

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

**March 20, 2007      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.

- 1) Meeting call to order by Mayor Costello.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) **AUDIENCE REMARKS:**
- 5) **APPROVAL OF THE MINUTES** of the March 6, 2007, meeting.
- 6) **PRESENTATIONS:**
  - A) Proclamation by Mayor Costello in honor of Water Conservation Month.
  - B) Presentation of a beachfront parking concept endorsed by CANDO.

7) **INTERGOVERNMENTAL AND BUDGET ADVISORY BOARD REPORTS:**

- A) Budget Advisory Board
- B) Metropolitan Planning Organization
- C) Volusia Council of Governments
- D) Water Authority of Volusia

8) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.

- A) Resolution No. 2007-29 appointing Jean M. Dwyer as a member to serve on the Neighborhood Improvement Advisory Board; setting forth term and conditions of service.
- B) Resolution No. 2007-30 appointing the Honorable H. Pope Hamrick, Jr., as Special Master of the City's code enforcement system; setting forth term and conditions of service.
- C) Resolution No. 2007-31 authorizing the approval and execution of a purchase authorization (Requisition 0000003525) for the purchase of three (3) police motorcycles under State of Florida Bid No. 070-840-06-1; declaring certain motorcycles to be surplus property and authorizing the disposition thereof. (\$43,092)
- D) Resolution No. 2007-32 approving an offer to reduce and satisfy all outstanding code enforcement liens imposed upon property owned by Jeff Dill at 725 Santa Fe Avenue for the sum of \$10,000.
- E) Resolution No. 2007-33 pursuant to Section 14-98, Liens, of the City of Ormond Beach Code of Ordinances, authorizing the imposition of a lien against the real property located at 622 South Beach Street for costs incurred by the City to terminate or abate the site maintenance/nuisance violation.
- F) Resolution No. 2007-34 authorizing the execution of Change Order Number One (1) to that contract awarded to Young's Communications Company, Inc., regarding the Utility Improvements, Water and Force Mains project, by decreasing the contract price by \$38,908.30; increasing the contract time by 33 days. (Deduction of \$30,900 for liquidated damages; deduction of \$8,008.30 for inadequate surveys, and increase of 33 days for additional work - \$807,797.40 total contract price; 183 contract days)
- G) Resolution No. 2007-35 authorizing the execution of an agreement between the City and the Volusia County Sheriff's Office regarding consolidated fire dispatch services. (Annual cost of about \$100,000, a decrease of \$73,000 from the current annual cost)
- H) Resolution No. 2007-36 authorizing the execution of a Settlement Agreement between the City and Lamar Advertising of Daytona, A division of the Lamar Company, L.L.C.
- I) Affordable/Attainable Housing Task Force:
  - 1) Resolution No. 2007-37 amending Resolution No. 2007-17 by renaming the Attainable Housing Task Force to the Affordable/Attainable Housing Task Force; by amending the composition of members that serve on the task force.
  - 2) Resolution No. 2007-27 appointing members to serve on the Affordable/Attainable Housing Task Force; setting forth terms and conditions of service. (Michael Opalewski, Bob Pralle, Maggie Sacks, and Brian Share) (Tabled from the March 20, 2007, meeting)

9) **PUBLIC HEARINGS:**

- A) Ordinance No. 2007-05 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 from B-1 (Professional Office/Hospital) to B-9 (Boulevard); authorizing revision of Official Zoning Map; repealing all inconsistent ordinances or parts thereof. (Second Reading)

- B) Ordinance No. 2007-07 annexing certain real property into the City of Ormond Beach located at 1110 John Anderson Drive and a portion of John Anderson Drive (CR 2803) right-of-way; setting forth zoning, privileges, and obligations of said property; providing for transmission. (0.768 acres) (First Reading)
- 10) **SECOND READING OF ORDINANCE** No. 2007-06 approving the final plat of the Scheld Acres subdivision; establishing conditions and expiration date of approval.
- 11) **DISCUSSION ITEMS:**
- A) Gatehouse Companies affordable housing project.
  - B) Destination Daytona development order amendments. (To be continued to April 4, 2007)
  - C) Update on the appraisals of the aviation leased land at the airport.
- 12) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 13) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Isaac Turner, City Manager, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #4 - Audience Remarks

Use of Golf Carts

Mr. Daniel Zurla, 3751 Long Grove Way, Port Orange, complained that a requirement to use golf carts at a golf course operated on City land was unconstitutional.

Mayor Costello stated this issue had been examined by the courts.

Commissioner Kelley asked for clarification of what the Fifth District Court of Appeals stated relative to this issue.

Mr. Randal Hayes, City Attorney, stated in 2004 Mr. Zurla took this to court and the Fifth District Court of Appeals determined that there was no unconstitutional activity in mandating golf carts on golf courses.

Morality

Mr. Gregory Avakian, 161 Heritage Circle, objected to the CANDO chairman's comments at the last meeting regarding ethical and moral issues.

Mayor Costello stated the Commission follows the constitution and that included freedom of speech. He noted there were times he would like to stop people from articulating certain thoughts, but the Commission cannot impede public discussion.

Mr. Jeff Boyle, 614 North Halifax Drive, stated he assumed the City suspended that portion of Roberts Rules that discouraged personal attacks.

Mayor Costello advised that provision has not been suspended. He noted the City Attorney advised speech could not be restricted.

Beachfront Parking Concept

Mr. Jeff Boyle, 614 North Halifax Drive, stated Item 6(B) was listed on the agenda as “CANDO Presentation.” He stated the presentation was actually not a CANDO presentation, but a presentation of Mr. Charles Carter. Mr. Boyle noted CANDO endorsed and supported the concept, but it was done with Mr. Carter’s resources and research, and it was his request to address the Commission.

Mayor Costello asked by what name Mr. Boyle would prefer the item be referred.

Mr. Boyle recommended this presentation be referred to as a “Beachfront Parking Concept.”

Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the March 6, 2006, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

**Hearing no further comments, Mayor Costello stated that the minutes were approved as submitted.**

Item #6(A) - Proclamation in Honor of Water Conservation Month

Mayor Costello read a proclamation proclaiming April 2007 as Water Conservation Month in the City of Ormond Beach and urged all residents and businesses to help protect the precious water resources by practicing water saving measures. He announced the Ormond Beach winners of the water conservation poster and writing contest were as follows: Morgan McConnell, Victoria Sypniewski, Sydney Rodas, Gabriella Gonzalez, Adia Kidiavayi, Sam Konchan, and Emily Janssen from Pine Trails Elementary School; and Hailey Remigio and Guillermina Perez from Ormond Beach Elementary School.

Ms. Deborah Green, Water Authority of Volusia (WAV), Water Conservation Coordinator, stated this was the ninth year of this contest, and Ormond Beach had always been a strong participant. She thanked the City for working with her on this project.

Ms. Ann Moore, St. Johns River Water Management District, thanked the children for their interest in water conservation. She reported Dr. Green had been stalwart in WAV, and she was doing an outstanding job in water conservation.

Item #6(A) – Beachfront Parking Concept Endorsed by CANDO

Mayor Costello requested the agenda be modified to reflect the presentation of a “beachfront parking concept endorsed by CANDO.”

Mr. Charles Carter, 212 Arlington Way, stated he believed a beachfront park was a major priority of the citizens of Ormond Beach, and people have waited for ten years for such a park. He reported the residents did not want blight to occur on the beach. Mr. Carter advised the CANDO people were interested in a beachfront park east of A1A similar to the Tom Renick Park. He pointed out this proposal was only a concept that could be changed, but this plan would include 150 parking spaces, a restroom and shower, a pagoda, and bleachers for seating on the beach. Mr. Carter stated this concept would require a 250-foot depth and a 300-foot frontage. He stated four sites east of A1A were reviewed, and only two sites provided adequate space. Mr. Carter reported one site was too near Daytona Beach, the Harvard approach, and near a curve in the road. He stated sites two and three were east of the Burger King Restaurant and were smaller home sites. Mr. Carter reported the site approved by CANDO was the site of the old Sunrise Motel, which has been vacant since the storm and was deteriorated on the south wall and on the east. He questioned what would occur on this site and when. Mr. Carter advised there were many sources of funding available, and private citizens indicated a willingness to donate funds to this project. He stated the City has tools to obtain any site they desire. Mr. Carter reported he would present this plan to the County Beach Advisory Board, Recreation District, Councilman Carl Persis at the next CANDO meeting, and anyone else who was interested.

Commissioner Kelley stated the City and County have been looking for sites for the past six months. He stated he was aware that one of the properties indicated by Mr. Carter was not for sale, and he asked if any of the properties noted were for sale; whereby, Mr. Carter indicated some of the properties were for sale, but if the City wanted the park they would have to “go that extra mile.”

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Commissioner Gillooly asked if Mr. Carter was advocating that eminent domain be used for a park; whereby, Mr. Carter stated if the landowner would refuse to sell the land, then eminent domain would be the answer.

Commissioner Kelley clarified that the City would still have to pay the fair market value of the land.

Mr. Carter stated the funds would be paid through the court system where the court would set the price.

Mr. Turner asked for clarification as to which of the four sites he and CANDO were recommending; whereby, Mr. Carter reported he and CANDO were recommending site one.

Mayor Costello stated he had gone on record indicating that he would support paying for a beachfront park. He asked what Mr. Carter was expecting from the Commission tonight.

Mr. Carter requested the administration follow through and work with CANDO on this proposal because there was nothing else on the table.

Commissioner Kelley stated the City and County were working on this issue; whereby, Mr. Carter stated that that was not public information.

Mayor Costello stated it was public information that appraisals were being done, property was being sought from willing sellers, and the County was a willing partner.

Mr. Turner concurred that the fact that properties were being examined had been mentioned in public and in the City Manager Friday letters. He asked if anyone had contacted Bray and Gillespie regarding this plan in that they were the owners of the property depicted on site one.

Mr. Carter suggested that since some people have an "in" with Bray and Gillespie, that they may donate this site.

Mayor Costello stated they offered to donate numerous sites, but the City turned them down.

Mr. Turner asked if Bray and Gillespie was aware of this proposal; whereby, Mr. Carter indicated that contacting Bray and Gillespie was not his responsibility. Mr. Turner questioned how much the people Mr. Carter mentioned were willing to contribute, and Mr. Carter indicated a couple million dollars could be donated. Mr. Turner asked for the names of these contributors, and Mr. Carter declined to supply them.

Mayor Costello stated he favored doing whatever was possible to obtain a beachfront park, but he would not favor taking someone's land. He advised he only supported eminent domain one time to obtain lots where there was no infrastructure and the lots, located in Ormond Crossings, were not buildable. Mayor Costello noted he was surprised CANDO would support a project that would involve eminent domain. He stated it was unique that the City had the opportunity to have 850 feet of beachfront property for free, and now there were discussions about purchasing the land. Mayor Costello reported the private donations were wonderful in that it would minimize the public cost, but it may be prudent to have the citizen's vote if they wish to support the project, although it would be necessary to know how much money would be involved. He pointed out at one time he and Commissioner Kent were willing to fund beachfront land prior to this proposal, and three Commission members indicated they favored a referendum; therefore, the precedent had been set for the citizens to vote if they were interested in investing in beachfront property. Mayor Costello reported he needed to know if there was a willing seller and what the City would need to invest so he could go to the residents to determine if they would be willing to tax themselves for this purpose. He stated he would personally vote for this as a taxpayer. Mayor Costello asked Mr. Turner to work with Mr. Carter in that, in the past, he had been accused of negotiating. He noted Mr. Carter had stated a concept could be changed, however, when a recent concept to provide beachfront parks was brought forward and a majority of the Commission stated the concept could be changed, many people did not accept the fact that concepts could be changed.

Commissioner Kent reported he never heard that Bray and Gillespie would be willing to give something without receiving something in return.

Mayor Costello agreed that Commissioner Kent was correct in that it was a trade where Bray and Gillespie would deed land to the City to place the density on the top of the building, making the buildings taller than some people wanted. He thanked Mr. Carter for taking the initiative on this project.

Item #7(A) – Budget Advisory Board

Mr. Rick Banker, Budget Advisory Board, stated to promote the financial soundness of the City the Budget Advisory Board made the following preliminary recommendations: 1) to provide a salary increase of no more than 3.25% on the employee’s anniversary date as opposed to the current October 1 date, saving the City \$118,000 the first year with recurring savings; 2) cost containment on health care issues which may include the City paying only the lower cost health plan with an option for the employees to pay the differential for the higher cost plan and the incentive to opt out of the plan if the employee had adequate coverage elsewhere; and 3) the City Commission should encourage the Chief of Police to diligently pursue the transfer of dispatch services to the County.

Mr. Banker reported the goal plan for the Budget Advisory Board would be to review the following in the coming months: 1) the police take home vehicle program versus a shared vehicle program; 2) review of programs and services provided by the City where the recommendations may include reductions in service levels and/or staffing, changes in services to improve efficiency, and/or user fee increases; and 3) Tax Increment Financing (TIF) funding.

Mr. Banker stated he found Mr. Paul Lane, Finance Director, and Ms. Kelly McGuire, Budget Director, to be highly efficient and knowledgeable as well as a pleasure to work with.

Mayor Costello stated a schedule for the financial workshops would be provided in the utility bills. He announced that the Budget Advisory Board and City Commission would be holding multiple meetings, and he encouraged the residents to attend. Mayor Costello noted tax reform would be occurring, and it was yet unknown how it would impact the City’s budget. He pointed out Mr. Boyle mentioned using the anniversary dates for increases several years earlier. Mayor Costello stated he favored not only the savings, but also that the equity in the increase be given on the employee’s anniversary date.

Item #7(B) - Metropolitan Planning Organizations

Mayor Costello reported the Metropolitan Planning Organization (MPO) met with the executive director regarding the Level of Service Committee, which would be the most significant issue for the MPO. He stated there would not be money for roads, and the proportionate share would be a problem amongst the communities. Mayor Costello advised this would impact development. He explained people from outside Ormond Beach could use up the City’s capacity while Ormond Beach shuts down development because it wanted to maintain a higher level of service, which was not fair, but it was accurate.

Item #7(C) - Volusia Council of Governments

Mayor Costello reported he forwarded information relative to the Smart Growth Committee from the Volusia Council of Governments (VCOG) meeting to the Commission. He stated he hoped VCOG would come up with recommendations regarding the State tax reform issue.

Item #7(D) - Water Authority of Volusia

Commissioner Kelley stated the March 21 meeting of the Water Authority of Volusia will be significant to its future, and he would provide the Commission with the minutes of the meeting.

Mayor Costello thanked Commissioner Kelley for the great job he was doing as the City’s representative to WAV.

Item #8 - Consent Agenda

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

Commissioner Gillooly requested removing Item No. 8(D) for discussion.

**Commissioner Partington moved, seconded by Commissioner Kelley, for approval of the Consent Agenda, minus Item No. 8(D).**

Call Vote:	Commissioner Gillooly	yes
	Commissioner Kent	yes
	Commissioner Kelley	yes

Carried.	Commissioner Partington	yes
	Mayor Costello	yes

Item #8(D) – Satisfying a Lien on Property at 725 Santa Fe Avenue

RESOLUTION NO. 2007-32

A RESOLUTION APPROVING AN OFFER TO REDUCE AND SATISFY ALL OUTSTANDING CODE ENFORCEMENT LIENS IMPOSED UPON PROPERTY OWNED BY JEFF DILL AT 725 SANTA FE AVENUE FOR THE SUM OF \$10,000; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2007-32, as read by title only.**

Commissioner Gillooly explained this item involved a code enforcement lien and interest over the past ten years, but there was a judgment owed to the City for \$34,691, and the recommendation was to allow the case be settled for \$10,000. She stated Mr. Jeff Dill owns at least seven other properties in Volusia County in addition to his residence. Commissioner Gillooly noted in examining the sales history she discovered that Mr. Dill purchased the property through a quit claim deed at a discounted rate, and she questioned why the City should reduce this lien by \$24,000 when this was tax dollars belonging to the citizens of the community. She pointed out the City was desperately looking for ways to find revenue to support the services required by the citizens. Commissioner Gillooly reported this was more a continued violation of a code issue.

Commissioner Kelley stated when dealing with property not in code enforcement compliance this was unrealized money. He reported the City could hold out for the full amount when the property would be sold through a lien, but he questioned when the City would get that money. Commissioner Kelley noted the property could be sold by quit claim deed for less, and that buyer would have to assume the lien. He stated he could accept the \$10,000 now rather than waiting for the courts.

Mayor Costello asked Mr. Hayes for a history behind this lien.

Mr. Randal Hayes, City Attorney, stated when the judgment was rendered in 2000 the cost was \$16,000 with \$1,100 for attorneys' fees and court costs. He reported the difference in what was owned came from the interest that accrued at 10% per annum. Mr. Hayes stated Ms. Sandy Upchurch, Deputy City Attorney, worked with Ms. Joanne Naumann, Neighborhood Improvement Manager, and they arrived at the \$10,000 figure because it was consistent with past practices and it fell within those general parameters. He noted this was part of the Arroyo Parkway annexation in 1996.

Commissioner Partington asked how much the land was purchased for in 2003 and how the transfer occurred without paying the lien.

Mr. Hayes reported the lien could not be collected due to the homestead issue, but it accrued interest at 10% per annum. He noted it may take five to ten years to collect, but the City normally sees a return on a judgment when the property owner wishes to sell the property. Mr. Hayes stated this was not sold in the normal way in that it was sold by quit claim deed and was probably a private transaction between the parties. He noted the City was not aware of the transaction until recently.

Ms. Joanne Naumann, Neighborhood Improvement Manager, stated the property appraisal indicated Mr. Dill paid \$10, but he advised staff that he paid approximately \$5,000 to purchase the property. She noted she was unaware why there was a discrepancy in the purchase price.

Commissioner Partington reported this Commission and prior Commissions have always tried to maximize revenues to the greatest extent possible and were less inclined to reduce the liens without good cause, but he agreed with Commissioner Kelley to accept the \$10,000 because of the time issue and the amount of time, recourses, and cost the City had already placed in this item.

Commissioner Gillooly asked if Mr. Dill came to the City to settle this lien or if the City went to Mr. Dill.

Ms. Naumann stated Mr. Dill came to the City and offered \$5,000 initially, which was negotiated to \$10,000 after examining other settlement agreements.

Commissioner Gillooly stated she assumed Mr. Dill was probably ready to sell the property and wanted to clear up the lien, and she doubted a court situation would be needed.

Mayor Costello stated the cost was \$16,000 in 2000 when the interest started to accrue, and Mr. Dill did clean up the property, so he wanted to give him credit for that; therefore, he would settle for \$16,000.

Commissioner Kent reported he would accept the \$10,000.

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

Item #9(A) - Rezoning of 765 West Granada Boulevard

ORDINANCE NO. 2007-05

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 FROM B-1 (PROFESSIONAL OFFICE/HOSPITAL) TO B-9 (BOULEVARD); AUTHORIZING REVISION OF OFFICIAL ZONING MAP; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2007-05, on second 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 #9(A).**

Item #9(B) - Annexing 1110 John Anderson Drive and a portion of John Anderson Drive

ORDINANCE NO. 2007-07

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF ORMOND BEACH LOCATED AT 1110 JOHN ANDERSON DRIVE AND A PORTION OF JOHN ANDERSON DRIVE (CR 2803) RIGHT-OF-WAY; SETTING FORTH ZONING, PRIVILEGES, AND OBLIGATIONS OF SAID PROPERTY; PROVIDING FOR TRANSMISSION; AND SETTING FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2007-07, on first 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 #9(B).**

Item #10 - Scheld Acres Subdivision

ORDINANCE NO. 2007-06  
AN ORDINANCE APPROVING THE FINAL PLAT OF THE  
SCHELD ACRES SUBDIVISION; ESTABLISHING CONDITIONS  
AND EXPIRATION DATE OF APPROVAL; AND SETTING  
FORTH AN EFFECTIVE DATE.

**Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2007-06, on 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

Item #11(A) - Gatehouse Companies Affordable Housing Project

Mr. Clay Ervin, Planning Director, reported there were three applications sent to Volusia County: two for \$300,000 each, and the Gatehouse application for \$500,000. He stated there was only \$600,000 allocated, so each of the \$300,000 projects was approved; however, one project fell out, so Volusia County offered Gatehouse a lesser amount. Mr. Ervin noted the original \$500,000 project was for 120 units; but with the offer reduced to \$300,000, the project was reduced to 104 units for the first phase. He reported he contacted Stan Fetterman, Florida Housing Coalition, who explained that the money these developers were seeking would be awarded on a lottery; and in order to be included in the lottery, the developer must hit certain points. Mr. Ervin stated a critical point to enter the lottery was obtaining local support equal to \$150,000 net present value now. He advised the funding for Phase 1 was in place through the \$300,000 being allocated from Volusia County. Mr. Ervin reported Phase 2 was for an additional 104 units, and Gatehouse would prefer to get both projects into the lottery this year.

Mayor Costello summarized that rather than 142 units for each phase there would be 104 units in each phase. He reported affordable housing was a major goal of the Commission, and there was now someone ready and willing to begin. Mayor Costello noted if the Commission would agree to support this project for \$150,000, Gatehouse would go for Phase 1 and Phase 2. He stated his vote would be contingent upon a project where staff could recommend approval and the Commission would be convinced the project would be an asset to the community. Mayor Costello advised he would be comfortable to recommend using a \$150,000 one-time cost, which would be saying the City supported affordable housing and was willing to participate with a private developer for a senior affordable housing project for 208 units contingent upon staff approval.

Mr. Ervin stated any project would have to go through, at a minimum, a special exception so there would be a public hearing.

Mayor Costello stated this project would have to go through everything any other project would go through, and the \$150,000 would only be needed if it would proceed through all of the procedures and was successful on its merits.

Mr. Ervin stated the money would have to be a grant and could not be an impact fee waiver. He reported that to qualify the funds could not be reimbursed.

Mayor Costello stated the City would give the \$150,000; but as the project was built, there would be impact fees being paid from the developer to the City through the permitting process.

Mr. Turner reported the question was how much would be received through the permitting process for this project completely separate from any correlation to impact fees.

Commissioner Gillooly stated she attended a workshop on Friday with the Florida League of Cities, and the speaker was from the Florida Housing Coalition; therefore, she was able to ask questions relative to this project. She advised the money did not have to be cash, but it must have cash value. She agreed the question regarding the cost for permitting was of interest. Commissioner Gillooly noted rather than writing a check to a developer, she would prefer the partnership had true in-kind value.

Mayor Costello asked what the cost of permitting would be; whereby, Mr. Ervin advised he would provide that information by the end of the week.

Mayor Costello reported he favored affordable housing projects in Ormond Beach. He noted Volusia County was providing for Phase 1, and if this was a one-time investment of \$150,000 to obtain 208 senior affordable housing units where Ormond Beach residents would have first priority, he would be willing to set this precedent.

Commissioner Gillooly advised this needed to be a public/private partnership, and the percentage the City was being asked to contribute was minimal compared to the cost of the project. She noted she was originally concerned about the fast turnaround time, but the April 10 date was a firm date. Commissioner Gillooly stated any application must meet stringent criteria, and then the project would have to proceed through the lottery process. She reported if the project was denied because they did not meet the lottery, the same project could be submitted next year. Commissioner Gillooly stated because of the Florida Housing Development's involvement in the project, they would insure affordability and monitor the project for 50 years; therefore, City staff would not be burdened by insuring affordability. She pointed out this would insure market value and a quality project. Commissioner Gillooly questioned if the Commission decided to move forward on this project, how this would affect the funding. She asked if the City would be obligated to move forward if the project was funded when the City had not yet reviewed the plans.

Mr. Ervin explained the City did not need the final engineering at this point; and it was understood that if the project did not go forward, the obligation would not exist.

Mayor Costello noted this would place the City in a great position in that Florida Housing Development would make certain it was a quality project.

Mr. Ervin reported staff could complete 90% of the certification form staff now without action by the City Commission in that it related to zoning and development verifications, but 10% would deal with local assistance.

Commissioner Kent expressed a concern regarding the quick turnaround. He urged the developer to contact him to answer some of his questions. Commissioner Kent questioned how the City would fund the \$150,000 without affecting other programs. Commissioner Kent expressed concern regarding limiting this to senior housing when younger people need affordable housing as well. He stated there were a varying number of units in the report, and there were many unanswered questions in this project. He advised he favored affordable housing but was concerned about giving a \$150,000 check to a developer.

Mayor Costello advised he did not see this as giving money to a developer but as a project that would give 208 people a place to live. He stated he supported senior affordable housing because this was a rental project, and it would have the amenities that were congruent with the senior lifestyle. Mayor Costello reported after this project was underway the task force could then concentrate on affordable housing for families and younger people. He pointed out this company's expertise was in senior housing.

Commissioner Gillooly reported she concurred that there would be further opportunities for the task force to work on housing for younger people after this project. She pointed out that statistically the "baby boomers" were the aging group, and the statistics from five years ago indicated the senior population would double in ten years; therefore, she did not doubt that there was a need. Commissioner Gillooly noted having this project geared to seniors may help the project in the point system. She reported the project would be ideally located in that it was near a bus route, a grocery store, and a drug store.

Commissioner Kelley reported that while he agreed with Mayor Costello and Commissioner Kent, he expressed a grave concern in being rushed. He explained staff first obtained the information on Thursday, and the Commission was being forced to make a decision today. Commissioner Kelley advised he supported affordable housing 100%, but was not certain there was a real need for senior housing as opposed to housing for working people. He noted there was probably a need for senior housing since Volusia County had a higher percentage of people 55 and over, but he considered there was a greater need for those people working. Commissioner Kelley stated he preferred to use the newly formed board. He noted he had more questions than answers; however, he did not doubt the capabilities of the developers in that they were local and very reputable. Commissioner Kelley reiterated his major opposition was the rush.

Mayor Costello reported he would include in the criteria approval that the task force study the issue. He explained he saw this as a great opportunity that if they would win the lottery the City

would have the opportunity to make sure the project was appropriate because the developer would want to have it approved. Mayor Costello noted he considered this to be an investment.

Mr. Turner stated staff was very concerned regarding when they were able to provide the information and the details involved, but if criteria and Ormond Beach standards were met, this could be a great project. He stated this it was needed and a great bargain. Mr. Turner reported staff would have an opportunity to hear from the representatives from Gatehouse tonight and on April 4 at which time there would be an opportunity for the Commission to obtain more answers. He noted the issue was the process in getting the information in a timely manner.

Commissioner Kelley questioned how Mr. Turner knew this project was needed; whereby, Mr. Turner stated he believed it is needed.

Mr. Ervin stated this was a Definite Defined Area (DDA) designated by the State where the amount of affordable housing pertained to 60% or below median income was lacking in this area; therefore, there was a strong possibility the project would be in the lottery if they get the points because of Volusia County's lack of affordable housing. He reported staff had some demographic information.

Commissioner Kelley reported the Commission's goal was affordable/workforce housing. He asked if a decision must be made tonight for the developer to get into the lottery.

Mayor Costello stated tonight the Commission needed to provide questions, but not make a decision.

Commissioner Gillooly pointed out many seniors are in the workforce.

Commissioner Kelley reported Volusia County had one of the highest levels of income from Social Security of any of the counties and the lowest per capita income of any County in Central Florida.

Mr. Turner stated the findings Mr. Ervin stipulated were consistent with data in the housing study.

Mr. David Canepari, Gatehouse Corporation, stated the forms that need to be executed by April 10 are only the preliminary site plan and verification of zoning, but they would still have to meet all requirements of the City of Ormond Beach. He reported both phases are being submitted simultaneously because it would improve their chances in the lottery and because Florida Housing alters their application every year. Mr. Canepari explained this site meets all of Florida Housing's proximity criteria perfectly, and they would get into the lottery if they have funding; but the criteria may change next year. He reported if they do not get funded, the commitment by the City would disappear, and they would have to come back next year to ask for that funding again. Mr. Canepari stated this project would be for seniors as defined by fair housing, which was 55 years of age and over, and many were very active mature adults. He noted Gatehouse did demographics studies since they did not want to build if there was no market. Mr. Canepari advised they were astounded by eligible families over 55 that lived within a three to five mile range. He stated over 1,700 households would be eligible, and he would provide that demographic information.

Mayor Costello asked staff to obtain that information regarding the demographics for the information packet. He also requested information regarding the permitting dollars that would be coming into the City along with estimates of project and taxable value.

Commissioner Kent noted he would be interested in the demographics of 55 and under. He asked what the monthly payment would be for these units.

Mr. Canepari advised the payment would be approximately \$470 for a one bedroom unit and \$560 for a two bedroom unit.

Commissioner Gillooly reported property tax valuations have increased greatly. She asked if this may be an opportunity for some seniors who no longer wish to, or cannot afford to, maintain a private single residence. Commissioner Gillooly asked if the assets were taken into consideration.

Mr. Canepari stated only the assets over \$5,000 would be taken into consideration.

Item #11(B) - Destination Daytona Development Order Amendments

Mayor Costello stated this item would be continued to the April 4 meeting.

Item #11(C) - Update on the Appraisals of the Aviation Leased Land at the Airport

Ms. Joe Mannarino, Economic Development Director, stated staff analyzed some of the options derived at the January 26 workshop. He stated one option was a modification of the appraisal reports recommendation of 22.5 cents per square foot and modifying that to 17.5 cents and arriving at a single appraisal date of 2013.

Mayor Costello called for a short break at 8:35 p.m. He reconvened the meeting at 8:40 p.m.

Ms. Joe Mannarino stated there was no significant difference between the two options. He reported staff examined what the legal opinion was and any FAA issues that may result from deviating from fair market value. Ms. Mannarino advised the legal opinion was that modification based on reasoning that the City was reaching some other airport goal was a legitimate reason to modify that number. He reported the other criteria that was examined was to speak to another appraiser about a possible single rate in 2013, but the opinion was that would not occur because there were many different variables and criteria of the leases, and there would most likely always be different rates. Ms. Mannarino stated staff wished to provide the Commission with a letter of understanding that could be transmitted to each of the tenants that would identify their rate for Option A and Option B with a draft of their lease amendment attached.

Mayor Costello stated he favored one rate for like property but noted there were several different types of property.

Mr. Adrian Thompson, 6 Dorado Beach Court, Ormond Beach Aviation, provided copies of experts from the FAA Airport Compliance Manual and read several paragraphs relating to leases, airports, and how the fair leasing system was to be operated. He asked the Commission to confirm this was how the airport was being run. Mr. Thompson stated the first item related to rental fees and charges where it was an obligation to make an airport available for public use, which did not preclude the owner from recovering the cost of providing the facility through fair and reasonable fees, rental, or other user charges to make it as self-sustaining as possible.

Mr. Thompson stated each FBO shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport utilizing the same or similar facilities.

Mr. Thompson stated relative to general aviation airports, if one operator rents office and/or hangar space and another builds its own facilities, this would provide justification for different rental and fee structures. He noted these two operators would not be considered essentially similar as to rates and charges even though they offered the same or similar service to the public. Mr. Thompson advised that everyone had constructed their own property and no one rented from the City. He stated the second portion of that entry indicated that if one FBO was considered a prime location and another in a less advantageous area, there could be a differential in the fees and charges that would influence the rental value of the property. He asked if one FBO had a preferential location than another at the Ormond Beach airport, and if so, are the rents, fees, rates, and charges adjusted accordingly.

Mr. Thompson reported the next item stated if one FBO was providing primary commercial services and another FBO was continuing a flight training program or aircraft sales, these FBOs may not be considered essentially similar as they may have dissimilar requirements; therefore, different rates may be acceptable, although the rates must be equitable. He pointed out the FBOs in category one are providing the same services.

Mr. Thompson stated the manual indicated that if the FAA determines that the FBOs are making the same or similar uses of such airport facilities, then such FBO leases or contracts entered into by an airport owner (subsequent to July 1, 1975) shall be subject to the same rates, fees, rentals and other charges. He reported all of the leases under consideration were entered into subsequent to July 1, 1975.

Mr. Thompson noted the next paragraph at issue stated that all leases with terms exceeding five years shall provide for periodic review of the rates and charges for any adjustments to reflect the then current values, based on an acceptable index. He stated this procedure would facilitate parity of rates and charges between new FBO services and long-standing operators and would make the airport as self-sustaining as possible.

Mr. Thompson stated the next item indicated that in the case of a new general aviation airport, it was frequently necessary for the owner to offer reduced rental rates and other inducements to obtain an FBO, recognizing that it may well be a non-profit venture during the pioneering period. He noted to avoid a depressed rate scale for the future, the owner should be encouraged to provide the incentive rate only during the pioneer period and ending on a specific date. Mr. Thompson stated future operators may be expected to pay the comparable standard rates and charges based on then current value. Mr. Thompson advised he accepted that Ormond Beach had a pioneering period, but the City granted an extension to the 20-year lease of Sunrise Aviation in 2000 without increasing the rent.

Mr. Thompson advised the next issue of concern was availability of lease space, and the manual stated that the prime obligation of the owner of a federally-assisted airport was to operate it for the use and benefit of the public. He reported the owner had an obligation to make available suitable areas or space on reasonable terms to those who are willing and qualified to offer flight services to the public or support services and a duty to negotiate in good faith for the lease of such premises as may be available for the conduct of aeronautical activities.

Mr. Thompson stated the last issue referenced in the manual was relative to the adherence to the airport layout plan and the airport property map. He noted any construction, modification, or improvement that was inconsistent with such a plan required FAA approval of the revision to the APL. Mr. Thompson reported he noted shade hangars were demolished last week, and he doubted if the City changed the airport layout plan.

Mr. Thompson stated he considered the staff report presented tonight to be fiction. He reported Sunrise got a lease in 1999 for FBO2 for \$40,000, but the City did not increase the rent on FBO1 in 2000 and did not appraise Ormond Airport Hangars and the other FBOs. Mr. Thompson stated the City would raise all of the other FBOs except Sunrise. He reported the City should either raise all of the rates or none because the City was not being fair when it had an obligation to be fair. Mr. Thompson advised the City had a discriminatory policy on rents. He questioned when the City would enforce the covenants in the lease for FBO2 relative to the taxi-lanes and hangars.

Mr. Larry Stout, 677 North Beach Street, applauded the City for their spirit of compromise and the efforts made. He noted placing the appraisal process on an anniversary date basis was a good idea. Mr. Stout reported that when he left the workshop he was not aware that the Commission had a City Commission meeting where they approved a new lease for Sunrise Aviation allowing them to construct box hangars. He noted he was under the impression after the workshop that all other leases would be on a 2013 anniversary date and every ten years thereafter. Mr. Stout pointed out Sunrise was paying less than two cents a square foot for that property until 2013. He noted while Sunrise would pay a great deal to construct the hangars, they would sell the hangars and assign leases. Mr. Stout advised he considered this comparable property to that of the other tenants. He noted he did not realize that the FBO2 area of 4.133 acres would not be reappraised until 2033. Mr. Stout stated under lease terms for the FBO2, the City gave Sunrise the ability to not pay increased rent based on a \$40,000 per acre value even though they do not pay the 10% increase everyone else pays and only pays a 9% increase. He noted they would not pay a higher rent until the construction of the 40 T-hangars was finished. Mr. Stout questioned why everyone should subsidize Sunrise.

Mr. Steve Searle, 3949 Tano Drive, stated the people who would be purchasing the condos would start with a rent lower than he was paying now with the CPI and would enjoy that rate to 2033.

Mr. Robert Hernandez, Airport Manager, stated Sunrise had a lease the Commission signed in 2005 giving the rate and time schedule. He noted Sunrise came to the City asking for an extension of two ten-year renewal options, which was what staff was working on for FBO2. Mr. Hernandez reiterated the sixth amendment to the Mac Charter lease allowed for the rate and time schedule.

Mayor Costello asked why the City would want to allow the two ten-year extensions.

Mr. Hernandez advised an issue that could be addressed was that there was no cut off time when they must build, and that could be corrected with the signing of the lease amendment.

Mayor Costello encouraged Mr. Hernandez and Mr. Mannarino to listen to the minutes and address the issues point by point. He noted his goal was that everyone was treated equally for what they own. Mayor Costello reported he did not understand why one would be allowed a

reappraisal at 2033 when the others are at 2013. He noted if Sunrise wanted an amendment to their lease, the City should be improving its position.

Mr. Mannarino stated this was a complicated matter because there was a great deal of historical information to consider. He reported Sunrise was the first at the airport, and offering an incentive was the right thing to do to encourage them to make the investment. Mr. Mannarino explained there were great differences between many of the leaseholders and the FBO areas. He pointed out that there was a major investment at FBO2. Mr. Mannarino reported staff was trying to work out numerous issues discussed in 2005. He advised the issue was that Sunrise had a signed lease, and he was not certain if and how that could be changed.

Mr. Turner stated staff can provide those answers. He reported the Sunrise lease dated back for some time, and the changes made were times when the Commission considered modifying their lease while Sunrise made certain investments in the airport. Mr. Turner stated staff would provide that information to the Commission and prepare a matrix as to what each lease would require. He noted there would be different assessments as to the value of the land and its uses.

Mayor Costello reported he was not ready to make any decision tonight.

Commissioner Kent expressed discomfort with the airport and all of the problems that had occurred there. He noted the tenants were not opposed to paying their fair share, but they were not being treated fairly. Commissioner Kent advised Sunrise did nothing wrong, and he placed 100% of the fault on staff. He stated he would prefer everyone be reevaluated in 2013.

Mr. Turner agreed it was important for staff to provide information of what was done in the past and why it was done. He noted he could not second guess the decision makers, be it staff, the Commission, or those at the airport; but staff was trying to follow the Commission direction now. Mr. Turner reiterated this would not mean that everyone would pay the same rent, but staff could provide the rationale as to how the City arrived at this current status.

Commissioner Kent reported when he speaks to Mr. Turner, he has an understanding, and then the tenants come in and he understands their concerns. He noted Mr. Turner would probably be able to convince the Commission or explain why actions occurred, but whatever the reason, it was not fair.

Mr. Turner reported staff can provide options for staff to follow the policy direction they wish, but the first priority was to fix the leases so the City could be completely compliant to maximize the revenue. He noted this was not City staff against the tenants because the tenants' success was the City's success.

Mayor Costello reported he wanted answers to all issues brought up tonight with those answers sent out to all interested parties to allow them an opportunity to respond to staff. He advised he was not interested in second guessing a previous decision. Mayor Costello noted he believed the decision was made because he believed the City would be getting a significant investment. He stated if Sunrise got a "sweetheart deal," which he was not indicating had occurred, and if compliance was not occurring, then the City needed to use that opportunity to bring it up to fair market value.

Mr. Turner noted Mayor Costello asked for a comparison of the Sunrise investments and lease payments to other leaseholders.

Mayor Costello recommended this issue be postponed for six weeks to obtain all of the information. He urged the tenants to respond to the information as soon as possible. Mayor Costello advised the Commission's goal was to be fair or at least to make certain everyone understood why the City acted as it did.

Mayor Costello thanked Mr. Heffington for coming and urged him to come back when this issue was addressed again to answer any questions.

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

##### Trip to Tallahassee

Commissioner Kelley reported the contingent to Tallahassee stressed the Community Budget Request Grant for the Hidden Hills sewer project with Governor Crist, and he believed the City may be placed on a list to be considered. He noted it was a unique experience to see the budget recalculation process.

Financial Trends

Commissioner Kelley stated an individual mentioned the City received an ECHO grant for The Casements, and \$170 million had been raised through the ECHO tax. He noted Ormond Beach had benefited greatly from that tax.

Airport Issue

Commissioner Kelley stated a comparison was made between Ormond Beach and the Flagler Airport, but he did not believe Ormond Beach wanted to be like Flagler Airport in that Flagler was planning on expanding to a 6,000 foot runway and hoping to increase their traffic while Ormond Beach residents would prefer less. He noted the two airports were totally different.

Affordable Housing

Commissioner Gillooly stated the staff report referenced the use of Community Development Block Grant (CDBG) funds, which cannot be used for impact fees, but she noted can they be used for infrastructure costs. She asked if there was a way to use this mechanism without impacting the projects already in place. Commissioner Gillooly expressed appreciation that the City was moving forward on this issue. She agreed that she did not want to rush judgment, but this was an opportunity to take advantage of a project when it becomes available. Commissioner Gillooly advised she believed there was a need and did not believe this would restrict the Affordable Housing Task Force but would add to the viability of the task force. She reported she attended a meeting of the Halifax Area Chamber of Commerce this morning where they called their discussion “workforce housing” since they were the Chamber of Commerce and had concerns about the workforce in their community. Commissioner Gillooly reported affordable does not necessarily constitute subsidized or only people of very low income. She stated the definition from Housing and Urban Development (HUD) was where a person was not paying more than 30% of their gross income on housing.

Commending the Recreation Department

Commissioner Kent commended the Recreation Department because Ormond Beach’s fields look so much better than others he had seen.

Lien Settlement

Commissioner Kent explained he voted to accept the \$10,000 on the lien discussed tonight because he considered it was better to get money now; however, the drawback was that this may have set a precedent even though he believed the precedent had already been set.

Coffee with the Commissioner

Commissioner Kent stated the next “Coffee with the Commissioner” would be held Monday, April 2 at 5 p.m. at 130 Magnolia Drive.

Item #13 - Close the Meeting

The meeting was adjourned at 9:26 p.m.

APPROVED: \_\_\_\_\_ April 4, 2007

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

ATTEST:

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