to get answers. He advised he believed management exceeded its spending authority. Commissioner Kelley stated the City was entering into an open ended contract. He stated Mr. Turner continued to back up the recommendation from Ms. Hannon and Ms. Volker when the justification for the subjective decision did not hold water. Commissioner Kelley advised he was shocked an employee would state a company with the chairman of the board living across the river would not take care of business in Ormond Beach and cared more about increasing their business. He stated the RFQ was flawed. Commissioner Kelley reported it was supposed to be developed by the insurance advisory committee, which was made up of the City Manager or his designee, Human Resource Director, Finance Director, Budget Manager, Public Works Director, City Attorney, and Risk Manager, and the City's insurance consultant as an ex officio member of the committee, but the decision was made by four people. Commissioner Kelley asked why the City Attorney, the Public Works Director, and Budget Manager were not present. He questioned why it took the Commission so long to find out the Gehring Group was selected. Commissioner Kelley stated during the meeting it was mentioned there was a problem with the license; and immediately after the meeting, the license was faxed, when the RFQ clearly stated no faxed material would be acceptable. He stated the City did not follow its own flawed process. Commissioner Kelley reported he has lost faith in the decision-making ability in some of the staff. Commissioner Kelley reported while he appreciated Mayor Costello's attempt to resolve the matter, he did not believe it was in this Commission's purview to review and ask all three parties to attend. He disclosed that he met with Mr. Lydecker and Mr. Grippa. Commissioner Kelley

agreed that if there would be an open-ended RFP, there was no need for an RFQ. He advised this appeared to be going through a process that would, once again, force the Commission into having to make a last minute decision since this was to be voted on July 28, with open enrollment starting on August 1.

Commissioner Partington advised he has also lost faith in staff. He stated the Commission told the City Manager at the last meeting they wanted this fixed, and it was not fixed weeks later. Commissioner Partington stated there were a few options that could have been utilized to fix the situation, such as immediately withdrawing the agent of record letter, eliminating the subjective portion of the process, awarding the designation to the objective winner, which would have been Brown and Brown, and bringing it to the Commission at the next meeting. He noted something objective must be fair, but something subjective does not have to be fair. Commissioner Partington advised he asked at least twice, and Commissioner Kelley and Mayor Costello asked Mr. Turner about the agent of record letter, and he never indicated the letter went out; therefore, he felt like Mr. Turner lied to him, and if he did not lie, he certainly obfuscated or avoided telling him what had occurred. He noted he now believed the Commission must do this alone in that he does not trust staff to do the job, which was frustrating because this was not the Commission's responsibility as elected officials. Commissioner Partington stated rather than chasing the most economically viable program through the Florida League of Cities that could have saved up to \$225,000 in this tight budget year, that option was totally ignored. He recommended taking out Brown & Brown, which they have already done themselves, and the Gehring Group, and looking to what was more affordable and best for the residents; but at this point he did not know if staff could accomplish that.

Commissioner Partington reported he met with Brown & Brown, received a phone call from Ms. Ghyabi, met with Mr. Todd Phillips, and received a call from Mr. Turner urging him to meet with the Gehring Group. He advised he was informed that someone on the City staff in this decision process either worked with or worked for the Gehring Group, and he requested it be verified if that was true or not true. Commissioner Partington stated it has been a very profitable relationship for Florida Heath Care Plan dealing with the City in that the City has a relatively low claims rate in comparison to some other cities. He noted the claims rate would justify requesting a premium reduction, but that was not being seriously considered. Commissioner Partington stated the City Manager would respond quickly to "put out fires," but there was nothing proactive, and he does not want that to continue. He advised strong decisive action was needed, because if strong action was not taken, history has shown it would happen again and again.

Mayor Costello stated he believed Ormond Beach had a great staff with the highest integrity that was loyal to a fault. He noted the Commission was not aware of what discipline Mr. Turner has discussed with staff. Mayor Costello advised he commented to Mr. Turner "don't fall on your sword on this one because there are lots of problems with this one." He noted some things were said and done by staff members that should not have occurred, but Mr. Turner believed staff had been objective. Mayor Costello advised he believed while staff had the highest integrity, they simply "messed up." He disclosed that he met with Mr. Kurt Gehring, Brown & Brown representatives, and Todd Philips. Mayor Costello advised he spoke to anyone who asked to talk to him because he was concerned about this issue. He reported his goal was to protect the City, and he saw problems so he tried to set up a meeting with the parties and have each promise that whatever happened at the meeting would end the situation, and all three agreed initially. Mayor Costello stated that did not occur, but his ultimate goal was to resolve the issues. He advised he was biased for Brown & Brown and was not objective; therefore, he had no problem with staff selecting someone other than Brown and Brown if it was objective and defensible. Mayor Costello stated he has wanted Brown and Brown for years because they can not afford not to provide the best service because if they should ever have the City's account and lose it, which would be very bad for their reputation. He admitted he was also biased for Ms. Maryam Ghyabi because she went to Tallahassee and possibly even Washington for Ormond Beach helping Ormond Beach obtain funding, and he considered her to be a friend, so he had no problem having staff making an objective decision that does not support someone he was biased to support. Mayor Costello explained he had no problem with the fact the Ghyabi meeting was not recorded because Mr. Clay Ervin, who everyone respected, admitted he hit the wrong button or the tape malfunctioned; and while it should not have happened, he accepted responsibility for that, and that type of thing can happen.

Mayor Costello stated he no longer supported having an agent of record and recommended voiding the letter with the selection of the Gehring Group as agent of record and voiding Mr. Vincent's contact as agent of a record so the City would have no agent of record. He advised he spoke to Butch Simpson of Florida Heath Care Plan and Clay Austin of the Florida League of Cities, who advised they would both present bids directly to the City. He noted the

City may need some consulting, but not an agent of record. Mayor Costello suggested sending out a revised RFP indicating Ormond Beach would be dealing directly with insurance companies and the Florida League of Cities along with anyone else who wished to present a bid. He stated the presentation should include that their commissions would be included for their company and for no one else. Mayor Costello reported he would request three bids: what it would cost for the City to have exactly what the City had last year; what the same dollars spent last year would get for the HMO portion; and a proposal for a minimum of 10% less cost than last year. He advised the agent of record and RFP issue should be decided tonight. Mayor Costello noted the Commission should also decide, either tonight or at a future time, what the Commission was unhappy with regarding the information, communication, and results coming from Mr. Turner. He advised the Commission must also decide what bar the Commission should set and allow Mr. Turner to explain how he would meet that bar. Mayor Costello stated he may be more accepting than others on the Commission, which may not be the right thing, but the Commission needed to regain trust in management.

Mr. Turner requested an opportunity for staff to have a discussion on what occurred in this specific process. He advised it was critical for staff to have the Commission's trust that they would provide objective information. Mr. Turner stated mistakes will be made with such a large organization in that many times staff must guess the Commission's position on issues, and staff was trying to follow and improve processes. He noted he would like time to discuss this issue in that there had been statements made about his ethics and integrity that were absolutely not true. Mr. Turner stated it was true staff did not run a perfect process, but there were no unethical intentions. He noted the critical issue was to obtain the Commission's direction tonight, and he would gladly explain, either now or at a future time, how and why actions were taken, and he would be accountable for those actions.

Commissioner Kelley requested hearing how Mr. Turner would justify the subjective decisions that were made. He stated the objective the Commission was trying to achieve should have been a parallel priority, which was to obtain the best value for taxpayers and the best benefits for the employees; and this should have been staff's objective as well. Commissioner Kelley reported there was no mention of commissions and charges, but now the Commission can see what the commissions and charges would have been. He noted there was no mention of this in the subjective portion. Commissioner Kelley advised there was no mention in the subjective portion that there was a problem reconciling the program.

Commissioner Partington expressed agreement with Mayor Costello's plan to void the agent of record, revise the RFP, and then go on with the City Manager question.

Commissioner Kent stated he agreed with Commissioner Partington.

Commissioner Gillooly also agreed this initial process should be voided although, she was now not certain the City could legally void Mr. Vincent's contract. She referred back to Page 4 of the City Manager memo that delineated what the limited capability of the existing staff was and what they would not be able to achieve in-house; therefore, without an agent of record the City may be doing itself a disservice. Commissioner Gillooly stated never in any of the discussion had staff ever discussed negotiating commissions. She reported she would favor exploring the idea of the City taking those capabilities in house, but she was not certain the City had the staff to handle it according to the City Manager's report.

Mayor Costello stated if the RFP comes back with Florida Health Care Plan giving the best plan, it would be easier; and if Florida League of Cities provided the best deal, the City may have to hire a consultant.

Commissioner Partington stated he believed the Commission must do this themselves with no assistance from staff. He noted staff could make a recommendation, but he was not comfortable to allow staff to do this now.

Mayor Costello summarized Commissioner Partington and Commissioner Gillooly and he agreed to cancel the contract with the Gehring Group; Mr. Hayes would have to examine the contract to determine what kind of notice the City had to give Mr. Vincent; and the City should send out RFP's allowing anyone to submit a proposal to the City, with the Commission evaluating the proposals.

Commissioner Gillooly reported she agreed with Mayor Costello, but the Commission must acknowledge that there were things the agent of record may do beyond the bidding process.

Mayor Costello stated he agreed, and the City may need to pay for those extra services.

Commissioner Kelley stated since the Commission never voted to accept the agent of record, it should not be binding with the Gehring Group.

Mr. Hayes recommended waiving the Thompson Rule because this was not scheduled as voting matter.

Commissioner Kelley stated the Thompson Rule indicated a vote may not be taken without information being provided 24-hour prior to a meeting, and there was adequate information provided; therefore, a vote on the Thompson Rule may not be necessary.

Mayor Costello stated he did not want any possible issue taken so he would ask to have the Thompson Rule waived.

Mr. Hayes stated the motion should rescind the agent of record designation for the Gehring Group and reject all RFQs. He stated the RFPs could still come in, but staff could issue an addendum.

Mayor Costello clarified the RFPs should be amended to inform prospective bidder the City no longer had an agent of record, and the proposal needed to be sent directly to the City with their commission fee included.

Mr. Hayes advised he could not provide the Commission with Mr. Vincent's contractual arrangement with the City this evening.

Mayor Costello noted while he opposed an agent of record, the Commission may decide to do a new RFQ for agent of record.

Mr. Hayes stated the Commission meets on July 28, which would allow time to investigate Mr. Vincent's contract, but he would not be at the meeting.

Mayor Costello stated a bid could come in with services they believe the City would need.

Mr. Turner reported this was a complicated process. He advised that the Florida Health Care Plan had over 60 to 70 types of components they could provide. Mr. Turner noted the process could be structured so the City could obtain the information, and the bid could be open and incredibly competitive.

Mr. Lydecker commended the Commission for their decision and offered to volunteer without compensation to have an employee help the City through the process.

Mayor Costello expressed appreciation for the offer. He advised he was hopeful Brown & Brown would change their mind and bring a proposal that would include those services he just offered at no charge, which may lower their bid because he would vote for the lowest best bid no matter who would submit it.

Mr. Gehring reported he agreed the Commission made the right decision; and if the City would stay with the current carrier, he did not believe there would be much disruption. He urged the City to be direct in exactly the services that were being sought. Mr. Gehring stated the City would receive no problem from the Gehring Group.

Mayor Costello pointed out how gracious people were being even though mistakes were made in that everyone was just trying to get it right.

Mr. Hayes advised he just researched the issue of the Thompson Rule and he concurred with Commissioner Kelley that it was not necessary if no new information would be forthcoming.

Commissioner Partington moved, seconded by Commissioner Kelley, to rescind the agent of record designation conferred by staff on the Gehring Group .

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

Commissioner Kelley moved, seconded by Commissioner Gillooly, to reject all RFQs for agent of record.

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

Mr. Turner stated the Commission may want to make a decision as to issuing an addendum to the current RFP.

Mayor Costello entertained a motion to send out an addendum to the RFP to inform people that the City was not using an agent of record, and they were to deal directly with the City. He stated the RFP should include a request to submit three bids: what was spent last year, what the level of service provided last year would cost, and a bid on something 10% less costly packaged with any services they believe they could provide competitively priced and with the exact services being provided delineated.

Commissioner Kelley stated he would accept that with not only the health, but the dental and vision as well. He noted the third bid referencing the 10% would refer only to the health insurance.

Mayor Costello stated he wanted bids on everything, but they may not come from the same company.

Mr. Turner recommended issuing the minimum of 10% savings for all the other types of coverage.

Commissioner Gillooly asked if it was known if the industry could handle the 10% savings.

Mayor Costello stated the deductible and co-pay may have to be increased.

Mr. Turner stated one of the options the Commission would consider was explaining what coverage would be provided if the rates were to be reduced 10% and how the coverage would be structured.

Mayor Costello stated the Commission may decide to reject that option, or they may find an acceptable plan.

Commissioner Kelley stated he believed the Commission was trying to create something on the fly, and it could cause problems. He explained the City spent \$2.2 million in health benefits last year, so this would ask what could be provided for \$1.8 million.

Mayor Costello reported last year there was a PPO plan and there were more employees, so the figure should be closer to \$1.6 million. He clarified the figure must be on a per person basis.

Commissioner Gillooly advised she agreed these were the types of issues the Commission must consider at the workshop Commissioner Partington recommended. She reported it may be better to place a note in the RFP that one of the key priorities was a savings, and while the Commission could keep the percentage in mind, it may not be good to include it in the RFP. Commissioner Gillooly noted it would be simpler to indicate a price point was a priority, and the City was willing to be flexible as long as there was no union requirement preventing that.

Commissioner Partington recommended including all of the three levels Mayor Costello recommended along with all other viable proposals.

Mr. Turner stated the Commission could ask each of the proposers for three separate proposals and some may propose on only one or two of the proposals, but it should not limit the bid.

Mayor Costello stated there was no consensus on this issue.

Commissioner Kelley stated there was a time issue. He stated the Commission just rejected the bids that may be coming in that would have gone to the proposed agent of record.

Mayor Costello stated no bid would be rejected. He clarified a letter would have to be sent asking the proposers to submit directly to the City without the agent of record. Mayor Costello reported the letter should indicate that the brokers were to submit their commission for comparison.

Mr. Turner stated the current due date was July 25, but the addendum could be provided in the next few days and possibly even tomorrow.

Ms. Lorenda Volker, Human Resources Director, advised the due date could certainly be extended 10 additional days, and Florida Health Care Plan has offered to extend the City 30 days. She explained other than removing the Gehring Group as agent of record, she was not certain what direction the Commission was giving staff in amending the RFP.

Mayor Costello recommended informing anyone submitting an RFP that the City was comparing, on a per capita basis, that for the HMO cost last year: 1) what would the same price include; 2) what would the same level of insurance cost; and 3) what would be sacrificed by paying 90% or less. He noted they could also submit anything else they wanted to submit in that he did not want to limit them. He advised a majority of the Commission concurred with that recommendation. Mayor Costello stated he would prefer this be done quickly, but if the 10 extra days would bring in better bids, he would accept the additional time.

Ms. Volker advised she would prefer allowing the extra days.

Mr. Turner stated he would make some responses to what was said, but he would also like some time with the Commission to explore the overall issue in greater detail. He advised what he thought he heard at the last meeting relative to the agent of record was whether or not the City had committed financially to that process, and it had not. Mr. Turner reported he was not aware of the date that the letter designating the agent of record went out, and he was certainly not trying to be deceptive. He stated the discussions he had with interested parties were relative to whether or not the City was committed to a cost. Mr. Turner reported he now clearly understood that was not the process the Commission wanted to follow, but it was a process that had been followed previously. He stated he was not aware the City could negotiate individual commission amounts, and he was told the providers had set rates; however, he was aware that some people would not use an agent of records. Mr. Turner stated initially the Florida League of Cities was going to bid as part of this process and not use an agent of record, but there was no situation where staff did not make contact with Florida League of Cities or they would not be bidding. He advised he met and staff members met as Mr. Lydecker indicated on June 12, and Brown and Brown had a book with six bullet points and backup material. Mr. Turner informed Mr. Lydecker if he left the book it would have to become public record, and Mr. Lydecker chose to leave the book. He reported it was his understanding after that meeting that Brown and Brown would decide what action they would take. Mr. Turner stated if they would decide on a bid protest, there was a formal process that needed to be followed. He advised from June 12 until he received the letter on June 18 from Brown and Brown's litigation officers, he did not know if a bid protest was filed.

Mayor Costello noted this information was in the staff report, and he urged Mr. Turner to focus in on the question of his integrity.

Mr. Turner requested an opportunity go down a list of issues point by point and discuss performance issues. He asked the Commission to grant him an hour and one-half to discuss this.

Mayor Costello asked if Mr. Turner knew that an agent of record letter had gone out when he was speaking to Mr. Lydecker.

Mr. Turner reported he did not know the letter went out, but he did know that a designation had been made. He noted he believed Brown and Brown was aware of that since that was why Brown and Brown was meeting with him, and they wanted that designation changed from the Gehring Group to Brown and Brown.

Commissioner Gillooly stated Mr. Turner received a phone call from Mr. Lydecker stating he wanted to discuss the process. She advised it was her understanding Mr. Lydecker felt they had an open honest conversation with Mr. Turner and his staff. Commissioner Gillooly asked if Mr. Turner, as Chief Executive Officer of the City, got a briefing from Ms. Hannon and Ms. Volker before the meeting with Brown and Brown to understand what had occurred in the process.

Mr. Turner stated he was briefed, and there was a meeting with Ms. Hannon, Ms. Volker, Mr. Hayes, and Mr. MacLeod. He reported they did not discuss an agent of record letter going out; however, he believed Brown and Brown knew that the agent of record had been designated.

Commissioner Gillooly clarified that not only did the letter go out, which should have gone through the RFQ process to the Commission for ratification, but staff took it upon themselves to send the letter out naming the agent of record without Mr. Turner's knowledge.

Mr. Turner reported the process used was not the process that should have been used, but it was the same process that was used in 2004; and there was a direct correlation on the property and casualty side with basically the same process. He reported the only difference between the benefits portion and the property and casualty portion was that there were more providers where there would be several brokers or agents of record going out for bids for the property and casualty and for this case there was only one agent of record designated. Mr. Turner advised knowing what he knows today, that process that had been used in the past was a bad decision; but that was not known at the time, and it certainly was not an attempt to circumvent anything, and the obligation of getting paid would not occur without Commission approval.

Commissioner Kelley stated the process for the RFQ and RFP was created by Waters this year, and they billed the City for creating that process. He reported he found it difficult to believe when he was at the meeting on June 4 that Mr. Turner had no knowledge that an agent of record letter had gone out on May 19 or May 21 by staff and that a person in a supervisory position could obligate the City for millions of dollars. Commissioner Kelley stated if Mr. Turner had the responsibility to oversee something as important as this, he would have know a letter had gone out. He noted Mr. Turner did not tell the Commission at the June 24 City Commission meeting that a letter had gone out. Commissioner Kelley noted he had no faith in staff's ability to get this done.

Mr. Turner again requested an opportunity to discuss this at another time in that the hour was late. He noted he understood the concerns, but he hoped the Commission would understand what the process was and what staff was attempting to do, which was to get cheaper rates. Mr. Turner explained he thought the question was when the Commission would be obligated or contracted with either the provider or the agent of record, and the contract would occur when the Commission would approve the overall product. He reiterated he did not know that specific letter went out at that time, but he knew an agent of record had been named.

Commissioner Kelley stated he has lost all faith and did not need another meeting. He expressed a deep concern that he has lost his faith in Mr. Turner's ability to execute the Commission's directives.

Mr. Turner requested the ability to present another side to this issue of what he was trying to do and why he was doing what he did. He stated he understood this was not perfect, but by the time he was made aware Brown and Brown had issues, other contacts had been made; and before he responded to it, he received a letter from the litigation attorney. Mr. Turner reiterated there was a prescribed procedure for Brown and Brown to file a protest letter, but that did not occur. He stated he could not have cleaned this up without violating the City's policies and procedures. Mr. Turner noted at the last meeting staff was directed to not do anything related to this issue, and the only thing that was done was to check to be certain it would be possible to extend timeframes.

Commissioner Partington stated a partial truth was a whole lie, and he expected to be told the whole truth from a City Manager. He advised he had the feeling Mr. Turner was not honest with him at the last meeting, which would make him consider Mr. Turner's future employment with the City of Ormond Beach. Commissioner Partington noted he wanted Mr. Turner to have a fair hearing on the issue. He stated he was not certain what the provisions of Mr. Turner's contract stipulated, but he did not favor continuing on for an extended period of time in a situation where he does not have faith in the management position.

Commissioner Kelley stated he has heard this tonight and believed it to be a pattern where the Commission was not receiving answers. He noted even if the process was flawed, the City did not follow the flawed process. Commissioner Kelley stated he expressed concern a year ago; and should Mr. Turner be evaluated today, he would have to give him a no faith evaluation. He questioned why it would take to 4:30 p.m. to receive a request he made on July 8, and he had to make that request because he did not trust the information he was being provided, which he should not have to do. Commissioner Kelley stated he had difficulty believing the list of items in the City Manager memo of what staff could and could not do when they surely should be able to read a spreadsheet. He noted he sought his position on the Commission to get the best for the City, and he did not believe the City was getting the best right now.

Commissioner Gillooly stated when she was elected she looked forward to working with Mr. Turner; and prior to her serving on the Commission, she personally fought for him. She noted for one incident to occur she could understand because everyone makes mistakes, but the responses she received were a concern. Commissioner Gillooly stated the City Manager was not proactive, but always reactive; and she finds herself apologizing to the community far too many times. She advised she sadly had to voice her agreement of no confidence.

Commissioner Gillooly explained in these difficult economic times, the citizens want to know what the Commission was doing and why they were making decisions with their tax dollars; and if she can not trust what Mr. Turner was telling her, there was a big problem. She requested a legal understanding of whether or not there was a misuse of public position because she was not aware as to what impact this issue would have on Mr. Turner's contract. Commissioner Gillooly reported she wanted to know how this would impact any obligation the City would have to Mr. Turner's contract.

Commissioner Kent stated his confidence had also been shaken making him worry about Mr. Turner's effectiveness and leadership. He advised he was saddened by this turn of events, and he agreed it should be discussed as soon as possible.

Mr. Turner deferred any further comment until the meeting.

Mayor Costello recommended setting a time for a meeting.

Commissioner Kelley advised he was leaving on July 24 and recommended a meeting be held on July 22 although he did not see what there was to discuss unless Mr. Turner had a suggestion.

Mayor Costello reported the Commission owed Mr. Turner the right to present his side. He noted he believed it was a valid point that Mr. Turner felt Brown & Brown knew an agent of record was selected, which was why he did not discuss it at their meeting. Mayor Costello advised he believed it was a valid point when the Commission was stating the letter went out, but Mr. Turner had in mind that the City had not expended any money. He reported Mr. Turner admitted the process was flawed, but he agreed this was the process that was used in the past, although it did not have the same kind of result.

Commissioner Gillooly asked if the Commission could meet after the splash park opening on Saturday.

Commissioner Kent advised he would prefer not meeting on a Saturday.

Mr. Hayes stated Mr. Turner was entitled to a public hearing for discussion purposes. He reiterated he would be leaving tomorrow through July 28 unless the Commission wanted him back for the discussion.

Mayor Costello reported his returning for the meeting would not be necessary.

Commissioner Gillooly advised she would like an answer to her question from Mr. Hayes.

Mr. Hayes advised that the statute referenced in Mr. Lloyd's letter referenced terms such as corruption and illegal activity. He stated from his overview of this process he did not see anything that would lead him to the conclusion that any corruption or illicit activity occurred. Mr. Hayes reported there were flaws in the process, but the question was if they were material or not, which was a judgment call. He explained hundreds of RFPs and RFQs are let, and it was not uncommon for there to be irregularities in all of them; but that was why there was a process set up in the procurement code to deal with disputed issues. Mr. Hayes explained RFPs and RFQs were different in that RFQs entail a great deal of judgment in the evaluation, and it was not easy to quantify in objective criteria since there would always be an amount of subjectivity.

Mr. Turner advised that based on the comments made tonight he would be seeking legal council. He reported it was his privilege to serve this community as long as the Commission was comfortable with that, but he understood Brown & Brown was upset and determined to seek recourse. Mr. Turner advised he brings ethics and integrity to the City, and he has not lied to the Commission. He stated he tried to follow the process. Mr. Turner reported there was absolutely no lobbying or advocacy occurring. He stated the process became distorted once the request for assistance came outside of the process that was defined. Mr. Turner advised that in his meeting with the Gehring Group they indicated they wanted to meet with the Commissioners; and they were provided the names and addresses, which was his obligation. He stated when he spoke to each Commission member, there were four points that he covered regarding the process, which was his purpose for the call. Mr. Turner noted there were also two bullet points indicating the Commission may be receiving calls from the Gehring Group and Florida Heath Care Plan. He stated he did ask Commissioner Gillooly to meet with the Gehring Group to get another perspective, but he did not ask Commissioner Gillooly to meet with them to support what he was recommending relative to the Gehring Group. Mr. Turner advised he

did make the Commission aware the Gehring Group desired to meet with them, and he informed Commissioner Gillooly he believed the meeting would be beneficial.

Mayor Costello received a consensus to meet July 22.

Mr. Turner reported he would let the Commission know tomorrow if his council could make the July 22 meeting.

Mr. Hayes stated this meeting would need to be advertised as a public hearing.

Commissioner Partington asked who would pay for Mr. Turner’s legal council.

Mr. Turner replied the City would pay for an attorney per his contract. He advised it was critical he provide a clear picture of what occurred and why it occurred because it was relative to this issue as well as what he would do in the future.

Commissioner Partington stated the Commission could plan to meet on July 22 unless Mr. Turner’s attorney needed additional time to prepare.

Commissioner Kelley noted he did not perceive Mr. Turner asking him to meet with the Gehring Group as unethical. He advised his concern was what had been occurring over the past three years and when he believed he was not receiving a straight answer. Commissioner Kelley stated the misinformation and justification was a concern, not ethics. He advised he found it strange that Mr. Turner asked the Gehring Group to call him on Friday morning; and a when Mr. Turner called back on Friday afternoon to ask if he had been called and was informed he had not, he received the call within five minutes.

Mr. Turner advised the only time he talked to Mr. Gehring that Friday was in the morning.

Commissioner Kelley stated even if Mr. Gehring had called him, he would not have minded meeting with him. He reiterated his concern was the process and the justification.

Mayor Costello summarized that unless the Commission hears differently from Ms. Sandy Upchurch, Deputy City Attorney, they would meet on June 22.

Item #13(B) – CDBG Redistribution of Funds

Commissioner Kent asked if the last two items could be discontinued to the next City Commission meeting.

Mayor Costello asked if the CDBG fund issue had to be decided tonight; whereby, Mr. Tom Lipps, Support Services Director, advised the issue could be continued to the next meeting.

Item #13(C) – Public Notice Signage for Development Applications

Mayor Costello advised this item would be postponed to the next City Commission meeting.

Item #14 – Reports, Suggestions, Requests

No reports, suggestions or requests were made.

Item #15 - Close the Meeting

The meeting was adjourned at 12:37 a.m.

APPROVED: _____ July 28, 2008 _____

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk