

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

July 3, 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 June 19, 2007, meeting.
- 6) **PRESENTATIONS:**
 - A) Employee-of-the-Quarter Award to Ann Clinton.
 - B) Proclamation in honor of Recreation and Parks Month.
- 7) **INTERGOVERNMENTAL REPORTS:**
 - A) Metropolitan Planning Organization
 - B) Volusia Council of Governments
 - C) Water Authority of Volusia

- 8) **CONSENT AGENDA:** The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items.
- A) Resolution No. 2007-91 amending the dates and times for the holding of regular meetings of the City Commission of the City of Ormond Beach, Florida, for the month of August 2007; providing for exceptions thereto. (Monday, August 6, 2007, to Wednesday, August 8, 2007)
 - B) Resolution No. 2007-92 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 945 Marie Circle for costs incurred by the City to terminate or abate a site maintenance violation. (\$202.50)
 - C) Resolution No. 2007-93 accepting a proposal from Quentin L. Hampton Associates, Inc., to provide engineering services regarding the North US1 Force Main Extension Phase II project; authorizing the execution of a Work Authorization and payment therefor. (Not to exceed \$109,680)
 - D) Resolution No. 2007-94 accepting a proposal from Quentin L. Hampton Associates, Inc., to provide engineering services regarding the Water Treatment Plant Lime Softening Area Modifications project; authorizing the execution of a Work Authorization and payment therefor. (Not to exceed \$69,500)
 - E) Resolution No. 2007-95 authorizing the execution of an Audit Contract between the City of Ormond Beach and James Moore & Co., P.L., for independent auditing services; rejecting all other proposals. (Five year contract - \$313,260 total cost)
 - F) Resolution No. 2007-96 authorizing the execution of an interlocal agreement between the City and the County of Volusia regarding a centralized licensing service for contractors.
 - G) Resolution No. 2007-98 approving a settlement proposal regarding the Worker's Compensation claims of Robert Vescovi; authorizing the execution of a Settlement Agreement and any and all documents incidental thereto; authorizing payment relative thereto. (\$94,250)
- 9) **PUBLIC HEARING:** Resolution No. 2007-97 authorizing the execution and issuance of a Second Amended Development Order for the "Capital Plaza" Planned Business Development located at the northwest corner of Nova Road and Moreland Boulevard (298 South Nova Road) by authorizing a 4,200 square foot type "A" restaurant as a permitted use; ratifying and affirming the Development Order; establishing conditions and expirations of approval. **(This item has been withdrawn by the applicant; however, because the public advertisement and notices were provided prior to its withdrawal, it must be addressed on the agenda.)**
- 10) **DISCUSSION ITEMS:**
- A) Disposition of surplus City property.
 - B) Birthplace of Speed logo.
- 11) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 12) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Mayor Costello gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #9 - "Capital Plaza"

Mayor Costello advised the public hearing for Capital Plaza at 298 South Nova Road has been withdrawn by the applicant and would not be heard tonight.

Item #4 - Audience Remarks

Bidding System

Mr. James Taylor, 54 Westbrook Lane, Palm Coast, representing Bid Bridge, stated his company has developed a hosted on-line e-procurement concept featuring electronically sealed bidding with reverse auction solution. He noted this system would enhance the purchasing system and save the City money.

Mayor Costello stated while the Commission was willing to hear what anyone had to say, these types of comments were best directed to the City Manager.

Park and Recreation Foundation

Mr. Alan Burton, 915 Oceanshore Boulevard, stated the quality of life in Ormond Beach may be enhanced by a 501(C)3 park and recreation foundation. He proposed the community organize, promote, and sustain such an organization. Mr. Burton stated future private/public funding for parks and recreation has and will continue to be a public issue with billions of dollars being transferred from private individuals to other individuals, states, or foundations. He pointed out local donations could help build endowments and programs to maintain art, ball fields, butterfly gardens, spray grounds, or even a little red school house in Central Park. Mr. Burton reported according to Section 1201 of the Pension Protection Act, any 70.50 would be permitted to direct their IRA custodian to distribute any amount up to \$100,000 directly to a 501(C)3 charity, and it would be exempted from income tax with the offer ending December 31, 2007. He requested the City act now to build a private funding vehicle and for the City Commission to support an Ormond Beach park and recreation foundation to help power the future quality of life in Ormond Beach.

Mayor Costello stated he had discussed this concept with a number of people and believed it to be a good idea, particularly in light of what was occurring regarding tax reform.

Release and Waiver of Liability at the Ormond Beach Senior Center

Mr. Frank Leo, 1513 Oceanshore Boulevard, stated seniors are required to sign a release of liability waiver used for contact sports while attending dances at the Ormond Beach Senior Center. He noted seniors should not be forced to sign such a waiver for dances, and the City was taking no responsibility. He reported seniors were also required to sign a waiver to attend "Dinner and a Movie" without informing them prior to purchasing the tickets that a waiver would be required. Mr. Leo described this waiver was prejudicial against seniors.

Mayor Costello requested Mr. Hayes respond to that comment.

Mr. Randal Hayes, City Attorney, stated the waiver had been in effect for at least the past 14 years. He assured Mr. Leo the waiver applied to all types of activities for everyone and seniors were not being discriminated against. Mr. Hayes reported several years ago a number of seniors fell during dances at the Senior Center, and now the City required the waivers to be signed. He noted the purpose of the waiver was to limit the City's liability, which most other jurisdictions use. Mr. Hayes advised if the seniors do not wish to sign the waiver, they choose to not participate.

Mayor Costello advised that fees would possibly increase with the tax reform issue facing the City, and many activities that are not self-sustaining would probably increase to become more self-sustaining. He reported he would do everything possible to minimize the City's liability.

Mr. David Thorp, 96 Oxbow Trail, reported an attempt to apply such a waiver 30 years ago in Connecticut was attempted, but the court held such a waiver violated the common law and granted sovereign immunity to the government in regard to forcing citizens to waive government negligence in the provision of government services. He noted the waiver violated the fourteenth amendment in that it violated equal protections under the law, as only some of the citizens were required to waive their rights. Mr. Thorp stated the insurance industry objected to such a waiver as it subrogated benefits and would prevent them from instituting suits to recover damages on behalf of their insured. He noted the term negligence was used in the waiver, and the waiver

lacked specificity in that it did not specify as to what City it applied nor limit the waiver to specific activities. Mr. Thorp congratulated the City for being thrifty in an attempt to limit frivolous lawsuits; however, he recommended reviewing the waiver, and if one were to be used, that it be modified to eliminate the term “negligence” and make the application more specific.

Mayor Costello requested a survey of other cities to see if they use waivers. He questioned why a waiver was required for “Dinner and a Movie” since one was not required to see a show at the Performing Arts Center.

Commissioner Gillooly concurred with Mayor Costello and Mr. Hayes that it was important to protect the liability of the City. She pointed out the issue was the City’s negligence, since the City did have a responsibility not to be negligent.

Mayor Costello noted this was one reason he asked staff to determine how this was done elsewhere.

Commissioner Partington agreed it was worth investigating this issue since these citizens were concerned and came to the Commission for assistance. He stated anyone who was denied entry to the “Dinner and a Movie” should be given their money back as a gesture of good faith. Commissioner Partington reported if a waiver was required, the people should be informed upon receiving their tickets that a waiver would be required. He suggested that language specifying the waiver be included in Ormond Beach programs and a general explanation be given on governmental liability.

Property Taxes

Mr. Gregory Avakian, 161 Heritage Circle, stated in discussions with Morgan Gilreath, Volusia County Tax Appraiser, Mr. Gilreath indicated he would investigate the large discrepancies in devaluations in Ormond Beach on Granada Boulevard and at the Airport Business Park. He reported the discrepancies between Ormond Beach and Ponce Inlet were substantial. Mr. Avakian advised these problems were costing the citizens and the City a huge sum of money. He noted cities should periodically have oversight over the appraisals. Mr. Avakian recommended a discussion item be placed on an August agenda to discuss this issue.

Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the June 19, 2007, meeting had been sent to the Commissioners for review and asked if there were any corrections, additions, or omissions.

Mayor Costello stated that the minutes were approved as submitted.

Item #6(A) - Employee-of-the-Quarter Award to Ann Clinton

Mr. Isaac Turner, City Manager, reported Ms. Ann Clinton of the Building Department was the Employee-of-the-Quarter. He stated Ms. Clinton was with the City since 1988. Mr. Turner advised Ms. Clinton diligently researches issues that need to be resolved, working with any staff member in order to reach an answer. He stated Ms. Clinton was very straight forward, customer friendly, and coordinates the Building Department. Mr. Turner congratulated Ms. Clinton for being the Employee-of-the-Quarter.

Mayor Costello congratulated Ms. Clinton and presented her with plaques honoring her as the Employee-of-the-Quarter, along with a watch with the City seal on its face.

Item #6(B) - Recreation and Parks Month Proclamation

Mayor Costello presented the Recreation and Parks Month proclamation to Mr. Robert Carolin, Recreation Manager. He stated Ormond Beach recreation activities, parks, and leisure experiences provide opportunities for all people with all abilities and disabilities to live, grow, and develop into contributing members of society. Mayor Costello reported July was designated *Recreation and Park Month* by the National Recreation and Park Association and the Florida Recreation and Park Association, and he proclaimed the month of July as Recreation and Parks month in Ormond Beach.

Item #7(A) - Metropolitan Planning Organizations

Mayor Costello reported he forwarded information regarding the Metropolitan Planning Organization (MPO) to the Commission. He noted there would be no MPO meeting scheduled in July.

Item #7(B) - Volusia Council of Governments

Mayor Costello reported he forwarded the information regarding the Volusia Council of Governments (VCOG) meeting to the Commission. He noted there would be no VCOG meeting scheduled in July.

Item #7(C) - Water Authority of Volusia

Commissioner Kelley stated he forwarded a copy of the Water Authority of Volusia (WAV) minutes to the Commission. He advised he would be requesting input regarding objectives to be discussed at the July 19 WAV meeting, which could be discussed at the July 17 City Commission meeting.

Mr. Hayes stated if the Commission would be providing comment to Commissioner Kelley's inquiry, it would have to be provided at a public meeting rather than submitted privately.

Mayor Costello clarified the comments could be discussed at the next City Commission meeting.

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(E) for discussion.

Commissioner Kelley moved, seconded by Commissioner Kent, for approval of the Consent Agenda, minus Item No. 8(E).

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

August City Commission Meeting

Mayor Costello reported the first City Commission meeting in August would be held on Wednesday, August 8, rather than Tuesday, August 7. He explained the first Tuesday in August was "Community Night Out," and the Commission wished to help this country-wide event grow in Ormond Beach.

Item #8(E) – Independent Auditing Services Contract

RESOLUTION NO. 2007-95
 A RESOLUTION AUTHORIZING THE EXECUTION OF AN
 AUDIT CONTRACT BETWEEN THE CITY OF ORMOND BEACH
 AND JAMES MOORE & CO., P.L., FOR INDEPENDENT
 AUDITING SERVICES; REJECTING ALL OTHER PROPOSALS;
 AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2007-95, as read by title only.

Commissioner Gillooly expressed concern regarding the automatic increase in the contract due to the cut backs that would be necessary due to the property tax reform issue. She recommended a three year contract rather than a five-year contract.

Mr. Paul Lane, Finance Director, stated the request for proposal stated it could be a three-year or a five-year contract. He recommended the five-year contract because there was not much competition at this time with basically only two firms in Volusia County in governmental auditing, and the other company did not even offer a bid. Mr. Lane noted with more firms he may recommend the three-year contract; but without the competition, he would recommend the five-year contract.

Mr. Turner explained the City had the opportunity to terminate with or without cause in this contract; therefore, should the City believe it prudent to send a request for proposal for another

contract, it could be done on an annual basis and/or after a 90-day termination period. He noted staff could report, on an annual basis, what the increase in the contract would be for the Commission to consider.

Commissioner Partington stated either party could terminate without cause 90 days prior to the end of any fiscal year; therefore, if another firm could do as good a job for less, the City could enter into a contract as long as a 90-day notification would be provided. He pointed out the City had been with this firm for a long time, and they have done a great job; but he asked if there was a time when the City should look for a new firm to avoid the implication of having the appearance of a “cozy” relationship.

Mr. Lane stated he would certainly not call the relationship “cozy” because the firm has a clear relationship doing a specific service for the City. He noted when bringing in a new auditor there was a great deal of time spent coming up to speed on the City’s books, acquainting themselves with their system of internal controls and the like. Mr. Lane reported the first year of an audit was normally less stringent in that they were struggling to understand the system; whereas, the more experienced and knowledgeable the firm was about the system, the better the audit.

Commissioner Kelley stated the bid the City was accepting was \$66,000 less than the other bid, and he was comfortable with it having witnessed the good job they had done in the previous audits they had performed.

Commissioner Gillooly stated the letter of transmittal stated a three-year contract with a two year option to renew was available. She asked if the renewals could be picked up at the price outlined.

Mr. Lane stated it would be at the City Commission’s option at that time to adopt the contract.

Mayor Costello stated the City was in a five-year contract but could get out of it at any time. He pointed out if all five year’s were averaged out, this was still \$10,000 per year less than the competitor’s bid.

Mr. Lane advised Volusia County recently went out for bid, and this firm was the only bid they received.

Mayor Costello noted the competitor spoke at the last meeting, and they appreciated the fact that the City did not arbitrarily select a new auditor for no reason, and he took that to mean that when they work with an entity and know the system, they could point out more issues.

Mr. Turner stated the City continuously inspects contracts; and if it would be beneficial to the City, the contract would be rebid.

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

Item #9 - “Capital Plaza”

Mayor Costello advised Resolution No. 2007-97 regarding a Second Amended Development Order for the “Capital Plaza” Planned Business Development had been withdrawn by the applicant.

Item #10(A) – Disposition of Surplus City Property

Mr. Clay Ervin, Chief Planner for Special Projects, reported seven parcels have been identified that could be declared surplus. He noted Mr. Emilio Cirelli expressed interest in properties on Nova Road; however, the property needed further review regarding ownership and soils issues before staff could recommend the sale.

Commissioner Kelley questioned how much parking could be achieved at 69 Yonge Street on that 40 by 40 foot parcel.

Mr. Ervin noted the concern was the potential for an entry feature, parking, or other aspects rather than a specific desire to have parking at that location.

Commissioner Kelley stated the north peninsula water tank was a former potable tank on one acre that was no longer needed for the specific services, and he urged investigating moving it out and placing it on the tax rolls. He noted under the site at Riverside, two parcels were indicated.

Mr. Ervin clarified there were three parcels at Riverside and Cardinal totaling three acres.

Mayor Costello stated while Riverside and Cardinal had three parcels, it could be referred to as one site.

Commissioner Kelley suggested examining Hand Avenue to determine what could be done with that parcel.

Mr. Ervin stated the Hand Avenue site had a B-5 zoning which allowed commercial use and was adjacent to the railroad. He noted there were major wetland spurs running through it, so it would have to be investigated; but it could possibly be used for mitigation or public use. Mr. Ervin noted no park needs were identified for the parcel.

Commissioner Kelley suggested the Hand Avenue site be considered for disposition as well. He noted he recommended all be considered except the Seminole Drive site.

Mayor Costello asked how much it would cost to determine if there would be any usable land at the Hand Avenue parcel; whereby, Mr. Ervin stated a survey would have to be conducted.

Mayor Costello stated the parcel to the north was undeveloped, and no one else would be able to combine it to make it usable for mitigation. He reported he would personally like to know how much of it was usable.

Commissioner Kent reported he would support determining what the Hand Avenue parcel would bring into the City.

Commissioner Gillooly stated she wanted to know the value before she could make a decision.

Commissioner Kelley recommended not selling the parcel until a price was known on any of the parcels.

Mr. Turner reported an appraisal would have to be done, and it would have to determine how much of the land was usable.

Mayor Costello reported he was trying to avoid an issue where a person who purchases property from the City discovers the land was not developable.

Ms. Judy Sloane, Public Works Director, stated during the appraisal process an environmental analysis would be done so the appraiser would have that information to value the land properly. She noted appraisers would work with the Planning Department to examine zoning and allowable uses of the land.

Mr. Ervin clarified if 98% of the land was determined to be wetland and not viable for any type of development based on land use and zoning, it would not be sold.

Commissioner Partington asked how much an appraisal would cost; whereby, Mr. Ervin stated staff would not go to outside consultants before they determined if these would be usable properties.

Mayor Costello instructed staff to determine if the Hand Avenue site was viable, and if viable, they were to obtain an appraisal.

Mr. Turner stated he would let the Commission know how much the appraisal would cost.

Commissioner Gillooly questioned if there was no residential component to the Hand Avenue site; whereby, Mr. Ervin advised that residential was allowed in the B-5 zoning district.

Commissioner Gillooly reported the City must consider the State's requirement that any surplus property must consider the viability for affordable housing. She recommended going through the Affordable/Attainable Housing Task Force.

Mayor Costello reported another possibility was to use the money obtained from the sale of the property for affordable housing.

Commissioner Gillooly noted she believed the actual land had to be considered for affordable housing rather than proceeds from the sale of the land.

Mr. Ervin stated before declaring land surplus, the opportunity to offer it for affordable housing designed to accommodate essential staff as defined by the local government must be considered.

Commissioner Gillooly reported that requirement must be met, but the definition of essential personnel in the community may be different from that of a rural community. She advised she considered any position was essential to the economic development of the community. Commissioner Gillooly stated the City must define this term. She reported there were levels of employment, but all are essential workforce personnel. Commissioner Gillooly expressed concern about the market value of beachside property and pointed out there were many layers that must be considered as the City moves forward with this issue.

Mayor Costello stated that the City may need to obtain a ruling regarding taking the proceeds to use for affordable housing in a different area where more people could be accommodated. He summarized that the Commission was willing to consider the Hand Avenue site, and he questioned what could be done with the Yonge Street parcel.

Commissioner Gillooly asked if Tax Increment Financing (TIF) dollars could be used to purchase the Yonge Street parcel; whereby, Mr. Ervin explained this parcel was identified to be kept for a potential use, but it was never formally put forward. He stated the City could retain the parcel and use the TIF funds to fund an aesthetic improvement.

Mayor Costello recommended taking the Yonge Street parcel off from discussion to determine if Ormond Main Street would want to do something with it. He expressed doubt that the City could get much for the land in that the use was questionable.

Mr. Ervin stated in the past with parcels that were not functional as stand-alone parcels, adjoining property owners have been contacted to determine if they could be joined by unity of title to make the property more usable. He noted there had been an opportunity to possibly develop this for parking for the adjoining businesses.

Mayor Costello stated this area did not need parking so he would like to determine if Ormond Main Street would have a use for the land. He instructed staff to keep the Seminole Drive off the list. He asked if anyone objected to having staff research the Riverside and Cardinal site, and if it was viable, to obtain an appraisal.

Commissioner Kent asked if this and the north peninsula water tank site had to be used for affordable housing.

Mr. Ervin explained before it could be declared surplus and put out to the open market, it must be determined if there would be opportunities for affordable housing. He noted if the property could be used for residential and there was an identified need for affordable housing in the community, a request for proposal would need to be sent out indicating a price range that would make it affordable.

Commissioner Kent stated this procedure would have to be followed if it was declared surplus, but the City could keep the parcel and use it in some other fashion. He reported this parcel was probably the largest parcel with nothing on it in the Zone 2 beachside area. Commissioner Kent noted he would not propose any use now due to the tax issue, but he urged this parcel and the parcel in Zone 1 be kept for a possible park in the future since the City did not have a land acquisition fund set up.

Mayor Costello summarized that Commissioner Kelley advocated the Riverside and Cardinal site be considered surplus and Commissioner Kent opposed it.

Commissioner Gillooly reported she was not prepared to support either recommendation until the options were further explored and the value determined. She stated Ormond Beach needed affordable housing.

Commissioner Partington concurred that he was not ready to make a decision at this point, but it may be good for affordable housing or for a park.

Commissioner Kelley noted he would consider any use other than a park in that there was no demand for a park in that area particularly because the beach was a park. He stated three

acres was a large area for a park. Commissioner Kelley requested determining what the parcel was worth. He pointed out this was a large area not generating any tax revenue.

Mayor Costello stated three Commission members wanted to investigate the parcel; and if Commissioner Kelley objected to the use of a park, he could oppose that use when that determination is considered.

Commissioner Kent stated the beach was a park, the biggest and best park, but this was close to the river and could be a good place for a park in the future.

Mayor Costello stated staff would investigate the Hand Avenue and the Riverside and Cardinal site as well as the north peninsula water tower site; whereby, Mr. Ervin clarified that the north peninsula site was in Ormond-by-the-Sea, which was unincorporated Volusia County. He noted the reason Ormond Beach had the property was for a water tower, and it has been used for a staging area for construction.

Mayor Costello asked staff to determine if the City sold the property if the proceeds could be used for affordable housing elsewhere.

Commissioner Gillooly stated she understood Commissioner Kelley's point that property that was not viable to the City would need to be sold to place it back on the tax rolls, but if the parcels would become viable as affordable housing, they would become tax generating parcels.

Commissioner Kelley stated if a \$2 million house could be placed on a one-acre parcel as opposed to three affordable housing units, the County, in this instance, could take that money and generate eight affordable housing units for people to live in, and everyone would be served.

Commissioner Gillooly agreed it should be considered if it was viable, but she pointed out that land was hard to find.

Mr. Turner stated if the City would decide to sell the property, it would have a great deal of flexibility as to where the funds could be spent.

Mayor Costello summarized staff would do due diligence and provide ideas, options, cost of appraisals, and possible uses on everything except the South Yonge Street and Seminole Drive sites.

Item #10(B) - Birthplace of Speed Logo

Mr. Dan Smith, Motor Racing Heritage Association, 9 Sunset Boulevard, reported he was before the Commission in March and informed the Commission of the need for a new City logo to be more compatible to the Birthplace of Speed motto. He explained Dave Abee, Stefan Sibley, and he went to work with input from Commissioner Gillooly and eventually they came up with a new logo. Mr. Smith stated the reason the Stanley Rocket racecar was selected was because it was the first American car to set a world's land speed record on the beach, and Ormond Beach owned a replica of the car. He noted one of the main reasons he suggested the Stanley Rocket was that it was a solid silhouette and easy to transfer. Mr. Smith pointed out there was a Birthplace of Speed logo a few years ago with a Duryea racer, which was not very attractive. He asked if there were any changes the Commission would like to make. Mr. Smith noted a concern was how it would copy on black and white, and they had to go to a graphic artist to obtain this rendering.

Commissioner Kelley advised he used to screen print t-shirts, working with a graphic artist, and this was not of the quality that the City would want. He expressed concern about emphasizing the Birthplace of Speed and changing every single emblem on every piece of City equipment, letterhead, and stationery, removing the City seal.

Mr. Smith advised it was not his intention that the seal be replaced.

Mayor Costello clarified this was not about changing the seal, but to have an additional logo that could be used.

Mr. Smith reported that he had hoped that it would eventually, after some years of using the stationery, become the City's active working logo, but he had not suggested changing the City seal.

Commissioner Kelley stated most people do not think that the Birthplace of Speed was in any way associated with Ormond Beach. He noted he, personally, disassociated himself with speed

when he tells people where he lives. Commissioner Kelley explained he tells people Ormond Beach is near Daytona Beach so they would associate Ormond Beach with a residential community, a different type of community, not one that was involved in Race Week and Bike Week. He noted he understood racing was a part of Ormond Beach with the land speed record set 100 years ago, but he did not feel the need to connect that to what Ormond Beach was all about.

Mr. Smith stated Ormond Beach did have that most unique history, and it was something that Ormond Beach owned. He pointed out that all communities are bound by their history. Mr. Smith stated Ormond Beach was given that through history, and it was world famous.

Commissioner Kelley reported he appreciated everything that Mr. Smith and the association does for Ormond Beach.

Mayor Costello summarized that Commissioner Kelley was not in favor of supporting the substitution of this logo for all of the other City logos; whereby, Commissioner Kelley concurred that was a correct assessment.

Commissioner Partington stated he was a big supporter of the Birthplace of Speed heritage, and understood how important it was to the City. He stated at the League of Cities events cities have their seals, and they find pride in them; and he saw a need to have this as part of the City's fleet of logos. He agreed, however, with Commissioner Kelley that this design was not appealing. Commissioner Partington stated he would prefer the older car, but everybody would have a different preference. He stated he believed the logo to be too busy with the black, the palm trees that were partially covered, and the silhouette of the car where he would prefer it be more angled. Commissioner Partington reported he would like the logo a little cleaner and neater. He recommended a contest Citywide that would include some different options.

Mr. Hayes clarified that the official City seal was the banana tree, and the Commission could change that by resolution, but that was not what was intended. He noted this was to be another logo in the City's arsenal of logos; however, he cautioned that the City had a registered trademark logo. Mr. Hayes reported in order to keep the registered trademark it must be used, and there may be a problem using other logos.

Mr. Turner cautioned the logo issue has been one of the more challenging issues he has faced in trying to get a community behind one choice. He noted it may be prudent to get a design the Commission was comfortable with or to bring a number of designs for the Commission to consider. Mr. Turner reported the selected design could be used, and if it would stand out over a number of years it could become the one that was predominantly utilized; but it was usually rather challenging to eliminate a logo because it is artistic and subjective. He recommended asking Mr. Smith and the staff to come up with a number of logos to bring back.

Commissioner Kelley pointed out that in graphic arts it was very difficult to put a person in a vehicle when mass production was concerned in that it does not reproduce well.

Mr. Smith agreed with Commissioner Kelley but advised it did not seem to be quite right without the person in the car.

Commissioner Kent thanked Mr. Smith for taking his time to come to show the Commission this logo. He noted he was not impressed with the rendering and indicated he found the person in the car a little odd; however, he would much rather see something like this than the "compass rose" or "Seattle Mariners" logo. Commissioner Kent reported he was glad the City was keeping the trademark banana tree as the City seal, but this was about capitalizing on Ormond Beach's true history. He stated several months ago this was discussed at the Ormond Main Street meeting, and they were pretty much in total agreement that they liked the idea of pursuing a Birthplace of Speed logo. Commissioner Kent related two visitors attending the meeting cautioned that people would relate the Birthplace of Speed to a drug, but he and the other members were in agreement that would not be a concern. He reported this design was not the design that he would choose, and he would prefer to have several different options to consider. Commissioner Kent recommended the logo be used on all City stationery instead of the "Seattle Mariners" logo. He noted the old stationery had a different race car that he favored. Commissioner Kent suggested the new logo take the place of the other logos as long as the City Attorney could make sure that there were no problems regarding the trademark that the City now has.

Commissioner Gillooly thanked Mr. Smith for the time he spent on this issue. She stated Mr. Smith was not only involved in the Motor Racing Heritage Association, but also vice-president of the Ormond Beach Historical Trust. She thanked Commissioner Kent for

recommending this replace all other logos. Commissioner Gillooly stated this had dollar value beyond doing the right thing in terms of the historic acknowledgement and recognition in the City. She noted this was not an issue that just came to the forefront since she had been working on this for the past 10 years to recognize Ormond Beach's history. Commissioner Gillooly reported a City in Seattle paid \$250,000 to a consultant to find something they could use, while Ormond Beach had this grand history and was not capitalizing on it. She questioned where the compass came from and who decided to move forward with it, and she agreed the seal had its own history. Commissioner Gillooly advised she and Mr. Smith did look at a number of logos, and she expressed her appreciation to Mr. Abee and Mr. Sibley for their assistance on this as well. Commissioner Gillooly explained that what surrounded the words "City of Ormond Beach" was the artist's rendition of a feeling of the ocean. She reported she favored the idea of sending this out as a community-wide project. Commissioner Gillooly stated the Motor Racing Heritage Association has attracted dollars to this community, and it has had a tremendous impact in that Ormond Beach was written up in magazines. She noted she hoped the Commission could decide on a single logo that would define Ormond Beach.

Mayor Costello advised he was not ready to say that he wanted to eliminate all other logos, but he was ready to say he wanted to add a Birthplace of Speed logo to those the City already had. He noted after being used for a time, the Commission may decide that this may be the only one they want; and it could be replaced at that time. He recommended the committee bring a half a dozen logos, which would all be placed in the newsletter asking people to either vote on them or submit something else. Mayor Costello reported he did not have a problem with the persons in the car or not, but he would prefer bringing the old to the new rather than only highlighting the old. He agreed the palm trees make it too busy.

Commissioner Kelley advised that if Mr. Smith provided him with a photo he would take it to a graphic artist and have him do some work. He stated this logo would not reproduce well.

Mr. Smith advised he would bring enough options next time for the Commission to choose. He noted the Buzz McKim painting was actually the first consideration; however, that did not transfer well as a copy.

Mayor Costello pointed out the City owned the replica of this car, and would like to see "Birthplace of Speed" in quotes.

Commissioner Partington recommended using the logo that had been trademarked.

Mr. Smith reported the trouble with Mr. Partington's recommendation was that the car had no historical significance and was merely a car that ran on the beach. He stated he was hoping to go with one that would be more historically significant.

Commissioner Partington stated if that car looked older and would get the point across as to what the Birthplace of Speed was, he believed it should be preferred as a component of any design that anybody in a contest should use, and those parameters of preferences should be provided. He advised he was available tonight or anytime to vote immediately to stop using the compass rose and use the official City seal in its place; and until staff gets that direction from the Commission, they will not stop using it. Commissioner Partington reported the compass rose logo was a staff driven item from the beginning, as far as he could tell.

Commissioner Kent reported he wanted to hear from Mr. Turner before he moved to waive the Thompson Rule or make a motion.

Commissioner Kelley expressed his extreme dislike of the compass rose logo.

Mr. Turner advised the compass rose was not a staff driven item but was recommended by a prior Commissioner, and it did have meaning. He pointed out the City even hired a firm to provide some ideas. Mr. Turner noted there was not only the compass, but the dolphin stationery. He offered to provide the Commission the information so they have a better understanding of the circumstances behind the decision.

Mayor Costello noted he did not believe the information would change anybody's minds, but at least they would know the background. He reiterated the Commission was suggesting multiple possibilities be brought back and having the community involved, whether it be through a newsletter or some alternate means. Mayor Costello asked that the antique car logo previously used be included, informing the people that it was used between certain dates if that information was available.

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Commissioner Gillooly asked if she was allowed to work with Mr. Smith and Mr. Abee to set this up with a judging committee composed of possibly a member of the Historical Trust, a member of Main Street, and a member of the Motor Racing Heritage Association.

Mr. Hayes cautioned that if the Commission wanted to have this committee they would probably need to comply with the Sunshine law, although there was certainly nothing that would prevent Commissioner Gillooly from meeting with Mr. Smith or Mr. Abee on the various logos. He reiterated the importance of using the registered trademark logo.

Commissioner Gillooly asked if the trademark logo was being used now; whereby, Mr. Hayes advised it was not being used now.

Commissioner Kent requested reordering his stationery so the trademark logo could be used.

Mr. Hayes noted a basis of keeping a trademark was using it; and it must be renewed, which becomes very difficult if it is not actually being used.

Mayor Costello noted going through this process might take three months; but whether the Commission reaffirms using that logo or it selects a new one, which was what would be used.

Mr. Smith explained what first brought him here was that the City was having a problem trying to create plaques and t-shirts with the banana tree and the Birthplace of Speed motto since they just did not go together. He noted the Rolls Royce people were in town last winter, and the two did not look right together. Mr. Smith stated if the Commission selected the old Birthplace of Speed logo, that would be fine; but he just needed something that said "Birthplace of Speed."

Commissioner Kelley reported he believed it did look older than the one presented in this packet tonight.

Commissioner Gillooly summarized she would come back to the Commission and send a press release out about this contest.

Mayor Costello explained what he envisioned was going to happen was Commissioner Gillooly would have input; Commissioner Kelley would get the copy of the car, and he could submit whatever he wanted; staff would include whatever Commissioner Kelley, Commissioner Gillooly, and anyone else submitted in what was brought to the Commission; the Commission would select six options; and they would all be placed in the newsletter to allow people to vote on them or submit something else.

Mr. Turner recommended taking the six items and having those brought to staff, and then the Commission could decide to pick one or a contest could be arranged; but he urged the Commission to review what was to be sent out before it was actually sent out.

Mayor Costello agreed multiple choices would come back to the Commission and the Commission may, instead of putting it in the newsletter, ask the *News-Journal* or the *Hometown News* to print all of the choices.

Commissioner Gillooly reported it was her understanding that this did not cost anything, and Commissioner Kelley has already offered to have a volunteer look into this, so the City has a great opportunity to avoid the need to hire a firm. She stated the Commission was not making any decisions at this time; the people were being asked for input; it would come back to the Commission; and a decision would then be made.

Mayor Costello reported he would like a letter sent to all the graphic artists providing them an opportunity to submit a logo; and while they would not be paid, they would receive credit for their submission if it was selected.

Mr. Smith thanked the Commission for their interest.

Item #11 - Reports, Suggestions, Requests

Thoughts and Prayers

Commissioner Kent reported his thoughts and prayers were with the employee who was in the hospital and also the family of the two year old child who drowned.

Sign in the Ormond Towne Plaza

Commissioner Kent stated a sign saying "Ormond Beach, four miles" was actually located inside Ormond Beach in the Ormond Towne Plaza. He noted the sign should indicate the beach was

four miles. Commissioner Kent noted this was confusing to those not familiar with the community.

Mayor Costello recommended taking the sign down or the Ormond Beach portion be eliminated.

Conservation Poles

Commissioner Kent stated Mr. Andy Romano measured the conservation poles that go to the dune line or sea wall from Dunlawton in Port Orange to Ormond Beach and discovered that from Dunlawton to Daytona Beach the poles were consistently 15 feet, but in Ormond Beach they were consistently 30 to 45 feet. He requested a report as to what could be done to correct this situation. Commissioner Kent reported this was the right time since the County was interested in working and partnering with the City.

Independence Day Flyer

Commissioner Kent thanked Mr. Turner and Leisure Services for the excellent Independence Day flyer.

Recreation and Parks Month

Commissioner Kent noted the proclamation for Recreation and Parks month was great.

Announcing Candidacy

Commissioner Kent officially announced his candidacy for Zone 2 Commissioner in the upcoming election.

Citizen Contact with McKim and Creed

Commissioner Kelley noted the Commission received a response from McKim and Creed regarding the comments made by a resident during the John Anderson Drive issue a few weeks ago at a City Commission meeting. He stated the response was very enlightening.

Mayor Costello stated Mr. Turner would read the response into the minutes during his comments.

Commissioner Kelley stated he considered it to be very disingenuous for issues to be so misinterpreted on an issue that was of such significance. He urged a letter be sent to the residents of John Anderson Drive to explain the project was only for discussion to make a plan that may not have occurred until 2009 and that was contingent upon having the funds. Commissioner Kelley noted this created a great deal of discussion, dissention, and division over something that should not have occurred. He reported the residents of John Anderson Drive and the citizens were owed an apology.

Ormond Beach's History

Commissioner Partington thanked Mr. Smith. He compared the excitement of today's space exploration to what occurred on Ormond Beach' beach 100 years ago.

Senior Citizen Waiver

Commissioner Gillooly stated it was her understanding that the purchase of a ticket for an Ormond Beach event implied there was a waiver. She noted she was pleased this issue would be investigated further.

Affordable Housing

Commissioner Gillooly stated there was a joint venture with Volusia County Association for Responsible Development (VCARD), VCOG, and the Volusia Home Builders Association which was a great opportunity to discuss affordable workforce housing county-wide. She reported Ormond Beach started a task force, New Smyrna Beach has an overlay district, and Holly Hill decided surplus property would be taken out of the bidding process. Commissioner Gillooly stated she hoped there was an opportunity to look into a county-wide meeting on a quarterly basis to discuss this important issue in that this was an issue that affected all of the cities.

Ann Clinton

Commissioner Gillooly stated she has worked with Ms. Clinton on Halifax Habitat for Humanity issues, and she would agree Ms. Clinton was very responsive and a great lady with a great personality.

Halifax Habitat for Humanity

Commissioner Gillooly stated Halifax Habitat for Humanity had a house dedication planned for Saturday at 173 Lincoln Avenue at 10 a.m. She reported that the brother of one of the homeowners just died, and the dedication may be changed to accommodate the family.

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Commissioner Gillooly advised she would send an e-mail once she became aware of the circumstances.

McKim and Creed Letter

Commissioner Gillooly recommended something be placed in the newsletter explaining the response from McKim and Creed.

Airport Manager

Commissioner Gillooly stated that even though the airport manager was not retained, he was still on the payroll, while another staff member was serving as interim airport manager. She asked for clarification on this issue.

Commissioner Kent and Commissioner Kelley concurred they would also like clarification on this issue.

City Logo

Commissioner Gillooly stated she was proud of Commissioner Kelley for offering to find a graphic artist to produce a logo on an issue he was not really excited about.

McKim and Creed Letter

Mr. Turner stated at the June 5 City Commission meeting, a resident indicated the City's engineering consultant, McKim and Creed, provided her husband with information that indicated the entire John Anderson Drive roadway did not need to be reconstructed. He noted the verbatim minutes from that meeting were forwarded to the consultant who provided a detailed response, which was included in the June 22 Friday letter. Mr. Turner read a summary of that response. He noted the statement that was made was that the resident met extensively with the engineer; however, according to the consulting engineer there were two brief telephone conversations. Mr. Turner stated the first conversation was to obtain general information and express concern regarding the potential tree damage that would occur if the road were reconstructed, and the second phone call was to ask if a geotechnical study had been done for the roadway. He advised the engineer stated that he responded that a study had been done which indicated that John Anderson Drive had several inches of asphalt over an obsolete style of sand base mix and that the roadway needed to be fully reconstructed for normal life expectancy. Mr. Turner stated the engineer explained that some of the areas were lower, wetter, and in worse shape than others, but apparently the resident misunderstood the conversation and concluded that the entire roadway did not need to be reconstructed. He clarified that according to the engineer, the resident apparently did not understand that even the higher sections of the pavement of John Anderson Drive were still inadequate and would not last as long as a rebuilt section. Mr. Turner stated the engineer made no recommendations other than what was shared with the City Commission. He noted the only recommendations the consultant provided for the roadway were the alternatives discussed during the recent public City Commission meetings. Mr. Turner reiterated the response from the consultant was in the June 22 Friday letter, which was located on the City's website.

County-wide Fire District

Mr. Turner reported he sent the Commission an article from the newspaper regarding a discussion several of the City and County Managers were having regarding a County-wide fire district. He noted he had been participating in those discussions.

Providing Utilities

Mr. Turner reported a discussion was started with Volusia County regarding the provision of utilities for the areas north of Ormond Beach. He advised that Volusia County had asked the City whether Ormond Beach was interested in providing services of wastewater for the expansion portion of Halifax Plantation, and staff indicated the City would prefer to consider the entire area to decide what would be best for the residents and customers in the entire area.

David Abee, Leisure Services Director

Mr. Turner stated he visited Mr. David Abee, Leisure Services Director, who was resting and under observation. He noted the Leisure Services staff had everything under control to be certain everything would run smoothly at the Independence Day celebration tomorrow.

Airport Manager

Mr. Turner reported he would respond regarding the airport manager issue in writing.

Commissioner Kelley noted he had a real concern in that the airport manager left the City's employment, but was being retained for two months.

Mayor Costello asked Mr. Turner to respond to this issue in writing before the next Commission meeting; and if anyone had any questioned, it could be discussed at that time.

Ormond Garage

Mayor Costello reported he received a letter, which was copied to the Commission, from Mr. Tim Sullivan pleading for the Commission to do everything possible to preserve the Ormond Garage. He noted there were times some things could not be preserved; however, he urged investigating if the Ormond Garage could not be preserved, if the façade or some architectural features could be preserved.

Drowning Victim

Mayor Costello noted that he appreciated Commissioner Kent mentioning the two-year old child that drowned in Ormond Beach. He asked Mr. Turner, Fire Chief Barry Baker, and Police Chief Michael Longfellow to advise him if there were something that he or the Commission could do to express his and the City's condolences in such instances. Mayor Costello noted he was not certain if it was appropriate to send condolences in certain circumstances. He stated he was open to suggestions regarding what could be done to let people know the City Commission shared in their loss.

Item #12 - Close the Meeting

The meeting was adjourned at 9:09 p.m.

APPROVED: July 17, 2007

BY: Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk