

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

August 21, 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 by Reverend Ed Marshall, Tomoka Christian Church.
- 3) Pledge of Allegiance.
- 4) **AUDIENCE REMARKS:**
- 5) **APPROVAL OF THE MINUTES** of the July 30, 2007, special meeting and August 8, 2007, regular meeting.

6) **PRESENTATIONS:**

- A) Proclamation in honor of Charlie Lydecker.
- B) Proclamation in honor of Gerry Upson.

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. 2007-118 accepting the proposal of Gregori Construction and Engineering, Inc., regarding engineering and construction services for the South Ormond Neighborhood Center Splash Park; authorizing the execution of an agreement and payment therefor; rejecting all other proposals. (\$196,500)
- B) Resolution No. 2007-119 supporting and authorizing the City's participation in the United States Department of Housing and Urban Development (HUD) "National Call to Action" program to eliminate regulatory barriers to affordable housing and identifying this as a primary goal of the City of Ormond Beach Affordable/Attainable Housing Task Force; authorizing the City Manager, or his designee, to coordinate with HUD and other housing agencies in these efforts to improve the availability and quality of affordable housing in Ormond Beach.
- C) Resolution No. 2007-120 authorizing the execution of a First Amendment to the Agreement between the St. Johns River Water Management District and the City regarding funding for the reverse osmosis system at the water treatment plant. (Acceptance of a \$1,487,200 grant from the SJRWMD)
- D) Resolution No. 2007-121 authorizing the execution of a First Amendment to Agreement between the City and Storm Reconstruction Services, Inc., for debris removal, reduction and disposal services.
- E) Resolution No. 2007-122 authorizing the execution of a First Amendment to Agreement between the City and DRC Emergency Services, LLC, for debris removal, reduction and disposal services.
- F) Resolution No. 2007-123 authorizing the execution of a First Amendment to Agreement between the City and Phillips and Jordan, Inc., for debris removal, reduction and disposal services.
- G) Resolution No. 2007-124 authorizing the execution of a First Amendment to Agreement between the City and Omni Pinnacle, LLC, for debris removal, reduction and disposal services.
- H) Resolution No. 2006-125 authorizing the execution of a First Amendment to Agreement between the City and Beck Disaster Recovery, Inc., for disaster debris management services.
- I) Resolution No. 2007-126 authorizing the execution of a lease agreement between the City and Pop Warner Youth Football and Cheerleading Association regarding the use of certain City facilities for the provision and operation of a youth football and cheerleading program.
- J) Review of FY 2006-07 budget results.

DISPOSITION: Approve as recommended in City Manager memorandum dated August 16, 2007.

9) **PUBLIC HEARINGS:**

- A) Ordinance No. 2007-29 amending the zoning map of the City of Ormond Beach by rezoning a 9.49-acre parcel of real property located at 1545 Hand Avenue from B-1 (Professional Office) to (PBD) Planned Business Development; approving a Development Order for a Planned Business Development to be known as the “Professional Offices for Dr. Kohen & Dr. Rubin” and establishing conditions therefore. (First Reading)
- B) Resolution No. 2007-128 affirming the determination of the Historic Landmark Preservation Board to issue an order granting a Certificate of Appropriateness to demolish structures on property located at 44 and 48 West Granada Boulevard (Ormond Garage.)

10) **SECOND READING OF ORDINANCES:**

- A) Ordinance No. 2007-27 relative to business tax receipts, amending Chapter 3.3, Aircraft and Airport, Chapter 3.5, Alarms and Alarm Systems, Chapter 8, Buildings and Construction Regulations, Chapter 8.03, Cable Television, Chapter 8.1, Telecommunications Service Providers, Chapter 10, Solid Waste, Yard Waste and Recyclables, and Chapter 12, Licenses and Business Regulations, of the City of Ormond Beach *Code of Ordinances* by changing the terminology referencing “Occupational License” to the term “Business Tax Receipt” as mandated by the State Legislature in House Bill 1269.
 - B) Ordinance No. 2007-28 amending the annual budget for the 2006-07 fiscal year relative to the General Fund; Transportation Improvement Fund; Recreation Impact Fee Fund; Water and Wastewater Fund; Solid Waste Fund; and Consolidated Insurance Fund.
- 11) **RESOLUTION** No. 2007-127 authorizing the execution of a Joint Project Agreement with the County of Volusia regarding utility installation and road construction on Clyde Morris Boulevard from Aberdeen to Fallsway Boulevard. (\$738,545 total project)
- 12) **DISCUSSION ITEM:** US1 / SR40 intersection improvements.
- 13) **REPORTS, SUGGESTIONS, REQUESTS:** Mayor, City Commission, City Manager, City Attorney.
- 14) **CLOSE THE MEETING.**

Item #1 - Call to Order

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

Item #2 - Invocation

Reverend Ed Marshall, Tomoka Christian Church, gave the invocation.

Item #3 - Pledge of Allegiance

Mayor Costello led in the Pledge of Allegiance.

Item #4 - Audience Remarks

Police Station

Ms. Laura Jones, 59 Amsden Road, asked: what would happen with the dispatch equipment; was this the expensive equipment the City purchased only five years ago; for how much would the equipment be sold; who would purchase the equipment; was the police station designed to house the dispatch service; and for what would the space be used. She displayed a photograph from a News-Journal article published on June 5, 2005; and she stressed the building was inviting and user friendly, but locked doors do not make the police station community friendly. Ms. Jones stated the people do not want the doors locked, and asked what Police Chief Michael Longfellow would do if a little old lady appeared on September 5 standing at the doors when they try to lock them at 5 p.m.

Mayor Costello stated Chief Longfellow could answer that question now or it could be included in the Friday letter. He explained dispatch would be more efficient, effective, and

technologically advanced protecting Ormond Beach's officers and decreasing response time while increasing coordination amongst police and fire. Mayor Costello stated the doors to the police station would remain essentially unchanged from what now existed in that the dispatchers would not go to help people because they were concentrating on dispatch. He reported a camera and a phone would be placed at the police station making it accessible after hours. Mayor Costello advised there were times a police officer would be taken off the streets to work dispatch, which would no longer occur; and this would free the police officers to stay on the streets of the City.

Fluoridation

Mr. Jim Schultz, 117 Harvard Drive, stated a Center for Disease Control (CDC) formal ethics charge was filed regarding not informing at risk groups that they were at risk from water fluoridation. He presented a statement by the leading water treatment trainer in Canada indicating that drinking water fluoridation remains an insidious scheme to dispose of toxic industrial waste. Mr. Schultz advised the CDC used 32% since 2005 for the total number of people with dental fluorosis, but they have since admitted there was some examiner variability and was now using 41% on the 12 to 15 year old population. He noted with further investigation the percentage was actually 48.42%, which was an average of the lower numbers of three prior studies. Mr. Schultz advised one of the categories was shifted out of the calculation, which would increase the number possibly another 10%.

Mayor Costello stated the City Commission and staff has taken the position that when the CDC, Environmental Protection Agency (EPA), and the Department of Health change their recommendation, the City would immediately respond.

Commissioner Gillooly reported the City has taken the step to post a note to the citizens that fluoridation was an issue with infants.

Mayor Costello stated placing this notice to residents displayed good credibility for the Commission and the community proving it was responding to the science. He noted what would benefit an adult may not benefit an infant at the same dosage.

Public Park Report Card

Mr. Alan Burton, 915 Oceanshore Boulevard, urged the City to devise a citizen report card on Ormond Beach parks through the Recreation Advisory Board to be presented to the City Commission on an annual basis. He pointed out a few years ago many of the parks were in poor condition. Mr. Burton noted this report card could measure citizen satisfaction. He stated the Recreation and Open Space Element Objective 1.2 of the City's Comprehensive Plan stated: "in order to maximize the responsible use of existing public lands and facilities, City parks and recreation facilities shall be maintained by the City's Public Works Department in order to promote public use, community pride, and discourage vandalism." Mr. Burton reported a set of criteria could be provided to each park by the Public Works Department and a citizen evaluation of each park and facility could occur. He noted these figures would be totaled and an overall grade provided annually. Mr. Burton advised the improvements could then be tracked. He stated the Caribbean Night held last weekend was a great event.

Mayor Costello thanked Mr. Burton for the comment regarding Caribbean Night. He noted had he been in town he would have attended, but he heard it was a fantastic event.

Mayor Costello reported many people commended the City for the improvements to the parks that had been made within the last two to three years. He urged people to come to the Commission with problems without the use of a survey; however, he was not indicating he would object to a survey. Mayor Costello stated due to the budget situation he was not espousing making this his highest priority, but he requested the public let the City know when they find something in need of special attention.

Item #5 - Approval of Minutes

Mayor Costello advised the minutes of the July 30, 2007, special meeting and August 8, 2007, regular 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) - Proclamation in honor of Charlie Lydecker

Mayor Costello reported in that Mr. Lydecker had not yet arrived at the meeting he would postpone this item until he arrived.

Item #6(B) - Proclamation in Honor of Gerry Upson

Mayor Costello reported Mr. Gerald “Jerry” Upson, a long-time resident of Ormond Beach, was an officer and the director of Upson Enterprises, Inc., a real estate developing company and consultant for Tomoka Holdings, Inc., Ormond Crossings DRI, Hunter’s Ridge Development, and Tomoka Oaks Golf Village. He stated Mr. Upson planned, designed, and supervised the development and construction of many subdivisions in Ormond Beach such as The Trails, Trails South Forty, Trails North Forty, The Crossings, Bear Creek, and Breakaway Trails; and he was responsible for developments in other communities such as The Trails West in Deland, Moultrie Trails in St. Augustine, H. P. Cassidy’s in Longwood, Eau Gallie Harbour Club and Marina in Melbourne, and Hidden Hills Mobile Home Park, and Spring Bay Mobile Home Park in DeLand.

Mayor Costello advised Mr. Upson’s civic affiliations include the Florida Home Builders Association, Volusia County Association for Responsible Development, City of Ormond Beach Code Enforcement Board, Trails Kiwanis Club, Florida International Alliance, State of Florida Latin American Caribbean Basin Scholarship Program, Easter Seal Society, Friends of Ormond Beach Recreation, Ormond Beach Recreation Advisory Board, Ormond Cultural Advisory Council, Casement Foundation of Ormond, Ormond Beach Chamber of Commerce, and the Ortona Kiwanis Club. He stated Mr. Upson was awarded the Ormond Beach Chamber of Commerce Citizen of the Year Award in 1984 and 2005, the America Consulting Engineer Council Grand Conceptor Award for Breakaway Trails in 1998, the Florida Institute of Consulting Engineers Certificate of Engineering Excellence Award in 1988, the East Central Florida Regional Planning Council for Excellence in Resource Planning and Management Merit Award for The Trails in 1983, and the Ormond Beach Chamber of Commerce Youth Services Award in 1978. Mayor Costello proclaimed August 22, 2007, as a day to honor Mr. Upson and recognize his service to the City and his lifetime achievement in making a better quality of life for the community.

Item #7(A) - Metropolitan Planning Organizations, Item #7(B) - Volusia Council of Governments, and Item #7(C) - Water Authority of Volusia

Mayor Costello reported Commissioner Kelley sent information relative to Water Authority of Volusia (WAV) to the Commission. He advised there were no Metropolitan Planning Organization (MPO) or Volusia Council of Governments (VCOG) meetings in July, and they would meet again later this month.

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 Kelley requested removing Item No. 8(A) for discussion.

Commissioner Partington moved, seconded by Commissioner Gillooly, for approval of the Consent Agenda, minus Item No. 8(A).

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

Item #8(A) – South Ormond Neighborhood Center Splash Park

RESOLUTION NO. 2007-118

A RESOLUTION ACCEPTING THE PROPOSAL OF GREGORI CONSTRUCTION AND ENGINEERING, INC., REGARDING ENGINEERING AND CONSTRUCTION SERVICES FOR THE SOUTH ORMOND NEIGHBORHOOD CENTER SPLASH PARK; AUTHORIZING THE EXECUTION OF AN AGREEMENT AND PAYMENT THEREFOR; REJECTING ALL OTHER PROPOSALS; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kent moved, seconded by Commissioner Partington, to approve Resolution No. 2007-118, as read by title only.

Commissioner Kelley stated while this was discussed for at least two years and it was a worthwhile project, he could not support spending \$210,000 plus \$10,000 per year in maintenance costs at this time due to budgetary constraints.

Commissioner Kent stated there were children and adults who were never in the ocean because they feared the ocean. He reported considering the heat the people were experiencing lately, he considered this a very worthwhile project. Commissioner Kent pointed out the City had a second reading tonight to spend \$650,000 for a road project that the County would eventually pay for, making Ormond Beach residents pay for it twice.

Commissioner Gillooly reported she understood Commissioner Kelley's point. She noted this was discussed at the initial goal-setting meeting in 2005. Commissioner Gillooly advised she believed there was a real need for the splash park at the South Ormond Neighborhood Center, and the City should find the funding for this project.

Mayor Costello noted he first heard about this splash park six years ago. He stated this would provide the children at South Ormond Neighborhood Center something no one else had, and he would support it. Mayor Costello reported he supported an aquatic center at some time, although it would probably have to be constructed using private funds.

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

Item #8(B) – “National Call to Action” Program

Commissioner Gillooly stated this was a resolution to support the Department of Housing and Urban Development's National Call to Action program for affordable housing. She advised she attended the last of the eight community development workshops sponsored by the Florida League of Cities. Commissioner Gillooly stated Ormond Beach was in the forefront for creating an Affordable/Attainable Housing Task Force. She noted this was a step in the right direction, and she appreciated being a part of it.

Mayor Costello stated people will come to complain about allowing decreased setbacks, increased density, smaller units, mother-in-law apartments, and conversion of garages for apartments; but if the Commission was serious about affordable housing, these types of allowances would need to be approved.

Commissioner Gillooly stated this would be a great opportunity for communities to share information and discuss what would be necessary to achieve affordable housing goals. She pointed out it was incumbent upon the Commission to be the educators and figure out how this could work for the best interest of the community as a whole.

Item #8(C) – Funding for the Reverse Osmosis System at the Water Treatment Plant

Commissioner Kelley stated while the City was criticized at times for utilizing grants and tax money, residents pay taxes to St. Johns River Water Management District. He reported St. Johns participated in funding Ormond Beach's new expanded water treatment plant for \$5,847,000. Commissioner Kelley stated it was incumbent upon the Commission to utilize these types of funds for projects that the City needed since a portion of the tax bill went to St. Johns.

Mayor Costello stated the residents should be proud that the water plant would use the low pressure reverse osmosis system, which was in the forefront of technology using the lowest quality water to obtain the best quality water. He advised this was why St. Johns supported the City to the extent that they did.

Item #6(A) - Proclamation in Honor of Charlie Lydecker

Mayor Costello reported Mr. Charlie Lydecker was an a former American University swimmer who won the swim only portion of the Alca TRI XXVII, the 27th annual “Escape from the Rock” Triathlon on June 24, which challenges competitors with freezing water, shifting currents, and the threat of sharks. He noted Mr. Lydecker was Executive Vice President for Brown & Brown, Inc., a board member and investor in a chain of 19 restaurants named Stonewood Tavern & Grill, and was involved with Gateway Banks in Florida. Mayor Costello advised Mr. Lydecker had been recognized with numerous awards for his years of community and public service such

as the coveted *Lou Fuchs Award for Outstanding Community Service* and the *Marvin M. Samuels Leader of the Year Award* from the Chamber of Commerce; *Stafford H. Cassell Alumni Athlete Award* from his alma mater American University; *Humanitarian Award* from the Mary McLeod Bethune Community Center; *Golden Eagle Award* from the Boy Scouts of America, *Citizen of the Year for Public Education Award* from the Phi Delta Kappa Professional Education Fraternity; and he was presented the key to the City of Daytona Beach by the Mayor and honored by the dedication in his name of Charleston Place Apartments in Holly Hill for his leadership in creating affordable housing for local residents. He stated last summer Mr. Lydecker defended his two age-group National Championships at the National Lifeguard Championships in Huntington Beach, California, earning two gold metals and a bronze metal in the two-mile run, open water swim, and the run-swim-run event; and this summer's competition was in Myrtle Beach, South Carolina, where he was defending champion in his age division of 40-45, and earned two gold medals and a silver metal in competition that included a 400-meter ocean swim, run-swim-run competition, rescue race, two-mile run, and an international iron man event. Mayor Costello proclaimed August 22, 2007, as a day to honor Mr. Lydecker for his swimming championships and in recognition of his many accomplishments and service to our community.

Item #9(A) – “Professional Offices for Dr. Kohen & Dr. Rubin”

ORDINANCE NO. 2007-29

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF ORMOND BEACH BY REZONING A 9.49-ACRE PARCEL OF REAL PROPERTY LOCATED AT 1545 HAND AVENUE FROM B-1 (PROFESSIONAL OFFICE) TO (PBD) PLANNED BUSINESS DEVELOPMENT; APPROVING A DEVELOPMENT ORDER FOR A PLANNED BUSINESS DEVELOPMENT TO BE KNOWN AS THE “PROFESSIONAL OFFICES FOR DR. KOHEN & DR. RUBIN” AND ESTABLISHING CONDITIONS THEREFORE; REPEALING ANY INCONSISTENT ORDINANCES OR PARTS THEREOF; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Gillooly, to approve Ordinance No. 2007-29, on first reading, as read by title only.

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

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

Mayor Costello requested a discussion item be placed on an upcoming agenda to change City codes to allow people to use solar panels or green construction without coming to the Commission for approval of a Planned Business Development (PBD.)

Item #9(B) – Ormond Garage

RESOLUTION NO. 2007-128

A RESOLUTION AFFIRMING THE DETERMINATION OF THE HISTORIC LANDMARK PRESERVATION BOARD TO ISSUE AN ORDER GRANTING A CERTIFICATE OF APPROPRIATENESS TO DEMOLISH STRUCTURES ON PROPERTY LOCATED AT 44 AND 48 WEST GRANADA BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Mayor Costello stated this was an appeal of the Historic Landmark Preservation Board (HLPB) decision, which voted four-to-four not to reconsider its prior determination. He noted the Commission had the option to approve, modify, or reject the appeal, but the burden of proof was on the appellate to produce competent, substantial evidence showing that a Certificate of Appropriateness to demolish should not be granted. Mayor Costello advised this was a quasi-judicial hearing. He explained the issues on appeal were as follows: 1) the historic or architectural significance of the building, structure, or object; 2) the importance of the building, structure, or object to the ambiance of the district; 3) the difficulty or impossibility of reproducing such a building, structure, or object because of its design, texture, material, detail, or unique location; 4) whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood, the County, or the region; 5) whether there are definite plans for reuse

of the property if the proposed demolition is carried out and the effect of those plans on the character of the surrounding area; 6) whether reasonable measures can be taken to save the building, structure, or object from collapse; and 7) whether the building, structure, or object is capable of earning a reasonable economic return on its value.

Mayor Costello stated the appellant must provide competent, substantial evidence that the criteria have not been met for the issuance of the Certificate of Appropriateness to demolish. He advised the Planning staff has offered a professional opinion in their written staff report that the HLPB determined the structure had no significant architectural or historical features, and the cost of rehabilitation was economically prohibitive.

Ms. Veronica Patterson, City Clerk, swore in those wishing to speak at the public hearing.

Mr. Ric Goss, Planning Director, stated the application was filed in March 2007 and scheduled for the April HLPB meeting, but was postponed to allow for an independent consultant to review the findings by Mr. Jones' consultants. He noted the City hired Nodarse & Associates, Inc., to do an independent study; however, the report was not completed in May so the meeting was continued until June. Mr. Goss advised the HLPB reviewed the reports and discussed this item for three and one-half hours. He stated the HLPB found all seven criteria to be in the affirmative.

Mr. Goss noted there was much discussion regarding the date in that staff listed the date to be 1945 for 48 West Granada Boulevard and 1924 for 44 West Granada Boulevard. He explained the dates were obtained from the Volusia County Property Appraiser's office. Mr. Goss stated no documentation was found in the historical files regarding 48 West Granada Boulevard. He advised that while the date was incorrect, it was still before January 1, 1946; therefore, the date was not significant since it still had to be reviewed. Mr. Goss stated there was a great deal of discussion regarding economic viability. He explained the fine sand under the building was not compacted and could not withstand the load-bearing of the building; the walls were buckling; the walls had extensive cracks; there were no connections between the joists and the load-bearing walls; and the southeast section of the wall was beginning to sink. Mr. Goss reported it was clear from both reports that the property was in distress and could not be economically rehabbed. He confirmed that the consultants examined the structure as a building, not necessarily as a historical building. Mr. Goss advised the historical significance was discussed at length. He stated the board understood that even though a structure may be historical, it did not mean the structure would be eligible for the National Register of Historic Places or that it was on the local landmark list. Mr. Goss pointed out that six months ago the local landmark list was codified, and there was an opportunity to add this property at that time; but it was not done. He stated a historic property must be made significant either through the state, national, or local level to qualify, and it had to be closely associated by an event, a person, or a development; however, there was no evidence to that effect on this property. Mr. Goss advised the HLPB issued the Certificate of Appropriateness to demolish in June, and the appeal was issued in July. He reiterated that the date was not significant because the HLPB had to examine all properties constructed prior to January 1, 1946.

Mr. Goss reported the HLPB held another meeting yesterday to reconsider the issuance of the Certificate of Appropriateness to demolish, and the vote was tied four-to-four; therefore, the motion to reconsider failed. He explained the decision by the HLPB was arrived at after much deliberation, and it was in their purview to make that finding. Mr. Goss stated a question was raised asking why the City did not bring this property to be added to the state preservation office because it was said to be eligible for National Register designation; however, to be eligible for the National Register a preliminary assessment must be completed, and this was not done so the statement was inaccurate. He reported the City, Planning Director, or the Planning Department was not tasked to make an application for a structure to be included in the National Register, but any person or entity interest could have prepared a preliminary assessment to present to the state to have the structure considered for inclusion in the National Register, and no assessment was been done.

Mr. Bill Partington, Sr., 1284 Fernway Drive, read a letter to Mr. Turner dated July 17 requesting a hearing to affirm, modify, or deny the determination of the HLPB for a Certificate of Appropriateness to demolish. He pointed out the age of the building was not known to be 1919 and was represented to have been built in 1945. Mr. Partington reported an independent engineer was hired by the City to evaluate the structural integrity of the building with no consideration given to the fact the engineer had no experience in historic preservation, and subsequently, the State of Florida Bureau of Historic Preservation made an offer to become involved in the evaluation of the possible preservation of the building at the invitation of either the owner or the City. He noted that as the last remaining example of a historic structure tied to Ormond Beach's unique local heritage as the Birthplace of Speed, the parties involved deserve

to know that all reasonable efforts to preserve all or part of this historic structure had been made. Mr. Partington advised the owner, Mr. Bill Jones, repeatedly expressed his affinity to preserve and restore or renovate rather than demolish older buildings, and any assistance the City could provide would be beneficial to all concerned. He noted it was not his desire to incur any undue delay by Mr. Jones, and he requested the City make all reasonable efforts to expedite the process.

Mr. Partington pointed out when he sent the above-noted letter he was unaware that the City of Ormond Beach owned property adjacent to this property; the City had a map in its files showing this structure existed in 1921; and the Land Development Code had certain rules that were not being followed. He stated the HLPB and City staff did not do their jobs properly. Mr. Partington reported that from a financial standpoint, as an adjoining property owner, he would have no benefit from stopping this demolition; however, if it could be demonstrated this building was a significant historical asset to the City, all of the citizens could benefit from this appeal. He noted he regretted the adversarial relationship between the applicant and his corporation in that he believed the Highland Corporation would do a fine job in whatever would ultimately be done. Mr. Partington advised the significant question was whether the Ormond Garage was a historical resource and was it eligible for listing on the local landmark list. He pointed out there was a significant difference in a building built in 1945 and a building older than 75 years old, particularly due to its association with the Birthplace of Speed heritage. Mr. Partington reported he spoke to a planner who indicated to him that the triggers to have the studies done by the state have been satisfied. He noted a cultural survey was appropriate and should have already been done.

Mr. Dan Smith, 9 Sunset Boulevard, stated a mechanic at the original Ormond Garage purchased the property at 48 West Granada Boulevard and built this building in early 1919. He advised the building was constructed of brick vernacular, with the bricks made of sand and all natural and local material, and there were only four to five similar buildings remaining in Ormond Beach. Mr. Smith reported the engineer at the HLPB meeting indicated sand could be scraped off the bricks; but these were sand bricks and have stood 100 years, and they lost very little sand, although they did need to be sealed. He stated the engineer indicated the floor was cracked with a void under the southeast corner; however, there was a method to relieve this problem. Mr. Smith noted it was common in Chicago to drill a floor and pump cement to level the floor to provide a foundation, and he assumed this could be done in this instance, although that was not a certainty.

Mr. Partington read Mr. Gordon Kipp's memorandum which indicated the building was built around 1920 rather than 1949 as was indicated by the Planning Director, and the Planning Department had that information in their files. He advised the HLPB was provided erroneous information; therefore, the board should reconsider the issue.

Mr. Partington read a letter from President Ron Sauter, on behalf of the Volusia Region Antique Automobile Club to show its support for the preservation of the Granada Garage in that Mr. Dan Smith believed that the building, while not 100% structurally sound, could be stabilized, repaired, and brought up to the building codes applied to a commercial building such as the Ormond Garage.

Ms. Terri Thomas D'Andrea, 221 Morningside Avenue, Daytona Beach, stated her grandfather had owned the Ormond Garage, and she urged the garage be preserved in some fashion because of its history. She pointed out there were few historic buildings left in the downtown. Ms. D'Andrea advised she had articles and an advertisement from 1926 referencing the Ormond Garage. She explained this was a family owned and run business.

Commissioner Partington asked if Ms. D'Andrea could provide the originals of the articles mentioned to be copied.

Mr. Hayes stated copies could be made unless the applicant's attorney objected; however, anything that was to be submitted into the record as evidence should be provided tonight. He noted while it was not necessary to have the actual letters that were read into the record, a copy of the letters should be provided; whereby, Ms. Veronica Patterson, City Clerk, certified that she received a copy of an article published from the Ormond Union Church showing an advertisement for the Ormond Garage.

Ms. Bonda Garrison, 1092 Hampstead Lane, president of the Ormond Beach Historical Trust, questioned if all of the facts were made known to the HLPB. She noted the Trust questioned the engineering report in that it was not done by someone who had knowledge and expertise in historic preservation, while there were a number of entities that could provide this expertise. Ms. Garrison advised the state would examine the building. She noted Mr. Brian Rand of Rand

Preservation, who was currently working at the Three Chimney's site, would also examine the building to determine if it would be economically feasible to renovate. Ms. Garrison questioned the definition of "excessive cost" as was noted in the HLPB's determination. She applauded Mr. Jones' efforts to preserve and promote the downtown. Ms. Garrison advised that places with a viable historic downtown are able to compete with strip malls and restaurants because they offer something unique.

Mr. Partington asked how quickly the state could respond if they were asked for input in this situation.

Ms. Garrison reported she had not spoken to anyone from the state, but Mr. Rand could examine the structure by the second week in September. She advised Mr. Rand spoke to someone from the state.

Mr. Robert Thames, 16 Fairview Avenue, apologized as chairman of the Historic Landmark Preservation Board, for the bad decision the board made in approving the Certificate of Appropriateness to demolish. He noted the board depended heavily on staff to provide correct information, but staff provided erroneous information in this instance.

Mayor Costello asked if Mr. Thames was referring to the date because that had been explained.

Mr. Thames noted most of the criteria provided was incorrect.

Mayor Costello stated that statement was hearsay and that the Commission could not allow it because there were no facts to support it. He pointed out staff acknowledged the error in the date and explained why the error was made.

Mr. Hayes stated the City had an official order from the HLPB, but an individual can express his own personal opinion.

Mr. Thames clarified this was his own personal opinion and not the opinion of the HLPB. He reported the criteria that needed to be met was not met as follows: 1) the historic or architectural significance of the building – staff indicated there was no historical significance to the building, and that was proven to be incorrect; 2) the importance of the building, structure, or object to the ambiance of the district – this was one of the last remaining historic buildings in the downtown community; 3) the difficulty or impossibility of reproducing such a building – staff almost had this correct by indicating it had a unique architectural style, but they tried to negate it by indicating the structure was not safe; 4) whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood – it was one of six structures remaining; 5) whether there are definite plans for reuse of the property – there were no definite plans; 6) whether reasonable measures can be taken to save the building, structure, or object from collapse – the building stands after 88 years through numerous hurricanes; and 7) whether the building, structure, or object is capable of earning a reasonable economic return on its value – the building was absolutely capable of earning a reasonable economic return on its value. Mr. Thames advised staff reported incorrectly to the Commission that the HLPB was provided the cost of renovation when that did not occur.

Commissioner Gillooly asked if Mr. Thames was referring to the following summary paragraph: "A review of the record indicates the Historic Landmark Preservation Board made its determination that a Certificate of Appropriateness to demolish should be issued for 44 and 48 West Granada Boulevard after considering the following: 1) the revised date of the building; 2) the historical significance; and 3) the cost to renovate."

Mr. Thames reiterated there was never an actual cost provided to the board.

Mayor Costello noted he interpreted that statement differently, but agreed no dollar amount was provided.

Mr. Thames reported Mr. Goss indicated there was no documentation in the files, but there was testimony that there were documents in the City's planning file. He advised Mr. Goss reported the date was of no significance when it was very significant. Mr. Thames noted Mr. Goss made a statement, "We don't know if it is eligible for the National Register, and no assessment has been made;" however, it could be reasonably surmised that as the last remaining link to the Birthplace of Speed and the roots of NASCAR, it would easily find a spot on the National Register. He pointed out state codes for historic structures are far more lenient than they are for new structures.

Mr. Partington stated should the Commission determine this building would be eligible for listing on the local landmark list, that would trigger the cultural survey. He pointed out the most restrictive regulations apply; therefore, Chapter 3 would take precedence over Chapter 2. Mr. Partington advised that had the Planning Department done its job, they should have suggested that it might be appropriate to consider whether this building met the criteria. He noted the regulations indicated these consultations shall be undertaken with the Florida Division of Historic Resources. Mr. Partington explained that after filing the appeal, Mr. Goss believed he could not do any further research and was unable to contact the state for a determination. He explained his purpose in filing this appeal was to provide further information, but it actually stopped any action. Mr. Partington reported at the HLPB meeting, the members were not allowed to discuss any additional information and no additional staff reports were provided. He noted this was not about Mr. Jones in that he was convinced Mr. Jones would do the best job possible, but the processes were not followed. Mr. Partington noted Mr. Goss and the Planning Department may not have had the duty to take this to the state, and it may have been the duty of the HLPB, the Ormond Beach Historical Trust, he, or another citizen; but someone should have done so, and they failed to do it. He stated it was up to the Commission to decide if these steps should have been taken, and he hoped Mr. Jones would cooperate and ask the state to do a cultural survey and offer advice as to what could and could not be saved. Mr. Partington noted the Commission was able to hear hearsay evidence, but the Commission must decide how much credence can be given to that evidence.

Mayor Costello called for a short recess at 8:45 p.m. He reconvened the meeting at 8:50 p.m.

Mr. Chobee Ebbets, 18 Lost Creek Lane, attorney representing the Highlander Corporation owned by Bill and Jan Jones, stated the applicant was now holding the legally issued Certificate of Appropriateness to demolish after completing all of the due process of the City. He pointed out the Commission delegated the HLPB a duty to do its job legally and properly, and this comes to the Commission with a presumption of correctness and can only be changed if the appellant, with substantial and overwhelming evidence can show that something critical to the analysis was missed and had it been considered would have changed the decision of the board. Mr. Ebbets stated Bill and Jan Jones have invested over \$10 million in the Ormond Beach downtown, and they love history. He advised Mr. Jones purchased this property not to tear it down, but to renovate it; however, contractors with skill and knowledge informed him the building was a structural nightmare. Mr. Ebbets pointed out Mr. Jones purchased and refurbished the Bushman building. He pointed out this building had many permeations with a hodgepodge of building skills that left the building basically falling down around itself. Mr. Ebbets advised that to perform repairs to any portion of the building, Mr. Jones had to go to the HLPB for the Certificate of Appropriateness to demolish. He explained Mr. Jones went to the expense of hiring an independent engineer to prepare an analysis to make certain the City had the correct information.

Mr. Ebbets stated to suggest staff was not doing its job under these circumstances was an insult because they went the extra mile. He stated the issue was not that this was an 88 year old building that was part of the City's history, because he agreed it was wonderful part of Ormond Beach history, but that it was structurally unsafe. Mr. Ebbets explained no contractor would give an exact cost as it could not be known until the work was being done, but he was informed it could run as high as \$2 million. He pointed out that in an attempt to rebuild this building it may collapse on itself causing more damage to not only the building, but also to abutting landowners' property. Mr. Ebbets explained there was no one who spent more money to purchase old buildings to preserve them than Mr. Jones. He stated if there was any way to save the building, particularly the façade, Mr. Jones would do so. Mr. Ebbets reported that Mr. Partington had the burden of proof. He reported he was legally required to report that the hearsay was not admissible unless it had independent proof, and the Commission would be doing an illegal act to consider such hearsay evidence. He advised the appellant did not provide substantial, competent evidence that the HLPB did not do its job and did not consider the elements it was required to consider in reaching its decision. Mr. Ebbets stated whether the state declared this to be a historical building or not, the most important issue was that it was unsafe.

Mr. Bill Jones, Jr., 8 Twelve Oaks Trail, stated most of the old racecars were repaired on the beachside at the original Ormond Garage, and this property had a link with that heritage. He explained his desire was to restore the building and open a restaurant based upon the Birthplace of Speed. Mr. Jones pointed out Ormond Beach's history was what occurred from 1903 to 1935. He stated he loved Ormond Beach's history, and painstakingly restored buildings on that block such as the Bushman building. Mr. Jones outlined his vision for Ormond Beach's downtown area with historic buildings and small "mom and pop" shops. He stated he was the "City's last best shot that Ormond Beach has" to restore the building or at least to save the flavor of the building. Mr. Jones advised he was not opposed to a reasonable or even unreasonable expense to save the building because it was worth it; and he hoped to save two

walls and the façade, but the back could not be saved. He stated parking in the downtown was a problem.

Mr. Jones pointed out he owned the vast majority of the property between Beach Street and US1; and if the other property owners were willing to share their parking, he was willing to share his parking.

Mr. Andrew Schmid, Nodarse and Associated, reported he was the area manager, a licensed engineer in Florida and Georgia, and a licensed structural inspector with geotechnical expertise. He reported he completed a report with his personal seal holding him personally liable from his engineering judgment that the information was true and accurate. Mr. Schmid explained his conclusion was reached after performing a personal inspection and reviewing the reports submitted to staff from the applicant's structural engineer and the geotechnical date, and he found the building to be structurally unsafe. He reported the building had numerous braces holding the walls in place.

Mr. Ebbets noted Mr. Schmid's report indicated the current conditions, especially the foundational elements, require extensive modifications in order to meet current safety and code requirements. He asked what the importance of this was relative to trying to rebuild this building.

Mr. Schmid stated the foundation was of a shell cement base with the brick resting on that foundation, which does not meet any current code. He reported pumping below the slab was called "mud jacking," and for this to be successful, many situations must be present. Mr. Schmid noted mud jacking was being ruled out as a viable option in Florida in that it generally causes more damage than it helps, and in this building the soils were so soft that there was a void below a portion of the ground. He reported the mud may disappear into the hole which could get into the water system and contaminate water systems or into the intracoastal waterway depending on the geology. Mr. Schmid explained mud jacking tended to cause a building to move and a sudden jar could make the bricks explode, fracture, or fall. He noted for mud jacking to work the structure must be able to have some support. Mr. Schmid reported while preparing the report he tried to think of different methods to repair the building, but the walls would have to be taken down to add a foundation to replace them, and that would not work. He advised sand-based brick was very fragile with a very low tensile strength. He noted the movement of the construction would likely cause the ground to settle causing the building to come down and causing more harm than good.

Commissioner Gillooly stated the City spent money to bring Mr. Schmid in and Mr. Jones spent money on engineers and contractors. She asked if Mr. Schmid had any experience in evaluating historic structures.

Mr. Schmid stated he was involved in evaluating multiple buildings in the University of Florida built in 1853, moving a gymnasium in Trenton built in the 1850's, and a number of homes in downtown Orlando built in the early 1900's.

Commissioner Gillooly asked if Mr. Schmid was able to apply this expertise in his analysis of this structure.

Mr. Schmid advised he was asked to evaluate the building purely from a structural standpoint rather than a historical standpoint, but he did incorporate his knowledge into possible methodologies to renovate the building.

Commissioner Gillooly asked if a new process was available to replace mud jacking.

Mr. Schmidt stated there were many options to do repair work with a special application for each. He reported he explained mud jacking in that it was mentioned previously by others to clarify why it would probably not be a valid option to use.

Commissioner Kent stated he believed Mr. Jones would do everything possible to save the building. He questioned the feasibility of saving the façade and possibly one or two walls.

Mr. Schmidt replied it would depend on the extent Mr. Jones would try to save the building. He noted to try to save only the front, it could possibly be shored up; but there was no guarantee it would be successful because taking the walls out would take away the main support structure of the building. He urged that a structural engineer evaluate this carefully before trying to save the facade.

Mr. Ebbets reported he offered Mr. Schmid to show the competency and integrity of the people employed by staff. He noted he could offer Ms. Sue Parkerson, another member of the HLPB, who would provide another view of the care taken to evaluate this process; but that was probably not necessary. Mr. Ebbets reiterated it was Mr. Partington's responsibility to present substantial competent evidence of error to reverse the decision of the HLPB, but none was presented.

Mr. Mike Rodriguez, 90 North Beach Street, stated he lived in the downtown and was a business owner, and he urged the Commission to support Mr. Jones. He advised he believed Mr. Jones had earned the City and the Commission's respect. Mr. Rodriguez stated Mr. Jones would do a good job and cautioned that no one would want to sit in a restaurant that may collapse on them.

Mr. Hayes stated he prepared a report for the agenda listing the criteria to consider, and the appellant had the duty to provide substantial, credible evidence. He stated hearsay evidence was not sufficient; however, it was sufficient to supplement a fact. Mr. Hayes explained if a speaker gives testimony regarding a personal observation and provides a letter to further support that observation, that would support that personal observation; but letters on their own do not constitute competent and substantial evidence. He reported lay witness testimony based on fact can be considered, but comments based on speculation, desires, or generalized statements can not be considered. Mr. Hayes advised expert witness testimony from any professionals could be considered. He stated the Commission must weigh this information and determine if the appellant has met his burden.

Commissioner Gillooly stated testimony was provided that the City had in its possession a map from 1921. She asked if such a map was found.

Mr. Goss stated after hearing that same comment he searched the files on all of the historical properties, and he found folders on 44 and 48 West Granada Boulevard describing the property, with no date for 48 West Granada Boulevard. He noted if maps existed, they were not in the file. Mr. Goss reported he was not disputing that there may be data in the Planning Department, but it was not in the historical files where he would expect them to be located.

Commissioner Gillooly asked if the documentation provided regarding Chapter 3 of the Land Development Code was current and accurate regarding how the state resources could be brought in to make this determination.

Mr. Goss stated that was the most current documentation. He reported he went on to the Florida and National Register website to examine eligibility criteria. Mr. Goss pointed out assessments were required to determine eligibility. He noted typically the State would then examine the property and do more research. Mr. Goss explained that merely because it was stated the property was eligible for the National Register did not mean that it was actually eligible because certain steps must be taken to determine eligibility and certain criterion must be met. He stated no assessment was done because no one believed the property to be important in light of the fact that in December of 2006 the City codified the local landmark list and this property was not mentioned. Mr. Goss pointed out people on the Historical Trust were surprised at the date and the significance of the structure. He stated just because a building was historic did not necessarily mean it was eligible for placement on the National Register.

Commissioner Gillooly clarified that a true determination has not yet been made on the eligibility. She reported she did some personal research on this as she does on every item. Commissioner Gillooly noted she believed a case had been made by Mr. Partington in one specific area. She clarified that there has never been a question regarding Mr. Jones' interest and investment in the downtown. Commissioner Gillooly stated the City had not examined this from a historic significance. She advised that she called the State Historic Preservation Board and talked to Mr. David Ferro. Commissioner Gillooly explained the state would come to Ormond Beach, at no cost to the property owner or the City, to determine if anything can be saved. She advised from the date the department received a formal request, they could come to the site within 30 days. Commissioner Gillooly pointed out the state board was aware of the situation due to a contact made by Mr. Partington, and they believed it to be a significant property. She reported the state could not respond to a private entity, but could respond to a request from the property owner or the City. Commissioner Gillooly asked Mr. Jones to allow the City to table this to allow the state to respond.

Mr. Ebbets stated Mr. and Mrs. Jones invested greatly in Ormond Beach and went through every process required in order to do everything the right way. He expressed concern regarding a lack of understanding of a partnership and a feeling of trust. Mr. Ebbets noted a vast amount of time and money was invested in this project. He advised that the certificate was legally and

properly put in place. Mr. Ebbets explained that even if this was the best and most historically significant building in the City, it was still structurally unsound, and its historical significance would not change the danger involved. He stated the State can come down, but Mr. Jones needed to move forward and be trusted to do the right thing.

Commissioner Gillooly stated there was a matter of trust. She expressed concern that if the Commission goes ahead, Mr. Jones may jeopardize any opportunities that may exist for federal rehabilitation and local tax credits that are now available. Commissioner Gillooly stated this was a resource Mr. Jones has not tapped into that may allow him to do what he wanted to do, which was to preserve the building. She noted the experts may be able to offer advice as to how to save the façade.

Mr. Jones stated he trusted the City of Ormond Beach, but not necessarily the State of Florida. He expressed a fear that if the State of Florida would get involved, the building would be knocked down by the next hurricane. Mr. Jones advised he was willing to lose tax credits. He stated he was the only one who could save the building and asked for the City's trust.

Commissioner Kelley moved, seconded by Commissioner Kent, to approve Resolution No. 2007-128, as read by title only.

Commissioner Kent stated Mr. Partington was a man of honesty and integrity. He stated his concern was that if the Commission did not approve this resolution the building would stay in its current state for years to come. He noted the HLPB reviewed this twice and approved the demolition. Commissioner Kent expressed concern regarding staff providing information with mistakes that the City cannot afford today or in the future.

Commissioner Kelley stated he spoke to Mr. Partington and Ms. Parkerson. He advised he walked around the building; and by merely looking at the southeast corner of the building, it was clear it was in terrible shape. Commissioner Kelley reported the Commission appointed this board giving them the responsibility and authority to make the decision, and they spent time to make that decision. He pointed out the HLPB was one of the few board that had this responsibility, and he would respect its decision. Commissioner Kelley reported he trusted Mr. Jones that he would do everything in his power to save as much of the building as possible.

Commissioner Partington stated he would hate to see this structure demolished. He stated he believed staff was not aggressive in protecting historical structures or what was required in Section 13, which was a disservice to the citizens of Ormond Beach and Mr. Jones, and he did not want to see this occur again. Commissioner Partington requested the coquina wall in front of Ormond Elementary School, Ormond Elementary School, the coquina monuments at Sanchez Avenue and Beach Street, the 1901 building at 43 West Granada Boulevard, the 1885 building at 165 New Britain Avenue, the church at Bailey's Riverbridge Garden, and the old house that was moved to the parking lot of Ormond Memorial Gardens be placed on the local historical list, if they were not already on the list, so the City would not risk losing any more historical assets. He stated he would have preferred a review of some historical nature by the state, and a cultural survey should have been required. Commissioner Partington reported the HLPB was done a disservice by not having this information to make their decision. He expressed concern that the Commission would not be in this situation were in not for a weak staff approach. Commissioner Partington asked if he should abstain on this vote.

Mr. Hayes stated the legal standard was that Commissioner Partington would be able to vote unless there was a prohibitive conflict of interest typically defined as a special private gain to Commissioner Partington's benefit or the benefit of a relative or family member or a corporate entity in which he may have an interest. He stated within these parameters Commissioner Partington would need to make that determination.

Mr. Ebbets advised this was a quasi-judicial proceeding; therefore, if Commissioner Partington were a judge, he would ask him for a recusal. He noted the statement used on the Board of Governors on the Florida Bar for which he serves was a standard where if there was an appearance of impropriety, the person should not vote; and while he was not questioning Commissioner Partington's integrity, he questioned what would occur if he should take this to an appeals court considering the son of an appellant had voted on the issue. He stated if Commissioner Partington's was recused, he should not have spoken on the issue. Mr. Ebbets reported he objected, on the record, to Commissioner Partington voting on this matter as he considered it to be a conflict of interest.

Commissioner Partington stated he would abstain on Commissioner Kelley's motion; but if there was a motion for modification to allow for the state to evaluate the property, he could vote without a conflict of interest.

Commissioner Gillooly moved, seconded by Commissioner Partington, to amend the motion to invite the state to come in to advise Mr. Jones relative to the feasibility of how the historic nature of the building may be preserved.

Commissioner Kelley reported he did not believe a motion could be made in this manner.

Mr. Hayes stated a motion could be made to affirm, deny, or affirm with conditions; therefore, a motion to amend could be accepted. He questioned if the nature of Commissioner Gillooly's motion was to table the decision or to approve the issuance of the Certificate of Appropriateness to demolish with conditions.

Commissioner Gillooly asked how this opinion would affect demolition.

Mr. Hayes stated Commissioner Gillooly could move to approve the demolition after a period of either 30 or 60 days as the code required in order to allow time for the state to come in to do a review. He noted there were two issues: 1) can and should the structure be included on a historic list; and 2) a public safety issue. Mr. Hayes reported irrespective of whether it could be placed on a historic list, the safety issue remained.

Commissioner Gillooly explained the state would certainly discuss eligibility, but they would also have the expertise to provide advice at no cost from a historic preservation perspective along with an engineering perspective. She clarified she was certainly not advocating the City allow an unsafe structure.

Mr. Hayes stated this Commission was sitting in an appellate capacity charged with hearing the evidence brought before them, and their decision must be based on the evidence on the record. He noted the conversation Commissioner Gillooly had which formed the basis of what she was advocating did not constitute competent and substantial evidence. Mr. Hayes explained appeals are totally different than most cases heard by the Commission.

Commissioner Gillooly stated she believed there was competent and substantial evidence presented by the appellant and witnesses that nothing had been considered relative to the historic value. She expressed concern the City did not follow the Land Development Code.

Commissioner Gillooly moved, seconded by Commissioner Partington, to table this item to allow the state to come in to give advice to the property owner.

Commissioner Kelley pointed out there was already a motion to and second to amend on the floor.

Commissioner Gillooly withdrew the first motion to amend.

Mr. Hayes stated the first motion to amend was not stated as a true motion; therefore, what was now on the floor was a motion to approve the underlying measure to approve the resolution to affirm the Certificate of Appropriateness to demolish. He stated discussion followed regarding an amendment, and followed-up by Commissioner Gillooly's motion to table was a superseding motion over the primary motion. Mr. Hayes asked if the motion to table was for a time certain or until the state comes which could be any length of time.

Commissioner Gillooly clarified the motion was for 30 days. Commissioner Partington, as the second, agreed to the clarification.

Commissioner Kent asked Mr. Jones how this 30-day delay would affect him. He reiterated he believed Mr. Jones would do everything possible to save the building.

Mr. Jones stated if a hurricane would occur, the building would fall down. He reported most of the building was damaged from the past three hurricanes. Mr. Jones advised he would like to start work as soon as possible to shore up the building before it falls down and this discussion becomes moot. He noted he did not understand what the state could do because he questioned that they could bring expertise that no one else had since physics was the controlling factor, and the physics were very simple. Mr. Jones explained the trusses are lying on upright walls, but not tied into the walls. He stated this was now a "leap of faith" that he would do the right thing.

Mayor Costello stated he would vote against the motion to table. He advised this was one of the most historic buildings with the most significance of the Birthplace of Speed, and it should be saved; therefore, he would vote for the demolition because he felt only the owner could save

it. He pointed out the only person who showed how much he cared was Mr. Jones by spending \$10 million. Mayor Costello stated this would leave a legacy for Ormond Beach and Mr. Jones could make more money elsewhere. He advised he did not agree that staff was not aggressive enough in that staff hired an outstanding engineering firm with competence and background experience to evaluate this building.

Call Vote on the Motion to Amend:	Commissioner Partington	yes
	Commissioner Gillooly	yes
	Commissioner Kent	no
	Commissioner Kelley	no
Failed.	Mayor Costello	no
Call Vote on the Underlying Motion:	Commissioner Gillooly	no
	Commissioner Kent	yes
	Commissioner Kelley	yes
	Commissioner Partington	abstain
Carried.	Mayor Costello	yes

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

Mayor Costello stated he appreciated what Mr. Partington was doing in the downtown. He noted the people who spoke against the appellant merely had a different perspective, and he urged Mr. Partington to embrace them and continue to work with them because everyone wanted the same outcome.

Item #10(A) – Business Tax Receipts

ORDINANCE NO. 2007-27
 AN ORDINANCE RELATIVE TO BUSINESS TAX RECEIPTS, AMENDING CHAPTER 3.3, AIRCRAFT AND AIRPORT, CHAPTER 3.5, ALARMS AND ALARM SYSTEMS, CHAPTER 8, BUILDINGS AND CONSTRUCTION REGULATIONS, CHAPTER 8.03, CABLE TELEVISION, CHAPTER 8.1, TELECOMMUNICATIONS SERVICE PROVIDERS, CHAPTER 10, SOLID WASTE, YARD WASTE AND RECYCLABLES, AND CHAPTER 12, LICENSES AND BUSINESS REGULATIONS, OF THE CITY OF ORMOND BEACH *CODE OF ORDINANCES* BY CHANGING THE TERMINOLOGY REFERENCING “OCCUPATIONAL LICENSE” TO THE TERM “BUSINESS TAX RECEIPT” AS MANDATED BY THE STATE LEGISLATURE IN HOUSE BILL 1269; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Partington moved, seconded by Commissioner Kelley, to approve Ordinance No. 2007-27, on second reading, as read by title only.

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

Item #10(B) – Amending the Annual Budget

ORDINANCE NO. 2007-28
 AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR THE 2006-07 FISCAL YEAR RELATIVE TO THE GENERAL FUND; TRANSPORTATION IMPROVEMENT FUND; RECREATION IMPACT FEE FUND; WATER AND WASTEWATER FUND; SOLID WASTE FUND; AND CONSOLIDATED INSURANCE FUND; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Ordinance No. 2007-28, on second reading, as read by title only.

Call Vote:	Commissioner Kelley	yes
	Commissioner Partington	yes

	Commissioner Gillooly	yes
	Commissioner Kent	no
Carried.	Mayor Costello	yes

Item #11 – Utility Installation and Road Construction on Clyde Morris Boulevard from Aberdeen to Fallsway Boulevard

RESOLUTION NO. 2007-127

A RESOLUTION AUTHORIZING THE EXECUTION OF A JOINT PROJECT AGREEMENT WITH THE COUNTY OF VOLUSIA REGARDING UTILITY INSTALLATION AND ROAD CONSTRUCTION ON CLYDE MORRIS BOULEVARD FROM ABERDEEN TO FALLSWAY BOULEVARD; AND SETTING FORTH AN EFFECTIVE DATE.

Commissioner Kelley moved, seconded by Commissioner Partington, to approve Resolution No. 2007-127, as read by title only.

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

Item #12 - US1/SR40 Intersection Improvements

Mr. Goss stated the only intersection improvement the City was getting was a right turn lane going northbound on US1 at the approach to SR40. He noted there was no capacity being added as part of the design; and with the redevelopment plan, it was more difficult to cross the intersection since it would be wider. Mr. Goss reported an alternative was presented to DOT showing double left turns in all directions except for westbound, which would increase capacity in the AM and PM peak; however, the evidence was insufficient to sway DOT to change their plans. He asked the Commission for direction as to whether staff should pursue this further. Mr. Goss noted there was development on SR40 further west that would probably run into level of service issues, and there was a possibility to do a proportionate share agreement for DOT to do some intersection work to move the bicycle lane onto an alternate street. He explained DOT was trying to bring the intersection to standard, which would include a bicycle lane; however, there was no marked bicycle lane north or south on US1. Mr. Goss reported DOT intended to extend the left turn storage lane on US1 northbound and southbound, mast arms, pedestrian improvements regarding the signals, and shaving out the jog onto West Granada Boulevard. He stated if the Commission did not want to pursue this further he would issue the approvals.

Commissioner Partington asked what the next step was, the cost, and the likelihood of success if the Commission would decide to push this further.

Mr. Goss reported the City may be able to move the bicycle lane because DOT indicated if the City were able to find a way to provide an alternative for the bicycle lane off the road, it may be considered. He stated any improvement cost could probably come out of a proportionate share agreement related to a development on Granada Boulevard going westbound because the capacity was slowly disappearing.

Commissioner Gillooly asked to where the bike lanes would be moved.

Mr. Goss stated the City would seek a parallel bike facility off US1 where the unmarked substandard bike lane existed and have it remarked on a side street, signs erected and taken on another course, and then bring it back onto US1 further north or south depending which direction it was heading.

Commissioner Kelley stated he believed the City needed a northbound turn lane westbound, two lanes were needed northbound from US1 heading west, and going southbound on US1, two lanes were needed going east. He noted the DOT plan did not seem to provide any of that.

Mr. Goss stated the City's proposal was to have double left turns at all of the approaches except for the westbound lane.

Commissioner Kent agreed this would help tremendously.

Commissioner Kelley stated the intersections at Nova Road and Granada Boulevard have improved the situation tremendously.

Mayor Costello stated no one has worked harder for bike trails than he, but the City needed these intersection improvements. He reported he did not believe people would use the alternate bike path and would ride in the traffic.

Mr. Goss advised DOT seemed to be focusing on making the intersection standard.

Mayor Costello noted standard means including a bike trail, but the Commission favored allowing the residents to move through this intersection with the least amount of backups, particularly at peak times.

Commissioner Kelley stated considering this relative to an evacuation standpoint, anyone coming east to go to I-95 north would have to sit in traffic if someone would want to go westbound.

Mayor Costello requested the City consider acquiring the land from the Shell gas station to the street where the Chamber of Commerce was located and add a lane for the right turn.

Commissioner Gillooly asked if staff could go back to DOT.

Mr. Goss stated he could try to link the proportionate fair share to move the bike lanes off the intersection.

Mayor Costello urged staff to determine what the response would be from the owner of the three parcels including the Shell gas station, the bank, and the restaurant to obtain the land for an additional lane. He noted he agreed with Commissioner Kelley that it would be good to have the right-turn lane heading north. Mayor Costello requested alerting him if he should speak on this issue at the MPO meeting.

Item #13 - Reports, Suggestions, Requests

Affordable Housing Meetings

Commissioner Gillooly thanked the City for the opportunity of attending the Community Housing Institute meetings with the Florida League of Cities. She reported she found them to be very beneficial.

Leveraging Tax Dollars

Commissioner Gillooly reported she agreed with Commissioner Kelley's statement regarding leveraging dollars on the water plant from St. Johns River Water Management District. She noted people pointed out these were still tax dollars; however, these dollars have already been earmarked for certain projects, and staff has proven the worthiness of using those tax dollars.

Affordable Housing

Commissioner Gillooly concurred with Mayor Costello regarding examining the Land Development Code to allow for any opportunity for greenbelting which must be examined for the future. She noted this was part of the call to action in terms of sustainability of affordable housing because energy-efficient actions could be done that would then create a situation where the house could remain affordable.

Accident at the Ormond Airport

Commissioner Gillooly stated she was proud of Mr. Robert Stout who was the first person on the scene of the accident at the Ormond Airport. She commended staff's response to that incident.

Caribbean Night

Commissioner Kent stated Caribbean Night was a great event that had a 20-minute line when he attended. He applauded the Leisure Service staff for a fabulous event. Commissioner Kent stated this type of event was the type of event this community was craving. He noted this was the best example of customer service.

Fishing Program

Commissioner Kent recommended implementing a week-long fishing program at the South Ormond Neighborhood Center as part of the Leisure Services summer program.

TRIM Notice

Commissioner Kelley stated most people received their Truth in Millage (TRIM) notice, which was less than last year's notice. He noted he received a call from a resident indicating his taxes increased, which must have been a mistake because Ormond Beach had an 11% decrease and that resident had a 2½% increase in the valuation of his property; therefore, the tax must have decreased. Commissioner Kelley advised Ormond Beach spent matching funds and very little City money for projects that were needed. He stated Ormond Beach residents pay money for ECHO, and if some of that money could be recouped, he saw no reason why the City should not try to get some of that money for needed projects.

Commissioner Partington stated it was all tax money whether it was local, ECHO, federal, or grant money. He noted if Ormond Beach does not seek those funds for items the City needed, the residents would be paying of projects in other communities when Ormond Beach also needed those funds.

Airport Sports Complex

Commissioner Partington stated he was excited about the new Airport Sports Complex. He asked what the completion date for that project was.

Ms. Judy Sloane, Public Works Director, stated the completion date was in three weeks.

Florida League of Cities

Mr. Turner thanked the Commission for allowing him to attend the Florida League of Cities meetings. He advised he would include information in the Friday letter regarding a few interesting issues that were discussed at the meeting.

Leisure Services

Mr. Turner commended Mr. David Abee, Leisure Services Director, for doing a real job.

Ormond Garage

Mr. Turner stated during the discussion on the Ormond Garage, all parties showed genuine respect and concern while having different opinions and perspectives. He commended everyone for doing an outstanding job.

Clyde Morris Boulevard

Mayor Costello stated the Clyde Morris Boulevard issue was a tremendous partnership. He agreed Ormond Beach would be spending money that the County should be spending; but the County does not have the funds they used to have, and if Ormond Beach did not partner with them, they would put their money elsewhere, and Ormond Beach needed the improvements.

Pop Warner Association Proclamation

Mayor Costello requested a proclamation to honor the Pop Warner Association. He advised he submitted a nomination for Citizen-of-the-Year for a person involved with this organization.

Volusia League of Cities

Mayor Costello stated there were now sponsors for the Florida League of Cities dinners and seminars, but he would prefer not to have sponsors. He asked if the Commission agreed with this assessment. The Commission concurred.

Mayor Costello recommended sending a letter to Ms. Mary Swiderski, Volusia League of Cities Executive Director, indicating the City would be more comfortable having no sponsors and ask the league to discuss the issue.

Item #14 - Close the Meeting

The meeting was adjourned at 11:02 p.m.

APPROVED: _____ September 4, 2007

BY: _____
Fred Costello, Mayor

ATTEST:

Veronica Patterson, City Clerk